



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 9 August 2016

location: council chambers

time: 6:30 p.m.



mission statement

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

How Council Operates

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

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

Ordinary Meetings of Council are generally held on the second Tuesday of each month (except January), and the last Tuesday of each month (except December), meeting dates are listed on Council's website. The meetings start at 6:30pm and are scheduled to conclude by 11pm. These meetings are open to the public.

When an Extraordinary Meeting of Council is held, it will usually also be held on a Tuesday and start at 6:30pm. These meetings are also open to the public.

Meeting Procedure

The Mayor is Chairperson of the meeting.

The business paper contains the agenda and information on the items to be dealt with at the meeting. Matters before the Council will be dealt with by an exception process. This involves Councillors advising the General Manager by 3pm on the day of the meeting, of those items they wish to discuss. A list of items for discussion will be displayed at the meeting for the public to view.

At the appropriate stage of the meeting, the Chairperson will move for all those items which have not been listed for discussion (or have registered speakers from the public) to be adopted on block. The meeting then will proceed to deal with each item listed for discussion and decision.

Public Participation

Members of the public can register to speak on any items in the business paper other than the Confirmation of Minutes; Mayoral Minutes; Responses to Questions from Previous Meeting; Notices of Motion (including Rescission Motions); Mayoral Elections; Deputy Mayoral Elections; Committee Elections and Annual Committee Reports. To register, you must lodge an application form with Council prior to 3pm on the day of the meeting. The application form is available on Council's website, from the Customer Service Unit or by contacting the Manager - Corporate Services and Governance on (02) 4560 4444 or by email at council@hawkesbury.nsw.gov.au

The Mayor will invite registered persons to address the Council when the relevant item is being considered. Speakers have a maximum of three minutes to present their views. The Code of Meeting Practice allows for three speakers 'For' a recommendation (i.e. in support), and three speakers 'Against' a recommendation (i.e. in opposition).

Speakers representing an organisation or group must provide written consent from the identified organisation or group (to speak on its behalf) when registering to speak, specifically by way of letter to the General Manager within the registration timeframe.

All speakers must state their name, organisation if applicable (after producing written authorisation from that organisation) and their interest in the matter before speaking.

Voting

The motion for each item listed for discussion will be displayed for Councillors and public viewing, if it is different to the recommendation in the Business Paper. The Chair will then ask the Councillors to vote, generally by a show of hands or voices. Depending on the vote, a motion will be Carried (passed) or Lost.

Planning Decision

Under Section 375A of the Local Government Act 1993, voting for all Planning decisions must be recorded individually. Hence, the Chairperson will ask Councillors to vote with their electronic controls on planning items and the result will be displayed on a board located above the Minute Clerk. 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. This electronic voting system was an innovation in Australian Local Government pioneered by Hawkesbury City Council.

Business Papers

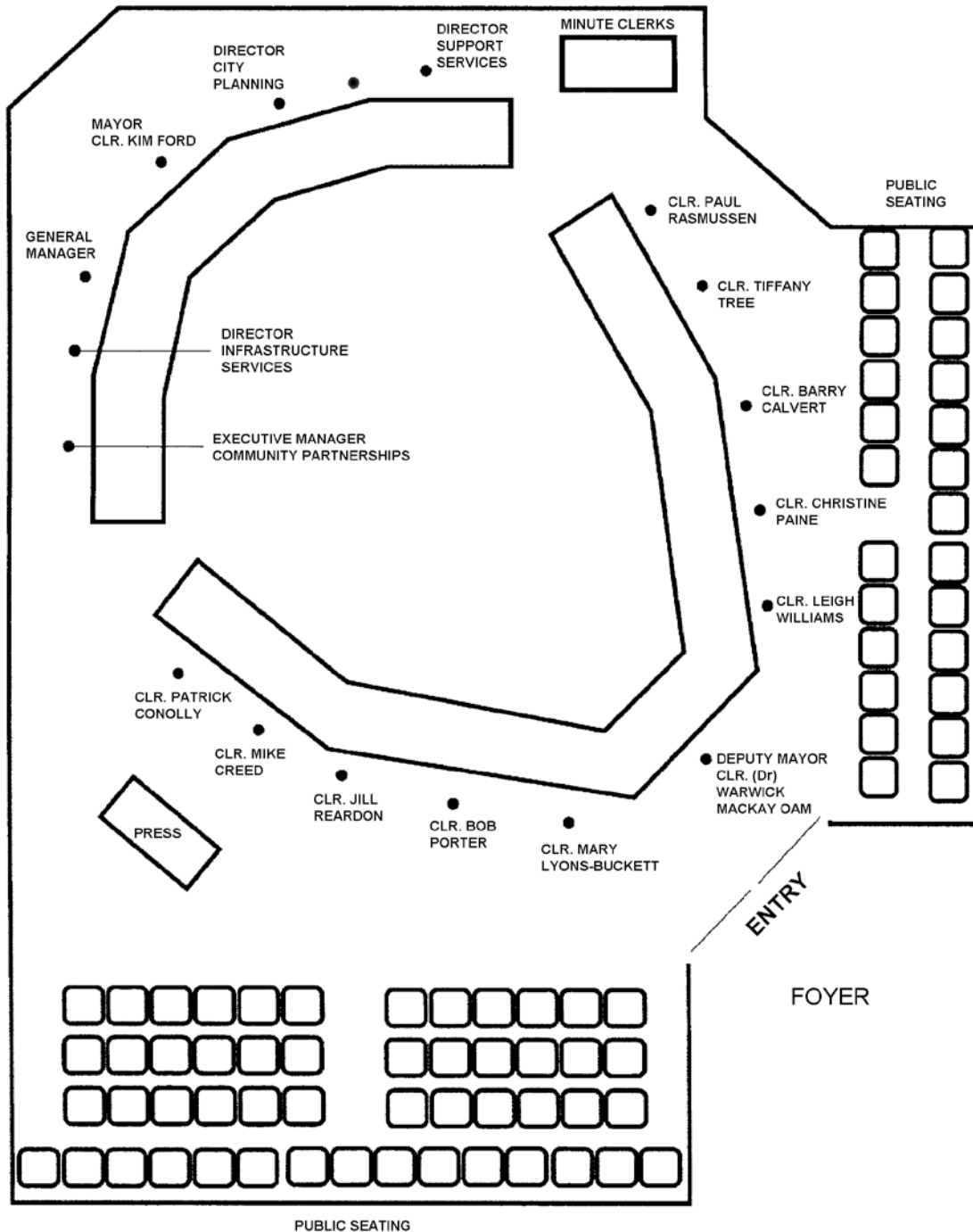
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

Hard copies of the business paper can be viewed at Council's Administration Building and Libraries after 12 noon on the Friday before the meeting, and electronic copies are available on CD to the public after 12 noon from Council's Customer Service Unit. The business paper can also be viewed on the public computers in the foyer of Council's Administration Building.

Further Information

A guide to Council Meetings is available on the Council's website. If you require further information about meetings of Council, please contact the Manager, Corporate Services and Governance on, telephone (02) 4560 4444.

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SECTION 2 - Mayoral Minutes

MM - Yes Campaign for Marriage Equality - (79353, 120428)

REPORT:

The Mayor has received correspondence from the recently formed Inner West Council, the former Leichhardt, Ashfield and Marrickville Councils, who have all resolved to support marriage equality.

In their correspondence to Council, Inner West Council highlight that in the near future, there may be a plebiscite to guide the Federal Government on the views of the Australian public about marriage equality. Local Governments can choose to actively support a Yes campaign for marriage equality, and/or to actively support the Lesbian, Gay, Bisexual, Transgender, Questioning and Intersex (LGBTQI) community to reduce harm experienced during this time.

Inner West Council seek Council's response to the question of active support of a Yes campaign for marriage equality, with peak LGBTQI advocacy organisations, including Australians for Marriage Equality and the Gay and Lesbian Rights Lobby.

RECOMMENDATION:

That:

1. Council supports marriage equality.
2. Council supports the Yes campaign for marriage equality in any plebiscite brought forward by the Federal Government.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF MAYORAL MINUTE Oooo

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SECTION 3 - Reports for Determination

PLANNING DECISIONS

Item: 154 **CP - DA0093/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 102 - (94598, 109615)**

Development Information

File Number: DA0093/16
Property Address: 86 Arthur Phillip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Ltd
Owner: BD NSW (MR) Project 0007 Pty Ltd
Proposal Details: Dwelling House with attached garage on proposed lot 102
Estimated Cost: \$386,600
Zone: R3 Medium Density Residential
Date Received: 17 March 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a two-storey dwelling house with an attached garage on Proposed Lot 102 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 102, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

There was some confusion with the requests for this application to be reported to Council. The original request was withdrawn and then the request was reinstated. As these requests were advised to different persons at Council at different times the confusion led to this application being issued as a Deferred Commencement Consent on 29 June 2016. The consent does not become operational until Council receives notice of the registration for proposed Lot 102. As such the recommended conditions of the Deferred Commencement Consent may be amended as proposed in this report.

Development Description

The proposal involves the construction of a two-storey dwelling house, attached double garage, fencing and a driveway. Four bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan 2012 (Hawkesbury LEP 2012)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 5.5m and a maximum ridge height of 7.6m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part A Chapter 3: Notification

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The provisions of this Chapter require the notification of two story dwellings to adjoining owners via a letter. At the time of receipt of this application all adjoining properties, according to Council's records, were owned by the same entity who was also the applicant for the development. As such letters were not sent. However, a letter was forwarded to the owner/applicant advising that at the time of sale they should advise purchasers/future owners of these properties of the existence of relevant development approvals.

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a double garage satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (two spots)	4.8m (two spots)	No
Floor Area	85% max	65.5%	Yes
Site Coverage	60% max	50%	Yes
Building Height			
• Ceiling	• 7 metres max	• 5.5m	Yes
• Top of Ridge	• 10 metres max	• 7.6m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional building height above 5.5m	• Built to boundary (left) / 1.1m (right)	No
• Rear	• Up to Building Height 4.5m = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 4.3m	No (first floor)
Retaining walls	1.5m max	700mm	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			

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Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
<ul style="list-style-type: none"> • Total site • Forward of the building line 	<ul style="list-style-type: none"> • 10% min • 25% min 	<ul style="list-style-type: none"> • 39% • 25% 	Yes Yes
Private Open Space	24m ² and minimum width of 3m	37.5m ² and no widths of less than 3m	Yes
Eaves	450mm min	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's garage door width and setback controls.

Due to the dimensions of the future allotment, the maximum permissible garage door width under Table 8.4 of the Plan is 3.2m. The proposed width is 4.8 m however the building is appropriately articulated so that this non-compliance is not expected to negatively impact on the streetscape.

The proposal also fails to comply with the side and rear setback controls of Tables 8.3 and 8.4. In this regard the dwelling's western wall is to be built on the boundary whilst the first floor level will encroach within the side and rear setbacks.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The rear first floor rooms are to be used as bedrooms, which are not 'active' living rooms and are therefore not expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the senior's housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that separation will minimise privacy impacts associated with the rear private open space.

(a)(iii) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations:

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

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(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows.

Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Clr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the

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plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission: *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

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It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0093/16 for a dwelling house on Proposed Lot 102 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0093/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

ORDINARY MEETING**Meeting Date: 9 August 2016****Schedule 2 – Recommended Conditions****General**

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – First Floor Plan	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA04 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA06 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 703837S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	7 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	7 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	7 October 2015
Drawing No. L – 04 Rev 'B' – Fence Details	EcoDesign	7 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:

ORDINARY MEETING

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- a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal rear retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.

ORDINARY MEETING

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29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 101. This easement shall be created to allow the dwelling's western wall located in close proximity to the boundary to be accessed for maintenance.

Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.

30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

ATTACHMENTS:

AT - 1 Location Plan

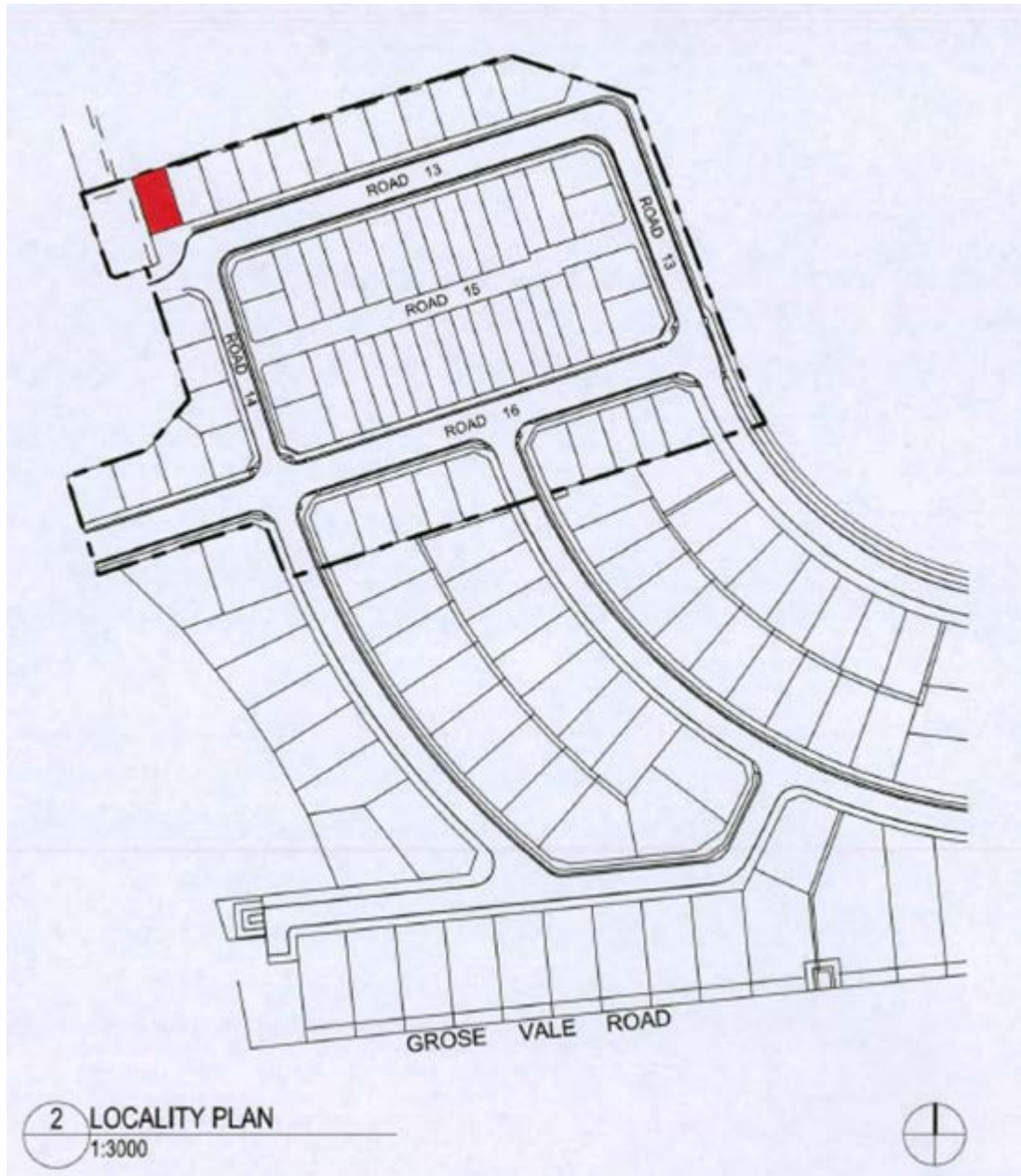
AT - 2 Site Plan

AT - 3 Elevations

ORDINARY MEETING

Meeting Date: 9 August 2016

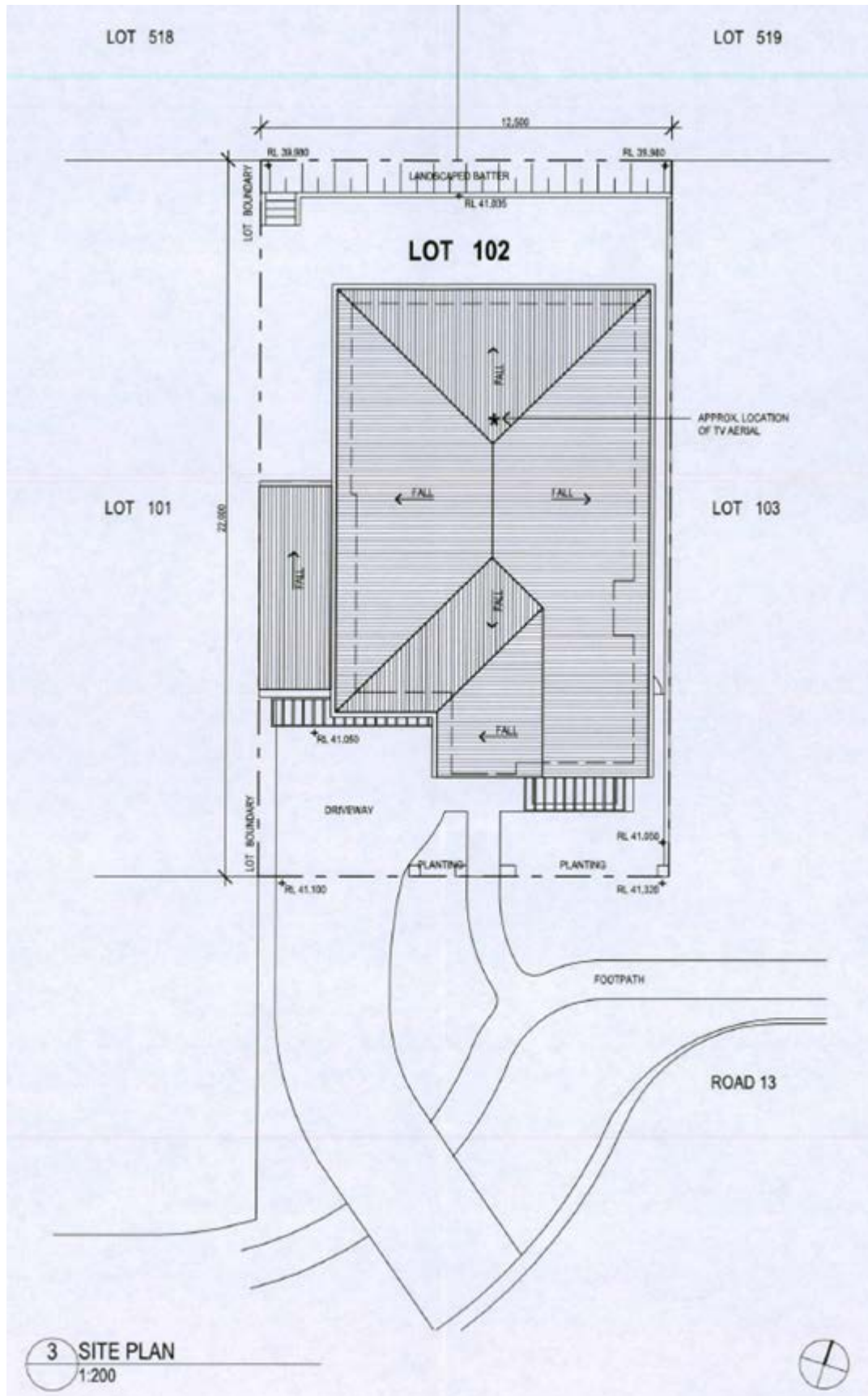
AT - 1 Location Plan



ORDINARY MEETING

Meeting Date: 9 August 2016

AT - 2 Site Plan



Meeting Date: 9 August 2016

LEGEND

- ALL CONSTRUCTION LINES
- ALL EXISTING LINES
- ALL EXISTING MATERIALS
- ALL EXISTING FINISHES
- ALL EXISTING STRUCTURE
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oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 9 August 2016

Item: 155 **CP - DA0094/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 103 - (94598, 109615)**

Development Information

File Number: DA0094/16
Property Address: 86 Arthur Phillip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Ltd
Owner: BD NSW (MR) Project 0007 Pty Ltd
Proposal Details: Dwelling house with attached garage on proposed lot 103
Estimated Cost: \$378,5000
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a two-storey dwelling house with an attached garage on Proposed Lot 103 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 103, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

There was some confusion with the requests for this application to be reported to Council. The original request was withdrawn and then the request was reinstated. As these requests were advised to different persons at Council at different times the confusion led to this application being issued as a Deferred Commencement Consent on 29 June 2016. The consent does not become operational until Council receives notice of the registration for proposed Lot 103. As such the recommended conditions of the Deferred Commencement Consent may be amended as proposed in this report.

Development Description

The proposal involves the construction of a two-storey dwelling house, attached double garage, fencing and a driveway. Four bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 5.4m and a maximum ridge height of 7.55m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

ORDINARY MEETING

Meeting Date: 9 August 2016

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".*

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

ORDINARY MEETING**Meeting Date:** 9 August 2016*Part A Chapter 3: Notification*

The provisions of this Chapter require the notification of two story dwellings to adjoining owners via a letter. At the time of receipt of this application all adjoining properties, according to Council's records, were owned by the same entity who was also the applicant for the development. As such letters were not sent. However, a letter was forwarded to the owner/applicant advising that at the time of sale they should advise purchasers/future owners of these properties of the existence of relevant development approvals

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a double garage satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (two spots)	4.8m (two spots)	No
Floor Area	85% max	65.5%	Yes
Site Coverage	60% max	53.8%	Yes
Building Height <ul style="list-style-type: none"> • Ceiling • Top of Ridge 	• 7 metres max	5.4m	Yes
	• 10 metres max	7.55m	Yes
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	• 3m minimum	• 3.4m	Yes
	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 4.2m	No (first floor)
Retaining walls	1.5m max	955mm	Yes

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Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	10% min	46%	Yes
• Forward of the building line	25% min	40%	Yes
Private Open Space	24m ² and minimum width of 3m	42m ² and no widths of less than 3m	Yes
Eaves	450mm min	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's garage door width and setback controls.

Due to the dimensions of the future allotment, the maximum permissible garage door width under Table 8.4 of the Plan is 3.2m. The proposed width is 4.8 m however the building is appropriately articulated so that this non-compliance is not expected to negatively impact on the streetscape.

The proposal also fails to comply with the side and rear setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the first floor level will encroach within the side and rear setbacks.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The rear first floor rooms are to be used as bedrooms, which are not 'active' living rooms and are therefore not expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that separation will minimise privacy impacts associated with the rear private open space.

(a)(iii) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

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(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Clr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the

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plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1,400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

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It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0094/16 for a dwelling house on Proposed Lot 103 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions:

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0094/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

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1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – First Floor Plan	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA04 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA06 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704080S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	7 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	7 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	7 October 2015
Drawing No. L – 04 Rev 'B' – Fence Details	EcoDesign	7 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.

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10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site

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- d) all waste must be contained and removed to a Waste Disposal Depot.
- 22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
- 23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
- 24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

- 25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
- 26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
- 27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
- 28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
 - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
- 29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 104. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.

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Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.

30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

ATTACHMENTS:

AT - 1 Location Plan

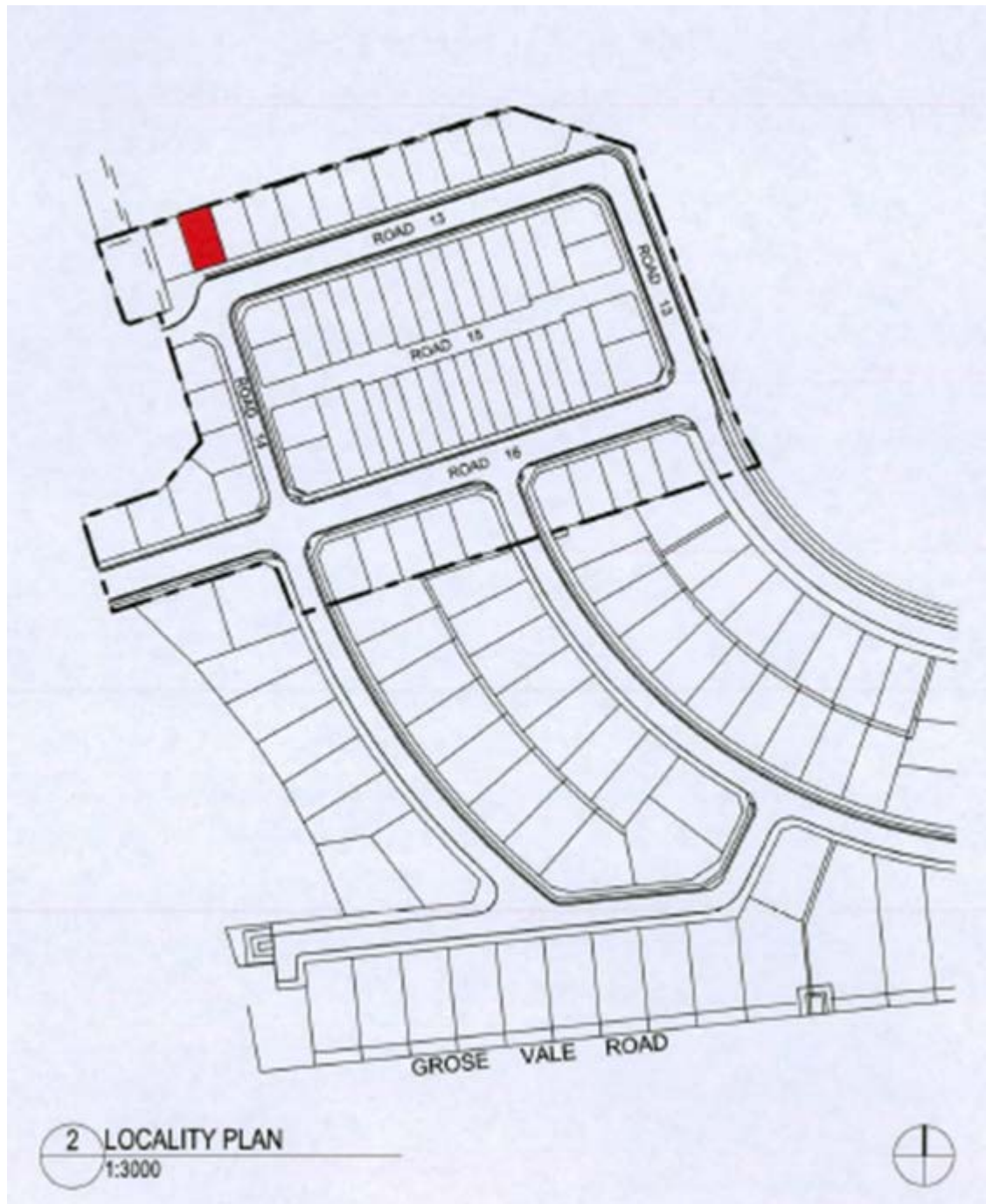
AT - 2 Site Plan

AT - 3 Elevations

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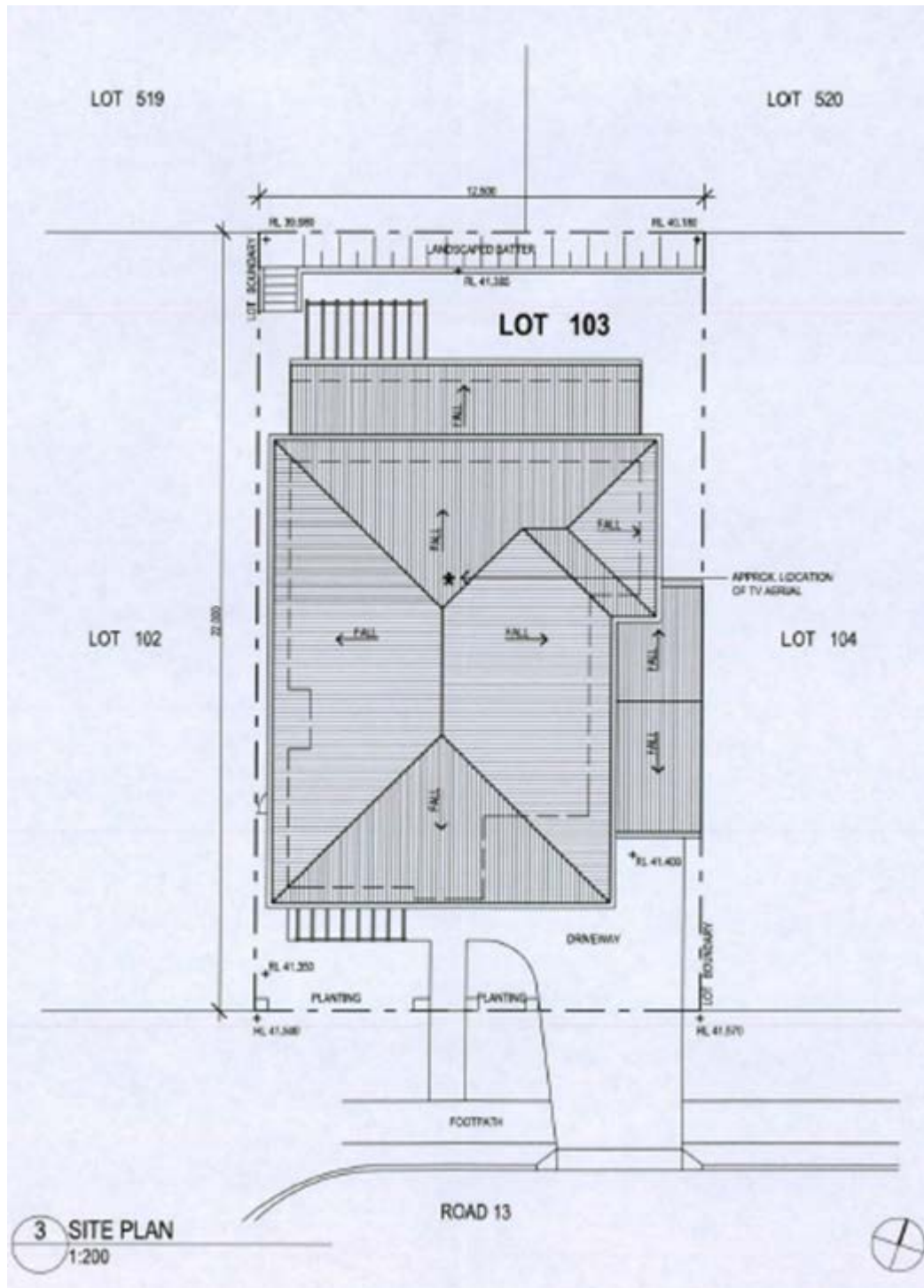
AT - 1 Location Plan



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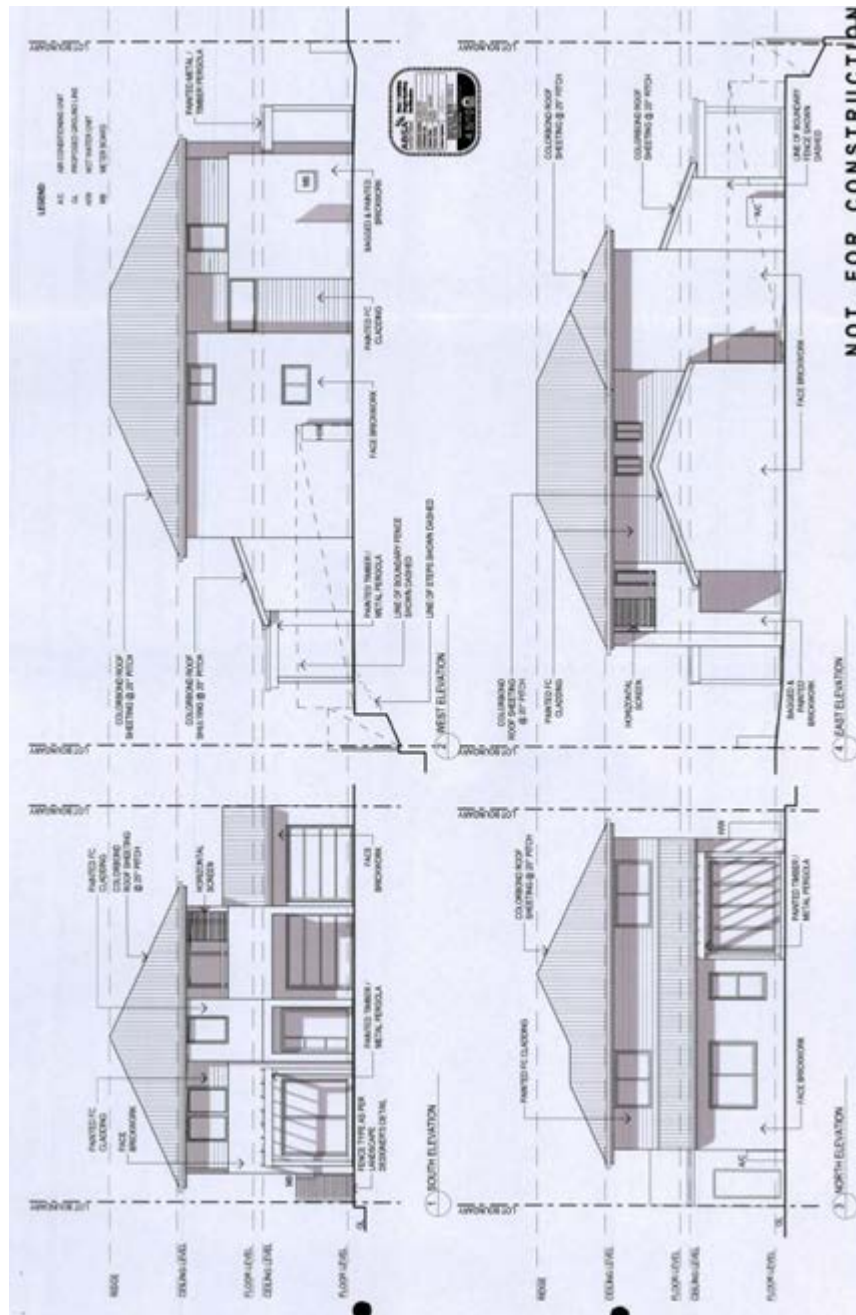
AT - 2 Site Plan



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AT - 3 Elevations



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Item: 156 **CP - DA0095/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 104 - (94598, 109615)**

Development Information

File Number: DA0095/16
Property Address: 86 Arthur Phillip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on proposed lot 104
Estimated Cost: \$377,200
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 104 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 104, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)

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- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 5m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.

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State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

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The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below:

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	2.9m	Yes
• Top of Ridge	• 10 metres max	5m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	975mm and 1500mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min.	• 31%	Yes
• Forward of the building line	• 25% min.	• Min 25% available	Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed

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surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iia) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008,

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discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these

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applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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.

RECOMMENDATION:

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That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0095/16 for a dwelling house on Proposed Lot 104 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions:

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0095/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704721S_03	EcoMode Design	19 February 2016
Drawing No. L – 01 Rev 'C' – Landscape Plan	EcoDesign	22 February 2016
Drawing No. L – 02 Rev 'C' – Landscape Details	EcoDesign	22 February 2016
Drawing No. L – 03 Rev 'C' – Fence Details	EcoDesign	22 February 2016
Drawing No. L – 04 Rev 'C' – Fence Details	EcoDesign	22 February 2016

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

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Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

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17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
 - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.

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- b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 105. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

ATTACHMENTS:

AT - 1 Location Plan

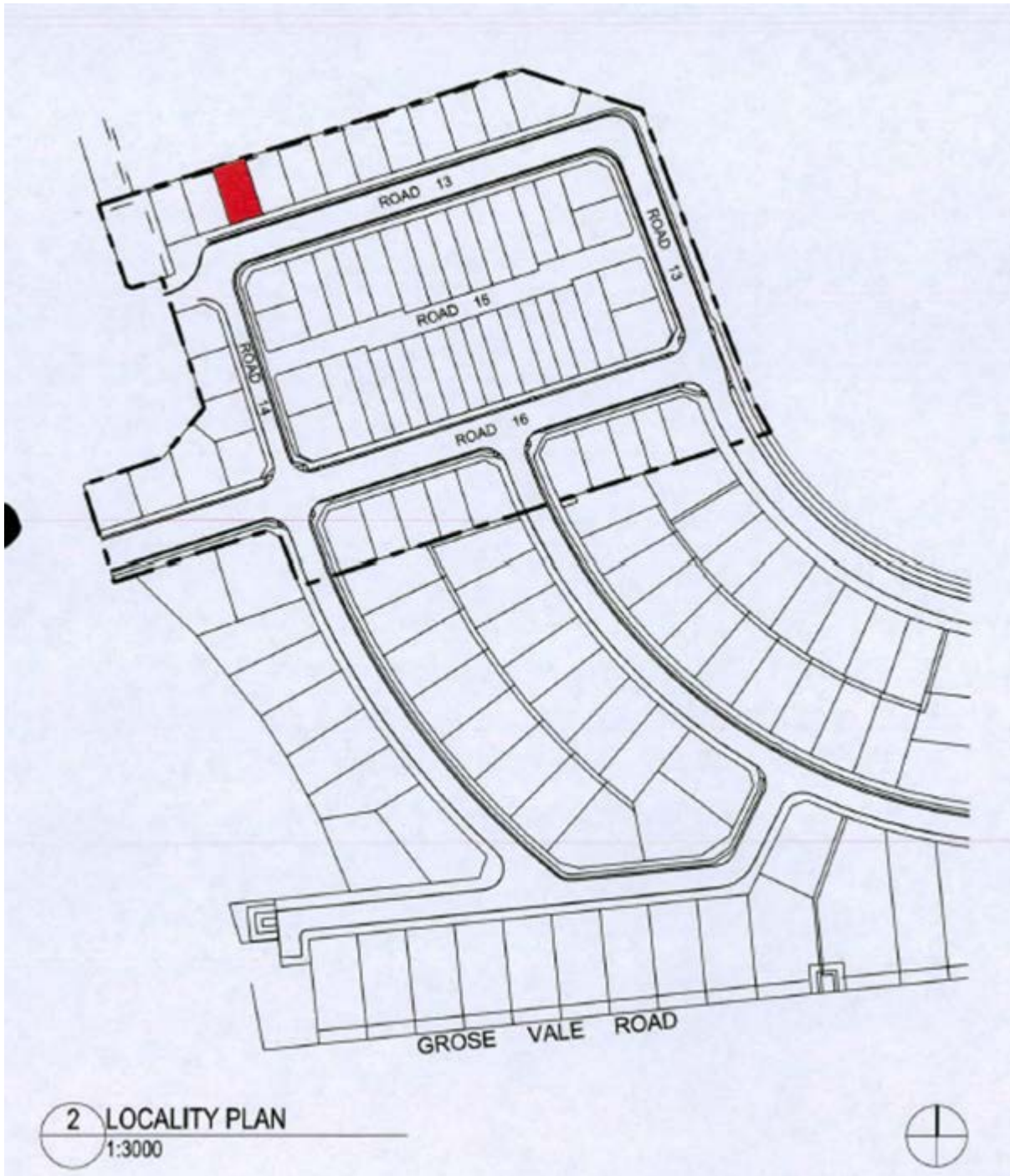
AT - 2 Site Plan

AT - 3 Elevations

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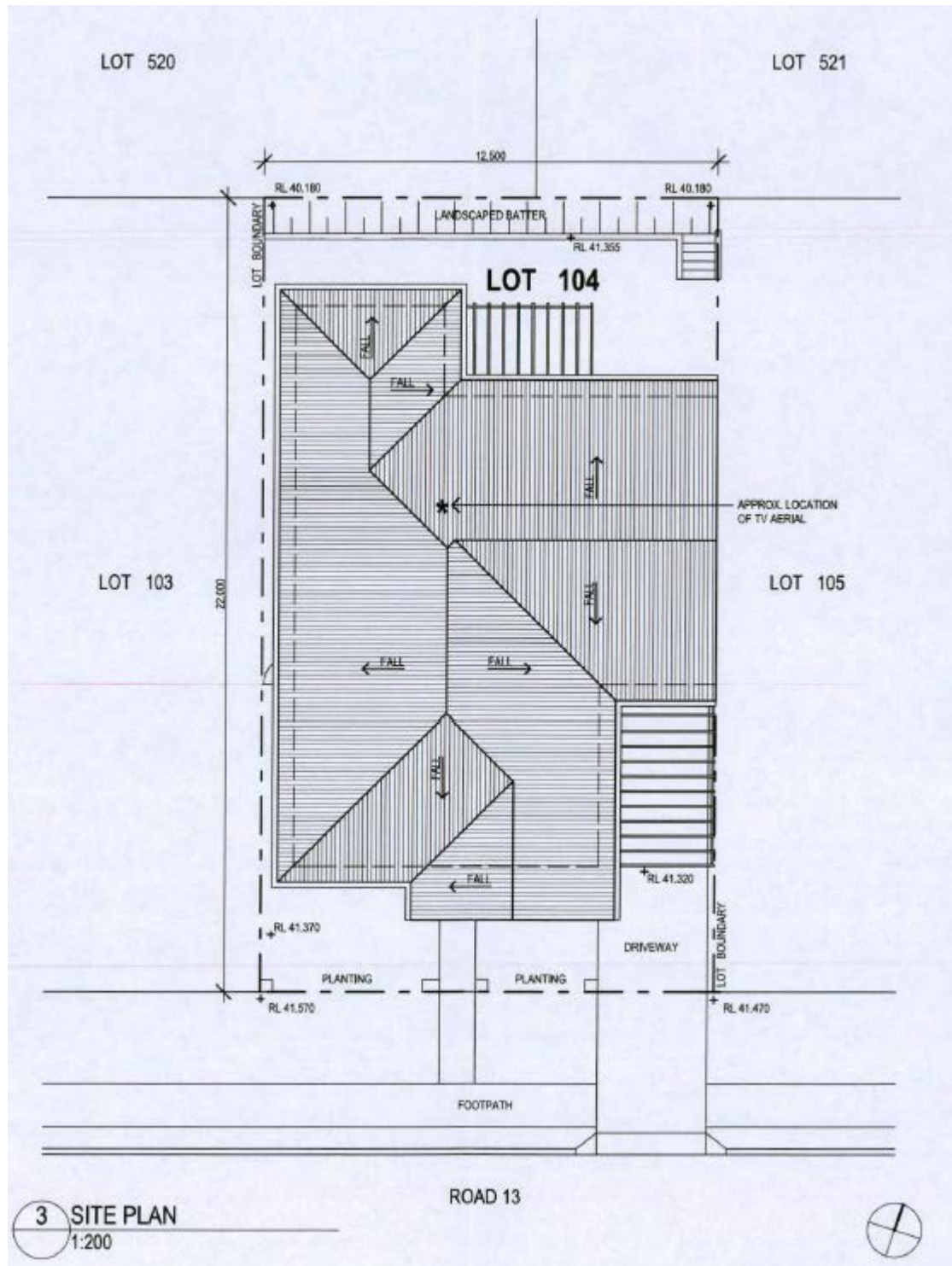
AT - 1 Location Plan



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AT - 2 Site Plan



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LEGEND

- ALL CONSTRUCTION UNIT
- AC - APPROXIMATE CHANGING LINE
- AL - APPROXIMATE CHANGING LINE
- AS - APPROXIMATE CHANGING LINE
- BS - APPROXIMATE CHANGING LINE
- CS - APPROXIMATE CHANGING LINE
- DS - APPROXIMATE CHANGING LINE
- ES - APPROXIMATE CHANGING LINE
- FS - APPROXIMATE CHANGING LINE
- GS - APPROXIMATE CHANGING LINE
- HS - APPROXIMATE CHANGING LINE
- IS - APPROXIMATE CHANGING LINE
- JS - APPROXIMATE CHANGING LINE
- KS - APPROXIMATE CHANGING LINE
- LS - APPROXIMATE CHANGING LINE
- MS - APPROXIMATE CHANGING LINE
- NS - APPROXIMATE CHANGING LINE
- OS - APPROXIMATE CHANGING LINE
- PS - APPROXIMATE CHANGING LINE
- QS - APPROXIMATE CHANGING LINE
- RS - APPROXIMATE CHANGING LINE
- TS - APPROXIMATE CHANGING LINE
- US - APPROXIMATE CHANGING LINE
- VS - APPROXIMATE CHANGING LINE
- WS - APPROXIMATE CHANGING LINE
- XS - APPROXIMATE CHANGING LINE
- YS - APPROXIMATE CHANGING LINE
- ZS - APPROXIMATE CHANGING LINE

SOUTH ELEVATION

WEST ELEVATION

EAST ELEVATION

NORTH ELEVATION

NOT FOR CONSTRUCTION

oooO END OF REPORT Oooo

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Item: 157 **CP - DA0096/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 105 - (94598, 109615)**

Development Information

File Number: DA0096/16
Property Address: 86 Arthur Phillip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling House with Attached Garage on proposed Lot 105
Estimated Cost: \$289,400
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 105 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 105, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)

- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 5m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- Supply of water,*
- Supply of electricity,*
- Disposal and management of sewage,*
- Storm water drainage or on-site conservation,*
- Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

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The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	2.9m	Yes
• Top of Ridge	• 10 metres max	5m	Yes
Setbacks			
• Front	• 3m minimum	3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	Built to boundary (right) / 900mm (left)	No
Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	3m	Yes
Retaining walls	1.5m max	900mm and 1500mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min	• 32%	Yes
• Forward of the building line	• 25% min	• Min 25% available	Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

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The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iii) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

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Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

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The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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

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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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0096/16 for a dwelling house on Proposed Lot 105 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0096/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704722S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'A' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'A' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'A' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.

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6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

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Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:

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- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 106. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

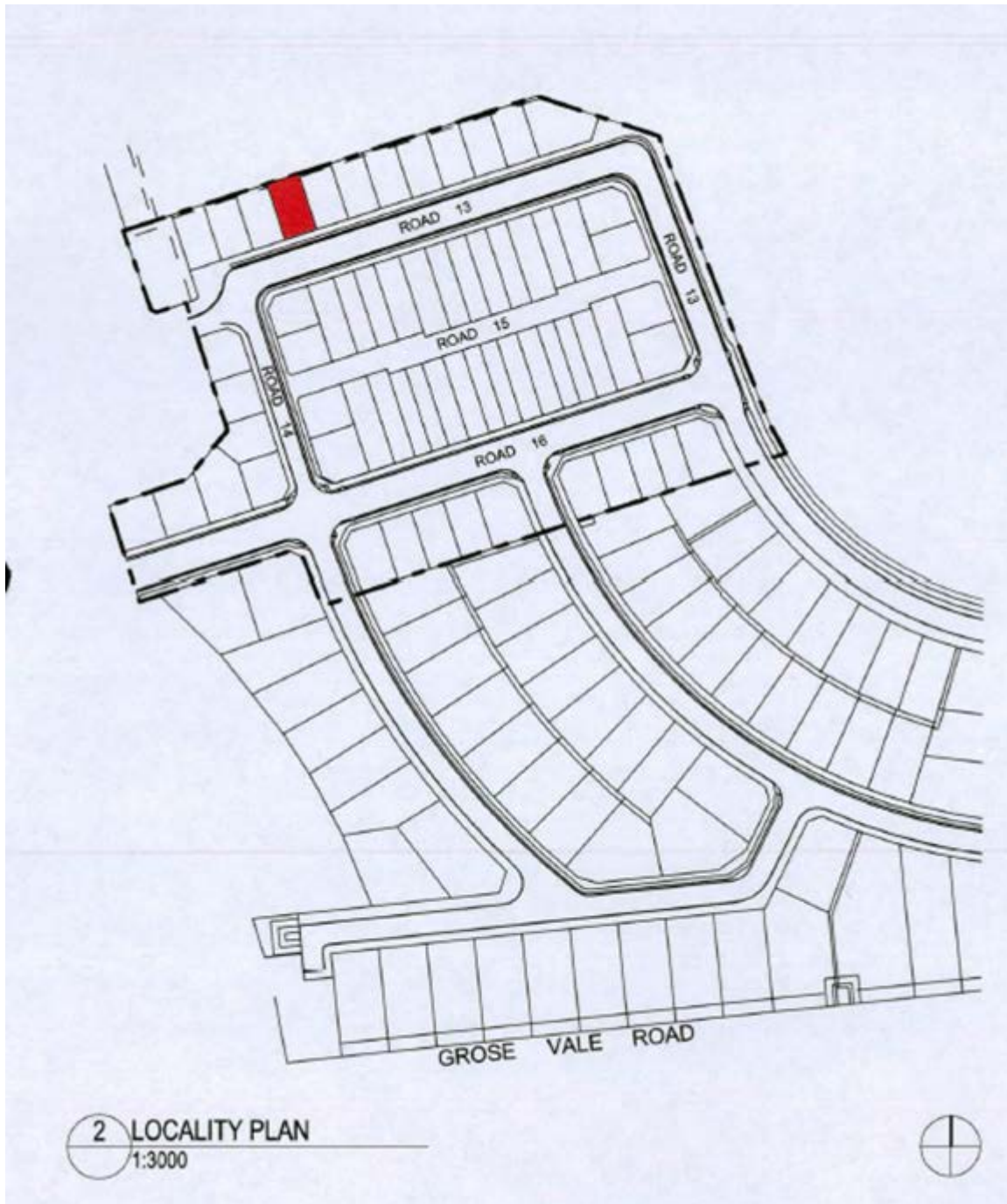
ATTACHMENTS:

- AT - 1 Location Plan
- AT - 2 Site Plan
- AT - 3 Elevations

AT - 1 Location Plan

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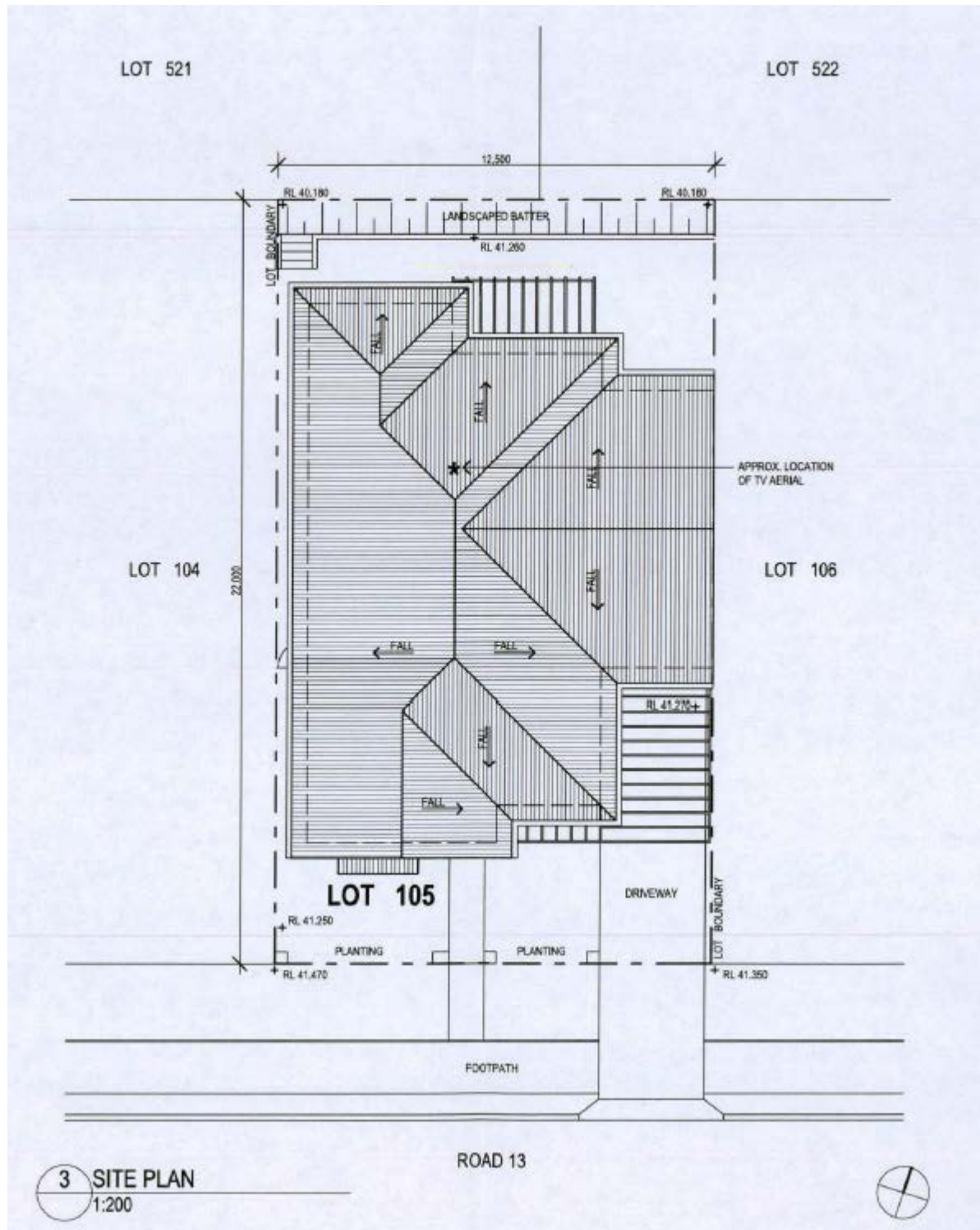
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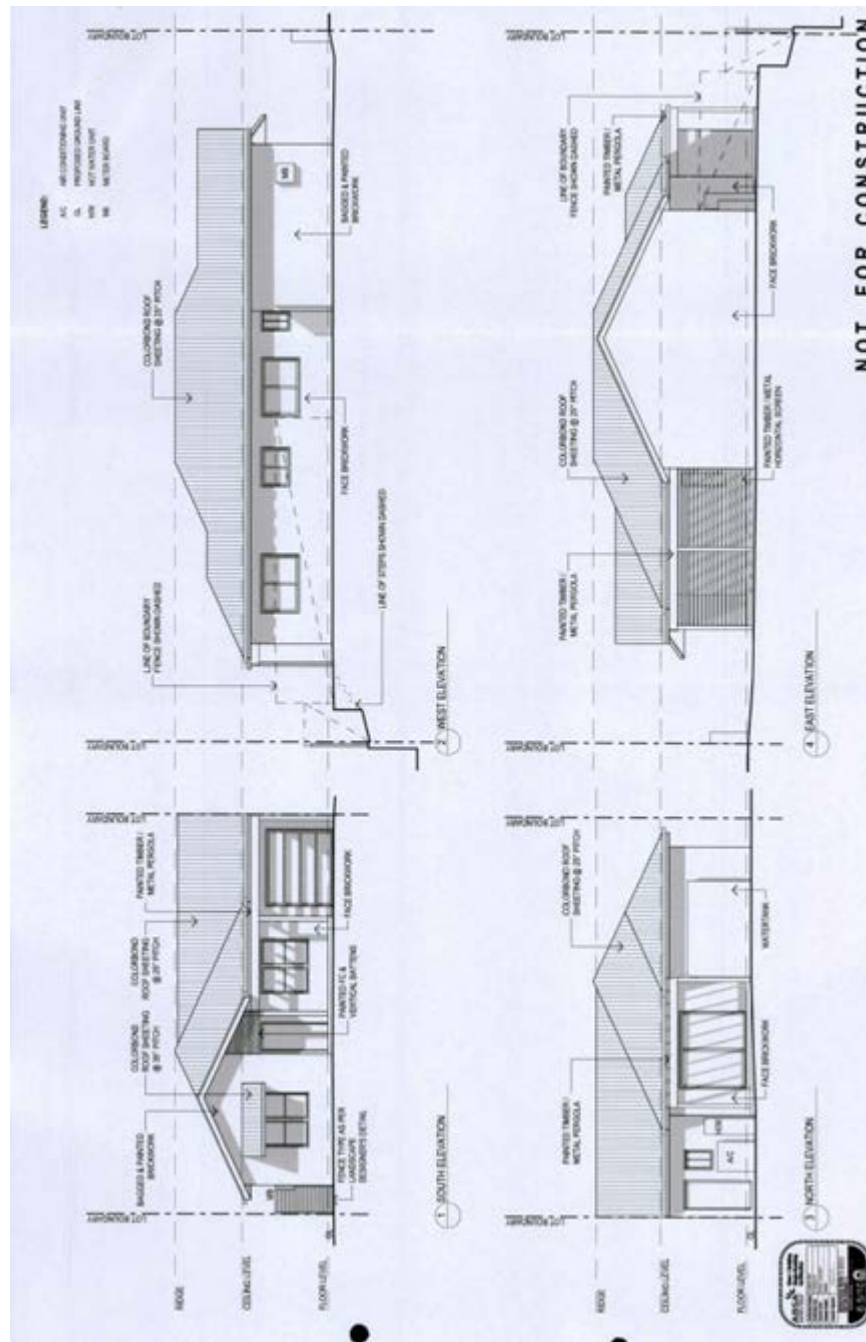
AT - 2 Site Plan



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AT - 3 Elevations



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Item: 158 **CP - DA0097/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 106 - (94598, 109615)**

Development Information

File Number: DA0097/16
Property Address: 86 Arthur Phillip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on proposed lot 106
Estimated Cost: \$291,000
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 106 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 106, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 4.9m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,

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- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

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The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	54%	Yes
Building Height <ul style="list-style-type: none"> • Ceiling • Top of Ridge 	<ul style="list-style-type: none"> • 7 metres max • 10 metres max 	<ul style="list-style-type: none"> • 2.9m • 4.9m 	Yes
			Yes
Setbacks Front Side Rear	<ul style="list-style-type: none"> • 3m minimum • 900mm plus ¼ of additional height above 5.5m • Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser) 	<ul style="list-style-type: none"> • 3.5m • Built to boundary (right) / 900mm (left) • 3m 	Yes
			No
			Yes
Retaining walls	1.5m max	835mm and 1400mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping <ul style="list-style-type: none"> • Total site • Forward of the building line 	<ul style="list-style-type: none"> • 10% min. • 25% min 	<ul style="list-style-type: none"> • 33% • Min 25% available 	Yes
			Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

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The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the senior's housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iia) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development

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applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would

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likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition, to this evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

Planning Decision

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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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0097/16 for a dwelling house on Proposed Lot 106 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0097/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704723S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.

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5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.

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16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be piered or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.

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28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 107. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

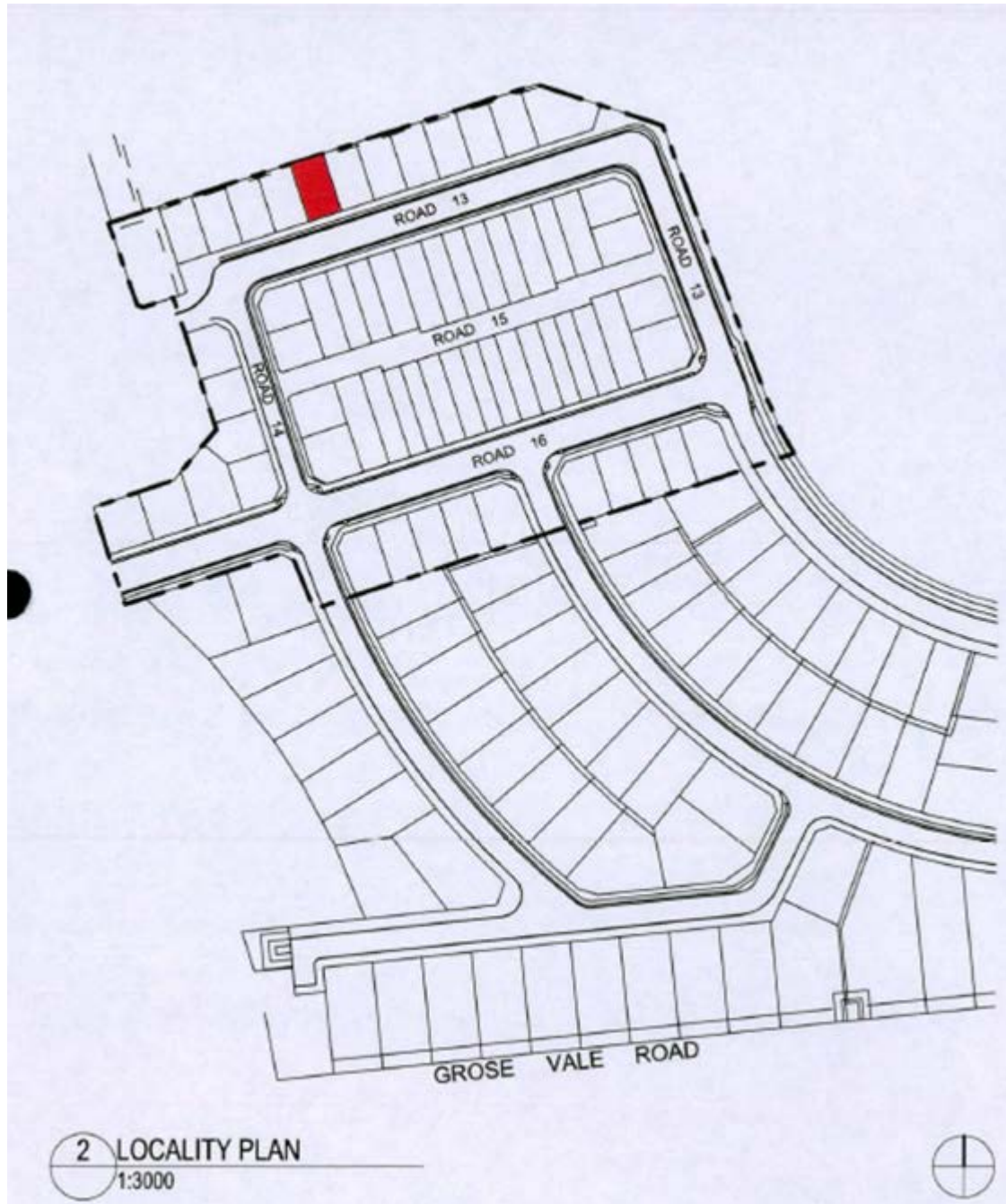
ATTACHMENTS:

- AT - 1 Location Plan
- AT - 2 Site Plan
- AT - 3 Elevations

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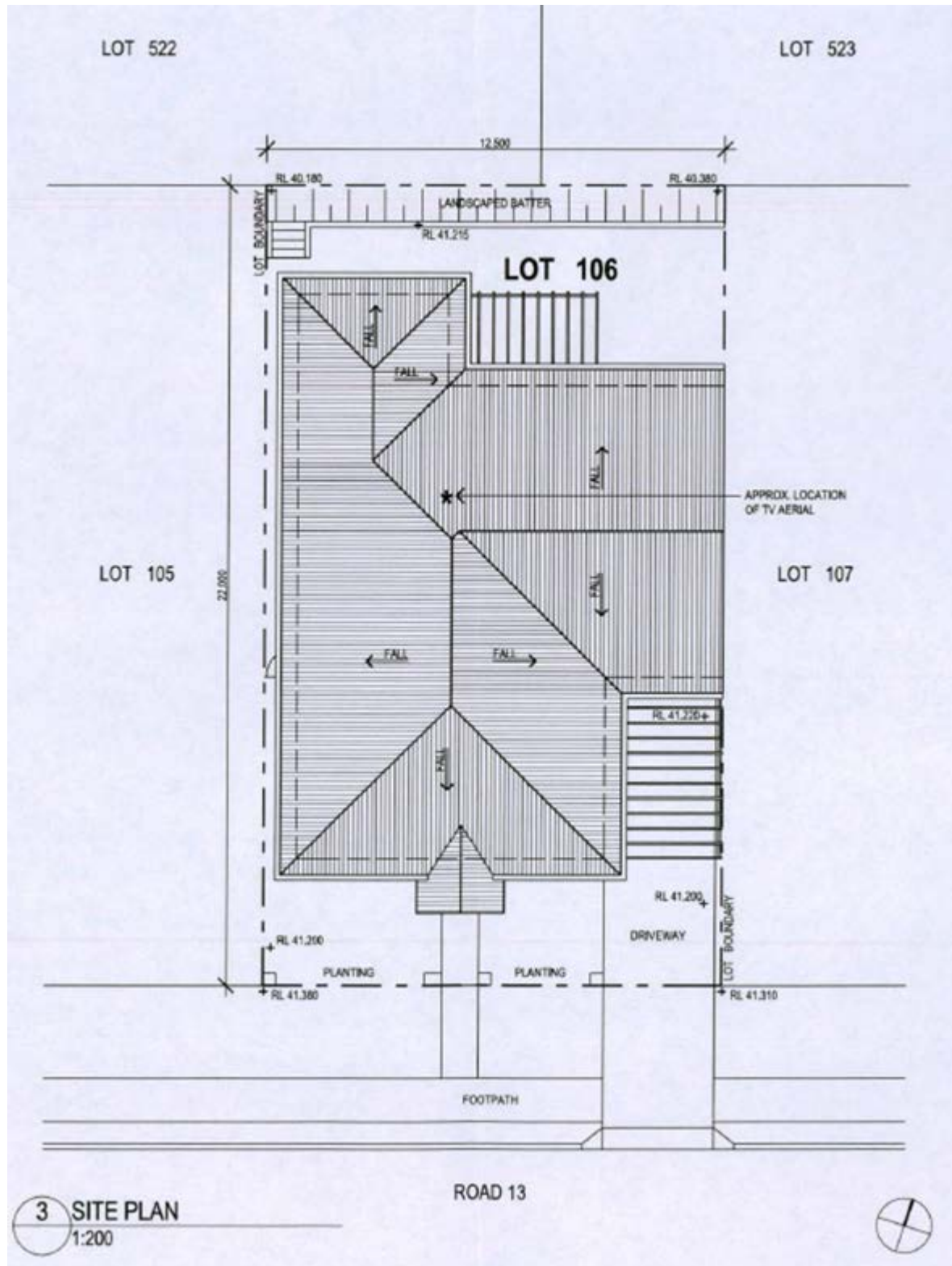
AT - 1 Location Plan



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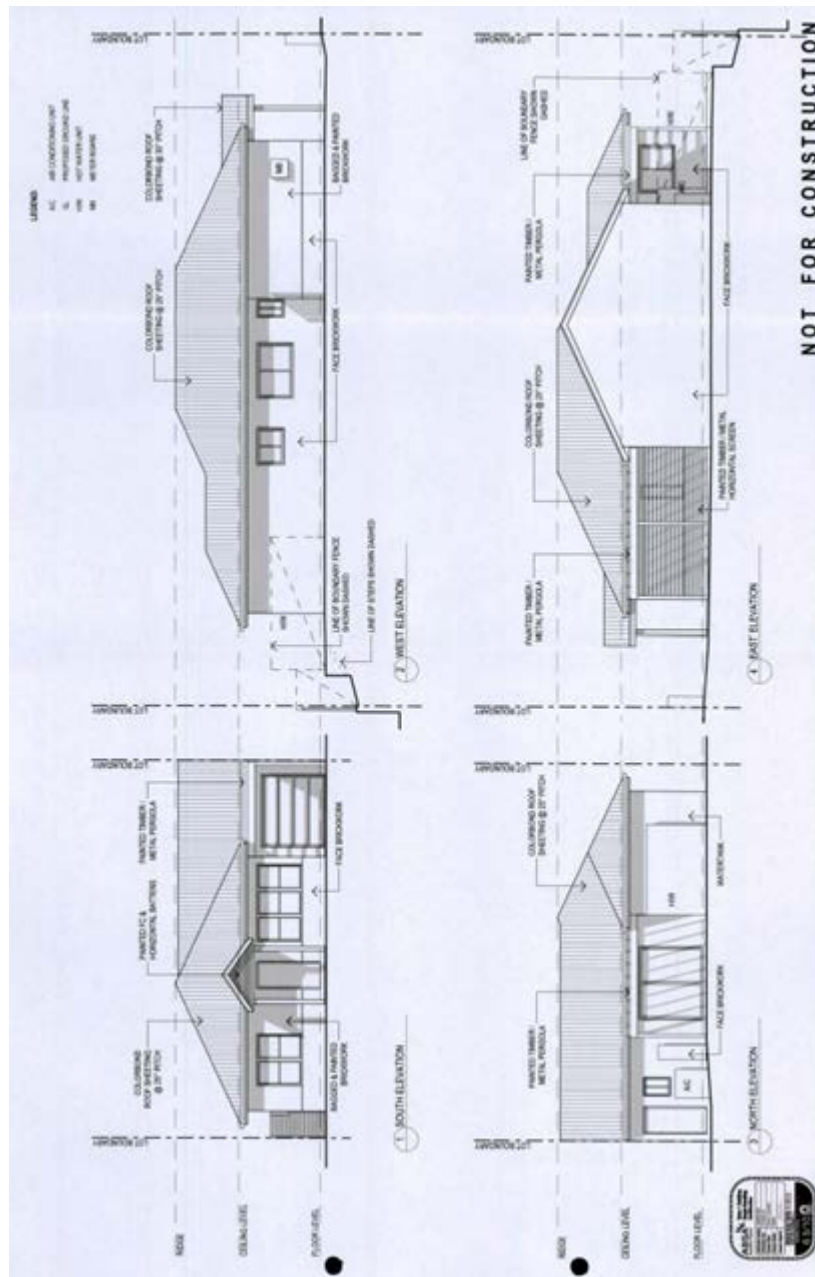
AT - 2 Site Plan



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AT - 3 Elevations



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Item: 159 **CP - DA0098/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 107 - (94598, 109615)**

Development Information

File Number: DA0098/16
Property Address: 86 Arthur Phillip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on Proposed Lot 107
Estimated Cost: \$291,900
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not Required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 107 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 107, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)

- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 5m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- Supply of water,*
- Supply of electricity,*
- Disposal and management of sewage,*
- Storm water drainage or on-site conservation,*
- Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

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The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	40.8%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	• 2.9m	Yes
• Top of Ridge	• 10 metres max	• 5m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	535mm and 1500mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min.	• 31%	Yes
• Forward of the building line	• 25% min.	• Min 25% available	Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

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The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iii) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

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Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

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As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

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The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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

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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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0098/16 for a dwelling house on Proposed Lot 107 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0098/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704726S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.

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6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

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Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 60pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be piered or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:

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- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 108. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

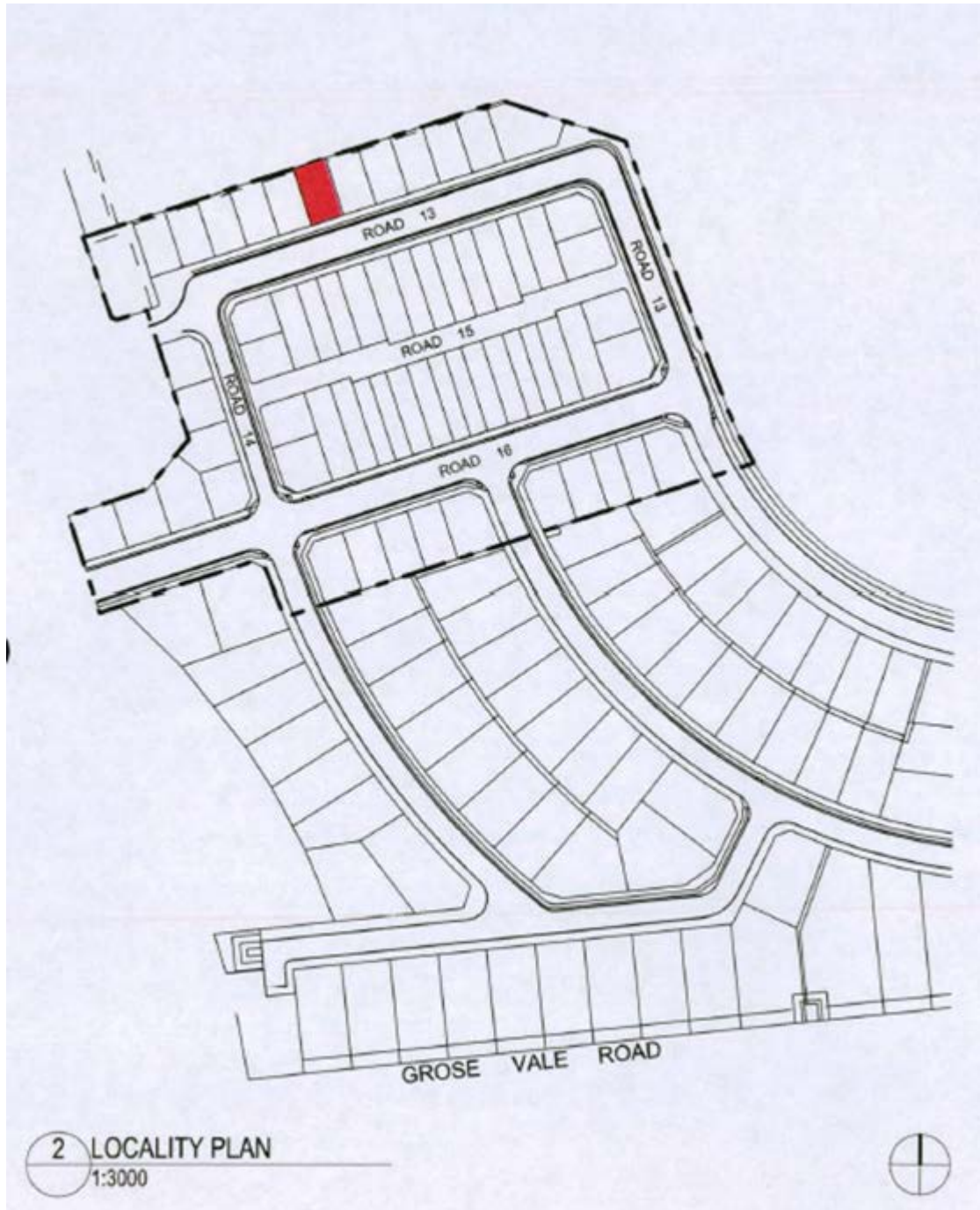
ATTACHMENTS:

- AT - 1 Location Plan
- AT - 2 Site Plan
- AT - 3 Elevations

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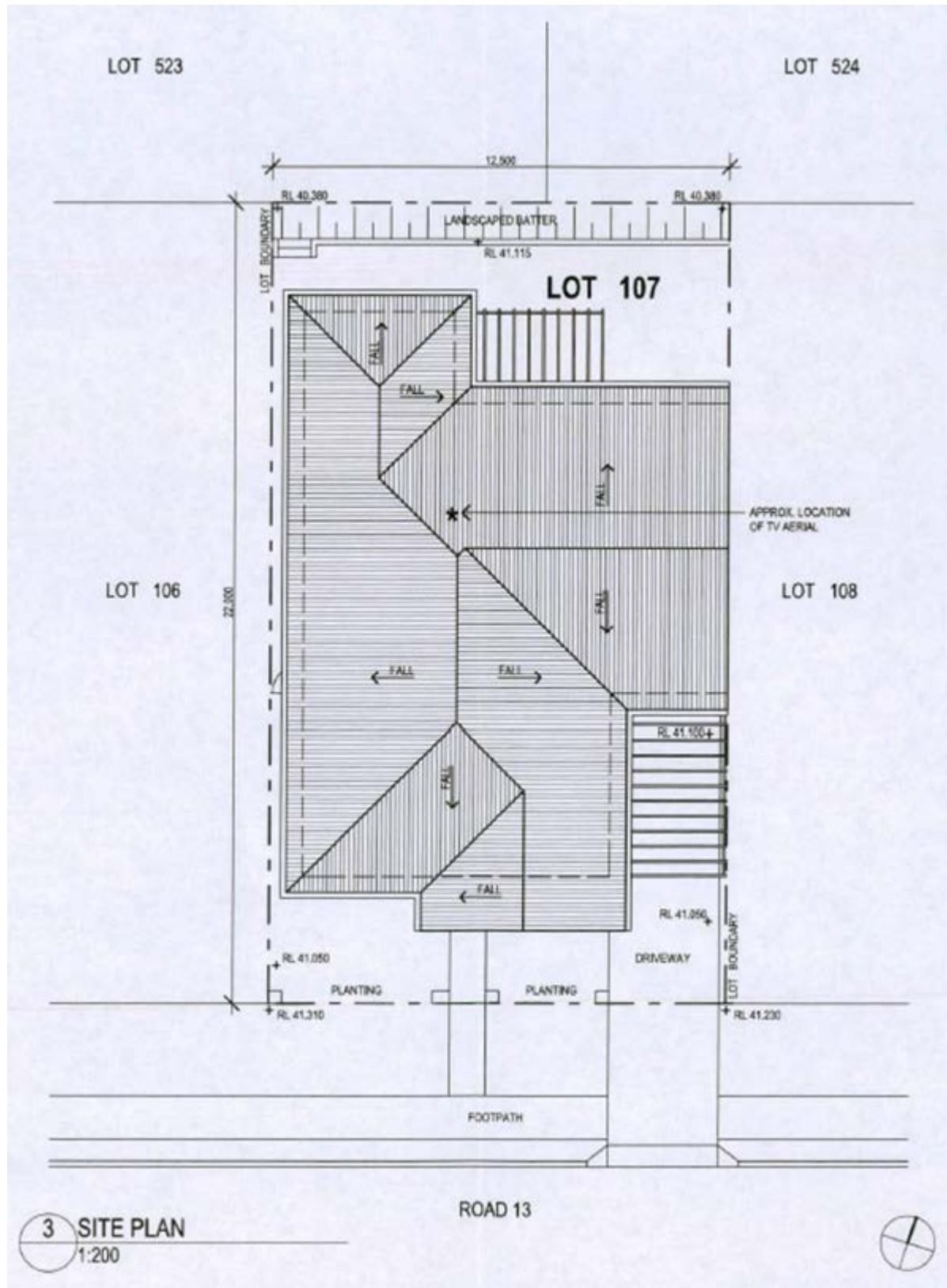
AT - 1 Location Plan



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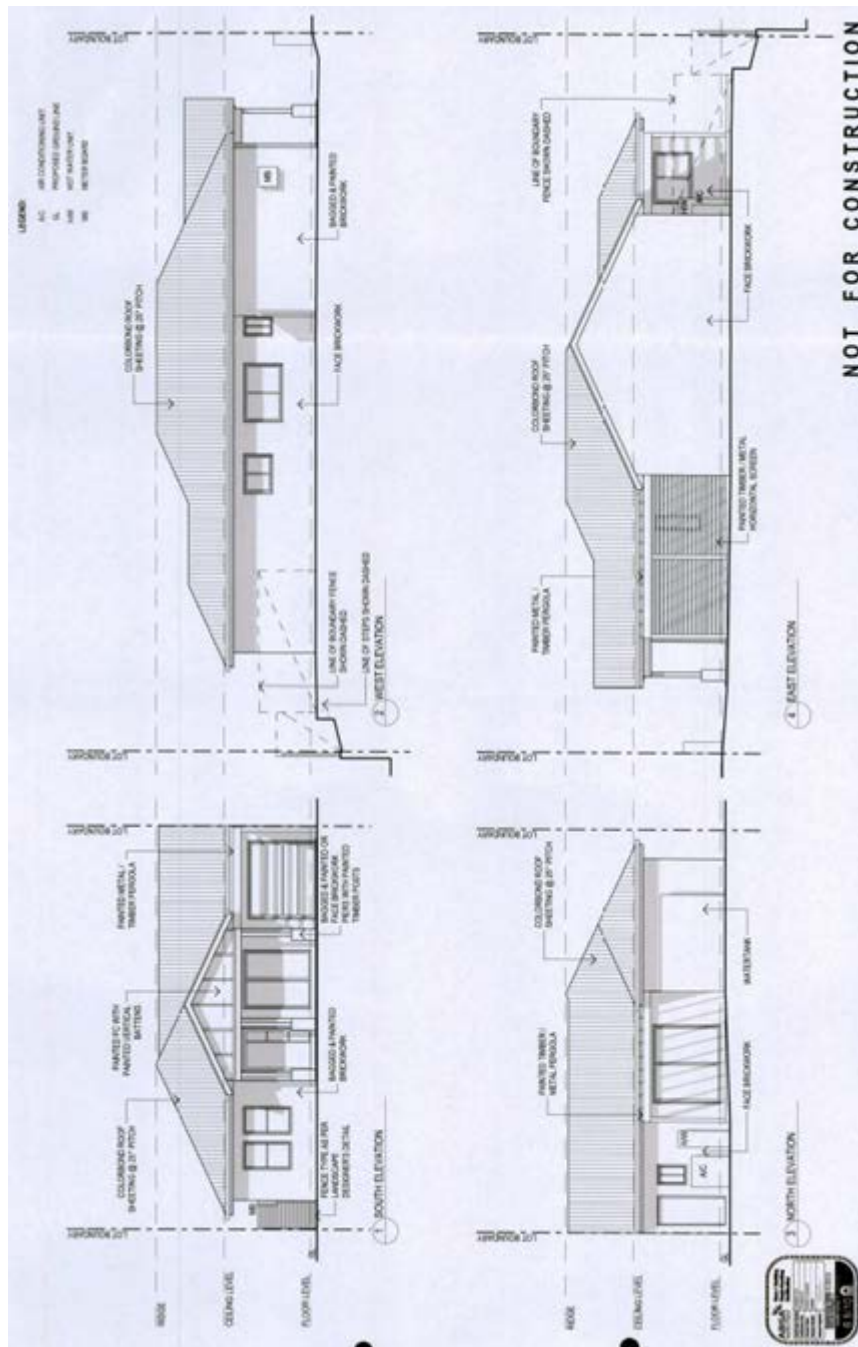
AT - 2 Site Plan



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AT - 3 Elevations



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Item: 160 **CP - DA0099/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 108 - (94598, 109615)**

Development Information

File Number: DA0099/16
Property Address: 86 Arthur Phillip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on proposed lot 108
Estimated Cost: \$377,200
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 108 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 108, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)

- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 4.8m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,

(e) *Suitable road access*".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose*".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

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Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	40.7%	Yes
Site Coverage	60% max	53.23%	Yes
Building Height			
• Ceiling	• 7 metres max	• 2.9m	Yes
• Top of Ridge	• 10 metres max	• 4.8m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	900mm and 1200mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min	• 31%	Yes
• Forward of the building line	• 25% min	• Min 25% available	Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iia) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

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Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

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Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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

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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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0099/16 for a dwelling house on Proposed Lot 108 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0099/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 705598S	EcoMode Design	19 February 2016
Drawing No. L – 01 Rev 'C' – Landscape Plan	EcoDesign	22 February 2016
Drawing No. L – 02 Rev 'C' – Landscape Details	EcoDesign	22 February 2016
Drawing No. L – 03 Rev 'C' – Fence Details	EcoDesign	22 February 2016
Drawing No. L – 04 Rev 'C' – Fence Details	EcoDesign	22 February 2016

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.

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6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

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Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8.30am to 5.30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:

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- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 109. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

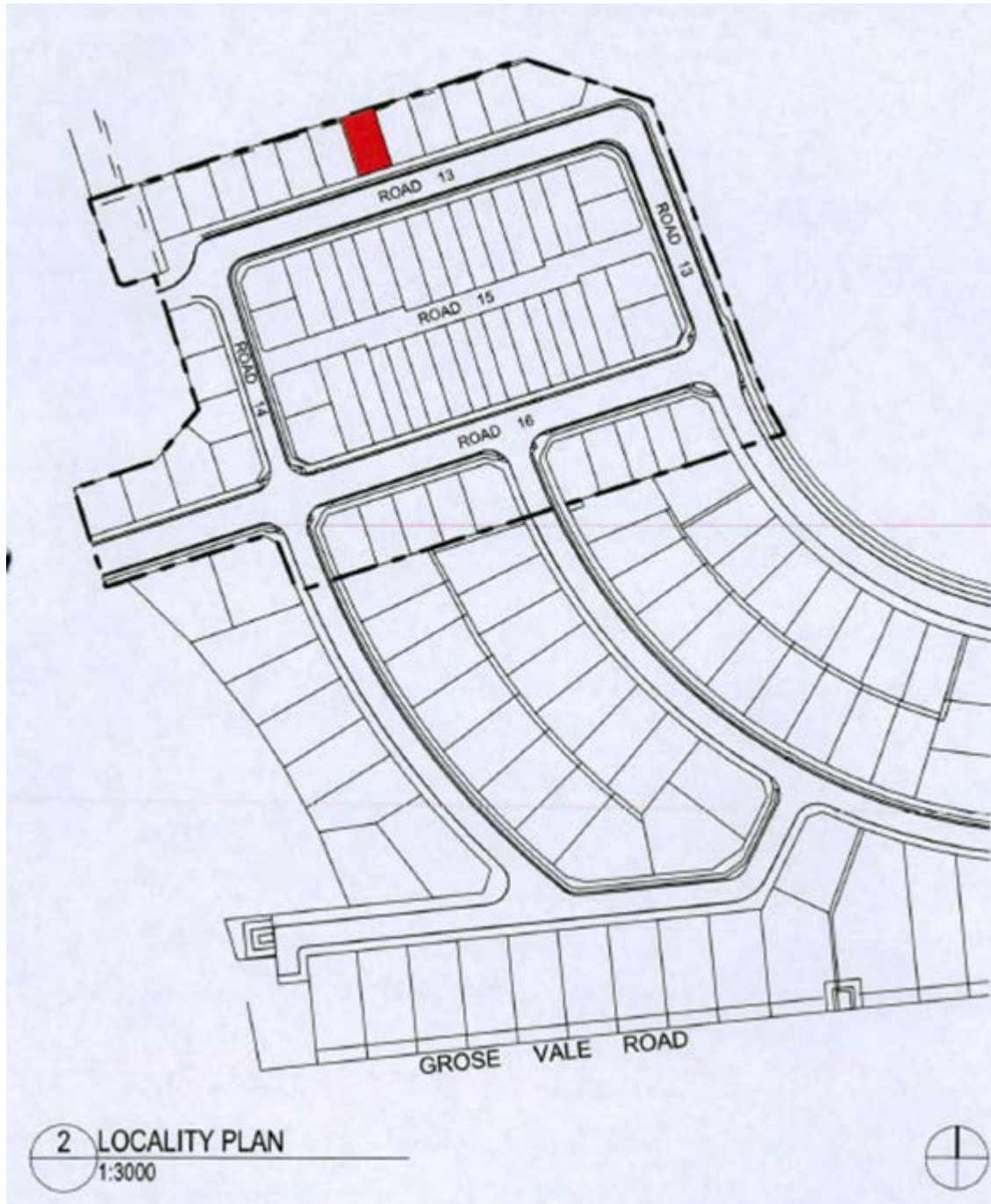
ATTACHMENTS:

- AT - 1 Location Plan
- AT - 2 Site Plan
- AT - 3 Elevations

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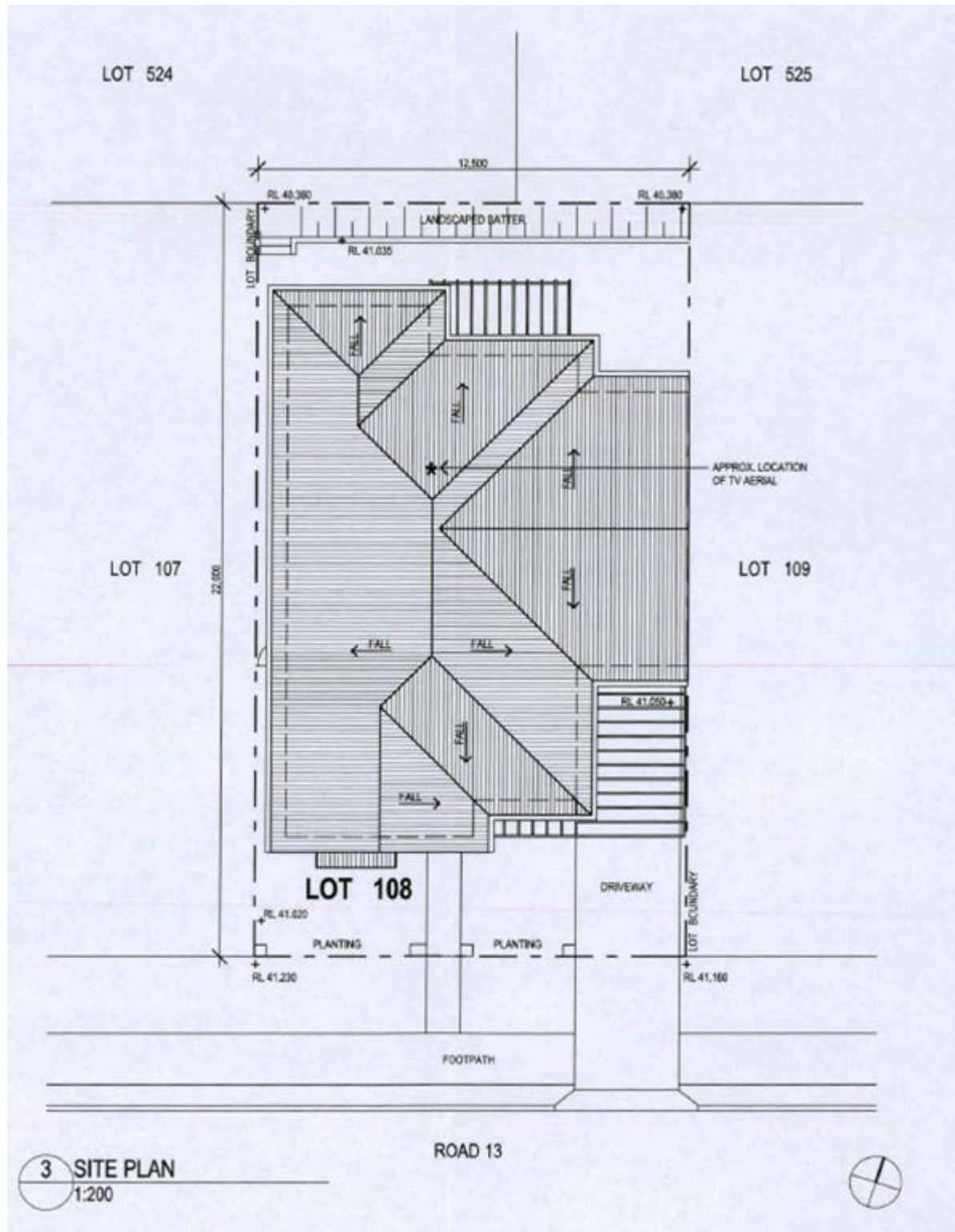
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AT - 1 Location Plan



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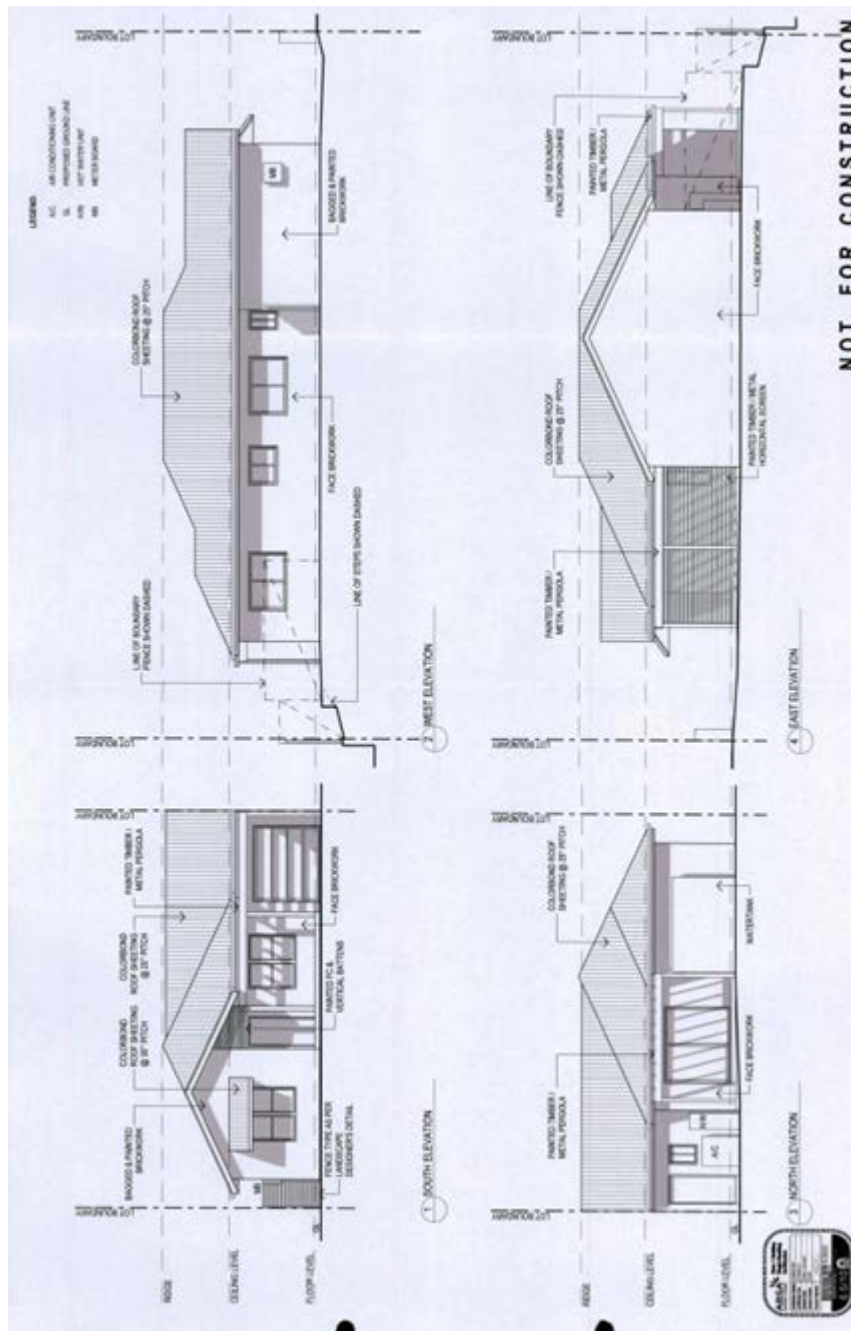
AT - 2 Site Plan



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AT - 3 Elevations



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Item: 161 **CP - DA0100/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 109 - (94598, 109615)**

Development Information

File Number: DA0100/16
Property Address: 86 Arthur Philip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on proposed Lot 109
Estimated Cost: \$381,500
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 109 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 109, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)

- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.8m and a maximum ridge height of 4.8m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,

(e) *Suitable road access*".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority *"must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose*".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims *"to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context"*.

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

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Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	40.8%	Yes
Site Coverage	60% max	53.7%	Yes
Building Height			
• Ceiling	• 7 metres max	2.8m	Yes
• Top of Ridge	• 10 metres max	4.8m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	1200mm and 1300mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min	• 32%	Yes
• Forward of the building line	• 25% min	• Min 25% available	Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3 metres	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

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The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iia) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

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Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

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The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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

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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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0100/16 for a dwelling house on Proposed Lot 109 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0100/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 705601S	EcoMode Design	19 February 2016
Drawing No. L – 01 Rev 'C' – Landscape Plan	EcoDesign	22 February 2016
Drawing No. L – 02 Rev 'C' – Landscape Details	EcoDesign	22 February 2016
Drawing No. L – 03 Rev 'C' – Fence Details	EcoDesign	22 February 2016
Drawing No. L – 04 Rev 'C' – Fence Details	EcoDesign	22 February 2016

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.

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6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

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Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:

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- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 110. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

ATTACHMENTS:

AT - 1 Location Plan

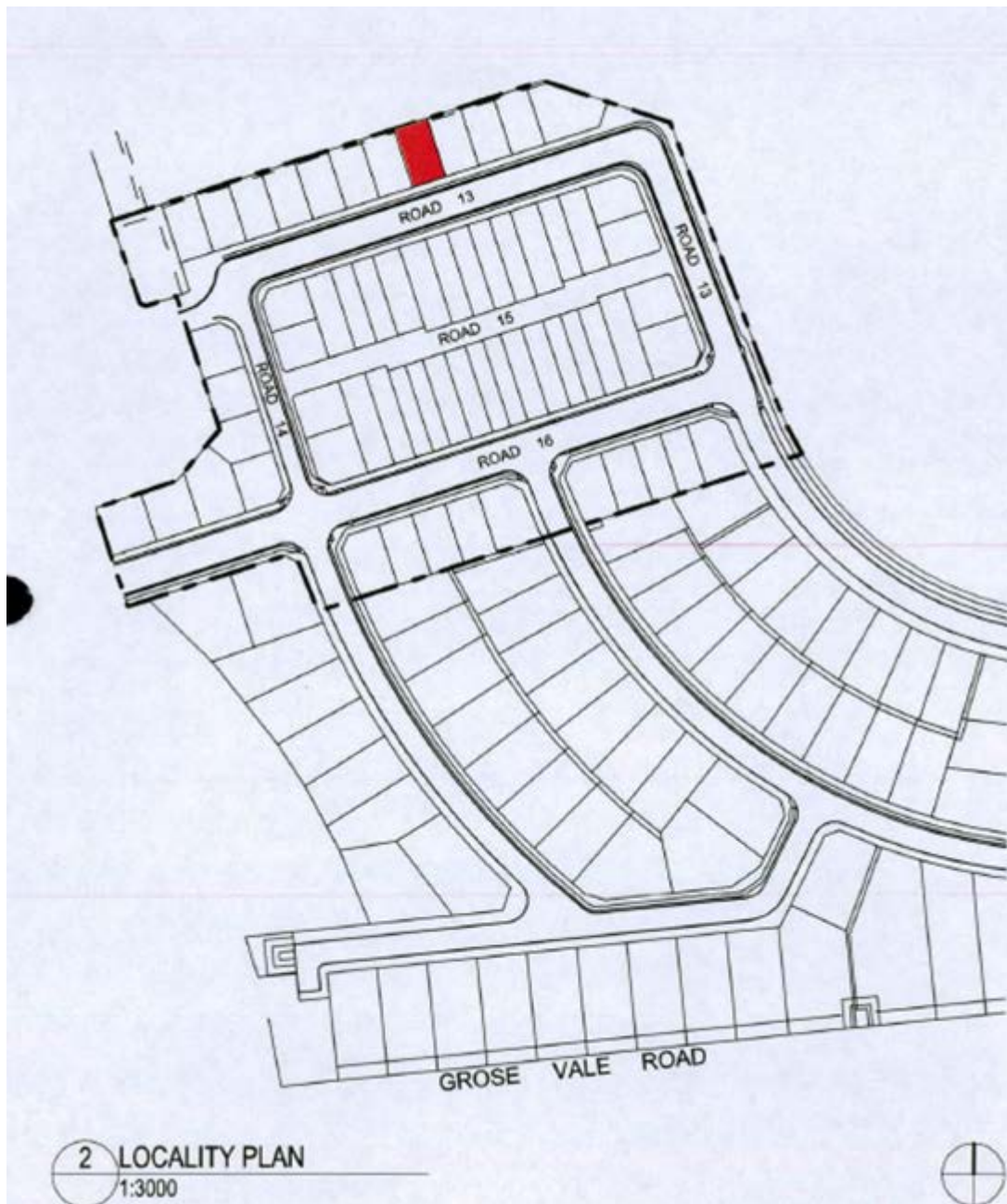
AT - 2 Site Plan

AT - 3 Elevations

AT - 1 Location Plan

ORDINARY MEETING

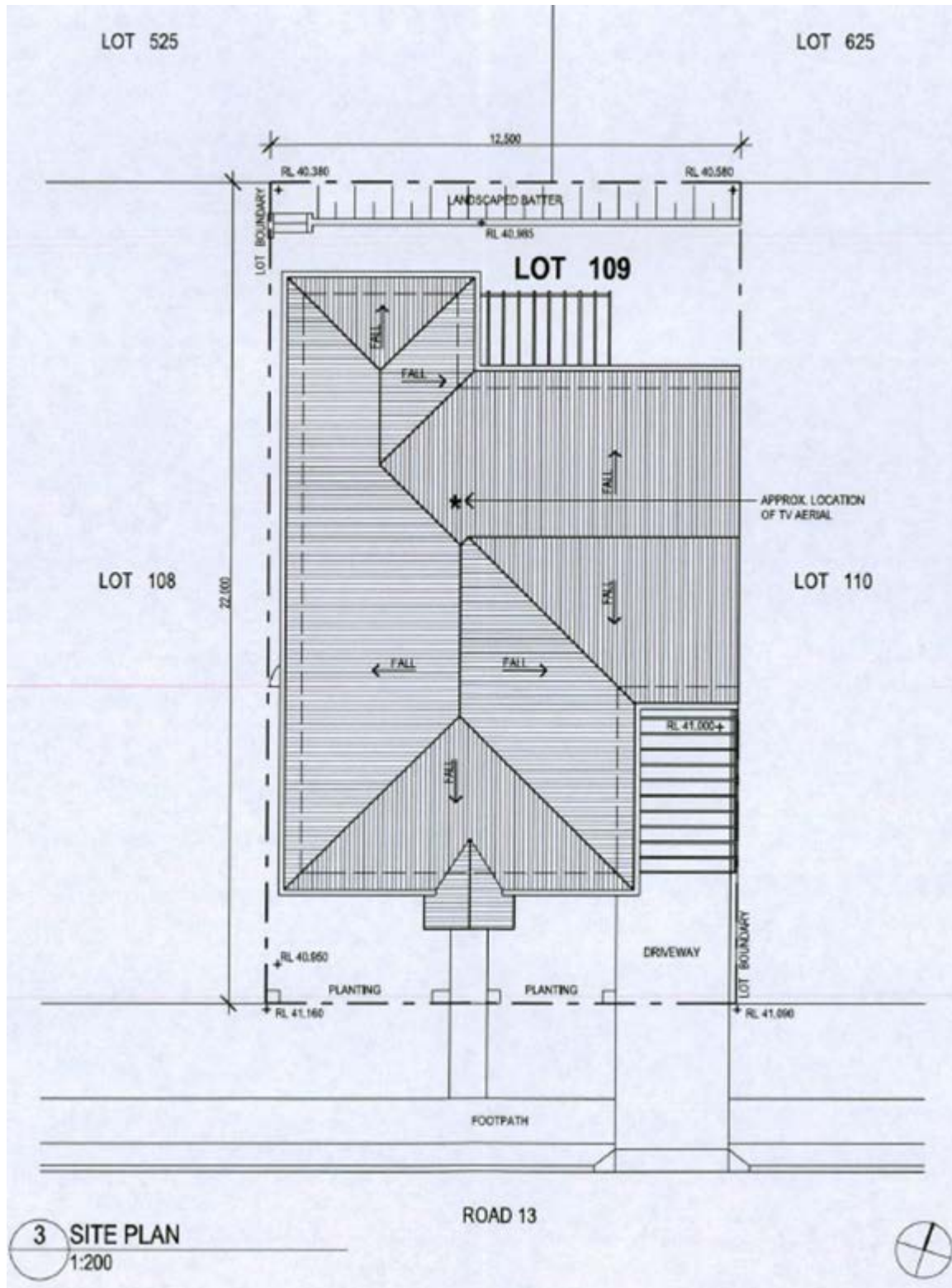
Meeting Date: 9 August 2016



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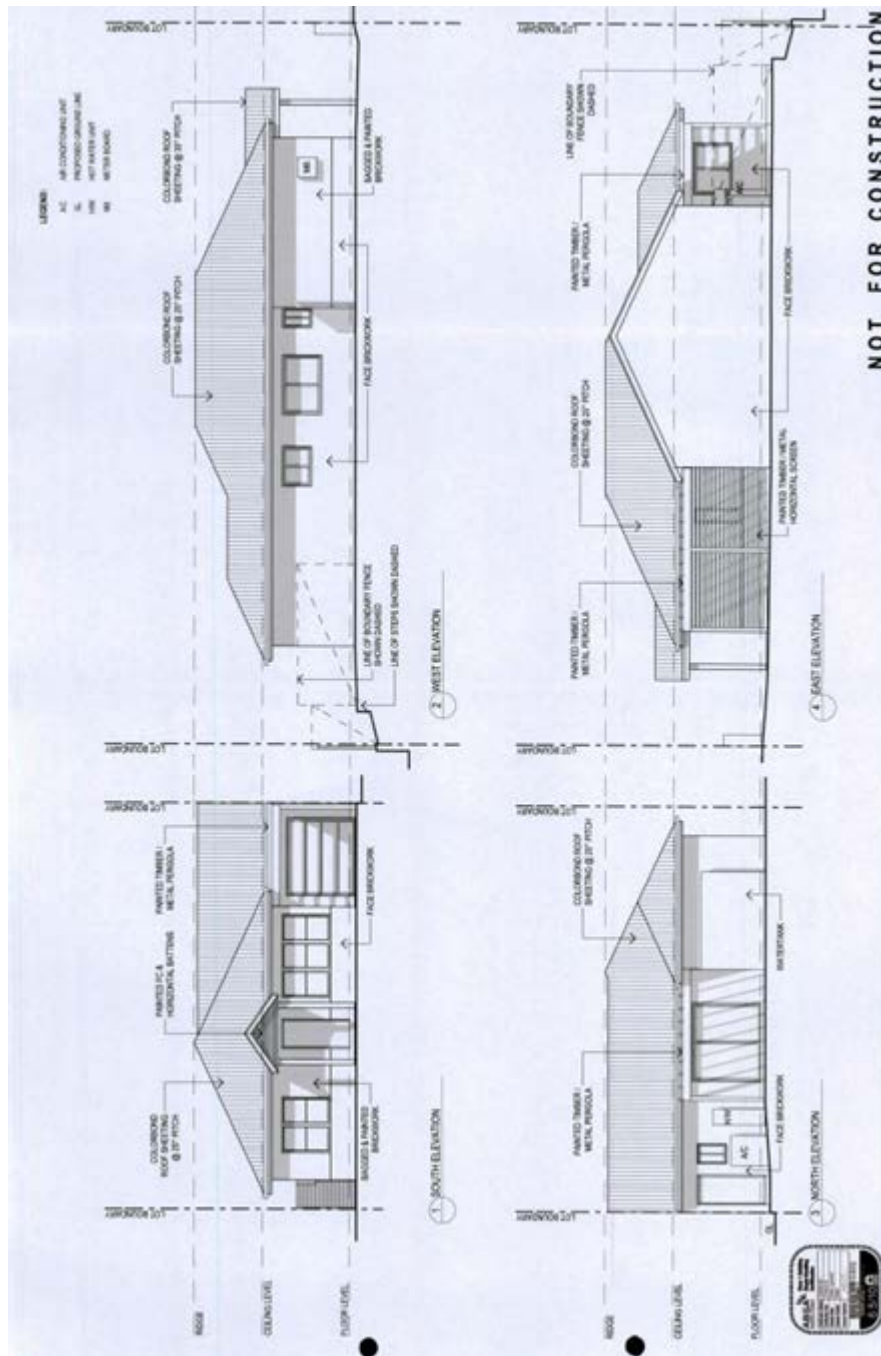
AT - 2 Site Plan



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AT - 3 Elevations



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Meeting Date: 9 August 2016

Item: 162 **CP - DA0101/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 110 - (94598, 109615)**

Development Information

File Number: DA0101/16
Property Address: 86 Arthur Philip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on Proposed Lot 110
Estimated Cost: \$286,700
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 110 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 110, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)

- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.8m and a maximum ridge height of 4.8m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,

(e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

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Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	53%	Yes
Building Height			
• Ceiling	• 7 metres max	• 2.8 m	Yes
• Top of Ridge	• 10 metres max	• 4.8m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	900mm and 1200mm at boundary	Yes
Side and rear fencing			
• Landscaping	• 1.8m max	• 1.8m	Yes
• Total site	• 10% min	• 32%	Yes
Forward of the building line	25% min.	Min 25% available	Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

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The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iii) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

<u>Submission</u>	<i>We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.</i>
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Comment

The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission

Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.

Comment

The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was

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not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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.

ORDINARY MEETING**Meeting Date:** 9 August 2016**RECOMMENDATION:**

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0101/16 for a dwelling house on Proposed Lot 110 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0110/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions**General**

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

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Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.

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Meeting Date: 9 August 2016

6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

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Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:

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- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 111. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

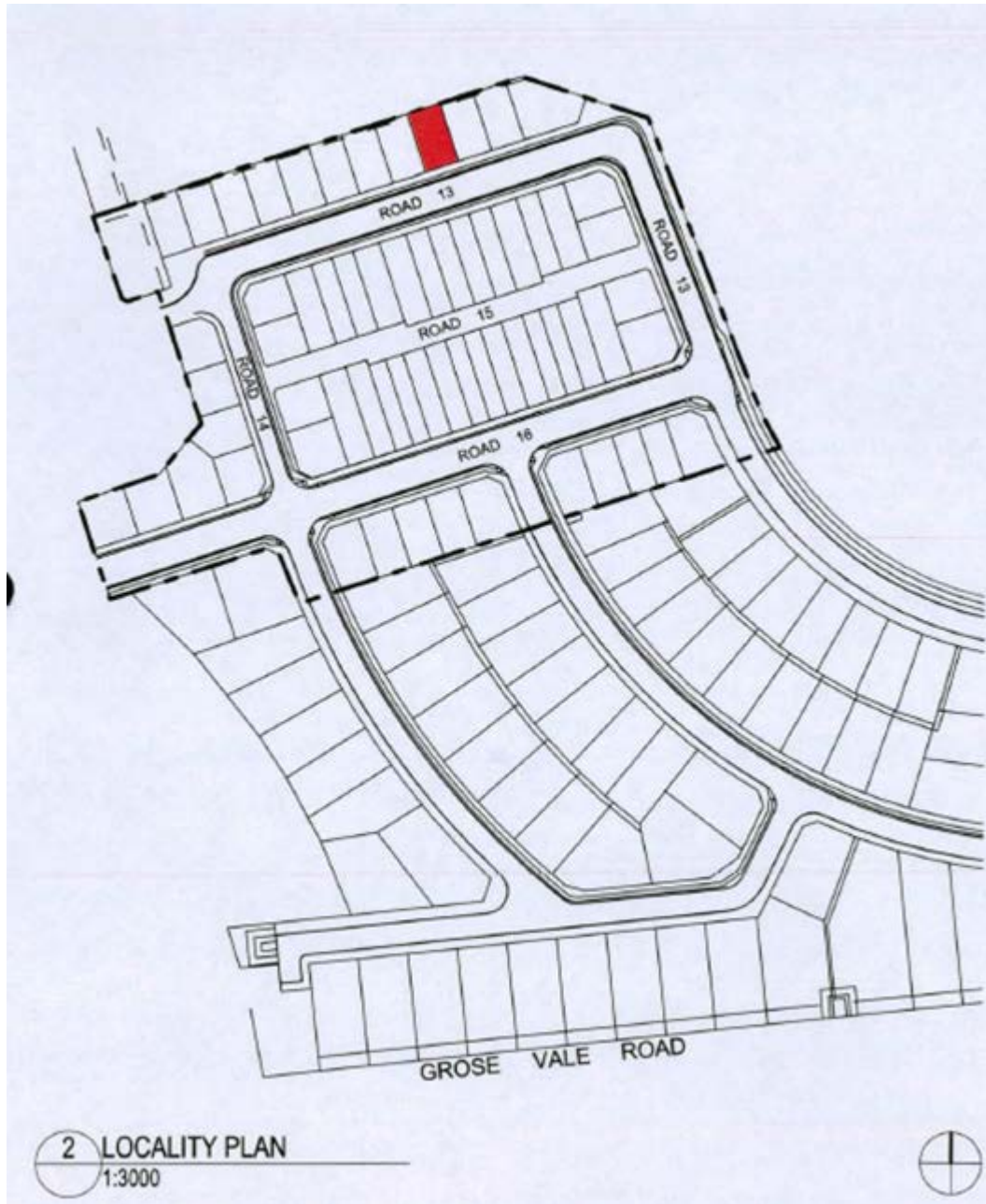
ATTACHMENTS:

- AT - 1 Location Plan
- AT - 2 Site Plan
- AT - 3 Elevations

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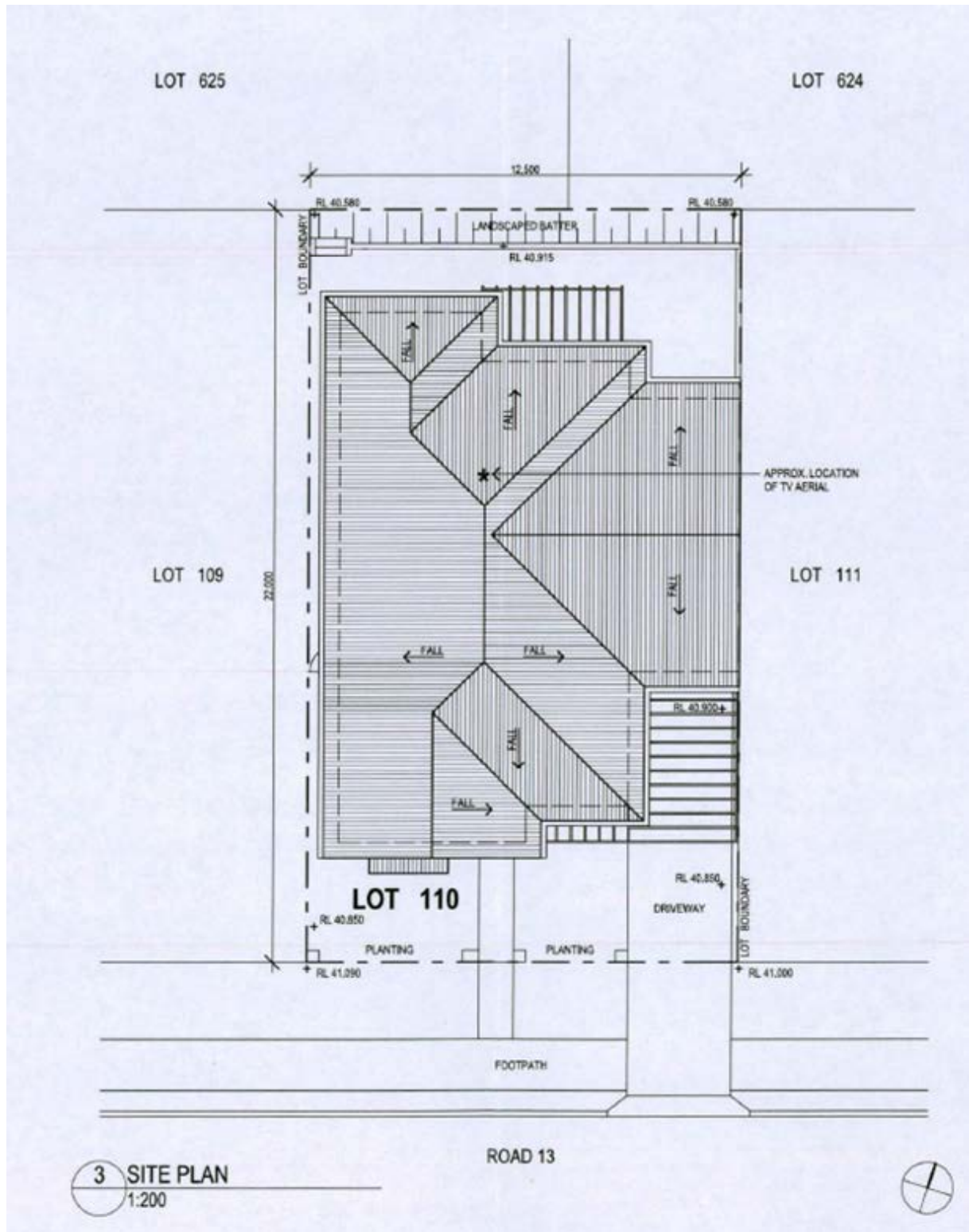
AT - 1 Location Plan



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AT - 2 Site Plan



Meeting Date: 9 August 2016

[illegible]

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Item: 163 **CP - DA0102/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 111 - (94598, 109615)**

Development Information

File Number: DA0102/16
Property Address: 86 Arthur Philip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling House with attached garage on proposed Lot 111
Estimated Cost: \$286,400
Zone: B1 Neighbourhood Centre
R2 Low Density Residential
R3 Medium Density Residential
R5 Large Lot Residential
RE1 Public Recreation
Date Received: 24 February 2016
Advertising: Not Required

Key Issues: ♦ Privacy of adjoining property
♦ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 111 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 111, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.8m and a maximum ridge height of 4.7m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part C Chapter 2: Car Parking and Access

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

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The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	• 2.8m	Yes
• Top of Ridge	• 10 metres max	• 4.7m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	1300mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min	• 32%	Yes
• Forward of the building line	• 25% min.	• Min 25% available	Yes
Private Open Space	24m ² and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

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The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iia) Planning Agreements:

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development

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applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would

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likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

Planning Decision

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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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0102/16 for a dwelling house on Proposed Lot 111 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0102/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704732S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.

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5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.

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16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 60pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be piered or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.

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28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 112. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

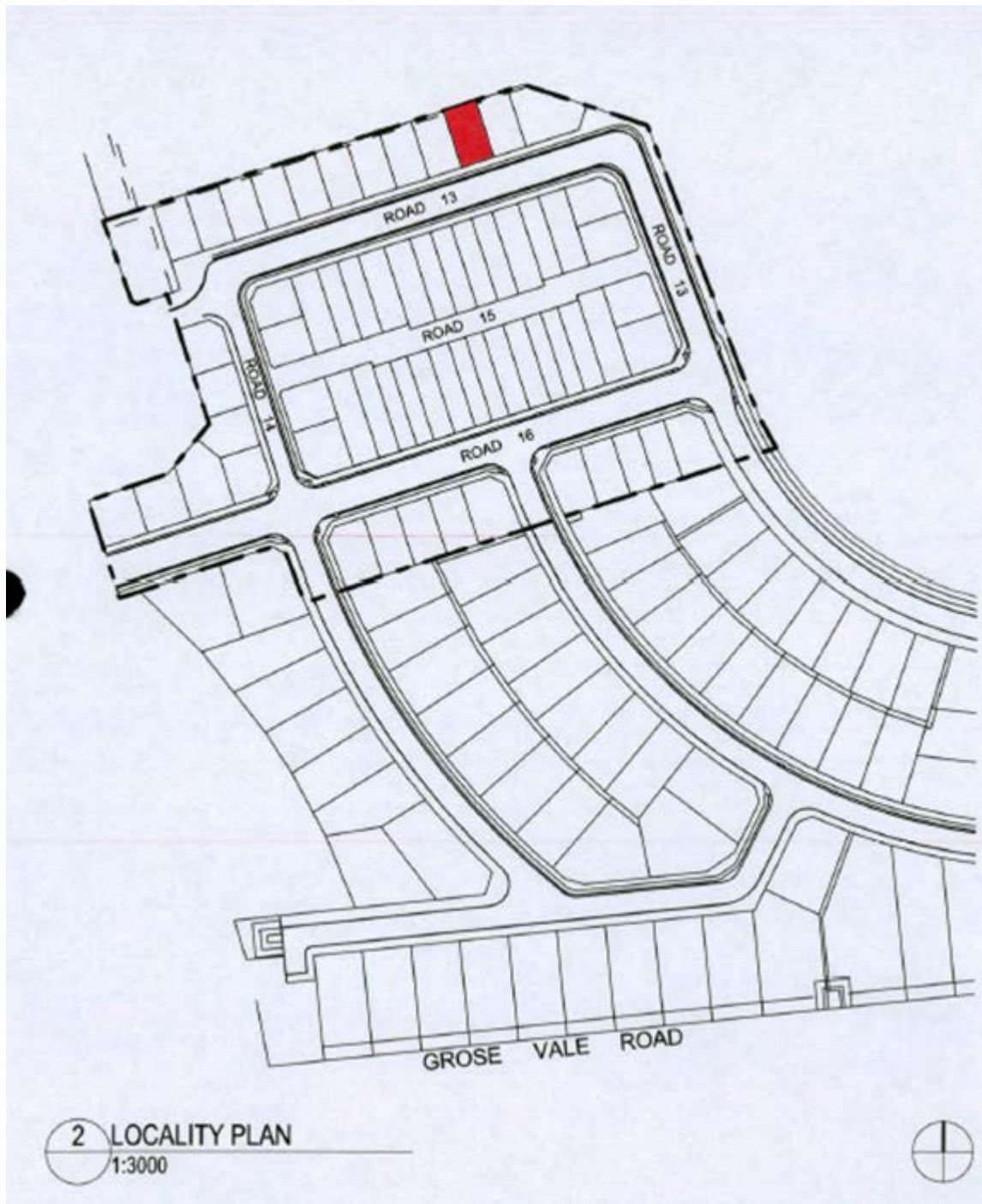
ATTACHMENTS:

- AT - 1 Location Plan
- AT - 2 Site Plan
- AT - 3 Elevations

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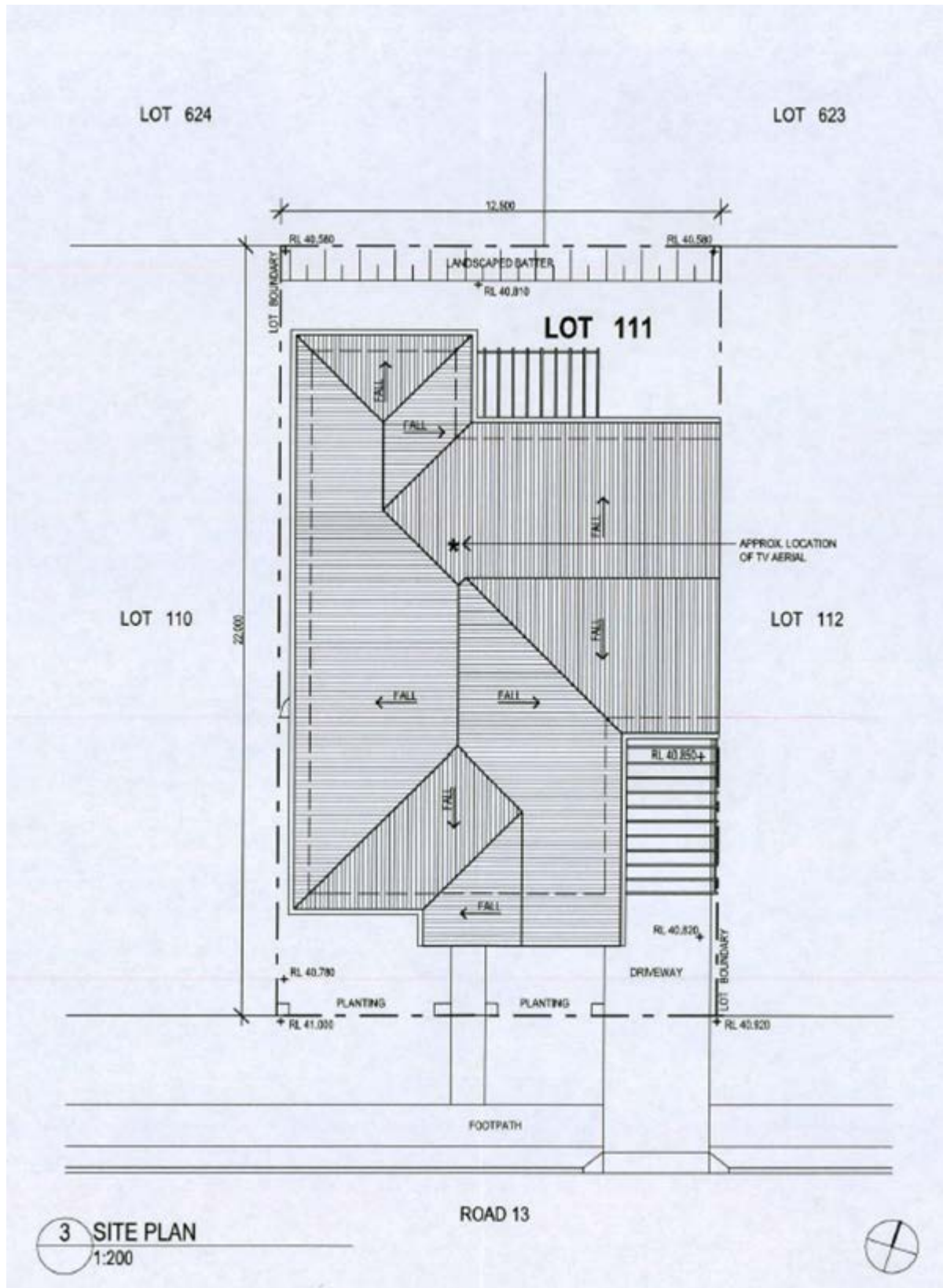
AT - 1 Location Plan



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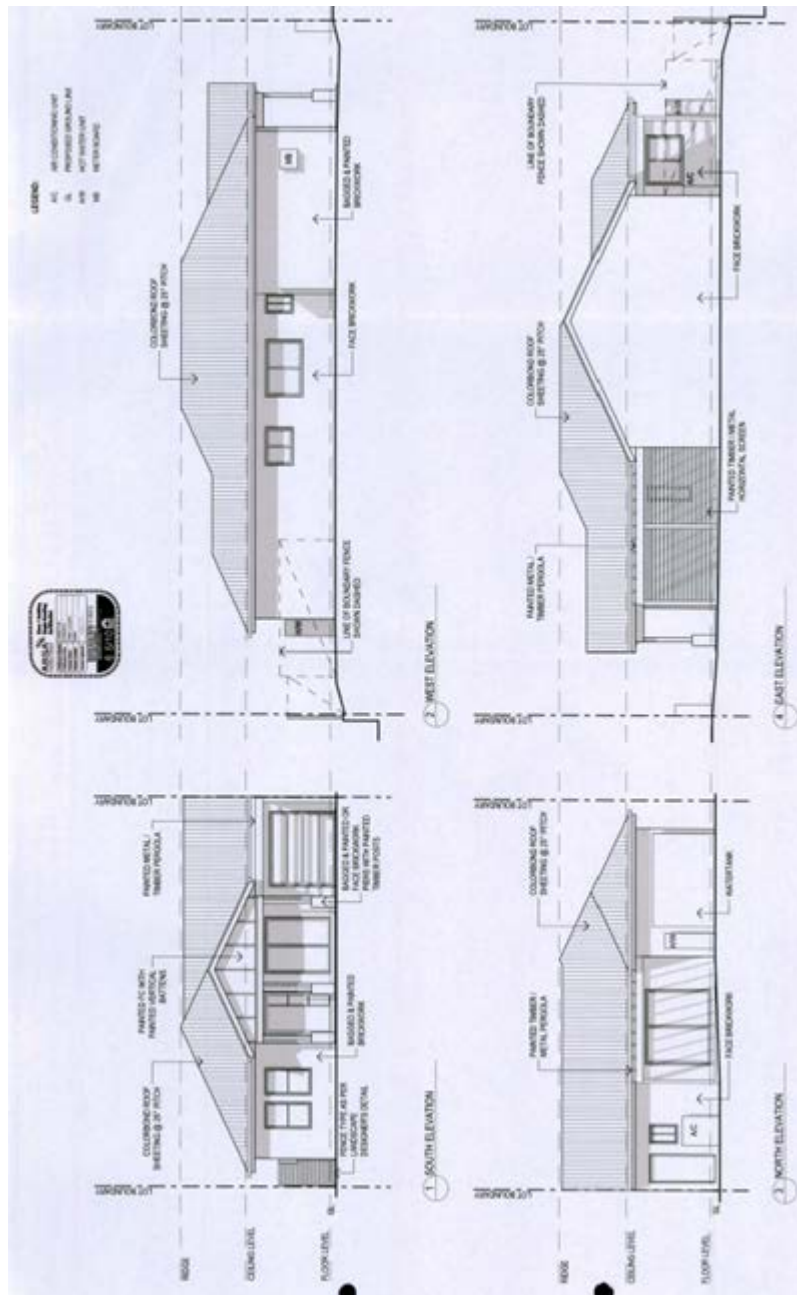
AT - 2 Site Plan



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AT - 3 Elevations



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Item: 164 **CP - DA0103/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 112 - (94598, 109615)**

Development Information

File Number: DA0103/16
Property Address: 86 Arthur Philip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on Proposed Lot 112
Estimated Cost: \$372,800
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a two-storey dwelling house with an attached garage on Proposed Lot 112 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 112, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m². This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a two-storey dwelling house, attached double garage, fencing and a driveway. Four bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)

- Hawkesbury Local Environmental Plan 2012 (Hawkesbury LEP 2012)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 5.4m and a maximum ridge height of 7.5m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- Supply of water,*
- Supply of electricity,*
- Disposal and management of sewage,*
- Storm water drainage or on-site conservation,*

(e) *Suitable road access*".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose*".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments:

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans:

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part A Chapter 3: Notification

The provisions of this Chapter require the notification of two story dwellings to adjoining owners via a letter. At the time of receipt of this application all adjoining properties, according to Council's records, were owned by the same entity who was also the applicant for the development. As such letters were not sent. However, a letter was forwarded to the owner/applicant advising that at the time of sale they should advise purchasers/future owners of these properties of the existence of relevant development approvals

Part C Chapter 2: Car Parking and Access

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The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a double garage satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (two spots)	4.8m (two spots)	No
Floor Area	85% max	65.6%	Yes
Site Coverage	60% max	54%	Yes
Building Height			
• Ceiling	• 7 metres max	• 5.4m	Yes
• Top of Ridge	• 10 metres max	• 7.5m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional building height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to Building Height 4.5m = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 4.2m	No (first floor Only)
Retaining walls	• 1.5m max	• 900mm	Yes
Side and rear fencing	• 1.8m max	• 1.8m	Yes
Landscaping			
• Total site	• 10% min	• 39%	Yes
• Forward of the building line	• 25% min	• 30%	Yes
Private Open Space	24m ² and minimum width of 3m	52.5m ² and no widths of less than 3m	Yes
Eaves	450mm min	450mm	Yes

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Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes
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The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's garage door width and setback controls.

Due to the dimensions of the future allotment, the maximum permissible garage door width under Table 8.4 of the Plan is 3.2m. The proposed width is 4.8 m however the building is appropriately articulated so that this non-compliance is not expected to negatively impact on the streetscape.

The proposal also fails to comply with the side and rear setback controls of Tables 8.3 and 8.4. In this regard the dwelling's western wall is to be built on the boundary whilst the first floor level will encroach within the side and rear setbacks.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The rear first floor rooms are to be used as bedrooms, which are not 'active' living rooms and are therefore not expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the senior's housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iia) Planning Agreements

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

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These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

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Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

Financial Implications

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Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0103/16 for a dwelling house on Proposed Lot 112 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0103/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – First Floor Plan	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA04 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA06 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704733S	EcoMode Design	18 February 2016

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Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	7 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	7 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	7 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.

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13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8.:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
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23. The footings shall be piered or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal rear retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
 - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - b) A certificate for glazing used in the development:
 - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
 - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
 - c) A certificate for waterproofing detailing compliance with AS3740.
 - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
 - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 113. This easement shall be created to allow the dwelling's western wall located in close proximity to the boundary to be accessed for maintenance.

Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

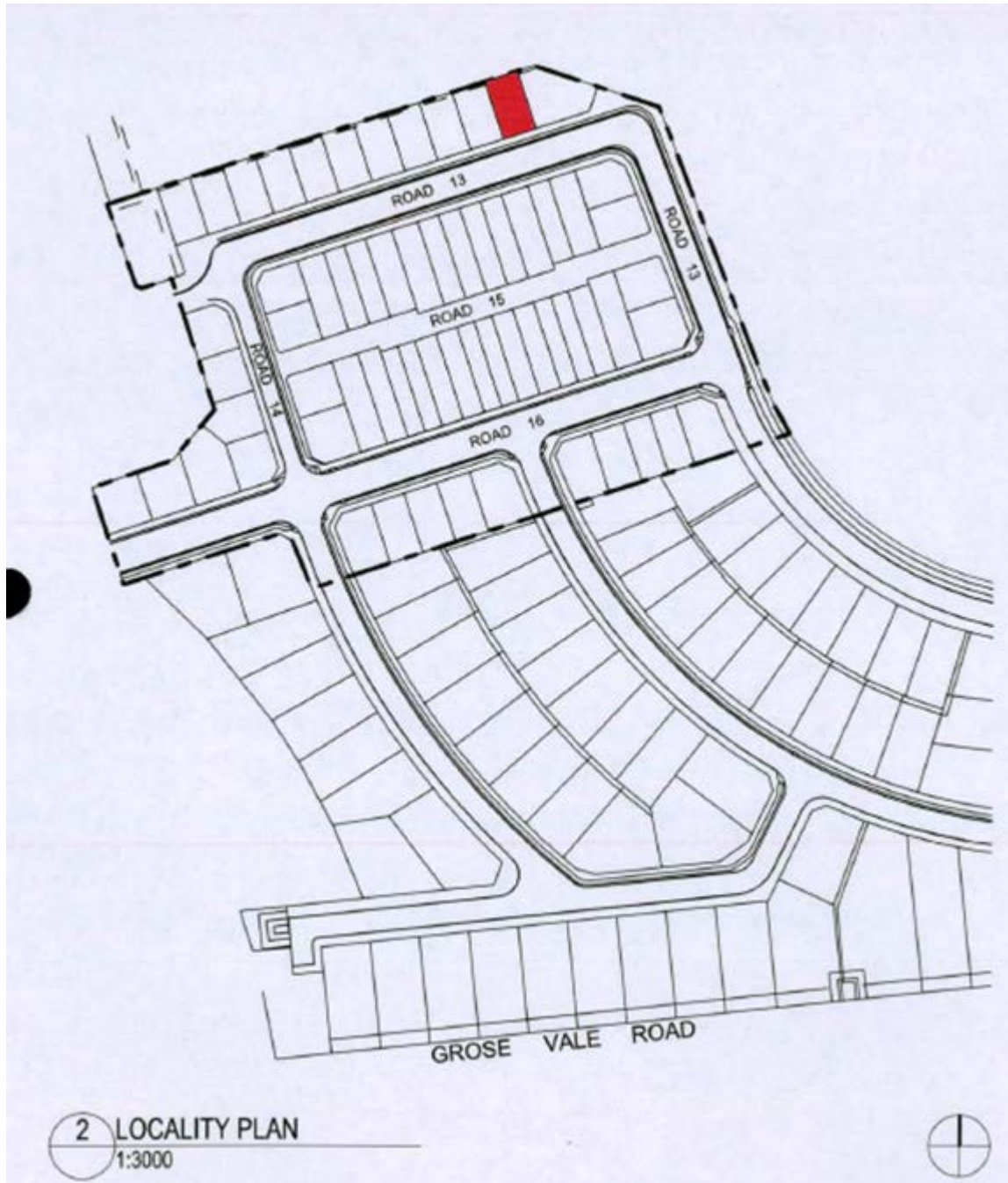
ATTACHMENTS:

- AT - 1** Location Plan
- AT - 2** Site Plan
- AT - 3** Elevations

ORDINARY MEETING

Meeting Date: 9 August 2016

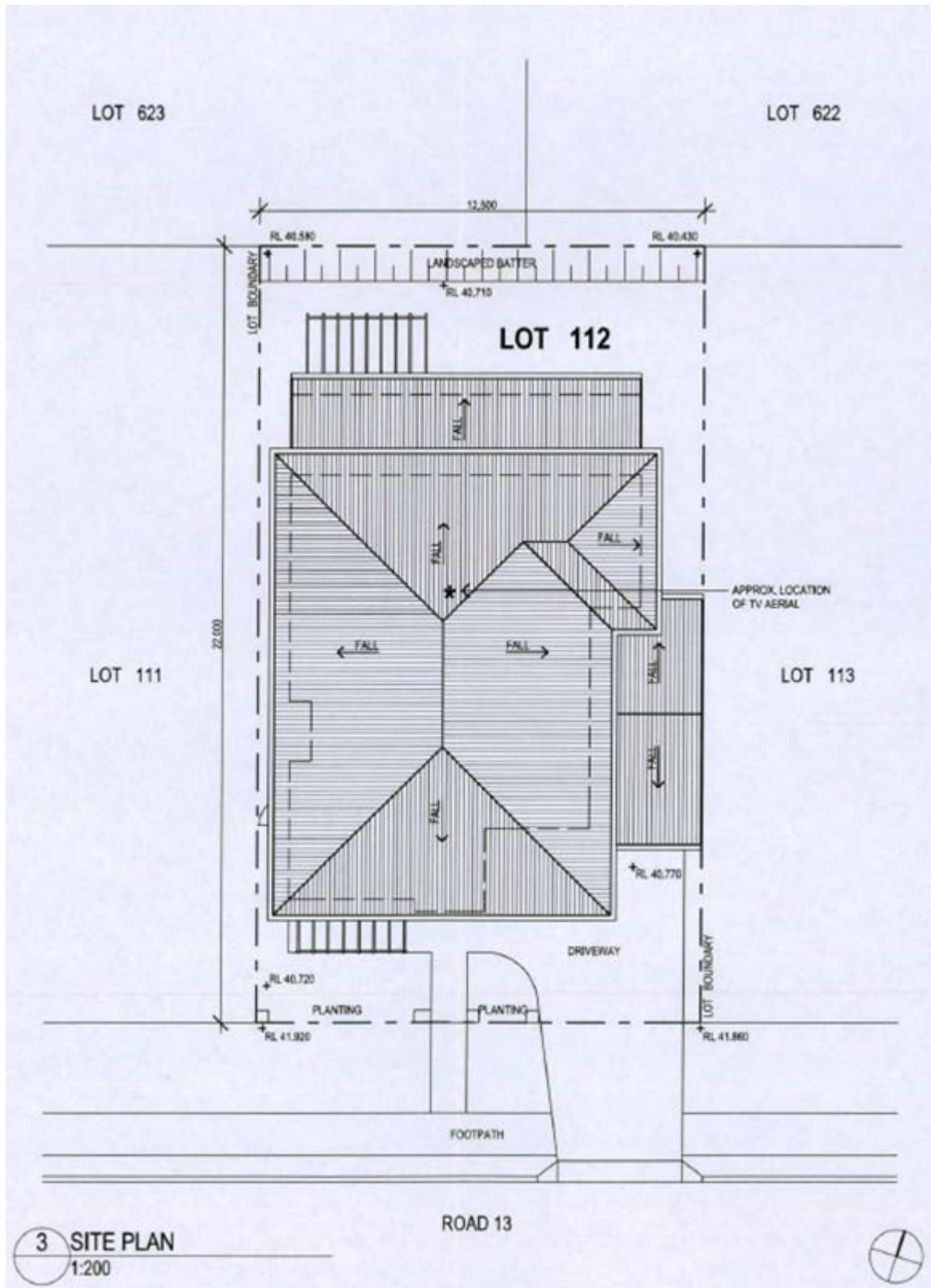
AT - 1 Location Plan



ORDINARY MEETING

Meeting Date: 9 August 2016

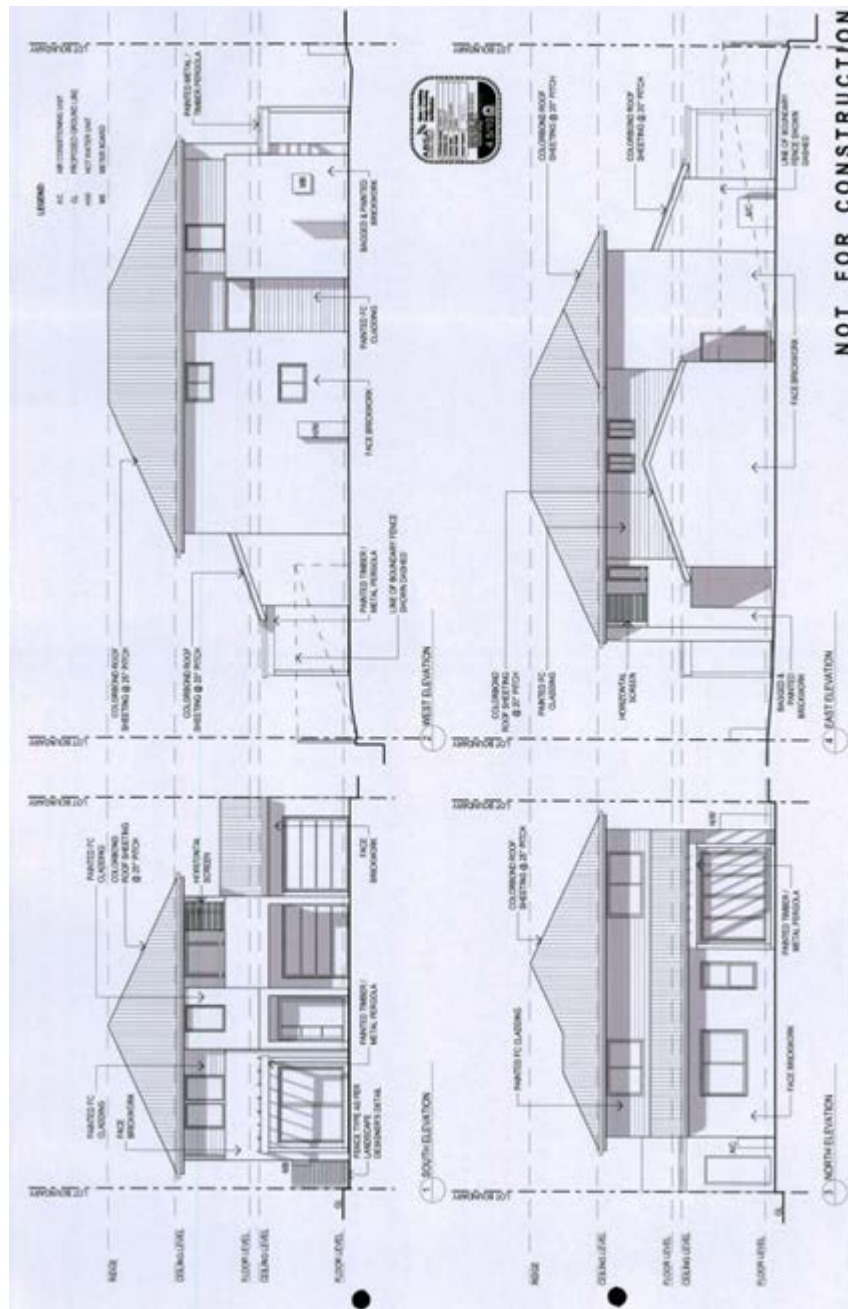
AT - 2 Site Plan



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AT - 3 Elevations



oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 9 August 2016

Item: 165 **CP - DA0104/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663 - Dwelling house with attached garage on proposed lot 113 - (94598, 109615)**

Development Information

File Number: DA0104/16
Property Address: 86 Arthur Philip Drive, North Richmond
Applicant: BD NSW (MR) Project 0007 Pty Limited
Owner: BD NSW (MR) Project 0007 Pty Limited
Proposal Details: Dwelling house with attached garage on proposed Lot 113
Estimated Cost: \$353,600
Zone: R3 Medium Density Residential
Date Received: 24 February 2016
Advertising: Not required

Key Issues:

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

Recommendation: Deferred Commencement

REPORT:

Executive Summary

This application proposes the construction of a two-storey dwelling house with an attached garage on Proposed Lot 113 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 113, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 408m². This future lot is to have a frontage of 15.325m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

This application is being reported to Council at the request of Councillor Rasmussen.

Development Description

The proposal involves the construction of a two-storey dwelling house, attached double garage, fencing and a driveway. Four bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan 2012 (Hawkesbury LEP 2012)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

(a)(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

Clause 2.2 – Zoning

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

Clause 2.3 – Zone Objectives and Land Use Table

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

Clause 4.3 – Height of Buildings

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 5.5m and a maximum ridge height of 7.4m.

Clause 5.10 – Heritage Conservation

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

Clause 6.1 – Acid Sulphate Soils

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

Clause 6.7 – Essential Services

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,

- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

Sydney Regional Environmental Plan No 20 – Hawkesbury- Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

(a)(ii) Draft Environmental Planning Instruments

Not applicable. There are no draft environmental planning instruments that apply to the land.

(a)(iii) Development Control Plans

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

Part A Chapter 3: Notification

The provisions of this Chapter require the notification of two story dwellings to adjoining owners via a letter. At the time of receipt of this application all adjoining properties, according to Council's records, were owned by the same entity who was also the applicant for the development. As such letters were not sent. However, a letter was forwarded to the owner/applicant advising that at the time of sale they should advise purchasers/future owners of these properties of the existence of relevant development approvals

Part C Chapter 2: Car Parking and Access

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The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a double garage satisfies the requirements of the Plan.

Part C Chapter 6: Energy Efficiency

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

Part D Chapter 1: Residential Development

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (two spots)	4.8m (two spots)	No
Floor Area	85% max	34.4%	Yes
Site Coverage	60% max	30.2%	Yes
Building Height			
• Ceiling	• 7 metres max	• 5.5m	Yes
• Top of Ridge	• 10 metres max	• 7.4 m	Yes
Setbacks			
• Front	• 3m minimum	• 3.4m	Yes
• Side	• 900mm plus ¼ of additional building height above 5.5m	• 1.5m (left) / 7m min (right)	Yes
• Rear	• Up to Building Height 4.5m = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 2.5m minimum opening to 9m maximum	No (One side only)
Retaining walls	1.5m max	1300mm	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min	• 70% min	Yes
• Forward of the building line	• 25% min	• 65% min	Yes
Private Open Space	24m ² and minimum width of 3m	100m ² min and no widths of less than 3m	Yes
Eaves	450mm min.	450mm	Yes

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Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes
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The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's garage door width and setback controls.

Due to the dimensions of the future allotment, the maximum permissible garage door width under Table 8.4 of the Plan is 3.2m. The proposed width is 4.8 m however the building is appropriately articulated so that this non-compliance is not expected to negatively impact on the streetscape.

The proposal also fails to comply with the rear setback controls of Tables 8.3 and 8.4. In this regard the dwelling's Northern wall is only encroaching into the rear setback on the right side. Due to the nature of the Lot, the rear setback opens to a maximum of 9 metres which is considered acceptable.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The rear first floor rooms are to be used as bedrooms, which are not 'active' living rooms and are therefore not expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the senior's housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

(a)(iia) Planning Agreements

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

(a)(iv) Regulations

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)

These matters have been considered in the assessment of this application. A wall of the dwelling is to be constructed in close proximity to the future boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

(c) Suitability of the Site for Development

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These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

(d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

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Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

(e) The Public Interest:

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

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Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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.

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0104/16 for a dwelling house on Proposed Lot 113 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0104/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

Schedule 2 – Recommended Conditions

General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – First Floor Plan	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA04 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA06 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016

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BASIX Certificate No. 703878S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	7 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	7 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	7 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Issue of the Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

Prior to Commencement of Works

9. The applicant shall advise Council of the name, address and contact number of the principal certifier in accordance with Section 81A(2)(b) of the Environmental Planning and Assessment Act 1979.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

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12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

During Construction

17. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site
 - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.

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24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

Prior to Issue of an Occupation Certificate

25. A 1.2m high pool style fence shall be constructed on the internal rear retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
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 - c) A certificate for waterproofing detailing compliance with AS3740.
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29. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

ATTACHMENTS:

AT - 1 Location Plan

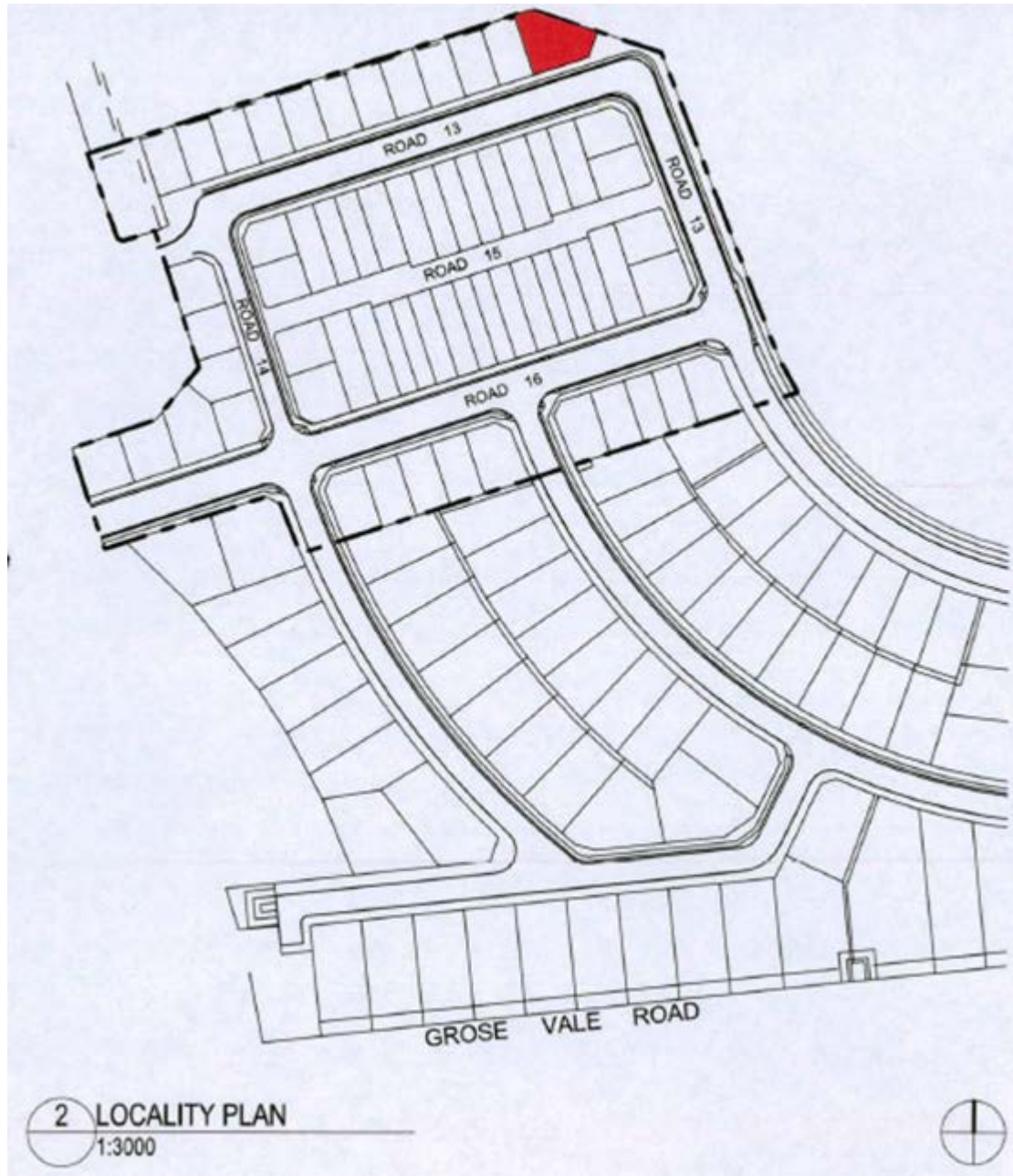
AT - 2 Site Plan

AT - 3 Elevations

ORDINARY MEETING

Meeting Date: 9 August 2016

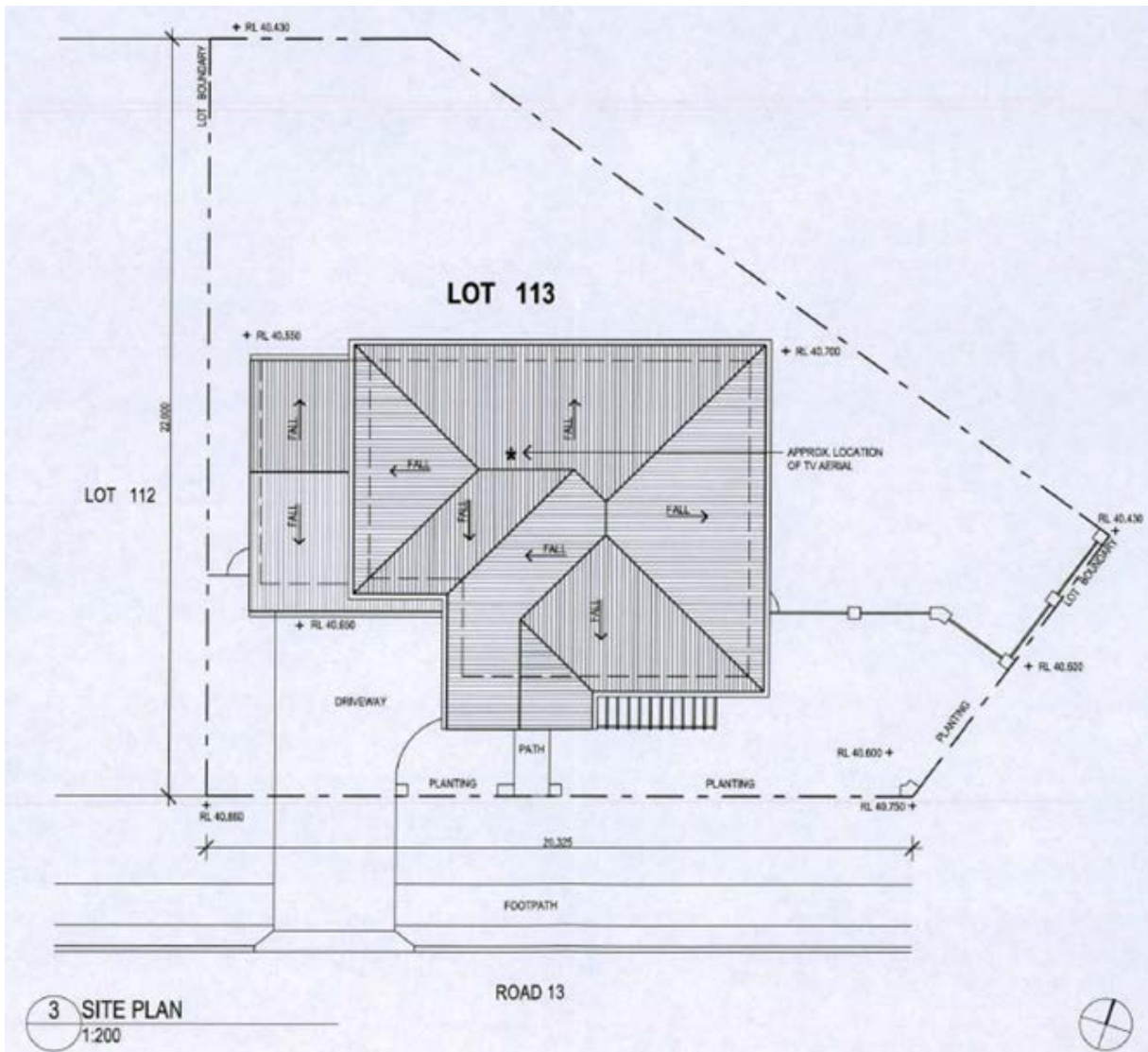
AT - 1 Location Plan



ORDINARY MEETING

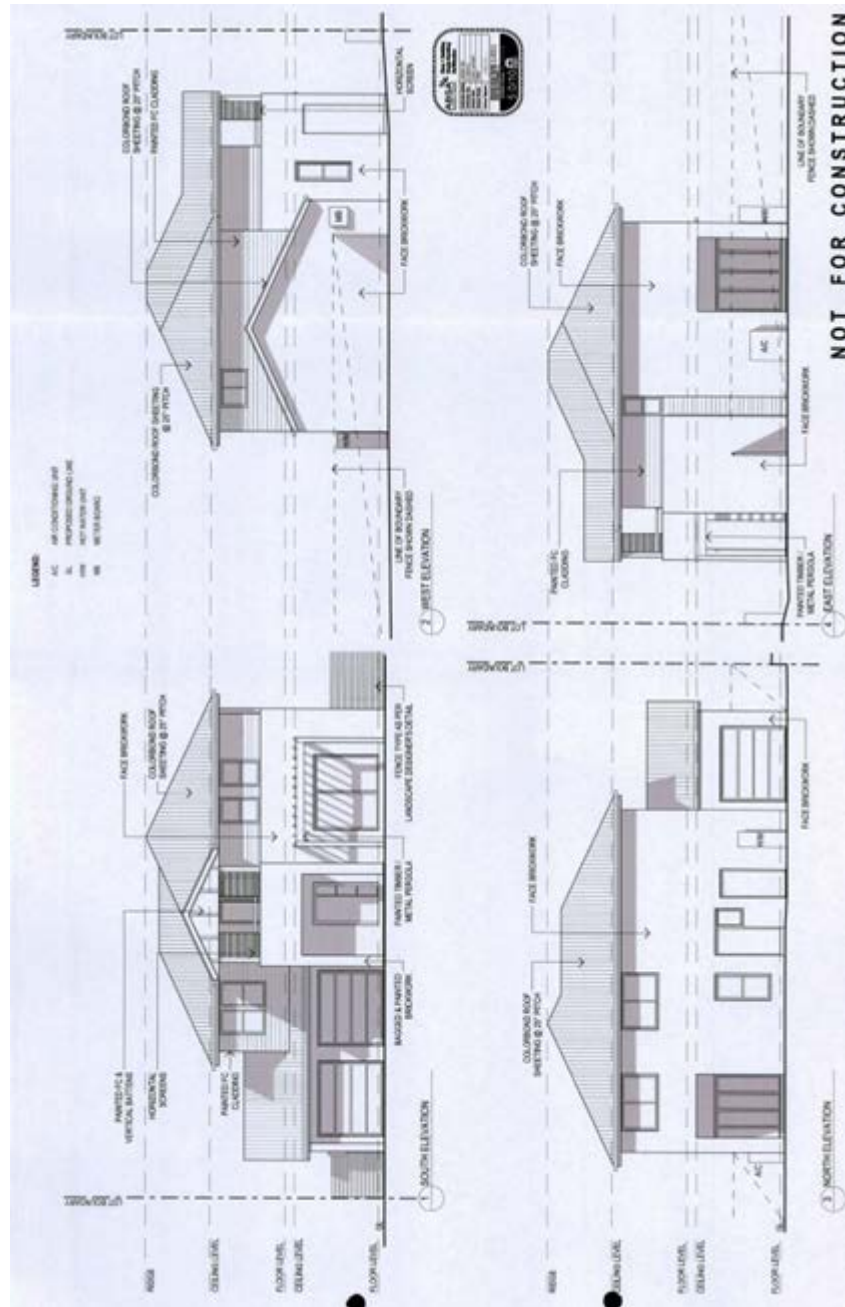
Meeting Date: 9 August 2016

AT - 2 Site Plan



Meeting Date: 9 August 2016

AT - 3 Elevations



oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 9 August 2016

Item: 166 **CP - DA0837/15 - Lot 12 DP 1184975 - 741 George Street, South Windsor - Signage - Two Business Identification Signs - (95498, 130370, 82572)**

Previous Item: 22, Ordinary (23 February 2016)
146, Ordinary (8 September 2015)

Development Information

File Number: DA0837/15
Property Address: 741 George Street, South Windsor
Applicant: McDonald's Australia Limited C/- Montgomery Planning Solutions
Owner: Dallat Pty Ltd
Proposal Details: Signage – Two Business Identification Signs
Estimated Cost: \$55,000
Zone: RU4 Primary Production Small Lots and SP2 Infrastructure
Date Received: 29 December 2015
Advertising: 29 December 2015

Key Issues: ♦ Number of property signs
 ♦ Height of advertising sign

Recommendation: Approval

REPORT:

Executive Summary

This Development Application seeks consent for the construction of two business identification signs at 741 George Street South Windsor.

The application was reported to the Ordinary Council meeting of 23 February 2016 proposing two new 6 metre high pylon signs for the McDonalds food and drink premises located on the subject land.

The report recommended refusal for the two new signs as they were proposed in addition to existing Caltex signage which was proposed to be changed as part of modification application No.S960024/15.

Council resolved to refuse modification application No. S960024/15 and in relation to DA0837/15 resolved the following:

“That the matter be deferred for additional information.”

Council staff initiated discussions with the land owner and tenants regarding the location and design of a multi-tenant sign for the site. The applicant was asked to develop a detailed signage strategy for the site and on 19 July 2016 amended plans were provided showing multi-tenant signage for the entire site.

The modified proposal is considered to be acceptable and it is recommended that the proposed new signage for the site be supported subject to conditions.

The application is being reported back to Council for determination.

Description of Proposal

This application seeks consent for the erection of the following:

- 9m multi-tenement sign along the Blacktown Road Frontage

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- 6m high pylon sign for McDonalds along George Street.

The Blacktown Road sign includes provision for a future tenant and would be used to advertise the Caltex, Star Mart and McDonalds. The applicant has indicated that additional space could be made available for an additional tenancy on the George Street sign.

New signage would be in addition to the Caltex sign along George Street and the price board signage along both frontages as previously approved. Furthermore the following adjustments would be made to vehicle directional signs:

- relocation of the "Truck Entry via George Street" indicator to the central driveway traffic island
- removal of the smaller "car entry" and "no truck entry" indicators from the central island and edge of the driveway.

Issues Relevant to the Decision

- Visual impact on amenity of locality
- Proliferation of signage along a key gateway site

Council Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP No. 64)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (DCP 2002)

Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979

In determining the application, Council is required to take into consideration the following matters as are relevant to the land to which the development application relates:

a. The provisions of any:

i. Environmental Planning Instrument:

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The proposal is not contrary to the aims, objectives and recommended strategies of SREP No. 20. The site is not within a scenic corridor of local or regional significance as identified in this SREP and is not expected to significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The application does not involve the removal of potential or core Koala habitat as identified under this plan. It is therefore considered that the proposal is unlikely to disrupt any potential or core Koala habitat and that the proposal is consistent with the aims and objectives of this plan.

State Environmental Planning Policy No. 55 – Remediation of Land

The subject land has most recently been used in association with the existing Baptist Church on the adjoining property and there is no evidence to suggest that the site is contaminated to the extent that would prevent the development. With respect to the provisions of SEPP No. 55 the site is considered suitable for the proposed development.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposal has been identified as business identification signage. The current signage strategy for the site aims to provide multi-tenant signage in order to reduce the amount of signage along the George Street and Blacktown Road frontages on the subject site.

The proposal is consistent with previous advice provided in respect to the property and generally consistent with the aims of this SEPP as it would be compatible with the desired amenity and visual character of the area which is directed by the DCP.

In addition to the above the proposal is acceptable having regard to the matters listed under Schedule 1 of the SEPP as:

- the proposal is compatible with the desired amenity of the locality
- the proposal would reduce the amount of signage structures in the front setback by combining tenant signage
- the proposal will not detract from the amenity of the locality and will fit in with existing buildings
- the proposal would not obscure any important views and will reduce overall signage onsite
- the signs have the provision for an additional tenant
- the scale of the signage along both frontages is compatible with the size of the roads with larger signage proposed on the Blacktown frontage and smaller signage along the George Street frontage
- the proposal is generally compatible with the changing character of the area. The multi-tenant signs are in a good location that is clear to motorists visiting the site
- lighting has been designed in accordance with standard pylon signage types expected along main arterial roads
- the illumination of signage would be conditioned as part of any consent in respect to intensity and operation
- it is unlikely that the signs would have any impacts on safety. Signs will be combined and clear to motorists traveling the site. Signage will not interfere or be distracting to people using the road.

Hawkesbury Local Environmental Plan 2012

The subject property is zoned part RU4 Primary Production Small Lots and part SP2 Infrastructure – Classified Road. The proposed development is best defined as ‘business identification signs’ and would be located wholly on part of the land zoned RU4.

The proposal is unlikely to interfere with any future acquisition of land intended to be acquired for road widening and the development remains outside of the land mapped SP2 Infrastructure – Classified Road. The proposed development is generally consistent having regard to the following clauses of this plan:

- Clause 4.3 Height of Buildings
- Clause 5.1 Relevant Acquisition authority
- Clause 5.1A Development on land intended to be acquired for public purposes
- Clause 6.1 Acid Sulfate soil controls
- Clause 6.7 Essential services
- Clause 6.3 Flood Planning
- Clause 6.4 Terrestrial biodiversity

ii. **Draft Environmental Planning Instrument that is or has been placed on exhibition and details of which have been notified to Council:**

There are no Draft Environmental Planning Instruments relevant to the subject land or development.

iii. Development Control Plan applying to the land:***Hawkesbury Development Control Plan (HDCP) 2002***

The proposal is generally consistent having regard to the signage requirements of Hawkesbury DCP. An assessment of the proposal against the relevant chapters of this DCP follows:

Part A Chapter 2 - General Information

The application provides adequate information for the assessment of the proposal and therefore complies with this chapter.

Part A Chapter 3 - Notification

Signage is not required to be notified under chapter 3.2.2.

Part C Chapter 3 – Signage

The application proposes:

- two new pylon signs per street elevation
- changes to vehicle directional signage
- retention of the signage price boards for Caltex along both road frontages
- retention of business signage for Caltex on George Street.

Pylon signage is considered generally acceptable up to 6m in height in the DCP and the objectives of this chapter are to provide multi tenants signage where there is more than one tenant on the site.

The pylon sign along George Street would be 6m and pylon sign along Blacktown would be 9m.

The six metre pylon sign along George Street could be designed to provide space for one additional tenant and the proposal would reduce the need for any additional signage along this frontage. Suitable conditions have been recommended in this regard. The business signage and price boards for Caltex along this frontage would remain and considered generally acceptable.

The 9m pylon sign on the Blacktown Road frontage is 3m higher than the standard. The applicant has requested a variation to the height rules as they require the additional height to identify multiple tenancies on one sign.

The tenants have agreed to combine signage for the tenancies and the proposal to vary the signage height requirement would unlikely have a significant impact on the appearance given the locality. The 9m pylon sign height is consistent with typical multi-tenant signs located along Blacktown Road and it is recommended that the proposal be supported as it is considered to be a suitable overall signage strategy for the site.

Part E Chapter 7 – Windsor District Baptist Church Site

An assessment against the specific development controls for this development has been undertaken in the table below:

Development Controls	Comments
7.4.3 - Setbacks	
The setback area is to be used only for landscaping and associated landscaping structures, direct vehicular and pedestrian access to the site, and the placement of one multi-tenant sign per street frontage	The signage location and setback is considered acceptable. The new signs are in the most suitable locations of the site close to entrances and would advertise existing and future tenancies without confusing motorists

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Development Controls	Comments
located near the entry/exit points.	who would be accessing the site.
7.4.6 – Signage	
Signage is to comply with the requirements set out in the Section 3.2 Signs in Commercial and Industrial Zones of Chapter 3 – ‘Signs’, Part C of this DCP.	The proposal is acceptable having regard to this chapter. It is recommended that the 9m pylon sign variation to the Blacktown Road sign be supported. Refer to assessment against chapter in report above.
Only one multi-tenant sign per street frontage is permitted. The sign is to be located near the entry/exit points and shall not be greater than six metres in height.	The proposed new signage is more in keeping with the DCP than what was originally proposed and aims to reduce the amount of signage for one site. There are no objections to keeping the price board signs separate, the Caltex sign on George Street or changing the vehicle directional signage.

iv. Planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F:

N/A

v. Matters prescribed by the Regulations:

The development would be subject to being completed in accordance with the requirements of the Building Code of Australia (BCA)/National Construction Code.

b. The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality:

The likely impacts of the proposal have been considered as part of the assessment of the applicant and the applicant has been asked to develop a multi-tenant signage strategy for the site. The current proposal is considered acceptable and is unlikely to have any adverse impacts on the surrounding streetscape or environment.

The proposal fits in with the appearance of the locality and would unlikely have any adverse impacts on surrounding properties.

Suitable conditions in respect to the installation and management of signage lighting have been recommended in this report.

c. Suitability of the site for the development:

The site forms an important gateway site to the Hawkesbury, as one of the key entrances to the area from the Penrith and Blacktown Local Government Areas. Multi-tenant signage strategy proposed as part of this application is considered acceptable for the site. It is recommended that a restriction regarding the use of the land be placed on the property limiting any future freestanding signage to multi-tenant signage.

d. Any submissions made in accordance with the Act or the Regulations:

No submissions have been received in response to the application.

e. The Public Interest:

The proposed development is considered to be acceptable having regard to the general public interest in that the proposal is generally satisfactory having regard to SEPP 64 and the requirements of Hawkesbury DCP 2002.

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Conclusion

The proposal is considered acceptable having regard to the relevant planning instruments applying to the land. The variation to the DCP should be supported due to the nature of the site and the development would unlikely result in any adverse impacts on the locality. It is recommended that the proposal be supported subject to the conditions included in the recommendation below.

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.

RECOMMENDATION:

That Development Application DA0837/15 at Lot 12 DP 1184975, 741 George Street, South Windsor for Signage - Two business identification signs be approved subject to the following conditions.

General

1. The development shall take place generally in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. The 6m pylon sign along George Street shall be designed to provide additional space for a future tenant, if or when this is required.
3. The development shall comply with the provisions of the Building Code of Australia.
4. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
5. The signs shall not be used or occupied prior to the issue of an Occupation Certificate.
6. The accredited certifier shall provide copies of all Part 4A certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

Prior to Commencement of Works

7. The applicant shall advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
8. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
9. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
10. The payment of a long service levy as required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000.00 are subject to the payment

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of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.

11. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to issue of the construction certificate.
12. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
13. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - a) Unauthorised access to the site is prohibited.
 - b) The owner of the site.
 - c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - d) The name and contact number of the Principal Certifying Authority.

During Construction

14. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
15. Compliance certificates (known as Part 4A Certificates) as are to be issued for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 as required by Section 109E (3) (d) of the Environmental Planning and Assessment Act 1979 by the nominated Principal Certifying Authority.
16. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site
 - b) building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site
 - c) builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
17. The signs shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the sign under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority (PCA). Any easements must be shown on the Survey Certificate.
18. Lighting and signage shall be installed in a manner that would avoid intrusion onto adjacent residential properties or interfere with road traffic or aircraft movements. All signage and associated lighting shall be fitted with necessary devices capable of permitting the change in intensity of illumination in order to regulate glare or other like impacts.

Prior to issue of a final occupation certificate

19. Creation of a restriction on use of land pursuant the Conveyancing Act as follows:
 - a) Requiring any future freestanding signage on the site to be restricted to being constructed or installed on the multi-tenant signage approved as part of this consent.

Use of the Development

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20. No internal or external alterations shall be carried out without prior approval of Council.
21. No advertising signs or structures other than those approved as part of this consent shall be erected, displayed or affixed on any building, footpaths, pedestrian ways, road ways or on any land other or land without prior approval.

Advice

- The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- Should Council receive any complaints concerning light pollution the operator would be instructed to change the intensity or hours of approved lighting to the satisfaction of Council.

ATTACHMENTS:

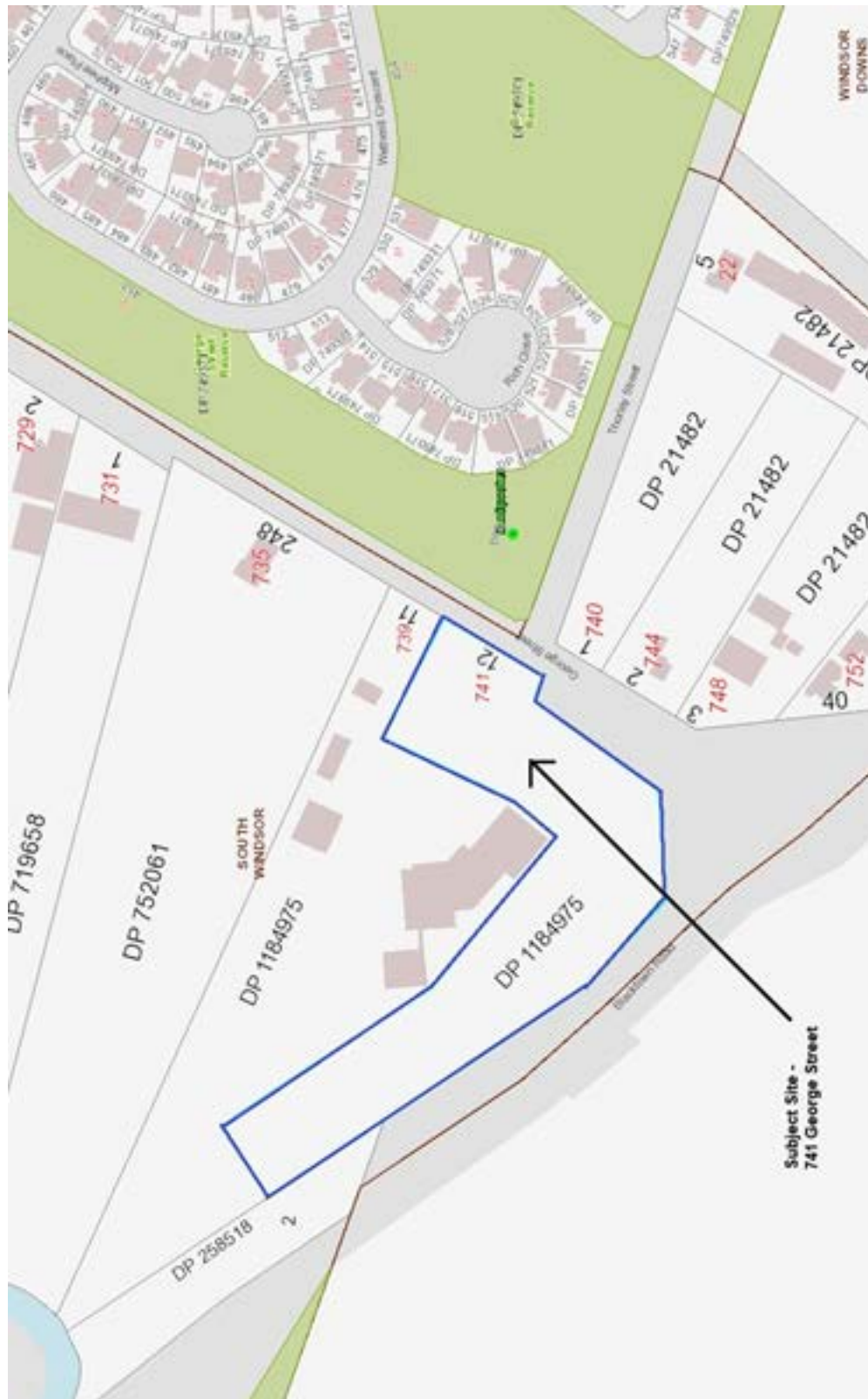
- AT-1** Locality Map
- AT-2** Aerial Map
- AT-3** Plans

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AT-1 Locality Map



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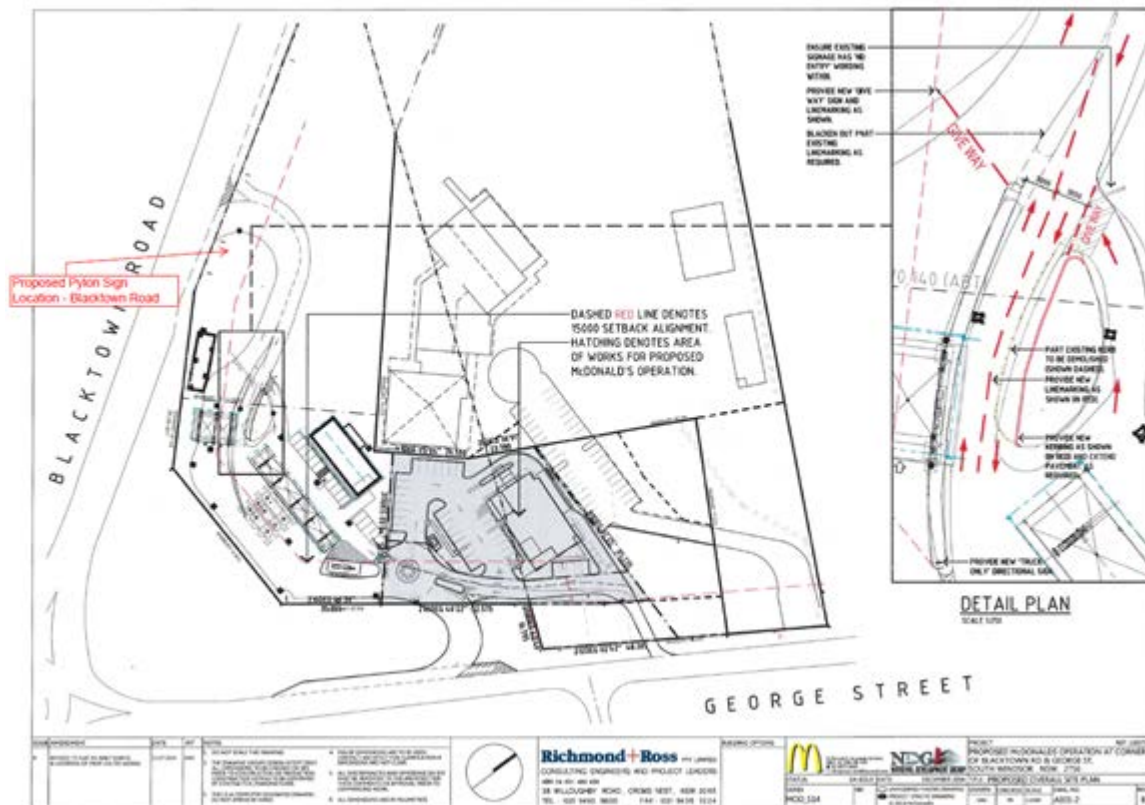
AT-2 Aerial Map



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AT-3 Plans



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ORDINARY MEETING

Meeting Date: 9 August 2016

Item: 167 CP - S960128/15 (DA0790/14) - Lot 12 DP 1184975 - 741 George Street Windsor - Modification of Development Consent DA0790/14 to Delete Condition 68, Construction of Pathway - (95498, 130370, 82572)

Previous Item: Item 23, Ordinary (23 February 2016)

Development Information

File Number: S960128/15 (DA0790/14)
Property Address: 741 George Street, South Windsor
Applicant: McDonald's Australia Limited C/- Montgomery Planning Solutions
Owner: Dallat Pty Ltd
Proposal Details: Section 96 Amendment - Modification of Development Consent DA0790/14 to delete condition 68
Zone: RU4 Primary Production Small Lots and SP2 Infrastructure
Date Received: 29 December 2015
Advertising: 19 July 2016

Key Issues:

- ◆ Location of pathway
- ◆ Length of pathway

Recommendation: Approval

REPORT:

Executive Summary

This application was reported to the Ordinary Council meeting of 23 February 2016 requesting to delete a condition of consent imposed as part of Development Consent Notice No DA0790/14 that required the construction of a 2.5m shared pedestrian pathway from the site to Colonial Drive, Bligh Park consistent with Part E Chapter 7 of Hawkesbury Development Control Plan (DCP) 2002.

At that meeting Council resolved "*that the matter be deferred for additional information.*"

On 23 March 2016 the applicant argued they had obtained legal advice concerning the validity of the condition requiring a pathway to be provided, however their client was willing to contribute towards the part construction of a pathway along the western side of George Street.

On 19 July 2016 the applicant confirmed that they wished to amend the application to modify the condition regarding the length of the pathway required to be provided.

The proposal to modify the condition of consent has been considered in this report and is being reported back to Council for determination.

It is recommended that the modified application be supported.

Description of Proposal

This application seeks consent to modify condition 65 of Development Consent Notice No DA0790/14 which states:

68. *The development shall provide a 2.5m wide shared pedestrian and cycleway from the subject site to Colonial Drive, Bligh Park as required under the Hawkesbury Development Control Plan 2002. The pathway shall incorporate design features as agreed by the Council and RMS.*

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The image below shows the extent of the pathway required under the current condition. It would involve a pathway along the eastern side of George Street approximately 560m long and require a crossing along George Street.



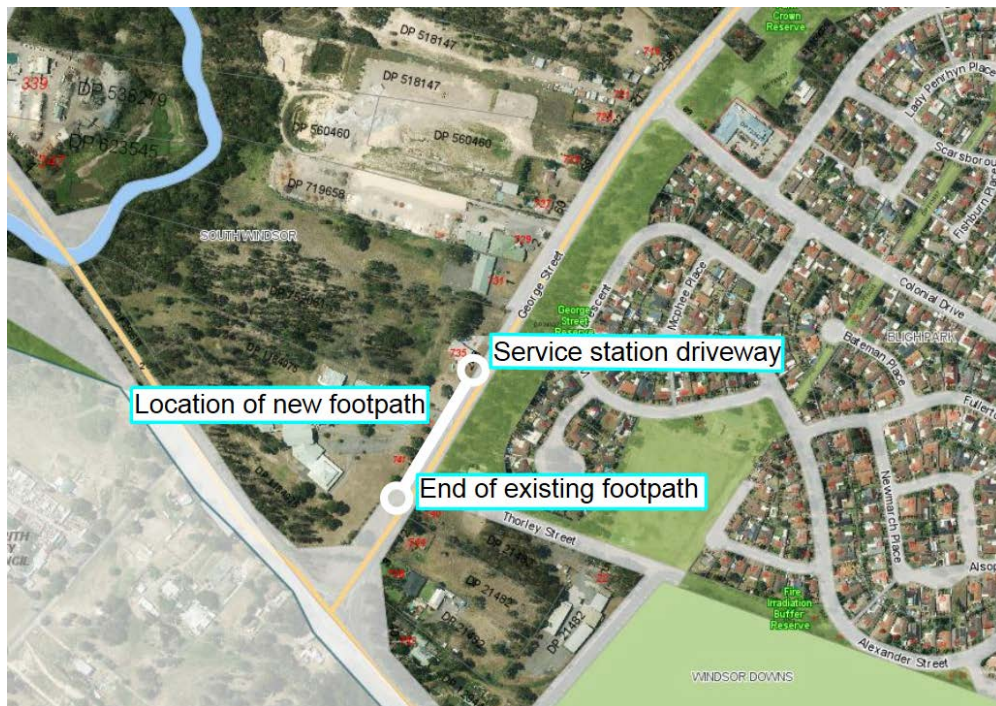
The applicant proposed that the existing condition would be modified to read as follows:

"The development shall provide a 2.5m wide shared pedestrian and cycleway from the McDonald's development to the existing 7/11 service station on the western side of George Street. As an alternative to construction, Council will accept a cash payment of \$15,000.00 towards Council's construction of this pathway."

The image below shows the extent of the pathway should the proposed modification be supported. The pathway would be approximately 175m long and not involve any crossing along George Street.

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Issues Relevant to the Decision

- Compliance with the DCP.
- Pedestrian safety.

Council Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (DCP 2002)

Assessment of Section 96 (1A) of the Environmental Planning and Assessment Act 1979

The application proposes to modify condition 68 of Development Consent Notice No. DA0790/14 and reduce the length of the pathway required to be constructed.

The applicant argues that previous developments on the subject site were not required to construct the shared pathway and requested Council consider being flexible in supporting a variation to the DCP.

In reviewing the proposed modification it is considered that there would be no objections to considering the existing pathway being extended along the western side of George Street. In respect to the length of the pathway it is noted that the extent of the pathway would both link the subject site with another pedestrian traffic generating development being the service station (Seven Eleven) and collect pedestrians who currently, informally cross George Street from Bligh Park.

Council has been in discussions with the Roads and Maritime Services who have confirmed that there are no objections to the creation of a pathway along George Street and any future design matters could be arranged in the future.

Council's infrastructure services department have reviewed the request to accept a \$15,000 contribution fee in lieu of construction and advised that it would be more appropriate that the applicant undertake the works.

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Accepting cash payment without having any details of its costs or design is not supported. It would be expected a heavy duty reinforced concrete path would be required due to the number of vehicle crossings on this part of the road. It is unlikely that the \$15,000 contribution would cover the construction of approximately 175m of pathway proposed. Any costs greater than the \$15,000 being offered would result in Council having to fund the build. Accordingly it is recommended that the developer construct the path proposed with this modification. This will further ensure that the pathway is provided as soon as possible.

The McDonalds has been operating from the site without any pathway and it would be expected that any construction be in place by February 2017. It is recommended that the condition be modified to require the pathway to be provided to the southern entrance of the Seven Eleven service station driveway.

Pursuant to Section 96(1A) of the EP&A Act, Council may consider an application to amend development consent subject to:

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

With respect to (a) it is considered that the proposal to reduce the length of the pathway required would have minimal environmental impact as the proposed works would still contribute to pedestrian safety.

In respect to (b) the proposal remains substantially the same as the development approved. The condition requiring the construction of a shared pathway to the site will aid in improving pedestrian safety as originally envisaged. An assessment of the proposal against the relevant matters referred to in Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken in the report below.

With respect to (c) & (d), the application was not required to be notified under Hawkesbury DCP and no submissions have been received to date.

Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979

Consideration the matters as identified under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the proposal to provide a shared pathway from the site to the Seven Eleven would improve the safety of pedestrians walking/cycling to the site.

The proposed modification would not have any significant adverse changes, is not contrary to the public interest and consideration to the DCP has been made below.

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Hawkesbury DCP 2002 Part E Chapter 7 – Windsor District Baptist Church Site

Rule 4 and 5 of Chapter 7.4.4 Parking and Access apply to the proposal and are listed below:

4. *A pedestrian crossing on George Street is to be provided incorporating such design features as agreed by the Council and the RTA, near the entry/exit point to the site or near Thorley Street.*
5. *A 2.5m wide shared pedestrian and cycleway on the eastern side of George Street between Thorley Street and Colonial Drive Bligh Park is to be provided incorporating such design features as agreed by the Council and RTA.*

Although the current proposal would not extend to Colonial Drive it will improve the safety of people traveling to the McDonalds from Bligh Park. Existing pedestrian traffic crosses George Street and it is considered that the extension of the pathway will provide a safer alternative to the current situation. This alternative has been considered due to the RMS not agreeing to the installation of a pedestrian crossing of George Street in the vicinity of Thorley Street due to the proximity of that location to the Richmond Road/George Street roundabout.

It is noted that the subject site has the potential to support additional tenants in the future and it would be expected that any future tenant be expected to contribute to the completion of the pathway to Colonial Drive meeting the overall objectives of the DCP.

The property owner will be advised of this requirement under separate cover to ensure they are aware of the future requirements for the site.

It is recommended that the variation to the DCP be considered in this instance and that the proposed modification be supported subject to the applicant constructing the footpath.

Conclusion

The environmental impacts associated with the proposal are those relating to pedestrian/cycling access associated with the food and drink premises. It is considered that the modification of the condition would contribute to improving pedestrian safety.

It is recommended that the modification to condition number 68 be supported subject to the recommendation below as the proposal is of minimal environmental impact and substantially the same development as previously approved.

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

RECOMMENDATION:

That Section 96 modification application No. S960128/15 at Lot 12 DP 1184975, 741 George Street, South Windsor for Modification of Development Consent DA0790/14 to modify condition 68 to read as follows:

68. The development shall provide a 2.5m wide shared pedestrian and cycleway from the subject site to the southern driveway of the existing Seven Eleven service station along the western side of George Street. The design and construction of these works shall be approved by Council and are to be completed prior to February 2017.

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Meeting Date: 9 August 2016

ATTACHMENTS:

AT - 1 Council Report (Item 23) of Ordinary Council meeting of 23 February 2016

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AT - 1 Council Report (Item 23) of Ordinary Council meeting of 23 February 2016

ORDINARY MEETING

Meeting Date: 23 February 2016

Item: 23 CP - S960128/15 - Lot 12 DP 184975 - 741 George Street, South Windsor - Section 96 Amendment - Modification of Development Consent DA0790/14 - (94598, 130370, 82572)

Previous Item: 146, Ordinary (8 September 2015)

Development Information

File Number: S960128/15 (DA0790/14)
Property Address: 741 George Street, South Windsor
Applicant: McDonald's Australia Limited C/- Montgomery Planning Solutions
Owner: Dallat Pty Ltd
Proposal Details: Section 96 Amendment - Modification of Development Consent DA0790/14 to delete condition 68
Estimated Cost: N/A
Zone: RU4 Primary Production Small Lots and SP2 Infrastructure
Date Received: 29/12/2015
Advertising: Not required

Key Issues:

- ◆ Non-compliance with site specific DCP
- ◆ Pedestrian Safety

Recommendation: Refusal

REPORT:

Executive Summary

This Development Application seeks consent to delete a condition from the original development consent relating to the construction of a 2.5m wide pedestrian and cycleway from the subject site to Colonial Drive to service the Food and Drink Premises – McDonalds approved at 741 George Street, South Windsor.

The land is subject to a site specific Development Control Plan under Part E Chapter 7 of Hawkesbury Development Control Plan (DCP) 2002.

It is recommended that the modification application not be supported as the proposal is inconsistent with the requirements of Hawkesbury DCP 2002.

The application is being reported to Council as this site is in a key gateway location to the Hawkesbury and that the development application for the food and drink premises was previously determined by Council with the requirement for the construction of a 2.5m shared pedestrian pathway from the site to Colonial Drive Bligh Park.

Description of Proposal

This application seeks Council's approval to modify Development Consent No. DA0790/14 for the construction and operation of a food and drink premises at 741 George Street, South Windsor.

The application for the food and drink premises was approved subject to condition number 68 which requires that:

"68. The development shall provide a 2.5m wide shared pedestrian and cycleway from the subject site to Colonial Drive, Bligh Park as required under the Hawkesbury Development Control Plan 2002. The pathway shall incorporate design features as agreed by the Council and RMS."

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History of the Site

The subject site is legally known as Lot 12 DP 1184975, has a site area of 2.497 Hectares, is subject to road widening and located on the northern intersection of Blacktown Road and George Street, South Windsor.

The subject site and 739 George Street are collectively known as the Windsor District Baptist Church site under Part E Chapter 7 of Hawkesbury DCP. This DCP was adopted by Council on 13 December 2011 and became effective on 21 September 2012.

The site specific chapter of the DCP was developed at the same time Council considered a planning proposal for the property proposing to permit service stations on the land and rezone the land from 5(a) Special uses (Church) under Hawkesbury Local Environmental Plan (LEP) 1989 to RU4 Primary Production Small Lots under Hawkesbury LEP 2012 in order to allow for additional land uses such as food and drink premises.

At the ordinary meeting of 25 November 2008 Council resolved to support the planning proposal to permit service stations on the land and rezone the land to RU4 Primary Production Small Lots to allow for additional uses such as food and drink premises. Council resolved that the proposal be supported subject to safe pedestrian access being provided across George Street.

Subsequently the DCP was prepared and the land was rezoned to RU4 Primary Production Small Lots as part of the gazettal of Hawkesbury Local Environmental Plan 2012.

Following the gazettal of Hawkesbury LEP 2012 Development Application No. DA0631/12 for the construction and operation of the service station was lodged and granted approval on 17 September 2013. The service station has been constructed and is currently operational.

Development Application No. DA0790/14 for the construction and operation of the food and drink premises was lodged and granted approval on 15 September 2015. Building works have commenced.

Issues Relevant to the Decision

- Compliance with the DCP
- Pedestrian safety

Council Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (DCP 2002)

Assessment of section 96 (1A) of the Environmental Planning and Assessment Act 1979

The modification application seeks consent to delete condition 68 of Development Consent Notice No. DA0790/14 which requires the construction of a 2.5m shared pathway from the development site to Colonial Drive, Bligh Park on the following grounds:

- "1. The proposed pathway does not satisfy the objective of the DCP which requires safe, efficient pedestrian access to and from the development.
2. There is no safe pedestrian crossing of George Street in the vicinity of the site/proposed pathway.
3. The location of the proposed pathway does not represent any existing or proposed desired safe pedestrian route.

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4. *No nexus has been demonstrated between the development and the need for the pathway.*
5. *The DCP has not been applied to the adjoining developments which are covered by the DCP provisions relating to pedestrian access to the site.*
6. *The condition requires an agreement between Council and the Roads and Maritime Services (RMS) in relation to design features. There is no mechanism by which the applicant can achieve compliance in this regard.*
7. *Development Control Plan provisions are not statutory requirements and are for guidance purposes only."*

The modification application is supported by a Traffic review prepared by Colston Budd Rodgers & Kafes Pty Ltd. This report states that discussions with the RMS has confirmed that this condition is not required by the RMS and that it is unreasonable for the developer to construct a shared footpath given the separation between the site and small number of pedestrians that would be anticipated to access the site.

An assessment of the information has confirmed that whilst the RMS has confirmed that they do not require the construction of the footpath it is Council's position that the pathway be provided as part of the development of the site. This requirement was previously considered by Council at the time the land was rezoned to permit uses such as food and drink premises.

The requirement for a shared footpath was not imposed on the service station development as Council decided that this was not required given that a service station does not provide the same level of pedestrian traffic than what would be expected with a take away food and drink premises. Given that the proposed food and drink premises are highly likely to attract pedestrian traffic as well as the proposed vehicular traffic it was considered reasonable that the developer formalise pedestrian access from the Bligh Park residential area to the site in order to ensure people have a safe route to the site.

Whilst there is no pedestrian crossing of George Street at this time, it is very likely, if not certain, that there will be in the future when George Street is further upgraded. In this regard it would be short sighted and inadequate long term planning to not require the highest potential pedestrian traffic generator in the locality to not provide for future pedestrian traffic to the site.

To date Council and the RMS have not received any formal application or plans showing how a shared pedestrian pathway could be designed in order to address this condition. Whilst documentation submitted with the application confirms that the RMS has not requested the footpath it is a Council resolution and DCP that has identified that a shared footpath should be provided to the site as part of the development of the site which would attract pedestrians from the Bligh Park residential area.

As a consequence it is considered that the proposal should comply with the original condition imposed on the development in order to ensure pedestrians accessing the site can do so in a safe and efficient manner. If it is not desirable to construct the path at this time the consent condition can remain and the works bonded until they are ready to be constructed.

Pursuant to Section 96(1A) of the EP&A Act, Council may consider an application to amend development consent subject to;

"(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*

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- (b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be."*

With respect to (a) it is considered that the proposal to not provide a pedestrian/cycleway from Colonial Drive to the subject site has the potential to result in adverse impacts in terms of pedestrian safety and that the deletion of the condition would have more than a minimal environmental impact. A footpath along the eastern side of George Street would provide a dedicated footpath for people who would be attracted to walk or cycle to the proposed food and drink premises.

Whilst this requirement of the DCP was not imposed on the service station or Baptist Church it is noted that:

- Customers of the service station is heavily based on vehicular traffic and not expected to attract significant pedestrian movements to the site from Bligh Park; and,
- The Baptist church was located on the site prior to the DCP and is generally serviced by families driving to the site for services.

It is clear that the construction of the food and drink premises would result in a substantial increase in pedestrian traffic to the site and that the construction of a shared pathway along the eastern side of George Street would provide a suitable path for customers and employees who would walk or cycle to the site than what is currently available. It is considered that the pathway would not be required if the site was not developed for the purposes of food and drink premise. Furthermore the information submitted with the current application confirms that there is an additional area on site dedicated to a future tenant which ultimately has the potential to attract more pedestrian traffic to the site.

With respect to (b) it is considered that the deletion of the condition would result in changing the development that was originally granted by Council. The DCP provision requiring a shared pathway to the site was considered as part of the assessment of the original application and determined that the development has the potential to attract a significant amount of pedestrian traffic to the site from Bligh Park to warrant the construction of a pathway to the site based on its location. An assessment of the proposal against the relevant matters referred to in Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken in the report below.

With respect to (c) & (d), the application was not required to be notified under Hawkesbury DCP and no submissions have been received to date.

Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979

In determining the application, Council is required to take into consideration the matters as identified under Section 79C of the Environmental Planning and Assessment Act 1979. Following an assessment of the application it is considered that the application has not adequately considered the suitability of the site for the proposed development and requirements of Hawkesbury DCP 2002.

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The application proposes a fast food and drink premises that would significantly increase the amount of pedestrian traffic to the site than what would be otherwise expected along George Street. Due to the increase in pedestrian traffic to the site with the proposed development it is considered necessary that a safe pathway and crossing be provided to the site to ensure that the site is suitable for the proposed development. This was previously considered with the rezoning of the property and the approval of the food and drink premises. Deletion of the pathway would potentially result in the site being considered to be unsuitable for the proposed food and drink premises on the basis that the development should be appropriately connected to nearby residential areas via a suitable pedestrian link. The site is in general walking distance to the nearby residential area of Bligh Park and pedestrian access to the site would therefore be significantly greater than what would otherwise be associated with the land if the food and drink premises were not to be located on the site.

The suggestion that there is no suitable location along George Street for pedestrians to cross is not considered sufficient rational to support the deletion of the requirement for the shared pathway. It is noted that recent road widening works along the George Street and Blacktown Road intersection have resulted in the construction of a footpath and associated pram crossings close to the roundabout and the George Street exit from the site. See Figures 1 and 2 below.



Figure 1 - Footpath pram-crossing along George Street roundabout intersection

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Figure 2 - Termination of footpath with pram crossing along George Street after site exit (Thorley Street intersection highlighted in background)

In addition to the constructed pathways shown above there is currently an informal pathway (Figures 3 and 4) used by a few pedestrians which is not considered to be the safest way to cross George Street. The construction of the shared footpath and formalisation of a new road crossing would ensure that the current informal crossings are no longer used and that the pedestrian traffic attracted to the food and drink premises can be provided in a safe manner.



Figure 3 – Informal pathway between Bligh Park residential area and George Street



Figure 4 – Termination of informal path and crossing from Bligh Park residential area (Note: median strip along centre of George Street)

An assessment in respect to compliance with the DCP has been undertaken below.

Hawkesbury DCP 2002 Part E Chapter 7 – Windsor District Baptist Church Site

This chapter outlines specific design controls for both the subject site and 739 George Street, which are collectively known as the Windsor District Baptist Church site.

Rule 4 and 5 of Chapter 7.4.4 Parking and Access apply to the proposal and are listed below:

- "4. A pedestrian crossing on George Street is to be provided incorporating such design features as agreed by the Council and the RTA, near the entry/exit point to the site or near Thorley Street.
5. A 2.5m wide shared pedestrian and cycleway on the eastern side of George Street between Thorley Street and Colonial Drive Bligh Park is to be provided incorporating such design features as agreed by the Council and RTA."

The above rules were considered as part of the assessment of application number DA0790/14 where it was determined that the development be required to comply with rule 5. Whilst the RMS did not want a crossing to be created in accordance with rule 4 it is considered that there is suitable space available along the George Street section of road that would allow for a crossing to be provided, which will be more appropriate than what is currently available.

It is considered that the applicant be required to comply with condition number 68 imposed on the development as the current reasons to modify the proposal are contrary to this policy and the imposition of this condition would contribute to the safety of pedestrians who would be attracted to the proposed food and drink premises on the site.

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Conclusion

The environmental impacts associated with the proposal are those relating to pedestrian/cycling access associated with the food and drink premises. It is considered that the deletion of the condition relating to the construction of a shared pathway has the potential to result in adverse environmental impacts in terms of the safety for people who would be attracted to the site because of the proposed land use. It is recommended that the proposal not be supported as it is inconsistent with previous resolutions of Council, the requirements of the DCP and the proposal to not provide pedestrian access to the site is not substantially the same development as previously approved by Council.

At this time there is no firm information available as to whether any additional tenants are proposed for the overall site or the nature of any future tenants. Based on the current information available it is appropriate for the currently approved Food and Drink premises (McDonalds) to construct the path as proposed. Should another tenant be proposed by the landowner that would also generate pedestrian traffic to the site, compensation for the cost of the construction of the path should be a matter between the tenants and landowner.

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.

RECOMMENDATION:

That Section 96 modification application No. S960128/15 at Lot 12 DP 1184975, 741 George Street, South Windsor for Modification of Development Consent DA0790/14 to delete condition 68 be refused for the following reasons:

1. The proposal is considered to be inconsistent having regard to Section 96 (1A) of the Environmental Planning and Assessment Act 1979. The removal of condition 68 would have an adverse impact on the safety of pedestrians/cyclists accessing the site from Bligh Park and the modification application is not substantially the same development as previously approved.
2. The development is inconsistent with the overall aims, objectives and rules of Hawkesbury Development Control Plan 2002. The proposal does not comply with the site specific requirements to provide safe access to cyclists and pedestrians to the site from Bligh Park.
3. The proposal would have an adverse impact on the safety of people who would walk or cycle to the site from Bligh Park.
4. Approval would not be in the general public interest.

ATTACHMENTS:

AT - 1 Locality Map

AT - 2 Aerial Map

AT - 3 Plans

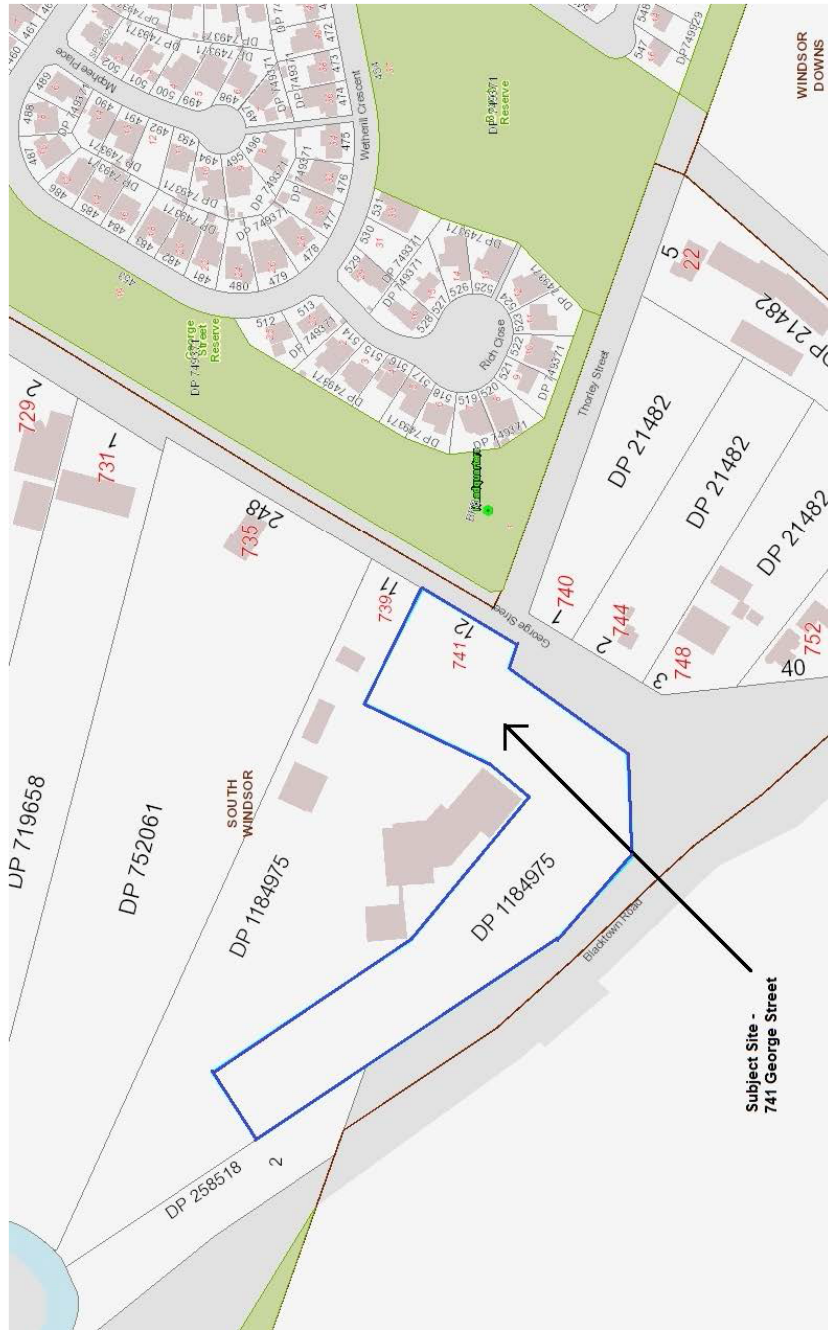
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AT - 1 Locality Map



AT - 2 Aerial Map



AT - 3 Plans



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Item: 168 **CP - Draft Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town - Contribution Area 2, July 2016 - Post Exhibition Report - (95498, 124414)**

Previous Item: 117, Ordinary (28 June 2016)

REPORT:

Executive Summary

The purpose of this report is to advise Council of the outcome of public exhibition regarding Council's Draft Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town - Contribution Area 2, July 2016 (draft Plan).

Having considered the submissions received during the exhibition period, it is recommended that the draft Plan, as exhibited, be adopted and made effective.

Background

The purpose of the draft Plan is to enable Council to collect development contributions for the provision of stormwater infrastructure and land acquisition associated with development of certain land in Pitt Town.

On 28 June 2016, Council considered a report regarding the draft Plan, and resolved that it be publically exhibited for a minimum period of 28 days.

Consultation

The draft Plan was publically exhibited for the period 1 – 29 July 2016. Notices were placed in the 'Hawkesbury Courier' local newspaper advising of the public exhibition. During the public exhibition period the draft Plan and supporting documentation were made available at Council's Main Administration Building, on Council's website, and on Council's online community engagement site *Your Hawkesbury - Your Say*.

A copy of the draft Plan as exhibited is provided in Attachment 1 of this report.

Council received 30 submissions as a result of the public exhibition of the draft Plan. Of these submission, 28 consisted of four types of pro-forma letter. The remaining submissions were received from the Johnson Property Group (JPG) and Holding Redlich, acting for the owners of 130 Hall Street, Pitt Town. Examples of the pro-forma letters are provided in Attachment 2 of this report. The pro-forma letters are marked A, B, C and D and in summary are:

- Letter A (6 copies) supports JPG's offer to fund acquisition of all of 130 Hall Street, Pitt Town and provide various infrastructure.
- Letter B (7 copies) questions the \$2.3m value of land acquisition and whether all 10.1ha is needed for drainage purposes. Recommends that Council secure an interest in the land via Section 88 of the Conveyancing Act 1919.
- Letter C (10 copies) requests construction activities in Pitt Town be finalised and public infrastructure be delivered in the short term.
- Letter D (5 copies) raises concern regarding the adequacy of JPG's temporary stormwater basin. Requests that Council acquire interests in 130 Hall Street, Pitt Town so that the flood evacuation route can be delivered.

The matters raised in these pro-forma letters are consistent with JPG's submission. A summary of the matters raised in JPG's submission and corresponding officer responses are provided below.

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Submission *Council should acquire the entire property at 130 Hall Street, Pitt Town (approximately 39.43ha) in order to facilitate the timely delivery of three pieces of public infrastructure and amenities, namely the stormwater detention infrastructure, flood evacuation route, and foreshore public open space, and to ensure that this state government identified urban release area is completed with some certainty and in a timely manner, and that public amenity and infrastructure can be delivered to the growing Pitt Town community.*

Council has the statutory power to compulsorily acquire the whole of the land in the Thornton Precinct to enable the construction and provision of the public amenities and to resell the land that is in excess to those requirements.

JPG has been the lead developer in Pitt Town for many years and is committed to ensuring that there is some finality to developing in Pitt Town such that it does not end up being a construction zone for another 20 years. We believe this vision is shared by local residents, Council and Councillors. JPG offers to fund, at no cost to Council, the acquisition of the entire property at 130 Hall Street, Pitt Town (based on a valuation of \$6,640,000) and subject to Council identifying itself as an acquiring authority via an amendment to the Hawkesbury Local Environmental Plan 2012 (HLEP 2012). In return, JPG proposes to construct and deliver the stormwater detention facility and associated land to Council, construct and deliver the stormwater detention facility (wetland G in Catchment D of the Worley Parsons Stormwater Management Strategy) and associated land, deliver the flood evacuation route through the land and dedicate the route to Council, dedicate the public foreshore reserve land to Council, and develop and sell residential lots on the property.

Comment The fundamental purpose of the draft Plan is to enable the collection of monetary contributions to enable the provision of stormwater infrastructure and the acquisition of associated land by way of Section 64 of the Local Government Act 1993 (LG Act).

Whilst the construction of the proposed flood evacuation route, creation of foreshore open space, and completion of development within the Pitt Town development area are desirable outcomes, Section 64 of the LG Act relates to Council exercising its functions only for the purposes of water supply, sewerage and stormwater drainage works and facilities. Hence JPG's above mentioned proposal incorporating the flood evacuation route, foreshore open space, and residential development would appear to be outside the scope of Section 64 of the LG Act. It is recommended that if Council wants to pursue such a joint venture with JPG that this be undertaken as a separate matter to finalising the draft Plan.

As an initial response to JPG's proposal it is noted that the part of the proposed flood evacuation route (as shown in the Hawkesbury Development Control Plan 2002) that is within the vicinity of 130 Hall Street straddles the common boundary of 130 Hall Street and adjoining properties to the west which are not owned or controlled by JPG or it's associated entities. Hence at present, it is not clear how JPG, acting alone, could deliver the flood evacuation route and dedicate the route to Council.

Legal advice provided by JPG states that Council has the statutory power to compulsorily acquire the whole of 130 Hall Street to enable the construction and provision of the public amenities and to resell the land that is in excess to those requirements. However, in order for Council to compulsorily acquire such land, the land first needs to be reserved or zoned under HLEP 2012 for a public purpose or adjoin or be in the vicinity of other land so reserved or zoned. The property at 130 Hall Street and land adjoining or in its vicinity is not reserved or zoned for a public purpose, and therefore for such compulsory acquisition to occur the HLEP 2012 would need to be appropriately amended. This would most likely be by way of all or part of 130 Hall Street being rezoned for a public purpose and added to the Land Reservation Acquisition Map. The likelihood of Council achieving such an amendment is not certain and would take considerable time (i.e. most likely at least 18 months). Therefore, it is considered that this course of action would not assist in the timely finalisation of the draft Plan.

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Finally, it is considered that Council's first preference should be to acquire part of 130 Hall Street as required for stormwater facility by way of negotiation with the owners of 130 Hall Street on behalf of all developers and for the benefit of resultant residents within Contribution Area 2. The draft Plan, if finalised, will enable this to occur.

Submission *If Council chooses not to proceed with full acquisition of the entire land holdings, then Council should only be acquiring interest in the land via easement terms only.*

It appears that Council's reason for proposing to acquire 10.1ha of land, as suggested in the draft Plan, is because the land is constrained and has no development potential, and due to the positioning of the basin, i.e. the basin bisects the site therefore creating a non-contiguous ownership issue if Council were not to acquire the whole of the area currently proposed.

The land area that is needed to construct, maintain and operate the stormwater detention basin is approximately 5.2ha in area. It is not fair that developers in Contribution Area 2 have to pay Section 64 contributions toward acquiring land that does not form part of the basin or other public infrastructure.

It would be more appropriate for Council to acquire interests in only that part of the land that is needed to construct, maintain and operate the stormwater basin via an easement under Section 88 (Section E or K) of the Conveyancing Act 1919.

In support of this, a valuation assessment prepared by Lunney Watt & Associates Pty Ltd calculates a compensation value of \$350,000 towards acquiring easement interests in the land.

Comment The draft Plan has been prepared on the basis of land required for the stormwater infrastructure and land that is, as a result of such infrastructure, severed from the rest of 130 Hall Street is to be acquired.

During the public exhibition period, correspondence was sent to the owners of 130 Hall Street, Pitt Town requesting the opportunity to commence negotiations. A response was received from the property owner's legal representative (Holding Redlich) requesting that all correspondence in this respect be directed to their office. Further correspondence has been sent to the nominated legal representative requesting a series of dates and time for a meeting to commence negotiations. The submission received from Holding Redlich indicated that their clients are not yet in a position to determine if Council's valuation that has been relied upon in the draft Plan, is just compensation.

If, as a result of future negotiations with the owners of 130 Hall Street, an appropriate easement can be secured and/or less land is required for acquisition or easement purposes thus resulting in a reduced land cost, then the Plan can be amended accordingly and contribution rates revised.

Submission *Objection is raised to the land value prescribed for the acquisition. The land is constrained from development and the acquisition of the land will have no effect on the ability for the remainder of the land to be used for its "highest and best use". The potential acquisition costs are unlikely to exceed \$90,000/ha which, based on 10.1ha of land to be acquired, calculates a purchase value of \$909,000.*

It would be a flawed assumption to extrapolate the value of 130 Hall Street from the value of the land Council is acquiring for stormwater drainage purposes in Catchment Area 1 (being 44 Mitchell Road Pitt Town).

Comment In preparing the draft Plan, land valuations provided by K.D. Wood Valuations (Aust.) Pty Ltd were relied upon. K.D. Wood's valuation was received in November 2015 and considered relevant surrounding land sales in addition to the size, height, location and

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flood affectation of the land. K.D. Wood's valuation of the land to be acquired was based on the land's "highest and best use" being undevelopable rural farm land.

The draft Plan contains an estimated land acquisition cost of \$2,300,249.32. This is based on K.D. Wood's valuation plus a contingency and allowances for detailed survey, further valuation, project management, and borrowing costs for Council. Applying the same contingencies and allowance to the claimed \$909,000 would produce an estimated total cost of approximately \$1.6million.

The estimated cost of acquiring 44 Mitchell Street, Pitt Town was not considered in estimating the cost of acquiring part of 130 Hall Street.

As previously stated, if, as a result of future negotiations with the owners of 130 Hall Street a reduced land cost is realised, then the Plan can be amended accordingly and contribution rates revised.

Submission *Based on information provided to JPG by Menai Civil it is estimated that the construction cost for the Thornton basin is approximately \$729,778 plus GST.*

Comment The JPG/Menai Civil estimate includes provision for site establishment, earthworks, drainage, roadworks, signage, soil and water management, and landscaping. However, the estimate excludes the following:

- allowances for approval fees, restoration charges, bonds, delays, drawings, treatment, removal and disposal of contaminated material (including asbestos), geotechnical testing, rectification works, and professional indemnity insurance
- survey and design, project management, construction compliance certification, other approvals and contingencies
- cost of borrowings

Furthermore, the quote either differs significantly from or excluding staff estimates for the proposed Gross Pollutant Trap, planting and landscaping, the proposed access track, overland flow stabilisation and embellishment works.

Hence it is considered that the estimate provided by JPG is not comparable to the draft Plan's "all inclusive" estimate of \$2,709,638.53. In light of this, no change is proposed to the estimates contained in the draft Plan.

A summary of the matters raised in Holding Redlich's submission and corresponding officer responses are provided below.

Submission *An integral part of the subdivision and rezoning of Pitt Town has been that JPG would be required to acquire 130 Hall Street, construct a detention basin upon this land and then dedicate the land to Council. This makes economic sense - JPG is the entity that stands to profit significantly from the development of Pitt Town and this impost is part of the price it must pay in order to enjoy its commercial gain.*

However, the draft Plan as currently proposed radically alters the above approach:

- (a) Council, not JPG, must now pay for the acquisition of part of 130 Hall Street;
- (b) Council, not JPG, is now to bear the cost of constructing the infrastructure and the detention basin;
- (c) Council must borrow to pay for the acquisition and the works; and
- (d) Council's outlay is to be recouped through contributions from "all land that is proposed to be subdivided" in nominated 'sub-catchment' areas.

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However, since much of the 'sub-catchment' areas have already been subdivided and sold by JPG for its profit, JPG will not be required to make these contributions in respect of that land. Instead, it enjoys a windfall at Council's and third parties' expense.

In fairness, the draft Plan should be amended to:

- (a) reflect the approach to the redevelopment of Pitt Town so that JPG alone is required to reimburse Council for the cost in acquiring the low lying part of 130 Hall Street;*
- (b) failing this, to require JPG to pay contributions for land it has already subdivided or sold that will benefit from the detention basin; and*
- (c) in any case, making it clear (to the extent that the Water Management Act 2000 (NSW) does not do so) that any contributions to be paid by third parties besides JPG are only payable upon an application being made to subdivide the relevant land and not before.*

Comment

A fundamental tenet of determining development contributions is that they be *reasonable* in terms of *nexus* (i.e. the connection between land to be developed, resultant demand for public infrastructure, and the provision of public infrastructure) and apportionment (i.e. costs are shared equitably amongst future developers based on the relative size/impact of their respective developments). Therefore, requiring a single developer, regardless of their development size or timing, to meet the full costs of providing stormwater infrastructure and/or land acquisition, when other developers will also benefit from such infrastructure and land acquisition would not be reasonable.

As part of a development application made by JPG (Council reference DA0456/09), JPG did intend to acquire land and construct stormwater infrastructure on 130 Hall Street, Pitt Town. JPG's intention however did not negate the need for Council to subsequently prepare a contributions plan in order to collect funds from other benefitting developers so as to reimburse JPG for an appropriate portion of JPG's costs.

JPG are now not in a position to meet this intention, hence, Council now must acquire land and provide stormwater infrastructure on 130 Hall Street, Pitt Town. In order to meet the estimated cost of this, the draft Plan has been prepared and is to apply to all developers in the contribution area, including JPG. Council is currently considering the finalisation of a Development Deed, proposed by JPG, to deal with this contribution.

As JPG cannot fulfil their intention as described in DA0456/09, the associated development consent will require modification prior to Council releasing the subdivision certificate for the remaining lots to be created.

The draft Plan, at *Section 18 Savings and Transitional Arrangements*, makes provision for the Plan to be applied to modifications of existing development consents thus enabling the levying of contributions on development already approved.

Finally, the draft Plan at *Section 13 Timing of Payment of Contributions*, states that contributions are to be paid to Council prior to the release of the plan of subdivision (i.e. Subdivision Certificate). In this regard the above mentioned Development Deed is an avenue to deal with this timing clause.

Submission

JPG has proposed to Council that JPG fund the acquisition of 130 Hall Street, Pitt Town and became entitled to develop and sell a significant part of 130 Hall Street for its commercial benefit. JPG also pointed out that part of the higher-lying land at 130 Hall Street could serve as a flood evacuation route for Pitt Town. While some Pitt Town planning documents do refer to 130 Hall Street being used for this purpose, this is only if the land is first subdivided. That is, without such subdivision there is no need for any flood evacuation route.

JPG's offer should be rejected for reasons including:

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- (a) *the proposed amendment would effectively be using compulsory acquisition laws to acquire 130 Hall Street for JPG's commercial benefit;*
- (b) *the acquisition would be in contravention of s 188 of the Local Government Act 1993 (NSW) (LG Act) due to land being acquired for re-sale; and*
- (c) *the acquisition would not be for a public purpose, in contravention of s186 of the LG Act, with JPG's flood evacuation route not being able to create any such purpose.*

Comment

The above comments are agreed and the JPG proposal is not the current or proposed position of Council in regards to the finalisation of the Section 64 Contributions Plan. Comments regarding JPG's proposal have been provided earlier in this report. As previously stated it is recommended that if Council wants to pursue such a joint venture with JPG, this be undertaken as a separate matter to finalising the draft Plan.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Place directions:

- Population growth is matched with the provision of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

The proposal is consistent with the Linking the Hawkesbury direction:

- Plan for, maintain and renew our physical infrastructure and community services, facilities and communication connections for the benefit of residents, visitors and businesses.

The proposal is consistent with the Shaping Our Future Together direction:

- The Council be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services.

Financial Implications

The costs associated with the preparation the draft Plan are covered in Council's existing budget.

Conclusion

The purpose of the draft Plan is to enable Council to collect development contributions for the provision of stormwater infrastructure and land acquisition associated with development of certain land in Pitt Town.

The draft Plan was publically exhibited for the period from 1 July to 29 July 2016 and Council received 29 submissions. It is considered that the matters raised in the submissions do not warrant amendment to the draft Plan.

It is recommended that the draft Plan, as exhibited, be adopted and made effective.

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.

ORDINARY MEETING

Meeting Date: 9 August 2016

RECOMMENDATION:

That the Draft Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town - Contribution Area 2, July 2016 be adopted and made effective.

ATTACHMENTS:

AT - 1 Draft Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town - Contribution Area 2

AT - 2 Pro-forma letters A, B, C, and D

AT - 1 Draft Section 64 Contribution Plan - Stormwater Infrastructure for

Pitt Town - Contribution Area 2



Hawkesbury City Council

Section 64
Contribution Plan -
Stormwater Infrastructure
for Pitt Town -
Contribution Area 2,
June 2016

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ORDINARY MEETING

Meeting Date: 9 August 2016

Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2

1. Introduction

On 10 July 2008, certain land at Pitt Town was rezoned by the NSW State Government under Part 3A of the *Environmental Planning and Assessment Act 1979*. The rezoning created the potential for the subject land to be developed into 943 residential and large lot residential allotments.

To enable the transportation and treatment of stormwater from the land to be developed it is necessary that stormwater infrastructure be provided and land acquired by Council.

This plan identifies the incurred and estimated costs associated with the provision of stormwater infrastructure and land to be acquired, and determines development contributions to be levied via conditions of development consents for the subdivision of land.

Note the stormwater infrastructure and associated contributions identified in this plan are for the purposes of achieving the water quality standards of Part E Chapter 4 Pitt Town of the *Hawkesbury Development Control Plan 2002* as shown below in Table 1. The provision of such stormwater infrastructure or the payment of contributions towards such infrastructure does not negate the need for developers to achieve relevant water quantity standards contained with the *Hawkesbury Development Control Plan 2002*.

Table 1: Water Quality Standards of Hawkesbury Development Control Plan 2002, Part E, Chapter 4 Pitt Town

Water Quality Standards	
Pollutant	Treatment standard
Suspended solids	80% retention of the average annual load.
Total phosphorous	45% retention of the average annual load.
Total nitrogen	45% retention of the average annual load.
Litter	Retention of litter greater than 50mm for flows up to 25% of the 1 year ARI peak flow.
Coarse sediment	Retention of sediment coarser than 0.125mm for flows up to 25% of the 1 year ARI peak flow.
Oil and grease	In areas with concentrated hydrocarbon deposition, no visible oils for flows up to 25% of the 1 year ARI peak flow.

2. Name of this Plan

This contribution plan is called the "Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2, June 2016".

3. Purposes of this Plan

The purposes of this plan are to:

- provide an administrative framework under which specific stormwater infrastructure is provided and land acquired in order to allow large lot residential development within the contribution area;
- authorise the Council to impose conditions under Section 64 of the *Local Government Act 1993* when granting consent to development on land to which this plan applies;
- enable the Council to be both publicly and financially accountable in its assessment and administration of the contribution plan.

4. Commencement of this Plan

This plan commenced on the date on which public notice of its adoption by Council appeared in a local newspaper.

Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2

5. Land to which this plan applies

This plan applies to land within the vicinity of Hawkesbury and Hall Streets, Pitt Town identified as sub-catchments 2A, 2B, 2C, and 2D and collectively known as Contribution Area 2 as shown in Figure 1.

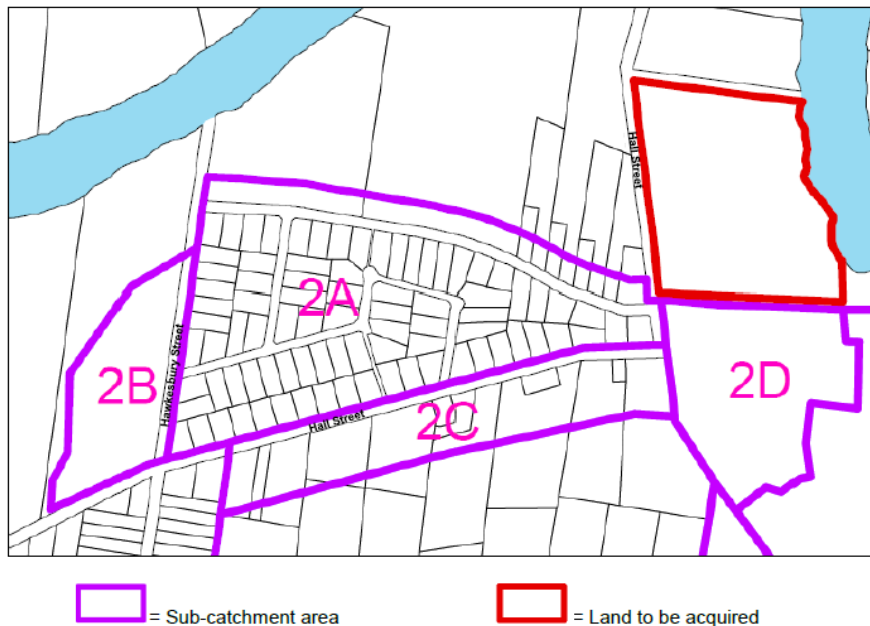


Figure 1: Contribution Area 2

6. Development to which this plan applies

This plan applies to development applications for the subdivision of land for large lot residential purposes within sub-catchments 2A, 2B, 2C and 2D.

7. Relationship to other plans

This contribution plan supplements the provisions of the *Hawkesbury Local Environmental Plan 2012*, and *Hawkesbury Development Control Plan 2002*.

8. Preliminary Investigations and Plans

Council has incurred consultancy costs in investigating and preparing plans for the provision of stormwater infrastructure and the acquisition of land.

These include:

- the Pitt Town Development Water Management Plan (PTDWP), 2005 prepared by Connell Wagner Pty Ltd as part of the initial rezoning (*Hawkesbury Local Environmental Plan 1989 – Amendment 145*) of land within Pitt Town for residential and rural housing purposes.
- land valuations prepared by K.D. Wood Valuations (Aust.) Pty. Ltd., October 2015

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Meeting Date: 9 August 2016

Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2

The costs (exclusive of GST) that have been apportioned to Contribution Area 2 are as follows:

Item	Cost
Pitt Town Development Water Management Plan (PTDWP), November 2005 prepared by Connell Wagner Pty Ltd	\$21,441.86
Land valuations prepared by K.D. Wood Valuations (Aust.) Pty. Ltd, October 2015	\$500.00
TOTAL	\$21,941.86

9. Provision of Stormwater Infrastructure and Acquisition of Land

It is proposed that contributions be levied for the provision of assorted stormwater infrastructure on part of 130 Hall Street, Pitt Town, and for the upsizing of the pipe network within and adjacent to sub-catchment 2A.

The indicative location of the proposed stormwater infrastructure on 130 Hall Street, Pitt Town is shown in Figure 2. Note the ultimate location of this infrastructure will be subject to further investigation and design.

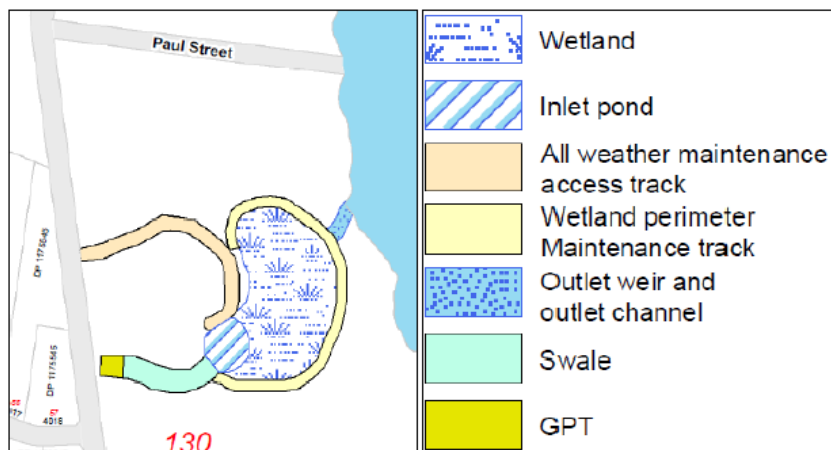


Figure 2: Indicative location of proposed stormwater infrastructure on 130 Hall Street, Pitt Town

The location of the pipe network provided within and adjacent to sub-catchment 2A is shown in Figure 3.

Meeting Date: 9 August 2016

Item	Cost
Stormwater infrastructure – gross pollutant trap, inlet pond, wetland, swale, outlet weir and outlet channel, all weather maintenance access track, wetland perimeter maintenance track, planting within wetland, seeding and stabilisation of exposed surfaces	\$2,709,638.53

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Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2

Item	Cost
Stormwater infrastructure - upsizing of the pipe network within and adjacent to sub-catchment 2A to cater for stormwater run-off from development within sub-catchments 2B and 2C (this cost is applicable to sub-catchments 2B and 2C only and is based on the estimated cost of works already completed by relevant developer)	\$371,985.23
Acquisition of land	\$2,300,249.32
TOTAL	\$5,381,873.08

Note these estimated costs include the following allowances.

Stormwater Infrastructure (excluding the estimated cost of upsizing the pipe network within and adjacent to sub-catchment 2A)	
Detailed survey and design	1.5% cost of infrastructure
Project supervision/management	10% cost of infrastructure
Administration/overheads	10% cost of infrastructure
Contingency	30% cost of infrastructure
Land Acquisition	
Detailed survey, further valuation, project management	1.5% cost of acquisition
Contingency	30% cost of acquisition
Borrowings for stormwater infrastructure (including the estimated cost of upsizing the pipe network within and adjacent to sub-catchment 2A) and land acquisition	
Assumed borrowing rate of 6% per annum, repaid monthly over a 10 year period	

10. Contributions

Contributions are to be levied by Council on the subdivision of land in order to recoup the incurred costs and fund the estimated costs for the following items:

- Preliminary investigations and plans
- Provision of stormwater infrastructure
- Acquisition of land

The contribution formula for these items is:

$$\text{Contribution rate } (\$/\text{m}^2) = C/A$$

Where:

- C is the proportional incurred and estimated cost (based on the area of each sub-catchment) of preliminary investigations and plans, provision of stormwater infrastructure, and acquisition of land
- A is the area of land within each sub-catchment (exclusive of the areas of Hawkesbury Street and Hall Street)

The contribution rate is to be applied to all land that is proposed to be subdivided, inclusive of any proposed road reserves, easements and temporary stormwater works. The contribution rate for each sub-catchment is shown in the following table.

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Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2

Item	Sub-catchment	Sub-catchment proportion of cost (based on area of sub-catchment)	Area (ha)	Contribution rate (\$/m ²)
Preliminary investigations and plans Provision of stormwater infrastructure Acquisition of land	2A	\$2,686,405.09	22.69	\$11.84
Preliminary investigations and plans Provision of stormwater infrastructure Acquisition of land	2B	\$715,600.91	4.79	\$14.94
Preliminary investigations and plans Provision of stormwater infrastructure Acquisition of land	2C	\$1,077,136.23	7.21	\$14.94
Preliminary investigations and plans Provision of stormwater infrastructure Acquisition of land	2D	\$924,672.71	7.81	\$11.84
TOTAL		\$5,403,814.94	42.5	

11. Indexation of contributions included in this plan

To ensure that the value of contributions are not eroded over time by inflation, Council will, without the necessity of preparing a new or amending contributions plan, make changes to the contribution rates set out in this plan to reflect quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Note the Consumer Price Index (All Groups Index) for Sydney at the time of preparing this plan was 108.7 (March 2016 index rate).

12. Indexation of contributions at the time of payment

Contributions required by a condition of development consent imposed in accordance with this plan will be indexed between the date of the grant of the consent and the date on which the contribution is paid in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2

13. Timing of payment of Contributions

Contributions are to be paid to Council prior to the release of the plan of subdivision (i.e. Subdivision Certificate).

14. Policy on deferred payments

Council may allow payment of contributions to be deferred in the following circumstances:

- compliance with the Section 13 of this plan is unreasonable or unnecessary in the circumstances of the case,
- deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of required stormwater infrastructure, or
- where the applicant intends to carry out works and/or dedicate land in lieu of the contribution and Council and the applicant have a legally binding agreement for the provision of the works and/or land dedication.

If Council agrees to a deferred or periodic payment request, Council will require the applicant to provide an unconditional bank guarantee by a bank or a financial institution for the full amount of the contribution or the outstanding balance on the condition that:

- the guarantee must carry specific wording identifying its purpose, for example "Stormwater infrastructure contribution for Contribution Area 2",
- the guarantee is for the contribution amount plus the estimated amount of compound interest foregone by Council for the anticipated period of deferral, (refer to formula below),
- Council may call up the guarantee at any time without reference to the applicant. Note however that the guarantee will generally be called up only when cash payment has not been received, land is not dedicated or works in kind have not been provided by the end of the period of deferral,
- Council will discharge the bank guarantee when payment is made in full by cash payment, land transfer or by completion of works in kind.

Formula for Bank Guarantee

The following formula will be applied to all bank guarantees for contributions:

$$\text{Guarantee Amount} = P + P(\text{CI} \times Y)$$

Where:

P is the contribution due;

CI is the compound interest rate comprised of Council's estimate over the period plus 3% (allowance for fluctuations); and

Y is the period of deferral (years).

15. Carrying out of works and/or dedication of land offered in part or full satisfaction of contributions

A person may make an offer to enter into an agreement with Council for the carrying out of works and/or dedication of land in part or full satisfaction of a contribution required by this plan.

Council will only accept offers of works or land that are items identified in this plan.

Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2

Each party to an agreement will be responsible for their own costs in the preparation and implementation of the agreement.

16. Valuation of offers

The value of any proposed works or land to be dedicated will be determined by a process agreed to between Council and the applicant. The determination of the value of the works or land is to be completed prior to Council and the applicant entering into of an agreement under Section 15 of this plan.

The value of any works or land offered by the applicant may, at Council's discretion, be used to offset contributions levied under this plan.

Where Council accepts an offer by an applicant to undertake works and/or dedicate land, and the value of the works and/or land is in excess of the contribution required under the consent, the surplus value of works and/or land will be held by Council as credit for future development. The credit will be offset against contributions required under this plan that are applicable to future development by the applicant.

If no future development is intended, the applicant will be reimbursed by Council for the surplus works or land credit, subject to agreement by Council as to the value of same.

17. Accountability and access to information

Appropriate accounting records will be maintained for contributions collected by this plan. The records will contain details concerning contributions received and expended, including interest, and may be inspected upon request.

18. Savings and transitional arrangements

This plan applies to:

- a development application or an application to modify a development consent submitted after the date on which this plan commenced; and
- a development application or an application to modify a development consent submitted, but not yet determined, on or before the date on which this plan commenced.

ORDINARY MEETING**Meeting Date: 9 August 2016****Section 64 Contribution Plan - Stormwater Infrastructure for Pitt Town – Contribution Area 2****Appendix 1 – Summary of works**

Item	Location Description	Length	Width	Area/ Number	Estimated cost
Upsizing of pipes network within and adjacent to sub-catchment 2A to cater for stormwater run-off from development within sub-catchments 2B and 2C. Various sized pipes from 450 mm to 1800 mm diameter.	Hall Street, Hawkesbury Street, Blighton Road, Orchard Way, Cleary Drive	3,546 m			\$279,217
Gross Pollutant Trap (GPT)				1 of	\$350,000
Inlet Pond, Wetland and Swale				17,560m ²	\$500,000
Planting within wetland, seeding and stabilisation of exposed surfaces				20,000m ²	\$170,000
Outlet weir and outlet channel				200m ²	\$200,000
All weather maintenance access track	From Hall Street to Inlet Pond	150m	3.5m	525m ²	\$52,500
Wetland perimeter maintenance track - compacted earth	Around Wetland	500m	3.5m	1750m ²	\$70,000

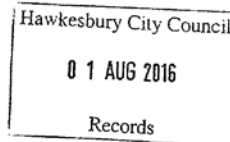
Note these estimated costs are exclusive of the allowances for detailed survey and design, project supervision/management, administration/overheads and borrowings identified in Section 9 of this plan.

ORDINARY MEETING

Meeting Date: 9 August 2016

AT - 2 Pro-forma letters A, B, C, and D

The General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756



July 2016

A

29 JUL 2016

Draft Section 64 Contribution Plan – Stormwater Infrastructure for Pitt Town – Contribution Area 2, June 2016

Dear Sir,

We understand that Johnson Property Group has offered to fund Council's acquisition of the entire property such that it is at no cost and therefore no risk to Council or Council rate payers. In return, Johnson's will, as part of developing and selling the land, construct two stormwater detention facilities on the land, deliver the flood evacuation route through the land and dedicate the foreshore reserve to Council.

This seems to be a win-win situation for Council, JPG and the community and we therefore support JPG's proposal. We urge Council to also support JPG's offer and agree to acquire the entire property so that this infrastructure can be delivered.

Yours Sincerely

ORDINARY MEETING

Meeting Date: 9 August 2016

environmentally constrained land with no dwelling entitlement. The documents on public display do not make it clear as to the assumptions made in the KD Wood valuation to arrive at this high acquisition value.

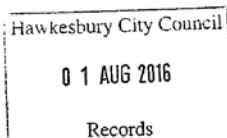
We understand that there is an alternative to acquiring the land and that is for Council to secure interest in the land via Section 88 of the *Conveyancing Act 1919* which surely would result in a significantly less value, and ultimately less financial burden on Council, than Council acquiring 10.1ha of land currently identified when in fact not all of this 10.1ha of land is required for the drainage infrastructure anyway.

We ask that Council reconsider their approach in regard to the best way for Council to secure the interests that they need to enable public infrastructure to be delivered.

Yours Sincerely

ORDINARY MEETING
Meeting Date: 9 August 2016

The General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756



July 2016

C

29 JUL 2016

Draft Section 64 Contribution Plan – Stormwater Infrastructure for Pitt Town – Contribution Area 2, June 2016

Dear Sir,

We the undersigned are residents of Pitt Town and we would like construction activities in Pitt Town finished and the public infrastructure delivered in the short term for all Pitt Town residents to enjoy.

We support the cooperation of Council and developers to ensure that construction activities are finished and infrastructure delivered as promptly as possible.

Yours Sincerely

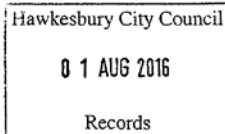
ORDINARY MEETING

Meeting Date: 9 August 2016

July 2016

D

The General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756



29 JUL 2016

Draft Section 64 Contribution Plan – Stormwater Infrastructure for Pitt Town – Contribution Area 2, June 2016

Dear Sir,

We understand that 130 Hall Street Pitt Town is proposed to contain a stormwater basin on it to cater for land already developed and land yet to be developed in and around Hall Street at Pitt Town.

We welcome the delivery of this infrastructure as the temporary basin that Johnson Property Group built in their neighbouring subdivision has caused flooding issues with lower lying sections of Hall Street in times of heavy rain.

We would request however that Council acquire interests in the entire property so that the flood evacuation route can also be delivered. The community was offered this route by government in their approval of the rezoning and Johnson Property Group's plans, which is also endorsed by Council in their Pitt Town DCP and also Council's Section 94 Contributions Plan 2015.

There have been hundreds of homes built in Pitt Town in recent times and it would be a life-threatening concern if the flood evacuation route was delayed indefinitely. We understand Johnson Property Group has offered to deliver this infrastructure and they therefore have our full support. We urge Council to do what needs to be done to facilitate the delivery of this important road link.

Yours Sincerely

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 9 August 2016

Item: 169 **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 74 Longleat Lane, Kurmond - (95498, 124414, 136641)**

File Number:	LEP0010/16
Property Address:	74 Longleat Lane, Kurmond
Applicant:	Glenn Falson Urban and Rural Planning Consultant
Owner:	R Goody
Date Received:	12 April 2016
Current Minimum Lot Size:	4 Hectares
Proposed Minimum Lot Size:	4,000m ² and 2ha
Current Zone:	RU4 Primary Production - Small Lots
Site Area:	3.097ha

Recommendation: Council support the preparation of a planning proposal to enable the subdivision of the subject site into two lots with minimum lot sizes of 4,000m² and 2ha.

REPORT:

Executive Summary

Council has received a planning proposal from Glenn Falson Urban and Rural Planning Consultant (the Applicant) which seeks to amend the Hawkesbury Local Environmental Plan 2012 (LEP 2012) to enable the subdivision of Lot 3 DP 747089, 74 Longleat Lane, Kurmond into two lots. The proposal essentially reflects the locations of two existing dwellings on the subject site.

This report provides Council with an overview of the planning proposal, and recommends that the preparation of a planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

Consultation

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and associated Regulations, and as specified in the 'Gateway' determination.

Planning Proposal

The planning proposal seeks to amend LEP 2012 in order to permit the subdivision of the site into two lots.

The planning proposal aims to achieve this by amending the relevant Lot Size Map of LEP 2012 in order to provide minimum lot sizes of 4,000m² and 2ha. The Applicant also suggests that an appropriate provision be included in LEP 2012 to limit the maximum number of lots created by future subdivision of the land to two lots.

A concept plan for the proposed two lot subdivision is shown in Figure 1 below. This plan has been provided for discussion purposes only in relation to the potential yield of the site and the proposed minimum lot sizes, and does not form part of the planning proposal. This concept plan shows two lots having sizes of 5,150m² and 2.58ha.

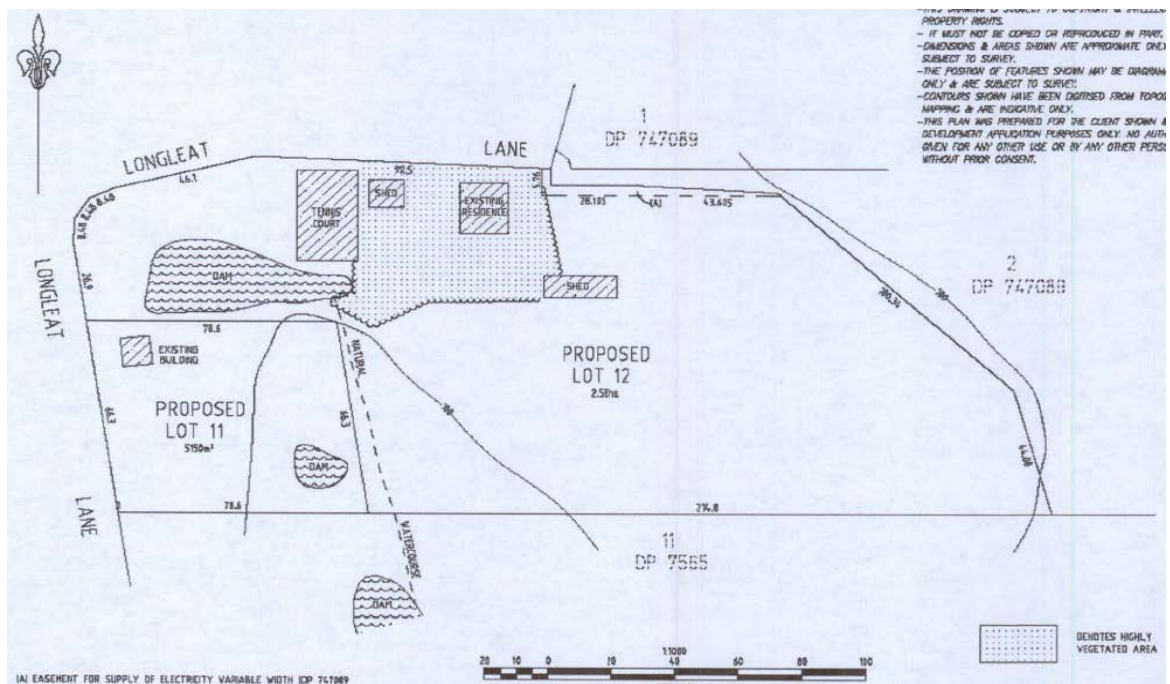


Figure 1 - Concept Subdivision Plan (not for determination)

The planning proposal has identified, in particular, the environmental matters which may have consequences for the future subdivision and development of the land, including bushfire protection, wastewater disposal and heritage. However, detailed reports have not been provided to demonstrate that these matters are not prohibitive to future development.

The Department of Planning and Environment's document "A Guide to Preparing Planning Proposals", October 2012 advises:

"The planning proposal should contain enough information to demonstrate that relevant environmental, social, economic, and other site specific matters have been identified and if necessary that any issues can be addressed with additional information and/or through consultation with agencies and the community." and

"To prevent unnecessary work prior to the Gateway stage, specific information nominated as being necessary would not be expected to be completed prior to the submission of the planning proposal. In such circumstances, it would be sufficient to identify what information may be required to demonstrate the proposal."

Where it is determined that more detailed information is required, a recommendation can be made to the DP & E that detailed specialist reports be provided prior to notification of the proposal. The 'Gateway' determination will confirm the information (which may include studies) and consultation required before the LEP can be finalised.

Subject Site and Surrounds

The subject site is legally described as Lot 3 DP 747089 and is known as 74 Longleat Lane, Kurmond. It has an area of 3.097ha and is mostly regular in shape with an approximate length of 260m and approximate depth of 120m.

The site is located within the Kurmond and Kurrajong Investigation Area as shown in Figure 2 below.



Figure 2 - Site Location within Kurmond Kurrajong Investigation Area

The subject site is currently zoned RU4 Primary Production Small Lots under the LEP. The current minimum lot size for subdivision of this land is 4ha.

The subject site is used for rural residential purposes and contains an existing dwelling, outbuildings, tennis court and pool to the north, and a second dwelling located to the west. During a site inspection of the property, it was noted that the two dwellings were of an age that would pre-date the introduction of the first planning instrument in the locality; being *Interim Development Order No. 1 – Shire of Colo* which was gazetted on 13 March 1964. It is therefore considered that both dwellings are lawful.

The subject site is identified as a heritage item of local significance under Schedule 5 of the LEP. The significance of this item is mainly attributed to the dwelling known as 'Longleat' located in the northern section of the property.

The subject site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The whole site is shown as being within Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the LEP. Acid Sulfate Soil Classification 5 represents a relatively low chance of acid sulphate soils being present on the site.

The subject site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture.

The site contains 'Significant Vegetation' and 'Connectivity between Significant Vegetation' as identified on the Terrestrial Biodiversity Map. Vegetation on the site is generally located around the existing dwellings and along the Longleat Lane road frontage.

The site falls within the *Middle Nepean and Hawkesbury River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997)*.

The land varies in height from approximately 96m AHD at the rear (southern boundary) to 110m AHD along the northern frontage (Longleat Lane) of the land. Based on Council's slope mapping, the subject site contains land having slopes in excess of 15% on the eastern portion of the site surrounding the existing tennis court and dam, and to the south of these structures.

Properties immediately to the north, south, east and west of the subject site are all similarly zoned RU4 Primary Production Small Lots. Further to the north, west and east land is zoned RU1 Primary Production. The current minimum lot size applicable for the subdivision of the immediate surrounding properties is 4ha.

Land surrounding the subject site consists of lots having sizes that predominantly range between 650m² and 4ha. The immediate surrounding area of the site is predominantly characterised by rural residential uses.

Applicant's Justification of Proposal

The Applicant has provided the following justification for the planning proposal:

- *The proposed subdivision is consistent with the Hawkesbury Residential Land Strategy (HRLS).*
- *The subject site is located within the Kurmond/Kurrajong Investigation Area and is included in an investigation area map prepared by Council.*
- *The preliminary site investigations reveal that the site is capable of subdivision into at least two lots.*
- *The proposed subdivision would result in the two existing houses being located on separate allotments.*
- *The proposed lot sizes are capable of containing on-site wastewater disposal systems and are appropriate in terms of bushfire control and vegetation management.*
- *Electricity, telephone, garbage and recycling facilities are currently available to the site.*

'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy), Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy

The NSW Government's 'A Plan for Growing Sydney' December 2014 (the Sydney Metropolitan Strategy) and Draft North West Subregional Strategy establish the broad planning directions for the Sydney metropolitan area and north-western sector of Sydney respectively. These documents identify a number of strategies, objectives and actions relating to the economy and employment, centres and corridors, housing, transport, environment and resources, parks and public places, implementation and governance.

These two documents have a high level metropolitan and regional focus and for the most part are not readily applicable to a singular rural residential planning proposal at Kurmond. Notwithstanding this the Applicant has provided an assessment of the planning proposal against these two documents and concludes that the proposal is consistent with these strategies.

The Hawkesbury Residential Land Strategy (HRLS) is in part a response to the above mentioned State strategies and seeks to identify residential investigation areas and sustainable development criteria which are consistent with the NSW Government's strategies.

The HRLS contains the following commentary and criteria regarding large lot residential/rural residential development:

"2.10 Strategy for Rural Village Development

The Hawkesbury Residential Development Model focuses on future residential development in urban areas and key centres. However, the importance of maintaining the viability of existing rural villages is recognised. As such, the Hawkesbury Residential Strategy has developed a strategy for rural residential development.

Future development in rural villages should be of low density and large lot dwellings, which focus on proximity to centres and services and facilities. Rural village development should also minimise impacts on agricultural land, protect scenic landscape and natural areas, and occur within servicing limits or constraints."

The planning proposal can be considered as a rural residential development on the fringe of the Kurmond Village.

The HRLS states that the future role of rural residential development is as follows:

Rural residential developments have historically been a popular lifestyle choice within Hawkesbury LGA. However, rural residential development has a number of issues associated with it including:

- *Impacts on road networks;*
- *Servicing and infrastructure;*
- *Access to facilities and services;*
- *Access to transport and services;*
- *Maintaining the rural landscape; and*
- *Impacts on existing agricultural operations.*

Whilst this Strategy acknowledges rural residential dwellings are a part of the Hawkesbury residential fabric, rural residential dwellings will play a lesser role in accommodating the future population. As such, future rural development should be low density and large lot residential dwellings.

The relevant criteria for rural residential development, as stated in Section 6.5 of the HRLS, are that it be large lot residential dwellings and:

- *be able to have onsite sewerage disposal;*
- *cluster around or on the periphery of villages;*
- *cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within a 1km radius);*
- *address environmental constraints and have minimal impact on the environment;*
- *occur only within the capacity of the rural village*

The ability to dispose of effluent on site is discussed in later sections of this report.

The site is on the fringe of the Kurmond Village, and is within the one kilometre radius specified in the HRLS. The Kurmond Kurrajong Investigation Area (Figure 2) is the graphical representation of the above criteria. This mapping was undertaken in accordance with previous resolutions of Council.

Relevant environmental constraints are discussed in later sections of this report.

Council Policy - Rezoning of Land for Residential Purposes - Infrastructure Issues

On 30 August 2011, Council adopted the following Policy:

"That as a matter of policy, Council indicates that it will consider applications to rezone land for residential purposes in the Hawkesbury LGA only if the application is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan, has

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adequately considered the existing infrastructure issues in the locality of the development (and the impacts of the proposed development on that infrastructure) and has made appropriate provision for the required infrastructure for the proposed development in accordance with the sustainability criteria contained in Council's adopted Hawkesbury Residential Land Strategy.

Note 1:

In relation to the term "adequately considered the existing infrastructure" above, this will be determined ultimately by Council resolution following full merit assessments, Council resolution to go to public exhibition and Council resolution to finally adopt the proposal, with or without amendment.

Note 2:

The requirements of the term "appropriate provision for the required infrastructure" are set out in the sustainability matrix and criteria for development/settlement types in chapter six and other relevant sections of the Hawkesbury Residential Land Strategy 2011."

Compliance with the HRLS has been discussed previously in this report. It is considered that the planning proposal is consistent with Council's Community Strategic Plan (CSP) as discussed later in this Report.

Council Policy - Our City Our Future Rural Rezoning Policy

Despite this, the Policy was adopted by Council on 16 May 1998 and had its origin in the Our City Our Future study of the early 1990's.

Since the time of adoption, this Policy has essentially been superseded by subsequent amendments to *Hawkesbury Local Environmental Plan 1989*, NSW Draft North West Subregional Strategy, the *Hawkesbury Residential Land Strategy*, the *Hawkesbury Community Strategic Plan*, the commencement of LEP 2012, and the DP&E's 'Gateway' system for dealing with planning proposals.

The Policy is repeated below with responses provided by the Applicant, and officer comments provided where relevant.

- a) Fragmentation of the land is to be minimised

Applicant's Response

"The land is within an area identified within Council's subsequent Residential Land Strategy as having urban potential. Fragmentation of this land is envisaged by this subsequent strategy."

- b) Consolidation within and on land contiguous with existing towns and villages be preferred over smaller lot subdivision away from existing towns and villages.

Applicant's Response

"The proposal is consistent with this principle."

- c) No subdivision along main roads and any subdivision to be effectively screened from minor roads.

Applicant's Response

"The site does not front a main road."

- d) No subdivision along ridgelines or escapements.

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Applicant's Response

"The site is not on a ridgeline or in an escapement area."

- e) Where on site effluent disposal is proposed, lots are to have an area of at least one hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.

Applicant's Response

"The lots will vary in size down to a minimum of 5,150m². This is larger than the size of allotment that is indicated by Council as being the minimum to contain on-site effluent disposal in later studies (eg Kurrajong Heights, Wilberforce and within LEP 2012 generally)."

Comments

Council's records show that there is only one existing system on the subject site, which services the main heritage dwelling located on proposed Lot 12.

The planning proposal is not accompanied by a wastewater feasibility assessment report providing details of any on-site sewerage management systems on the subject site, their performance or whether the proposed new lots (in particular proposed Lot 11) are capable of supporting the onsite disposal of effluent.

It is therefore recommended that an onsite effluent disposal report be provided following a 'Gateway' determination.

- f) The existing proportion of tree coverage on any site is to be retained or enhanced.

Applicant's Response

"The subdivision does not propose removal of vegetation. Existing houses are established on site. No removal of vegetation is required"

Comments

In this case, given that existing dwelling houses will be located on each resultant lot it is considered that matters of flora and fauna will be subject to the usual investigations to be carried out with the lodgement of a development application for any future development.

- g) Any rezoning proposals are to require the preparation of environmental studies and Section 94 Contributions Plans at the Applicant's expense.

Applicant's Response

"The rezoning process has altered since this policy of Council. The Gateway process will dictate whether further studies are required. It is noted that Council has embarked on preparing a S94 Plan which will apply to this Planning Proposal if finalised by the time of completion of the proposal. Otherwise a Voluntary Planning Agreement can be entered into so that an amount approximating what might be levied under S94 can be provided for roads and other community infrastructure."

Comments

As per the Department's Guidelines for planning proposals, the application has identified the relevant environmental considerations for the proposal, including onsite effluent disposal, heritage and bushfire. Whilst specialist reports addressing these matters have not been provided, the need for further information/consideration will be a matter for the DP&E to determine as part of the 'Gateway' process. In this regard, it is recommended that a bushfire assessment, onsite effluent disposal report and heritage impact assessment be requested following a 'Gateway' determination.

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The need for a Section 94 Contribution Plan or a Voluntary Planning Agreement can be determined and further discussed with the Applicant if this planning proposal is to proceed.

- h) Community title be encouraged for rural subdivision as a means of conserving environmental features, maintaining agricultural land and arranging for the maintenance of access roads and other capital improvements.

Applicant's Response

"The proposal is for a Torrens Title which is appropriate given that the subdivision merely recognises the two houses on site."

Comments

The form of title for a subdivision is a matter for consideration with a development application for any subdivision, where the most appropriate form of titling can be determined dependant on the need for the preservation of particular environmental features, and whether appropriate access arrangements to future allotments are provided.

Section 117 Directions

The Minister for Planning, under section 117(2) of the EP&A Act issues directions that relevant planning authorities, including councils, must comply with when preparing planning proposals. The directions cover the following broad range of categories:

- employment and resources
- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- regional planning
- local plan making
- implementation of a Plan for Growing Sydney.

Typically, the Section 117 Directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal.

The Section 117 Directions do allow for planning proposals to be inconsistent with the Directions. In general terms a planning proposal may be inconsistent with a Direction only if the DP&E is satisfied that the proposal is:

- a) justified by a strategy which:
- gives consideration to the objectives of the Direction
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites)
 - is approved by the Director-General of the DP&E, or
- b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of the Direction, or
- c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of the Direction, or
- d) is of minor significance.

The HRLS has been prepared with consideration given to the various policies and strategies of the NSW State Government and Section 117 Directions of the Minister. In this regard, a planning proposal that is

consistent with the Hawkesbury Residential Land Strategy is more likely to be able to justify compliance or support for any such inconsistency.

Direction 1.2 Rural Zones

Planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The planning proposal seeks an amendment to the Lot Size Map of LEP 2012 and does not propose any changes to the current RU4 Primary Production Small Lots zoning. As a consequence, the planning proposal will result in an increase in the density of land. The Applicant states:

"The proposal is considered to be of minor significance only in terms of impact on the available rural zones and rural/agricultural lands. The site has not been used for any form of meaningful rural/agricultural use for many years and is currently required to be mechanically slashed to keep grass and weed infestation at bay.

Due to the location of the site adjacent to dwellings on small lots and the relatively small size of the lot, the land is not conducive to productive agricultural use.

As the proposal is only for two housing lots to contain existing houses, provides a community benefit and is considered to be of minor significance the proposal does not warrant the preparation of a specific rural study particularly. This is particularly the case noting Council's Residential Strategy that identified sites such as this for village expansion."

This inconsistency will be considered by the DP&E as part of their 'Gateway' determination.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

In accordance with the provisions of this Direction, it is proposed that the Department of Industry be consulted following a 'Gateway' determination.

Direction 3.4 Integrating Land Use and Transport

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for Planning and Development (DUAP 2001).

In summary this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 "Accessible Development" principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The document is very much centres based and not readily applicable to consideration of a rural residential planning proposal. The document also provides guidance regarding consultation to be undertaken as part of the planning proposal process and various investigations/plans to be undertaken. It is recommended that if this planning proposal is to proceed, Council seek guidance from the DP&E via the 'Gateway' process, regarding the applicability of this document.

Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&E.

The subject site is identified as containing "Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the LEP. As such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of LEP 2012 which has been prepared in accordance with the Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director General.

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soil study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act. An acid sulfate soil study has not been included in the planning proposal but the DP&E will consider this as part of their 'Gateway' determination, and if required can request further information/consideration of this matter.

Direction 4.4 Planning for Bushfire Protection

The subject site is shown as being bushfire prone, containing Vegetation Category 1 on the NSW Rural Fire Service's Bushfire Prone Land Map. This Direction requires consultation with the NSW Rural Fire Service following receipt of a 'Gateway' determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. The planning proposal proposes an amendment to the Lot Size Map of LEP 2012 and, in addition, a provision in the LEP to restrict the lot yield from subdivision of the subject site. The DP&E have previously allowed similar restrictions on subdivision lot yields with the inclusion of *Clause 4.1G - Restriction on the number of lots created by subdivision of certain land* in LEP 2012. However, as discussed later in this report, it is considered that the additional provision proposed by the Applicant is not warranted.

Direction 5.10 Regional Plans

This Direction requires planning proposals to be consistent with a Regional Plan that has been released by the Minister for Planning. Under the *Greater Sydney Commission Act 2015, A Plan for Growing Sydney* is deemed to be the Regional Plan for the Greater Sydney Region. The planning proposal is consistent with this Regional Plan as discussed previously within this report.

State Environmental Planning Policies

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy (SEPP) No. 44 – Koala Habitat Protection*, *State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land*, *Sydney Regional Environmental Plan (SREP) No. 9 - Extractive Industry (No 2- 1995)* and *(SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)*.

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)

The Applicant advises:

"State Environmental Planning Policy 44 – Koala Habitat Assessment is applicable. A formal assessment of the site against this Policy has not been done however would be included in

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any subsequent flora/fauna report required. However there is no evidence of koalas on site and the site is not core habitat as defined by SEPP44."

In this case, given that existing dwellings will be located on each resultant lot it is considered that matters of flora and fauna, including the requirements of SEPP 44 will be subject to the usual investigations to be carried out with the lodgement of a development application for any future development.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

SEPP 55 requires consideration as to whether or not land is contaminated and, if so, is it suitable for future permitted uses in its current state or whether it requires remediation. The SEPP may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The Applicant states that:

"The land has not been used for any intensive agricultural use or any other use that would suggest that remediation is required. There is no obvious evidence of surface or groundwater pollution. It is not believed that any geotechnical investigations need to be carried out for the planning proposal to proceed."

However, the Applicant also states that the site *"has been maintained by limited grazing activities and mechanical slashing for many years."* According to Table 1 - *Some Activities that may cause contamination* of the Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land, agricultural activities may cause contamination.

Given that this planning proposal seeks to subdivide the subject site to enable the two existing dwellings to be located on separate lots, and the use of the proposed lots for rural residential purposes will not change as a result, it is considered that further investigations are not warranted for the planning proposal to proceed. Consideration of potential contamination will be subject to the usual investigations to be carried out with the lodgement of a development application for any future development.

Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) - (SREP 9)

The primary aims of SREP 9 are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The site is not within the vicinity of land described in Schedule 1 and 2 of the SREP, nor will the proposed development restrict the obtaining of deposits of extractive material from such land.

Sydney Regional Environmental Plan No. 20 – Hawkesbury–Nepean River (No. 2 – 1997) – (SREP 20)

The aim of SREP No 20 (No. 2 - 1997) is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the SREP encourages Council to consider the following:

- rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna)
- develop in accordance with the land capability of the site and do not cause land degradation

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- the impact of the development and the cumulative environmental impact of other development proposals on the catchment
- quantify and assess the likely impact of any predicted increase in pollutant loads on receiving waters
- consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored
- consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site
- minimise or eliminate point source and diffuse source pollution by the use of best management practices
- site and orientate development appropriately to ensure bank stability
- protect the habitat of native aquatic plants
- locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land
- consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms
- conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors
- minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices
- consider the impact on ecological processes, such as waste assimilation and nutrient cycling
- consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas
- consider the need to control access to flora and fauna habitat areas
- give priority to agricultural production in rural zones
- protect agricultural sustainability from the adverse impacts of other forms of proposed development
- consider the ability of the site to sustain over the long term the development concerned
- maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development
- consider any adverse environmental impacts of infrastructure associated with the development concerned.

The site falls within the Middle Nepean and Hawkesbury River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997).

It is considered that the future use of the planned additional lot for residential purposes will be able to comply with the relevant provisions of SREP No 20 or be able to appropriately minimise any impacts.

Proposed Amendment to LEP 2012

The planning proposal seeks to amend LEP 2012 in order to permit the subdivision of the site into two lots having minimum lot sizes of 4,000m² and 2ha generally as shown in Figure 1.

The Applicant also suggests an appropriate provision be inserted into LEP 2012 to limit the maximum lot yield of the subdivision of the site consistent with the planning proposal of allowing two allotments. It is considered that such a provision is not necessary given the area of 5,150m² corresponding to proposed Lot 11 has been nominated with a 4,000m² minimum lot size and the 2.5ha area corresponding to proposed Lot 12 has been nominated with a 2ha minimum lot size. (Refer to Attachment 1 - *Proposed Minimum Lot Size Map*). Once subdivision in accordance with these minimum lot sizes has been carried out, no further subdivision will be possible.

Assessment of the Merits of the Planning Proposal

On 28 July 2015 Council adopted the following development principles to be considered in the assessment of planning proposals within the Kurmond and Kurrajong Investigation Area:

1. *Essential services under LEP 2012 and fundamental development constraints are resolved.*
2. *Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%.*
3. *Removal of significant vegetation is avoided.*
4. *Fragmentation of significant vegetation is minimised.*
5. *Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourse) are located outside of riparian corridors.*
6. *Road and other crossings of water courses is minimised.*
7. *Fragmentation of riparian areas is minimised.*
8. *Removal of dams containing significant aquatic habitat is avoided.*

In response to these development principles the following matters are of particular relevance:

Topography

The land varies in height from approximately 96m AHD at the rear (southern boundary) to 110m AHD along the northern frontage (Longleat Lane) of the subject site.

Based on Council's slope mapping, the subject site contains land having slopes in excess of 15% on the eastern portion of the site surrounding the existing tennis court and dam, and to the south of these structures. Figure 3 illustrates the proposed lots in relation to the slopes of the subject site.

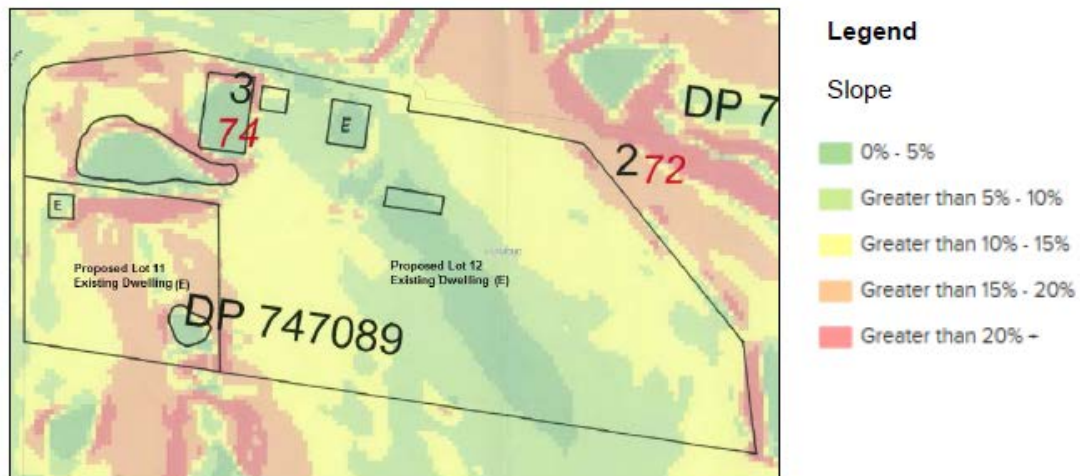


Figure 3 - Slope Analysis

The adopted development principles require building envelopes, asset protection zones (APZs), driveways and roads to be located on land with a slope less than 15%.

This slope analysis highlights that the existing dwelling houses and access to these are located on land less than 15%.

Ecology

The planning proposal is not accompanied by a flora and fauna survey and assessment report, and the Applicant provides the following information on flora and fauna on the site.

"The site is included in the Terrestrial Biodiversity Map within Council's LEP2012. The map indicates that approximately 30% of the site is classified as "significant vegetation" and the remainder "connectivity between significant vegetation". However an inspection of the aerial photo of the site reveals that not all of the "significant vegetation" has a continuous canopy and comprises areas of scattered shade trees and that the "connectivity between significant vegetation" is predominantly cleared pasture land.

It is not considered that a formal report on flora/fauna of the site is required as the subdivision merely recognises an existing situation of two dwellings on the land. However if further assessment is required it would be more appropriate if identified through the Gateway process of the Department of Planning and Infrastructure."

Council's vegetation mapping records the site as containing Shale Sandstone Transition Forest, which is a critically endangered ecological community (CEEC) under the *Threatened Species Conservation Act, 1995*. This vegetation community is located as shown in Figure 4.

The adopted development principles require planning proposals to avoid the removal, and minimise the fragmentation of significant vegetation. In addition it requires that impacts on watercourses, riparian areas and aquatic habitat are minimised and/or avoided, including the retention of dams containing significant aquatic habitat.

Figure 4 shows the areas of the subject site which contain significant vegetation. Figure 5 shows the corresponding vegetation that is located in these areas.

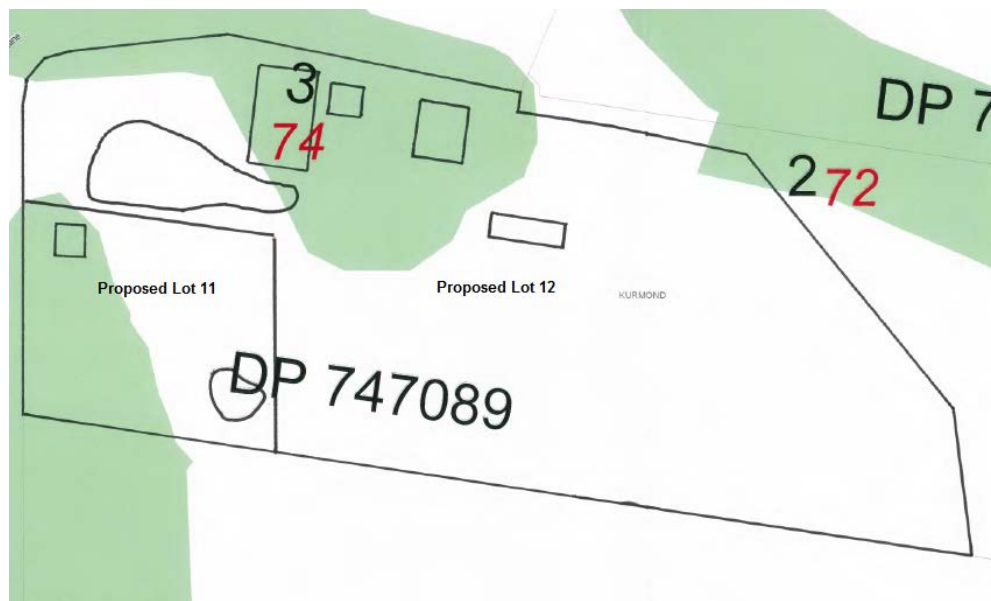


Figure 4 – Mapped Significant Vegetation on the Subject Site



Figure 5 – Aerial Photo of the Subject Site

The significant vegetation is located around the existing dwellings on the subject site. Whilst these dwellings have existed for a considerable period, it is unknown at this stage as to whether or not clearing of vegetation for bushfire protection purposes would be required by the NSW Rural Fire Services. Regardless, clearing for the protection of existing development is not considered unreasonable.

In addition, given that existing dwellings will be located on each resultant lot it is considered that matters of flora and fauna, including the requirements of SEPP 44 will be subject to the usual investigations to be carried out with the lodgement of a development application for any future development.

Access and Transport

The subject site is accessed via Longleat Lane which is connected to Bells Line of Road to the north-east. Public transport is limited to the Westbus Route 680 service between Richmond and Bowen Mountain and Route 682 service along Bells Line of Road between Richmond and Kurrajong. The Route 682 service

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operates every 30 minutes during peak periods. Given the limited frequency of services, future occupants of the proposed subdivision will most likely rely upon private vehicles for travel and transportation purposes.

The planning proposal is not supported by a traffic impact statement and the cumulative impact of similar proposals that may occur in the future has not been taken into consideration by the planning proposal. It is considered that this is a matter for Council and Roads and Maritime Services (RMS) to address with the outcome being incorporated into relevant planning proposals.

In previous reports to Council dealing with other planning proposals within the vicinity of Kurmond and Kurrajong it has been noted that Council has received petitions from residents west of the Hawkesbury River concerned about rezoning of land for residential purposes in the absence of required infrastructure upgrades. It is considered this will be a fundamental matter to be dealt with by Council prior to the finalisation of any planning proposals in the locality as the cumulative impact of these types of development will be unacceptable if no traffic improvements are made. In response to this issue the Applicant states:

"It is envisaged that if this Planning Proposal were to proceed a contribution would be levied on the subdivision for each additional lot created to assist in implementation of traffic infrastructure in the locality. Alternatively, the landowner could enter into a Voluntary Planning Agreement with Council. An amount approximating what might come from the S94 Plan can be levied on the resultant subdivision if the S94 Plan has not at that time been implemented."

Bushfire Hazard

The subject site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The planning proposal is not accompanied by a bushfire assessment report. Given the site is identified as bushfire prone, the planning proposal will be referred to the NSW Rural Fire Service for comment following any 'Gateway' determination from DP&E in accordance with the s.117 Direction 4.4.

Agricultural Land Classification

The site is shown as being Agriculture Land Classification 3 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

"3. Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with sown pasture. The overall production level is moderate because of edaphic factors or environmental constraints. Erosion hazard, soil structural breakdown or other factors including climate may limit the capacity for cultivation, and soil conservation or drainage works may be required."

Given the proximity of the site to surrounding rural residential properties, and the size and slope of the site and its proximity to Kurmond Village, it is considered that it is unlikely the site could be used for a commercially sustainable agricultural enterprise.

Services

The Applicant advises that the site has access to electricity, telecommunication, garbage and recycling services, but does not have access to a reticulated sewerage system or reticulated water.

The planning proposal is not accompanied by a wastewater feasibility assessment report or any other relevant statement or study in relation to the existing systems associated with the two existing dwellings. It is noted that Council records indicate that only the system attached to the main heritage dwelling is registered with Council. In this regard, a detailed assessment will need to be undertaken in relation to proposed Lot 11 to establish whether there is an existing system that is performing satisfactorily, or to demonstrate that this lot can support such a system. It is therefore recommended that a wastewater

feasibility assessment report be requested in this regard. The DP&E will consider this as part of their 'Gateway' determination, and if required will request further information/consideration of this matter.

Heritage

The site is identified as a heritage item under Schedule 5 *Environmental Heritage* of LEP 2012. The Applicant has not provided a detailed assessment in respect to heritage, however advises:

"One of the houses on the site is a listed heritage item within Council's LEP (No 1458 "Longleat"). The visual curtilage around this house is wholly contained in the larger of the two proposed lots. Subdivision as proposed would have no impact on the heritage significance of the house although for the purposes of the LEP heritage map the entire site is contained within the heritage listing."

It is recommended that a heritage assessment identifying the significance of the site, and the house and its curtilage, and an assessment of the impacts a proposed subdivision may have on the significance of the item be requested following a 'Gateway' determination.

Section 94 Contributions or a Voluntary Planning Agreement

The planning proposal will be subject to either a Section 94 Developer Contributions Plan (S94 Plan) or a Voluntary Planning Agreement (VPA).

The Applicant has acknowledged that if the planning proposal is to proceed further, preparation of a Section 94 Developer Contributions Plan or a draft VPA to support the required infrastructure upgrade in the locality as a consequence of the development would be required.

Conformance to Community Strategic Plan

The proposal is considered to be consistent with the Looking after People and Place Directions theme statement, and specifically:

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

Conclusion

Based on the assessment within this report, it is considered that some form of subdivision to support the existing rural residential development on the subject site is appropriate and feasible. It is therefore recommended that Council support the preparation of a planning proposal to allow subdivision of the site into lots having a minimum size of 4,000m² and 2ha.

More specific details and requirements in support of the planning proposal discussed in this report can be addressed following the 'Gateway' determination.

It is also recommended that if the DP&E determines that the planning proposal is to proceed, a S94 Plan or a draft VPA to support the required infrastructure upgrade in the locality to support the development be prepared prior to the finalisation of the planning proposal.

Financial Implications

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The Applicant has paid the fees required by Council's fees and charges for the preparation of a local environmental plan.

If the planning proposal is to proceed further, a draft VPA to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the Applicant in consultation with Council.

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.

RECOMMENDATION:

That:

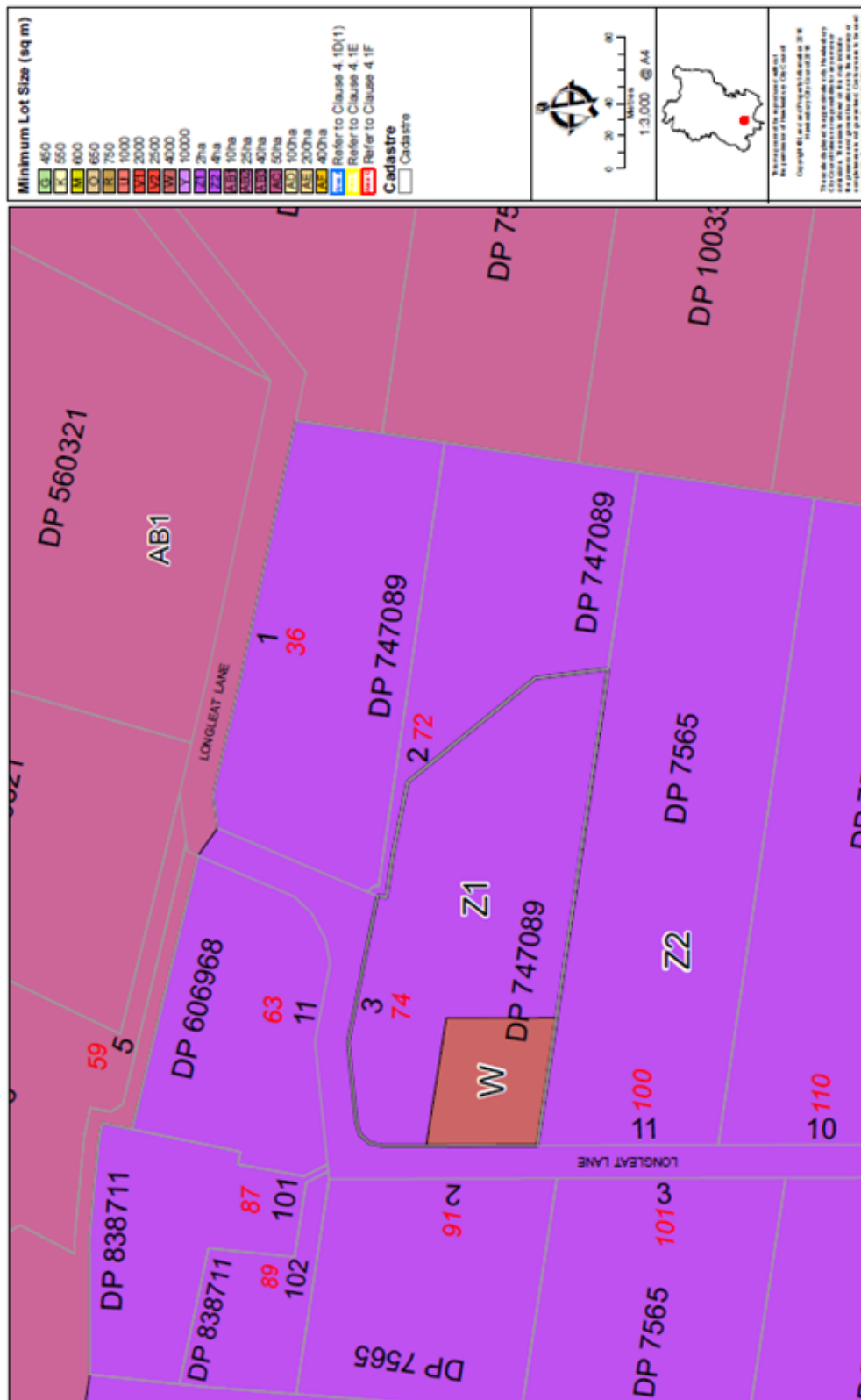
1. Council support the preparation of a planning proposal for Lot 3 DP 747089, 74 Longleat Lane, Kurmond to allow development of the land for rural residential development with minimum lot sizes of 4,000m² and 2ha subject to the submission of further studies for consideration in relation to onsite effluent disposal, bushfire protection and heritage following a 'Gateway' determination.
2. The planning proposal be forwarded to the Department of Planning and Environment for a 'Gateway' determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. The Department of Planning and Environment and the Applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

ATTACHMENTS:

AT - 1 Proposed Minimum Lot Size Map

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AT - 1 Proposed Minimum Lot Size Map



oooO END OF REPORT Oooo

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Item: 170 **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 43 Bootles Lane, Pitt Town - (95498, 124414)**

Applicant Name:	Johnson Property Group
Planning Proposal No:	LEP012/16
Property Address:	43 Bootles Lane, Pitt Town
Owner/s:	Bona Vista Properties Pty Ltd
Date Received:	30 May 2016
Current Minimum Lot Size:	10 Hectares
Proposed Minimum Lot Size:	750m ² and 4ha
Current Zone:	RU2 Rural Landscape
Proposed Zone/s:	Part R2 Low Density Residential, part E2 Environmental Conservation and part SP2 Infrastructure
Site Area:	7.446ha
Recommendation:	Council support the planning proposal and submit to the Department of Planning and Environment for a "Gateway" determination

REPORT:**Executive Summary**

Council has received a planning proposal from Johnson Property Group (the applicant) which seeks to amend the Hawkesbury Local Environmental Plan 2012 (the LEP) to enable potential subdivision of part of Lot 61 DP 1206587, 43 Bootles Lane, Pitt Town (the subject site) into three residential lots, protect significant vegetation on the subject site and reflect the Pitt Town Local Water Centre (LWC) on the subject site through rezoning that part of the subject site to SP2 Infrastructure zone.

This report provides Council with an overview of the planning proposal and recommends that the planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

Consultation

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 (EP&A Act) and associated Regulations, and as specified in the 'Gateway' determination.

Background

On 12 October 2007, the Minister for Planning declared the Pitt Town Residential Precinct as a Major Project and in December 2007, Johnson Property Group lodged a Part 3A Development Concept Plan Application for Pitt Town Residential Precinct. The Concept Plan sought approval for a range of matters relating to future development of the Pitt Town Residential Precinct including a proposed subdivision layout to enable a total of 659 residential lots within the following five residential sub-precincts:

Name of the Sub-Precinct	Proposed Dwelling Yield
Blighton	19
Cleary	112
Thornton	72
Bona Vista	246
Fernadell	210
Total	659

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The subject site did not form part of that Concept Plan.

On 10 July 2008, the Minister for Planning approved the Part 3A Concept Plan for the Pitt Town Residential Precinct, and the Concept Plan has been modified on four different occasions. The details contained in the approved Part 3A Concept Plan was incorporated into the current LEP with its gazettal in September 2012.

Bona Vista Precinct

On 3 May 2007, Council granted development consent for the residential subdivision of the Bona Vista Precinct incorporating 224 residential lots. Council subsequently modified the development consent to allow for 246 residential lots, consistent with the Part 3A Concept Plan for the Pitt Town Residential Precinct.

Planning Proposal

The objectives of the planning proposal is to amend the LEP to:

- enable potential subdivision of part of Lot 61 DP 1206587, 43 Bootles Lane, Pitt Town (the subject site) into three torrens title residential lots with a minimum lot size not less than 750m²;
- protect significant vegetation on the subject site through rezoning that part of the subject site containing significant vegetation to E2 Environmental Conservation zone; and
- reflect and recognise the current Pitt Town Local Water Centre (LWC) land use activity on the subject site through rezoning that part of the subject site containing the LWC to SP2 Infrastructure zone.

A concept subdivision plan attached as Appendix 1 Draft Subdivision Plan of the planning proposal showing the proposed three residential lots as shown in Figure 1 below.

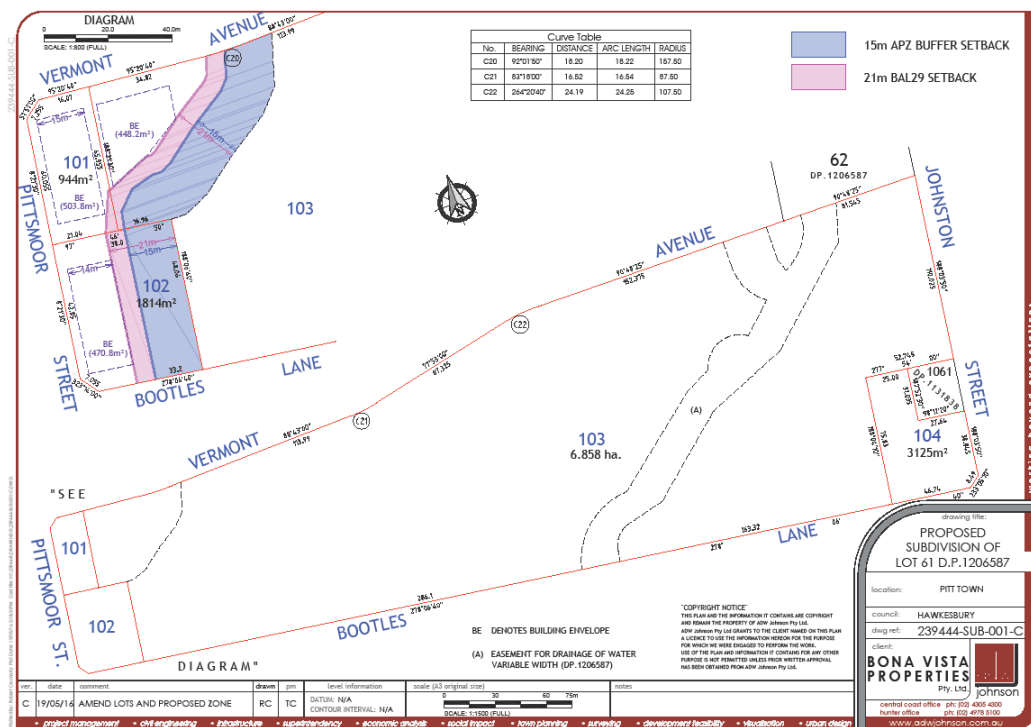


Figure 1: Concept Subdivision Plan

The planning proposal aims to achieve the above proposed outcomes by amending the LEP as follows:

- Amend Land Zoning Map (Map Identification No. 3800_COM_LZN_008C_040_20140501) of the LEP to rezone the subject site from RU2 Rural Landscape to part R2 Low Density Residential, part E2 Environmental Conservation and part SP2 Infrastructure as shown in Attachment 1 of this Report
- Amend the Minimum Lot Size Map (Map Identification No. 3800_COM_LSZ_008C_040_20140808) of the LEP to specify a 750m² minimum lot size for an area of land at the western corner of the subject site identified for future residential purposes, 4ha minimum lot size for the land area proposed for E2 Environmental Conservation and no minimum lot size for the rest of the subject site which is proposed as SP2 Infrastructure as shown in Attachment 2 of this Report.

Subject Site and Surrounds

The site is located within the Pitt Town Residential Precinct. Chapter 4 Pitt Town, Part E of Hawkesbury Development Control Plan 2002 (the DCP) identifies 10 development sub-precincts within the Pitt Town Residential Precinct that provide both urban and rural housing, and the subject site as the Protected Area as shown in Figure 2 below.

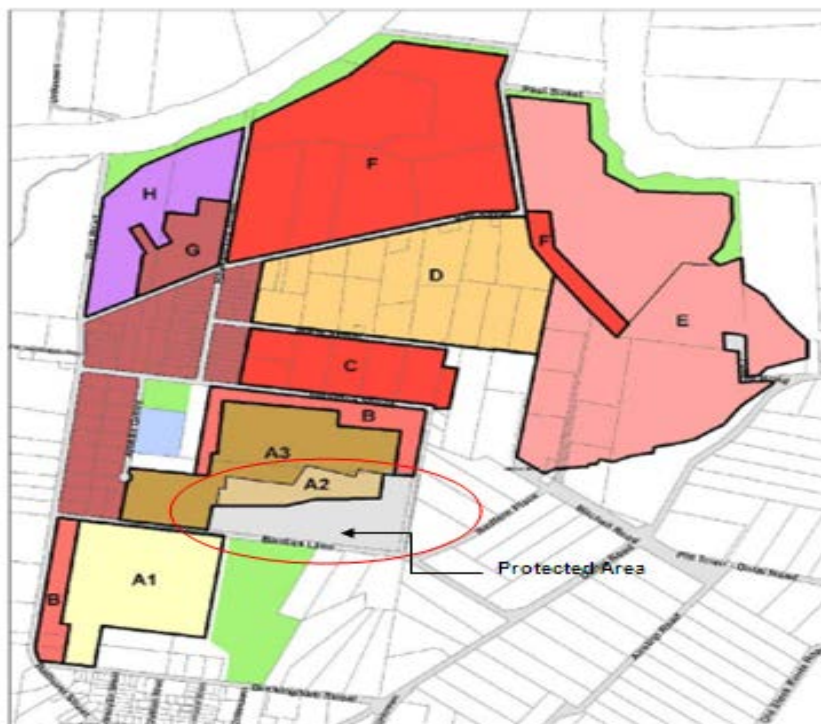


Figure 2: Development Sub-Precincts within Pitt Town Residential Precinct

The site is located within an area known as Bona Vista Precinct which is a new residential subdivision comprising 246 residential lots in the southern part of the Pitt Town Residential Precinct. This subdivision is largely completed with the majority of lots having been developed.

The site is legally described as Lot 61 DP 1206587 and known as 43 Bootles Lane, Pitt Town. The site has an area of 7.446ha, and is bounded by Vermont Avenue to the north, Bootles Lane to the south, Johnston Street to the east and Pittsmoor Street to the west as shown in Figure 3 below.

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Figure 3: Subject Site

The site has a frontage of 105m to Pittsmoor Street, 540m frontage to Bootles Lane, 564m frontage to Vermont Avenue, and 283m to Johnston Street.

The site is currently zoned RU2 Rural Landscape under the LEP, and the current minimum lot size for subdivision of this land is 10ha.

The site has an elevation of approximately 24.5m AHD towards Vermont Avenue, and falls gently down from the north-west towards the south-east.

The site is generally an isolated and fragmented area of urban bushland, but it provides some connectivity to a nearby vegetated area, particularly towards the south-east.

Approximately 90% of the site has been identified as having 'endangered ecological community' and Connectivity between 'Remnant Vegetation' on the Terrestrial Biodiversity Map. The entire site except a cleared grassed area having frontages to Vermont Avenue, Pittsmoor Street and Bootles Lane at the western end of the subject site is covered with significant vegetation.

Other relevant matters from the LEP include:

- The site is flood prone land. However, the entire site other than a small area of the site at the south-east corner is above 1:100 ARI flood level. Hence, *Clause 6.3 Flood planning* of the LEP will apply to future development on the site in addition to Council's Development of Flood Liable Land Policy.
- The site falls within the Middle Nepean & Hawkesbury River Catchment Area of *Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997)*. The site also contains a wetland identified by this SREP.
- The site is shown as containing Agriculture Land Classifications 2 and 3 prepared by the former NSW Department of Agriculture.

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- The whole of the site is shown as being within Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the LEP. Acid Sulfate Soil Classification 5 represents a relatively low chance of acid sulphate soils being present on the site.
- The site is shown as being bushfire prone (Bushfire Vegetation Category 1 and Vegetation Buffer to Category 1 land) on the NSW Rural Fire Service's Bushfire Prone Land Map.

An existing Local Water Centre occupies the south-east corner of the site. A recently constructed swale traverses the site.

The surrounding area is made up of a mix of residential, rural residential and open space land uses. Rural residential properties are located to the south-east and east of the subject site, and to the north and west of the site is a low density residential development within the Bona Vista Residential Precinct. To the south-west is a low density residential development within the Fernadell Residential Precinct, and further to the south is public open space land allocated for future sports facilities to be constructed as part of the Vermont Development as shown in Figure 4 below.



Figure 4: Aerial View of the Subject Site and the Surround

Applicant's Justification of Proposal

The applicant states that Council is currently determining a Section 96 (1a) application seeking a modification to development consent issued in respect of development application (DA0456/09) to reduce the number of lots approved within proposed Stage 6B from 10 lots to seven lots. The approval of the Section 96 (1a) modification will result in the reduction of three lots from the originally approved DA0456/09 for 10 lot subdivision. In support of the planning proposal, the applicant suggests that three lots that are reduced from the abovementioned DA should be able to be relocated, and the main aim of this planning proposal is to relocate those three lots. Therefore, there will be no additional dwelling yield to the overall Pitt Town development. The applicant also advises that the reduction in the number of approved lots is in response to the market demand for larger lot sizes.

The applicant has also provided the following justification for the planning proposal:

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- *The proposed zoning change will provide greater certainty for conservation and long term management of the conservation land.*
- *The land is serviced with the required infrastructure and the proposed residential development can be achieved within the environmental constraints of the site.*
- *Future housing can be sited and designed to meet the requirements for Planning for Bushfire Protection 2006.*
- *The planning proposal will provide additional housing lots and housing choice.*
- *The planning proposal promotes the efficient and economic use of land that is serviced by existing infrastructure and will not reduce the residential development density. The planning proposal is seeking to facilitate a three lot subdivision to enable additional low density housing, which is appropriate for the locality and has access to the necessary infrastructure and services.*
- *The planning proposal will deliver positive environmental outcomes and secure the conservation of the remnant bushland which includes Endangered Ecological Communities.*

A Plan for Growing Sydney and Draft North West Subregional Strategy

A Plan for Growing Sydney was released in December 2014 and is the NSW Government's 20-year plan for the Sydney Metropolitan Area (SMA). It provides direction for Sydney's productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

A Plan for Growing Sydney contains the following Vision for Sydney:

A strong global city, a great place to live.

The Vision is supported by the following four goals and three principles:

- Goal 1: A competitive economy with world-class services and transport
- Goal 2: A city of housing choice with homes that meet our needs and lifestyles
- Goal 3: A great place to live with communities that are strong, healthy and well connected
- Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources

Principle 1: Increasing housing choice around all centres through urban renewal in established areas

Principle 2: Stronger economic development in strategic centres and transport gateways

Principle 3: Connecting centres with a networked transport system

A Plan for Growing Sydney divides Sydney into six subregions: Central; West Central; West; North; South West; and South. The Hawkesbury LGA is in the West subregion along with the Penrith and Blue Mountains LGAs.

The Draft North West Subregional Planning Strategy (the Strategy) was released by the NSW Government in December 2007. The Strategy covers the LGAs of The Hills, Blacktown, Blue Mountains, Hawkesbury and Penrith and sets broad directions for additional dwelling and employment growth.

The Strategies Key Directions are:

- plan to meet employment and housing capacity targets
- develop Penrith as a Regional City
- strengthen the role of centres
- improve access to, from and within the subregion
- protect rural and resource lands
- promote the environmental and scenic qualities of the region
- improve access to open space and recreation opportunities

The Strategy was never finalised and is currently under review.

These two documents have a high level metropolitan and regional focus, and the applicant has provided an assessment of the planning proposal against these two documents and concludes that the planning proposal is consistent with these documents. It is considered that the applicant has provided reasonable justification that the planning proposal is consistent with these State policy documents.

Section 117 Directions

The Minister for Planning, under section 117(2) of EP&A Act, issues directions that relevant planning authorities including councils must comply when preparing planning proposals. The directions cover the following broad range of categories:

- employment and resources
- environment and heritage
- housing, infrastructure and urban development
- hazard and risk
- regional planning
- local plan making
- implementation of a Plan for Growing Sydney.

Section 117 Directions are issued by the Minister for Planning and apply to planning proposals. Typically, the Section 117 Directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal.

However, all these Directions permit variations subject to meeting certain criteria (refer to the last part of this section of the report). The principle criterion for variation to a 117 Direction is consistency with an adopted Local or Regional Strategy.

A summary of the key Section 117 Directions includes:

Direction 1.2 Rural Zones

Planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The planning proposal seeks to rezone the western end of the subject site from RU2 Rural Landscape to R2 Low Density Residential under the LEP to enable a three lot torrens title residential subdivision on that part of the subject site. Therefore, the planning proposal is inconsistent with this direction, and requires an appropriate justification for this inconsistency.

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Appendix 5 Assessment of Consistency with Section 117 Directions of the planning proposal states that the proposal is considered to be of minor significance and the subject site is not used for agricultural production.

It is considered that this information is inadequate to justify this inconsistency.

A cleared grassed area at the western end of the subject site proposed for R2 Low Density Residential zone is relatively small and adjacent to existing low density residential development. Given the predominant land use of the immediate surrounding area is low density residential, the subject site has not been used for agricultural or rural industrial purposes and its close proximity to the Pitt Town Rural Neighbourhood Centre, it is very unlikely that the land would be used for agricultural or rural land uses. The proposed R2 zoning for that part of the subject site with easy access to required infrastructure will enable economical and orderly development of that land and positive land use and environmental outcomes. Therefore, the minor inconsistency of the planning proposal with this direction is justified.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from the DP&E, the Department of Industry would be consulted seeking comments on this matter in accordance with the Direction 1.3(4).

Direction 2.1 Environmental Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas.

The planning proposal seeks an amendment to the LEP to rezone the subject site from RU2 Landscape to part R2 Low Density Residential, part E2 Environmental Conservation and SP2 Infrastructure under the LEP. One of the objectives of the planning proposal is to rezone part of the subject site zoned RU2 Rural Landscape containing significant vegetation to E2 Environmental Conservation to ensure the existing vegetation on the subject site is retained and conserved. It is therefore considered that the planning proposal is consistent with this direction.

Direction 3.1 Residential Zones

Planning proposals must include provisions that encourage the provision of housing that will:

- broaden the choice of building types and locations available in the housing market
- make more efficient use of existing infrastructure and services
- reduce the consumption of land for housing and associated urban development on the urban fringe
- be of good design.

Furthermore, a planning proposal must contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).

The planning proposal will enable development of the site within an established urban residential area for residential purposes and provide the local community with increased housing choice and opportunities in close proximity to the Pitt Town Rural Neighbourhood Centre and community infrastructure and services. This will help reduce the consumption of land for housing and associated urban development on the urban fringe.

Clause 6.7 Essential services of the LEP, makes provisions for essential services. As this clause ensures that all essential services are in place to accommodate future development on the site the planning

proposal does not propose a provision for essential services. Therefore, it is considered that the planning proposal is generally consistent with this Direction.

Direction 3.4 Integrating Land Use and Transport

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for planning and development (DUAP 2001)

In summary this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 "Accessible Development" principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The planning proposal seeks to rezone part of the subject site to R2 Low Density Residential to enable a three lot subdivision on that part of the subject site with reasonable access to public transport system and local services, and in proximity to the Pitt Town Rural Neighbourhood Centre. This will enable increased housing opportunity closer to the existing Pitt Town Neighbourhood Centre, community infrastructure and services. It would also help improve local retail/business activities and services and support growth and change of the existing Pitt Town Neighbourhood Centre.

Given these circumstances, it is considered that the planning proposal is generally consistent with this direction.

Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&E.

The subject site is identified as containing "Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the LEP, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the LEP which has been prepared in accordance with the Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director General.

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soil study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act. An acid sulfate soil study has not been included in the planning proposal but the DP&E will consider this as part of their "Gateway" determination, and if required can request further information/consideration of this matter.

Direction 4.3 Flood Prone Land

The objectives of this Direction are to:

- (a) *ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and*
- (b) *Ensure that the provisions of an LEP on flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.*

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The subject site is flood prone land, and therefore Clause 6.3 Flood planning of the LEP and Council's Development of Flood Liable Land Policy will apply to future subdivision of the subject site.

More than 15% of the site area at the eastern end of the subject site is inundated by flood waters during a 1:100 ARI flood event. It is noted that the proposed SP2 Infrastructure land area and a small area of the proposed E2 Environmental Conservation land is affected by this 1:100 ARI flood event. The proposed R2 Low Density Residential land area within the subject site is above the 1:100 ARI flood level.

A detailed flood impact assessment could be undertaken if required when assessing a future application for the proposed development on the site.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the State Emergency Services (SES) would be consulted seeking comments on this matter.

Direction 4.4 Planning for Bushfire Protection

The subject site is shown as being bushfire prone, containing Vegetation Category 1 on the NSW Rural Fire Service's Bushfire Prone Land Map. This Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

Direction 6.1 Approval and Referral Requirements

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This Direction requires that a planning proposal must:

- "(a) *minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) *not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
 - (i) *the appropriate Minister or public authority, and*
 - (ii) *the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
- (c) *not identify development as designated development unless the relevant planning authority:*
 - (i) *can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
 - (ii) *has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act."*

It is considered that the planning proposal is consistent with this Direction as it does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessarily restrictive site specific planning controls. The planning proposal proposes amendments to the Land Zoning Map and Lot Size Map of the LEP only. It is therefore considered that the proposed amendment is consistent with this Direction.

Direction 7.1 Implementation of 'A Plan for Growing Sydney'

This Direction requires planning proposals to be consistent with 'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy) released in December 2014. 'A Plan for Growing Sydney' is the NSW Government's 20-year plan for the Sydney Metropolitan Area. It provides directions for Sydney's productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

'A Plan for Growing Sydney', which is one of the key issues taken into consideration in the early part of the assessment of the planning proposal establishes that the planning proposal is consistent with this Plan.

State Environmental Planning Policies

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy (SEPP) No. 19 - Bushland in Urban Areas*, *SEPP No. 55 - Remediation of Land*, *Sydney Regional Environmental Plan (SREP) No. 9 - Extractive Industry (No 2- 1995)* and *(SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)*.

State Environmental Planning Policy No. 19 - Bushland in Urban Areas

The general aim of this Policy is to protect and preserve bushland within an urban area. The applicant states that the planning proposal is consistent with the aims of SEPP No. 19 as it will facilitate the protection of remnant bushland on the site, including the critically endangered ecological communities (CEECs), and provide for the long term management and conservation of the subject site. One of the objectives of the planning proposal is to protect and enhance the quality of the remnant bushland on the subject site and facilitate the long term conservation management of the subject site. Therefore, it is considered that the planning proposal is consistent with this Policy.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

SEPP 55 requires consideration as to whether or not land is contaminated and, if so, is it suitable for future permitted uses in its current state or whether it requires remediation. The SEPP may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The planning proposal does not contain adequate information on this matter other than Appendix 4 Assessment of State Environmental Planning Policies of the planning proposal stating that the planning proposal is capable of complying with SEPP No 55.

Council has no records to suggest that the subject site has been used for any intensive agricultural use or any other use identified in Table 1 - Some Activities that may cause contamination of Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land that may require remediation.

However, the DP&E will consider this as part of their "Gateway" determination, and if required can request further information/consideration of this matter.

Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) - (SREP 9)

The primary aims of SREP 9 are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance, and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The site is not within the vicinity of land described in Schedule 1, 2 and 5 of the SREP, nor will the proposed development restrict the obtaining of deposits of extractive material from such land.

Sydney Regional Environmental Plan (SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)

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The aim of SREP No 20 (No. 2 - 1997) is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the SREP encourages Council to consider the following:

- *rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna);*
- *develop in accordance with the land capability of the site and do not cause land degradation;*
- *the impact of the development and the cumulative environmental impact of other development proposals on the catchment;*
- *quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters;*
- *consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored;*
- *consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site;*
- *minimise or eliminate point source and diffuse source pollution by the use of best management practices;*
- *site and orientate development appropriately to ensure bank stability;*
- *protect the habitat of native aquatic plants;*
- *locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land;*
- *consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms;*
- *conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors;*
- *minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices;*
- *consider the impact on ecological processes, such as waste assimilation and nutrient cycling;*
- *consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas;*
- *consider the need to control access to flora and fauna habitat areas;*
- *give priority to agricultural production in rural zones;*

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Figure 6: Current Lot Size Map Extract

Under the current RU2 Rural Landscape zoning, dwelling houses, dual occupancies (attached) and rural workers' dwellings are permitted with consent.

The subject site has an area of 7.446ha, and therefore it cannot be subdivided under the current 10ha minimum lot size for subdivision of the subject site. Given Council has no records to suggest that the subject site has been used for agricultural or rural industrial purposes, a rural worker's dwelling on the subject site would not be approved by Council. Therefore, under the current LEP provisions, the subject site can only be developed for a dwelling house or an attached dual occupancy development.

Therefore, the planning proposal seeks to:

- amend the Land Zoning Map Lot Size Map (Map Identification No. 3800_COM_LZN_008C_040_20140501) of the LEP to rezone the subject site from RU2 Rural Landscape to part R2 Low Density Residential, part E2 Environmental Conservation and part SP2 Infrastructure.

The proposed R2 Low Density Residential zoning is limited to the cleared grassed area at the western end of the subject site having frontages to both Vermont Avenue and Pittsmoor Street, and the proposed SP2 Infrastructure zoning is limited to part of subject site at the south-east corner containing the LWC. The majority of the subject site containing significant vegetation is proposed to be rezoned to E2 Environmental Conservation.

- amend the Lot Size Map (Map Identification No. 3800_COM_LSZ_008C_040_20140808) of the LEP to specify minimum 750m² lot size for the proposed R2 Low Density Residential land area, 4ha lot size for the proposed E2 Environmental Conservation land area and no minimum lot size for the proposed SP2 Infrastructure land area

As shown in Figure 5 above, the properties to the immediate north and west of the subject site are zoned R2 Low Density Residential, properties to the immediate east are zoned RU4 Primary Production Small Lots, and properties to the immediate south are zoned RU2 Rural Landscape, RU4 Primary Production Small Lots and R2 Low Density Residential under the LEP. Given the predominant zoning of the

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immediate vicinity is R2 Low Density Residential, it is considered that the proposed R2 zoning for that part of the subject site at the western end is appropriate.

A range of land uses including dwelling houses, dual occupancies (attached), educational establishments, entertainment facilities, landscaping materials supply, plant nurseries, restaurants or cafes are permitted on the subject site with consent. However, a significant physical constraint with the presence of significant vegetation covering more than 80% of the subject site may severely restrict development of the site for such land uses. Irrespective of this physical constraint, the proposed E2 Environmental Conservation zoning for the majority of the site provides an improved statutory framework and greater certainty to retain the existing vegetation on the subject site, and recognises the importance of the conservation of CEECs and remnant bushland on the subject site.

The proposed rezoning of part of the subject site at the south-east corner to SP2 Infrastructure to reflect the current operation of the LWC on the subject site is also considered appropriate.

Given a mix of surrounding lot sizes ranging from approximately 650m² to 2ha and the proximity to the Pitt Town Rural Neighbourhood Centre, the planning proposal seeking an amendment to the Lot Size Map of the LEP to enable the subdivision of the subject site into three residential lots with a minimum lot size of not less than 750m² is considered appropriate. However, this report does not propose to endorse any subdivision plan submitted in support of the planning proposal.

In addition to the above proposed amendment, it is considered appropriate to insert an appropriate enabling clause in the LEP to limit the maximum residential lot yield of the subdivision of part of the subject site proposed for R2 Low Density Residential to a maximum of three lots with a minimum lot size not less than 750m² consistent with the planning proposal.

Road Access and Traffic Generation

The subject site can only be accessed via Bootles Lane, Pittsmoor Street or Vermont Avenue. Given the maximum residential lot yield is three lots on the subject site there will be no adverse impact on the existing local road network.

Public transport is limited to the Westbus Route 633 service between Windsor and Wisemans Ferry and Windsor and Pitt Town. Given the limited frequency of services, the future occupants of the proposed subdivision will most likely rely upon private vehicles for transportation.

Topography

The subject site has an elevation of approximately 24.5m AHD towards Vermont Avenue, and is fairly flat. According to Council's slope mapping, the entire site area except a narrow strip of land near the north-east corner has a slope less than 10% as shown in Figure 7 below.

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Ecology

[illegible]

Figure 8: Extract of Terrestrial Biodiversity Map

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Council vegetation mapping records the site as containing Shale Plains Woodland and Shale/Gravel Transition Forest which is listed as a Critically Endangered Ecological Community (CEEC) under the *NSW Threatened Species Conservation Act 1995* and under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The planning proposal is accompanied by a flora and fauna survey and assessment report prepared by MJD Environmental. The report states that the preliminary ecological appraisal has confirmed that the site contains endangered entities (flora species and ecological community) and provides habitat for threatened species, populations and ecological communities known to the locality.

A preliminary appraisal of the planning proposal to rezone the site for residential, infrastructure and conservation uses, has determined that a detailed ecological impact assessment is unlikely to result in a significant impact on the existing vegetation on the subject site. The assessment report further states that the impact to the existing vegetation on the subject site shall largely be avoided and the vegetation be secured under E2 conservation zone.

The report concludes that:

"It is considered the proposal to rezone the land will result in a positive environmental outcome and rezoning should be pursued in order to secure the remnant vegetation being that a critically endangered ecological community under an E2 conservation zone".

Bushfire Hazard

The site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map. The planning proposal is accompanied by a preliminary bushfire assessment report prepared by MJD Environmental which concludes that the proposed three lot residential subdivision can be accommodated on the subject site.

The entire Asset Protection Zone (APZ) can be established within the proposed R2 Low Density Residential zone, outside of the indicative building footprints as shown in Figure 9 below. Therefore it is considered that there would be no adverse impact on the existing vegetation within the proposed E2 Environmental Conservation area.

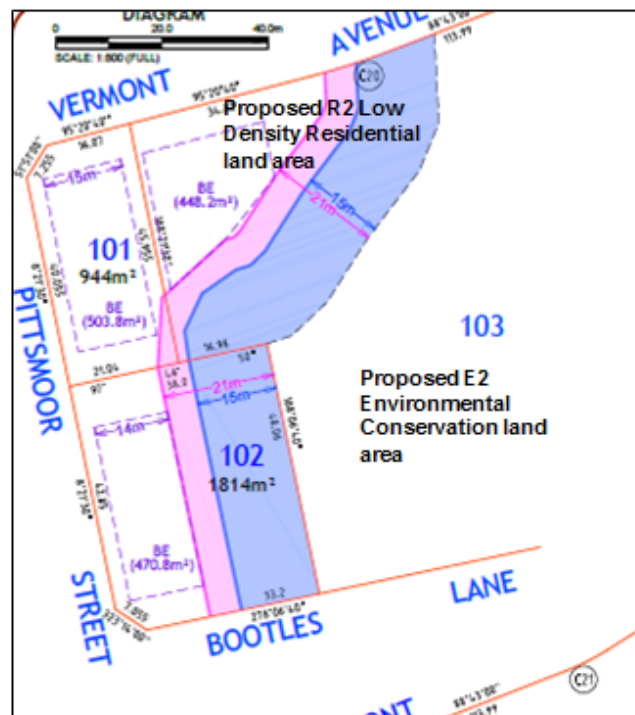


Figure 9: Extract of the Concept Subdivision Plan

However, given the site is identified as bushfire prone, the planning proposal will be referred to the NSW Rural Fire Service (RFS), being the responsible authority for bushfire protection for comments should Council resolve to proceed with the planning proposal and receive a "Gateway" determination advising to proceed with the planning proposal from DP&E.

Agricultural Land Classification

The site is shown as being Agriculture Land Classification 2 and 3 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

- "2. Arable land suitable for regular cultivation for crops but not suited to continuous cultivation. It has a moderate to high suitability for agriculture but edaphic (soil factors) or environmental constraints reduce the overall level of production and may limit the cropping phase to a rotation with sown pastures."
3. Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with sown pasture. The overall production level is moderate because of edaphic or environmental constraints. Erosion hazard, soil structural breakdown or other factors, including climate, may limit the capacity for cultivation and soil conservation or drainage works may be required".

Given the proximity of the subject site to surrounding low density and rural residential development, and the Pitt Town Rural Neighbourhood Centre and the presence of significant vegetation on the majority of the subject site requiring conservation, it is considered that it is unlikely the site could be used for a substantial or sustainable agricultural or rural enterprise.

Character

The immediate locality is characterised by a mix of lot sizes with varying frontages, shapes and sizes.

Smaller lots ranging from approximately 650m² to 800m² are located immediately adjacent in Vermont Avenue and Pittsmoor Street, whilst larger lots are generally located to the east and south as shown in Figure 10 below.

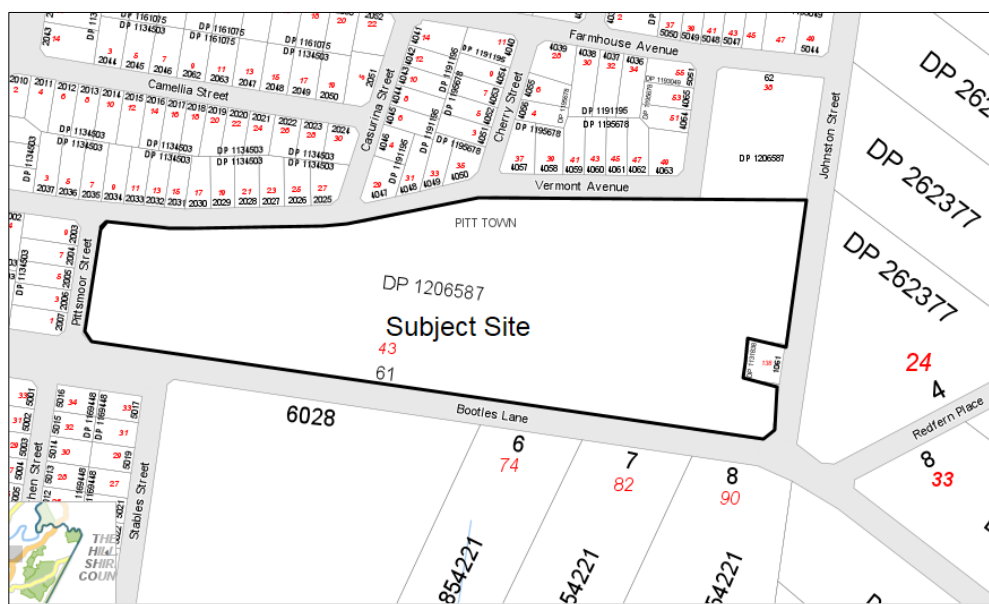


Figure 10: Existing Lot Sizes within the Locality

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The predominant land use character in the immediate vicinity is low density and rural residential as highlighted in Figure 4 above.

Given the predominant low density residential rural residential and character of the immediate vicinity, and a mix of lot sizes ranging from approximately 650m² to 2ha in the immediate vicinity, the intended outcome of the planning proposal to subdivide part of the subject site at the western end of the subject site into residential lots with minimum lot size not less than 750m² is not inconsistent with the existing character of the locality.

Services

According to the applicant, the site has access to the required infrastructure and services to accommodate a residential development on part of the subject site including electricity and telecommunication services.

Heritage

The subject site's frontage to Johnston Street and parts of frontage to Vermont Avenue and Pittsmoor Street is mapped as being along the boundary of the Pitt Town Conservation Area as shown in Figure 11 below.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the NSW Office of Environment & Heritage would be consulted seeking comments on this matter.

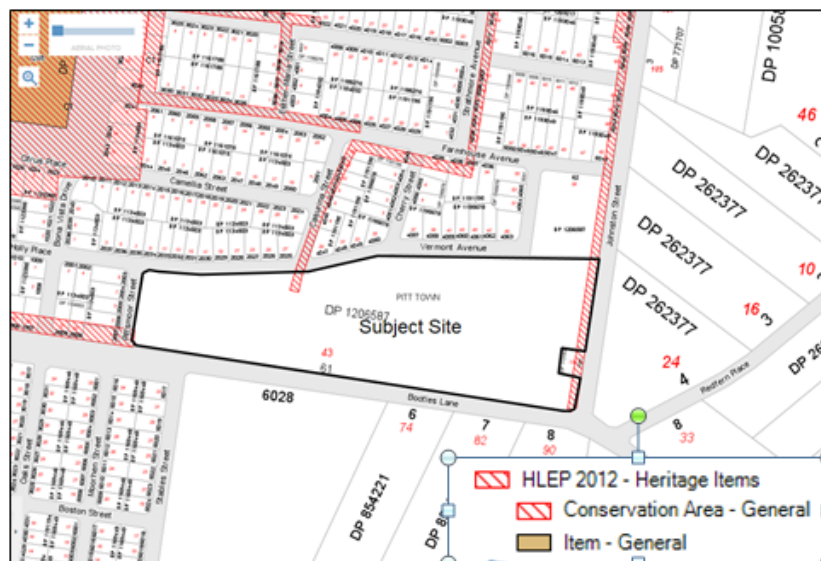


Figure 11: Extract of Heritage Map of the LEP

Flood Evacuation

The applicant states that:

"The majority of the site subject to this proposal, in particular the land area for future residential lots, will be located on land above 1 in 100 flood level. Flood evacuation routes and timeframes were a key consideration of the Concept Plan for Pitt Town and it was found that the provision of 1,000 lots in Pitt Town would not require upgrading of evacuation routes and that the Pitt Town community could be safely evacuated in the available timeframe for a range of flood scenarios. The very minor net increase of two residential lots that could be achieved as a result of the planning proposal is not considered to adversely impact on flooding or flood evacuation".

The first stage of the Hawkesbury-Nepean Valley Flood Management Review completed in 2013 concluded that flood risk will increase with population growth in the Valley. Experience in the Hawkesbury-Nepean Valley has demonstrated that evacuation and emergency management issues need to be addressed upfront in the planning process. 'A Plan for Growing Sydney' requires local planning authorities to undertake an evacuation capacity assessment that considers regional and cumulative issues as necessary prior to rezoning land in the Hawkesbury-Nepean Valley.

As previously mentioned, there will be no net increase of the number of dwellings in the Pitt Town Residential Precinct as a result of this planning proposal. Hence, it is not considered necessary to undertake an evacuation capacity assessment.

Section 94 Contributions

As previously mentioned, the subject site has not been included as potential residential land in the Pitt Town Residential Precinct. If the LEP amendment is made to give effect to this planning proposal enabling subdivision of part of the subject site into three residential lots, Catchment 5 of the Council's Section 94 Contributions Plan will need to be amended to include the subject site.

This proposed amendment to Council's Section 94 Plan will allow Council to require S.94 contributions for any future residential development of the subject site.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is considered to be consistent with the Looking after People and Place Directions statement, and specifically:

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

Conclusion

The planning proposal seeking an amendment to the LEP to enable a three lot residential subdivision, the protection of significant vegetation on a large part of the subject site through an appropriate zoning, and rezoning part of the subject site containing the Local Water Centre (LWC) to SP2 Infrastructure reflecting that land use as detailed in this report is considered to have merit. Hence it is considered worthy of support.

It is therefore recommended that the planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

Financial Implications

The applicant has paid the fees required by Council's fees and charges for the preparation of a local environmental plan.

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

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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.

RECOMMENDATION:

1. Council support the planning proposal for Lot 61 DP 1206587, 43 Bootles Lane, Pitt Town seeking an amendment to *Hawkesbury Local Environmental Plan 2012* to allow development of the subject site as detailed in this report.
2. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.

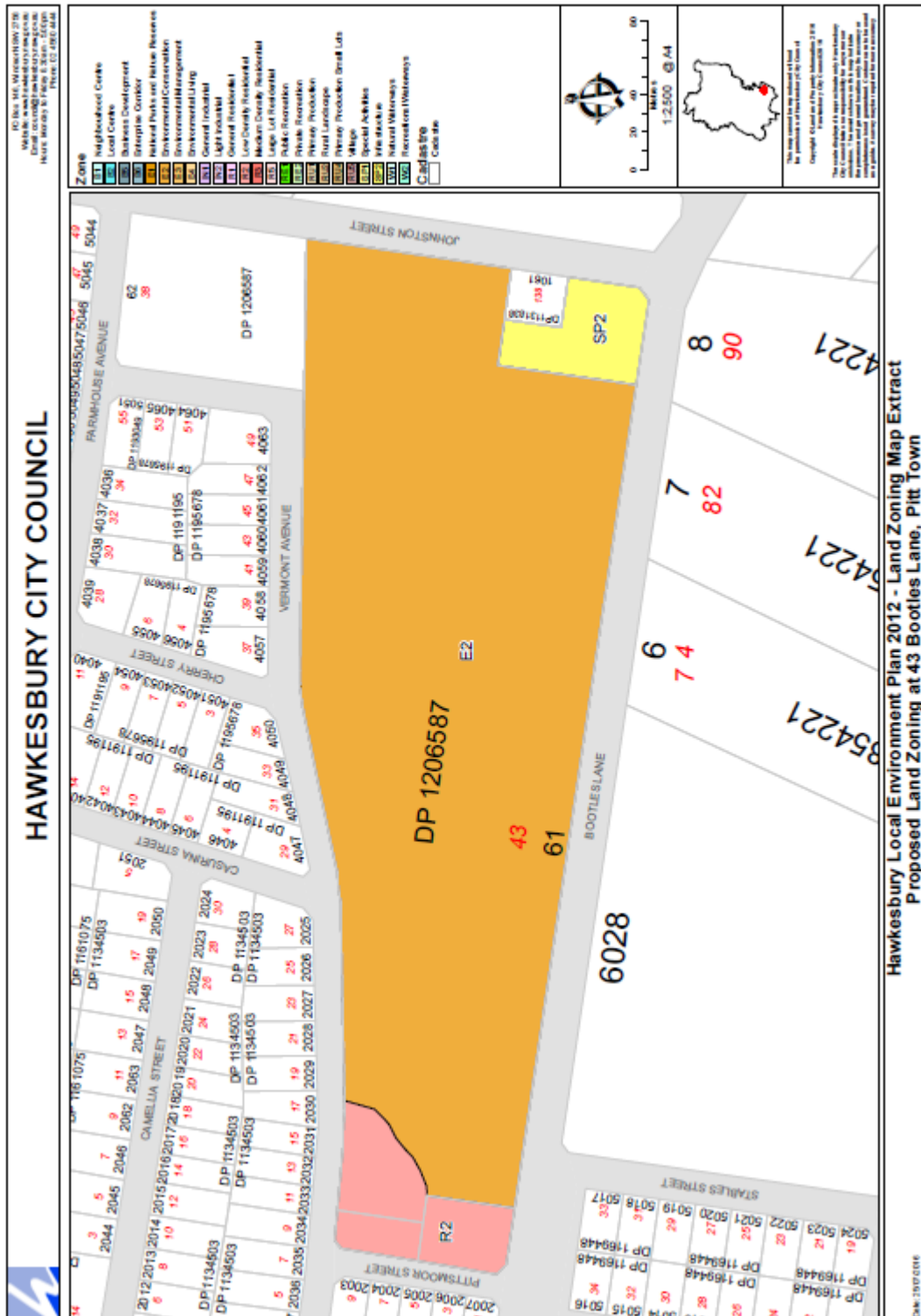
ATTACHMENTS:

- AT - 1** Proposed Amendment to Land Zoning Map
- AT - 2** Proposed Amendment to Lot Size Map

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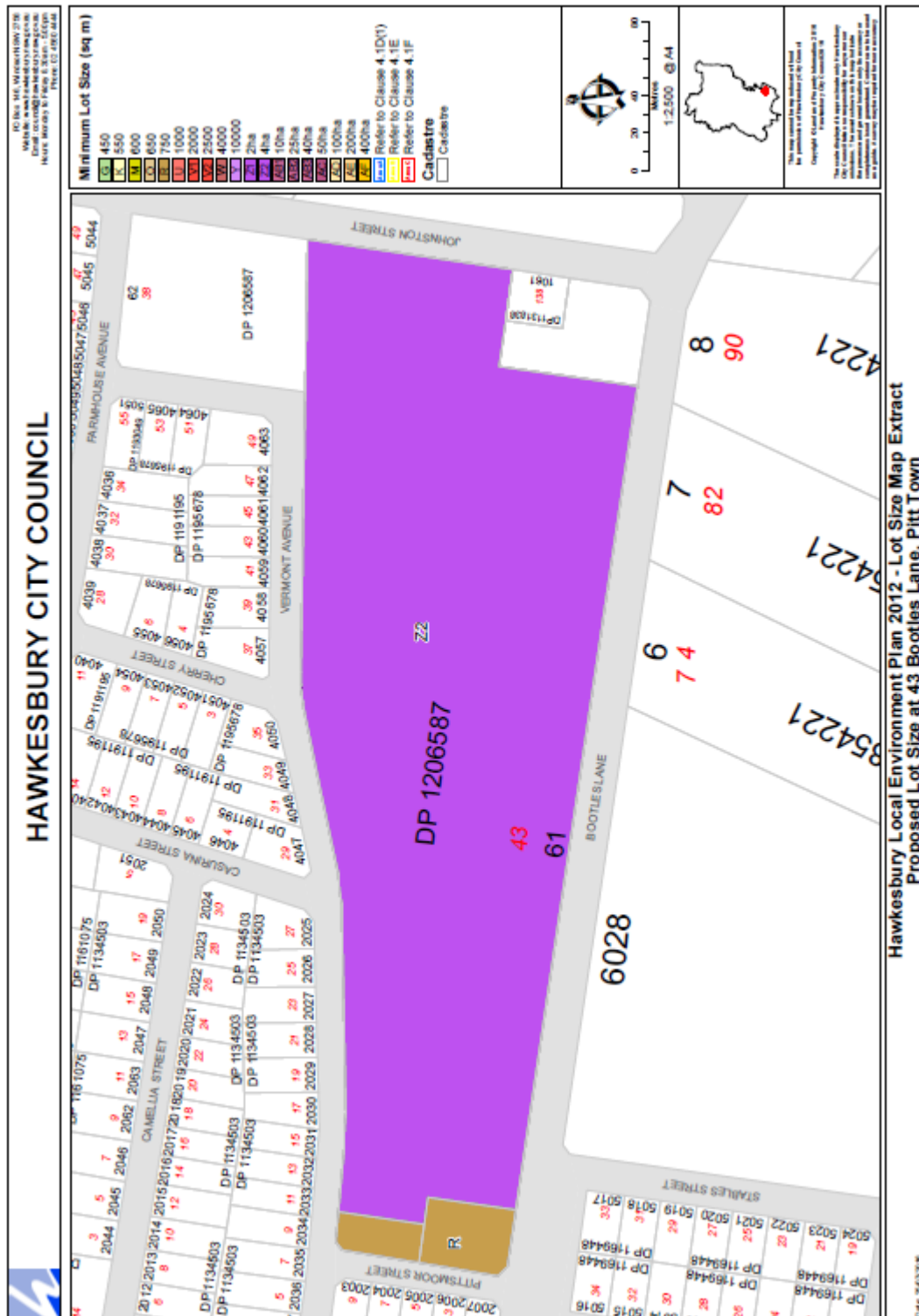
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AT - 1 Proposed Amendment to Land Zoning Map



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AT - 2 Proposed Amendment to Lot Size Map



oooO END OF REPORT Oooo

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GENERAL MANAGER

Item: 171 GM - Submission of Motions - 2016 Local Government NSW Annual Conference (79351, 79633)

REPORT:

Executive Summary

The 2016 Local Government NSW Annual Conference will be held from 16 to 18 October 2016 in Wollongong. This report is in regard to the submission of motions for consideration at the Conference.

Nominations for attendees to the Conference will be reported to Council after the Local Government Election on 10 September 2016.

Consultation

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

Background

The 2016 Local Government NSW (LGNSW) Annual Conference will be held from 16 to 18 October 2016 in Wollongong. The LGNSW has called for motions to be considered at the Conference. LGNSW have requested councils to submit any motions by Monday, 22 August 2016.

The LGNSW Board is seeking ways to ensure the motions debate centres on advancing the sector wide policy agenda in new ways. This means proposed motions should seek to be strategic, affect members state-wide and introduce new or emerging policy issues and actions. Furthermore, LGNSW has recently drafted a revised policy framework consisting of proposed Policy Principles and Position Statements which is outlined in the Policy Review Discussion Paper available at www.lgnsw.org.au/files/imce-uploads/90/LGNSW-Policy-Review-Discussion-Paper.pdf. Members are encouraged to consider the draft policy framework when drafting motions for this year's Conference.

The Board has resolved that motions will be included in the Business Paper for the Conference only where they:

1. Are consistent with the objects of the Association (see Rule 4 of the Association's rules);
2. Relate to Local Government in NSW and/or across Australia;
3. Concern or are likely to concern Local Government as a sector;
4. Seek to advance the Local Government policy agenda of the Association and/or improve governance of the Association;
5. Have a lawful purpose (a motion does not have a lawful purpose if its implementation would require or encourage non-compliance with prevailing laws);
6. Are clearly worded and unambiguous in nature; and
7. Do not express preference for one or several members over one or several other members.

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As Council has not resolved for any motions to be submitted to the 2016 LGNSW Conference in the last 12 months, this report is provided for Council's information.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions Statement;

- Have transparent, accountable and respected leadership and an engaged community.

Financial Implications

There are no funding implications for the submission of motions to the 2016 LGNSW Annual Conference.

RECOMMENDATION:

That the report be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 172 **CP - Delivery Program 2013-2017 - End of Financial Year Progress Report 1 July 2015 - 30 June 2016 - (95498, 124414)**

REPORT:

Executive Summary

The purpose of this report is to inform Council of progress in implementing Council's Delivery Program 2013 - 2017 for the period 1 July 2015 to 30 June 2016.

Consultation

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

Background

Council's Delivery Program 2013-2017 details the principal activities to be undertaken by Council over a four year period to implement the strategies of the Hawkesbury Community Strategic Plan 2013-2032.

Section 404 of the Local Government Act 1993 requires that "*regular progress reports are provided to the council reporting as to its progress with respect to the principal activities detailed in its delivery program. Progress reports must be provided at least every 6 months*". The Delivery Program states that the projects, programs and activities of the relevant Operational Plan will be used as the basis of this report.

The Operational Plan 2015/2016 commenced on 1 July 2015. The table attached as Attachment 1 to this report shows the progress in achieving the Delivery Program activities for the period 1 July 2015 to 30 June 2016.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement:

- Have transparent, accountable and respected leadership and an engaged community.

and is also consistent with the nominated strategy in the CSP being:

- Achieve community respect through good corporate governance and community leadership and engagement

Financial Implications

There are no funding implications from the preparation of this report.

RECOMMENDATION:

That the information be received.

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ATTACHMENTS:

AT - 1 Delivery Program 2013-2017 Progress Report: 1 July 2015 - 30 June 2016 - (*Distributed Under Separate Cover*)

oooO END OF REPORT Ooo

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INFRASTRUCTURE SERVICES

Item: 173 **IS - Tripartite Side Deed - Hawkesbury Gas Contract - Hawkesbury City Waste Management Facility Landfill Gas Flare Operation, Maintenance and Expansion - (95495, 112179)**

Previous Item: 149, Ordinary (8 September 2015)
131, Ordinary (11 August 2015)

REPORT:

Executive Summary

In September 2015 Council entered into a contract with Landfill Gas Industries Pty Ltd (LGI) for the Operation, Maintenance, and Expansion of the Hawkesbury Landfill Gas Flare for a seven year period. As part of the expansion of the landfill gas flare system, LGI will enter into a financial agreement with the Federal Clean Energy Finance Corporation (CEFC). In providing funds to LGI the CEFC has sought a Tripartite Side Deed (Deed) between Council, LGI and the CEFC permitting it to fulfil LGI's duties in the event of default by LGI.

This Deed, as attached as Attachment 1 to this report, has been reviewed by Council's solicitors, with amendments made and agreed between the parties, and is recommended for approval.

Consultation

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

Background

In September 2015 Council entered into a contract with Landfill Gas Industries Pty Ltd (LGI) for the Operation, Maintenance, and Expansion of the Hawkesbury Landfill Gas Flare for a seven year period. The contract included seven years of operations and maintenance of the gas flare system as well as supply and installation of 15 additional landfill gas wells at no cost to Council. In return Council assigned its rights to any Australian Carbon Credit Units capable of being generated from the Landfill Gas Flares operation to LGI.

In March 2016 LGI approached Council seeking approval of a Deed between it, CEFC, and Council. The Deed relates to a financial arrangement entered into by LGI, with CEFC, to progress the supply and installation of gas wells for Council (and other LGI customers). The Deed assigns LGI's contractual obligations with Council to the CEFC in the event that LGI became insolvent or defaulted on its contract with Council. What this means in practice is that if LGI was unable to fulfil its contractual obligations, the CEFC would step in to fulfil these obligations to Council on LGI's behalf.

In ensuring Council's contractual rights with LGI are maintained with this Deed, Council submitted the proposed Deed to Council's solicitors for review and mark up of proposed changes. These changes were forwarded to LGI and CEFC on 9 June 2016. Response was received from the CEFC on 13 July 2016 and a final review by Council's solicitors confirmed that the Deed was in the interest of Council.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Direction Statement:

- Be a place where we value, protect, and enhance the cultural and environmental character of Hawkesbury's towns, villages and rural landscapes

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and is also consistent with the nominated strategy in the CSP being:

- Reduce our environmental footprint through resource and waste management

Financial Implications

The entering into of this contract does not impart any financial obligations on Council.

RECOMMENDATION:

That:

1. The Tripartite Side Deed between Landfill Gas Industries, Clean Energy Finance Corporation and Hawkesbury City Council, attached as Attachment 1 to the report, be endorsed.
2. The Seal of Council be affixed to any necessary documentation.

ATTACHMENTS:

- AT - 1** Tripartite Side Deed – Hawkesbury Gas Contract (Amended) - (*Distributed Under Separate Cover*)

oooO END OF REPORT Oooo

Item: 174 IS - Upgrade and Funding Opportunities for Richmond Tennis Complex - (95495, 79354, 74070)

REPORT:**Executive Summary**

Following submissions to the 2016/2017 Operational Plan, Council requested that further advice be provided on the current condition of the Richmond Tennis Complex and opportunities available to fund the upgrade of tennis court surfaces. Whilst funding is not available in the current Operational Plan this report recommends that Council give in principle support to providing funding in future programs to match grant or other funding that may become available.

The report further recommends that this be subject to the preparation and submission of a business plan addressing long term maintenance and renewal of the courts.

Consultation

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

Background

Council has a lease with Hawkesbury District Tennis Association (HDTA) for the Richmond Tennis Complex. The current lease term is five years expiring in May 2017, with the tenant meeting outgoings (services and garbage) and Council maintaining the building as per normal landlord lease responsibilities relating to structural defects (roof, walls, floors etc) and essential services.

The site comprises 14 courts with synthetic grass surface. Currently, four courts are in poor to fair condition, with two being unsuitable for play due to irregularities.

Preliminary quotations to repair/replace three courts with Plexipave or Plexicushion surfacing have been obtained. The quote for Plexipave is \$106,500 (excluding GST) and for Plexicushion is \$208,500 (excluding GST). The supplier indicated that the surfaces have a minimum life span of five to seven years between resurfacing, subject to use.

It is understood that HDTA has made a grant application under the NSW Government Community Building Partnership scheme, however this has not yet been determined. HDTA is also eligible to apply for grants or low interest loans from Tennis Australia or Tennis NSW.

Discussion

The longstanding relationship between Council and HDTA has been successful in providing tennis facilities for the Hawkesbury community. HDTA have indicated that the sport has evolved to where higher quality hardcourt surfaces are required to develop competition standard players. At the same time facilities still need to be provided for social players (ie. synthetic grass surfaces).

There is a need to ensure that this partnership between the HDTA and Council is structured in a way that ensures its continuity at the same time as providing for the ongoing management and long term replacement of courts and other facilities.

To progress this it is recommended that Council give in principle support for funding in the 2017/2018 budget to provide for renewal of the deteriorated courts matching any grant or loan funds obtained by HDTA to undertake the Plexipave surface on three courts. Given that there are 14 courts in total, a longer term strategy needs to be in place to ensure tennis needs are addressed. The long term renewal of the

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remaining courts (in either plexipave or artificial grass) represents a potential cost of up to \$500,000 on a recurring cycle. Other improvements may also include renewal of lighting.

If Council agrees to assist in funding of the three courts, this would be conditional on the Association providing a business plan to maintain the facility. (This is also a requirement of Tennis Australia for access to their loan facility).

A new lease commencing June 2017 would be negotiated to reflect the nature of the business plan and assign clear responsibility for ongoing maintenance and renewal of the complex.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions Statement;

- Have constructive and productive partnerships with residents, community groups and institutions

and is also consistent with the strategy in the CSP being:

- Make decisions in ways that are transparent, fair, balanced and equitable supported by appropriate resource allocations

Financial Implications

If agreed, a funding provision would be considered in the 2017/2018 Operational Plan to provide for renewal for the Richmond Tennis Complex.

RECOMMENDATION:

That:

1. Council give in principal support to provide matching funding, for any grants received, in the 2017/2018 Operational Plan to provide for renewal of deteriorated courts in the Richmond Tennis Complex.
2. The allocation of the funding be dependent upon a business plan being submitted to Council, to ensure appropriate long term asset management and renewal strategies are in place.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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SUPPORT SERVICES

Item: 175 **SS - Local Government NSW - Request for Contribution to Legal Costs - Cowra Shire Council - (95496, 96333, 82733)**

REPORT:

Executive Summary

Correspondence has been received from Local Government NSW (LGNSW) dated 20 July 2016 requesting financial assistance towards legal costs, incurred by Cowra Shire Council, in a matter before the Land and Environment Court.

This report recommends that Council contribute the amount of \$610.34 towards the legal costs that have been incurred by Cowra Shire Council, in regard to this matter.

Consultation

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

Background

A letter dated 20 July 2016 has been received from LGNSW requesting financial assistance towards legal costs incurred by Cowra Shire Council. The letter states, in part, as follows:

"On 23 February 2016, councils were advised that the Local Government New South Wales Board approved an application made by Cowra Shire Council for legal assistance to defend an appeal matter under the LGNSW Legal Assistance Policy & Guidelines. The LGNSW Board considered that this matter to be of importance to all local government throughout NSW as the appeal relates to the interpretation of councils' powers under the Local Government Act NSW (the Act) and councils' ability to rely on the Act to issue notices and orders where animal welfare issues are not covered by other laws.

"The Land and Environment Court has agreed that councils should be able to issue orders under Section 124 of the Act and the judgement can be viewed via the Court's website – the citation is McCudden v Cowra Shire Council [2016] NSWLEC 14."

It is noted that the LGNSW Board approved the application to assist Cowra Shire Council as it complied with the provisions of the Legal Assistance Policy, and have apportioned the amount of \$610.34 to Hawkesbury City Council.

It is a longstanding convention for Council to assist other councils with contributions to legal costs, where LGNSW approved an application for such assistance. In this way, councils support other councils, and the awareness of legal precedent is available for the benefit of all councils.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- The Council have transparent, accountable and respected leadership and an engaged community.

Financial Implications

Funding is available in Service Account 142 - Legal Services in the 2016/2017 Adopted Operational Plan for a contribution of \$610.34.

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RECOMMENDATION:

That Council contribute the amount of \$610.34, as outlined in the correspondence dated 20 July 2016 from Local Government NSW, towards legal costs incurred by Cowra Shire Council, in a matter before the Land and Environment Court regarding the ability of councils to issue notice orders under Section 124 of the Local Government Act, 1993 on animal welfare issues.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 176 **SS - Implementation of 2015 Hawkesbury Youth Summit Recommendation - Anti-Bullying Program for Hawkesbury High Schools - (95496, 96328)**

Previous Item: 128, Ordinary (11 August 2015)

REPORT:

Executive Summary

This report has been prepared to advise Council of the findings and recommendations of consultations undertaken to determine a preferred anti-bullying program for Hawkesbury high school-aged students. The consultations were conducted in accordance with one of the recommendations of the 2015 Hawkesbury Youth Summit. The report proposes that Council offer high schools a choice of two anti-bullying programs, and allocate funds from the adopted Youth Worker Programs budget allocation to facilitate their implementation.

Consultation

The report outlines the outcomes of a consultation process undertaken pursuant to recommendations from Hawkesbury Youth Summit 2015.

Background

The *Young People – Community Participation and Civic Leadership Report* was commissioned in 2008 in response to a request from Council to identify options for support of youth services and young people to plan and deliver events, programs and activities for young people, and to increase their involvement in Council's policy-making process.

Included in the Report were recommendations relating to the staging and funding of a regular Youth Summit. The first Hawkesbury Youth Summit was held on 24 November 2009, the second on 29 March 2012 and the third on 31 March 2015.

The outcomes of the 2015 Hawkesbury Youth Summit were reported to Council on 11 August 2015. Council resolved to adopt the six recommendations outlined in *The Hawkesbury Youth Summit 2015 Outcomes: 'It Starts With Us' Report*.

One of the recommendations, reproduced below, committed Council to resource and implement a high school anti-bullying program:

"As bullying was identified as an ongoing issue, Council to work with the Risky Business Working Group of the Hawkesbury Youth Interagency to resource a suitable anti-bullying program and make available to all Hawkesbury High Schools. Council also to investigate how this program can be provided to young people not engaged in mainstream education."

Selection of Anti-Bullying Program

Council's Youth Participation Officer (YPO) consulted with the Risky Business Working Group, Schools Partnership Group (collective of local schools, teachers, Welfare & Support Officers) and Hawkesbury Youth Interagency (collective of youth and community service providers) to determine a best-fit anti-bullying program/s.

The Anti-Bullying programs presented as options for local delivery included:

- Beyond A Joke
- Human Sound Project
- Brainstorm Productions

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- Full On Theatre
- Escape From Worryville
- Harmony Solutions
- RRAAW – (Resilience, Respect, And Anti-Bullying Workshops)
- Values For Life
- Oz Taekwondo

The majority of survey respondents indicated a preference for The Human Sound Project or RRAAW.

The Human Sound Project (HSP) facilitates work between a diverse range of students and builds connection, both within groups and between groups, as they listen to each other's stories. The HSP program is delivered as a one-off three hour workshop. The RRAAW Program uses physical education to instil confidence in students through the use of physical exercises based on Martial-Arts techniques.

The RRAAW aims to equip young people with the tools to avoid being bullied, identify early signs of bullying behaviour, and explain and demonstrate to young people some of the skills to defend themselves against bullying or violence. RRAAW is delivered as one 30 minute session per week for 5 weeks.

Proposed response to consultation

The recommendation for Council to resource a suitable anti-bullying program was adopted following the 2015 Youth Summit. To implement this recommendation in accordance with consultation outcomes, it is proposed that Council allocate the financial resources required to have either HSP or RRAAW delivered to up to 60 students in each Hawkesbury high school and non-mainstream educational institution.

The proposal is consistent with the adopted recommendation from Hawkesbury Youth Summit 2015:

“Council to resource a suitable anti-bullying program and make available to all Hawkesbury high schools and young people not engaged in mainstream education”.

Conformance to Community Strategic Plan

The proposal is consistent with the Looking After People and Place Directions Statement:

- Have friendly neighbourhoods, connected communities, and supported households and families;

and is also consistent with the nominated strategy in the CSP being:

- Upgrade the necessary physical infrastructure and human services to meet contemporary needs and expectations.

Financial Implications

The resourcing of HSP or RRAAW to Arndell Christian College, Bede Polding College, Colo High School, Eagle Arts & Vocational College, Hawkesbury High School, Kuyper Christian School, Richmond High School, Windsor High School, and WSTEC McGraths Hill, will cost up to \$15,000.

Funds to fund the proposed programs, as outlined, are available within the 2016/2017 Adopted Operational Plan – Service 112 Community Administration.

RECOMMENDATION:

That Council allocate the funding and implementation of the two preferred anti-bullying programs, as outlined in this report, to be delivered to high schools within the Hawkesbury.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 177 SS - Pecuniary Interest Return - Designated Person - (95496, 96333)

REPORT:

Executive Summary

The Local Government Act 1993 details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Returns by Councillors and Designated Persons. This report provides information regarding a Return recently lodged with the General Manager by a Designated Person. It is recommended that Council note that the Disclosure of Pecuniary Interests and Other Matters Return, lodged with the General Manager, has been tabled.

Consultation

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

Background

Section 450A of the Local Government Act, 1993 relates to the register of Pecuniary Interest Returns and the tabling of these Returns, which have been lodged by Councillors and Designated Persons. Section 450A of the Act is as follows:

- "1. *The General Manager must keep a register of returns required to be lodged with the General Manager under section 449.*
2. *Returns required to be lodged with the General Manager under section 449 must be tabled at a meeting of the council, being:*
 - (a) *In the case of a return lodged in accordance with section 449 (1)—the first meeting held after the last day for lodgement under that subsection, or*
 - (b) *In the case of a return lodged in accordance with section 449 (3)—the first meeting held after the last day for lodgement under that subsection, or*
 - (c) *In the case of a return otherwise lodged with the general manager—the first meeting after lodgement."*

With regard to Section 450A(1), a register of all Returns lodged by Councillors and Designated Persons, in accordance with Section 449 of the Act, is currently kept by Council as required by this part of the Act.

With regard to Section 450A(2), all Returns lodged by Councillors and Designated Persons, under Section 449 of the Act, must be tabled at a Council Meeting as outlined in subsections (a), (b) and (c).

With regard to Section 450(2)(a), the following Section 449(1) Return has been lodged:

Position	Return Date	Date Lodged
Compliance Officer	4 April 2016	6 April 2016

The above Designated Person has lodged their Section 449(1) Return prior to the due date (being three months after the Return Date), as required by the Act for the receipt of the Returns.

The above details are now tabled and the abovementioned Return is available for inspection if requested.

Conformance to the Hawkesbury Community Strategic Plan

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The proposal is consistent with the Shaping Our Future Together Directions statement:

- Have transparent, accountable and respected leadership and an engaged community.

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That the information be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 178 SS - Policy Regarding Payment of Expenses and Provision of Facilities to Councillors - Review - (95496, 96333)**Previous Item:** 206, Ordinary (24 November 2015)**REPORT:****Executive Summary**

Councils are required to adopt a Policy Regarding Payment of Expenses and the Provision of Facilities to Councillors by the Local Government Act 1993 (the Act). The Act requires that the Policy be reviewed and adopted annually.

The annual review of Council's Policy has been undertaken and there are proposed amendments. The report recommends the Policy be placed on public exhibition and the matter be reported back to Council at the conclusion of the exhibition period.

Consultation

Section 253 of the Act details requirements to be complied with prior to a Policy Regarding Payment of Expenses and the Provision of Facilities to Councillors being adopted or amended, and is in the following terms:

- "(1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submission and make any appropriate changes to the draft policy or amendment.*
- (3) Despite subsection (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:*
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and*
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and*
 - (c) a copy of the notice given under subsection (1).*
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252(1) even if the council proposes to adopt a policy that is the same as its existing policy."*

The requirement for public exhibition is also emphasised in the then Division of Local Government Circular 11-27 dated 21 September 2011 - 'Findings from Review of Councillor Expenses and Facilities Policies'.

Subject to Council's approval, the Policy, including the proposed amendments, will be placed on public exhibition in accordance with the requirements detailed above.

Background

The current 'Policy Regarding Payment of Expenses and Provision of Facilities to Councillors' was adopted by Council at its meeting on 25 November 2015, following a public exhibition period. The current policy is available on Council's website and can be accessed through the following link:

<http://council.hawkesbury.nsw.gov.au/masterviewui/user/dwsobject/default.aspx?page=found&1=expenses>

Section 252 of the Act requires each council, within five months after the end of each financial year, to adopt a policy in this regard.

In accordance with the Act, the current Policy has been reviewed and some amendments are proposed. In conducting this review, consideration has been given to relevant policies of other councils, as well as the Guidelines for the Payment of Expenses and Provision of Facilities issued by the then Division of Local Government in 2009 (Guidelines).

The proposed amendments are aimed at ensuring Councillors have a robust framework to support ethical, careful, effective and efficient use of council resources in carrying out their functions, while allowing for Councillors to receive contemporary, adequate and reasonable expense allowances and facilities, to enable them to effectively carry out their civic duties as elected representatives of the Hawkesbury community.

Some document layout amendments, including the addition of specific headings and realignment of some content are also being proposed to facilitate referencing the document and identification of the applicable sections, when and as required.

The proposed amendments, other than those relating to layout and content realignment, are summarised below:

Part 2 – Payment of Expenses

- *Section 1(d)* regarding the claiming for reimbursement of travelling expenses incurred has been amended to include a basis for determining the applicable reimbursement amount and to clarify that travel should be undertaken by utilising the most cost-effective route and mode of travel.

Part 3 – Provision of Facilities

- *Section 2 - During the Term of Council* – A number of amendments are proposed in regard to technology equipment and use thereof with the objective of ensuring Councillors are provided with contemporary equipment available to support their civic duties, in the most cost-effective manner for Council.

The technology equipment to be made available, the respective obligations and entitlements, support to be provided in regard to the set up and on-going management of the equipment and facilities, and the applicable Operational Management Standards (Council's Internal Policies), are proposed to be amended to support the objective above.

In moving with technology change and upgrades, the following amendments are proposed:

- Replacement of individual listed technology accessories with a general statement referring to accessories deemed necessary to conduct Council business. This amendment provides flexibility to adapt to technology changes, as required.

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- Standardisation of the type of computer to be a 'lap top' computer. This type of computer is more cost effective and supports the contemporary preference for mobile devices.
- The removal of specific reference to an electric diary, as such functionality is available through the type of phones provided and iPad.
- The removal of the provision for reimbursement of phone charges where a Councillor/Mayor's place of residence has poor phone reception. This provision is no longer relevant as Council has transferred its mobile phone services to a service provider that provides adequate coverage.
- *Section 3 – Private Use of Equipment and Facilities* - The explanation of the requirement that Councillors should not obtain more than an incidental private benefit from the use of council facilities has been expanded to more accurately reflect the requirements stipulated within the Guidelines.
- *Section 4 (as per current Policy) - Executive Support* has been removed, with the contents therein being transferred to Section 2 – During the Term of Council under the headings of Mayor, Deputy Mayor and Councillors as applicable.
- *Section 4 (in proposed Policy) – Use of Council Resources for Political Purposes* – A new Section has been introduced to expand on the requirement that council resources must not be used for political purposes. This Section reflects the requirements stipulated in the Guidelines.

The reviewed Policy, including the proposed changes detailed above, is attached to this report as Attachment 1.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement:

- Have transparent, accountable and respected leadership and an engaged community;

and is also consistent with the nominated strategy in the CSP being:

- Have ongoing engagement and communication with our community, governments and industries.

Financial Implications

The advertising costs associated with the public exhibition of the Policy will be paid from Service Account 122 – Administrative Services of the 2016/2017 Adopted Operational Plan. Financial implications arising from the payment of expenses and provision of facilities to Councillors, as detailed in the Policy, as proposed, are applicable and are provided for in the 2016/2017 Adopted Operational Plan.

RECOMMENDATION:

That the Policy Regarding Payment of Expenses and Provision of Facilities to Councillors, included as Attachment 1 to the report, be placed on public exhibition for a period of at least 28 days, and that the matter be reported back to Council at the conclusion of the exhibition period, along with any submissions received.

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ATTACHMENTS:

- AT - 1** Draft Policy Regarding Payment of Expenses and Provision of Facilities to Councillors -
(Distributed Under Separate Cover)

oooO END OF REPORT Oooo

ORDINARY MEETING

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Item: 179 **SS - Public Exhibition of Code of Meeting Practice - (95496, 96333)**

Previous Item: 65, Ordinary (12 April 2016)
 21, Ordinary (2 February 2016)
 174, Ordinary (27 August 2013)

REPORT:

Executive Summary

At its Ordinary Meeting on 12 April 2016, Council considered a report regarding changes to Council's Code of Meeting Practice relating to public speakers that were made on 27 August 2013 and resolved to place the Adopted Code of Meeting Practice on public exhibition, seeking submissions for any amendments to the Policy.

In accordance with Council's resolution, the Adopted Code of Meeting Practice was placed on public exhibition.

The purpose of this report is to advise Council of the outcome of the public exhibition process.

Consultation

In accordance with Section 361 of the Local Government Act, 1993, the Adopted Code of Meeting Practice was placed on public exhibition for a period of not less than 28 days; with a period of not less than 42 days after the date on which the Code was exhibited, during which submissions may be made to Council.

Should there be no changes to the document as exhibited, there is no requirement for further public consultation. If, however, Council resolves to make significant changes to the document placed on exhibition, the public consultation requirements in accordance with the Local Government Act, 1993, will apply.

Background

At its meeting on 12 April 2016, Council considered a report, attached as Attachment 1 to this report, regarding changes to Council's Code of Meeting Practice relating to public speakers that were made on 27 August 2013, and resolved, in part:

"That:

2. *The existing Policy be placed on public exhibition in accordance with the Local Government Act 1993, seeking submissions for any amendments to the Policy."*

In accordance with this resolution, the Adopted Code of Meeting Practice was placed on public exhibition commencing on Thursday, 5 May 2016 to Friday, 3 June 2016, with submissions being received up to Friday, 17 June 2016.

As at the closing time for submissions, no submissions were received.

Consequently, no changes are proposed, and the Code of Meeting Practice adopted on 27 August 2013 remains in force.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement:

- Have transparent, accountable and respected leadership and an engaged community;

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and is also consistent with the nominated strategy in the CSP, being:

- Have ongoing engagement and communication with our community, governments and industry.

Financial Implications

There are no financial implications arising from this report.

RECOMMENDATION:

That the report in relation to the public exhibition of Council's Code of Meeting Practice be received and noted.

ATTACHMENTS:

- AT - 1** Hawkesbury City Council report - SS - Code of Meeting Practice - (95496, 96333) - Item 65, Ordinary Meeting - 12 April 2016.

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AT - 1 Hawkesbury City Council report - SS - Code of Meeting Practice - (95496, 96333) -

Item 65, Ordinary Meeting - 12 April 2016

ORDINARY MEETING

Meeting Date: 12 April 2016

Item: 65 **SS - Council's Code of Meeting Practice - (95496, 96333)**

Previous Item: 174, Ordinary (27 August 2013)
 21, Ordinary (2 February 2016)

REPORT:

Executive Summary

This report addresses a decision taken at the Council Meeting on 2 February 2016, seeking a report regarding changes to Council's Code of Meeting Practice relating to public speakers that were made on 27 August 2013.

Consultation

At this stage, the issues raised in this report do not concern matters that require community consultation under Council's Community Engagement Policy. However, if Council proposes to make any substantial amendments to the current Code of Meeting Practice, the amended Code would be required to be placed on exhibition for a minimum period of 28 days, with submissions being received not less than 42 days after the date on which the Code is placed on public exhibition.

Background

Council, at its meeting on 2 February 2016, considered a rescission motion regarding amendments to Council's FFTF proposal, rating structure and Code of Meeting Practice. At that meeting, Council resolved, in part, as follows:

"That Council:

2. *Receive a report regarding the amendment of Council's Code of Meeting Practice to consider the changes made to clauses relating to public speakers at Council meetings as made on 27 August 2013 and as outlined in the Business Paper on 27 August 2013."*

The Council's decision on 27 August 2013 effectively amended the then Code of Meeting Practice that was adopted on 12 October 2010.

Those clauses relating to public speakers in the current Code of Meeting Practice that was adopted on 27 August 2013 are at Part 3.3.7. They are as follows:

"3.3.7 Mode of Addressing Council by the Public

Hawkesbury City Council actively encourages participation of residents in the decision making process and is happy to hear from people regarding matters raised in the Business Paper.

Members of the public may address Council on any items in the business paper other than the Confirmation of Minutes; Mayoral Minutes; Responses to Questions from Previous Meeting; Notices of Motion (including Rescission Motions); Mayoral Elections; Deputy Mayoral Elections; Committee Elections and Annual Committee Reports.

The procedure for addressing Council is as follows:

1. *All persons wishing to speak on an item in the business paper must make an application to do so. Each speaker is required to complete an application form indicating whether they are speaking 'for' or 'against' a recommendation in the business paper by 3.00pm on the day of the meeting.*

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The application form will include an undertaking, to be signed by the person wishing to speak, to comply with their stated intention, i.e. to speak for or against a recommendation in the business paper, and with the provision to: refrain from any insult, allegation or personal reflection against any person, present or not, during the course of their address to Council and any answers they give to questions from Councillors.

Persons intending to apply for approval to address Council must lodge an application form online/email, in person, or by facsimile, by 3.00pm on the day of the meeting to enable scheduling of items. Persons without access to online or facsimile facilities may contact Council by telephone to discuss their application to speak at the meeting.

Notwithstanding the above, the applicant/owner or nominated representative is entitled to speak if an application is made in accordance with this Code and will be granted permission as one of the three positions allocated for or against a recommendation.

2. *A maximum of three speakers 'for' and three speakers 'against' a recommendation are given three minutes each to address Council to support their position. No extensions of time will be given.*
3. *Speakers representing an organisation or group must provide written consent from the identified organisation or group (to speak on its behalf) when registering to speak, specifically by way of letter to the General Manager within the registration timeframe.*
4. *All speakers must state their name, organisation if applicable (after producing written authorisation from that organisation) and their interest in the matter before speaking.*
5. *Speakers who do not speak in accordance with their stated intentions, i.e. 'for' or 'against' shall forfeit the right to continue speaking. If the speaker fails to cease speaking or fails to resume their seat, the Mayor/Chairperson may adjourn the meeting.*
6. *Items subject to public address will be heard in the order in which the Item is listed in the business paper.*
7. *An applicant to a Planning Decision Item is given the right to respond to any new material raised only, for a period of two minutes.*
8. *At meetings where applications for more than 20 addresses to Council have been received, a person should speak only on one item unless granted permission by the Chairperson who will have regard to the circumstances of each case taking into account such factors as the nature of the interest in the matter eg applicant, neighbour, and the number of speakers on the item or collectively on the agenda.*
9. *At the conclusion of an address by a member or members of the public on an item on the agenda, the Council will then proceed to discuss and determine that item and this procedure shall be repeated for each of these items that are subject to an address by a member or members of the public, unless determined otherwise by Council.*
10. *In the case of Extraordinary Meetings (but for the exceptions outlined previously in this Section), Council may resolve to increase the number of speakers permitted to address Council and to amend the normal three minute maximum speaking time, provided that the total amount of time allocated for speakers does not exceed 30 minutes for speakers in favour (for) and 30 minutes for speakers against, in addition to no more than 10 minutes provided for speakers on each side to answer questions from Councillors and no more than five minutes for a right of reply from each side.*
11. *The Chairperson may deal with issues concerning the relevance in debate in accordance with 4.3.2.*

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12. Councillors may ask questions of members of the public who address Council in order to clarify their understanding of the speaker's view or to seek specific additional information. All Councillor questions to, and answers from speakers, are limited to a total time of two minutes per speaker.

Similar to 3.2.7, Councillors should have the same regard for members of the public and put all such questions to speakers directly, succinctly and without argument."

In the Code of Meeting Practice adopted on 12 October 2010, the relevant clauses relating to public speakers were at Part 3.3.8. These are reproduced below:

"3.3.8 Mode of Addressing Council by the Public

Hawkesbury City Council actively encourages participation of residents in the decision making process and is happy to hear from people regarding matters raised in the Business Paper subject to the provisions of Clause 3.3.7 in respect of Questions With Notice. The provisions of this clause shall apply to Ordinary and, subject to resolution of Council as referred to in (7) below, to Extraordinary Meetings of the Council.

The procedure for addressing Council is as follows:

1. *All proponents and respondents wishing to speak must make application on the relevant form indicating whether they are for or against the item prior to the commencement of the meeting. The application form will include a detailed explanation of the provisions of this code relating to maintaining order at meetings. The application form will include an undertaking, to be signed by the person wishing to speak, to comply with these provisions and to refrain from any insult, allegation or personal reflection against any person, present or not, during the course of their address to Council and any answers they give to questions from councillors. Persons intending to apply for approval to address Council must contact the Council by telephone, email, facsimile or in person to indicate their intention prior to 3pm on the day of the meeting to enable appropriate scheduling of items. Where possible persons wishing to address Council are requested to lodge their completed application form with the General Manager by this time. Notwithstanding the above, the applicant/owner or nominated representative is entitled to speak if an application is made in accordance with this Code and will be granted permission as one of the three positions allocated for proponents and supporters.*
2. *The proponent or applicant, supporters or other interested parties to a maximum of three are given five minutes to address Council to support their position. At meetings where applications for fewer than 20 addresses to Council have been received, the Chairperson may, with the consent of the members, grant a two minute extension.*
3. *Respondents are given the opportunity to address Council and are allowed a maximum of three speakers are given up to a maximum of five minutes speaking time each. At meetings where applications for fewer than 20 addresses to Council have been received, the Chairperson may, with the consent of the members, grant a two minute extension.*
4. *The proponent or applicant is given the right to respond to any new material raised only, for a period of two minutes.*
5. *At meetings where applications for more than 20 addresses to Council have been received, a person should speak only on one item unless granted permission by the Chairperson who will have regard to the circumstances of each case taking into account such factors as the nature of the interest in the matter eg applicant, neighbour, and the number of speakers on the item or collectively on the agenda.*

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6. *At the conclusion of an address by a member or members of the public on an item on the agenda, the Council will then proceed to discuss and determine that item and this procedure shall be repeated for each of these items that are subject to an address by a member or members of the public, unless determined otherwise by Council.*
7. *In the case of Extraordinary Meetings, Council may resolve to increase the number of speakers permitted to address Council and to amend the normal five minute maximum speaking time, provided that the total amount of time allocated for speakers does not exceed 30 minutes for speakers in favour and 30 minutes for speakers against, in addition to no more than 10 minutes provided for speakers on each side to answer questions from Councillors and no more than five minutes for a right of reply from each side.*
8. *The Chairperson may deal with issues concerning the relevance in debate in accordance with 4.3.2.*
9. *Councillors may ask questions of members of the public who address Council in order to clarify their understanding of the speaker's view or to seek specific additional information. Similar to 3.2.7, Councillors should have the same regard for members of the public and put all such questions to speakers directly, succinctly and without argument.*

Council may wish to deal with the matters that involve speakers prior to dealing with other matters on the agenda for the convenience of interested parties."

The changes to the Code of Meeting Practice relating to public speakers that were made as a consequence of Council's decision on 27 August 2013 were briefly as follows:

- No speakers on Confirmation of Minutes, Mayoral Minutes, Responses to Questions from Previous Meetings, Notices of Motions (including Rescission Motions), Mayoral Elections, Deputy Mayoral Elections, Committee Elections or Annual Committee Reports
- Speakers restricted to three minutes duration (reduced from five minutes)
- No extensions of time given for speakers
- Speakers representing organisations or groups must provide written authority from the organisation or group when requesting to speak
- Speakers who do not speak in accordance with their stated intention (either "for" or "against") shall forfeit the right to continue
- Items which have persons listed to speak will be dealt with in the order in which the item is listed in the Business Paper
- Councillors may ask questions of members of the public who address Council, with all Councillor questions to, and answers from speakers, being limited to a total time of two minutes per speaker.

The above details are provided as resolved by Council on 2 February 2016.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement:

- Have transparent, accountable and respected leadership and an engaged community;

and is also consistent with the nominated strategy in the CSP, being:

- Have ongoing engagement and communication with our community, governments and industry.

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Financial Implications

There are no financial implications arising from this report.

RECOMMENDATION:

That the report regarding the clauses in Council's Code of Meeting Practice relating to public speakers be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 9 August 2016

Item: 180 **SS - Review of Access and Inclusion Policy - (95496, 96328, 124569)**

Previous Item: 35, Ordinary (13 March 2012)
 265, Ordinary (29 November 2011)

REPORT:

Executive Summary

This report has been prepared to advise Council of proposed amendments to Council's Access and Inclusion Policy, adopted by Council on 13 March 2012. The proposed amendments have been put forward by the Access and Inclusion Advisory Committee and have been drafted to align Council's Policy with the (NSW) Disability Inclusion Act 2014 No 41.

Consultation

The report outlines suggested amendments to Council's Access and Inclusion Policy following consultation with the Hawkesbury Access and Inclusion Advisory Committee (HAIAC). The HAIAC was established to provide advice and guidance to Council on access and inclusion issues. In the main, the proposed amendments to the Access and Inclusion Policy are required to align the Policy with the provisions of the (NSW) Disability Inclusion Act 2014 No 41. Accordingly, the proposed amendments are not substantive in nature and have been reviewed by the HAIAC. While Council's Community Engagement Policy suggests that proposed policy amendments should be placed on public exhibition, in this case, it is considered that the consultation undertaken with the HAIAC would satisfy the intent of Council's Community Engagement Policy, particularly in view of the limited scope of the amendments.

Background

The Disability Services sector in NSW has been moving towards developing a consistent approach to quality assurance to ensure that services are delivered to a standard of quality that meets clients' and community expectations. Ageing, Disability and Home Care (ADHC) now require funded service providers to undertake third party verification performance against the NSW Disability Service Standards (NSW DSS). As Council receives ADHC funding to subsidise the salary of the Community Programs Coordinator, Council underwent a Third Party Verification Audit (TPVA) in July 2015.

While Council passed the TPVA, it was recommended that Council's Access and Inclusion Policy (adopted March 2012) be reviewed to align it with the (NSW) Disability Inclusion Act 2014 No 41. The proposed amendments are highlighted in Attachment 1.

In response to the TPVA, the Access and Inclusion Policy was reviewed by the HAIAC. The proposed amendments reflect the recommendations of the Committee and meet the requirement for the alignment with the (NSW) Disability Inclusion Act 2014 No 41.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement:

- Have transparent, accountable and respected leadership and an engaged community;

and is also consistent with the nominated strategy in the CSP being:

- Achieve community respect through good corporate governance and community leadership and engagement.

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Financial Implications

There are no financial implications applicable to this report.

RECOMMENDATION:

That Council adopt the amended Access and Inclusion Policy, attached as Attachment 1 to this report.

ATTACHMENTS:

AT - 1 (Revised) Access and Inclusion Policy - *(Distributed under separate cover)*.

oooO END OF REPORT Oooo

ordinary

section 4

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 4 - Reports of Committees

ROC - Hawkesbury Access and Inclusion Advisory Committee Minutes - 23 June 2016 - (124569, 96328)

The meeting commenced at 4pm.

Present:	Mr Alan Aldrich, Community Representative Ms Debbie Court, Community Representative Mr Desmond Crane, Community Representative Mr Gary London, Community Representative Ms Carolyn Lucas, Community Representative Ms Mary-Jo McDonnell, Community Representative Ms Melanie Oxenham, Community Representative Ms Terri Mottram, Community Representative Ms Kate Barlow, District Health Service Representative Councillor Leigh Williams, Hawkesbury City Council
Apologies:	Councillor Barry Calvert, Hawkesbury City Council Mr Robert Bosshard, Community Representative Mr Ken Ferris, Community Representative
In Attendance:	Joseph Litwin - Executive Manager - Community Partnerships Meagan Ang - Community Development Co-ordinator Keri Whiteley - Manager Cultural Services Chris Amit - Manager Design & Mapping Services Craig Johnson - Parks Project Officer Jan Readford - Minute Secretary

REPORT:

RESOLVED on the motion of Mr London and seconded by Ms Court that the apologies be accepted.

Attendance Register of Hawkesbury Access and Inclusion Advisory Committee

Member	22/10/2015	26/11/2015	25/2/2016	12/5/2016	23/6/2016
Councillor Barry Calvert	A	✓	✓	A	A
Councillor Leigh Williams	✓	A	A	✓	✓
Mr Alan Aldrich	A	✓	✓	✓	✓
Ms Alison Baidon	✓	A	✓	✓	✓
Mr Robert Bosshard	✓	✓	✓	X	A
Ms Debbie Court	✓	✓	✓	✓	✓
Mr Desmond Crane	✓	✓	✓	✓	✓
Mr Ken Ferris	A	A	A	A	A
Ms Carolyn Lucas	✓	✓	✓	A	✓
Mr Gary London	✓	✓	✓	✓	✓
Ms Melanie Oxenham	✓	A	✓	A	✓
Ms Terri Mottram				✓	✓

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

Mr Litwin referred to General Business and the Committee's resolution regarding the availability of accessible parking in schools and requested the matter be discussed further at this meeting. This matter was referred to General Business.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Ms Baidon and seconded by Mr London that the Minutes of the Hawkesbury Access and Inclusion Advisory Committee held on the 12 May 2016, be confirmed.

Ms Oxenham left the meeting – 5.25pm.

SECTION 2 - Presentations to the Committee

• Capital Works Budget - Cultural Services

Ms Whiteley provided an overview of the 2016/2017 Budget for Cultural Services. The following comments were made by Ms Whiteley in response to suggestions by the Committee:

- Signage for the CCTV magnifier will be displayed during Library refurbishing.
- The acquisition of MP3 players, similar to those provided in other libraries, would require the availability of grant funding, and will be reviewed.
- Ms Mottram advised that Vision Australia loan MP3 players for \$9 per month to those with vision impairment.
- Resources sourced for intellectually impaired with approximately \$10K in grant funds spent to improve the Adult Literacy collection.
- The diverse use of community languages are addressed via the SLNSW service used at the Library.
- Cultural Services will soon have a new website which will be easier to use - patrons will be advised.
- Knowledge in the use of Overdrive can easily be overcome by joining a Library Tech Connect session to get first hand assistance.
- BorrowBox is an easier program to use than Overdrive with more Australian content. The Library will review this application and consider a changeover when the subscription to Overdrive expires.
- The Committee enquired how it could assist the Library. Mr Whiteley asked that the Committee advertise the CCTV magnifier and other resources to its networks.

Ms Ang thanked Ms Whiteley for her presentation to the Committee.

• Options for Relocating Car Parking Spaces and Pedestrian Crossing Installation

Mr Amit gave a presentation on the options relating to car parking spaces in the Kable Street car park and the adjacent installation of a pedestrian crossing providing access to the Kable Street Medical Centre.

Refer to the Agenda Items 1 and 2 within this report.

Ms Ang thanked Mr Amit for his presentation to the Committee.

ORDINARY MEETING
Reports of Committees

- **Governor Phillip Park Upgrade**

Mr Johnson left the meeting at 5.15pm, unable to remain, following an overrun in timing of earlier presentations.

Mr Johnson provided a plan for the Governor Phillip Park Upgrade which was then presented by Ms Ang. If required, Mr Johnson will return to present at a future meeting.

The following comments were noted:

- Upgrade to Windsor foreshore.
- Mr Litwin advised that the primary purpose is to activate the foreshore. Changes will help ameliorate the problem with weeds.
- Ms Ang referred to the proposed new walkway along the edge; the installation of an accessible toilet; playground installation; and advised that the existing slope into the car park cannot be feasibly rectified.
- Mr Johnson will be requested to provide notes to go with the plan.
- The upgrade of the foreshore has been included in the 2016/2017 Budget.
- Mr London and Mr Aldrich noted that access under the bridge has become more restricted.
- Ms Ang advised that car park spaces will be installed near the facilities.
- Mr Aldrich requested that a ryder be added that the surrounds be enhanced with native flora, however, Mr Litwin advised that the plan was for a grassed area.
- Councillor Williams indicated that feedback from people using speed boats indicates that the proposed changes impacting on the foreshore may not be welcomed by them.
- Ms Lucas enquired if there will be provision for fishing i.e. a platform.

Ms Ang will circulate the map showing the proposed Governor Phillip Park Upgrade to the Committee prior to the next meeting.

SECTION 3 - Reports for Determination

Item: 1 HAIAC - Accessible Parking - Car Park on Corner of Kable Street and The Terrace, Windsor - (124569, 96328)

DISCUSSION:

- Mr Amit advised that changes in the Standard for Accessible Car Parking Spaces requires a shared space to be installed between car park spaces to provide easier access. This work will require civil works to be undertaken.
- Mr Aldrich suggested that the accessible parking be located centrally along Kable Street in order to provide easy access to both the adjacent shopping centre and park.
- Mr Aldrich enquired if the Medical Centre should have provided accessible parking. Mr Litwin advised that as the Medical Centre was unable to provide parking, it instead contributed to parking elsewhere.
- Mr Amit advised that it will take five car spaces to install the three accessible car parking spaces required.
- Mr Amit will update the Plan and will forward it to Ms Ang for circulation to the Committee and preparation of a report to Council.

RECOMMENDATION TO COMMITTEE:

That:

1. The information provided in the report be received.
2. The Committee endorse the installation of a pedestrian crossing point on Kable Street.
3. The Committee make representations to Council to request the allocation of funds within Council's Capital Works budget to undertake the works.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Aldrich, seconded by Mr London.

That:

1. The Kable Street Car Park Plan be updated to show the location of three accessible car park spaces, centrally located across from the Kable Street Medical Centre.
2. The Committee make representations to Council to request the allocation of funds within Council's Capital Works budget to undertake the works.

Item: 2 HAIAC - Proposal to Install Pedestrian Crossing Point - Kable Street, Windsor - (124569, 96328)

DISCUSSION:

- Mr Amit also advised that before a pedestrian crossing could be installed across Kable Street, a warrant must be obtained from the Roads and Maritime Services (RMS) by Council.
- Ms Ang advised that Peppercorn Services provide door to door access for clients to the Kable Street Medical Centre, however, issues relating to difficulty in finding suitable parking, and uneven surfaces encountered for wheelchairs across shopping centre and other driveways in the vicinity, have made this problematic for the driver.
- Mr Amit suggested that a pedestrian crossing be installed on Kable Street, adjacent to the new accessible car parking spaces, which would provide direct access to the Medical Centre, as well as the shopping centre.

RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.
2. The Committee endorse installation of a pedestrian crossing point on Kable Street.
3. The Committee make representations to Council to request the allocation of funds within Council's Capital Works budget to undertake the works.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Aldrich, seconded by Mr London.

That:

1. The Kable Street Car Park Plan be updated to show the location of a pedestrian crossing, adjacent to the three accessible car park spaces, to provide access to the Kable Street Medical Centre, and circulated to the Committee.
2. The Committee make representations to Council to request the allocation of funds within Council's Capital Works budget to undertake the works.

Item: 3 HAIAC - Hawkesbury Access and Inclusion Award - (124569, 96328)

DISCUSSION:

- Ms Ang advised that a new category for an Access and Inclusion Award will be introduced into the Hawkesbury Local Business Awards in 2017. The Hawkesbury Local Business Awards are run annually by Precedent Productions. The Committee will be asked to assist with developing the criteria/ categories and to also assist on the Judging Panel and determination of the winner. The Awards presentation night will be held on 7 September 2017 and two committee members will represent the Committee at the Awards.
- Mr Litwin advised if anyone on the Committee would like to nominate an individual or a group, they can forward their nominations to Ms Ang to take to the Committee.
- Mr Aldrich suggested the Committee consider nominating Council for their work in installing the accessible facilities in Ham Common, including the facilities provided at the Hawkesbury Oasis and Aquatic Centre.
 - Ms Baildon referred to the new Specialist Centre in Windsor and the work undertaken to modify the Centre for accessibility as a potential nominee.
 - Ms Lucas referred to the work undertaken by a local pre-school which is worthy of nomination.
- Mr Litwin advised that the Access and Inclusion Awards will be advertised on Council's website and will also be circulated to all groups.

RECOMMENDATION TO COMMITTEE:

That

1. The information be received.
2. The Committee nominate a minimum of two people to judge Award nominations.
3. The judging panel work with Council staff to develop a Judging Criteria.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Ms Court, seconded by Ms Baildon.

ORDINARY MEETING
Reports of Committees

That Ms Ang prepare suggested criteria for the Access and Inclusion Award and forward it to Committee members to promote discussion at the next meeting.

Item: 4 HAIAC - Access and Inclusion Advisory Committee Audits - (124569, 96328)

There were no matters raised at this meeting.

RECOMMENDATION TO COMMITTEE:

That matters raised by the Committee in relation to Access and Inclusion Advisory Committee audits, be noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr London, seconded by Ms Mottram.

That the report be noted and that there were no matters to be raised by the Committee in relation to Access and Inclusion Advisory Committee audits at this meeting.

Item: 5 HAIAC - Progress on Access and Inclusion Plan - (124569, 96328)

DISCUSSION:

- Ms Ang advised that the Hawkesbury Disability Expo will be held on 26 August 2016 at Windsor RSL Club.
- Ms Ang advised that exercise Groups are waiting for signage to be finalised in Ham Common. The existing signage is gold, reflective and very wordy. There are currently no graphics. Council has now engaged the services of another consultant to improve the signage because the supplier is unwilling to upgrade the existing signage. The proper signage will enable people to access it safely and independently.

RECOMMENDATION TO COMMITTEE:

That the matters raised by the Committee relating to the progress of the Access and Inclusion Plan, be noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Aldrich, seconded by Ms Lucas.

That the matters raised by the Committee relating to the progress of the Access and Inclusion Plan, be noted.

SECTION 4 - General Business

- **Accessible Parking in Schools**

Mr Litwin suggested that the Committee, pending the outcome of Council's representations to the State Minister of Education, The Hon. Adrian Piccoli regarding the provision of accessible parking within educational facilities, discuss the various issues that would need to be raised with the schools.

Mr Aldrich suggested that the Access and Inclusion Checklist could be used to assist with evaluating requirements. Ms Lucas confirmed her concerns specifically regarding accessible parking.

In preference to writing to all schools within the Hawkesbury, it was decided that Ms Ang arrange to meet with the Principals of Hawkesbury high schools, in the first instance, commencing with those where there is already an identified need.

Mr Litwin advised that the Committee is only in a position to provide an offer of assistance.

MOTION:

RESOLVED on the motion of Ms Baidon, seconded by Mr London.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That a meeting be arranged with the Principals of Hawkesbury high schools to discuss the provision of accessible parking for safe access to educational facilities.

- **NDIS I/T in Tebbutt Room**

Mr London attended a recent NDIS meeting and noted that the Community Connectors who attended previously, have now been replaced by a Local Area Coordinator.

The positions will be on the ground and working with the community directly on 1 July 2016. The focus at the moment is about moving people in residential care over to a NDIS program. Work with other individuals and groups will not occur until September 2016.

Mr London asked the NDIS Local Area Coordinator to speak at a future Committee meeting, in particular, when they are ready to speak to people for preplanning again.

The meeting terminated at 6.10pm.

Submitted to and confirmed at the meeting of the Hawkesbury Access and Inclusion Advisory Committee held on 25 August 2016.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ordinary

section 5

notices of motion

ORDINARY MEETING

Notices of Motion

ORDINARY MEETING

Notices of Motion

SECTION 5 - Notices of Motion

NM - Drop-in Centre for the Homeless - (79351, 105109, 80093)

Submitted by: Councillor B Calvert

NOTICE OF MOTION:

That Council undertake a study to determine how a drop-in centre for the homeless could be established in Windsor. The study is to include all local groups currently working in this field and is also to consider the likelihood of attracting private funding.

oooO END OF NOTICE OF MOTION Oooo

ORDINARY MEETING

Notices of Motion

ORDINARY MEETING
CONFIDENTIAL REPORTS

QUESTIONS FOR NEXT MEETING

Councillor Questions from Previous Meetings and Responses - (79351)

REPORT:

Questions - 26 July 2016

#	Councillor	Question	Response
1	Lyons-Buckett	Requested an update on any outstanding matters in regard to the development application for 64 Grandview Lane, Bowen Mountain.	The Director City Planning advised that Council currently has a development application (DA0480/16) for alterations and additions to the dwelling on this site. The application was received at Council on 7 July 2016. This application does not require notification under the provisions of the Hawkesbury Development Control Plan (DCP). However, due to the history of this property, under the delegation of the Director the application will be notified to adjoining owners.
2	Paine	Requested an investigation be carried out in regard to compliance matters relating to the business operating from 211 George Street, Windsor.	The Director City Planning advised that Council's records indicate that no complaints have been received regarding this property, however, an investigation will be carried out.

ORDINARY MEETING
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#	Councillor	Question	Response
3	Calvert	Requested an investigation into a 3 hectare subdivision at Kaldow Street, Grose Vale.	The Director City Planning advised that Council received a development application (DA0476/14) on 22 July 2014 for a two lot subdivision at 16-18 Kaldow Lane, Grose Vale. The application was refused under delegated authority on 30 October 2014. A Class 1 Appeal was lodged at the Land & Environment Court on 16 March 2015 and Councillors were notified of this Appeal on 26 March 2014. On 25 August 2015 the Land & Environment Court issued a Deferred Commencement consent for the subdivision. The Deferred Commencement matter was satisfied and on 13 January 2016 an operational development consent was issued.
4	Rasmussen	Enquired if it is possible for Council to conduct a Council poll in accordance with Clause 14 of the Local Government Act 1993, to establish the community's view on a third crossing of the Hawkesbury River, between Richmond Bridge and Windsor in lieu of the two lane bridge.	The Acting Director Support Services advised that in accordance with Clause 14 of the Local Government Act 1993, Council may take a poll of electors for its information and guidance on any matter. A Council resolution is required to conduct a poll. If the question at the poll is carried, Council is required to make a determination as to the manner in which it wishes to proceed. If the poll was to be held in conjunction with the Hawkesbury Local Government Election on Saturday, 10 September 2016, the poll question would need to be advised to the NSW Electoral Commission by 10 August 2016 and would cost in the order of \$33,000. If a poll was to be held separate to the election, it is estimated it would cost in the order of approximately \$330,000.

ORDINARY MEETING
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#	Councillor	Question	Response
5	Williams	Enquired if new signs at Court Street, Windsor could be erected stating 'Residents Excepted'.	The Director Infrastructure Services advised that the turn restrictions are the responsibility of RMS. Whilst under the Australian Road Rules a resident exception is technically possible, RMS would need to consult with Police to implement this change. In considering support for such a change it is likely that Police will have regard for the level of resourcing necessary to enforce an exemption.

oooO END OF REPORT Oooo

ORDINARY MEETING
CONFIDENTIAL REPORTS

ORDINARY MEETING
CONFIDENTIAL REPORTS

CONFIDENTIAL REPORTS

Item: 181 **IS - Tender No. 00980 - Mowing and Maintenance of Parks and Reserves - (95495, 79354) CONFIDENTIAL**

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)(d) of the Act as it relates to details concerning tenders for the supply of goods and/or services to Council and the information is regarded as being commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret 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

Item: 182 **IS - Tender No. 00982 - Maintenance of Automatic Shutters and Gates to Various Sites and Automatic Sliding Doors to Various Sites - (95495, 79340)**
CONFIDENTIAL

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)(d) of the Act as it relates to details concerning tenders for the supply of goods and/or services to Council and it is considered the information is regarded as being commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret 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

Item: 183 IS - Tender No. 00984 - Maintenance of Gravel Roads and Associated Works -
(95495, 79344) **CONFIDENTIAL**

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)(d) of the Act as it relates to details concerning tenders for the supply of goods and/or services to 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

Item: 184 **IS - Tender No. 00985 - Construction of a New Fire Shed for Tennyson Rural Fire Brigade - (95495, 79340, 73598) CONFIDENTIAL**

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)(d) of the Act as it relates to details concerning tenders for the supply of goods and/or services to Council and the information is regarded as being commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret 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
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MM - Staff Matter - Leave of Absence of Acting General Manager (79351) CONFIDENTIAL

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)(a) of the Act as it relates to personnel matters concerning particular individuals (other than councillors).

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
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