



Hawkesbury City Council

ordinary
meeting
business
paper

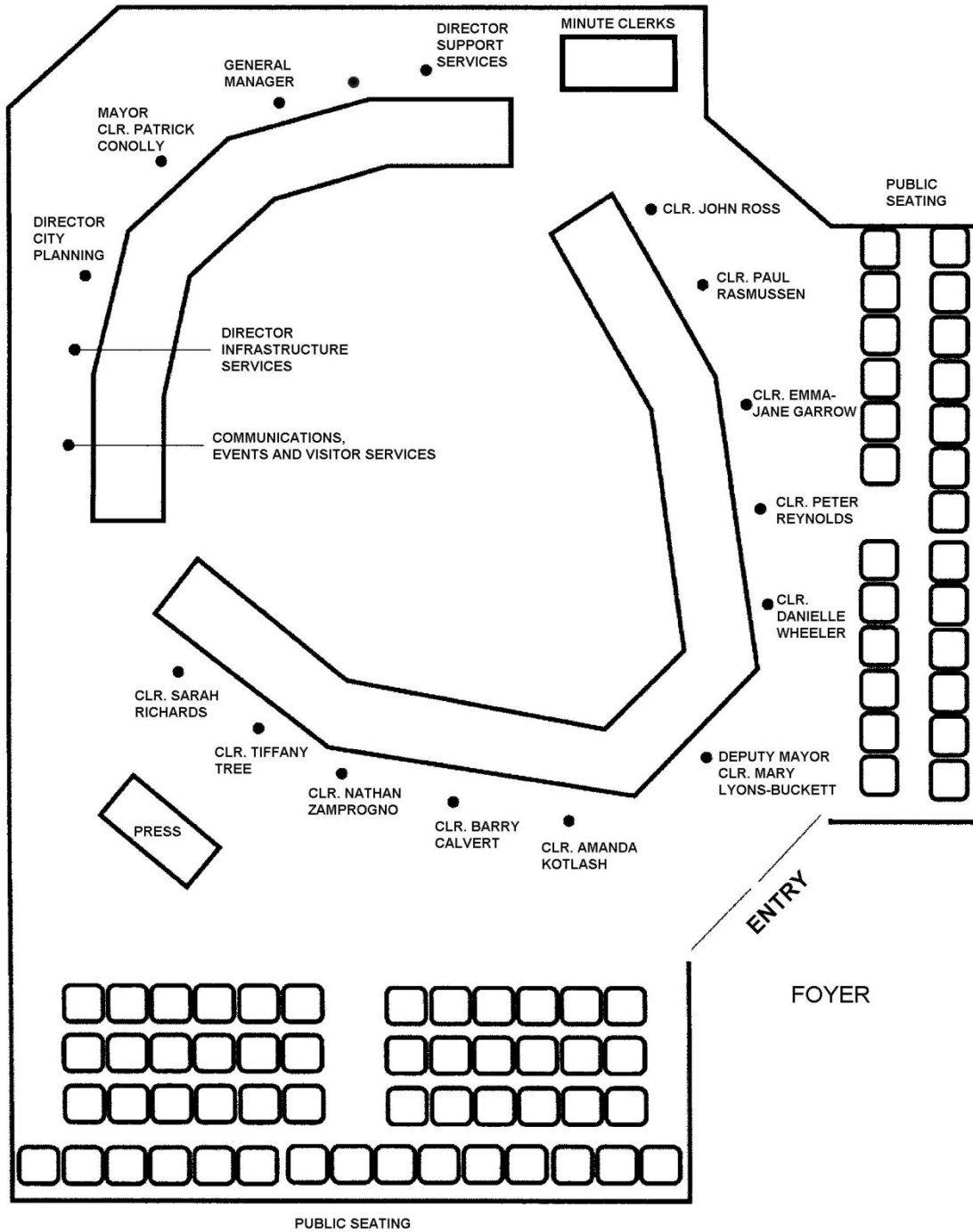
date of meeting: 09 February 2021
location: council chambers and by
audio-visual link
time: 6:30 p.m.



mission statement

***Hawkesbury City Council
leading and working
with our community
to create a healthy
and resilient future.***

Hawkesbury City Council



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ORDINARY MEETING
Procedural Matters
Meeting Date: 09 February 2021

PROCEDURAL MATTERS

Welcome

The Mayor, Councillor Patrick Conolly will acknowledge the Indigenous Heritage.

The General Manager will address the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

Attendance

Attending Councillors and Council staff members will be noted for the purposes of the Minutes.

Apologies and Leave of Absence

The Mayor will ask for any Apologies or Leave of Absence Requests to be noted.

Declaration of Interest

The Mayor will ask for any Declaration of Interests from the attending Councillors. These will then be addressed at the relevant item.

Acknowledgement of Official Visitors to the Council

The Mayor will acknowledge and welcome official visitors to the Council and make any relevant presentations as required.

ORDINARY MEETING

Procedural Matters

Meeting Date: 09 February 2021

ordinary

section 1

confirmation of minutes

ORDINARY MEETING

SECTION 1 - Confirmation of Minutes

Meeting Date: 09 February 2021

SECTION 1 - Confirmation of Minutes



Hawkesbury City Council

ordinary meeting minutes

date of meeting: 25 January 2021

location: council chambers and
by audio-visual link

time: 6:30 p.m.

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ORDINARY MEETING

Minutes: 25 January 2021

Minutes of the Ordinary Meeting held at the Council Chambers and by Audio-Visual, Windsor, on 25 January 2021, commencing at 6:43pm.

Welcome

The Mayor, Councillor Patrick Conolly acknowledged the Indigenous Heritage.

The Acting General Manager addressed the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

ATTENDANCE

PRESENT:

At Council Chambers: Councillor Patrick Conolly, Mayor, Councillor Mary Lyons-Buckett, Deputy Mayor and Councillors Barry Calvert, Sarah Richards, Danielle Wheeler and Nathan Zamprogno.

By Audio-Visual Link: Councillors Emma-Jane Garrow, Amanda Kotlash, Paul Rasmussen, Peter Reynolds, John Ross and Tiffany Tree.

ALSO PRESENT:

At Council Chambers: Acting General Manager - Laurie Mifsud, Director Infrastructure Services - Jeff Organ, Acting Director Support Services - Emma Galea, Manager Corporate Communications - Suzanne Stuart, Manager Corporate Services and Governance - Charles McElroy and Administrative Support Coordinator - Tracey Easterbrook.

By Audio-Visual Link: Director City Planning - Linda Perrine and Strategic Planning Manager - Andrew Kearns.

APOLOGIES AND LEAVE OF ABSENCE

No apologies for absence were received from Councillors.

DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

Acknowledgement of Official Visitors to the Council

There were no official visitors to the Council.

SECTION 1 - Confirmation of Minutes

1 RESOLUTION:

RESOLVED on the motion of Councillor Zamprogno and seconded by Councillor Kotlash that the Minutes of the Ordinary Meeting held on the 8 December 2020, be confirmed.

ORDINARY MEETING

Minutes: 25 January 2021

SECTION 3 – Reports for Determination

PLANNING DECISIONS

Item: 001 CP - Draft Voluntary Planning Agreement for Lot 1 DP 120436, 631 Bells Line of Road, Kurrajong - (95498, 124414)

Previous Item: 69, Ordinary (12 May 2015)
RM, Ordinary (8 September 2015)
71, Ordinary (11 April 2017)
230, Ordinary (24 November 2020)

Directorate: City Planning

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

2 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That Council:

1. Note the outcome of public exhibition of the Draft Voluntary Planning Agreement for Lot 1 DP 120436, 631 Bells Line of Road, Kurrajong.
2. Endorse the Voluntary Planning Agreement and the Explanatory Note regarding Lot 1 DP 120436, 631 Bells Line of Road, Kurrajong (attached as Attachments 1 and 2 to this report), and authority be given for the Voluntary Planning Agreement, and any other documentation in association with this matter to be executed under the Seal of Council.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

For the Motion: Councillors Conolly, Calvert, Garrow, Kotlash, Reynolds, Richards, Ross, Tree and Zamprogno.

Against the Motion: Councillors Rasmussen, Lyons-Buckett and Wheeler.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

Item: 002 **CP - Proposed Optional Natural Disasters Clause to the Standard Instrument (Local Environmental Plans) Order 2006 - (95498, 124414)**

Previous Item: 158, Ordinary (25 August 2020)

Directorate: City Planning

MOTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Reynolds.

Refer to RESOLUTION

3 RESOLUTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Reynolds.

That this matter be deferred to a Councillor Briefing Session for further discussion, and reported back to a Council Meeting.

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Reynolds, Richards, Tree, Wheeler and Zamprogno.

Against the Motion: Councillors Rasmussen and Ross.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

GENERAL MANAGER

Item: 003 **GM - 2021 National General Assembly of Local Government - (79351, 80426)**

Directorate: General Manager

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

4 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That:

1. Councillors forward any suggested motions to the General Manager for the 2021 National General Assembly of Local Government by Friday, 5 February 2021 to be included for consideration by Council at the Ordinary meeting on 23 February 2021.
2. Consideration be given to the participation of nominated Councillors and staff as considered appropriate by the General Manager, at the 2021 National General Assembly of Local Government from 20 to 23 June 2021.
3. After participating in the 2021 National General Assembly, delegates provide a written report to the General Manager detailing the proceedings and findings, as well as any other aspects of the Assembly relevant to Council business and/or the local community.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

MOTION:

RESOLVED on the motion of Councillor Garrow, seconded by Councillor Richards.

Refer to RESOLUTION

5 RESOLUTION:

RESOLVED on the motion of Councillor Garrow, seconded by Councillor Richards.

That Councillors Lyons-Buckett, Calvert and Zamprogno attend the 2021 National General Assembly of Local Government.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

Item: 004 **GM - Planning for Non-Planners Course - (79351)**

Directorate: General Manager

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Kotlash.

Refer to RESOLUTION

6 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Kotlash.

That the Planning for Non-Planners Course or similar course offered by Local Government NSW be further reported to Council for consideration.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

CITY PLANNING

Item: 005 **CP - Submission to Options Paper: Agricultural Land Use Planning Strategy - (95498, 124414)**

Previous Item: 194, Ordinary (13 October 2020)

Directorate: City Planning

MOTION:

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Ross.

Refer to RESOLUTION

7 RESOLUTION:

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Ross.

That Council:

1. Receive and note the Options Paper: *Agricultural Land Use Planning Strategy*.
2. Note the key points in the Draft Submission, included as Attachment 2 to this report in relation to:
 - Identifying production areas
 - Monitoring and reporting of loss of rural land
 - Education
 - State Agricultural Land Use Planning Policy
 - Controlling Land Use in Rural Zones
 - Department of Primary Industries approvals/advice.
3. Endorse the Draft Submission on the Options Paper: *Agricultural Land Use Planning Strategy* included as Attachment 2 to this report.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogo.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

SUPPORT SERVICES

Item: 006 **SS - Investment Report - November 2020 - (95496, 96332)**

Previous Item: 150, Ordinary (10 March 2020)

Directorate: Support Services

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

8 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That the Monthly Investments Report for November 2020 be received and noted.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

Item: 007 **SS - Investment Report - December 2020 - (95496, 96332)**

Previous Item: 150, Ordinary (10 March 2020)

Directorate: Support Services

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

9 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That the Monthly Investments Report for December 2020 be received and noted.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

Item: 008 **SS - Pecuniary Interest Returns - Designated Person - (95496, 96333)**

Directorate: Support Services

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

10 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That the Clause 4.21(a) Pecuniary Interest Returns be received and noted.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

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Item: 009 **SS - Submission to the Towards a Fairer Rating System Consultation - (95496)**

Previous Item: 155, Ordinary (27 August 2019)
 221, Ordinary (11 October 2016)
 87, Ordinary (10 May 2016)

Directorate: Support Services

MOTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Ross.

Refer to RESOLUTION

11 RESOLUTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Ross.

That Council:

1. Receive and note the information within this report.
2. Note the key points in the Draft Submission, included as Attachment 2 to this report in relation to:
 - Council does not wish to comment on the harmonisation of rates as Council is not a newly created Council.
 - Council does not support allowing Councils to levy special rates for jointly funded infrastructure.
 - Council supports greater flexibility for Councils when setting rates through allowing for creating new rating categories and subcategories. This includes allowing different rates in contiguous urban areas, limiting the highest rate structure to 1.5 times the average rate structure, creating a new environmental land category, enabling different business rates for industrial land and commercial land, allowing subcategories for vacant land and setting farmland rates based on geographic location.
 - Council supports removing mandatory rates exemptions from new conservation agreements and special rates for water and sewerage.
 - Council supports changing the scope of who can apply for postponed rates and to remove the requirement to write off postponed rates debts.
 - Council supports implementing the mining category reform through guidance.
 - Council does not support retaining the business land rating category as the residual category.
 - Council supports the requirement to report the value of rates exemptions they grant each year.
3. Endorse the Proposed Submission to '*the Towards a Fairer Rating System consultation*' process attached as Attachment 2 to this report.

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For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Councillor Rasmussen.

Absent: Nil.

Item: 010 **SS - Review of Council Committees - (95496)**

Previous Item: **RM 256, Ordinary (8 December 2020)**

Directorate: Support Services

A MOTION was moved by Councillor Kotlash, seconded by Councillor Calvert.

That:

1. Council adopt the Council Committee Constitution, attached as Attachment 1 to this report, with the amendments referred to below. In the event of any inconsistencies between the Code of Meeting Practice to the extent it applies to Council Committees, the provisions in the Constitution will apply.
 - 6. PROCEDURES AND GENERAL
Add to the second dot point: That meetings will be held by audio-visual link or in the Council Chambers.
 - Add: Written submissions on any of the agenda items must be received three (3) hours prior to the commencement of the meeting. The length of written submissions should be limited to five (5) minutes if read out. Written submissions will be read out and form part of the minutes of the meeting.
 - 5. STRUCTURE, MEMBERSHIP AND ELECTION
Replace the second dot point with, each Member of the Committee shall be entitled to one vote except the Chairperson who shall also have a casting vote in the case of an equality of votes.
2. Council nominate and appoint five Councillors as members to the following Committees:
 - Community Services
 - Environment
 - Innovation and Partnerships
3. A Disaster and Emergency Committee be established with the membership being comprised of all 12 Councillors, and operate in accordance with the Council Committee Constitution, attached as Attachment 1 to this report.
4. The Heritage Committee maintains its current membership and operate in accordance with the Council Committee Constitution, attached as Attachment 1 to this report.
5. The determination of the Australia Day Awards previously addressed through the Civic and Citizenship Committee, be undertaken by way of a Councillor Briefing session and a report submitted to a Council meeting, whereby all twelve Councillors will be able to vote on Award recipients.
6. By the next meeting of Council, staff produce a report, based on Attachment 2 that contains;

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Minutes: 25 January 2021

- A succinct list of outstanding actions in the form of questions to be reassigned to the relevant new committee; and
- A list of current working groups, the status of the projects they are working on and an indication of what new committee they will now belong to.

An AMENDMENT was moved by Councillor Lyons-Buckett, seconded by Councillor Wheeler.

That this matter be deferred to a Councillor Briefing Session for further discussion.

For the Amendment: Councillors Lyons-Buckett, Garrow, Rasmussen, Reynolds, Ross and Wheeler.

Against the Amendment: Councillors Conolly, Calvert, Kotlash, Richards, Tree and Zamprogno.

Absent: Nil.

The Amendment was lost on the casting vote of the Mayor

MOTION:

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Calvert.

Refer to RESOLUTION

12 RESOLUTION:

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Calvert.

1. Council adopt the Council Committee Constitution, attached as Attachment 1 to this report, with the amendments referred to below. In the event of any inconsistencies between the Code of Meeting Practice to the extent it applies to Council Committees, the provisions in the Constitution will apply.
 - 6. PROCEDURES AND GENERAL
Add to the second dot point: That meetings will be held by audio-visual link or in the Council Chambers.
 - Add: Written submissions on any of the agenda items must be received three (3) hours prior to the commencement of the meeting. The length of written submissions should be limited to five (5) minutes if read out. Written submissions will be read out and form part of the minutes of the meeting.
 - 5. STRUCTURE, MEMBERSHIP AND ELECTION
Replace the second dot point with, each Member of the Committee shall be entitled to one vote except the Chairperson who shall also have a casting vote in the case of an equality of votes.
2. Council nominate and appoint five Councillors as members to the following Committees:
 - Community Services
 - Environment
 - Innovation and Partnerships
3. A Disaster and Emergency Committee be established with the membership being comprised of all 12 Councillors, and operate in accordance with the Council Committee Constitution, attached as Attachment 1 to this report.

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4. The Heritage Committee maintains its current membership and operate in accordance with the Council Committee Constitution, attached as Attachment 1 to this report.
5. The determination of the Australia Day Awards previously addressed through the Civic and Citizenship Committee, be undertaken by way of a Councillor Briefing session and a report submitted to a Council meeting, whereby all twelve Councillors will be able to vote on Award recipients.
6. By the next meeting of Council, staff produce a report, based on Attachment 2 that contains;
 - A succinct list of outstanding actions in the form of questions to be reassigned to the relevant new committee; and
 - A list of current working groups, the status of the projects they are working on and an indication of what new committee they will now belong to.

For the Motion: Councillors Conolly, Calvert, Kotlash, Richards, Tree, and Zamprogno.

Against the Motion: Councillors Lyons-Buckett, Garrow, Rasmussen, Reynolds, Ross and Wheeler.

Absent: Nil.

The Motion was carried on the casting vote of the Mayor.

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Kotlash.

Refer to RESOLUTION

13 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Kotlash.

That the following Councillors be appointed as Committee Members to the Community Services Committee;

- Councillor Conolly
- Councillor Calvert
- Councillor Richards
- Councillor Zamprogno

For the Motion: Councillors Conolly, Calvert, Kotlash, Richards, Tree, and Zamprogno.

Against the Motion: Councillors Lyons-Buckett, Garrow, Rasmussen, Reynolds, Ross and Wheeler.

Absent: Nil.

The Motion was carried on the casting vote of the Mayor.

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MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Calvert.

Refer to RESOLUTION

14 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Calvert.

That the following Councillors be appointed as Committee Members to the Environment Committee;

- Councillor Conolly
- Councillor Kotlash
- Councillor Richards
- Councillor Zamprogno

For the Motion: Councillors Conolly, Calvert, Kotlash, Richards, Tree and Zamprogno.

Against the Motion: Councillors Lyons-Buckett, Garrow, Rasmussen, Reynolds, Ross and Wheeler.

Absent: Nil.

The Motion was carried on the casting vote of the Mayor.

MOTION:

RESOLVED on the motion of Councillor Calvert, seconded by Councillor Zamprogno.

Refer to RESOLUTION

15 RESOLUTION:

RESOLVED on the motion of Councillor Calvert, seconded by Councillor Zamprogno.

That the following Councillors be appointed as Committee Members to the Innovation and Partnerships Committee;

- Councillor Conolly
- Councillor Kotlash
- Councillor Richards
- Councillor Zamprogno

For the Motion: Councillors Conolly, Calvert, Kotlash, Richards, Tree and Zamprogno.

Against the Motion: Councillors Lyons-Buckett, Garrow, Rasmussen, Reynolds, Ross and Wheeler.

Absent: Nil.

The Motion was carried on the casting vote of the Mayor.

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Minutes: 25 January 2021

Item: 011 **SS - 2020/2021 Community Sponsorship Program - Round 1 - (95496, 96328)**

Directorate: Support Services

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

16 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That Council:

1. Approve payments for Section 356 Financial Assistance to the organisations listed in this report and at the level recommended.
2. Approve execution of Council's standard Sponsorship Agreement for those applications where the approved level of funding is over \$500.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

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Minutes: 25 January 2021

Item: 012 **SS - Naming of Reserve and Ovals at 204 Freemans Reach Road, Freemans Reach - (95496, 112106)**

Previous Item: 210, Ordinary (10 November 2020)
 173, Ordinary (8 September 2020)

Directorate: Support Services

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

17 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That Council:

1. Endorse the application to the Geographical Names Board of New South Wales to formally assign under the Geographical Names Act 1966 the following parcels as 'The Breakaway':
 - a) Lot 4 DP 165153
 - b) Lot 3 DP 165153
 - c) Lot 91 DP 525429
 - d) Lot 92 DP 525429
 - e) Lot 1 DP 999867
 - f) Lot 8 DP 231633
 - g) Lot 2 DP 165153
 - h) Lot 7 DP 231633
 - i) Lot 1 DP 165153
2. Endorse the application to the Geographical Names Board of New South Wales to record in the Spatial Services Topographic Database the naming of the Ovals located on Lot 2 DP 165153, Lot 7 DP 231633 and Lot 1 DP 165153 as 'The Charlie Greentree Oval' and 'The George Greentree Oval', as show in attachment 2 of this Report.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

SECTION 4 – Reports of Committees

Item: 013 **ROC - Floodplain Risk Management Advisory Committee - 3 December 2020 - (95498, 124414, 86589)**

Directorate: City Planning

MOTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Rasmussen.

Refer to RESOLUTION

18 RESOLUTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Rasmussen.

That Council:

1. Receive and note the Minutes of the Floodplain Risk Management Advisory Committee Meeting held on 3 December 2020.
2. In relation to Item 2 of the Minutes of the Floodplain Risk Management Advisory Committee Meeting held on 3 December 2020, the presentation by Mr Stephen Yeo from Infrastructure NSW to the Committee on Implementation of the Hawkesbury-Nepean Valley Flood Risk Management Strategy be circulated to Councillors.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

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Item: 014 **ROC - Local Traffic Committee - 11 January 2021 - (80245, 95495)**

Directorate: Infrastructure Services

MOTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

Refer to RESOLUTION

19 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Zamprogno.

That Council receive and note the Minutes of the Local Traffic Committee Meeting held on the 11 January 2020.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Nil.

ORDINARY MEETING

Minutes: 25 January 2021

SECTION 5 – Notices of Motion

Item: 015 **NM - Telstra Tower Upgrades - (79351,138882)**

A MOTION was moved by Councillor Lyons-Buckett, seconded by Councillor Wheeler.

That as part of Council's resilience action planning Council:

1. Organise a public meeting for affected residents to discuss Telstra telecommunication improvements in the Bilpin area.
2. Invite Telstra and the Member for Macquarie, Susan Templeman MP to attend and address the meeting.
3. Provide Councillors with a copy of Mobile Black Spot Program Advisory Report, prepared by Total Site Solutions.

An AMENDMENT was moved by Councillor Kotlash, seconded by Councillor Calvert.

That as part of Council's resilience planning:

1. Council review the options available to Council to assist our residents that do not have access to adequate telecommunications and hold an initial meeting of the Innovation and Partnerships Committee in the next month and report back to Council within three months.
2. The Innovation and Partnerships Committee invite Telstra and the Member for Macquarie, Susan Templeman MP to attend and address the meeting or meetings which will be open to the public.

For the Amendment: Councillors Conolly, Calvert, Kotlash, Richards, Tree and Zamprogno.

Against the Amendment: Councillors Garrow, Lyons-Buckett, Rasmussen, Reynolds, Ross and Wheeler.

Absent: Nil.

The Amendment was carried on the casting vote of the Mayor.

ORDINARY MEETING

Minutes: 25 January 2021

MOTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Wheeler.

Refer to RESOLUTION

20 RESOLUTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Wheeler.

That as part of Council's resilience planning:

1. Council review the options available to Council to assist our residents that do not have access to adequate telecommunications and hold an initial meeting of the Innovation and Partnerships Committee in the next month and report back to Council within three months.
2. The Innovation and Partnerships Committee invite Telstra and the Member for Macquarie, Susan Templeman MP to attend and address the meeting or meetings which will be open to the public.

For the Motion: Councillors Conolly, Calvert, Kotlash, Richards, Tree and Zamprogno.

Against the Motion: Councillors Garrow, Lyons-Buckett, Rasmussen, Reynolds, Ross and Wheeler.

Absent: Nil.

The Motion was carried on the casting vote of the Mayor.

ORDINARY MEETING

Minutes: 25 January 2021

CONFIDENTIAL REPORTS

21 RESOLUTION:

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Richards.

That:

1. The Council meeting be closed to deal with confidential matters and in accordance with Section 10A of the Local Government Act, 1993, members of the Press and the public be excluded from the Meeting during consideration of the following items:

Item: 016 GM - Recruitment of the General Manager - (125610, 79351)

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act, 1993 as it relates to details concerning quotations received from agencies and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.*

Item: 017 S - Lease to OSR Group Pty Ltd - Windsor Function Centre - 7 Dight Street, Windsor - (95496, 476741, 144755)

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act, 1993 as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.*

2. In accordance with the provisions of Section 11(2) & (3) of the Local Government Act, 1993 the reports, correspondence and other relevant documentation relating to these matters be withheld from the Press and public.

22 RESOLUTION:

RESOLVED on the motion of Councillor Richards, seconded by Councillor Calvert that open meeting be resumed.

ORDINARY MEETING

Minutes: 25 January 2021

Item: 016 **GM - Recruitment of the General Manager - (125610, 79351) CONFIDENTIAL**

Previous Item: 229, Ordinary (24/11/2020)
 258, Ordinary (8/12/2020)

Directorate: General Manager

MOTION:

The Acting General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Calvert.

Refer to RESOLUTION

23 RESOLUTION:

The Acting General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Councillor Calvert.

That:

1. The quotation submitted by Brian Bell, to join the Selection Panel for recruitment of the General Manager, be accepted.
2. Brian Bell be appointed as the totally independent person to join the Selection Panel for the recruitment of the General Manager to carry out functions including:
 - a) Assisting with shortlisting applicants for interview
 - b) Attending all interviews with applicants
 - c) Conducting referee checks for preferred applicants if requested by the Selection Panel.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

Against the Motion: Nil.

Absent: Councillor Rasmussen.

ORDINARY MEETING

Minutes: 25 January 2021

Item: 017 **SS - Lease to OSR Group Pty Ltd - Windsor Function Centre - 7 Dight Street, Windsor - (95496, 112106, 144755) CONFIDENTIAL**

Directorate: Support Services

MOTION:

The Acting General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Reynolds, seconded by Councillor Calvert.

Refer to RESOLUTION

24 RESOLUTION:

The Acting General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Reynolds, seconded by Councillor Calvert.

That:

1. Council agree to exercise the five year option available in the current lease with OSR Group Pty Ltd, for the property known as Windsor Function Centre, 7 Dight Street, Windsor, as outlined in the report.
2. Authority be given for the lease and any other documentation in association with this matter to be executed under the Seal of Council.
3. Details of Council's resolution be conveyed to the proposed Lessee, together with the advice that Council, is not and will not, be bound by the terms of its resolution, until such time as appropriate legal documentation to put such a resolution into effect has been agreed to and executed by all parties.

For the Motion: Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogn.

Against the Motion: Nil.

Absent: Nil.

The meeting terminated at 10:33pm.

Submitted to and confirmed at the Ordinary meeting held on 9 February 2021.

.....
Mayor

ordinary

section 2

mayoral minutes

ORDINARY MEETING
SECTION 2 – Mayoral Minute
Meeting Date: 09 February 2021

ORDINARY MEETING
SECTION 2 – Mayoral Minute
Meeting Date: 09 February 2021

SECTION 2 – Mayoral Minutes

There was no Mayoral Minute at the time of preparing this Business Paper.

Notwithstanding the above, pursuant to Clauses 9.6-9.9 of Council's Code of Meeting Practice, the Mayor may submit a Mayoral Minute to the meeting without notice in relation to any matter or topic that:

- Is within the jurisdiction of the Council
- Council has official knowledge of.

However, a Mayoral Minute must not be put without notice if it relates to a routine or non-urgent matter.

A matter is considered to be urgent when it requires a decision by the Council before the next scheduled ordinary meeting of the Council.

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SECTION 2 – Mayoral Minute
Meeting Date: 09 February 2021

ordinary

section 3

reports
for determination

ORDINARY MEETING

SECTION 3 – Reports for Determination

Meeting Date: 09 February 2021

ORDINARY MEETING
SECTION 3 – Reports for Determination
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SECTION 3 – Reports for Determination

PLANNING DECISIONS

Item: 018 **CP - Planning Proposal to Amend Written Statement, Land Zoning, Lot Size and Height of Buildings and Restricted Lot Yield Maps of Hawkesbury Local Environmental Plan 2012 and Biodiversity Certification Application - Jacaranda Development, Glossodia**

Previous Item: 145, Ordinary (13 August 2019)

Directorate: City Planning

PLANNING PROPOSAL INFORMATION

File Number:	LEP001/18
Property Address:	103, 123, 211, 213, 361 Spinks Road, 11 James Street, 3 Derby Place and 746A and 780A - 780C Kurmond Road, Glossodia
Applicant:	Celestino Pty Ltd
Owner:	EJC Glossodia Private Limited
Date Received:	Originally 27/03/2018, Revised 12/07/2019
Current Minimum Lot Size:	1,000m ² , 2,000m ² and 4,000m ²
Proposed Minimum Lot Size:	No changes to the current minimum lot sizes - reconfiguration of the current minimum lot size areas in line with the proposed residential zonings only
Current Zone:	Part R2 Low Density Residential, part R5 Large Lot Residential, part RE1 Public Recreation and part SP2 Infrastructure
Proposed Zone:	Rezoning of part R5 and part RE1 land to E2 Environmental Conservation, reconfiguration of the current R2, R5 and RE1 zonings and rezoning of part of SP2 zoned land to part R2 and part RE1
Current Maximum Height of Buildings:	10M
Proposed Maximum Height of Buildings:	No change to the current 10m maximum height of buildings - reconfiguration of the current 10m maximum height provision in line with the proposed residential zonings only
Site Area:	185.3Ha
Key Issues:	<ul style="list-style-type: none">◆ Proposed E2 Environmental Conservation Area◆ Application for Biodiversity Certification◆ Proposed RE1 Public Recreation areas◆ Need for new Draft Local Voluntary Planning Agreement and site specific Development Control Plan prior to community consultation

RECOMMENDATION:

That Council:

1. Receive and note the update on the Jacaranda Development, Glossodia.
2. Endorse the amended draft Jacaranda Planning Proposal, draft Biodiversity Certification Application, Report and Strategy, draft Jacaranda Development Control Plan, and draft Local

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Voluntary Planning Agreement contained in Attachments 1, 2, 3 and 4 respectively to this report as being generally consistent with Council's earlier decisions with respect to this matter.

3. Approve public exhibition of the amended draft Jacaranda Planning Proposal in accordance with s3.34(2) and clause 4 of Schedule 1 of the *Environmental Planning and Assessment Act 1979* and Council's Community Participation Plan.
4. Approve public exhibition of the draft Jacaranda Development Control Plan in accordance with clause 18 of the Environmental Planning and Assessment Regulation 2000 and Council's Community Participation Plan, noting that the draft Jacaranda Development Control Plan and draft Jacaranda Planning Proposal must be published on Council's website for the same period as that for exhibition of the draft Planning Proposal.
5. Approve public exhibition of the draft Local Voluntary Planning Agreement in accordance with clause 25D(1A) of the Environmental Planning and Assessment Regulation 2000 and Council's Community Participation Plan, noting that this exhibition is to be part of and contemporaneous with that for the draft Planning Proposal.
6. Consult with the NSW government agencies listed in Condition 6 of the Gateway Determination.
7. Approve public notification of the draft Biodiversity Certification Application, Report and Strategy in accordance with s126N(2) of the former Threatened Species Conservation Act 1995.
8. Receive a post exhibition/notification report for items 3, 4, 5 and 7 above.

BACKGROUND:

The purpose of this report is to:

- Consider the amended draft Jacaranda Planning Proposal
- Consider the related documents (draft Local Voluntary Planning Agreement, Biodiversity Certification Application, Report and Strategy and draft Jacaranda Development Control Plan) as to whether they are compatible with the Planning Proposal and are satisfactory overall
- Seek Council's endorsement to publicly exhibit the above package of documents.

Previous Planning Proposal

On 19 December 2014, following a Planning Proposal process that commenced in July 2011, the Hawkesbury Local Environmental Plan 2012 (Amendment No 5) was gazetted to enable development of the subject site for approximately 580 residential lots, with the remainder of the site zoned for open space and infrastructure purposes.

A Community Reference Group was established, and provided valuable input into the preparation of a draft Voluntary Planning Agreement in support of the proposed development on the site which was signed in January 2017. As detailed in the New Draft Voluntary Planning Agreement Section of this report, this previous input has been retained through the preparation of a new Draft Voluntary Planning Agreement.

New Planning Proposal

A new Planning Proposal was received on 27 March 2018 which identifies the site as 'Jacaranda' instead of the previous name of the development, 'Jacaranda Ponds'.

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The new Planning Proposal was submitted in order to propose a rezoning of part of the subject site containing critically endangered species and endangered ecological communities to E2 Environmental Conservation. This is to enable an improved ecological outcome for the subject site whilst enabling development of the site for residential, public recreational, environmental conservation and infrastructure purposes (no net increase from originally approved 580 lots).

Council at its Ordinary Meeting on 13 August 2019 resolved to forward the new Planning Proposal to the Department Planning, Industry and Environment for a Gateway Determination. Council also resolved not to commence community consultation until such time as the Voluntary Planning Agreement, and site specific Development Control Plan had been prepared and endorsed by Council. Additionally, Council resolved to prepare and submit an Application to the Minister for Energy and Environment for Biodiversity Certification over the subject site.

On 9 June 2020, Council received a Gateway Determination from the Department of Planning, Industry and Environment advising to proceed with the Planning Proposal subject to certain conditions, including amongst other standard conditions:

- The Planning Proposal must be amended to address the biodiversity issues raised by the Environment, Energy and Science Group of the Department of Planning, Industry and Environment, and the NSW Rural Fire Service prior to public exhibition.
- A Restricted Lot Yield Map must be prepared to limit the maximum number of lots on the site as 580 residential lots.
- A site specific Development Control Plan must be prepared
- Preparation and exhibition of a new Draft Voluntary Planning Agreement.

The Planning Proposal seeks to rezone part of the subject site containing significant vegetation to E2 Environmental Conservation, and reconfigure the existing R2 Low Density Residential, RE1 Public Recreation and SP2 Infrastructure zonings on the subject site to provide approximately 580 residential lots on the subject site. Figure 1 provides the new Concept Masterplan for the Jacaranda Development.



Figure 1 – Jacaranda Concept Masterplan

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A condition of the Gateway Determination requires Council to publicly exhibit the Planning Proposal, Draft Jacaranda Development Control Plan, new Draft Voluntary Planning Agreement and Biodiversity Certification Application as an overall package. This approach is consistent with Council's resolution, and enables effective community consultation on all aspects of the proposal. It should be noted that undertaking the Biodiversity Certification at this stage enables a streamlined biodiversity assessment process for areas of land in future development applications.

Recent advice received from the Environment, Energy and Science Group of the Department of Planning, Industry and Environment requires the submission of the post-exhibition Biodiversity Certification Application by 24 April 2021. This requirement has resulted in the need for the amended Planning Proposal, draft Jacaranda Development Control Plan, new Draft Voluntary Planning Agreement, and the Biodiversity Certification Application to be publicly exhibited and reported to Council before 24 April 2021.

AMENDED PLANNING PROPOSAL

Following extensive discussion between the applicant, Council Officers and the Department of Planning, Industry and Environment, the Planning Proposal for Jacaranda, Glossodia has been amended by the applicant to address Council's resolution, and the issues identified in the Conditions of the Gateway Determination, including the issue raised by the Energy, Environment and Science Group of the Department of Planning, Industry and Environment regarding Biodiversity Certification of the subject site.

A copy of the amended Planning Proposal is included as Attachment 1 to this report.

Council is progressing the landowner-initiated Planning Proposal from Celestino Pty Ltd (the Applicant) which seeks to amend Hawkesbury Local Environmental Plan 2012. The Planning Proposal has a long history dating back prior to 27 March 2012 when Council considered and resolved to submit the proposal to the Department of Planning and Environment. A detailed report was provided to Council on 13 August 2019 which fully documented the history, content and progress of the Planning Proposal noting that the site was rezoned on 19 December 2014 in Hawkesbury Local Environmental Plan 2012 (Amendment No 5) to allow 580 large residential lots with supporting infrastructure, open space and conservation measures and an accompanying Local Voluntary Planning Agreement which was executed in January 2017.

The key point to note is that the current Planning Proposal is a modification of the zoning made under Hawkesbury Local Environmental Plan 2012 (Amendment No 5) principally to rezone some residential and public recreation land to E2 Environmental Conservation to better protect valuable vegetation. Under the current revised Planning Proposal there is no intention to change the existing number of residential lots, but the arrangement of some land use zones has been amended to achieve better outcomes particularly in relation to conservation and open space.

On 12 July 2019 Council received an updated Planning Proposal from the Applicant. An earlier version of this proposal had been submitted to the Hawkesbury Local Planning Panel for its review. The panel recommended that the proposal be advanced in an integrated way being that the Planning Proposal, a revised Voluntary Planning Agreement, a Biodiversity Certification Agreement and a site specific Development Control Plan be prepared concurrently, and that certain factors be given additional consideration. A revised version of the Planning Proposal was subsequently considered by Council and following a resolution made on 13 August 2019 this was submitted to the Department Planning, Industry and Environment with a request for a Gateway Determination. On 9 June 2020, the Department Planning, Industry and Environment issued a Gateway Determination agreeing that the revised Planning Proposal should proceed subject to satisfaction of nine conditions. This report assesses whether the relevant conditions have been satisfactorily addressed.

The Flowchart in Figure 2 highlights the process and actions associated with the Planning Proposal, and the stage that the matter is currently at.

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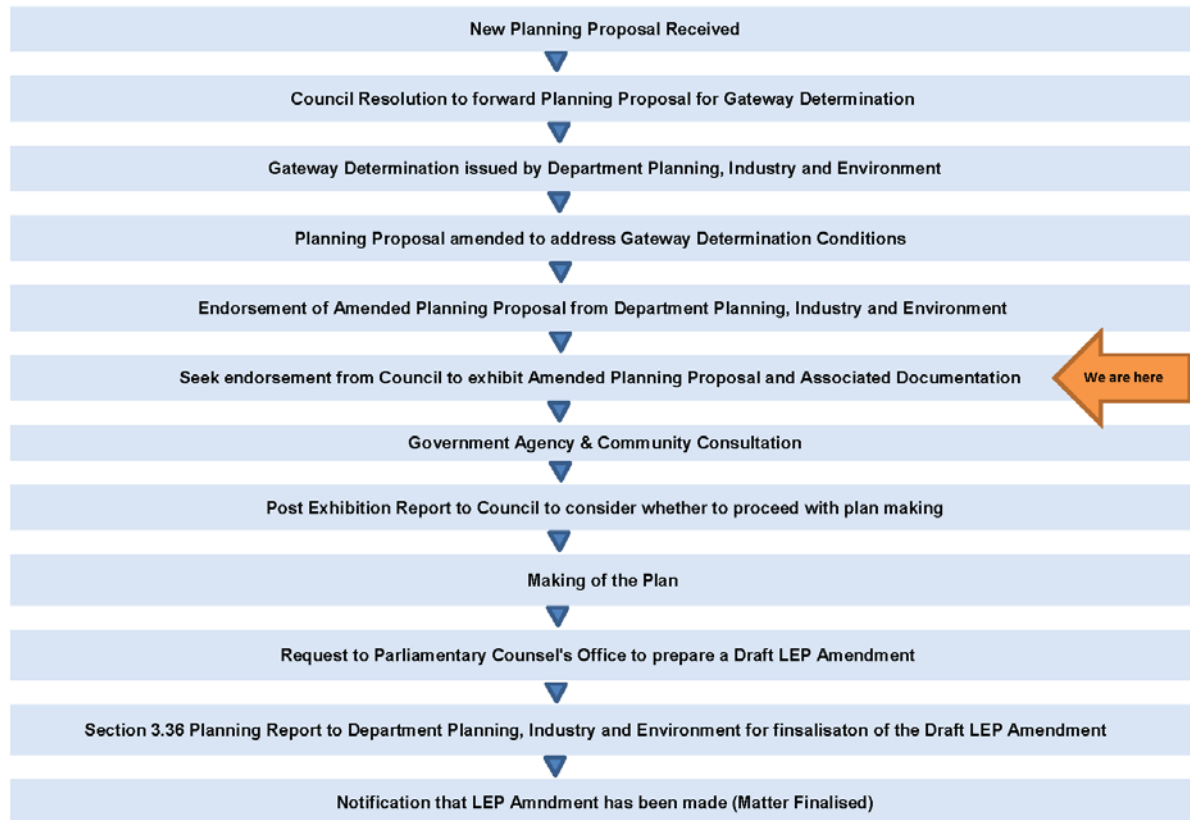


Figure 2 – Jacaranda Planning Proposal Process and Actions

Planning Proposal - Gateway Conditions

1. Prior to public exhibition, the Planning Proposal must be amended to include the following:
 - (a) Consult and address the concerns raised by the Environment, Energy and Science (ESS) Group as identified in its letter Biodiversity Certification Adequacy Letter dated 5 March 2020 (sic):
 - i. Any requirements for amending land use zones to comply with a future biobank agreement are to be addressed such as the preference for biobank sites to be E2 Environmental Conservation not RE1 Public Recreation;

Further information was submitted by Council in response to Environment, Energy and Science's concerns. On 22 December 2020, the Department of Planning, Industry and Environment advised Council by letter that the updated information had been assessed and was considered satisfactory. Consequently, this condition has been fully addressed.

- ii. Review whether the minimum lot size within the R5 Large Lot Residential land use zone will appropriately protect the Grey Box-Forest Red Gum grassy woodland, particularly areas mapped as Good and Moderate condition;

Information in relation to this condition was provided by the Applicant to the Department Planning, Industry and Environment and Council on 14 and 15 January 2021. Following discussions between the Department Planning, Industry and Environment, Council and the applicant on 15 January 2021, the Applicant submitted further information explaining the relationship between natural ground slopes and required earthworks in the proposed R5 zone. By letter on 29 January 2021, the Department Planning, Industry and Environment determined that no adjustment to the proposed lot sizes in

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the R5 zone would be necessary but that the Planning Proposal required further revision to explain the relationship between earthworks and protection of vegetation, and options to retain or replace the affected vegetation. The Planning Proposal was subsequently amended in order to satisfy the Department Planning, Industry and Environment requirement.

- iii. *Update the proposed maps and information in the proposal including table calculations to reflect the changes following the resolution of matters raised by EES.*

In its letter to Council of 22 December 2020 the Department Planning, Industry and Environment stated that this matter had been adequately addressed meaning the condition has been satisfied.

- (b) *Under part 2 Explanations of Provisions, include a restricted lot yield map for 580 lots across the subject site (sic).*

In its letter of 22 December 2020 the Department Planning, Industry and Environment stated that this matter had been adequately addressed, meaning the condition has been satisfied.

- (c) *Review the implications of converting the RE1 Local Open Space to E2 Environmental Conservation along Currency Creek on the provision of RE1 local open space to support the new community. The review would include revising all references to quantum of RE1 and E2 land, a catchment and accessibility analysis of the RE1 land for the future residents and an analysis against 2.63ha/ 1,000 persons.*

Information in relation to this condition was provided by the Applicant on 14 January 2021 and discussed with the Department and Council on 15 January 2021. On 29 January 2021 the Department of Planning, Industry and Environment responded by letter to Council noting that 91% of the proposed residential lots are within 400m of parklands, that all lots are well connected to parks, that bio bank sites provide opportunities for walking trails, and that the proposed parks are of sufficiently large area. As a result, the Department of Planning, Industry and Environment concluded that it required no further information on this condition meaning the condition has been satisfied.

- (d) *Preparation of a site-specific development control plan including a section on desired character such as landscape character and density for the site, and identification of the irrigation areas.*

In its letter of 22 December 2020, the Department of Planning, Industry and Environment stated that this matter had been adequately addressed. However, Condition 1(f) is also relevant and required consideration of additional matters in the Development Control Plan which are discussed below. It is noted that the Department of Planning, Industry and Environment believes the condition is adequately addressed and therefore the condition is satisfied.

- (e) *Review of how the local convenience retail needs of the community will be met and incorporation of a planning provision to address these if they are not found to be met by the existing Glossodia Village.*

In its letter of 22 December 2020, the Department of Planning, Industry and Environment stated that this matter had been adequately addressed meaning this condition has been satisfied.

- (f) *Consult the NSW Rural Fire Service prior to public exhibition in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and address any comments from this agency.*

Council consulted with Rural Fire Service on 13 October 2020 and a reply was received on 22 October 2020. Rural Fire Service stated that it had no objections to the Planning Proposal

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subject to three recommendations being satisfied. The recommendations state that the plan of management for public recreation areas under Council's control must specify procedures for ongoing management that will ensure adequate fuel reduction and asset protection, and that the Development Control Plan must incorporate relevant provisions of *Planning for Bushfire Protection*, particularly in relation to road widths and the capacities of gas, water and electricity utilities.

In its letter to Council of 29 January 2021, the Department Planning, Industry and Environment stated that it had reviewed the draft Development Control Plan and was satisfied that the controls proposed in the Bushfire Management section of the Draft Development Control Plan met its earlier request.

2. *After satisfying condition 1, the planning proposal is to be forwarded to the Department for endorsement prior to public exhibition.*

In its letter to Council of 29 January 2021 the Department of Planning, Industry and Environment endorsed the Planning Proposal to proceed to exhibition on the proviso that additional commentary was included on the earthworks strategy. As detailed in 1 a ii above, this matter has been addressed in the amended Planning Proposal.

3. *Public exhibition of this planning proposal should be in conjunction with the public exhibition of the draft Development Control Plan supporting Jacaranda Ponds, a revised voluntary planning agreement and the biodiversity certification application.*

This condition will be addressed by adoption of Recommendations 3, 4, 5 & 7 above.

4. *Council is to ensure that appropriate measures are in place to provide for adequate local facilities to support the development. These measures may include a Voluntary Planning Agreement. Any Agreement should be exhibited in conjunction with the planning proposal and Development Control Plan.*

This condition will be addressed by adoption of Recommendations 1 & 5 above.

5. *Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:*

- (a) *the planning proposal must be made publicly available for a minimum of 28 days; and*
- (b) *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment, 2018).*

This condition will be addressed by adoption of Recommendation 3 above.

6. *Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:*

- *Department of Planning, Industry and Environment – Water & Utility team*
- *NSW Environment, Energy and Science*
- *NSW Rural Fire Service*
- *NSW Office of Water*
- *IPART*

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

This condition will be addressed by adoption of Recommendation 6 above.

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7. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*

This condition is not relevant at this stage.

8. *The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:*

- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;*
- (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and*
- (c) there are no outstanding written objections from public authorities.*

Section 3.36(2) of the Act deals with decision to be made by Council (as the local plan-making authority) following completion of community consultation.

As consultation has not been completed this condition is not yet relevant.

9. *The timeframe for completing the LEP is to be 18 months following the date of the Gateway determination.*

This condition is not relevant at this stage.

BIODIVERSITY CERTIFICATION APPLICATION REPORT AND STRATEGY

The registration of two biobank sites with areas of 12.01ha and 16.12ha at the eastern and western parts of the subject site owned by EJC Glossodia Pty Ltd and Frank George Pace & Pace Land Holdings Pty Ltd respectively is a '100% conservation measure' commitment in the Biodiversity Assessment Certification Application submitted to the Minister for Energy and Environment by Council.

In August 2020, two separate applications for registration of Biobank sites and supporting documentation including in-perpetuity cost estimates covering all costs associated with management, monitoring and administration costs of the two biobank sites were prepared and submitted to the Minister for Energy and Environment by Eco Logical Australia Pty Ltd on behalf of the land owners.

Once Council becomes the owner of these the biobank sites, Council is responsible for undertaking agreed management actions such as fencing, revegetation and weed and feral animal control. In return, Council will receive annual payments from the Bio Banking Trust Fund. The amount of annual payment to Council is based on the in-perpetuity cost estimates for undertaking these actions approved by the Minister for Energy and Environment. Therefore, it is vital to ensure that these cost estimates are accurate and appropriate in order to receive sufficient funding from the Trust Fund. As part of due diligence on Councils part, confirmation of these costs will occur prior to finalisation of the matter.

A copy of the Biodiversity Certification Application Report and Strategy is included as Attachment 2.

The Flowchart in Figure 3 highlights the process and actions associated with the Biodiversity Certification Application Report and Strategy, and the stage that the matter is currently at.

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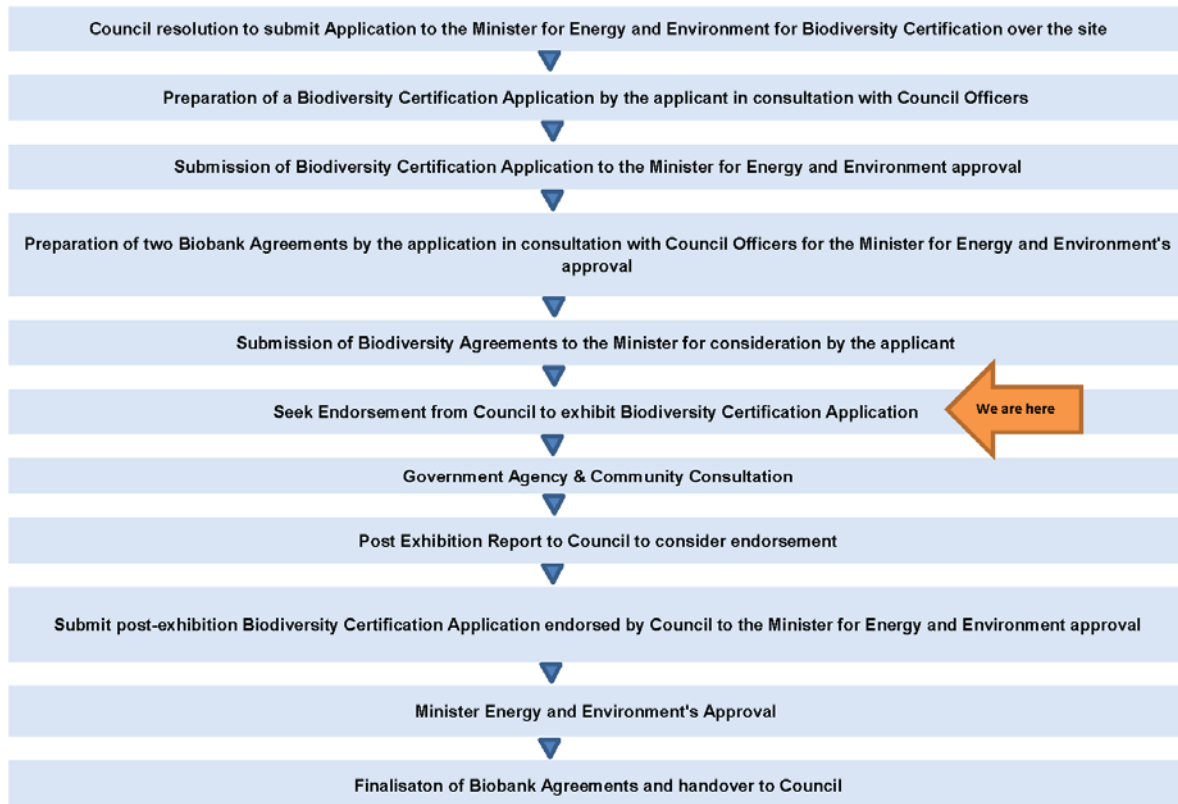


Figure 3 – Jacaranda Biodiversity Certification Application Process and Actions

DRAFT JACARANDA DEVELOPMENT CONTROL PLAN

In line with Council's resolution of 13 August 2019, a site-specific Development Control Plan has been prepared by the applicant in consultation with Council Officers. The site-specific Development Control Plan is a guiding document to enable an environmentally sustainable and orderly development accommodating approximately 580 dwellings on the subject site. Preparation of the site-specific Development Control Plan has included internal engagement with the following sections:

- Infrastructure Services (Parks, Construction and Maintenance, Design, and Building Services)
- Development Services (Planners and Development Engineers)
- Community Partnerships
- Strategic Planning (Environmental Sustainability)
- Environment and Regulation

A copy of the Draft Jacaranda Development Control Plan is included as Attachment 3, which provides contemporary controls both on a Precinct Wide basis (Natural Environment and Built Environment), and specific residential development controls (urban design, streetscape character, street tree planting, residential design, etc).

The Flowchart in Figure 4 highlights the process and actions associated with the site specific Jacaranda Development Control Plan, and the stage that the matter is currently at.

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Figure 4 – Jacaranda Development Control Plan Process and Actions

NEW DRAFT VOLUNTARY PLANNING AGREEMENT

Current Voluntary Planning Agreement

On 30 January 2017, a Voluntary Planning Agreement incorporating the following works in support of the development of Jacaranda Ponds, Glossodia was executed by Council:

Road Works

- Rehabilitation of existing pavement including road widening of Spinks Road from Mitchell Drive to Creek Ridge Road
- Rehabilitation of existing pavement of Spinks Road from Boomerang Drive to Mitchell Drive
- Reconstruction the entire bend at the intersection of Creek Ridge Road and Spinks Road
- Rehabilitation of existing pavement including road widening of Creek Ridge Road from Spinks Road to Kurmond Road
- Expansion of the existing Currency Creek culvert on Spinks Road north of Kurmond Road
- Rehabilitation of existing pavement including road widening of Spinks Road from Glossodia Bushfire shed to Kurmond Road
- Construction of a dual lane roundabout including all road approaches at the intersection of Spinks Road and Kurmond Road
- Construction of a dual lane roundabout including all road approaches at the intersection of Wire Lane and Kurmond Road
- Rehabilitation of existing pavement including road widening of Gorricks Lane and Freemans Reach Road
- Rehabilitation of existing pavement including road widening of Wire Lane from Kurmond Road to Terrace Road
- Upgrading of Golden Valley Drive pavement (west) from Spinks Road to Glossodia Neighbourhood Shops.

Community Facilities

- Pedestrian crossing on Spinks Road
- Bus stops - Spinks Road
- Refurbishment and extensions to Glossodia Community Centre including Child Care Centre

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Open space/Community Facilities

- Lakeside Park
- Village Green
- Central Reserve
- River corridor
- Redevelopment of Woodbury Reserve

The list of identified works was arrived at following input from a Community Reference Group comprised of community representatives, Council Officers and representatives of the developer Celestino.

The current Voluntary Planning Agreement provided for a total contribution (works and cash) of \$30,000 per lot which equated to approximately \$17.4M.

Proposed New Draft Voluntary Planning Agreement

A new draft Voluntary Planning Agreement has been prepared by the applicant in consultation with relevant Council Officers in order to support the proposed development on the subject site.

As part of the Voluntary Planning Agreement preparation process, Council Officers undertook a review of the above proposed works in the existing Voluntary Planning Agreement. Given the proposed works were arrived at following extensive consultation with the community (Community Reference Group), where these works have not already been completed it is recommended that they are retained in the new Voluntary Planning Agreement.

Through negotiations with Celestino, the total contribution (works and cash) has been increased from \$30,000 per lot to \$40,000 per lot. This represents an increase of approximately \$5.8M above the current Voluntary Planning Agreement amount, and a total contribution of \$23.2M.

It is considered that there is a need for certainty in terms of timings for the various works included within the Schedules, and as such it is proposed that through the public exhibition process that the Glossodia community be engaged to both verify that the works identified in the Schedules are still relevant from a community perspective, and also in terms of priorities. This will enable the final Voluntary Planning Agreement to include a Schedule of Works with an agreed set of timings and trigger points. It is considered that this approach will provide a greater level of certainty in terms of the various works to be delivered as a result of the proposed development.

A copy of the new Draft Voluntary Planning Agreement is included as Attachment 4.

Figures 5 and 6 below highlight the various works identified within the new Draft Voluntary Planning Agreement Schedules.

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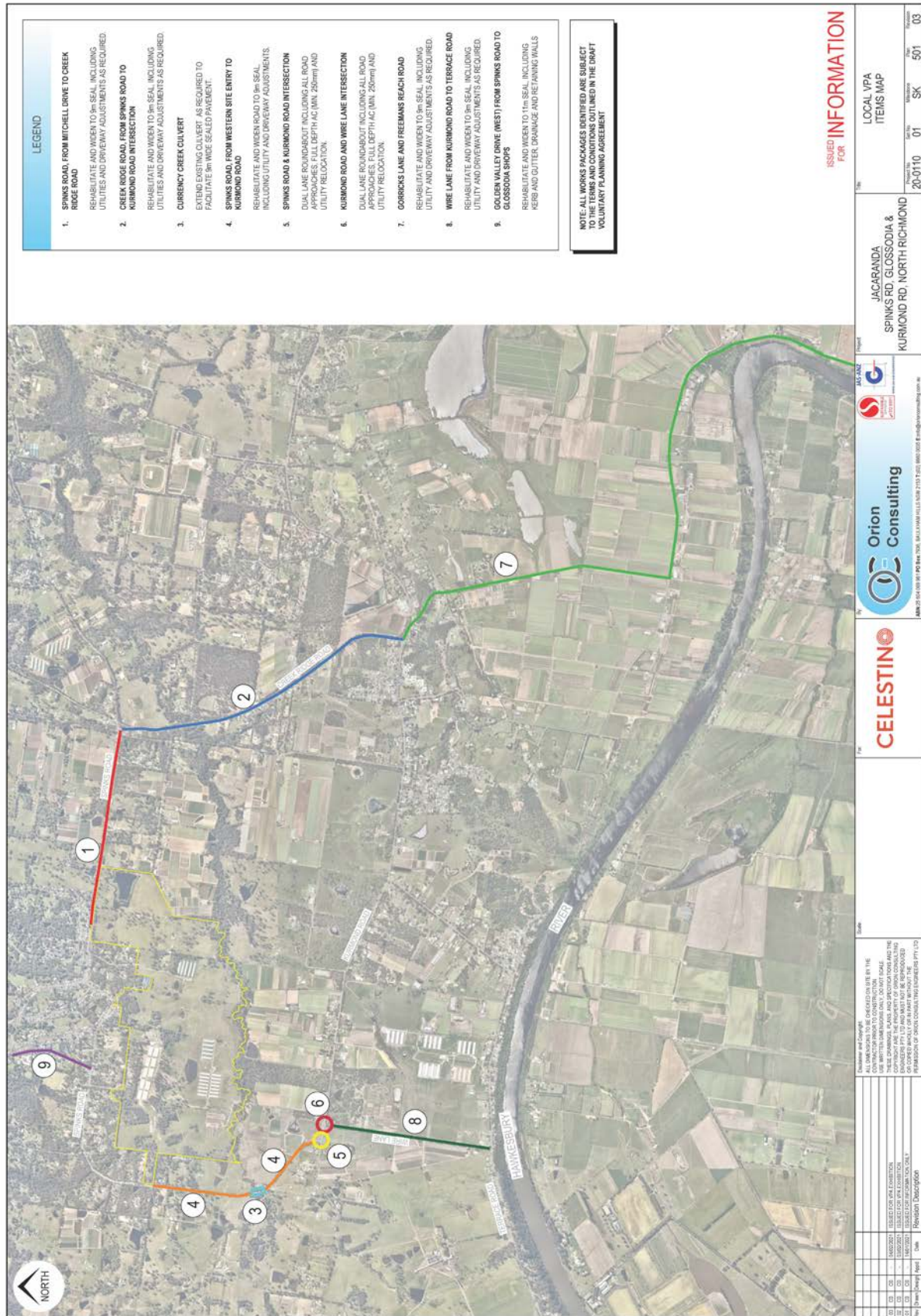


Figure 5 – Local Voluntary Planning Agreement Items Map

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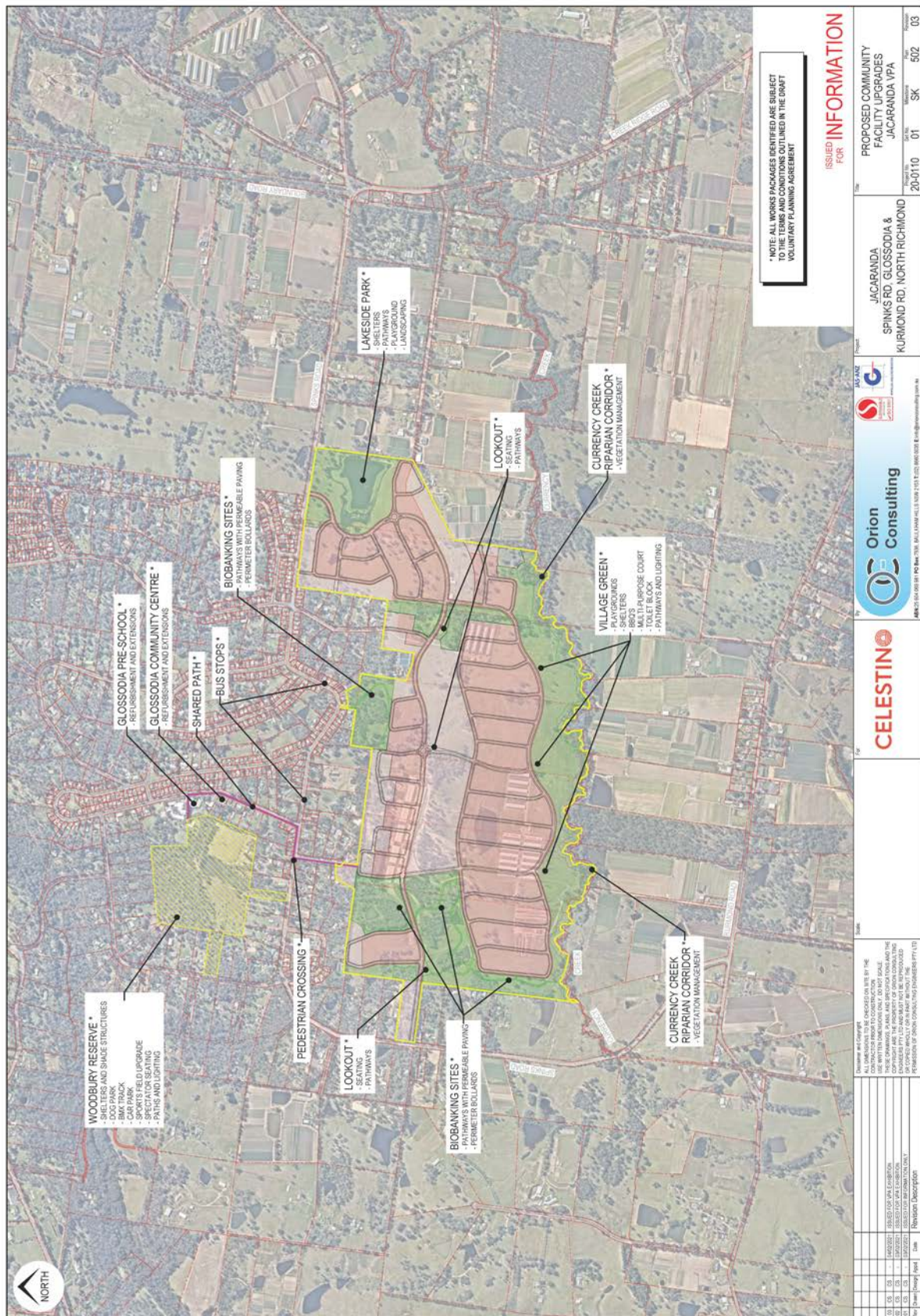


Figure 6 – Proposed Community Facility Upgrades – Jacaranda Voluntary Planning Agreement

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The Flowchart in Figure 7 highlights the process and actions associated with the Voluntary Planning Agreement, and the stage that the matter is currently at.



Figure 7 – Jacaranda Voluntary Planning Agreement Process and Actions

NEXT STEPS

This report seeks endorsement from Council to publicly exhibit the relevant documents associated with the matter, including:

- Amended Planning Proposal
- Biodiversity Certification Application, Report and Strategy
- Draft Jacaranda Development Control Plan
- Draft Voluntary Planning Agreement

COMMUNITY ENGAGEMENT

If endorsed by Council, exhibition of the Planning Proposal and supporting documentation will be undertaken in accordance with relevant legislation and Council's Community Participation Plan.

It should be noted that with the original Planning Proposal process that was completed in 2014 there was a considerable level of engagement with the Glossodia community both in terms of the proposed development, and in the preparation of the Voluntary Planning Agreement.

Since that stage, the development has not proceeded due to a number of reasons. Following completion of the original Planning Proposal and the current Voluntary Planning Agreement, the developer Celestino has commenced a process of reviewing the proposed development in order to investigate opportunities to achieve better outcomes. That has led to this current Planning Proposal which has been focussed on achieving better outcomes particularly in relation to conservation and open space. It has also provided an opportunity to prepare a new Development Concept Masterplan and contemporary planning provisions/controls that will deliver a better outcome.

The new Planning Proposal process has also provided an opportunity for further negotiations with respect to the Voluntary Planning Agreement with an overall increase of \$5.8M as a result of those negotiations.

As detailed in the Voluntary Planning Agreement Section of this report, engagement with the Glossodia community is considered essential to verify the works identified within the Schedules are still relevant to the community and also the priorities. This will also provide an opportunity to engage with the community in terms of the new Concept Masterplan and the new planning provisions/controls.

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As such a communication and engagement plan is being prepared with the aim of both informing the Glossodia community of the latest proposal, but more importantly providing various opportunities to provide input for consideration.

CONSISTENCY WITH THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The report is consistent with a wide range of Focus Areas, Directions and Strategies within the CSP, including:

Our Leadership - 1.4 and 1.5

Our Assets - 4.2 and 4.3

Our Future - 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.8.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

All the costs of the preparation and exhibition of the Planning Proposal and associated documents, including the costs of this assessment report, have and will continue to be met by the Applicant. If the proposal is ultimately approved the Voluntary Planning Agreement ensures that the direct costs of the development and some ongoing maintenance costs, for instance of parklands, will be met by the Applicant. Thus, apart from the costs of Council staff performing their normal strategic planning functions the proposal has no material financial implications for Council.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications outside of Council's adopted 2020/2021 Operational Plan, which will adversely impact on Council's financial sustainability.

Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the *Local Government Act 1993*, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

ATTACHMENTS:

- AT - 1** Amended Planning Proposal - *(Distributed under separate cover)*
- AT - 2** Biodiversity Certification Application, Report and Strategy - *(Distributed under separate cover)*
- AT - 3** Draft Jacaranda Development Control Plan - *(Distributed under separate cover)*
- AT - 4** Draft Voluntary Planning Agreement - *(Distributed under separate cover)*

oooO END OF REPORT Oooo

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Item: 019 **CP - Proposed Optional Natural Disasters Clause to the Standard Instrument (Local Environmental Plans) Order 2006 - (95498, 124414)**

Previous Item: 158, Ordinary (25 August 2020)
 002, Ordinary (25 January 2021)

Directorate: City Planning

PURPOSE OF THE REPORT:

The purpose of this report is to:

- Consider the implications of adopting the proposed amendment to the Standard Instrument (Local Environmental Plans) Order 2006 to introduce a Local Environmental Plan provision relating to the rebuilding of dwelling houses or secondary dwellings damaged or destroyed by a natural disaster; and
- Recommend that, based on consideration of the matter, Council not opt into including the new Natural Disaster Clause into Hawkesbury Local Environmental Plan 2012 at this time.

Council considered this matter at its Ordinary Meeting on 25 January 2021 and resolved to defer consideration of the matter following discussion at a Briefing Session. It should be noted that Council has until 15 February 2021 to decide whether to opt into including the new Clause in order for this matter to proceed with the NSW State Government amending the Hawkesbury Local Environmental Plan 2012. Should Council resolve to not opt in at this stage, then Council is able to submit a separate planning proposal to include the Clause at a later date should the need arise.

EXECUTIVE SUMMARY:

The Department of Planning, Industry and Environment recently exhibited a proposed amendment to legislation to introduce an optional Local Environmental Plan provision relating to the rebuilding of dwelling houses or secondary dwellings damaged or destroyed by a natural disaster.

The proposed amendment to the Standard Instrument (Local Environmental Plans) Order 2006 was exhibited from Tuesday, 4 August 2020 to Sunday, 31 August 2020. Following consideration of the matter at Council's Ordinary Meeting on 25 August 2020, Council provided a submission to the Department of Planning, Industry and Environment on 31 August 2020 (included as Attachment 1 to this report). Council's submission also provided an Expression of Interest to incorporate the new clause into Hawkesbury Local Environmental Plan 2012, noting that when the final clause was received, Council would be able to consider whether to opt in at that stage.

Council's submission highlighted that based on our experiences to date, the existing provisions of Hawkesbury Local Environmental Plan 2012, and the 'existing use' provisions of the *Environmental Planning and Assessment Act 1979* do not inadvertently prevent the rebuilding and repair of dwelling houses and secondary dwellings following damage by natural disaster as is the case in other local government areas. It was considered that in this respect, the new Natural Disaster Clause does not provide any additional benefit in enabling the rebuilding of development following a natural disaster as detailed in this report.

On 24 November 2020, the Department of Planning, Industry and Environment provided councils who had registered an interest with the final version of the Natural Disasters Clause and Guidance for Implementation in order to address the concerns raised by councils during public exhibition. The Department of Planning, Industry and Environment have also invited councils who had registered an interest to provide formal confirmation by 15 February 2021 whether to incorporate the Natural Disasters Clause into respective local environmental plans.

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This report provides details of the final clause and discusses the implications of adopting the proposed amendment. In addition, this report also highlights that the adoption of the proposed new clause into Hawkesbury Local Environmental Plan 2012 is not warranted, and recommends that Council not opt-in at this time. It should also be noted that Council will still have the ability to consider the inclusion of the Natural Disasters Clause at a later date should the need arise.

RECOMMENDATION:

That Council not opt into including the new Standard Instrument Natural Disaster Clause into the Hawkesbury Local Environmental Plan 2012 at this time.

BACKGROUND

The Department of Planning, Industry and Environment recently proposed an amendment to legislation to introduce an optional Local Environmental Plan provision (Natural Disaster Clause) in response to feedback from councils that in some cases, where dwellings were originally approved and constructed under historical planning instruments, development consent cannot be granted to reconstruct a new dwelling under the current planning controls. This may be the case even if the proposed dwelling is of a similar size, scale and location to the original dwelling due to changes to local planning controls over time. The proposed amendment to the Standard Instrument (Local Environmental Plans) Order 2006 was exhibited from Tuesday, 4 August 2020 to Sunday, 31 August, 2020.

The proposed provision is intended to:

- Clarify that a dwelling that has been destroyed or damaged in a natural disaster can be rebuilt or repaired with development consent;
- Save the applicant time and money by removing the need to request a variation to development standards under the applicable LEP;
- Allow the consent authority to assess and determine the application on its merits.

Those Councils who expressed an interest in the proposed Natural Disaster Clause are able to elect whether the clause should be inserted into their respective local environmental plans, and in addition, participating councils will be able to nominate which zones the clause will apply to.

In an effort to expedite the inclusion of this clause in local environmental plans, and support communities recovering from bush fires and floods, for those council's that 'opt in', the Department of Planning, Industry and Environment will amend participating local environmental plans through an amending State Environmental Planning Policy.

A report was presented to Council's Ordinary Meeting of 25 August, 2020 discussing the implications of the proposed legislation. At that Meeting, Council resolved to:

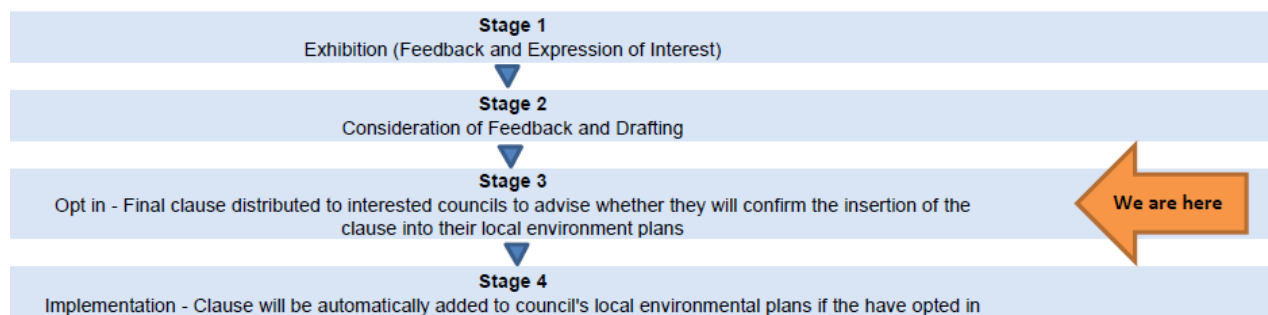
- "1. *Receive and note the NSW Government's Proposed Amendment to the Standard Instrument (Local Environmental Plans) – Natural Disasters.*
- 2 *Note the key points in the Draft Submission in relation to:*
 - a) *The need for a definition of 'natural disaster.'*
 - b) *Need for clear processes and responsibilities for confirming that a 'natural disaster' had occurred.*
 - c) *Clarify what provisions of local environmental plans are or are not to be taken into consideration in the assessment of a development application for the rebuilding of a dwelling impacted by a natural disaster.*

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- d) *Wording of the proposed clause 5.9 should avoid intensification or expansion of the dwelling.*
 - e) *Outline that the existing provisions of Hawkesbury Local environmental Plan 2012 and the 'existing use' provisions of the Environmental Planning and Assessment Act 1979 support the rebuilding and repair of dwelling houses and secondary dwellings following damage by natural disaster without compromising the safety or resilience of new development.*
3. *Endorse the Draft Submission contained in Attachment 2 of the report.*
4. *Submit an Expression of Interest to incorporate the new clause into Hawkesbury Local Environmental Plan 2012, noting that when the Final Clause is received Council is able to consider whether to Opt in at that stage."*

In accordance with the abovementioned resolution, Council provided a submission to the Department of Planning, Industry and Environment on 31 August 2020. Council's submission also provided an Expression of Interest to incorporate the new clause into Hawkesbury Local Environmental Plan 2012, noting that when the final clause was received Council would be able to consider whether to Opt In at that stage. A copy of Council's submission is attached as Attachment 1 to this report.

In summary, the Department of Planning, Industry and Environment is undertaking the following stakeholder consultation process:



On the 24 November 2020, the Department of Planning, Industry and Environment provided councils who had registered an interest in including the new clause with the final version of the Natural Disaster Clause and Guidance for Implementation to address the concerns raised by councils during public exhibition of the proposed amendment. The Department of Planning, Industry and Environment have also invited Council to provide formal confirmation by 15 February 2021 whether to incorporate the Natural Disaster Clause into the Hawkesbury Local Environmental Plan 2012.

Location Plan

If included within the Hawkesbury Local Environmental Plan 2012, the clause will apply to the whole of the local government area, or certain zones as resolved by Council.

Relevant Legislation

Standard Instrument (Local Environmental Plans) Order 2006
Hawkesbury Local Environmental Plan 2012.

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DISCUSSION

Final Version of Natural Disaster Clause

The final version of the proposed Natural Disaster Clause prepared by the Department of Planning, Industry and Environment is provided below:

Dwelling house or secondary dwelling affected by natural disaster

- (1) The objective of this clause is to enable the repair or replacement of lawfully erected dwelling houses and secondary dwelling that have been damaged or destroyed by a natural disaster.
- (2) This clause applies to land in the following zones -
 - (a) *[set out the zones to which the clause is to apply]*,
- (3) Despite any other provision of this Plan, development consent may be granted to development on land to which this clause applies to enable a dwelling house or secondary dwelling that has been damaged or destroyed by a natural disaster to be repaired or replaced if -
 - (a) the dwelling house or secondary dwelling was lawfully erected, and
 - (b) the development application seeking the development consent is made to the consent authority no later than 5 years after the day on which the natural disaster caused the damage or destruction.

In general, the assessment of most development applications within the Hawkesbury Local Government Area is subject to either the Hawkesbury Local Environmental Plan 2012 or State Environmental Planning Policy (Sydney Region Growth Centres) 2006. In consideration as to whether to opt into including the proposed new Natural Disaster Clause, Council has been requested to consider the adoption of the Clause into both Hawkesbury Local Environmental Plan 2012 and State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

Table 1 below outlines the zones in which dwelling houses and secondary dwellings are permitted under Hawkesbury Local Environmental Plan 2012 and State Environmental Planning Policy (Sydney Region Growth Centres) 2006, and also in which secondary dwellings are permitted under State Environmental Planning Policy (Affordable Rental Housing) 2009.

Table 1: Permissibility of dwelling houses and secondary dwellings under *Hawkesbury Local Environmental Plan 2012, State Environmental Planning Policy (Sydney Region Growth Centres) 2006, and State Environmental Planning Policy (Affordable Rental Housing) 2009*

Zone	Hawkesbury Local Environmental Plan 2012		State Environmental Planning Policy (Affordable Rental Housing) 2009	State Environmental Planning Policy (Sydney Region Growth Centres) 2006	
	<i>Dwelling House</i>	<i>Secondary Dwelling</i>	<i>Secondary Dwelling</i>	<i>Dwelling House</i>	<i>Secondary Dwelling</i>
RU1 Primary Production	Permissible				
RU2 Rural Landscape	Permissible				
RU4 Primary Production Small Lots	Permissible				
RU5 Village	Permissible				
R1 General Residential	Permissible	Permissible	Permissible		
R2 Low Density	Permissible		Permissible	Permissible	Permissible

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Zone	Hawkesbury Local Environmental Plan 2012		State Environmental Planning Policy (Affordable Rental Housing) 2009	State Environmental Planning Policy (Sydney Region Growth Centres) 2006	
	<i>Dwelling House</i>	<i>Secondary Dwelling</i>	<i>Secondary Dwelling</i>	<i>Dwelling House</i>	<i>Secondary Dwelling</i>
Residential					
R3 Medium Density Residential	Permissible		Permissible	Permissible	Permissible
R5 Large Lot Residential	Permissible		Permissible		
B1 Neighbourhood Centre	Permissible	Permissible			
B2 Local Centre	Permissible	Permissible			
E3 Environmental Management	Permissible				
E4 Environmental Living	Permissible			Permissible	

The Guidance for Implementation of the Natural Disaster Clause was prepared by the Department of Planning, Industry and Environment to address the concerns raised by councils during public exhibition. A copy of the Guidance for Implementation is included as Attachment 2 to this report.

In response to the matters raised in Council's submission, the Guide provides the following:

Natural Disaster

In Council's previous submission, concern was raised with respect to the lack of a definition of 'natural disaster' that could result in uncertainty as to what is or is not considered to be a natural disaster. Additionally, the submission also highlighted that Council considered it essential to outline the process and responsibilities associated with confirming that a 'natural disaster' had occurred.

In response to these matters, the Department of Planning, Industry and Environment provided the following guidance:

"Natural disasters are naturally occurring, rapid onset events that cause serious disruption to life or property in a community or region, such as floods, bushfires, earthquakes, storms, cyclones, storm surges, landslides and tsunamis. A natural disaster can include a state of emergency declared under section 33 of the State Emergency and Rescue Management Act 1989.

The rebuilding or repair of damage or destruction caused by or because of any of these events is development to which the clause applies."

Whilst the Department of Planning, Industry and Environment has provided advice as to what is considered to constitute a natural disaster, the proposed Natural Disaster Clause does not include a definition of 'natural disaster'. The guidance provided by the Department has resulted in further ambiguity in the application of the Clause in consideration as to what constitutes "serious disruption to life or property..."

As a consequence, the establishment of a process and identification of agency responsibilities for identifying when a 'natural disaster' has occurred has not been provided. As such, it will therefore be Council's decision to determine if a naturally occurring event is serious enough to be classed as a 'natural disaster', thereby triggering application of the Clause.

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Existing Situation

The Department of Planning, Industry and Environment is proposing the Natural Disaster Clause to assist in situations where current planning controls prevent the reconstruction of dwelling houses and secondary dwellings due to planning provisions changing over time since the lawful construction of the buildings.

Should Council not opt into the new Natural Disaster Clause, development applications for the rebuilding or repair of dwelling houses or secondary dwellings damaged as a result of natural disasters would be reliant on the existing provisions of the Hawkesbury Local Environmental Plan 2012. In most instances, the provisions of Hawkesbury Local Environmental Plan 2012 do not inadvertently prohibit the rebuilding or repair of dwelling houses or secondary dwellings.

Where an existing dwelling house or secondary dwelling is located on land currently zoned to prohibit such uses, or where a provision of Hawkesbury Local Environmental Plan 2012 would prohibit the rebuilding of development, the 'existing use' provisions of the Environmental Planning and Assessment Act 1979 will apply.

Division 4.11 of the Environmental Planning and Assessment Act 1979 provides for 'Existing uses'. 'Existing use' means

- (a) *"the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instruments which would, but for this Division, have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land –*
 - (i) *for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

The Environmental Planning and Assessment Regulation 2000 allows the rebuilding of a building being used for an existing use.

Given the above, the new Natural Disaster Clause does not provide any additional benefit in enabling the rebuilding of development damaged by a natural disaster in the Hawkesbury Local Government Area.

Environmental Planning Instrument Provisions

In Council's previous submission, concern was raised with respect to conflicting advice provided in the exhibition documentation as to what provisions of local environmental plans are or are not to be taken into consideration in the assessment of a development application for the rebuilding or repair of a dwelling house or secondary dwelling impacted by a natural disaster.

The Department of Planning, Industry and Environment's Guidance for Implementation clarifies that the Clause applies despite any other provision of a local environmental plan. That is, Council cannot refuse a development application on the basis that it does not comply with a development standard or other provision in the Hawkesbury Local Environmental Plan 2012. It also states that development applications will still be subject to a merit assessment against the relevant considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979 and any other applicable legislation. Any standards or provisions outlined in a State Environmental Planning Policy that are relevant to the Development Application continue to apply (including any concurrence or referral requirements). Development Control Plan provisions also continue to apply.

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The Department of Planning, Industry and Environment's Guidance for Implementation further states that:

"For DAs where the clause applies, LEP provisions themselves must not be used as a reason for refusal. However, if the consent authority considers that the risk, or other environmental impact associated with the proposed development is inconsistent with the relevant considerations of section 4.15, the consent authority can refuse the application on that basis."

The introduction of the new Natural Disaster Clause into Hawkesbury Local Environmental Plan 2012 or State Environmental Planning Policy (Sydney Region Growth Centres) 2006 would negate the following provisions (in particular):

- Prohibitions within the Land Use Tables of Hawkesbury Local Environmental Plan 2012 and Appendix 13 Hawkesbury Growth Centres Precinct Plan of State Environmental Planning Policy (Sydney Region Growth Centres) 2006; and
- The provisions of the following clauses in one or both of these Plans:
 - Clause 4.1AC Minimum lot sizes for residential development in Zone R2 Low Density Residential and Zone R3 Medium Density Residential
 - Clause 4.1 Minimum lot sizes for secondary dwellings in Zone R2 Low Density Residential and Zone R3 Medium Density Residential
 - Clause 4.3 Height of buildings
 - Clause 4.6 Exceptions to development standards
 - Clause 5.4 Secondary dwellings (restriction to floor area)
 - Clause 5.10 Heritage conservation
 - Clause 6.1 Acid sulfate soils
 - Clause 6.3 Flood planning
 - Clause 6.4 Terrestrial biodiversity
 - Clause 6.5 Wetlands
 - Clause 6.6 Development in areas subject to aircraft noise

Without compliance with the requirements of the Hawkesbury Local Environmental Plan 2012 being mandatory, approval or refusal to rebuild or repair a dwelling house or secondary dwelling would be subject to a merit based assessment of the development application. However, concern is raised that without the legal weight of the provisions of the Hawkesbury Local Environmental Plan 2012, applicants could more easily argue inappropriate variations, such as:

- Increased heights of buildings;
- Inappropriate intensification of use, especially in relation to flood impacts;
- Inappropriate extension of buildings, including enlargement of secondary dwellings; and
- Inappropriate design/construction/materials of buildings relating to mitigating impacts from flooding or aircraft noise.

This is especially true where the merits of the development are based on controls within development control plans and policies, and such controls not being identified as statutory requirements under the *Environmental Planning and Assessment Act 1979*.

No Restrictions to Size, Location or Design

The Department of Planning, Industry and Environment's Guidance for Implementation advises that:

"The clause refers to the repair or replacement of a lawfully erected dwelling house or secondary dwelling that was damaged in a natural disaster. There is no requirement for the replacement or repair subject of a DA to be identical to the original dwelling which was destroyed or damaged."

Development consent can be granted for dwelling houses and secondary dwellings that are of a different size, location or design to the original dwelling under the clause. Changes to the

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design and location of a proposed dwelling may be required to meet the relevant provisions of a DCP, other environmental planning instruments, associated legislation or the requirements of the National Construction Code."

At present, there are no development standards within Hawkesbury Local Environmental Plan 2012 that would prevent the rebuilding or repair of a dwelling house. However, Clause 5.4(9) of Hawkesbury Local Environmental Plan 2012 restricts the size of secondary dwellings, and therefore any increase in size would be subject to a variation request under Clause 4.6 of Hawkesbury Local Environmental Plan 2012.

Similarly, Clause 5.4(6) of Appendix 13 Hawkesbury Growth Centres Precinct Plan of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 also restricts the size of secondary dwellings in the Vineyard Stage 1 Precinct.

The new Natural Disaster Clause would allow the rebuilding of a secondary dwelling under Hawkesbury Local Environmental Plan 2012 or State Environmental Planning Policy (Sydney Region Growth Centres) 2006 without a restriction on size. Whilst this is the case under these environmental planning instruments, secondary dwellings rebuilt under State Environmental Planning Policy (Affordable Rental Housing) 2009 would still be subject to the 60m² size requirement of that Policy.

In this regard, the new Natural Disaster Clause will introduce inequity and inconsistency into the planning system in relation to the size of secondary dwellings under different environmental planning instruments.

Consequences for Rebuilding on Flood Liable Land

Hawkesbury Local Environmental Plan 2012 does not contain any clauses that have prevented the approval of the rebuilding or repair of dwellings damaged by the recent bushfires within the Hawkesbury Local Government Area. It is noted that the rebuilding or repair of a dwelling house or secondary dwelling will still be subject to the requirements of Planning for Bushfire Protection, for development of bushfire prone land.

However, the proposed new Natural Disaster Clause will have a significant impact in respect to development subject to the provisions of Clause 6.3 Flood planning of Hawkesbury Local Environmental Plan 2012 in particular. Clause 6.3 is not a development standard, however it provides the requirements to be met for development subject to flood events up to and including the 1 in 100 year event. In these situations, Council's recently adopted Flood Policy 2020 will apply. However, as discussed above, the legal weight given to controls within Policies without the support of local environmental plan provisions could result in an Applicant more successfully arguing against compliance with such controls.

In the case of flood affected properties, the requirements of Clause 6.3 Flood planning could prohibit the rebuilding of development, in particular if located within a flood hazard category that is incompatible with the proposed development. It is considered reasonable that if a dwelling house was lawfully situated on the land, then that right is maintained, and that the reinstatement of the structure be supported.

However, in these circumstances it is not desirable to permit the intensification of development on the floodplain due to increases in adverse impacts relating to risk to life, economic loss, social impacts and the limited capacity for evacuation. Requiring an assessment of a development application against the requirements of the Hawkesbury Local Environmental Plan 2012 supports the rebuilding of a lawful dwelling house, whilst also providing an opportunity to lessen or mitigate any adverse impacts resulting from flooding.

In summary, the existing provisions of Hawkesbury Local Environmental Plan 2012, State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and the *Environmental Planning and Assessment Act 1979* currently provide appropriate pathways for the rebuilding and repair of dwelling houses and secondary dwellings damaged by a natural disaster. The new Natural Disaster Clause does not provide any additional benefit in enabling the rebuilding of development damaged by a natural disaster in the Hawkesbury Local Government Area.

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As such, and given the matters discussed above in relation to:

- Inequity and inconsistency in the planning system in relation to the size of secondary dwellings under different environmental planning instruments,
- prevention of inappropriate design of development, and
- opportunities for improved resilience of development to the impacts of flooding,

It is considered that the inclusion of the proposed new Natural Disaster Clause is not warranted.

It should be noted that Council can incorporate the Natural Disaster Clause into the Hawkesbury Local Environmental Plan 2012 or State Environmental Planning Policy (Sydney Region Growth Centres) 2006 through an amending local environmental plan if deemed necessary at any time in the future.

COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy given they are matters about which the NSW State Government is undertaking community consultation.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Direction and Strategy within the CSP.

Our Leadership

- 1.5 Regulation and Compliance – Encourage a shared responsibility for effective local compliance.
 - 1.5.1 Undertake Council initiatives within a clear and fair framework of strategic planning, policies, procedures and service standards as required under all regulatory frameworks.
 - 1.5.2 Best practice, sustainability principles, accountability and good governance are incorporated in all activities undertaken by Council.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications outside of Council's adopted 2020/2021 Operational Plan, which will adversely impact on Council's financial sustainability.

Planning Decision

As this matter is covered by the definition of a "planning decision" under Section 375A of the *Local Government Act 1993*, details of those Councillors supporting or opposing a decision on the matter must be recorded in a register. For this purpose a division must be called when a motion in relation to the matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

ATTACHMENTS:

- AT - 1** Council's Submission to Proposed Amendment to the Standard Instrument (Local Environmental Plans) - Natural Disasters, dated 31 August 2020.
- AT - 2** NSW Government's Natural Disaster Clause Guidance for Implementation.

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**AT - 1 Council's Submission to Proposed Amendment to the Standard Instrument
(Local Environmental Plans) - Natural Disasters, dated 31 August 2020**

Natural Disasters Clause

Guidance for Implementation



November 2020

Natural Disasters Local Environmental Plan Clause

Introduction

Clause 5.9 of the Standard Instrument Order (the clause) was introduced to support homeowners whose homes have been damaged or destroyed by natural disasters. The clause applies to development applications (DAs) where development consent is sought to repair or replace a dwelling house or secondary dwelling that was damaged or destroyed by a natural disaster.

The clause was prepared in response to regulatory challenges faced by homeowners seeking to rebuild homes following natural disasters where planning controls in Local Environmental Plans (LEP) have changed over time.

The clause will ensure that development consent can be granted for the repair or replacement of a dwelling that was damaged or destroyed by a natural disaster despite any provisions in the relevant LEP which would otherwise prevent the consent authority from doing so.

The clause intends to eliminate the need for applicants to:

- Prepare formal requests to vary a development standard; or
- Demonstrate the continuance of an existing use in circumstances where dwelling houses or secondary dwellings are no longer permitted with consent in the relevant zone (applicants will need to demonstrate that the existing dwelling was lawfully erected).

Natural Disasters

Natural disasters are naturally occurring, rapid onset events that cause serious disruption to life or property in a community or region, such as floods, bushfires, earthquakes, storms, cyclones, storm surges, landslides and tsunamis. A natural disaster can include a state of emergency declared under section 33 of the *State Emergency and Rescue Management Act 1989*.

The rebuilding or repair of damage or destruction caused by or because of any of these events is development to which the clause applies.

Varying Development Standards

The clause states that consent can be granted to the specified development in a zone where the clause applies despite any other provision of the relevant LEP. For this reason, it is not necessary for applicants to submit a request to vary a development standard where a development standard is contravened. DAs will still undergo a merit assessment to ensure that dwelling houses and secondary dwellings are of an appropriate size, location and design in the context of the site.

In situations where key planning controls or development standards have changed over time, removing the need to formally request a variation under clause 4.6 of the relevant LEP will save time and resources for applicants and consent authorities.

Merit Assessment

For DAs where the clause applies, the consent authority cannot refuse a DA on the basis it does not comply with a development standard or other provision in the applicable LEP.

The proposed development will be assessed on its merits against the relevant considerations under section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and any other applicable legislation.

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Meeting Date: 09 February 2021

Natural Disasters Clause

Guidance for Implementation



Any standards or provisions outlined in a State Environmental Planning Policy (SEPP) that are relevant to the DA continue to apply (including any concurrence or referral requirements). Development Control Plan (DCP) provisions also continue to apply.

Evaluation under section 4.15 of the *Environmental Planning and Assessment Act 1979* where the clause applies

For DAs where the clause applies, LEP provisions themselves must not be used as a reason for refusal. However, if the consent authority considers that the risk, or other environmental impact associated with the proposed development is inconsistent with the relevant considerations of section 4.15, the consent authority can refuse the application on that basis.

Example

Due to a period of local severe rains, a river floods and destroys two homes. Although this natural event is not subject to an emergency declaration under section 33 of the *State Emergency and Rescue Management Act 1989*, it is still considered to be a natural disaster and accordingly, the natural disasters clause could potentially be applied to rebuild the destroyed dwelling houses.

Council is unable to refuse the DA to rebuild the destroyed dwelling on the basis that it does not comply with a development standard in the applicable LEP – however, council will be able to undertake a merit assessment under section 4.15 of the EP&A Act. If council considers the site is unsuitable for redevelopment under section 4.15(1)(c) due to flooding concerns, then the DA may be rejected on this basis.

Other Applicable Legislation

The requirements of other applicable legislation referred to in a SEPP, or in the EP&A Act continue to apply to DAs where the clause applies. For example, section 4.14 of the EP&A Act continues to apply for development of bushfire prone land and all relevant requirements of *Planning for Bushfire Protection 2019* must be satisfied.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 and the *Biodiversity Conservation Act 2016* will also continue to apply to development involving clearing of vegetation and development of land with high biodiversity values. Any relevant assessment and offsetting requirements under that Act must also be met.

Replace and Repair

The clause refers to the *repair* or *replacement* of a lawfully erected dwelling house or secondary dwelling that was damaged in a natural disaster. There is no requirement for the *replacement* or *repair* subject of a DA to be identical to the original dwelling which was destroyed or damaged.

Development consent can be granted for dwelling houses and secondary dwellings that are of a different size, location or design to the original dwelling under the clause. Changes to the design and location of a proposed dwelling may be required to meet the relevant provisions of a DCP, other environmental planning instruments, associated legislation or the requirements of the National Construction Code.

Lawfully Erected

To be a lawfully erected dwelling house or secondary dwelling, it must have been constructed under a valid development consent, building approval or another lawful planning pathway under the EP&A Act or equivalent historical planning legislation.

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Natural Disasters Clause

Guidance for Implementation



Further Information

For more information:


Web: www.planningportal.nsw.gov.au/natural-disasters-clause

Phone: 1300 73 44 66

Email: disaster.recovery@planning.nsw.gov.au

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AT - 2 NSW Government's Natural Disaster Clause Guidance for Implementation



Your Ref:
Our Ref:

31 August 2020

NSW Department of Planning, Industry and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

Submission to Proposed Amendment to the Standard Instrument (Local Environmental Plans) Order 2006 to introduce a new Clause for Rebuilding after a Natural Disaster

I refer to the proposed amendment to the Standard Instrument (Local Environmental Plans) Order 2006 to introduce a new optional clause into local environmental plans to assist rebuilding after a natural disaster. The proposed amendment is on exhibition and open for comment until 31 August 2020.

Following consideration of this matter at Council's Ordinary Meeting of 25 August, 2020 Council resolved to provide the following comments for your consideration in finalising the Amendment.

This response provides Council's understanding of the purpose of the proposed Amendment, identifies potential issues arising from the new legislation and provides suggestions to resolve these identified issues.

Council understands that the purpose of the Amendment is to provide an optional provision in the Standard Instrument (Local Environmental Plans) Order to support the rebuilding and repair of dwellings following a natural disaster.

The proposed provision will:

- clarify that a dwelling that has been destroyed or damaged in a natural disaster can be rebuilt or repaired with development consent;
- save the applicant time and money by removing the need to request a variation to development standards under the applicable LEP;
- allow the consent authority to assess and determine the application on its merits.


It is also understood that Councils will be able to elect whether the optional provision (proposed new clause) should be inserted into their Local Environmental Plan and participating councils will be able to nominate which zones the clause will apply to.

Council understands that the proposed amendment applies to all local government areas, however in general the following comments that are provided are specific to the Hawkesbury Local Government Area.

Defining Natural Disaster

A 'natural disaster' is not defined in the legislation, however the Department of Planning, Industry and Environment advise that it should be taken to be an extreme weather event that is consistent with the commonly understood meaning of the term. It is envisaged that the lack of a definition in the legislation for 'natural disaster' is unlikely to be problematic in the identification of a natural disaster resulting from extreme weather event. However, whilst rarer, other natural disasters not

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Hours: Monday to Friday 8:30am - 5pm | Email: council@hawkesbury.nsw.gov.au | Website: www.hawkesbury.nsw.gov.au

 Interpreter Service available, call 131 450 | 131 450 ھاتف خدمة الترجمة، اتصل به | 可提供口譯服務，請撥 131 450 | Hermm servizz tal-interpretu, cempel 131 450

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specifically relating to weather events may arise including earthquakes and tsunamis, and it is considered reasonable that the proposed clause could be utilised to assist in these circumstances.

It is therefore requested that the Department of Planning, Industry and Environment consider these additional circumstances and provide a definition for 'natural disaster' to remove any ambiguity relating to what is or is not considered to be a natural disaster.

Proposed Clause 5.9

The intent of the proposed Clause 5.9 is to clarify that a dwelling house or a secondary dwelling can be rebuilt or repaired if the original lawful dwelling was destroyed or damaged in a natural disaster. The supporting documentation accompanying the exhibition of the proposed Amendment to the Standard Instrument (Local Environmental Plans) Order 2006 advises that a "merit assessment is still required, however the rebuild or repair cannot be refused on the basis of any development standards within the local environmental plan."

Hawkesbury Local Environmental Plan 2012 contains clauses that contain development standards and clauses that require certain considerations. The wording of the proposed Clause 5.9(3) states

- (3) *Despite any other provision of this Plan, development consent may be granted to development on land to which this clause applies to enable a dwelling house or secondary dwelling that has been damaged or destroyed by a natural disaster to be repaired or replaced if - ...*

The wording "despite any other provision" refers to any clause within the local environmental plan, not just those relating to development standards.

Hawkesbury Local Environmental Plan 2012 does not contain any clauses that have prevented the approval of the rebuilding or repair of dwellings damaged by the recent bushfires within the Hawkesbury Local Government Area. It is noted that the rebuilding or repair of a dwelling house or secondary dwelling will still be subject to the requirements of *Planning for Bushfire Protection*, for development bushfire prone land.

However, the proposed clause will have a significant impact in respect to development subject to the provisions of Clause 6.3 *Flood planning of Hawkesbury Local Environmental Plan 2012*. Clause 6.3 is not a development standard, however it provides the requirements to be met for development subject to flood event up to and including the 1 in 100 year event.

The requirements of Clause 6.3 *Flood planning* could prohibit the rebuilding of development, in particular if located within a flood hazard category that is incompatible with that development. It is considered reasonable that if a dwelling house was lawfully situated on the land, then that right is maintained and that the reinstatement of the structure be supported. In these circumstances it is not desirable to permit the intensification of development on the floodplain due to increases in adverse impacts relating to risk to life, economic loss, social impacts and the limited capacity for evacuation.

The provisions of *Environmental Planning and Assessment Act, 1979* in respect to 'existing use' can be used for permissibility of the new development in these cases. The requirements relating to 'existing use' further place limitations in relation to the intensification or expansion of the existing use. In this regard, this mechanism supports the rebuilding of a lawful dwelling house whilst providing opportunity to lessen or mitigate any adverse impacts resulting from flooding.

Given the wording of the proposed Clause 5.9, consideration of flood related requirements would not be able to be undertaken, such as compatibility with flood hazards, and any new dwelling would not be located or constructed to ensure or improve resilience to flooding impacts in the future.

It is therefore requested that the Department of Planning, Industry and Environment clarify whether only provisions that are development standards within a local environmental plan do not apply to

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the assessment of the rebuilding of a dwelling damaged by a natural disaster and, if needed reconsider the wording of proposed Clause 5.9 to make it clear as to which provisions within a local environmental plan are applicable or not.

Hawkesbury City Council wishes to express its interest in incorporating the final clause into the *Hawkesbury Local Environmental Plan 2012*. At the time of receipt of the final clause from the Department of Planning, Industry and Environment, Council will further consider whether or not the new provision will better assist in rebuilding after a natural disaster without compromising the safety or resilience of new development before formally opting-in.

Thank you for the opportunity to provide comments.

Should you have any enquiries in relation to this matter please contact Colleen Haron, Senior Strategic Land Use Planner on (02) 4560 4564.

Yours faithfully



Andrew Kearns
Manager Strategic Planning

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GENERAL MANAGER

Item: 020 **GM - Planning for Non-Planners Course and Planning 101 for Councillors - (79351)**

Previous Item: 004, Ordinary (25 January 2021)

Directorate: General Manager

PURPOSE OF THE REPORT:

The purpose of this report is to consider nomination and attendance of Councillors at one of the following Planning Courses as detailed in the following two options.

Option 1

Course Name: Planning for Non-Planners Course, conducted by the Property Council Academy
Type: In person
Date: 25 February 2021
Location: Urbis, Angel Place, 123 Pitt Street Sydney
Participants: Mayor and Councillors (not restricted)
Cost: \$1,085 plus travel expenses per attendee.

Option 2

Course Name: Planning 101 for Councillors, conducted by Local Government NSW
Type: By audio visual
Date: 26 February 2021
Participants: Mayor and Councillors
Cost: \$440 per attendee.

EXECUTIVE SUMMARY:

Due to the Course topics and its relevance to Council's business, Council may wish to consider representation at either of the Planning for Non-Planners course or the Planning 101 for Councillors course.

RECOMMENDATION:

That:

1. The report be received and noted.
 2. Consideration be given to the participation of nominated Councillors at the Planning 101 for Councillors Course conducted by Local Government NSW on 26 February 2021.
-

BACKGROUND

Council previously considered a report at the Ordinary meeting 25 January 2021 concerning the Planning for Non-Planners Course offered by the Property Council Academy. At that meeting, Council resolved that

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a further report be provided outlining possible available training provided by Local Government NSW regarding a similar program. The following options are listed below for consideration.

Option 1 - Planning for Non-Planners Course - Property Council Academy

The Planning for Non-Planners Course will be conducted by the Property Council Academy in Sydney in person on Thursday, 25 February 2021, and is aimed at assisting anyone who needs an understanding of land use planning systems, and the implications for urban development.

Details of the Course, can be viewed by accessing the following link:
<https://www.propertycouncil.com.au/web/EventDetail?EventKey=IPNP250221>

Cost of participation in the Planning for Non-Planners Course will be \$1,085 plus travel expenses per attendee.

Option 2 - Planning 101 for Councillors Course - Local Government NSW

The Planning 101 for Councillors Course will be conducted by Local Government NSW in Sydney, by audio-visual on Friday, 26 February 2021, and is aimed as a practical introduction to the NSW Planning system. Participants will examine the fundamentals of planning theory and practice, the current statutory framework (and proposed changes) and the role of Local Government and councillors in planning matters.

Details of the Course, can be viewed by accessing the following link:
https://www.lgnsw.org.au/Public/Events-and-Learning/Learning-Development/Courses-for-Councillors/Public/Events/Learning-and-Development/councillor_Courses.aspx?hkey=c15fc0ca-b466-4ccd-9b71-2c04d9e2df73

Cost of participation in the Planning 101 for Councillors Course will be \$440 per attendee.

DISCUSSION

Consideration should be given in regard to the relevance of either the Planning for Non-Planners Course and the Planning 101 for Councillors Course, to Council's business and available budget to cover costs of attendance.

It is considered that both courses are similar in context with The Local Government NSW Course considerably cheaper. Accordingly, it is considered that the Planning 101 for Councillors Course conducted by Local Government NSW is the most appropriate Course to attend.

COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area and Direction within the CSP.

Our Leadership

- 1.1 Local Leadership and effective governance - Provide representative, responsive and accountable governance.

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FINANCIAL IMPACT

The matters raised in this report have direct financial implications. The expenditure applicable is provided for in the adopted 2020/2021 Operational Plan.

Cost of participation in the Planning for Non-Planners Course will be \$1,085 plus travel expenses per attendee.

Cost of participation in the Planning 101 for Councillors Course will be \$440 per attendee.

Budget for Delegate Training Expenses - Payments made:

Total Budget for Financial Year 2020/2021	\$30,000
Expenditure to date	\$79
Outstanding Commitments	\$5,026
Budget balance as at 5/1/2021 (approx. including outstanding commitments)	\$24,895

It should be noted that the outstanding commitment of \$5,026 relates to Councillor attendance at the 2nd Sustainable Cities, Urban Regeneration and Sustainability Development Forum to be held in February, 2021.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications, outside of Council's adopted Long Term Financial Plan.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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SUPPORT SERVICES

Item: 021 **SS - Review of Council Committees - (95496)**

Previous Item: **256, Ordinary (8 December 2020)**
 010, Ordinary (25 January 2021)

Directorate: Support Services

PURPOSE OF THE REPORT:

The purpose of this report is to provide recommendations with respect to the outstanding actions from dissolved committees and the projects worked on by working groups.

EXECUTIVE SUMMARY:

At the Council Meeting on 8 December 2020, Council considered a Motion regarding Council Committees. Council resolved that the existing Committees, with the exception of the Heritage Committee, be dissolved and the following Committees established:

- Community Services
- Environment
- Innovation and Partnerships
- Disaster and Emergency

At the Council Meeting on 25 January 2021, Council considered a report concerning the outstanding actions of the dissolved committees, a new committee constitution, and matters relating to the operation of the committees.

Council resolved that a further report be produced concerning:

- Outstanding actions required to be reassigned to the new committees;
- Current working groups

This report makes recommendations with respect to the outstanding actions from the dissolved committees and the projects worked on by working groups.

RECOMMENDATION:

That:

1. The outstanding actions from the dissolved committees be reassigned to the relevant new committee in accordance with Attachment 1 to this report.
 2. The projects currently assigned to working groups be reassigned to the relevant new committee in accordance with Table 1 in this report.
-

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BACKGROUND

At the Council Meeting on 8 December 2020, Council considered a Motion regarding Council Committees and in addition to dissolving existing committees (except the Heritage Committee) and establishing new committees, resolved, in part, as follows:

“That Council:

Is to receive a report at the first Ordinary Meeting of 2021 that:

- *Informs Council of the outstanding actions of all of the dissolved committees and the Heritage Committee, so that strategically important work and short-term tasks can be reviewed, reassigned to a newly established committee or reported to Council for a decision.*
- *Assists Council to review the work of the existing committees and set the longer-term objectives, directions and timeframes for each new committee for 2021.”*

At the Council Meeting on 25 January 2021 Council received a report dealing with the outstanding actions of the dissolved committees and matters relating to the operation of the committees.

Attached as Attachment 2 to that report was a Table containing all of the outstanding actions of the dissolved committees which required reassigning to the relevant new committee.

On 25 January 2021 Council resolved, in part, as follows:

“That:

By the next meeting of Council, staff produce a report, based on Attachment 2 that contains;

- *A succinct list of outstanding actions in the form of questions to be reassigned to the relevant new committee; and*
- *A list of current working groups, the status of the projects they are working on and an indication of what new committee they will now belong to.”*

DISCUSSION

Council staff have considered the outstanding actions in Attachment 2 to the report to the Council Meeting on 25 January 2021. Attached as Attachment 1 to this report is a list of outstanding actions to be reassigned to the relevant new committee, with the exception of actions from the dissolved Human Services Advisory Committee which is dealt with below. The nature of the actions is such that it is not possible in all cases to describe the actions in the form of questions.

Human Services Advisory Committee

The report to Council’s meeting of 25 January 2021 contained in Attachment 2 actions from the Human Services Advisory Committee which were proposed to be reassigned to the Community Services Committee.

Further consideration has been given to these outstanding actions, and they are in fact able to be absorbed into existing operational work plans. In each case the recommendation of the Committee was reported to Council and subsequently endorsed.

These outstanding actions are attached as Attachment 2 to this report. For ease of reference the Committee recommendations have been included.

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Working Groups

Prior to the dissolution of committees, the following working groups had been established and are current:

1. Reconciliation Action Plan Working Group

The Reconciliation Action Plan Working Group was established by Council Resolution at its meeting on 9 May 2017. It was established to meet the requirements of Reconciliation Australia and to prepare a Draft Reconciliation Action Plan. The Draft Reconciliation Action Plan is currently with Reconciliation Australia pending approval. This project is not required to be reassigned to one of the new committees, and it is proposed that it be subject of continued reporting to Council as required.

2. Enhancing the Arts in the Hawkesbury Working Group

The Enhancing the Arts in the Hawkesbury Working Group was established by Council Resolution at its meeting on 25 July 2017.

This Working Group was established to provide advice, support and assistance to Council in enhancing the arts. It was designed to work on a project basis to seek external funding, facilitate activities and encourage participation.

Pursuant to its Terms of Reference the Working Group was to meet no less than four times per year. The Working Group last met on 28 November 2019. It does not have any active projects, as projects are based on grant funding and no current funding opportunities exist.

3. Dementia Friendly Working Group

An additional working group, the Dementia Friendly Working Group, was established as a sub-committee of the dissolved Access and Inclusion Advisory Committee. This working group was tasked with overseeing the implementation of Year 1 Projects from the Dementia Friendly Hawkesbury Plan. Those projects continue to be implemented.

It is appropriate that the Dementia Friendly Working Group be classified as a current working group for the purpose of the resolution from the Council Meeting on 25 January 2021, and consideration be given to the reassignment of its ongoing task to one of the new committees.

Table 1 below lists the current working groups, the status of the projects they are working on and an indication of what new committee they will now belong to.

Table 1: Working groups

Current Working Group	Project	Status of Project	Recommended Committee
Reconciliation Action Plan Working Group	To develop a Reconciliation Action Plan	Draft Reconciliation Action Plan is with Reconciliation Australia pending approval	No project required to be reassigned.
Enhancing the Arts in the Hawkesbury Working Group	No specific current project	Not applicable	No project required to be reassigned.
Dementia Friendly Working Group	To oversee the implementation of the Year 1 Projects from the Dementia Friendly Hawkesbury Plan	Implementation of Dementia Friendly Hawkesbury Plan is ongoing and has been absorbed into operational work plans.	Community Services Committee, to receive annual updates on the progress of the Implementation of the Dementia Friendly Hawkesbury Plan.

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COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Directions and Strategies within the CSP.

Our Leadership

- 1.1 Local Leadership and effective governance - Provide representative, responsive and accountable governance.
 - 1.1.1 Council's elected leaders will actively connect and collaborate with the community.
- 1.2 Communication and engagement - Encourage an informed community and enable meaningful engagement.
 - 1.2.1 Provide open and clear lines of communication with the community that use the most current forms of digital technology.
 - 1.2.2 Council's communication will be enhanced to ensure community awareness and understanding of the role Council plays in everyday life in the Hawkesbury.
- 1.4 Reinforcing and establishing effective strategic partnerships - Build strong relationships and shared responsibilities.
 - 1.4.1 Foster positive relationships with all tiers of government and peak bodies to ensure a thorough understanding of the challenges and local requirements of the Hawkesbury.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications, outside of Council's adopted Long Term Financial Plan.

ATTACHMENTS:

- AT - 1** Council Committees – Outstanding Actions for reassignment - *(Distributed under separate cover)*.

oooO END OF REPORT Oooo

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of committees

ORDINARY MEETING

SECTION 4 – Reports of Committees

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SECTION 4 – Reports of Committees

Item: 022 **ROC - Hawkesbury Civic and Citizenship Committee - 24 November 2020 - (96972, 79351)**

Directorate: General Manager

PURPOSE OF THE REPORT:

The purpose of this report is to present the Minutes of the Hawkesbury Civic and Citizenship Committee, held on 24 November 2020.

EXECUTIVE SUMMARY:

The Civic and Citizenship Committee considered three items at its meeting on 24 November 2020. As there are no policy or financial implications for Council in regard to these items, they are presented for information only.

RECOMMENDATION:

That in the Minutes of the Hawkesbury Civic and Citizenship Committee Meeting held on the 24 November 2020 be received and noted.

DISCUSSION

The Hawkesbury Civic and Citizenship Advisory Committee met on 24 November 2020 and considered the following matters, as shown in the minutes attached as Attachment 1 to this report:

- Item 1: HCACC - Selection of 2021 Hawkesbury Australia Day Award Recipients
- Item: 2 HCACC - Update on Australia Day Ceremonies Venue Option
- Item: 3 HCACC - Annual Report Hawkesbury Civic and Citizenship Committee

In relation to Item 1, the Committee was advised of the nominations which had been received for each category:

- Citizen of the Year
- Young Citizen of the Year
- Volunteer Person of the Year
- Local Hero Award
- Community Organisation of the Year
- Environment Award
- Community Arts Award
- Junior Sports Person of the Year
- All Abilities Sports Person of the Year

Following consideration of the matter, the Committee resolved:

Citizen of the Year

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RESOLVED on the motion of Councillor Conolly, seconded by Mr Bertenshaw.

That David Ryan be awarded the Citizen of the Year.

Young Citizen of the Year

RESOLVED on the motion of Mr Adams, seconded by Mr Bertenshaw.

That Sam Bonus be awarded the Young Citizen of the Year.

Volunteer of the Year

RESOLVED on the motion of Councillor Conolly, seconded by Mr Bertenshaw.

That Suzi Samuel be awarded the Volunteer of the Year.

Local Hero Award

RESOLVED on the motion of Mr Adams, seconded by Mr Bertenshaw.

That Karen Stuttle be awarded the Local Hero Award.

Community Organisation of the Year

RESOLVED on the motion of Councillor Zamprognio, seconded by Mr Bertenshaw.

That Hawkesbury District Volunteers - Rural Fire Service be awarded the Community Organisation of the Year.

Environmental Award

RESOLVED on the motion of Mr Bertenshaw, seconded by Mr Adams.

That WIRES Hawkesbury be awarded the Environmental Award.

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Community Arts Award

RESOLVED on the motion of Mr Bertenshaw, seconded by Mr Adams.

That Arabella Logan be awarded the Community Arts Award.

Cultural Heritage Award

No nominations for the Cultural Heritage Award were received.

Commemorative Plaque

No nominations for the Commemorative Plaque Award were received.

Sports Person of the Year

No nominations for the Sports Person of the Year were received.

Junior Sports Person of the Year

RESOLVED on the motion of Councillor Richards, seconded by Mr Adams.

That Holly Dalrymple be awarded the Junior Sports Person of the Year.

All Abilities Sports Person of the Year

No suitable nominations for the All Abilities Sports Person of the Year were received.

The outcome of the Minutes (Attachment 1) were sensitive in nature and required an embargo on the release of information.

All items raised in the Minutes of the Hawkesbury Civic and Citizenship Advisory Committee have no policy or financial implications for Council, and are presented for information only.

ATTACHMENTS:

AT - 1 Minutes of the Hawkesbury Civic and Citizenship Advisory Committee Meeting 24 November 2020.

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Minutes of the Meeting of the Hawkesbury Civic and Citizenship Committee held by Audio Visual Link, on 24 November 2020, commencing at 4:11pm.

ATTENDANCE

Present: Councillor Patrick Conolly
Councillor Sarah Richards
Councillor Nathan Zamprogno
Mr David Bertenshaw, Hawkesbury Sports Council
Mr Barry Adams, Community Representative
Ms Melissa Barry, Community Representative
Miss Elizabeth Hitches, Community Representative

Apologies: Mrs Jan Barkley-Jack, Hawkesbury Historical Society

In Attendance: Ms Suzanne Stuart, Corporate Communications Manager
Ms Kaysie Cordi, Events Lead
Ms Jodie Tillinghast, Administration Support Officer

RESOLVED on the motion of Councillor Nathan Zamprogno and seconded by Barry Adams that the apology be accepted.

Attendance Register of Hawkesbury Civic and Citizenship Committee

Member	26.11.2019	24.11.2020
Councillor Patrick Conolly	✓	✓
Councillor Sarah Richards	✓	✓
Councillor Nathan Zamprogno	✓	✓
Mr David Bertenshaw	A	✓
Mrs Melissa Barry	✓	✓
Mr Barry Adams	✓	✓
Ms Elizabeth Hitches	✓	✓
Mrs Jan Barkley-Jack	✓	A

Key: A = Formal Apology ✓ = Present X = Absent - no apology

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Nathan Zamprogno and seconded by Mr Adams that the Minutes of the Hawkesbury Civic and Citizenship Committee held on the 26 November 2019, be confirmed.

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SECTION 2 – Reports for Determination

Item: 1 **HCACC - Selection of 2021 Hawkesbury Australia Day Award Recipients - (79351, 96972)**

Directorate: General Manager

Councillor Richards declared a significant non-pecuniary conflict of interest regarding the Citizen of the Year Award as she sits on a board of directors with one of the nominees. She left the meeting and did not take part in voting or discussion on the matter.

Councillor Richards declared a significant non-pecuniary conflict of interest regarding the Volunteer of the Year as she nominated one of the nominees for Volunteer of the Year. She left the meeting and did not take part in voting or discussion on the matter.

Councillor Richards declared a significant non-pecuniary conflict of interest regarding the Community Organisation of the Year Award as she is a volunteer for one of the organisations nominated. She left the meeting and did not take part in voting or discussion on the matter.

OFFICER'S RECOMMENDATION:

That the Hawkesbury Civic and Citizenship Advisory Committee determined the following 2021 Hawkesbury Australian Day Award Nominations.

DISCUSSION:

- The committee discussed the nominations for each category of awards.
 - Citizen of the Year
 - Young Citizen of the Year
 - Volunteer Person of the Year
 - Local Hero Award
 - Community Organisation of the Year
 - Environment Award
 - Community Arts Award
 - Junior Sports Person of the Year
 - All Abilities Sports Person of the Year
-

COMMITTEE RECOMMENDATION:

Citizen of the Year

RESOLVED on the motion of Councillor Conolly, seconded by Mr Bertenshaw.

That David Ryan be awarded the Citizen of the Year.

Young Citizen of the Year

RESOLVED on the motion of Mr Adams, seconded by Mr Bertenshaw.

That Sam Bonus be awarded the Young Citizen of the Year.

ORDINARY MEETING
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Volunteer of the Year

RESOLVED on the motion of Councillor Conolly, seconded by Mr Bertenshaw.

That Suzi Samuel be awarded the Volunteer of the Year.

Local Hero Award

RESOLVED on the motion of Mr Adams, seconded by Mr Bertenshaw.

That Karen Stuttle be awarded the Local Hero Award.

Community Organisation of the Year

RESOLVED on the motion of Councillor Zamprogno, seconded by Mr Bertenshaw.

That Hawkesbury District Volunteers - Rural Fire Service be awarded the Community Organisation of the Year.

Environmental Award

RESOLVED on the motion of Mr Bertenshaw, seconded by Mr Adams.

That WIRES Hawkesbury be awarded the Environmental Award.

Community Arts Award

RESOLVED on the motion of Mr Bertenshaw, seconded by Mr Adams.

That Arabella Logan be awarded the Community Arts Award.

Cultural Heritage Award

No nominations for the Cultural Heritage Award were received.

Commemorative Plaque

No nominations for the Commemorative Plaque Award were received.

Sports Person of the Year

No nominations for the Sports Person of the Year were received.

Junior Sports Person of the Year

RESOLVED on the motion of Councillor Richards, seconded by Mr Adams.

That Holly Dalrymple be awarded the Junior Sports Person of the Year.

All Abilities Sports Person of the Year

No suitable nominations for the All Abilities Sports Person of the Year were received

ORDINARY MEETING
SECTION 4 – Reports of Committees
Meeting Date: 09 February 2021

Item: 2 **HCACC - Update on Australia Day Ceremonies Venue Option - (79351, 96972)**

Directorate: General Manager

OFFICER'S RECOMMENDATION:

That the information be received and noted.

DISCUSSION

Ms Cordi provided an update on the selection of the venue for the 2021 Citizenship and Australia Day Awards ceremonies as The Hawkesbury Regional Gallery for the following reasons:

- It is able to provide a COVID safe environment
- It is within Council's allocated budget for the 2021 ceremony
- The venue is accessible
- The event can proceed regardless of weather conditions on the day
- It provides an opportunity to promote the exhibition at the gallery.

- Ms Stuart shared a SWOT analysis for the location of the 2021 Citizenship and Australia Day Awards at the Australiana Pioneer Village, Wilberforce which was prepared for Councillors at a Briefing Session in August 2020.

- Ms Stuart suggested that the Committee discuss the Australiana Pioneer Village venue as an option for the future Citizenship ceremonies.

- The Committee requested more information be provided, including cost and logistics of holding the next Citizenship Ceremony at the Australiana Pioneer Village prior the National Citizenship Day in September 2021.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Ms Barry, seconded by Mr Bertenshaw.

That the information be received and noted.

ORDINARY MEETING
SECTION 4 – Reports of Committees
Meeting Date: 09 February 2021

SECTION 3 – Reports for Information

Item: 3 **HCACC - Annual Report Hawkesbury Civic and Citizenship Committee -**
(79351, 96972)

Directorate: General Manager

OFFICER'S RECOMMENDATION:

That the information be received and noted.

DISCUSSION

The Annual Report of Hawkesbury Civic and Citizenship Committee was taken as read and no further comments were raised by the Committee.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Patrick Conolly, seconded by Mr Bertenshaw.

That the report be received and noted.

The meeting terminated at 5:10pm.

oooO END OF REPORT Oooo

ordinary

section 5

notices of motion

ORDINARY MEETING
SECTION 5 – Notices of Motion
Meeting Date: 09 February 2021

SECTION 5 – Notices of Motion

No Notices of Motion.

ORDINARY MEETING
Questions for Next Meeting
Meeting Date: 09 February 2021

QUESTIONS FOR NEXT MEETING

Item: 023 **Questions with Notice - 9 February 2021**

Questions - 9 February 2021

#	Councillor	Question	Requested	Response
1	Lyons-Buckett	Requested an update on the meeting between Council and Endeavour Energy, regarding community battery storage, and a summary of any available grant funding or pilot programs Council could apply to participate in.	14/01/2021	<p>Council's Director of City Planning and Bruce Taper of Kinesis met with Guy Chalkley, CEO Endeavour Energy, on Thursday 10 December 2020. During this meeting the Director City Planning provided an outline of the Hawkesbury, the issues and opportunities, impacts from the bush fires and flood and the continuing need to work towards creating more resilient communities. Further that one of the key issues / opportunities is to address the loss of power West of the river and the potential of community based batteries.</p> <p>Through the discussion Mr Chalkley spoke about the work he had done in Western Australia and particularly community based batteries.</p> <p>Bruce Taper spoke about the key outcomes of the draft Net Zero Strategy and profile of the Hawkesbury in relation to electricity consumption and Council and community emissions, the growth of solar photovoltaic and the capacity for further growth in solar photovoltaic and the high residential car use and the opportunity around electric vehicles.</p> <p>At the conclusion of the meeting, it was agreed that we could continue discussions and explore opportunities to work together and as such the Director of City Planning would look to arrange further contact in February 2021.</p> <p>There are a number of potential sources of grant funding depending on the scope and location of a proposed project. An investigation of the most suitable sources of grant funding can be undertaken once further discussions have been undertaken with potential stakeholders, and project details have been clarified.</p>

oooO END OF REPORT Oooo

ORDINARY MEETING

Confidential Reports

Meeting Date: 09 February 2021

CONFIDENTIAL REPORTS

Item: 024 **SS - Property Matter - Easement Over 698 George Street, South Windsor - (10612, 95496, 112106)**

Directorate: Support Services

REASON FOR CONFIDENTIALITY

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act 1993 and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the purchase of an easement over property owned by the Council and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

In accordance with the provisions of Section 11(2) & (3) of the Local Government Act 1993, the reports, correspondence and other relevant documentation relating to this matter are to be withheld from the press and public.

ORDINARY MEETING

Confidential Reports

Meeting Date: 09 February 2021

Item: 025 **SS - Property Matter - Licence Agreement with Coles Supermarkets Australia Pty Ltd - Car Spaces in part of Magnolia Mall Car Park, 7 West Market Street, Richmond (148887, 95496, 112106)**

Previous Item: 132, Ordinary (14 July 2020)

Directorate: Support Services

REASON FOR CONFIDENTIALITY

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act 1993 and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

In accordance with the provisions of Section 11(2) & (3) of the Local Government Act 1993, the reports, correspondence and other relevant documentation relating to this matter are to be withheld from the press and public.



ordinary
meeting

end of
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