

special meeting business paper

> date of meeting: 23 June 2008 location: council chambers time: 7.00 p.m.



mission statement

"To create opportunities for a variety of work and lifestyle choices in a healthy, natural environment"

How Council Operates

Hawkesbury City Council supports and encourages the involvement and participation of local residents in issues that affect the City.

The 12 Councillors who represent Hawkesbury City Council are elected at Local Government elections held every four years. Voting at these elections is compulsory for residents who are aged 18 years and over and who reside permanently in the City.

Ordinary Meetings of Council are held on the second Tuesday of each month, except January, and the last Tuesday of each month, except December. The meetings start at 5:00pm with a break from 7:00pm to 7:30pm and are scheduled to conclude by 11:00pm. These meetings are open to the public.

When a Special Meeting of Council is held it will usually start at 7:00pm. These meetings are also open to the public.

Meeting Procedure

The Mayor is Chairperson of the meeting.

The business paper contains the agenda and information on the issues to be dealt with at the meeting. Matters before the Council will be dealt with by an exception process. This involves Councillors advising the General Manager at least two hours before the meeting of those matters they wish to discuss. A list will then be prepared of all matters to be discussed and this will be publicly displayed in the Chambers. At the appropriate stage of the meeting, the Chairperson will move for all those matters not listed for discussion to be adopted. The meeting then will proceed to deal with each item listed for discussion and decision.

Public Participation

Members of the public can request to speak about a matter raised in the business paper for the Council meeting. You must register to speak prior to 3:00pm on the day of the meeting by contacting Council. You will need to complete an application form and lodge it with the General Manager by this time, where possible. The application form is available on the Council's website, from reception, at the meeting, by contacting the Manager Corporate Services and Governance on 4560 4426 or by email at fsut@hawkesbury.nsw.gov.au.

The Mayor will invite interested persons to address the Council when the matter is being considered. Speakers have a maximum of five minutes to present their views. If there are a large number of responses in a matter, they may be asked to organise for three representatives to address the Council.

A Point of Interest

Voting on matters for consideration is operated electronically. Councillors have in front of them both a "Yes" and a "No" button with which they cast their vote. The results of the vote are displayed on the electronic voting board above the Minute Clerk. This was an innovation in Australian Local Government pioneered by Hawkesbury City Council.

Website

Business Papers can be viewed on Council's website from noon on the Friday before each meeting. The website address is <u>www.hawkesbury.nsw.gov.au</u>.

Further Information

A guide to Council Meetings is available on the Council's website. If you require further information about meetings of Council, please contact the Manager, Corporate Services and Governance on, telephone 02 4560 4426.



council chambers



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General Manager

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 113 GM - Adoption of the 2008/2009 Management Plan and Making and Levying of Rates and Fixing of Charges for the Period 1 July 2008 to 30 June 2009 - (95496, 96332, 107)

Previous Item: 75, Special (28 April 2008)

REPORT:

At the Special Meeting of Council held on 28 April 2008 consideration was given to a report by the General Manager in relation to the 2008/2009 draft Management Plan and it was subsequently resolved as follows:

"That:

- 1. The General Manager's report regarding the 2008/2009 draft Management Plan and Budget be received.
- 2. The 2008/2009 draft Management Plan, incorporating Council's Strategic Plan, Operational Plan, Budget Estimates and Revenue Pricing Policy, based on a rate increase of 3.2% (maximum rate pegging amount) be adopted for exhibition purposes and be advertised in accordance with Section 405 of the Local Government Act 1993.
- 3. A Special Meeting of Council be held on Monday, 23 June 2008 to consider any public submissions received in respect of the 2008/2009 draft Management Plan and Budget and to consider the adoption of these documents and to make and fix rates and charges for the year ended 30 June 2009.
- 4. Legal advice be sought regarding Section 610 of the Local Government Act 1993 in respect of the setting of an urgency fee for the processing of Section 149 Certificate applications."

Public Submissions

The exhibition period for Council's 2008/2009 draft Management Plan concluded on 5 June 2008 and during and after closure to date 2 submissions concerning the Plan were received.

A petition signed by 143 people was received requesting the areas of MacDonald Valley and Webbs Creek (Lower MacDonald, Central MacDonald, Wisemans Ferry, St Albans, Lower Portland, Leets Vale) be included in the area that receives the kerbside bulk waste collection and disposal service.

The kerbside bulk waste collection and disposal service was introduced in 2004/2005 and is limited to residential type properties in the main towns throughout the city.

Property owners or occupiers are entitled to two collections per year on an "at call" basis and the cost of the service is "cost shared" between all residential type properties and is shown as a separate charge on the rate notices. The proposed fee for 2008/2009 is \$15.00 (2007/2008 \$15.00).

The kerbside bulk waste collection and disposal service is currently outsourced to Transpacific Industries Limited trading as Cleanaway.

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The areas of MacDonald Valley and Webbs Creek are only part of the non-residential areas that do not receive the kerbside bulk waste collection and disposal service. No other non-residential areas have made representations to be included in the area that receives the kerbside bulk waste collection and disposal service.

The total number of residential, rural-residential and farmland properties that do not receive the kerbside bulk waste collection and disposal service amounts to in excess of 8,000 properties. If Council were to consider expanding the area for the kerbside bulk waste collection and disposal service and charging ratepayers as is the current practice, it is recommended a proposed charge be widely and extensively exhibited for public comment prior to implementation. Additionally Council would need time to investigate the logistics and costings of such a service, which could be comparatively expensive, compared to the current charge due to travel distances involved.

In light of this, it is proposed that a further detailed report be submitted to Council on this matter to enable it to consider the issues and costs involved.

A submission has been received from Mr L Unsworth requesting the provision of additional footpaths in the residential areas of South Windsor and the maintenance of Berger Lake Reserve to facilitate the restriction of rubbish dumping in this area.

In this regard, the 2008/2009 Management Plan makes provision for the construction of new concrete footpathing along sections of Mileham Street, Harpur and Loder Crescents, South Windsor. In addition, the maintenance procedure for Berger Lake Reserve is currently being reviewed to restrict the potential for dumping and increase the frequency and scope of grass cutting.

In addition, it will be recalled that a submission from residents of Portland Head Road concerning the sealing of this road was considered at the Council meeting on 27 May 2008 and at the time it was suggested that this could also be considered as a submission in relation to the 2008/2009 draft Budget. As this submission was dealt with at the meeting on 27 May 2008 and a report as a result of the resolution from that meeting is included in the Business Paper for the Council meeting on 24 June 2008 it has not been necessary to address the issue in this report.

Other Budget Related Matters

• Rates in the dollar 2008/2009

As stated in the Draft Revenue Pricing Policy, the rates in the dollar differ slightly in the recommendations in this report to those placed on public exhibition. It is prudent to incorporate valuation changes up to the final Rating Resolution to ensure Council's valuation base remains as up to date as possible to minimise carryovers and thereby maximising potential revenue.

• Variation of General Income for 2008/2009

On 4 April 2008 the Minister for Local Government announced a 3.2% increase in terms of Section 506 of the *Local Government Act 1993* for the rating year commencing 1 July 2008.

The Management Plan for Council that was placed on exhibition incorporated the general increase in income of 3.2%.

Subsequently, on 22 April 2008 the Minister of Local Government approved an increase in Council's notional general income of 3.205% for 2008/2009. This increase related to an additional \$1,153 in respect of adjustments to farmland rates due to the 20% cap on individual assessments from year to year.

The recommendations in this report incorporate the extra \$1,153 in the rates in the dollar for 2008/2009.

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It should be noted that advice of this very minor adjustment was not received by Council until 2 May 2008, being after the Council meeting to consider the 2008/2009 Draft Management Plan.

• Fees & Charges

In accordance with part 4 of Council's resolution, legal advice was sought regarding Section 610 of the *Local Government Act 1993* in respect of the setting of an urgency fee for the processing of Section 149 Certificate applications.

The advice received from Pike Pike & Fenwick is, in part, as follows:

"Section 149 of the Environmental Planning and Assessment Act 1979 ("EPA Act ") provides as follows:

- "(1) A person may, on payment of the prescribed fee, apply to a council for a certificate under this section (a **planning certificate**) with respect to ay land within the area of the council.
- (2) On application made to it under subsection (1), the council shall, as soon as practicable, issue a planning certificate specifying such matters relating to the land to which the certificate relates as may be prescribed (whether arising under or connected with this or any other Act or otherwise)."

Clause 259 of the Environmental Planning and Assessment Regulation 2000 ("EPA Regulation") provides as follows:

- "(1) The prescribed fee for the issue of a certificate under section 149(2) of the Act is \$40.
- (2) A council may charge one additional fee of not more than \$60 for any advice given under section 149 (5) of the Act."

Neither the EPA Act nor the EPA Regulation contemplate the issuance of a section 149 certificate as a matter of urgency, ie as a priority rather than "as soon as practicable".

THE LOCAL GOVERNMENT ACT

Part 10 of the Local Government Act 1993 ("LG Act") deals with Council fees and Division 3 applies to fees for services. Section 610 thereof deals with how a Council determines the amount of a fee and section 610D(3) provides that:

"A higher fee or an additional fee may be charged for an expedited service provided, for example, in a case of urgency."

Division 1 of Part 10 contains section 610 which provides as follows:

- "(1) If the amount of a fee for a service is determined under another Act:
 - (a) a council may not determine an amount that is inconsistent with the amount determined under the other Act; and
 - (b) a council may not charge a fee in addition to the amount determined under the other Act.

...."

Section 610D is a comparatively recent addition to the LG Act having been inserted in about 2003. The question is whether it has the effect of overcoming the blanket prohibition in section 610.

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Regrettably, in our view, the provisions in the Local Government Act 1993 do not go so far as to make it plain that Council is entitled to charge an expedition fee for the urgent delivery of a section 149 certificate.

The argument in favour of Council's ability to charge an expedition fee is that section 149 of the Environment Planning and Assessment Act 1979 and clause 259 of the Environment Planning and Assessment Regulations do not contemplate the provision of the "service" of "expedition".

There is a strong argument, however, that the fee for "a service" referred to in Section 610 is the service of the issuance of a section 149 certificate, whether it be issued urgently or not. If that argument is correct then clearly section 610 (1) (b) prohibits the charging of any additional amount.

The matter is not free from doubt and it may be said that we have favoured the more conservative view. It is a matter where Council ought perhaps urge the Local Government Association to lobby for an amendment to the legislation so as to put Council's ability to charge an expedition fee in such circumstances beyond doubt."

It will be noted that Council's solicitors have suggested that the issue of whether or not a Council can impose an urgency fee associated with a 149 Certificate is "not free from doubt" and have suggested that Council make representations for an appropriate amendment to the legislation so as to put the matter beyond doubt. This is particularly relevant as this type of charge is made by many councils for this type of an urgent processing.

Accordingly, it is proposed to recommend to remove the 149 Certificate urgency fee from the 2008/2009 Fees and Charges and for Council to make representations to clarify the situation as suggested by Council's solicitors.

Other than the issues referred to above no other changes have been made or proposed to the budget as presented to Council on and amended as a result of Council's resolution of 28 April 2008 that require Council's further consideration.

RECOMMENDATION:

That:

- 1. The draft Management Plan, incorporating Council's Strategic Plan, Operational Plan, Budget Estimates and Revenue Pricing Policy, for 2008/2009 be adopted subject to the deletion of the Section 149 urgency fee (reference: City Planning, Part E Customer Services, 1.1 (c)) from the Revenue Pricing Policy.
- 2. Council Make and Levy the following Rates and Fix the following Charges for the 2008/2009 financial period:

Residential Category

Code	Sub-Category Description	Ad Valorem	Minimum
Agn	Residential - Agnes Banks	0.32296	\$428.00
Bilpin	Residential - Bilpin, Berambing, Mt Tootie, Mountain Lagoon	0.32296	\$428.00
Bligh Pk	Residential - Bligh Park	0.32296	\$428.00
Bowen Mt	Residential - Bowen Mountain	0.32296	\$428.00
Cattai	Residential - Cattai	0.32296	\$428.00

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Code	Sub-Category Description	Ad Valorem	Minimum
Claren	Residential - Clarendon	0.32296	\$428.00
Colo	Residential - Colo, Colo Heights, Central Colo, Upper Colo	0.32296	\$428.00
Eben Sac	Residential - Ebenezer, Sackville, Sackville Reach, Lower Portland	0.32296	\$428.00
East Kurr	Residential - East Kurrajong, Blaxlands Ridge	0.32296	\$428.00
F. Reach	Residential - Freemans Reach	0.32296	\$428.00
Gloss	Residential - Glossodia	0.32296	\$428.00
Grose	Residential Grose Vale, Grose Wold	0.32296	\$428.00
Kurmond	Residential - Kurmond	0.32296	\$428.00
K.jong	Residential - Kurrajong	0.32296	\$428.00
K.jong Ht	Residential - Kurrajong Heights, Kurrajong Hills	0.32296	\$428.00
McDonald	Residential - MacDonald Valley (Lower, Upper, Central)	0.32296	\$428.00
Mar Oak	Residential - Maraylya, Oakville, Scheyville	0.32296	\$428.00
WiseSt A	Residential - Wisemans Ferry, Leets Vale, St. Albans	0.32296	\$428.00
McGraths	Residential - Mc Graths Hill	0.32296	\$428.00
Mulgrave	Residential - Mulgrave	0.32296	\$428.00
N. Rich	Residential - North Richmond, Tennyson	0.32296	\$428.00
Pitt Town	Residential - Pitt Town	0.32296	\$428.00
Richmond	Residential - Richmond	0.32296	\$428.00
Sth Wind	Residential - South Windsor	0.32296	\$428.00
Vineyard	Residential - Vineyard	0.32296	\$428.00
Windsor	Residential - Windsor	0.32296	\$428.00
W. Downs	Residential - Windsor Downs	0.32296	\$428.00
W.force	Residential - Wilberforce	0.32296	\$428.00
Yarra	Residential - Yarramundi	0.32296	\$428.00
Res. Vac	Residential - Vacant Land	0.32296	\$428.00
Agn RR	Rural Residential - Agnes Banks	0.32296	\$428.00
RR Bilpin	Rural Residential - Bilpin, Berambing, Mt Tootie, Mountain Lagoon	0.32296	\$428.00
Bligh RR	Rural Residential - Bligh Park	0.32296	\$428.00
Bown RR	Rural Residential - Bowen Mountain	0.32296	\$428.00
Cattai RR	Rural Residential - Cattai	0.32296	\$428.00
Claren RR	Rural Residential - Clarendon	0.32296	\$428.00
Colo RR	Rural Residential - Colo, Colo Heights, Central Colo, Upper Colo	0.32296	\$428.00
Eben Sac	Rural Residential - Ebenezer,	0.32296	\$428.00

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Code	Sub-Category Description	Ad Valorem	Minimum
RR	Sackville, Sackville Reach, Lower Portland		
E Kurr RR	Rural Residential - East Kurrajong, Blaxlands Ridge	0.32296	\$428.00
Free RR	Rural Residential - Freemans Reach	0.32296	\$428.00
Gloss RR	Rural Residential - Glossodia	0.32296	\$428.00
Grose RR	Rural Residential - Grose Vale, Grose Wold	0.32296	\$428.00
Kurm RR	Rural Residential - Kurmond	0.32296	\$428.00
K.jong RR	Rural Residential - Kurrajong	0.32296	\$428.00
K.J Ht RR	Rural Residential - Kurrajong Heights, Kurrajong Hills	0.32296	\$428.00
Mcdon RR	Rural Residential - MacDonald Valley (Lower, Upper, Central)	0.32296	\$428.00
Oakv RR	Rural Residential - Maraylya, Oakville, Scheyville	0.32296	\$428.00
WiseF RR	Rural Residential - Wisemans Ferry, Leets Vale, St. Albans	0.32296	\$428.00
McGrat RR	Rural Residential - Mc Graths Hill	0.32296	\$428.00
Mulg RR	Rural Residential - Mulgrave	0.32296	\$428.00
N.Rich RR	Rural Residential - North Richmond, Tennyson	0.32296	\$428.00
PTown RR	Rural Residential - Pitt Town	0.32296	\$428.00
Rich RR	Rural Residential - Richmond	0.32296	\$428.00
SWind RR	Rural Residential - South Windsor	0.32296	\$428.00
VineY RR	Rural Residential - Vineyard	0.32296	\$428.00
Wdsor RR	Rural Residential - Windsor	0.32296	\$428.00
Wdown RR	Rural Residential - Windsor Downs	0.32296	\$428.00
Wforce RR	Rural Residential - Wilberforce	0.32296	\$428.00
Yarra RR	Rural Residential - Yarramundi	0.32296	\$428.00
FloodVac	Rural Residential - Flood Prone Vacant Land	0.32296	\$428.00
RuralSce	Rural Residential - Scenic Protection Vacant Land	0.32296	\$428.00
RuralVac	Rural Residential - Vacant Land	0.32296	\$428.00

Farmland Category

Code	Sub-Category Description	Ad Valorem	Minimum
Farmland	Farmland - General	0.2586	\$428.00
FarmHigh	Farmland - High Density	0.2586	\$428.00

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Business	Category
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Code	Sub-Category Description	Ad Valorem	Minimum
Bus.Gen	Business - General	0.32296	\$428.00
BlighBus	Business - Bligh Park Shops	0.32296	\$428.00
GlossBus	Business - Glossodia Shops	0.32296	\$428.00
Hobart	Business - Hobartville Shops	0.32296	\$428.00
KurmBus	Business - Kurmond Shops	0.32296	\$428.00
K.JongBu	Business - Kurrajong Village Shops	0.32296	\$428.00
McGraBus	Business - Mc Graths Hill	0.32296	\$428.00
Mulg Bus	Business - Mulgrave	0.32296	\$428.00
N.Rich Bus	Business - North Richmond Commercial, North Richmond Industrial	0.32296	\$428.00
PtownBu	Business - Pitt Town	0.32296	\$428.00
RichBus	Business - Richmond Commercial	0.32296	\$428.00
East Rich	Business - East Richmond Industrial	0.32296	\$428.00
S WindBu	Business - South Windsor Industrial	0.32296	\$428.00
S WindSh	Business - South Windsor Shops	0.32296	\$428.00
WdsorBu	Business - Windsor	0.32296	\$428.00
WforceBu	Business - Wilberforce Shops	0.32296	\$428.00
WforceIn	Business - Wilberforce Industrial Area	0.32296	\$428.00
Vac.Bus	Business - Vacant Land	0.32296	\$428.00

Domestic Waste Management Service

That for 2008/2009, in accordance with Section 496 of the Local Government Act, 1993:

- A Domestic Waste Management Service annual charge of \$279.00 be made for a 240 litre bin, and an annual charge of \$171.00 be made for a 120 litre bin for each weekly domestic waste service to an occupied property which is categorised as residential or farmland, and for which a weekly domestic waste service is available.
- A Domestic Waste Management Service annual charge of \$171.00 be made for a 240 litre bin, and an annual charge of \$116.00 be made for a 120 litre bin for each fortnightly domestic waste service to an occupied property which is categorised as residential or farmland, and for which a fortnightly domestic waste service is available.
- A Domestic Waste Management Service availability charge of \$87.00 be made for parcels of land where a weekly domestic waste service is available but the service is not utilised.
- A Domestic Waste Management Service availability charge of \$43.50 be made for parcels of land where a fortnightly domestic waste service is available but the service is not utilised.

That in accordance with section 575 of the *Local Government Act, 1993* where a property is owned and occupied by eligible pensioner(s), a rebate amounting to 50% (fifty percent) of the combined rates and domestic waste service charges up to a maximum of \$250.00 (two hundred and fifty dollars) in annual subsidy will be granted for 2008/2009.

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Kerbside Bulk Waste Collection

That for 2008/2009, in accordance with section 496 of the Local Government Act, 1993 a Domestic Waste Management Service annual charge of \$15.00 be made for parcels of land where the kerbside bulk waste collection and disposal service is available.

Waste Management Service

That for 2008/2009, in accordance with section 501 of the *Local Government Act, 1993* a Waste Management Service annual charge of \$279.00 be made for a 240 litre bin, and an annual charge of \$171.00 be made for a 120 litre bin for each weekly waste service to a property which is categorised as business and for which a weekly waste service is utilised.

Sewerage Service

That for 2008/2009, in accordance with section 501 of the *Local Government Act, 1993*, the following range of annual charges be made for the provision of sewerage services.

•	Connected Residential Properties\$429.00
•	Unconnected Residential Properties\$286.00
•	Unconnected Business Properties\$287.00
•	Business - Category 1 (<1,000 litres per day)\$500.00
•	Business - Category 2 (1,001 - 5,000 litres per day)\$2,505.00
•	Business - Category 3 (5,001 - 10,000 litres per day)\$4,990.00
•	Business - Category 4 (10,001 - 20,000 litres per day)\$9,948.00
•	Business - Category 5 (>20,000 litres per day)\$9,948.00

• Additionally, a trade waste volume charge of \$1.80 per kilolitre be charged to category 5 properties for each kilolitre in excess of 20,000.

Where a residential property receiving this service is owned by pensioner(s) eligible for an Ordinary Rate pensioner rebate, then a rebate amounting to \$214.50 be granted to the owner(s) in annual subsidy for 2008/2009.

Sullage Pump-Out Services

That for 2008/2009, in accordance with section 501 of the Local Government Act, 1993:

- A Sullage Pump-out Service annual charge of \$1,245.00 will be made for the provision of a fortnightly sullage pump-out service to residential properties.
- A Sullage Pump-out Service annual charge of \$2,490.00 will be made for the provision of a weekly sullage pump-out service to residential properties.
- In accordance with S577 of LGA 1993, where a property receiving a sullage pump-out service is owned by pensioner(s) eligible for an Ordinary Rate pensioner rebate, and the property is occupied solely by the eligible pensioner(s), then a rebate amounting to \$622.50 be granted to the owner(s) in annual subsidy for 2008/2009. Rebates are not available to properties occupied by adults who are ineligible for the Ordinary Rate pensioner rebate.
- Additional pump-outs can be requested at a cost of \$86.00 per extra service.

- Emergency after hours pump-outs be charged at \$108.00 per service.
- In accordance with section 502 of the *Local Government Act, 1993*, that a charge of \$15.50 be made for each 1,000 (one thousand) litres of effluent pumped out from commercial and industrial properties for services being conducted at the request of the owner or occupier.

Interest Charges

That in accordance with section 566 of the Local Government Act, 1993, simple interest charges at 10.00% per annum, accrued on a daily basis be charged on rates and charges that remain unpaid and have become due and payable.

- 3. The persons who made submissions in response to the exhibition of Council's 2008/2009 draft Management Plan be advised of Council decision in this regard.
- 4. Council make representations to the Local Government and Shires Association in respect of the Section 149 Urgency Fee as referred to in the report and in view of the advice provided by Council's solicitors the Association be requested to lobby the government, on behalf of all councils, for an amendment to the legislation so as put a council's ability to charge an expedition fee in such circumstances beyond doubt.

ATTACHMENTS:

There are no supporting documents for this report.

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special meeting

end of business paper

This business paper has been produced electronically to reduce costs, improve efficiency and reduce the use of paper. Internal control systems ensure it is an accurate reproduction of Council's official copy of the business paper.