



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 12 March 2013

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 11:00pm. 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 3:00pm 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 request to speak about an item raised in the business paper at the Council meeting. You must register to speak at a Council meeting. To register you must lodge an application form with Council prior to 3:00pm on the day of the meeting. The application form is available on the Council's website, from the Customer Service Unit and by contacting the Manager - Corporate Services and Governance on (02) 4560 4426 or by email at council@hawkesbury.nsw.gov.au.

The Mayor will invite registered persons to address the Council when the item is being considered. Speakers have a maximum of five minutes to present their views. The Code of Meeting Practice allows for three speakers on the Proponent side (i.e. in support) and three for the Respondent side (i.e. in objection). If there are a large number of speakers for one item, speakers will be asked to organise for three representatives to address the Council for either the Proponent or Respondent side (six speakers in total).

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

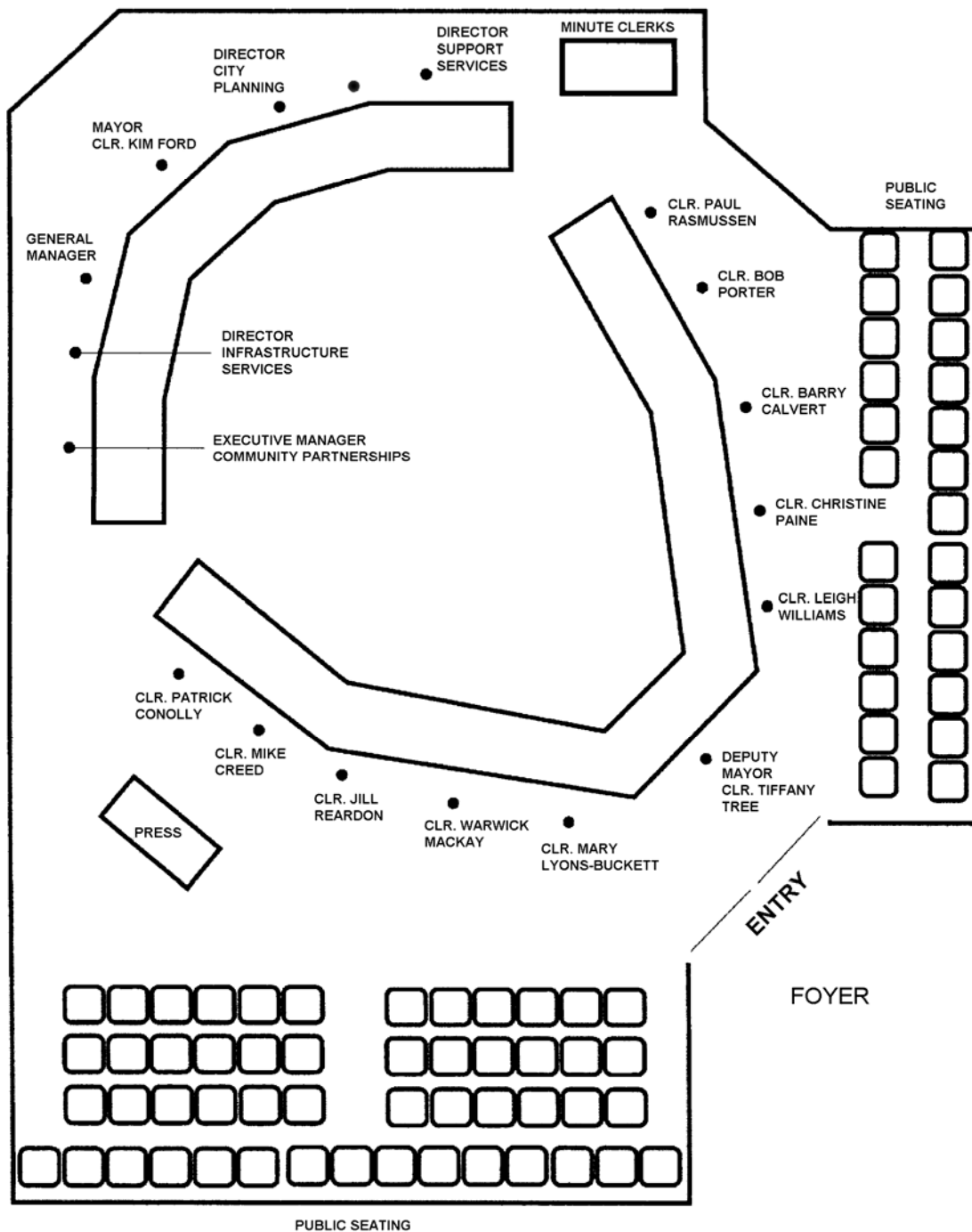
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

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 4426.

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SECTION 3 - Notices of Motion

NM1 - Support Listing of "Yobarnie Keyline Farm", North Richmond onto the State Heritage Register - (79351, 125612)

Submitted by: Councillor M Lyons-Buckett

NOTICE OF MOTION:

That Council:

1. Support the listing of the property 'Yobarnie Keyline Farm' at North Richmond on the State's Heritage Register, and
2. Correspond with local members requesting they make representations to the Minister for Heritage in support of the Heritage Council recommendation to list 'Yobarnie Keyline Farm' on the State Heritage Register.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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NM2 - Objecting to Volunteer Hunting in National Parks, Nature Reserves and State Conservation Areas - (79351, 80105)

Submitted by: Councillor L Williams

NOTICE OF MOTION:

That Council:

1. Notes with concern that the NSW State Government has agreed to amend the Game and Feral Animal Control Act 2002 allowing volunteer hunters to eradicate feral animals in 79 of the State's 799 national parks, nature reserves and state conservation areas.
2. Acknowledges that feral animal control, is one of the greatest threats to Australia's biodiversity, however we believe that volunteer hunters will have a minimal effect on feral animal numbers and result in needless animal suffering.
3. Believes that feral animal control should be undertaken professionally and humanely, not by amateur volunteers who have a vested interest in maintaining feral animal numbers to sustain their sport.
4. Will inform our local community about our concerns and write to the LGSA seeking their support.
5. Will write to the Premier of NSW and Minister for the Environment expressing the following concerns:
 - a) The presence or likelihood of recreational hunters being present represents a safety risk and a serious loss of enjoyment to visitors to our National Parks, State Conservation Areas and Nature Reserves.
 - b) Existing government codes of practice that clearly specify that ground shooting is ineffective in controlling feral animals should be followed.
 - c) Amateur hunters are not trained or skilled enough to ensure that feral animals are humanely culled.
 - d) Eradicating introduced pest animals in our parks should only be implemented by professionals, in a systematic and evidence based way.
 - e) There is evidence that recreational hunting is not cost effective and will undermine existing whole of government integrated feral animal control programs.

BACKGROUND:

1. Our National Parks Estate

Our national parks, nature reserves and state conservation areas are gazetted under the National Parks and Wildlife Act. The objectives of this Act are:

- a) the conservation of nature, including, but not limited to, the conservation of:
 - (i) habitat, ecosystems and ecosystem processes, and
 - (ii) biological diversity at the community, species and genetic levels, and
 - (iii) landforms of significance, including geological features and processes, and
 - (iv) landscapes and natural features of significance including wilderness and wild rivers,

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- b) the conservation of objects, places or features (including biological diversity) of cultural value within the landscape, including, but not limited to:
 - (i) places, objects and features of significance to Aboriginal people, and
 - (ii) places of social value to the people of New South Wales, and
 - (iii) places of historic, architectural or scientific significance,
- c) fostering public appreciation, understanding and enjoyment of nature and cultural heritage and their conservation,
- d) providing for the management of land reserved under this Act in accordance with the management principles applicable for each type of reservation.

It is obvious that hunting (or cattle grazing) does not meet the objectives of the Act and has no place in these special areas.

2. Feral Animal Control

It is acknowledged that feral animal control, is one of the greatest threats to Australia's biodiversity, however volunteer hunters will have a minimal effect on feral animal numbers and result in needless animal suffering.

If it is to be undertaken, feral animal control should be undertaken professionally and humanely, not by amateur volunteers who have a vested interest in maintaining feral animal numbers to sustain their sport.

3. Risk To Park Visitors

Recreational hunters represent a safety risk to visitors to our National Parks, State Conservation Areas and Nature Reserves.

According to a report commissioned for the Game Council, there were 4 shooting-related deaths in NSW between 2000 and 2010.

The risk of serious injury or death to park visitors and staff from accidental shooting is real. The chance of an accident occurring may be fairly low, but the consequences of an accident are tragic and devastating for everyone involved: the victim, the hunter and their families.

Accidental shootings during hunting trips occur periodically in other jurisdictions. There have been two fatal accidental shootings in New Zealand in the last two years.

4. Sydney Morning Herald

An extract from the SMH - 13 April 2011:

NSW Premier Barry O'Farrell says he won't be held hostage to demands from the Shooters and Fishers Party to allow hunting in national parks.

"There will not be a decision to turn our national parks into hunting reserves [and] we're not going to replace literacy and numeracy in our schools with 'How to dismantle a gun in five seconds.'"

Read more: <http://www.smh.com.au/environment/conservation/ofarrell-rules-out-deals-with-shooters-20110413-1ddfw.html>

5. Upside down

On the 30 May 2012, before the changes were made, the State Government announced that 79 reserves were going to be considered as possible areas for recreational shooting.

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However, instead of naming those 79 reserves, when the changes were officially voted in by the State Government on the 27 June 2012, most of our 779 reserves could be opened up for recreational shooting. The only areas that are specifically excluded from hunting are:

- 48 reserves, mostly around the Sydney metropolitan region.
- Areas of national parks that have been declared as Wilderness.
- National parks that have been declared as part of a World Heritage area.

All our national parks, nature reserves and state conservation areas should be excluded from hunting.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 39 **GM - 2013 Floodplain Management Association National Conference (79351, 80286)**

REPORT:

Executive Summary

The 2013 Floodplain Management Association National Conference will be held in Tweed Heads, 28 - 31 May, 2013. Due to its relevance to Council's business, it is recommended that the 2013 Floodplain Management Association National Conference be attended by Councillors and appropriate staff.

Consultation

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

Background

The 2013 Floodplain Management Association National Conference will be held in Tweed Heads, 28 - 31 May, 2013. This year's program, guided by Advisory Committee with representatives from each state and territory, will focus on what we have learnt from the major floods of recent years, the subsequent inquiries, and what we can do better.

Cost of attendance at the 2013 Floodplain Management Association National Conference will be approximately \$2,600.00 per delegate.

Budget for Delegate Expenses - Payments made

- | | |
|---|----------|
| • Total Budget for Financial Year 2012/2013 | \$44,000 |
| • Expenditure to date | \$24,944 |
| • Budget Balance as at 4 March 2013 | \$19,056 |

It should be noted that outstanding commitments of approximately \$9,085 in relation to attendance of Councillors at the 2013 LGMA National Congress & Business Expo to be held in May, 2013 and the Waste 2013 Conference to be held in April/May, 2013, are not reflected in the balance indicated above.

Conformance to Community Strategic Plan

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

- Have an effective system of flood mitigation, fire and natural disaster management and community safety which protects life, property and infrastructure.

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Identify community needs, establish benchmarks, plan to deliver and advocate for required services and facilities.
- Develop disaster response and community safety plans.

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Financial Implications

Funding for this proposal will be provided from the Delegate Expenses Budget.

RECOMMENDATION:

That attendance of nominated Councillors, and staff members as considered appropriate by the General Manager, at the 2013 Floodplain Management Association National Conference at an approximate cost of \$2,600 per delegate be approved.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 40 **GM - Hawkesbury Civic Citizenship Committee Membership - (79351, 96972)**

Previous Item: 216, (Ordinary, 27 November 2012)

REPORT:

Executive Summary

This report has been prepared to advise Council of the replacement of Mr Barry Adams as representative of the Richmond Club on the Hawkesbury Civic and Citizenship Committee by Mr Geoff Luscombe and suggesting that Mr Adams be offered a position as a community representative on the Committee.

Councillor Barry Calvert has also indicated that he wishes to resign from his position on the Hawkesbury Civic and Citizenship Committee. Meetings of this Committee are generally held twice per year and it would be appropriate to seek replacement Councillor representation to ensure a quorum.

Consultation

Correspondence was forwarded to the Richmond Club seeking appointment of their representative on the Hawkesbury Civic and Citizenship Committee on 11 October 2012.

Background

As well as Councillor representation, a number of Council committees have community representatives appointed to them by Council. The constitutions for these Committees generally provide that in the month following the quadrennial election Council will invite nominations from members of the community for membership to the Advisory Committee.

Community members are generally appointed to committees on the basis of their industry knowledge and experience, technical skills and/or their ability to interpret the common interests of residents.

In the case of the Hawkesbury Civic and Citizenship Committee only one nomination was received and accepted.

Council at its meeting held 27 November 2012 resolved in relation to community representation on Council committees that:

"That Council accept the nomination of Mr Todd Miladinovic as community representative on the Hawkesbury Civic and Citizenship Committee and that Council continue to pursue other suitable community representatives for the committee."

Correspondence was forwarded to the Richmond Club on 11 October 2012 advising that:

"The Hawkesbury Civic and Citizenship Committee Constitution provides that the membership of the Advisory Committee shall include "a representative from each of the sponsor organisations: Richmond Club and Hawkesbury Sports Council, nominated by these organisations for the period that these organisations remain as sponsors to their respective award programs."

As a sponsor of the Australia Day Awards Program we would like to invite you to nominate a representative from your organisation to sit on this committee.

It would be appreciated if this advice could be received prior to Friday, 2 November 2012 to allow the matter to be reported to Council."

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Unfortunately the reply was received after the report to Council was prepared. That correspondence indicated that the Board nominated Geoff Luscombe, the current Chairman of the Richmond Club to act as a representative of the Club.

Mr Barry Adams has undertaken the role of representing the Richmond Club on the Committee for close to a decade. Mr Adams, as well as being a former Board Member of the Richmond Club, is currently a Member of the Board of Advice for Hawkesbury Hospital, a member of Richmond Rotary Club and a volunteer for Meals on Wheels. Given Mr Adams' long term and very valuable service to the Committee it is recommended that Mr Barry Adams be invited to join the Hawkesbury Civic and Citizenship Committee as a community representative.

Councillor Barry Calvert has also previously indicated that he wishes to resign his position of the Civic and Citizenship Committee. Meetings of this Committee are generally held twice per year and it would be appropriate to seek replacement Councillor representation to ensure a quorum.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Have transparent, accountable and respected leadership and an engaged community.

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Develop and implement a community participation and partnership program.

Financial Implications

There are no financial implications for this report.

RECOMMENDATION:

That:

1. Mr Barry Adams be thanked for his long term service representing the Richmond Club on the Hawkesbury Civic and Citizenship Committee and he be invited to act as a community representative on the Hawkesbury Civic and Citizenship Committee.
2. Council note the advice of the Richmond Club that Mr Geoff Luscombe will represent the Club on the Hawkesbury Civic and Citizenship Committee.
3. The resignation of Councillor Calvert from the Hawkesbury Civic and Citizenship Committee be noted and replacement Councillor representation be sought.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 41 **GM - NSW Independent Local Government Review Panel - Submission to Consultation Paper "Better, Stronger Local Government - The Case for Sustainable Change - November 2012" - (79351)**

Previous Item: 148 (Ordinary, 28 August 2012)

REPORT:

Executive Summary

In August 2011 the Division of Local Government (DLG) conducted a "Destination 2036 Workshop (the Workshop) with representatives from all NSW councils and other related industry groups attending.

Subsequently, the Minister for Local Government (the Minister) established a Steering Committee (SC) to progress the work undertaken at the Workshop. The SC then produced an Actions Plan and Outcomes Paper which following their release for comment are now guiding the SC's activities.

In addition, the Minister also appointed the NSW Independent Local Government Review Panel (the Panel). The Panel's Terms of Reference *"is to investigate and identify options for governance models, structural arrangements and boundary changes for local government in NSW"* taking a number of matters/issues into consideration.

In July 2012 the Panel released a Consultation Paper titled *"Strengthening Your Community"* and called for submissions on a number of *"Key Questions"* raised in the Paper. Submissions on that Paper closed on 14 September 2012. Following the consideration of a report at the meeting on 28 August 2012 Council made a submission on the Paper.

The Panel has now released a further Consultation Paper (the Paper) titled *"Better, Stronger Local Government – The Case for Sustainable Change"* and is calling for submissions on the Paper with a request that submissions should be made by 22 March 2013. A Draft Submission has been prepared for Council's consideration to enable Council to make a submission on the Paper.

Consultation

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

Background

In August 2011 the DLG conducted a "Destination 2036" Workshop (the Workshop) with representatives from all NSW councils and other related industry groups attending. Council was represented at the Workshop by the Mayor and General Manager with a report concerning the outcomes of the Workshop being submitted to the Council meeting of 13 September 2011 for Council's information.

Subsequently, the Minister established a SC to progress the work undertaken at the Workshop. The SC consists of representatives of the Local Government Shires Association of NSW (LGSA), Local Government Managers Australia (LGMA) and the DLG. The SC then produced an Actions Plan and Outcomes Paper which following their release for comment are now guiding the SC's activities.

In addition, the Minister also appointed the Panel. The Panel's Terms of Reference are:

"to investigate and identify options for governance models, structural arrangements and boundary changes for local government in NSW", taking into consideration:

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1. *Ability to support the current and future needs of local communities*
2. *Ability to deliver services and infrastructure efficiently effectively and in a timely manner*
3. *The financial sustainability of each local government area*
4. *Ability for local representation and decision making*
5. *Barriers and incentives to encourage voluntary boundary changes*

In conducting the review the Panel will:

- *Ensure recommendations meet the different nature and needs of regional, rural and metropolitan communities*
- *Consult widely with the broader community and key stakeholders*
- *Take into account the work completed, and future work to be completed, under the Destination 2036 initiative*
- *Take into account the broader interests of the State including as outlined in the State Plan*
- *Consider the experiences of other jurisdictions in both the nature and implementation of local government reform*
- *Take into account the Liberal-National's 2011 election policy of no forced amalgamations"*

It has been indicated that the Panel intends to undertake its review process in four stages, namely:

Stage 1: Identifying key issues and exploring ideas (July - September 2012)

Stage 2: Options for change (October 2012 - January 2013)

Stage 3: Future directions (February - May 2013)

Stage 4: Final report (June - July 2013)

As part of "Stage 1" the Panel has now released a Consultation Paper titled *"Strengthening Your Community"*. Council considered a report in relation to this particular paper at its meeting held on 28 August 2012 and subsequently resolved:

"That the Draft Submission attached to the report be endorsed and referred to the NSW Independent Local Government Review Panel in response to the Panel's Consultation Paper "Strengthening Your Community", July 2012."

In association with "Stage 2" the Panel has released a further Consultation Paper (the Paper) titled *"Better, Stronger Local Government – The Case for Sustainable Change"* and is calling for submissions on the Paper. A copy of the Paper has previously been provided to all councillors and is also available at:

www.localgovernmentreview.nsw.gov.au/documents/LGR/Stage One Consultation - The Case for Change.pdf

In addition, the Panel has also established an on-line survey relating to the Paper which can be completed either on an organisational or individual basis. The on-line survey can be accessed at:

www.localgovernmentreview.nsw.gov.au/LGRSurvey.asp

It will be noted that the “Preamble” to the Panel’s current Paper suggests a number of “Signposts” which were identified throughout the Paper. These “Signposts” are:

- *The local government system and challenges faced.*
- *Fiscal responsibility and financial management.*
- *Services and infrastructure.*
- *Structures and boundaries.*
- *Governance.*
- *A compact for change and improvement.*

The Panel is requesting that submissions be made on the latest Paper by 22 March 2013. A Draft Submission, included as Attachment 1 to this report, has been prepared for Council’s consideration to enable Council to make a submission on the Paper. It should be noted that this draft submission has been prepared on the basis of the “*Signposts*” being addressed in relation to local government as a whole rather than being “Hawkesbury specific” except where relevant.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services.
- Maintain its independent identity and voice through strong local government and community institutions.

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Have ongoing engagement and communication with our community, governments and industries.
- Maintain and review a sustainable long term financial framework.

Financial Implications

No financial implications directly applicable to this report.

RECOMMENDATION:

That the Draft Submission attached to the report be endorsed and referred to the NSW Independent Local Government Review Panel in response to the Panel’s Consultation Paper “*Better, Stronger Local Government – The Case for Sustainable Change*”, November 2012

ATTACHMENTS:

- AT - 1** Draft Submission to the NSW Independent Local Government Review Panel’s Consultation Paper “*Better, Stronger Local Government – The Case for Sustainable Change*”, November 2012

AT - 1 Draft Submission to the NSW Independent Local Government Review Panel's Consultation Paper "Better, Stronger Local Government – The Case for Sustainable Change", November 2012.

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Draft Submission to the NSW Independent Local Government Review Panel's Consultation Paper "Better, Stronger Local Government – The Case for Sustainable Change", November 2012.

Hawkesbury City Council has reviewed the Consultation Paper (the Paper) issued by the NSW Independent Local Government Review Panel (the Panel) titled "Better, Stronger Local Government – The Case for Sustainable Change" and is pleased to accept the opportunity to provide feedback and comment based upon the "Signposts" identified throughout the Paper.

In respect of each of the "Signposts" the following comments are provided:

- ***The local government system and challenges faced.***

It must be recognised that improvements can always be made to any system of organisational operation, be it private enterprise or government at all levels, including local government. To continue to operate successfully and develop and evolve as organisations we must strive for continual improvement, refinement and development.

Box 2 on page 12 of the Paper suggests a number of elements of an effective system of local government and while most of these can be agreed with it must also be recognised that a local government organisation is generally a more complex organisation than many private companies due the need to address a vast range of objectives and aspirations of the community virtually simultaneously and at the same time provide a range of services and facilities far beyond that normally provided individually in the private sector.

The following comment from the Council's submission on the "Strengthening Your Community" Consultation Paper is still considered to be relevant in this regard:

"Currently local government is structured on the basis of a "one model fits all" approach. In reviewing local government it will be important for alternate structures to be considered and for a more flexible approach to be developed that recognises the variations that occur between local government authorities. A model or structure that works well in say the metropolitan or major city environment may not be the most suitable for a rural or regional urban area. As such, it is suggested that a number of models that suit the varying environments of local government could and should be considered rather than the traditional "one model fits all" situation."

It is recognised that an increased strategic capacity is evolving within local government and this needs further development and improvement. However, it is again suggested that a "one model fits all" solution may also not be the most appropriate and in respect of this aspect due regard needs to be had for relevant capacities and community requirements. As such, the Panel is again encouraged to approach this task with a view to the possible need to develop a number of models that suit potentially varying circumstances.

- ***Fiscal responsibility and financial management.***

Most local government organisations are facing the situation where they must respond to increasing community expectations for services, facilities, planning and infrastructure that are essential to a community while also dealing with an income base that does not generally keep pace with these changing and increasing expectations.

A review of the distribution of Financial Assistance Grants needs to be undertaken. Allocation should not be solely based on population or demographics with a council's financial position and long term financial capacity also being suggested as an important consideration. A review of the distribution of the GST should also incorporate a more appropriate allocation of a portion of the revenue stream to local government than presently occurs.

It must be recognised that local government generally does and has been managed in a financially responsible manner, however is faced with significant restrictions on its revenue raising abilities. At the same time it has also been faced with significant cost impositions (cost shifting) from other levels of government over the years which have not enhanced its current fiscal position. Information in respect of the ongoing costs of "cost shifting" are compiled on a regular basis by the Local Government & Shires Association.

The overall financing and revenue raising capacity of local government requires significant review to ensure the continued viability and financial sustainability of local government. This review should be broader reaching than the traditional concept of the rating structure and the effects of rate pegging. In realistic terms the income base and revenue generation potential of councils has not increased significantly over the last few decades, however, the services provided by councils and expected by the community have changed and increased significantly.

- **Services and infrastructure.**

Council's previous submission to the Panel in relation to infrastructure renewal and improvement suggested:

"A key challenge for Council in the next 25 years is considered to relate to the existing and increasing infrastructure maintenance and renewal backlog. This situation is compounded by the effects of rate pegging; cost shifting by state and federal governments; increased expectations for existing and new services provided or to be provided by councils and the imposition of additional requirements upon councils without a corresponding funding or resourcing increase.

There is also a significant need for improvement to existing infrastructure, particularly at the state responsibility level in relation to Regional roads and bridges to improve access both within the City as well as access to and from the region."

The level of the "infrastructure backlog" has been an issue of ongoing discussion and debate over a number of years and it is becoming more important for this to be identified with more accuracy. The enhancement and development of appropriate asset management regimes across local government as part of the Integrated Planning and Reporting process will assist in this regard.

It is and will be important to identify and develop appropriate responses to the backlog currently in existence with infrastructure maintenance and renewal as this is not able to be adequately addressed within the current financial structure available to local government. Whilst councils can and do continue to work towards productivity improvements these will not resolve the situation and additional funding needs to be made available to local government, either by direct funding from state and federal governments or by additional revenue raising capabilities.

- **Structures and boundaries.**

Council has previously indicated that it must be recognised that the "one size fits all" solution for local government into the future is, in fact, not the solution. Varying models to suit possible varying situations should be considered and developed if appropriate to facilitate an improved result for both an organisations operations and for the local community.

Likewise, it is suggested that the concept of broad based amalgamations of local government authorities is not the panacea for the problems/difficulties of local government. While some amalgamations may be appropriate in the correct circumstance there is also the risk of alienating the local community with actions that do not recognise their needs, aspirations and desires and does not have significant regard to appropriate "communities of interest".

The continued pursuit of voluntary boundary changes in appropriate circumstances is supported, however, as pointed out by the Panel to be successful these would need to be adequately resourced, supported and facilitated.

Much discussion has also been directed toward the concept of regional service provision or, in terms previously used, resource sharing. Previous surveys undertaken by the now Division of Local Government has shown that this concept is currently wide spread within local government with obvious benefits to the organisations concerned. Many successful examples are available. In Hawkesbury City Council's case it operates a Companion Animal Shelter that serves the local government areas of Hawkesbury, Penrith and The Hills and participates in insurance pooling initiatives for self insurance as part of Westpool and United Independent Pools to name only two significant examples. The further encouragement and facilitation of these arrangements should be a key aim of any review of local government in view of the significant benefits possible.

- ***Governance.***

The Paper suggests that a major area of concern relates to the quality of governance in local government. Some of the issues referred to are electoral systems; numbers, quality and effectiveness of elected members; the role of mayors, etc. The roles of both internal and external audit are referred to with a suggestion for a stronger role for both and a move from a compliance approach to one of innovation and improvement.

It is generally acknowledged that the role of the mayor is not currently well defined and that this could be clarified with additional support being provided in relation to strategic political leadership and accountability. Again, the paper refers to a number of differing models, in respect of both mayors and councillors, which could be considered. In view of the varying sizes and types (i.e. city, urban, semi-urban, rural) of councils it is again suggested that a "one size fits all" solution may not suit all circumstances. As such, any proposals in this regard must take into account this variability and the needs of the local community rather than a "system" that may be established and the level of democratic representation should not be negatively impacted.

It is generally considered and accepted that overall local government is in a unique position to be aware of and respond to community concerns as democratically elected bodies in the community. They are aware of, establish and build upon relationships within their communities and are able to represent these communities from a strong local basis. Any proposed changes to the current political and governance arrangements must build upon this strength not detract from it.

A review of the regulation, and associated compliance requirements, of local government by the state government should be undertaken as it is suggested that local government is generally overregulated. As such, a move, as suggested by the Paper, to more efforts being directed toward effective benchmarking and capacity building as distinct from a compliance only approach is worthy of serious consideration.

- ***A compact for change and improvement.***

Council's previous submission to the Panel made comments in respect of points referred to in the current Paper such as:

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"Local government organisations have considerable skill and expertise which needs to be more appropriately recognised by other levels of government. Other levels of government should work in partnership and on a collaborative basis with local government recognising the level of skills and expertise that does exist rather than adopting an overly prescriptive and directive approach to local government that has tended to occur in the past."

and also:

*"Councils, as a legitimate level of government, operate within a statutory framework which largely governs the activities it performs and services it provides. However, within this framework there has been an increasing tendency for councils to be overly regulated with increasing accountability requirements without there being any real benefit or value from the added regulation. **This is also a further example of the skills and expertise within local government not being recognised or acknowledged by other levels of government resulting in those levels considering there is a need to direct and instruct local government on how it should operate in minute detail.**"*
(emphasis added)

It is pleasing to note that the current Paper recognises that there have been a number of issues with the state/local government relationship in the past and that part of "the way forward" is to develop and improve upon these overall relationships. Local government, in what ever form it may have into the future, must be recognised as a valued, valid and equal part of the overall government/governance process into the future. For any changes to be truly successful they must be undertaken on a partnership basis with local government rather than local government being carried along as a reluctant passenger.

The Paper also suggests a stronger role for the Division of Local Government and Local Government NSW (LG & SA) into the future and that change *"requires creative and cooperative leadership, and has to be driven hard."* This may in fact be correct but it is suggested that the key principal in this statement is a *"leadership"* approach, which also encapsulates the concept of a partnership, rather than a controlling directive approach. Unfortunately, it is suggested that the latter approach has been more prevalent in the past and it will be very important into the future for the former approach to come to the front.

oooO END OF REPORT Oooo

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Item: 42 **GM - Windsor Business Group - Outcomes of Contribution towards Windsor Christmas Lights Event (79351, 94012)**

Previous Item: 421 (Ordinary 30 November, 2010);
 243 (Ordinary 8 November, 2011);
 172 (Ordinary 9 October, 2012)

REPORT:

Executive Summary

In recent years, Council has provided funds towards the provision of Christmas lights that are undertaken by local business groups. Following relevant processes at the times, funds were allocated to Windsor Business Group (WBG) in 2010, 2011 and 2012 for the provision of Christmas lights and associated activities Windsor CBD.

WBG were successful in receiving the allocation of funds from the 2012/2013 Budget for its 2012 Windsor Christmas Lights project (known as 'Light Up Windsor') in Windsor CBD. 'Light Up Windsor' occurred from Friday 7 December, 2012 when the lights were officially turned on until the end of January, 2013.

This report provides Council with an overview of the funds provision for Christmas lights in 2012 in respect to its resolution and results of the Light Up Windsor project.

Consultation

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

Background

Council allocated \$7,500 in the 2012/2013 Budget for Christmas lights displays and associated activities (including prize money for business lights competitions) undertaken by business groups in our business centres.

Following approaches to relevant business groups/ organisations representing the town centres in line with relevant processes, a request for the allocation of the 2012/2013 Christmas lights funds was received from WBG for its Light Up Windsor 2012 lights project, being a lights display on Windsor CBD buildings and a competition for best lights by a business.

Council considered the matter at its meeting on 9 October, 2012 and resolved:

"That Council:

- 1. Agree to contribute up to \$7,500 towards the cost of the 2012 Windsor Christmas Lights Project being proposed by Windsor Business Group subject to the Group providing details of the proposed expenditure of these funds for this purpose to the satisfaction of the General Manager.*
- 2. Approve the execution of the Council's standard Sponsorship Agreement for the project.*
- 3. Approach other town centres in the Hawkesbury LGA to encourage the provision of Christmas lighting in those areas in future years."*

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In respect of part 1 of the resolution, WBG, in the week following Council's meeting, provided details that funds would be used to purchase LED and solar lights for use in displays on buildings and in arcades for the Light Up Windsor 2012. Based on this, the General Manager agreed to provide the funds to WBG for the project.

In respect of part 3 of the resolution, correspondence has recently been forwarded to the Hawkesbury City Chamber of Commerce and Kurrajong Community Forum to encourage these organisations to undertake Christmas lights project for 2013. This will also be followed up at the appropriate time.

2012 Windsor Christmas Lights – Light Up Windsor project

The project overview for the Light Up Windsor project indicated that WBG would expand its activities from its 2011 efforts to help create a thriving town centre and support business and employment. Activities to include:

- install lighting in Windsor Mall area in a similar fashion to 2011
- expand lighting to new locations around Windsor,
- explore the use of Endeavour Energy light poles in Windsor Mall,
- undertake a best decorated business lights competition,
- use different types of lights,
- involve businesses in the project, and
- involve other sponsorship.

WBG has now provided its results for the 2012 Light Up Windsor project to address the evaluation reporting requirement of the sponsorship agreement. Overall WBG indicates the project was a success and good for Windsor with more Windsor businesses participating than last year and of the view there were more people in Windsor because of the lights. Details include:

- a) Lights purchased - Council funds were used to purchase lights including 9 coloured spot lights and 40 lots of 50 metres coloured lights. Specific detail beyond this was not provided.
- b) Project activities
 - (i) Official turning on of lights, Friday 7 December, 2012, Thompson Square. Activities included:
 - Turning on of lights on buildings and the main tree in Thompson Square (lights installed to tree by Council and funded separately to this project). Turning on tree lights used to lead turning on of lights at about 8.00pm (day light saving hours).
 - Carols in the Park, with voluntary carol singers
 - Santa and Mrs Claus
 - (ii) Business lights display Competition and walk.

Judged by the Mayor, Councillor K Ford, assisted by Councillor M Creed, Councillor J Reardon, State Member, Mr K Conolly MP, and Federal Member, Ms L Markus, MP.

Winner was Elegant Invites (George Street), Runner up was the Post Office Arcade (George Street).
 - (iii) Lights display, Friday 7 December, 2012 till 31 January, 2013.

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(iv) Lights Library

Lights Library allowed WBG to trial a new approach to installing the lights where member businesses could borrow lights from the library stock (with deposit) and organise their own installation. This approach does not require WBG to organise an electrician for the overall project.

(v) Lights Register

A lights register was established to take stock of the lights purchased and available in the library and for tracking associated tasks like testing and tagging of lights.

Based on the information provide to date by WBG, it has purchased the following lights, with Council funds:

- 9 coloured spot lights (2012)
- 40 lots of 50 metres coloured lights (2012)
- 15 lots of 50 metres of gold coloured lights (2011)
- 8 lots of 100 metres gold coloured lights(2011)

(vi) Promotion and sponsors

- Signs/ flyers displayed in Windsor shop windows
- Facebook page set up
- Advertised in the Gazette and Courier Newspaper
- Advertised on Hawkesbury Radio
- Sponsorship by Hawkesbury Radio, who provided a \$500 advertising package for the competition winner.
- WBG Christmas Party.

c) Business involvement

WBG indicated more businesses participated in 2012, than 2011, making Windsor CBD look 'spectacular' and 'abuzz with flickering lights'. The overall display included businesses and arcades from Bridge Street and George Street from Thompson Square through to the Riverview Shopping Centre. The WBC advised that the following business participated this year:

- Macquarie Arms Hotel
- Caffè Amaretti
- St George Building Society
- Fone Fanatics
- Trentino's on George
- Windsor Ice Creamery
- Baker and George
- Wilkinson's Real Estate
- Billy J's
- Paine Ross and Co
- National Australia Bank
- Elegant Invites
- 318 online
- Post Office Arcade

WBG also advised that the lights on Windsor Chinese Restaurant and Ray White Real Estate (own lights) where not part of the project, but were supporters. Council further supported the project with the lights it installed to the Thompson Square tree lights.

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d) Attendance and People in town

The project is based on a Christmas lights display to help create a reason to come to Windsor and create a thriving town which supports business, employment and engagement with community.

WBG is of the view that there were more people in Windsor during the evening to see the Light Up Windsor light display, but acknowledges the International Sandsculpting Competition event, school holiday, Christmas and New Year activities may have played a part.

Council representatives attended the Official turning on of lights on 7 December, 2012 and it is estimated that 50 people from the community and Windsor businesses attend this event activity.

It is considered that WBG in the future should undertake to gather attendance information to support its views and observations. This can be done with standard survey techniques with participating members during the project period e.g. track customers and sales numbers.

Conformance to Community Strategic Plan

The proposal is consistent with the Supporting Business and Local Jobs Theme Directions statement:

- Help create thriving town centres, each with it's own character that attracts residents, visitors and businesses.

Financial Implications

An amount of \$7,500 for Christmas light activities and associated prize money for competitions by business groups has been allocated in the 2012/2013 Budget in the Strategic Activities Service.

RECOMMENDATION:

That the information be noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 43 **CP - Development Report - DA0007/12 Section 82A - 33 Bootles Lane, Pitt Town - Garage and Retaining Walls - (95498, 117236, 121269)**

Previous Item: 118, Ordinary (10 July 2012)

Development Information

File Number: DA0007/12 S82A
Property Address: 33 Bootles Lane, Pitt Town
Applicant: Colin Allan Bryce & Rachel Anne Bryce
Owner: Mr CA & Mrs RA Bryce
Proposal Details: Garage and Retaining Walls
Estimated Cost: \$30,000
Zone: Housing under Hawkesbury Local Environmental Plan 1989
 R2 Low Density Residential under Hawkesbury Local Environmental Plan 2012
Date Received: 1 November 2012
Advertising: 22 January to 5 February 2013

Recommendation: Refusal

REPORT:

Introduction

A Section 82A Review application has been received requesting Council to review its determination of refusal for a Detached Garage and associated Retaining Walls.

History

The original application (DA0087/12) was refused at the Ordinary Meeting of Council on 10 July 2012. A copy of that report is attached. (Attachment 4)

Outbuildings in Pitt Town – Councillor Briefing 5 June 2012

Due to the absence of specific development controls relating to sheds, garages and outbuildings in the Pitt Town estate, an issue was emerging involving the approval of Development Applications for these types of structures. It was becoming apparent that adjoining landowners and occupiers were dissatisfied with certain structures being erected and impacting upon the visual quality of their outlook.

Pending the review of the existing DCP, it was identified that the size of outbuildings in Pitt Town required more detailed consideration during assessment. A briefing was provided to Councillors on 5 June 2012 and it was proposed that the points in italics below should be used in assessing Development Applications for outbuildings. It should be noted that the following is not a “change of rules” for the assessment of these proposals, rather in the absence of any specific controls for these developments in Pitt Town it is suggesting some guiding principles for the current and future assessment of these matters based on existing Council and State Environmental Planning Instruments.

- Building Envelope (Height Plane) is to be applied to outbuildings
- Height – single storey, maximum 2.7m wall, 3.0m ridge

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- Area – maximum of 50 sqm (allows for home business)
- Materials, colours, style – to match the dwelling (brick, render, tiles)
- Timber – Use of timber features (e.g. doors, walls) on merit
- Landscaping – 30% site area, screening between outbuilding and fence
- Setbacks – need to consider provision of adequate landscaping and open space, corner lot - need to ensure rear setbacks not completely compromised by outbuildings, pools etc.

Description of Proposal

The proposal involves the construction of a Detached Garage and associated Retaining Walls to the rear of the dwelling on the subject property.

The proposal has been amended from that which was refused by Council. The amendments involve:

1. An increased rear setback from 150 mm to 1.4 metres from the rear property boundary. The additional area will comprise a 500mm wide landscape strip to be planted with Lilly Pilly. This will serve to soften the visual impact of the development.
2. The ridge height of the development and wall height have each been reduced by 100mm to 4.6 metres and 4 metres respectively.
3. The external finishes and materials have been changed from colour-bond cladding to face brickwork to match the existing dwelling.
4. The rear retaining wall has been moved 500mm from the rear property boundary to allow an area for landscaping.

Issues Relevant to the Decision - In Point Form

- Amendments to original proposal;
- Consideration of outcomes from Council Briefing;
- Submission received.

Council Policies, Procedures and Codes to Which the Matter Relates

Hawkesbury Local Environmental Plan 2012
Hawkesbury Local Environmental Plan 1989 (repealed)
Sydney Regional Environmental Plan No 20
Hawkesbury Development Control Plan 2002

Assessment Of Section 82A

Section 82A of the Environmental Planning & Assessment Act permits an application to be reviewed subject to the following:

- (1) *If the consent authority is a council, an applicant may request the council to review a determination of the applicant's application, other than:*
 - a) *a determination to issue or refuse to issue a complying development certificate, or*
 - b) *a determination in respect of designated development, or*
 - c) *a determination in respect of integrated development, or*
 - d) *a determination made by the council under section 116E in respect of an application by the Crown.*

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- (2) *A request for a review may be made at any time, subject to subsection (2A).*
- a) *A determination cannot be reviewed:*
- i. *after the time limited for the making of an appeal under section 97 expires, if no such appeal is made against the determination, or*
 - ii. *after an appeal under section 97 against the determination is disposed of by the Court, if such an appeal is made against the determination.*
- (3) *The prescribed fee must be paid in connection with a request for a review.*
- a) *In requesting a review, the applicant may make amendments to the development described in the original application, subject to subsection (4) (c).*
- (4) *The council may review the determination if:*
- a) *it has notified the request for review in accordance with:*
- i. *the regulations, if the regulations so require, or*
 - ii. *a development control plan, if the council has made a development control plan that requires the notification or advertising of requests for the review of its determinations, and*
- b) *it has considered any submissions made concerning the request for review within any period prescribed by the regulations or provided by the development control plan, as the case may be, and*
- c) *in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same development as the development described in the original application.*
- As a consequence of its review, the council may confirm or change the determination.*
- (5) *The decision whether or not to review the determination must not be made by the person who made the determination unless that person was the council, but is to be made by a person who is qualified under subsection (6) to make the review.*
- (6) *If the council reviews the determination, the review must be made by:*
- a) *if the determination was made by a delegate of the council—the council or another delegate of the council who is not subordinate to the delegate who made the determination, or*
 - b) *if the determination was made by the council—the council.*
- (7) *The council must give notice of the result of the review to the applicant as soon as practicable after the review.*
- (8) *If on the review the council grants development consent, or varies the conditions of a development consent, the council must endorse on the notice the date from which the consent, or the consent as varied, operates.*
- (9) *If on a review the council changes a determination, the changed determination replaces the earlier determination as from the date of the review.*
- (10) *If on a review the council grants development consent, or varies the conditions of a development consent, the council is entitled, with the consent of the applicant and without prejudice to costs, to have an appeal made under section 97 in respect of its determination withdrawn at any time prior to the determination of that appeal.*
- (11) *A decision on a review may not be further reviewed under this section.*

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The Section 82A application seeks a review of Council's decision to refuse a Development Application seeking approval for a detached garage.

A Section 82A review can be considered in this instance as the original application was not a complying, integrated, designated or crown development as defined within the Environmental Planning & Assessment Act, 1979 (EP&A Act) and has been submitted prior to the lapsing (12 months) of a potential appeal under Section 97 of the EP&A Act 1979.

The application has been neighbour notified in accordance with Hawkesbury Development Control Plan 2002 and one (1) submission has been received.

An assessment of the Section 82A Review follows:

Planning Assessment

The following Table outlines details of the previous application compared with details of the Review application.

Reasons for Refusal	DA0087/12 (Determined)	DA0007/12 S.82A (Review)
1. The development fails to demonstrate compliance with Hawkesbury Local Environmental Plan 1989.	<ul style="list-style-type: none"> Size, height and setback likely to have unacceptable visual impact Unacceptable impact upon amenity and character of area; Not of a suitable domestic scale. 	<ul style="list-style-type: none"> Size has not altered. Height has been reduced by 100mm. Setback from rear altered from 150mm to 1.5 metres. Side setback unaltered.
2. The development fails to demonstrate compliance with Draft Hawkesbury Local Environmental Plan.	<ul style="list-style-type: none"> Likely to have unacceptable visual impact and unacceptable impact upon amenity and character of area; 	<ul style="list-style-type: none"> Proposal has not substantially altered.
3. The development fails to demonstrate compliance with Hawkesbury Development Control Plan – Landscaped area.	<ul style="list-style-type: none"> 30% (Approximately 243 m²) of landscaped area required. 27% (or 223.4 m²) proposed. 	<ul style="list-style-type: none"> 29% (238m²) proposed.
4. The proposal is likely to have an adverse visual impact upon the scenic quality of the landscape and neighbouring properties due to its size and location.	<ul style="list-style-type: none"> Proposal considered excessive in scale, bulk and size; Setback to boundary insufficient; No landscaping proposed; Colourbond wall cladding material not desirable. 	<ul style="list-style-type: none"> Height not substantially altered; Setback to side boundary unaltered; Landscaping proposed to rear boundary only; Wall cladding changed to brick
5. Approval of the development application may create an undesirable precedent which is not in the public interest.	<ul style="list-style-type: none"> Proposal will affect the visual quality and amenity of adjoining land. 	<ul style="list-style-type: none"> Apart from the rear setback and the use of brickwork, the proposal is substantially the same development.

In view of the previous application considered by Council, in terms of first principles the development was considered unacceptable in relation to its size, height, location and visual impact. The changes made to the proposal (for the purposes of the Section 82A Review) are only minor in relation to location and the other concerns of size, height and visual impact have not changed.

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The basis on which the application was determined at Council previously was because it was considered that the garage as proposed was not acceptable in this instance.

The aspiration and vision for the Pitt Town Estate and the intent of the Development Control Plan provisions for the estate was to have attractive development with good design principles and clear setbacks between allotments to enhance privacy, promote landscaped zones and reduce impacts on neighbours. This intent is protected through policies such as the Local Environmental Plan, Development Control Plan and the Johnson Property Group administered Vermont Design Guidelines.

It is considered that the proposal has not substantially altered from that which was previously considered by Council at the Ordinary meeting on 10 July 2012.

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. The provisions (where applicable) of any:

i. Environmental Planning Instrument:

Sydney Regional Environmental Planning Policy No. 20 (No.2 – 1997) – Hawkesbury – Nepean River (SREP No. 20)

The proposal is consistent with the aims, objectives and provisions of SREP 20.

Hawkesbury Local Environmental Plan 1989 (LEP 1989)

The original application (DA0087/12) was lodged under the provisions of LEP 1989. LEP 1989 has now been repealed with the gazettal of LEP 2012 on 21 September 2012. The purpose of a Section 82A Review is to give Council the opportunity to review the previous decision in light of the requirements that existed at the time the decision was made.

In this regard, the proposal is permissible in the Housing zone with consent but the development is not considered to be consistent with the objectives of the zone.

The proposal as amended is an improvement to the visual quality of the development. However, the size, scale and height of the development and the side boundary setback is still likely to have an unacceptable impact upon the amenity of adjoining land and more broadly have an unacceptable impact upon the residential character of the area.

The development is consistent with the remaining provisions of LEP 1989.

Hawkesbury Local Environmental Plan 2012 (LEP 2012)

Clause 1.8A of LEP 2012 ("the Plan") provides that an application that had been made before the commencement of the Plan must be determined as if the Plan had not commenced. The Development Application (DA0087/12) was lodged with Council on 21 February 2012 and determined on 10 July 2012. The Review of Determination must have regard to the provisions that existed at the time of the determination.

In any event, the development is not considered to be consistent with the objectives of the R2 zone as the development does not protect the character of residential development and will not retain or enhance the existing character of the area.

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.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (DCP) applies to the land. The proposal does not strictly comply with the provisions of the DCP. In particular, the garage does not comply with the following:

a) Part D Clause 1.3 - Height

The proposal encroaches into the Building Height Plane by 1.5 metres. To be fully compliant with this provision, the wall of the garage would need to be located 1.5 metres from the boundary.

Clause 1.3(e) of the DCP permits walls to be built on a side or rear boundary where:

- i. it can be demonstrated that building to the boundary does not reduce the privacy of neighbouring dwellings and their private open space and does not reduce their existing solar access; and
- ii. the continuous length of the wall does not exceed 10 metres.

With regard to privacy the proposal is considered to be acceptable as there is no loss of privacy associated with the development. However, as a consequence of building to the boundary there is an associated shadow cast over two (2) adjoining properties in the afternoon – which would have the effect of reducing the existing solar access to those adjoining properties.

In regard to Clause 1.3(e)(i) it would appear the DCP provisions do not support a wall being constructed on (or near) the boundary where it will reduce the existing solar access of adjoining properties.

With regard to Clause 1.3(e)(ii) the proposal is compliant.

b) Part D Clause 1.6 Landscaped Areas

The DCP requires the site to contain soft landscaped areas to 30% of the site area (inclusive of private open space).

The total site area is 809.8 square metres which requires 242.9 square metres of soft landscaping.

The applicant has provided a calculation that 238 square metres of landscaping will still be provided upon completion of the garage.

In the circumstances of the case, this 5 square metre shortfall is considered acceptable and is not sufficient to warrant refusal or amendment to the proposal.

c) Part D Clause 1.7 Private Open Space

The DCP requires 162 square metres of private open space and this has been provided.

The proposal is compliant with all other provisions of the DCP as they apply to the development. Garages and outbuildings are permitted to be constructed within the side and rear setbacks required in the Pitt Town Chapter of the DCP (Clause 4.14.2(b)).

Assessment in relation to Councillor Briefing Session

- Building Envelope (Height Plane) is to be applied to outbuildings

The garage does not comply with the building envelope (Height Plane).

- Height – single storey, maximum 2.7m wall, 3.0m ridge

The garage does not comply with the maximum height suggestion as the wall height is 4 metres and the ridge is 4.6 metres.

- Area – maximum of 50 sqm (allows for home business)

The garage does not comply with the maximum floor area suggestion. The proposed area of the garage is 60 square metres.

- Materials, colours, style – to match the dwelling (brick, render, tiles)

The materials proposed will comply with this suggestion.

- Timber – Use of timber features (e.g. doors, walls) on merit

The applicant does not propose the use of any timber features in the garage.

- Landscaping – 30% site area, screening between outbuilding and fence

The proposal complies in this regard.

- Setbacks – need to consider provision of adequate landscaping and open space, corner lot - need to ensure rear setbacks not completely compromised by outbuildings, pools etc.

The proposal as amended is considered acceptable in regard to landscaping, open space and rear setback. The allotment is not a corner lot.

Summary

Whilst it is acknowledged that certain amendments to the proposal have been made, the proposal has not conformed with the general principles suggested at the Briefing Session particularly in relation to building height and to a lesser extent floor area. The proposal does not satisfy the outcomes from the Briefing in relation to this type of development.

However, it should be noted that the outcomes from the Briefing have not been adopted nor do they carry any statutory weight.

- iii. **any 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**
There are no planning agreements applicable to the proposed development.
- iv. **Matters prescribed by the Regulations:**

There are no matters prescribed by the Regulations that relate to this development or the land.

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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:

Whilst the development is proposed essentially on the boundary, the materials used in construction will be consistent with the materials used in the dwelling – being face brick for the walls and colourbond sheet roofing. The choice of materials is considered to improve the visual appearance of the garage. The choice of building materials is consistent with the Vermont Design Guidelines.

The visual impact of the proposed garage would appear to be the primary issue. The adjoining owners who are most affected by the proposal have not lodged a submission in relation to the current Review.

Nevertheless, approximately 1.6 metres of wall would be visible over the top of the 1.8 metre high boundary fence were the proposal to be constructed. In this regard the visual impact is considered unreasonable.

c. Suitability of the site for the development:

The site is considered suitable for the development.

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

One submission was received in relation to the Section 82A Review from an adjoining owner in Pittsmoor Street, Pitt Town. The submission repeats the reasons for refusal but does add further support to three of those reasons as follows:

1. *“At the Council Meeting on 10th July 2012 it was clearly stated that around the entire perimeter of the garage there had to be enough room for landscaping. The current proposal has not changed, with the garage still only 150mm off the adjoining side fence for the 10 metre length of the proposed structure.”*

Comment: Nothing prevents a garage being located on the boundary provided it complies with the requirements of the Building Code of Australia (which is the case for this particular proposal). It has been the general practice for assessment staff to request garages and sheds be sited so as to allow for maintenance of the area where not located on the boundary. The applicant has refused to relocate the proposal and has expressed his need for the development to be sited as proposed – due to the manoeuvring of a boat and other vehicles into the garage.

It should be noted that the objector's land does not adjoin that part of the subject land where the structure is to be sited.

2. *“Very little has changed with the size of this shed. As was first stated this is a truck shed to house a large Isuzu truck model NQR 450, a bobcat, large trailer and other items used for his [landscaping] business as well as a large boat. This is an average suburban block with limited space and all of this equipment is totally inappropriate for the size of the block. As Councillor Porter stated at the meeting of 10th July 2012 this shed requires a larger block of land. May I reiterate once again that this is a residential area. Also under DP1134503 “no motor truck, lorry or semi-trailer with a load carrying capacity exceeding 2.5 tonnes may be parked or permitted to remain on any lot burdened unless it is used in connection with the erection of a Dwelling on the relevant lot burdened.”*

Comment: It is agreed that the amended proposal is substantially the same as the original proposal which was refused by Council.

With regard to the comment about the Restriction under the Deposited Plan (DP1134503) this is a private covenant which is not the responsibility of Council to enforce. Any aggrieved party would need to seek their own legal advice which may involve a civil action.

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3. *"This is a residential area and a truck depot of this size should not be allowed to be built in the area. The reason we and many other residents built in this area was for the peace and quiet of the area of the village environment. When we purchased our land we did not expect to have all this work equipment, truck and bobcat, etc. next door."*

Comment: The proposal does not constitute a truck depot. There is nothing preventing a person from bringing a work vehicle home. Apart from undertaking landscaping and construction work or occasional maintenance work on the subject property, this machinery will not be used on the subject site.

4. *"Of further concern is the result we have been left with after Council approval of his driveway and the raising of the boundary fence above the level of this driveway. There seems to have been a complete disregard of the conditions imposed by the Council."*

Comment: This is not a matter for consideration in relation to the Section 82A Review. This matter is in relation to a separate development application and the matter is being assessed.

e. The Public Interest:

Approval of the development may create a precedent for similar inappropriate development which would not be in the public interest.

Conclusion

The proposal has not significantly altered from the original proposal refused by Council. The application has disregarded the guiding principles suggested at the Council Briefing and the only significant changes made to the development involve a change to materials proposed to be used in construction and the rear setback being increased to allow for landscaping.

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 in accordance with Section 82A(7) of the Environmental Planning & Assessment Act, 1979, that Council uphold the original determination of refusal of the application.

ATTACHMENTS:

AT - 1 Locality Map

AT - 2 Aerial Map

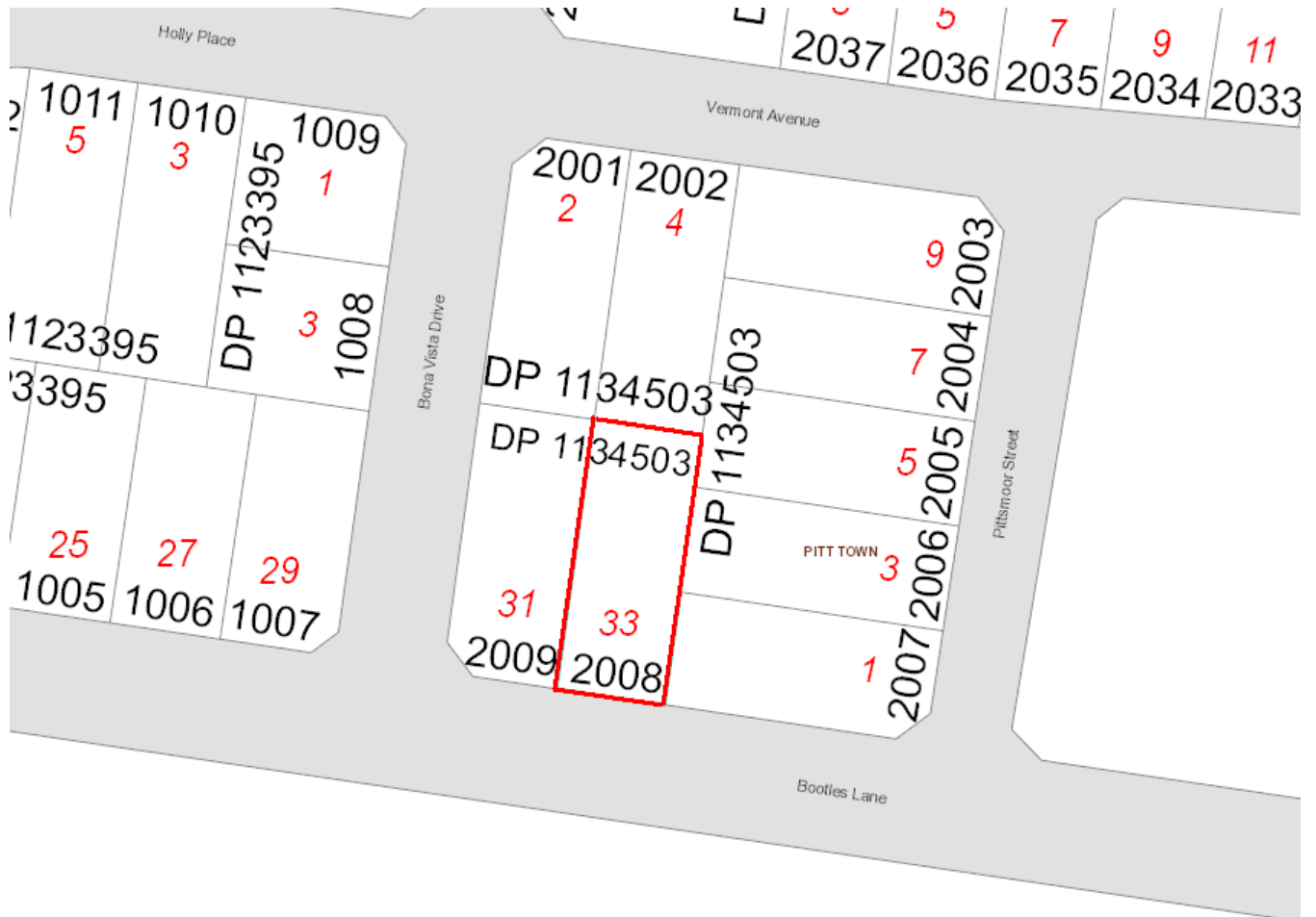
AT - 3 Amended Plans

AT - 4 Assessment Report and Determination of DA0087/12 dated 10 July 2012

ORDINARY MEETING

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AT - 1 Locality Map



ORDINARY MEETING

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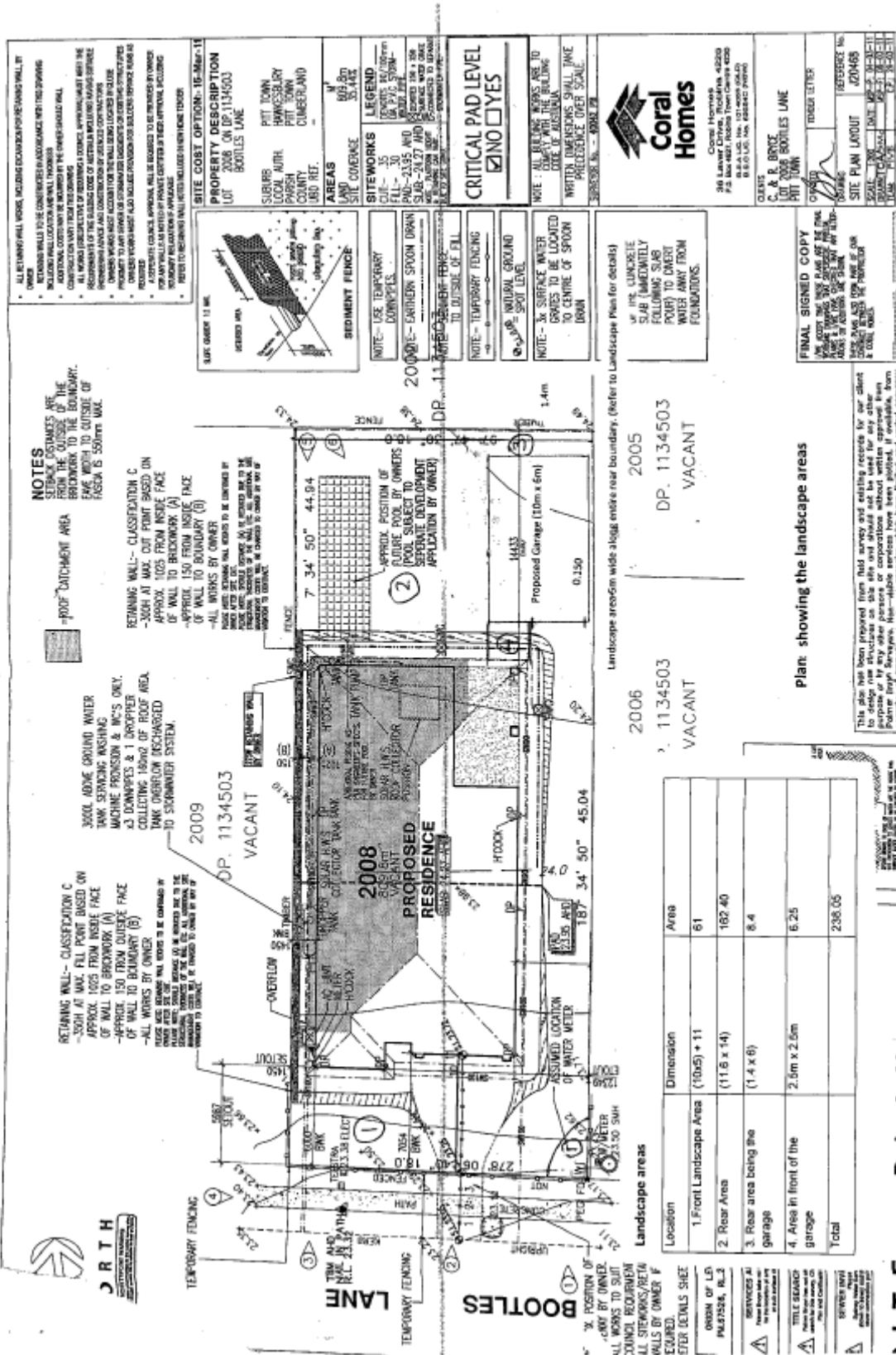
AT - 2 Aerial Map



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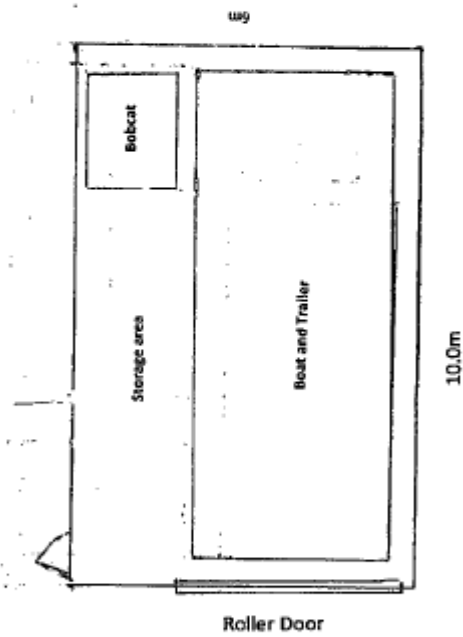
Meeting Date: 12 March 2013

AT - 3 Amended Plans



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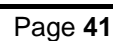


Amended Floor Layout

Proposed Garage 33 Bootles Lane Pitt Town

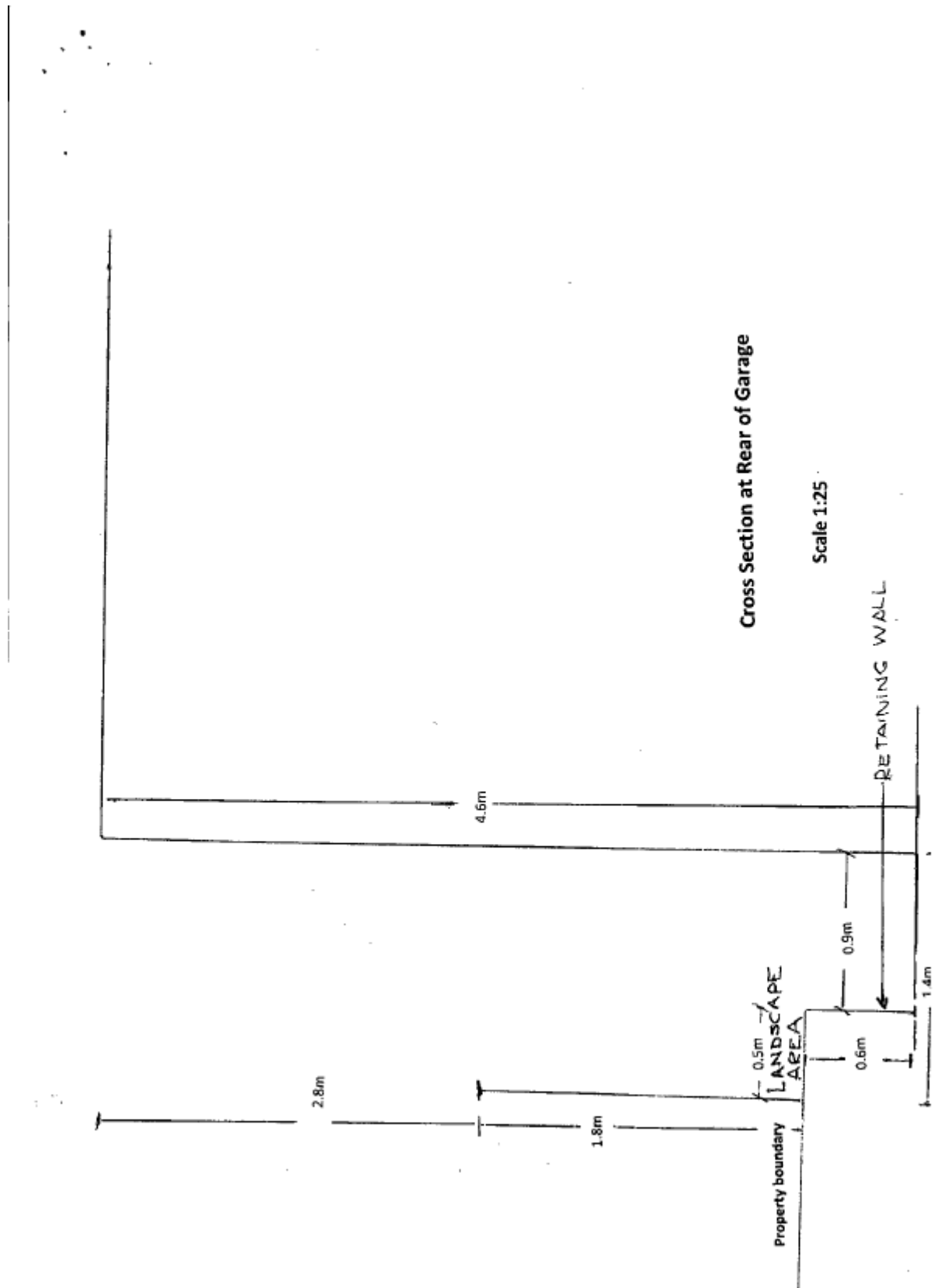
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Meeting Date: 12 March 2013



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ORDINARY MEETING

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AT - 4 Assessment Report and Determination of DA0087/12 dated 10 July 2012

ITEM: CP - Development Application - Garage and Retaining Walls - Lot 2008 DP 1134503 - 33 Bootles Lave, Pitt Town - (95498, 117236, 121269)

Development Information

File Number: DA0087/12
Property Address: Lot 2008, DP 1134503, 33 Bootles Lane, Pitt Town
Applicant: Colin Allan Bryce and Rachel Anne Bryce
Owner: Colin Allan Bryce and Rachel Anne Bryce
Proposal Details: Garage - Garage and retaining walls
Estimated Cost: \$30,000
Zone: Housing
Date Received: 21 February 2012
Advertising: 27 February 2012 – 13 March 2012

Key Issues:	◆	Garage Size
	◆	Location of Garage
	◆	Height of Garage
	◆	Over Shadowing
	◆	Landscaped Area
	◆	Desired Character – Vermont Pitt Town Estate

Recommendation: Refusal

REPORT:

Executive summary

The application seeks approval for the construction of a garage with associated retaining walls to the rear of Lot 2008, DP 1134503, 33 Bootles Lane, Pitt Town.

Council's Hawkesbury Development Control Plan (HDCP) – Part D, Chapter 1 Residential Development & Part E Chapter 4 Pitt Town Chapter permits garages and outbuildings (Class10a structures) to be constructed within the side and rear setbacks of the property.

This matter is being referred to Council to determine following the Councillor Briefing Session on the 5 June 2012, discussing the impact of oversized garages, sheds and outbuildings in the rear of properties in the establishing Vermont Pitt Town Estate.

Description of Proposal

The application is proposing the construction of a garage. The proposed use of the garage is for the storage of personal items by the property owners.

The original proposed garage dimensions were 10 x 7.5 metres; giving a total area of 75 square metres. However, following a meeting with the applicant on 19 June 2012, the applicant has amended these dimensions to 10 x 6 metres, i.e., amended the overall width of the proposed garage, giving a total area of 60 square metres. It is intended to be used to house a small truck, excavator, bobcat and a boat trailer.

Retaining walls of up to 400mm are proposed to cut this site in an attempt to reduce the height of the building above the boundary fence.

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The original proposed garage had an external ridge height of 4.929 metres and external wall height of 4.2 metres. However, on 19 June 2012 the applicant also amended these dimensions to 4.7 metres and 4.1m respectively.

Council Policies, Procedures and Codes to Which the Matter Relates

Hawkesbury Local Environmental Plan 1989
Draft Hawkesbury Local Environmental Plan 2011
Sydney Regional Environmental Plan No 20
Hawkesbury Development Control Plan 2002

Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979 (EPA Act).

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. The provisions (where applicable) of any:
i. Environmental Planning Instrument:

Sydney Regional Environmental Planning Policy No. 20 (No.2 – 1997) – Hawkesbury – Nepean River (SREP No. 20)

It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury-Nepean River either in a local or regional context and that the development is not inconsistent with the general and specific aims, planning considerations, planning policies and recommended strategies.

The proposal is consistent with the aims and objectives of SREP No. 20.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

An assessment of the proposal against the relevant clauses of HLEP 1989 is made below:

Clause 9 - Carrying out of development

The proposed garage is a permissible form of development in the Housing zone of HLEP 1989.

Clause 9A - Zone Objectives

The objectives of this zone are as follows:

- a) *to provide for low density housing and associated facilities in locations of high amenity and accessibility,*
- b) *to protect the character of traditional residential development and streetscapes,*
- c) *to ensure that new development retains and enhances the existing character,*
- d) *to ensure that development is sympathetic to the natural amenity and ecological processes of the area,*
- e) *to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character,*
- f) *to control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council,*
- g) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

Comment: The size, height and boundary setback of the proposed garage is likely to have an unacceptable visual impact upon adjoining properties which will adversely affect the residential character of the area.

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Given that Vermont Pitt Town Estate is still being constructed the overall character is yet to be established, and the construction of oversized garages at this early stage will affect the ongoing amenity of the area and the establishing character of the area.

The height and size are not considered suitable for domestic scale. It is considered that the proposed garage will be significantly greater in height and scale than a traditional double garage and have an appearance more like an industrial shed due to size and materials.

The residential character of the area will not be preserved with the size, proximity to boundaries and amenity effects of the proposed garage, which are considered to be inconsistent with the establishing character of the Vermont Pitt Town Estate.

The Vermont Design Guidelines detail the following:

Garages & Outbuildings

Garages should be large enough to accommodate additional storage needs for garden implements etc. To ensure garages oriented toward the street do not dominate the streetscape, the garage opening/s width shall be limited to a maximum of 50% of the overall width of the dwelling and the garage to be setback a minimum of 1m behind the predominant front building line.

Detached garages must be constructed in materials and colours consistent with that of the dwelling house and have hipped roofs to reduce visual prominence. Additional 'outbuildings' should be located in areas not visible from the street and should be finished in material and colours consistent with that of the dwelling house.

Whilst the front of the garage is proposed to be brickwork matching the existing dwelling, the remaining three sides are proposed to be colourbond which will be visible to a height of approximately 2.1 metres above the fence (being the wall of the outbuilding) from the neighbouring properties. Further the size, height and bulk of the shed will dominate when viewed from the adjoining properties.

Clause 28 - Development in the vicinity of a heritage item

The subject land is located within the vicinity of heritage items. However, given the distance separating the proposed garage from each heritage item it is not considered that the proposed garage will have a detrimental impact on the significance of those heritage items.

Clause 37A Development on land identified on Acid Sulfate Soils Planning Map

The land is not located on an acid sulfate soils.

ii. Draft Environmental Planning Instrument that is or has been placed on exhibition and details of which have been notified to Council:

Draft Hawkesbury Local Environmental Plan 2011 (DHLEP) applies to the proposal. This draft Plan was adopted by Council on 7 June 2011 and is currently awaiting gazettal. The Draft Plan is therefore now considered to be imminent and certain. The proposed development is a permissible form of development in the DHLEP, R2 Low Density Residential Zone.

Objectives of the zone;

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To protect the character of traditional residential development and streetscapes.*

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- *To ensure that new development retains and enhances the existing character.*
- *To ensure that development is sympathetic to the natural amenity and ecological processes of the area.*
- *To enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character.*
- *To control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council.*
- *To ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities or services.*

Comment: The size and height of the proposed garage will likely have an unacceptable visual impact upon adjoining properties which will adversely affect the establishing character of the residential development and streetscapes which forms the Vermont Pitt Town Estate.

Whilst the development is for a residential use (storage of recreation boat and small truck that is driven from place of residence to work location each day), given the proposed height and size of the garage, it is not considered to be in keeping with the developing domestic scale and character of the Vermont Pitt Town Estate.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

Part A Chapter 2 - General Information

The subject application provides adequate information for the assessment of the proposal and therefore complies with this chapter.

Part A Chapter 3 - Notification

The application was notified to adjacent property owners in accordance with HDCP.

Three (3) objections were received and will be discussed later in the report.

Part D – 1.4 Setbacks

The Pitt Town Chapter overrides the Residential portion of the HDCP. The Pitt Town Chapter does not provide comment on setbacks for garages and outbuildings (Class10a structures). This matter was also identified in the Councillor Briefing Session on the 5 June 2012. The intent of setbacks is to reduce potential impact on neighbouring land. It is considered that given the size of the proposed structure, an increased setback should be provided.

Part D - 1.6 Landscaped Areas

Aims

- h) *To create a pleasant and safe living environment by enhancing the setting of buildings and the environmental quality of the neighbourhood.*
- i) *To ensure that planting and building structures are compatible in protecting existing landscape features.*
- j) *To provide for privacy and shade and to assist in microclimate management.*
- k) *To maximise absorptive landscaped areas for on-site infiltration of stormwater by limiting the area of hard surfaces at ground level.*

The height and scale of the garage will make the building visually prominent to the adjoining properties. Further given the reduced setbacks to the boundary, there is not sufficient area available for the planting of landscaping to reduce the visual impact on the garage to the adjoining properties and surrounds.

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Rules

- a) *All forms of residential development are to contain pervious soft landscaped areas to a total of 30% of the total site area. This may be calculated by adding together soft landscaped areas of private and common open space. Development proposals, where required, are to indicate the proportion of the total site area that is:*
- *total “soft” landscaped area;*
 - *total ground level private open space; and*
 - *total common open space.*

A minimum of 30% or 242.7m² of soft open space is required. The applicant has provided information that they intend to meet the minimum standard.

After reviewing the information provided it is unlikely that the proposal will be able to meet the minimum standard. Areas that are considered trafficable (hard surface), or unable to be landscaped due to their width or limited access cannot be considered landscaped area.

The tables below show that the proposal includes an area of 32.2m² as landscaping area in front of the garage that does not totally count for this purpose.

Submitted Information

Location	Dimensions (m)	Area (m ²)
Front landscaped area	(10 x 5) + 11	61
Rear area	10 x 4.8	148
Rear area in front of garage	8.1 x 4	32.2
Side to garage Northern boundary	0.2 x 8	1.6
Side to garage eastern boundary	0.2 x 10	2.4
Total		245.4 or 30.03%

Council assessment

Location	Dimensions (m)	Area (m ²)
Front landscaped area	(10 x 5) + 11	61
Rear area	10 x 4.8	148
Rear area in front of garage	Driveway as shown on DA0043/12 is to be 4.490m wide. Area available 3.6 x 4	14.4
Side to garage Northern boundary	Setback is 0.15m not 0.2 and access to these areas for maintenance of the building and landscaping is limited as identified by the applicant in his choice of materials for the construction of the garage.	Nil
Side to garage eastern boundary		
Total		223.4 or 27%

It is considered that the aims and objectives of this clause will not be met.

Part D – Chapter 8 Rural Sheds

This section of the HDCP is not applicable as the garage is not a Rural Shed.

Part E Specific Areas Chapter 4 Pitt Town

4.2 Desired Character

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Pitt Town provides a relaxed and comfortable lifestyle with a semi rural village character. New development is to maintain a semi rural village character with generous and landscaped building setbacks and open streetscapes within a modified grid urban structure. New development will have building designs and materials compatible with the semi rural setting and traditional housing forms. The public domain is to reinforce the semi rural character of Pitt Town.

It is considered that the size and setbacks of the garage will significantly influence the developing character of the Vermont Pitt Town Estate that is still being established. Given that the bulk and size of the garage is greater than a standard double garage, the establishing character of the area will be influenced by the construction of such an oversized garage.

Development Controls 4.114.2 Rules

- b) *(b) Garage may be attached or separate. Garages must be at least 1 metre behind the front building line, to be no greater than 50% of the building width and designed to minimise Visual Prominence. Garages and outbuildings may be located in the rear and side setbacks.*

The proposed garage is to be located at the rear of the property; but with setbacks to the side and rear boundaries of 150mm. The setbacks will limit access to both the common boundaries for building maintenance and limit the provision of landscaping to the area.

- c) *Total building footprint area must comply with the site coverage requirements set out in Table E4.5*

Precinct	Minimum lot size area	Maximum site coverage
A3	750m²	50%

The lot size is 809.8m², the existing building footprint of the existing dwelling is 287.01m², the proposed garage has an area of 60 m², giving a total footprint 347.01m² or 42.8%

Whilst the proposal will be able to maintain the maximum site coverage, it will not be able to provide landscaping to the common boundaries.

Outbuildings in Pitt Town – Councilor Briefing 5 June 2012

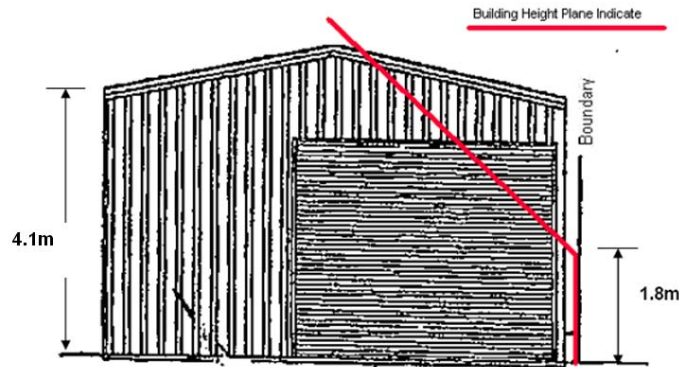
In the absence of specific development controls and pending the review of the existing DCP, it was identified that the size of outbuildings in Pitt Town needs more detailed consideration during assessment. A briefing was provided to Councillors on 5 June 2012 and it was proposed that the points in italics below should be used in assessing Development Applications for outbuildings. It should be stressed, however, that the following is not a “change of rules” for the assessment of these proposals but, in the absence of any controls for these developments, is suggesting some guiding principles for the current and future assessment of these matters.

- *Building Envelope is to be applied to outbuildings*

The garage does not comply with the building envelope, the application of the building envelope or height plane was a result of the Councilor Briefing Session on the 5 June 2012, the diagram following clearly indicates the scale of the development.

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- *Height – single storey, maximum 2.7m wall, 3.0m ridge*

The garage proposes a wall height of 4.1m, with a 4.7m ridge height. This is significantly greater than the recommended development control. The result will be a significant visual impact to the neighbouring properties. The garage will be dominant above the fences of the adjoining properties.

- *Area – maximum of 50 sqm (allows for home business)*

The proposed area of the garage is to be 60 sqm. This is 10sqm greater than the recommended development control. As a result of the garage size the soft landscaped area is reduced and the garage will dominate the backyard of the residential allotment.

- *Materials, colours, style – to match the dwelling (brick, render, tiles)*

The front facade is proposed to be brick, with the roof and walls to be colourbond, the existing dwelling is brick with roof tiles. The side and rear colourbond wall is still likely to adversely impact the neighboring properties.

- *Timber – Use of timber features (e.g. doors, walls) on merit*

The applicant does not propose the use of any timber features in the garage.

- *Landscaping – 30% site area, screening between outbuilding and fence*

As previously discussed, the applicant is unable to maintain 30% of the site area as landscaping. The setbacks between the shed and fence are unable to provide adequate screening.

- *Setbacks – need to consider provision of adequate landscaping and open space, corner lot - need to ensure rear setbacks not completely compromised by outbuildings, pools etc.*

The setbacks are unable to allow for the planting of adequate landscaping to provide screening to adjoining properties.

History of Council Outbuilding Approvals in the Vermont Pitt Town Estate

For comparison, following is a list of applications made to Council for detached outbuildings. Each has been numbered and corresponds with attachment 4 to the report. The average area of out buildings is 45.70sqm and only one is greater than 50 sqm.

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	Address	Description
1	3 Holly Place Pitt Town DA0243/11 Lot Size – 867.2m2	Two (2) garden sheds - colourbond Total Area 42.04 m2 Dimensions 3.5m x 3.5m Area 12.25m2 Wall Height 2.1m Ridge Height 2.4 Area 29.79m2 Dimensions 7.7m x 3.87m Wall Height 2.1m Ridge Height 2.4m
2	16 Bona Vista Drive Pitt Town DA0260/10 Lot Size – 1000m2	Detached Garage colourbond Area 54m2 Dimensions Area 6m x 9m Wall Height 3.3m Ridge Height 4.1m
3	4 Camellia Street Pitt Town DA0663/10 Lot Size – 751.9m2	Detached Garage –colourbond Area 42m2 Dimensions 7m x 5.6m Wall Height 2.4m Ridge Height 3.53m
4	5 Farmhouse Avenue Pitt Town DA0501/11 Lot Size – 813.2m2	Outbuilding – Brick to match the dwelling Area 35m2 Dimensions 5m x 7m Wall Height 2.7m Ridge Height 4.3m
5	3 Farmhouse Avenue Pitt Town DA0100/12 Lot Size – 809.8m2	Detached Outbuilding & Carport – colourbond & trimdeck Shed Area 15.6m2, Carport area 30.7m2 Dimensions 3.8m x 4.1m, Wall Height 2.5m Ridge Height 3.65m
6	3 The Cedars Avenue Pitt Town DA0156/12 Lot Size – 1000m2	Detached Outbuilding – colourbond Area 49m2 Dimensions 7m x 7m Wall Height 2.8m Ridge Height 3.7m
7	22 Bona Vista Drive Pitt Town DA0180/12 Lot Size – 1219m2	Detached Garage - colourbond Area 56m2 Dimensions 7m x 8m Wall Height 2.4m Ridge Height 3.8m

ORDINARY MEETING**Meeting Date: 12 March 2013**

	Address	Description
8	24 Bona Vista Drive Pitt Town DA0006/12 Lot Size – 867.2m2	Detached Shed with Carport - colourbond Area 49.2 Dimensions 6m x 8.2m Wall Height 2.7m Ridge Height 3.710m
9	14 Bona Vista Drive Pitt Town DA0363/11 Lot Size – 1233m2	Detached Garage - Brick to match the dwelling Area – 72m2 Dimensions 6mx12m Wall Height 3.6m
10 Current Proposal	33 Bootles Lane Pitt Town DA0087/12 Lot Size – 809.8m2	<u>Proposed</u> Detached Garage – Brick front, remainder colourbond Area – 60 m 2 Dimensions 10m x 6m Wall Height 4.1m Ridge Height
11	20 Farmhouse Avenue Pitt Town DA0220/12 Lot Size – 820.10m2	Detached Carport - Colourbond with timber screening Area 36.66m2 Dimensions 4.82m x 7.606m Wall Height 2.7m Ridge Height 3.68m

Complying Development Provisions

The current application cannot be considered as Complying Development due to being located within a heritage conservation area.

Conclusion

The proposed garage is considered to be an over development for the site. It is non-compliant with the landscaping requirements and desired criteria of the HDCP together with the influence an approval of the oversized garage would have on the establishing character of the Vermont Pitt Town area. It is concluded that the location, size, height and design will have a significant effect on the surrounding residential development.

Should the development be approved in its current form; it may set an undesirable precedent for further development of similar structures in the Vermont Pitt Town Estate and as a result adversely influence the character of the Vermont Pitt Town estate.

Given that the objectives, rules and provisions of the HDCP are not meet the proposed variations should not be supported in this instance

- 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:**

There are no planning agreements applicable to the proposed development.

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v. Matters prescribed by the Regulations:

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

a) **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:**

b) **Suitability of the site for the development:**

The site is a residential lot and whilst the use of the garage is acceptable the proposed garage is larger than typically occurring in a housing estate.

c) **Any submissions made in accordance with the Act or the Regulations:**

The application was notified to adjacent property owners in accordance with HDCP.

Three submissions were received which raised the following concerns:

- ***Use of the garage for commercial / home business in a residential area and associated effects including noise pollution, early hour disturbances;***

The application has provided information that the garage will be used for the storage of personal items and not for the undertaking of business activities.

- ***Semi – rural character of the area***

The Vermont Pitt Town Estate traditional character is still being established, and whilst it is not uncommon to see detached garages or sheds in the rear of residential yards, the size, bulk and scale of this garage is excessive as discussed earlier in the report.

- ***Height of garage, over shadowing in adjoining properties private open space;***

Due to the height and scale of the building, the garage will be visually prominent to, and adversely impact on the amenity of, the adjoining properties. Given the reduced setbacks to the boundary, it is unlikely that there will be an area available for landscaping in order to reduce the visual impact on the garage to the adjoining properties and surrounds.

- ***Maintenance to the garage wall;***

Access to carry out ongoing maintenance will be difficult between the boundary and garage wall, given the proposed reduced setbacks to 150mm to the Northern and Southern boundaries.

- ***Not meeting the DCP objectives for the Pitt Town area & Site coverage and landscaping along the boundary;***

This has been discussed previously in this report.

d) **The Public Interest:**

The proposal is not consistent with the desired character provisions of the relevant planning instruments affecting the site. Approval of the development may create an undesirable precedent for similar inappropriate development which would not be in the public interest.

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Meeting Date: 12 March 2013

Developer Contributions

Development contributions are not required where the works are a class 10a and 10b Building as classified in the National Construction Code.

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 DA0087/12 for the construction of a garage and retaining walls at Lot 2008, DP 1134503, 33 Bootles Lane, Pitt Town, be refused for the following reasons:

1. The proposed development fails to demonstrate compliance the provisions of the Hawkesbury Local Environmental Plan 1989;
2. The proposed development fails to demonstrate compliance the provisions of the Draft Hawkesbury Local Environmental Plan 2011;
3. The proposed development fails to demonstrate compliance with Hawkesbury Development Control Plan; Landscaped area
4. The proposed development is likely to have an adverse visual impact upon the scenic quality of the landscape and neighbouring properties due to its size and location.
5. Approval of the development application may create an undesirable precedent which is not in the public interest.

ATTACHMENTS:

AT - 1 Locality Map

AT – 2 Aerial Map

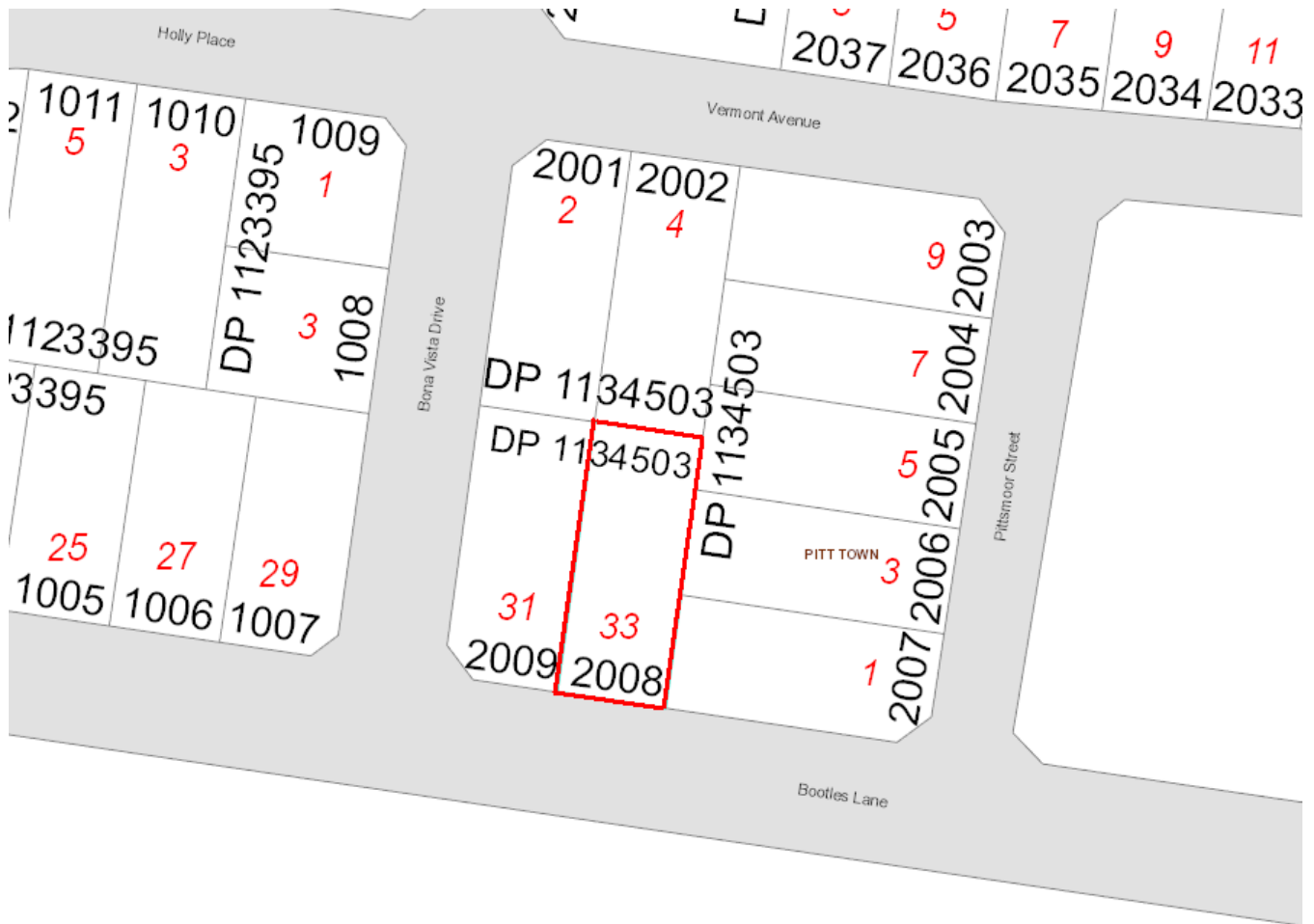
AT – 3 Plans

AT – 4 Locality Map Indicating Outbuilding Approved in Vermont Pitt Town Estate

ORDINARY MEETING

Meeting Date: 12 March 2013

AT - 1 Locality Map



ORDINARY MEETING

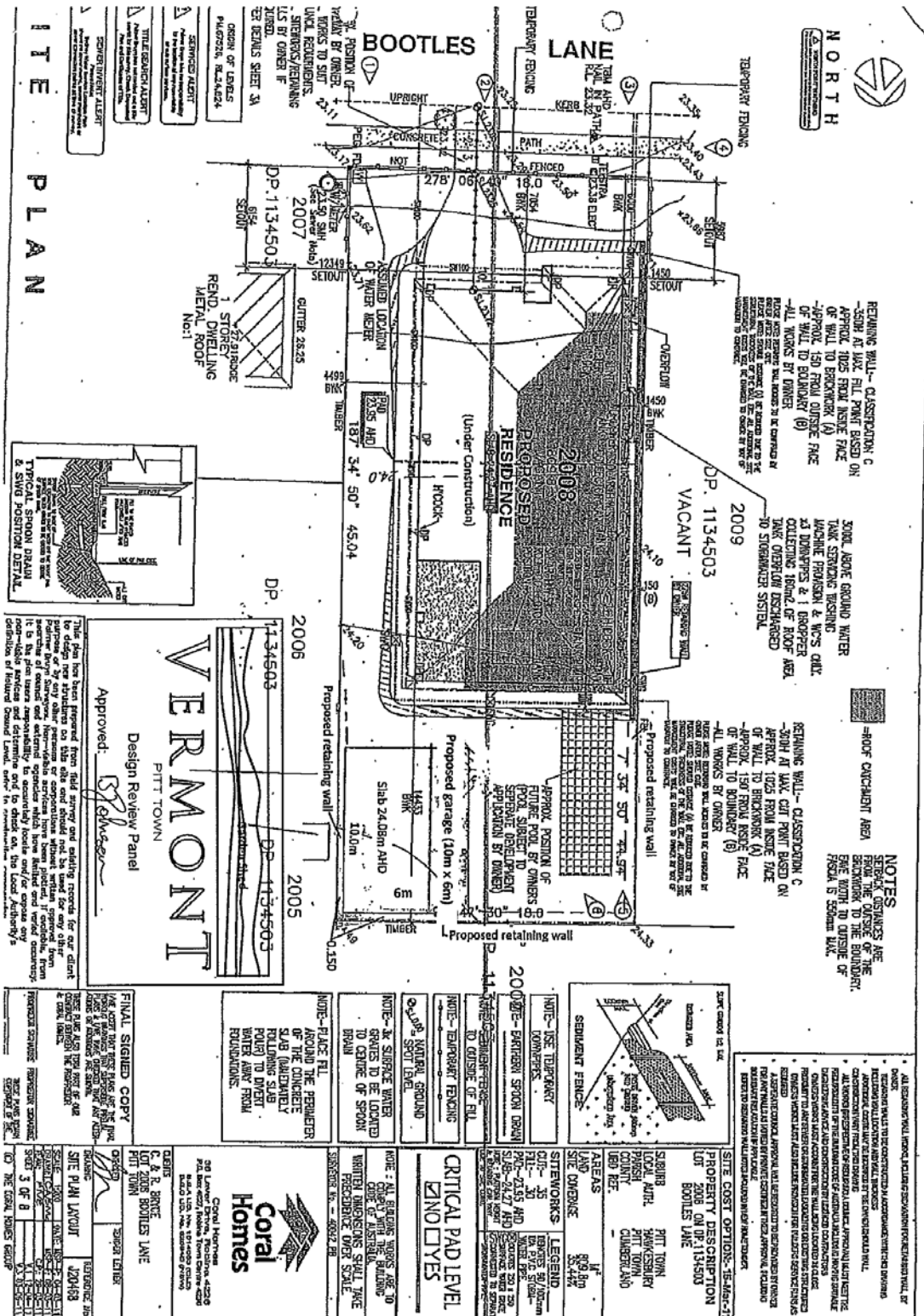
Meeting Date: 12 March 2013

AT – 2 Aerial Map



Meeting Date: 12 March 2013

THE PLAN



ORDINARY MEETING

Meeting Date: 12 March 2013

AT – 4 Locality Map Indicating Sheds Approved in Vermont Pitt Town Estate



oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 12 March 2013

Item: 44 **CP - Development Report - DA0120/12 - 2312 Bells Line of Road, Bilpin - Lot 105 DP 1138031 - Erection of Detached Garage Ancillary to the Existing Dwelling - (95498, 14166)**

Development Information

File Number: DA0120/12
Property Address: 2312 Bells Line of Road, Bilpin
Applicant: Ross McKinlay
Owner: Mr RL McKinlay
Proposal Details: Erection of a Detached Garage Ancillary to the Existing Dwelling
Estimated Cost: \$35,000
Zone: RU2 Rural Landscape
Date Received: 8 March 2012
Advertising: 20 March to 3 April 2012

Key Issues: ♦ Construction of a garage forward of the dwelling

Recommendation: Refusal

REPORT:

Executive Summary

The application seeks approval for the construction of a new garage at Lot 105, DP 1138031, 2312 Bells Line of Road Bilpin.

The proposed garage does not comply with the Hawkesbury Development Control Plan (HDCP) in relation to its location, being located forward of the existing dwelling.

The site provides a location for alternative positioning of the detached garage that will comply with the HDCP.

It is considered that the proposal will visually dominate the Bells Line of Road corridor.

The application is recommended for refusal.

The application is being reported to Council at the request of the Mayor Councillor Ford.

Introduction

The application is proposing the construction of a new garage ancillary to the existing dwelling. The proposed use of the structure is for the storage of vehicles and personal items.

The proposed structure area is 9.33 x 6.730 metres with a height of 4 metres at the highest point.

Council Policies, Procedures and Codes to Which the Matter Relates

Hawkesbury Local Environmental Plan 1989
Hawkesbury Local Environmental Plan 2012
Hawkesbury Development Control Plan 2002

Hawkesbury Local Environmental Plan 2012

The subject land is zoned RU2 Rural Landscape under Hawkesbury Local Environmental Plan 2012.

The objectives of the RU2 Rural Landscape zone are as follows:

- a) To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- b) To maintain the rural landscape character of the land.
- c) To provide for a range of compatible land uses, including extensive agriculture.
- d) To minimise the fragmentation and alienation of resource lands.
- e) To minimise conflict between land uses in the zone and land uses in adjoining zones.
- f) 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.
- g) To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.
- h) To preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.
- i) To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.

Comment

The proposed development is considered to be a structure ancillary to a dwelling and is permissible with consent within the R2 zone.

Clause 1.8A - Savings provision relating to development applications states:

"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced."

Hawkesbury Local Environmental Plan was gazetted on 21 September 2012. The subject Development Application was lodged on 14 June 2012. As a result, the application has been assessed against the relevant provisions of Hawkesbury Local Environmental Plan 1989 as detailed below.

Regardless, the proposed development is considered to be inconsistent with the relevant provisions of the draft Plan, including the RU2 zone objectives.

It is considered that locating a detached garage forward of the dwelling within the Bells Line of Road streetscape will have a detrimental effect on the rural character and rural landscape of the area.

Hawkesbury Local Environmental Plan (HLEP) 1989

An assessment of the proposal against the relevant clauses of HLEP 1989 is made as follows:

Clause 9 - Carrying out of development

The proposed garage is consistent with the requirements of HLEP 1989 being a permissible form of development Environmental Protection - Agriculture Protection zone.

Clause 9A - Zone Objectives

The objectives of this zone are as follows:

- a) to protect the agricultural potential of rural land in order to promote, preserve and encourage agricultural production,

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- b) to ensure that agricultural activities occur in a manner:
 - (i) 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 streams and wetlands, and
 - (ii) that satisfies best practice guidelines and best management practices,
- c) to ensure that development does not create or contribute to rural land use conflicts,
- d) to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component,
- e) to preserve river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality,
- f) to protect hilltops, ridge lines, river valleys, rural landscapes and other local features of scenic significance,
- g) to prevent the establishment of traffic generating development along main and arterial roads,
- h) to control outdoor advertising so that it does not disfigure the rural landscape,
- i) to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services,
- j) to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,
- k) to encourage existing sustainable agricultural activities.

Comment

The streetscape along Bells Line of Road through Bilpin contributes to the rural character of the area. Buildings forward of the building line are generally road side stalls, or similar, selling produce which is a result of the agricultural activities that are undertaken with the area.

The proposed garage will create conflict within the Bells Line of Road corridor, adversely affecting the rural landscape that is currently maintained along the road corridor.

As a result the proposed garage forward of the dwelling within the front setback will fail to preserve the rural landscape character of Bilpin.

Clause 37A Development on land identified on Acid Sulfate Soils Planning Map (class 5)

Comment

The depth of excavation is not considered to affect the Acid Sulfate Soils.

Hawkesbury Development Control Plan (HDCP) 2002

The proposed development is not considered to be consistent with the requirements of HDCP 2002.

An assessment of the proposal against the relevant provisions of this Plan follows:

Part A Chapter 2 - General Information

The subject application provides adequate information for the assessment of the proposal and therefore complies with this chapter.

Part A Chapter 3 - Notification

The application was required to be notified to adjacent property owners in accordance with HDCP.

No submissions were received as a result of the notification.

Part D – 1.4 Setbacks

1.4 Setbacks: Rules

- a. **For sites fronting Main, Arterial or Collector roads, buildings are to be set 10 metres back from the front boundary unless there are exceptional physical circumstances. The 10m setback commences after any road widening which may affect the subject land.**

Council has developed specific development control guidelines pending the review of the existing Development Control Plan. These guidelines set the following requirements

Front Setbacks - Where there is adequate space and access to the side or rear of the dwelling to provide undercover parking, then the existing setback remains unaltered.

There is significant space to the rear of the property that can be accessed by the existing driveway for the construction of the proposed garage.

The applicant has not provided details of exceptional physical circumstances that justifies the proposed location.

- 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:**

There are no planning agreements applicable to the proposed development.

- v. **Matters prescribed by the Regulations:**

There are no prescribed matters that affect the proposal.

- 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:**

Context and Setting

There are no likely adverse impacts associated with the proposed development other than an unacceptable visual impact resulting from the excessive size and height of the proposed structure.

Access, Transport and Traffic

Access to the site is considered satisfactory.

Bushfire

It has been suggested by the applicants that locating the detached garage forward of the dwelling and within the front setback meets the Bushfire Provisions.

The detached garage can be located to the rear of the dwelling whilst still providing compliance with Planning for Bushfire Protection 2006. Planning for Bushfire Protection 2006 requires that 10 metres of separation is provided, whilst maintaining a compliant asset protection zone.

Locating the garage in a suitable location to the rear of the dwelling would retain access to the rear yard together with access to the fire trail at the rear of the property.

Cumulative Impact

The location of the garage forward of the dwelling is considered to have a adverse cumulative impact to the Bells Line of Road corridor.

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c. Suitability of the site for the development:

The subject site does not contain any significant constraints that would make this development prohibitive.

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

The application was notified to the relevant state government agency in accordance with the Environmental Planning and Assessment Act 1979, as well as was notified to adjacent property owners in accordance with Hawkesbury Development Control Plan.

No submissions were received during the notification:

e. The Public Interest:

The proposal is not consistent with the relevant planning instruments affecting the site. Approval of the development may create an undesirable precedent for similar inappropriate development which would not be in the public interest.

Financial Implications

The proposal is exempt from Section 94A Development contributions as the building work involves a Class 10a structure only.

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 DA0120/12 for the construction of a garage at 2312 Bells Line of Road, Bilpin known as Lot 105, DP 1138031, be refused for the following reasons:

1. The proposed development fails to demonstrate compliance with the zone objectives (d) and (j) of the Hawkesbury City Council Local Environmental Plan 1989;
2. The proposed development fails to demonstrate compliance the zone objectives (b) and (g) of the Hawkesbury City Council Local Environmental Plan 2012;
3. The proposed development fails to demonstrate compliance with Hawkesbury Development Control Plan (HDCP) in relation to both the Aims and objectives of the Residential Chapter;
4. The proposed development is likely to have an adverse visual impact upon the scenic quality of the landscape.
5. Approval of the development application would likely create an undesirable precedent for similar inappropriate development which is not in the public interest.

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ATTACHMENTS:

AT - 1 Locality Plan

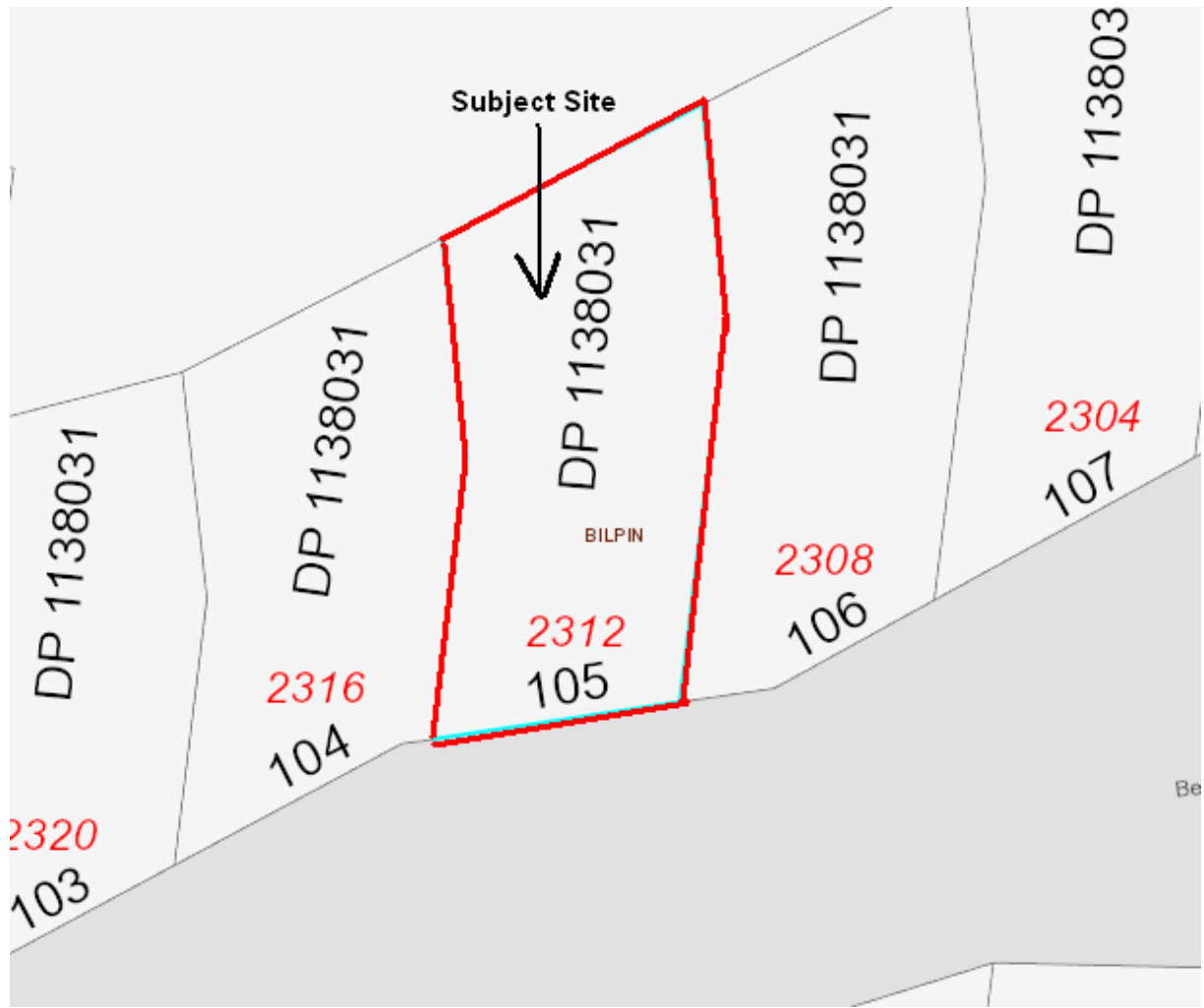
AT - 2 Aerial Photograph

AT - 3 Plans

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AT - 1 Locality Plan



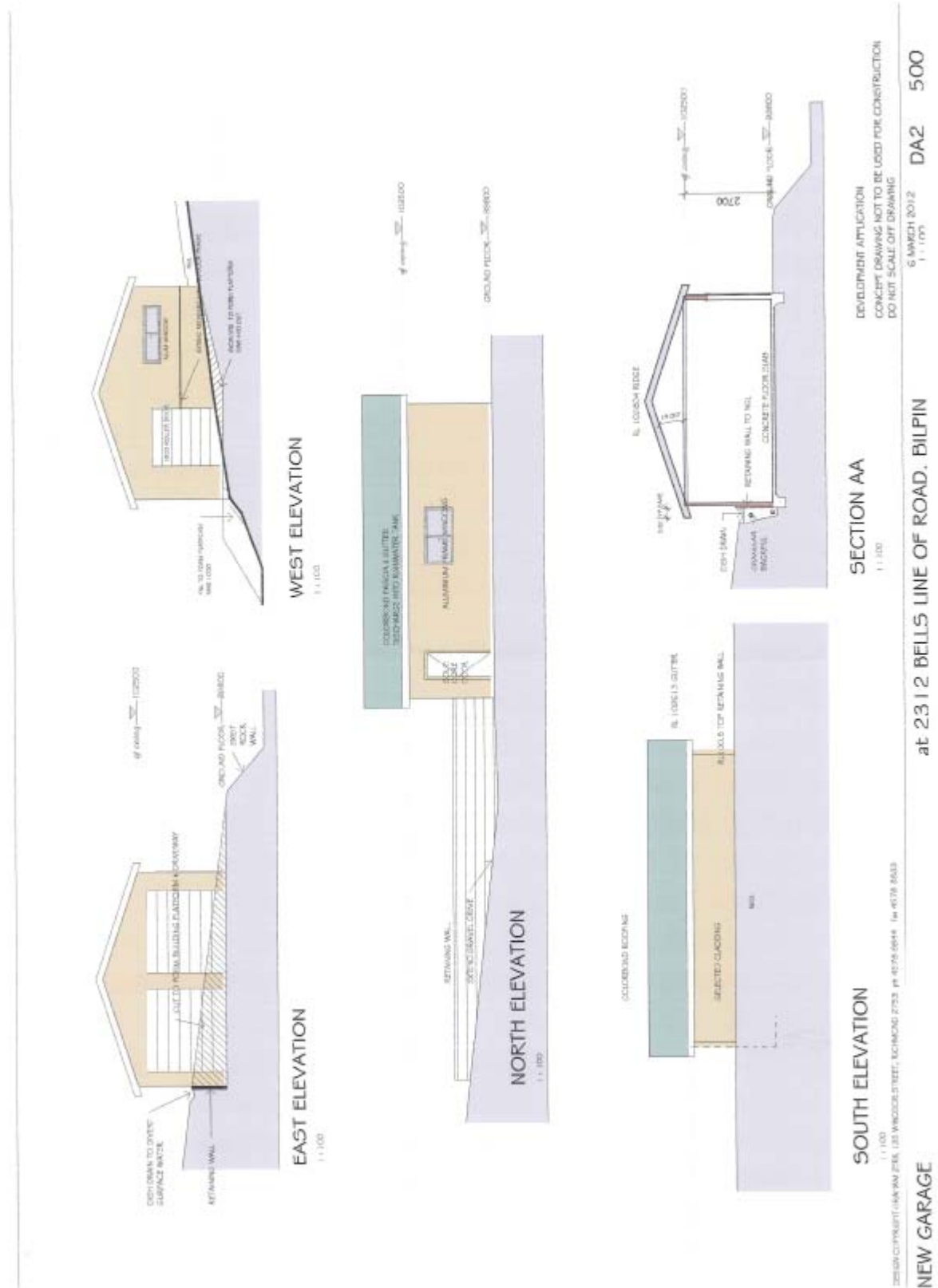
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AT - 2 Aerial Photograph

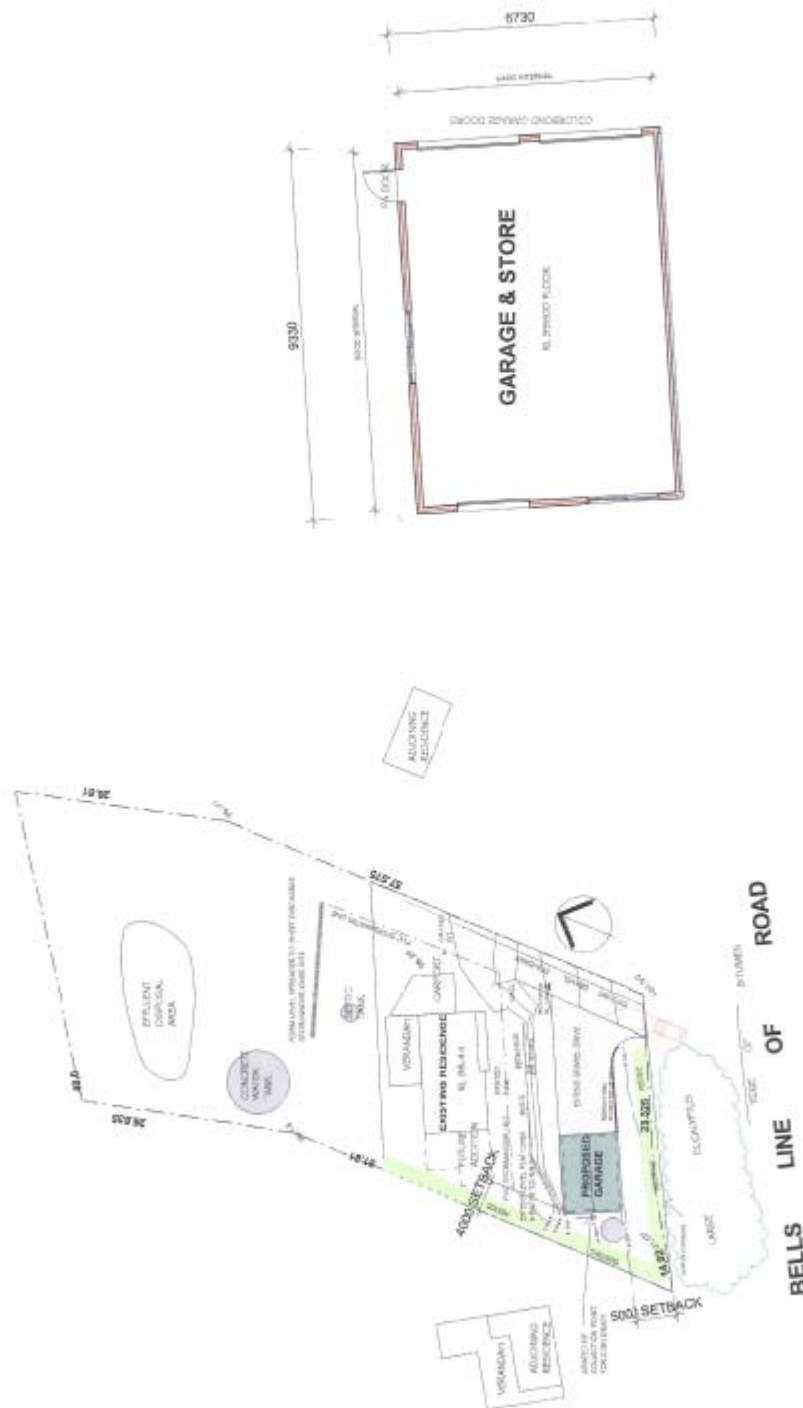


AT - 3 Plans



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FLOOR PLAN
1:100

SITE PLAN
1:100

DEVELOPMENT APPLICATION
CONCEPT DRAWING NOT TO BE USED FOR CONSTRUCTION
DO NOT SCALE OFF DRAWING

2 MARCH 2012
DAI 500

at 23 | 2 BELLS LINE OF ROAD, BILPIN

NEW GARAGE

oooO END OF REPORT Oooo

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Item: 45 **CP - Proposed Amendments to Hawkesbury Development Control Plan - Revocation of Bligh Park Neighbourhood Business Precinct Chapter and Addition of Heritage Chapter - (95498)**

Previous Item: 64, Ordinary (8 May 2012)

REPORT:

Executive Summary

The purpose of this report is to advise Council of the review of the Development Control Plan (DCP) provisions relating to 139 Colonial Drive, Bligh Park as resolved by Council on 8 May 2012 and to propose the addition of a Heritage Chapter into the Hawkesbury DCP 2002.

The review recommends that the site specific DCP Chapter "Bligh Park Neighbourhood Business Precinct" be deleted from the DCP.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement process proposed in this report, being a Statutory process, meets the criteria for the minimum level of community engagement required under Council's policy. The amendment of a DCP is governed by the process set out in the Environmental Planning and Assessment Act 1979 and Regulations 2000. In this case a public exhibition period of 28 days is required.

Background

Bligh Park Precinct

At the meeting of 8 May 2012 Council considered a report in closed session in relation to the property at 139 Colonial Drive, Bligh Park and the following resolution was made:

"That a report be submitted to Council reviewing the site specific Development Control Plan that currently applies to 139 Colonial Drive, Bligh Park"

The subject land (139 Colonial Drive, Bligh Park) is located on the corner of Colonial Drive and Rifle Range Road, Bligh Park and has a total area of 2.42ha in two separate titles. A drainage reserve runs along the adjacent south eastern property boundary. The Tiningi Community Centre and associated facilities are located on one allotment with an area of 4,449 m². The remaining allotment has an area of 1.975 ha and apart from the small car park for the community centre is undeveloped.

In 2009 Council engaged an appropriately qualified consultant to undertake a Flora and Fauna Assessment of the entire site. The preliminary assessment confirmed that the majority of the site contains the Endangered Ecological Community Shale/Gravel Transition Forest, Endangered Cumberland Plain Land Snail and other endangered flora species. Based on the preliminary assessment only about 10-20% of the site is developable in the current state and appropriate biodiversity offsets would need to be undertaken should more of the site be proposed for development. Council also commissioned a more detailed assessment of the site to gauge whether the development proposal envisaged by the DCP is likely to cause a significant effect on any endangered ecological community, endangered population, threatened species or their habitats. The assessment was based on seven factors listed in Section 5A of the Environmental Planning and Assessment Act 1979 and commonly referred to as a "seven-part test".

The "seven part test" report confirmed the existence of endangered ecological communities and threatened flora and fauna species on the site. The report recommended a range of measures including expanding the

study area and undertaking a Species Impact Study and bio-diversity calculation to work out the quantum of offsets needed for the site should it be developed. This “offset” means that should the endangered community be removed an area much larger than the area of removed vegetation would need to be provided elsewhere in the catchment to replace that lost vegetation.

The DCP that applies to the site is Chapter 6 of Part E of the Hawkesbury DCP 2002 “Bligh Park Neighbourhood Business Precinct”. This Chapter applies only to the site known as 139 Colonial Drive, Bligh Park. The DCP contains limitations on the size of any commercial type development and compulsorily requires a residential component to form part of the development.

The land is zoned B1 Neighbourhood Centre under the provisions of the Hawkesbury LEP 2012. Neighbourhood Shops/Commercial development and some residential development is permitted in this zone. However, whilst the use of a DCP to control the bulk, size and scale of a development is a valid mechanism to guide development of a site, the current DCP attempts to limit the uses of part of the site to residential only and not allow commercial development. In this regard, the DCP is bordering on restricting the land uses on the site that are permitted in the LEP. It should be noted that it is beyond the power of a DCP to override the provisions of an LEP. Should Council wish to restrict the land uses on the site the most appropriate mechanism would be to amend the zoning of the site by amending the LEP.

The findings of the environmental investigations identified that only a limited area of the site is suitable for development in the current form, i.e., outside the Endangered Ecological Community (EEC). However, the DCP contains controls and restrictions over the entire site that, given the location of the EEC, may not be possible to achieve. In this regard, the DCP provisions would be redundant.

The presence of the EEC on the site has introduced an additional layer of assessment for development on the site. The general options for development are to only develop the 10-20% of the site outside the EEC, off-set the removal of the EEC via increase/improvement of an additional area on another site in the locality or a combination of these. Any off-set of the EEC would require a number of State and possibly Federal Government approvals. Should a developer proceed with the option of full off-set of the EEC, the process would be costly and development different to the DCP provisions would be required. In this regard the DCP provisions would not be appropriate to this process.

It is recommended that the DCP “Bligh Park Neighbourhood Business Precinct” be revoked from the Hawkesbury DCP as the provisions are, due to the identification of the EEC on the site, no longer applicable to development of the site. The removal of the DCP Chapter would still mean that the zoning provisions and height limits contained in the LEP would still apply to the site and would provide the flexibility in the planning provisions to consider development that would obtain a satisfactory environmental outcome.

Heritage Chapter

It is proposed to introduce a Heritage Conservation Chapter to the DCP. A copy of the draft Heritage Chapter is attached to this report.

The draft Heritage Chapter will apply to all development proposals that relate to heritage properties and as such contains general provisions that will assist applicants and assessment staff when preparing and assessing all types of applications relating to heritage matters. The Chapter contains the following objectives:

- a) To promote and protect Hawkesbury's natural and cultural heritage as a valuable resource that must be conserved for future generations,
- b) To consider the potential heritage significance of all properties identified in the LEP Heritage Map and other applications as a matter to be taken into account in the assessment of DAs affecting those properties,
- c) To integrate conservation issues and management into the planning and development control process,
- d) To ensure that any development with respect to a heritage site is undertaken in a manner that is sympathetic to, and does not detract from, the identified significance of the site,

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- e) To encourage innovative approaches to the conservation of Hawkesbury's heritage and to provide incentives for good management practice.

The draft Heritage Chapter also contains the following:

- A background of Aboriginal and European heritage in the Hawkesbury,
- Explanation of common terms used when relating to or assessing heritage applications,
- Explanation of when development consent is and is not required,
- General development controls relating to different types of applications, including comments relating to materials that are suitable to use and not to use,

It is believed that the addition of the Heritage Chapter will assist applicants preparing applications that relate to heritage items and issues and will help to clarify what is permitted and not permitted in relation to these items.

A copy of the draft Heritage Chapter was referred to the Heritage Committee in 2012 and comments received were taken into account before finalising this current draft. It is proposed to refer the revised draft to the members of the current Heritage Committee.

It is proposed to place the amendments to the DCP, being the revocation of the "Bligh Park Neighbourhood Business Precinct" and the draft Heritage Chapter addition to the DCP, on public exhibition for a minimum period of 28 days. Following public exhibition, the DCP amendments will be reported to Council for amendment, if required, and adoption.

Conformance to Community Strategic Plan

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

Financial Implications

No financial implications, apart from use of staff resources and advertising the exhibition period for the DCP changes, are applicable to this report. Advertising charges can be covered under existing budgets.

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 place the intention to revoke Chapter 6 of Part E of the Hawkesbury DCP 2002, "Bligh Park Neighbourhood Business Precinct", of the Hawkesbury Development Control Plan 2002 on public exhibition for a minimum of 28 days,
2. The draft Heritage Conservation Chapter be placed on public exhibition for a minimum of 28 days,
3. Following the abovementioned exhibitions, the two matters be reported back to Council for finalisation.

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ATTACHMENTS:

AT - 1 Draft Heritage Conservation Chapter for public exhibition. (*Distributed under separate cover.*)

oooO END OF REPORT Oooo

SUPPORT SERVICES

Item: 46 **SS - Webcasting of Council Meetings - (95496)**

Previous Item: NM1 – Ordinary 9 October 2012 (79351, 80104)

REPORT:

Executive Summary

This report has been prepared as a result of a Notice of Motion adopted at the Council Meeting held on 9 October 2012. It outlines the requirements to Council to webcast Council Meetings live, and establish an archive of recorded Meetings through Council's website.

The report provides an overview of the options available to Council in order to pursue live webcasting or audio streaming. It outlines the equipment required, the feasibility of providing a webcasting service, physical logistics, costs to Council, and identifies relevant considerations such as legislative concerns and in-house process updates to accommodate webcasting. In addition, practices of other councils in regard to webcasting have been canvassed and are provided in this report.

Consultation

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

Background

Council at its meeting on 9 October 2012 adopted the following Notice of Motion:

"That:

- 1. A Report be submitted to Council regarding the feasibility of, and associated requirements, to enable the webcasting and/or podcasting of all future Council Ordinary meetings.*
- 2. The Report is to also address related issues such as costs involved, funding sources and amendments required to Council's Code of Meeting Practice, requirements arising from the Privacy and Personal Information Protection Act, the Government Information (Public Access) Act and other related legislation.*
- 3. The matter be discussed at a Briefing Session prior to being reported back to Council."*

In accordance with Part 3 of the above resolution, this matter was discussed at a Councillor Briefing Session on 12 February 2013.

This report outlines the matters discussed at the Councillor Briefing Session and provides an overview of the preferred webcasting provider, and four options available to Council in order to undertake live webcasting or audio streaming. It outlines the equipment required, the feasibility of providing a webcasting service, physical logistics in regard to physical space and staff resources, costs to Council for the initial setup and ongoing costs. It identifies relevant considerations such as legislative concerns and in-house process updates which will need to be completed to accommodate webcasting.

In addition, a sample of practices of other councils in regard to webcasting have been canvassed and are provided in this report, including whether or not it webcasts meetings, the average number of 'watchers', if it considered webcasting and did not proceed, or if it has provided webcasting in the past and no longer does.

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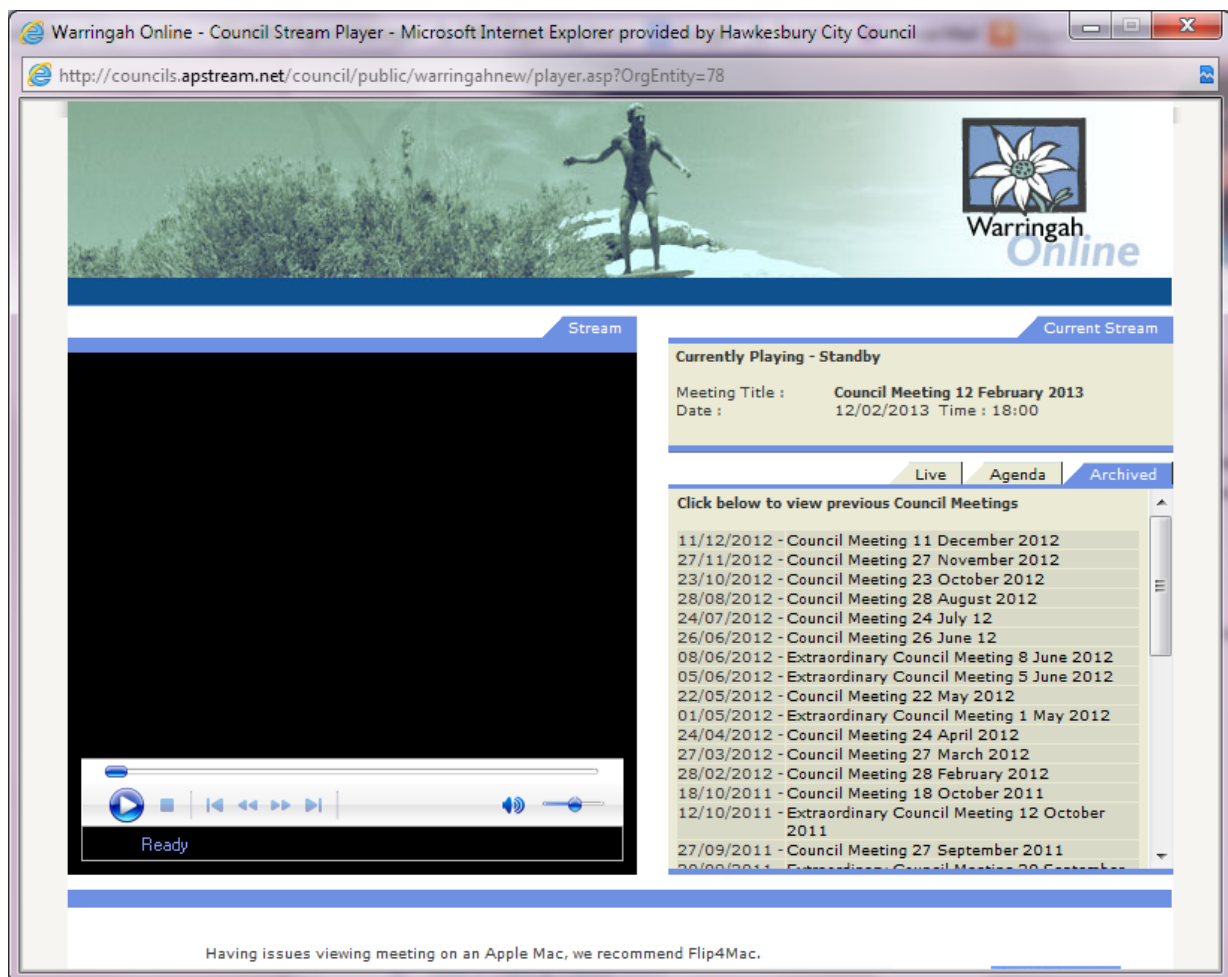
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Council Meetings are currently digitally audio recorded for the purposes of accuracy and clarification of the minutes. However this is not considered to be the official record of the meeting under the State Records Act 1998, rather Council's signed and adopted minutes are. Under the Government Information (Public Access) Act 2009, Council provides Year 1 its audio recordings to the public at a cost of \$40 per disc (set by Council's Fees and Charges) upon completion of an application form.

1. Web Component

In order to deliver a webcast, Council requires a software provider. ApStream is the main provider (for Local Government and Parliament) for webcasting. Meetings are streamed directly to the ApStream server (in Melbourne) where it is then relayed live to the public with a maximum delay of up to two to three seconds. Council's current internet connection is expected to be sufficient, however this can not be confirmed until a live stream is carried out.

ApStream provides a portal through Council's website, which is media branded to each individual Council. For example, Warringah Council's webpage is shown below, which is provided by ApStream:



Note the options to view live, agenda or archived meetings.

ApStream costs total \$12,992 for the first year, and \$8,492 each year thereafter, based on 22 meetings per year (note, all prices are GST exclusive). This includes streaming set up, archiving of meetings, configurations and connections, and on demand facilities. There are also additional one-off costs for software and hardware required for encoding and streaming of the meetings such as a dedicated PC for encoding and 2 AV capture cards.

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It is considered that Council's in-house server capabilities are sufficient, however, this cannot be confirmed until actual streaming is tested. However, the required additional permanent staff resource/s are considered cost prohibitive, making the cost of in-house streaming significantly higher than any of the options listed below combined with the ApStream software component.

2. Options To Webcast

There are a range of hardware/software systems that can be used to make the recordings within the Council Chambers. Four options in total have been investigated, three being audio visual models, and the fourth being an audio only option.

Option 1

This system uses two to three fixed cameras and Council's existing sound system. It provides an unedited, constant live stream which is on view at all times during the meeting, i.e. all Councillors would be shown at all times. There are no zoom, pan or focus options. This option is expected to cost a total of \$20,601 (including ApStream component) in Year 1 with on-going costs of \$8,492 per annum. Lane Cove currently use this set-up, shown below:



Option 2

This set-up consists of one or more manually operated cameras within the Council Chambers.

- If using one camera it could potentially be the same camera as discussed in Option 3. This would be controlled manually by staff with a joystick type instrument and/or software.
- If using two or more cameras, the set-up would be similar to Option 1, with staff resembling a director role by cutting between shots and zooming in and out on speakers.

This set-up does not guarantee a clean image and is at risk of human error.

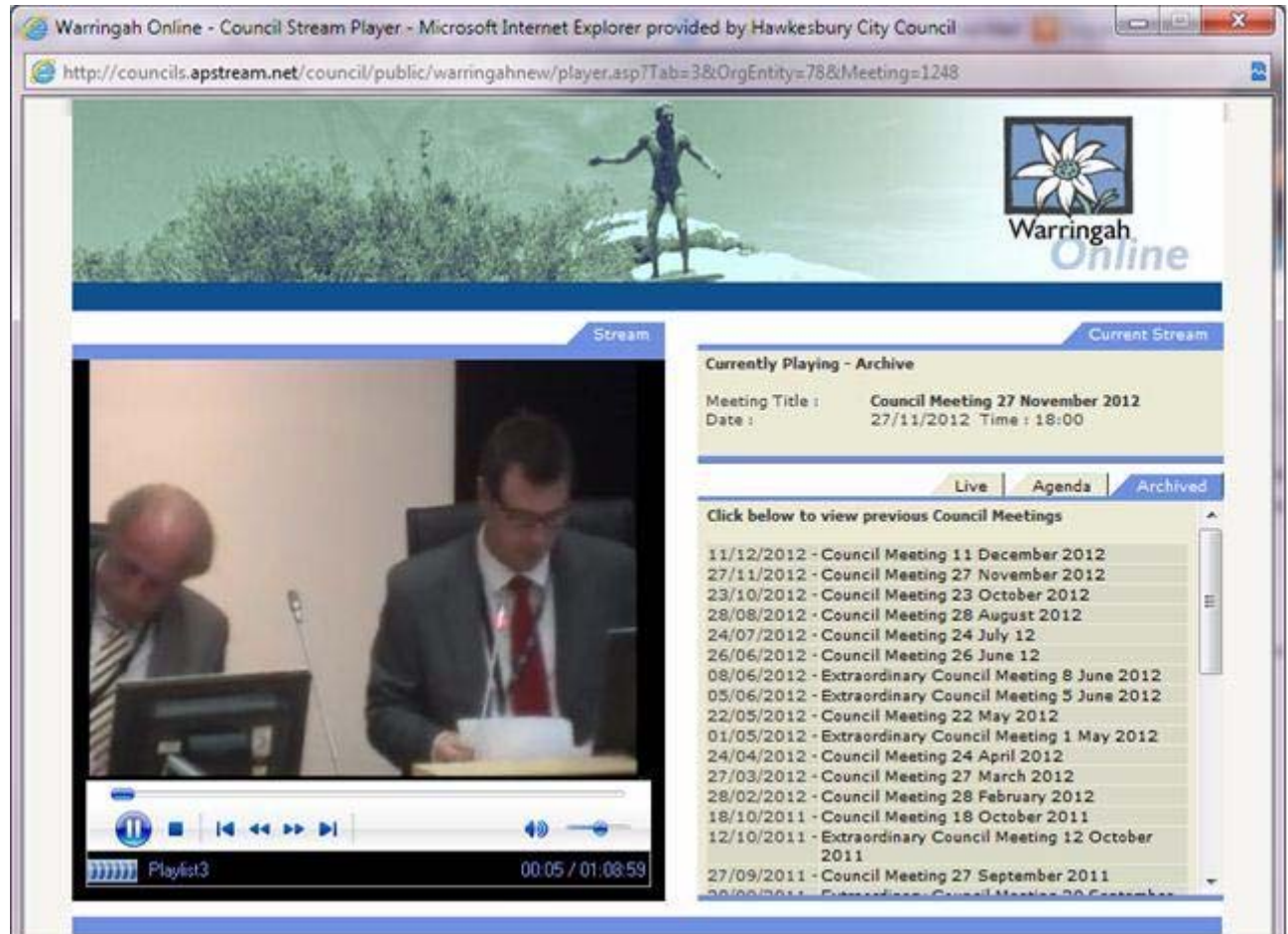
This set-up would utilise the existing sound system in the Chambers, and require an additional dedicated staff resource at all meetings. This staff resource would require significant training and a work space within the Chambers, which would be an additional cost not currently included. On the assumption that an existing staff resource could be trained and willing to complete overtime, the costs of this set-up would be \$35,699 (including ApStream) in Year 1 with on-going costs of \$18,492 per annum. However, should

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Council be required to employ a permanent full time staff resource to cater to this service provision, the costs would be considerably higher.

Warringah Council currently use this set-up, shown below:



Option 3

This set-up consists of a fully automated integrated camera and sound system. It would require Council to upgrade its existing sound system to work with a centrally located pedestal camera (no operator required). This system would be configured with set positions for each Councillor/Speaker, and allows for predefined business rules for the Mayor and queuing of speakers. It is an intelligent system that provides a smooth transition between camera shots and presents like a professional movie/broadcast. There are also screen saver image options, for example: if there is no speaker or the meeting is adjourned the visual can default to the Council logo. Likewise, if public speakers objected to being visually recorded and only agreed to the audio recording, the image could be a pre defined logo or screen saver.

The set-up cost for this system is \$47,922 in Year 1 with on-going costs of \$8,492 per annum. Councils currently using this systems are Port Stephens and East Gippsland (however both are currently not streaming for Governance reasons).

See below for East Gippsland Council example, the small pedestal camera is located in the centre of the round table, and the image which is broadcast may also be projected on the screen in the background if required:

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Small pedestal camera



Option 4

This option considers the broadcast of audio only online, with no visual component. Council would be able to utilise its existing sound system and avoid some set-up costs that are required for the visual webcast, but not the audio only broadcast. Hence the ApStream costs would incur a Year 1 cost of \$10,700 with on-going ApStream costs of \$7,700 per annum (depending on the number of meetings held in the archive).

It is noted that, Launceston Council do audio only streaming, live with two months of archiving.

3. Cost Comparison

All four options have been compared for cost, both set-up and ongoing fees, as below:

	Year 1	Year 2	Year 3	Year 4	Year 5	Total Cost over 5 Years
Option 1	\$20,601	\$8,492	\$8,492	\$8,492	\$8,492	\$54,569
Option 2	\$35,699	\$18,492	\$18,492	\$18,492	\$18,492	\$109,667
Option 3	\$47,992	\$8,492	\$8,492	\$8,492	\$8,492	\$81,960
Option 4	\$10,700	\$7,700	\$7,700	\$7,700	\$7,700	\$41,500

There are no funds allocated in the 2012/2013 Adopted Budget for webcasting of Council Meetings. If Council wished to implement webcasting at Council Meetings funding would need to be made in the 2013/2014 Budget.

4. Preferred Option

If Council decided to provide a webcasting service, Option 3 is preferred. It provides the most professional images as it is fully automated and does not require human intervention, hence reducing the risk of human error. This option provides the optimum results, focusing on each Councillor or speaker whilst avoiding the distraction of background activity on the screen, and is expected to be most suited to the Council Chamber design.

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Option 3 includes a new sound system that is directly connected to the visual webcast and will avoid any issue between the two systems, as well as any possible maintenance requirements on the current sound system, which is approximately two years old.

Comparatively, the costs of Option 3 are considered to be in the middle of the scale. Whilst this option has a higher initial cost, it produces the most professional broadcast with minimal on-going expenses.

If Option 3 was adopted, the implementation timeframe is outlined below, with an estimated go-live date of November 2013:

- 2013/2014 Budget adopted– July 2013
- Seek legal advice and drafting internal updates as below
- Order equipment – 4 weeks
- Installation and testing time – 4 to 6 weeks
- Test meeting – end September 2013
- Allotment for changes, amendments, settings, refined – 4 to 6 weeks
- Webcast live – November 2013

5. End User Requirements

Council cannot control the end user experience as it is dependent on the download speed available to the users home PC, having speakers connected and access to Council's website. However, end users do not require any additional software or hardware, and should they have the correct equipment, they would be able to watch the Council meeting live from their home or any other location with minimal, if any delay.

6. Average Users

Other council's practices in regard to webcasting have been investigated and the following information is provided:

Council	Webcasting?	Average viewers	Comments
Lane Cove	Yes	4 per meeting	Lane Cove began webcasting in 2010 with a basic set up due to the size and shape of the meeting room. Given the small number of viewers, there are no immediate plans to upgrade the technology.
Shellharbour	Yes	Average: 20-70 per meeting Contentious matters: 100-200 per meeting	Shellharbour has been webcasting its meetings since late 2009. Two staff attend each meeting as part of the ongoing webcasting costs. A disclaimer is read at the start of each meeting regarding defamation and privacy.
Warringah	Yes	Average over 4 meetings: 80 per meeting	
Port Stephens	No	Sample of 4 meetings (post election 2012): 23-90 <i>(Provider had an issue in the middle of last year and lost viewer data prior to that date)</i>	Investigated audio streaming in early 2010, resulting in no action. Then resolved to webcast meetings from March 2012, but resolved to discontinue webcasting in December 2012 due to privacy and defamation concerns.

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Council	Webcasting?	Average viewers	Comments
Port Macquarie Hastings	No		Previously webcast its meetings, with a dedicated staff member attending each meeting to manage the live streaming and archiving of meetings. On 25 July 2012, resolved to suspend webcasting and called for a report on the costs, viewer numbers and risks associated with webcasting. Webcasting was not recommenced at this stage.
East Gippsland	No		Previously webcast its meetings, but does not currently.
Randwick	No		No webcasting, but do take audio recordings of the meeting, which can be applied for under GIPA.
The Hills	No		
Penrith	No		A report on webcasting Council meetings was considered by Council on 25 February 2013. No action will be taken, as the resolution was to receive and note the report. Council Officers noted privacy and legal concerns.
Lithgow	No		
Parramatta	No		
Blacktown	No		
Wollongong	Yes	Not available	Wollongong Council have been webcasting for the last four meetings. The establishment of webcasting required a project team to implement which included Legal, IT, Governance, Building Services and other Council officers. It already had TV monitors in it's Chambers, and is now looking at upgrading the sound system to enhance the broadcast.
Marrickville	No		A report was considered by Council on March 2010 on live audio streaming of meetings, which was not adopted/actioned. No change since
Hornsby	No		Audio recordings of each meeting from August 2011 are available on its website, on the Monday following each meeting (no live stream), with the minutes going up on the web on the preceeding Friday.
Burwood	No		Burwood Council take audio recordings for purposes of clarifying minutes, which can be applied for under GIPA. Webcasting was considered approximately 3 to 4 years ago, but resulted in no action.
Newcastle	Yes	Not available	Newcastle Council webcasts live meetings and has an online archive of 4 months worth of meetings. Meeting on 26 February 2013 was unable to be broadcast due to system issue.
Botany	Yes	Not available	Botany Council has been webcasting its meetings for approximately 7 years, with a dedicated staff member attending each meeting to film (there is no archive of meetings). Indications are a very low level of viewers.

7. Governance Considerations

Privacy/Defamation

Councillors are governed by a number of legislative and statute guidelines such as the Privacy Management Plan and Code of Conduct. Webcasting provides greater scope for scrutiny from the public, as well as a higher level of risk for defamation actions. While Councillors enjoy 'qualified privilege', it is not as extensive as Parliamentary Privilege and any comments made by Councillors which are defamatory could be the subject of legal proceedings. The same risk is experienced by public speakers as well.

Whilst staff and Councillors would be offered training on any new equipment, etc, private conversations between Councillors *may* be audible on the recordings and it is recommended that legal advice be sought on this scenario, along with many other issues that could arise from webcasting, should Council decide to proceed.

Public Speakers

Public Speakers also provide a risk to Council in that even unsolicited information is subject to the Privacy Management Plan, i.e. IPP 5: "personal information is protected against the loss, unauthorised access, use, modification...". Further, defamatory comments may be made or discussed at the meetings or speakers may reveal information about a third party without their consent (i.e. specifically in DA matters), and accordingly, it is recommended that legal advice be sought on this subject, and any possible disclaimers to ensure they provide Council with adequate coverage should such an incident occur.

It is considered reasonable to provide public speakers with the option to be streamed with audio and visual, or audio only. There is a concern that enforcing video recordings could be seen as a deterrent to public participation.

Security

Webcasting also increases the security risk to Council, as it has no control over access to the footage. Council cannot lock down the footage and it provides the ability to edit footage. For example: a 'mashup' of footage can be made from several different addresses in meetings to misrepresent the purpose of those addresses, such as You Tube comedy clips.

Further, the webcast footage is permanently in the digital sphere. Even if an archived meeting is removed at a later date, there is the possibility that someone has saved the file to their own hard drive, emailed it to a friend, etc.

Purpose

It is noted that the State Records Act does not view webcasts as an official record. Council's business paper and signed, adopted minutes are the official records under the Act. Webcasting is only seen as supporting material and there is no legal obligation to do it.

8. Other Requirements

Should Council proceed with webcasting, the following documents will need to be amended accordingly:

- Code of Meeting Practice
- Code of Conduct
- Fees and Charges / DVD recording prices (currently covering release of audio recordings)
- In regards to GIPA, applicants currently complete a form requesting a CD of the Council meeting recording, or just one item, which is charged at \$40. It provides Council with a record of who has accessed the recordings and provides a small income for Council. However, should webcasting proceed, this practice will essentially become irrelevant.

ORDINARY MEETING

Meeting Date: 12 March 2013

More importantly, all elements relating to public speakers will need to be reviewed, and it is recommended that legal advice be obtained on the following to ensure that all disclaimers are sufficient to protect Council:

- Signage – in and around Council Chambers
- Business Paper – How Council Operates page
- Brochure – How Council Meetings Work
- Website – Application to speak and Council meeting process pages
- Application to Speak form and attached Information/ Privacy sheet – where members of the public sign off to accept the terms of their address and abide by Council practices
- Opening Statement – read at commencement of Council meeting

9. Advantages/Disadvantages

Advantages	Disadvantages
Increase public access	End user experience is out of Council's control
Increase transparency	Increased base for scrutiny and defamation
Provide access for remote areas	Implementation and ongoing costs to Council
24x7 historical viewing	Unprotected editing
No cost to the viewer	No record of access to information/webcast
	Greater risk for breach of privacy claims/proceedings
	Unsure of number of potential viewers

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Direction statement;

- Have transparent, accountable and respectful leadership and an engaged community

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Have ongoing engagement and communication with our community, governments and industries.

Financial Implications

Should webcasting proceed, there are budget implications for Council. If Council were to proceed with webcasting and decide to implement Option 3 as outlined in the report, the cost would be approximately \$48,000 in 2013/2014 and approximately \$8,500 each year thereafter.

RECOMMENDATION:

That Council receive and note the report.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 12 March 2013

CONFIDENTIAL REPORTS

Item: 47 SS - Property Matter - Lease to Mr David Spencer - T/A Stonehill Rural Services -
Nursery, Wilberforce Shopping Centre - (95496, 10258, 86218, 28061)
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)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ORDINARY MEETING

Meeting Date: 12 March 2013

Item: 48 SS - Property Matter - Lease to Woodlands Park Pony Club, (Part of) 295 Sackville Road, Wilberforce - Lot 252 DP 1004592 - (95496, 112106, 74151)
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)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillors Questions from Previous Meetings and Responses - (79351)

REPORT:

Questions – 26 February 2013

#	Councillor	Question	Response
1	Rasmussen	Asked Council to provide a report regarding Council's ability to act on the odours in Windsor and South Windsor.	The Director City Planning advised Council has received many complaints from Windsor and South Windsor residents regarding odours produced by the processes associated with the production of mushroom substrate from Elf Farm Supplies at Mulgrave. As these operations are covered by a license administered by the EPA (the Authorised Regulatory Authority) under the <i>Protection of the Environment Operation Act</i> , Council does not have jurisdiction to direct the operators of the facility to take any action to prevent the production of the odours. Council does, however, forward complaints onto the "EPA Hotline". The EPA is currently carrying out surveillance of the area and is completing an "Odour Assessment Audit" which is due for completion in March 2013. EPA officers inspected the site on 5 March 2013 in response to Council's concerns, and a report of their findings is anticipated in the near future. Access to the report will be sought, however, may not be available to Council due to privacy concerns.
2	Calvert	Advised that he has resigned from the Civic and Citizenship Committee however it didn't appear in the Committee Report.	The General Manager advised that this has now been appropriately noted.

ORDINARY MEETING

Questions for Next Meeting

#	Councillor	Question	Response
3	Calvert	Asked a question regarding the adoption of the minutes from the previous Council meeting and if it was indicated who was present at the meeting when it resumed.	The General Manager advised that as the mover and seconder of the motion to adopt the minutes in question were present at the commencement of the meeting, this was appropriate. Details of Councillors present when the meeting resumed were shown on page 20 of the minutes.
4	Calvert	Advised that due to the recent wet weather we have been experiencing the weeds in the local area have gotten out of control and asked what management control measures are in place to reduce the amount of weeds and how much funding has been allocated to eradicate the issue.	<p>The Director Infrastructure Services advised that Hawkesbury River County Council is the responsible authority for noxious weed management. Council's contribution in 2012/13 was \$152,798.</p> <p>Council continues to provide mowing/roadside vegetation slashing to ensure traffic safety, as well as undertaking a parks mowing and spraying program.</p> <p>In addition, Council also invests over \$200,000 in vegetation management on Council's bushland reserves, a large part of this is managing and removing weeds. Best efforts are also made to supplement these funds with available grant funding.</p> <p>Council does not have designated weeds officers and therefore rely on existing staff to re-prioritise work programs when required, in periods of high weed growth.</p>
5	Williams	Asked that Lower Colo Road be given some attention due to damage from the recent heavy rains.	The Director Infrastructure Services advised that instructions have been issued for any roads maintenance to be undertaken and this will be carried out on a prioritised basis.
6	Williams	Asked that Spinks Road, near Mitchell Drive be given some attention due to damage from the recent heavy rains.	The Director Infrastructure Services advised that instructions have been issued for any roads maintenance to be undertaken and this will be carried out on a prioritised basis.
7	Williams	Asked if Council had to pay for any of the clean up costs related to the recent Sand Sculpting Competition.	The Director Infrastructure Services advised that cleanup and repair of disturbed areas was undertaken by the event organisers. Council undertook additional embellishment works including mulching of trees, and contractors completed the remaining Howe Park upgrade works (BBQ's, seats, planting) at the same time as the clean up of the event was

ORDINARY MEETING

Questions for Next Meeting

#	Councillor	Question	Response
			undertaken.
8	Lyons-Buckett	Asked for an update on KFC site in Windsor.	The Director Infrastructure Services advised that a report is currently in preparation and will be presented to Council in April.
9	Lyons-Buckett	Asked for an update on Council's Roadside Vegetation Management Plan, which was prepared in August 2010 but never adopted, could be presented to Council.	The Director Infrastructure Services advised that the Roadside Vegetation Management Plan is being revised and will be reported to Council in the near future.
10	Lyons-Buckett	Asked what Council's policy was regarding fill being taken from and brought into the area.	<p>The Director City Planning advised Council is guided by the Environmental Planning and Assessment Act (EPA&A Act) and the Protection of the Environment Operations Act (POEO Act) when addressing matters associated with the importation and exportation of fill materials being either brought in or taken out of the Hawkesbury City Local Government area (LGA).</p> <p>The EPA&A Act requires that development consent be sought and gained before quantities of fill material are allowed to be excavated and transported out of the LGA - the same applies to imported fill material being deposited onto properties in the LGA where the quantities of material exceed certain limits associated with top dressing of properties or where the type of activity is not covered by the provisions of exempt development. The POEO Act also applies to these situations and only allows for certain types of materials to be imported into the LGA and certification and classification of the materials is required in most cases to ensure the fill materials are not contaminated. This is also a requirement for development consents issued by Council. Transporters of such materials become responsible for the material they are carrying and can be prosecuted if all the required classifications and certifications can't be produced when required by an authorised officer under the POEO Act whilst transporting and depositing such material.</p>

ORDINARY MEETING
Questions for Next Meeting

#	Councillor	Question	Response
			Council's Compliance & Enforcement staff are authorised officers under the POEO Act and the EP&A Act and are often involved with carrying out investigations and enforcing the provisions of these Acts when offences are discovered and proven.
11	Lyons-Buckett	Asked what Council's procedure was for notifying the Roads and Maritime Services (RMS) of litter on roadways.	The Director Infrastructure Services advised that where litter is identified by Council staff, RMS is notified via their Customer Contact Centre.
12	Lyons-Buckett	Asked what the outcome was regarding removal of sand from Yarramundi Lane, Agnes Banks.	<p>The Director City Planning advised in May 2012, Council received concerns regarding the importation of fill material and earthworks at the premise, these works included the pushing of fill material into the river bed and the excavation of land below the watertable at the premise, the occupant was requested to cease all works and the matter was referred to the NSW Office of Water (Compliance) for their action.</p> <p>In September 2012, Council received concern with the continued importation of fill material to the premise. Council investigated the matter and issued the owner with a written direction to cease works at the premise. Council again contacted the NSW Office of Water (Compliance) advising of this matter.</p> <p>The areas most affected by these unlawful works are within 40 metres of the riverbank. As such the appropriate Regulatory Authority in this instance is the NSW Office of Water.</p>
13	Reardon	Asked if the roadside along Grose Vale Road could be tidied up.	The Director Infrastructure Services advised that instructions have been issued for any necessary works to be carried out.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Questions for Next Meeting



ordinary
meeting

end of
business
paper

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