



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 29 November 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

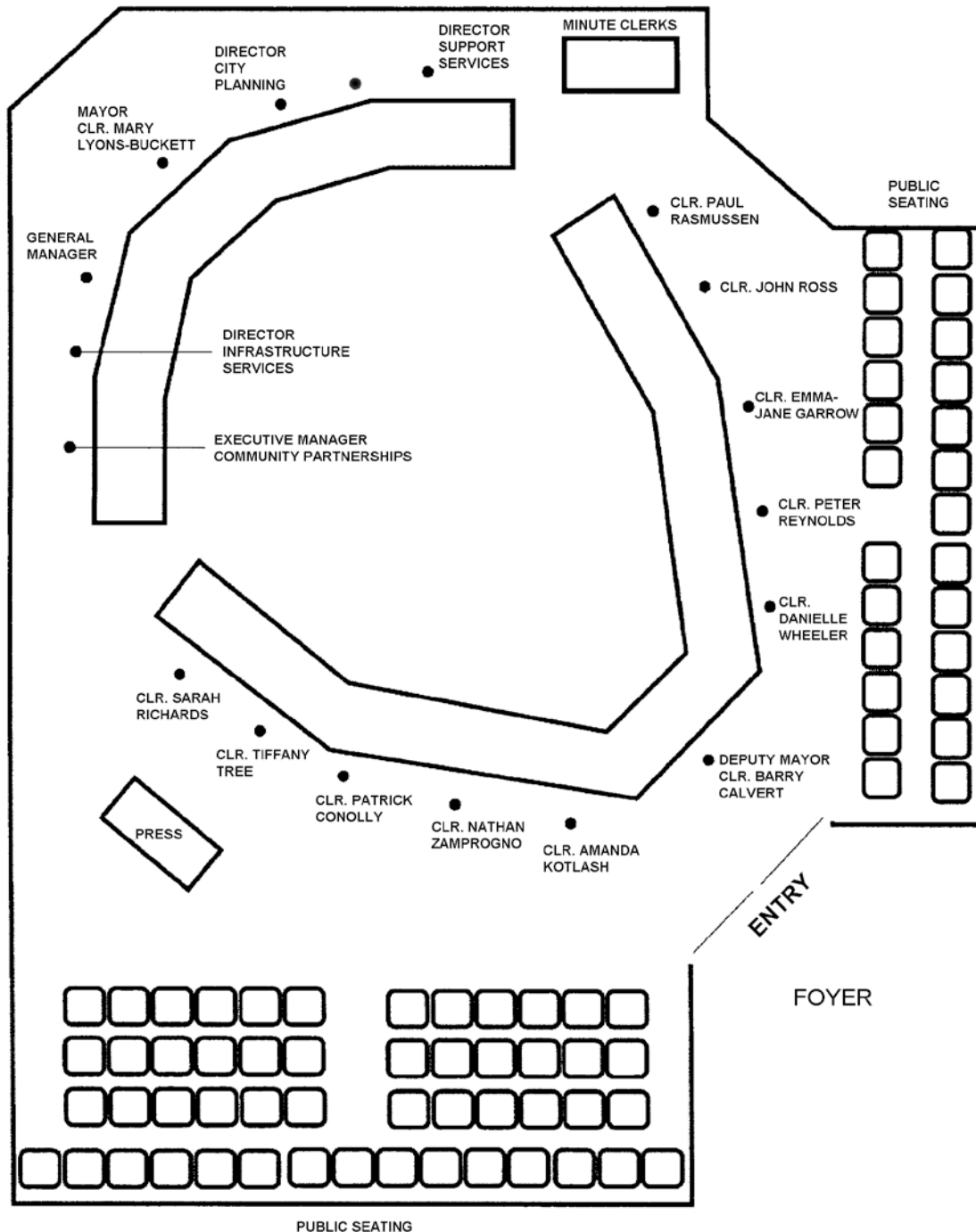
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>.

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.

Hawkesbury City Council



ORDINARY MEETING

Table of Contents

Meeting Date: 29 November 2016

AGENDA

- **WELCOME**
 - Prayer**
 - Acknowledgement of Indigenous Heritage**
- **APOLOGIES AND LEAVE OF ABSENCE**
- **DECLARATION OF INTERESTS**
- **SECTION 1 - Confirmation of Minutes**
- **ACKNOWLEDGEMENT OF OFFICIAL VISITORS TO THE COUNCIL**
- **SECTION 2 - Mayoral Minutes**
- **EXCEPTION REPORT - Adoption of Items Not Identified for Discussion and Decision**
- **SECTION 3 - Reports for Determination**
 - Planning Decisions**
 - General Manager**
 - City Planning**
 - Infrastructure Services**
 - Support Services**
- **SECTION 4 - Reports of Committees**
- **SECTION 5 - Notices of Motion**
- **QUESTIONS FOR NEXT MEETING**
- **REPORTS TO BE DISCUSSED IN CONFIDENTIAL SESSION**

ORDINARY MEETING

Table of Contents

Meeting Date: 29 November 2016

ORDINARY MEETING**Table of Contents****Meeting Date:** 29 November 2016**TABLE OF CONTENTS**

ITEM	SUBJECT	PAGE
SECTION 1 - Confirmation of Minutes		3
SECTION 3 - Reports for Determination		7
PLANNING DECISIONS		7
Item: 250	CP - DA0074/15 - 11 Hanckel Road, Oakville - Lot 11 DP416762 - Landscaping Material Supplies - (94598, 133379, 128521)	7
Item: 251	CP - DA0455/15 - 31A Flinders Place, North Richmond - Lot 2 DP1010228 - Multi Dwelling Housing - (94598, 88858, 36645, 36644)	32
Item: 252	CP - DA0685/15 - 64 Grandview Lane, Bowen Mountain - Lot A DP416762 - Dual Occupancy - (94598, 120744)	46
Item: 253	CP - LEP002/14 - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 1420 Kurmond Road, Kurmond - (95498, 124414)	58
Item: 254	CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 43 Bootles Lane, Pitt Town - (95498, 124414)	95
Item: 255	CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - Lots 431 and 432 DP 1189536, 431 and 431A Greggs Road, Kurrajong - (95498, 124414)	107
GENERAL MANAGER		134
Item: 256	GM - Sydney West Planning Panel - Re-appointment of Council Nominees - (79351, 117061)	134
CITY PLANNING		136
Item: 257	CP - Kurmond and Kurrajong Investigation Area Survey Results - (95498, 124414)	136
Item: 258	CP - Local Heritage Assistance Fund 2016/2017 - Minor Improvements/Conservation Works to Heritage Listed Commercial Properties in Windsor and Richmond Historic Townships - (95498, 124414)	169
INFRASTRUCTURE SERVICES		172
Item: 259	IS - Location of a Variable Message Sign Within Richmond Park - (95495, 79354)	172
Item: 260	IS - Road Naming Proposal Associated with DA0205/12 Agnes Banks - (95495, 79346)	177

ORDINARY MEETING**Table of Contents****Meeting Date:** 29 November 2016

ITEM	SUBJECT	PAGE
SUPPORT SERVICES		180
Item: 261	SS - Monthly Investments Report - October 2016 - (95496, 96332)	180
Item: 262	SS - Community Sponsorship Program - 2016/2017 - Round 2 - (96328, 95498)	184
Item: 263	SS - Pecuniary Interest Return - Designated Persons - (95496, 96333)	191
Item: 264	SS - Proposed Licence Agreement - Girl Guides Hall, Holland's Paddock Windsor - (95496, 96328)	193
Item: 265	SS - September 2016 Quarterly Budget Review Statement - (95496, 96332)	197
SECTION 4 - Reports of Committees		203
ROC	Local Traffic Committee - 14 November 2016 - (80245)	203
SECTION 5 - Notices of Motion		249
NM	Use of exotic animals in circus events in the Hawkesbury LGA - (79351, 138882)	249
QUESTIONS FOR NEXT MEETING		255
Councillor Questions from Previous Meetings and Responses - (79351)		255
CONFIDENTIAL REPORTS		257
Item: 266	IS - Tender No. T00048 - Construction of Two Bridges on Upper Macdonald Road, Higher Macdonald - (95495, 79344) CONFIDENTIAL	257

ordinary

section 1

confirmation of minutes

ORDINARY MEETING
Confirmation of Minutes

ORDINARY MEETING
Confirmation of Minutes

SECTION 1 - Confirmation of Minutes

ORDINARY MEETING
Confirmation of Minutes

ordinary

section

3

reports
for determination

ORDINARY MEETING

Meeting Date: 29 November 2016

ORDINARY MEETING

Meeting Date: 29 November 2016

SECTION 3 - Reports for Determination

PLANNING DECISIONS

Item: 250 **CP - DA0074/15 - 11 Hanckel Road, Oakville - Lot 11 DP416762 - Landscaping Material Supplies - (94598, 133379, 128521)**

Development Information

File Number: DA0074/15
Property Address: 141 Hanckel Road, Oakville
Applicant: Mr C Jones
Owner: Mrs AR Jones
Proposal Details: Landscaping Material Supplies
Estimated Cost: \$120,0000
Zone: RU4 Primary Production Small Lots
Date Received: 17 February 2015
Advertising: 2 to 16 March 2015 and 12 to 26 October 2015

Key Issues: ♦ Categorisation and Permissibility
 ♦ Amenity Impacts

Recommendation: Approval

REPORT:

Executive Summary

This application seeks Council approval for earthworks, the construction of a shed, outdoor storage area, car park and driveway, and the operation of a landscaping material supplies premises at 141 Hanckel Road, Oakville.

The proposal involves the operation of a 'Pondscape' business involving the storage and sale of landscape materials, supplies and equipment associated with the construction of ornamental dams and ponds. The business would display and sell pond linings, pumps, filters, packaged aggregates, rocks, gravel and plants.

Operating hours of 7am to 5pm Monday to Friday and 8am to 4pm on Saturdays are nominated for the landscaping material supplies business. The business is to be closed on Sundays.

A total of 21 submissions, including a petition containing 30 signatures, were received in response to the notification of the development raising concerns with respect to permissibility, traffic and amenity impacts.

The proposed development is permissible within the zone as a 'landscaping material supplies' premises. The bulk, scale, height and setbacks of the building are considered acceptable within the context of the locality and conditions may be imposed in relation to the operation of the business to address potential amenity impacts. On these grounds the proposal is seen to be acceptable and the application is recommended for conditional approval.

The application is being reported to Council based on the nature of the development and the number of submissions received.

ORDINARY MEETING

Meeting Date: 29 November 2016

Development Description

Pursuant to Section 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's approval for the construction and operation of a landscaping material supplies premises at the subject site.

The proposal involves the following:

- The cutting and filling of land to accommodate a shed, outdoor storage area and parking. A maximum cut of 1.7m and maximum filling of 1.2m is proposed to accommodate the development.
- The construction of a new compacted road base driveway. This driveway is to be located 8m setback from the shared western boundary with 133 Hanckel Road and is to replace an existing central driveway.
- The construction of a shed-style building with dimensions of 30m by 15m, resulting in a total floor area of 450m². This landscaping material supplies building is to have a wall height of 6m and a ridge (total) height of 8.4m. This building is to contain an office, kitchen, toilets and a display/storage/cutting area.
- The construction of an external landscape supplies storage and a car park consisting of six spaces.
- The operation of a landscaping material supplies premises.

The submitted documentation indicates that the premises are to be used for the storage and sale of landscape materials, supplies and equipment associated with the construction of ornamental dams and ponds. The use would involve the display and sale of pond linings, pumps, filters, packaged aggregates, gravel and plants. The application indicates that aggregates such as sand, soils and mulches will be sold in bags, whilst other materials will be palletised.

The business is to operate between the following hours:

Monday to Friday:	7am to 5pm
Saturday:	8am to 4pm
Sunday:	Closed.

Up to three staff may be employed onsite at any one time.

The documentation suggests that semi-trailers would deliver pond lining once every six to eight weeks, with other deliveries made by Medium Rigid Vehicles (MRV) approximately five times a week. Two MRV would operate as a part of the business making deliveries to customers. Materials, supplies and equipment may also be collected directly by customers.

The subject property is burdened by the Sydney West 330KV high voltage transmission lines and easement which are owned and operated by TransGrid.

Background Chronology

- The application was lodged 17 February 2015 and was originally notified between 12 and 16 March 2015.
- Additional information and amended plans were requested from the Applicant on 22 May 2015.
- Amended plans and a response to submissions were received on 15 September 2015. With the submission of the amended plans the application was re-notified from 12 to 26 October 2015.
- On the 22 December 2015 the Applicant was advised that the amended plans did not adequately identify the location of the development and its proximity to the high voltage transmission lines and easement onsite.
- Plans regarding the location of the development and the transmission line easement were supplied by the Applicant on 14 January 2016. A survey plan was also provided on 18 February 2016.
- The application and associated documentation was referred to TransGrid for comment on 23 February 2016.
- TransGrid requested additional information from the Applicant on 10 March 2016. A follow-up email from Council was sent 5 April 2016.

ORDINARY MEETING

Meeting Date: 29 November 2016

- A response to the matters raised by TransGrid and a survey were provided by the Applicant on 12 April 2016. Further information was also supplied by the Applicant on 27 April 2016.
- Comments providing conditional approval from TransGrid were received on 6 June 2016.

Site and Locality Description

The subject property is located on the northern side of Hanckel Road, opposite Bocks Road to the south. The property has a site area of approximately 2.43Ha and currently contains a dwelling house, shed and dam. Two existing vehicular crossings provide access to the dwelling house and the property.

The property is burdened by high voltage transmission lines and an easement which are owned and operated by TransGrid.

Surrounding development generally consists of rural residential, rural and agricultural land.

Legislation, Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan (LEP) 2012
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- 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 (DCP) 2002

Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the EP&A Act.

i. Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 2012

The subject property is zoned RU4 Primary Production Small Lots under the Hawkesbury LEP 2012.

The Hawkesbury LEP 2012 contains the following definition for landscaping material supplies:

"landscaping material supplies means a building or place used for the storage and sale of landscaping supplies such as soil, gravel, potting mix, mulch, sand, railway sleepers, screenings, rock and the like."

The proposed development involves the storage and sale of landscape materials, supplies and equipment associated with the construction of ornamental dams and ponds. This would involve the display and sale of pond linings, pumps, filters, sand, soil, mulches, rocks, gravel and plants. On this basis the proposed use satisfies the above definition of landscaping material supplies.

Landscaping material supply premises are permissible within the RU4 Primary Production Small Lots zone. The proposed access driveway, building and other structures are permissible on the basis that they are associated with and ancillary to the primary landscaping material supplies use.

The Hawkesbury LEP 2012 establishes the following objectives for the RU4 Primary Production Small Lots zone:

- to enable sustainable primary industry and other compatible land uses
- to encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature

ORDINARY MEETING

Meeting Date: 29 November 2016

- to minimise conflict between land uses within this zone and land uses within adjoining zones
- to ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.

The proposed development generally satisfies the objectives of the RU4 Primary Production Small Lots zone in that the use is permissible and will not significantly impact upon the environment.

Nearby properties are generally used for rural residential and agricultural purposes. The landscaping material supplies business is to operate within standard business hours and the external storage area is to be setback and screened to alleviate potential amenity impacts and minimise landuse conflict.

The proposed landscaping material supplies building complies with the 10m height limit established by Section 4.3 of the Hawkesbury LEP 2012. The building will not generate unreasonable overshadowing impacts for neighbours, nor will the building obscure significant views.

The proposed development has been assessed against the provisions of the Hawkesbury LEP 2012 and has been found to be generally consistent with the applicable provisions relating to permissibility, zone objectives, building height, earthworks and environmental impacts.

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

Not applicable. The subject property is located outside of the North West Growth Centre.

State Environmental Planning Policy (Infrastructure) 2007

The subject property is burdened by the Sydney West 330KV high voltage transmission line and easement owned and operated by TransGrid. This easement has a width of 85.35m and burdens the rear of the property.

The submitted plans indicate that a portion of the landscape supplies storage area and a car park are to encroach within the easement.

In the interest of public safety, the application was referred to TransGrid for comment in accordance with Section 45 of the Infrastructure SEPP. The relevant sections of Clauses 45(1) and (2) state:

- "1. This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:
- ...
- (b) development carried out:
- (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- ...
2. Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:
- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given."

ORDINARY MEETING

Meeting Date: 29 November 2016

TransGrid have reviewed the proposal and have advised they are supportive of the development subject to the imposition of conditions. In particular TransGrid have advised that they do not support the plantation of screen trees within the easement or the location of the identified truck parking and unloading area within the easement. These conditions will require minor amendments to the plans and may be addressed at Design Compliance and Construction Certificate stages.

State Environmental Planning Policy No. 33 – Offensive and Hazardous Industry

Not applicable. The proposal does not constitute hazardous or offensive industry and accordingly the provisions of this Policy do not apply.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP No. 44 aims to “encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline”. The provisions of this Policy apply as the subject property has an area in excess of 1Ha and Council's mapping indicates that sections of the property are shown to comprise 'potential koala habitat'.

However, it is unlikely that a Koala (*Phascolarctos cinereus*) population remains within the locality and the vegetation to be removed consists of isolated trees. Therefore, having regard to the requirements of SEPP No. 44, it is considered that the proposal will not impact on any significant strands of vegetation or disturb any natural habitats which could be considered as 'core koala habitat'.

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."*

Council's records indicate that the property has been used for rural residential purposes and there were no noticeable signs of contamination observed during an inspection of the property. However, a submission received during the notification of the application alleges that asbestos sheeting had been buried onsite by a previous owner.

To address this issue it is recommended that an Unexpected Finds Protocol is developed to manage any unexpected finds of asbestos during the earthworks. A condition may also be imposed regarding the handling and management of asbestos.

The land is considered suitable for the proposed landscaping material supplies use having regard to the provisions of SEPP No. 55.

State Environmental Planning Policy No. 64 – Advertising and Signage

Not applicable. The installation of signage is not proposed with this application.

The installation of signage may be undertaken as 'exempt' development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2007 or require the submission of a development application.

Sydney Regional Environmental Planning Policy 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". SREP No. 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

SREP No. 20 does not outline specific controls for landscaping material supplies premises and the development is located in excess of 40m from identified watercourses or water bodies.

Stormwater from the site development will drain to an existing dam to the rear of the property. This will allow runoff to be stored and treated before entering downstream watercourses.

The proposed development is generally consistent with the aims, objectives and recommended strategies of SREP No. 20. The property is located within a rural area and with appropriate management the development will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

ii. Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject land.

iii. Development Control Plans

Hawkesbury Development Control Plan 2002

The proposal has been considered against the provisions of the Hawkesbury DCP 2002:

Part A Chapter 3: Notification:

The application was notified on two separate occasions in accordance with Part A Chapter 3 of the Hawkesbury DCP 2002. The notification of the application and the submissions received are discussed later in this report.

Part C Chapter 2: Car Parking

Part C Chapter 4 of the Hawkesbury DCP 2002 does not outline numerical parking controls for landscaping material supplies premises. However, Section 2.5.2 of this Plan outlines 'outdoor display and sale areas' require one space per 250m² of sales/display area plus one space per two employees.

Based on an area of approximately 1,050m² for the internal and external display areas, as well as the anticipated staff numbers, approximately six parking spaces would be required under this categorisation. The provision of six spaces is proposed with the application.

The proposed use is not expected to generate a high parking demand and a significant percentage of vehicles are expected to use the loading area near the shed as opposed to the car park. It is therefore considered that the proposal satisfies Part C Chapter 4 of the Hawkesbury DCP 2002.

Based on Council's engineering assessment, there is no objection to the proposal on parking, access or loading grounds.

Part C Chapter 3: Signage:

Not applicable. The installation of signage is not proposed with this application.

ORDINARY MEETING

Meeting Date: 29 November 2016

Part C Chapter 7: Effluent Disposal:

The landscaping material supplies building is to contain a toilet and kitchenette and accordingly the installation of a septic system will be required to service the development. An application to install a septic system will have to be lodged and approved prior to the commencement of works relating to this system.

Part D Chapter 7: Landfill:

The proposed landfilling will provide a level area for the landscaping material supplies building, car park and display area. Relatively balanced cut and fill is proposed to achieve the levelled area.

The proposal has been reviewed and it is recommended that conditions are imposed to ensure compliance with Part D Chapter 7 of the Hawkesbury DCP 2002.

Part D Chapter 8: Farm Buildings and Outbuildings:

Part D Chapter 8 of the Hawkesbury DCP 2002 does not strictly apply to buildings associated with a landscaping material supplies use and instead provides development controls for farm buildings and outbuildings. However based on the design of the building and its location within a rural area, the development has been assessed against this Chapter of the Hawkesbury DCP 2002.

The landscaping material supplies building is to have an area of 450m², a wall height of 6m and a ridge height of 8.4m. The building will generally appear as a shed and would be setback 145m from the front boundary and 9m at its closest point to the eastern boundary.

Part D Chapter 8 of the Hawkesbury DCP 2002 outlines a maximum area of 325m² and a maximum height of 8m for farm buildings. A front setback of 20m and a side setback of 10m would also apply for such buildings. Therefore the proposal satisfies the Plan's height and front setback controls but fails to comply with the applicable area and side setback controls.

The height of fill proposed exceeds the amount specified under the Plan however the extent of the non-compliance is minor and is balanced by the proposed cut.

The size of the structure is considered to be acceptable due to the nature of the activities to be conducted on the subject site. In this regard the building is to be used for the storage of landscape materials and the size and height of the shed is dictated by the desired storage space, as well as the equipment and vehicles used as a part of this activity.

A portion of the building complies with the 10m side setback controls however on account of the angled nature of the eastern boundary there is minor non-compliance. The building will be located in excess of 50m from the adjoining dwelling house at 149 Hanckel Road.

To soften and screen the proposed structure and display area it is recommended that conditions requiring the preparation of a landscaping plan are imposed. The landscaping plan would require the use of endemic plants along the eastern and western boundaries to soften and screen the development.

The proposed structure will be recognisable as a building associated with a commercial use, but is still seen to be compatible with the rural character of the area. Consequently, it is felt that the proposal satisfies the objectives of Part D Chapter 8 the Hawkesbury DCP 2002, despite the numerical non-compliances. The bulk, scale, height, setbacks and finishes of the building are considered acceptable within the context of the locality.

(a)(iv) Regulations

These matters have been considered in the assessment of this application.

The EP&A Regulation 2000 outlines that the development is to comply with the National Construction Code / Building Code of Australia (BCA). Suitable conditions of consent may be imposed to ensure compliance with this requirement should the application be approved.

The provision of disabled access, parking and accessible toilets will be required under the Disability (Access to Premises – Buildings) Standards 2010.

(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.

Council's mapping system indicates that Shale Plains Woodland exists on the site. Shale Plains Woodland, which is also known as Cumberland Plain Woodland, is listed as a critically endangered ecological community. An inspection revealed that the area of the site that is to accommodate the building and landscape supplies storage area is generally free of vegetation. It is therefore considered that this aspect of the development will not significantly impact on any endangered ecological communities, the habitat of threatened species or populations.

The construction of the new driveway adjacent to the western boundary with 133 Hanckel Road would necessitate the removal of vegetation. Whilst this vegetation primarily consists of mature eucalyptus trees and is devoid of an understorey layer, there appears to be little justification for the location of the driveway in this location.

Two existing driveways already service the property and the use of the existing central driveway would provide adequate access to the proposed landscaping material supplies development. The use of the existing driveway would also contain the movement of heavy vehicles centrally within the property so as to reduce noise and other potential amenity impacts for neighbours.

The Applicant has argued that the provision of a western driveway is sought to allow the future construction of a second dwelling house onsite. At present the construction of detached dual occupancies are prohibited within the RU4 Primary Production Small Lots zone and accordingly this desire is not acceptable as justification for the removal of the remnant vegetation.

Operating hours of 7am to 5pm Monday to Friday and 8am to 4pm on Saturdays are nominated for the business. The submitted documentation indicates that the landscaping material supplies business is to be specialised and focused on the sale of materials, supplies and equipment associated with ornamental dams and ponds. On these grounds the business is not expected to receive the volume of deliveries that a site such as Australian Native Landscapes or Turtle Nursery and Landscape Supplies would receive.

The proposed building and landscaping supplies storage area is significantly setback from neighbouring dwellings and, with the imposition of conditions restricting the extent of the display area, it is considered unlikely that the development will produce significant environmental, social or economic impacts for the locality.

(c) Suitability of the Site for Development

These matters have been considered as part of the assessment of the application.

The adopted 1-in-100 year flood level for the area is 17.3m AHD. The area of the property that is to accommodate the development (including the access driveway) has levels ranging from approximately 46m to 52m AHD and accordingly the development is not subject to flood related planning controls.

There are no natural hazards or other site constraints that are likely to have a significant adverse impact upon the development. The proposed development is considered suitable within the context of the locality.

ORDINARY MEETING

Meeting Date: 29 November 2016

(d) Any Submissions

The development was originally notified in accordance with Part A Chapter 3 of the Hawkesbury DCP 2002 between 2 to 16 March 2015. A total of 17 submissions, including a petition, were received in response to this notification. With the submission of amended plans, the application was re-notified from 12 to 26 October 2015. Four submissions were received in response to the second notification period.

The matters raised in this submission are detailed below in italics, followed by a response by the assessing officer:

Comment *The operation of a commercial development is inappropriate for a rural or rural residential area.*

Response The proposal is permissible as a landscaping material supplies premises within the RU4 Primary Production Small Lots zone.

Comment *Hanckel Road is poor condition and trucks associated with the development will further damage the street.*

Response Based on Council's engineering assessment there is no objection to the proposal on traffic grounds.

Under the Section 94 Development Contributions Plan Council can impose a heavy haulage contribution levy on developments of this nature.

Comment *The development will produce unreasonable noise impacts for neighbours. In particular the use of front end loaders and constant truck deliveries will generate excessive noise.*

Response The proposed building and landscape supplies storage area is setback from neighbouring dwellings and the proposed operating hours are seen to be acceptable for a development of this nature.

The Applicant has advised that front end loaders will not be used onsite however regardless if this is the case or not, a high volume of materials will not be processed based on the area of the landscape supplies storage area.

Comment: *The development will produce unreasonable dust impacts for neighbours.*

Response The proposed building and landscape supplies storage area is setback from neighbouring dwellings and conditions will require the driveway to be constructed with asphaltic concrete to accommodate the movement of heavy vehicles. The imposition of this condition seeks to minimise dust and noise impacts.

Comment *The development will produce unreasonable odour impacts for neighbours.*

Response Landscaping material supplies premises do not typically store large piles of manure or other materials in the open so as to produce odour issues.

With respect to the subject application, the proposal involves the operation of specialised business providing supplies for ornamental ponds and dams. The Applicant has advised that packaged aggregates will be sold onsite and it is therefore unlikely that odour will be produced from manure or fertilisers stored in the open.

Comment *Runoff from the development may pollute dams and water courses within the vicinity of the property.*

ORDINARY MEETING

Meeting Date: 29 November 2016

Response Stormwater from the site development will drain to an existing dam to the rear of the property. This will allow runoff to be stored and treated before entering downstream watercourses.

The supplied documentation indicates that aggregates such as sands and soils will be packaged to reduce runoff impacts. Any other materials stored in piles will need to be bunded to prevent runoff and pollution.

Comment *The supplied Statement of Environmental Effects and other documentation contain misleading statements regarding the nature of the development.*

Response A response to the matters raised in submissions has been prepared by the Applicant and has been used in the assessment of this application.

Comment *The approval of this development will reduce property values within the locality.*

Response Such claims are difficult to substantiate as these statements are often speculative. However, the development is permissible within the zone and conditions have been imposed to minimise impacts to adjoining properties.

Comment *The property has been used for the disposal of asbestos.*

Response This matter has been discussed within the body of this report and it is proposed to impose a condition on the consent that requires the preparation of an 'Unexpected Finds Protocol' to deal with this matter.

(e) Public Interest

The proposed development is permissible within the zone and with the imposition of appropriate conditions is not expected to unreasonably impact on the amenity of the locality or the surrounding environment. The approval of the application is therefore seen to be in the public interest.

Developer Contributions

Developer contributions may be imposed under Council's Section 94 or 94A Development Contribution Plans, however they cannot be imposed under both Plans.

As the development involves the delivery materials to and from site using heavy vehicles, it is considered most appropriate to use the Section 94 Development Contribution Plan in this instance. This Plan allows a heavy haulage contribution to be levied on developments that generate additional laden heavy vehicle movements on an area's roads. The contribution levy is based on a rate of 5 cents a tonne per kilometre of hauled material inbound or outbound from the development.

The property is located approximately 3.7km from Windsor Road which is classified road. Based on this distance an amount of 18.5 cents per tonne shall be paid quarterly. Each quarter the operator of the development must submit to Council true and accurate tonnage returns of the material hauled over the preceding quarter including number of trips, receipts, times and dates to allow for the calculation of the contribution.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C(1) having been taken into consideration. The proposed building and landscaping supplies storage area is significantly setback from neighbouring dwellings and the extent of the landscaping supplies storage area has been limited by condition.

The proposed development is permissible and is recommended for conditional approval.

ORDINARY MEETING

Meeting Date: 29 November 2016

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(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No. DA0074/15 for a landscaping material supplies premises on Lot 11 DP 32307, known as 141 Hanckel Road, Oakville, subject to the following conditions:

TRANSGRID CONDITIONS

TransGrid controls and operates the NSW high voltage transmission line network that includes the infrastructure and easement on the subject property identified as follows:

Vales Point – Sydney West 330KV transmission line (Feeder's 25/26, Structure 249 – 251) situated within an 85.344m wide easement.

The development shall be undertaken in accordance with the requirements of TransGrid:

1. TransGrid's access to the transmission lines, stanchions and easement must be maintained at all times, including during the construction period. Please note that TransGrid operates 40 ton heavy vehicle maintenance trucks throughout the full length of the easement and that the ground makeup must be able to bear this weight.
2. All vegetation and landscaping proposed within TransGrid's easement shall be kept to a minimum and must not exceed a mature height of 4m (preferably species of no greater height than 3m are used).

No plantings are permitted within 30m of the transmission towers.

The screen planting of trees must be undertaken entirely outside of TransGrid's registered easement.

3. Height restrictors must be applied to cranes, backhoes, elevated work platforms or any other plant and equipment proposed to operate within the easement that is capable of exceeding the 4.2m height restriction.
4. No truck parking and/or temporary stopping is permitted within TransGrid's easement. The truck unloading and parking area must not encroach into the easement as shown in Drawing No. DA01 Issue 'D' 'Proposed Site Plan' prepared by Lime Architects and dated 18 February 2016.
5. No mounds of earth or other materials may be formed or left within the easement above existing ground levels, even on a temporary basis, as doing so creates a hazard that reduces the vertical clearances to the transmission lines and obstructs TransGrid easement maintenance.

ORDINARY MEETING

Meeting Date: 29 November 2016

6. During construction, traffic control measures must be implemented to prevent vehicles colliding with TransGrid's transmission towers. Any temporary fencing within TransGrid's easement will need to be earthed and every second panel isolated. No works are permitted within a 30 metre exclusion zone around each TransGrid transmission tower.

TransGrid's transmission towers possess subterranean earthing straps that protrude diagonally out by 15m from each leg of the structure and are situated approximately 500mm below the ground surface. These earthing straps must not be disturbed and pose a dangerous hazard if disturbed under transmission line fault conditions.

7. All works are to be carried out in accordance with the NSW WorkCover 'Work Near Overhead Power Lines' Code of Practice 2006:

http://www.safework.nsw.gov.au/_data/assets/pdf_file/0020/52832/Work-near-overhead-power-lines-code-of-practice.pdf

Reference shall also be made to TransGrid's 'Easement Guidelines for Third Party Development'. Contact TransGrid on (02) 9620 0777 in the event of any uncertainty.

8. TransGrid shall be notified prior to the commencement of any construction work commences. This will allow a TransGrid Easement Officer to attend the site to advise of key high voltage transmission line safety issues.

TransGrid shall be contacted on (02) 9620 0777 a minimum of two weeks prior to the commencement of any works to arrange a visit.

9. TransGrid shall be formally notified of any or all subsequent stages to this development site.

10. Any further development on the subject land, including but not limited to subdivision, road construction and/or landscaping etc., must be assessed by TransGrid to determine whether it complies with the relevant easement restrictions.

Note: TransGrid does not endorse nor encourage people to congregate within the easement and/or under the transmission lines.

HAWKESBURY CITY COUNCIL CONDITIONS

General Conditions

11. The development shall take place generally in accordance with the following stamped approved plans and documentation:

Document Number	Prepared By	Dated
Drawing No. DA01 Issue 'D' 'Proposed Site Plan'	Lime Architects	18 February 2016
Drawing No. DA02 Issue 'C' 'Proposed Ground Plan'	Lime Architects	10 August 2015
Drawing No. DA03 Issue 'C' 'Proposed Roof Plan'	Lime Architects	10 August 2015
Drawing No. DA04 Issue 'C' 'Proposed Section Elevations'	Lime Architects	10 August 2015
Drawing No. DA05 Issue 'C' 'Existing and New Ground Levels'	Lime Architects	10 August 2015

... except as modified by the conditions of this consent. The proposed western driveway is not approved by this consent (See condition 22 of this consent).

Note: In no way does this consent authorise or indicate support for the construction of a detached second dwelling house as shown on Drawing No. DA01 Issue 'D' 'Proposed Site Plan' prepared by Lime Architects and dated 10 August 2015 as such a use is prohibited in the RU4 zone at the time of issue of this consent.

ORDINARY MEETING

Meeting Date: 29 November 2016

12. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate and/or Design Compliance Certificate as appropriate.
13. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
14. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
15. The development shall comply with the Disability (Access to Premises – Buildings) Standards 2010.
16. 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.
17. This development falls within the Sewerage Scheme controlled by Hawkesbury City Council. Therefore Hawkesbury City Council is the approving authority for all sewer works.

As this development involves connection to an onsite effluent disposal system, a payment of the prescribed inspection fee for both internal and external sewer drainage work is required to be made prior to the issue of a Construction Certificate.

Prior to Issue of Design Compliance Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Design Compliance 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 Design Compliance Certificate. The Design Compliance Certificate shall be obtained for the earthworks, access driveway, car park and drainage.

18. A Design Compliance Certificate must be obtained for this development covering the:

- a) earthworks
- b) access driveway
- c) car park
- d) drainage design.

Should Council be nominated as the Principal Certifying Authority for the Design Compliance Certificate, the Applicant shall pay a Design Compliance Certificate Fee and a Construction Compliance Certificate Fee in accordance with Council's adopted fees and charges when submitting Civil Engineering Plans for approval.

19. Prior to the issue of the Design Compliance Certificate, the applicant must submit and obtain approval from the Certifying Authority for an Erosion and Sediment Control Plan (ESCP). The ESCP must be designed in accordance with Landcom's publication 'Managing Urban Stormwater – Soils and Construction (2004)' and include the following:
 - a) the nature and extent of any earthworks, including the amount of any cut and fill
 - b) the location of all soil and other material stockpiles including topsoil storage
 - c) the location and type of proposed erosion and sediment control measures
 - d) any site rehabilitation proposals
 - e) the frequency and nature of the maintenance program.
20. Details of any earthworks shall be submitted to the Principal Certifying Authority with the engineering plans for the Design Compliance Certificate. Details are to include fill material to be removed from or imported to the site, quantities, finished levels, borrow sites and/or disposal sites.

ORDINARY MEETING

Meeting Date: 29 November 2016

Any earthworks must comply with the following:

- a) topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping
 - b) all disturbed areas are to be stabilised/revegetated, using a minimum 300mm surface layer of topsoil, as soon as practicable after the completion of filling works
 - c) all fill within the site shall be placed in layers not exceeding 300mm thickness and compacted to achieve a minimum dry density ratio of 98% when tested in accordance with Australian Standard AS1289 'Methods of testing soils for engineering purposes' unless otherwise specified
 - d) filling shall comprise only uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.
21. An 'Unexpected Finds Protocol', including stop work procedures, is to be developed for the earthworks phase of the development to manage any unexpected finds of potential asbestos-containing materials. This document shall be provided to the Principal Certifying Authority for approval prior to the release of the Design Compliance Certificate or the commencement of any works on the site that disturb the soil.
22. The onsite parking provision and layout (including driveways, grades, sight distances, car parking spaces and manoeuvrability, etc.) shall comply with Australian Standards AS2890.1:2004, AS2890.6:2009 and AS2890.2:2002.

The development must be provided with a total of six off street car parking spaces in accordance with AS2890.1:2004 and AS2890.6:2009. Parking for persons with a disability is to be provided in accordance with AS2890.6:2009.

The vehicular crossing, driveway and loading areas are to be designed in accordance with AS2890.2:2002 to cater for a minimum 12.5m Heavy Rigid Vehicle (HRV) and for the requirements of TransGrid as specified in this consent.

The truck unloading and parking area must not encroach into TransGrid's easement as detailed in their letter dated 6 June 2016.

Details of compliance are to be demonstrated with the plans for the Design Compliance Certificate.

23. The proposed western access driveway adjacent to 133 Hanckel Road is not approved. Access to the landscape material supplies premises shall instead be provided via the existing central driveway.

The centrally located access driveway is to be sealed with asphaltic concrete.

Details demonstrating compliance with these requirements are to be shown on the plans for the Design Compliance Certificate.

24. Under the Provisions of the Roads Act 1993, all works within the public road reserve are to be approved and inspected by the appropriate road authority. In this case the road authority is Council.

Details of an approval from the relevant road authority shall be provided to the Principal Certifying Authority with the plans for the Design Compliance Certificate.

25. The Design Construction Certificate shall not be released and no related works are to commence onsite until written confirmation of the acceptability of the development is received from TransGrid and provided the Principal Certifying Authority.

26. A Traffic Control Plan prepared in accordance with AS1742.3:2002 by an appropriately qualified person shall be submitted to Council prior to the release of a Design Compliance certificate.

ORDINARY MEETING

Meeting Date: 29 November 2016

Prior to Issue of 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.

27. Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building works in excess of \$25,000.00 are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Payments can be made at Long Service Payments Corporation offices or most Councils.
28. Access to the development for people with disabilities shall be provided in accordance with the Disability (Access to Premises – Buildings) Standards 2010. Details shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate for building work.
29. A qualified Structural Engineer's design for all reinforced concrete, structural steel and retaining walls shall be provided to the Principal Certifying Authority prior to the release of the Construction Certificate.
30. Details of any bunded areas to be used to store unpackaged materials are to be provided to the Principal Certifying Authority prior to the release of the Construction Certificate.
31. A Construction Management Plan shall be submitted and approved by Council prior to the issue of any Construction Certificate or approval under the Roads Act 1993. The plan shall detail:
 - a) The proposed phases of construction works on the site and the expected duration of each construction phase;
 - b) The proposed order in which works on site will be undertaken and the method statements on how the various stages of construction will be undertaken;
 - c) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period; and
 - d) The proposed manner of maintaining the drainage flows through the site during construction.
32. The walls and roof of the landscaping material supplies building shall be finished in an earthtone/natural colour (e.g. muted green or brown). Details of compliance are to be provided to the Principal Certifying Authority prior to the release of the Construction Certificate.
33. A landscaping plan shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate. The plan shall be prepared by a suitably qualified landscape consultant and indicate the plantation of indigenous vegetation along the eastern and western boundaries.

Native trees, shrubs and groundcovers and grasses (of local provenance), shall be used for the landscaping works. Trees to be used shall have a minimum height of 10m at maturity.

The vegetation buffer along the eastern boundary shall extend across the length of the development, whilst the western buffer shall extend from the existing southern vegetation to the TransGrid transmission line easement. Existing vegetation within these areas shall be retained.

Trees shall not be planted within TransGrid's transmission line easement.

The applicant is to be responsible for the maintenance, and replacement of plants should they die, for the life of the approved development.

ORDINARY MEETING

Meeting Date: 29 November 2016

34. This development falls within the Sewerage Scheme controlled by Hawkesbury City Council. Therefore Hawkesbury City Council is the approving authority for all sewer works.

Hawkesbury City Council is the sewer authority for this development. As this development involves connection to an onsite septic system, a payment of the prescribed inspection fee for both internal and external sewer drainage work is required to be made prior to the issue of a Construction Certificate.

35. A Sewer Management Facility System application shall be submitted to Hawkesbury City Council. This application must be accompanied by an Effluent Disposal Report prepared by a suitably qualified person to demonstrate the suitability of the land for onsite effluent disposal.

Evidence of the lodgement (or approval) of the application must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

36. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the 'Building Developing and Plumbing' section of the website www.sydneywater.com.au then refer to 'Water Servicing Coordinator' under 'Developing Your Land' or telephone 13 20 92 for assistance.

Following application a 'Notice of Requirements' will advise of water infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

37. The Construction Certificate shall not be released and no related works are to commence onsite until written confirmation of the acceptability of the development is received from TransGrid and provided the Principal Certifying Authority.

Prior to the Commencement of Works

38. 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.
39. 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.
40. 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 days' emergency numbers).
 - d) The name and contact number of the Principal Certifying Authority.

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

41. 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.
42. The measures required in the Erosion and Sediment Control Plan (ESCP) approved by the Certifying Authority must be implemented prior to the commencement of works.

Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.

ORDINARY MEETING

Meeting Date: 29 November 2016

During Construction

43. 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.
44. The property's entry and exit points shall be secured at all times to prevent the unauthorised entry of vehicles, and to ensure that the site manager can control and prevent dumping of waste and potentially contaminated material whilst fill material is being imported or managed on site.
45. 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.
46. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
47. 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 (including felled trees) must be contained and removed to a Waste Disposal Depot.
48. The Traffic Control Plan must be implemented and all devices maintained for the duration of the works in compliance with the approved plan.
49. The vehicle entrance/exit shall be clearly signposted, including street number, and visible from both the street and site at all times.
50. If asbestos is encountered during any work, measures must be in place in accordance with WorkCover NSW guidelines and the Occupational Health and Safety Regulation 2001. Work shall not commence or continue until all the necessary safeguards required by WorkCover NSW are fully in place.

Only contractors who are appropriately licensed for asbestos disposal by WorkCover NSW may carry out the removal and disposal of asbestos from demolition and construction sites.

Prior to commencing the removal of any structures containing asbestos, a commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring 400mm x 300mm shall be erected in a prominent visible position on the site in accordance with Australian Standard AS1319 'Safety Signs for the Occupational Environment'.

The person entitled to act on this consent shall notify adjoining residents in writing five working days prior to the demolition.

Asbestos waste must only be disposed of at a landfill site authorised to receive such waste. All receipts and supporting documentation must be retained in order to verify lawful disposal and are to be made available to Hawkesbury City Council on request.

51. Compliance Certificates (known as Part 4A Certificates) are to be issued by the nominated Principal Certifying Authority 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.

ORDINARY MEETING

Meeting Date: 29 November 2016

52. 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.
53. Inspections and Compliance Certificates for sanitary drainage works can be conducted and issued by Hawkesbury City Council. Inspections must be conducted on the exposed pipes prior to covering.
54. In the case of internal and external drainage, the inspection must be conducted by Hawkesbury City Council's Building and Development Branch. Please phone (02) 4560 4565 to arrange inspections.
55. All roofwater shall be drained to water storage vessel(s). The tank overflow is to discharge to the existing dam onsite.
56. All necessary works are to be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
57. All debris (including felled trees) resulting from the approved clearing of the site for construction is to be removed from the property and taken to a waste disposal facility. Alternatively, trees may be mulched on site and used for ground cover or landscaping.

No vegetative material is to be burnt onsite.
58. All civil construction works required by this consent shall be undertaken in accordance with Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification.
59. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification – Part II Table 1.1.
60. A 6m wide heavy duty layback and footway vehicular crossing shall be constructed to service the development. The crossing shall be constructed in accordance with Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification.

Prior to Issue of a Construction Compliance Certificate

61. The applicant shall pay a Construction Compliance Certificate fee in accordance with Council's adopted fees and charges when submitting Civil Engineering Plans for approval.
62. Prior to the issue of a Construction Compliance Certificate all works must be completed in accordance with the approved Design Compliance Certificate Plans, approved supporting documentation and to the satisfaction of the Principal Certifying Authority.
63. Works As Executed plans must be submitted to the Certifying Authority by a registered surveyor certifying compliance with the approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Design Compliance Certificate plans. The plans must verify:
 - a) surface level of constructed paved areas,
 - b) invert levels and sizes of all pipelines, and
 - c) floor levels of all buildings.

All levels must relate to Australian Height Datum (AHD).

ORDINARY MEETING

Meeting Date: 29 November 2016

Prior to Issue of the Occupation Certificate

64. Written clearance from Hawkesbury City Council (as the local sewer authority) that the development is suitably connected to the onsite detention system is required to be submitted to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate.
65. All landscaping works are to be completed in accordance with the approved landscaping plan.
66. Retaining walls are to be certified on completion by a suitably qualified and experienced structural engineer.
67. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
68. A certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.

Use of the Development

69. The development shall not operate outside of the following hours:

Monday to Friday:	7am to 5pm
Saturday:	8am to 4pm
Sunday and Public Holidays:	Closed

70. Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979 and Council's Section 94 Development Contributions Plan 2015 (as amended from time to time) the developer must make a monetary contribution to Hawkesbury City Council in the amount of 18.5 cents per tonne of material hauled inbound or outbound from the site. This is based on a contribution rate of 5 cents per kilometre of local road use and haul route length of approximately 3.7km from Windsor Road to the site entry.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Council's Section 94 Development Contributions Plan 2015.

The contribution is to be paid no later than 28 days after the end of March, June, September and December over the life of the development. Each quarter the operator of the development must submit to Council true and accurate tonnage returns of the material hauled over the preceding quarter including number of trips, receipts, times and dates.

71. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - a) been assessed by a properly qualified person, and
 - b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
72. The storage and display of materials, supplies, equipment and product shall be limited to the display area of the landscape material supplies building and the external landscape supplies storage area. No materials, supplies, equipment or product are to be stored or displayed outside of these areas.
73. All deliveries must be undertaken during the approved hours of operation.
74. All vehicles must enter and exit the property in a forward direction.
75. All vehicles being loaded or unloaded shall stand entirely within the property.
76. No contaminated waste water or liquid waste shall be discharged into Council's stormwater system.

ORDINARY MEETING

Meeting Date: 29 November 2016

77. The development is to be maintained in a clean and tidy manner. All waste materials are to be regularly removed from the property. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
78. Any unpackaged materials are to be appropriately banded to prevent pollution and runoff.
79. In accordance with the requirements of Part 5.7 Protection of the Environment Operations Act 1997, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.
80. The development is not to contribute to water pollution or pollution of waters as defined in the dictionary to the Protection of the Environment Operations Act 1997.
81. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
82. The landscaping approved as part of this consent are to be maintained by the applicant or operator of the approved use for the life of the operations of the approved use.

Advisory Notes

- i. This consent operates from the determination date shown on the top of this notice and will lapse unless the development is commenced within five years from the date endorsed on this consent.
- ii. The sewage management facility must be operated in accordance with the relevant operating specifications and procedures for the component facilities, and so as to allow disposal of treated sewage in an environmentally safe and sanitary manner (Local Government [General] Regulation 2005).
- iii. The installed onsite management system will be the subject of an approval to operate a system of sewage management in accordance with the provisions of Subdivision 6 & 7 of Division 4 of Part 2 of the Local Government (General) Regulation 2005 and for this purpose will be subject to inspection at annual frequency by Council's Environmental Health Officer or at such other frequency as may be determined according to the future operation or risk of the system.
- iv. 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.
- v. If you are dissatisfied with this decision Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after the date on which you receive this notice.
- vi. Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- vii. The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- viii. Building work in close proximity to the boundary may be a sensitive matter for each property owner and can often end in an unsatisfactory relationship between the neighbours. You are advised that the consent given to undertake work in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 that gives certain rights to adjoining owners, including use of the common boundary. In the absence of any structure standing well clear of the common boundary you need to make yourself aware of your legal position, which may involve a survey to identify the allotment boundary.

ORDINARY MEETING

Meeting Date: 29 November 2016

ATTACHMENTS:

AT - 1 Locality Map

AT – 2 Aerial Map

AT – 3 Plans

Meeting Date: 29 November 2016

Meeting Date: 29 November 2016

Meeting Date: 29 November 2016

Site Plan - 141 HANCKEL ROAD, OAKVILLE

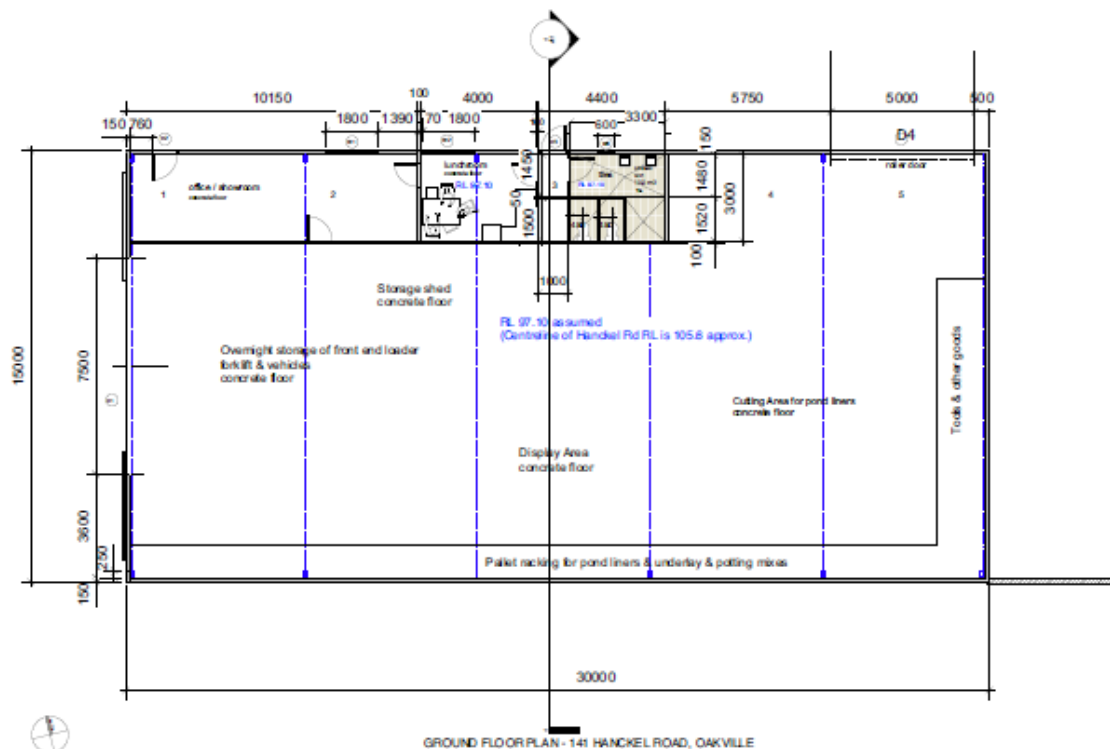
Legend:

- RL 105.60 EXISTING RLS BLACK
- RL 97.10 PROPOSED RLS BLUE

Notes:

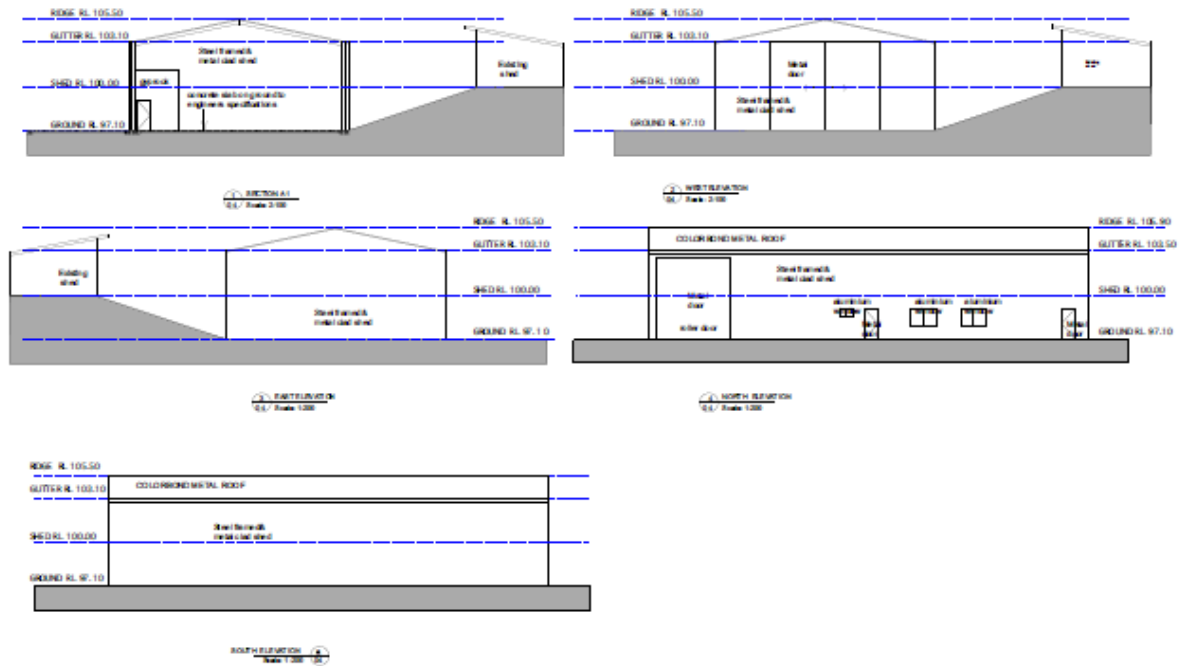
- Note: Powerline easement is 85.35m wide
- outer edge of power line easement
- centre of powerlines
- 323.912 m to rear boundary
- STORMWATER DISH DRAIN TO DAM BELOW
- 59.0m
- 42.6m
- 164.5 m
- 85800
- 52300
- 85800
- EXISTING SCREEN TREES
- NEW SCREEN TREES
- 8000
- 8000
- 11000
- boundary
- compacted road base driveway
- RL 105.60
- FUTURE RESIDENCE
- EXISTING SINGLE STOREY RESIDENCE
- existing driveway to be relocated to western side
- CULVERT & PIPE UNDER DRIVEWAY
- 32700
- 20000
- 5000
- 7460
- RL 97.45
- RL 97.100
- RL 97.45
- 15000
- 16000
- 20000
- 35000
- RL 96.70
- RL 96.90
- RL 96.70
- compacted road base
- stormwater culvert
- parking and trash unloading area
- 15000
- 20000
- 16000
- RL 97.10
- RL 95.5
- compacted road base
- landscape supplies storage area
- RL 97.10
- RL 96.70
- RL 97.42
- RL 96.8
- RL 97.10
- RL 99.8
- RL 100.0
- 10000
- 4000
- EXISTING SCREEN TREES & SHRUBS
- NEW SCREEN TREES & SHRUBS
- 325.8
- boundary
- ROOF STORMWATER LINES TO DAM BELOW

 LIME ARCHITECTS	CLIENT: Watatologic	PROVIDER: Landscape Supplies	ADDRESS: 141 HANCKEL ROAD OAKVILLE NSW 141, DP32307	DATE: 18.02.2016 15:00 @ A3 COPYRIGHT PROTECTED	TITLE: PROPOSED SITE PLAN	DRAWING NO.: DA01	SIZE: D
	02 894 7492 limearchitects@gmail.com						



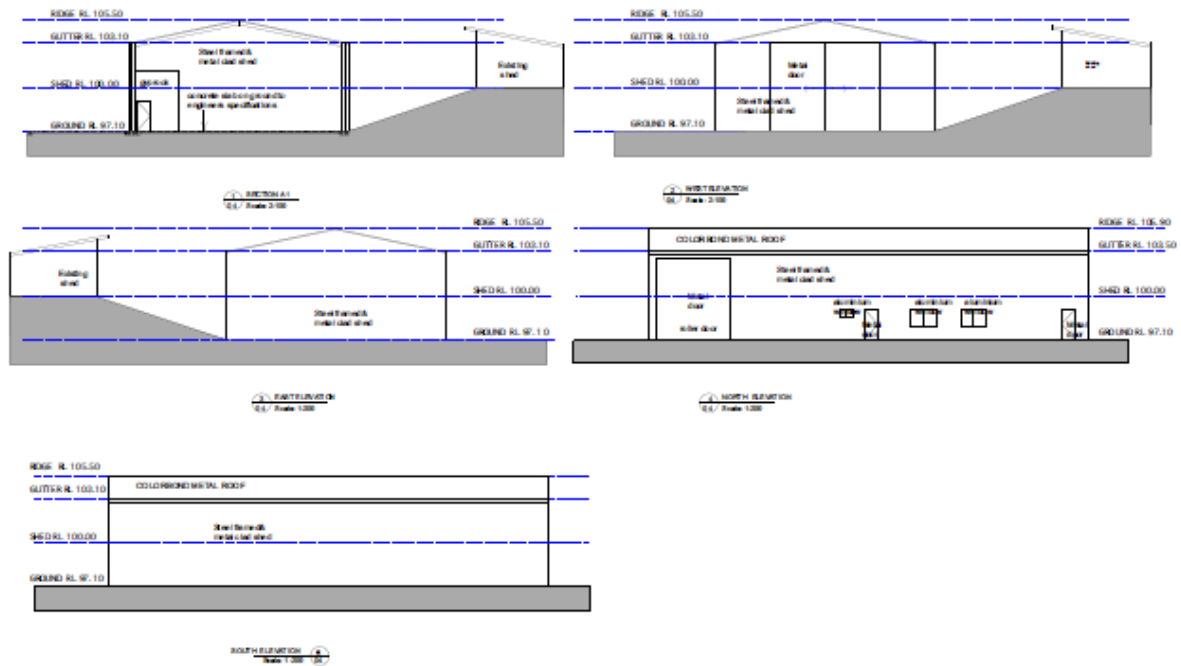
	LIME	CURRENT: Water Supply	ISSUE:	DATE:	BY:	DATE:	BY:	DATE:	BY:
		(2) WATER SUPPLY (Water Supply) (Water Supply)	Land Use Application	141 HANCKEL ROAD OAKVILLE, ONT L6M 3K7	10.08.2015 1:00 PM	PROPOSED (PROPOSED)	DA02	C	

ORDINARY MEETING
Meeting Date: 29 November 2016



SECTION/ELEVATIONS - 111 HAVELock ROAD, OAKVILLE

	NAME: Chris Jones ADDRESS: 111 HAVELock ROAD, OAKVILLE	Landscape Suppliers	111 HAVELock ROAD, OAKVILLE 1200 HAVELock ROAD, OAKVILLE	10.08.2016 12.08.16 PM	PROPOSED SECTION & ELEVATIONS	DA04	C



SECTION/ELEVATIONS - 111 HAVELock ROAD, OAKVILLE

	NAME: Chris Jones ADDRESS: 111 HAVELock ROAD, OAKVILLE	Landscape Suppliers	111 HAVELock ROAD, OAKVILLE 1200 HAVELock ROAD, OAKVILLE	10.08.2016 12.08.16 PM	PROPOSED SECTION & ELEVATIONS	DA04	C

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 251 **CP - DA0455/15 - 31A Flinders Place, North Richmond - Lot 2 DP1010228 - Multi Dwelling Housing - (94598, 88858, 36645, 36644)**

Development Information

File Number: DA0455/15
Property Address: 31A Flinders Place, North Richmond
Applicant: Barbara Tarnawski Architects
Owner: Mr M A McDonell and Ms H M Williams
Proposal Details: Multi Dwelling Housing – Three dwellings
Estimated Cost: \$995,000
Zone: R3 Medium Density Residential
Date Received: 23 July 2015
Advertising: 5 August 2015 to 19 August 2015

Key Issues:

- ◆ Flood liability of land
- ◆ Inconsistent with Sydney Regional Environmental Plan No.20 – Hawkesbury –Nepean River
- ◆ Inconsistent with Hawkesbury LEP & DCP

Recommendation: Refusal

REPORT:

Executive Summary

This Development Application seeks consent for the construction of a multi dwelling housing development at 31A Flinders Place North Richmond.

The subject land is adjacent to the Hawkesbury River and subject to significant flood risk.

An assessment of the development controls applying to the land has been undertaken and it is considered that the proposal is unable to adequately address matters having regard to flooding and visual impact.

It is recommended that the application not be supported as the proposal is inconsistent with the relevant planning controls applying to the development of the land.

The application is being reported to Council at the request of the Mayor, Councillor Lyons-Buckett.

Description of Proposal

Pursuant to Section 78A(1) of the Environmental Planning and Assessment Act (EP&A) Act 1979 this application seeks Council's consent for the construction of three dwellings at Lot 2 DP 1010228, 31A Flinders Place North Richmond.

The three dwellings would be contained within two separate buildings with an attached dual occupancy at the front of the property and a single dwelling at the rear of the site.

Dwelling One and Three would consist of three stories and Dwelling Two would be two storey. Each dwelling would be provided with a double garage.

The application originally proposed the construction of four dwellings and is supported by amended plans, statement of environmental effects, geotechnical assessment report and BASIX Certificate.

ORDINARY MEETING

Meeting Date: 29 November 2016

Description of the site

The subject land is an irregular shaped battle-axe lot with access to Flinders Place and backs onto a public reserve known as Hawkesbury Park. The land totals 1,734sqm in area, is vacant and slopes towards the rear of the site.

History of the application

- 29 September 2015 Letter sent to the applicant advising that the proposal for four dwellings is unlikely to be supported based on the information submitted and issues in respect to SREP 20, building height, private open space, earthworks, parking and access, overshadowing, safety and security, mail and waste collection, flooding, geotechnical details and issues raised in the submissions received by Council.
- 17 November 2015 Meeting held with the applicant discussing issues. Applicant requested additional time on 27 November 2015 to revise proposal and submit an amended proposal.
- June 2016 Applicant submitted amended plans trying to address Council's previous concerns and reducing the number of dwellings to three.

It is noted that in between the meeting held on 17 November 2015 and receipt of amended plans the NSW Department of Planning have advised Council that flood risk within the Hawkesbury is one of the key concerns when considering any increase of residential development within the locality.

Council Policies, Procedures and Codes to Which the Matter Relates

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

State Environmental Planning Policy No. 55 – Remediation of Land

The subject land has historically been used for residential purposes and there is no evidence to suggest that the site is contaminated to the extent that would prevent the land to be continued to be used for residential purposes. With respect to the provisions of SEPP No. 55 the site is considered suitable for the proposed development.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The aim of this plan is to protect the environment of the Hawkesbury-Nepean river system by ensuring potential impacts of future land uses are considered in a regional context. An assessment of the proposal has identified that the development is considered unacceptable having regard to the following planning policies and development controls of this policy.

Planning policies of Clause 6 subclause (7) Riverine scenic quality

The application proposes the construction of a dwelling forward of the established pattern of development that runs along the natural terrace of Flinders Place. Whilst there is no objection to the location of the attached dual occupancy at the front of the land it is considered that the proposed dwelling 1 at the rear of the site would have an adverse impact on the overall scenic quality of the riverine corridor.

Image 1 below highlights the flood planning level of the locality and the location of both building envelopes associated with the proposal. It is clear that building footprints along Flinders Place are located above the flood planning level and the proposed building pad of dwelling 1 is significantly forward of the established building line when viewed from the river corridor.

The closest building setback from the Hawkesbury Park property boundaries is approximately 22m and the current application proposes a setback of approximately 10.5m from the rear of the subject land.

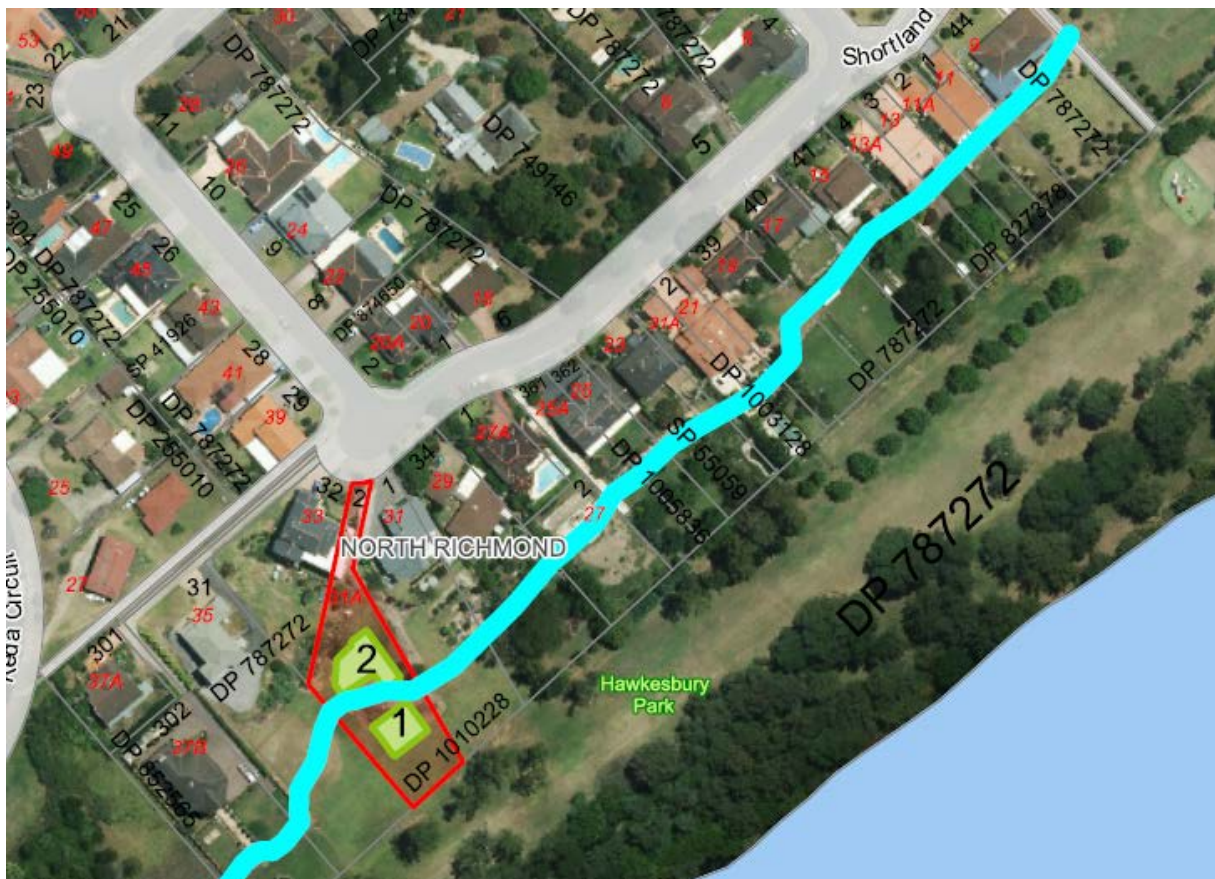


Figure 1: Building setback

The proposal is considered unacceptable having considered the Hawkesbury – Nepean River Scenic Quality Study as the proposal is inconsistent with the suggested response for landscape unit 3.4.1 which is to restrict and concentrate residential uses to terraces.

Furthermore the overall size, bulk, and scale of proposed dwelling 1 is considered unacceptable as the application proposes the dwelling on flood prone land and would require significant modification to the site to achieve flood planning levels.

Development controls of Clause 11, subclause (16) Land uses in riverine scenic areas

This clause applies to the development as the land is located within an area of regional significance. As previously mentioned in this report the location of dwelling 1 is considered unacceptable as the building would be visually intrusive when viewed from the Hawkesbury Park river corridor. The proposed setback from the river is not considered to be acceptable as it relies on significant modifications to the natural levels of the land to support a proposal which is out of character with the established pattern of development along Flinders Place.

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

A BASIX Certificate has been issued for the proposed development.

Hawkesbury Local Environmental Plan 2012

The subject land is zoned R3 Medium Density Residential, the proposed development is best defined as 'multi dwelling housing' and is a permitted land use with development consent in the zone.

An assessment of the proposal against the following specific clauses of the LEP is included below.

Clause 2.3 Zone objectives and Land Use Table

The proposal is considered unacceptable having regard to the zone objectives as the application proposes to increase the density of residential development on land subject to significant flood risk (see discussion below) which does not provide appropriate housing for the community within a medium density residential environment. Proposed dwelling 1 is on land below the 1 in 100 year flood event for the locality and would put residents and property at risk. Approving intensification of flood prone land would create unreasonable demands for public emergency services prior to and after a flood event.

Clause 4.3 Height of buildings

Whilst the buildings comply with the minimum building height requirement of 10m it is considered that the height of proposed dwelling 1 is unacceptable. The building is significantly forward of the established building line of development fronting the river and the overall bulk and scale of the proposal is inconsistent with the character of the locality and objectives of this clause. Image 2 below is an extract from the plans and shows the extent of filling and building construction works required to achieve a finished floor level above the 1 in 100 year flood event.

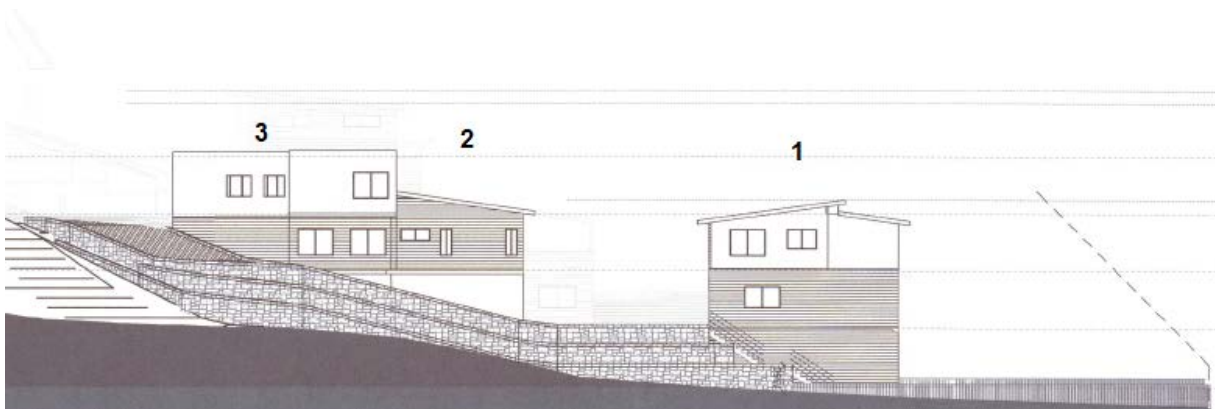


Figure 2: Elevations

Clause 6.1 Acid sulfate soils

The proposal involves significant earthworks within close proximity to an adjacent class 4 and 1 land. The application is not accompanied by an acid sulfate soils management plan in accordance with the Acid Sulfate Soils Manual.

Clause 6.3 Earthworks

An elevation of the proposed works is provided in Image 2 above and raises concerns in respect to the amount of works required to establish the proposed building envelopes, particularly in respect to dwelling 1.

It is considered that the location of dwelling 1 is unacceptable having regard to the objectives and matters for consideration contained under this clause.

The proposal relies on significant amount of earthworks to be carried out to support the proposal with up to 3.5m deep excavations required for access and building works based on the information submitted in the geotechnical assessment report and plans.

Furthermore the earthworks associated with the proposal may require the importation of material to address slope and geotechnical issues associated with the land. Filling of flood prone land is not considered to be best practice and has the potential to be undermined in the event of a flood and the geotechnical assessment report submitted recommends that the likely impacts of flood on the site need to be assessed.

Clause 6.3 Flood planning

This clause applies to the development as the land is below the flood planning level for the locality which is predicted at 17.5m Australian Height Datum (AHD).

Proposed dwellings 2 and 3 at the front of the site would be located above the 1 in 100 year flood event. However, in the locality of proposed dwelling 1 would be on land between 17m and 14.3m AHD, with habitable areas of the building proposed at 17.6m AHD.

Whilst there is no objection to locating dwellings above the 1 in 100 year flood level, it is recommended that the proposal to intensify residential development on flood prone land should not be supported. The proposal is considered unacceptable having regard to Clause 6.3 on the basis that:

- access to proposed dwelling 1 would become inundated during a flood event and result in a travel path through areas of high hazard flood risk
- an additional dwelling on flood prone land does not seek to minimise the flood risk to life and property
- proposed dwelling 1 is located outside of the established building pattern of Flinders Place and has the potential to change the flood behavior and environment of downstream properties
- the proposal would result in dwelling 1 being isolated in a flood and potential for residents requiring rescue
- the proposal has the potential to result in unsustainable social and economic costs to the community, particularly in respect of additional strains on emergency services and evacuation procedures that are currently in place for the locality. Additional people requiring evacuation from the land in the event of a flood is high and has the potential to conflict with existing evacuation procedures in place for residents.

It is considered that any development of the site should be confined to a building envelope above the 1 in 100 year flood event which does not rely on significant earthworks on flood prone land.

ORDINARY MEETING

Meeting Date: 29 November 2016

The application seeks to justify that the proposal is acceptable having regard to flooding on the basis that the development can achieve the habitable floor height requirements of Council's Development of Flood Liable Land Policy.

Even though proposed dwelling 1 could achieve the habitable floor height rules it is noted that these requirements typically apply to land which is vacant or where an existing dwelling is proposed to be replaced or altered. Furthermore Section 3.0 Clause 4 of Council's Development of Flood Liable Land Policy relevantly states:

- "4. *The assessment of a development application must consider the flood liability of access to the land and, if the land is within a floodway area, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this Policy have been satisfied. In this regard the access to, and egress from, the land should not result in a travel path through areas of higher flood hazard risk and the development should not result in the occupants/users of the development being isolated and requiring rescue.*"

Support of the proposal based on the justification provided has the potential to set an undesirable precedent when considering other development within the locality, particularly along this part of the river frontage.

Council's development engineer has assessed the proposal and identified that:

- the development is within a High Risk Flood precinct with flood velocities during the 1 in 100 year flood event being approximately two metres per second
- existing developments surrounding the site are above the top of the natural embankment of the river and the proposal involves the construction of an artificial embankment creating a peninsular into the natural river alignment. This discontinuity would result in associated structures under the 1 in 100 year flood level being subject to significant flooding forces.

Consequently the proposal is unacceptable having regard to flood risk and is unsatisfactory having regard to the LEP.

Clause 6.7 Essential Services

A 6m driveway is required to be provided to service multi dwelling development and the proposed accessway is not wide enough to allow for the passing of vehicles. Furthermore the gradient of the driveway makes it even more difficult in respect to potential vehicle and pedestrian conflict.

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 (DCP) 2002

The proposal is inconsistent having regard to the car parking & access and residential chapters of the DCP. An assessment of the proposal against the relevant chapters of this DCP follows:

Part A Chapter 3 - Notification

The application was notified between 5 August 2015 – 19 August 2015 in accordance with the DCP. 18 submissions and one petition with 30 signatures were received.

Following the notification of the proposal the applicant amended the application from four dwellings to three dwellings. Given that a reduced number of dwellings would unlikely have any additional impact on the environment or the locality it is considered that the proposal was not required to be re-notified under the DCP.

The issues raised in the initial submissions are still relevant to the site and the development and have been considered under the submission section of this report below.

Part C Chapter 2 – Car Parking and Access

Access to service the multi dwelling development is unacceptable having regard to the overall aims and objectives of this chapter due to the proposed driveway width, gradient and potential issues in respect to vehicle and pedestrian conflict.

Part D Chapter 1 - Residential Development

The proposed development is inconsistent with the overall aims, objectives and rules of this chapter, particularly in respect to the following:

Height – The height of proposed dwelling 1 is considered to be excessive in the context of the locality. The application proposes the development of land below the 1 in 100 year flood level contrary to the established pattern of surrounding development. Both the location of proposed dwelling 1 and a variation to the building height plane rule is not supported.

Private open space – The proposed private open space areas are not considered to be directly accessible from the main living areas and do not provide for an appropriate level of amenity of the dwellings. It is considered that private open space areas should be designed consistent with adjoining development which are orientated directly towards the public reserve at the rear of the land.

Vehicle access and car parking – The proposal to have a driveway between the proposed buildings is considered to be poor in respect to amenity. Furthermore the driveway access does not comply with the gradient and width requirements of the DCP. It is considered that parking would be more appropriate closer to the front of the site given that the current arrangement does not provide suitable space for vehicle passing or pedestrian access.

Safety and security – It is considered that proposed dwelling 1 and 2 do not provide direct and convenient access for residents to the street.

Recycling, garbage and mail collection areas – The proposal to provide access to these areas has not been integrated into the overall building design and is not acceptable within the accessway.

- 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:**

Should the proposal be supported the development would be subject to being completed in accordance with the requirements of the Building Code of Australia (BCA)/National Construction Code and be levied against Council's Section 94A Contributions Plan 2015.

- 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:**

It is unlikely that the development would have any adverse impacts on flora and fauna, heritage, bushfire or services of the surrounding locality.

The unsatisfactory impacts envisaged with the proposal relate to the development of the land that is subject to flooding and inconsistent with adjoining development.

Support of the proposal has the potential to set an undesirable social and economic impact in the locality by locating medium density housing on land subject to flooding.

c. Suitability of the site for the development:

The proposal is considered unsuitable for increased residential development given that the land is subject to significant flood risk. This has been discussed in the report previously.

The applicant has been previously advised to reconsider the proposal to construct additional dwellings on flood prone land. Whilst the proposed number of dwellings on flood prone land has been reduced it is considered that the flood risk to property and life remains with the amended proposal. It is recommended that any future application being lodged for the subject land be limited to the development of land above the flood level of the locality consistent with adjoining development.

d. Any submissions made in accordance with the Act or the Regulations:

Public Submissions

The submissions received in respect to the proposal all raise objection to the proposed four dwelling development.

In response to issues raised by Council officers and in the submissions received the applicant proposed to reduce the development to three dwellings.

Issues raised by the respondents in respect to number of parking spaces have been resolved; however it is considered that the following issues remain outstanding with the amended design:

- increase in intensity of development for flood affected land
- inconsistent with adjoining development
- height and setback of proposed buildings towards the rear property boundary
- location of garbage and recycling areas
- driveway gradient and safety
- pedestrian access
- increase in number of kerbside collection bins along the cul-de-sac of Flinders Place
- non-compliance with the DCP and Hawkesbury Development of Flood Liable Land Policy
- increase in traffic, noise and pollution.

It is noted that some of the submissions received have detailed that the main concerns relate towards having a building forward of the established building pattern of Flinders Place and that an attached dual occupancy design at the front of the property would fit in more with adjoining development.

The issues raised during the submissions are considered justified and have been discussed throughout this report. Support of the amended proposal would have an adverse impact on adjoining development having regard to the above issues and it is considered that the land is more suited to development of a lower scale which is consistent with surrounding development.

e. The Public Interest:

The proposed development is considered to be contrary to the general public interest in that the proposal is inconsistent with the aims, objectives and rules of the relevant planning controls and matters for consideration discussed in this report.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C(1) having been taken into consideration. The proposal is inconsistent with the overall aims, objectives and rules relating to flooding and residential development contained under SREP 20, Hawkesbury LEP 2012 and Hawkesbury DCP 2002.

Given the potential impacts on flooding and the character of the locality it is recommended that the application be refused.

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 DA0455/15 at Lot 2 DP 1010228, 31A Flinders Place, North Richmond for Multi Dwelling Housing – Three Dwellings be refused for the following reasons:

1. The development is considered unacceptable having regard to Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River.
 - a) The proposal is unacceptable having regard to the matters for consideration contained within the following clauses:
 - (i) Clause 6 subclause (7) Riverine scenic quality: and
 - (ii) Clause 11 subclause (16) Land uses in riverine scenic areas.
2. The proposal is considered unacceptable having regard to Hawkesbury Local Environmental Plan 2012.
 - a) The proposal is inconsistent with the overall aims and objectives of this plan and the R3 Medium Density Residential zone. The proposal does not provide for the orderly and economic development of land that is constrained by flooding and the application has not adequately taken into account the physical characteristics of the land with respect to flooding, earthworks and access.
 - b) An acid sulfate soils management plan is required to be submitted to consider the proposal in accordance with Clause 6.1 Acid Sulfate soils.
 - c) The proposal is unacceptable having regard to the objectives and matters for consideration contained under Clause 6.3 Earthworks.
 - d) The proposal is considered unacceptable having regard to the matters of Clause 6.3 Flood planning and Hawkesbury Council's Development of Flood Liable Land Policy. The proposal is not compatible with the flood hazard of the land. Access and egress from the property will result in a travel path through areas of higher flood hazard risk and proposed Dwelling One will be impacted by significant flood forces.
 - e) Access to the development is considered unsatisfactory and the proposal is not supported having regard to Clause 6.7 Essential Services.

ORDINARY MEETING

Meeting Date: 29 November 2016

3. The proposal is inconsistent having regard to Councils Development of Flood Liable land policy in respect to the flood risk.
4. The development is considered unacceptable having regard to Hawkesbury Development Control Plan 2002.
 - a) The proposed access is considered unacceptable having regard to the matters for consideration and requirements contained in Part C Chapter 2 – Car Parking and Access.
 - b) The proposal is inconsistent with the aims, objectives and rules of Part D: Chapter 1 Residential Development. In particular having regard to Height, Private open space, Vehicle access and car parking, Safety and security and Recycling, garbage and mail collection areas.
5. Proposed Dwelling One is inconsistent with the established pattern of development fronting the Hawkesbury River, would have an adverse impact on the amenity of the locality, has the potential to set an undesirable precedent in approving the intensification of development of flood prone land and is not considered to be in the general public interest.

ATTACHMENTS:

AT - 1 Locality Map

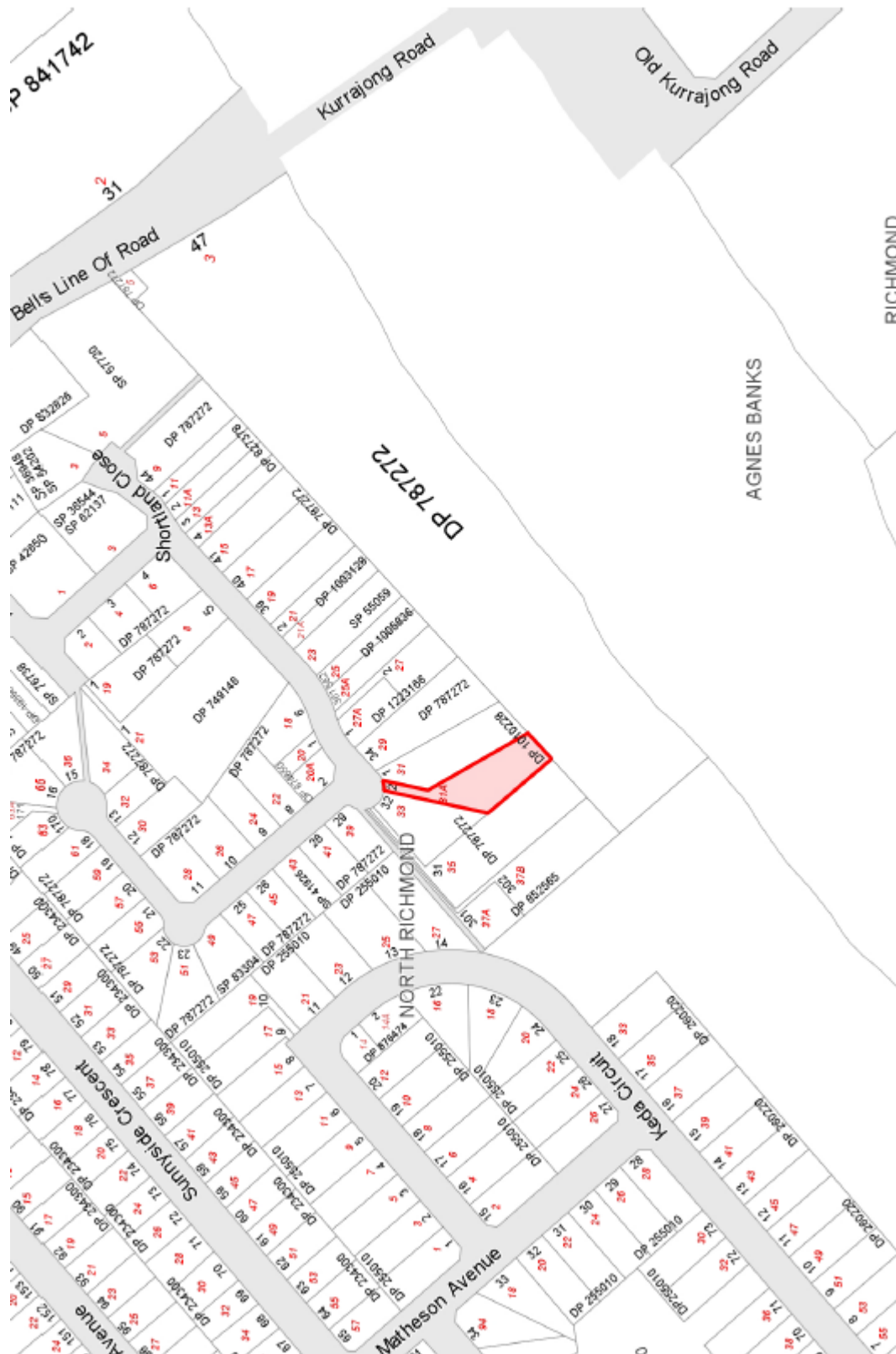
AT – 2 Aerial Map

AT – 3 Plans

ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 1 Locality Map



ORDINARY MEETING

Meeting Date: 29 November 2016

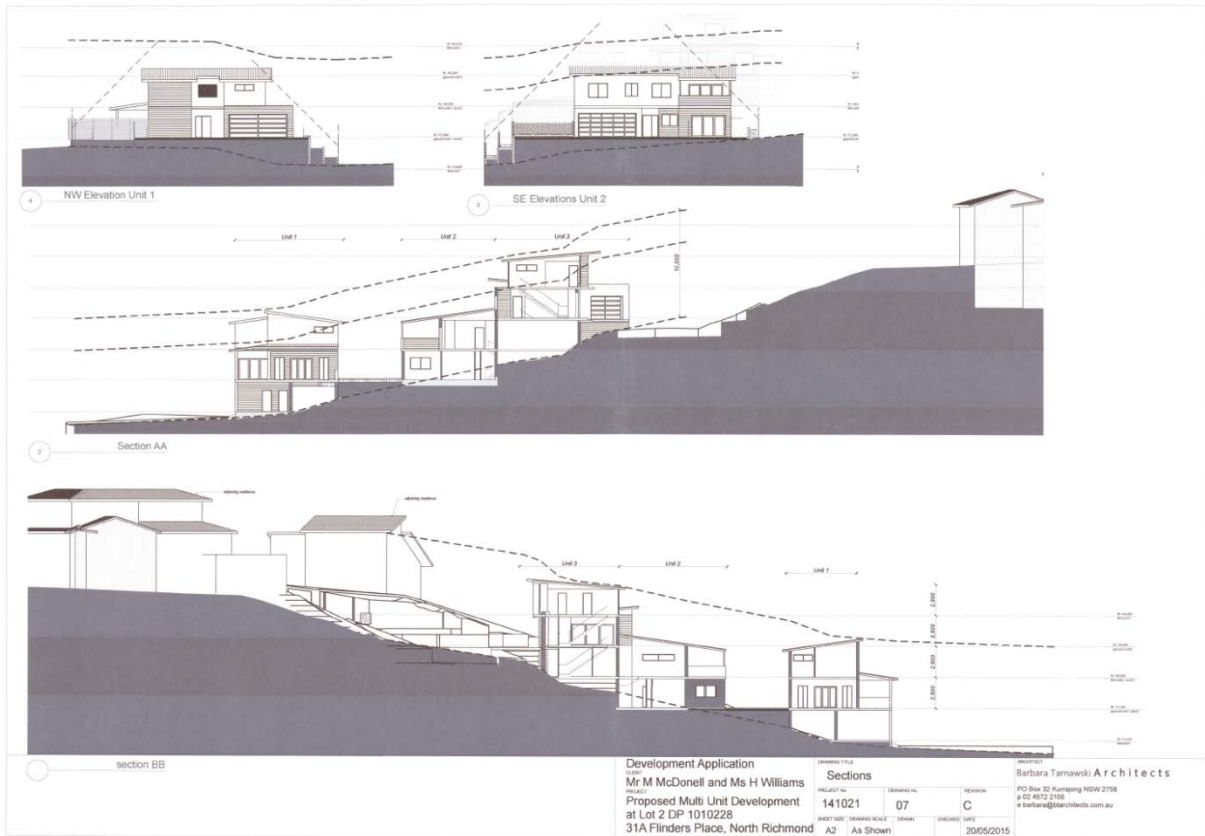
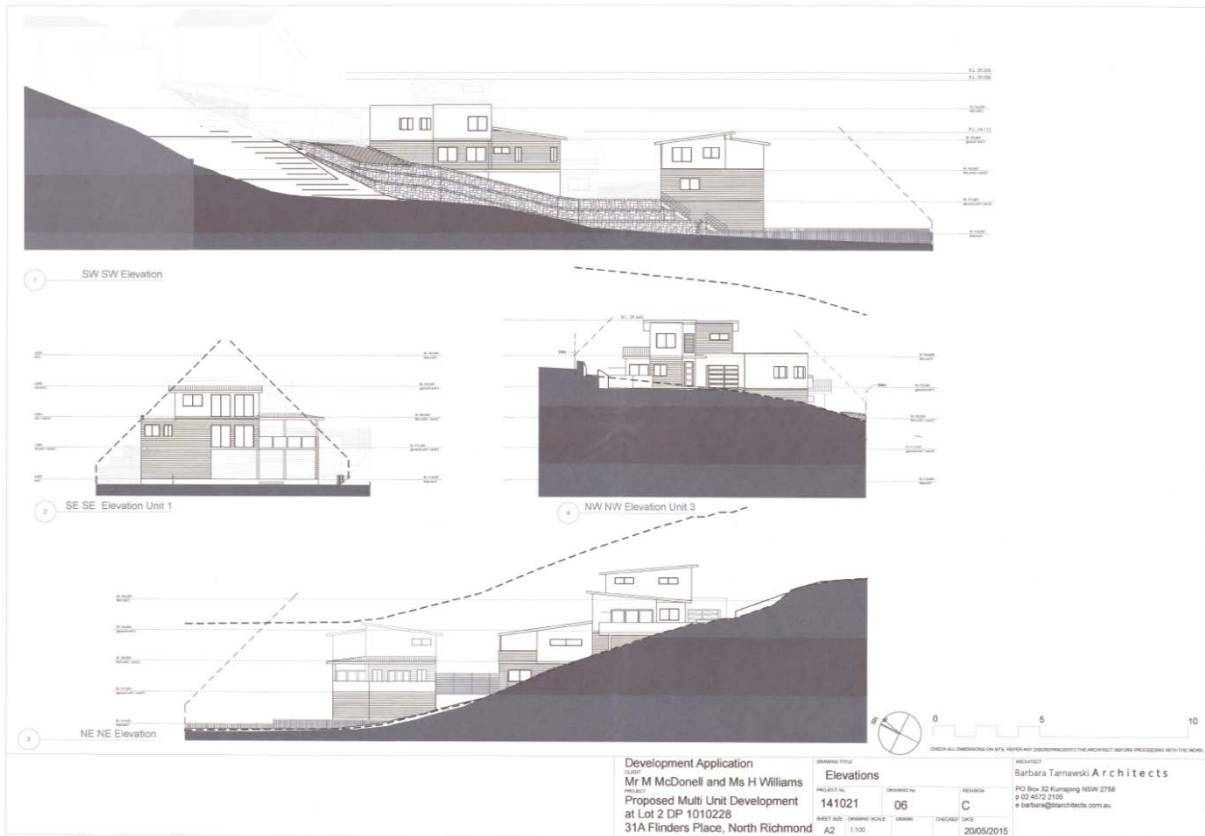
AT – 2 Aerial Map



Meeting Date: 29 November 2016

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ORDINARY MEETING
Meeting Date: 29 November 2016



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ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 252 **CP - DA0685/15 - 64 Grandview Lane, Bowen Mountain - Lot A DP416762 - Dual Occupancy - (94598, 120744)**

Development Information

File Number: DA0685/15
Property Address: 64 Grandview Lane, Bowen Mountain
Applicant: Mr Philip Suvakov
Owner: Mr Philip Suvakov
Proposal Details: Dual Occupancy - Attached
Estimated Cost: \$0
Zone: E4 Environmental Living
Date Received: 3 November 2015
Advertising: 16 November 2015 to 30 November 2015

Key Issues:

- ◆ Unlawful building work
- ◆ Submission received

Recommendation: Approval

REPORT:

Executive Summary

Consent is sought to convert an existing dwelling and attached studio into a dual occupancy development. An additional room was constructed within the breezeway separating the two structures without approval. The room is used as a bedroom. That retrospective work also forms part of this application. No further works are proposed as part of this application.

Dual Occupancies are permitted in the zone and the proposal complies with all relevant controls in relation to the development.

One submission was received however the matters raised are considered to be adequately addressed within the report.

The application is being reported to Council at the request of the Mayor, Councillor Lyons-Buckett.

Description of Proposal

Council is in receipt of an application to convert an approved single storey dwelling with an attached studio into a Dual Occupancy development at the above address.

The application also seeks approval for the use of alterations and additions made to a part of the studio for the purpose of a bedroom. The alterations and additions were carried out unlawfully. The unlawful works are located within the existing carport/breezeway area, are within the existing roof line of the approved building and are consistent with the existing development.

There are no additional works proposed as part of this application.

Description of the Land

The land has a gentle to moderate fall from the dwelling to the road. An Asset Protection Zone (APZ) has been provided which surrounds the dwelling.

An area towards the roadway has also been cleared for the driveway access, a garage as well as utility services (such as a water tank and on-site septic system).

ORDINARY MEETING

Meeting Date: 29 November 2016

To the rear, the land falls more steeply. This area beyond the APZ is heavily vegetated and the land falls towards a creek which runs through the adjoining land to the rear. The vegetation that remains to the rear is classified as Sydney Sandstone Gully Forest Open - which is not considered an Endangered Ecological Community.

Recommendation

Approval subject to the recommended conditions.

History

DA0116/11 was approved on 29 June 2011. That application proposed a dwelling house with an attached studio. A carport/breezeway separated the two parts of the building.

During the course of construction, the surveyor (in an attempt to assist the owner reduce earthworks) re-oriented the building 15 degrees anticlockwise. This was to better align the building with the crown of the hill. Council received a complaint from the adjoining owner in that regard.

That matter was resolved by staff and no further action was required to be taken.

A complaint was made to the Building Professionals Board (BPB) against Council staff. Upon investigation, the BPB found no fault on the part of Council and dismissed the complaint.

Various complaints have continued to be made relating to burning of trees, operating unlawful activities, etc. Many of these complaints have had no basis for further investigation by Council staff.

Development Application DA0142/15 for a garage was approved by Council at its Ordinary Meeting on 28 July 2015. A condition of consent required a landscaping plan be submitted to Council prior to the issue of an Occupation Certificate. It is apparent that an Occupation Certificate was never applied for and as such the landscaping has not been provided.

A complaint in relation to the use of the building as a dual occupancy was received by Council on 28 May 2015. This complaint resulted in the lodgement of the current application.

Shortly after the lodgement of the application a subsequent complaint was received in relation to unlawful building work being carried out. The applicant was questioned about the complaint received and it was established that building work involving a bedroom had been carried out unlawfully.

The applicant was requested to provide amended plans indicating the development as it existed inclusive of the work that had been carried out unlawfully for assessment. The amended plan was submitted to Council on 7 August 2016.

In the meantime, another Development Application (DA0480/16) has been lodged for further alterations and additions to the studio end of the proposed dual occupancy. That application is currently not supported by Council staff and is being discussed with the application to resolve a number of issues.

Issues Relevant to the Decision

- Unlawful building work
- Submission received
- On-site Effluent Disposal

Council Policies, Procedures and Codes to Which the Matter Relates

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

Section 79C Matters for Consideration

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

(a)(i) Any Environmental Planning Instrument (EPI)

Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River

The subject land falls within the boundary of SREP 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". SREP 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

The proposal is not contrary to the general and specific aims, planning considerations, planning policies and recommended strategies of this plan.

In particular, the site is not located within a scenic corridor of significance, nor is it considered that the proposal will significantly adversely impact upon water quality or the environment of the Hawkesbury – Nepean River.

Hawkesbury Local Environmental Plan 2012

The proposed development is considered to be consistent with the aims of the Plan as outlined in Clause 1.2(2) of Hawkesbury LEP 2012 in that it will not result in significant environmental or visual impacts and is considered to be acceptable in design and scale.

The proposed development is defined as a Dual Occupancy (Attached).

The property is zoned E4 Environmental Living. The proposal is permissible with consent in the E4 zone under this plan.

It is considered that the development as proposed is generally compliant with the objectives of the zone in that the proposal will not adversely affect the ecological, scientific or aesthetic value of the area or have a significant adverse effect on water catchments or important ecosystems such as waterways.

Further, the land has capacity to adequately dispose of effluent with the potential occupancy load.

With regard to bushfire construction requirements and Asset Protection Zones (APZ), the development exists and the proposed use does not require any upgrading of the building or APZ.

The proposal is consistent with the relevant Clauses of the LEP as follows:

Clause 4.3 – Height of Buildings

The proposal has a maximum building height of approximately six metres. The development is below ten metres in height as measured from ground level. There is no change to the building as a result of this proposal.

The development complies with the provisions of this clause.

Clause 6.1 – Acid Sulfate Soils

The proposal is on land that has been identified as containing Class 5 soil on the Acid Sulfate Soil Map. There are no further works proposed as part of this proposal. Consequently, the development does not fall within the definition of works contained in Clause 6.1(2).

ORDINARY MEETING

Meeting Date: 29 November 2016

Clause 6.2 – Earthworks

There are no earthworks proposed as part of this application.

Clause 6.4 – Terrestrial Biodiversity

The land is identified on the Hawkesbury Local Environmental Plan 2012 Terrestrial Biodiversity Map as containing vegetation that is of Conservation Significance. There is no further removal of vegetation proposed as part of this application.

In this regard, it is considered that the proposed development will not have a significant adverse impact on existing flora and fauna or biodiversity value.

Clause 6.7 – Essential Services

It is considered that the proposed development would not place unreasonable demands on the provision of services. Phone and electricity infrastructure are available to service the development.

Water supply will be via on-site water storage vessels of 100,000 litres capacity. The applicant does not propose to upgrade this despite the fact the occupancy rate is increasing. It is considered that in the event that water storage was low, the owner would be required to purchase water from a local carrier.

(a)(ii) Any draft EPI that has been placed on public exhibition

There are no draft planning instruments that apply to the subject development.

(a)(iii) Any DCP in force

Hawkesbury Development Control Plan 2002

The proposal is generally consistent with the aims and objectives of the DCP. An assessment of the proposal against the relevant provisions of this plan follows:

Part C: Chapter 1 – Landscaping

The proposal is generally consistent with the landscaping chapter.

Part C: Chapter 2 – Car Parking and Access

The proposal satisfies parking and access arrangements. Two spaces exist within the breezeway between the two proposed dwellings and two further spaces exist within the garage approved under DA0142/15.

Part C Chapter 4 – Soil Erosion and Sediment Control

No works are proposed as part of this application.

Part C: Chapter 6 – Energy Efficiency

Solar access is adequate for this development and development on adjoining land.

Part C: Chapter 7 – Effluent Disposal

The application was referred to Council's Environmental Health Officer (EHO) in relation to on-site waste management and effluent disposal. The EHO raised no objection to the proposal subject to the imposition of appropriate conditions.

ORDINARY MEETING

Meeting Date: 29 November 2016

From Australian Standard 1547:2000 it is estimated that the maximum number of occupants (based on the six bedrooms) is expected to be nine to ten persons.

Another requirement is the provision of a reserve Effluent Disposal Area (EDA) of 1,000 square metres.

The development has unlawfully been used for the purpose of a Dual Occupancy since the completion of the building work. The existing system has been performing to an acceptable standard during this time (approximately two years).

The existing on-site waste management facility is considered adequate to cater for the proposed dual occupancy as it currently exists.

Part C: Chapter 8 – Management of Construction and Demolition Waste

A Waste Management Plan is not required as the development application does not involve any construction or demolition work.

Part C: Chapter 10 - Heritage Conservation

The land does not contain any items of heritage significance nor is the land located within a Heritage Conservation Area.

Part D: Chapter 1 - Residential Development

The proposal is consistent with the aims and objectives of the residential chapter of the DCP. An assessment against the provisions of this chapter is outlined below:

1.2 Aims - The proposed development is consistent with the general aims of the residential Chapter of the DCP.

1.3 Height - The development complies with this requirement.

1.4 Setbacks - The development complies with this requirement.

1.6 Landscaped Areas - The development complies with this requirement.

1.7 Private Open Space - The development complies with this requirement.

1.9 Vehicle Access and Car Parking - The development complies with this requirement.

1.11 Visual Privacy - The development complies with this requirement.

1.15 Utility and Site Services - All services exist to service the development.

(a)(iia) Any planning agreement that has been entered into or any draft planning agreement

There has been no planning agreement or draft planning agreement entered into under Section 93F of the EP&A Act.

(a)(iv) Any matters prescribed by the Regulations

In accordance with the Environmental Planning and Assessment (EP&A) Regulation 2000 the development would be required to comply with the following:

- i. *The National Construction Code – Building Code of Australia (BCA);*
- ii. *Council's S94A Contributions Plan – Development contributions are not required to be levied in accordance with the adopted Section 94A Contributions Plan;*

ORDINARY MEETING

Meeting Date: 29 November 2016

Conditions, where appropriate, are recommended to be imposed upon the consent to address the above prescribed matters. There are no other prescribed matters that affect the land or the development.

(a)(v) Any coastal zone management plan

There are no coastal zone management plans relevant to the subject property or the Hawkesbury Local Government Area.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The development does not alter the physical appearance of the building and in this regard the impacts would not be demonstrable. The issue of effluent disposal is addressed elsewhere in this report.

The development is not expected to generate unreasonable amenity impacts for neighbours in relation to overshadowing, loss of privacy, or loss of views.

It is considered that the proposed development will not have any adverse environmental, visual, economic or social impacts on the locality.

(c) The suitability of the site for the development

The development is considered suitable within the context of the locality, compatible with adjoining land uses and is permissible within the zone.

Suitable access and parking exist on the land. The proposed development is to be located within a previously developed area and no native vegetation is required to be removed.

The land is identified as being prone to bushfire. A Bushfire Attack Level (BAL) and an Asset Protection Zone have been established as part of the previous application for the dwelling. No additional works are proposed as part of this application.

The site is therefore considered to be suitable for the proposed development.

(d) Any submissions received

This proposal was exhibited under the HDCP 2002. There was one submission (addressed to Councillors by email on 15 December 2015) regarding the proposal from an adjoining owner.

The points of concern are as follows:

Comment *As previously advised, the "studio", which is part of the unlawfully rotated dwelling closest to my house, has in fact been occupied and used without consent as a residence for most of this year [2015]. Refer to "Condition 41" of the development consent, "The attached studio shall not be used independently of the residence; this includes human habitation/residential, industrial or commercial.*

Response It is acknowledged the use has been carried out unlawfully. Dual Occupancies (Attached) are permitted in the zone with consent. The purpose of this application is to seek consent for the ongoing use of the development as a dual occupancy.

Comment *An additional room has been added to the 'Studio', presumably without formal council approval, in part of the space approved as the 'carport'. This additional room appears to be an extension to the 'wet bar' into a larger kitchen. The 1:100 'Ground Floor Plan' indicates "no cooking facilities are to be provided to the 'wet bar'. However the current application before Council (DA0685/15) claims "No additional work is required to the studio in question. Kitchen and Bathroom/laundry are existing". Recently a black screen and other detritus have been placed in front of the additional room in an attempt to conceal its existence."*

ORDINARY MEETING

Meeting Date: 29 November 2016

Response The applicant has admitted to constructing the additional room, (which is used as a bedroom/nursery) without approval. The work has not increased the footprint of the building and has utilised space underneath the existing roofline. Whilst car parking spaces have been removed from the development by virtue of the works, the spaces lost are nevertheless provided for within the existing garage.

It is apparent that the applicant has in fact provided kitchen and laundry facilities within the studio contrary to the consent issued. Nevertheless, this application now seeks to legitimise that work and seek consent for the use of the development as a dual occupancy.

Comment *The proposed eighty metre 'Privacy Hedge' along the boundary, as part of the application to construct the shed, has not been attempted to date. However, by contrast, in an attempt to ameliorate the loss of privacy and visual obtrusiveness with which I am confronted daily, I have recently spent many thousand dollars planting trees and associated landscaping.*

Response This matter relates to a previous application (DA0142/15) which is not under consideration as part of this application. That matter requires follow-up action with the owner of the land to comply with the conditions of consent from that development approval. This matter will be pursued as a separate matter.

Comment *There has been substantial excavation and widening of the number 64 driveway on to Grandview Lane. Of most concern is the excavation and tree removal on the council embankment directly in front of my property. In addition, at least two large trees and a number of others have been undermined and roots cut back, right up to the trunks, so as to jeopardise human traffic, the house opposite and power lines. I have photographs of this driveway as it was before the excavation. This represents a danger to the community.*

Response This is a separate matter under investigation by Council's Infrastructure Services Department for their action as appropriate as the works are on the road reserve. This matter has no direct relevance to the subject application under consideration.

It is considered the points raised in the submission received, are not sufficient to warrant refusal or further amendment of the application. The applicant has provided an amended plan of the work carried out without consent. The current development application will retrospectively regularise the work and use of the property.

(e) The public interest

The proposed development will support the use of the land for residential purposes and is unlikely to result in any negative impacts on the locality. It is therefore considered that the proposal is not contrary to the public interest.

Hawkesbury City Council Section 94A Contributions Plan

Developer contributions are not applicable to this development as developer contributions have previously been levied upon this land.

Conclusion

The application has been assessed having regard to the heads of consideration under Section 79C of the EP&A Act. The application is considered to represent a satisfactory form of development and is recommended for approval.

ORDINARY MEETING

Meeting Date: 29 November 2016

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 DA0685/15 at Lot A DP 416762, 64 Grandview Lane, Bowen Mountain for Dual Occupancy - Attached 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 or in red on the plans.

Plans are listed as follows:

Architectural Drawing Number	Prepared by	Dated
Dwg No. 1142 - 12	Michael Weigman Design Service	5 August 2016

2. A Building Certificate must be issued for the works carried out without prior approval. An application for such a certificate must be lodged with Council. The Building Certificate must be issued within a period of 60 days of the date of this consent.
3. The development shall comply with the provisions of the Building Code of Australia.
4. An approval to operate the on-site septic system is required to be obtained from the Regulatory Services Department of Hawkesbury City Council. The approval to operate is required to be submitted to the Principle Certifying Authority prior to the issue of an Interim Occupation Certificate. Please phone (02) 4560 4444 to arrange an inspection.
5. A reserve area of 1,000m² shall be made available for the disposal of effluent.

Prior to Issue of a Building Certificate

6. A Structural Engineer shall inspect and certify the building as being capable of withstanding the loads likely to be imposed upon it prior to the issue of a Building Certificate.
7. Evidence that the recent building works carried out without prior approval, comply with the requirements of BAL40 construction under AS 3959 - 2009 Construction of Buildings in Bush Fire Prone Areas, is required to be submitted to Council prior to the issue of a Building Certificate.
8. A compliant automatic fire detection and alarm system shall be installed in the building in accordance with the Building Code of Australia for Class 1a structures. Alarms and detectors shall be installed by a licensed electrician in accordance with the provisions of Part 3.7.2 of the Building Code of Australia. Multiple alarms shall be interconnected. A Certificate of Compliance shall be provided to Council prior to the issue of a Building Certificate.

ORDINARY MEETING

Meeting Date: 29 November 2016

9. 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) A Certificate for glazing used in the development:
 - (i) Glazing materials installed in the building in accordance with AS1288 and AS2047 - Glass in Buildings - Selection and Installation, e.g. windows, doors, footlights, balustrades and shower screens.

Note: The certificate is required to be signed by the manufacturer and installer.

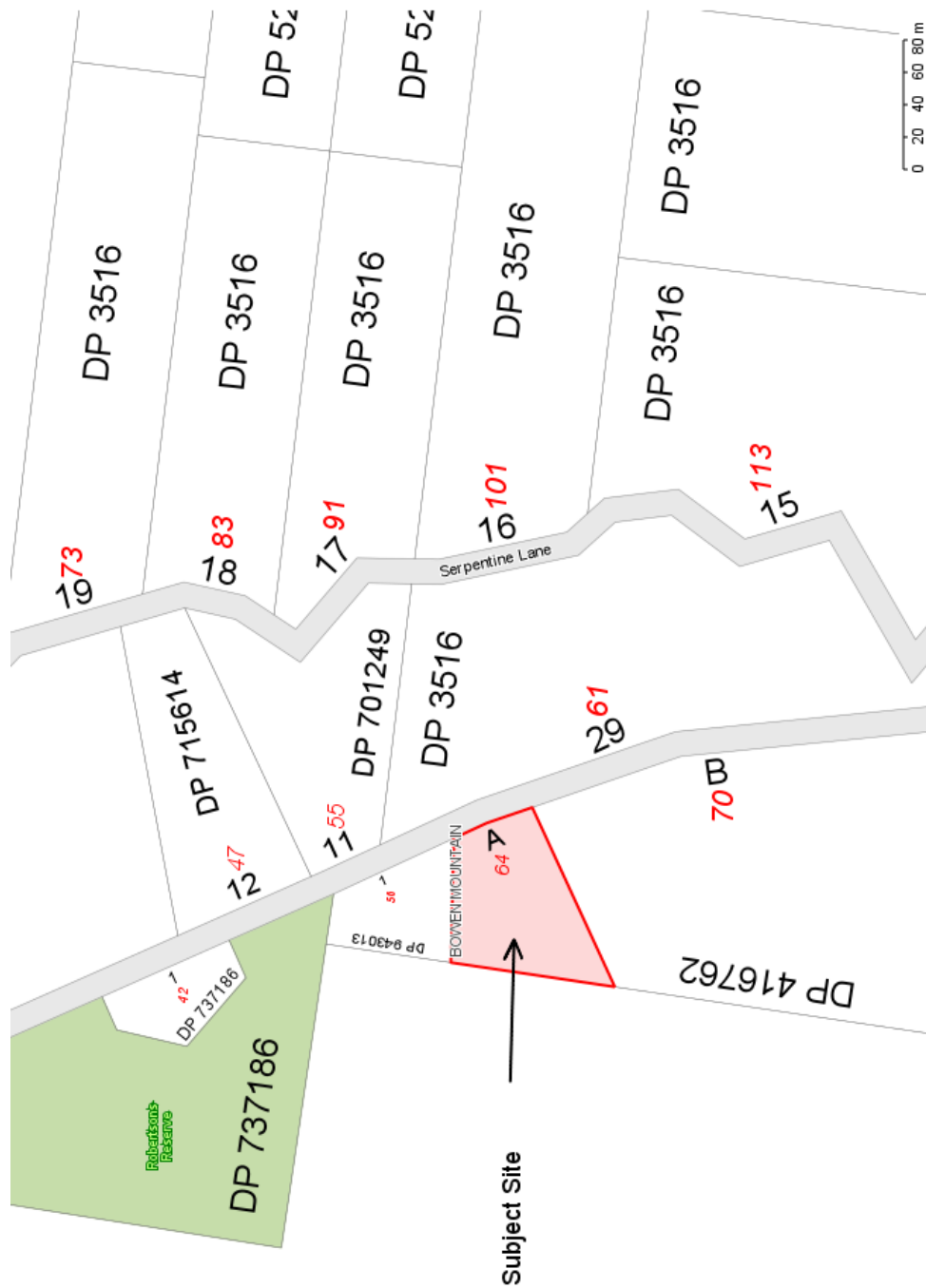
ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Aerial Photograph
- AT - 3 Amended Floor Plan

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AT - 1 Locality Plan



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Meeting Date: 29 November 2016

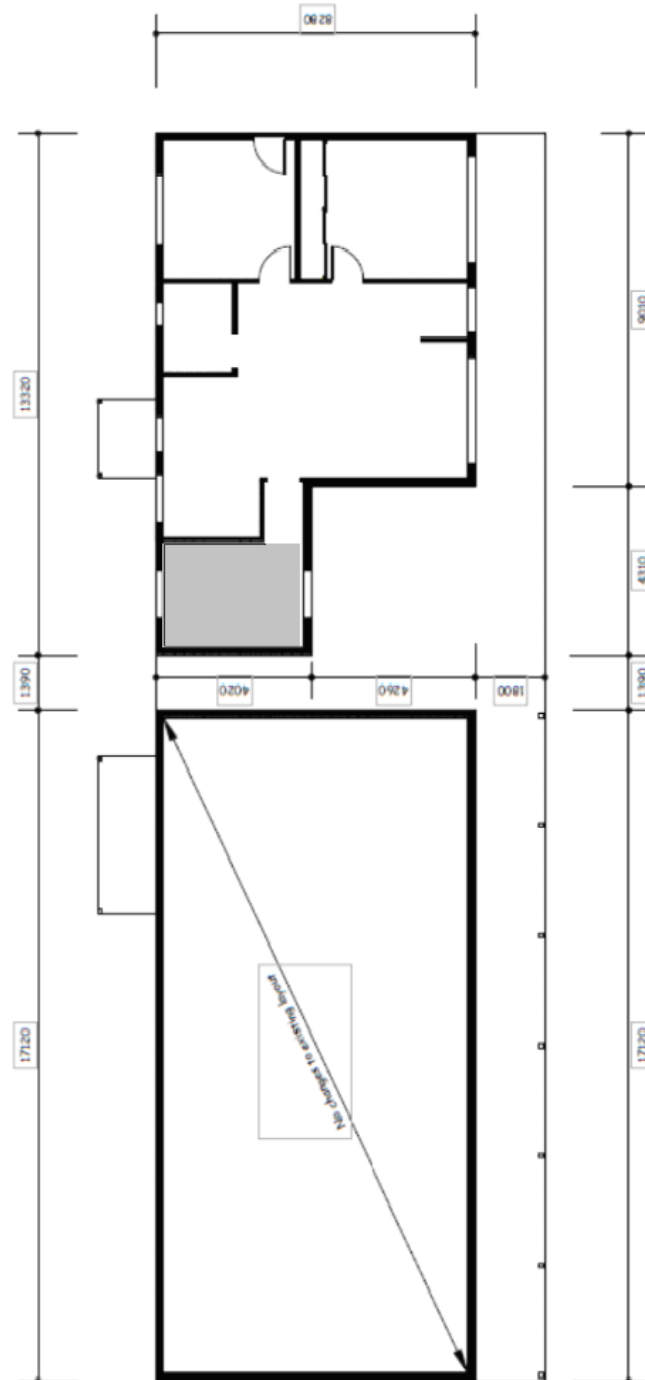
AT - 2 Aerial Photograph



ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 3 Amended Floor Plan



Ground Floor Plan - Existing

Scale 1:100

Michael Wiegmann Design Service



Michael Wiegmann
DESIGN SERVICE
37 Kangaroo St, Lismore NSW 2753



Michael Wiegmann
02 4779 8000
042 404 237
www.mwdbs.com

Mr Phillip Suvakov &
Mrs Enza Suvakov

Design:
Additions and Alterations
64 Grandview Ln, Bowen Mtn

Drawn:
Michael Wiegmann
Date:
3 Aug. 2014

Drawn No:
1142 - 12

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 253 **CP - LEP002/14 - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 1420 Kurmond Road, Kurmond - (95498, 124414)**

Previous Item: 215, Ordinary (11 November 2014)

Applicant Name:	Glenn Falson Urban & Rural Planning Consultant
Planning Proposal No:	LEP002/14
Property Address:	1420 Kurmond Road, Kurmond
Owner/(s):	Ernest Bennett & Associates Pty Ltd
Date Received:	30 May 2014
Public Exhibition:	26 June 2015 - 13 July 2015
Community Submissions:	One submission supporting, and two submissions opposing the planning proposal
Government Agency Responses:	Four responses (with no objections)
Recommendation:	Council proceed with the making of the LEP amendment and place the draft Voluntary Planning Agreement on public exhibition for 28 days

REPORT:

On 11 November 2014 Council considered a report regarding a planning proposal, submitted by Glenn Falson Urban and Rural Planning Consultant (the applicant), seeking to amend the *Hawkesbury Local Environmental Plan 2012* (the LEP) in order to permit the subdivision of Lot 2 DP805023, 1420 Kurmond Road, Kurmond (the subject site) into 12 lots with a minimum lot size of not less than 4,000m². Council resolved to support the preparation of a planning proposal for the subject site to amend the Lot Size Map of the LEP to permit a minimum lot size of not less than 4,000m² for the subject site.

In December 2014, the planning proposal was forwarded to the Department of Planning and Environment (DP & E) in accordance with the Council's resolution. In March 2015 Council received a "Gateway" determination from the DP & E advising to proceed with the planning proposal.

The purpose of this report is to advise Council of the outcome of the public authority and community consultation on the planning proposal.

It is recommended that Council proceed with the making of an LEP that gives effect to the planning proposal, and also place the draft Voluntary Planning Agreement (dVPA) attached to this report on public exhibition for a minimum of 28 days.

Background

By way of background, the following timeline provides an outline:

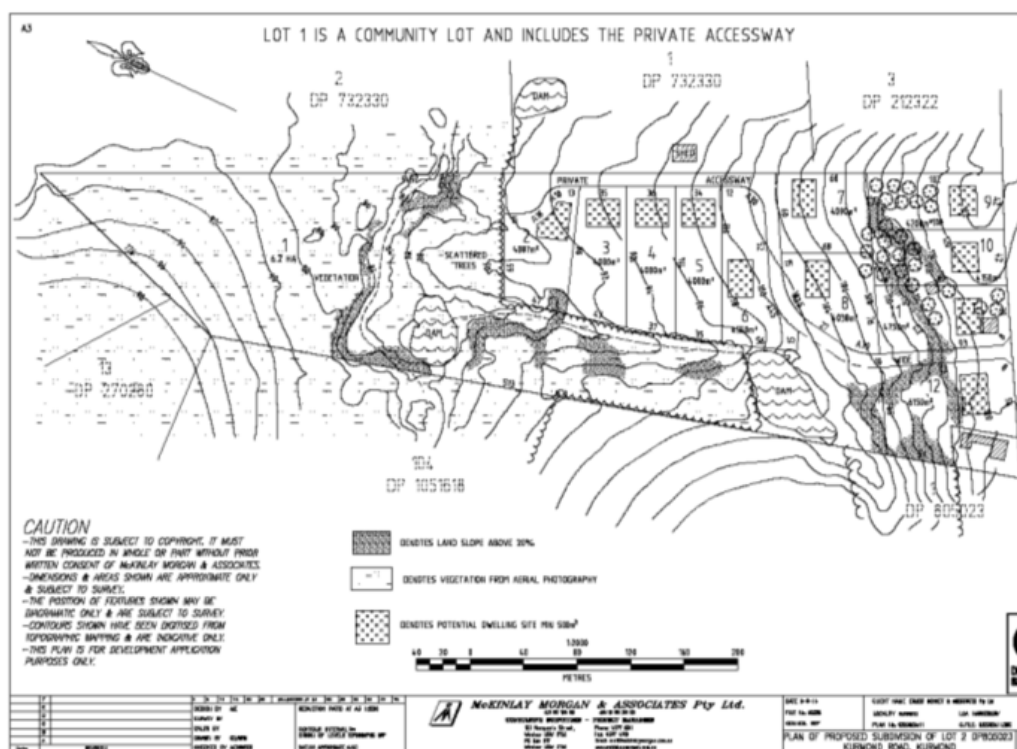
30 May 2014	Council received a planning proposal from the applicant seeking to amend the LEP in order to permit the subdivision of the subject site into 12 lots with a minimum lot size of not less than 4,000m ² .
11 November 2014	Council considered a report regarding the planning proposal and resolved to support the preparation of a planning proposal for the subject site to amend the Lot Size Map of the LEP to permit a minimum lot size of not less than 4,000m ² for the subject site.
27 March 2015	Council received a 'Gateway determination' from the DP & E advising to proceed with the planning proposal.

ORDINARY MEETING

Meeting Date: 29 November 2016

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|--------------------------------|--|
| 9 April 2015 | Council commenced consultation on the planning proposal with the relevant public agencies identified in the Gateway determination, including NSW Office of Environment & Heritage, Roads and Maritime Services and Rural Fire Service. |
| 26 June 2015 -
13 July 2015 | Public exhibition of the planning proposal. |
| 1 September 2015 | Council received a draft Voluntary Planning Agreement (dVPA) from the applicant in support of the planning proposal. |
| 1 August 2016 | The draft VPA was finalised in consultation with the relevant Council staff. |

The planning proposal sought an amendment to the Lot Size Map of LEP 2012 indicatively shown in Figure 1 below.



**Figure 1: Applicant's proposed amendment to Lot Size Map
(Not adopted for subdivision)**

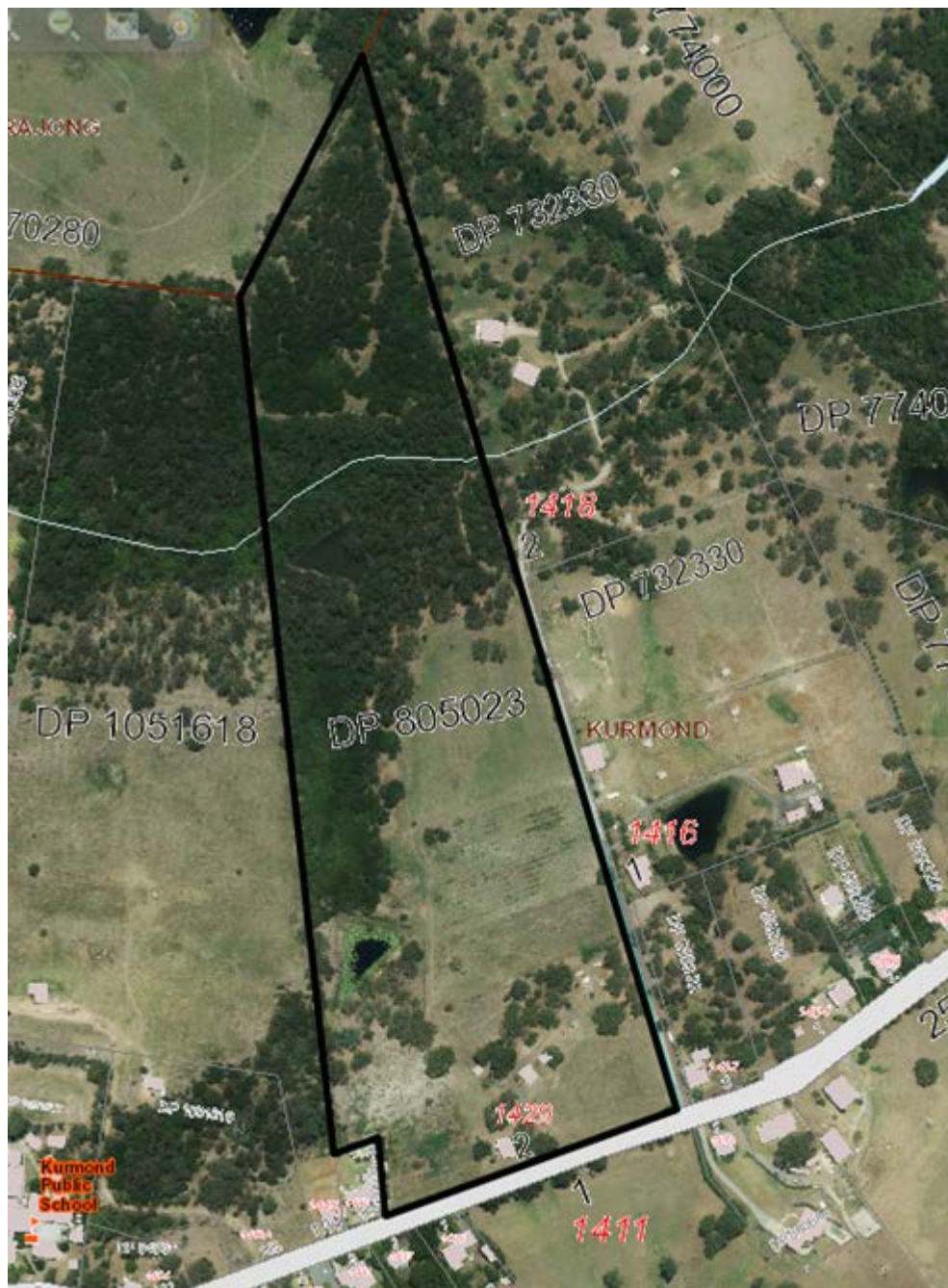


Figure 2: Aerial Photo of 1420 Kurmond Road, Kurmond

The resolution of Council at its Meeting on 11 November 2014 was:

"That:

1. Council support the preparation of a planning proposal for Lot 2 DP 805023, 1420 Kurmond Road, Kurmond to amend the Lot Size Map of the Hawkesbury Local Environmental Plan 2012 to permit minimum lot size of not less than 4,000m².
2. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.

ORDINARY MEETING

Meeting Date: 29 November 2016

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.*
5. *Council does not endorse the subdivision concept plan submitted with the planning proposal as this will need to be subject to a future development application if the plan was made".*

Authorisation for Council to Exercise Delegation

The "Gateway" determination included authorisation for Council to exercise delegation to make this plan. Should Council resolve to proceed with the making of the plan this authorisation will allow Council staff to make a direct request to the Parliamentary Counsel's Office (PCO) to prepare a draft Local Environmental Plan to give effect to the planning proposal. Following receipt of an opinion from the PCO that the plan can be legally made, Council may then make the plan. Council delegated this plan making function to the General Manager by resolution on 11 December 2012.

Infrastructure Contributions

Part 4 of the Council Resolution of 11 November 2014 stated the following:

"The Department of Planning and Infrastructure 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."

The preparation of a S94 Plan for the Kurmond Kurrajong Investigation Area has commenced, but is not expected to be completed in the short term.

The wording of Part 4 of Council's resolution states that the planning proposal should not be finalised until *"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"*. Given there is no set deadline for the completion of the S.94 Plan, discussions were held with the applicant to discuss the preparation of a dVPA. The applicant prepared a dVPA in consultation with Council staff, and this matter is discussed in a subsequent section of this report.

Consultation with Public Authorities

In accordance with Section 56(2)(d) of the *Environmental Planning and Assessment Act, 1979* (the EP & A Act) consultation was undertaken with the following public agencies identified in the Gateway determination:

- NSW Rural Fire Service
- NSW Office of Environment and Heritage
- Endeavour Energy
- Transport for NSW - Roads and Maritime Services
- Greater Sydney Local Land Services.

Council received submissions from all agencies except Endeavour Energy, and copies of submissions were forwarded to the applicant for comment. The submissions raised certain issues, but none of them objected to the making of the plan. The issues raised in these submissions and subsequent comments from the applicant and Council officer are outlined in Attachment 3 of this Report.

Community Consultation

The planning proposal and supporting documentation was publically exhibited for the period Friday, 26 June 2015 to Monday, 13 July 2015 in accordance with the relevant statutory and Gateway determination requirements. An exhibition notice was placed in the Hawkesbury Courier on 25 June 2015, and letters were sent to adjoining and nearby landowners and occupiers advising the public exhibition of the planning proposal. The planning proposal and supporting documentation was made available for public viewing during the exhibition period on Council's website and at Council's Administration Office.

Council received two submissions opposing, and one submission supporting the planning proposal, and copies of submissions were forwarded to the applicant for comment. The issues raised in the submissions and subsequent comments from the applicant and Council officer are outlined in Attachment 4 of this Report.

Post Exhibition Amendments

As a consequence of the government agency consultation, a minor amendment to the proposed Lot Size Map and rezoning of part of the subject site from RU4 was made and is discussed below:

Council received a number of submissions from relevant government agencies including OEH. The submission received from OEH raised a number of issues that are addressed in Attachment 4 of this report, including the following:

"OEH notes that the Preliminary Bushfire Report states the allotments must maintain an asset protection zone from areas of forest. However, the report does not map these required APZs and does not explicitly state that vegetation in Proposed Lot 1 can be fully retained and will not be required to form part of the APZ. OEH recommends that Council ensure that the vegetation in Lot 1 will not be required as part of a future APZ".

Exhibited Proposed Lot Size Map

In order to allow the subdivision of the subject site into a maximum of 12 lots, the exhibited proposed Lot Size Map depicted 4,000m² minimum lot size for the entire site as shown in Figure 3 below:

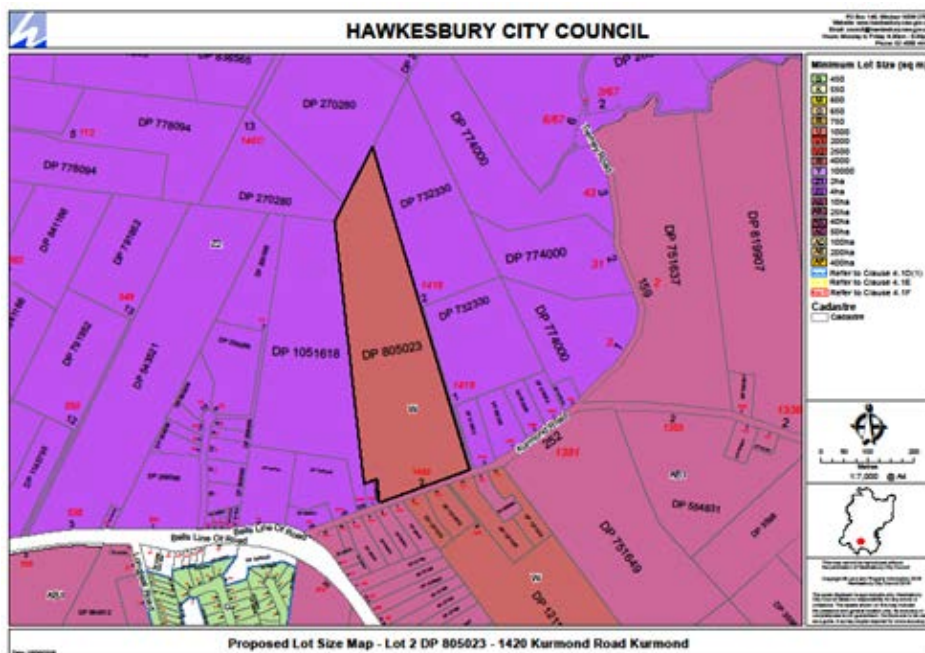


Figure 3: Exhibited Proposed Lot Size Map

ORDINARY MEETING

Meeting Date: 29 November 2016

Minor Amendment to the Proposed Lot Size Map

As a result of the OEH submission, the exhibited proposed Lot Size Map was amended based on the findings of the Flora and Fauna Assessment Report to:

- retain a 4ha minimum lot size provision for part of the subject site containing significant vegetation classified as endangered ecological communities, two existing dams and water courses and the riparian corridor; and
- specify a minimum 4,000m² lot size for the remainder of the subject site generally free of any significant vegetation as shown in Attachment 1 of this Report.

The above amendments to the exhibited proposed Lot Size Map are considered appropriate due to the following reasons:

- Increases the opportunity to protect and enhance ecological values of the subject site.
- Enables the accommodation of endangered ecological communities, riparian corridor, two existing dams and natural watercourses within a large separate lot.
- Minimises fragmentation of the existing significant vegetation.
- Enables the provision of adequate buffers to the existing watercourses that traverse the subject site.
- Ensures that the likely impact of the future APZ's to be provided for future dwellings on additional lots would not have any adverse impacts on the existing vegetation.
- Allocates only part of the subject site approximately 4.5ha in size with no significant constraints to yield lots with a minimum lot size of not less than 4,000m² for future residential purposes.
- Addresses OEH concerns over the retention of significant vegetation and likely impacts of future APZ's for new dwellings on the existing vegetation.
- Addresses RMS concern over the possible yield of 27 lots with a minimum lot size of not less than 4,000m² on the subject site.

Council resolution 28 July 2015 regarding fundamental constraints to development

On 28 July 2015, Council resolved that current planning proposals within the Kurmond and Kurrajong Investigation Area only proceed to Gateway if the 'fundamental' development constraints have been addressed. It is noted that this planning proposal has already received a Gateway determination on 27 March 2015, completed public agency consultation and public exhibition and is being reported to finalise the plan making. However, an assessment against the fundamental constraints and associated recommendations that are relevant to this planning proposal has been undertaken for consistency and is shown below in Tables 1 and 2. These tables also provide comments regarding the proposal's compliance with the recommendation.

ORDINARY MEETING

Meeting Date: 29 November 2016

Table 1: Physical Environment

Factor	Degree of Constraint to Development	Recommendation
Terrestrial Biodiversity		
<i>Impact of development on threatened or endangered flora and fauna</i>	<i>Fundamental - Major</i>	<p><i>Legislation applies to threatened and endangered species. OEH concurrence may be required.</i></p> <p><i>Removal of significant vegetation is to be avoided.</i></p> <p><i>Fragmentation of significant vegetation is to be minimised.</i></p>
<p>Comment: Shale Sandstone Transition Forest occurs along Howes Creek, which is downslope (north) and outside of the proposed development area. The Cumberland Shale Plains Woodland with elements of Moist Shale woodland is found on the upper slopes of the subject site off Kurmond Road and in the broad gully on the western boundary. This area is not proposed for development. Therefore the likely adverse impacts of the proposed minimum lot sizes and the likely location of future lots on flora and fauna would be minimal.</p>		
Watercourses and Riparian Areas		
<i>Impact of development on watercourses and riparian areas</i>	<i>Fundamental - Major</i>	<p><i>Legislation applies to threatened and endangered species. OEH concurrence may be required.</i></p> <p><i>Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourses) are to be located outside of riparian corridors.</i></p> <p><i>Road crossings of watercourses are to be minimised.</i></p> <p><i>Fragmentation of riparian areas is to be minimised.</i></p>
<p>Comment: The amended proposed minimum lot sizes are able to comply with this recommendation. The riparian corridor is located within the proposed Community Title Lot and it does not affect the remainder of the subject site proposed for subdivision into 12 lots with a minimum lot size of not less than 4,000m².</p>		
Dams		
<i>Impact of development on aquatic habitat. Proximity of dams to effluent disposal systems</i>	<i>Fundamental - Minor</i>	<p><i>Legislation applies to threatened and endangered species. OEH concurrence may be required.</i></p> <p><i>Removal of dams containing significant aquatic habitat is to be avoided. Minimum required buffer distances for effluent disposal systems is to be adhered to.</i></p>
<p>Comment: The two existing farm dams located within the proposed Community Title Lot are proposed to be retained. One of the recommendations of the Flora and Fauna Assessment Report is to maintain the integrity of the aquatic habitats present in the two dams and appropriately manage as habitat for native fauna.</p>		

ORDINARY MEETING

Meeting Date: 29 November 2016

Factor	Degree of Constraint to Development	Recommendation
Bushfire threat		
<i>Impact of the location and management of APZs and perimeter roads</i>	<i>Fundamental - Major</i>	<i>RFS concurrence may be required. Building construction and water supply is to comply with NSW Rural Fire Service's Planning for Bushfire Protection 2006, e.g. APZs and roads.</i>
Comment: In line with OEH comments, the exhibited Proposed Lot Size Map was amended to ensure the likely adverse impacts of the future APZ's on the significant existing vegetation would be minimal. It is considered this issue can also be satisfactorily dealt with at development application stage by way of referral to the RFS and conditions of consent.		
Aboriginal Heritage		
<i>Impact of development on Aboriginal heritage items</i>	<i>Fundamental - Moderate</i>	<i>National Parks and Wildlife Act 1974 applies Council and developers are also to consider relevant provisions of Heritage Act 1977 when preparing and considering development applications.</i>
Comment: No known aboriginal relics are located on the site. Further consideration will be given to this at development application stage.		
Land Contamination		
<i>Suitability of land to be developed given potential for land to be contaminated</i>	<i>Fundamental - Minor</i>	<i>Remediation action plans and validation may be required. Council and developers are to consider relevant provisions of State Environmental Planning Policy No 55 - Remediation of Land when preparing and considering development applications.</i>
Comment: Council records show the land has been used for agriculture in the form of animal grazing for many years but that there are no records to suggest that any activities have occurred on the land which would give rise to contamination. Further consideration will be given to this at development application stage.		
Acid Sulfate Soils		
<i>Impact of disturbance of acid sulfate soils on the environment and development</i>	<i>Fundamental to Minor</i>	<i>Development proposals and land class are to be assessed with respect to Clause 6.1 Acid Sulfate Soils of LEP 2012. Acid sulfate soils management plans required.</i>
Comment: The subject site is within the Acid Sulfate Soils Class 5 categorisation which is the least restrictive of the 5 classifications. Further consideration, if required, will be given to this at development application stage.		

ORDINARY MEETING

Meeting Date: 29 November 2016

Table 2: Infrastructure and Services

Factor	Degree of Constraint to Development	Recommendation
Road network		
<i>Capacity and safety of existing road network</i>	<i>Fundamental - Major</i>	<p><i>RMS concurrence may be required</i></p> <p><i>Development contributions are to be levied for road improvements.</i></p> <p><i>Council and developers are to consider relevant provisions of State Environmental Planning Policy (Infrastructure) 2007 when preparing and considering development applications.</i></p>
<p>Comment: RMS has not requested a development contribution from this planning proposal for road works and have not raised any objection to the proposal, provided that Council make provisions to limit the maximum lot yield on the subject to 12. Council staff have had detailed discussions with RMS regarding the road network and the developer contribution mechanism for future residential development within the Investigation Area. A draft VPA has been finalised as part of this planning proposal to contribute to general infrastructure upgrades, and will be placed on exhibition for public comment. The detail as to where those contributions are to be expended will be the subject of a separate report to Council.</p>		
Wastewater		
<i>Capacity of land to cater for on-site effluent disposal</i>	<i>Fundamental</i>	<p><i>Sydney Water concurrence may be required</i></p> <p><i>Developers are to demonstrate that waste water can be disposed of on site in an environmentally sensitive manner.</i></p> <p><i>Alternatively developers may provide reticulated sewer service to new lots in accordance with relevant licences and/or authority requirements.</i></p> <p><i>Clause 6.7 - Essential Services under LEP 2012 applies.</i></p>
<p>Comment: The preliminary waste disposal assessment reveals that each proposed lot on the subject site is capable of accommodating an appropriate on-site effluent disposal system. This concept has been supported and more detailed analysis in regards to location, size and type will be considered at the development application assessment stage as these matters will be dependent on the size of dwelling.</p>		
Public Transport Services		
<i>Provision of bus service to cater for the needs of incoming population</i>	<i>Fundamental - Moderate</i>	<p><i>Transport NSW and RMS concurrence may be required.</i></p> <p><i>Possible levying of development contributions for bus services.</i></p> <p><i>Clause 6.7 - Essential Services under LEP 2012 applies.</i></p>
<p>Comment: RMS suggests to use sustainable modes of travel including buses, bicycles and walking. The HRLS requires that any rural land subject to a planning proposal enabling rural housing should be within a 1km radius of a rural village or neighbourhood centre identified in the HRLS. This is to enable sustainable development with reasonable access to the required infrastructure and services including sustainable modes of transport. It is therefore considered that this locational criterion generally satisfies the RMS suggested sustainable travel modes.</p>		

ORDINARY MEETING

Meeting Date: 29 November 2016

Factor	Degree of Constraint to Development	Recommendation
Stormwater drainage		
<i>Quantity and quality of stormwater run-off entering watercourses</i>	<i>Fundamental - Moderate</i>	<i>Developers are to demonstrate that stormwater can be captured, treated and released in an environmentally sensitive manner. Possible levying of development contributions for stormwater purposes Clause 6.7 - Essential Services under LEP 2012 applies.</i>
Comment: It is considered this can be satisfactorily dealt with at development application stage by way of the assessment of drainage designs and conditions of consent.		
Water Supply		
<i>Provision of reticulated water supply to new lots</i>	<i>Fundamental - Moderate</i>	<i>Sydney Water concurrence may be required. A reticulated water service is to be provided to new lots by developers in accordance with relevant authority requirements Clause 6.7 - Essential Services under LEP 2012 applies</i>
Comment: The subject site is currently serviced by a reticulated water supply.		
Electricity		
<i>Provision of electricity service to new lots</i>	<i>Fundamental</i>	<i>Electricity provider concurrence may be required. Electricity services are to be provided to new lots by developers in accordance with relevant authority requirements. Clause 6.7 - Essential Services under LEP 2012 applies.</i>
Comment: Electricity is available to the subject site.		

Offer of a Voluntary Planning Agreement

Council considered a report on VPAs for the Kurrajong/Kurmond adopted Investigation Area at the meeting of 10 November 2015. The resolution of Council that meeting was as follows:

"That:

- 1. Council agree to offers to enter into negotiations for Voluntary Planning Agreements in the Kurrajong/Kurmond Investigation Area in the absence of an adopted Section 94 developer contributions plan.*
- 2. Any Voluntary Planning Agreement for this locality to be based on CPI adjusted cash contributions on a per lot release basis consistent with the offers discussed in this report.*
- 3. Negotiations for draft VPAs should include consideration of a Clause to terminate the VPA once the Section 94 Plan is adopted with no retrospective provisions should the amended contributions be different to the VPA contribution amount.*

ORDINARY MEETING

Meeting Date: 29 November 2016

4. *To reinforce Council's previous resolutions planning proposals that have completed public exhibition are not to be reported to Council for finalisation until a Section 94 Plan is adopted or the report is accompanied by a draft Voluntary Planning Agreement that is proposed to be placed on public exhibition."*

The preparation of a S94 Plan has commenced but the completion of that Plan is not expected to be completed in the short term. Given the above Council Resolution, Part 4 of Council's previous Resolution of 11 November 2014 and there is no set timeframe for the completion of the S.94 Plan, the applicant on behalf of the developer/property owner offered to enter into a Voluntary Planning Agreement (VPA) with Council that would result in the developer paying a cash contribution to Council for the purposes of community facilities and works to the value of \$30,000 per additional residential lot. A draft VPA has been prepared and finalised in consultation with relevant Council staff, and the next step will be the exhibition of the draft VPA attached to this report for public comment in accordance with the relevant statutory provisions prior to reporting to Council for its finalisation and adoption.

Conclusion

The consultation undertaken with the community and the relevant public authorities with respect to the planning proposal do not warrant the abandonment of the proposal. However, a minor amendment reflecting the OEH comments has been made to the exhibited Lot Size Map as shown in Attachment 1 to this report to ensure that future APZ's would not adversely impact on the existing vegetation.

Part 4 of Council's resolution of 11 November 2014 states that

"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".

Given the attached draft VPA satisfies this part of the resolution Council can proceed with the making of the LEP under the authorisation for Council to exercise delegation issued by the Gateway determination.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking after People and Place Directions statement:

- 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.

Financial Implications

The applicant has paid the fees required by Council's fees and charges for the preparation of an amendment to the local environmental plan.

There is a need to capture infrastructure funding from all future development. The current focus has been on larger development proposals contributing whilst smaller developments being allowed to progress. Whilst that approach does have some merit in that smaller developments do not place the same individual drain on infrastructure, it is clear from the planning proposals received by Council that the great majority are small developments. The cumulative impact of these smaller proposals will result in the need for infrastructure upgrades.

ORDINARY MEETING

Meeting Date: 29 November 2016

It is clear that all development, large or small, should contribute to the upgrading of infrastructure in a fair and equitable fashion. In this regard the current proposal has proposed an adequate contribution via the attached draft VPA, to the upgrading of the appropriate infrastructure.

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:

1. Proceed with the making of the plan to amend the Lot Size Map of Hawkesbury Local Environmental Plan 2012) in order to permit the subdivision of Lot 2 DP805023, 1420 Kurmond Road, Kurmond into large lots with minimum lot sizes of 4,000m² and 4ha.
2. Request that the Parliamentary Counsel's Office prepare a draft Local Environmental Plan to give effect to the planning proposal in accordance with Section 59(1) of the Environmental Planning and Assessment Act, 1979.
3. Adopt and make the draft Local Environmental Plan, under the authorisation for Council to exercise delegation issued by the Gateway determination, upon receipt of an opinion from Parliamentary Counsel's Office that the plan can be legally made.
4. Following the making of the plan advise the Department of Planning and Environment that the plan has been made and request to notify the plan on the NSW Legislation website.
5. Publically exhibit the draft Voluntary Planning Agreement attached to this report in accordance with the relevant statutory provisions for a minimum of 28 days.
6. The draft Voluntary Planning Agreement be reported back to Council following public exhibition prior to finalisation.

ATTACHMENTS:

- AT - 1 Amended Lot Size Map
- AT - 2 Draft Voluntary Planning Agreement
- AT - 3 Government Agency Submissions and Applicants and Council Officer Responses
- AT - 4 Public Submissions and Applicants and Council Officer Responses

ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 2 Draft Voluntary Planning Agreement



DRAFT Voluntary Planning Agreement
1420 Kurmond Road, Kurmond

VOLUNTARY PLANNING AGREEMENT

THIS PLANNING AGREEMENT is made on the day of 2016

BETWEEN:

HAWKESBURY CITY COUNCIL ("the Council")

AND:

ERNEST BENNETT & Associates Pty Ltd ("the Developer")

Introduction

- A. The Developer is the registered proprietor of the Development Land.
- B. On 2 December 2014 the Council lodged a planning proposal with the Department of Planning and Environment to amend the *Hawkesbury Local Environmental Plan 2012* Lot Size Map to facilitate subdivision of the Development Land.
- C. The Developer proposes to make Development Application to Council for Development Approval to carry out the Proposed Development if the Lot Size Map for the Development Land is altered generally in accordance with the planning proposal.
- D. The Developer has offered to provide a Developer's Contribution in the form of a Cash Contribution on the terms and conditions contained in this agreement if Development Approval is granted to the Proposed Development.

And it is agreed as follows:

1.0 Definitions and Interpretation

In this agreement the following words and letters have the meanings set out below.

- 1.1 **"Act"** means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended from time to time).
- 1.2 **"Approval"** means any approvals consents, modifications, certificates (of all types) permits, endorsements, licenses, conditions or requirements (and any variation to them) which may be required by Law for the Proposed Development.
- 1.3 **"Authority"** means a government, semi-government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body, commission, department, agency, tribunal or other authority or body.
- 1.4 **"Base CPI"** means the CPI number for the quarter ending immediately before the commencement of this Agreement.
- 1.5 **"Business Day"** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act and thing is to be performed or a payment is to be made.
- 1.6 **"Cash Contribution"** means, subject to clause 5 and clause 6, an amount calculated on the basis of \$30,000 per vacant Housing Lot.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement

1420 Kurmond Road, Kurmond

- 1.7 **"Completion Certificate"** means the release of the subdivision, either in whole or in stages, to enable the lodgement to and issue of Housing Lot titles by the NSW Land & Property Information (LPI).
- 1.8 **"CPI"** means the Consumer Price Index released by the Australian Bureau of Statistics for "Sydney - All Groups" or such other consumer price index that might replace it.
- 1.9 **"CPI Review Date"** means each quarterly anniversary of the date of this agreement.
- 1.10 **"Costs"** include costs, charges, fees, disbursements and expenses, including those incurred in connection with advisers.
- 1.11 **"Current CPI"** means the CPI number for the quarter ending immediately before the relevant CPI Review Date.
- 1.12 **"Developer's Contribution"** has the meaning given in clause 6.
- 1.13 **"Development Application"** means an application under Part 4 of the Act for Development Approval.
- 1.14 **"Development Approval"** means a development consent issued under the Act with respect to all or part of the Proposed Development.
- 1.15 **"Development Land"** means the land comprising Lot 2 DP 805023, 1420 Kurmond Road, Kurmond.
- 1.16 **"Dispute"** in connection with this agreement means an argument, a controversy, a difference, a dispute including of opinion or interpretation.
- 1.17 **"Event of Insolvency"** means anyone or more of the following occurrences:
- (i) the Developer becomes bankrupt, is served with a bankruptcy notice or a bankruptcy petition, has committed an act of bankruptcy or has entered into an arrangement within and under the meaning of the *Bankruptcy Act 1976* (Cth); or
 - (ii) the Developer becomes subject to any order or declaration under the *Mental Health Act 2007* (NSW) or is otherwise incapable of managing his or her own affairs.
 - (iii) if the Developer is a company:
 - (a) a resolution is passed for the winding up or liquidation of that company;
 - (b) a liquidator, provisional liquidator, receiver, receiver manager, controller, controlling manager, administrator, voluntary administrator or official manager is appointed to the Developer or a resolution is passed for the purposes of placing that party in the control of an external administrator;
 - (c) it suspends payment of its debts or is unable to pay its debts including of money payable under this agreement or is deemed insolvent;
 - (d) it fails to or is taken as having failed to comply with a statutory demand under the Corporations Act 2001 (Cth);
 - (e) if anything analogous or having substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction with respect to the Developer.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement

1420 Kurmond Road, Kurmond

- 1.18 **"GST"** has the same meaning as the GST Act and other words or expressions used in the GST Act which have a particular defined meaning (including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning.
- 1.19 **"GST Act"** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time).
- 1.20 **"Housing Lot"** means a lot approved by a Development Consent comprising part of the Development Land that is intended to be used for the purposes of a single dwelling house without being further subdivided.
- 1.21 **"Housing Lot Contribution"** means subject to clauses 6, 7 and 8, cash to the value of \$30,000 per vacant Housing Lot arising from a Development Consent of the Development Land.
- 1.22 **"Law"** means:
- (i) the common law and principles of equity;
 - (ii) the requirements of legislation, regulations and by-laws; and
 - (iii) a binding order made by an Authority.
- 1.23 **"LPI"** means Land and Property Information or any other government agency replacing it.
- 1.24 **"Lot Size Map"** means the maps with a corresponding name and forming part of Hawkesbury Local Environmental Plan 2012.
- 1.25 **"Party"** means a party to this agreement, including their successors and assigns.
- 1.26 **"Proposed Development"** means the amendment to *Hawkesbury Local Environmental Plan 2012* and the subdivision of the Development Land.
- 1.27 **"Subdivision Certificate"** means a certificate issued under section 109C(d) of the Act with respect to the Proposed Development.
- 1.28 **"Transfer"** means to settle, assign, transfer, convey, alienate, otherwise dispose of or part with possession of.

2.0 Interpretation:

In this agreement unless the contrary intention appears:

- 2.1 One gender includes the opposite gender.
- 2.2 The singular includes the plural and the plural includes the singular.
- 2.3 A party includes that party's executors, administrators, successors, permitted assigns, permitted legal representatives and substitutes.
- 2.4 Dollars or \$ means Australia dollars and all money payable under this agreement is payable in that currency.
- 2.5 "Including" and similar expressions are not words of limitation.
- 2.6 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement

1420 Kurmond Road, Kurmond

- 2.7 Headings, any table of contents or index are for convenience only and do not affect interpretation of this agreement.
- 2.8 An explanatory note which relates to this agreement does not affect the interpretation of this agreement.
- 2.9 A provision of this agreement must not be construed to the disadvantage of a party merely because that party was responsible wholly or partly for the preparation of this agreement or the inclusion of a term or condition in this agreement.
- 2.10 If an act and thing must be done on a specific day which is not a business day, it must be done instead on the next business day.
- 2.11 A person means and includes a person, a body corporate, Authority, firm, body of persons, association, trust, joint venture or other legal commercial entity or undertaking recognized by law whether or not incorporated.
- 3.0 Planning Agreement**
- 3.1 This agreement:
- 3.1.1 applies to the Development Land;
- 3.1.2 is a planning agreement within the meaning set out in section 93F of the Act;
- 3.1.3 is to be registered on the title of the Development Land under section 93H of the Act;
- 3.1.4 is not a confidential document and may be exhibited without restriction by either party.
- 3.2 Subject to clause 3.3, this agreement operates from the date it is executed.
- 3.3 Clause 6 of this agreement will only operate if and when Council grants Development Approval (or Development Approvals as the case may be) to the Proposed Development on the Development Land.
- 4.0 Application of s94 and s94A of the Act to the Development**
- 4.1 This agreement excludes the application of section 94A and section 94 of the Act to the Proposed Development.
- 4.2 Notwithstanding Clause 4.1, should a section 94 plan which applies to the land come into force prior to the issue of any development consent for subdivision of the land, this Agreement shall be terminated immediately and the adopted contribution rate within such section 94 Plan shall be applied in place of the Developer's Contribution cited within this Agreement.
- 4.3 Clause 4.2 does not allow the Council or the Developer to retrospectively apply a section 94 contribution for allotments for which development contributions have been paid in accordance with this Agreement.
- 4.4 Subject to Clause 15 should this Agreement be terminated in accordance with clause 16, section 94A or section 94 of the Act, whichever is applicable, will apply to the Proposed Development.
- 5.0 Registration of this Agreement**
- 5.1 Within 30 days from the commencement of this Agreement the Developer must take all reasonable steps to procure the registration of the Agreement, in accordance with Section

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement 1420 Kurmond Road, Kurmond

93H of the Act on the relevant folios of the register held by the LPI pertaining to the Development Land.

5.2 The Council agrees:

- (a) to provide a release and discharge of this Agreement with respect to the Development Land or any lot created on subdivision of the Development Land on satisfaction by the Developer of the obligation to provide the Developer's Contribution: and
- (b) to do all things reasonably necessary, including the execution of any documents, to enable the Developer to remove the notation of this Agreement on the relevant folios of the register, held by the LPI pertaining to the Land.

5.3 The Council acknowledges that the registration of this Agreement on the relevant folios of the register held by the LPI pertaining to the Development Land constitutes suitable means of enforcement of this Agreement for the purposes of s93F(3)(g) of the Act.

6.0 Developer's Contribution

6.1 Subject to the terms of this agreement, including clause 3.3, the Developer agrees to provide the Developer's Contribution, subject to clause 8, in the form of the Cash Contribution via a condition of Development Consent at the rate of \$30,000, subject to clause 9, for the creation of each vacant Housing Lot.

6.2 For the avoidance of doubt, the parties agree and acknowledge that the maximum cash contribution is calculated on the basis of \$30,000 per Housing Lot created by subdivision of the land minus two lots of \$30,000 by virtue of there being on the land prior to subdivision two existing dwellings.

7.0 Calculation of Developer's Contribution

The Developer and Council acknowledge and agree that subject to Clause 6, the Developer will contribute cash to the value of the Cash Contribution for each vacant Housing Lot created.

8.0 Staged Provision of Subdivision

7.1 The parties acknowledge that the Proposed Development can be undertaken in stages.

7.2 For each stage the Developer must provide a Cash Contribution in accordance with this Agreement for each vacant Housing Lot created within the particular stage.

7.3 The Cash Contribution must be paid to Council, prior to the issue of the Subdivision Certificate, on a 'pro-rata' basis. The pro-rata payment calculation is to be based on the number of vacant Housing Lots included in the Subdivision Certificate for the relevant stage

9.0 CPI Adjustment of Developer's Contributions

On each CPI Review Date the Developer Contribution will be calculated as follows:

$$RAC_C = RAC_B \times \frac{\text{Current CPI}}{\text{Base CPI}}$$

Where:

RAC_B = The Housing Lot contribution at the commencement of this Agreement (i.e. \$30,000)

RAC_C = Adjusted Housing Lot contribution at CPI review date.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement 1420 Kurmond Road, Kurmond

10.0 Payment of Cash Contribution

The Cash Contribution must be paid to Council, prior to the issue of the Subdivision Certificate, on a 'pro-rata' basis. The pro-rata payment calculation is to be based on the number of Housing Lots included in the Subdivision Certificate for the relevant stage.

11.0 G.S.T

- 11.1 Unless otherwise expressly stated all money or other sums payable or consideration to be provided under this agreement are exclusive of GST.
- 11.2 Despite Clause 6, to the extent that the Commissioner of Taxation, a Court or Tribunal determines that any supply made under or in connection with this agreement is a taxable supply, the GST exclusive consideration otherwise to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is otherwise to be paid or provided and a valid Tax invoice is to be delivered to the recipient of the taxable supply and this clause will not merge on completion or termination of the agreement.

12.0 Dispute Resolution

12.1 Reference to Dispute

If a dispute arises between the Parties in relation to this Agreement, then the Parties must in a reasonable time endeavour to resolve that dispute in accordance with this clause.

12.2 Notice of Dispute

The Party wishing to commence the dispute resolution processes must notify the other Party in writing of:

- (a) the intent to invoke this clause;
- (b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this clause; and
- (c) the outcomes which the notifying Party wishes to achieve (if practicable).

12.3 Representatives of Parties to Meet

- (a) The representatives of the Parties must promptly (and in any event within 15 Business Days of the written notice provided in accordance with clause 12.2 meet in good faith to attempt to resolve the notified dispute.
- (b) The Parties may, without limitation:
 - (i) resolve the dispute during the course of that meeting;
 - (ii) agree that further material, expert determination in accordance with clause 11.5 or consideration is needed to effectively resolve the dispute (in which event the Parties will, in good faith, agree to a timetable for resolution); and
 - (iii) agree that the Parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement 1420 Kurmond Road, Kurmond

12.4 No party may constrain

If:

- (a) at least one meeting has been held in accordance with clause 12.3; and
- (b) the Parties have been unable to reach an outcome identified in clause 12.3; and
- (c) any of the Parties, acting in good faith, forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 12.3(b)(iii), then, that Party may, by 15 Business Days written notice to the other Party, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause does not of itself amount to a breach of this Agreement.

12.5 Expert Determination of Dispute

- (a) If a Dispute arises between Parties to this Agreement, the Parties may agree to refer the Dispute to expert determination in Sydney, New South Wales administered by the Australian Commercial Dispute Centre (ACDC).
- (b) The expert determination will be conducted in accordance with the ACDC Rules for Expert Determination (Rules) in force at the date of this Agreement. The Rules set out the procedures to be adopted, the process of selection of the expert and the costs involved, including the Parties' respective responsibilities for the payment of the expert's costs and other costs of the expert determination.
- (c) The expert determination will be final and binding on the Parties.
- (d) This clause survives termination of this Agreement.

12.6 Urgent Relief

At any time, a Party may, without inconsistency with anything in this clause 11, seek urgent interlocutory relief in respect of a dispute under this Agreement from any Court having jurisdiction.

13.0 Agreement of the Developer

13.1 The Developer warrants that it:

- 13.1.1 is the legal and beneficial owner of part of the Development Land;
- 13.1.2 will take all practicable steps and use best endeavours and do all acts and things required to procure:
 - 13.1.2.1 the execution of any documents necessary to effect registration of this agreement with LPI; and
 - 13.1.2.2 the production of the relevant certificates of title for the Development Land and the registration of this agreement at LPI on the title of the Development Land within 30 days of the date of the commencement of this agreement.

13.2 Council shall not be required to seal any sub-division plan made pursuant to the Development Approval unless and until this agreement has been registered at LPI on the title of the Development Land.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement 1420 Kurmond Road, Kurmond

14.0 Enforcement by any party

- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any court of competent jurisdiction.
- (b) Nothing in this Agreement prevents:
 - (i) a Party from bringing proceedings in a court of competent jurisdiction to enforce any aspect of this Agreement or any matter to which this Agreement relates, subject to compliance with clause 14; and
 - (ii) the Council from exercising any function under the Act or any other Act or law.

15.0 Assignment and dealings

15.1 The Developer is not to:

- 15.1.1 sell, transfer, mortgage or charge the Land, or
- 15.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,

to any person unless:

- 15.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold, transferred, mortgaged or charged or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and
 - 15.1.4 the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, mortgagee, charge, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
 - 15.1.5 the Developer is not in breach of this Deed, and
 - 15.1.6 the Council otherwise consents to the transfer, mortgage, charge, assignment or novation, such consent not to be unreasonably withheld.
- 15.2 Clause 14.1 does not apply in relation to any sale, transfer, mortgage or charge of the Land if this Deed is registered on the title to the Land at the time of the sale.
- 15.3 Upon the commencement of this Deed, the Council is deemed to have acquired, and the Developer is deemed to have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently the Council has a sufficient interest in the Land to lodge and maintain with the Land and Property Management Authority a caveat notifying that interest.
- 15.4 The Developer consents to the Council lodging a caveat on the Land where this Deed is not registered on the title to the Land due to a breach by the Developer of its obligations.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement 1420 Kurmond Road, Kurmond

16.0 Release

When the Developer has satisfied all of the obligations imposed on it under this agreement in respect of that part of the Development Land for which a Subdivision Certificate has been issued and for which the Developer's Contribution has been delivered then the Council must promptly at the request and at the reasonable expense of the Developer do all acts and things necessary to remove this agreement from the title of that part of the Development Land.

17.0 Termination

17.1 This agreement may be terminated by the Council by written notice to the Developer if:

17.1.1 the Developer commits a breach of any of the terms and conditions of this agreement and fails to remedy such a breach within fourteen (14) days of receipt of a written notice (which specifies the breach and requires the Developer to remedy the breach) whereupon the date of such termination will be effective on the 15th day from receipt of such written notice; or

17.1.2 an Event of Insolvency occurs.

18.0 Review Procedures

The parties may agree to review this agreement in circumstances and in a manner determined by the parties. Any amendment, modification, supplement or replacement document which results from a review must be in writing, signed by the parties and registered at LPI under Section 93H of the Act.

19.0 Notices

19.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

(a) Delivered or posted to that Party at its address set out below.

(b) Faxed to that Party at its fax number set out below.

19.2 For the purposes of this clause the parties' contact details for service are:

The Developer

Address:

Facsimile:

Council

Address:

Hawkesbury City Council
Attention: General Manager
366 George Street,
WINDSOR NSW 2571

Facsimile: (02) 4587 7740
Telephone: 4560 4444

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement

1420 Kurmond Road, Kurmond

- 19.3 If a Party gives the other Party three business day's notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.
- 19.4 Any notice, consent, information, application or request is to be treated as given or made at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, 2 business days after it is posted.
 - (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 19.5 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

20 Proper Law and Jurisdiction

This agreement is made and will be construed and governed in accordance with the Law of the State of NSW South Wales. Each party submits to the exclusive jurisdiction of each and every Court or Tribunal of the said State having jurisdiction to hear the matter submitted to it.

21 Severance

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

22 Waiver

- 22.1 No failure on the part of a party to exercise and no delay in exercising and no cause of dealing with respect to, any condition and the rights, powers or remedies of that party under this agreement will impair any of those rights, powers or remedies, nor constitute a waiver of any of those rights, powers or remedies.
- 22.2 No single or partial exercise by a party of any condition and rights, powers or remedies under this agreement will preclude any other or further exercise of those or exercise of any other conditions rights or remedies.
- 22.3 Any condition and the rights, powers or remedies under or relating to this agreement are cumulative and will not exclude any other rights, powers or remedies under or relating to this agreement at Law.
- 22.4 No waiver of any of the conditions of this agreement will be effective unless in writing signed by the party against whom such waiver is sought to be enforced.
- 22.5 Any waiver of the conditions of this agreement will be effective only in the specific instance and for the specific purpose given and the waiver will not be deemed a waiver of such obligations or of any subsequent breach of the same or some other obligation.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement 1420 Kurmond Road, Kurmond

23 Approvals and Consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject

24 Entire Agreement

This agreement contains all the terms and conditions to which the parties have agreed on in relation to the matters which they have dealt with. No party can rely on an earlier document, anything said or done by another party, or omitted to be relied upon, said or done except as permitted by Law.

25 No Fetter

25.1 Nothing in the agreement is to be construed as requiring the Council to do anything

25.1.1 that would cause it to be in breach of any of its obligations at Law;

25.1.2 limiting or fettering in any way the exercise of any statutory discretion or duty; at Law; or

25.1.3 imposing any obligations to grant an Approval.

26 Representatives and Warranties

Each party agrees that it has the power and authority to enter into this agreement and comply with its obligations and that entry into this agreement will not result in a breach of Law.

27 Costs

Each party must bear and pay its own costs of and incidental to the preparation and execution of this agreement.

ORDINARY MEETING

Meeting Date: 29 November 2016



DRAFT Voluntary Planning Agreement
1420 Kurmond Road, Kurmond

Executed as an agreement on

2016

Execution by Council

Signed by Hawkesbury City Council by its
authorised officer in the presence of:

Signature of witness

Signature of authorised officer

Name of Witness

Authorised Officer's Name:
Signing on behalf of: Hawkesbury City Council

Address of witness

Power of Attorney Book No:

Execution by ERNEST BENNETT & Associates Pty Ltd

Signed by :

Signature of Ernest Bennett

Print name

ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 3 Government Agency Submissions and Applicants and Council Officer Responses

Agency	Issue	Applicant's Response	Council Officer Response
NSW Rural Fire Service (NSWRFS)	No objections to the making of the plan provided that the future subdivision of the subject site shall comply with the requirements of <i>Planning for Bushfire Protection 2006</i> (PBP 2006).	The Bushfire Assessment Report indicated that future development of the subject site would be able to satisfy the requirements of PBP 2006 and suggested to include recommendations contained within the report as conditions of consent for a future DA for the subdivision of the subject site.	NSWRFS's comments are matters that are appropriate to the assessment of DAs for subdivision and dwellings, and not matters to be incorporated into amendments to a local environmental plan. If this plan is made, any future DAs over the subject site including the subdivision of the subject site will be referred to NSWRFS for comment.
Office of Environment & Heritage (OEH)	<u>Retention of vegetation</u> A recommendation in the Flora and Fauna Survey and Ecological Assessment (May 2014) to retain and manage all native vegetation on the subject site under a Community Title, and suggests to rezone that part of the subject site to a suitable conservation zone to protect the vegetation is supported.	Not provided	<p>The exhibited proposed Lot Size Map was amended to retain a 4ha minimum lot size provision for part of the subject site identified as the Proposed Community Titled Lot 1 in the planning proposal to protect and minimise any fragmentation of the significant vegetation on the subject site.</p> <p>Council's records reveal that the subject site has primarily been used for rural residential purposes over many years. Environmental Conservation (E2) and Environmental Management (E3) Zones should only be applied if land has primarily been used as a conservation zone, and it has attributes that have been verified by suitably qualified persons. Given these circumstances, it is considered premature to rezone that part of the land with some residential development potential as a conservation zone. Council's Vegetation Maps and associated Clause 6.4 Terrestrial Biodiversity of the LEP provide an effective optional mechanism for the protection and management of significant native vegetation, without having to apply a conservation zone.</p>
OEH	<u>Asset protection zones</u> The Bush Fire Assessment Report states that the proposed allotments must maintain an asset protection zone (APZ) from areas of existing vegetation.	It is not envisaged that any vegetation on this lot will be required for APZ's, however Council will need to assess future applications identifying APZ's for future dwellings on the newly created lots.	The exhibited Proposed Lot Size Map was amended to retain a 4ha minimum lot provision for the majority of the subject site approximately 6.5ha in size containing significant vegetation classified as endangered ecological communities (EEC), the riparian corridor and two existing dams and watercourses. This amendment is explained in detail in the latter part of the report.

ORDINARY MEETING

Meeting Date: 29 November 2016

	<p>However, the report does not map these required APZ's and does not explicitly state that vegetation within Proposed Lot 1 can be fully retained, and will not be required to form part of the APZ's. Council will need to ensure that any future APZ's will not affect the vegetation within Proposed Lot 1.</p>	<p>The Bushfire Assessment Report reveals that the APZ's will not encroach into Proposed Lot 1, although ultimately this is a matter for Council assessment of future DAs.</p>	<p>This amendment would ensure the retention of the existing EEC and minimise any adverse impacts of the future APZ's on the vegetation.</p>
OEH	<p><u>Clearing of vegetation and private access road system</u></p> <p>Council will need to consider how the 10/50 Vegetation Clearing Code (Clearing Code) would apply to this subject site as the creation of the new lots could permit clearing under this code of practice. It is noted that the private road system to service Proposed Lots 2 to 8 does not comply with PBP 2006. Should changes to the road system be required this should not result in a reduction of the vegetation protection area.</p>	<p>It is difficult to predetermine something that may not happen. Ultimately clearing is somewhat dependent on dwelling location, size, orientation etc. The area where a dwelling might locate is almost cleared of vegetation and it is unlikely that further substantive clearing would be required for APZ's. Therefore, the Clearing Code would probably not apply as dwellings will be in already cleared areas. It is also noteworthy that the State Government is reviewing the Clearing Code, and it will require consultation with Council when clearing of land is proposed.</p>	<p>According to NSWRF's online assessment tool, the subject site is located within a designated 10/50 Vegetation Entitlement Clearing Area. Given the subject site is mapped as a Critically Endangered Community by OEH, the 10/50 exemption is not applicable for the subject site, and any clearing of vegetation will require consent from relevant consent authorities including NSWRF's. However, this matter is not a determining criterion for a planning proposal.</p> <p>Council does not endorse a subdivision concept plan submitted in support of a planning proposal as this will need to be subject to a future subdivision application if the plan were to be made. The future subdivision application for the subject site must comply with PBP 2006.</p>
OEH	<p><u>Impact on threatened fauna</u></p> <p>The Flora and Fauna Assessment Report states that no roosting or foraging habitat for threatened fauna will be removed or impacted as a result of the proposal, however the report refers to large Forest Gums that have multiple medium to large hollows on the subject site and elsewhere to at least 2 "large habitat trees and 2 stags being likely to be removed.</p> <p>Given this, it is questioned how the report can conclude that no roosting and foraging habitat for threatened fauna will be removed. No approval should be given for the removal of these trees without an assessment of</p>	<p>It is understood that the inconsistency involves the extent of intrusion of APZ's into some vegetated areas. Again the ultimate degree of APZ for each dwelling is subject to dwelling design etc. Obviously further assessment and approval would be required if significant vegetation was proposed to be removed, and Council can assess this at the development application stage.</p>	<p>Given the presence of significant flora and fauna species within the site, any future development of the land would require preparation of a flora and fauna report in accordance with Section 5A of the <i>Environmental Planning and Assessment Act, 1979</i>. This will enable Council to determine the likely impact of the future development of the subject site on existing vegetation and ensure significant habitat trees including any roosting or foraging habitat for threatened fauna will retain on the subject site.</p>

ORDINARY MEETING

Meeting Date: 29 November 2016

	significant impact (i.e. 7 part test).		
OEH	<p><u>Existing watercourses</u></p> <p>The proposal retains the two watercourses within Proposed Lot 1, although it is not clear if there is sufficient buffer for the smaller tributary within the lot boundary. In order to protect this area for conservation, Council will need to ensure that the proposed measures to protect it are adequate.</p>	Not provided	<p>The amended exhibited Lot Size Map now retains the majority of the site (approximately 6.5ha in size) containing the two existing watercourses and dams, significant vegetation and riparian corridor within a single allotment referred to as the Proposed Lot 1 in the subdivision concept plan attached to the planning proposal. This single allotment is now able to provide at least 30m and 10m buffers to Howes Creek and the smaller tributary respectively ensuring adequate protection of that part of the subject site containing significant vegetation.</p>
OEH	<p><u>A bushland/vegetation management plan</u></p> <p>The recommendations to manage and mitigate environmental impacts contained in the Flora and Fauna Assessment Report should be included in the consent conditions. Consent conditions should also include the implementation of a bushland/vegetation management plan. Also, Proposed Lot 1 is to be appropriately fenced and signposted to ensure that all future residents are aware of the obligations for the community titled lot.</p>	No objection is raised to the request.	<p>Council will insert adequate and appropriate conditions of consent including recommended conditions contained in the Flora and Fauna Assessment Report to protect and manage significant flora and fauna species and minimise any adverse impacts on the existing ecological values of the subject site when Council imposes conditions of consent in a future subdivision approval for the subject site if this plan were to be made.</p>
Roads & Maritime Services (RMS)	<p><u>Cumulative impacts of development/traffic</u></p> <p>There is a concern over cumulative impacts of the growing number of planning proposals for rural subdivisions in the area as many of the properties gain access to Bells Line of Road via Kurmond Road. There are no current plans or funding available for upgrades of the intersection of Bells Line of Road and Kurmond Road. The cumulative</p>	<p>It is agreed to make an appropriate level of contribution through a Section 94 Contribution Plan (S.94 Plan) currently being prepared by Council or via a Voluntary Planning Agreement (VPA) to support the required upgrade to the road network in the locality.</p>	<p>Council is currently in the process of finalising a Structure Plan for the Kurmond and Kurrajong Investigation Area (Investigation Area) which would assist in determining the likely cumulative impacts of the planning proposals within the Investigation Area, and preparing a S.94 Plan to fund the required road and intersection upgrades in the locality. Council will finalise this Structure Plan and the S.94 Plan in close consultation with RMS.</p>

ORDINARY MEETING

Meeting Date: 29 November 2016

	impacts of development traffic on the classified road network in the locality would be substantial and require upgrades to the road network.			
RMS	<u>Kurmond and Kurrajong Investigation area</u> RMS suggests that Council include a traffic study to investigate the likely impacts on the surrounding road network, and work with the RMS in the development of a developer funding mechanism to fund the required road network improvements in the locality.	Not provided		Once the potential lot/dwelling yield within the Investigation Area is forecasted and a suitable road access arrangement to those lots is identified, Council will consult RMS in the preparation and development of a S. 94 Plan to accommodate future development within the Investigation Area, and the need to undertake a traffic study for the Investigation Area.
RMS	<u>Impact of the Planning Proposal</u> A concern is raised over the impacts of the planning proposal on the intersection of Kurmond Road and Bells Line of Road, particularly right turn movements, and potential exacerbation of road safety risks as a result of increased turning traffic. While the planning proposal seeks to yield 12 lots on the subject site, the proposed 4,000m ² minimum lot size for the subdivision of the subject site would allow for up to 27 lots on the site. The planning proposal needs to be delayed until the likely future dwelling yield within the Investigation Area and the required intersection improvement works are determined. If the planning proposal is to be pursued in its current form, site specific controls limiting the lot yield on the subject site to a maximum of 12 lots need to be introduced. If such controls are not considered appropriate, a traffic study enabling RMS to provide an informed comment on the traffic impacts of the planning proposal with a likely 27 lot yield	<p>RMS incorrectly states that the subject site could contain up to 27 lots based on a minimum lot size of 4,000m². However, there is no objection to the incorporation of a maximum lot yield provision into the LEP amendment.</p> <p>It is opposed to RMS request for preparation of a traffic study at this stage due to the following reasons:</p> <ul style="list-style-type: none">• The proposal is for 12 lots and not 27 lots.• The total cost of this traffic study needs to be met by the applicant, and others who would lodge subdivision applications for their properties within the locality and many hundreds of motorists using this road network would benefit from this study with no cost to them.• The likely traffic generation from this planning proposal would be negligible compared with the traffic volume generated by	<p>The previous Council Report of 11 November 2014 stated that approximately 35% of the subject site is suitable for residential development. This site area is not capable of yielding more than 12 lots on the subject site. In addition, the proposed exhibited Lot Size Map has been amended in line with OEH comments to retain significant vegetation on the subject site.</p> <p>As shown in Attachment 1 of this Report, the amended Lot Size Map identifies a minimum lot size of not less than 4,000m² for part of the subject site with an area of approximately 4.5ha and retain the current 4ha minimum lot size provision for the remainder of the subject site with an area of approximately 6.5ha. Therefore, the subject site would not be able to yield more than 12 lots, and the inclusion of an additional provision in the LEP to limit the lot yield on the subject site to a maximum of 12 lots is not warranted.</p> <p>Council is progressing the development of a S.94 Plan and finalising a Structure Plan for the Investigation Area. Once the S.94 Plan is in force, Council will be able to levy S.94 contributions for future residential subdivision applications for properties within the Investigation Area. Given there is no set timeframe for the completion of the S.94 Plan, a draft VPA has been prepared to support this planning proposal. This matter is discussed in the latter part of the report.</p>	

ORDINARY MEETING

Meeting Date: 29 November 2016

	and identify the required road infrastructure upgrades to mitigate that impacts would be required.	<i>thousands of motorists in the area.</i>	
RMS	<p><u>Sustainable modes of travel</u></p> <p>RMS supports development which rely upon sustainable modes of travel including buses, bicycles and walking. Council may develop a suitable funding mechanism to require developer contributions to provide footpaths along Bells Line of Road.</p>	No objection is raised to this suggestion.	<p>The Hawkesbury Residential Land Strategy (HRLS) requires that any rural land subject to a planning proposal enabling rural housing should be within a 1km radius of a rural village or neighbourhood centre identified in the HRLS. This is to enable sustainable development with reasonable access to the required infrastructure and services including sustainable modes of transport. A suitable mechanism to provide footpaths within the Investigation Area and along Bells Line of Road can be considered when the Structure Plan is completed.</p>
Greater Sydney Local Land Services (GSLLS)	<p><u>Clearing of native vegetation</u></p> <p>The Native Vegetation Act 2003 (NV Act) does not apply to land within the Hawkesbury Local Government Area, and therefore Greater Sydney Local Land Services (GS LLS) have no approval role for any clearing of native vegetation within the area of the planning proposal. However GS LLS support activities that achieve the objectives of the NV Act, and consider proposed developments should be located and designed to minimise adverse impacts on native vegetation.</p> <p>GS LLS support the UBM Consultants' recommendation to develop and implement a site specific Vegetation Management Plan to manage the proposed reserve bushland and riparian corridor on the subject site.</p>	No objection is raised to this suggestion.	<p>Given the presence of significant vegetation and a riparian corridor within the subject site, the preparation and implementation of a site specific Vegetation Management Plan (VMP) to enable effective protection and management of the existing vegetation and the riparian corridor prepared by a suitably experienced and qualified consultant is warranted. Council will be able to include a requirement to prepare and implement a VMP as a condition of consent in a future subdivision approval for the subject site if the plan were to be made.</p>

ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 4 Public Submissions and Applicants and Council Officer Responses

No	Issue	Applicant's Response	Council Officer Response
1	<p><u>Rezoning of the Subject Site</u></p> <p>Why the planning proposal does not seek to rezone the subject site to R5 Large Lot Residential to reflect the proposed land use and address the relevant Section 117 Directions?</p>	<p>There is no objection to the rezoning of the subject site.</p>	<p>The DP&E's LEP Practice Note (12 April 2006) provides the following information with respect to R5 Large Lot Residential Zone:</p> <p><i>"This zone generally intends to cater for development that provides for residential housing in a rural setting. The allocation of large lot rural residential land must be justified by a land use strategy prepared in accordance with the guidelines issued by the Department".</i></p> <p>Section 117 Direction 1.2 Rural Zones states that planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. Rezoning of the subject site to R5 Large Lot Residential is considered inconsistent with this direction, and requires a sound justification to address that inconsistency. The properties immediately north, east and west of the subject site are zoned RU4 Primary Production Small Lots, and the properties immediately south are zoned RU1 Primary production. The predominant zoning of the immediate vicinity is rural, and therefore rezoning of the subject site to R5 Large Lot Residential is inconsistent with the existing zoning in the immediate vicinity, and will result in a zoning anomaly in the locality. Given these circumstances, rezoning of the subject site to R5 Large Lot Residential is not considered appropriate.</p>
2	<p><u>Structure Plan</u></p> <p>Additional assessment is required to determine the suitability of the identified sites for large lot residential and/or rural residential development.</p> <p>A Structure Plan and a development control plan should be developed as a priority to guide future development in the area. Planning proposals received within the Investigation Area should not be processed until such time Council adopts these two plans.</p> <p>Council's decision to prepare a Structure Plan for the Investigation Area should have been made prior to any consideration of a planning proposal within the Investigation Area. The Structure Plan would have adequately</p>	<p>The planning proposals are prepared in accordance with Council's Residential Land Strategy (HRLS) which is a strategic planning document adopted by Council and endorsed by DP&E. Council should</p>	<p>Planning proposals are assessed on their merits and all the relevant criteria including State/Local planning framework, environmental sustainability, infrastructure and service provision, social and economic benefits and site constraints/ and opportunities are taken into consideration when assessing planning proposals.</p> <p>Council does not support any planning proposals that lack strategic planning and site specific merits, and do not demonstrate the compliance with the relevant planning framework and environmental sustainability criteria. It is considered that progressing with the existing planning proposals with proven merits that are consistent</p>

ORDINARY MEETING

Meeting Date: 29 November 2016

	dealt with all relevant issues within the Investigation Area including the issues raised in this submission. A planning proposal not determined against such a Structure Plan is flawed and has no strategic merit.	continue in determining planning proposals.	with the relevant state and local planning framework, and do not impose significant demand on the existing infrastructure and services in the area is appropriate. Once the Structure Plan for the Investigation Area is finalised and adopted, it will provide Council an effective strategic planning framework in the assessment of planning proposals and future development applications within the Investigation Area. It will also assist Council in the preparation of a Section 94 Contribution Plan for the Investigation Area to fund the required infrastructure upgrades to support future development within the Investigation Area as opposed to the VPA approval.
3	<u>Minimum Lot Size and Zone Objectives</u> The proposed minimum lot size does not reflect the current zone objectives, and therefore the planning proposal is flawed. The planning proposal should seek to rezone the subject site to an appropriate zone to reflect the proposed minimum lot size.	Not provided.	There is no statutory requirement or provision in the Department of Planning and Environment's 'A guide to preparing planning proposals' or any other relevant planning/policy document requiring correlation between a minimum lot size and zone objectives.
4	<u>New LEP Provision</u> Why the planning proposal or the Council did not resolve to limit the maximum number of lots on the subject site to 12? The plan making process should be stopped until this error is fixed. The RMS recommends that the planning proposal needs to be delayed until the Structure Plan for the Investigation Area is finalised, likely future development yield within the Investigation Area and road infrastructure improvement works required to support that development are determined.	The planning proposal does not propose to insert a clause in the LEP to limit the number of lots on the subject site, and Council will make a decision on the matter. However, there is no objection to the insertion of a clause in the LEP to limit the lot yield on the subject site.	This is generally a matter for the DP&E, and it will ultimately decide on the type of amendment to the LEP. However, it is understood that at present the DP & E's preferred option is to amend the Lot Size Map of the LEP and not the inclusion of a clause or a provision in the LEP to limit the dwelling yield on a site. RMS issues are addressed in the Attachment 3 of the report
5	<u>Traffic Impact</u> Without any significant improvements to the road network including the intersection of Kurmond Road and Bells Line of Road and the bottleneck	Not provided.	As previously mentioned, Council is progressing with the preparation of a S.94 Plan to fund required road infrastructure

ORDINARY MEETING

Meeting Date: 29 November 2016

	<p>of the North Richmond Bridge, the planning proposal will further exacerbate the current situation. Also, the lack of a footpath leading to the public school on Kurmond Road places both the motorists and the pedestrians in danger.</p> <p>The applicant has failed to include a traffic report addressing these issues. Although the planning proposal alone may not warrant upgrades to the existing road infrastructure, the cumulative impacts of development traffic on the road network can be substantial and require upgrades. Council does not appear to have a longer term strategy to deal with the cumulative impact in this area. A broader investigation should be undertaken by Council as part of the Kurmond Investigation Area in addition to the preparation of a development contribution plan for the area to assist in funding road improvements.</p>		<p>upgrades to accommodate future development in the locality. Planning proposals including this planning proposal that will need to be finalised prior to the making of the S.94 Plan are required to have a planning agreement in place enabling appropriate level of funding to support future infrastructure upgrades in the locality.</p> <p>It should also be noted that the Gateway determination did not require a traffic report. The RMS required a traffic report only if Council cannot include a provision in the LEP to limit the allotments yield to 12 on the subject site. This issue has been addressed in Attachment 3 of the report.</p>		<p>This issue has previously been addressed via obtaining approval for the subdivision of the subject site into two lots incorporating the existing weatherboard house and the masonry house on proposed lot 21 and lot 22. However, the five year consent for this development lapsed in September 2014. Therefore, the owner of the subject will need to address this issue again if the plan was not made.</p>		<p>These issues have been addressed in Attachment 3 of the report.</p> <p>The information contained in the Flora and Fauna Report was adequate for the assessment of the planning proposal. The Gateway determination or the government agency submissions did not comment on the adequacy of the information contained in the planning proposal.</p>
6	<p><u>Dual occupancy</u></p> <p>It is noted that there are two houses on the subject site and one house has no formal approval. Is Council investigating this matter or intending to fix this matter through making of the plan?</p>	<p>This is irrelevant to the planning proposal however there is no dual occupancy on the land. The two houses are lawful and the planning proposal seeks to locate them on separate lots.</p>					
7	<p><u>Bushfire protection and vegetation</u></p> <p>The preliminary Bush Fire Report does not map the required APZs and does not explicitly state that vegetation in Proposed Lot 1 can be fully retained and will not be required to form part of the APZ.</p> <p>Council will need to consider how the 10/50 Clearing Code (10/50 Code) would apply to this area as the creation of new lots could permit clearing under the 10/50 code. This is particularly relevant to any lots adjoining Proposed Lot 1. This may require the reduction of lots to be created.</p> <p>The OEH has indicated that the private road system to service Proposed Lots 2 to 8 does not comply with the <i>Planning for Bushfire Protection 2006</i>. Should changes to the road system be required this should not result in a</p>	<p>Not provided.</p>					

ORDINARY MEETING

Meeting Date: 29 November 2016

	reduction of the vegetation protection area. There is conflicting information regarding vegetation removal on the site (refer to OEH submission). No approval should be given for the removal of any trees without an assessment of significant (7 part test) being undertaken. It is considered that the flora and fauna report is inadequate based on visual observations of the area.			In the plan making process, the Gateway determination confirms the information (which may include studies and investigations) required in support of a planning proposal. The "Gateway determination did not require a land contamination assessment report confirming the subject site is suitable for residential purposes. However, this issue will be taken into consideration when Council determine a DA for the subdivision of the subject site if the plan were to be made.
8	<u>Site contamination</u> According to Council's records the site has been previously used for orcharding and grazing, and is currently used for horse training and hobby farming, with disused orchards and open woodland present. Given the land has been previously utilised for orcharding, a preliminary contamination investigation should be undertaken upfront.	Not provided.		Given the subject site is in very close proximity to the Kumond Neighbourhood Centre, surrounding rural residential development and its non-agricultural use for many years it is considered that it is unlikely the subject site could be used for a substantial or sustainable primary industrial or agricultural purposes. Also, the RU4 Zone objectives enable other compatible land uses including dwelling houses within the RU4 Zone. Given these circumstances the planning proposal seeking to amend the Minimum Lot Size Map of the LEP to specify 4,000m ² minimum lot size for the subject site to allow new dwellings on additional lots with Council's consent is not considered to be inconsistent with the RU4 Zone objectives.
9	<u>RU4 Zone Objectives</u> The planning proposal seeking to amend the Minimum Lot Size Map of the LEP to specify 4,000m ² minimum lot size for the subject site is not consistent with the following RU4 Primary Production Small Lots zone objectives: Objectives of RU4 Primary Production Small Lots zone <ul style="list-style-type: none"> • To enable sustainable primary industry and other compatible land uses • To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature • To minimise conflict between land uses within this zone and land uses within adjoining zones • To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and ground water quality and flows, land surface conditions and important eco systems such as waterways It is not clear how a future DA for the subdivision of the subject site can	Not provided.		

	demonstrate its consistency with RU4 zone objectives.			
10	<p><u>Section 117 Directions</u></p> <p>The planning proposal is not seeking to rezone the subject site to R5 Large Lot Residential to avoid addressing certain Section 117 Directions, in particular, Directions 1.2 Rural Zones, 1.5 Rural Lands and 3.1 Residential Lands.</p>	Not provided.	<p>The inappropriateness of an R5 zoning for the subject site has been discussed in Attachment 3 of the report. The planning proposal has addressed all the relevant Section 117 Directions, and the Gateway determination received for the planning proposal from DP&E raised no issues regarding the consistency of the planning proposal with Section 117 Directions. Direction 1.5 Rural Lands does not apply to certain local government areas including Hawkesbury.</p>	
11	<p><u>Water Cycle Management Study</u></p> <p>In accordance with SREP 20, a planning proposal seeking rezoning or subdivision of a rural site which is likely to be occupied by more than 20 people should accompany a Total Water Cycle Management Study or Plan. This planning proposal has the potential to accommodate more than 20 people on the subject site, such a study/plan is a vital component of the planning proposal.</p>	A wastewater feasibility statement submitted as part of the planning proposal concludes that each lot is capable of containing on-site effluent disposal.	A wastewater feasibility statement prepared by Toby Flander & Associates Pty and submitted in support of the planning proposal provides a preliminary assessment of the site's suitability for on-site effluent disposal and concludes that the subject site has the capacity to accommodate an appropriate on-site effluent disposal system. If the plan is made, Council will be able to further consider the matter at future development application stage.	
12	<p><u>Rural Character</u></p> <p>The planning proposal enabling increased housing will result in increased pet dogs and thereby require high electrified dog proof wire fencing in the locality. This will significantly impact the rural character of the locality.</p>	There are current laws and regulations controlling pet dogs.	This is an assumption, a separate issue and not a relevant determining criterion for planning proposals. There are legislative and regulatory provisions to deal with this matter.	
13	<p><u>Supporting reports/studies</u></p> <p>Council's Report indicates that a number of reports be undertaken. These include:</p> <ul style="list-style-type: none"> - Acid sulfate soil study - Contamination report - Traffic impact statement <p>These reports should have formed part of the original planning proposal. The planning proposal should not be progressed any further until such time as Council determines that the reports considered satisfactory and there would be no adverse impacts on the amenity of the local area.</p>	<p>It is considered unnecessary to submit a contamination report for the subject site with the planning proposal. The required reports can be submitted at DA stage.</p>	<p>The planning proposal has been prepared in accordance with the DP&E's "A guide to preparing planning proposals" October 2012 (the Guidelines) which stated that:</p> <p><i>"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's strategic merit or compliance with a relevant statutory consideration such as a section 117 Direction".</i></p> <p>In the plan making process, any studies/investigations are generally undertaken after a Gateway determination has been issued and if</p>	

ORDINARY MEETING

Meeting Date: 29 November 2016

			required by the Gateway determination. The Gateway determination received for this planning proposal did not require any studies or reports.
14	<u>Section 94 Contributions plan</u> Council has not prepared a Section 94 Contributions plan (S.94 Plan) for the Investigation Area, and Council's Resolution of 11 November 2014 making provisions for the preparation of a VPA. This is not considered a good strategic outcome for the Investigation Area, and Council is not fully prepared for future development in the Investigation Area. All planning proposals in the Kurmond Investigation Area should not be progressed until the adoption and enforcement of a Section 94 Contributions plan.	Not provided.	Council is progressing with the preparation of a S.94 Plan for the Investigation Area. Given there is no set timeframe for the completion of this plan, Council requested the applicant to prepare a draft VPA to support the planning proposal as an alternative funding mechanism to fund the required improvements to the existing infrastructure and adopt that plan prior to the finalisation of the LEP as per Council Resolution Item 4 of 11 November 2014.
15	<u>Government agency concerns</u> Government agencies have a number of concerns regarding the proposal and overall strategic direction for the area.	Not provided.	Government agency issues have been considered and addressed in Attachment 3 of this report. None of the agencies opposed the making of the plan.
16	<u>Infrastructure Services</u> The existing infrastructure services need to be upgraded prior to any further development in the area. Council is not planning for the future. Notwithstanding the current incapacity of the existing reticulated water system in the locality, residential development applications are getting approved making the current situation worse. In order to get approval, planning proposals include proposed infrastructure provisions to improve local infrastructure services in the locality but they are limited only to paperworks. The residents in the area are already experiencing significant traffic problems due to the lack of road infrastructure improvements which need to be addressed urgently. The increased trucks on Kurmond Road bypassing RMS maintained road causes a significant impact on traffic movements on Kurmond Road. This planning proposal will make the situation worse.	Council's proposed S.94 Plan will make provisions for the required improvements to existing infrastructure in the locality, and Council would be able to levy a reasonable infrastructure contribution for future subdivision of the subject land.	Council is currently progressing with a Structure Plan and a S.94 Plan for the Investigation Area. This will provide Council a better planning framework and a funding mechanism to deal with the future planning proposals and the required infrastructure improvements to accommodate future development within the Investigation Area. Council will finalise this Structure Plan and the S.94 Plan in close consultation with the relevant stakeholders including RMS. In the meantime, Council makes provisions for planning proposals including this planning proposal that are currently being finalised to have VPAs requiring appropriate level of contributions are in place as an alternative funding mechanism to support the required augmentation of the current infrastructure in the locality.

ORDINARY MEETING

Meeting Date: 29 November 2016

17	<p><u>Proposed Amendment to the LEP</u></p> <p><i>Proposed amendment to the LEP to permit larger residential lots of 4,000m² in the area is supported.</i></p>	Not provided.	<p>Council's assessment of the planning proposal revealed that the planning proposal has merit, and part of the subject site approximately 4.5ha in size and free of any significant constraints has the potential to yield large residential lots with a minimum lot size of not less than 4,000m².</p>
18	<p><i>Kurmond/Kurrajong Investigation Area</i></p> <p>The Kurmond/Kurrajong Investigation Area follows the eastern boundary of the site and excludes the land immediately east of the subject site at 1416 Kurmond Road. It is noted that the Preliminary Bushfire Assessment prepared by Control Line Consulting in support of the planning proposal states:</p> <p><i>"The acceptable solutions contained within Planning for Bushfire Protection 2006 states that a public road shall be provided where access is required for more than 3 individual parcels. Therefore in terms of the detail shown on the proposed subdivision plan there is a need to enter into consultation with the consent authorities to determine the ultimate requirement for access"</i></p> <p>Clearly, in these circumstances, there would be advantages in including 1416 Kurmond Road in the Investigation Area so as to facilitate public road access. The inclusion of 1416 Kurmond Road in the Investigation Area is essential to the co-ordination of the orderly and economic development of land. Also the land has certain merits including its close proximity to the Kurmond Neighbourhood Centre and the land area is mostly cleared pasture with slope less than 15%. Given these merits, Council is requested to include this land in the Kurmond/Kurrajong Investigation Area to enable the submission of a planning proposal for the land.</p>	Not provided.	<p>Council does not endorse any subdivision concept plan submitted with a planning proposal as it will be subject to a future development application if the plan were to be made. Therefore, the access arrangement to the proposed lots shown in the subdivision concept plan has no major effect on the determination of this planning proposal. The inclusion of 1416 Kurmond Road in the Investigation Area is not relevant to this planning proposal, and is a matter for Council to consider when finalising the Investigation Area.</p>

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 254 **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 43 Bootles Lane, Pitt Town - (95498, 124414)**

Previous Item: 225, Ordinary (25 October 2016)
 170, Ordinary (9 August 2016)

REPORT:

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, amend the zoning of the vegetated area to not allow further subdivision and protect the significant vegetation on the subject site and reflect the Pitt Town Local Water Centre (LWC) (Privately operated sewer treatment plant) on the subject site through rezoning that part of the subject site to SP2 Infrastructure zone.

On 9 August 2016 Council considered the planning proposal and resolved to defer the matter for a site inspection. A site inspection was held on 13 October 2016, and a further report on the matter was reported back to Council for consideration at its Ordinary Meeting of 25 October 2016. Following consideration of the matter, Council resolved not to support the potential for multiple dwellings on the subject site and defer the matter to a future meeting to allow discussions with the applicant regarding a reduction in the potential lot yield.

As per the Council Resolution, correspondence outlining Council's Resolution and discussion were held with the applicant who formally replied on 4 November 2016. This report outlines the outcome of the discussion and recommends that the planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

Should a Gateway determination be received advising to proceed then consultation with the community and relevant government authorities will occur.

ORDINARY MEETING

Meeting Date: 29 November 2016

Consultation

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal, i.e. without the Council resolution there is no proposal to publically exhibit. If the planning proposal is to proceed, i.e. receive a supporting 'Gateway' determination, 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

In December 2009, Council approved a seven staged subdivision application (DA 0456/09) for the Cleary Precinct involving a Torrens Title Subdivision of six allotments into 112 residential allotments and one open space allotment identified as Riverside Park. This DA consent (DA 0456/09) was recently modified with the approval of a section 96 application (S960011/16) which allowed the further staging of the proposed Stage B development consisting of 21 residential lots to create Stages 6A and 6B comprising 11 and 10 residential lots respectively. The proposed Stage 6B development on 41 Cleary Drive, Pitt Town is owned and controlled by the applicant of this planning proposal.

A subsequent section 96 application (S960042/16) seeking to modify Development Consent (DA0456/09) was received from Vermont Quays Pty Ltd and Mr P T Cleary. One of the modifications proposed in this application was to reduce the number of lots approved within the proposed Stage 6B of the approved seven staged subdivision application (DA0456/09) from 10 lots to seven lots. This S.96 application was approved by Council on 26 August 2016, and therefore the proposed dwelling yield within the Cleary Precinct has now been adjusted down to 109 lots.

This planning proposal seeks an amendment to the LEP to reclaim those three lots on the subject site as explained in the latter part of this report.

On 9 August 2016 Council considered the planning proposal and resolved as follows:

"That Council defer the matter for a site inspection."

As per the Council Resolution, a site inspection, attended by Council staff only, was held on 13 October 2016, and the matter with a recommendation to proceed with the making of the plan was reported back to Council for consideration at its Ordinary Meeting of 25 October 2016. Following consideration of the matter, Council resolved as follows:

"That Council:

- 1. Support the objective of conservation of the Cumberland Plain Woodland.*
- 2. Not support the potential for multiple dwellings.*
- 3. Defer the matter to a future meeting to allow discussions with the applicant regarding a reduction in the potential lot yield."*

During the Council meeting debate on 25 October 2016 it was suggested that the existing development had previously cleared some of this site as part of that development that occurred between 2007 and today. A check of historic aerial photos in Council's records indicates that the western edge of the vegetation (proposed for dwelling sites) has remained in the same location since 1997.

As per the Council Resolution, correspondence outlining Council's Resolution and discussions were held with the applicant to discuss the Council Resolution and possible reduction in the potential lot yield on the subject site. The applicant's response to Council's Resolution is discussed in a subsequent section of this report.

ORDINARY MEETING

Meeting Date: 29 November 2016

Planning Proposal

The objectives of the planning proposal are to amend the LEP to:

- enable potential subdivision of the subject site into three Torrens title residential lots with minimum lot sizes not less than 750m² (located within the cleared section of the site) and 4ha (encompassing the vegetated area of the site with an existing cleared area for a dwelling site) as shown in Figures 1 and 2 below
- rezone the existing cleared part of the subject site having frontages to Vermont Avenue, Pittsmoor Street and Bootles Lane at the western end of the subject site to R2 Low Density Residential to locate the proposed dwellings on the cleared part of the subject site thereby not requiring any additional clearing of the site as shown in Figures 3 and 4 below
- rezone the remainder of the subject site (other than part of the subject site at the south-east corner containing the current Pitt Town Local Water Centre) to E2 Environmental Conservation zone to protect and retain the existing significant vegetation on the subject site as shown in Figures 3 below
- 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, being an existing allotment containing the LWC, to SP2 Infrastructure zone and removing the current 10ha minimum lot size to requiring no minimum lot size applying to that part of the subject site as shown in Figure 2 below.



Figure 1: Concept Subdivision Plan

ORDINARY MEETING
Meeting Date: 29 November 2016



Figure 2: Proposed Lot Size Map

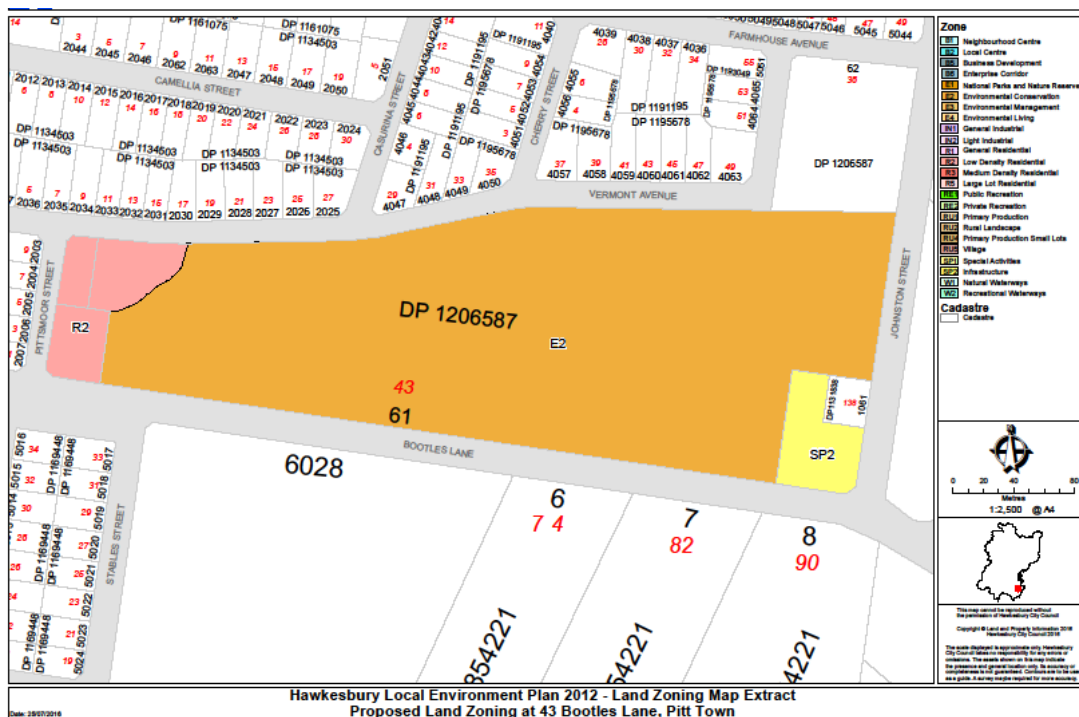


Figure 3: Proposed Land Zoning Map

ORDINARY MEETING

Meeting Date: 29 November 2016

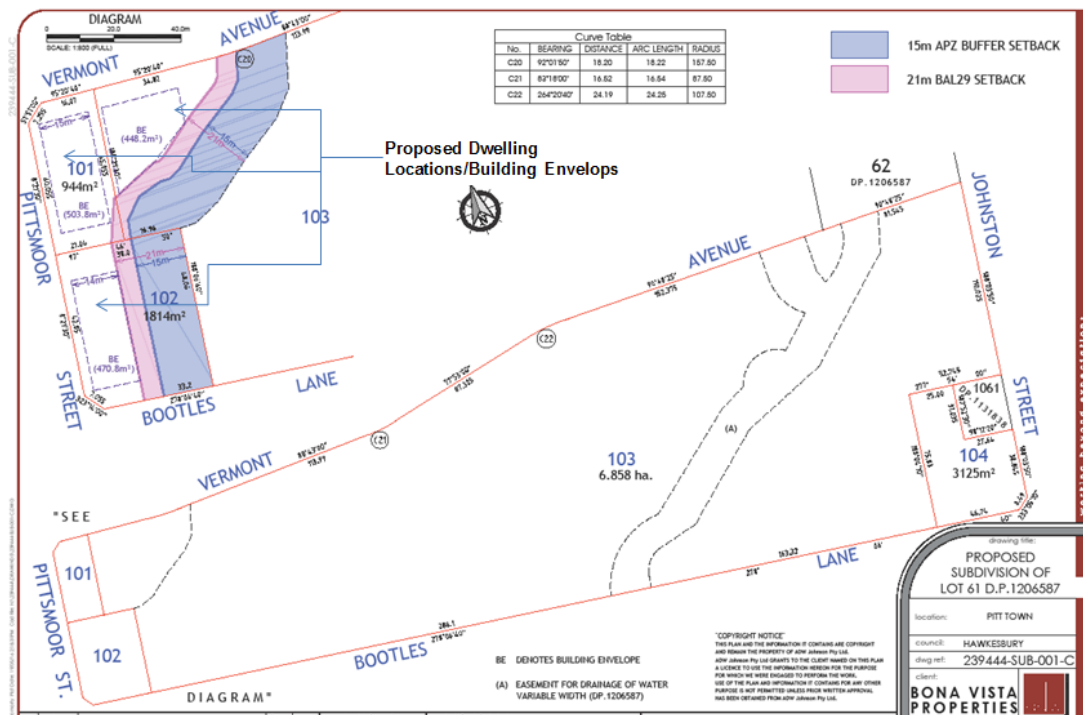


Figure 4: Proposed Dwelling Locations/Building Envelopes

Applicant's Justification of Proposal

The applicant states that in August 2016 Council approved 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 has resulted in the reduction of three lots from the originally approved DA0456/09 for a 112 residential lot subdivision. In support of the planning proposal, the applicant suggests that the 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 Precinct. 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:

- 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

ORDINARY MEETING

Meeting Date: 29 November 2016

- the planning proposal will deliver positive environmental outcomes and secure the conservation of the remnant bushland which includes Endangered Ecological Communities.

Applicant's Response to Council Resolution

On 2 November 2016 the applicant was advised in writing of the Council Resolution and invited the applicant to arrange a discussion with Council staff to discuss the matter as per the Council Resolution. On 4 November 2016 the applicant discussed the matter with Council staff, and the comments made in response to the Council Resolution not to support multiple dwellings on the subject site and subsequent comments from the Council officer are outlined below.

No Reason for Reduction in Dwelling Yield

Comment *There is no reason for Johnson Property Group (JPG) to agree to reduce the potential dwelling yield on the cleared area of the subject site which is:*

- *private land*
- *not a park*
- *not approved or proposed as a park*
- *not identified for acquisition by council for a park.*

Response As mentioned in the previous Council Reports dated (9 August and 25 October 2016), Chapter 4, Pitt Town, Part E of Hawkesbury Development Control Plan 2002 (the DCP) identifies the subject site as a Protected Area. However, given the subject site has not been identified for future acquisition in the LEP or any other Council plans for future open space or conservation purposes, future ongoing protection and management of the existing vegetation on the subject site would need to be under private ownership.

A detailed assessment contained in the previous Council Reports revealed that the western end of the subject site has easy access to the local road network and infrastructure services and is free of any major constraints. A check of Council's historic aerial photos indicates that this area was clear of vegetation in 1997, almost ten years before the commencement of the Pitt Town development in this locality. The site has development potential to accommodate three dwellings within the proposed R2 zoned cleared part of the subject site with no adverse impact on the existing vegetation on the subject site and the rest of the site (other than part of the subject site containing the LWC) has high conservation value.

Therefore, the subject site has distinct land capabilities, and the planning proposal seeking a part R2 Low Density Residential and part E2 Environmental Conservation split zoning for the subject site recognising its different land capabilities is considered consistent with the LEP Practice Note PN 09-002 - Environment Protection Zones for Standard Instrument for LEPs (the Circular) issued by the DP&E (formerly the Department of Planning) in April 2009. It is also considered that the proposed minimum lot sizes not less than 750m² and 4ha, and the proposed part R2 and part E2 split zoning for the subject site support the intent of the proposed R2 and part E2 zones, and enable a suitable scale of residential development on the subject site consistent with the existing scale and character of the surrounding development.

Protection of Cumberland Plain Woodland Vegetation

Comment *As explained in the briefing note provided by the applicant to Councillors on 21 October 2016, JPG's intention is to ensure that the ongoing protection of the Cumberland Plain Woodland vegetation is managed and continued for all time given the NSW Government or Council do not want to own the subject site, and JPG's development activities in Pitt Town is likely to conclude over the next five years. The planning proposal will enable the achievement of this desirable and positive long term environmental outcome for the subject site.*

ORDINARY MEETING

Meeting Date: 29 November 2016

Response If Council owns land containing significant vegetation, ongoing protection and management of the existing vegetation on that land is generally a resource burden to Council, and therefore Council is highly unlikely to make provisions to acquire and own the subject site in the LEP to preserve its conservation value when this is the responsibility of the existing or future landowner.

The planning proposal seeking an amendment to the LEP enables the subdivision of the subject site into three residential lots including the Proposed Lot 103 containing the existing vegetation as shown in Figure 1 above. If this plan is made, Council will be able to include an appropriate provision requiring the preparation and implementation of a Vegetation Management Plan as conditions of development consent for future development of the Proposed Lot 103 for residential purposes to ensure ongoing protection and management of the existing vegetation on the subject site. Given Council is unlikely to acquire the subject site, this approach is considered the most effective alternative mechanism to ensure the ongoing protection and management of the existing vegetation on the subject site with no burden to Council or the Community.

Planning Proposal has Merit

Comment *A comprehensive assessment of the planning proposal undertaken by Council officers has revealed that it has merit, and the two previous Council Reports on this matter recommended that the planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a Gateway determination.*

Response A detailed assessment of the planning proposal undertaken and outlined in the previous Council Reports (dated 9 August and 25 October 2016) revealed that the planning proposal seeking an amendment to the LEP to enable a three lot residential subdivision, the protection of existing 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 has merit. The assessment findings also revealed that the future dwellings can be accommodated on the proposed lots with no adverse impacts on the existing vegetation and the amenity of the locality and, the planning proposal is consistent with both State and Local planning framework. Hence, the reports recommended to support and submit the planning proposal to the DP&E for a Gateway determination.

No Dwelling Increase within the Pitt Town Residential Precinct

Comment *The planning proposal will not increase the dwelling yield approved under Part 3A Development Concept Plan Application for the Pitt Town Residential Precinct given JPG have recently reduced three lots from the Council approved Stage 6B Subdivision within the Cleary Sub-precinct in the Pitt Town Residential Precinct. Therefore, it is not considered necessary to undertake an evacuation capacity assessment.*

Response In December 2009, Council approved a seven staged subdivision application (DA 0456/09) for the Cleary Precinct involving a Torrens Title Subdivision of six allotments into 112 residential allotments and one open space allotment identified as Riverside Park. In August 2016, Council approved a section 96 application (S960042/16) seeking modifications to Development Consent (DA0456/09). With this approval, the applicant was able to reduce the number of lots approved within the proposed Stage 6B of the approved seven staged subdivision application (DA0456/09) from 10 lots to seven lots, and therefore the proposed dwelling yield within the Cleary Precinct has now been adjusted down to 109 lots. Given the planning proposal aims to relocate those three lots to the subject site there will be no additional dwelling yield to the overall Pitt Town Development Precinct.

However, it was noted that the planning proposal seeking an amendment to the LEP to specify a 750m² minimum lot size for part of the subject site at the western end which has an area of 2,758m² as shown in the concept subdivision plan and rezone that part to R2 Low Density Residential has the potential to yield three residential lots on that part of the subject site thus enabling a total of four lots on the subject site, if this plan is made. Given the justification of the planning proposal is to relocate the reduced three lots from the Council approved Stage 6B Subdivision within the Cleary Sub-precinct to the subject site with no increase to the approved Pitt Town dwelling yield, the applicant was advised to amend the proposed Lot Size Map showing a minimum lot size not less than 1,000m² for that part of the subject site and retain the proposed 4ha minimum lot size for the rest of the subject site other than part of the subject site containing the LWC to ensure a maximum yield of three lots on the subject site.

Subsequently, the amended Proposed Lot Size map showing a minimum lot size of not less than 1,000m² for that part of the subject site and 4ha minimum lot size for the remainder of the site (other than part of the subject site containing the LWC) and the amended Proposed Land Zoning Map were received from the applicant, and are included as Attachment 1 and Attachment 2 respectively of this Report.

Easy Access to Existing Road and Infrastructure Services

Comment *The future dwellings on the cleared part of the subject site have easy access to the existing road network and the infrastructure services.*

Response The future dwellings on the subject site can be accessed via Bootles Lane, Pittsmoor Street or Vermont Avenue. The subject site has easy access to the required infrastructure and services to accommodate a residential development on part of the subject site including electricity and telecommunication services.

Based on the facts presented in the applicant's correspondence to Council and subsequent discussions with Council staff in response to the last Council's Resolution not to support the potential for multiple dwellings on the subject site, the applicant requests Council consider the merits of the planning proposal and make a determination on the matter at this Council Meeting.

Strategic Planning Merit and Justification

It is considered that the planning proposal sets out an appropriate justification for the making of the proposed amendment to the LEP. A detailed assessment of the planning proposal contained in the previous Council Reports and a recent discussion held with the applicant revealed that the planning proposal has clear strategic planning merit due to the following reasons.

- The planning proposal provides a better mechanism for ongoing management and protection of the significant vegetation on the subject site and greater certainty in retaining high conservation value of that part of the subject site.
- The planning proposal enables orderly and economic development of the land and assists in achieving desirable environmental and planning outcomes.
- There will be no additional dwelling yield to the overall Pitt Town Development Precinct, and therefore flood evacuation capacity assessment is not considered to be necessary.
- The planning proposal is consistent with the relevant State and Local planning framework.
- 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.

ORDINARY MEETING

Meeting Date: 29 November 2016

- The proposed dwellings can be accommodated within the existing cleared area at the western end of the subject site with relatively easy access to the existing road network and the required infrastructure services with no adverse impacts on the existing vegetation and the amenity of the locality.
- The planning proposal seeking part R2 Low Density and part E2 Environmental Conservation split zoning for the subject site recognises and allows for distinct land capabilities of the subject site consistent with the DP & E's Circular.
- The proposed minimum lot sizes not less than 1000m² and 4ha for the subject site support the intent of the proposed R2 Low Density Residential and E2 Environmental Conservation zoning respectively and allow appropriate scale and intensity of residential development at the western end of the subject site consistent with the character and scale of the surrounding development.

Section 94 and section 64 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.

Council also has section 64 contribution plans in Pitt Town that collect for stormwater facilities. The relevant section 64 contributions plan would also require amendment to include this site should this proposal gain support.

The above described amendments do not require a resolution to proceed at this time as, should the proposal obtain a 'gateway' determination to proceed, the required amendments to the contributions plans would be reported to Council separately as they follow a separate statutory process, which requires public consultation, to amend those plans.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is considered to be consistent with the Looking after People and Place Directions Statement:

- 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 revised planning proposal seeking an amendment to the LEP to enable a three lot residential subdivision, the protection of existing 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 the previous Council Reports is considered to have strategic and logical merit.

Discussions were held with the applicant, as per the Council Resolution 25 October 2016, who responded formally to indicate that there are no clear planning reasons to suggest a reduction in the potential lot yield on the subject site, hence it is considered worthy of support.

ORDINARY MEETING

Meeting Date: 29 November 2016

Given the above discussion and the previous reports to Council this report recommends 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 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 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 Lot Size Map

AT - 2 Proposed Amendment to Land Zoning Map

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 255 **CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - Lots 431 and 432 DP 1189536, 431 and 431A Greggs Road, Kurrajong - (95498, 124414)**

File Number:	LEP003/14
Property Address:	Lots 431 and 432 DP 1189536, 431 and 431A Greggs Road, Kurrajong
Applicant:	Montgomery Planning Solutions
Owner(s):	Mr MW Bull and Mrs JL Bull
Date Received:	9 September 2014
Public exhibition:	11 September 2015 to 6 October 2015
Community Submissions:	Nil
Government Agency Responses:	Six
Recommendation:	Council proceed with the making of the LEP amendment and publically exhibit an associated draft Voluntary Planning Agreement

REPORT:

Executive Summary

On 9 December 2014, Council considered a report regarding a planning proposal, submitted by Montgomery Planning Solutions (the applicant), seeking an amendment to *Hawkesbury Local Environmental Plan 2012* (LEP 2012) in order to allow development of Lots 431 and 432 DP 1189536, 431 and 431A Greggs Road, Kurrajong primarily for large lot residential purposes.

The purpose of this current report is to advise Council of the outcome of consultation with public authorities and the community regarding the planning proposal.

This report also includes advice to Council of an offer by the developer to enter into a Voluntary Planning Agreement (VPA) with Council that would result in the developer paying a cash contribution of \$30,000 per housing lot to Council.

It is recommended that Council proceed with the making of an LEP that gives effect to the revised planning proposal described in this report, and to place the draft VPA on public exhibition.

Background

On 9 December 2014, Council considered a report regarding a planning proposal seeking an amendment to LEP 2012 in order to allow development of Lots 431 and 432 DP 1189536, 431 and 431A Greggs Road, Kurrajong into approximately nine lots with a minimum lot size of not less than 4,000m². The subject site is shown in Figure 1 below, whilst the adjoining Figure 2 shows the concept plan of subdivision (not adopted by Council) as presented to the Council Meeting on 9 December 2014.



Figure 1: Subject Site

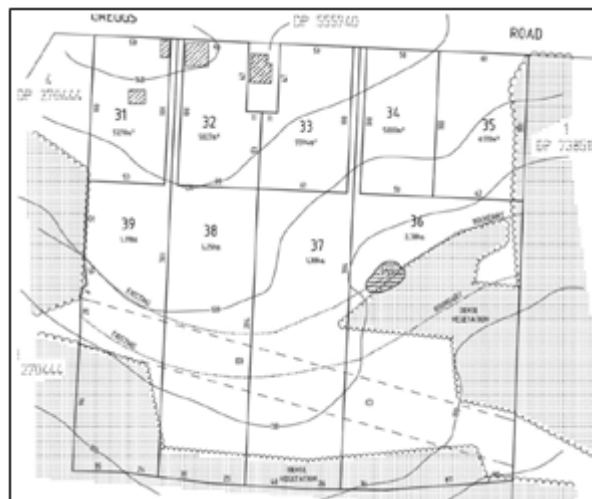


Figure 2: Original concept plan of subdivision

The recommendation of the report to Council was that the planning proposal not be supported in its submitted form as it was considered that it did not demonstrate adequate consistency with the relevant criteria of the Hawkesbury Residential Land Strategy.

Having considered the matter, Council resolved on 9 December 2014:

"That:

1. Council support the preparation of a planning proposal for Lots 431 and 432 DP 1189536, 431 and 431A Gregg Road, Kurrajong to allow development of the land for large lot residential/rural residential development.
2. The planning proposal be forwarded to the Department of Planning and Infrastructure for a "Gateway" determination.
3. The Department of Planning and Infrastructure be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.

ORDINARY MEETING

Meeting Date: 29 November 2016

4. *The Department of Planning and Infrastructure 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.*
5. *Council does not endorse the subdivision concept plan submitted with the planning proposal as this will need to be subject to a future development application if the plan was made."*

A Rescission Motion relating to this decision was subsequently lodged, but at Council's Meeting of 3 February 2015 the motion to rescind Council's resolution of 9 December 2014 was lost.

Below is a timeline of key events relating to this planning proposal.

Timeline of key events

9 September 2014	Planning proposal received
9 December 2014	Planning proposal reported to Council and resolved to support
3 February 2015	Rescission motion considered by Council and lost
11 February 2015	Applicant requested to provide an amended planning proposal
24 February 2015	Amended planning proposal received
27 February 2015	Planning proposal referred to DP&E for a Gateway determination
30 April 2015	DP&E Gateway determination received advising to proceed
1 July 2015	DP&E clarification of Gateway determination received
21 July - 17 August 2015	Public authority consultation
27 August 2015	Public authority responses provided to applicant
11 September - 6 October 2015	Public exhibition of planning proposal
15 October 2015	Applicant advised that no submissions were received and requested to prepare a draft Voluntary Planning Agreement (VPA)
23 February 2016	Amended planning proposal and draft VPA received
5 April 2016	Applicant requested to review number of potential lots given slope, bushfire and vegetation constraints of the land
14 April 2016	Response from applicant received
22 April 2016	Applicant requested to provide further information to support concept lot layout
14 June 2016	Onsite meeting with Council staff, applicant and land owners
19 July - 10 October 2016	Various additional information received from applicant, with amendments submitted to reflect extensive ongoing discussions with Council officers.

Authorisation for Council to Exercise Delegation

The "Gateway" determination included authorisation for Council to exercise delegation to make this plan. Should Council resolve to proceed with the making of the plan this authorisation will allow Council to make a direct request to the Parliamentary Counsel's Office (PCO) to prepare a draft Local Environmental Plan to give effect to the planning proposal. Following receipt of an opinion from the PCO that the plan can be legally made, Council may then make the plan. Council delegated this plan making function to the General Manager by resolution on 11 December 2012.

In finalising a "delegated" planning proposal, Council staff are required to prepare a "Section 59" planning report in accordance with DP&E requirements. As part of this report it is required to provide details of consultation with relevant public agencies and demonstrate how any objections or issues were resolved, and identify what amendments were made to the planning proposal to respond to the issues raised by agencies.

ORDINARY MEETING

Meeting Date: 29 November 2016

Consultation with Public Authorities

Consultation was undertaken with the following public authorities as prescribed by the Gateway determination:

- NSW Rural Fire Service (RFS)
- NSW Office of Environment and Heritage (OEH)
- Endeavour Energy
- Roads and Maritime Service (RMS)
- Transport for NSW (TfNSW)
- NSW Trade & Investment - Resource & Energy Division (T&I)
- Greater Sydney Local Land Services (GSLLS).

Council received responses from all of the abovementioned public authorities, except for the Greater Sydney Local Land Services. Following is a summary of agencies comments, where provided, and officer responses:

NSW Rural Fire Service

Comment *The NSW Rural Fire Service (RFS) raised no objection to the planning proposal subject to a requirement that the future subdivision of the land complies with Planning for Bushfire Protection 2006 (PBP 2006).*

Response A provision requiring that the future subdivision comply with PBP 2006 need not be included into the proposed LEP amendment as this is a mandatory matter for consideration at development application (DA) stage.

Office of Environment and Heritage

Comment *OEH expressed concern that the planning proposal provided no additional planning controls proposed for the protection of native vegetation on the site, and that future development would result in the fragmentation and incremental loss of vegetation through the erection of dwellings and associated provision of Asset Protection Zones, infrastructure, effluent disposal areas, fencing and ancillary development such as sheds.*

OEH stated that if there are areas with high biodiversity values, Council will need to consider how the protection of this vegetation can be achieved, and that Council should consider a split zoning for the site using the E2 Environmental Conservation zone for land with biodiversity values.

Response Further discussions have been held with the applicant and owner regarding the protection of significant vegetation on the site. As a result, the applicant has provided an amended planning proposal effectively reducing the number of proposed lots from nine to eight, and providing for one larger lot that will contain the significant vegetation. In lieu of a multi zone response, various minimum lot sizes are proposed for the subject site in order to minimise potential development impacts on and fragmentation of significant vegetation. This approach is explained in greater detail later in this report.

Endeavour Energy

Comment *Endeavour Energy raised no objections to the planning proposal subject to the following comments and recommendations:*

- *an application will be required for connection of the subdivision to carry out a load assessment and determine the method of supply, which may include additional infrastructure and easements*
- *services and structures are not to be installed within Endeavour Energy's electrical easements, nor is the surface level of the easement site to be altered*

ORDINARY MEETING

Meeting Date: 29 November 2016

- access to the easement site is not to be restricted at any time
- a policy of prudent avoidance should be adopted by siting sensitive uses away from any electricity infrastructure to minimise exposure to Electric and Magnetic Fields, such as orientating habitable rooms away from any electricity infrastructure
- where development is proposed in the vicinity of overhead power lines, Endeavour Energy is not responsible for any acoustic/noise amelioration measures for such noise that may impact on nearby proposed development
- public safety guidelines are available from Endeavour Energy's website for those working in the vicinity of electricity infrastructure.

Response Consideration of future dwelling house locations, design and orientation, and noise impacts from overhead power lines are matters that can be addressed in future DAs.

Roads and Maritime Service

Comment RMS raised no objection to the proposed amendments to the Lot Size Map of LEP 2012 subject to the inclusion of the subject site on the Restricted Lot Yield Map to place a maximum subdivision lot yield of nine lots.

The RMS also advised:

"The proposal is a major variation to the existing controls and in isolation does not raise any concerns from an RMS perspective. Council are (sic) advised, however that in the absence of any Strategic Integrated Traffic/Transport Study to justify the same, RMS would be concerned with the cumulative impacts of other similar proposals within the area and the potential adverse impacts to the existing and future regional road network."

Response Council is undertaking a broader investigation of the impacts of large lot residential development in the Kurmond and Kurrajong area (see separate report on this agenda) and it is anticipated this investigation will include a Traffic Study to investigate the impacts to the surrounding road network and individual intersections that are likely to be adversely impacted by increased traffic. Council staff have had ongoing discussions with RMS in respect to the road network, and continue to undertake the broader assessment of the Kurmond and Kurrajong Investigation Area.

As will be discussed later in this report the maximum number of lots achievable by the proposed amendment to the LEP is proposed to be restricted to eight lots, and hence RMS's request that the maximum number of lots be restricted to nine can be satisfied.

Transport for NSW

Comment Transport for NSW (TfNSW) advised that they are currently investigating a suitable corridor for the Bells Line of Road - Castlereagh Connection and notes that the site is within their broad investigation area. TfNSW also advised that they are consulting with stakeholders and the wider community to identify potential corridors for further investigation and hopes to have a recommended corridor for preservation by late 2016. Despite this, TfNSW "would not object to development within the study area."

TfNSW also requested that the planning proposal consider Section 117 Ministerial Direction 3.4 Integrating Land Use and Transport. This Direction indicates that 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 (DUPA 2001). A key objective of this document is for every household to be within 400m walking distance of a bus route served at least every 30 minutes.

ORDINARY MEETING

Meeting Date: 29 November 2016

In addition TfNSW has noted that it has received several planning proposal referrals from Hawkesbury for similar large lot residential subdivisions in the surrounding area and therefore recommends that a Strategic Planning Study be undertaken to determine the potential scale of residential lot increases in the surrounding area and assess the cumulative impacts on the local and regional traffic and transport infrastructure, and identify mitigating measures if required.

Response To date TfNSW have not published a recommended corridor for the Bells Line of Road - Castlereagh Connection.

Section 117 Direction 3.4 primarily relates to the rezoning of land for urban purposes and is not readily applicable to a large lot residential / rural residential planning proposal. In response to this Direction the planning proposal states:

"The draft LEP will provide housing opportunities in a locality which is adequately serviced by public transport (in rural village terms). The draft LEP is consistent with the relevant guidelines and policy."

The DP&E in their "Gateway" determination of the planning proposal stated:

"I have also agreed that any inconsistencies with Section 117 Directions . . . 3.4 Integrating Land Use and Transport ... are of minor significance. No further approval is required in relation to these Directions."

Council is undertaking a broader investigation of the impacts of large lot residential development in the Kurmond and Kurrajong area (see separate report on this agenda) and it is anticipated this investigation will include a Traffic Study to investigate and assess the cumulative impacts of increased residential lots on local and regional traffic and transport infrastructure, and to identify works which may be required to mitigate any adverse impacts.

NSW Trade & Investment - Resource & Energy Division

Comment NSW Trade and Investment raised no objection to the proposal.

Community Consultation

The planning proposal was publically exhibited for the period 11 September 2015 to 6 October 2015. A notice was placed in the 'Hawkesbury Courier' local newspaper and letters were sent to adjoining and nearby landowners and occupiers advising of the public exhibition of the planning proposal. During the public exhibition period the planning proposal and supporting documentation were made available on Council's website, Council's Community Engagement Portal: *Your Hawkesbury - Your Say* and at Council's Main Administration Building. No public submissions were received.

Proposed Amendment to Lot Size Map of LEP 2012

Since this planning proposal was reported to Council on 9 December 2014, a number of reports have been presented to Council regarding the Kurmond and Kurrajong Investigation Area. Of primary relevance are the reports to Council on 28 July 2015 and 24 November 2015 which included an analysis of land and environmental constraints within the Investigation Area.

The result of these reports was that Council adopted the following development principles as an Interim Policy for planning within the Kurmond and Kurrajong Investigation Area:

- building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%
- removal of significant vegetation is avoided
- fragmentation of significant vegetation is minimised

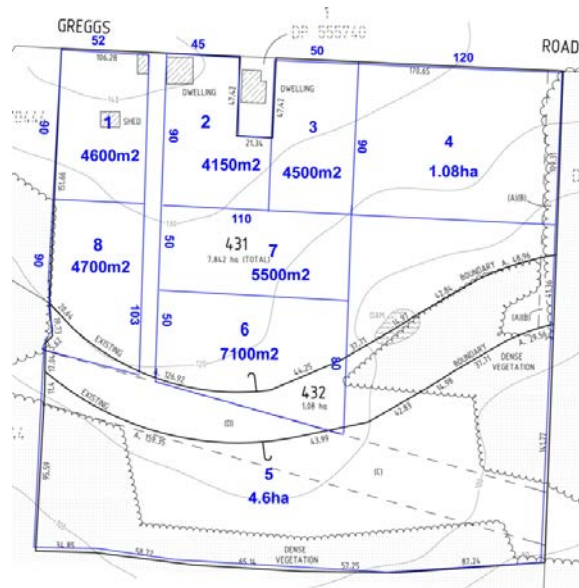
ORDINARY MEETING

Meeting Date: 29 November 2016

- building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourse) are located outside of riparian corridors
- road and other crossings of water courses is minimised
- fragmentation of riparian areas is minimised
- removal of dams containing significant aquatic habitat is avoided.

In response to these principles and comments received from OEH, extensive discussions were held with the applicant and owner regarding the identification of significant vegetation on the site, the proposed amendment to the Lot Size Map and overall lot yield.

In response the applicant has provided a revised concept subdivision plan (Figure 3) that avoids the removal and fragmentation of these significant vegetation communities and avoids excessive development of steep sloping land for future dwellings.



**Figure 3: Proposed Amendment to Lot Size Map
(Not adopted for subdivision layout)**

The amendment proposed by Figure 3 would result in an improved environmental outcome given it would result in a single lot being created at the rear of the site which includes Shale Sandstone Transition Forest, and sufficient area for a dwelling and associated waste water irrigation area and Asset Protection Zone outside of the Shale Sandstone Transition Forest area. In addition the electricity easement will also be wholly contained within this lot.

It should be noted that the lot layout shown in Figure 3 is for indicative purposes only and is not proposed to be incorporated into the LEP amendment. The actual plan of subdivision is to be determined at DA stage, and may be different to that shown in Figure 3, but the approach to lot sizes ensures that significant vegetation will be retained within a single lot.

As a result it is recommended that the relevant Lot Size Map and Restricted Lot Yield Map of the LEP be amended as shown in Figures 4 and 5 respectively.

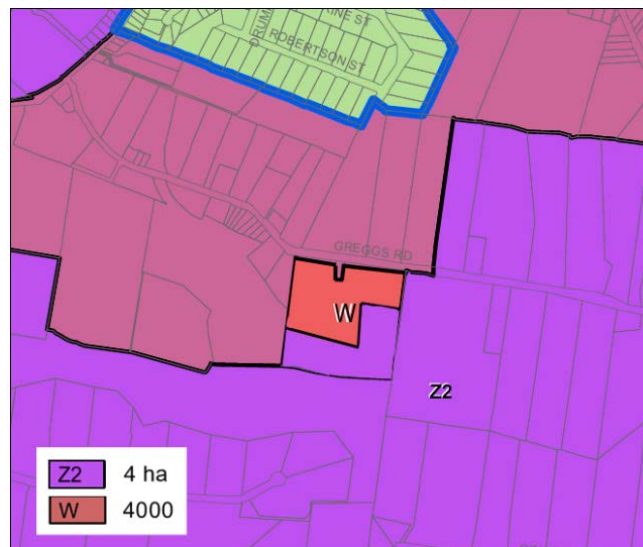


Figure 4: Proposed Amendment to Restricted Lot Yield Map

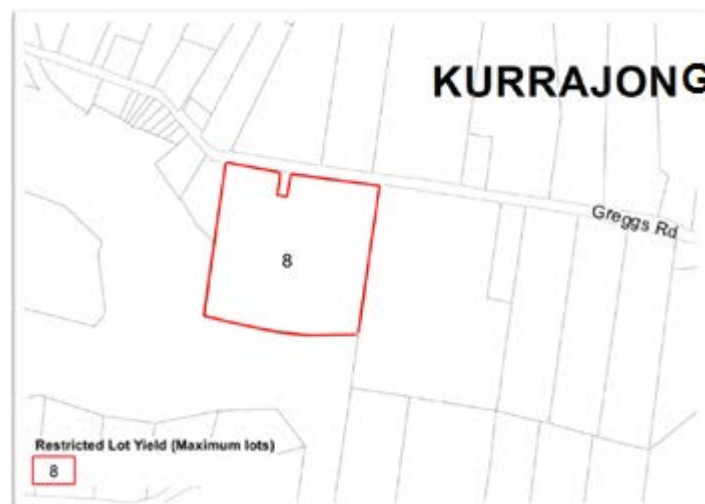


Figure 5: Proposed Amendment to Restricted Lot Yield Map

Council Resolution 28 July 2015 regarding Fundamental Constraints to Development

On 28 July 2015, Council resolved that current planning proposals within the Kurmond and Kurrajong Investigation Area only proceed to Gateway if the 'fundamental' development constraints have been addressed. A Gateway determination to proceed with this planning proposal was received on 30 April 2015, prior to this resolution being made.

Fundamental constraints and associated recommendations that are relevant to this planning proposal are shown below in Tables 1 and 2. These tables also provide comments regarding the proposal's compliance with the 'fundamental' development constraints.

ORDINARY MEETING

Meeting Date: 29 November 2016

Table 1: Physical Environment

Factor	Degree of Constraint to Development	Recommendation
Terrestrial Biodiversity		
<i>Impact of development on threatened or endangered flora and fauna</i>	<i>Fundamental - Major</i>	<p><i>Legislation applies to threatened and endangered species. OEH concurrence may be required.</i></p> <p><i>Removal of significant vegetation is to be avoided.</i></p> <p><i>Fragmentation of significant vegetation is to be minimised.</i></p>
<p>Comment: The significant vegetation is contained mostly within the southern part of the subject site. The proposed 4ha minimum lot size in this area will minimise removal and fragmentation of this vegetation. If required, this vegetation can be further protected during the subdivision DA process by a requirement for a positive covenant to be registered on the title(s).</p>		
Watercourses and Riparian Areas		
<i>Impact of development on watercourses and riparian areas</i>	<i>Fundamental - Major</i>	<p><i>Legislation applies to threatened and endangered species. OEH concurrence may be required.</i></p> <p><i>Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourses) are to be located outside of riparian corridors.</i></p> <p><i>Road crossings of watercourses are to be minimised.</i></p> <p><i>Fragmentation of riparian areas is to be minimised.</i></p>
<p>Comment: The land contains no watercourses or riparian areas.</p>		
Dams		
<i>Impact of development on aquatic habitat. Proximity of dams to effluent disposal systems</i>	<i>Fundamental - Minor</i>	<p><i>Legislation applies to threatened and endangered species. OEH concurrence may be required.</i></p> <p><i>Removal of dams containing significant aquatic habitat is to be avoided. Minimum required buffer distances for effluent disposal systems are to be adhered to.</i></p>
<p>Comment: A small ephemeral dam is located within an area of the land which is proposed to have a 4 ha minimum lot size. The on-site wastewater disposal for the relevant lot as shown on the concept subdivision plan will be located below the dam. Therefore, it is considered that the proposal will have no impact.</p>		
Bushfire threat		
<i>Impact of the location and management of APZs and perimeter roads</i>	<i>Fundamental - Major</i>	<p><i>RFS concurrence may be required.</i></p> <p><i>Building construction and water supply is to comply with NSW Rural Fire Service's Planning for Bushfire Protection 2006, e.g. APZs and roads.</i></p>
<p>Comment: The planning proposal has demonstrated that asset protection zones can be provided within each lot without the need for clearing of significant vegetation. Compliance of future development with <i>Planning for Bushfire Protection 2006</i> can be satisfactorily dealt with at DA stage by way of referral to the RFS and appropriate conditions of consent.</p>		

ORDINARY MEETING

Meeting Date: 29 November 2016

Factor	Degree of Constraint to Development	Recommendation
Aboriginal Heritage		
<i>Impact of development on Aboriginal heritage items</i>	<i>Fundamental - Moderate</i>	<i>National Parks and Wildlife Act 1974 applies Council and developers are also to consider relevant provisions of the Heritage Act 1977 when preparing and considering development applications.</i>
Comment: No known aboriginal relics are located on the site. Further consideration will be given to this at DA stage.		
Land Contamination		
<i>Suitability of land to be developed given potential for land to be contaminated</i>	<i>Fundamental - Minor</i>	<i>Remediation action plans and validation may be required. Council and developers are to consider relevant provisions of State Environmental Planning Policy No 55 - Remediation of Land when preparing and considering development applications.</i>
Comment: The applicant advises that the land has not been used for agriculture in the form of animal grazing for many years and that there is no evidence to suggest that any activities have occurred on the land which would give rise to contamination. Further consideration will be given to this at DA stage.		
Acid Sulfate Soils		
<i>Impact of disturbance of acid sulfate soils on the environment and development</i>	<i>Fundamental to Minor</i>	<i>Development proposals and land class are to be assessed with respect to Clause 6.1 Acid Sulfate Soils of LEP 2012. Acid sulfate soils management plans may be required.</i>
Comment: The subject site is within the Acid Sulfate Soils Class 5 categorisation which is the least restrictive of the five classifications. Further consideration will be given to this at DA stage.		

Table 2: Infrastructure and Services

Factor	Degree of Constraint to Development	Recommendation
Road network		
<i>Capacity and safety of existing road network</i>	<i>Fundamental - Major</i>	<i>RMS concurrence may be required. Development contributions are to be levied for road improvements. Council and developers are to consider relevant provisions of State Environmental Planning Policy (Infrastructure) 2007 when preparing and considering development applications.</i>
Comment: RMS have not requested a development contribution for road works. Council officers are continuing discussions with RMS regarding the road network. A VPA is proposed as part of this proposal.		

ORDINARY MEETING

Meeting Date: 29 November 2016

Factor	Degree of Constraint to Development	Recommendation
Wastewater		
<i>Capacity of land to cater for on-site effluent disposal</i>	<i>Fundamental</i>	<i>Sydney Water concurrence may be required. Developers are to demonstrate that waste water can be disposed of on site in an environmentally sensitive manner. Alternatively developers may provide reticulated sewer service to new lots in accordance with relevant licences and/or authority requirements. Clause 6.7 - Essential Services under LEP 2012 applies.</i>
Comment: The applicant has provided suitable advice demonstrating that waste water can be disposed of on-site in an environmentally sensitive manner for each of the indicative lots.		
Public Transport Services		
<i>Provision of bus service to cater for the needs of incoming population</i>	<i>Fundamental - Moderate</i>	<i>Transport NSW and RMS concurrence may be required. Possible levying of development contributions for bus services. Clause 6.7 - Essential Services under LEP 2012 applies.</i>
Comment: RMS have not requested a development contribution for a bus service. Council officers are continuing discussions with RMS and Transport for NSW regarding public transport services.		
Stormwater drainage		
<i>Quantity and quality of stormwater run-off entering watercourses</i>	<i>Fundamental - Moderate</i>	<i>Developers are to demonstrate that stormwater can be captured, treated and released in an environmentally sensitive manner. Possible levying of development contributions for stormwater purposes. Clause 6.7 - Essential Services under LEP 2012 applies.</i>
Comment: It is considered this can be satisfactorily dealt with at DA stage by way of the assessment of drainage designs and conditions of consent.		
Water supply		
<i>Provision of reticulated water supply to new lots</i>	<i>Fundamental - Moderate</i>	<i>Sydney Water concurrence may be required. A reticulated water service is to be provided to new lots by developers in accordance with relevant authority requirements. Clause 6.7 - Essential Services under LEP 2012 applies.</i>
Comment: The subject site is located within Sydney Water's Water Supply Area. Connection to the reticulated water supply is feasible, and can be satisfactorily dealt with at DA stage by way of conditions of consent.		

ORDINARY MEETING

Meeting Date: 29 November 2016

Factor	Degree of Constraint to Development	Recommendation
Electricity		
<i>Provision of electricity service to new lots</i>	<i>Fundamental</i>	<i>Electricity provider concurrence may be required. Electricity services are to be provided to new lots by developers in accordance with relevant authority requirements. Clause 6.7 - Essential Services under LEP 2012 applies.</i>
Comment: Endeavour Energy has confirmed that connection of future lots to the electricity service is feasible. Therefore, the provision of electricity to any new lots can be satisfactorily dealt with at DA stage by way of conditions of consent.		

Offer of a Voluntary Planning Agreement (VPA)

Council considered a report on VPAs for the Kurmond and Kurrajong Investigation Area at its Meeting of 10 November 2015. The resolution at that Meeting was as follows:

"That:

- 1. Council agree to offers to enter into negotiations for Voluntary Planning Agreements in the Kurrajong/Kurmond Investigation Area in the absence of an adopted Section 94 developer contributions plan.*
- 2. Any Voluntary Planning Agreement for this locality to be based on CPI adjusted cash contributions on a per lot release basis consistent with the offers discussed in this report.*
- 3. Negotiations for draft VPAs should include consideration of a Clause to terminate the VPA once the Section 94 Plan is adopted with no retrospective provisions should the amended contributions be different to the VPA contribution amount.*
- 4. To reinforce Council's previous resolutions planning proposals that have completed public exhibition are not to be reported to Council for finalisation until a Section 94 Plan is adopted or the report is accompanied by a draft Voluntary Planning Agreement that is proposed to be placed on public exhibition."*

In response to this resolution the developer has offered to enter into a VPA with Council that would result in the developer paying a cash contribution to Council to the value of \$30,000 per additional housing lot. The draft VPA is attached to this report and, if the recommendation is adopted by Council, the draft VPA will require public exhibition.

Variation to Planning Proposals

The Environmental Planning and Assessment Act 1979 permits Council, at any time, to vary a planning proposal as a consequence of its consideration of any submission or report during community consultation or for any other reason.

If Council does vary the planning proposal it is to forward the revised planning proposal to the Minister of Planning.

ORDINARY MEETING

Meeting Date: 29 November 2016

As discussed above, post "Gateway" determination variations to the planning proposal are proposed. These variations include:

- the provision of a minimum lot size of 4ha to enable the creation of a single lot capable of containing the Shale Sandstone Transition Forest, thereby preventing the fragmentation and removal of this significant vegetation.
- a reduction in the number of lots to be created from the subject site from nine to eight allotments. This reduction enables the potential for the larger lot, as well as improved lot design of the 4,000m² lots to ensure that future development avoids steep sloping land.

Hence, if Council agrees with these variations, prior to finalising the planning proposal under delegated authority from DP&E, it will be necessary to forward these variations to DP&E for consideration.

Conclusion

In response to recent resolutions of Council and comments from OEH it is recommended that the planning proposal proceed on the basis of the abovementioned proposed amendments to the Lot Size Map and the Restricted Lot Yield Map of LEP 2012. These amendments are proposed in order to provide greater protection of the significant vegetation on the subject site.

In accordance with previous resolutions of Council, the developer has offered to enter into a Voluntary Planning Agreement with Council that would result in the cash payment of \$30,000 per additional housing lot.

It is therefore recommended that Council proceed with the making of an LEP that will give effect to the proposed amendment described in this report, and that the draft VPA be publically exhibited for a minimum of 28 days.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking after People and Place Directions statement:

- 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.

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 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: 29 November 2016

RECOMMENDATION:

That Council:

1. Proceed with the making of a plan to amend the Hawkesbury Local Environmental Plan 2012 in order to permit the subdivision of Lots 431 and 432 DP 1189536, 431 and 431A Greggs Road, Kurrajong into not more than 8 lots with minimum lot sizes of 4,000m² and 4ha as described in this report.
2. Request that the Parliamentary Counsel's Office prepare a draft Local Environmental Plan to give effect to the planning proposal in accordance with Section 59(1) of the Environmental Planning and Assessment Act, 1979.
3. Adopt and make the draft local environmental plan, under the authorisation for Council to exercise delegation issued by the Gateway determination, upon receipt of an opinion from Parliamentary Counsel's Office that the plan can be legally made.
4. Following the making of the Plan, advise the Department of Planning and Environment that the Plan has been made and request to notify the Plan on the NSW Legislation website.
5. Publically exhibit the Draft Voluntary Planning Agreement attached to this report for a minimum of 28 days and the Draft Voluntary Planning Agreement be reported back to Council following public exhibition prior to finalisation.

ATTACHMENTS:

- AT - 1** Draft Voluntary Planning Agreement between Hawkesbury City Council and Mark Bull and Jenelle Bull.

AT - 1 Draft Voluntary Planning Agreement

between

Hawkesbury City Council and Mark Bull and Jenelle Bull

VOLUNTARY PLANNING AGREEMENT

Section 93F of the Environmental Planning and Assessment Act 1979

429 & 431
GREGGS ROAD
KURRAJONG

September 2016

ORDINARY MEETING

Meeting Date: 29 November 2016

THIS PLANNING AGREEMENT is made on theday of2016

BETWEEN:

Parties

HAWKESBURY CITY COUNCIL ("the Council")

AND:

Mark and Jenelle Bull ("the Developer")

Introduction

- A. The Developer is the registered proprietor of the Development Land.
- B. On 18 March 2015 the Council lodged a planning proposal with the Department of Planning and Environment to amend the *Hawkesbury Local Environmental Plan 2012* Lot Size Map to facilitate subdivision of the Development Land to create eight (8) lots.
- C. The Developer proposes to make a Development Application to Council for Development Approval to carry out the Proposed Development if the Lot Size Map for the Development Land is altered generally in accordance with the planning proposal.
- D. The Developer has offered to provide the Developer's Contribution on the terms and conditions contained in this Agreement if Development Approval is granted to the Proposed Development.

And it is agreed as follows

1 Definitions and Interpretation

In this agreement the following words and letters have the meanings set out below.

- 1.1 "Act" means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended from time to time).
- 1.2 "Approval" means any approvals consents, modifications, certificates (of all types) permits, endorsements, licenses, conditions or requirements (and any variation to them) which may be required by Law for the Proposed Development.
- 1.3 "Authority" means a government, semi-government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body, commission, department, agency, tribunal or other authority or body.
- 1.4 "Base CPI" means the CPI number for the quarter ending immediately before the commencement of this Agreement.
- 1.5 "Business Day" means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act and thing is to be performed or a payment is to be made.

ORDINARY MEETING

Meeting Date: 29 November 2016

- 1.6 "Cash Contribution" means, subject to clauses 3, 6, 7 and 8 an amount calculated on the basis of \$30,000 per vacant Housing Lot.
- 1.7 "Completion Certificate" means the release of the subdivision, either in whole or in stages, to enable the lodgement to and issue of Housing Lot titles by the LPI.
- 1.8 "CPI" means the Consumer Price Index released by the Australian Bureau of Statistics for "Sydney - All Groups" or such other consumer price index that might replace it.
- 1.9 "CPI Review Date" means each quarterly anniversary of the date of this agreement.
- 1.10 "Costs" include costs, charges, fees, disbursements and expenses, including those incurred in connection with advisers.
- 1.11 "Current CPI" means the CPI number for the quarter ending immediately before the relevant CPI Review Date.
- 1.12 "Developer's Contribution" has the meaning given in clause 6.
- 1.13 "Development Application" means an application under Part 4 of the Act for Development Approval.
- 1.14 "Development Approval" means a development consent issued under the Act with respect to all or part of the Proposed Development.
- 1.15 "Development Land" means the land comprising Lots 431 and 432 DP 1189536 (Nos. 431 & 431A) Greggs Road Kurrajong.
- 1.16 "Dispute" in connection with this agreement means an argument, a controversy, a difference, a dispute including of opinion or interpretation.
- 1.17 "Event of Insolvency" means anyone or more of the following occurrences:
- (i) the Developer becomes bankrupt, is served with a bankruptcy notice or a bankruptcy petition, has committed an act of bankruptcy or has entered into an arrangement within and under the meaning of the *Bankruptcy Act 1976* (Cth); or
 - (ii) the Developer becomes subject to any order or declaration under the *Mental Health Act 2007* (NSW) or is otherwise incapable of managing his or her own affairs.
 - (iii) if the Developer is a company, if:
 - (a) a resolution is passed for the winding up or liquidation of that company;
 - (b) a liquidator, provisional liquidator, receiver, receiver manager, controller, controlling manager, administrator, voluntary administrator or official manager is appointed to the Developer or a resolution is passed for the purposes of placing that party in the control of an external administrator;
 - (c) it suspends payment of its debts or is unable to pay its debts including of money payable under this agreement or is deemed insolvent;
 - (d) it fails to or is taken as having failed to comply with a statutory demand under the *Corporations Act 2001* (Cth);

- (e) if anything analogous or having substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction with respect to the Developer.
- 1.18 "GST" has the same meaning as the GST Act and other words or expressions used in the GST Act which have a particular defined meaning (including any applicable legislative determinations and Australian Taxation Office public rulings) have the same meaning.
- 1.19 "GST Act" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended from time to time).
- 1.20 "Housing Lot" means a lot approved by a Development Consent comprising part of the Development Land that is intended to be used for the purposes of a single dwelling house without being further subdivided.
- 1.21 "Housing Lot Contribution" means subject to Clauses 6, 7 and 8, cash to the value of \$30,000 per vacant Housing Lot arising from a Development Consent of the Development Land.
- 1.22 "Law" means:
 - (i) the common law and principles of equity;
 - (ii) the requirements of legislation, regulations and by-laws; and
 - (iii) a binding order made by an Authority.
- 1.23 "LPI" means Land and Property Information or any other government agency replacing it.
- 1.24 "Lot Size Map" means the maps with a corresponding name and forming part of *Hawkesbury Local Environmental Plan 2012*.
- 1.25 "Party" means a party to this agreement, including their successors and assigns.
- 1.26 "Proposed Development" means the subdivision of the Development Land into not more than eight (8) Housing Lots.
- 1.27 "Subdivision Certificate" means a certificate issued under section 109C(d) of the Act with respect to the Proposed Development.
- 1.28 "Transfer" means to settle, assign, transfer, convey, alienate, otherwise dispose of or part with possession of.
- 2 Interpretation:**

In this agreement unless the contrary intention appears:

 - 2.1 One gender includes the opposite gender.
 - 2.2 The singular includes the plural and the plural includes the singular.
 - 2.3 A party includes that party's executors, administrators, successors, permitted assigns, permitted legal representatives and substitutes.
 - 2.4 Dollars or \$ means Australia dollars and all money payable under this agreement is payable in that currency.

ORDINARY MEETING

Meeting Date: 29 November 2016

- 2.5 "Including" and similar expressions are not words of limitation.
- 2.6 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 2.7 Headings, any table of contents or index are for convenience only and do not affect interpretation of this agreement.
- 2.8 An explanatory note which relates to this agreement does not affect the interpretation of this agreement.
- 2.9 A provision of this agreement must not be construed to the disadvantage of a party merely because that party was responsible wholly or partly for the preparation of this agreement or the inclusion of a term or condition in this agreement.
- 2.10 If an act and thing must be done on a specific day which is not a business day, it must be done instead on the next business day.
- 2.11 A person means and includes a person, a body corporate, Authority, firm, body of persons, association, trust, joint venture or other legal commercial entity or undertaking recognized by law whether or not incorporated.
- 3 **Planning Agreement**
 - 3.1 This agreement
 - 3.1.1 applies to the Development Land;
 - 3.1.2 is a planning agreement within the meaning set out in section 93F of the Act;
 - 3.1.3 is to be registered on the title of the Development Land under section 93H of the Act;
 - 3.1.4 is not a confidential document and may be exhibited without restriction by either party.
 - 3.2 Subject to clause 3.3, this agreement operates from the date it is executed.
 - 3.3 Clause 6 of this agreement will only operate if and when Council grants Development Approval (or Development Approvals as the case may be) to the Proposed Development on the Development Land.
- 4 **Application of s94 and s94A of the Act to the Development**
 - 4.1 This agreement excludes the application of section 94A and section 94 of the Act to the Proposed Development.
 - 4.2 Notwithstanding Clause 4.1, should a section 94 Plan which applies to the land come into force prior to the issue of any development consent for subdivision of the land, this Agreement shall be terminated immediately and the adopted contribution rate within such section 94 Plan shall be applied in place of the Developer's Contribution cited within this Agreement.
 - 4.3 Clause 4.2 does not allow the Council or the Developer to retrospectively apply a section 94 contribution for allotments for which development contributions have been paid in accordance with this Agreement.

ORDINARY MEETING

Meeting Date: 29 November 2016

- 4.4 Subject to Clause 15 should this Agreement be terminated in accordance with clause 16, section 94A or section 94 of the Act, whichever is applicable, will apply to the Proposed Development.

5 Registration of this Agreement

- 5.1 Within 30 days from the commencement of this Agreement the Developer must take all reasonable steps to procure the registration of the Agreement, in accordance with Section 93H of the Act on the relevant folios of the register held by the LPI pertaining to the Development Land.
- 5.2 The Council agrees:
- (a) to provide a release and discharge of this Agreement with respect to the Development Land or any lot created on subdivision of the Development Land on satisfaction by the Developer of the obligation to provide the Developer's Contribution: and
 - (b) to do all things reasonably necessary, including the execution of any documents, to enable the Developer to remove the notation of this Agreement on the relevant folios of the register, held by the LPI pertaining to the Land.
- 5.3 The Council acknowledges that the registration of this Agreement on the relevant folios of the register held by the LPI pertaining to the Development Land constitutes suitable means of enforcement of this Agreement for the purposes of s93F(3)(g) of the Act.

6 Developer's Contribution

- 6.1 Subject to the terms of this agreement, including clause 3.3, the Developer agrees to provide the Developer's Contribution, subject to clause 8, in the form of the Cash Contribution via a condition of Development Consent at the rate of \$30,000, subject to clause 8, for the creation of each vacant Housing Lot.
- 6.2 For the avoidance of doubt, the parties agree and acknowledge that the maximum Cash Contribution is calculated on the basis of \$30,000, subject to clause 8, per additional Housing Lot created by subdivision of the Development Land. The existing Development Land allotment does not attract a Cash Contribution through this Agreement by virtue of there being on the land prior to any additional subdivision one lawfully existing dwelling.

7 Calculation of Developer's Contributions

The Developer and Council acknowledge and agree that the Contribution will be calculated on the basis that not more than eight (8) Housing Lots can be achieved on the Development Land and the Developer will contribute cash to the value of the Cash Contribution for each of those vacant allotments.

8 CPI Adjustment of Developer's Contributions

On each CPI Review Date the Cash Contribution will be calculated as follows:

$$RAC_c = RAC_a \times \frac{\text{Current CPI}}{\text{Base CPI}}$$

Where:

RAC_a = The Housing Lot contribution at the commencement of this Agreement (i.e. \$30,000)

RAC_c = Adjusted Housing Lot Contribution at CPI review date.

9 Payment of Cash Contribution

The Cash Contribution must be paid to Council, prior to the issue of the Subdivision Certificate, on a 'pro-rata' basis. The pro-rata payment calculation is to be based on the number of Housing Lots included in the Subdivision Certificate for the relevant stage.

10 G.S.T

10.1 Unless otherwise expressly stated all money or other sums payable or consideration to be provided under this agreement are exclusive of GST.

10.2 Despite Clause 6, to the extent that the Commissioner of Taxation, a Court or Tribunal determines that any supply made under or in connection with this agreement is a taxable supply, the GST exclusive consideration otherwise to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is otherwise to be paid or provided and a valid Tax invoice is to be delivered to the recipient of the taxable supply and this clause will not merge on completion or termination of the agreement.

11 Dispute Resolution

11.1 Reference to Dispute

If a dispute arises between the Parties in relation to this Agreement, then the Parties must resolve that dispute in accordance with this clause.

11.2 Notice of Dispute

The Party wishing to commence the dispute resolution processes must notify the other Party in writing of:

- (a) the intent to invoke this clause;
- (b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this clause; and
- (c) the outcomes which the notifying Party wishes to achieve (if practicable).

11.3 Representatives of Parties to Meet

- (a) The representatives of the Parties must promptly (and in any event within 15 Business Days of the written notice provided in accordance with clause 11.2 meet in good faith to attempt to resolve the notified dispute.
- (b) The Parties may, without limitation:
 - (i) resolve the dispute during the course of that meeting;
 - (ii) agree that further material, expert determination in accordance with clause 11.5 or consideration is needed to effectively resolve the dispute (in which

event the Parties will, in good faith, agree to a timetable for resolution);
and

- (iii) agree that the Parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

11.4 No party may constrain

If:

- (a) at least one meeting has been held in accordance with clause 11.3; and
- (b) the Parties have been unable to reach an outcome identified in clause 11.3; and
- (c) any of the Parties, acting in good faith, forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 11.3(b)(iii), then, that Party may, by 15 Business Days written notice to the other Party, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause does not of itself amount to a breach of this Agreement.

11.5 Expert Determination

- (a) If a Dispute arises between Parties to this Agreement, the Parties may agree to refer the Dispute to expert determination in Sydney, New South Wales administered by the Australian Commercial Dispute Centre (ACDC).
- (b) The expert determination will be conducted in accordance with the ACDC Rules for Expert Determination (Rules) in force at the date of this Agreement. The Rules set out the procedures to be adopted, the process of selection of the expert and the costs involved, including the Parties' respective responsibilities for the payment of the expert's costs and other costs of the expert determination.
- (c) The expert determination will be final and binding on the Parties.
- (d) This clause 11 survives termination of this Agreement.

11.6 Urgent Relief

At any time, a Party may, without inconsistency with anything in this clause 11, seek urgent interlocutory relief in respect of a dispute under this Agreement from any Court having jurisdiction.

12 Agreement of the Developer

12.1 The Developer warrants that it:

- 12.1.1 is the legal and beneficial owner of part of the Development Land;
- 12.1.2 will take all practicable steps and use best endeavours and do all acts and things required to procure:
 - 12.1.2.1 the execution of any documents necessary to effect registration of this agreement with LPI; and

ORDINARY MEETING

Meeting Date: 29 November 2016

- 12.1.2.2 the production of the relevant certificates of title for the Development Land and the registration of this agreement at LPI on the title of the Development Land within 30 days of the date of the commencement of this agreement.
- 12.2 Council shall not be required to seal any sub-division plan made pursuant to the Development Approval unless and until this agreement has been registered at LPI on the title of the Development Land.
- 13 Enforcement by any party
- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any court of competent jurisdiction.
- (b) Nothing in this Agreement prevents:
- (i) a Party from bringing proceedings in a court of competent jurisdiction to enforce any aspect of this Agreement or any matter to which this Agreement relates, subject to compliance with clause 14; and
- (ii) the Council from exercising any function under the Act or any other Act or law.
- 14 Assignment and dealings
- 14.1 The Developer is not to:
- 14.1.1 sell, transfer, mortgage or charge the Land, or
- 14.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,
- to any person unless:
- 14.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold, transferred, mortgaged or charged or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and
- 14.1.4 the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, mortgagee, charge, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
- 14.1.5 the Developer is not in breach of this Deed, and
- 14.1.6 the Council otherwise consents to the transfer, mortgage, charge, assignment or novation, such consent not to be unreasonably withheld.
- 14.2 Clause 14.1 does not apply in relation to any sale, transfer, mortgage or charge of the Land if this Deed is registered on the title to the Land at the time of the sale.
- 14.3.1 Upon the commencement of this Deed, the Council is deemed to have acquired, and the Developer is deemed to have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently the

ORDINARY MEETING

Meeting Date: 29 November 2016

Council has a sufficient interest in the Land to lodge and maintain with the Land and Property Management Authority a caveat notifying that interest.

- 14.3.2 The Developer consents to the Council lodging a caveat on the Land where this Deed is not registered on the title to the Land due to a breach by the Developer of its obligations.

15 Release

When the Developer has satisfied all of the obligations imposed on it under this agreement in respect of that part of the Development Land for which a Subdivision Certificate has been issued and for which the Developer's Contribution has been delivered then the Council must promptly at the request and at the reasonable expense of the Developer do all acts and things necessary to remove this agreement from the title of that part of the Development Land.

16 Termination

- 16.1 This agreement may be terminated by the Council by written notice to the Developer if:

16.1.1 the Developer commits a breach of any of the terms and conditions of this agreement and fails to remedy such a breach within fourteen (14) days of receipt of a written notice (which specifies the breach and requires the Developer to remedy the breach) whereupon the date of such termination will be effective on the 15th day from receipt of such written notice; or

16.1.2 an Event of Insolvency occurs.

17 Review Procedures

The parties may agree to review this agreement in circumstances and in a manner determined by the parties. Any amendment, modification, supplement or replacement document which results from a review must be in writing, signed by the parties and registered at LPI under Section 93H of the Act.

18 Notices

- 18.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

(a) Delivered or posted to that Party at its address set out below.

(b) Faxed to that Party at its fax number set out below.

- 18.2 For the purposes of this clause the parties' contact details for service are:

The Developer

Mr Mark and Mrs Jenelle Bull

Address:

431 Greggs Road Kurrajong

Email: Mark.Bull@jemena.com.au>

Telephone: 0402 060 438

ORDINARY MEETING

Meeting Date: 29 November 2016

Council

Address:

Hawkesbury City Council
Attention: General Manager
366 George Street,
WINDSOR NSW 2576

Telephone: 4560 4444
Facsimile: 4587 7740

- 18.3 If a Party gives the other Party 3 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.
- 18.4 Any notice, consent, information, application or request is to be treated as given or made at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, 2 business days after it is posted.
 - (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 18.5 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.
- 19 **Proper Law and Jurisdiction**
- This agreement is made and will be construed and governed in accordance with the Law of the State of NSW South Wales. Each party submits to the exclusive jurisdiction of each and every Court or Tribunal of the said State having jurisdiction to hear the matter submitted to it.
- 20 **Severance**
- If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.
- 21 **Waiver**
- 21.1 No failure on the part of a party to exercise and no delay in exercising and no cause of dealing with respect to, any condition and the rights, powers or remedies of that party under this agreement will impair any of those rights, powers or remedies, nor constitute a waiver of any of those rights, powers or remedies.

ORDINARY MEETING

Meeting Date: 29 November 2016

- 21.2 No single or partial exercise by a party of any condition and rights, powers or remedies under this agreement will preclude any other or further exercise of those or exercise of any other conditions rights or remedies.
- 21.3 Any condition and the rights, powers or remedies under or relating to this agreement are cumulative and will not exclude any other rights, powers or remedies under or relating to this agreement at Law.
- 21.4 No waiver of any of the conditions of this agreement will be effective unless in writing signed by the party against whom such waiver is sought to be enforced.
- 21.5 Any waiver of the conditions of this agreement will be effective only in the specific instance and for the specific purpose given and the waiver will not be deemed a waiver of such obligations or of any subsequent breach of the same or some other obligation.

22 Approvals and Consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

23 Entire Agreement

This agreement contains all the terms and conditions to which the parties have agreed on in relation to the matters which they have dealt with. No party can rely on an earlier document, anything said or done by another party, or omitted to be relied upon, said or done except as permitted by Law.

24 No Fetter

- 24.1 Nothing in the agreement is to be construed as requiring the Council to do anything

- 24.1.1 that would cause it to be in breach of any of its obligations at Law;
- 24.1.2 limiting or fettering in any way the exercise of any statutory discretion or duty; at Law; or
- 24.1.3 imposing any obligations to grant an Approval.

25 Representatives and Warranties

Each party agrees that it has the power and authority to enter into this Agreement and comply with its obligations and that entry into this agreement will not result in a breach of Law.

26 Costs

Each party must bear and pay its own costs of and incidental to the preparation and execution of this Agreement.

ORDINARY MEETING

Meeting Date: 29 November 2016

Executed as an agreement on

2016

Execution by Council

Signed by Hawkesbury City Council by its
authorised officer in the presence of:

Signature of witness

Signature of authorised officer

Name of witness

Authorised Officer's Name:
Signing on behalf of: Hawkesbury City
Council
Power of Attorney Book:
No: _____

Address of witness

Execution by Mark and Jenelle Bull

Signed by :

Signature of Mark Bull

Signature of Jenelle Bull

Print name

Print name

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

GENERAL MANAGER

Item: 256 **GM - Sydney West Planning Panel - Re-appointment of Council Nominees - (79351, 117061)**

Previous Item: Item 102, Ordinary (26 May 2009)
 Item 114, Ordinary (10 July 2012)
 Item 58, Ordinary (28 April 2015)
 Item 59, Ordinary (12 April 2016)

REPORT:

Executive Summary

The Joint Regional Planning system was established and commenced operations in the middle of 2009. At the time Council was required to nominate two persons to the Sydney West Joint Regional Planning Panel (SWJRPP). The General Manager and Director City Planning were subsequently nominated as Council's representatives to the SWJRPP and re-appointed in July 2012 at the conclusion of the initial three year appointment and in April 2015 for a further 12 months. In April 2016, Council nominated the Mayor and Director City Planning for a 12 month appointment.

The Greater Sydney Commission has been created under the Greater Sydney Commission Act 2015 is now taking over this role and the Planning Panels. The current Sydney East and Sydney West JRPPs ceased operation on 20 November 2016 and the new Sydney Planning Panels commenced on 21 November 2016.

The Department of Planning and Environment (DPE) has contacted Council seeking confirmation of Council's nominees for the newly formed Sydney West Planning Panel (SWPP).

Consultation

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

Background

The Joint Regional Planning system was established and commenced operations in the middle of 2009. At the time there was much discussion and concern regarding the establishment and operation of the proposed Panels, particularly surrounding the issues of Council nominees to panels.

In association with the establishment of panels, Council was required to nominate two persons to the SWJRPP. Initially, at its meeting held on 26 May 2009, Council resolved to nominate the General Manager and Director City Planning as its representatives to the SWJRPP. At the expiry of this three year appointment the Council, at its meeting on 10 July 2012, re-appointed the General Manager and Director City Planning as its representatives to the SWJRPP.

During 2015 the structure of the JRPP was under review in association with the proposed establishment of the Greater Sydney Commission (GSC). As such, at the time Council was requested to nominate its delegates to the SWJRPP for a further period of 12 months. Subsequently, Council at its meeting on 28 April 2015 confirmed the continued nomination of the General Manager and Director City Planning as its representatives to the SWJRPP. At the meeting of 12 April 2016, Council amended the nominations to the Mayor and Director City Planning.

ORDINARY MEETING

Meeting Date: 29 November 2016

With the establishment of the GSC, the structure of the JRPPs has altered but the functions are essentially similar and will still include two Council representatives in respect of matters within a Council's area. On 14 October 2016 the Minister for Planning made an Order that created the six Planning Panels for the Greater Sydney Region that correspond with the six Districts within the Greater Sydney region. These Panels commenced operation on 21 November 2016, with the former JRPPs ceasing operation on 20 November 2016.

The DPE has recently contacted Council seeking advice of its representatives to the newly formed Sydney West Planning Panel as the current appointments do not automatically transfer to the new Panel.

The Greater Sydney Commission Act 2015 requires at least one of the Council members of the Planning Panel to have expertise on one of the following areas; planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism. The functions of the SWPP are similar to the function of the former SWJRPP. In this regard, as the function of the SWPP is essentially similar to the SWJRPP, it is proposed that Council reaffirm the nomination of the Mayor and the Director City Planning as the Council's nominees to the SWPP.

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 nominated strategy in the CSP being:

- Make decisions in ways that are transparent, fair, balanced and equitable supported by appropriate resource allocations.

Financial Implications

The cost associated with the time required for attendance of Council's nominees at meetings of the SWJRPP will be met from within current budget allocations.

RECOMMENDATION:

That Council confirm the nomination of the Mayor and Director City Planning as Council's representatives on the Sydney West Planning Panel and the General Manager be authorised to nominate an appropriate member of staff as an alternate member of the Panel, if necessary.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

CITY PLANNING

Item: 257 **CP - Kurmond and Kurrajong Investigation Area Survey Results - (95498, 124414)**

Previous Item: 99, Ordinary (24 November 2015)
188, Ordinary (30 August 2016)

REPORT:

Executive Summary

The purpose of this report is to provide Council with a progress report regarding structure planning for the Kurmond and Kurrajong Investigation Area, and particularly the results of the survey of residents within the Investigation Area.

The Kurmond and Kurrajong Investigation Area Survey (the survey) was conducted with residents and land owners in the Kurmond and Kurrajong Investigation Area. and the residential villages of Kurmond and Kurrajong. The purpose of the survey was to seek the views of land owners and residents with respect to residential or large lot residential/rural-residential development, and to hear from those closest to and most likely affected by possible additional development in the Investigation Area.

This matter was included in the Business Papers for the 30 August 2016 Council Meeting, with the following recommendation:

"That:

- 1. Council receive the results of the Kurmond and Kurrajong Investigation Area Survey.*
- 2. Council Staff identify a number of specific areas (based upon Constraints Mapping, survey results and the preferred approach as outlined in this report) for possible development of additional large lot residential/rural-residential development throughout the Investigation Area and some residential development up to, but not within, the existing villages of Kurmond and Kurrajong.*
- 3. The identified areas be further consulted with the community regarding future development.*
- 4. The results of that further consultation be reported to Council."*

Following discussion of the matter, Council resolved as follows:

"That the item be deferred to the first Ordinary Council meeting of the new Council."

Reporting this matter to the first Ordinary Meeting of the new Council posed a number of issues given the volume, significance and urgency of a number of other matters requiring Council's consideration and decision in earlier meetings of the new Council. Whilst no less significant, this report is now being presented to Council for consideration having provided more time for the new Council to apprise itself of the matter at hand.

Overall, the results of the survey showed that there was more interest in large lot residential/rural-residential development throughout the Investigation Area than for further residential development, particularly within the existing villages of Kurmond and Kurrajong. However, there was some support for large lot residential/rural-residential development and residential development immediately surrounding the village of Kurrajong and large lot residential/rural-residential development and residential development immediately surrounding the village of Kurmond. The full results of the survey (in text and tables) are provided in Attachment 2 of this report.

The report also provides details in terms of planning proposals already processed, and currently being processed along with those that have been withdrawn following discussions with Council Officers. The report continues with discussion on Constraints Mapping, experiences in dealing with various planning proposals to date, possible scenarios, and a preferred approach to moving the structure planning process forward and further consultation in that respect.

Consultation

This report is the result of consultation with landowners and residents of the Kurmond and Kurrajong Investigation Area, and the surrounding residential villages of Kurmond and Kurrajong. The consultation was primarily conducted using Council's online community engagement portal *Your Hawkesbury - Your Say*. The option of a hard-copy return postage paid survey was also provided to respondents.

The survey itself was a targeted survey of residents within the Investigation Area, Kurmond Village and Kurrajong Village, given the importance of ascertaining the views of those closest to and potentially most affected by possible future development. In total approximately 950 letters were sent to residents and landowners in the investigation area inviting participation in the survey.

Whilst a number of people from outside the area wanted to participate in the survey the intent of the survey was to target those closest to and potentially most effected. Despite this, Council officers did meet and discuss the structure planning process with members of the North Richmond and Districts Community Action Association and the Kurrajong Forum. It should also be noted, and as outlined in this report that should the recommendation be adopted, the broader community will be provided an opportunity to discuss and comment as the structure planning process continues.

Background

The Kurmond and Kurrajong Investigation Area has been an ongoing matter since 3 February 2015 when Council considered a Mayoral Minute regarding implementation planning for the Hawkesbury Residential Land Strategy (RLS). Specifically the Mayoral Minute highlighted the need to undertake structure planning and development contribution planning for development areas.

In response to the Mayoral Minute Council resolved, (in part), as follows:

"That:

- 1. Council suspend acceptance of new planning proposals under the Hawkesbury Residential Land Strategy (RLS) until the key implementation actions of the RLS, in particular, structure planning and development contribution planning has been completed for the Kurrajong/Kurmond investigation areas or 31 July 2015."*

On 31 March 2015 Council considered a report that proposed a large lot residential/rural residential development investigation area for Kurmond and Kurrajong for the purposes of structure planning and development contributions planning.

The extent of the investigation was determined by considering the location criteria of the RLS (i.e. "within 1km radius" and "cluster around or on the periphery of villages"), undertaking a desk top analysis of matters such as slope, existing vegetation, existing road layout and accesses, and zone and property boundaries.

The extent of the investigation area adopted by Council is shown in Attachment 1.

ORDINARY MEETING

Meeting Date: 29 November 2016

The report of 31 March 2015 also advised that Council staff would undertake a detailed analysis of the area to determine matters such as:

1. what land may be suitable for large lot residential / rural residential development
2. what land may need to be protected or conserved (e.g. land containing threatened species or endangered ecological communities, riparian areas, land with significant slope, significant view lines)
3. the nature and location of future development (e.g. the type of residential development and minimum lot size requirements)
4. likely development yield and take up rate
5. the extent of rural village expansion and limits to growth
6. the nature and location supporting public infrastructure (e.g. roads, intersections, drainage infrastructure, community facilities, parks and recreation facilities)
7. mechanisms to fund and provide supporting public infrastructure.

Study of the investigation area to date has included examination of the broad State and local planning framework, demographic analysis, consideration of the physical environment, and identification of infrastructure and services within and surrounding the investigation area.

A series of tables to provide a summary of the physical environment, and infrastructure and servicing matters that have been considered including an assessment of the degree of constraint to development and recommendations to address the constraint was also presented to Council in November, 2015. As highlighted in that previous report the major constraints to future development in the investigation area are the slope of land; the presence of threatened or endangered flora and fauna; watercourses and dams; managing the threat of bushfire; the capacity of the existing road network; and requirements for waste water disposal.

At the Ordinary Meeting of Council on 24 November 2015, a progress report regarding the Kurmond and Kurrajong Investigation Area informed Council about a proposed survey to be conducted of landowners and residents within the investigation area as a first stage in consulting with the community regarding possible future development within the vicinity of the villages of Kurmond and Kurrajong.

On 14 December 2015, a letter was sent to all landowners and residents in the Kurmond and Kurrajong Investigation Area and surrounding villages of Kurmond and Kurrajong inviting them to participate in the survey. Note in this report these three areas collectively are referred to as the "survey area". Interested persons were requested to register their interest in being part of the survey by 31 December 2015. Most people registered by this date, however in order to allow for maximum participation registrations were taken up until the commencement of the survey. The survey period was from 13 January 2016 to 8 February 2016 however, to allow for maximum participation, completed survey forms were received up until 19 February 2016.

As reported to Council on 24 November 2015, the survey was conducted with residents and land owners to gain an understanding of their interest in further residential or large lot rural residential development and to hear from those closest to and most likely affected by possible additional development. As part of the ongoing structure planning process, the wider community will have an opportunity to comment or make submissions on selective amendments for future development as a result of this survey.

A copy of the map showing the Investigation Area, and Kurmond and Kurrajong village areas is provided in Attachments 1 of this Report.

Respondents

Council received a total of 189 completed surveys (144 online and 45 hardcopy). This represents approximately 20% of landowners/residents in the survey area and is considered to be a good response for this type of survey.

From the 189 surveys completed 186 respondents identified where they either owned land and/or resided in the survey area. Of these respondents, 97 owned land/resided in the Kurrajong Village area, 61 owned land/resided in the Investigation Area, and 28 owned land/resided in the Kurmond Village area.

In terms of the age of respondents, the majority were in the "55 and over" group (80 respondents), followed by 51 respondents in the "35 to 54" age group, and nine in the "19 to 34" age group. This is fairly typical for this type of survey and also reflects an older age for ownership of land in the survey area.

The gender of respondents was fairly even with 73 male respondents and 70 female respondents recorded. Note, however that age and gender data could only be collected from the online survey participants as these were required questions when registering for the *Your Hawkesbury - Your Say* online survey.

Summary of Survey Results

Overall, the results of the survey showed that there was more interest in large lot residential/rural-residential development throughout the Investigation Area than for further residential development in general. There was some support for large lot residential/rural-residential development immediately surrounding the village of Kurrajong and large lot residential/rural-residential development immediately surrounding the village of Kurmond.

Regarding further residential development the survey showed there was some interest in residential development immediately surrounding the villages of Kurmond and Kurrajong (within 300 metres) but less interest in additional residential development within either of the existing villages of Kurmond or Kurrajong.

The survey presented respondents with a list of eight "Preliminary Development Principles" in relation to fundamental or major constraints to development. Respondents were given five options: "Strongly Agree", "Agree", "Neither Agree or Disagree", "Disagree" and "Strongly Disagree" and asked to choose their preference for each principle.

The eight "Preliminary Development Principles" which are essentially the current guiding principles to processing of current planning proposals were:

- "1. *Essential services under the Hawkesbury Local Environmental Plan 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 watercourses is minimised.*
7. *Fragmentation of riparian areas is minimised.*
8. *Removal of dams containing significant aquatic habitat is avoided."*

ORDINARY MEETING

Meeting Date: 29 November 2016

The results of whether respondents agreed or disagreed with the eight preliminary development principles for additional residential or large lot residential/rural residential development was consistent across all areas regardless of where respondents owned land or lived.

The overwhelming majority of respondents either "Strongly agreed" or "Agreed" with the eight development principle statements.

With respect to the timing of future development most respondents wanted development to occur in the 'Short term' (one to five years).

Finally, respondents were asked "If you are a land owner and additional residential or large lot residential/rural-residential development was possible on your land would you be interested in subdividing your land?" Overall most respondents answered "No" (82 responses), followed by "Yes" (62 responses), with a smaller number being "Unsure" (21 responses), and "Somewhat interested" (14 responses). It should be noted that of the 82 "No" responses, 57 were from respondents within the Kurrajong Village Area.

Respondent's comments in the "General Comments" area were mainly about retaining the rural lifestyle of the area. Upgrading of services and infrastructure was a prerequisite for many respondents, specifically upgrading of the Richmond Bridge or an additional river crossing, upgrading roads to improve congestion, provision of mains sewerage, and improved town water supply. Some respondents expressed environmental concerns. Generally, of these respondents who completed the "General Survey Comments" section, most expressed reservations about further development in the Investigation Area with only a small number of comments in support of it.

The full results of the survey (in text and tables) are available in Attachment 2 of this report.

Next Steps

Desired outcomes

From the commencement of this structure planning process, the desired outcomes have been to provide:

- structure planning to inform potential change in the area
- developer contribution planning to fund public infrastructure
- ensure future development is responsive to existing land and environmental constraints
- ensure that possible amendments to the LEP do not create unrealistic owner/developer expectations in terms of number and extent of lots
- ensure that the final outcome has considered community input into the process.

Essentially the process sought to minimise debate about overall yields, lot layout, land alteration, and vegetation clearing at the Development Application stage. The ongoing work associated with this structure planning process is focussed towards achieving an overall balanced approach to facilitating appropriate outcomes within the Investigation Area. This will include a refinement of the areas that could be considered for potential future development based upon overall constraints and community input.

Constraints analysis

Based upon the work undertaken to date, the following Constraints Analysis Map provides an indication of the overall combined constraints including slope, vegetation and riparian corridors within the Investigation Area which can be utilised in order to refine possible options moving forward.

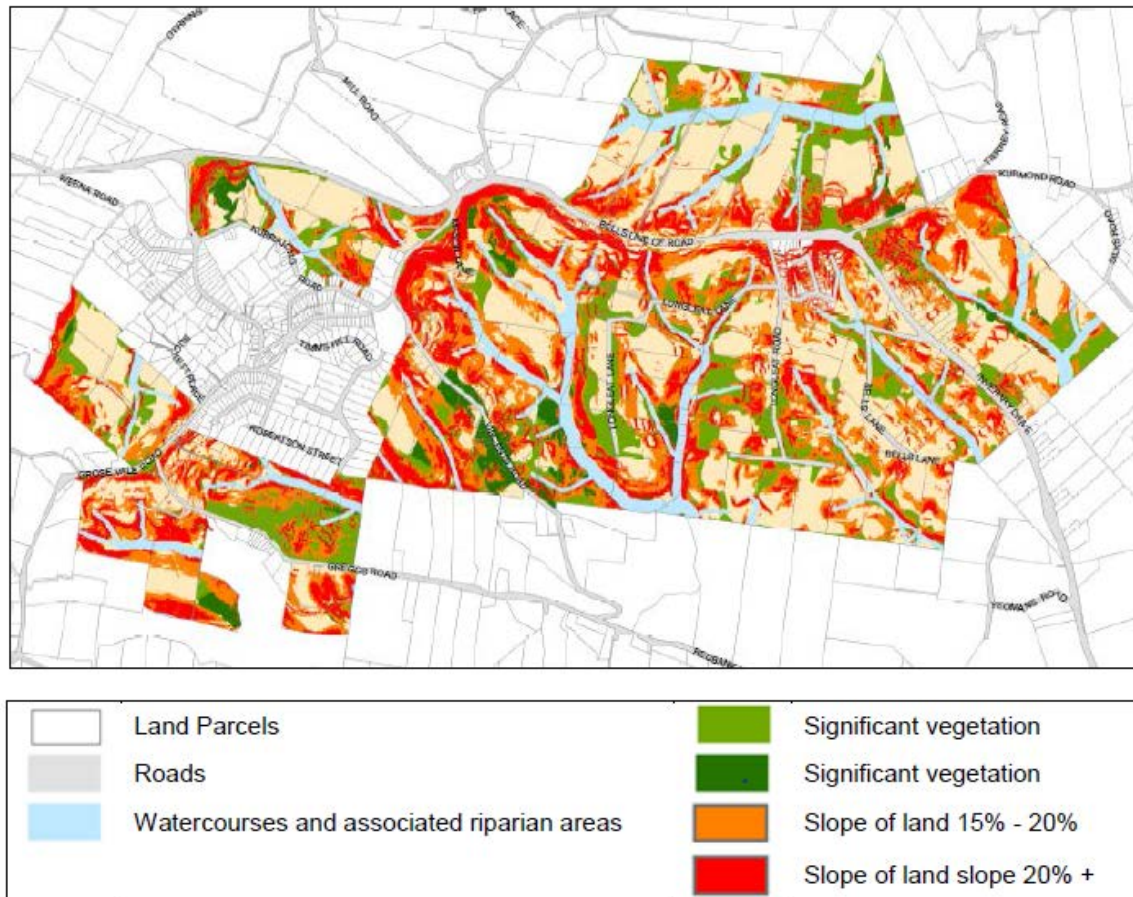
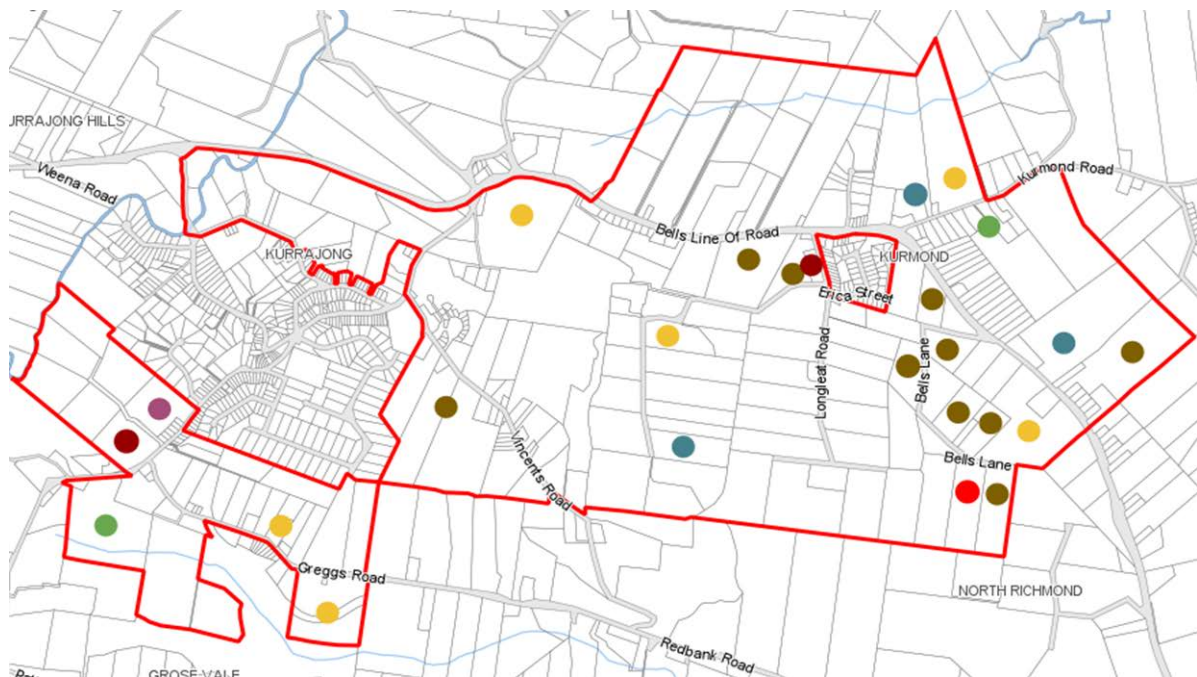


Figure 1: Kurmond and Kurrajong Investigation Area Constraints Map

As is evident from the Constraints Analysis Map, the buff coloured areas represent the relatively less constrained sections of the overall Investigation Area. There is an unsurprising correlation between the results of the Survey and the Constraints Analysis Map. The Survey highlighted that there was a greater degree of interest/willingness to explore future large lot residential options around the Kurmond area as opposed to around the Kurrajong area. The Constraints Analysis Map highlights that the area around Kurrajong represents some of the more constrained land within the Investigation Area, as compared with the area around Kurmond.

Current planning proposals and responses to current planning proposals

Council has received a number of planning proposals within the Investigation Area, of which to date only two have actually been finalised and resulted in the creation of four additional lots associated with one of those planning proposals. Figure 2 below provides an indication of the current Site Specific Planning Proposals that have been received, and the various stages each matter is at in the process.



Brown = To be reported to Council
 Yellow = Reported to Council, being processed
 Red = Reported to Council, waiting decision
 Blue = Supported by Council, to be gazetted
 Purple = Refused by Council, being processed by DP&E
 Green = Gazetted
 Maroon = Withdrawn

Figure 2 Current Site Specific Planning Proposals

There are a total of 22 current planning proposals being processed, of which nine have been received this calendar year. It is interesting to note the cluster of planning proposals around Kurmond, which again is indicative of the survey results and reflective of the lesser overall constraints in that area as opposed to other areas within the Investigation Area.

Based on the reports to Council on 28 July 2015 and 24 November 2015 which included an analysis of land and environmental constraints within the Investigation Area these planning proposals have been processed along the following guiding principles:

- building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%
- removal of significant vegetation is avoided
- fragmentation of significant vegetation is minimised
- building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing watercourse) are located outside of riparian corridors
- road and other crossings of water courses is minimised
- fragmentation of riparian areas is minimised
- removal of dams containing significant aquatic habitat is avoided.

Based upon these guiding principles, the processing of the current planning proposals received by Council could yield between 70-100 lots overall. Of note in dealing with these various planning proposals in line with the guiding principles, an analysis of overall yield indicates a figure of one lot per hectare even with an approach of a minimum lot size of 4,000m². This is to say that whilst certain land within each particular site has been considered suitable to include a 4,000m² minimum lot size, the overall lot yield across the combined sites is no denser than one lot per hectare.

Scenarios of Future Development

In terms of scenarios for future development, the following scenarios have been considered:

- *No further planning proposals or large lot residential development within the Investigation Area*

This particular scenario is contrary to the current Residential Land Strategy, and indeed the majority of survey responses from the community which expressed an interest/willingness to explore large lot residential options within the Investigation Area.

- *Continue to receive and assess site specific planning proposals only*

As has been evident in the processing of current planning proposals received by Council the resources associated with dealing with these matters has considerable impacts in terms of timeframes, staffing and the overall financial implications to both applicants and Council.

Additionally, in dealing with individual matters only it is difficult to obtain an overall view and an understanding of future outcomes, as compared to a completed structure planning and developer contribution planning process.

- *Council initiated broad brush amendment to the LEP*

Such an approach would see the development of a series of provisions such as minimum lot size to apply across the whole Investigation Area.

However, this approach would not recognise the development constraints and unsuitability of certain land that has been previously highlighted, and significantly would create unrealistic owner/developer expectations as to individual sites.

- *Council initiated selective amendment to the LEP*

This scenario would be based upon a series of specific areas within the Investigation Area being assessed for potential amendments to the LEP based on a number of development controls, including but not limited to density control, minimum lot sizes, and other relevant matters for consideration with each specific area.

As an indicative example based on experiences in dealing with various planning proposals to date a potential lot yield of 1 lot per hectare and 4,000m² lot size (provided 4,000m² was clear of constraints) could be considered for these specific areas.

Preferred Approach

In order to progress the structure planning process associated with the Kurmond and Kurrajong Investigation Area, the following preferred approach to achieve desired outcomes is recommended:

- discourage/minimise new site specific planning proposals
- Council initiate a planning proposal for multiple suitable sites
- development constraints are applied to future planning proposals
- continue structure planning and developer contribution planning.

This preferred approach would enable Council to gain control of the currently ad hoc approach to development of individual properties. This will also allow a more efficient approach to potential development in the locality that is consistent with the views of the directly affected community, and also for Council to apply the appropriate mechanism to collect contributions to cover these costs and upgrade infrastructure required for any additional development.

Community Consultation

Should the recommendation be adopted by Council it will be necessary to develop the various selective amendments to the LEP, and undertake consultation with the wider community.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Place Directions statement;

- Offer residents a choice of housing options that meets 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.

and is also consistent with the nominated strategy in the CSP being:

- Encourage affordable, diverse and quality housing solutions in serviced area.

Financial Implications

No additional costs are proposed based on the recommendations in this report.

RECOMMENDATION:

That:

1. Council receive the results of the Kurmond and Kurrajong Investigation Area Survey.
2. Council Staff identify a number of specific areas (based upon Constraints Mapping, survey results and the preferred approach as outlined in this report) for possible development of additional large lot residential/rural-residential development throughout the Investigation Area and some residential development up to, but not within, the existing villages of Kurmond and Kurrajong.
3. The identified areas be further consulted with the community regarding future development.
4. The results of that further consultation be reported to Council.

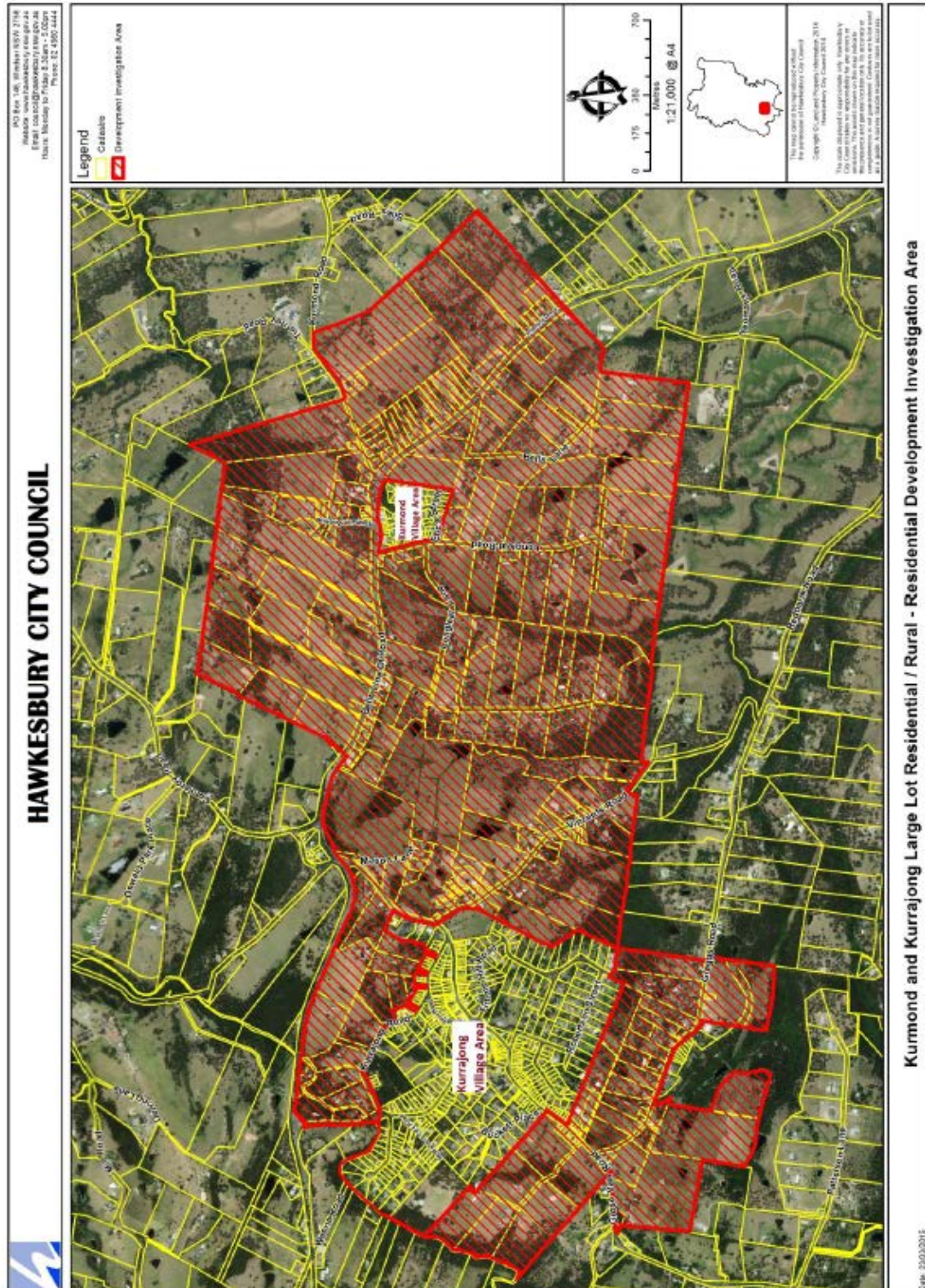
ATTACHMENTS:

- AT - 1** Copy of the Kurmond and Kurrajong Investigation Area Survey map showing the Investigation Area, and Kurmond and Kurrajong village areas
- AT - 2** Results of the Kurmond Kurrajong Investigation Area Survey

ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 1 Copy of the Kurmond and Kurrajong Investigation Area Survey map showing the Investigation Area, and Kurmond and Kurrajong village areas

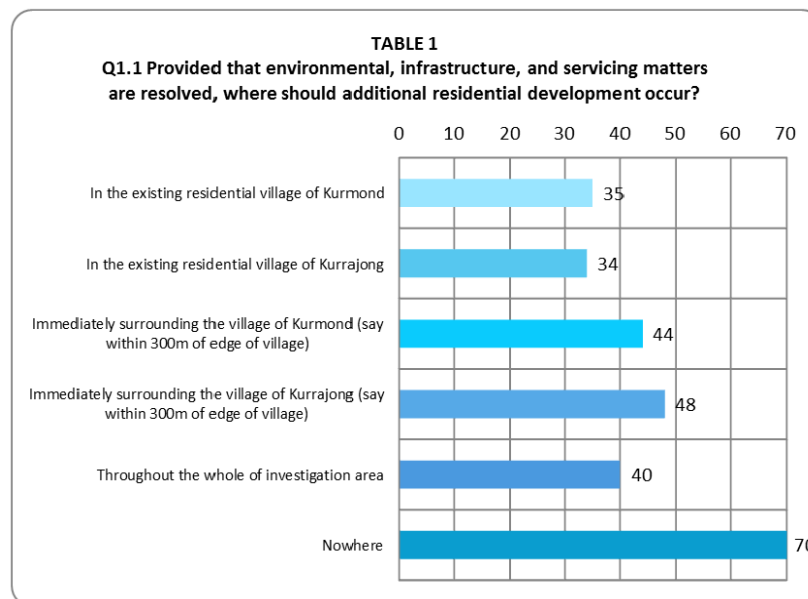


AT - 2 Results of the Kurmond Kurrajong Investigation Area Survey**Kurmond Kurrajong Investigation Area Survey****Results of the Kurmond Kurrajong Investigation Area Survey**

The results of the survey have been broken down to display tables by way of overall results, then by location of where respondent's owned land or resided, either in the Investigation Area, or in the villages of Kurrajong or Kurmond.

Question 1.1 - Location and preference for additional Residential development

Note Question 1.1 allowed for multiple responses therefore the total number of responses will be greater than the number of respondents.



Overall (Table 1) the highest number of responses regarding where people would like to see additional residential development was "Nowhere" (70 responses). This was followed by interest in developing residential housing immediately surrounding the existing villages of Kurrajong (48) and Kurmond (44) "within 300 metres of the edge of existing village", followed by "Throughout the whole investigation area" (40). A smaller number of people supported residential development in either the existing villages of Kurmond (35) or Kurrajong (34).

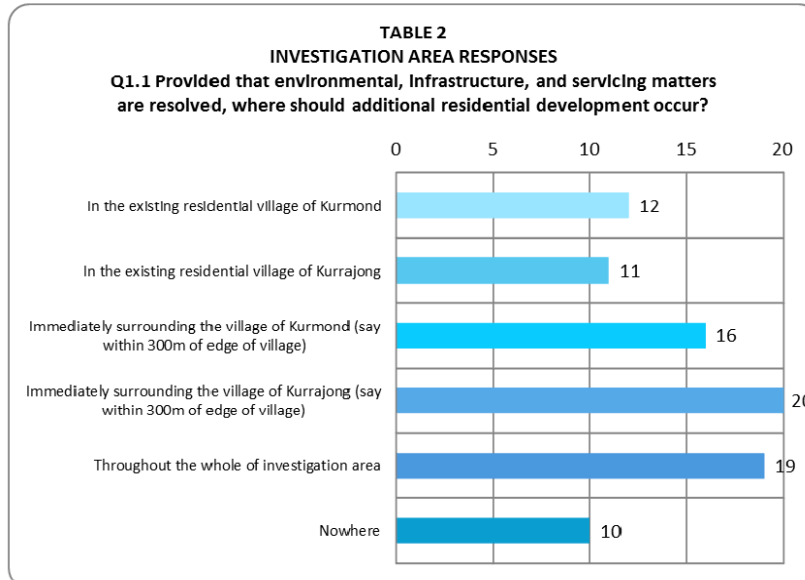
Whilst, as an individual response, "Nowhere" attracted the highest number of responses, collectively, 119 respondents or 63% of responses (i.e. 189 survey respondents minus 70 "Nowhere" responses) expressed an interest in some form of additional residential development.

ORDINARY MEETING

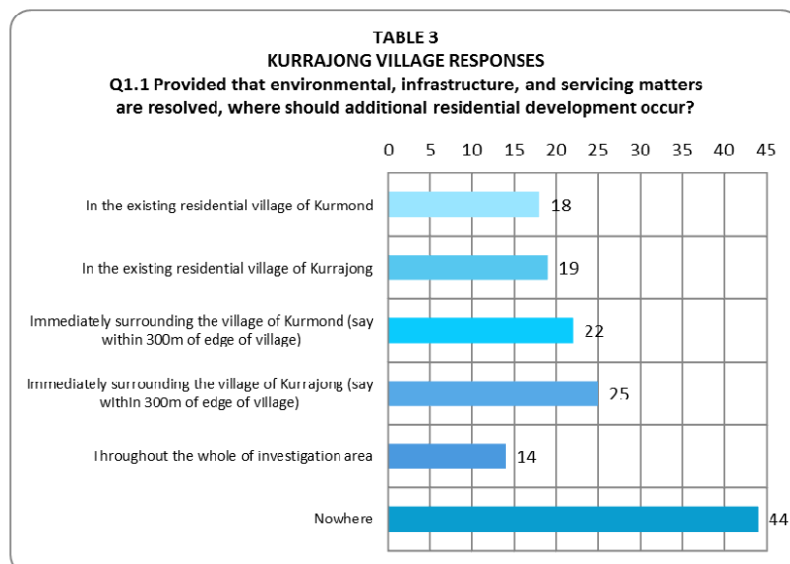
Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey



For **Investigation Area respondents** (Table 2) the highest level of support was for additional residential development to be “Immediately surrounding the village of Kurrajong, say within 300m of the edge of the village” (20 responses), closely followed by residential development “Throughout the whole investigation area” (19), and then residential development “Immediately surround the village of Kurmond, say within 300m of the edge of the village” (16). A smaller number of respondents wanted development “In the existing village of Kurmond” (12), or “In the existing village of Kurrajong” (11) or “Nowhere” (10).



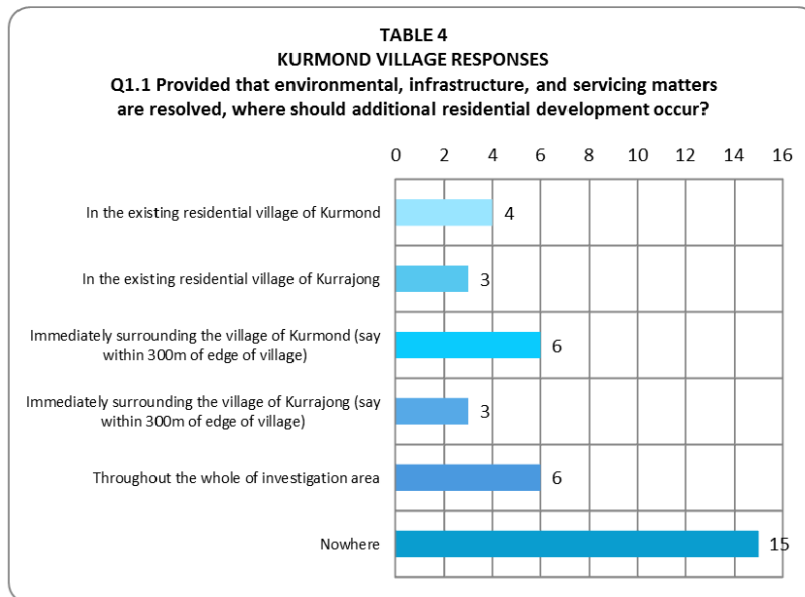
ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

For **Kurrajong Village respondents** (Table 3) the highest preference was for additional residential development "Nowhere" (44 responses), followed by "Immediately surrounding the village of Kurrajong (say within 300 metres of the edge of the village)" (25) and slightly less responses for "Immediately surrounding the village of Kurmond (say within 300 metres of the edge of the village)" (22). There was less support for "In the existing residential village of Kurrajong" (19) or "In existing residential village of Kurmond" (18).



For **Kurmond Village respondents** (Table 4), whilst a smaller sample, most people preferred "Nowhere" for additional residential development (15 responses) ahead of either/equally "Throughout the whole Investigation" (6) or "Immediately surrounding the village of Kurmond (say within 300 metres of the edge of the village)" (6).

Survey **"Comments"** for Question 1.1 mainly centred on the lack of services and infrastructure to support further residential development (including road and bridge upgrades) and upgrading to mains sewerage and improved town water supply. There were also concerns that further development could damage the rural/semi-rural lifestyle and the village atmosphere of the area. A number of responses said that no further residential development was required or that there was already too much residential development. A smaller number of respondents said that increased residential development could be beneficial to the area such as supporting local shops.

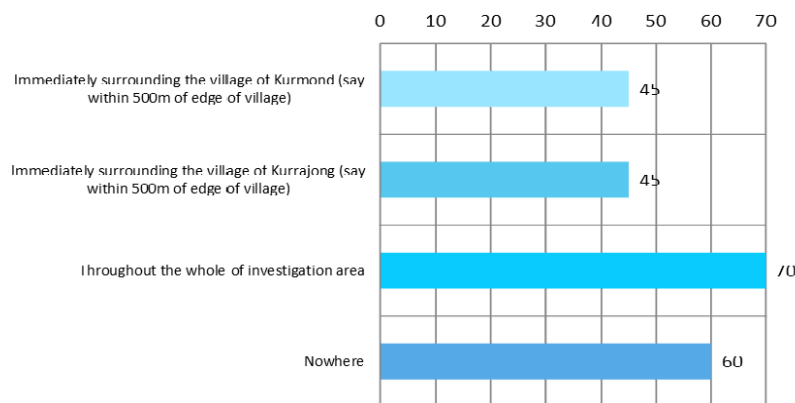
Question 1.2 - Location and preference for additional Large Lot Residential/Rural-Residential Development

Note Question 1.2 allowed for multiple responses therefore the total number of responses will be greater than the number of respondents



Kurmond Kurrajong Investigation Area Survey

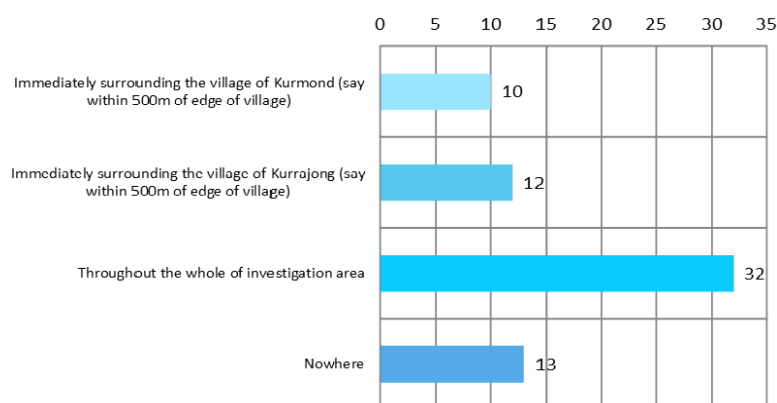
TABLE 5
Q1.2 Provided that environmental, infrastructure, and servicing matters are resolved, where should additional rural-residential development occur?



Overall (Table 5). The highest number of responses regarding where people would like to see additional large lot residential/rural-residential development was "Throughout the whole investigation area" (70 responses), followed by "Nowhere" (60), with an equal number of responses (45) for immediately surrounding the villages of Kurmond or Kurrajong "say within 500metres of the edge of village".

Similar to the results for Question 1.1, whilst, as an individual response, "Nowhere" attracted 60 responses, collectively, 129 respondents or 68% of responses (i.e. 189 survey respondents minus 60 "Nowhere" responses) expressed an interest in some form of additional large lot residential/rural-residential development.

TABLE 6
INVESTIGATION AREA RESPONSES
Q1.2 Provided that environmental, infrastructure and servicing matters are resolved, where should additional rural-residential development occur?



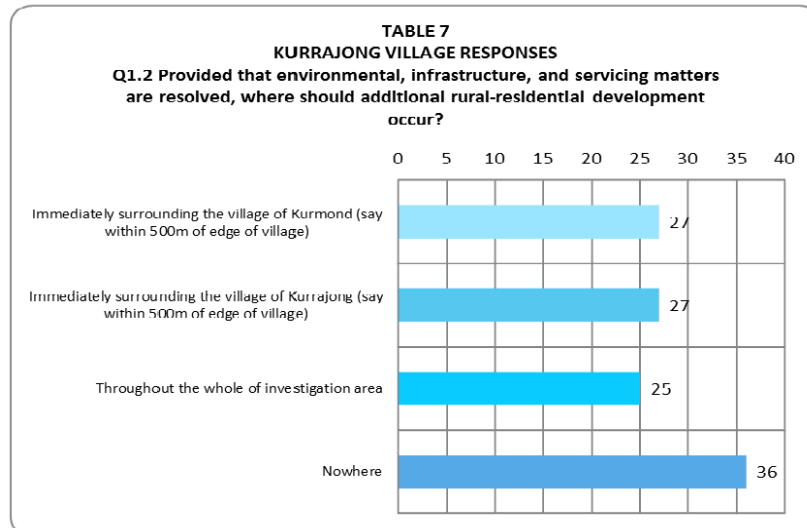
ORDINARY MEETING

Meeting Date: 29 November 2016

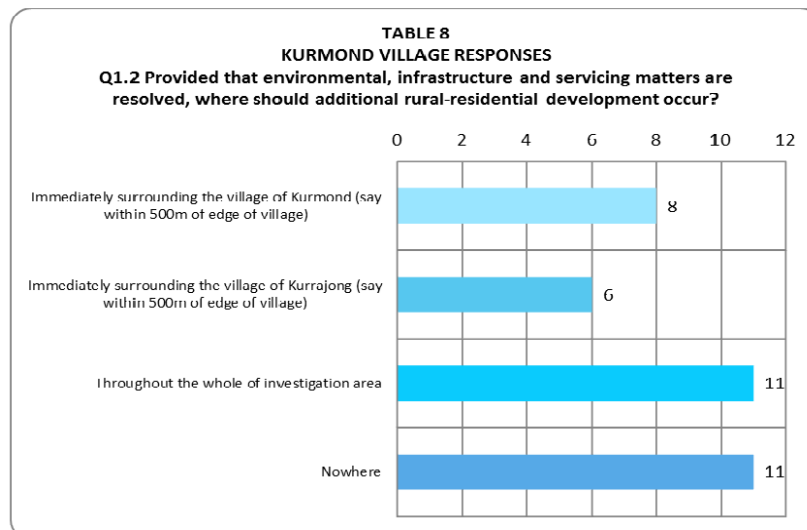


Kurmond Kurrajong Investigation Area Survey

For **Investigation Area respondents** (Table 6) the highest level of support for additional large lot residential/rural-residential development was "Throughout the whole of the investigation area" (32 responses), with similar lower responses for "Nowhere" (13), and for "Immediately surrounding the villages of Kurrajong (say within 500 metres of the edge of village)" (12), and for "Immediately surrounding the village of Kurmond (say within 500 metres of the edge of village)" (10).



For **Kurrajong Village respondents** (Table 7) the highest preference for additional large lot residential/rural-residential development was "Nowhere" (36 responses), followed by the same number of responses (27) for immediately surrounding the villages of Kurmond or Kurrajong "say within 500 metres of the edge of village" and a similar number of responses (25) for "Throughout the whole of the Investigation Area".

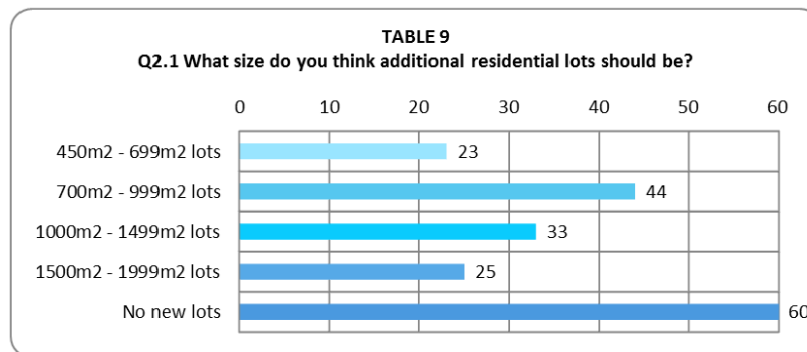




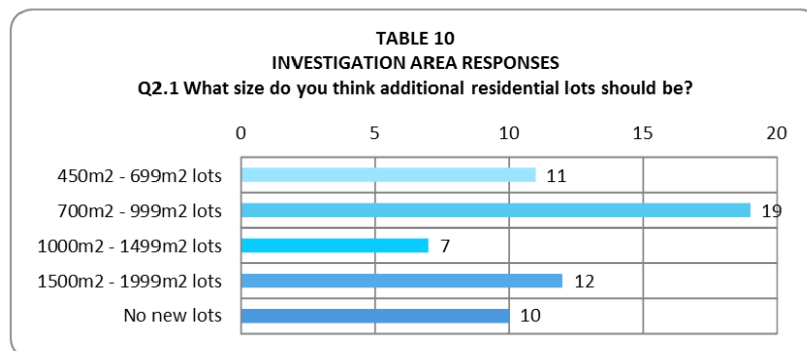
Kurmond Kurrajong Investigation Area Survey

For **Kurmond Village respondents** (Table 8) there was the same number of responses of “Nowhere” for additional large lot residential/rural-residential development (11 responses) as there was for “Throughout the whole Investigation” (11). This was followed by “Immediately surrounding the village of Kurmond (say within 500 metres of the edge of village)” (8) then “Immediately surrounding the villages of Kurrajong (say within 500 metres of the edge of village)” (6).

Survey **“Comments”** for Question 1.2 were similar to comments for Question 1.1, being mainly about the lack of services and infrastructure to support further development (including road and bridge upgrades) and upgrading to mains sewerage and improved town water supply. Respondent also expressed concerns that further development could damage the rural/semi-rural lifestyle and the village atmosphere of the area. A number of responses said that no further development was required or that there was already too much development. A very small number of respondents said that increased large lot residential/rural-residential development could be beneficial to the area.

Question 2.1 - Preference of size of additional Residential lots

Overall (Table 9) the main preference for the size of residential lots was “No new lots” (60 responses), however 125 respondents expressed some preference for the size of additional residential development. This consisted of “700m² - 999m² lots” (44 responses), and then “1000m² - 1499m² lots” (33), “1500m² - 1999m² lots” (25), and “450m² - 699m² lots” (23).

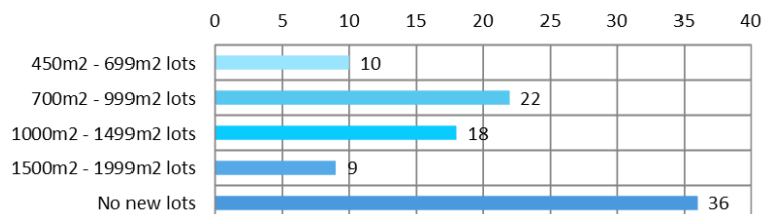


For **Investigation Area respondents** (Table 10) the highest preference for residential lots was “700m² - 999m² lots” (19 responses), and then similar preferences for “1500m² - 1999m² lots” (12) as for “450m² - 699m² lots” (11) and for “No new lots” (10).



Kurmond Kurrajong Investigation Area Survey

TABLE 11
KURRAJONG VILLAGE RESPONSES
Q2.1 What size do you think additional residential lots should be?



For **Kurrajong Village respondents** (Table 11) the highest preference was “No new lots” (36 responses), followed by “700m² - 999m² lots” (22) and “1000m² - 1499m² lots” (18).

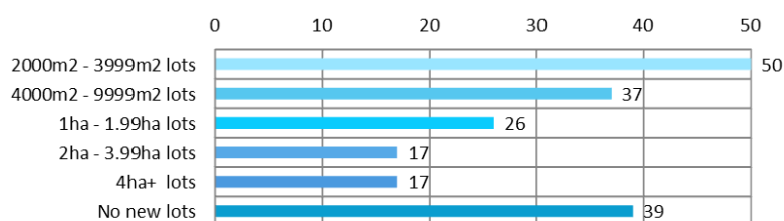
TABLE 12
KURMOND VILLAGE RESPONSES
Q2.1 What size do you think additional residential lots should be?



For **Kurmond Village respondents** (Table 12) the highest preference was “No new lots” (13 responses), followed by “1000m² - 1499m² lots” (7), and “1500m² - 1999m² lots” (4).

Question 2.2 - Preference of size for additional Large Lot Residential/Rural-Residential lots

TABLE 13
Q2.2 What size do you think additional large lot residential/rural-residential lots should be?



Overall (Table 13) the main preference for size of large lot residential/rural-residential lots was “2000m² - 3999m² lots” (50 responses), followed by “No new lots” (39), then “4000m² - 9999m² lots” (37), and “1ha - 1.99ha lots” (26).

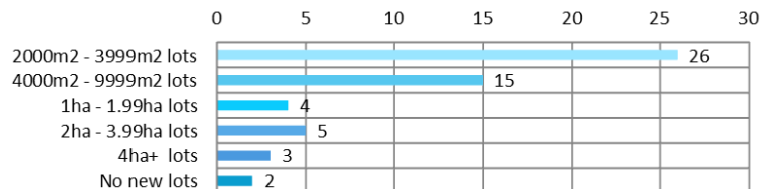
ORDINARY MEETING

Meeting Date: 29 November 2016



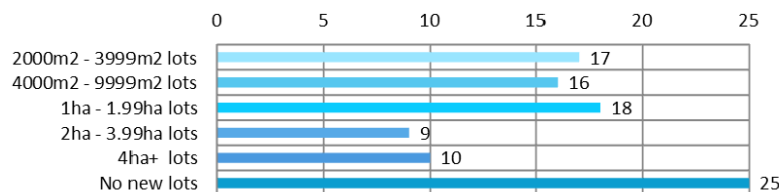
Kurmond Kurrajong Investigation Area Survey

TABLE 14
INVESTIGATION AREA RESPONSES
Q2.2 What size do you think additional large lot residential/rural-residential lots should be?



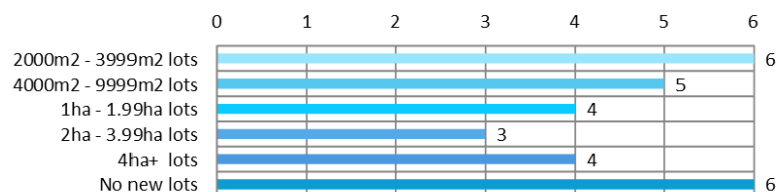
For **Investigation Area respondents** (Table 14) the highest preference of large lot residential/rural-residential development lot sizes was "2000m² - 3999m² lots" (26 responses), and then "4000m² - 9999m² lots" (15), with much smaller numbers for the remaining options.

TABLE 15
KURRAJONG VILLAGE RESPONSES
Q2.2 What size do you think additional large lot residential/rural-residential lots should be?



For **Kurrajong Village respondents** (Table 15) the highest preference of large lot residential/rural-residential development was "No new lots" (25 responses), with similar results for "1ha - 1.99m² lots" (18), "2000m² - 3999m² lots" (17), and "4000m² - 9999m² lots" (16).

TABLE 16
KURMOND VILLAGE RESPONSES
Q2.2 What size do you think additional large lot residential/rural-residential lots should be?



For **Kurmond Village respondents** (Table 16) the highest preference for size of large lot residential/rural-residential development was equal across "2000m² - 3999m² lots" (6 responses) as for "No new lots" (6), then "4000m² - 9999m² lots" (5).

ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 17
Q3.1 Essential services under LEP 2012 and fundamental development constraints are resolved

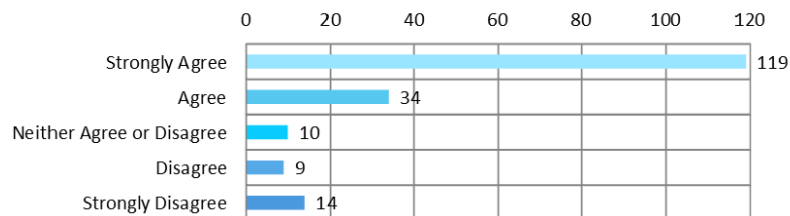


TABLE 18
INVESTIGATION AREA RESPONSES
Q3.1 Essential services under LEP 2012 and fundamental development constraints are resolved

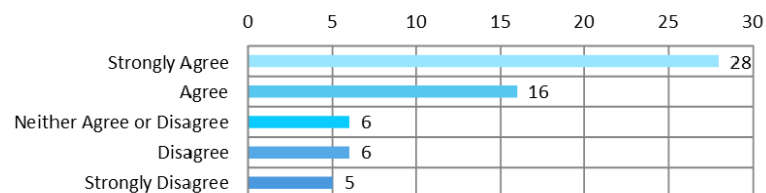
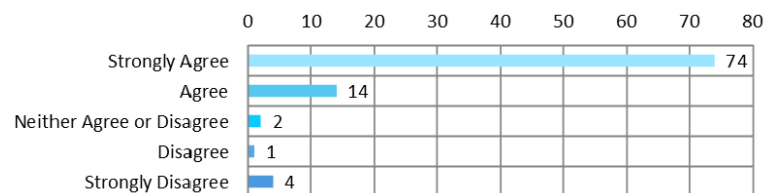


TABLE 19
KURRAJONG VILLAGE RESPONSES
Q3.1 Essential services under LEP 2012 and fundamental development constraints are resolved



ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 20
KURMOND VILLAGE RESPONSES
Q3.1 Essential services under LEP 2012 and fundamental development constraints are resolved

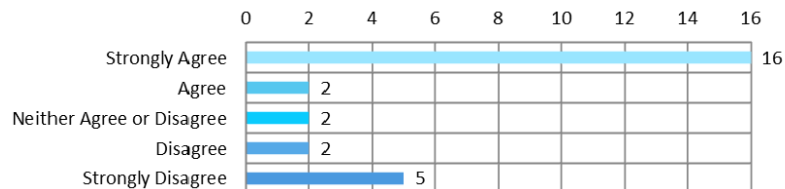


TABLE 21
Q3.2 Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%

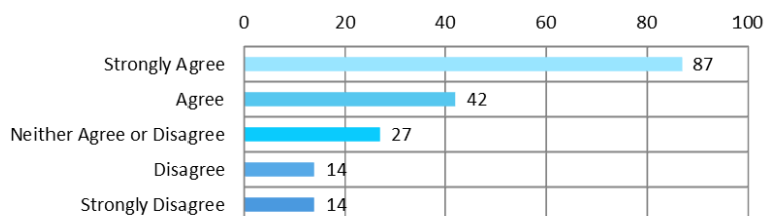
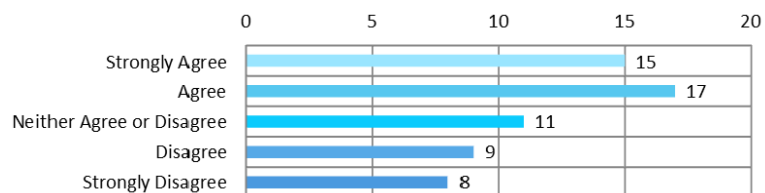


TABLE 22
INVESTIGATION AREA RESPONSES
Q3.2 Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%





Kurmond Kurrajong Investigation Area Survey

TABLE 23
KURRAJONG VILLAGE RESPONSES
Q3.2 Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%

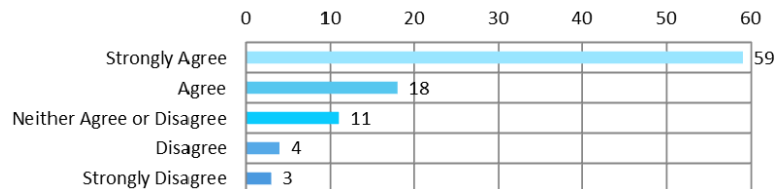


TABLE 24
KURMOND VILLAGE RESPONSES
Q3.2 Building envelopes, asset protection zones (APZs), driveways and roads are located on land with a slope less than 15%

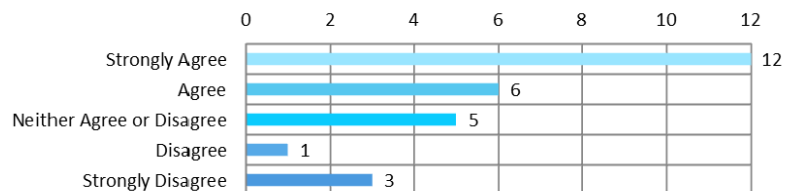
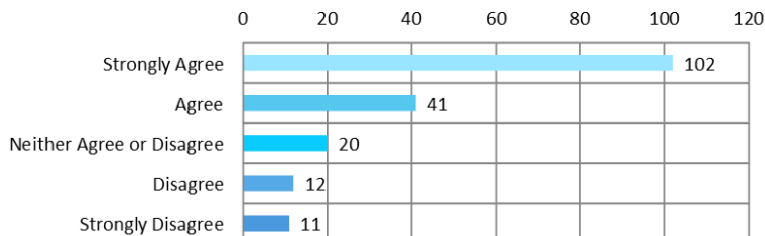


TABLE 25
Q3.3 Removal of significant vegetation is avoided



ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 26
INVESTIGATION AREA RESPONSES
Q3.3 Removal of significant vegetation is avoided

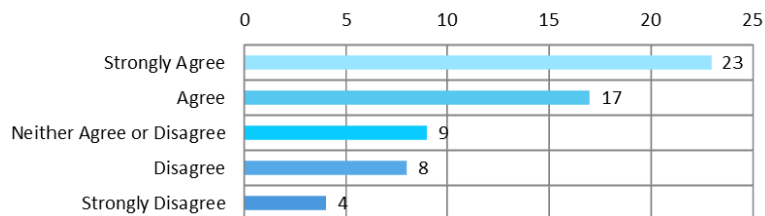


TABLE 27
KURRAJONG VILLAGE RESPONSES
Q3.3 Removal of significant vegetation is avoided

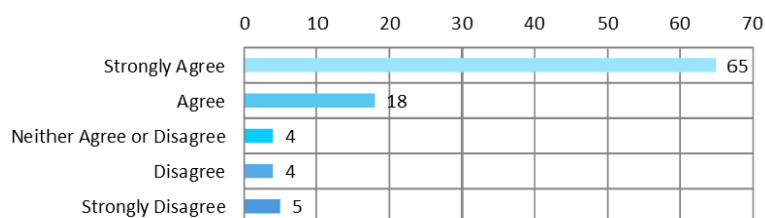
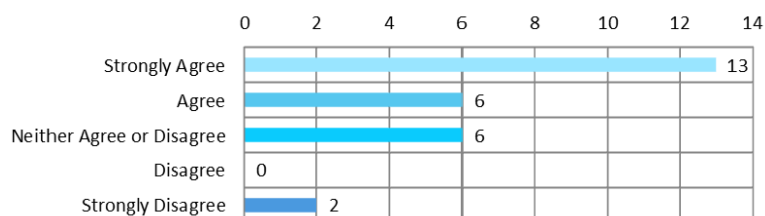


TABLE 28
KURMOND VILLAGE RESPONSES
Q3.3 Removal of significant vegetation is avoided



ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 29
Q3.4 Fragmentation of significant vegetation is minimised

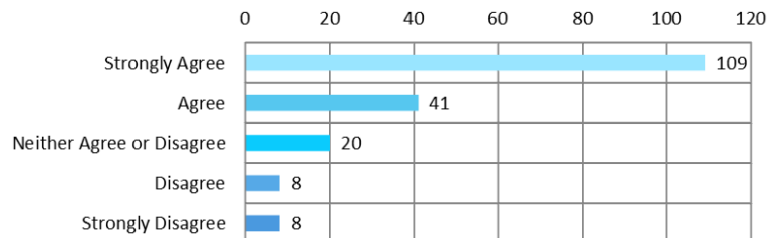


TABLE 30
INVESTIGATION AREA RESPONSES
Q3.4 Fragmentation of significant vegetation is minimised

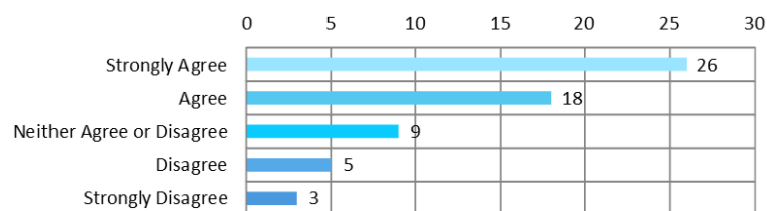
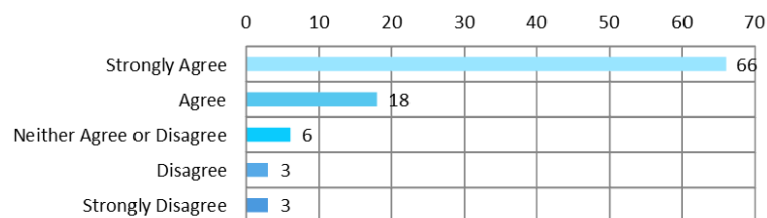


TABLE 31
KURRAJONG VILLAGE RESPONSES
Q3.4 Fragmentation of significant vegetation is minimised



ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 32
KURMOND VILLAGE RESPONSES
Q3.4 Fragmentation of significant vegetation is minimised

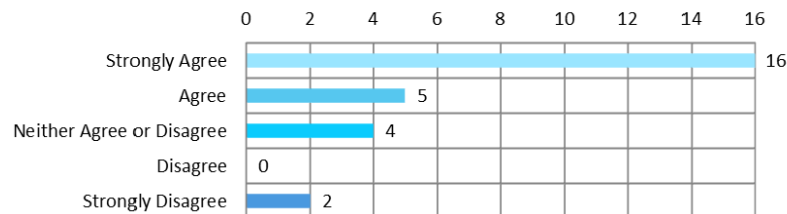


TABLE 33
Q3.5 Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing a watercourse) are located outside of riparian corridors

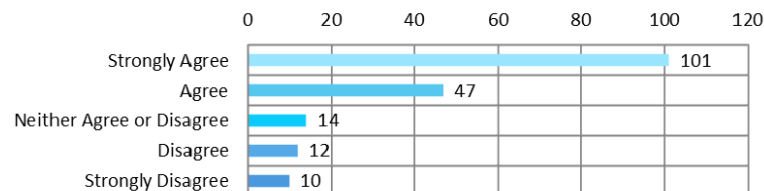
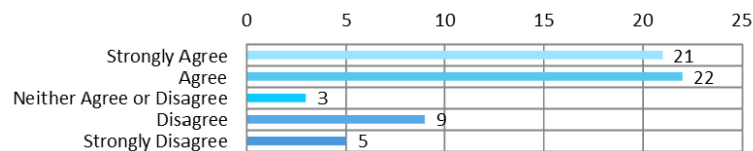


TABLE 34
INVESTIGATION AREA RESPONSES
Q3.5 Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing a watercourse) are located outside of...



ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 35
KURRAJONG VILLAGE RESPONSES

Q3.5 Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing a watercourse) are located outside of riparian corridors

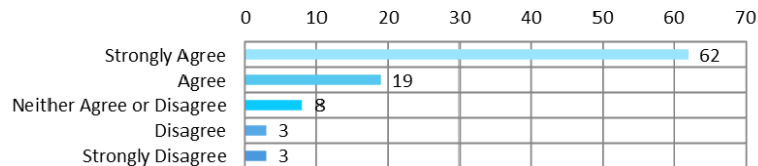


TABLE 36
KURMOND VILLAGE RESPONSES

Q3.5 Building envelopes, APZs, driveways and roads (not including roads for the purposes of crossing a watercourse) are located outside of riparian corridors

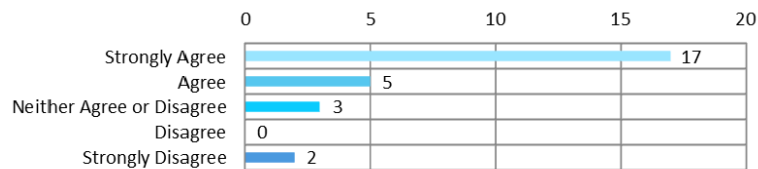
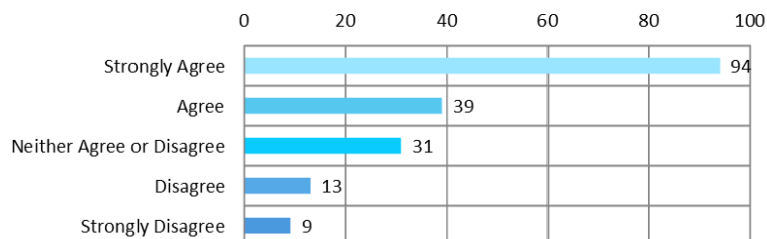


TABLE 37
Q3.6 Road and other crossings of watercourses is minimised



ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 38
INVESTIGATION AREA RESPONSES
Q3.6 Road and other crossings of watercourses is minimised

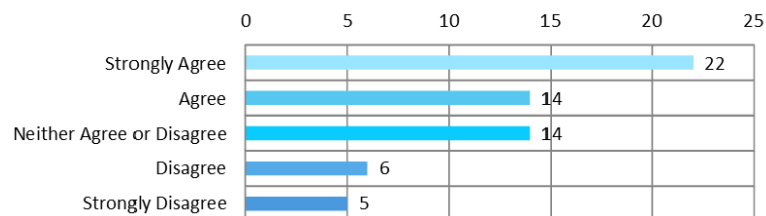


TABLE 39
KURRAJONG VILLAGE RESPONSES
Q3.6 Road and other crossings of watercourses is minimised

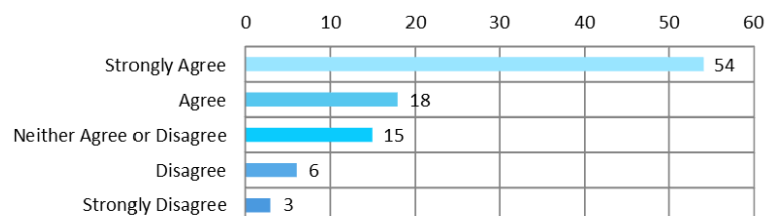
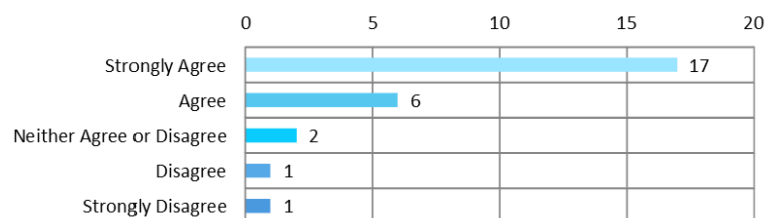


TABLE 40
KURMOND VILLAGE RESPONSES
Q3.6 Road and other crossings of watercourses is minimised



ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 41
Q3.7 Fragmentation of riparian areas is minimised

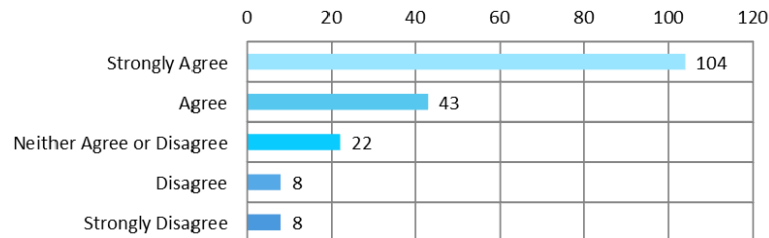


TABLE 42
INVESTIGATION AREA RESPONSES
Q3.7 Fragmentation of riparian areas is minimised

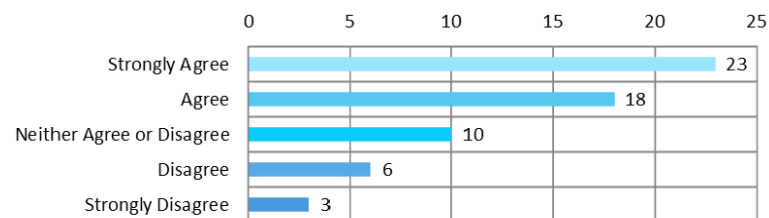
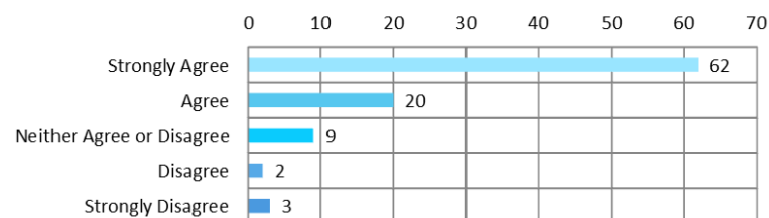


TABLE 43
KURRAJONG VILLAGE RESPONSES
Q3.7 Fragmentation of riparian areas is minimised





Kurmond Kurrajong Investigation Area Survey

TABLE 44
KURMOND VILLAGE RESPONSES
Q3.7 Fragmentation of riparian areas is minimised

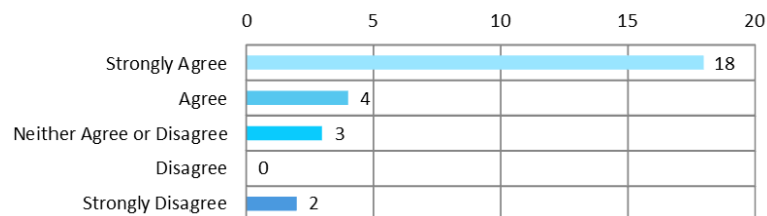


TABLE 45
Q3.8 Removal of dams containing significant aquatic habitat is avoided

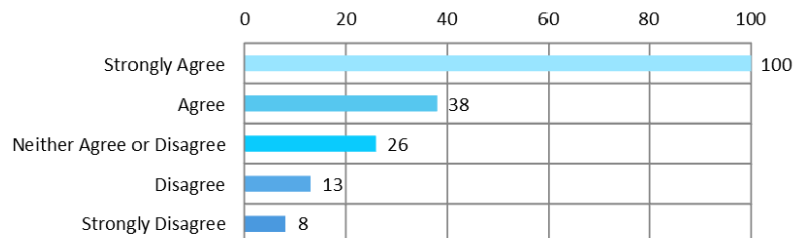
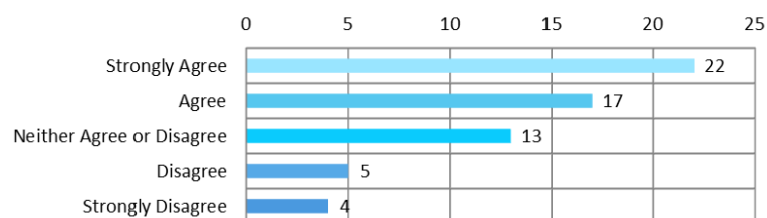


TABLE 46
INVESTIGATION AREA RESPONSES
Q3.8 Removal of dams containing significant aquatic habitat is avoided





Kurmond Kurrajong Investigation Area Survey

TABLE 47
KURRAJONG VILLAGE RESPONSES
Q3.8 Removal of dams containing significant aquatic habitat is avoided

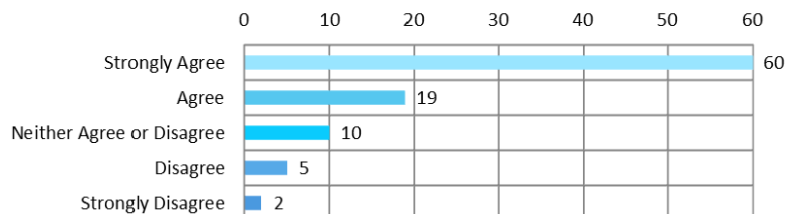
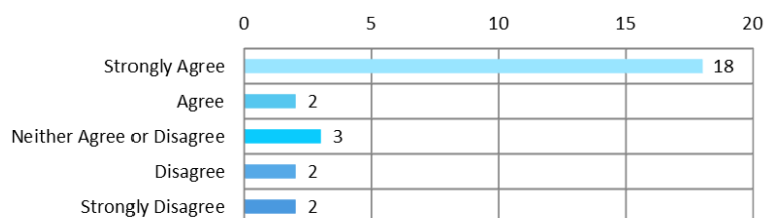


TABLE 48
KURMOND VILLAGE RESPONSES
Q3.8 Removal of dams containing significant aquatic habitat is avoided

**Questions 3.1 to 3.8 - Preliminary Development Principles**

The survey presented respondents with a list of eight "Preliminary Development Principles" in relation to fundamental or major constraints to development. Respondents were given 5 options: "Strongly Agree", "Agree", "Neither Agree or Disagree", "Disagree" and "Strongly Disagree" and asked to choose their preference for each principle.

The eight "Preliminary Development Principles" were:

1. *Essential services under the Hawkesbury Local Environmental Plan 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 watercourses is minimised*
7. *Fragmentation of riparian areas is minimised*
8. *Removal of dams containing significant aquatic habitat is avoided*



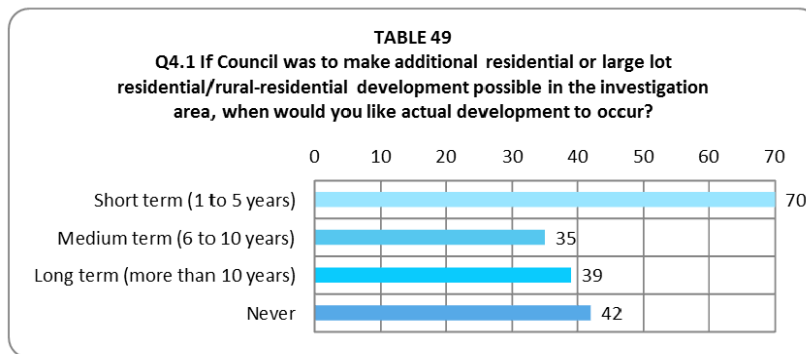
Kurmond Kurrajong Investigation Area Survey

The results of whether respondents agreed or disagreed with the eight preliminary development principles for additional residential or large lot residential/rural residential development was consistent across all areas regardless of where respondents owned land or resided.

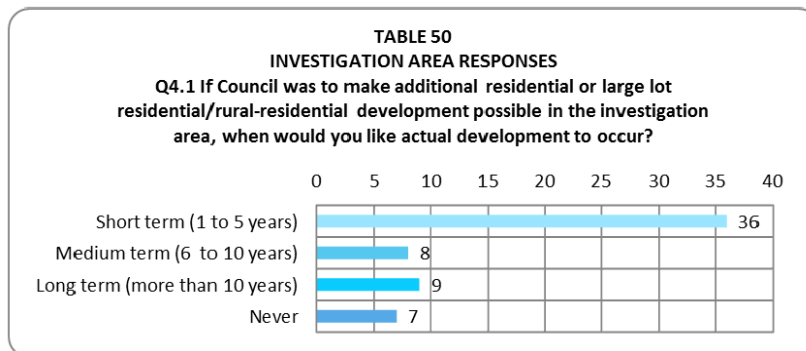
The overwhelming majority of respondents either "Strongly agreed" or "Agreed" with the eight development principle statements (see Tables 17 through to 48 in response to Questions 3.1 to 3.8).

Question 4.1 - When Should Development Occur

This question asked "If Council was to make additional residential or large lot residential/rural-residential development possible in the investigation area, when would you like actual development to occur?"



Overall (Table 49) most respondents would like development to occur in the "Short term (1 to 5 years)" (70 responses). This was followed by development to occur "Never" (42), then "Long Term (more than 10 years)" (39), and "Medium term (6 to 10 years)" (35).



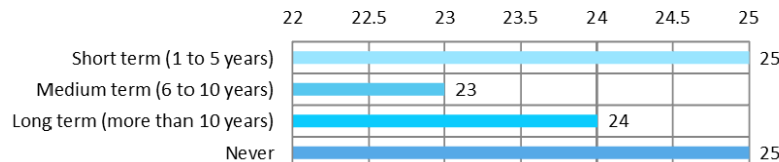
For **Investigation Area respondents** (Table 50) most respondents would like development to occur in the "Short term (1 to 5 years)" (36 responses) with fewer responses (7 to 9) for the remaining time periods.



Kurmond Kurrajong Investigation Area Survey

TABLE 51
KURRAJONG VILLAGE RESPONSES

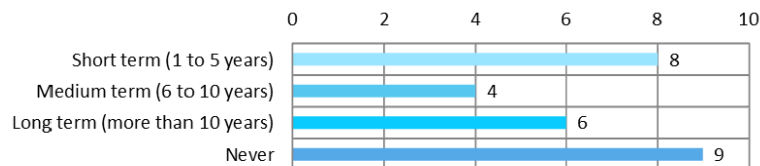
Q4.1 If Council was to make additional residential or large lot residential/rural-residential development possible in the investigation area, when would you like actual development to occur?



For **Kurrajong Village respondents** (Table 51) there was an equal preference for "Short term (1 to 5 years)" and "Never" (25 responses each), followed by "Long term (more than 10 years)" (24) and "Medium term (6 to 10 years)" (23).

TABLE 52
KURMOND VILLAGE RESPONSES

Q4.1 If Council was to make additional residential or large lot residential/rural-residential development possible in the investigation area, when would you like actual development to occur?



For **Kurmond Village respondents** (Table 52), the highest preference was "Never" (9 responses), closely followed by "Short term (1 to 5 years)" (8), then "Long term (more than 10 years)" (6) and "Medium term (6 to 10 years)" (4).

Questions 4.2 - Interest in Subdividing Land ()

This question asked "If you are a land owner and additional residential or large lot residential/rural-residential development was possible on your land would you be interested in subdividing your land?"

ORDINARY MEETING

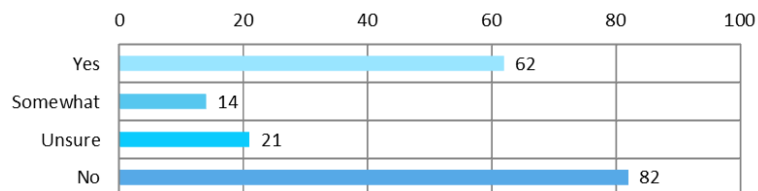
Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey

TABLE 53

Q4.2 If you are a land owner and additional residential or large lot residential/rural-residential development was possible on your land would you be interested in subdividing your land?

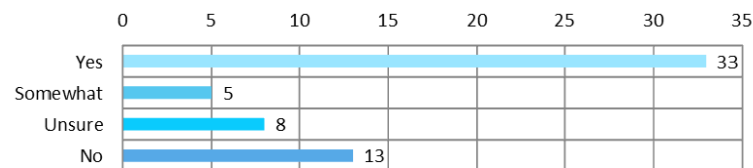


Overall (Table 53) most respondents answered "No" (82 responses), followed by "Yes" (62), with a smaller number being "Unsure" (21), and "Somewhat interested" (14).

TABLE 54

INVESTIGATION AREA RESPONSES

Q4.2 If you are a land owner and additional residential or large lot residential/rural-residential development was possible on your land would you be interested in subdividing your land?

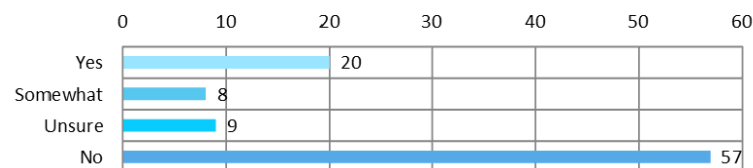


For **Investigation Area respondents** (Table 54) most respondents answered "Yes" (33 responses), followed by a smaller number who said "No" (13). This was followed by respondents who were "Unsure" (8) and a smaller number who were "Somewhat" interested (5).

TABLE 55

KURRAJONG VILLAGE RESPONSES

Q4.2 If you are a land owner and additional residential or large lot residential/rural-residential development was possible on your land would you be interested in subdividing your land?



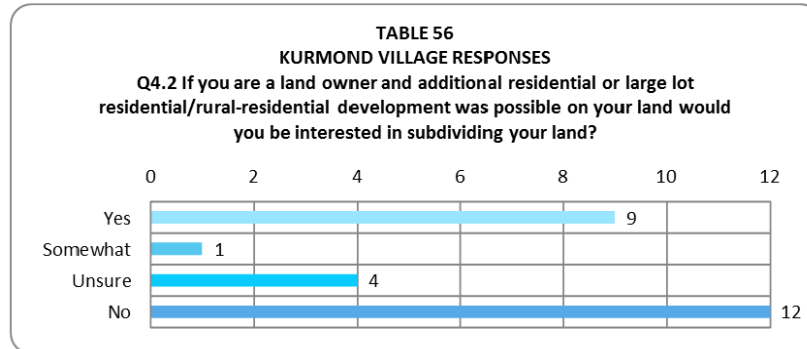
For **Kurrajong Village respondents** (Table 55) most respondents answered "No" (57 responses) to interest in subdividing their land, followed "Yes" (20). A smaller number were "Unsure" (9) and "Somewhat" interested (8).

ORDINARY MEETING

Meeting Date: 29 November 2016



Kurmond Kurrajong Investigation Area Survey



For **Kurmond Village respondents** (Table 56) most respondents answered “No” (12 responses) to interest in subdividing their land, followed “Yes” (9), and “Unsure” (4).

General Survey Comments

Respondent’s comments in the “General Comments” area were mainly about retaining the rural lifestyle of the area. Upgrading of services and infrastructure was a prerequisite for many respondents, specifically upgrading of the Richmond Bridge or an additional river crossing, upgrading roads to improve congestion, provision of mains sewerage, and improved town water supply. Some respondents expressed environmental concerns. Generally, most respondents in “General Survey Comments” expressed reservations about further development in the Investigation Area with only a small number of comments in support of it.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 258 **CP - Local Heritage Assistance Fund 2016/2017 - Minor Improvements/Conservation Works to Heritage Listed Commercial Properties in Windsor and Richmond Historic Townships - (95498, 124414)**

Previous Item: 244, Ordinary (8 November 2016)

REPORT:

Executive Summary

In line with Council's three year Heritage Strategy 2016 - 2019, Council has established a heritage assistance funding program known as the Local Heritage Assistance Fund 2016/2017 (the Fund) for this current financial year.

Council and the NSW Office of Environment & Heritage (OEH) are jointly funding the Local Heritage Assistance Fund 2016/2017 which focuses on minor improvements/conservation works to heritage listed commercial properties in Windsor and Richmond Historic Townships.

In July 2016 the owners and managers of heritage listed commercial properties in Windsor and Richmond historic townships were invited in writing to apply for grant funding, and in response Council received seven applications seeking financial assistance.

On 8 November 2016 Council considered a report on the matter and resolved to approve financial assistance up to \$4,000 (including GST) under Section 356 of the Local Government Act 1993 to each of the successful applicants.

An application from Richmond Literary Institute Est 1861 Inc (the applicant) seeking funding for minor Maintenance Works to the Richmond School of Arts Building at 26 West Market Street, Richmond which is one of the seven applications received was not included in the previous Council Report. The purpose of this report is to outline that application and seek Council's support for the allocation of financial assistance up to \$4,000 (including GST) under Section 356 of the Local Government Act 1993 to the applicant similar to the Council approval of financial assistance for the six successful Applicants reported in the previous report to Council at its Meeting on 8 November 2016.

Consultation

In July 2016 the owners and managers of heritage listed commercial properties in Windsor and Richmond historic townships were advised of the Local Heritage Assistance Fund 2016/2017 (the Fund). Application forms and guidelines on how to apply for the Fund were made available on Council's website during the application period. In addition to widespread advertising, an evening information session was held for land owners/managers on 10 August 2016.

Background

Funding assistance for Minor Improvements/Conservation Works to Heritage Listed Commercial Properties

The Macquarie Towns of Pitt Town, Windsor, Richmond and Wilberforce in the Hawkesbury Local Government Area (LGA) retain much of their colonial character intended with Governor Macquarie's original settlement planning. Council is committed to the conservation and management of these unique and diverse heritage assets and character within the Hawkesbury.

The Heritage Strategy 2016 - 2019 provides Council with a framework for the conservation of Hawkesbury's unique heritage and management of diverse and important history and heritage needs over its three-year life span.

ORDINARY MEETING

Meeting Date: 29 November 2016

In line with the Heritage Strategy 2016 - 2019, the Local Heritage Assistance Fund 2016/2017 focuses on minor improvements to heritage listed commercial properties within Windsor and Richmond historic townships to encourage and assist the conservation and restoration of the Hawkesbury's significant heritage listed commercial properties, enhance the public domain in Windsor and Richmond historic townships and promote awareness and positive attitude of the community, property owners and managers of the historic townships of Windsor and Richmond.

A total joint fund of \$22,500 is available for this year's Local Heritage Assistance Funding program.

Under this funding program, the maximum funding available for any one applicant/property is \$2,000 (including GST). Funding is offered on a dollar for dollar basis (\$1 of private funding for each \$1 of grant funding) to enable funded works to a maximum value of \$4,000 (including GST) to be undertaken. For works of a value greater than \$4,000, the excess amount over the maximum value of \$4,000 will need to be met by the applicant.

In July 2016 the owners and managers of heritage listed commercial properties in Windsor and Richmond historic townships were invited in writing to apply for grant funding. In addition, following widespread advertising and direct correspondence with owners/managers of heritage listed commercial properties in Windsor and Richmond, an evening information session was held for land owners/managers on 10 August 2016. In response, Council received seven applications seeking financial assistance.

The receipt of applications was well below the expected target for this year's program. As a result, Council at its Ordinary Meeting of 8 November 2016 considered a report seeking support for the allocation of increased funding up to \$4,000 (including GST) for each of the successful applications subject to the approval of the OEH and Council's Selection Panel and the ability of applicants to increase their matching contributions. Council resolved to approve financial assistance up to \$4,000 (including GST) under Section 356 of the Local Government Act 1993 to each of the applicants listed in Table 1 of that report, under the terms of the Local Heritage Assistance Fund 2016/2017.

An application seeking financial assistance for a heritage listed commercial property at 26 West Market Street, Richmond was not included in Table 1 of the previous Council Report, and this report outlines that application.

Application for Financial Assistance

Council received an application from Richmond Literary Institute Est 1861 Inc seeking funding for minor maintenance works to Richmond School of Arts Building at 26 West Market Street, Richmond. The application included a total estimated cost of the proposed minor maintenance works to the Archerfield Room of the Richmond School of Arts Building of \$8,000, and the applicant sought \$2,000 grant funding under the Local Heritage Assistance Fund 2016/2017.

The application is to fix and repaint the tongue and groove timber ceiling of the Archerfield Room of the Richmond School of Arts Building damaged by weather, bird droppings and pine needles and repair and repaint the damaged walls and clean the wool carpet of the room.

The applicant states that the proposed maintenance works are to protect building fabric from deterioration by mitigating further impact from moisture, uric acid from bird droppings and weather corrosion, and ensure the Archerfield Room's longevity as a beautiful meeting/conference room with a seating capacity of up to 60 people.

Assessment of application

The application was assessed using the criteria specified in Council's Guidelines for Applicants – Local Heritage Assistance Fund 2016 - 2017 (the Guidelines) and identified in the previous Council Report by a panel comprised of Council's Heritage Advisor and relevant Council staff.

ORDINARY MEETING

Meeting Date: 29 November 2016

The assessment reveals that the application satisfies all the selection criteria other than a criterion requiring high visibility of the proposed works to the public as the proposed minor maintenance works to the Richmond School of Arts Building are internal. However, it is considered worthy of support given the significant heritage value of the School of Arts Building, the receipt of applications was well below the expected target for this year's program, the current deteriorating conditions of the Archerfield Room and its current use as a meeting/conference room for the use by the public with a seating capacity of up to 60 people.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Place statement:

- Be a place where we value, protect and enhance the historical, social, cultural and environmental character of Hawkesbury's town, villages and rural landscapes.

and is also consistent with a nominated strategy in the CSP being:

- Recognise, protect and promote the values of indigenous, natural and built heritage through conservation and active use.

Financial Implications

The required funding for the Local Heritage Assistance Fund 2016/2017 Program is available within Council's Heritage Reserve and through the OEH \$7,500 financial assistance grant. Based on the OEH approved \$1 for \$2 funding formula, Council is contributing a matching allocation of a minimum of \$15,000.

Conclusion

The Local Heritage Assistance Fund 2016/2017 is jointly funded by Council and the OEH, and this financial year focuses on minor improvements/conservation works to heritage listed commercial properties in Windsor and Richmond historic townships.

The assessment reveals that the application seeking financial assistance for minor maintenance works to the heritage listed Richmond School of Arts Building at 26 West Market Street, Richmond is worthy of support.

It is therefore recommended that Council approve financial assistance up to \$4,000 (including GST) under Section 356 of the Local Government Act 1993 to the applicant outlined in this report, under the terms of the Local Heritage Assistance Fund 2016/2017.

RECOMMENDATION:

That:

1. Council approve financial assistance up to \$4,000 (including GST) under Section 356 of the Local Government Act 1993 to the Richmond Literary Institute Est 1861 Inc under the terms of the Local Heritage Assistance Fund 2016/2017.
2. The applicant for the Local Heritage Assistance Fund 2016/2017 be advised accordingly.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

INFRASTRUCTURE SERVICES

Item: 259 **IS - Location of a Variable Message Sign Within Richmond Park - (95495, 79354)**

REPORT:

Executive Summary

DownerMouchel on behalf of Roads and Maritime Services (RMS) is proposing to install a fixed Variable Message Sign (VMS) at March Street, Richmond. Following initial investigation RMS is proposing that the VMS would be located within the Richmond Park boundary just east of the car park entrance off March Street. The development would occupy about six square metres and be located in the garden bed adjoining the internal car park.

RMS is requesting Council, as owners of the land, to give its approval to submitting an application to the Office of Environment and Heritage (OEH), to enable formal assessment.

It is recommended that Council agree to this, noting that this approval as land owner does not imply any intent to approve the structure, but allows formal heritage investigation and consultation to commence.

Consultation

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

Background

DownerMouchel on behalf of RMS is proposing to install a fixed Variable Message Sign (VMS) at March Street, Richmond. The VMS support structure would be located within the Richmond Park boundary just east of the car park entrance off March Street. The development would occupy about six square metres and be located in the garden bed adjoining the internal car park.

DownerMouchel have advised that the VMS would form part of the broader NSW Government's Pinch Point Program which aims to install Intelligent Transport Systems at key locations throughout Sydney. The objective of the VMS at March Street as part of the overall strategic Pinch Point Program is to provide information to motorists in Richmond, as well as enabling Roads and Maritime Services to provide effective traffic management in response to incidents and planned events in and around the Richmond area.

Alternatives and Options Considered

DownerMouchel have investigated several sites within the March Street road corridor as well as a site within Richmond Park. Each option was assessed against a range of project parameters including the local environment, design, construction management and other project risk constraints.

The site within Richmond Park is their preferred option. In support of this DownerMouchel have indicated this location was compared to other alternatives and options for the project and was deemed to have the least impacts.

Placing the VMS on the nature strip is an option however there are complications in that the nature strip is not very wide in this location. It would reduce the pedestrian space and may require relocation of utilities within the road reserve which could lead to a prolonged construction timeframe that would impact upon road users, pedestrians and the local community using Richmond Park. Locating the support structure immediately adjacent, within the park, would also allow vegetation/landscaping screening of the column at eye height, which would not be possible on the footpath.

ORDINARY MEETING

Meeting Date: 29 November 2016

Richmond Park is State Heritage listed and thus the placement of such signage would require approval from OEH. Initial feedback from OEH is that the proposal was considered to be minor with no adverse impact on the heritage significance of Richmond Park as the design has been prepared to occupy a small amount of space in context of the parks 32,201 square metre curtilage. OEH have informally advised that due to the minor impact of the VMS on the park the project could proceed to the formal phase of assessment. This would require Council as the land owner to allow RMS to formally lodge a proposal with OEH for their formal consent. Any approval to make application to OEH would not constitute an approval to proceed with the use of Council land.

Staff have discussed the matter directly with OEH, and were advised that any approval that may ultimately be given for use of Richmond Park should be through a lease or licence arrangement (not acquisition of the land). OEH would discourage RMS from the acquisition process as this would entail an application for the sub-division of Richmond Park and impact on its boundary. The current Park's boundaries are indicative of the original historic pattern of town planning of land in Richmond and as the Statement of Heritage Significance states 'retains precisely the association with the layout of central Richmond envisaged by Macquarie in 1810.' OEH advise that any application for land sub-division would require an approval under Section 60 of the Heritage Act 1977, which is unlikely to be supported by the Heritage Council as it would give the opportunity for RMS to propose further development of the sub-divided portion of land.

This was raised with RMS and they advised that they would propose a Lease or licence to use the land within Richmond Park. The Lease/licence would be considered based on the requirement of the VMS long term and would be on a 10 or 20 year basis. Should permission be granted, RMS would prepare a lease/licence agreement for the site in consultation with Hawkesbury City Council.

Consultation

RMS have advised that they will carry out consultation with the community via their "Have Your Say" process for the proposal. The "Have Your Say" will be distributed to the community providing an opportunity for residents, businesses and key stakeholders in the vicinity of the proposed VMS to comment on the proposed location.

In parallel with the community and stakeholder consultation a Review of Environment Factors (REF) would be prepared for the proposal. The REF will describe the proposal and take into account all matters likely to affect the environment by reason of the activity and establish if the activity is not likely to significantly affect the environment. Detailed mitigation measures to reduce any potential adverse effects are also described. The REF would be required to assess key engineering, environmental and planning issues such as heritage, traffic and transport, noise and vibration, soils and water, biodiversity, and visual impacts.

RMS advise that the project would also be subject to an asset management strategy, that typically includes a yearly review of all current assets and their use and is undertaken to determine whether the asset is still required for operational purposes (the lifespan of a VMS is typically ten years and the VMS proposed at Richmond would be periodically reviewed for its use and decommissioned if no longer required).

Conclusion

The proposal by RMS to install a VMS in March Street, whilst providing a community benefit, has potential impacts on Richmond Park as well as the streetscape. Whilst it may be possible to install the sign wholly within the road reserve, without the need for any Council approval, detailed investigations and consultation should be carried out to achieve the best overall outcome.

Richmond Park is a significant heritage item with its original boundary remaining intact. Changes to the boundary through subdivision are not supported by Council or OEH.

Having regard for the need to have a full investigation of the proposal, and to allow community input, it is recommended that Council, as the land owner, give approval to RMS to make a formal application to OEH seeking their concurrence or otherwise to the proposal. This would also trigger the formal RMS consultation process.

ORDINARY MEETING

Meeting Date: 29 November 2016

It should be noted that the granting of land owner concurrence to enable OEH assessment would not constitute an approval to proceed with the use of Council land.

Any lease or licence would have to be in accordance with the Local Government Act 1993 however RMS does have statutory powers in relation to acquisition / lease of land, and it is considered that a better decision making process can be achieved by giving RMS the approval to formally seek input from OEH and the community.

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

Financial Implications

There are no financial implications arising from this report, however a future report will detail any applicable lease/licence arrangements.

RECOMMENDATION:

That:

1. Council give the necessary approval to the Roads and Maritime Services to seek formal Office of Environment and Heritage consideration of the Variable Message Sign proposal noting that this should not be construed as support for the project, but to allow detailed investigation and consultation.
2. Any future approval for the Variable Message Sign to be located within Richmond Park would be through a lease or licence arrangement and not acquisition.
3. The matter be reported back to Council following completion of consultation and investigations, should the Roads and Maritime Services seek to enter into a lease or licence.

ATTACHMENTS:

AT - 1 Aerial and Street View of March Street, Richmond

AT - 2 Location Map

AT - 1 Aerial and Street View of March Street, Richmond



Figure 1: Proposed aerial of the VMS located with Richmond Park

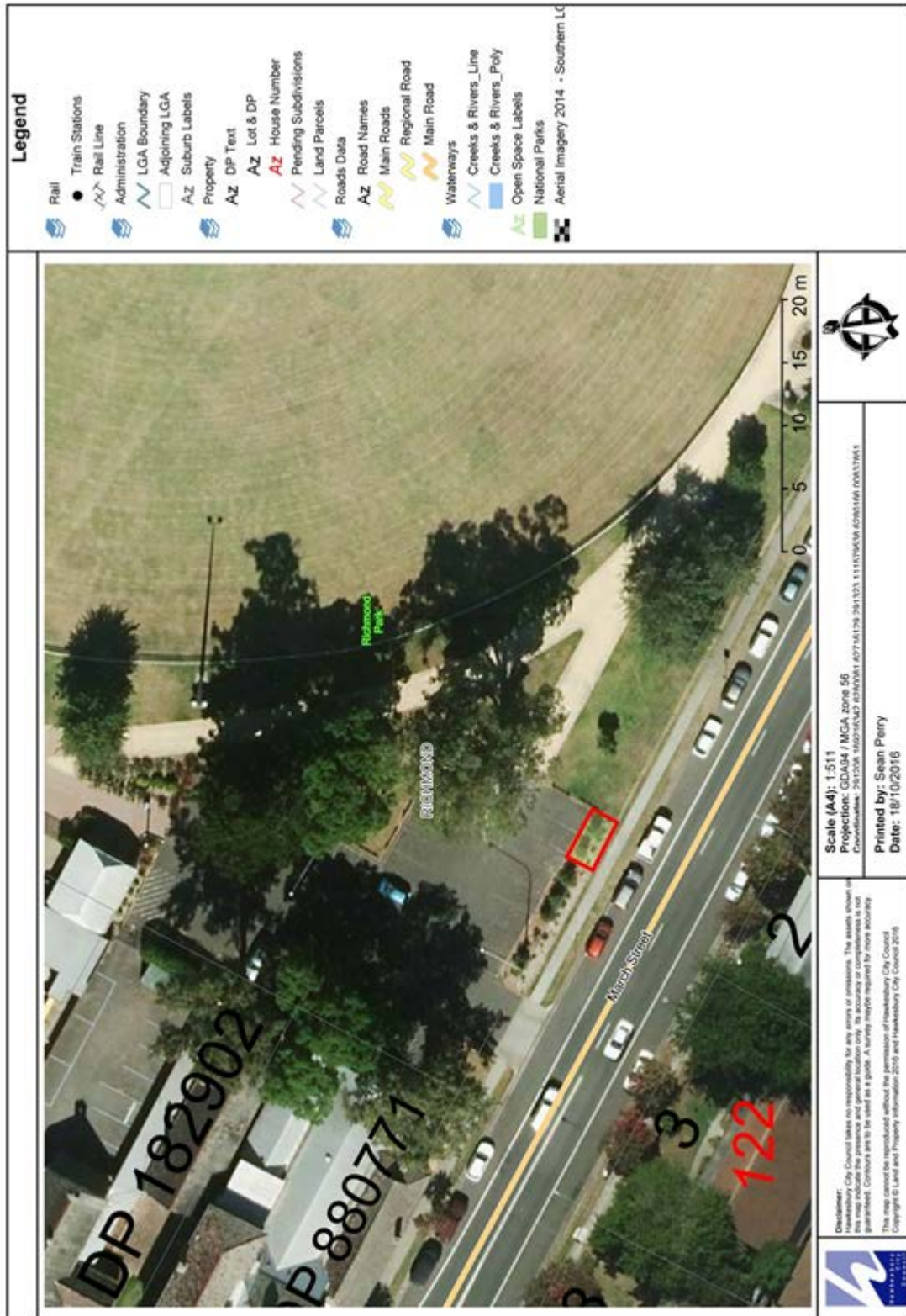


Figure 2: Artist impression of the VMS at Richmond Park looking along March Street, Richmond

ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 2 Location Map



oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 260 **IS - Road Naming Proposal Associated with DA0205/12 Agnes Banks - (95495, 79346)**

Previous Item: 85, Ordinary (10 May 2016)
 141, Ordinary (12 July 2016)

REPORT:

Executive Summary

Council, at its meeting held on 12 July 2016 resolved, in relation to a road currently being constructed as part of a subdivision, that the proposed road name McCue Place, Agnes Banks be publically advertised, seeking comments and submissions, with the matter to be reported back to Council following the public exhibition process.

The road name was publically advertised and at the close of the public consultation period, one submission was received from the NSW Geographical Names Board (GNB) advising that the matter was to be referred to a full board meeting for further consideration. The GNB has responded since to advise that they concur with the use of the name McCue.

This report recommends that the name McCue Place, Agnes Banks be adopted for use.

Consultation

Consultation has been undertaken in accordance with the relevant requirements through a publically advertised exhibition.

Background

Council at its meeting held on 12 July 2016, resolved the following:

"That:

1. *In accordance with the requirements of the Roads Act, 1993, the name McCue Place, Agnes Banks, in connection with DA0205/12, be publically advertised for a period of 28 days, seeking comments and submissions.*
2. *The matter be reported back to Council following the public exhibition process, with a view to adopting the street name for use."*

This decision deferred the adoption of the previously proposed name of Mortimer, which had already been through the road naming process including public consultation.

The proposed road name McCue Place has been publically advertised. This was by way of an advertisement in the local press, a notice on Council's web page under Community Consultation and a notice to the prescribed organisations under the New South Wales Road Act 1993. The public consultation closed on 7 September 2016 with only one comment being received from the GNB.

The GNB advised that due to the nature of the name being proposed and given that there were implications relating to the guidelines set by GNB as well as conformance with the NSW Road Naming Policy and the Principles of Road Naming, the proposed name was to be forwarded to a full GNB board meeting for their decision. The GNB meeting was held on 20 September 2016.

ORDINARY MEETING

Meeting Date: 29 November 2016

On 13 October 2016, the GNB issued two notices in regard to the meeting. The first notice was to Council advising that the proposal has been evaluated and that they concur to the proposed road name of McCue Place, Agnes Banks. The GNB did advise that the name meets the basic requirements of the NSW Addressing User Manual which includes naming posthumously and the name not being duplicated. The GNB did however emphasise that when choosing a road name, Council should give preference to names that are significant to the history of the area, and noted that the research undertaken by Council to provide the previous proposed name of Mortimer is an ideal way to identify commemorative road names for a Council area. Additionally, the Board advised that it does not consider ownership of land that has been developed as a significant reason for naming purposes.

The second notice was issued to the prescribed authorities advising of the proposed road name McCue Place. The notice gave the authorities 14 days from the date of the notice to respond to Council on the proposal and that no response will be considered as concurring.

This consultation closed on the 26 October 2016, with no responses being received.

As the proposal has received concurrence from the GNB and has been publically advertised with no objections made, it is recommended that the name McCue Place be adopted for use.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Place Direction Statement;

- Be a place where we value, protect and enhance the historical, social, cultural and environmental character of Hawkesbury's towns, villages and rural landscapes

and is also consistent with the nominated strategy in the CSP being:

- Work with the community to define the Hawkesbury character to identify what is important to preserve and promote.

Financial Implications

The advertising and administrative expenses associated with this matter have been paid by the applicant in accordance with Council's adopted Fees and Charges.

RECOMMENDATION:

That in accordance with the requirements of the Roads Act 1993, the name McCue Place, Agnes Banks, in connection with DA0205/12 be adopted for use.

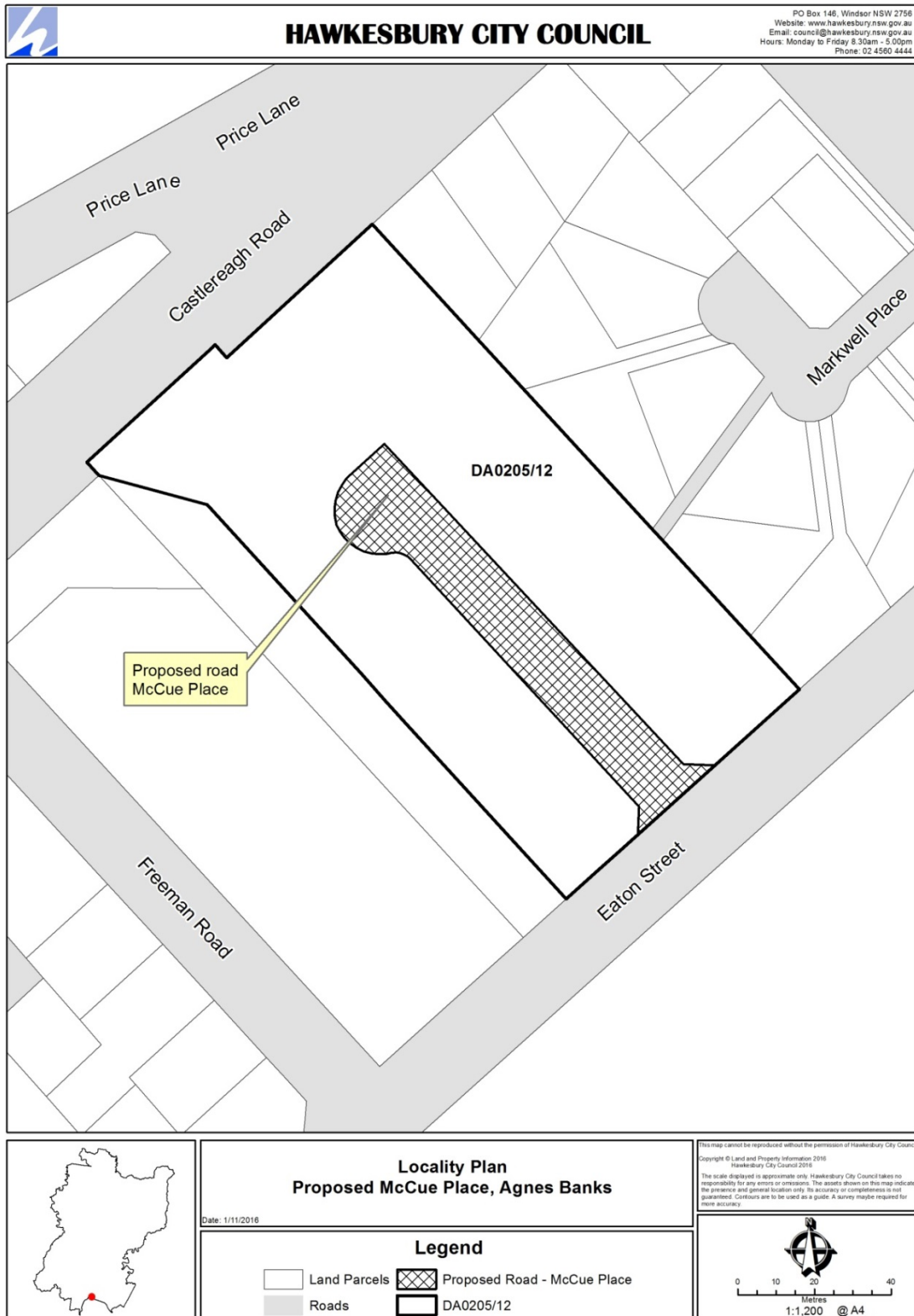
ATTACHMENTS:

AT - 1 Locality Plan

ORDINARY MEETING

Meeting Date: 29 November 2016

AT 1 – Locality Plan



oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date: 29 November 2016****SUPPORT SERVICES****Item: 261****SS - Monthly Investments Report - October 2016 - (95496, 96332)****REPORT:****Executive Summary**

According to Clause 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer must provide the Council with a written report setting out details of all money that the Council has invested under Section 625 of the Local Government Act 1993. The report must include a certificate as to whether or not investments have been made in accordance with the Act, the Regulation and the Council's Investment Policy.

This report indicates that Council held \$43.60 million in investments at 31 October 2016.

It is recommended that this report be received and noted.

Consultation

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

Background

The following table indicates that Council held \$43.60 million in investments as at 31 October 2016. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term, and the percentage of the total portfolio, are provided below:

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
On Call								
CBA	A1+	AA-			1.25%	400,000	0.92%	
Tcorp	A1+	AA-			1.93%	3,010,156	6.90%	
Total On-call Investments								3,410,156
Term Investments								
ANZ	A1+	AA-	07-Sep-16	02-Mar-17	2.69%	2,500,000	5.73%	
ANZ	A1+	AA-	21-Sep-16	04-Apr-17	2.70%	1,200,000	2.75%	
ANZ	A1+	AA-	14-Sep-16	14-Jun-17	2.71%	1,000,000	2.29%	
ANZ	A1+	AA-	14-Sep-16	14-Jun-17	2.71%	1,000,000	2.29%	
ANZ	A1+	AA-	14-Sep-16	05-Jul-17	2.71%	1,500,000	3.44%	
Bankwest	A1+	AA-	24-Aug-16	02-Nov-16	2.55%	700,000	1.61%	
Bankwest	A1+	AA-	07-Sep-16	02-Nov-16	2.55%	500,000	1.15%	
NAB	A1+	AA-	31-May-16	23-Nov-16	2.95%	2,000,000	4.59%	
NAB	A1+	AA-	17-Aug-16	23-Nov-16	2.72%	1,000,000	2.29%	
NAB	A1+	AA-	18-May-16	14-Dec-16	2.95%	2,000,000	4.59%	
NAB	A1+	AA-	24-Aug-16	04-Jan-17	2.60%	2,000,000	4.59%	
NAB	A1+	AA-	16-Mar-16	08-Feb-17	3.09%	2,000,000	4.59%	
NAB	A1+	AA-	27-Apr-16	30-Mar-17	3.10%	1,000,000	2.29%	
NAB	A1+	AA-	27-Apr-16	27-Apr-17	3.10%	2,000,000	4.59%	
NAB	A1+	AA-	31-Aug-16	28-Jun-17	2.60%	2,000,000	4.59%	

ORDINARY MEETING

Meeting Date: 29 November 2016

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
NAB	A1+	AA-	05-Aug-16	03-Aug-17	2.78%	1,000,000	2.29%	
NAB	A1+	AA-	17-Aug-16	16-Aug-17	2.75%	1,500,000	3.44%	
Westpac	A1+	AA-	10-Dec-15	14-Dec-16	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	20-Jul-16	18-Jan-17	3.05%	1,200,000	2.75%	
Westpac	A1+	AA-	06-Jul-16	01-Feb-17	3.05%	1,000,000	2.29%	
Westpac	A1+	AA-	06-Jul-16	08-Feb-17	3.05%	1,000,000	2.29%	
Westpac	A1+	AA-	03-Aug-16	22-Feb-17	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	30-Mar-16	30-Mar-17	3.10%	500,000	1.15%	
Westpac	A1+	AA-	06-Apr-16	14-Apr-17	3.10%	1,000,000	2.29%	
Westpac	A1+	AA-	04-May-16	04-May-17	3.05%	2,000,000	4.59%	
Westpac	A1+	AA-	17-Aug-16	12-Jul-17	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	03-Aug-16	03-Aug-17	2.90%	800,000	1.83%	
Westpac	A1+	AA-	05-Aug-16	03-Aug-17	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	24-Aug-16	24-Aug-17	3.00%	800,000	1.83%	
Westpac	A1+	AA-	31-Aug-16	07-Sep-17	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	07-Sep-16	07-Sep-17	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	19-Oct-16	18-Oct-17	3.00%	1,000,000	2.29%	
Total Term Investments								40,200,000
TOTAL INVESTMENT AS AT 31 October 2016								43,610,156

Performance by Type

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	3,410,156	1.85%	Reserve Bank Cash Reference Rate	1.50%	0.35%
Term Deposit	40,200,000	2.89%	UBS 90 Day Bank Bill Rate	1.74%	1.15%
Total	43,610,156	2.81%			

Restricted/Unrestricted Funds

Restriction Type	Amount \$
External Restrictions - S94	6,832,402
External Restrictions - Other	6,227,789
Internal Restrictions	22,072,218
Unrestricted	8,477,747
Total	43,610,156

Unrestricted funds, whilst not subject to a restriction for a specific purpose, are fully committed to fund operational and capital expenditure in line with Council's adopted Operational Plan. As there are timing differences between the accounting for income and expenditure in line with the Plan, and the corresponding impact on Council's cash funds, a sufficient level of funds is required to be kept at all times to ensure Council's commitments are met in a timely manner. Council's cash management processes are based on maintaining sufficient cash levels to enable commitments to be met when due, while at the same time ensuring investment returns are maximised through term investments where possible.

ORDINARY MEETING

Meeting Date: 29 November 2016

In addition to funds being fully allocated to fund the Operational Plan activities, funds relating to closed self-funded programs and that are subject to legislative restrictions cannot be utilised for any purpose other than that specified. Externally restricted funds include funds relating to Section 94 Contributions, Domestic Waste Management, Sewerage Management, Stormwater Management and Grants.

Funds subject to an internal restriction refer to funds kept aside for specific purposes, or to meet future known expenses. This allows for significant expenditures to be met in the applicable year without having a significant impact on that year. Internally restricted funds include funds relating to Tip Remediation, Workers Compensation, and Elections.

Investment Commentary

The investment portfolio decreased by \$3.50 million for the month of October 2016. During October 2016, income was received totalling \$3.10 million, including rate payments amounting to \$0.70 million, while payments to suppliers and staff costs amounted to \$6.40 million.

The investment portfolio currently involves a number of term deposits and on-call accounts. Council's current investment portfolio is not subject to share market volatility.

Council has a loan agreement for an amount of \$5.26 million under the Local Government Infrastructure Renewal Scheme (LIRS). The full amount was drawn down upon signing the agreement in March 2013, with funds gradually being expended over the period during which the program of works is being delivered. The loan funds have been placed in term deposits, with interest earned on unexpended invested loan funds being restricted to be used for works relating to the LIRS Program projects.

As at 31 October 2016, Council's investment portfolio is all invested with major Australian trading banks or wholly owned subsidiaries of major Australian trading banks, and the NSW Government Treasury Corporation and in line with Council's Investment Policy.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Independent advice is sought on new investment opportunities, and Council's investment portfolio is independently reviewed by Council's investment advisor each calendar quarter.

Council's investment portfolio complies with Council's Investment Policy, adopted on 31 May 2016.

Investment Certification

I, Emma Galea (Responsible Accounting Officer), hereby certify that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions Statement;

- 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

Funds have been invested with the aim of achieving budgeted income in Service 121 – Investments within the 2016/2017 Adopted Operational Plan.

ORDINARY MEETING

Meeting Date: 29 November 2016

RECOMMENDATION:

The report regarding the monthly investments for October 2016 be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 262 **SS - Community Sponsorship Program - 2016/2017 - Round 2 - (96328, 95498)**

Previous Item: 235, Ordinary (25 October 2016)
 149, Ordinary (26 July 2016)
 82, Ordinary (29 April 2008)
 47, Ordinary (13 March 2007)

REPORT:

Executive Summary

This report has been prepared to advise Council of applications for financial assistance to be determined under Round 2 of the Community Sponsorship Program for 2016/2017. By way of background material, the report also provides information on the establishment of the Community Sponsorship Program.

The report lists the applications received, the proposed level of financial assistance and those applications that will require the execution of Council's standard Sponsorship Agreement. The report also identifies a mechanism, consistent with past practice, to implement Council's resolution of 25 October 2016 to provide financial assistance to the Hawkesbury Area Women's and Kids Services Incorporated (Hawkesbury Area Women's and Kids Services Inc.) for the reimbursement of the rental costs associated with their occupation of Council-owned premises in Bosworth Street, Richmond.

Consultation

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

Background

In 2005, Council resolved to review its Community and Cultural Grants and Donations Program (CCGDP). A Discussion Paper was prepared which evaluated the administrative integrity, equity, and financial sustainability of the CCGDP.

The Discussion Paper noted that the stated purpose of the CCGDP was to provide non-recurrent grants and donations to local community groups (with no access to state or federal funding) for new programs, activities or events. Over time, the CCGDP had evolved into a fixed program of financial assistance which supported the annual operations of the same pool of community groups. This pattern of distribution progressively reduced the pool of funds which could be made available to other organisations and for other purposes. In practice, there was little opportunity within the CCGDP for Council to financially support new community groups or to respond to emerging community needs.

The Discussion Paper identified 15 broad principles which were proposed to be adopted and incorporated in a revised grant program. The Discussion paper was placed on public exhibition and distributed to past and current recipients of donations under the CCGDP for comment. The results of the public exhibition indicated that respondents were supportive of the intent of the 15 principles (these principles are summarised in Table 1).

On 13 March 2007, Council adopted a Community Sponsorship Policy based on the outcomes of the review of CCGDP, guidelines issued by the Independent Commission Against Corruption for public sector sponsorship, and the provisions of Section 356 of the NSW Local Government Act 1993. Criteria and administrative arrangements for the Community Sponsorship Program (CSP) were subsequently developed with implementation commencing in 2007/2008.

ORDINARY MEETING

Meeting Date: 29 November 2016

In April 2008, Council considered a report into financial support for the Hawkesbury Eisteddfod. This report was prepared as ongoing funding of the Hawkesbury Eisteddfod would have been precluded under Council's adopted Community Sponsorship framework. To address this anomaly, Council resolved to identify the Eisteddfod as a 'flagship' cultural event to provide a mechanism for the execution of a renewable long-term sponsorship agreement for the staging of this event and the quarantining of funds from the Sec 356 Financial Assistance allocation to fund this commitment.

Table 1 – Principles for Community Sponsorship Program (May 2007)

Aim	Improving administrative integrity	Improving equity	Improving financial sustainability
Principles	<p>A1 - consolidate (community + cultural) financial assistance programs within one Grants Program administered by a single Branch.</p> <p>A2 - revise current policies to deliver a transparent, equitable, and application based grants program while still retaining Council's discretionary capability.</p> <p>A3 - establish common administrative requirements for all financial assistance programs.</p> <p>A4 - develop guidelines for categories of financial assistance based on the following functions:</p> <ul style="list-style-type: none"> • <i>3 yr Event Sponsorship Agreements</i> • <i>Access to Council Facilities</i> • <i>Program + Activity Seeding Grants</i> • <i>Rapid Response Donations.</i> <p>A5 - implement an accountability regime so that outcomes of financial assistance grants can be evaluated and reported to Council and the community.</p>	<p>E1 - move away from the provision of annual operating subsidies towards the funding of specific projects with agreed outcomes.</p> <p>E2 - realign the objectives and aims of grant programs to reflect current community priorities identified in Council plans.</p> <p>E3 - recognise that priority for funding should be given to local community groups with limited access to other sources of funding.</p> <p>E4 - broaden some categories of assistance to provide all eligible organisations with the same opportunity to apply for financial assistance.</p> <p>E5 - eliminate the discriminatory aspects of some current categories of financial assistance.</p>	<p>FS1 - discontinue open-ended and long term funding commitments.</p> <p>FS2 - encourage the long term sustainability of projects and events by limiting the duration of grants to a maximum of three years (with provision for further extensions in special circumstances).</p> <p>FS3 - review programs where there is currently no incentive on applicants to contain costs, reinstate dollar-for-dollar funding arrangements, and limit programs where Council provides a 100% operational subsidy.</p> <p>FS4 – re-establish a requirement for grant applicants to demonstrate some capacity to secure other sources of revenue or sponsorship in order to reduce the level of subsidy provided by Council over the life of a grant or agreement.</p> <p>FS5 - specify a maximum level of grant (within each category of financial assistance).</p>

The CSP provides the opportunity for community groups and individuals to seek financial assistance from Council. The CSP currently provides six categories of assistance:

ORDINARY MEETING

Meeting Date: 29 November 2016

- Minor Assistance (up to \$500)
- Event Sponsorship (for up to 3 years)
- Seeding Grants (for community based programs)
- Access to Community Facilities (to subsidise the cost of hire for community facilities)
- Improvements to Council Facility (reimbursement of Development Application fees for renovations or additions to Council owned buildings or facilities)
- Accessibility Improvements.

The adopted budget for 2016/2017 includes an allocation of \$71,866 for the CSP.

Pursuant to Council's resolution, \$22,318 of this amount was set aside in the 2016/2017 Operational Plan as a contribution to the staging of the Hawkesbury City Eisteddfod. At the Ordinary meeting on 26 July 2016 Council approved further expenditure of \$26,087 in community sponsorship grants to 25 recipients under Round 1 of the Community Sponsorship 2016/2017 Program.

Community Sponsorship Program (2016/2017)

In accordance with Council's Community Sponsorship Policy, applications for community sponsorship under Round 2 of the Community Sponsorship Program 2016/2017 were called for and closed 4 November 2016. 16 applications were received.

Total Budget for Financial Year 2016/2017 \$71,866

Expenditure to date:

Hawkesbury Eisteddfod \$22,318

Balance of Round 1 2016/2017 \$26,087

Balance remaining \$23,461

Assessment of 2016/2017 Round 2 Applications

In total 16 applications have been presented for Council's consideration under Round 2 of the 2016/2017 CSP. Table 2 summarises the applications received and the proposed level of financial assistance.

Applicant	Type ⁽¹⁾	Proposal	Recom. Amount
1. Alyssa Thomson	MA	Representative Futsal	150
2. Colo Heights Hall and Reserve Committee	SG	Improvements to Colo Heights Reserve	3,000
3. Hawkesbury BiPolar Bears	MA	Community Swap It Day	500
4. Kurmond Public school	CF	Annual Presentation Night	393
5. Hawkesbury Cancer Support Network	SG	Purchase of laptop + informative signage	2,825
6. Jarad Ferrara	MA	Representative Broomball	150
7. Jeff Ferrara	MA	Representative Broomball	150
8. Mark Ferrara	MA	Representative Broomball	150
9. Hawkesbury City Junior Rugby League Club	MA	Under 14's team tour of Cook Islands	750
10. Kurrajong Pistol Club Inc.	SG	Purchase of a gun safe	1,895
11. Kurrajong Community Forum Inc.	SG	"Jazz in the Park"	3,000
12. Noah Tamayo	MA	Representative OzTag	150
13. Language Festival Association	ES	Hawkesbury Language Festival	Nil
14. Chorella Choir Inc.	SG	Deerubbin Choral Festival	2,700

ORDINARY MEETING**Meeting Date:** 29 November 2016

Applicant	Type ⁽¹⁾	Proposal	Recom. Amount
15. The Shepherd Centre	SG	"Unveiling Deafness"	Nil
16. Hawkesbury Area Women's and Kids Services Inc.		Rental of 22 Bosworth Street, Richmond	13,066
TOTAL			28,879

⁽¹⁾ MA = Minor Assistance. ES = 3 Year Event Sponsorship. SG = Seeding Grant. CF = Access to Community Facilities.

Out of Policy Application recommended for funding.

Application 16: Hawkesbury Area Women's and Kids Services Inc.

At its Ordinary Meeting 25 October 2016 (Item 235) Council resolved to enter into a new lease with Hawkesbury Area Women's and Kids Services Inc. in regard to 22 Bosworth Street. As part of this resolution Council resolved to:

"identify financial assistance to the Women's Cottage as a 'special' category under the Community Sponsorship Program and enter into a Five Year Sponsorship Agreement based on quarantining \$22,399 per year from within the Section 356 Financial Assistance annual budget allocation."

The new lease commences on 1 December 2016. The pro-rate level of financial assistance required to implement Council resolution for the current Financial Year is \$13,066. It is proposed that financial assistance for the Women's Cottage be provided under the same arrangement that is currently applicable to the funding of the Hawkesbury Eisteddfod, as follows:

- a) the identification of the funding for the Hawkesbury Area Women's and Kids Services Inc. as a 'special category' under the Community Sponsorship Program
- b) the creation of a dedicated budget allocation for the Hawkesbury Area Women's and Kids Services Inc. within the Community Sponsorship Program
- c) the quarantining of \$22,399 per annum from the Section 356 financial assistance allocation to fund the budget line item established pursuant to part b
- d) the dedicated budget allocation to be automatically included in Council's Draft Operational Plan for consideration by Council
- e) Council to enter into a renewable five-year sponsorship agreement with the Women's Cottage.

Applications not recommended for funding

Application 13: Language Festival Association – Amount requested \$1,000

The applicant is a Rockdale based organisation seeking funding to hold a language festival in the Hawkesbury to celebrate language diversity, with no date or venue specified. The applicant's request falls outside of the CSP guidelines in that the organisation is not Hawkesbury based, receives funding from other levels of government, and does not provide services to the Hawkesbury LGA. These factors would seem to exclude the application as Council's CSP guidelines accord preference to sponsoring local community groups with limited access to alternate sources of funding.

ORDINARY MEETING

Meeting Date: 29 November 2016

Application 15: The Shepherd Centre – Amount requested \$3,500

The applicant is a Strawberry Hills based organisation seeking funding to provide support to families of children with hearing loss. The applicant's request falls outside of the CSP guidelines in that the organisation is not Hawkesbury based and receives substantial income from both State and Federal levels of government, as well as fundraising. These factors would seem to exclude the application as Council's CSP guidelines accord preference to sponsoring local community groups with limited access to alternate sources of funding.

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 strategy in the CSP being:

- Broaden the resources and funding available to our community by working with local and regional partners as well as other levels of government.

Financial Implications

There are insufficient funds to cover the total recommended amount of \$28,879 for Round 2 of the 2016/2017 Community Sponsorship Program. There is a shortfall of \$5,418 which will require funds to be reallocated from another activity/project within the 2016/2017 Adopted Operational Plan in the December Quarterly Budget Review. The funding of the recommended applications will result in the allocated budget for the Community Sponsorship program for the Financial Year 2016/2017 being fully expended.

The necessary budget adjustments to reflect the above in the 2016/2017 Adopted Operational Plan will be included in the December Quarterly Budget Review.

RECOMMENDATION:

That Council:

1. Approve payments of Section 356 Financial Assistance to the organisations and individuals listed, and at the level recommended in Table 1 of this report.
2. Approve the execution of Council's standard Sponsorship Agreement for the applications 2, 5, 10, 11, 14 identified in Table 1 of this report.
3. Approve the execution of a five year Sponsorship Agreement for application 16 and the provision of future funding to the Hawkesbury Area Women's and Kids Services Inc. in accordance with the 'special category' sponsorship model outlined in this report.
4. Authorise staff to advise applicants that any further applications received under the Community Sponsorship Program for 2016/2017 will be carried forward for determination under Round 1 of the 2017/2018 program following the adoption of the 2017/2018 Operational Plan.

ATTACHMENTS:

AT - 1 Assessment of Applications under Round 2 of Community Sponsorship Program 2016/2017

ORDINARY MEETING

Meeting Date: 29 November 2016

AT - 1 Assessment of Applications under Round 2 of Community Sponsorship Program 2016/2017

Applicant	Sponsorship Type (1)	Description	Assessment Criteria								Amount requested (or previously approved for ES Sponsorship)	Amount recommended	Comments
			Local service	Not-for-profit	Not funded by State/Federal Agency	Co-contribution provided	Reflects agreed community priority	Meets sponsorship criteria	Financially sustainable	Documentation provided			
1. Alyssa Thomson	MA	Representative Futsal – National School Futsal Championships, 26-29 September, Brisbane QLD	✓	✓	✓	✓	✓	✓	n/a	✓	150	150	Meets requirements of the Minor Assistance category
2. Colo Heights Hall and Reserve Committee	SG	Improvements to Colo Heights reserve – re-lining of dam, installation of garden furniture	✓	✓	✓	✓	✓	✓	✓	✓	3,000	3,000	Meets requirements for Program & Activity Seeding Grant category
3. Hawkesbury BiPolar Bears	AS	Community Swap It Day	✓	✓	✓	✓	✓	✓	n/a	✓	500	500	Meets requirements of the Minor Assistance category
4. Kurmond Public School	CF	School Annual Presentation Night	✓	✓	✓	✓	✓	✓	n/a	✓	393	393	Meets requirements of the Access to Community Facilities category
5. Hawkesbury Cancer Support Network	SG	Purchase of laptop computer and printing expenses for informative signage	✓	✓	✓	✓	✓	✓	✓	✓	2,825	2,825	Meets requirements for Program & Activity Seeding Grant category
6. Jarad Ferrara	MA	Representative Broomball – World Championships, 1-3 November, Regina, Saskatchewan, Canada	✓	✓	✓	✓	✓	✓	n/a	✓	150	150	Meets requirements of the Minor Assistance category
7. Jeff Ferrara	MA	Representative Broomball – World Championships, 1-3 November, Regina, Saskatchewan, Canada	✓	✓	✓	✓	✓	✓	n/a	✓	150	150	Meets requirements of the Minor Assistance category
8. Mark Ferrara	MA	Representative Broomball – World Championships, 1-3 November, Regina, Saskatchewan, Canada	✓	✓	✓	✓	✓	✓	n/a	✓	150	150	Meets requirements of the Minor Assistance category
9. Hawkesbury City Junior Rugby League Club	MA	Under 14's Representative tour of the Cook Islands	✓	✓	✓	✓	✓	✓	n/a	✓	750	750	Meets requirements of the Minor Assistance category
10. Kurralong Pistol Club Inc	SG	Purchase of a 'H' class gun sale	✓	✓	✓	✓	✓	✓	✓	✓	1,895	1,895	Safe is for use on competition days

Meeting Date: 29 November 2016

(1) MA = Minor Assistance ES=3 Year Event Sponsorship SG=Seeding Grant CF=Access to Community Facilities CF=Improvements to Council Owned Community Facilities

Page 190

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 263

SS - Pecuniary Interest Return - Designated Persons - (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 Returns recently lodged with the Acting General Manager by Designated Persons. It is recommended that Council note that the Disclosure of Pecuniary Interests and Other Matters Returns, lodged with the Acting General Manager, have 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) Returns have been lodged:

Position	Return Date	Date Lodged
Town Planner	15 August 2016	2 September 2016
Environmental Health Officer	15 August 2016	19 October 2016
Corporate Systems and Database Administrator	22 August 2016	15 November 2016

The above Designated Persons have lodged their Section 449(1) Returns prior to the due dates (being three months after the Return Dates), as required by the Act for the receipt of the Returns.

ORDINARY MEETING

Meeting Date: 29 November 2016

The above details are now tabled in accordance with Section 450A(2)(a) of the Act, and the abovementioned Returns are available for inspection if requested.

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

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

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 264 **SS - Proposed Licence Agreement - Girl Guides Hall, Holland's Paddock Windsor - (95496, 96328)**

Previous Item: 118, Ordinary (30 June 2009)
 89, Ordinary (29 April 2008)

REPORT:

Executive Summary

This report has been prepared to seek approval to progress negotiations with the Girl Guides Association (NSW) to confirm the proposed terms of a 21 year lease for the occupation of the Girl Guides Hall in Holland's Paddock, Windsor. As the granting of the lease will require Council to enact the statutory public notice provisions under Section 47 of the Local Government Act 1993 (the Act), the report proposes that Council, in the first instance, determine acceptable terms for the lease prior to this public notification process.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy as the matter deals with a proposal to which a statutory public notice process is required. At this time it is proposed that Council consult with the Girl Guides Association (NSW) to determine the terms of a proposed lease to be incorporated in the information to be provided to the community during the public notice process.

Background

An arrangement has existed since at least 1956, relating to the use of a building within Holland's Paddock by the Windsor Girl Guides. In 2005, Council adopted a Plan of Management (POM) for Holland's Paddock which recommended that a formal lease arrangement be entered into between Council and the Girl Guides Association (NSW) for the girl guides hall. As the hall was to be demolished and replaced as part of the development of the Windsor Riverview Shopping Centre, the POM recommended that the lease be executed following the completion of the new building. Construction of a replacement hall was completed and the facility was handed over to the Windsor District Girl Guides in June 2007.

In April 2008, Council approved the terms of a proposed five year lease with Girl Guides Association (GGA) for the continued occupation of the new hall. Subsequent to this, the GGA advised Council that they were under the impression that as they 'owned' the new hall, a lease was not required. Following further consultation, the GGA requested that a longer term lease be considered. In June 2009, Council agreed to consider a possible lease period of 21 years.

The finalisation of leasing negotiations was delayed pending the outcome of the review of the Windsor Foreshore Plan of Management (which superseded the Holland Paddock POM). The revised Windsor Foreshore POM was subsequently adopted by Council in December 2013. Council records also indicate that further discussions were held between Council and the GGA regarding the ownership of the building and the land on which it stood. Holland's Paddock is classified as community land.

Current Situation

A formal lease between Council and the GGA has yet to be executed.

The GGA has recently reconfirmed its preference for a 21 year lease. Under the provision of Section 47 of the NSW Local Government Act 1993, where a council is proposing to grant a lease, licence or estate in respect of community land for a period of greater than five years, it is required to give public notice of the proposal and may be required to seek Ministerial consent for the proposal.

ORDINARY MEETING

Meeting Date: 29 November 2016

To facilitate the public notice process, it is proposed that in the first instance, Council advise the GGA of its preferred terms for the proposed 21 year lease. This will enable the terms of an acceptable lease to be determined so that this information can be provided as part of the public notice process.

Agreement to Lease

To legally protect the interests of the signatories to a lease agreement, a lease is generally registered and lodged with Land and Property Information. To facilitate the registration of a lease, the lease is required to note the particulars of the specific property or land to which it applies. Holland's Paddock is currently under one title and it would not be appropriate for the proposed lease with GGA to cover the entirety of Holland's Paddock.

Accordingly the finalisation of the proposed lease will require Council to subdivide that portion of Holland's Paddock to be covered by the lease. This is a similar situation to the circumstances involved in Council's lease of a portion of Pound Paddock in Bourke Street, East Richmond to North West Disability Service Inc. (NWDS) for the purpose of constructing and operating a Disability Services Centre.

To facilitate the subdivision of Council land, Council has included 'housekeeping' amendments to the Hawkesbury Local Environment Plan (HLEP) which will treat the subdivision of Council owned or managed land as exempt development if the subdivision is for the purpose of granting a lease, license or other estate for a public purpose in accordance with the relevant provisions of the Local Government Act dealing with the management of community land.

As the amended HLEP is yet to be gazetted, this 'subdivision for lease purpose' clause is yet to come into effect. Accordingly, with respect to the Pound Paddock lease, Council was required to enter into an 'Agreement to Lease' the effect of which was commit Council and NWDS to enter into a lease, under the same terms and conditions as applying to the Agreement to Lease, once the subdivision of Pound Paddock was completed. It is proposed that this process be also followed with respect to the proposed lease of a portion of Holland's Paddock to GGA (in the event that the amended HLEP was not gazetted by the time the lease documentation is required to be executed).

Proposed Agreement to Lease Conditions

In keeping with the provisions of the Act pertaining to the lease and use of community land, the following lease conditions are proposed to be forwarded to the GGA for their consideration and agreement. The proposed lease conditions should be viewed in the context that the lease will grant the Girl Guides Association (NSW) exclusive use of a Council owned property at a peppercorn rent for 21 years. It would not be unreasonable for Council to minimise the cost to ratepayers arising from the consumption of this asset by the GGA over the next 21 years, particularly in view of Council's own financial position. The GGA 2015 Annual Report records that the GGA generated \$4.5M in annual income, achieved an operating surplus of \$650,000, and has property and other assets currently valued at \$30M. Accordingly, the lease conditions have been proposed to ensure that as far as possible the GGA meet the day to day and long term costs of their occupancy of the property.

Lessor	Hawkesbury City Council (Council)
Lessee	Girl Guides Association (NSW)
Licensed Area	That portion of Holland's Paddock covering the building envelope of the girl guides hall, and immediate surrounds, including the public car park (a plan of the proposed area will be confirmed following discussion with GGA).
Permitted Use	Activities related to and incidental to girl guides and the achievement of the objectives of the Girl Guides Association of Australia, including fundraising in support of the Girl Guides Association, community based activities and ancillary uses including the sub-leasing of the hall for the purpose of community meetings.

ORDINARY MEETING

Meeting Date: 29 November 2016

Term of Lease	21 years
Commencement Date	Upon registration of subdivision plan
Option	Nil. In the final year of the Agreement Council to enter non-binding discussion with GGA regarding future arrangements for use of the site.
Rental	\$1 per annum
Insurance	\$20M Public Liability Insurance. Building and Contents Insurance and Workers Compensation Insurance. All insurance policies should note Council's interest in the property as the Lessor
Outgoings	100% payable by Girl Guides Association (NSW).
Maintenance	<p>The Lessee will to the satisfaction of the lessor maintain the premises in good repair and properly maintained in all respects. Such repairs to include structural and capital repairs as required or as identified by the Lessor.</p> <p>The Lessee will implement a periodic building testing and maintenance program as devised by the lessor and provide evidence to the satisfaction of the lessor of the completion of the program.</p> <p>The Lessee will be responsible for the general maintenance and upkeep of landscaped areas and grass borders in a tidy and safe manner including but not limited to the whipper-snipping of borders and fence line and collection of litter. The Lessee will also ensure that the car park adjacent to the premises is kept safe and tidy including but not limited to the collection and litter into receptacle bins and the collection and removal of debris.</p>
Refurbishment	The Lessee must, at its own cost, refurbish the Building in the 10 th and 20 th year of the Term to a standard and manner approved prior by the Lessor.
Other Conditions	The Lessee will maintain public access to the car park adjacent to the building.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Place Direction Statement;

- Have friendly neighbourhoods, connected communities, and supported household and families

and is also consistent with the Shaping Our Future Together strategy in the CSP being:

- Have constructive and productive partnerships with residents, community groups and institutions.

ORDINARY MEETING

Meeting Date: 29 November 2016

Financial Implications

There are no financial implications arising directly from this report. At this time the report proposes that Council commence negotiations with the GGA on proposed lease conditions the outcome of which will be further reported to Council.

The proposed lease conditions have been drafted to minimise the additional cost to Council of entering into a 21 year lease for a Council owned premises at a peppercorn rental. In this respect the proposal gives effect to a number of strategies within Council's adopted Fit for the Future Action Plan - in particular the objective of achieving improved cost recoveries for its 'non-core' and discretionary business units.

RECOMMENDATION:

That:

1. Council progress negotiations with Girl Guides Association (NSW) on the granting of a lease for the exclusive use of that portion of Holland's Paddock, Windsor containing the Girl Guides Hall for a period of 21 years based the terms and conditions as outlined in this report.
2. The outcome of these negotiations to be further reported to Council.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 November 2016

Item: 265 **SS - September 2016 Quarterly Budget Review Statement - (95496, 96332)**

Previous Item: 113, Extraordinary (14 June 2016)

REPORT:

Executive Summary

Within two months of the end of each quarter, Council is required to review its progress in achieving the financial objectives set out in its Operational Plan. This report and the relevant attachment provide information on Council's financial performance and financial position for the first quarter of the 2016/2017 financial year and the resulting financial position including the Budget variations proposed.

The Quarterly Budget Review Statement - September 2016 (QBRS) recommends a number of variations that result in a balanced budgeted position being maintained.

Consultation

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

Background

Council adopted its Operational Plan for 2016/2017 on 14 June 2016.

Clause 203 of the Local Government (General) Regulation 2005 stipulates that the Responsible Accounting Officer of a council must prepare and submit to the Council a Budget Review Statement within two months after the end of each quarter (except the June quarter).

The QBRS has been prepared in accordance with the Division of Local Government Circular 10/32 dated 10 December 2010 and is attached as Attachment 1 to this report.

Financial Position

Clause 203 of the Local Government (General) Regulation 2005 requires a revised estimate of income and expenditure for the year to be prepared by reference to the estimate of income and expenditure set out in the Operational Plan for the year.

The QBRS recommends Budget adjustments that result in a balanced adjustment for the quarter, and in the opinion of the Responsible Accounting Officer, maintains a satisfactory short term financial position for Council. The Responsible Accounting Officer Statement is included in the attachment to this report.

The report and attachment provide details on the major Budget variations proposed in this QBRS and provide a list of variations requested.

The more significant items of the September 2016 QBRS include:

- ***Financial Assistance Grant (FAG) – Favourable Variance \$158K***

In line with advice received from the NSW Local Government Grants Commission, Council will receive \$4.2M as its FAG allocation for 2016/2017. The 2016/2017 Adopted Operational Plan includes an amount of \$4.1M, which was based on the 2015/2016 FAG allocation less one per cent, to reflect the expected reduction in Council's allocation. As the allocation advised is higher than the budgeted amount, a favourable variance to reflect the additional allocation of \$158K is included in this QBRS.

ORDINARY MEETING

Meeting Date: 29 November 2016

- **Road Opening Permits – Favourable Variance \$22K**

A significant amount has been received in regard to a road opening permit, which has resulted in the amount budgeted for this income line being exceeded. Included in this QBRs is a favourable variance of \$22K to bring the budget in line with the YTD Actuals.

- **HVAC Project - Favourable Variance \$43K**

The HVAC (Heating, Ventilation and Air-Conditioning) project has been deferred to a future financial year due to the project no longer being viable at this stage based on quotations received. This results in a favourable adjustment of \$43K being included in this QBRs.

- **Bowen Mountain Evacuation Route Project – Unfavourable Variance \$165K**

Increased costs incurred to relocate utilities result in an additional \$165K being required to complete the Bowen Mountain Evacuation Route project and is included in this QBRs.

- **Parking Patrol Program – Unfavourable Variance \$47K**

When developing the 2016/2017 Operational Plan, the budget allocation in regard to the costs associated with the processing of fines payable by Council, was based on an estimated 12.2% of the parking fine income received, in line with the trend at the time. In the first three months of the financial year costs are trending higher than budgeted, partly reflecting the processing service scope being increased to include fine complaints handling. A budget increase of \$47K is included in this QBRs to reflect the projected expenditure.

An additional expenditure budget of \$50K, fully offset by an equivalent additional income budget adjustment, is included in this QBRs to reflect an expanded parking enforcement program.

- **Windsor Preschool Multifunction Room Project - Unfavourable Variance \$43K**

As a result of additional costs relating to statutory building compliance requirements being encountered during the completion of the Windsor Preschool Multifunction Room project, a budget variation of \$43K is included in this QBRs.

- **Oasis Aquatic and Leisure Centre (HLC) Refurbishment - Unfavourable Variance \$43K**

As a result of additional costs relating to project management, statutory building compliance and scope adjustments, being encountered during the completion of the HLC Refurbishment project, a further \$43K is included in this QBRs.

- **Wilberforce Long Day Care Centre Extension – Unfavourable Variance \$20K**

As a result of additional costs relating to disused septic tanks being encountered during the completion of the Wilberforce Long Day Care Centre Extension project, a budget variation of \$20K is included in this QBRs.

- **Grants – Additional works and programs totalling \$742K**

A number of adjustments relating to grant funding successfully secured by Council, are included in this QBRs. These adjustments have a nil effect on the budget position, as amounts included for income have a corresponding amount for expenditure. The securing of grant funding assists Council to undertake works otherwise not funded through Council's available funds.

ORDINARY MEETING

Meeting Date: 29 November 2016

The major adjustments relating to grant funding are outlined below:

- *Installation of CCTV in South Windsor Township* – Council has received advice from the Attorney General's Department that \$187K will be received to install CCTV in South Windsor Township, as part of the Safer Streets Programme.
- *Better Waste and Recycling Fund* – Council has received grant funding for the implementation of programs to reduce waste and increase recycling from the New South Wales Environmental Protection Authority in the amount of \$169K. Major projects within this program include, Community Waste Service Guide, an Illegal Waste Dumping Program and a program to deal with problem waste at Council's Waste Management Facility.
- *Safer Roads Program (the intersection of Londonderry Road and The Driftway)* – Council has received grant funding from the RMS for works to improve the safety of the intersection of Londonderry Road and The Driftway, for the amount of \$120K.
- *Hawkesbury River Biodiversity Restoration Project* – Council has received additional grant funding of \$96K for the restoration of the Hawkesbury River from the Department of the Sustainability, Environment, Water, Populations and Communities.
- *Emergency Services Property Levy Contribution* - In order to assist with the implementation of the Emergency Services Property Levy, a contribution of \$70K was received from the Office of Local Government.
- *Giant Reed Control* – An amount of \$50K has been received from the Greater Sydney Local Land Services as part of their River Health Program to provide funding for bush regeneration to target Giant Reed on Council reserves in the Macdonald Valley over two years.
- *Upgrade McLeod Park* – Council has received \$50K from the Department of Family and Community Services from the Social Housing Community Infrastructure Fund to upgrade McLeod Park, which complements Council's Stage 1 Public Domain Improvements – South Windsor as part of the Section 94A Plan.

- ***Reserve Funded Adjustments***

The following adjustments are within internally or externally restricted funds, and consequently have nil impact on Council's overall position:

- *Section 94A Plan Reserve* – In accordance with the Section 94A Plan adopted in June 2015, capital works amounting to \$175K have been prioritised to match grant funding and are included in this QBRS.
- *Section 94 Plan Reserve* – An adjustment of \$65K is included in this QBRS to reflect S94 contributions received to date. The final payment for open space in Pitt Town for \$109K and reprioritised capital works within the adopted S94 Plan of \$95K, are also included in this QBRS.
- *Information Technology Reserve* – The initial stages of the Internet Enhancement Project was undertaken by internal resources, resulting in some savings which are expected to be called upon in later stages of this project, to fund expertise not available in-house. Accordingly, \$102K has been transferred to the IT Reserve to quarantine this funding.
- *Local Infrastructure Renewal Scheme Loan Reserve* – The Timber Bridge Replacement Program, which is funded from this Reserve, is due for completion in 2016/2017. Adjustments of \$1.3M were made in this QBRS, in line with the projected program timeframes.

ORDINARY MEETING

Meeting Date: 29 November 2016

- *Domestic Waste Management Program* – Included in this QBRS, is a favourable variance of \$100K in line with income received. The cost to dispose of orphan waste is greater than forecasted, requiring an unfavourable variance of \$46K also being included in this QBRS.
- *Hawkesbury Waste Management Facility Reserve* – An additional \$24K is required for general maintenance, which was greater than forecast. Methane gas levels required an additional six extraction wells in order to capture additional methane, requiring additional funding of \$144K.
- *Stormwater Management Reserve* – An additional \$29K is forecast for the maintenance of gross pollutants traps over the full year based on actual maintenance.
- *Sullage Reserve* – Annual Charges collected were \$37K greater than forecasted, a favourable variance of this amount is included in this QBRS.
- *Sewerage Reserves* – Unfavourable variances are included in this QBRS for the review of the Development Contributions Plan (\$40K), use of agency staff (\$238K), greater than forecasted operating costs (\$29K), and the replacement of flow-meters (\$31K). Project reviews following design and investigation identified the ability to defer works on various pump stations and South Windsor STP to future years, resulting in a favourable variance of \$367K.
- *South Windsor Effluent Reuse Reserve* – In order to more effectively monitor flows for usage of recycled water and recover costs associated with that usage, the Programmable Logic Controller required replacement. An adjustment of \$40K is included in this QBRS.

The QBRS includes a number of minor adjustments and reallocation of funds that have not been detailed above. Further details can be found in the attachment to this report.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions Statement;

- 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

Funding and budget impacts have been specified within this report and attachment.

RECOMMENDATION:

That:

1. The information contained in the report be received.
2. The Quarterly Budget Review Statement – September 2016 be adopted.

ATTACHMENTS:

AT - 1 The Quarterly Budget Review Statement – September 2016 - (*Distributed under separate cover*)

oooO END OF REPORT Oooo

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section 4

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 4 - Reports of Committees

ROC Local Traffic Committee - 14 November 2016 - (80245)

Minutes of the Meeting of the Local Traffic Committee held in the Small Committee Room, Windsor, on 14 November 2016, commencing at 3pm.

Present: Mr Christopher Amit (Chairman)
 Councillor Peter Reynolds
 Ms Tina Kaur, Roads and Maritime Services
 Inspector Peter Jenkins, NSW Police Force
 Mr Steve Grady, Busways

Apologies: Inspector Ian Woodward, NSW Police Force

In Attendance: Ms Cathy Mills, Personal Assistant, Infrastructure Services
 Ms Judy Wong, Community Safety Coordinator

Mr Christopher Amit advised the Committee that the position of chair is to be undertaken in accordance with the RMS (formerly RTA) Guidelines "Delegation to Councils for Regulation of Traffic" Section 5.3 which states that the meeting is to be convened by a Council Representative, either voting or non-voting. On this basis Mr Amit is to take up the position of the Chair for this meeting as agreed to with Councillor Reynolds.

RESOLVED on the motion of Ms Tina Kaur, seconded by Councillor Peter Reynolds that the apologies be accepted.

SECTION 1 - Minutes

Item 1.1 Confirmation of Minutes

The Committee resolved on the motion of Councillor Peter Reynolds seconded by Ms Tina Kaur that the minutes from the previous meeting held on Monday, 10 October 2016 be confirmed.

Item 1.2 Business Arising

There was no Business Arising.

SECTION 2 - Reports for Determination

Item: 2.1 LTC - Zone One Training Horse Ride - March 2017 - Upper Colo (Hawkesbury) - (80245, 85005)

REPORT:

Introduction:

An application has been received from Zone One of The NSW Endurance Riders' Association seeking approval (in traffic management terms) to conduct the Zone One Training Horse Ride on Saturday, 11 and Sunday, 12 March 2017 in and around the Mountain Lagoon and Upper Colo area.

The event organiser has advised:

- The event has been held in previous years.
- The Training Horse Ride is non-competitive and is a time trial which also includes a Social Horse Ride.
- Each day is a standalone event between 7am and 5pm.
- The Ride Base will be at the Ararat Lodge located at No. 1055 Upper Colo Road, Upper Colo.
- The course is generally similar to previous years.
- Approximately 75 participants are expected for the event.
- The Training Horse Rides are over two separate lengths of 20 kilometres and 40 kilometres. The length of the Social Horse Ride is five kilometres.
- Route for the Training and Social Rides:

Training Ride – 20 Kilometres:

- Commence from the Ride Base located at the Ararat Lodge at No. 1055 Upper Colo Road and enter the course by turning left onto Upper Colo Road,
- Travel for a distance of approximately 10 kilometres along Upper Colo Road to the end of Upper Colo Road,
- Turn around and return along Upper Colo Road, to the Ride Base.

Training Ride - 40 Kilometres:

- Commence from the Ride Base located at the Ararat Lodge at No. 1055 Upper Colo Road and enter the course by turning left onto Upper Colo Road,
- Travel for a distance of approximately 5.5 kilometres along Upper Colo Road to the turn-around point,
- Turn around and return for a distance of approximately 3.5 kilometres to the start of the Wards Track,
- Turn right and travel along the Wards Track, left into the Gaspers Fire Trail and right into Sams Way,
- Travel along Sams Way and turn left into Mountain Lagoon Road,
- Travel along Mountain Lagoon Road and turn left into Comleroy Road,
- Travel along Comleroy Road down to the Upper Colo Road junction and turn right into Upper Colo Road,

ORDINARY MEETING

Reports of Committees

- Travel back along Upper Colo Road, to the Ride Base.

Social Ride – 5 Kilometres:

- Commence from the Ride Base located at the Ararat Lodge at No. 1055 Upper Colo Road and enter the course by turning left onto Upper Colo Road,
 - Travel for a distance of approximately 2.5 kilometres along Upper Colo Road to the intersection of Comleroy Road,
 - Turn around and return along Upper Colo Road, to the Ride Base.
- Where the course covers trafficable roads, as with previous years, the following will be in place:
 - A Marshall is to be in place to stop horses crossing whilst vehicles pass,
 - At any junction where horses cross or access roads that are main access gates, the Marshall is to notify Traffic of the conditions ahead,
 - Signage shall be in place stating the following: Horses on Road, Horses crossing. In areas where the road narrows or is windy; Drive Slowly Horses on Road is to be provided.
 - Road Inventory:
 - Comleroy Road – Unsealed,
 - Mountain Lagoon Road – Sealed/Unsealed,
 - Sams Way – Unsealed,
 - Upper Colo Road – Sealed/Unsealed,
 - Roads on private property and within the National Park,
 - The Colo River will not be crossed as part of the route.

Refer to Attachments 1 to 4: "Event Route Plan - Zone One – 5, 20 and 40 Kilometre Social/Training Horse Ride 2017".

Discussion

It would be appropriate to classify the event as a “**Class 2**” special event under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may impact minor traffic and transport systems and there is a low scale disruption to the non-event community.

The event organiser has submitted the following items in relation to the event: Attachment 5 (ECM Document Set ID No: 5554310):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Traffic Management Plan from the 2016 Event,
5. Event Route Plans,
6. Copy of Insurance Policy which is valid to 01 January 2017,
7. Copy of Consultation letter to Residents,
8. Copies of correspondence forwarded to the NSW Ambulance Service, NSW Rural Fire Service, and SES.

RECOMMENDATION TO COMMITTEE:

That:

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Zone One Training Horse Ride event in and around the Mountain Lagoon and Upper Colo area, planned for Saturday, 11 and Sunday, 12 March 2017, be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

Prior to the event:

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire route/site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route/site by the event organiser prior to preparing the TMP and prior to the event;
- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 4d. the event organiser is to **submit a Transport Management Plan (TMP) for the entire route/event incorporating a Traffic Control Plan (TCP) to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;

ORDINARY MEETING
Reports of Committees

- 4e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities**;
- 4f. as the event will traverse public roads and require traffic control, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy the road;
- 4g. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be addressed and outlined in the TMP;
- 4h. the event organiser is to obtain approval from the National Parks and Wildlife Service (Office of Environment and Heritage) for the use of the Wollemi National Park; **a copy of this approval to be submitted to Council**;
- 4i. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of a Council Park/Reserve;
- 4j. the event organiser is to obtain approval from the NSW Department of Primary Industries for the use of any Crown Road or Crown Land; **a copy of this approval to be submitted to Council**;
- 4k. the event organiser is to obtain approval from the respective Land Owners for the use of their land as part of the route for the event; **a copy of this approval to be submitted to Council**;
- 4l. the event organiser is to advertise the event in the local press stating the entire route/extent of the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium to be advised);
- 4m. the event organiser is to notify the details of the event to Fire and Rescue NSW at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4n. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4o. the event organiser is to directly notify all the residences and businesses which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to the resident has been submitted to Council**;
- 4p. the event organiser is to **submit** the completed "Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" to Council;

During the event:

- 4q. access is to be maintained for businesses, residents and their visitors;
- 4r. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;

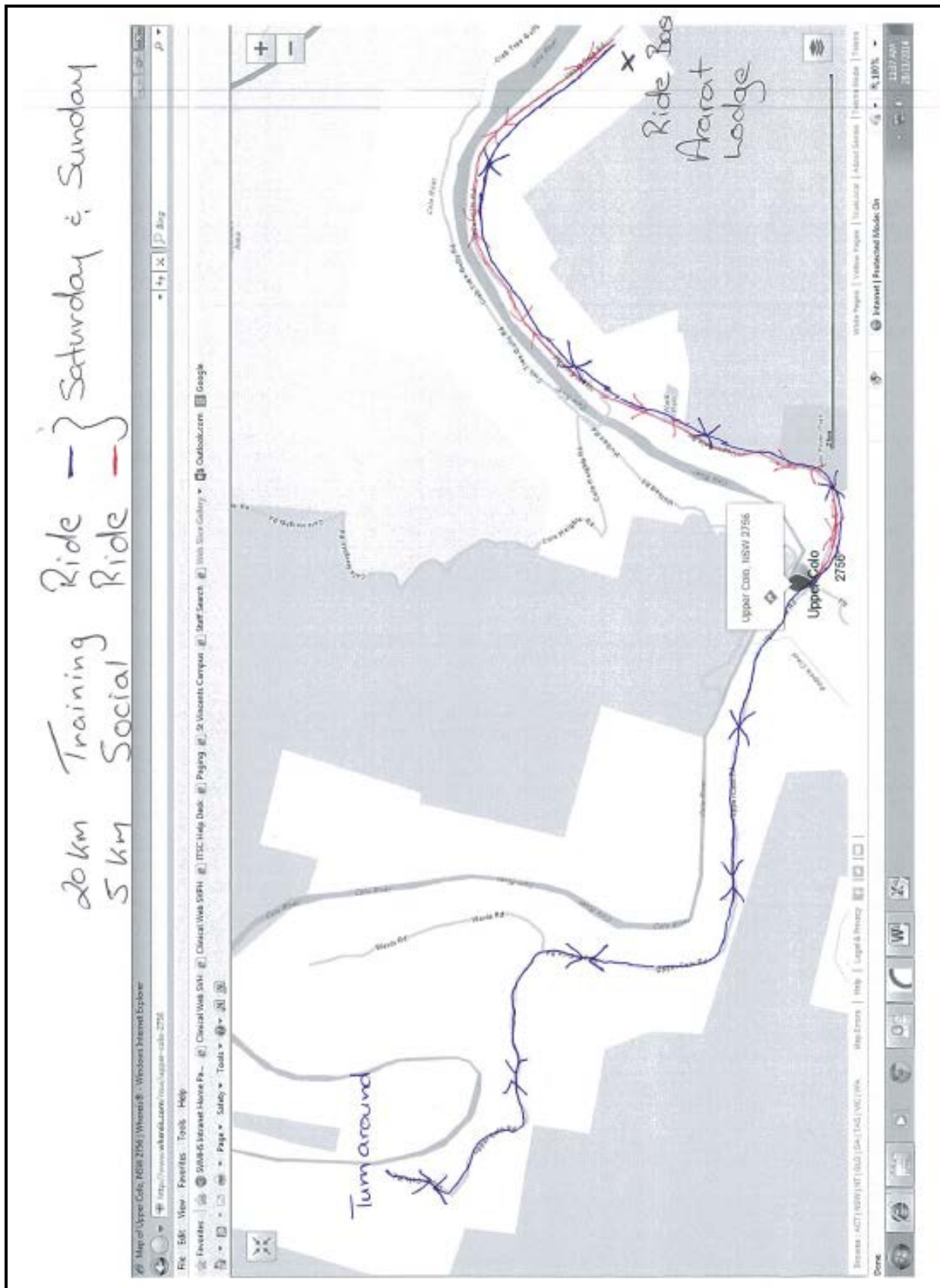
ORDINARY MEETING
Reports of Committees

- 4s. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4t. the riders are to be made aware of and are to follow all the general road user rules whilst riding on public roads;
- 4u. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4v. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event;
- 4w. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity, and,
- 4x. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be undertaken as outlined in the TMP.

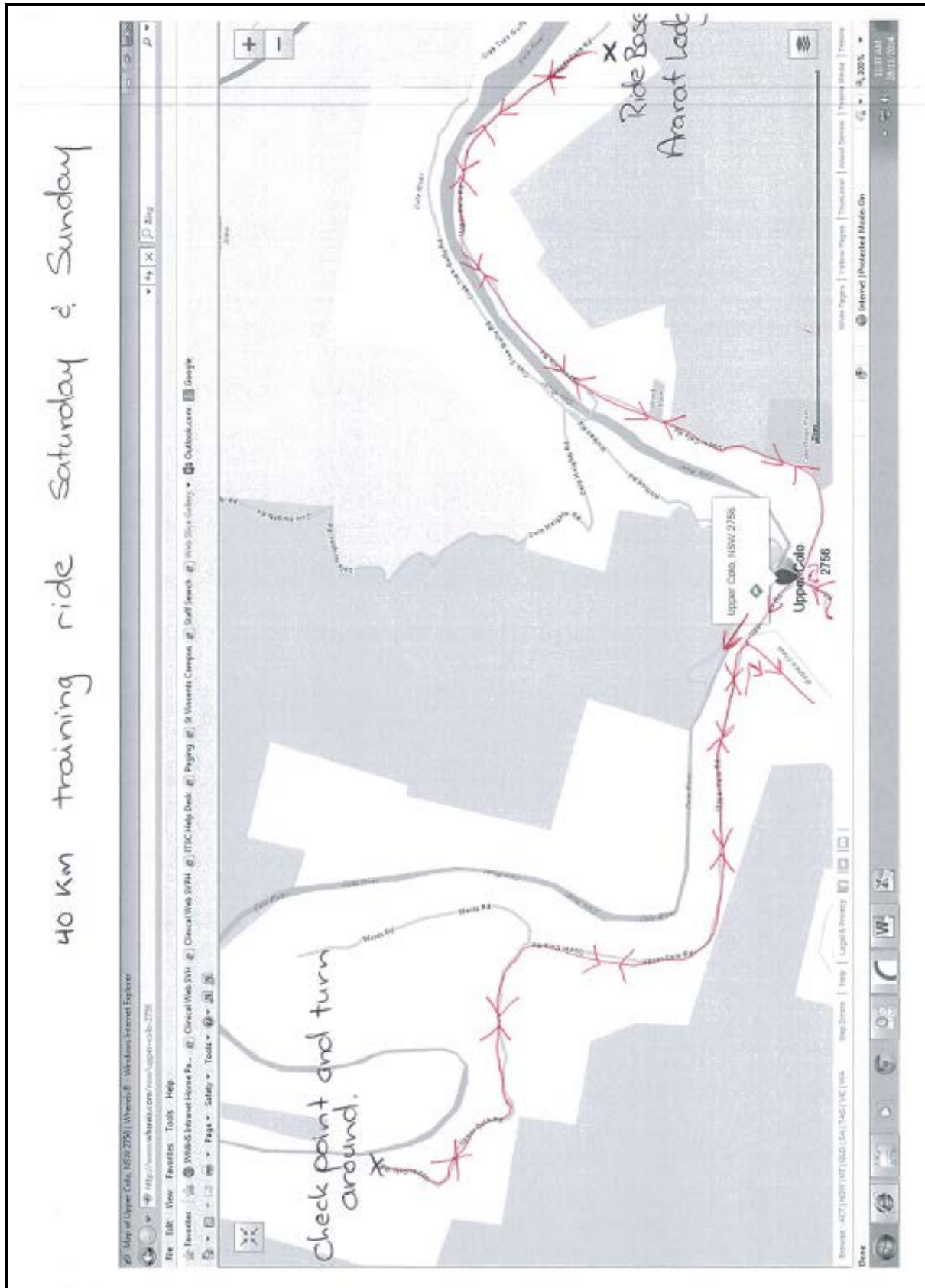
APPENDICES:

- AT - 1** Event Route Plan - Zone One – 5 Kilometre Social Horse Ride and 20 Kilometre Training Horse Ride 2017
- AT - 2** Event Route Plan - Zone One - 40 Kilometre Training Horse Ride 2017 (Plan 1-3)
- AT - 3** Event Route Plan - Zone One - 40 Kilometre Training Horse Ride 2017 (Plan 2-3)
- AT - 4** Event Route Plan - Zone One - 40 Kilometre Training Horse Ride 2017 (Plan 3-3)
- AT - 5** Special Event Application - (ECM Document Set ID No. 5554310) - *see attached.*

AT - 1 Event Route Plan - Zone One – 5 Kilometre Social Horse Ride and 20 Kilometre Training Horse Ride 2017

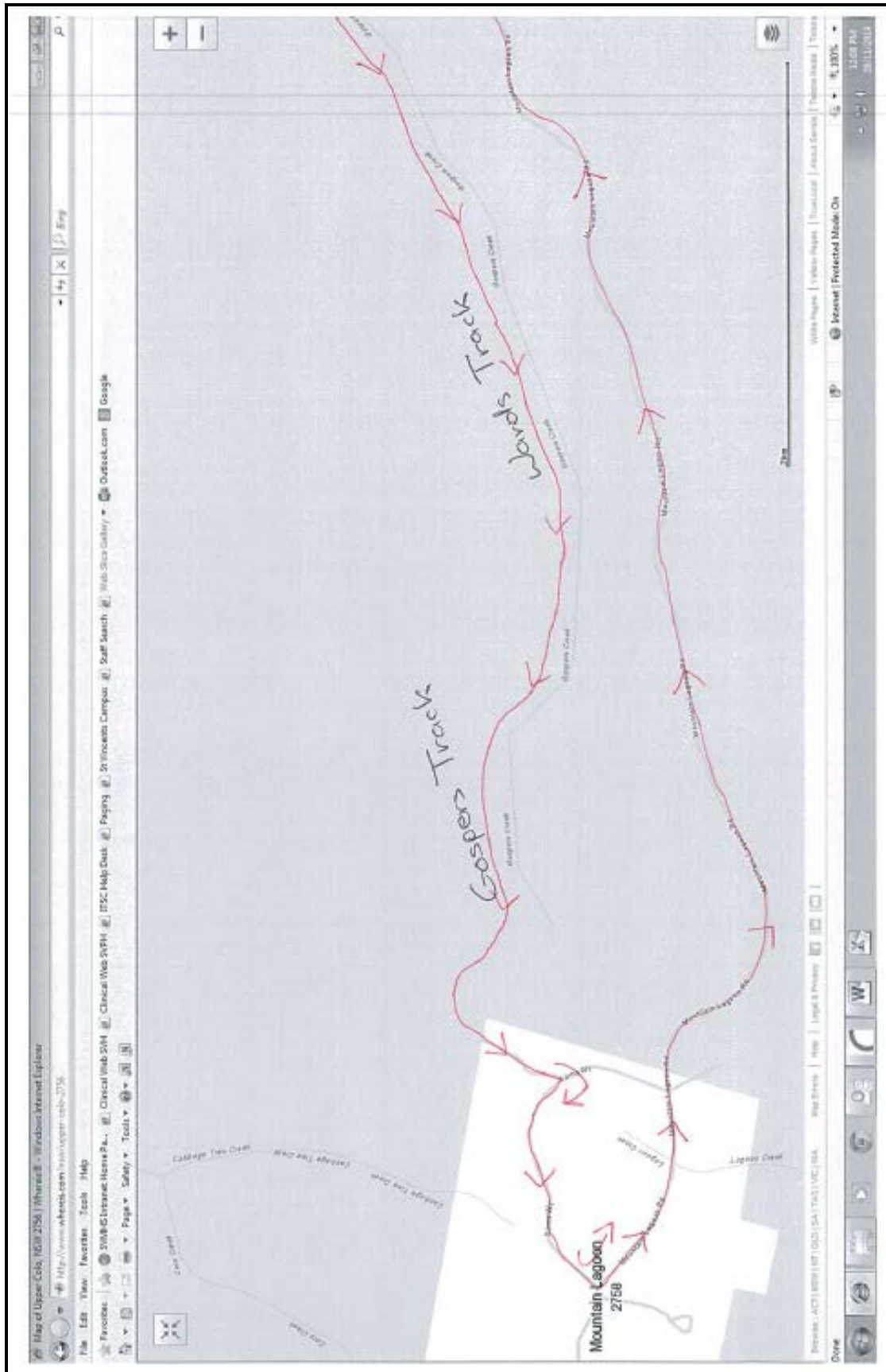


AT - 2 Event Route Plan - Zone One - 40 Kilometre Training Horse Ride 2017 (Plan 1-3)

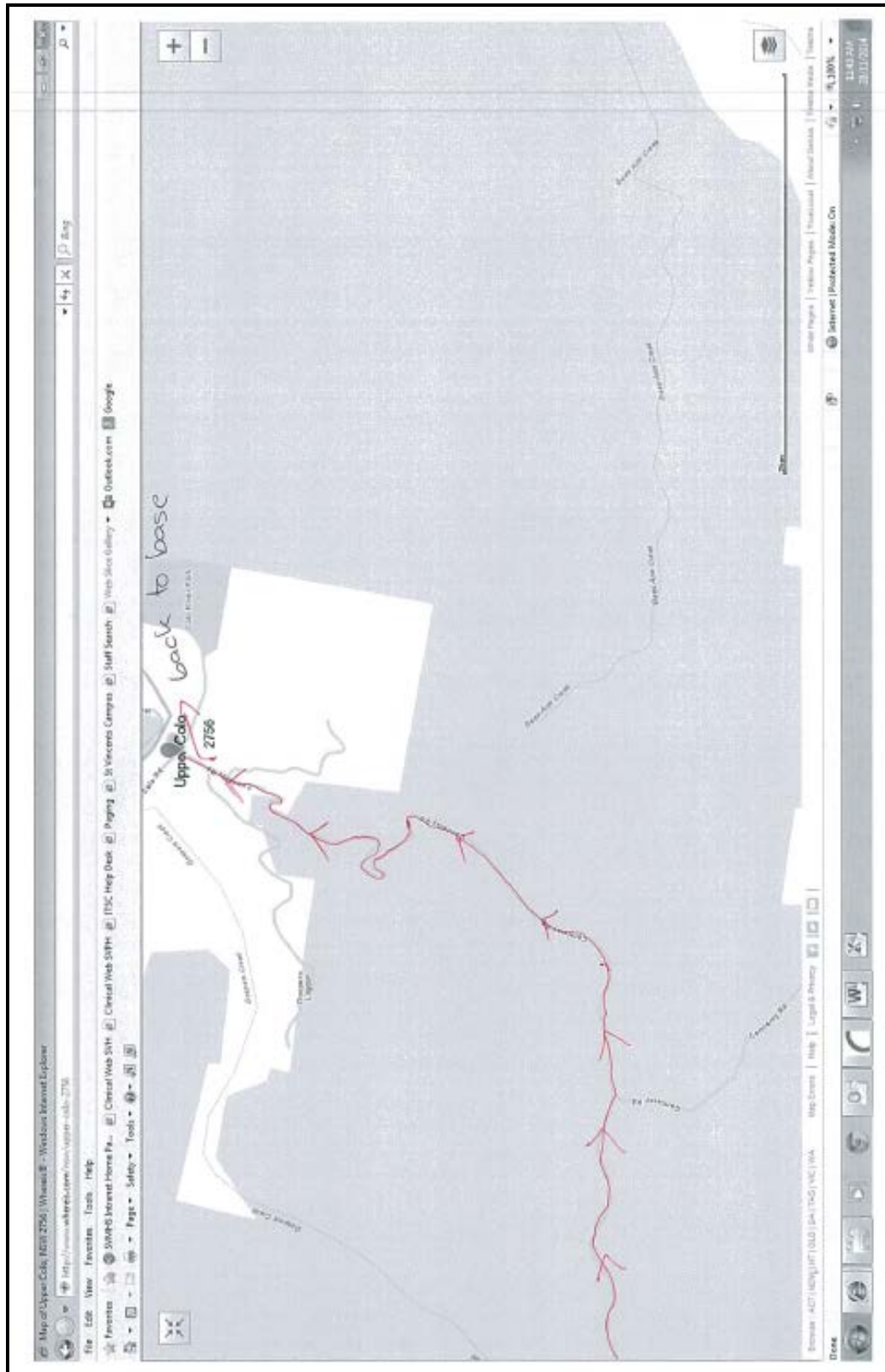


ORDINARY MEETING
Reports of Committees

AT - 3 Event Route Plan - Zone One - 40 Kilometre Training Horse Ride 2017 (Plan 2-3)



AT - 4 Event Route Plan - Zone One - 40 Kilometre Training Horse Ride 2017 (Plan 3-3)



COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Peter Reynolds, seconded by Inspector Peter Jenkins.

Support for the Recommendation: Unanimous support

That:

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Zone One Training Horse Ride event in and around the Mountain Lagoon and Upper Colo area, planned for Saturday, 11 and Sunday, 12 March 2017, be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

Prior to the event:

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire route/site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route/site by the event organiser prior to preparing the TMP and prior to the event;
- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**

ORDINARY MEETING

Reports of Committees

- 4d. the event organiser is to **submit a Transport Management Plan (TMP) for the entire route/event incorporating a Traffic Control Plan (TCP) to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 4e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities**;
- 4f. as the event will traverse public roads and require traffic control, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy the road;
- 4g. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be addressed and outlined in the TMP;
- 4h. the event organiser is to obtain approval from the National Parks and Wildlife Service (Office of Environment and Heritage) for the use of the Wollemi National Park; **a copy of this approval to be submitted to Council**;
- 4i. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of a Council Park/Reserve;
- 4j. the event organiser is to obtain approval from the NSW Department of Primary Industries for the use of any Crown Road or Crown Land; **a copy of this approval to be submitted to Council**;
- 4k. the event organiser is to obtain approval from the respective Land Owners for the use of their land as part of the route for the event; **a copy of this approval to be submitted to Council**;
- 4l. the event organiser is to advertise the event in the local press stating the entire route/extent of the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium to be advised);
- 4m. the event organiser is to notify the details of the event to Fire and Rescue NSW at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4n. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4o. the event organiser is to directly notify all the residences and businesses which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to the resident has been submitted to Council**;
- 4p. the event organiser is to **submit the completed "Traffic and Transport Management for Special Events – Final Approval Application Form (Form C)" to Council**;

ORDINARY MEETING
Reports of Committees

During the event:

- 4q. access is to be maintained for businesses, residents and their visitors;
- 4r. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;
- 4s. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4t. the riders are to be made aware of and are to follow all the general road user rules whilst riding on public roads;
- 4u. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4v. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event;
- 4w. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity, and,
- 4x. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be undertaken as outlined in the TMP.

Item: 2.2 LTC - Q60 Endurance Horse Ride - May 2017 - Upper Colo (Hawkesbury) - (80245, 85005)

REPORT:

Introduction

An application has been received from Zone One of The NSW Endurance Riders' Association seeking approval (in traffic management terms) to conduct the Q60 Endurance Horse Ride on Saturday, 29 and Sunday, 30 April 2017, in and around the Central Colo, Mountain Lagoon, Upper Colo and Wheeny Creek area.

The event organiser has advised:

- The event has been held in previous years.
- The Endurance Horse Ride is a timed event and not a race.
- The event will be undertaken between 5am and 5pm.
- The Ride Base will be at the Ararat Lodge located at No. 1055 Upper Colo Road, Upper Colo.
- The course is generally similar to previous years.

ORDINARY MEETING
Reports of Committees

- Approximately 75 participants are expected for the event.
- The Endurance Horse Ride is 100 kilometres over 3 legs (Leg 1 = 40 kilometres, Leg 2 = 40 kilometres and Leg 3 = 20 kilometres),

- Route for the Endurance Ride:

Leg 1 - 40 Kilometres:

- Commence from the Ride Base located at the Ararat Lodge at No. 1055 Upper Colo Road and enter the course by turning right onto Upper Colo Road,
- Travel for a distance of approximately 15.5 kilometres along Upper Colo Road, crossing Wheeny Creek Bridge, Under Putty Road and into Lower Colo Road to the turn-around point,
- Turn around and return for a distance of approximately 6 kilometres along Lower Colo Road and Upper Colo Road, crossing Wheeny Creek Bridge,
- Turn left and travel through private property (Atkinson property), and into the Wollemi National Park (Gees Arm Trail) and turn right into Comleroy Road,
- Travel along Comleroy Road down to the Upper Colo Road junction and turn right into Upper Colo Road,
- Travel back along Upper Colo Road, to the Ride Base.

Leg 2 - 40 Kilometres:

- Commence from the Ride Base located at the Ararat Lodge at No. 1055 Upper Colo Road and enter the course by turning left onto Upper Colo Road,
- Travel for a distance of approximately 5.5 kilometres along Upper Colo Road to the turn-around point,
- Turn around and return for a distance of approximately 3.5 kilometres to the start of the Wards Track,
- Turn right and travel along the Wards Track, left into the Gaspers Fire Trail and right into Sams Way,
- Travel along Sams Way and turn left into Mountain Lagoon Road,
- Travel along Mountain Lagoon Road and turn left into Comleroy Road,
- Travel along Comleroy Road down to the Upper Colo Road junction and turn right into Upper Colo Road,
- Travel back along Upper Colo Road, to the Ride Base.

Leg 3 – 20 Kilometres:

- Commence from the Ride Base located at the Ararat Lodge at No. 1055 Upper Colo Road and enter the course by turning left onto Upper Colo Road,
- Travel for a distance of approximately 10 kilometres along Upper Colo Road to the end of Upper Colo Road,
- Turn around and return along Upper Colo Road, to the Ride Base.
- Where the course covers trafficable roads, as with previous years, the following will be in place:
 - A Marshall is to be in place to stop horses crossing whilst vehicles pass,
 - At any junction where horses cross or access roads that are main access gates, the Marshall is to notify Traffic of the conditions ahead,
 - Signage shall be in place stating the following: Horses on Road, Horses crossing. In areas where the road narrows or is windy; Drive Slowly Horses on Road is to be provided.
- Road Inventory
 - Comleroy Road – Unsealed,
 - Lower Colo Road – Sealed/Unsealed,

ORDINARY MEETING
Reports of Committees

- Mountain Lagoon Road – Sealed/Unsealed,
- Sams Way – Unsealed,
- Upper Colo Road – Sealed/Unsealed,
- Roads on private property and within the National Park,
- The Colo River will not be crossed as part of the route.

Refer to Attachments 1 to 11: "Event Route Plan - Q60 Endurance Horse Ride 2017 - Legs 1, 2 & 3".

Discussion

It would be appropriate to classify the event as a “**Class 2**” special event under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may impact minor traffic and transport systems and there is a low scale disruption to the non-event community.

The event organiser has submitted the following items in relation to the event: Attachment 12 (ECM Document Set ID No: 5554309):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Traffic Management Plan from the 2016 Event,
5. Event Route Plans,
6. Copy of Insurance Policy which is valid to 01 January 2017,
7. Copy of Consultation letter to Residents,
8. Copies of correspondence forwarded to the NSW Ambulance Service, NSW Rural Fire Service, and SES.

RECOMMENDATION TO COMMITTEE:

That:

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council’s web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication “Guide to Traffic and Transport Management for Special Events” (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Q60 Endurance Horse Ride event in and around the Central Colo, Mountain Lagoon, Upper Colo and Wheeny Creek area, planned for Saturday, 29 and Sunday, 30 April 2017 be classified as a “**Class 2**” special event, in terms of traffic management, under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

Prior to the event:

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire route/site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route/site by the event organiser prior to preparing the TMP and prior to the event;
- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 4d. the event organiser is to **submit a Transport Management Plan (TMP) for the entire route/event incorporating a Traffic Control Plan (TCP) to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 4e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 4f. as the event will traverse public roads and require traffic control, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy the road;
- 4g. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be addressed and outlined in the TMP;
- 4h. the event organiser is to obtain approval from the National Parks and Wildlife Service (Office of Environment and Heritage) for the use of the Wollemi National Park; **a copy of this approval to be submitted to Council;**
- 4i. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of a Council Park/Reserve;
- 4j. the event organiser is to obtain approval from the NSW Department of Primary Industries for the use of any Crown Road or Crown Land; **a copy of this approval to be submitted to Council;**

ORDINARY MEETING

Reports of Committees

- 4k. the event organiser is to obtain approval from the respective Land Owners for the use of their land as part of the route for the event; **a copy of this approval to be submitted to Council;**
- 4l. the event organiser is to advertise the event in the local press stating the entire route/extent of the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium to be advised);
- 4m. the event organiser is to notify the details of the event to Fire and Rescue NSW at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 4n. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 4o. the event organiser is to directly notify all the residences and businesses which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to the resident has been submitted to Council;**
- 4p. the event organiser is to **submit** the completed "Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" to Council;

During the event:

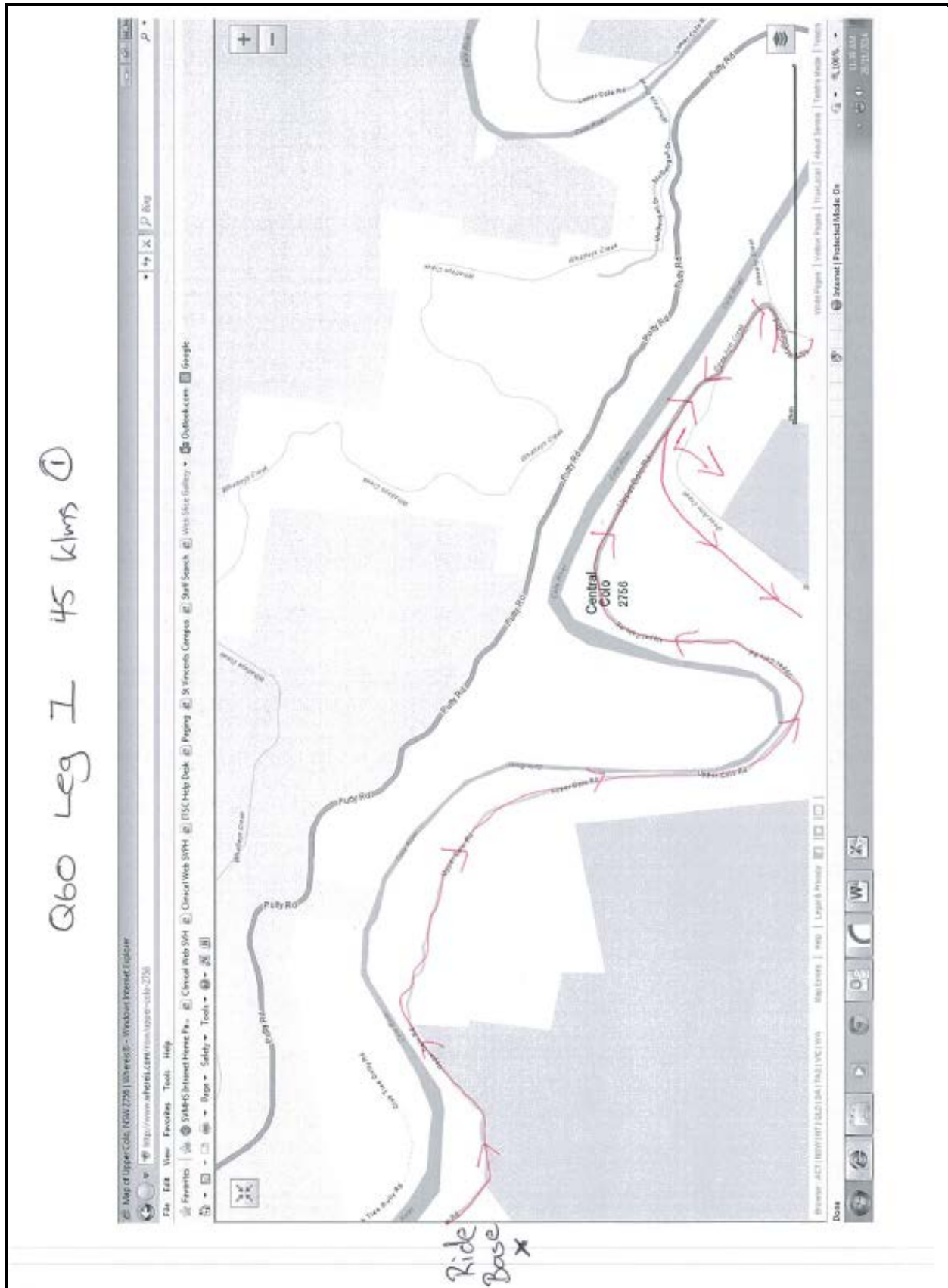
- 4q. access is to be maintained for businesses, residents and their visitors;
- 4r. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;
- 4s. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4t. the riders are to be made aware of and are to follow all the general road user rules whilst riding on public roads;
- 4u. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4v. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event;
- 4w. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity, and,
- 4x. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be undertaken as outlined in the TMP.

ORDINARY MEETING
Reports of Committees

APPENDICES:

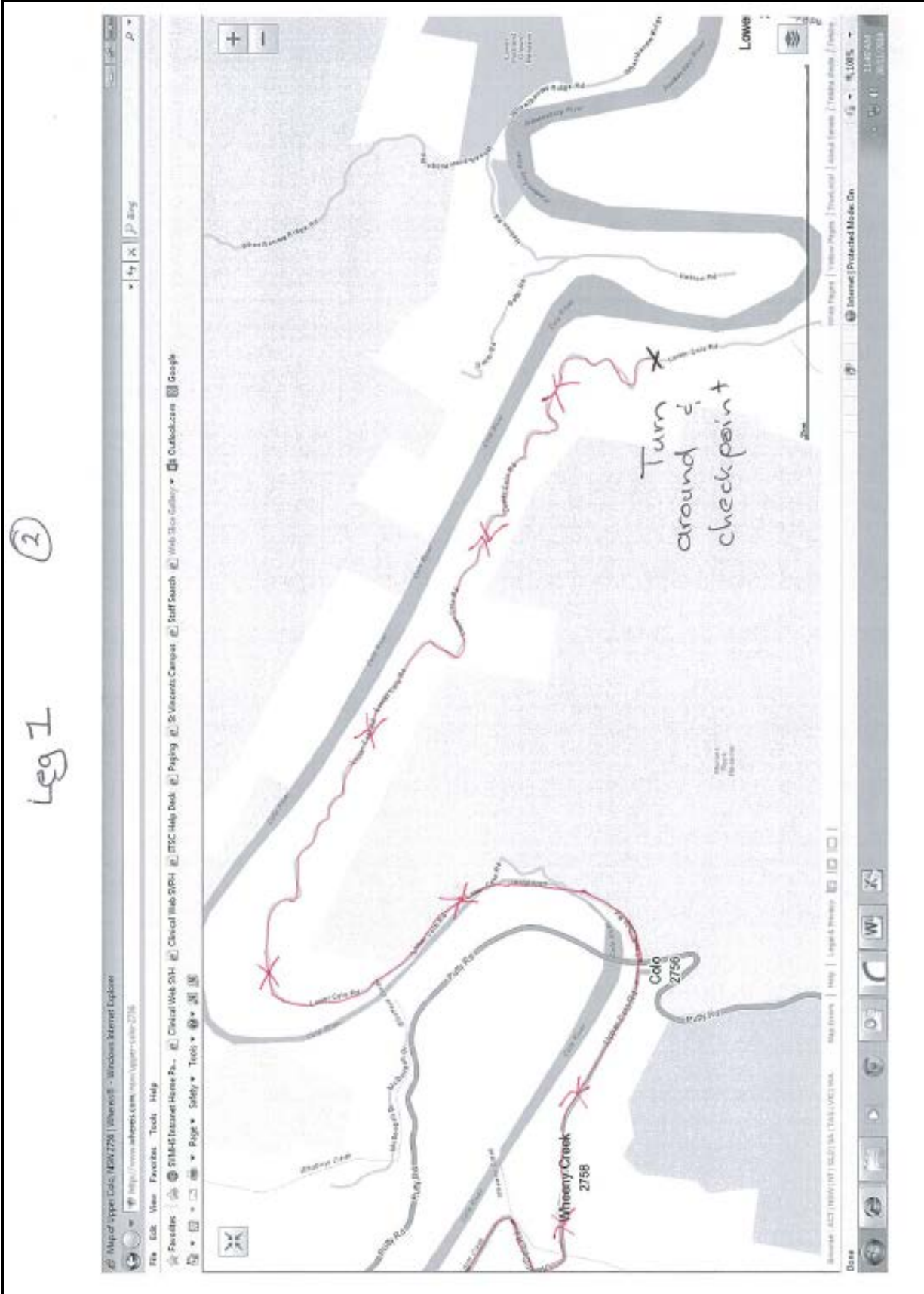
- AT - 1** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 1-5)
- AT - 2** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 2-5)
- AT - 3** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 3-5)
- AT - 4** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 4-5)
- AT - 5** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 5-5)
- AT - 6** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 1-5)
- AT - 7** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 2-5)
- AT - 8** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 3-5)
- AT - 9** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 4-5)
- AT - 10** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 5-5)
- AT - 11** Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 3 (Plan 1-1)
- AT - 12** Special Event Application - (ECM Document Set ID No. 5554309) - *see attached.*

AT - 1 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 1-5)



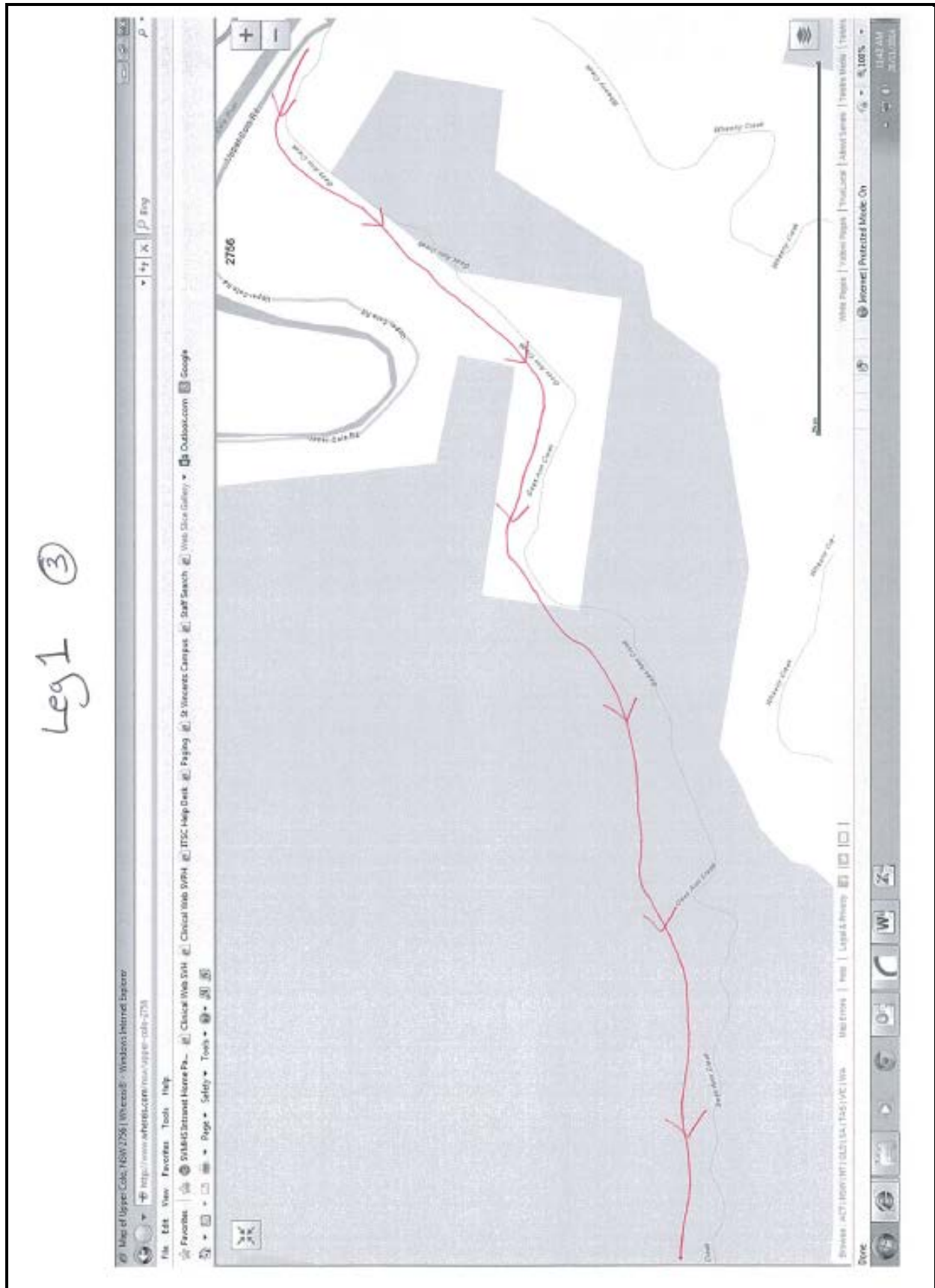
ORDINARY MEETING Reports of Committees

AT - 2 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 2-5)



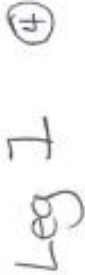
ORDINARY MEETING
Reports of Committees

AT - 3 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 3-5)



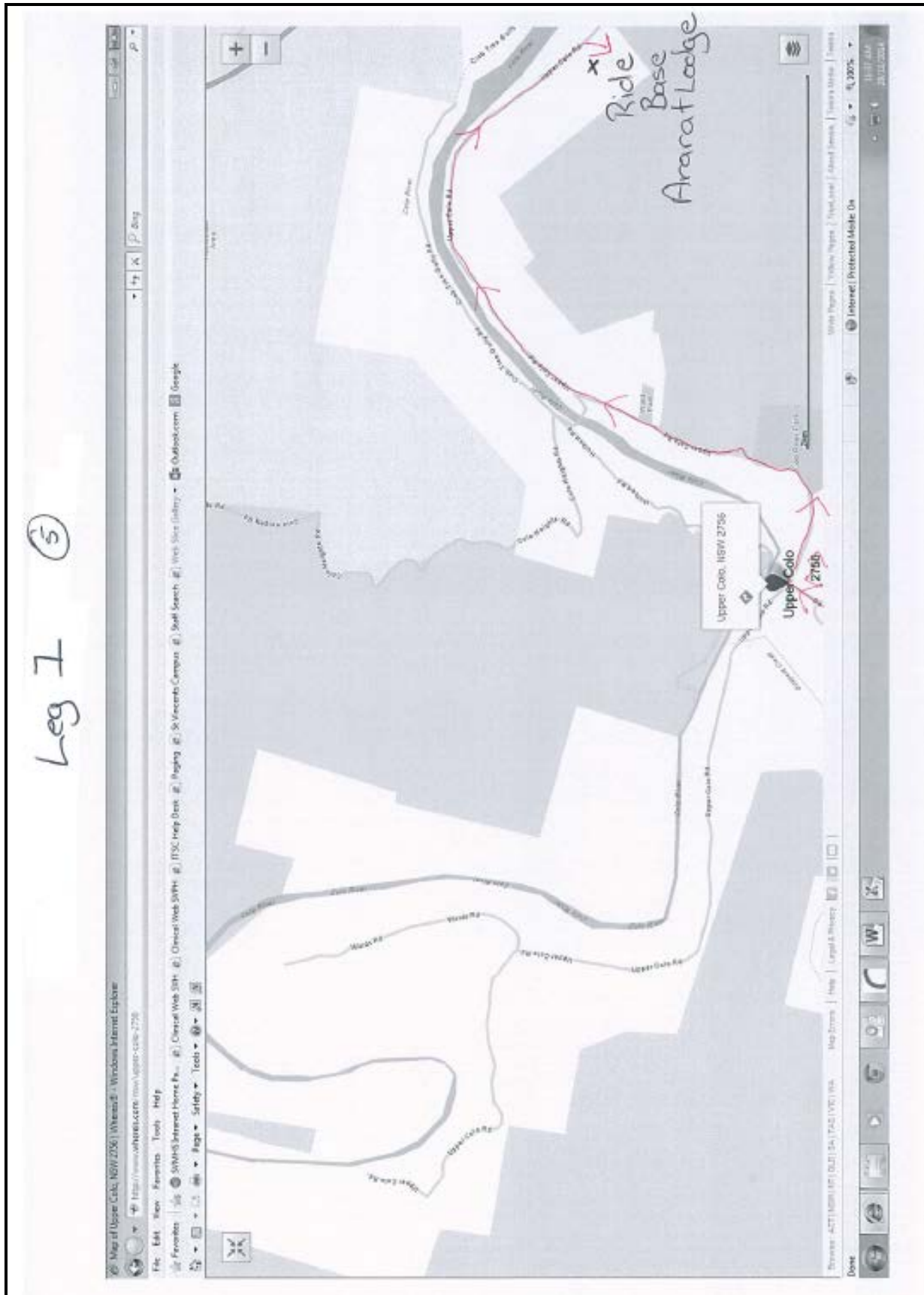
ORDINARY MEETING Reports of Committees

AT - 4 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 4-5)

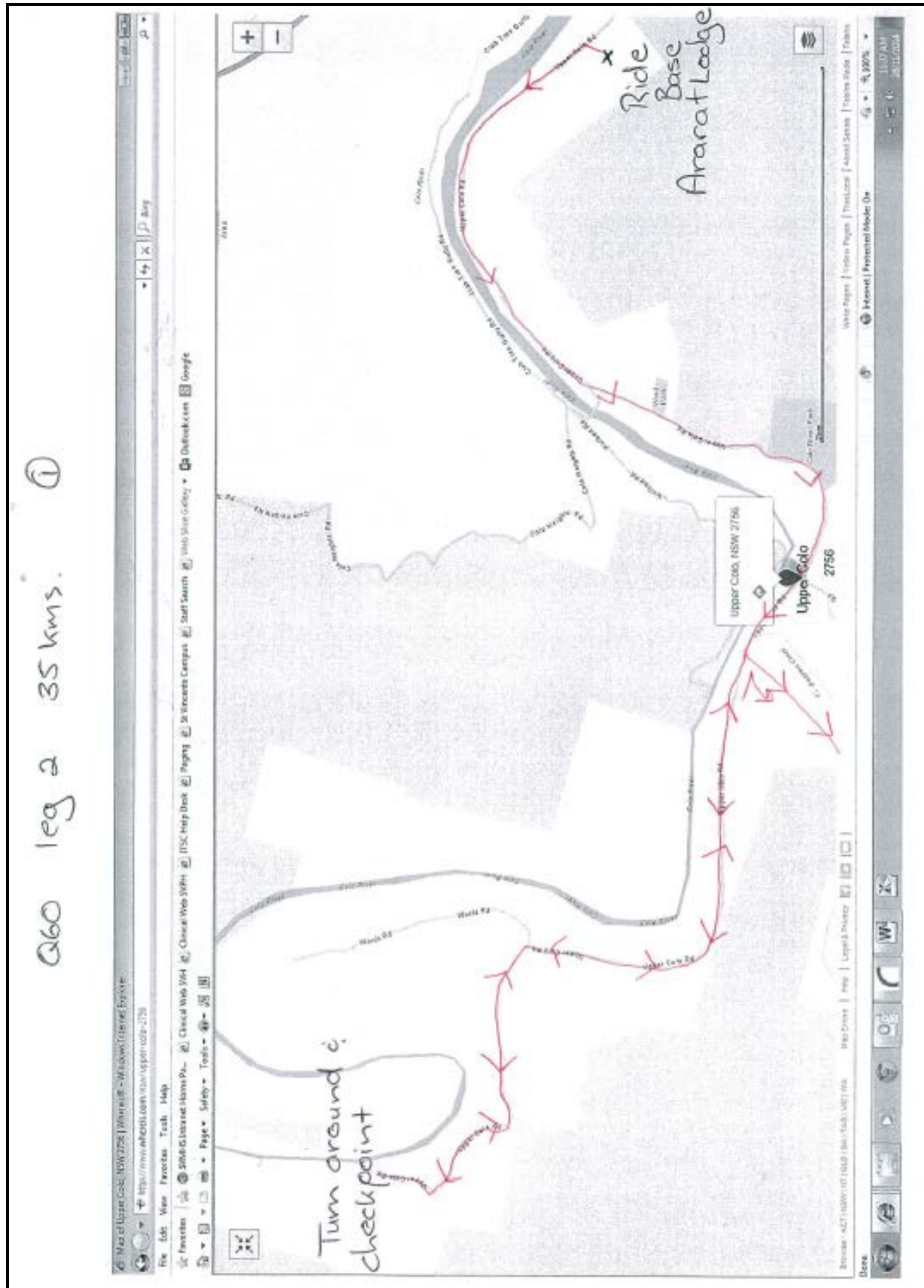


ORDINARY MEETING
Reports of Committees

AT - 5 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 1 (Plan 5-5)

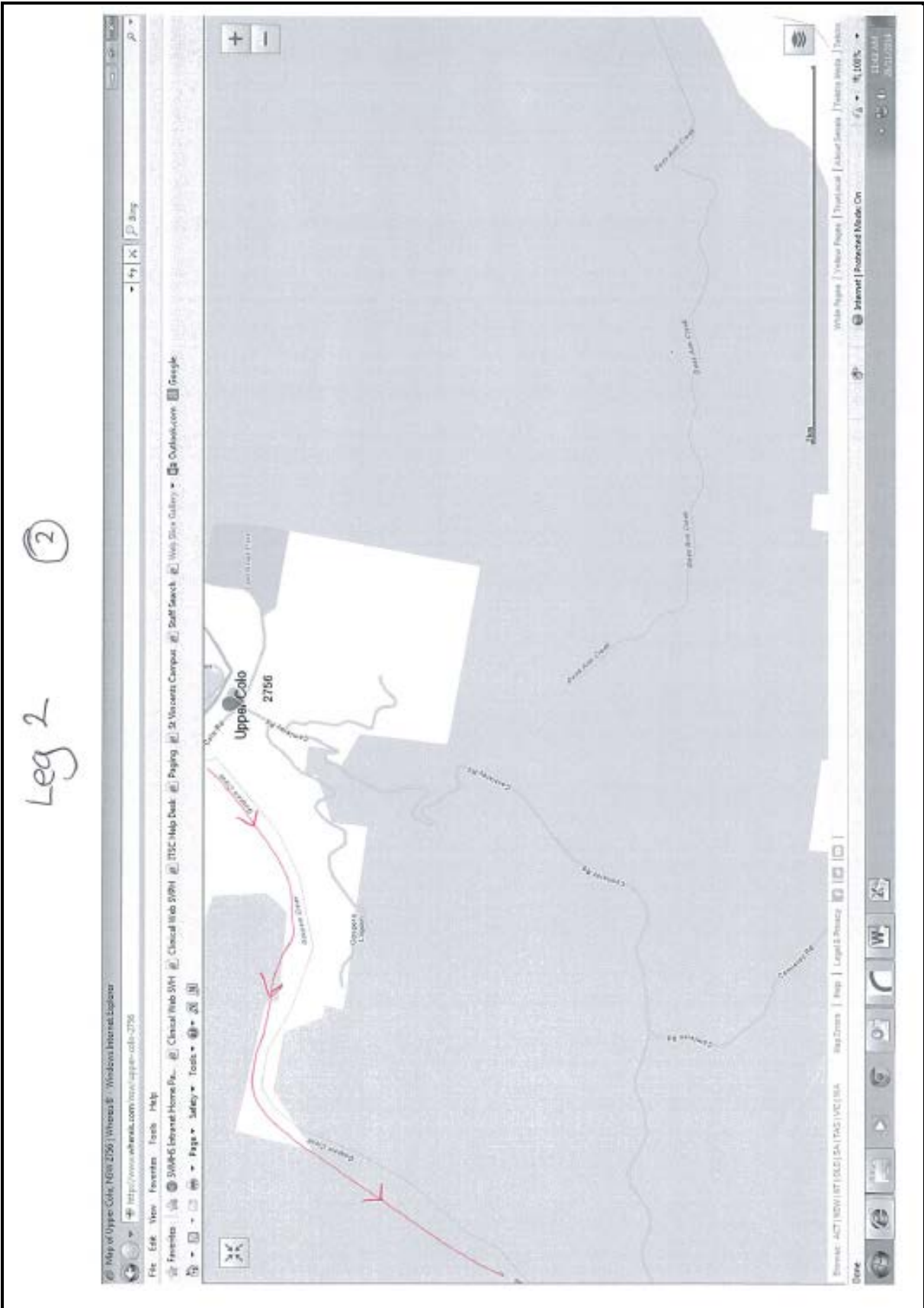


AT - 6 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 1-5)



ORDINARY MEETING Reports of Committees

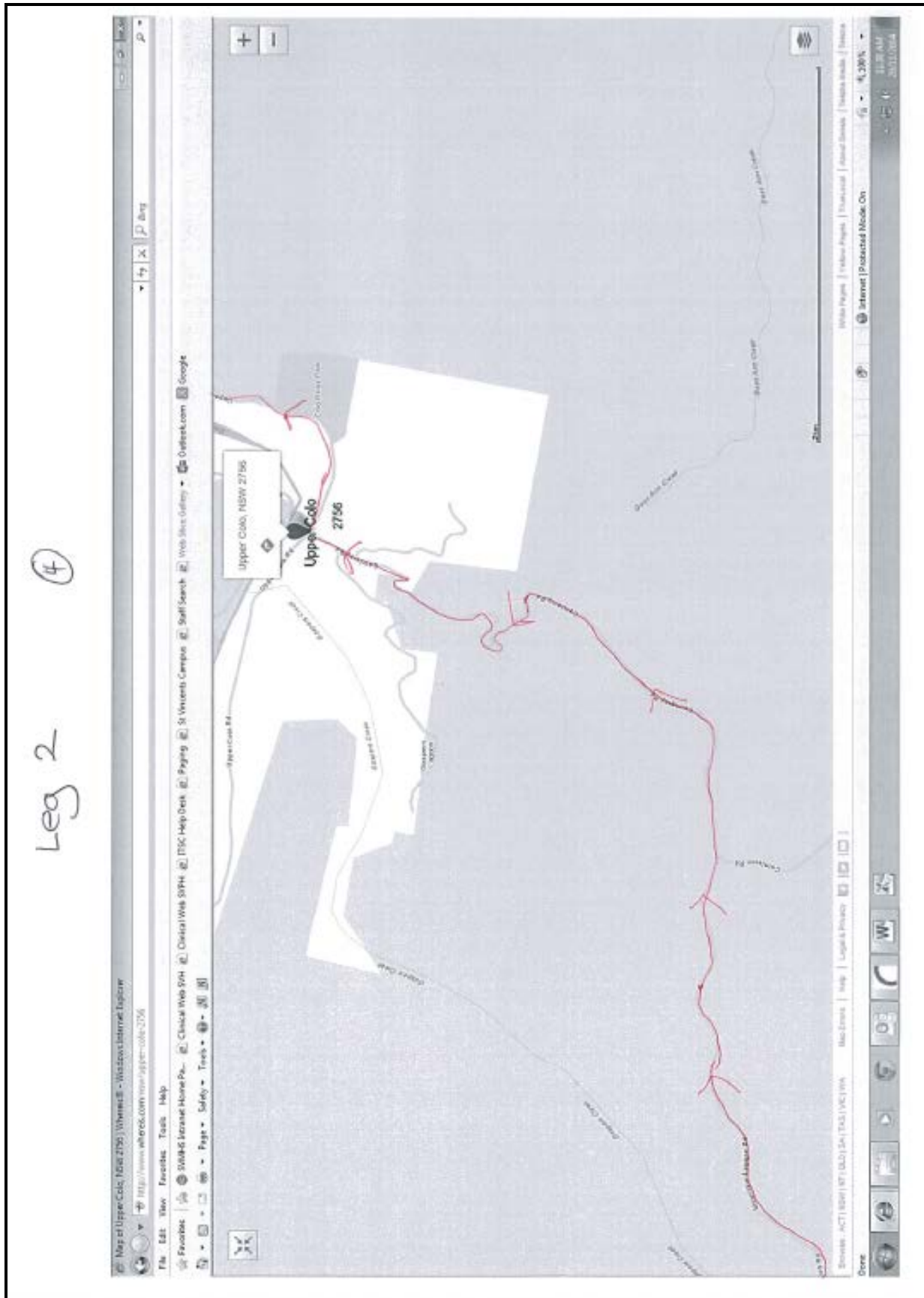
AT - 7 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 2-5)



AT - 8 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 3-5)

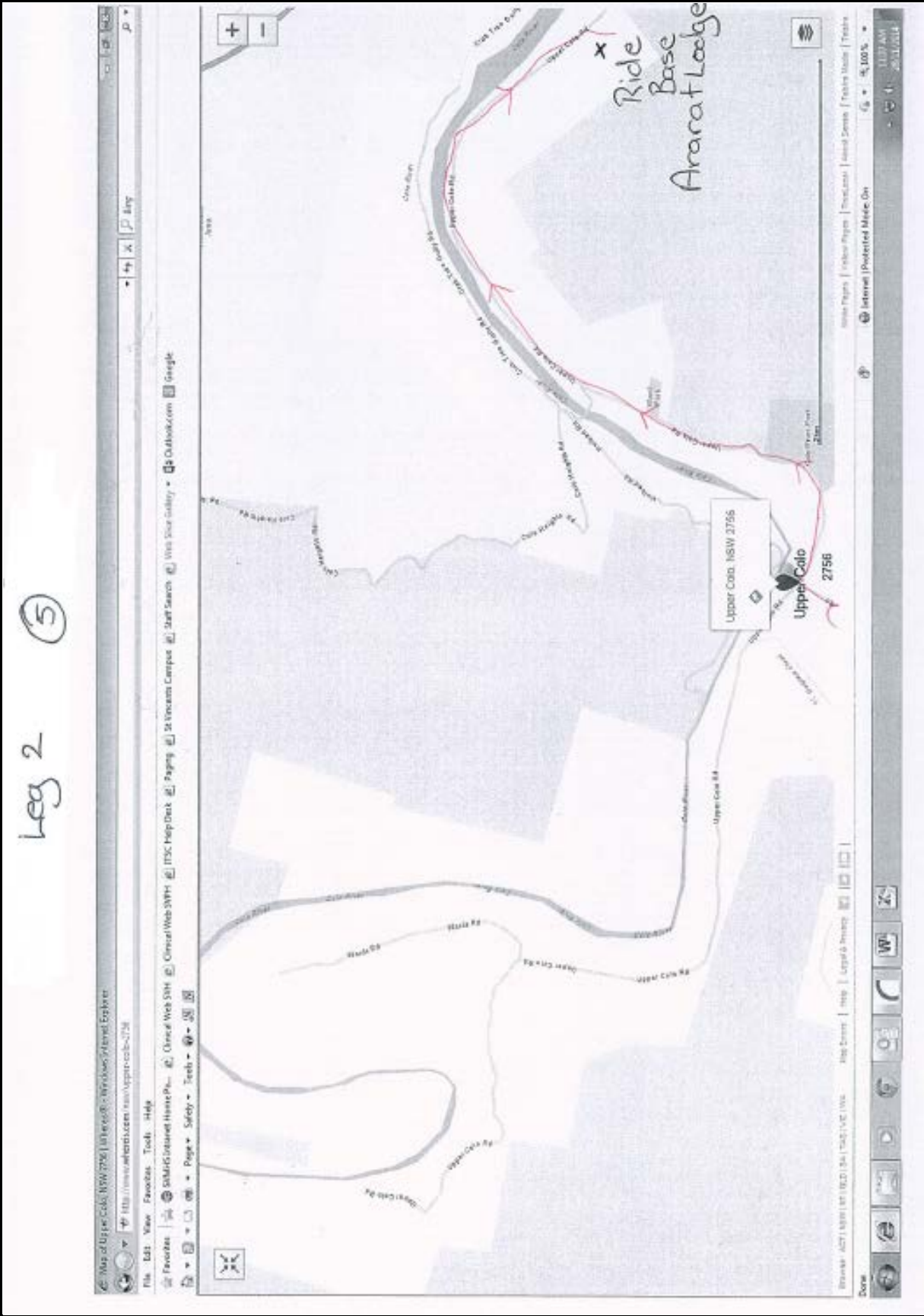


AT - 9 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 4-5)

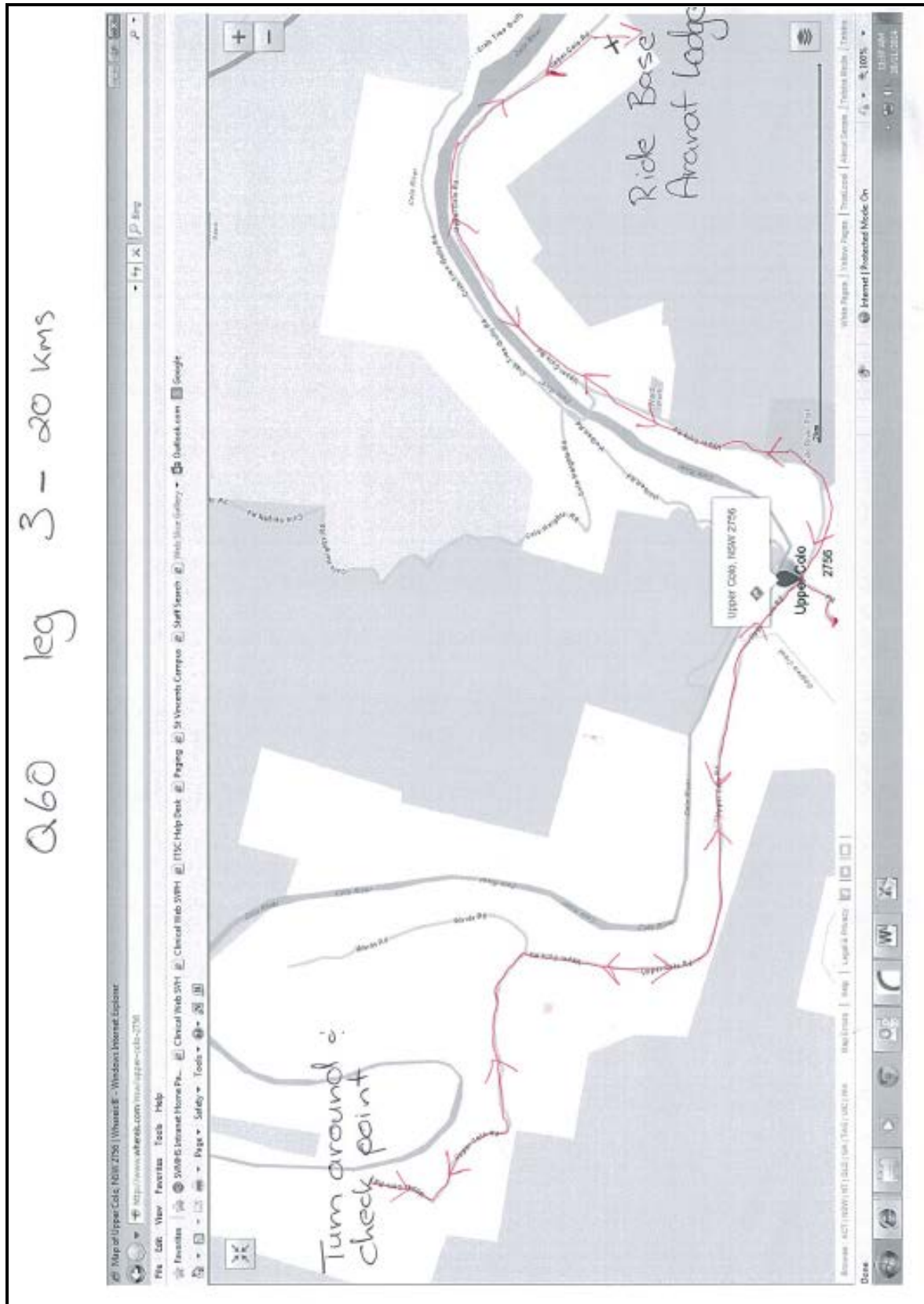


ORDINARY MEETING Reports of Committees

AT - 10 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 2 (Plan 5-5)



AT - 11 Event Route Plan - Q60 Endurance Horse Ride 2017 – Leg 3 (Plan 1-1)



COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Peter Reynolds, seconded by Ms Tina Kaur.

Support for the Recommendation: Unanimous support

That:

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Q60 Endurance Horse Ride event in and around the Central Colo, Mountain Lagoon, Upper Colo and Wheeny Creek area, planned for Saturday, 29 and Sunday, 30 April 2017 be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

Prior to the event:

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire route/site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route/site by the event organiser prior to preparing the TMP and prior to the event;
- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**

ORDINARY MEETING

Reports of Committees

- 4d. the event organiser is to **submit a Transport Management Plan (TMP) for the entire route/event incorporating a Traffic Control Plan (TCP) to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 4e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities**;
- 4f. as the event will traverse public roads and require traffic control, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy the road;
- 4g. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be addressed and outlined in the TMP;
- 4h. the event organiser is to obtain approval from the National Parks and Wildlife Service (Office of Environment and Heritage) for the use of the Wollemi National Park; **a copy of this approval to be submitted to Council**;
- 4i. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of a Council Park/Reserve;
- 4j. the event organiser is to obtain approval from the NSW Department of Primary Industries for the use of any Crown Road or Crown Land; **a copy of this approval to be submitted to Council**;
- 4k. the event organiser is to obtain approval from the respective Land Owners for the use of their land as part of the route for the event; **a copy of this approval to be submitted to Council**;
- 4l. the event organiser is to advertise the event in the local press stating the entire route/extent of the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium to be advised);
- 4m. the event organiser is to notify the details of the event to Fire and Rescue NSW at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4n. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4o. the event organiser is to directly notify all the residences and businesses which may be affected by the event, including the proposed traffic control measures and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to the resident has been submitted to Council**;
- 4p. the event organiser is to **submit the completed "Traffic and Transport Management for Special Events – Final Approval Application Form (Form C)" to Council**;

During the event:

- 4q. access is to be maintained for businesses, residents and their visitors;
- 4r. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;
- 4s. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4t. the riders are to be made aware of and are to follow all the general road user rules whilst riding on public roads;
- 4u. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4v. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event;
- 4w. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity, and,
- 4x. the event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be undertaken as outlined in the TMP.

Item: 2.3 LTC - Proposed Line Marking in Grose Wold Road and Grose River Road, Grose Wold - (Hawkesbury) - (80245)

REPORT:

Introduction:

Representation has been received requesting that centre line marking be provided along Grose Wold Road and Grose River Road, Grose Wold, to improve road safety and stop vehicles crossing over to the wrong side of the road.

Discussion:

Central line marking assists drivers in providing a separation between the travelling lanes. Double Barrier lines (BB) are used to create no-overtaking zones in roads where there is restricted overtaking sight distance due to horizontal or vertical curves, or both, or where a hazardous condition exists such as approaches to an intersection, side road intersections or mid-block central roadway obstructions. Dividing line marking is generally used on sealed pavements widths of 5.5 metres or more.

Grose Wold Road extends from Grose River Road to Grose Vale Road for a distance of approximately 4,070 metres. The sealed width of Grose Wold Road is generally in the order of 5.5 metres or wider with the exception of a section of road 110 metres in length approximately 40 metres from Grose Vale Road (Chainage 3,920m to 4,030m from Grose River Road).

ORDINARY MEETING

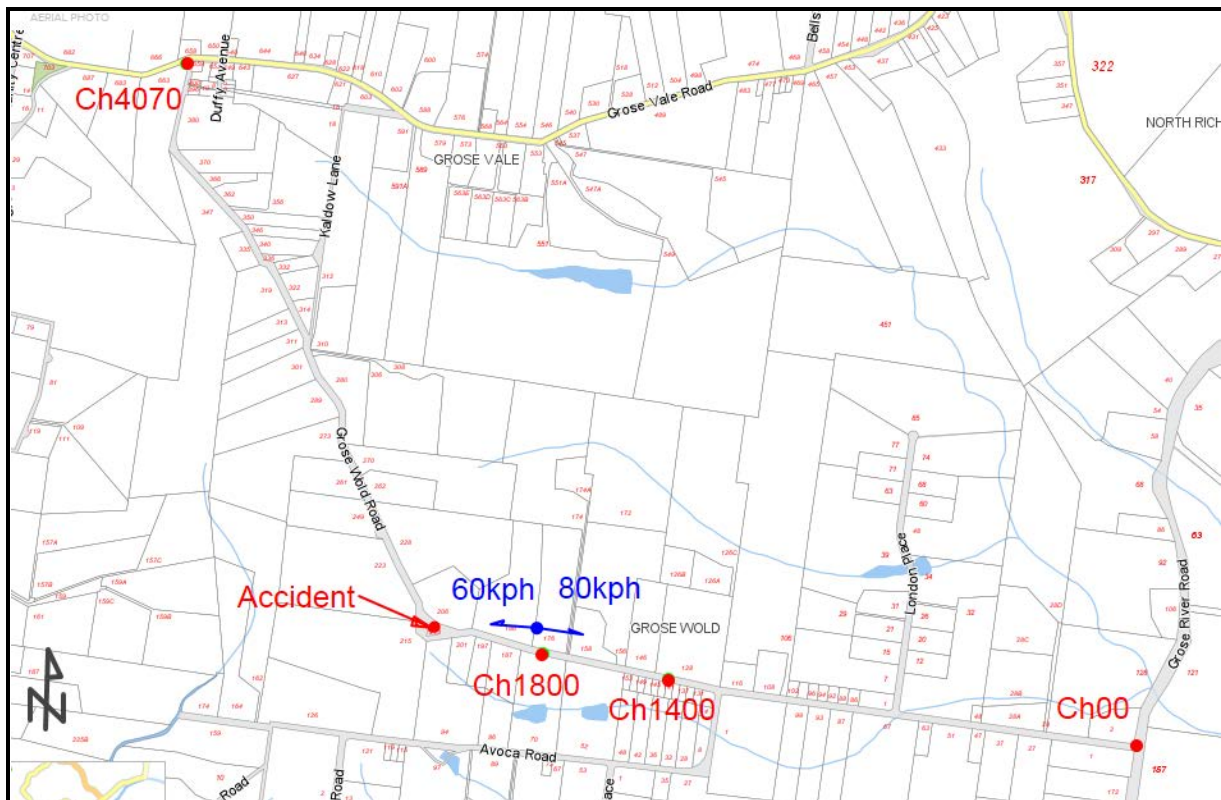
Reports of Committees

There are sections along Grose Wold Road with existing centre line marking as listed below:

- Chainage 2,083m to 2,222m = 139m of BB
- Chainage 2,416m to 2,619m = 203m of BB
- Chainage 2,674m to 3,239m = 565m of BB
- Chainage 3,768m to 3,920m = 152m of BB
- Chainage 4,030m to 4,070m = 40m of BB.

It is proposed to provide centre line marking consisting of Double Barrier (BB) and Separation (S1) lines along Grose Wold Road incorporating the existing line marking commencing from Grose River Road through to Grose Vale Road. The proposed line marking will provide a continuity of line marking over the full length of the road by connecting up the existing gaps between the sections of road with lines. The majority length of Grose Wold Road requires Double Barrier Lines. The section of road between Chainage 1,400m and 1,800m (400m) can be accommodated with a Separation line as this section is generally straight and fairly flat. The section of Grose Wold Road between Chainage 3,920m and 4,030m (110m) has a width in the order of 5.2 metres and the distance of 110 metres is insufficient for overtaking. It is proposed to line mark this section of road with BB lines given its close proximity to the intersection of Grose Vale Road and the horizontal curve to the south. The Australian Standard AS1742.2 permits this given it is a short length of road and it is safer to line mark this section of road than leaving it un-marked. In time this section of road should be widened to 5.5 metres.

Grose Wold Road has a speed limit of 80kph and 60kph. The speed limit changes at the approximate mid-point of Grose Wold Road with the eastern section being 80kph and the western section 60kph. Traffic numbers along Grose Wold Road are in the range of ADT (Average Daily Traffic) = 913 (2003) eastern section and ADT = 602 (2007) western section.



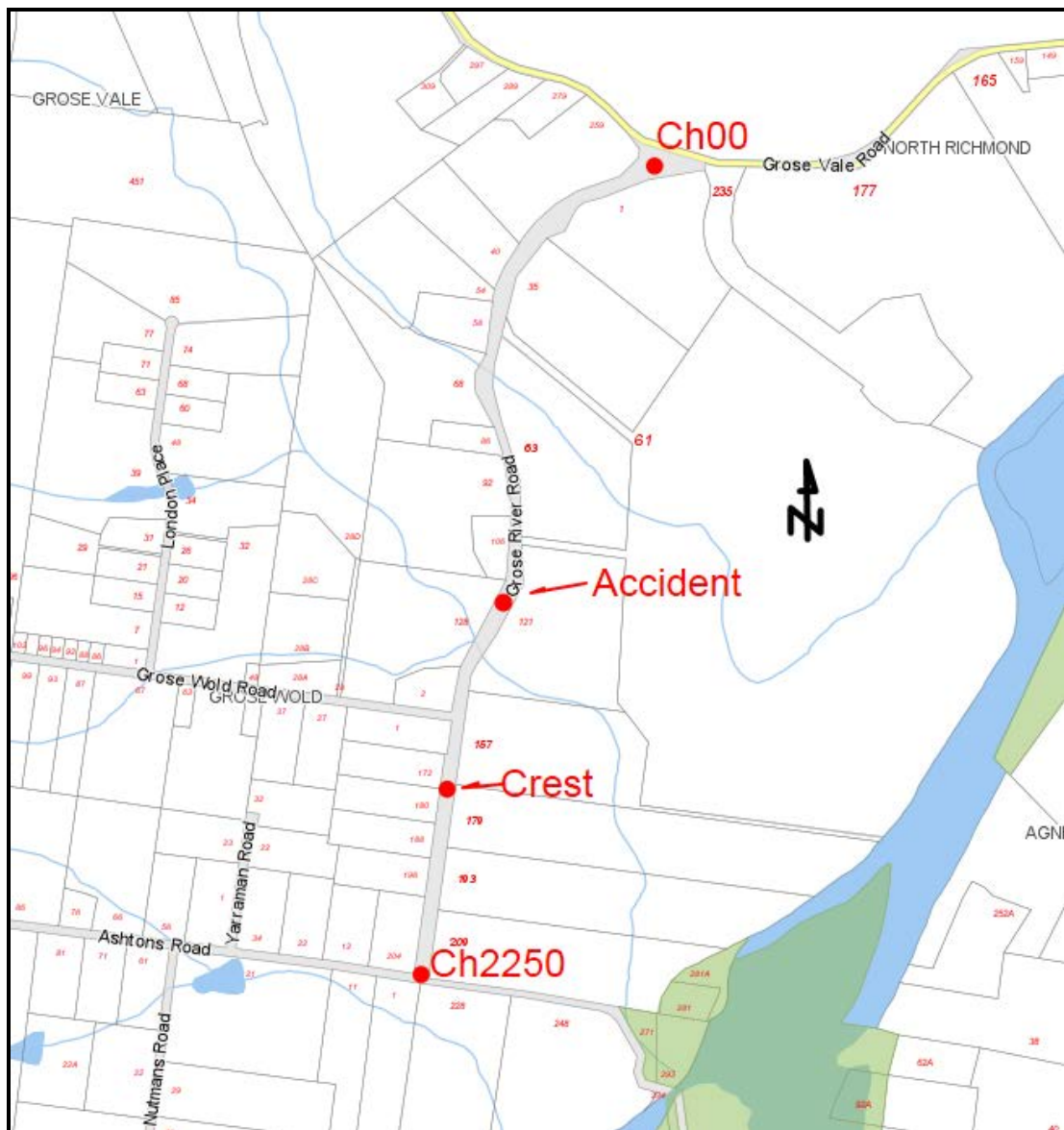
Grose River Road extends from Grose Vale Road to the entry of Navua Reserve. The main trafficable section along Grose River Road is between Grose Vale Road and Ashtons Road for a distance of approximately 2,250 metres. The sealed width of Grose River Road is generally in the order of 5.5 metres or wider with the exception of a section of road 200 metres in length approximately 40 metres from Ashtons Road (Chainage 2010m to 2210m from Grose Vale Road).

There are sections along Grose River Road with existing centre line marking as listed below:

- Chainage 0m to 87m = 87m of BB
- Chainage 721m to 1649m = 928m of BB
- Chainage 2,210m to 2,250m = 40m of BB.

It is proposed to provide centre line marking (Double Barrier BB) along Grose River Road incorporating the existing line marking, commencing from Grose Vale Road through to Ashtons Road. The proposed line marking will provide a continuity of line marking over the full length of the road by connecting up the existing gaps between the sections of road with lines. This includes the section of Grose River Road which has a width in the order of 5.3 metres. It is proposed to line mark this section of road with BB lines given its close proximity to the intersection of Ashtons Road and the crest to the north. The distance between the crest and intersection is 200 metres which is insufficient for overtaking. The Australian Standard AS1742.2 permits this given it is a short length of road and it is safer to line mark this section of road than leaving it un-marked.

Grose River Road has a speed limit of 80km/h. Traffic numbers along Grose River Road are in the order of ADT = 228 (2001).



ORDINARY MEETING
Reports of Committees

The RTA/RMS Accident Database indicates one accident along each road during the five year period from July 2010 to June 2015. Both sections of road have existing line marking where the accidents occurred.

The accident in Grose Wold Road is in the vicinity of No 215 at its approximate mid-point which is on a bend in the road. The accident occurred in September 2010 resulting in a fatality. The Accident RUM (Road User Movement) Code of 85 indicates off to the right on a left hand bend and into an object.

The accident in Grose River Road is in the vicinity of No. 121, approximately 1,250 metres from Grose Vale Road and is on a bend in the road. This accident occurred in September 2013 resulting in a non-casualty accident. The Accident RUM Code of 81 indicates off to the left on a right hand bend and into an object.

The provision of line marking along both roads will ensure that traffic is separated. The provision of Double Barrier Lines will ensure that vehicles are not overtaking where it is unsafe to do so. This takes into consideration road environment where there are short straight sections of road, horizontal and vertical curves and approaching intersections. There are rural properties on both sides of these roads.

Summary:

Grose Wold Road and Grose River Road are local rural roads in the Grose Wold area. The roads have a central seal with unsealed shoulders. The rural aspect of the area tends to promote unsafe overtaking of vehicles.

The following line marking and associated Retroreflective Raised Pavement Markers (RRPMs) be undertaken in Grose Wold Road and Grose River Road to improve road safety and discourage unsafe overtaking, incorporating existing line marking as listed below:

1. Grose Wold Road – Commencing at Grose River Road towards Grose Vale Road:
 - Chainage 0m to 1,400m – Double Barrier Line (BB) with RRPM's
 - Chainage 1,400m to 1,800m – Separation Line (S1) with RRPM's
 - Chainage 1,800m to 4,070m - Double Barrier Line (BB) with RRPM's
2. Grose River Road – Commencing at Grose Vale Road towards Ashtons Road:
 - Chainage 0m to 2,250m – Double Barrier Line (BB) with RRPM's.

RECOMMENDATION TO COMMITTEE:

That the following line marking and associated Retroreflective Raised Pavement Markers (RRPMs) be undertaken in Grose Wold Road and Grose River Road, Grose Wold, to improve road safety and discourage unsafe overtaking, incorporating existing line marking as listed below:

1. Grose Wold Road – Commencing at Grose River Road towards Grose Vale Road:
 - Chainage 0m to 1,400m – Double Barrier Line (BB) with RRPM's
 - Chainage 1,400m to 1,800m – Separation Line (S1) with RRPM's
 - Chainage 1,800m to 4,070m - Double Barrier Line (BB) with RRPM's
2. Grose River Road – Commencing at Grose Vale Road towards Ashtons Road:
 - Chainage 0m to 2,250m – Double Barrier Line (BB) with RRPM's.

APPENDICES:

There are no supporting documents for this report.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Peter Reynolds, seconded by Inspector Peter Jenkins.

Support for the Recommendation: Unanimous support

That the following line marking and associated Retroreflective Raised Pavement Markers (RRPMs) be undertaken in Grose Wold Road and Grose River Road, Grose Wold, to improve road safety and discourage unsafe overtaking, incorporating existing line marking as listed below:

1. Grose Wold Road – Commencing at Grose River Road towards Grose Vale Road:
 - Chainage 0m to 1,400m – Double Barrier Line (BB) with RRPM's
 - Chainage 1,400m to 1,800m – Separation Line (S1) with RRPM's
 - Chainage 1,800m to 4,070m - Double Barrier Line (BB) with RRPM's
2. Grose River Road – Commencing at Grose Vale Road towards Ashtons Road:
 - Chainage 0m to 2,250m – Double Barrier Line (BB) with RRPM's.

Item: 2.4 LTC - Light Up Windsor Festival 2016 - Windsor (Hawkesbury) - (80245, 94012)

REPORT:

An application has been received from the Windsor Business Group Inc. seeking approval (in traffic management terms) to conduct the Light Up Windsor Festival 2016, on Thursday, 1 December 2016.

The event organiser has advised;

- The event will be undertaken along George Street (Windsor Mall) between Baker Street and Kable Street, Windsor;
- The event is to officially turn on the lights – Solar, which will be in the Plane Trees within this section of the Mall. The lights will come on at Dusk. Led flood lights will be placed under the trees for the evening only;
- This is the fifth year the event is being run, and the first year within Windsor Mall;
- The event involves Stalls, a sausage sizzle, children performing song and dance, Santa, Mrs Clause and their Elf.
- Approximately 200 participants are expected for the event;
- Approximately 200 spectators coming and going are expected;
- The event will be conducted between 6pm and 9pm with setup commencing at 5pm;

ORDINARY MEETING
Reports of Committees

- The closure of roadway of George Street within Windsor Mall between Baker Street and Kable Street, Windsor is not required. The roadway within the Mall will not be obstructed and kept clear of any structures;
- Access for emergency vehicles will be available at all times;
- There will be a 1.8 metre walkway so that business in the area is not impeded;
- The event will follow the guidelines of the Windsor Mall Policy;
- The event will be undertaken in a similar manner to the Sunday Markets within the Mall;
- There will be 12 Market Stalls (No. 1 to 12 as outlined in the Event Site Plan. No. 13 will be a registration and marshalling point for stall holders, performers and officials and will be run by the Windsor Business Group;
- The Stalls will be appropriately located within the Mall area to not impede traffic access and shop fronts;
- Stall holders and entertainers will have the appropriate Public Liability Insurance;
- All shops within the precinct have been notified and a majority of them will be open on the evening;
- Setting up of Stalls: All traffic will enter via Baker Street to the Mall. Stall holder vehicles will not be permitted to enter the Mall before 5pm or after 5:30pm. A Marshall will direct all stall holders to their location. Exit from the Mall will be via Kable Street only, in an orderly manner directed by the Marshall. All vehicles must be departed from the Mall area by 5:30pm. All Stall holders will be required to unload all items and remove their vehicle before setting up their Stall;
- Departure of Stall holders after the festival: There will be no vehicles to enter the Mall until 9pm and entry will be via Baker Street and departure will be via Kable Street and will be marshalled;
- Children performing, will be marshalled in the area of the Paddlewheel from 6pm.
- Parking areas are available within Council car parks and on-street parking, all within walking distance to the Event;

Details of the Event Site Plan are contained in Attachment 1.

Discussion:

It would be appropriate to classify the event as a “**Class 2**” special event under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may impact minor traffic and transport systems, which includes the occupation of Windsor Mall, and there may be a low scale disruption to the non-event community.

The event organiser is utilising Windsor Mall between Baker Street and Kable Street, Windsor. The Mall provides access for both pedestrian and vehicular traffic. The event organiser has stipulated that the Mall will not be closed to vehicular traffic and will ensure that the roadway along the Mall area be opened at all times. On this basis all activities within the Mall will be contained and confined outside of the roadway. The closure of the roadway within the Mall will not be permitted.

The event organiser has submitted the following items in relation to the event: Attachment 2 (ECM Document Set ID No: 5595890):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,

ORDINARY MEETING

Reports of Committees

2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Copy of Insurance Policy which is valid to 01 July 2017, however does not include Hawkesbury City Council and the Roads and Maritime Services as an Interested Parties,
5. Event Site Plan,
6. Copy of the application to the NSW Police Force,
7. Copy of Consultation letter delivered to shops in the Mall.

RECOMMENDATION TO COMMITTEE:

That:

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Light Up Windsor Festival 2016 event, located along George Street (Windsor Mall) between Baker Street and Kable Street, Windsor, planned for Thursday, 1 December 2016 between 6pm and 9pm be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions;

Prior to the event:

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health and Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally Council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the site by the event organiser prior to the event;

ORDINARY MEETING

Reports of Committees

- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 4d. the event organiser is to **submit a Transport Management Plan (TMP) for the entire event incorporating a Traffic Control Plan (TCP), if identified in the TMP, to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 4e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 4f. as the event involves the occupation of George Street (Windsor Mall), the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy the road;
- 4g. the event organiser is to obtain written approval from Councils' Corporate Services and Governance section for the use of Windsor Mall; **a copy of this approval to be submitted to Council;**
- 4h. the event organiser is to advertise the event in the local press stating the entire extent of the event two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 4i. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 4j. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 4k. the event organiser is to directly notify all the residences and businesses which may be affected by the event at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council;**
- 4l. the event organiser is to **submit** the completed "Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" **to Council;**

During the event:

- 4m. access is to be maintained for businesses, residents and their visitors;
- 4n. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;
- 4o. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);

ORDINARY MEETING
Reports of Committees

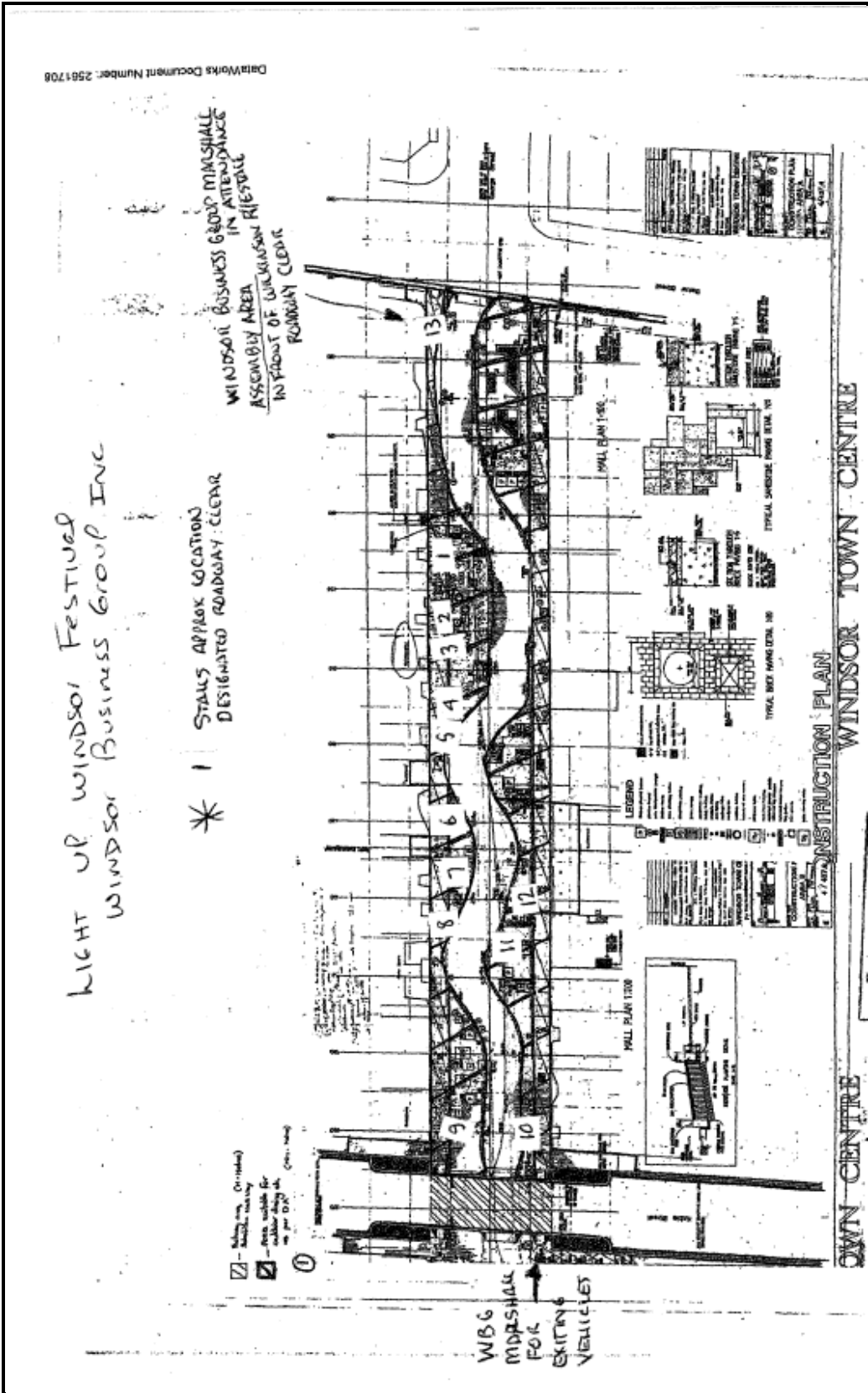
- 4p. in accordance with the submitted TMP and associated TCP (if identified in the TMP), appropriate advisory signs and traffic control devices (if required as part of the TCP) are to be placed for the event, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4q. the participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- 4r. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity.

APPENDICES:

AT – 1 Light Up Windsor Festival 2016 – Event Site Plan

AT – 2 Special Event Application - (ECM Document Set ID No: 5595890) - *see attached*

AT – 1 Light Up Windsor Festival 2016 – Event Site Plan



COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Peter Reynolds, seconded by Inspector Peter Jenkins.

Support for the Recommendation: Unanimous support

That:

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Light Up Windsor Festival 2016 event, located along George Street (Windsor Mall) between Baker Street and Kable Street, Windsor, planned for Thursday, 1 December 2016 between 6pm and 9pm be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions;

Prior to the event:

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health and Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally Council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the site by the event organiser prior to the event;
- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**

ORDINARY MEETING
Reports of Committees

- 4d. the event organiser is to **submit a Transport Management Plan (TMP) for the entire event incorporating a Traffic Control Plan (TCP), if identified in the TMP, to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 4e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities**;
- 4f. as the event involves the occupation of George Street (Windsor Mall), the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy the road;
- 4g. the event organiser is to obtain written approval from Councils' Corporate Services and Governance section for the use of Windsor Mall; **a copy of this approval to be submitted to Council**;
- 4h. the event organiser is to advertise the event in the local press stating the entire extent of the event two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 4i. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4j. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4k. the event organiser is to directly notify all the residences and businesses which may be affected by the event at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council**;
- 4l. the event organiser is to **submit** the completed "Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" **to Council**;

During the event:

- 4m. access is to be maintained for businesses, residents and their visitors;
- 4n. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;
- 4o. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4p. in accordance with the submitted TMP and associated TCP (if identified in the TMP), appropriate advisory signs and traffic control devices (if required as part of the TCP) are to be placed for the event, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);

ORDINARY MEETING
Reports of Committees

- 4q. the participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- 4r. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity.

SECTION 3 - Reports for Information

There are no Reports for information.

SECTION 4 - General Business

There was no General Business.

SECTION 5 - Next Meeting

The next Local Traffic Committee meeting will be held on Monday, 9 January 2017 at 3pm in the Small Committee Room.

The meeting terminated at 4:15pm.

oooO END OF REPORT Oooo

ordinary

section 5

notices of motion

ORDINARY MEETING

Notices of Motion

ORDINARY MEETING

Notices of Motion

SECTION 5 - Notices of Motion

NM **Use of exotic animals in circus events in the Hawkesbury LGA - (79351, 138882)**

Previous Item: 25, Ordinary (24 February 2015)
 NM1, Ordinary (11 November 2014)

Submitted by: Councillor Wheeler

NOTICE OF MOTION:

That:

1. Council as a policy objective seek to prohibit those circuses which use wild, native or exotic animals in their performances, including but not limited to animals such as elephants, lions, tigers, monkeys and apes from using Council premises.
2. The Draft Policy on Circuses, previously reported to Council on 24 February 2015 and attached to this Notice of Motion, now be placed on public exhibition for 28 days and then re-reported to Council.

Background

Animals are still used in some circuses in NSW. In 2014, Council reviewed its Circus Events Policy. Community feedback regarding use of exotic animals and information obtained during the process was sufficient for Council staff to recommend that Council restrict circuses using Council premises to the use of domestic animals only and prohibit circuses which include "trained wild/exotic animals in their performances". Council noted the report but resolved not to act on the recommendation. It is now time to revisit that decision. The relevant aspects of the report are summarised below.

The report advised that there are only two remaining circuses in Australia that continue to use exotic animals, Stardust Circus and Lennon Bros Circus. Both have visited the Hawkesbury and have operated on Council premises. Both use caged lions and monkeys, as well as other animals in their performances. Community feeling against such actions is high. Several councils have now banned animal circuses, including Hornsby, Blue Mountains, Parramatta and Newcastle. Other highly successful and extremely popular circuses who do not use exotic animals have performed to large crowds in the Hawkesbury. The Moscow Circus is a notable example.

The RSPCA, while conceding that exotic animals are housed within the standards of the required protection legislation, states that a circus, no matter how well managed, cannot provide an appropriate environment for wild animals. The RSPCA supports councils restricting animal circuses.

"Life in a circus for animals such as elephants, large cats and monkeys is not compatible with their physiological, social and behavioural needs. Performing circus animals are kept for prolonged periods in close confinement, in artificial social groups and are continually being transported between circus venues for the duration of their performing lives. This life leads to stress, boredom and often results in abnormal behaviours such as repetitive pacing or swaying.

Unless there is strong and active discouragement from the local community, circuses will continue to breed and train other wild animals for the sole purpose of performing. Acting to prevent circuses using wild animals from appearing on council land sends a clear message that this activity is no longer acceptable to the Australia community."

ORDINARY MEETING

Notices of Motion

Council is only able to restrict such circuses on its own land, but it would send a clear message to the circus industry about their practices and would be consistent with Council's role in employing and supporting best practices. The current Policy is outdated and does not address the need for sustainable, compassionate actions. Council at its meeting on 24 February 2015 considered a report and draft policy on this matter and resolved that the report be received and noted. The 2015 report is sufficiently recent and comprehensive. We do not need to waste staff time and effort on another. It now behoves Council to accept the staff recommendations and alter our Policy. A copy of the draft Policy considered by Council on 24 February 2015 is attached.

ATTACHMENTS:

AT - 1 Draft Circus Policy

AT - 1 Draft Circus Policy



Hawkesbury City Council

Policy

DRAFT

Circus Policy

Hawkesbury City Council

ORDINARY MEETING

Notices of Motion



HAWKESBURY CITY COUNCIL POLICY

DRAFT Circus Policy

Table of Contents

1.0	PURPOSE	3
2.0	SCOPE	3
3.0	DEFINITIONS	3
4.0	PROCEDURE.....	3

ORDINARY MEETING

Notices of Motion



HAWKESBURY CITY COUNCIL POLICY

DRAFT Circus Policy

1.0 PURPOSE

The purpose of this policy is to establish Council's position in regards to applications from circuses and related organisations to conduct circus performances and displays of wild/exotic native animals on Council managed land. The policy permits the use of Council premises for circuses or similar events that incorporate the use of domesticated animals.

2.0 SCOPE

The scope of this policy is to establish guidelines for the leasing and licencing of Council land to circuses.

3.0 DEFINITIONS

Wild/Exotic Animals Wild/exotic animals are determined as non-domesticated animals and include but are not limited to animals such as elephants, large cats and non-human primates.

Australian Native Animals Australian native animals are all mammals, fish, reptiles and birds that are native to Australia.

Council Premises Land or buildings under the direct control of Hawkesbury City Council.

4.0 PROCEDURE

The following procedure is to be undertaken for this Policy:

1. An application for an approval to operate a circus shall be considered and decided upon:
 - a) the size and nature of the circus;
 - b) the location and size of the site;
 - c) the proposed hours of operation and duration of the event;
 - d) the likelihood of damage to the site and the likely effects on the amenity of the neighbourhood;
 - e) the likely effects on traffic and parking in the area;
 - f) the availability of sanitary services to the land;
 - g) the level of disruption to other users of the land;
 - h) Parks Plan of Management allows the event to occur; and
 - i) Approvals meet the requirements of the Local Government Act 1993 and its regulations
2. The number of circuses permitted to perform on Council premises in the Local Government Area is to be restricted to three per year.
3. Circuses using Council premises must limit their use of animals to domesticated animals. Hire will not be approved to circuses which include trained wild/exotic animals in their performances, such as elephants, lions, tigers, monkeys and apes.
4. The fee and bond detailed in Councils Schedule of fees and charges must be paid prior to the Circus's occupation of the site.
5. The Circus must comply with the relevant terms and conditions contained with the confirmation of hire and all other relevant local, state and federal regulations.
6. The Council reserves the right to cancel the license at short notice in the event of prolonged heavy rain in the area, or non-compliance with the conditions
7. Approval be subject to the Council being indemnified to Councils satisfaction against any circumstance that may occur in relation to or as a result of such use of the park.

oooO END OF NOTICE OF MOTION Oooo

ORDINARY MEETING

Notices of Motion

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillor Questions from Previous Meetings and Responses - (79351)

REPORT:

Questions - 8 November 2016

#	Councillor	Question	Response
1	Zamprogno	Enquired as to details of the Development Application approval in regard to clearing of the western end of 43 Bootles Lane, Pitt Town for the construction of a temporary detention basin.	The Director City Planning advised that the development surrounding the northern and western sides of the property at 43 Bootles Lane (known as the Bona Vista Precinct) was approved under DA0557/06. This development approval permitted some clearing in the eastern portion of this property to construct stormwater systems. The currently cleared area of 43 Bootles Lane, fronting Pittsmoor Street and Vermont Avenue, was not cleared as part of this approval. A check of Council's historical aerial photos to 1997 (prior to any development of the locality) indicates that the line of vegetation currently on the western and northern portion of the site, has remained essentially unchanged since 1997.
2	Calvert	Enquired as to whether an audit of the extent of footpaths and condition in and around the South Windsor shopping area is available.	The Director Infrastructure Services advised that plans are available and a copy will be provided.
3	Wheeler	Requested that an investigation be carried out regarding trail bike tracks in or near the Aboriginal Reserve at the Cumberland Reach Reserve.	The Director Infrastructure Services advised that the matter will be investigated and if necessary appropriate signage would be installed to assist in compliance.
4	Wheeler	Requested that a clean-up of rubbish at Cumberland Reach Aboriginal Reserve and Charles Kemp Reserve, be undertaken and signs regarding illegal dumping be erected at these sites.	The Director Infrastructure Services advised that the matter will be investigated and rubbish removed and if necessary, appropriate signage installed.

ORDINARY MEETING
Questions for Next Meeting

#	Councillor	Question	Response
5	Reynolds	Enquired if spraying of parks and reserves for bindii would be undertaken this year.	The Director Infrastructure Services advised that spraying of parks and reserves had been carried out and spraying would take place prior to next bindii season.
6	Reynolds	Enquired in regard to the timeframe for the RMS Urban Development and Landscaping Proposal that was to be put out for community consultation.	The Director Infrastructure Services advised that advice had been sought from RMS.
7	Garrow	Enquired in regard to the responsibility for maintenance of boat ramp facilities in Windsor and advised of the need for maintenance following vandalism.	The Director Infrastructure Services advised that Council has responsibility for the maintenance of boat facilities in Windsor and instructions have been issued for inspection and any maintenance required.
8	Rasmussen	Requested an update on the status of the court proceedings applicable to the development applications for the Kingsford Smith Village, North Richmond.	The Director City Planning advised that as the Council has approved these applications the applicant has filed a discontinuance Motion with the Court and the matters are now discontinued.
9	Calvert	Requested an update on the safety processes in place at Elf Mushroom Compost Facility at Mulgrave, in light of the recent fire in its stockpiles.	The Director City Planning advised that a Part 3A State Significant Development approval for the site was issued, by the Minister's Delegate, in May 2012 for expansion works at this site. Condition 9 of that approval required the applicant to surrender all existing development consents (issued by Council) within 12 months of commencement of stage one of the works. This results in Council's previous consents no longer applying to the site. Council staff are working with the Department of Planning to determine exact responsibilities for the enforcement of that consent as Council was/is not the Consent Authority. These details are still being pursued by staff.

oooO END OF REPORT Oooo

ORDINARY MEETING
CONFIDENTIAL REPORTS

CONFIDENTIAL REPORTS

Item: 266 **IS - Tender No. T00048 - Construction of Two Bridges on Upper Macdonald Road, Higher Macdonald - (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 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



ordinary
meeting

end of
business
paper

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