



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 13 July 2010

location: council chambers

time: 6:30 p.m.

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 156 **GM - Results of Representations Regarding Degradation of Hawkesbury River - (79351)**

Previous Item: NM, Ordinary (30 March 2010)

REPORT:

Executive Summary

At the meeting of Council held on 30 March 2010, Council considered a Notice of Motion in connection with the degradation of the Hawkesbury River and resolved to make representations to the State Government in this regard.

Appropriate representations were made and a response subsequently received from the Parliamentary Secretary for Climate Change and the Environment and a copy of this response was forwarded to Councillors for information.

At the meeting of Council held on 29 June 2010, Councillor Porter referred to this response and it was subsequently suggested that the matter would be submitted to Council to enable Council to consider the response.

Consultation

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

Background

At the meeting of Council held on 30 March 2010 a Notice of Motion in relation to the degradation of the Hawkesbury River was considered by Council and it was subsequently resolved:

"That Hawkesbury City Council:

- 1. Notes, with great concern, the continuing and increasing degradation of the Hawkesbury River.*
- 2. Notes that the Department of Environment and Climate Change (DECC) holds a dredging licence of the Port Hacking river system and the extraction quantities have increased since the licence was originally issued.*
- 3. Calls upon the State Government to immediately address siltation problems and bank erosion by:*
 - (a) Investigating the causes of siltation and bank erosion.*
 - (b) Making recommendations as to correcting those problems.*
 - (c) Taking those actions (eg limited dredging) to make the River safe for navigation and marinating the River and banks in a sustainable state."*

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In accordance with Council's resolution, appropriate representations were made to the Minister for Climate Change and the Environment, the Hon. F Sartor, MP. Council's local state members of parliament were also requested to support Council's representations. A copy of Council's letter to the Minister is included as Attachment 1 to this report.

A response to Council's representations was received from the Parliamentary Secretary for Climate Change and the Environment via the Member for Londonderry, Mr A Shearen MP. A copy of this response is included as Attachment 2 to this report. A copy of this response was previously forwarded to all Councillors for their information.

At the meeting of Council held on 29 June 2010, Councillor Porter referred to this response and it was subsequently suggested that the matter would be submitted to Council to enable Council to consider the response.

Accordingly, this matter is submitted to enable the Council to consider the response to Council's representations. It is recommended that Council should apply for financial assistance for studies to investigate the causes of siltation and bank erosion within the Hawkesbury River, such as inappropriate extractive operations, wave erosion by boats and loss of tree vegetation clung riverbanks under the 2011/2012 Estuary Management Program, as outlined in the letter dated 2 June 2010 from the Parliamentary Secretary for Climate Change and the Environment.

Conformance to Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Directions statement;

- To look after our cultural and environmental assets for future generations so they too can enjoy and benefit from a clean river and natural eco-systems, rural and cultural landscape.

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

- Work in partnership with relevant stakeholders to protect designated waters.

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

- Healthy and sustainable Hawkesbury River and waterways.

The proposed implementation timeframe for this matter, as specified in the CSP Milestones is 2009-2011.

Financial Implications

No financial implications applicable to this report at this stage.

RECOMMENDATION:

That Council apply for financial assistance for studies to investigate the causes of siltation and bank erosion within the Hawkesbury River under the 2011/2012 Estuary Management Program as outlined in the letter dated 2 June 2010 from the Parliamentary Secretary for Climate Change and the Environment.

ATTACHMENTS:

AT - 1 Council's letter to the Minister for Climate Change and the Environment dated 8 April 2010.

AT – 2 Response from the Parliamentary Secretary for Climate Change and the Environment dated 2 June 2010.

AT - 1 Council's letter to the Minister for Climate Change and the Environment dated 8 April 2010

8 April 2010

The Hon. F Sartor, MP
Minister for Climate Change and the Environment
Level 35 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Minister,

Degradation of the Hawkesbury River

As you may be aware and recall from previous approaches and actions by Council, for example the successful River Summit hosted by Council in 2008, Council and many sectors of the Hawkesbury's community have been expressing, for some considerable time now, significant concern with the continuing and increasing degradation of the Hawkesbury River.

Whilst this has many and complex causes significant contributors to this situation are ongoing siltation, bank erosion and weed infestation due to decreased water flows within the river system.

In particular, siltation has rendered navigation problems to river users and the loss of old growth trees, due to erosion along the banks of the river adds to these navigation difficulties. If these problems are not addressed as a matter of urgency in the short term it will have a major economic impact on all councils and their communities that adjoin the Hawkesbury River.

Council has been advised by its delegates that evidence has been put forward at several Floodplain Management Conferences that siltation build up in a river system contributes greatly to increased overland flooding. In turn, this increased flooding can lead to more property damage and possibly result in the loss of life.

As a result of serious concerns in relation to the ongoing degradation of the Hawkesbury River a Notice of Motion was submitted to and considered by the Council at its meeting held on 30 March 2010.

In considering this Notice of Motion Council noted that the Department of Environment and Climate Change holds a dredging licence for the Port Hacking river system and, apparently, the extraction quantities have increased since the licence was originally issued.

In view of this and the ongoing degradation of the Hawkesbury River Council also considered that it would only be reasonable for an extraction licence to be issued for the Hawkesbury River so that the Hawkesbury's community can not only have a safer river in times of flood, and a safe navigable river, but also demonstrate that the community and its river users are treated equally to those people who utilise the Port Hacking river system.

Subsequently, the Council resolved that it:

1. Notes, with great concern, the continuing and increasing degradation of the Hawkesbury River.
2. Notes that the Department of Environment and Climate Change (DECC) holds a dredging licence for the Port Hacking river system and the extraction quantities have increased since the licence was originally issued.
3. Calls upon the State Government to immediately address siltation problems and bank erosion by:
 - (a) Investigating the causes of siltation and bank erosion.
 - (b) Making recommendations as to correcting those problems.
 - (c) Taking those actions (eg limited dredging) to make the River safe for navigation and maintaining the River and banks in a sustainable state.

Council is sure that you will appreciate the seriousness of this problem to this Council, as well as all councils that adjoin the Hawkesbury River, and that to address the ongoing degradation of the Hawkesbury River system action needs to be taken as a matter of priority.

Accordingly, it would be greatly appreciated if you could consider the Council's position on this matter and the action requested by the abovementioned resolution and your appropriate advice in this regard would be welcomed by Council.

Yours faithfully

Peter Jackson
General Manager

Direct Line: (02) 4560 4410

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**AT – 2 Response from the Parliamentary Secretary for Climate Change and the Environment
dated 2 June 2010**

Hon Frank Sartor AO MP

Minister for Climate Change and the Environment
Minister Assisting the Minister for Health (Cancer)



MD10/1571

Mr Allan Shearan MP
Member for Londonderry
PO Box 4001
WERRINGTON NSW 2747

Dear Mr Shearan

I refer to your representations of 28 April 2010 on behalf of Mr Peter Jackson, General Manager, Hawkesbury City Council, PO Box 146, Windsor 1756, concerning the degradation of the Hawkesbury River. As you are aware, Mr Jackson has also written to me directly regarding this matter. Please accept this as a reply to all correspondence.

Siltation is common in most of our river systems, and the causes are both complex and varied.

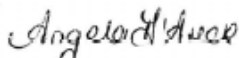
In contrast to the Hawkesbury River, the movement of marine sand within the Port Hacking estuary is due to wave and tidal action. This causes infilling of navigational channels, which impacts on essential ferry services, and maintenance dredging is repeated at regular intervals to ensure safe navigational depths. The impacts of this type of dredging are minimal and very short term.

Under some circumstances, dredging can also have unintended and undesirable consequences on bank stability and riparian corridor management. For example, dredging in the Hawkesbury River can potentially cause significant long term effects on the hydraulic and sedimentary processes of the river channel, including changes to the tidal characteristics, saline distribution, flood gradients and increased flow velocities, sediment budget and transport capacity, as well as the bank stability problems raised in Council's letter. The lowering of river bed levels due to past extractive industries has increased the tidal range and flow in the upper reaches of the river, resulting in the tidal limit moving a further 10 kilometres upstream.

Council's concerns regarding the Hawkesbury River are noted. Council may wish to consider applying for financial assistance for studies to investigate the causes of siltation and bank erosion within the estuary, such as inappropriate extractive operations, wave erosion by boats and loss of tree vegetation along riverbanks.

Applications for funding will be invited under the 2011/12 Estuary Management Program later this year. Additional information about the grant program, including funding criteria, is available on the Department's website at www.environment.nsw.gov.au. Alternatively, Ms Denise Gonzales, the Department's Grants Coordinator, can be contacted on 9895 7463.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Angela D'Amore'.

2 JUN 2010

Angela D'Amore

PARLIAMENTARY SECRETARY FOR CLIMATE CHANGE AND THE ENVIRONMENT

oooO END OF REPORT Oooo

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Item: 158 **GM - Local Government & Shires Association of NSW - Proposed Establishment of One Association for Local Government in NSW - (112608, 79351)**

Previous Item: 159, Ordinary (25 August 2009)

REPORT:

In 2009 Council considered correspondence from the Local Government Association of NSW (LGA) concerning previous proposals and discussions relating to the possible establishment of one association to cover both the LGA and the Shires Association of NSW (SA).

At the time the LGA was conducting a survey regarding the proposal and a report was considered by Council concerning the completion of the survey. Council subsequently resolved to complete the survey as suggested within the report. The completion of this survey indicated that Council did not support the formation of one association to replace the Local Government & Shires Association of NSW (LGSA) and that the interests of councils are satisfactorily represented under the present structure.

Letters have now been received from the Chair of The One Association Task Force of the LGSA advising that the Task Force will be presenting its recommendations at a special Convention to be held on 16 and 17 August 2010. A template Media Release and Mayoral Minute in connection with this was also enclosed.

In view of Council's previous position on the matter, it is recommended that Council note the correspondence, authorise attendance of interested Councillors at the Convention and authorise the Mayor to vote on Council's behalf.

Consultation

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

Background

At the meeting of Council held on 25 August 2009, Council considered a report that had been submitted as a result of the receipt of correspondence from the LGA concerning previous proposals and discussions relating to the possible establishment of one association to cover both the LGA and the Shires Association of NSW (SA).

At the time the LGA was conducting a survey regarding the proposal and this report considered the completion of the survey by Council. A copy of this report is included as Attachment 1 to this report.

Subsequently, Council resolved:

"That the survey from the Local Government Association of NSW regarding the possible establishment of a single Association to represent local government in NSW be completed in the manner suggested in the report."

The completion of this survey indicated that Council did not support the formation of one association to replace the Local Government & Shires Association of NSW (LGSA) and that:

"It is considered that in view of the circumstances, that the interests of both metropolitan and rural councils, and jointly in appropriate circumstances, is satisfactorily represented under the present structure and that it is unlikely that sufficient benefit would be achieved to warrant the formation of a single Association."

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Letters dated 8 June 2010, addressed to the Mayor and General Manager, have now been received from the Chair of The One Association Task Force of the LGSA advising that the Task Force will be presenting its recommendations at a special Convention to be held on 16 and 17 August 2010. A template Media Release and Mayoral Minute in connection with this was also enclosed. A copy of this letter is included as Attachment 2 to this report. A brochure received separately regarding the Convention has been forwarded to all Councillors.

In view of the position taken by Council as a result of its resolution of 25 August 2009 on the matter it is suggested that it may be appropriate for Council to note the correspondence but not issue the suggested Media Release supporting the proposal.

However, it is also suggested that Council may wish to authorise the attendance of interested Councillors at the Convention and nominate one Councillor to vote on the matter on Council's behalf. In this regard it is suggested that Council authorise the Mayor, or his nominee, to vote on Council's behalf.

The cost of attendance at the Convention, indicated to be on a cost recovery basis, is \$297.00 and the registration deadline is 2 August 2010. Council has a provision of \$42,000 in the 2010/2011 Budget for Delegates Expenses.

Conformance to Community Strategic Plan

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

- Have constructive and productive partnerships with residents, community groups and institutions.

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

- Work with public and private sectors to ensure funding and delivery of improved services and infrastructure.

Financial Implications

The possible formation of one association would not appear to affect Council financially at this stage and any costs involved in the attendance of any Council representatives at the proposed convention could be met from the Delegates Expenses provision of the 2010/2011 Budget.

RECOMMENDATION:

That:

1. The correspondence from the Chair of The One Association Task Force of the Local Government & Shires Association advising that the Task Force will be presenting its recommendations at a special Convention to be held on 16 and 17 August 2010 be noted.
2. Interested Councillors and staff as considered appropriate by the General Manager, be authorised to attend the special Convention and that the Mayor, or his nominee, be authorised to vote on the Council's behalf at the Convention.

ATTACHMENTS:

- AT - 1** Report to Council meeting of 25 August 2009.
- AT - 2** Letter dated 8 June 2010 from Chair of The One Association Task Force of the Local Government & Shires Association of NSW.

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AT - 1 Report to Council meeting of 25 August 2009.

ITEM: Business Paper - Ordinary Meeting Agenda - 13 July 2010

REPORT:

A letter dated 23 July 2009, addressed to the Mayor, Councillor Bart Bassett, has been received from the President of the Local Government Association of NSW requesting Council to complete a survey regarding the possible establishment of one Association to represent local government in NSW.

A copy of this letter, attached survey and "explanatory memorandum" is included as Attachment 1 to this report.

As pointed out in the attached documents, traditionally local government in NSW has been represented by two bodies, namely the Local Government Association of NSW (LGA) and Shires Association of NSW (SA). Generally speaking the LGA represents metropolitan councils (Sydney and "country" metropolitan areas) and the SA represents country councils separated into 9 Divisions.

The two Associations also operate on a joint basis where appropriate with this being governed by a Joint Venture Agreement and a Board of Management comprised of representatives of both Associations.

The attached "Explanatory Memorandum" provides further details of the structures of the two Associations and issues related to the possible formation of a single Association.

Whilst it could be said that a desirable situation would be for local government in NSW to be represented by one Association, it is suggested that there would be a number of practical difficulties in the one Association being able to effectively represent the views of both metropolitan and rural councils, which can be quite diverse in a number of significant areas, and with both types of councils considering they were appropriately represented.

The issue of voting, would also be difficult to resolve to the satisfaction of all parties as presently members of the LGA are entitled to a number of votes depending on population and members of the SA only have a single vote.

Given that the LGA and SA both individually and on a "joint basis" as appropriate, generally appear to satisfactorily represent the interests of both metropolitan and rural councils, and that there can at times be a significant variation to the "community of interest" that exists, it is suggested that sufficient benefit may not be achievable to warrant changing the present structure.

Accordingly, the following suggested response to the survey questions are submitted for Council's consideration.

1. No
2. Not applicable
3. No
- 4.A. Not applicable
- 4.B. i Not applicable
- ii Not applicable
- iii Not applicable

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5. i No
 ii Yes

6. It is considered that in view of the circumstances, that the interests of both metropolitan and rural councils, and jointly in appropriate circumstances, is satisfactorily represented under the present structure and that it is unlikely that sufficient benefit would be achieved to warrant the formation of a single Association.

Conformance to Strategic Plan

Not applicable in this case.

Funding

The issue does not affect any funding matters.

RECOMMENDATION:

That the survey from the Local Government Association of NSW regarding the possible establishment of a single Association to represent local government in NSW be completed in the manner suggested in the report.

ATTACHMENTS:

AT - 1 Letter dated 23 July 2009 from Local Government Association of NSW and attachment

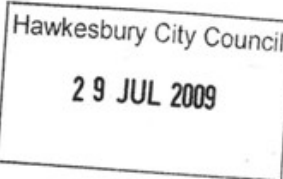
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AT - 1 Letter dated 23 July 2009 from Local Government Association of NSW and attachment

Local Government
Association of NSW

OFFICE OF THE PRESIDENT



Our Ref R90/0237-4: Out 17428

23 July 2009

Cr Bart Bassett
Mayor
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756

Dear Cr Bassett

I am writing to you concerning the issue of One Association to represent Local Government in NSW.

As you would be well aware, the issue is an ongoing one which attracts discussions and resolutions not only at our Annual Conference, but also at the Annual Conference of the Shires Association of NSW.

Traditionally, the Local Government Association has taken the view that One Association is best achieved by Shires Association members joining the LGA as full members under its existing constitution and structure. This view is not supported by the Shires Association. The major point of contention appears to be an insistence on the part of the Shires Association for the retention of a Divisional structure to provide representation for rural and regional NSW.

At the recent Annual Conference of the Shires Association, its President, Cr Bruce Miller, undertook to further survey members on their attitude to One Association and their views on a possible structure. Cr Miller will shortly be writing to his members in this regard.

Given the importance and ongoing nature of the debate, I thought it appropriate that LGA members should also be given the opportunity to express their views on the matter. I have therefore enclosed a survey form and explanatory memorandum for your consideration.

It would be appreciated if the completed survey could be returned to me (either by fax to (02) 9242 4022, or scanned and emailed to christine.horrocks@lgsa.org.au) by Friday 4th September 2009. If you require more time, would you please let me know.

The completed surveys will provide guidance to your Executive on the position to be adopted in respect of One Association. Once the surveys have been returned and the results collated, I will make this information available to you.

Yours sincerely

Cr Genia McCaffery
President



SCANNED

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L8, 28 Margaret St Sydney NSW 2000
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www.lgsa.org.au • lgsa@lgsa.org.au

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LOCAL GOVERNMENT ASSOCIATION OF NSW ONE ASSOCIATION - SURVEY

1. Do you support the idea of having one Association to represent Local Government in NSW? Yes ☐ No ☐
2. If so, is this best achieved by Shires Association member councils joining the Local Government Association as full members under its present Constitution and rules? Yes ☐ No ☐
3. Alternatively, do you believe that one Association is best achieved by the creation of a completely new Association? Yes ☐ No ☐
4. What are some of the things you would like to see in a new Association? In particular:
 - A. A Divisional Structure, at least for rural and regional NSW? Yes ☐ No ☐
 - B. If the answer to A is Yes, should the representation for each Division:
 - i. Be elected by members of that Division only? Yes ☐ No ☐
or
 - ii. Be elected by all member councils in rural and regional NSW? Yes ☐ No ☐
or
 - iii. Be elected by all members of the Association, both metropolitan and country? Yes ☐ No ☐
5. For the purposes of voting to elect office bearers, and for voting on motions at the annual conference of the Association, what voting entitlement should exist? In particular;
 - i. Should each member council have one vote irrespective of its size? Yes ☐ No ☐
 - ii. Alternatively, should a member council have a number of votes depending on –
 - its population? Yes ☐ No ☐
 - its geographical size? Yes ☐ No ☐
 -
6. You are invited to briefly detail any other comment you wish to make on the issue of one Association (if space insufficient, please attach additional sheets) :-

.....
(Signature of Mayor)

.....
(Council)

Please fax back to (02) 9242 4022, or scan and e-mail to Christine.horrocks@lgsa.org.au

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LOCAL GOVERNMENT ASSOCIATION OF NSW ONE ASSOCIATION – EXPLANATORY MEMORANDUM

Any consideration of a proposal to have one organisation to represent Local Government in NSW must, of necessity, involve an explanation of the present system of representation.

There are two organisations which currently represent Local Government in NSW – the Local Government Association of NSW (LGA) and the Shires Association of NSW (SA).

The two organisations operate under a Joint Venture Agreement with a Board of Management of ten persons comprising the Presidents, Vice Presidents and Treasurers of both Associations. The Board of Management has two main functions. The first is responsibility for day-to-day administrative matters including the employment of staff, the management of the Associations' funds etc. The second and equally important function is the resolution of any policy differences between the two Associations.

With the exception of real estate, the assets of the Joint Venture are owned in the proportion of 70 (LGA): 30 (SA), which largely reflects the membership fee income of each Association. Real estate comprising levels 7 and 8, 28 Margaret Street Sydney, is owned by the Associations on a 50:50 basis.

The LGA has an Executive of 25 members comprising the President, two Vice Presidents (one from a metropolitan member council; one from a country member council), a Treasurer, the Immediate Past President (or Vice President General, as appropriate), ten members drawn from metropolitan councils, and ten members drawn from country councils.

All of the Executive are elected in a ballot of all member councils. Metropolitan council members take part in the election of Country Executive Members, and vice versa.

There is a clear delineation of political party or independent status within the LGA Executive. This is particularly noticeable at the time of elections for office bearers and Executive membership where the candidates are usually grouped on how-to-vote tickets for election purposes.

The President, other office bearers and Executive members are elected for two year terms, and there is no limitation on the number of terms which can be served, including the term of President. However, there is a requirement that when the Presidency changes, it must alternate between a metropolitan and a country councillor.

Under the LGA Constitution, a "Metropolitan Council" basically means a Sydney Council. All other councils are "Country Councils". This means, for example, that Newcastle, Wollongong, Blue Mountains and the Central Coast councils are all considered to be country councils. "Country" Executive members could be drawn from these councils.

The right to vote in elections for the President, other office bearers and Executive members, at an LGA Conference is vested in delegates nominated by member councils, as follows:-

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Member Council Population	Delegates
Less than 10,000	1
10,000 – 20,000	2
20,000 – 50,000	3
50,000 – 100,000	4
100,000 – 150,000	5
Over 150,000	7
County Councils and Associate Members	2
Aboriginal Land Council	27

It should be noted that Associate Members are not entitled to vote in the election for the President, other office bearers and Executive members and that, in the case of delegates from an Aboriginal Land Council, a maximum of three delegates from any one Region as defined in the Aboriginal Land Rights Act 1983, is allowed.

As at 30 June 2009, a total of 362 votes were available for the election of the LGA President, office bearers and Executive members. Of these, 179 votes were available to "Metropolitan" member councils, 131 votes to "country member" councils, 25 votes for the President, office bearers and Executive members (each of whom is entitled to a vote), and 27 votes to Aboriginal Land Councils.

The Shires Association has an Executive of 11 members comprising the President, two Vice Presidents, a Treasurer, six Committee members, and either the Immediate Past President or Vice President General (as circumstances dictate).

The structure of the SA is split into nine Divisions encompassing all of what is considered to be rural and regional NSW. Each Division elects its own Executive member. Two Vice Presidents and the Treasurer are then elected by all member councils from the nine Executive members. The President is elected separately by all member councils.

The delineation of political party or independent status within the SA Executive is less overt than the LGA. Formal how-to-vote tickets are not apparent during the election process for the President and other office bearers.

The President of the SA is elected for a two year term, and may stand for re-election for a further two year term. Other office bearers and Executive members are also elected for two year terms and there is no limitation on the number of terms for which they can be appointed.

Each Division of the SA elects an Executive member, and it is only those councils who are members of the Shires Association in that Division who may vote. Each member council has one vote.

Office bearers (excluding the President) are then elected from the nine executive members. Each member council has one vote in these elections. The President is separately elected. Once again, each member council has one vote.

As at 30 June 2009, a total of 78 votes were available for the election of the SA President and office bearers. Divisional votes for Executive Members ranged between five and twelve votes. A detailed break-up of Divisional votes is attached (Appendix "A").

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To assist members of the Local Government Association in considering the issue of One Association and in responding to the related survey, the following comment is provided for consideration. **It does not necessarily reflect the views of the President or members of the Executive.**

It has been suggested that the easiest way for there to be one Association to represent Local Government in NSW is for all members of the Shires Association to join the Local Government Association as full members, with the concurrent dissolution of the Shires Association and its Divisional structure.

It is interesting to note that, if this was to occur under the existing LGA Constitution, current SA members would hold 112 votes at an LGA Conference (for election purposes and for voting on motions) out of a total vote of 449. However, if the votes of all current country members of the LGA are included in a "rural and regional vote", then this category would hold 243 votes (excluding the 27 votes of the Aboriginal Land Councils). Further, if the 35 votes of the "peri urban" councils (Newcastle, Wollongong, the Blue Mountains and the Central Coast) were transferred from country to metropolitan, rural and regional councils would have 208 votes and metropolitan councils 241 votes (excluding the 27 votes of the Aboriginal Land Councils).

An amendment to the LGA Constitution requires a simple majority of voting delegates and Executive Committee Members at a conference of the Association. An amendment to the SA Constitution requires a simple majority of voting delegates (member councils) at a conference.

To date, a number of major sticking points have emerged in developing proposals for one Association.

The first is the idea of a Divisional Structure to ensure true State-wide representation on an Association's Executive. Such a structure is supported by the SA at least as far as rural and regional NSW is concerned. To date, it has not been supported by the LGA. Current LGA "country" Executive membership is drawn from Albury, Bathurst, the Blue Mountains, Dubbo (four members) and what might be termed "coastal councils" (Byron Bay, Coffs Harbour, Great Lakes and Shoalhaven). These are all significant population centres.

The second concerns the number of votes available to member councils to elect the President, office bearers and the Executive Membership of an Association, and in voting on resolutions at the Association's Conference. Collectively, a weight of votes determines the policy of the Association. Comparisons are often drawn between Blacktown City Council with a population approaching 300,000 (which has 7 votes under the LGA Constitution at a Conference), and Urana Shire Council with a population of approximately 1300 (and one vote at an SA Conference). There are also considerable discrepancies within each Association as to the ratio of votes and population.

There are, of course, numerous other issues which would need to be resolved in developing a One Association Model. The purpose of this memorandum is simply to expose some of the major issues and to seek guidance from Local Government Association member councils in pursuing the matter.

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Appendix "A"**SHIRES ASSOCIATION'S DIVISIONS**

A Division		
Local Councils: Ballina Shire Council Bellingen Shire Council Kempsey Shire Council Kyogle Council	Nambucca Shire Council Richmond Valley Council Tweed Shire Council	County Councils: Far North Coast Richmond River
B Division		
Local Councils: Glen Innes Severn Council Gunnedah Shire Council Guyra Shire Council Gwydir Shire Council Inverell Shire Council	Liverpool Plains Shire Council Moree Plains Shire Council Narrabri Shire Council Tenterfield Shire Council Uralla Shire Council	County Councils: New England Weeds Authority
C Division		
Local Councils: Bogan Shire Council Coonamble Shire Council Gillgandra Shire Council Narromine Shire Council	Walgett Shire Council Warren Shire Council Warrumbungle Shire Council Wellington Council	County Councils: Castlereagh-Macquarie
D Division		
Local Councils: Dungog Shire Council Gloucester Shire Council	Singleton Shire Council Upper Hunter Shire Council Walcha Council	
E Division		
Local Councils: Blayney Shire Council Cabonne Shire Council Cowra Shire Council Forbes Shire Council	Lachlan Shire Council Oberon Council Parkes Shire Council Weddin Shire Council	County Councils: Central Tablelands Upper Macquarie
F Division		
Local Councils: Berrigan Shire Council Carrathool Shire Council Conargo Shire Council Deniliquin Council Griffith City Council Hay Shire Council	Jerilderie Shire Council Leeton Shire Council Murray Shire Council Murrumbidgee Shire Council Narrandera Shire Council Wakool Shire Council	County Councils: Central Murray
G Division		
Local Councils: Bland Shire Council Coolamon Shire Council Cootamundra Shire Council Corowa Shire Council Greater Hume Shire Council Gundagai Shire Council	Junee Shire Council Lockhart Shire Council Temora Shire Council Tumbarumba Shire Council Tumut Shire Council Urana Shire Council	County Councils: Goldenfields Water Riverina Water
H Division		
Local Councils: Bega Valley Shire Council Bombala Council Boorowa Council Cooma-Monaro Shire Council	Harden Shire Council Palerang Council Snowy River Shire Council Upper Lachlan Shire Council Yass Valley Council Young Shire Council	
J Division		
Local Councils: Balranald Shire Council Bourke Shire Council Brewarrina Shire Council Central Darling Shire Council	Cobar Shire Council Wentworth Shire Council	

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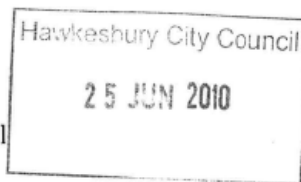
AT – 2 Letter dated 8 June 2010 from Chair of The One Association Task Force of the Local Government & Shires Association of NSW.

**One Association
Local Government NSW**

Our Ref: R10/0016

8 June 2010

Mr Peter Jackson
General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756



Dear Mr Jackson

Re: One Association for Local Government in NSW

The Local Government Association of NSW and the Shires Associations of NSW, through their Presidents and Executives, have undertaken to progress the formation of One Association to represent and provide a strong and uniform voice for all NSW Councils.

As you are no doubt aware, the Conferences of both Associations have called for the formation of One Association, recognising that a change in how the sector is represented and perceived is required to better serve the sector into the future.

To assist with this process, the Associations have established a One Association Taskforce, to which I have the honour of being appointed as the independent Chairperson.

My Taskforce colleagues and I will be presenting our recommendations for One Association at a special Convention to be held 16 & 17 August 2010 at Star City.

I wish to invite all Mayors, Councillors and General Managers to attend the Convention to participate in shaping the future of Local Government representation in NSW so that together we can progress this important goal.

To facilitate the best outcomes the Convention, the Taskforce and I kindly seek your cooperation in distributing the enclosed invitations to your Councillors and General Manager.

I have also taken the liberty of attaching a template Media Release and Mayoral Minute which I would encourage you to use to formally inform your community and your council of this important event.

Prior to the Convention the Taskforce will provide a discussion paper to all Councils. The paper will include the base principles to be presented to delegates for consideration, discussion and feedback.

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①ne Association Local Government NSW

Voting at the Convention will be *One Vote* per full member council and a majority vote will be represented by 66% of delegates present. Please note that any decisions from the Convention will not be binding on either Association, but will signify a way forward for the Taskforce and the respective Associations to vote on at their respective Conferences

On behalf of the Taskforce I thank you in advance for your cooperation and look forward to seeing you at the Convention in August.

More details of the Taskforce and the Convention can be found on the Associations website: www.lgsa.org.au/oneassociation.

Please contact Peter Coulton or Skye Smith on 02 9242 4000 at the Associations for further information.

Yours sincerely



Libby Darlison
Chair

Attachments

- A checklist, which we would ask for return;
- Invitations for GM's and All Councillors;
- A template media release for your council to utilise
- Mayoral Minute template;

COUNCIL HEADER

MEDIA RELEASE

Date, 2010

(Council) welcomes One Association to represent Local Government

(Council) has welcomed moves from the Local Government Association and Shires Association of NSW to shape a new, unified body to represent Local Government in NSW.

"We need to change the way Local Government is perceived and represented to ensure we not only survive, but thrive in the future - and a logical first step is to have a single, unified voice," says (Mayor)

"Traditionally, there have been two Associations, but because Local Government is changing, so must its representation.

"We need to review how we currently operate, and more importantly - how we can improve our overall efficiency.

For (Council) this means a greater...*(include specific examples of how One Association will benefit your Council.)*

"Having One Association will also put us in line with models used in other states across Australia - many of which have proven to be very effective, so (Council) is very supportive of this move.

A 'One Association' Taskforce - consisting of five representatives from each Association and an Independent Chairperson - has been established to identify potential principles for the new Association.

Representatives from (Council) will attend the One Association Conference on 16-17 August in Sydney in order to provide feedback about possible principles.

"We're really keen to attend this conference because it's going to help shape the future of Local Government," added (Mayor.)

For further information, please visit www.lgsa.org.au/oneassociation.

Media enquiries

Name	Council Media Officer, number
Fay Daoud	LGSA Media Officer: 0437 477 567

①ne Association Local Government NSW

Template Mayoral Minute

Date

Councillors

As you may be aware, the Local Government and Shires Associations of NSW have resolved to progress the formation of One Association for Local Government.

In 2009, the Shires Association resolved:

That the Shires Association continue to engage the Local Government Association in discussions to achieve amalgamation of the two Associations.

That the Association develop alternative models for consideration by both Associations.

And, in the same year the Local Government Association resolved:

That the Local Government Association conference, as a matter of priority, proceed with the formation of one Association to represent Local Government in New South Wales. In order to facilitate this move, it is recommended that a constitutional convention of both organisations take place to consider the formal amalgamation or the dissolution of both associations and the formation of one new representative body.

That the consultative paper prepared by Woods and Wearne be utilised as the discussion paper in the constitutional convention.

Both Associations have formally established a joint working party – the One Association Taskforce to facilitate the formation of One Association to represent Local Government in NSW.

The Taskforce, comprising of 5 representatives from each Association and an Independent chairperson – Ms Libby Darlison, has been meeting regularly within the Terms of Reference to discuss and determine the base principles for One Association. These principles will be presented at the One Association Convention to be held on 16 & 17 August 2010 and a discussion paper will be distributed prior to the Convention for your consideration.

The Taskforce is keen to have your involvement in this process, and has invited all Mayors, Councillors and General Managers to attend the Convention.

This is a significant step in the formation of a unified voice to represent Local Government in NSW.

Recommendation:

That:

1. Council notes the importance of forming One Association to provide a uniform voice for Local Government in NSW;
2. The Mayor, nominated elected representatives from Council and the General Manager attend the One Association Convention on 16 & 17 August;
3. Council consider this matter further when the One Association Taskforce releases its discussion paper.

oooO END OF REPORT Oooo

Item: 160

GM - Hawkesbury City Council, Hornsby Shire Council and The Hills Shire Council - Memorandum of Understanding - (107, 81914, 112333, 79351)

REPORT:

Executive Summary

In 1993 Council entered into a Memorandum of Understanding (MOU) with Hornsby Shire Council and the then Baulkham Hills Shire Council (now The Hills Shire Council) with a view to supporting and encouraging co-operation between the three councils.

Whilst the MOU appeared to have operated for some time following its initial execution it appears to have lapsed in recent years.

Subsequently, meetings were held between the Mayors and General Managers of the three councils to explore the value of reviving the arrangement between the councils.

As a result, a new MOU has been prepared to promote and encourage co-operation and sharing between the councils.

It is recommended that Council agree to enter into the proposed new MOU and authorise the Mayor and General Manager to execute the document.

Consultation

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

Background

In 1993 Council entered into a Memorandum of Understanding (MOU) with Hornsby Shire Council and the then Baulkham Hills Shire Council (now The Hills Shire Council) with a view to supporting and encouraging co-operation between the three councils. The objectives of the MOU were indicated, at the time, as being:

"WHEREAS it will always be in the interests and to the good of the ratepayers and residents of the three (3) areas, it is intended to investigate, evaluate and propose the possible co-operative utilisation of resources, provision of services and works that may include but not limited to plant, equipment, public works and maintenance, staff training, total catchment management and emergency services."

Whilst the MOU appeared to have operated for some time following its initial execution it appears to have lapsed in recent years. However, it should be noted that Council does have "co-operative" arrangements such as the shared maintenance of Boundary Road and the operation of the Lower Portland Ferry.

Subsequently, meetings were held between the Mayors and General Managers of the three councils to explore the value of reviving the arrangement between the councils.

As a result, a new MOU has been prepared to promote and encourage co-operation and sharing between the councils. The MOU provides that the objectives of the relationship are:

- "a) to work cooperatively and on a regional basis by developing plans, policies and actions in regard to planning, infrastructure, transport and economic development*
- b) to strengthen the role of local government in regional affairs, particularly in terms of its relationship with peak organisations such as the Chambers of Commerce*

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- c) *to foster cooperation between the members in terms of projects of interest, resource sharing etc.*
- d) *to determine the most appropriate structure to develop and guide the tripartite relationship*
- e) *to consider the needs of the local government areas and of the people of the local government areas and to make known those needs to the Commonwealth and New South Wales governments and the wider community*
- f) *to submit to the Commonwealth and New South Wales governments proposed policy changes and infrastructure, planning and economic development needs to satisfy the Council's obligations in terms of the metropolitan strategy or its replacement*
- g) *to assist members to carry out their duties/functions under the powers of the local government act 1993 and any statutory making provision for duties, functions or powers of members."*

A full copy of the proposed MOU is included as Attachment 1 to this report.

It will be noted that the suggested objectives of the tripartite relationship are broad in their terms and could cover a wide range of areas or activities if each of the parties were in agreement on a specific issue that would benefit by a co-operative approach. In this context, it is considered that an avenue that encourages co-operation and support between organisations with similar ideas and directions on issues is worthy of pursuit. In fact, this type of approach is regularly supported and encouraged by the Division of Local Government.

Council is aware that The Hills Shire Council has recently withdrawn from WSROC and in discussions regarding this MOU it was highlighted that this proposed MOU was not considered to be a substitute for that organisation but rather a means of formalising co-operation between three adjoining councils for the potential benefit of each area. As such, it is proposed to recommend that Council agree to enter into the MOU.

Conformance to Community Strategic Plan

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

- Have constructive and productive partnerships with residents, community groups and institutions.

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

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

Financial Implications

No financial implications applicable to this report at this stage. Any effects will depend upon proposed co-operative approaches. Any proposals involving expenditure not provided for in Council's normal operations would be reported to Council in the first instance.

RECOMMENDATION:

That Council agree to enter into a Memorandum of Understanding with Hornsby Council and The Hills Shire Council to promote support and co-operation between the councils and that the Mayor and General Manager be authorised to execute the proposed Memorandum of Understanding on Council's behalf.

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ATTACHMENTS:

- AT - 1** Copy of proposed MOU between Hawkesbury City Council, Hornsby Shire Council and The Hills Shire Council.

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AT - 1 Copy of proposed MOU between Hawkesbury City Council, Hornsby Shire Council and The Hills Shire Council.

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING between the Councils of Hawkesbury City, Hornsby and The Hills Shire.

This Memorandum of Understanding is made the day of between

HAWKESBURY CITY COUNCIL
HORNSBY COUNCIL
THE HILLS SHIRE COUNCIL

366 George Street, Windsor
296 Pacific Highway, Hornsby
129 Showground Road, Castle Hill

WHEREAS this Memorandum of Understanding is intended to create a relationship on each party to the extent that it is able, and where it is not able to record the intention of the parties to act cooperatively.

WHEREAS it will always be in the interest and to the good of the ratepayers and residents of the three (3) areas, it is intended to investigate, evaluate and propose a co-operative and regional direction for all three (3) Councils, whilst at the same time acknowledging the specific needs of each entity.

OBJECTS:

The objects of the relationship shall be:

- a) to work cooperatively and on a regional basis by developing plans, policies and actions in regard to planning, infrastructure, transport and economic development
- b) to strengthen the role of local government in regional affairs, particularly in terms of its relationship with peak organisations such as the Chambers of Commerce
- c) to foster cooperation between the members in terms of projects of interest, resource sharing etc.
- d) to determine the most appropriate structure to develop and guide the tripartite relationship
- e) to consider the needs of the local government areas and of the people of the local government areas and to make known those needs to the Commonwealth and New South Wales governments and the wider community
- f) to submit to the Commonwealth and New South Wales governments proposed policy changes and infrastructure, planning and economic development needs to satisfy the Council's obligations in terms of the metropolitan strategy or its replacement
- g) to assist members to carry out their duties/functions under the powers of the local government act 1993 and any statutory making provision for duties, functions or powers of members.

THE PARTIES AGREE to progress the objects of the Memorandum of Understanding through their General Managers and to report at least three times each year to joint meetings of the Mayors and General Managers. The Meetings to be held on a rotating basis at the Council Chambers of the three Councils chaired by the host Mayor.

HAWKESBURY CITY

HORNSBY

THE HILLS SHIRE

Clr. Bart Bassett
Mayor

Clr. Nick Berman
Mayor

Clr. Peter Dimbrowsky
Mayor

Peter Jackson
General Manager

Robert Ball
General Manager

Dave Walker
General Manager

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 161 **CP - Development Application - Boundary Adjustment, Removal of Existing Dam, Construction New Dam and Land Clearing - Lot 2 DP1001827, 67 Joshua Road and Lot 1 DP1001827, 94 Reserve Road, Freemans Reach - (DA0061/10, 22933, 77242, 9200, 95498)**

Development Information

File Number: DA0061/10
Property Address: 67 Joshua Road and 94 Reserve Road, Freemans Reach
Applicant: Daniel Sammut
Owner: Daniel & Julie-Ann Sammut and New Haven Farm Home Limited
Proposal Details: Boundary adjustment, removal of existing dam, construction of a new dam and land clearing
Zone: Mixed Agriculture
Date Received: 3 February 2010
Advertising: 22 February 2010 to 10 March 2010

Key Issues:

- ◆ Sediment Control
- ◆ Reuse of stored water
- ◆ Integrated Development

Recommendation: Approval

REPORT:

Introduction

The application seeks approval for a boundary adjustment, removal of an existing dam, construction of a new dam and land clearing at Lot 2 DP1001827, No. 67 Joshua Road and Lot 1 DP1001827, No. 94 Reserve Road, Freemans Reach. The removal and construction of the new dam are proposed to occur within No. 67 Joshua Road entirely.

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

Description of Proposal

The application seeks to acquire a portion of land from the southern adjoining property via a boundary adjustment to facilitate the future expansion of an existing turf farming business upon 67 Joshua Road, Freemans Reach. At present the current allotments (No. 67 Joshua and 94 Reserve Rd) have areas of 10 ha and 15.86 ha respectively. The proposed boundary adjustment will reconfigure areas to 12.02 ha and 13.84 ha, with land clearing to occur within the newly acquired land and a portion of land fronting No. 67 Joshua Road to accommodate the future expansion of the turf farming business currently conducted within No. 67 Joshua Road.

In addition, the applicant seeks to remove a dam and construct a new dam with a total capacity of 0.6 mega litres on proposed Lot 21. Construction of the new dam will occur to the immediate north of the existing dam on site, decreasing the capacity of the site by 0.1 mega litres. The dam is proposed to be located at the lowest level on site with all stormwater and irrigation water from the site directed towards the dam. This will allow the settlement of soils and nutrients to occur within the dam prior to runoff leaving the site over the spillway of the proposed dam.

Council Policies, Procedures and Codes to Which the Matter Relates

State Environmental Planning Policy No.44 – Koala Habitat Protection
Hawkesbury Local Environmental Plan 1989
Sydney Regional Environmental Plan No 20
Hawkesbury Development Control Plan 2002

Section 79C Matters for Consideration

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

a. The provisions (where applicable) of any:

i. Environmental Planning Instrument:

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject property is zoned Mixed Agriculture. Dams are permissible with consent within the Mixed Agriculture zone.

Clause 13 – Subdivision by adjustment or relocation of boundaries

The application seeks to acquire a portion of land from the southern adjoining property via a boundary adjustment to facilitate the future expansion of an existing turf farming business upon 67 Joshua Road, Freemans Reach. At present the current allotments (No. 67 Joshua & 94 Reserve Rd) have areas of 10 ha and 15.86 ha respectively. The proposed boundary adjustment will reconfigure areas to 12.02 ha and 13.84 ha. Both allotments will still satisfy the minimum numerical requirements of 10 ha for allotments within the Mixed Agriculture zone. An assessment of the boundary adjustment in respect to Clause 13 of Hawkesbury Local Environmental Plan 1989 is as follows:

(1) *Nothing in this plan prohibits consent being granted for a subdivision of land by adjustment or relocation of common boundaries provided that:*

(a) *no additional allotments are created, and*

Comment: No additional allotments are created as a result of the boundary adjustment

(b) *no allotment becomes, as a consequence of the adjustment or relocation, capable of subdivision under this plan, and*

Comment: Neither allotment has the ability to be subdivided as a result of the boundary adjustment.

(c) *the number of undersized allotments resulting from the subdivision does not exceed the number of undersized allotments before the subdivision, and*

Comment: At present, both existing lots satisfy the minimum allotment size for lots within the Mixed Agriculture zone. The boundary adjustment will not result in either lot being undersized in relation to Hawkesbury Local Environmental Plan 1989.

(d) *the number of dwelling houses capable of being erected, as a consequence of the adjustment or relocation, does not exceed the total number permissible prior to that adjustment or relocation, and*

Comment: Each allotment currently has a dwelling. The proposed boundary adjustment will not result in either lot being able to accommodate an additional dwelling.

(e) *the number of additional allotments capable of being created, as a consequence of the adjustment or relocation, does not exceed the total number permissible prior to that adjustment or relocation, and*

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Comment: The proposed boundary adjustment will not create any additional allotments. The total number of lots will remain as two.

- (f) *the land is not land shown on the map marked " State Environmental Planning Policy (Major Projects) Amendment (Pitt Town) 2008 Pitt Town Site Land Application Map. "*

Comment: N/A. The proposed boundary adjustment does not occur within Pitt Town.

- (2) *Subclause (1) does not apply to land that includes or consists of allotments smaller than 450 square metres.*

Comment: N/A. The proposed allotments are greater than 450 square metres.

- (3) *Subclause (1) does not apply to land that includes or consists of allotments derived from or forming the whole or part of land resulting from the closure of part or all of a road, irrespective of when that closure occurred.*

Comment: Neither lot is derived from the closure of a road.

- (4) *Subclause (1) does not apply to land within Zone No. 7(e)*

Comment: The land is not zoned 7(e).

- (5) *Subclause (1) does not prevent the subdivision of any allotment that was, prior to the adjustment or relocation of boundaries of other lots, capable of subdivision under this plan.*

Comment: Both existing lots are incapable of further subdivision, including lot averaging subdivision.

- (6) *In determining an application for consent for a subdivision in accordance with this clause the Council must consider:*

- (a) *whether the size, shape, or topography of the land would restrict the erection of a dwelling on any of the lots created, and*

Comment: Dwellings and ancillary structures already exist on both existing allotments. The proposed boundary adjustment will not further restrict the ability to develop the land.

- (b) *whether the land is capable of on-site effluent disposal where no reticulated sewerage system is available, and*

Comment: Significant disposal area is available to both lots.

- (c) *whether the proposed lots are similar in size to the surrounding lots, and*

Comment: The proposed boundary adjustment will amend the areas of two existing lots, which are consistent in area to those within the immediate vicinity of the development.

- (d) *whether the environment will be improved as a result of the subdivision, and*

Comment: As part of the boundary adjustment, the applicant seeks to clear land acquired within the area of the boundary adjustment, as well as a portion of the site fronting Joshua road. A flora and fauna assessment submitted with the application states that the area proposed to be cleared is highly disturbed with much of the area infested by weeds. The proposed boundary adjustment will not fragment vegetation of ecological significance and will also involve the removal of weeds. Therefore it is considered the existing environment will be improved as a result of the proposal sought.

- (e) *whether appropriate environmentally sound, safe, low-cost access is available for the dwelling-house site proposed on each of the lots created by the subdivision, and*

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Comment: The existing vehicular access to both lots will not be compromised by the proposed boundary adjustment.

(f) *whether the proposed lots will affect a historic subdivision pattern, and*

Comment: The lots are not derived from a historical subdivision pattern.

(g) *whether development that may occur as a result of the subdivision will affect a historically significant view or vista to or from a heritage item.*

Comment: The development is not adjacent or adjoining to any local or state listed heritage items.

(7) *Nothing in this plan prohibits subdivision by the opening of a public road.*

Comment: NA. The development does not seek to open a public road.

In addition to the above, the following clauses of Hawkesbury Local Environmental Plan 1989 were taken into consideration:

Clause 2 - Aims, objectives etc,
Clause 5 - Definitions
Clause 8 - Zones indicated on the map
Clause 9 - Carrying out development
Clause 9A - Zone Objectives
Clause 13 – Subdivision by adjustment or relocation of boundaries
Clause 37A Development on land identified on Acid Sulfate Soils Planning Map

An assessment of the Development Application otherwise reveals that the proposal complies with the matters raised in the above clauses of Hawkesbury Local Environmental Plan 1989.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

A flora and fauna assessment prepared by Anderson Environmental Consultants Pty Ltd dated October 2009 was submitted with the proposed development. The report states that:

“The vegetation proposed to be cleared represents quite disturbed vegetation, which has previously been cleared. Many of the areas have infestations of weeds and the evidence of disturbance and clearing from previous farming is very clear. It is not deemed that the removal of this regrowth vegetation for farming would significantly impact on any vegetation community within the local area. The site does conform to SEPP 44 Koala Habitat however this species is considered extinct in the local area and no signs of Koalas were detected in the form of scats.”

Whilst, the site has some potential to be a koala habitat, the flora and fauna assessment documented that no Koalas were detected. Clause 8 of SEPP No. 44 – Koala Habitat Protection requires:

- (1) *Before a council may grant consent to an application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself whether or not the land is a core koala habitat.*
- (2) *A council may satisfy itself as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management.*
- (3) *If the Council is satisfied:*
 - (a) *that the land is not a core Koala habitat, it is not prevented, because of this policy, from granting consent to the development application. “*

The subject lands are not considered to form a core Koala habitat based on the flora and fauna assessment conducted of the property by Anderson Environmental Consultants Pty Ltd. Accordingly in this

instance, a Koala Plan of management is not required, and Council is not prevented from granting consent to the proposal.

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.

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

Within Draft Hawkesbury Local Environmental Plan 2009, the subject site is zoned RU1 Primary Production. The proposed development is best defined as *Waterbodies (artificial)* and is permissible within the RU1 Primary Production zone with development consent.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

Part A Chapter 2 - General Information

It is considered that 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. No submissions were received in response to the application.

Part C Chapter 4 - Erosion and Sediment

This application is accompanied by a Sediment and Erosion Control Plan which satisfies the objectives and controls of this chapter of the DCP. Appropriate conditions addressing this matter are included in the recommendation of this report.

Part D Chapter 6 - Dam Construction

The objectives of this Chapter are to:

- A. *ensure that any dam proposed is compatible with the existing natural and rural character of the site and the area generally;*
- B. *ensure that no adverse impact results on local drainage or floodway characteristics in a catchment from dam construction;*
- C. *ensure that appropriate environmental measures are applied to dam construction sites in order to conserve the landscape and protect the surrounding environment;*
- D. *establish, maintain and promote appropriate site rehabilitation or revegetation techniques for dam construction;*
- E. *maintain and enhance the visual and scenic quality of the locality by controlling form, bulk and scale to complement the environment and have minimum environmental impact;*
- F. *ensure no adverse effects on adjoining properties (drainage, structure, stability, fences);*
- G. *protect, restore and maintain the local non-urban character of areas and ensure viable agricultural land is sustained;*
- H. *protect the health and safety of human residents;*
- I. *maintain water quality within the Hawkesbury Nepean Catchment area; and*

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- J. *ensure that degradation of the environment does not occur from acid sulphate soils, sodic soil or saline soils.*

Comments: It is considered that the proposal is consistent with the objectives of this Chapter as the development is distinctively agricultural in nature and therefore compatible with the existing scenic character of the locality. The proposed earthworks will improve the settlement of soils and nutrients within the dam, prior to runoff leaving the site over the spillway of the proposed dam.

The following table provides an assessment of the proposed development against the requirements for the Dam Construction Chapter:

Element	Rules	Provides	Complies
Crest	(a) The width of the dam crest is to be a minimum of 3 metres for a 3 metre high dam wall. The crest should increase in width 0.5 metre for every metre above a 3 metre high dam.	The dam wall is proposed to sit 2.2 metres above natural ground with a crest of 2 metres.	Yes
Freeboard	(a) A minimum of 1 metre is to be established for freeboard. This should increase by 10% for every metre over a 3 metre high wall.	A freeboard of 1m exists.	Yes
Embankments	(1) A soil with 25% clay content is ideal to form an impervious barrier.	Condition	Yes
	(2) The following soil types should not be used for dam construction: (a) Sand, (b) gravels, (c) organic soils, (d) peat.		Yes
	(e) Topsoil should be stripped and stockpiled from the excavation and wall areas before the dam wall is constructed, with the stockpile located clear of any natural watercourse. There should be no excavation above high water mark.	No natural watercourses run through the subject property. Suitable sediment and erosion controls will need to be installed around stockpiled areas as per a condition of consent.	Yes

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Element	Rules	Provides	Complies
	<p>(f) The embankment is to be completed with at least 100 millimetres of top soil. It is to be planted with a good holding grass such as couch. Trees or shrubs are not to be planted on the embankment as roots may provide seepage paths for water.</p> <p>(g) The slope of the upstream embankment batters should be no steeper than the ratio of 3.0 horizontal to 1.0 vertical, while the downstream batter should be no steeper than 2.5 horizontal to 1.0 vertical.</p>	<p>Condition</p> <p>Condition</p>	<p>Yes</p> <p>Yes</p>
Spillway	<p>(a) The spillway should be a minimum of 3 metres in width increasing in size dependent on the size of the dam and catchment. Generally, spillways are to be designed so as not to overflow more than half the depth of the freeboard.</p> <p>(b) The width of the outlet is not to be less than the inlet width. The spillway also is not to direct flows onto the downstream toe. The spillway area should be grassed, stable and able to accept runoff flow. In some instances it may be necessary to turf the spillway area. The spillway cut batter should have a maximum steepness of 2:5:1.</p> <p>(c) A small diameter (100 millimetre) pipe be required where spring flows or small flows of long duration occur to ensure that the spillway does not erode.</p> <p>(d) Where dams are to be constructed in gullies or water courses, a diversion weir is to be constructed up stream of the dam. The weir is to incorporate two pipes 200 millimetres in diameter.</p>	<p>A 3m spillway has been designed. The spillway will only function in extreme storm events as the level of water in the dam will be controlled by a pump out system back to the main dam on the site.</p> <p>The spillway increases in width to dissipation point. The spillway will be grassed.</p> <p>Not applicable</p> <p>Not applicable</p>	<p>Yes</p> <p>Yes</p> <p>Not applicable</p> <p>Not applicable</p>

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Element	Rules	Provides	Complies
Cut-Off Trench	(a) The cut-off trench is to be constructed along the entire length of the embankment at a minimum width of 2 metres. The trench should be excavated at least 1 metre into impervious soil and backfilled with impervious material.	A 2m cut off trench, excavated to a depth of 1 metre is proposed	Yes
Vegetation Filters and Tree Planting	(a) A gate should be provided in the fence so that the filter area can be renovated by light grazing during rapid growth seasons. Prolonged grazing in dam catchments has potential to cause algal and weed growth in the dam due to the introduction of nutrients from manure.	Not applicable	Not applicable
Hydrological Aspects	(a) Clay lining and limiting depths of dam construction to above the water table are consent requirements to minimise the threat of contamination to groundwater.	Proposed	Yes
	(b) All excavations which intercept the groundwater are required to be licensed by Department of Land and Water Conservation under the Water Act.	Proposal does not seek to intercept groundwater	Not applicable
Dam Construction	(a) The dam wall is to be adequately compacted by track rolling or a sheet foot roller or similar in layers no greater than 150 millimetres.	Condition	Yes
	(b) Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of nutrients, litter, vegetation debris or other water borne pollutants.	Condition	Yes

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:

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

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

It is considered unlikely that the proposed development will have any adverse environmental or social impacts on the locality. The proposal will promote the use of the land for agricultural purposes.

Consideration has been given to the relevant matters identified under s79C (1) (b) of the EP&A Act as shown below:

Context and Setting

The proposal is compatible with the agriculture production character of the locality. Adjoining land uses are farm lands. The proposal is compatible with the existing use of the locality.

Access, Transport and Traffic

It is considered that the traffic generated by the proposal will have no significant impact on traffic movements within the locality. Access to and from the site will need to be organised during the course of the works. A traffic management plan will need to be prepared and submitted to Council for approval prior to the commencement of works.

Water

The proposed development is considered to improve the quality of water discharging from the site, as the dam is located in the lowest level of the site, therefore all stormwater and irrigation water from the site will be directed towards the dam. The dam will enable the owner of the site to collect rainfall from the property and to use this collected water to irrigate the existing turf farm. The location of the dam will enable the settlement of sediment and nutrients prior to runoff leaving the site over the spillway of the dam.

Soils

Erosion and sedimentation controls will be utilised during construction. Once established, the new dam will improve farming practices by capturing sediment, nutrients and retaining water, which can be reused for irrigation of the existing turf farm. Conditions of consent will be imposed to prevent soil being exported from site. Soil obtained from excavation of the new dam, will be used to fill the existing dam and for the construction of the dam wall and spillway.

Air and Noise

There will be a short term increase in air (dust and exhaust) and noise emissions as a result of construction and trucks and earthmoving machinery manoeuvring within the site. However, given the short term nature of the work it is considered that the air and noise impacts will not be significant.

Waste

Appropriate conditions have been recommended in the consent to ensure that the site is to be kept tidy and maintained to the satisfaction of Council during the construction period.

Flora & Fauna

A flora and fauna assessment prepared by Anderson Environmental Consultants Pty Ltd dated October 2009 was submitted with the proposed development. The report states that:

"The vegetation proposed to be cleared represents quite disturbed vegetation, which has previously been cleared. Many of the areas have infestations of weeds and the evidence of disturbance and clearing from previous farming is very clear. It is not deemed that the removal of this regrowth vegetation for farming would significantly impact on any vegetation community within the local area."

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The site does conform to SEPP 44 Koala Habitat however this species is considered extinct in the local area and no signs of Koalas were detected in the form of scats."

Comment:

The flora and fauna report documents that removal of the disturbed habitat would not impact on any threatened species, populations or endangered ecological communities.

Natural Hazards

The site is recognised as being bushfire prone land with the application considered to be an integrated development in respect of bush fire safety. Hence, the proposed subdivision of land is subject to approval for residential or rural residential purposes from the NSW Rural Fire Service. In their letter of 25 February 2010, the NSW Rural Fire Service granted a bush fire safety authority subject to conditions.

Construction

The recommendation of this report includes conditions to manage construction works to ensure that disruption to the locality is minimised.

Cumulative Impact

The proposed development is compatible with adjoining land uses, the objectives of the zone and requirements of Hawkesbury DCP therefore no negative cumulative impact is foreseen.

c. Suitability of the site for the development:

No environmental constraints exist to prohibit the proposed development. The site has been extensively cleared from past agricultural use, which has been intensively cultivated for the growing of turf. Accordingly, the site is considered suitable for the development proposed.

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

No submissions were made from adjoining property owners during the neighbour notification period.

Integrated Development

The proposed development is integrated development and requires the approval of the NSW Rural Fire Service. In their letter of 25 February 2010, the NSW Rural Fire Service granted a Bush Fire Safety Authority subject to conditions. These conditions are incorporated within the recommended development consent at the end of this report.

e. The Public Interest:

The proposed earthworks will improve the ability to capture and use water and the quality of water discharging from the site, as the dam is located at the lowest level of the site, therefore all stormwater and irrigation water from the site will be directed towards the dam. Once established, the new dam will improve farming practices by capturing sediment, nutrients and retaining water, which can be reused for irrigation of the existing turf farm.

In respect to the boundary adjustment, the proposal does not result in any undersized lots, with both allotments still achieving the minimum allotment area as specified with Hawkesbury Local Environmental Plan 1989. Having regard to the relevant planning considerations, it is concluded that it would be in the public interest to approve the proposed development.

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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.

Developer Contributions

The development is exempt from contributions under Section 94E of the Environmental Planning and Assessment Act 1979 and Council's Section 94A Contributions Plan.

RECOMMENDATION:

That development application DA0061/10 at Lot 1 DP 656973, 94 Reserve Road and Lot 2 DP1001827 67 Joshua Road FREEMANS REACH NSW 2756 for boundary adjustment, removal of an existing dam, construction of a new dam and land clearing be approved subject to the following conditions:

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The development shall comply with the provisions of the Building Code of Australia at all times.
4. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
5. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.

Prior to issue of Construction Certificate

6. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

7. Construction of the dam works are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
8. Payment of a Construction Certificate checking fee of \$496 and a Compliance Certificate inspection fee of \$496 for the works, when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2010. Fees required if an Accredited Certifier is used will be provided on request.

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9. Details of any fill material removed from or imported to the site shall be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites.
10. A Traffic Management Plan prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council.
11. The dam design plans for the issue of the Construction Certificate are to show the upstream batter to be no steeper than 2.5 horizontal to 1 vertical. The downstream batter is to be 3 horizontal and 1 vertical.
12. The spillway is to be located on the southern side of the dam in the vicinity of the spillway of the existing dam. The spillway shall only function in extreme storm events with the level of the water in the dam to be controlled by a pump out system back to the main dam on the site.
13. The existing dam is to be filled, with the finished surface level being reformed back to the natural surface level prior to the construction of the dam.
14. Access is to comply with Section 4.3.2 of Planning for Bushfire Protection 2006.
15. A bushfire evacuation plan is to be submitted to the NSW Rural Fire Service – Development Control Services for approval. The evacuation plan is to detail the following:
 - a) under what circumstances will the complex be evacuated.
 - b) where will all person be evacuated to.
 - c) roles and responsibilities of persons co-ordinating the evacuation.
 - d) roles and responsibilities of persons remaining with the complex after evacuation.
 - e) a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

Prior to commencement of works

16. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
17. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved plan and Hawkesbury Development Control Plan chapter on Soil Erosion and Sedimentation.
18. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
19. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
20. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
21. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.

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- (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
- (d) The name and contact number of the Principal Certifying Authority.

During construction

- 22. The dam shall be constructed in accordance with the Dam Construction chapter of Hawkesbury Development Control Plan.
- 23. The topsoil shall be stripped and stockpiled and used to cover the landfill and wall.
- 24. The filled area and dam wall, including batters, shall be grassed immediately after filling takes place.
- 25. All fill and the dam wall are to be adequately compacted by track rolling or similar in layers not exceeding 300mm.
- 26. All constructed batters are to be topsoiled and turfed and where batters exceed a ratio of 3 (three) horizontal to 1 (one) vertical, retaining walls, stoneflagging or terracing shall be constructed.
- 27. The top 300mm of fill shall be topsoil in order to ensure site revegetation.
- 28. The minimum finished surface grade shall be 1% in order to allow satisfactory surface runoff.
- 29. A bund wall shall be provided around the site in order to help direct runoff away from the disturbed excavation/landfill areas. Design details are to be submitted to and approved by Council.
- 30. No excavated material, including soil, shall be removed from the site.
- 31. Dust control measures, e.g. vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
- 32. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
- 33. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
- 34. A ticketing system is to accompany any material being brought to the site. A register is to be kept on site to cross reference against the source records. An independent site auditor is to be engaged to undertake appropriate certification regarding the monitoring and validation of the fill material imported to the site as being sound, suitable for the proposed use and free of contamination.
- 35. Once the topsoil has been removed the natural batter should be suitably stepped, scarified or roughened to prevent slipping and the fill is to be keyed in to hold the toe of the fill batter in place.
- 36. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
- 37. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
- 38. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.

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- (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
- (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
- 39. Filling shall comprise only uncontaminated virgin excavated natural material. Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.
- 40. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
- 41. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
- 42. Care is to be undertaken when excavating not to intercept ground water. If ground water is discovered then excavation works are to cease immediately and the Accredited Certifier is to be notified.
- 43. The excavation and filling is to be located a minimum of five (5) metres from the property boundary.
- 44. A 50m asset protection zone shall be provided about the existing dwelling to the NE, N and NW that complies with Section 4.2 of Planning for Bushfire Protection 2006.

Prior to issue of Compliance Certificate

- 45. The structural adequacy of the dam and spillway capacity is to be certified by a suitably qualified and experienced engineer.
- 46. Geotechnical test results and a site classification report prepared by a NATA registered laboratory shall be submitted to Council in respect of filling works.
- 47. A works as executed plan shall be submitted to Council on completion of works. The plan shall include the location of the constructed dam in relation to property boundaries.

Prior to issue of Subdivision Certificate

- 48. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
- 49. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
- 50. Written clearance from an Energy service provider shall be submitted to the Principal Certifying Authority.
- 51. Easements 4m wide and 10m long shall be created over the site for drainage discharge from roads (at no cost to Council).
- 52. A plan of subdivision prepared to the requirements of the Land Titles Office, shall be submitted to Council, with four copies.
- 53. A survey plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal shall be submitted. The plan shall demonstrate that there are no encroachments over remaining or proposed boundaries.

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54. Payment of a Linen Release Fee of \$561. This amount is valid until 30 June 2010.

The Use of the Site

55. The creation of the asset protection zone shall be regularly maintained for the perpetuity of the development.

Advisory Notes

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- *** Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
- *** The applicant is advised to consult with:
- (a) Sydney Water Corporation Limited
- regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.
- *** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- *** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

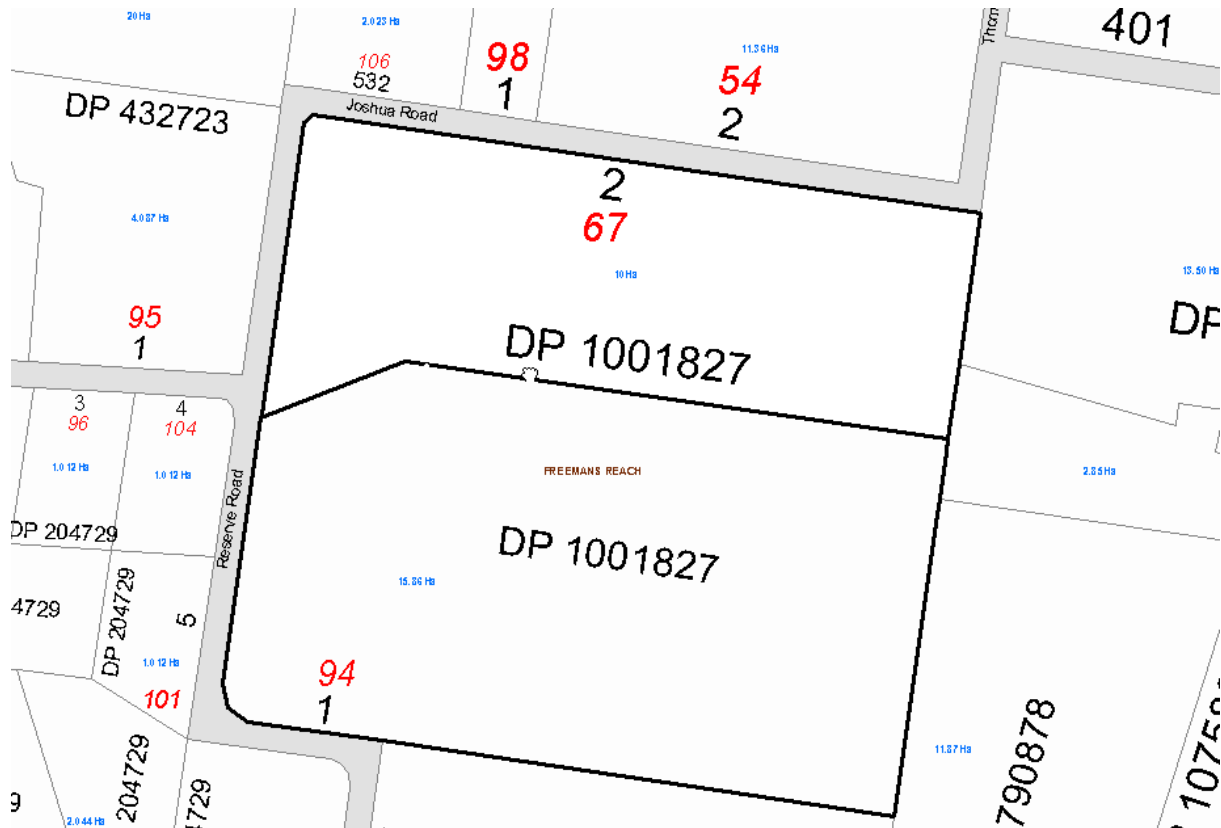
ATTACHMENTS:

- AT - 1** Locality Plan
AT - 2 Subdivision Plan
AT - 3 Site Plan
AT - 4 Cross Sections

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AT - 1 Locality Plan



Meeting Date: 13 July 2010

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Meeting Date: 13 July 2010

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Meeting Date: 13 July 2010

DAM CONSTRUCTION NOTES:

1. ALL EROSION CONTROLS TO BE INSTALLED PRIOR TO COMMENCEMENT OF WORKS. THEY ARE TO BE MAINTAINED THROUGHOUT WORKING UNITS. REVEGETATION OF THE AREA IS COMPLETE. ALL SURFACE EROSION TO BE DIRECTED THROUGH FENCE DURING CONSTRUCTION AND UNTIL AREA IS REVEGETATED.
2. THE CREST OF THE DAM IS TO BE A MINIMUM OF 2.0m WIDE.
3. A FREEBOARD OF MINIMUM 1.0m IS TO BE MAINTAINED BY AN ADEQUATELY CONSTRUCTED SPILLWAY.
4. A SOIL WITH A MINIMUM 10% CLAY CONTENT IS TO BE REFINED DURING THE DAM CONSTRUCTION. THE SPILLWAY IS TO BE REFINED DURING THE DAM CONSTRUCTION. THE SPILLWAY IS TO BE REFINED DURING THE DAM CONSTRUCTION.
5. UPSTREAM EMBANKMENT BATTERS TO BE CONSTRUCTED AT A GRADIENT NO STEEPER THAN A GRADE OF 1:2.0H. DOWNSTREAM BATTERS TO BE CONSTRUCTED AT A GRADIENT OF NO STEEPER THAN A GRADE OF 1:2.0H.
6. A GRASSED SLOPE OF NO MORE THAN 1:2.0H IS TO BE MAINTAINED TO BE.
7. THE WIDTH OF THE SPILLWAY SHOULD HAVE A MAXIMUM STEEPNESS OF 1:2.0H. BATTER OF THE SPILLWAY OUTLET MUST NOT BE LESS THAN THE WIDTH OF ITS INLET. THE SPILLWAY SHOULD BE CONSTRUCTED AS TO SPREAD THE WATER UPON ITS DISCHARGE RATHER THAN DIRECTING IT TO A SINGLE POINT WHICH COULD CAUSE EROSION.
8. A 2.0m WIDE CUT-OFF TRENCH IS TO BE CONSTRUCTED ALONG THE LENGTH OF THE DAM BAKKING AS INDICATED. THE TRENCH IS TO BE EXCAVATED AT LEAST 1m DEEP INTO IMPERVIOUS MATERIAL AND BACKFILLED TO FULL DEPTH WITH IMPERVIOUS MATERIAL.

DETAIL PLAN 1:200 (A2)

SECTION 1:100 (A2)

CIRCLE Z DESIGN STRUCTURAL ENGINEERING

D & J SAMUT

67 JOSHUA RD FIANNS REACH

DAM - DETAILS & SECTION

26/10/2009

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ORDINARY MEETING

Meeting Date: 13 July 2010

Item: 162 **CP - Development Application - Dwelling House, Multi Unit Housing - 52 Macquarie Street, Windsor - (DA0302/09, 107102, 99792, 107103, 111134, 95498)**

Development Information

File Number: DA0302/09
Property Address: 52 Macquarie Street, Windsor NSW 2756
Applicant: Warren Bird Pty Limited
Owner: Dunnet Properties Pty Limited and Armada Properties Pty Limited
Proposal Details: Dwelling House - multi unit housing
Estimated Cost: \$2,150,000
Zone: Multi Unit Housing
Date Received: 5 June 2009
Advertising: 29 June 2009 to 13 July 2009

Key Issues: ♦ State Environmental Planning Policy No. 65

Recommendation: Deferred Commencement Approval

REPORT:

Executive Summary

A development application has been received for the construction of a sixteen unit, three storey residential building and at grade carpark. The provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) apply to the application.

Council currently does not have a SEPP 65 panel or formal urban design service available as there are a limited number of applications of this type. As an alternative to a formal panel, Council in November 2009 engaged two experienced and highly regarded architects on a consultant basis to provide urban design advice for SEPP 65 reviews. This application was reviewed by one of these urban design consultants.

The application is being reported to Council due to the sites prominent position within an important gateway corridor of Windsor. As one of the first applications of this type along this section of Macquarie Road it will set the benchmark for future development. In this respect, this Report demonstrates that the proposal is compatible with the existing and varied development of the locality and provides an acceptable level of amenity for future occupants.

The proposal is recommended for approval.

In response to public submissions, it is recommended that the following be required as conditions of consent:

- New boundary fences
- Restrictions on external lighting
- Modification to landscape plan

The proposal

- will provide housing within a prime location adjacent to the Windsor Town Centre.
- includes sustainability initiatives in the form of rainwater tanks and suitable passive solar design. There is also transport, services and amenities in close proximity.

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Description of Proposal

This application seeks approval to demolish an existing service station building and construct a three storey, sixteen (16) unit residential building on Lot 1 DP 1143830, 52 Macquarie Street, Windsor. Each unit will contain two bedrooms.

The ground floor contains four (4) apartments and entry lobbies. The first and second floor levels each contain six (6) apartments accessed from two lobbies which are serviced by elevators.

Car parking for 28 cars will be provided at the rear of the site. Landscaping is limited to the perimeter of the site that would not be occupied by the building, access driveway or associated hardstand areas.

Access to the apartments from Macquarie Street is by way of a roofed entry point containing security gates and letterboxes.

Description of the Land and its Surroundings

The land is located on the southeastern side of Macquarie Street, and opposite the intersection of Fitzgerald Street and Macquarie Street.

The development site is irregular in shape, with a street frontage of approximately 62m with a variable depth of approximately 30m - 44m, giving a total site area of 2,257m².

Existing improvements on the land comprise a small service station building and associated awning and paved area, all located centrally on the property. All boundaries are defined by fencing. The land is entirely clear of significant vegetation.

Development Consent MA 987/99 approved the demolition of services station, removal of fuel infrastructure and remediation of the site. The site has been remediated to a standard suitable for residential development.

History of Application

05 June 2009	Application received
29 June 2009	Application placed on public exhibition until 13 July 2009
15 July 2009	Request for additional information – owners consent, SEPP No. 65 requirements, BASIX certificates, site analysis, acoustic report, traffic report, waste management plan, heritage impact statement, design, siting and amenity changes to the proposed building.
06 August 2009	Second request for additional information
10 August 2009	Applicant requests extension of time
11 August 2009	Letter to Applicant advising extension of time granted until 18 August 2009
12 August 2009	Applicant acknowledges Council letter of 11 August 2009.
03 September 2009	Meeting between Council officers and Applicant and Owner to discuss matters raised in Council's letter of 15 July 2009
	Additional information received
24 November 2009	Application referred to consultant for comment in respect to SEPP No. 65 matters.
14 January 2010	Consultants comments provided to applicant.
19 January 2010	Meeting with Councils officers, consultant, and applicant.
28 January 2010	Applicant advises that a response will be provided by end of February.
26 February 2010	Applicant advises that response delayed and will be provided within a matter of days.
19 March 2010	Council letter granting extension of time until 26 March 2010.
22 April 2010	Applicant provides amended concept plans and documentation.
4 May 2010	Council officers provide comments to applicant in respect to amended plans.
May 2010	Meeting with Council officers to discuss letter of 4 May 2010.
28 May 2010	Copies of submissions provided to applicant for comment.
6 June 2010	Final plans and documents received.
11 June 2010	Owners consent provided.

Background***Urban Design Service***

SEPP 65 seeks to raise design quality by using 10 design principles and has mandatory architectural requirements. The SEPP also provides for the (optional) establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.

Council currently does not have a SEPP 65 panel or formal urban design service available as there are a limited number of applications of this type. However when larger scale developments (e.g. apartments and commercial buildings) are proposed particularly in the centres of Windsor and Richmond they warrant special attention to heritage and architectural aspects. As an alternative to a formal panel, Council in November 2009 engaged two experienced and highly regarded architects on a consultant basis to provide urban design comments for SEPP 65 reviews. The role of the consultant's is to provide an urban design service to review large scale DAs that are lodged from time to time. The consultant review of individual development applications includes:

- 1 x site visit
- Review of specific file documentation for each development application
- Preparation of a short analysis report on SEPP65 and/or urban design aspects
- The assessing officer and consultant discuss the analysis with the applicant

This consultant service is fully funded by Council and operates via the assessing planner (not direct to the customer). It provides a degree of independence whilst retaining "in-house" knowledge, ownership and input into the DA process. The consultant has now provided advice on 3 major DAs to date and this has been a positive enhancement to the assessment process.

The urban design service enables a constructive and collaborative design approach to emerge between Council's urban design consultant and the applicant's designers to achieve appropriate outcomes for important sites. It should be noted that the assessing officer receives the advice of the urban designer and uses that to assist in the assessment phase and the decision making authority remains squarely with the Council or their delegate. In February 2010 where the service was formally introduced to regular local applicants there was general support for the service.

Legislation, Council Policies, procedures and Codes to Which the Matter Relates

- Environmental Planning and Assessment Act, 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River
- Hawkesbury Local Environmental Plan 1989
- Hawkesbury Development Control Plan

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:**

The relevant Environmental Planning Instruments are considered below:

Environmental Planning and Assessment Act, 1979 and Regulations 2000

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Clause 50 of the Environmental Planning and Assessment Regulation requires any application the subject of State Environmental Planning Policy 65 (SEPP 65) to be accompanied by a design verification from a qualified designer, confirming that:

- (a) he or she designed, or directed the design, of the residential flat development, and
- (b) that the design quality principles set out in Part 2 of SEPP 65 are achieved.

Comment:

Although not provided with the application at lodgement, this information was received 28 October 2009.

Part 1 of Schedule 1 of the Regulation prescribes matters to accompany a development application.

Clause 2(5) requires that, in addition to any other information, an application the subject of SEPP 65 must include the following:

- (a) an explanation of the design in terms of the design quality principles set out in Part 2 SEPP 65
- (b) drawings of the proposed development in the context of surrounding development, including the streetscape,
- (c) development compliance with building heights, building height planes, setbacks and building envelope controls (if applicable) marked on plans, sections and elevations,
- (d) drawings of the proposed landscape area, including species selected and materials to be used, presented in the context of the proposed building or buildings, and the surrounding development and its context,
- (e) if the proposed development is within an area in which the built form is changing, statements of the existing and likely future contexts,
- (f) photomontages of the proposed development in the context of surrounding development,
- (g) a sample board of the proposed materials and colours of the facade,
- (h) detailed sections of proposed facades,
- (i) if appropriate, a model that includes the context.

Comment:

The information eventually submitted with this application adequately addresses the requirements of the Regulation.

State Environmental Planning Policy 65 - Design Quality of Residential Flat Development

Clause 3 of State Environmental Planning Policy No. 65 defines a “residential flat building” as:

A building that comprises or includes:

- a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- b) 4 or more self contained dwellings (whether or not the building includes uses for other purposes, such as shops)

but does not include a Class 1a building or a class 1b building under the Building Code of Australia

Comment:

This Policy is relevant as this application proposes a building of 3 storeys which includes 16 self-contained residential dwellings.

This Policy aims to improve the design quality of residential flat development to:

- Ensure such buildings contribute to sustainable development
- Provide sustainable housing in social and environmental terms
- Achieve better built form and aesthetics of buildings, streetscapes and the public spaces they define
- Better satisfy the increasing demand, changing social and demographic profile of the community
- Maximise amenity, safety and security for the benefit of occupants and the wider community
- Minimise the consumption of energy from non-renewable resources

Part 2 of the Policy introduces 10 design quality principles. These principles do not generate design solutions but provide a guide to achieving good design and the means of evaluating the merit of proposed solutions.

Part 3 of the Policy sets out procedures for the appointment and functions of a Design Review Panel.

Part 4 of the Policy makes provision for the application of the design principles. Clause 30 of the Policy provides that prior to determining a development application for a residential flat building, Council must take into consideration:

- The advice, if any, of a Design Review Panel
- Evaluation of the proposal against the design quality principles
- Evaluation of the proposal against the Residential Flat Design Code, a publication of the Department of Planning.

Comment:

As an alternative to a SEPP 65 panel or formal urban design service, Council has engaged two experienced and highly regarded architects on a consultant basis to provide urban design comments for SEPP 65 reviews. The assessment of the proposed development against the provisions of SEPP 65 includes comments from both Council officers and the urban design consultant.

Attachment 4 to the Report shows how the proposal has been reviewed against the provisions of SEPP No. 65.

Attachment 5 to the Report shows how the proposal meets the provisions of the Residential Flat Design Code.

As a result of this process the proposal was amended from the original design. A summary of the amendments follow:

- The southern portion of the building has been realigned to be parallel with Macquarie Street. However the northern portion of the building has retained the angled alignment.
- The pitched roofing to the development has been extended towards the north in order to provide for greater shadowing to the larger windows facing north.
- Flat roofing over the terraces towards the rear of the development have similarly been extended towards the north.
- A shroud-like surround has been incorporated into the fenestration of the building around windows to the majority of facades. This structure will directly provide shadow protection to windows together with the ability to allow occupiers to adjust sliding louvre screens within the structure to more appropriately adjust privacy screening if necessary.
- Rainwater storage tanks have been located under a disabled car parking space to provide for collected water to be utilised in toilet flushing and laundry appliances.
- The landscape plan has been revised.

An assessment of the amended proposal against the provisions of SEPP 65 and the Residential flat Design Code has identified the following inconsistencies:

1. Context and Building Orientation

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Comment:

This development will provide the benchmark for future development at this end of Macquarie Street. The angled orientation of the northern building on the site is considered out of context with those buildings which are unlikely to change.

Whilst this is the case, the proposed development is the first of this type within this locality and no current guidelines in respect to the desired future character for the area exist.

2. Built Form

Comment:

The design of the building has not been simplified as suggested, however, will not have an adverse impact on the heritage values of the items in the locality. The proposal is not considered to be inconsistent with the locality given the varied designs of development within the locality.

3. Open Space

Comment:

Communal and ground level private open space areas are below the recommended size of the Residential flat Design Code. However, given the location of the site is in close proximity to public open spaces, and the open space provided is considered useable, it is considered that the open space needs of future residents will be met.

4. Apartment Mix and Flexibility

Comment:

The Code recommends a range of apartment types to cater for different household requirements now and in the future, and to provide equitable access to new housing by cultural and socio-economic groups.

Whilst the development provides for only two bedroom units, it is considered that the proposal will provide for an alternate size/type of housing than generally proposed by other residential development in the area (e.g. three bedroom townhouse development).

It is further considered that the units provide very limited flexibility in meeting the potential changing needs of occupants, for example the units are unsuitable for expanding families. However, as previously stated the development provides a type of housing not generally provided within the area.

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

The aim of this Policy is to establish a scheme to encourage sustainable residential development by setting targets for energy and water reduction. Under this Policy

- *An application for a development consent must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out to meet these targets, and*
- *An consent granted for residential will include a condition requiring such commitments to be fulfilled.*

Comment:

The Basix Certificate provided with the application was issued on 29 June 2009. Since this time amendments have been made to the design and orientation of the building and therefore this certificate is no longer relevant.

As a result Council is prevented from granting approval of an application until an up to date Certificate(s) is provided.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 of this Policy makes provisions to ensure that the development does not compromise the effective and ongoing operation and function of classified roads, and to also prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

Traffic related considerations of clauses 101 and 104 are satisfied as the RTA considered this proposal and did not raise any objections with regards to traffic generation or road safety. The RTA did however provide conditions and comments addressing various design, construction and operational requirements which are able to be addressed through suitable conditions of consent.

The issue of potential impacts of traffic noise upon the residential units can similarly be addressed through suitable conditions of consent, as it is considered that any noise mitigation measures are easily achieved.

State Environmental Planning Policy 55 - Remediation of land

This Policy prevents Council from consenting to a development unless it has considered whether the land is contaminated, and whether the land is suitable in its contaminated state (or would be suitable, after remediation) for the use for which consent is sought.

The subject land was previously used as a service station. Remediation of the site has been carried out under Development Consent MA 987/99 and certification provided by suitably accredited site auditor confirming that the site is suitable for residential development.

As a result it is considered that the proposed development is consistent with the provisions of this Policy.

Sydney Regional Environmental Plan No. 20 (No.2 -1997)

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.

Hawkesbury Local Environmental Plan (LEP) 1989

An assessment of the proposed development against the relevant clauses of Hawkesbury Local Environmental Plan 1989 follows:

General Provisions of HLEP 1989

Clause 2 - Aims, objectives etc,

The proposed development is considered to be consistent with the general aims and objectives as outlined in Clause 2 of the Hawkesbury LEP 1989.

Clause 5 - Definitions

The proposed development is defined as a 'residential flat building'. 'Residential flat building' means "a building containing more than 2 dwellings in a form commonly described as "walk up flats", a characteristic of which is often common stair access."

Clause 8 - Zones indicated on the map

The subject land is zoned Multi Unit Housing.

Clause 9 - Carrying out development

'Residential flat building' is permissible with development consent within the Multi Unit Housing zone.

Clause 9A - Zone Objectives

The proposed development is considered to be consistent with the objectives of the Multi Unit Housing zone. These objectives are as follows:

- (a) *to consolidate population and housing densities,*
- (b) *to provide a wide range of housing choices in close proximity to commercial centres and railway stations,*
- (c) *to ensure that building form is in character with the surrounding built environment,*
- (d) *to ensure that development is sympathetic to the natural amenity and ecological processes of the area,*
- (e) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services'*
- (f) *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.*

Specific Provisions of HELP 1989**Clause 16 - Erection of residential flat buildings**

This clause permits the erection of residential flat building on land within the Multi Unit Housing zone that is shown hatched on the map. The subject land is shown as being within the Multi Unit Housing zone with hatching on the map.

Clause 18 - Provision of water, sewerage etc services

To clarify that services are available to the property and adequate for the development, any consent can be conditioned to provide written evidence that satisfactory arrangements for the provision/extension of these services have been made.

Clause 22 - Development fronting a main or arterial road

This clause requires the consideration of a number of matters when assessing development which fronts a main/arterial road. Macquarie Street is a main road. With regard to these matters, it is considered that the proposed development is satisfactory for the following reasons:

- the proposed development is not inconsistent with the existing scenic character of the locality and is considered compatible in use with the area.
- Traffic generation as a result of the proposal is not unreasonable in respect to the capacity and safety of Macquarie Street.
- The development is not considered to be ribbon development.
- The proposed development will involve minimal disturbance to the landscape, will not unreasonably intrude into the skyline and is considered to be consistent with the varied design and scale of the existing buildings in the locality.
- The building setback is satisfactory in terms of sight distances and visibility of access points. There is no road widening proposed to be taken from the property.

Subclause (3) states "*Direct vehicular access from any land to a main or arterial road is prohibited. However, if, in the opinion of the Council, there is no reasonable alternative access to the land from another road, the Council may consent to access to a main or arterial road if such access will be located and designed so as to minimise potential traffic hazards.*"

A driveway from Macquarie Street exists at the northern end of the property frontage. Access to the proposed development from Macquarie Street will be at the southern end of the property. This access is considered satisfactory in terms of traffic safety and use as a result of the proposal. As access to the property is currently from Macquarie Street, the proposed new access is considered acceptable.

Clause 25 - Development of flood liable land

The subject land has natural ground levels of between approximately 16.5m AHD and 18.5m AHD. The 1 in 100 year flood level for the area is approximately 17.3m AHD. The proposed building will be located on land not more than 3m below the 1 in 100 year flood level. The residential units, and hence all habitable rooms, will be located above the 1 in 100 year flood level as required. The use of flood compatible materials for construction can be ensured through conditions of consent. The access to the property from Macquarie Street is not flood liable.

Clause 28 - Development in the vicinity of heritage items

The subject land is located opposite the Uniting Church and Hall and the former Methodist Parsonage, which are identified as a heritage item under Schedule 1 to Hawkesbury Local Environmental Plan 1989. Heritage items are also located in Fitzgerald Street, as well as in the general vicinity of the subject land.

The application was referred to Councils Heritage Advisor, who advised that *"this proposed development would not create any adverse impacts on heritage values"*.

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

The subject land is within a Class 5 as shown on the Map. It is also located within approximately 200m from land within a Class 4. It is considered that the proposed development will not lower the watertable below 1mAHD on this Class 4 land.

ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Draft Hawkesbury Local Environmental Plan 2009 applies to the proposal. This draft Plan was exhibited 5 February 2010 to 12 April 2010.

Under this Plan the subject land is proposed to be zoned General Residential R1. The Objectives of this zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage tourism related development that will not have significant adverse environmental effects or conflict with other land uses in the locality.

It is considered that the proposed development is consistent with the R1 zone objectives.

The proposed development is best defined as 'residential flat building' under this draft Plan. 'Residential flat building' means *"a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing"*. 'Residential flat building' is permissible with development consent within the General Residential R1 zoning.

The total height of the building is 12m which is within the 12m height limit shown on the Height of Buildings Map.

The proposed development is consistent with the relevant provisions of Draft Hawkesbury Local Environmental Plan 2009

iii) any development control plan applying to the land

Hawkesbury Development Control Plan

The development application has been assessed against the applicable provisions of the Hawkesbury Development Control Plan. Each of the relevant chapters are outlined as follows:

Residential Development

Attachment 6 to the Report provides an assessment of the proposal against the provisions of the Residential Chapter of Hawkesbury DCP.

The following non compliances with this Chapter have been identified and discussed below:

Variations to Residential Chapter

Building Height Plane

The front of the proposed building encroaches outside of the building height plane. This is considered acceptable given:

- The encroachment of the building will not reduce privacy or unreasonably overshadow adjoining properties.
- The bulk, scale and height of the building are acceptable.

Setback

The variation to the building setback from Macquarie Street is considered acceptable in respect to the existing and proposed character of the locality, given particular reference to the Windsor Master Plan.

Ground level private open space

Whilst inconsistent with the DCP, the provision of ground level private open space for the development has been provided in accordance with SEPP 65.

Separation from bedroom windows

Bedroom windows to Units 11 & 12 do not have a 3m separation from the shared driveway, however privacy screens are proposed. Although this is not generally good design practice, this is considered satisfactory in this instance.

Driveways, Manoeuvring, Car parking Spaces

The design of the driveways, car parking areas and manoeuvring areas are consistent with the Australian Standard. This is considered acceptable.

Parking and Access Chapter

The DCP requires the following rate of parking for residential flat buildings:

- 1 covered parking space per small dwelling (GFA < 55sqm)
- 1.5 covered parking space per medium dwelling (GFA 55 to 85sqm)
- 2 covered spaces per large dwelling (GFA greater than 85sqm)
- For each development containing more than 3 dwellings, visitor parking is to be provided at the rate of 1 space per 5 dwellings or part thereof.

Units 1, 2, 3, 4, 7, 8, 12, 14 & 16 all have a gross floor area below 85m². Units 5, 6, 9, 10, 11, 13 & 15 have areas greater than 85m². As a result 28 parking spaces is required, as well as four (4) visitor spaces, giving a total of 32 car parking spaces. The proposed development provides for 28 spaces (calculated at a rate of 1.5 spaces per unit plus 4 visitor spaces).

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Given that the apartments are two bedrooms and that the location of the development, within walking distance of Windsor commercial centre and public transport, it is considered that the number of car parking spaces are adequate for the development.

Energy Efficiency Chapter

Hawkesbury Development Control Plan prescribes the following having regard to solar access:

- *Sunlight is available to at least 50% of required private open space for at least 2 hours between 9:00am and 3:00pm on June 21. Where existing overshadowing is greater than the above, it should not be further reduced.*
- *Any new development will not reduce the solar access collector/s of an adjoining property to less than 4 hours per day in mid-winter except solar water panels to which full access must be maintained.*
- *Sunlight is available to a clothes drying area for at least 4 hours on June 21, to a plane 1 metre above the finished ground levels under the drying lines.*

Having regard to shadow impact attributable to the proposed development the applicant has prepared a shadow analysis which details the impact on adjoining properties during mid winter (June 21). This analysis demonstrates that the proposal will satisfy the solar access criteria of Hawkesbury Development Control Plan. In this regard the residential properties to the south and east will receive in excess of 2 hours to 50% of their open spaces areas in mid winter. In addition, the proposal will satisfy the solar access provisions to areas that can be used for clothes drying on these properties.

Having regard to solar penetration and solar access to the proposed units within the development, the application demonstrates that the proposal is consistent with the recommendations of State Environmental Planning Policy No. 65.

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 has been no planning agreement or draft planning agreement entered into under Section 93F of the Environmental Planning and Assessment Act, 1979.

v) Matters prescribed by the Regulations:

Suitable conditions of consent shall be imposed with regard to the Building Code of Australia and the Home Building Act 1989 in accordance with Clause 98 of the Regulations.

Consideration has also been given to the provisions of Australian Standard AS2601 with regard to the proposed demolition of the existing buildings on the site in accordance with Clause 92 of the Regulations. A condition of development consent is to be imposed ensuring the demolition is undertaken in accordance with the provisions of this standard.

b. The likely impacts the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality:

Context and Setting

The proposed development adjoins land used for the purposes of flats and commercial/retail uses to the north, single dwelling houses to the east, an electricity substation to the south and commercial/retail to the west. The character of the area is considered to be predominantly commercial in nature. The proposed development is considered to be compatible with the adjoining lands.

Overshadowing of adjoining properties is within guidelines as previously discussed.

It is considered that the proposed development will have no unreasonable impacts on adjoining properties in respect to loss of visual and acoustic privacy, loss of views or vistas, or overshadowing.

The design of the front fence, which incorporate 'nooks' is considered unsatisfactory given that these areas are generally not maintained and accumulate rubbish. An amended design for the front fence will be required as a condition of consent.

Access, Transport and Traffic

Adequate access is available to the site. Public transport exists within close proximity to the site. The level of traffic that the development is expected to generate is considered to be acceptable.

A Report titled 'Traffic and Car Parking Assessment Proposed Town Houses 48-52 Macquarie Street, Windsor' prepared by gtk consulting P/L was submitted in support of the application. This Report concludes:

Assessment of the proposal has indicated that:

- *The proposed on-site car parking provision meets the requirements of the DCP*
- *The proposed internal layout meets the requirements of AS 2890.1, the DCP and the RTA's Guide to Traffic Generating Developments for passenger vehicles.*
- *The traffic generated by the proposed development will not present any unsatisfactory traffic safety or capacity issues on the existing road network.*
- *The sight distance for vehicles entering Macquarie Street from the proposed driveway exceeds the requirements of AS 2890.1:2004 and the RTA's Road Design Guide.*
- *The impact of the proposed development is in keeping with the planning undertaken for the Hawkesbury Local Environment Plan.*

This report concludes that the traffic, road safety and car parking elements of the proposed development are in accordance with Hawkesbury City Council's Development Control Plan and comply with the relevant standards and guidelines for such development. Although not entirely correct in relation to some of the statements made (fully meets requirements of DCP), the report is acceptable for this instance.

Flora and Fauna

The proposal does not involve the disturbance or removal of native vegetation. It is therefore considered that the requirements of Part 5A of the EP & A Act are satisfied in that the proposed development will have no significant impact on threatened species, populations, ecological communities or their habitats.

Energy

The development proposes measures in respect to water saving and reuse and thermal comfort, however a relevant BASIX Certificate for the development has not been received in accordance with the Environmental Planning and Assessment Regulations, 2000.

Noise and Vibration

Construction noise can be expected to cause short term inconvenience to surrounding residents. In this regard it is noted that a suitable condition can be imposed within any consent restricting the hours of construction so as to limit the impact upon the amenity of adjoining properties.

Noise generated by the occupants and use of the site is not expected to unreasonably impact on surrounding residents provided noise producing air conditioners and other machinery is installed and operated in accordance with EPA and WorkCover requirements.

Double glazing of glass openings facing Macquarie Street can be undertaken to satisfactorily address traffic noise.

Natural Hazards

The proposed development is consistent with the requirements of HELP 1989 in respect to development of flood liable land.

Site Design and Internal Design

Internal and site design ensure a degree of amenity for future occupants.

c. Suitability of the site for the development

Based upon the assessment of the application it is considered that the site is suitable to support the proposed development for the following reasons:

- It is considered that the site is suitable for a residential flat building development.
- Adjacent developments do not pose any constraints that would render the development prohibitive.
- The locality contains adequate recreational opportunities and public spaces, as well as commercial facilities.
- The land has been remediated to a standard suitable for residential use.
- The adjacent arterial road will not restrict the development.

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

The application was publicly exhibited from 29 June 2009 to 13 July 2009. Following notification of the application, two submissions were received.

The matters raised in these submissions are discussed below:

1. Landscaping – 15m firewheel tree too big and inappropriate and will overshadow backyard.

Applicants comment:

The objection by the owners of Toll House Way to 'a fire wheel' is not understood as no such a device is proposed, however I am happy to find a way to resolve the objectors concerns.

Comment: The reference to 'a fire wheel' (*Stenocarpus sinuatas*) relates to a tree species proposed within the rear southeastern corner of the land. It is considered that this tree would be better located centrally within the open space area and the proposed hedge extended along the boundaries. This can be ensured through conditions of consent.

2. *Removal of spoil causing the fence to lean and if a new fence is erected, that this fence will be high enough to afford privacy to the strata complex at 44 Macquarie Street. Privacy from the vehicular traffic and from vehicle headlights.*

Applicants comment:

The objection to the application by the Strata Manager on behalf of the owners of 44 Macquarie Street is understood and spoil causing the adjoining fence to lean will be removed and the fence restored.

Comment: New boundary fences will be required as a condition of consent. Any external lighting associated with the development will be located and orientated so as not cause a nuisance to adjoining properties or roads. The impact of car headlights will be reduced by fencing and landscaping.

The matters raised in the submission do not warrant refusal of the application.

e. The public interest

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The proposed development provides additional housing within Windsor town centre. The proposal is compatible with adjoining development and the streetscape. For these reasons it is considered that the proposed development is in the public interest.

Developer Contributions

The following section 94A developer contributions apply to this development - \$21,500.00. Accordingly, a condition of consent is required to be imposed in this regard.

Conclusion:

The development has many positive attributes and a residential development of the site is generally supported. The applicant has responded positively to some of the matters raised by Council officers and Council's urban design consultant to provide increased amenity for future occupants.

Whilst design of the proposed building is compatible with the varied development in the locality, the issue of the future desired character of the area, and the design of the proposal in this respect, is a matter that Council must carefully consider, as this development will provide a benchmark for future development in the locality.

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. The applicant be requested to submit BASIX Certificate(s) relevant to the current proposed development;
2. Upon receipt of an appropriate BASIX Certificate(s) development application DA0302/09 at Lot 1 DP 1143830, 52 Macquarie Street WINDSOR NSW 2756 for a Residential Flat Building be approved as a Deferred Commencement Consent subject to the following conditions:
 - A. Upon compliance with the condition appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council, this "Deferred Commencement" consent shall commence to operate as a development consent inclusive of all conditions appearing in Schedule 2 pursuant to Section 80(3) of the Act.
 - B. The "Deferred Commencement" consent will lapse in twelve months from the date of this consent unless all conditions appearing in Schedule 1 have been complied with.

Schedule 1

1. The submission of revised stormwater drainage details showing the collection and discharge of stormwater from the site as follows:
 - (a) All surface catchment generally north from the 18.5 metre contour is to be directed to existing underground drainage in Macquarie Street.

The remainder of the site may be directed to the rear of the property as described in the Statement of Environmental Effects.

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- (b) Details for on-site detention restricting post-development discharges from the site to pre-development discharges for all storms up to and including the 1:100 year ARI event.
 - (c) In respect to discharge at the rear of the land it will need to be shown that an emergency overflow facility capable of conveying storms up to and including the 1:100 year ARI event to a public street is available.
- 2. The design of the fence shall be amended to remove the 'nooks' and be articulated by use of a combination of masonry and hardwood with suitably landscaped recesses. Submission for approval of amended plans detailing the design and materials of the fence shall be submitted prior to issue of the operational development consent.
 - 3. Submission for approval of a schedule of external materials, colours and finishes for all buildings, structures and driveways

Schedule 2

Roads and Traffic Authority's Conditions:

- A. The design and construction of the proposed gutter crossing off Macquarie Street shall be in accordance with AS2890.1-2004 and the RTA's requirements (i.e.; 6m at the property boundary-splaying out to 7m at the kerb line). Further details of these requirements could be obtained from the RTA's Project Services Manager, Traffic Projects Section, Parramatta Ph: 8849 2144.

A Certified copy of the design plans shall be submitted to the RTA for consideration and approval prior the release of a construction certificate by Council and commencement of road works.

The RTA fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of the works.

- B. Any redundant driveways along the site's Macquarie Street frontage are to be removed with kerb and gutter (Type SA) reinstated to the RTA's requirements.
- C. Council should ensure that post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre development discharge.

Detailed design plans and hydraulic calculations of any changes to the RTA's storm water drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Details should be forwarded to:-

The Sydney Asset Management
PO Box 973
Parramatta CBD NSW 214

A plan checking fee may be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

Hawkesbury City Council Conditions:

General Conditions

- 1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
- 2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.

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3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
5. The development shall comply with the provisions of the Building Code of Australia.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
7. This development falls within the Sewerage Scheme, controlled by Hawkesbury City Council is the approving authority for all sewer works.

The applicant must consult with the Waste Management Branch regarding any possible new work or upgrades to existing Council sewer mains related to this application.

8. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.
9. During the demolition and construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
10. Should this development encroach on the Zone of Influence of a Council owned sewer main, the applicant should seek advice from the Waste Management Branch prior to applying for a Construction Certificate as there may be a significant variation in the design of the foundations to the proposed development (this may have an impact on the cost of the project).

Prior to the Issue of the Construction Certificate

11. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$21,500.00 shall be paid to Hawkesbury City Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time).

The contribution is to be paid prior to the issue of the Construction Certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the certifying authority.

12. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

13. Construction of the road, access, car park, drainage, filling and retaining walls are not to commence until three (3) copies of the plans and specifications of the proposed works, design by a suitably qualified and experienced Structural Engineer, are submitted to and approved by the Director City Planning or an Accredited Certifier.

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14. Payment of a Construction Certificate checking fee of \$453.00 and a Compliance Certificate inspection fee of \$820.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2010. Fees required if an Accredited Certifier is used will be provided on request.
15. Details of any fill material removed from or imported to the site shall be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites.
16. A Traffic Guidance Scheme prepared in accordance with AS 1742-3 (2002) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Guidance Scheme is to be approved by the Roads and Traffic Authority before submission to Council.
17. Payment of a contribution of \$57,918.52 towards sewer headworks. This sum will remain fixed until 30 June 2010 after which it will be recalculated at the rate applicable at the time of payment.
18. Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate.
19. Submission to Council of a noise and vibration assessment report, prepared by a suitably qualified acoustic consultant, demonstrating that the proposed development will meet the requirements of Clause 102 (3) (relating to noise levels in residential developments) of State Environmental Planning Policy (Infrastructure) 2007.
20. A certificate from an Acoustic Engineer shall be submitted with the Construction Certificate application certifying that the design of the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the Environmental Protection Authority Industrial Noise Policy.
21. Submission for approval of a landscape plan suitable for construction. This plan shall be generally in accordance with the concept landscape plan prepared by Botanic Solutions and shall be amended by locating the *Stenocarpus sinuatus* tree within the rear southeastern corner of the land centrally within the open space area and extending the lillypilly hedge along the boundaries.
22. All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance shall be submitted with the Construction Certificate application.
23. Details demonstrating high quality internal and external lighting for security without adverse affects on public amenity due to excessive illumination levels/glare shall be submitted with the Construction Certificate.
24. Construction of any mains sewer work or any structure to be constructed within the Zone of Influence of a sewer main must not commence until three (3) copies of the plan along with a Major/Minor Sewer Works application is submitted to Hawkesbury City Council's Waste Management Branch for assessment and approval. Fees apply.
25. The applicant must submit a copy of approved plans associated with the Major/Minor Sewer Works application to the Principal Certifying Authority whether it is Hawkesbury City Council's Building and Development Branch or a Private Certifier. This plan must be marked with a green stamp (Sewer Works Approved for Design Only), signed and dated.
26. Waste storage/bin areas shall incorporate the following requirements:
 - (a) All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;

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- (b) Doors must swing outwards and be able to be latched in the open position;
- (c) Include provision for the separation and storage in appropriate categories of material suitable for recycling;

Details of the storage area are to be provided to and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

27. The following measures are to be incorporated in the design so as to assist in enhancing building safety and security:

- (a) Laminated glass walls and windows are to be provided along common entry areas so as to facilitate supervision;
- (b) Doors within the building are to be provided with appropriate access control and enable residents to undertake casual surveillance of common areas of the building;
- (c) Lighting shall be designed in accordance Australia and New Zealand Lighting Standard 1158.1;
- (d) Attention is to be paid to lighting for pedestrian pathways, enclosed fire exits, corridors and foyer areas so as to avoid opportunities for concealment in dimly lit areas;
- (e) Clear and legible signage is to be provided enforcing main entry/exit points associated with the building;
- (f) The entrances to the foyer areas are to be secured with appropriate security doors and intercom system;

Details demonstrating compliance with the above measures shall be provided to and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Prior to the Commencement of Works

- 28. All traffic management devices shall be installed and maintained in accordance with the approved traffic guidance scheme.
- 29. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
- 30. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
- 31. The building shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the external walls under construction and in compliance with the approved plans shall be lodged with the principal certifying authority. Any easements must be shown on the Survey Certificate.
- 32. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to commencement of works.
- 33. The applicant shall advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.

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34. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
35. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
36. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.
 - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - (d) The name and contact number of the Principal Certifying Authority.
37. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.
38. The approved plans must be submitted to a Sydney Water Quick Check agent or customer Centre to determine whether the development will affect Sydney Water's water mains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site www.sydneywater.com.au, see Building Developing and Plumbing then Quick Check or telephone 13 20 92.
 - (a) The consent authority or a private accredited certifier must either:
 - (b) Ensure that Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate; or

During Construction

39. The development shall be completed in accordance with the approved colours and finishes and shall not be altered.
40. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
41. The site shall be secured to prevent the depositing of any unauthorised material.
42. Dust control measures, e.g. vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
43. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
44. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
45. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
46. 28 off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.
47. Disabled parking shall be provided in accordance with AS2890.1-1993.

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48. Provision of adequate on site loading and unloading facilities to cater for the proposed use of the land.
49. A ticketing system is to accompany any material being brought to the site. A register is to be kept on site to cross reference against the source records. An independent site auditor is to be engaged to undertake appropriate certification regarding the monitoring and validation of the fill material imported to the site as being sound, suitable for the proposed use and free of contamination.
50. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
51. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
52. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
53. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
54. At all times during demolition, a competent person shall directly supervise work. It is the responsibility of the person to ensure that:
 - (a) Adjoining owners are given 24 (twenty four) hours notice, in writing, prior to commencing demolition.
 - (b) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
 - (c) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
 - (d) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - (e) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
 - (f) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.
 - (g) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings
 - (h) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).

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- (i) All work shall be carried out in accordance with AS2601 and the Work Plan submitted with the development application.
 - (j) Unless otherwise permitted by Council, the structure is to be demolished in reverse order of construction, being progressive and having regard to the type of construction, to enable the maximum separation and recycling of demolished materials to take place.
 - (k) No material is to be burnt on site.
55. Mandatory inspections shall be carried out and Compliance Certificates issued only by Council or an accredited certifier for the following components of construction:

Note: Structural Engineer's Certificates, Drainage Diagrams and Wet Area Installation Certificates are NOT acceptable unless they are from an accredited person.

- (a) commencement of work (including erosion controls, site works and site set out);
 - (b) piers;
 - (c) internal sewer or stormwater lines prior to covering;
 - (d) steel reinforcement prior to pouring concrete;
 - (e) external sewer or stormwater lines, prior to backfilling;
 - (f) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - (g) wet area flashing, after the installation of bath and shower fixtures;
 - (h) prior to occupation of the building;
56. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, including a public road or place, the person causing the excavation to be made:
- (a) must preserve and protect the building from damage; and
 - (b) if necessary, must underpin and support the building in an approved manner; and
 - (c) must, at least 7 (seven) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The person acting in accordance with this Consent is liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

57. Any sewer or stormwater main or manhole affected by the development, shall be repaired or altered in level as so directed at the applicant's expense.
58. The floor of the internal WC shall be graded and drained to an approved floor waste.
59. Council records indicate that the site is at a level of approximately 16.5 metres AHD to 18.5 metres AHD. All materials used in the construction of the building below the level of 17.3 metres AHD shall be capable of withstanding prolonged immersion in water without swelling or deteriorating.
60. Removal of the existing redundant layback crossing and replacement with concrete kerb and gutter and the restoration of the footway area.
61. Concrete path paving 1.2m wide shall be constructed along the road frontage to the development. The remaining footway area shall be formed in earth and planted with grass.

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62. On-site detention shall be provided to maintain all stormwater discharges from the 1:1 year storm up to the 1:100 year storm at pre-development levels.
63. Arrangements are to be made for the provision of common drainage and the disposal of stormwater from the site, refer to Schedule 1 requirements.
64. All fill including existing fill must be compacted to 98% standard compaction in accordance with AS1289 and verified by the submission of test results and accompanied by a contoured depth of fill plan.
65. A heavy duty layback and footway vehicular crossing 6m wide shall be constructed to the development. The crossing shall be constructed in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification and RTA requirements.
66. A rainwater collection tank shall be installed and connected to each unit to allow for use for toilet flushing and washing machines.
67. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
68. All services or suitable conduits shall be placed prior to concrete pouring.
69. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
70. All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This condition shall be complied with during demolition and building work.
71. New boundary fences shall be provided to replace all existing boundary fencing. Fencing behind the building line shall be a height of 1.8m.
72. Ceiling fans shall be provided within all residential units.
73. Devices shall be provided to allow windows and doors to each unit to be able to be opened and secured to enable cross ventilation.
74. Inspections and Compliance Certificates for sewer works can only be conducted and issued by Hawkesbury City Council.
 - (a) In the case of internal and external (house service connection) drainage, the inspection must be conducted by Hawkesbury City Council's Building & Development Branch. Please phone 02 4560 4565 to arrange inspections. Fees apply and must be paid prior to inspection.
 - (b) In the case of any sewer work constructed under a Major/Minor Sewer Works application, the inspection must be conducted by Hawkesbury City Council's Waste Management Branch. A compliance certificate will not be issued until Works As Executed information has been received, assessed and approved by the Waste Management Branch. Please phone 02 4560 4519 or 4529 to arrange inspections.
 - (c) In the case of major sewer works where the contractor is allowed to use third party quality control, the third party must be approved by the branch manager of Hawkesbury City Council's Waste Management Branch.

In all cases inspections must be conducted on the exposed pipes prior to any backfilling this includes poured concrete slabs or concrete encasement.

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A statutory declaration will not be accepted in lieu of the inspection for compliance.

Prior to Issue of Any Occupation Certificate

75. Compliance with all conditions of this development consent.
76. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
77. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

78. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
79. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
 - (a) The type and method of termite treatment (complying with AS 3660) provided to walls and floors, pipe penetrations, jointing of new work to existing and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - (b) Glazing materials installed in the building in accordance with AS1288 and AS2047 - Glass in Buildings - Selection and Installation, e.g. windows, doors, footlights and showers.
 - (c) The type of timber installed indicating both species and durability as required by AS 1684.
 - (d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS 3786 and be connected to the consumer mains power where supplied to the building.
 - (e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority, certifying that all commitments made on the BASIX certificate have been implemented and installed as approved.
80. A flood warning sign of durable material shall be permanently fixed in a prominent location within the site. The sign shall advise occupants that the site may subject to inundation during times of flood.
81. The applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures and emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building in a prominent location and maintained at all times.
82. The applicant shall submit a report from a suitably qualified Engineer which verifies the following:
 - (a) Any damage to the proposed structure sustained in a flood will not generate debris capable of causing damage to downstream buildings or property.

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- (b) Any part of the structure at or below the 1 in 100 year flood level will be able to withstand the force of floodwaters (including buoyancy forces) and the impact of debris.
 - (c) All finishes, plant fittings and equipment subject to inundation will be of materials and functional capability resistant to the effects of floodwaters.
83. A Plan of Management for the on-site stormwater detention facilities shall be submitted to and approved by Council. The Plan of Management shall set out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection and maintenance requirements and time intervals for such inspection and maintenance.
84. The owner shall enter a positive covenant with Council which provides the following:
- (a) The registered proprietors will at all times maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair, in accordance with the approved design to the reasonable satisfaction, at all times, of Council, having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities, and
 - (b) The liability under the Covenant will jointly and severally bind the registered proprietors of the proposed dwellings, and
 - (c) Council only will be entitled to release or modify the Covenant.
- All costs associated with the Covenant, including any legal costs payable by Council, are to be paid by the owner or applicant.
85. Submission of a report by the Design Engineer stating the conformance or otherwise of the detention system in relation to the approved design.
86. Works-As-Executed drawings for the One Site Detention Stormwater System which indicate the following shall be submitted to and approved by Council:
- a. Invert levels of tanks, pits and pipes
 - b. Surface levels of pits and surrounding ground levels
 - c. Levels of surrounding kerb
 - d. Floor levels of buildings
 - e. Top of kerb levels at the front of the lot; and
 - f. Extent of inundation
87. Retaining walls are to be certified on completion by a suitably qualified and experienced Structural Engineer.
88. A works as executed plan shall be submitted to Council on completion of works. The plan shall include the location of the constructed structures in relation to property boundaries.
89. A certificate from an appropriately qualified Acoustic Engineer is to be submitted with the Occupation Certificate application certifying that the 'as built' development and all sound producing plant, equipment, machinery or fittings associated with mechanical ventilation and / or the lift system will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm - 6.00 am) when measured at the boundary of the property, and will comply with the Environment Protection Authority Industrial Noise Policy.
- This report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Principal Certifying Authority demonstrating compliance with this condition prior to the occupation of the completed works.
90. Street number being affixed to the building prior to occupation.

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91. Prior to the issue of the Occupation Certificate landscaping in accordance with the approved landscape plan is to be completed.
92. A Compliance Certificate from Hawkesbury City Council's Waste Management branch confirming sewer works constructed under a Major/Minor Sewer Works application must be submitted to the Principal Certifying Authority.
93. A compliance certificate from Hawkesbury City Council's Building & Development Branch confirming completion of internal and external drainage must be submitted to the Principal Certifying Authority.

Use of Development

94. No internal or external alterations shall be carried out without prior approval of Council.
95. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - (a) been assessed by a properly qualified person, and
 - (b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
96. The subject development, including landscaping and bin storage areas, shall be regularly maintained. Plant species shall be replaced as required in order to maintain the viability of the approved landscape concept prepared for the site.
97. Waste and recyclable material, generated by this premises, shall not be collected between the hours of 10:00pm and 7:00am on any day.
98. A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.
99. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
100. No individual parking spaces or access thereto shall be constrained or enclosed by any form of structure such as fencing, or the like, without prior consent from Council.
101. Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to stop before proceeding onto the public way.

Advisory Notes

- *** The land is within the Hawkesbury City Council Sewerage Catchment. A separate application shall be submitted to Council for any alterations or connections to the sewer mains. The applicant shall consult with Council regarding acceptable discharge limits to the sewerage system.
- *** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- *** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- *** Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.

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*** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.

*** The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Integral Energy
- (c) Natural Gas Company
- (d) a local telecommunications carrier

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.

*** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

ATTACHMENTS:

There are no supporting documents for this report.

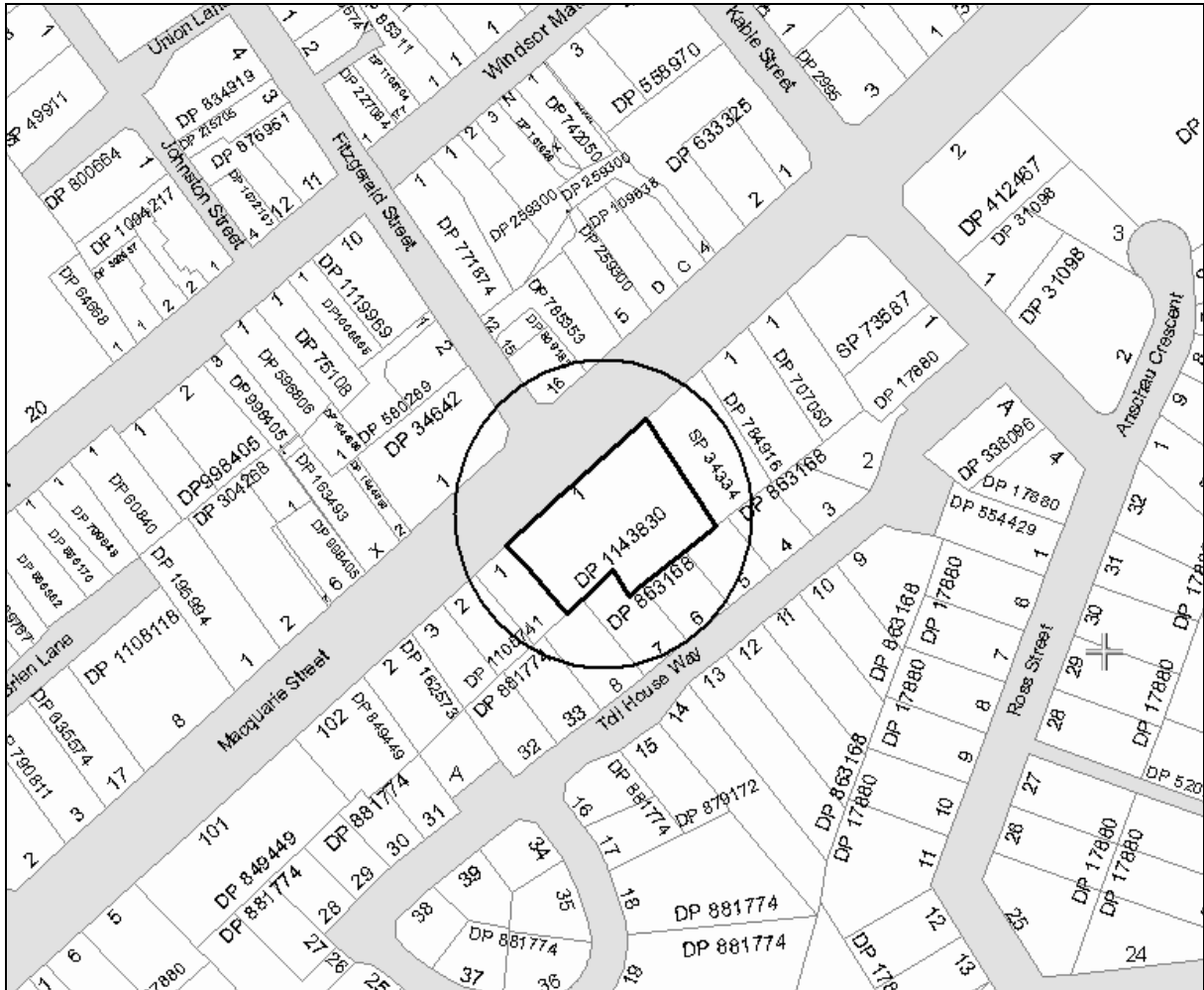
- AT - 1** Locality Plan
- AT - 2** Site Plan and Ground Floor
- AT - 3** Elevation Plan
- AT - 4** Assessment of Application against the Planning Principles of SEPP No. 65
- AT - 5** Assessment of Application against the Residential Flat Building Design Code
- AT - 6** Assessment of Application against the Residential Chapter of Hawkesbury DCP

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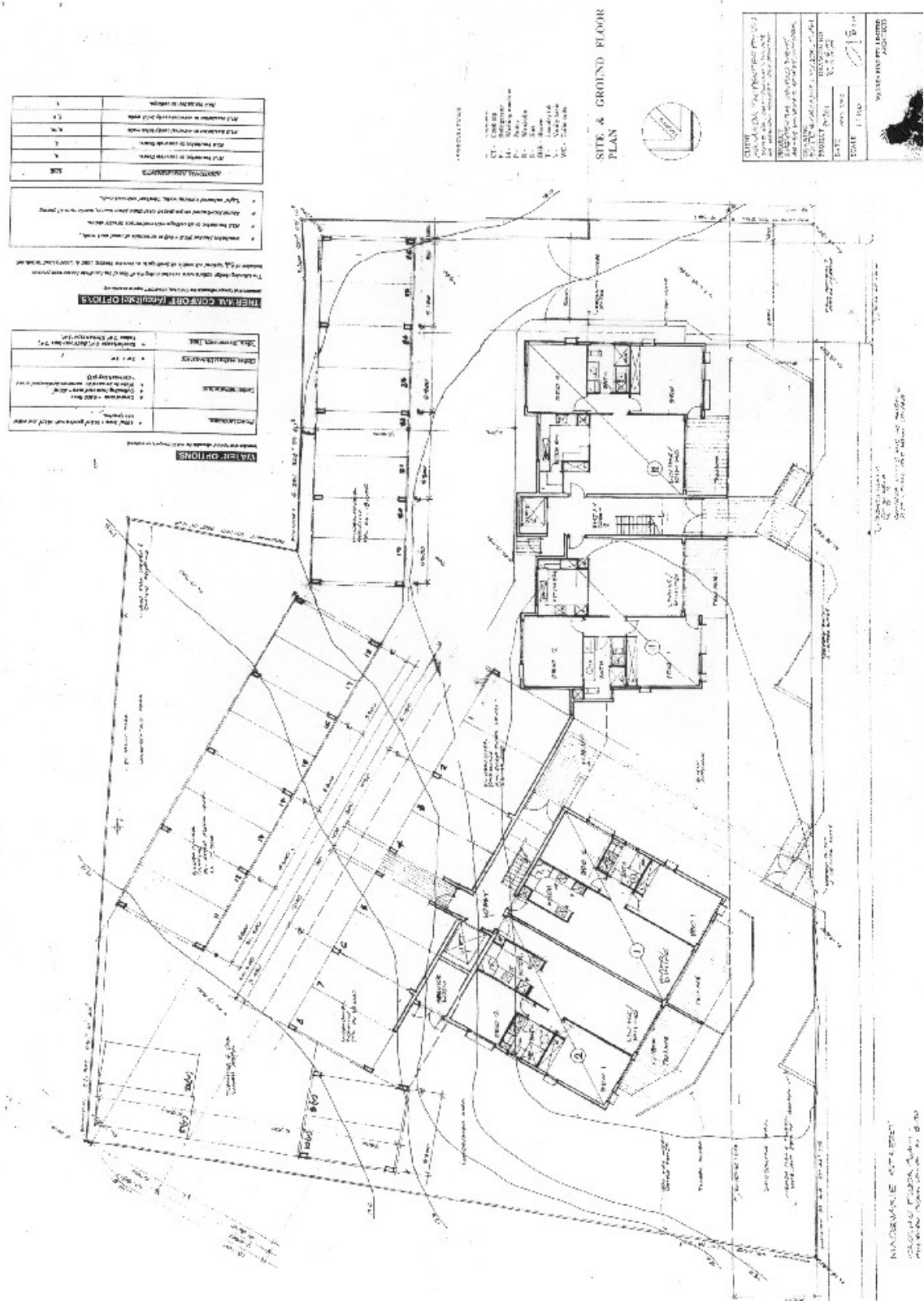
AT - 1 Locality Plan

Lot 1 DP 1143830, 52 Macquarie Street, Windsor

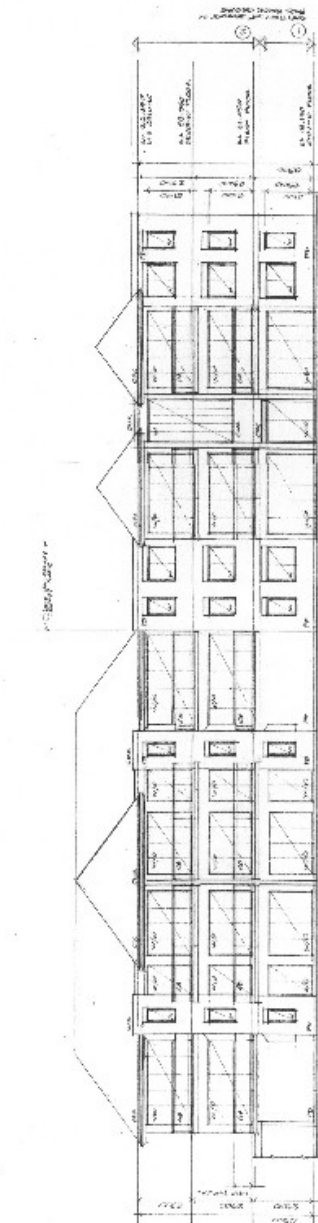


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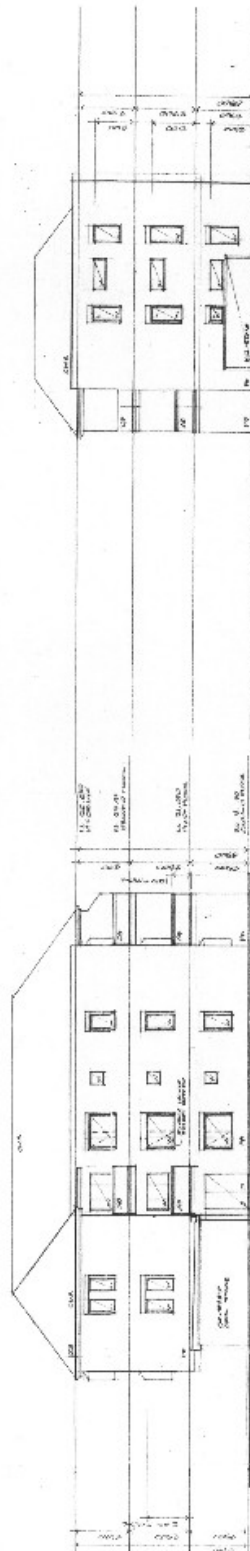
AT - 2 Site Plan and Ground Floor



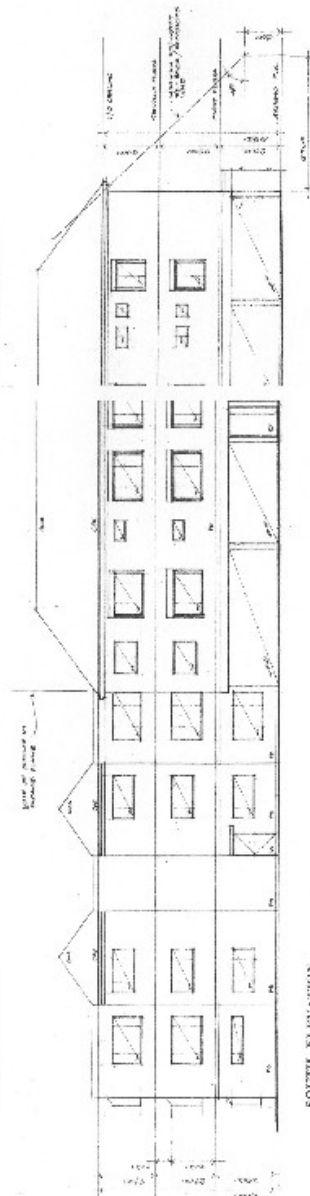
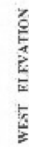
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NORTH ELEVATION



EAST · ELEVATION



SOUTH ELEVATION

[illegible]

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AT - 4 Assessment of Application against the Planning Principles of SEPP No. 65

Assessment of Application against the Planning Principles of SEPP No. 65

SEPP 65 Design Quality Principles	Council Officers Assessment	Urban Design Reviewers Comments	Applicants Response		Comments
General	<p>Owners consent not submitted</p> <p>EP & A Regulation requirements:</p> <p>Site analysis/sites context including streetscape – drawings</p> <p>Statement of existing and future contexts of the location</p> <p>Landscape plan in context</p> <p>Photomontages</p> <p>Sample board</p> <p>Detailed sections of proposed facades</p> <p>BASIX certificates. BASIX commitments to be shown on plans.</p> <p>Traffic and parking report</p> <p>Waste Management Plan</p>		<p>Provided</p> <p>Provided</p> <p>Provided</p> <p>Provided</p> <p>Provided</p>	<p>✓</p> <p>x</p>	<p>Amended details have been submitted which adequately provides the details needed to undertake an assessment of the development application;</p> <p>An out of date certificate has been provided. However, a current BASIX Certificate not provided. This will be required prior to issue of the development consent.</p>
Context	<p>The key elements of the locality comprise a range of commercial, community and heritage buildings which provide</p>	<p>No illustration or analysis of the developments context has been provided.</p>	<p>Provided</p>	<p>✓</p>	<p>Provided</p>

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<p>features of an area.</p> <p><i>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</i></p>	<p>the framework for the character and function of the precinct in which this site is located. While it is expected that this locality will evolve in time given the proximity of this land to the Windsor town centre, the high exposure afforded by Macquarie Street and the general age of the remaining building stock, these primary buildings and land uses are unlikely to change.</p> <p>It is therefore relevant for infill development to complement and reference these core buildings within the locality. This will ensure that as the character of the area changes over time it will maintain a degree of unity.</p> <p>A suitable urban design needs to be ensured given:</p> <ul style="list-style-type: none"> • High density residential housing is an emerging form of development in this locality. Early applications must set a benchmark. • The prominence of the site which accrues from its location on Macquarie Street and its 	<p>The proposed development will be located in a prominent position on Macquarie Street; is visible from George Street via Fitzgerald Street; is opposite two important historic buildings.</p> <p>The overall character of Macquarie Street at present leaves much to be desired; however the opportunity exists to create, over time, a consistent streetscape along its southern (strictly south-eastern) side, much of which is likely to redevelop. It should do so in a manner that is consistent with the older buildings on its northern side and with Windsor generally.</p> <p>New buildings should be consistent with older buildings, without being historic in character.</p> <p>All the buildings on the south side of Macquarie Street are sited parallel to the Street. The proposed building does not conform to this alignment and is therefore not in character with its setting.</p>	<p>✓</p> <p>x</p> <p>Surrounding development is a disjointed context and a mis-match of uses, with the only dominant features being some steep pitched roofs and high two storey walls. The overall street context is without any significant architectural theme. We have purposely designed the building to be sympathetic to the architectural style of the Deerubbin Centre both in terms of materials being face brick facade and colour bond roof at a pitch of 35 degrees which is consistent with the architectural elements of desirable historical buildings.</p> <p>We have revised the layout of a portion of the building to address the street boundary at right angles and retained the northern section at an angle to the boundary which</p>	<p>The proposal will not have any adverse impacts on the heritage significance of these items.</p> <p>This development will provide the benchmark for future development at this end of Macquarie Street. The angled orientation of the northern building on the site is considered out of context with those buildings which are unlikely to change. Whilst it is acknowledged that the adjoining properties to the north of this site contain buildings that are at an angle to Macquarie Street, the angles of these buildings are not as pronounced as that of the proposed development and is not visually apparent when viewed from the street due to the minor nature</p>

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	<p>visual connection with the Windsor town centre from the view corridor along Fitzgerald Street.</p> <ul style="list-style-type: none"> The sensitive interfaces which burden this land, being with the wider town centre, heritage items opposite, and low density residential development to the rear. <p>The application as lodged does not reasonably recognise or respond to the constraints or attributes of the site. Consequently the proposed built form is incongruous with locality in terms of massing, scale, detailing and presentation. Further, its siting and layout would result in poor levels of amenity for occupants as well as some adjoining properties.</p>		<p>is consistent with the adjoining three properties to the north of the site. Retaining the northern portion of the building in its current layout provides superior precincts for intimate landscaped spaces, deep soil for mature planting, a better aspect for the internal residential amenity and improved privacy between units.</p>	<p>of the orientation, or as in the case of the adjoining property, is screened by landscaping.</p> <p>Whilst this is the case, the proposed development is the first of this type within this locality and there are no set guidelines in respect to the desired future character for the area.</p>
<p>Scale</p> <p><i>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</i></p> <p><i>Establishing an appropriate</i></p>		<p>The proposed building is large, but given the scale and simple bulk of the buildings opposite, its overall size is not out of scale. However the complex and fragmented treatment of this plan form and section are of an unsuitably small scale for its</p>	<p>No response provided</p>	<p>It is considered that the scale of the proposed building is compatible with development within the locality.</p>

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scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.		location and in relation to the simple shapes of the buildings opposite and elsewhere in the street.		
Built form Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	If the building is to be of 3 storeys then any third floor should comprise attic rooms only, which would allow the building to adopt design elements of the two heritage items opposite. Alternately, the third floor should be comprised of only a small floor plate, surrounded by terraces and capped with an appropriate roof element. The building needs to express a 'base, middle, top' configuration. The composition of materials and finishes needs to reflect the setting of the site. The rear elevations need to be suitably treated to reduce visual	The height of the three storey building is suitable provided that it does not create undue shadow on adjoining properties. The orientation of the proposal is out of character with the street and results in fragmentation of the open space on the site into spaces that are inaccessible and unusable.	Shadow diagrams for amended design provided. The revised drawings indicate a re-orientation of the southern module of the building to address the street at right angles. This layout is consistent with council's comments and provides a viable option to that shown on the application drawings. It is an option that can be implemented whilst still maintaining the economic viability of the project and the developer's ability to deliver the project with a high standard commensurate with	It is considered that the proposed building will not unreasonably overshadow adjoining properties. Two areas of open space of a suitable size have been provided for passive recreational use and are considered accessible. Other open space areas around the boundary of the site will be used for landscaping purposes.

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	<p>impact when viewed from adjacent sites.</p> <p>The building should be more closely aligned to the Macquarie Street frontage.</p> <p>The development should acknowledge and adapt to the site contours.</p> <p>The location, design and finished levels of the car parking area need to be rationalised to provide a more orderly and efficient arrangement that does not create undue visual impacts for adjacent sites.</p>	<p>The complex mix of varied setbacks, angled verandas, different roof shapes and inconsistent details needs to be simplified.</p>	<p><i>the marketplace requirements. All carparking spaces have been retained at ground level as the use of an underground carpark would ensure that the development of the site was not economically viable.</i></p> <p>Design of building in this respect has not changed.</p>	<p>The design of the building, whilst consistent with the heritage items opposite, is unlikely to have an adverse impact on the heritage values of these items. The proposal is not considered to be inconsistent with the locality given the varied designs of development within the locality.</p>
<p>Density</p> <p><i>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</i></p>		<p>Most of the site that is not built on is covered in concrete or parking sheds resulting in:</p> <ul style="list-style-type: none"> • Site will be hotter • Opportunities to 	<p><i>The density of the site is substantially below the maximum permitted by SEPP 65. In regard to the Council Consultant's comments in relation to planting of mature</i></p>	<p>The landscape designer advises that the plants used include tree species which provide suitable shade, as well as hedges up to 4m in</p>

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Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality		<p>establish trees to provide shade are greatly reduced</p> <ul style="list-style-type: none"> Difficulties in establishing vegetation that screens the building from neighbours A reduction in the quality of outlook for many of the residents and neighbours. <p>The majority of parking should be located under the building.</p>	<p>trees please refer to the large, deep soil landscape areas around the perimeter of the site and additional comments made by Botanic Design in their report as provided Annexed.</p> <p>Design of development in this respect has not changed</p>	<p>height along boundaries, which will provide privacy to adjoining properties.</p> <p>Locating parking under the building was suggested so as to provide for greater area for open space and landscaping. As discussed above, open space areas and landscaping is considered satisfactory.</p>
<p>Resource, Energy, Water</p> <p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p> <p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable</p>		<p>Good cross ventilation is provided.</p> <p>A strict northern orientation is not essential for the achievement of adequate solar access, and therefore the alignment of the building is not necessary for this purpose.</p> <p>Solar protection of window and door openings required and to</p>	<p>The orientation of the building has been set in order to capture the best hours of sunlight in all units on June 22 of each year. Comments relating to shading of northern windows can be addressed by the extension of roofs as shown on the revised drawings and by the provision of louvered screens contained within a</p>	<p>The proposed development is considered satisfactory in respect to Resource, Energy, Water.</p> <p>The provision of stormwater tanks will be ensured through conditions of consent.</p>

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materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.		<p>be shown on the plan.</p> <p>Types of windows and veranda doors that can be left securely open to be provided. Details to be specified and shown on drawings.</p> <p>The location of the storm water storage tanks are to be shown on the plans.</p>	<p>simple shroud around windows where privacy is of greater importance.</p> <p>Solar protection of window and door openings facing north has been provided by the extension of roof eaves and to other critical locations by inclusion of louvered screens as referred to above. It is intended that all windows and doors can be left securely open by provision of appropriate security screens at ground level and divisions between units above. Also all glazed areas facing Macquarie Street are intended to be double glazed.</p> <p>It is intended that stormwater tanks for storage of rainwater for use in toilet cisterns and laundry areas will be located under carpark spaces numbered 1 and 2 on the drawings in the centre of the complex.</p>	
Landscape Good design recognises that together landscape and		Landscape concept plan has inadequate details.	Included as an Annexure to this report is a report from	<p>✓</p> <p>The concept landscape is considered</p>

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<p><i>buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</i></p> <p><i>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, microclimate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</i></p> <p><i>Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</i></p>		<p>Open space on the site is fragmented and unusable.</p> <p>Design should be modified to provide</p> <ul style="list-style-type: none"> Adequate space along boundary fences to permit the establishment of buffer planting of a good scale is to be provided. Consolidated accessible and usable open space. 	<p>Botanic Design commenting on the brief issued for preparation of the landscape design together with comments in respect of areas on the site available for planting in deep soil conditions. It is noted that the landscape plan is a concept plan and is not a working drawing which we envisage would be expanded into greater detail in due course.</p> <p>No response provided</p> <p>Comments provided by landscape designer.</p>	<p>satisfactory and a landscape plan suitable for construction will be required as a condition of consent.</p> <p>As previously discussed, open space areas on the site are considered adequate.</p> <p>It has been demonstrated that the proposed landscaping along the boundaries is of a suitable scale to provide adequate screening.</p>
Amenity				

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<p><i>Good design provides amenity through the physical, spatial and environmental quality of a development.</i></p> <p><i>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</i></p>		<p>The planning of apartments is generally poor. In particular the northern most part of the building where there would be dark spaces and kitchen that are too far from the light (rear wall exceeds 8m RFD rule of thumb).</p> <p>The proportions of some rooms will make them difficult to furnish.</p> <p>The privacy screens proposed to protect second bedroom windows are a poor solution to a problem generated by the planning of the buildings.</p>	<p>x</p> <p>✓</p> <p>✓</p> <p><i>Comments have been made in respect to privacy screening to windows to 2nd bedrooms in some units. The screens referred to in point 5 above are proposed to be installed on these windows as shown by the sketch included in the attachments. These screens will not only provide for control of sunlight under varying conditions and privacy for the occupants of the bedrooms. Each enclosure is proposed to be fitted with a sliding louvre screen so that the screen can be located in a position</i></p>	<p>Windows (natural light) have been provided to kitchens of fourteen of the apartments; however kitchens to Units 1 & 2 do not have a window and are more than 8m from a window in an adjoining living area.</p> <p>The size of the units is consistent with the recommendations of the Residential Flat Design Code.</p> <p>The use of screens for privacy of bedroom windows is acceptable.</p>

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		Measures to protect residents from traffic and aircraft noise need to be specified, e.g. heavy glass, sound absorbent linings to ceilings of verandas.	<p><i>to provide maximum solar and privacy screening to the occupants.</i></p> <p><i>Protection for the occupants from traffic noise will be provided by the installation of double glazing as noted above.</i></p> <p><i>Insulation to the roof areas will provide adequate insulation against aircraft noise when considering that flight paths to Richmond RAAF base do not pass directly over the site.</i></p>	<p>The mitigation of traffic noise is easily achieved and can be ensured through conditions of consent.</p> <p>It is confirmed that the site is not located within an ANEF contour.</p>
Safety Security <i>Good design optimises safety and security, both internal to the development and for the public domain.</i> <i>This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing</i>	Security and surveillance of the communal open space from within the development is to be addressed, as surveillance of this area is considered inadequate.	Satisfactory	No response provided	<p>Surveillance of the common open space area to the north is adequate from the balconies and living areas of Units 4 & 5 and 8 & 9.</p> <p>Surveillance of the common space area to the south east is adequate from kitchens associated with units on the second and third</p>

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<i>quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.</i>				floors.
Social dimensions <i>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.</i> <i>New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.</i>		A mix of apartment types and the inclusion of some one bedroom and three bedroom apartments should be considered.	x	The proposed development provides only two bedroom apartments.
Aesthetics <i>Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development.</i>	<p>The building should be more closely aligned to Macquarie Street.</p> <p>The proposed fencing design is not supported, with respect to the small 'nook' approach. The</p>	<p>It is considered that the proposal is not consistent with SEPP 65. The following design amendments are suggested:</p> <ul style="list-style-type: none"> The building be aligned with Macquarie Street. 	Only part of the building has been aligned with Macquarie	See previous discussion

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<i>Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.</i>	fencing is to be improved to complement the building give definition to the front entry points to the building and guide pedestrians to these points, and define areas of public and private space.	<ul style="list-style-type: none"> Most of the car parking be located under the building. Expressing the mass of the building in two main parts should be maintained, however the break up of built form within each of these two parts should be simplified. Appropriate solar protection is to be provided to all windows and doors. A professionally prepared landscape strategy and plan is to be submitted that demonstrates how tree planting will provide shade where required and will mediate between the proposed building and surrounding development, minimising concrete cover and designed for usability 	<p>Street.</p> <p>Design of building in this respect has not changed.</p> <p>Provided</p> <p>Provided</p> <p>No response provided</p>	<p>See previous discussion</p> <p>Design compatible with existing character.</p> <p>Satisfactory</p> <p>See previous discussion</p> <p>Can be required as a condition of consent.</p> <p>The location of the</p>

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		<ul style="list-style-type: none"> Typical construction drawings to guide the building certifier are to be submitted <p>It is suggested that the car entrance be moved to the north-eastern side of the site, separated by good planting from the site boundary and that the setback from the south-western boundary adjacent to the substation be reduced (to allow for this to be done).</p>		✓	driveway is considered satisfactory with respect to traffic safety and separation to the adjoining power substation for increased amenity for future occupants.

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AT - 5 Assessment of Application against the Residential Flat Building Design Code**Assessment of Application against the Residential Flat Building Design Code**

This Code is a comprehensive set of guidelines to support SEPP No. 65. The Code provides benchmarks for better practice in the design and planning of residential flat buildings. It addresses development at three different scales: the local context, site design and building design. Only those provisions of the Code that are relevant to this proposal are discussed below:

State Environmental Planning Policy No. 65 Residential Flat Design Code		
Element		Comments/ explanation of compliance
Building Height	✓	The proposed development is generally consistent with the building height plane requirements and objectives of Hawkesbury Development Control Plan – Residential Chapter (See Development Control Plan assessment below).
Building Depth	✓	The Code recommends a maximum apartment building depth of 18m to achieve suitable levels of solar access and natural ventilation. The northern building has a depth of approximately 21m and the southern building a depth of approximately 11m. The Code requires that developments that propose a depth of more than 18m demonstrate how satisfactory daylight and natural ventilation are to be achieved. Adequate sunlight access and cross ventilation is provided to the development.
Building Separation	✓	The Code nominates that buildings up to 4 storeys should provide 12m of separation between habitable rooms and balconies. It is considered that the proposal satisfies this requirement with respect to habitable rooms and balconies associated with adjoining development.
Street Setbacks	✓	The proposed development is setback 5m from the front boundary. This setback is considered appropriate with respect to the context of the locality, the streetscape and the design of the building.
Side and Rear Setbacks	✓	The side and rear setbacks are considered appropriate in respect to the existing streetscape pattern, to minimising the impacts of the development with regard to privacy and sunlight access to adjoining properties. Side and rear setbacks ensure the building is located generally within the Building Height Plane in compliance with Hawkesbury Development Control Plan – Residential Chapter.
Floor space ratio	✓	No floor space ratio control is applicable.

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State Environmental Planning Policy No. 65 Residential Flat Design Code		
Element		Comments/ explanation of compliance
Site Configuration		
Deep Soil Zones	✓	<p>The Code recommends a minimum of 25% of open space be a deep soil zone. 42.6% of the site has been provided as open space, with 46.7% of this being deep soil areas.</p> <p>In addition, rainwater tanks will collect roof water to be utilised for toilets and clothes washing thereby reducing the demand for on-site infiltration of stormwater.</p>
Fences and walls	✓	It is proposed to fence the front boundary of the property.
Landscape Design	✓	A concept landscape plan, prepared by a suitably qualified landscape architect has been provided, and is considered satisfactory.
Open Space	x	<p>A communal open space area has not been defined on the plan. An area at the north eastern boundary is of suitable size to offer passive recreational opportunities. Likewise a landscape area is available in the rear southern corner of the property.</p> <p>The Design Code recommends between, at least, 25 and 30% of the site area be provided for communal open space. The proposed development is inconsistent with this recommendation.</p> <p>The Code recommends that each private open space at ground level should be a minimum of 25m² with a minimum dimension of 4m in one direction. The ground floor units are inconsistent with the recommendations with the Code.</p> <p>The size of balconies range from 11.15m² to 15.3m², which is consistent with the Code. All balconies comply with the minimum depth requirement for balconies (min 2m).</p> <p>Sunlight access to the private open space areas and communal open space is considered adequate.</p>
Orientation	x	<p>The building is generally orientated to the north and north-west.</p> <p>It is considered that the orientation of the building results in the development being inconsistent with the existing streetscape character.</p>

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State Environmental Planning Policy No. 65 Residential Flat Design Code		
Element		Comments/ explanation of compliance
Stormwater Management	✓	<p>Rainwater collection tanks are to be provided under the disabled car parking space to be used for toilet flushing and laundry appliances.</p> <p>Subject to the implementation of the measures detailed in the application and the provision of an onsite stormwater detention system in accordance with Council's requirements this application is considered satisfactory having regard to stormwater management.</p>
Safety	✓	<p>As the proposal does not involve a residential development comprising more than 20 new dwellings a formal crime risk assessment was not required to be undertaken in conjunction with the application.</p> <p>The proposed development generally allows for clear distinction between public and private areas, provides adequate surveillance of public area within and adjacent to the site, and controlled access to and within the building.</p>
Visual privacy	✓	<p>It is considered that a satisfactory level of internal privacy is provided.</p>
Building Entry	✓	<p>The building entry is considered satisfactory with respect to directing the public to the building and defining the access of the building.</p>
Parking	✓	<p>Adequate parking has been provided for the development at the rear of the site. Access to the car park is proposed from Macquarie Street, which has adequate sight distances to ensure a minimal impact on traffic and pedestrian safety. Adequate visitor parking spaces have also been proposed. The car parking layout satisfies the requirements of AS2890.1:2004 for off street car parking.</p>
Pedestrian access	✓	<p>Equitable access is available from the street. The Code recommends that barrier free access be provided to at least 20% of dwellings. The application provides barrier free access to all residential units thereby satisfying the Code.</p>
Vehicle access	✓	<p>Vehicle entry to the site is located away from the main pedestrian entry to the development.</p> <p>It is considered that the proposed access to the site does not compromise the street character, landscape or pedestrian amenity and safety.</p>

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State Environmental Planning Policy No. 65 Residential Flat Design Code		
Element		Comments/ explanation of compliance
Building Configuration		
Apartment Layout	✓	<p>In general, the proposed apartment layouts have suitable spatial arrangements contributing to residential amenity.</p> <p>Balconies are provided adjacent to living areas and cross ventilation is provided to all of the units. The internal areas of each unit are of an adequate size.</p>
Apartment Mix	x	<p>The proposed development provides for only two bedroom units.</p> <p>The Code recommends a range of apartment types to cater for different household requirements now and in the future, and to provide equitable access to new housing by cultural and socio-economic groups.</p>
Balconies	✓	<p>All of the proposed upper level units include balconies providing useable private open space. Balconies receive adequate solar access. It is considered that all upper level balconies are of an appropriate depth and width to be functional.</p> <p>The Code recommends that primary balconies have a minimum width of 2m and all balconies comply with this requirement.</p> <p>All balconies have been integrated into the overall architectural form and design of the proposed building and will provide surveillance opportunities to Macquarie Street and the rear of the property, including communal open space.</p>
Ceiling Heights	✓	<p>The Code recommends:</p> <p>In residential flat buildings: <i>In general, 2.7m minimums for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.</i></p> <p>The ceiling height (internal heights) for all units is 2.7m</p>
Flexibility	x	<p>It is considered that the units provide very limited flexibility in meeting the potential changing needs of occupants, for example the units are unsuitable for expanding families.</p>

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State Environmental Planning Policy No. 65 Residential Flat Design Code		
Element		Comments/ explanation of compliance
Internal Circulation	✓	Safety and amenity of the lobbies, stairs, lifts and corridors of the building is satisfactory.
Storage	x	The Code recommends that in addition to kitchen cupboards and bedroom wardrobes, accessible storage facilities be provided at the following rates: two bedroom apartments 8m ³ . Cupboards within the units have been provided for additional storage; however do not meet the size requirements.
Building Amenity		
Acoustic Privacy	✓	The proposed development achieves satisfactory acoustic privacy by way of building separation, and generally grouping noisy areas within units.
Daylight Access and Energy Efficiency	✓	<p>The Code recommends that living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.</p> <p>The plans submitted in conjunction with the application detail that the proposal will satisfy the solar access criteria detailed above.</p>
Natural Ventilation	✓	<p>The Code recommends a building depth range from 10 to 18m to support natural ventilation. The northern building has a depth of approximately 21m.</p> <p>The Code recommends that sixty percent (60%) of residential units should be naturally cross-ventilated. One hundred percent (100%) of units are cross ventilated.</p> <p>Twenty five percent (25%) of kitchens should have access to natural ventilation. One hundred percent (100%) of kitchens have natural ventilation.</p>
Building Form		
Facades	✓	It is considered that the design of the Macquarie Street façade is compatible with existing development in the locality.
Roof Design	✓	The roof pitch is consistent with some existing buildings within the locality.

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State Environmental Planning Policy No. 65 Residential Flat Design Code		
Element		Comments/ explanation of compliance
Energy Efficiency	✓	<p>The proposed development is considered to be consistent with the recommendations of the Code in respect to energy efficiency.</p> <p>However, a Current BASIX Certificate has not been provided, and will be required prior to approval of the application.</p>
Building Performance		
Waste Management	✓	<p>Bin storage has been provided adjacent to the southern side of the building and within convenient access to the front of the property</p> <p>A Waste Management Plan has been provided.</p>
Water Conservation	✓	<p>The development will provide rainwater collection tanks to be used for toilet flushing and washing machines</p>

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AT - 6 Assessment of Application against the Residential Chapter of Hawkesbury DCP

Assessment of Application against the Residential Chapter of Hawkesbury DCP

The following table provides an assessment of the application with respect to the relevant Rules contained within the Residential Chapter of Hawkesbury Development Control Plan:

Element	Rules	Provides	Complies
Height	(a) New buildings are to be constructed within the Building Height Plane for the relevant residential use. The Building Height Plane it to be adjusted for sloping sites to follow the natural ground level.	The proposed building encroaches the building height envelop with respect to the Macquarie Street boundary	No, however is supported for reasons discussed previously within the Report
Setbacks	(a) For sites fronting main or arterial 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.	The building fronts Macquarie Street which is a main/arterial road. The setback of the proposed building is 5m	No, however is supported for reasons discussed previously within the Report
Landscaped Areas	(a) All forms of residential development are to contain pervious soft <u>landscaped areas</u> to a total of 30% of the total site area. This may be calculated by adding together soft <u>landscaped areas</u> of private and <u>common open space</u> . Development proposals, where required, are to indicate the proportion of the total site area that is: <ul style="list-style-type: none"> total "soft" <u>landscaped area</u>; total ground level <u>private open space</u>; and total common open space. 	The total site area is 2257m ² . 677.1m ² of landscaped area is required. Approximately 963m ² has been provided.	Yes
Private Open Space	(a) Single dwelling houses and multi unit housing are to provide at least one area of <u>private open space</u> for each dwelling. (b) The total of <u>private open space</u> at ground level must be a minimum of 20% of the site area, regardless of permeability of the surface. This space must: <ul style="list-style-type: none"> be capable of containing a rectangle 5 metres x 6 metres that has a slope less than 1:10; not be comprised of any area with a dimension less than 4 metres; and be exclusive of clothes drying areas, driveways, car parking and other utility areas. 	Ground level private open space does not comply with these requirements. However, private open space has been provided in accordance with State Environmental Planning Policy No. 65.	Yes No, however is supported for reasons discussed previously within the Report

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Element	Rules	Provides	Complies
	(c) Any above ground level balcony or rooftop area designed for <u>private open space</u> must have a minimum area of 10 square metres with a minimum dimension of 2 metres. This area is not included in the calculation for the provision of total <u>private open space</u> .	All balconies have an area in excess of 10m ² and a minimum dimension of 2m.	Yes
Common Use Open Space	(a) For development proposals than contain 5 or more units common use open space is encouraged. Concession may be given where it is demonstrated that sufficient useable private open space has been provided.	Communal/ common open space has been provided at ground level.	Yes
	(b) The communal open space should generally have access only from within the site.	complies	Yes
	(c) <u>Common open space</u> for multi-unit housing developments should be accessible from all dwellings within the development. Surveillance of this space should be possible from at least 2 dwellings.	Surveillance of common open space from Unit 2 bedroom and Unit 5 & 9 balconies.	Yes
	(d) Any proposed communal recreational <u>facilities</u> must be designed and located to avoid nuisance or danger to neighbours, residents and visitors.	No facilities have been nominated	Yes
Access and Parking	(a) Driveways next to any side or rear boundary must have a landscape strip of at least 1 metre to separate them.	Provided	Yes
	(b) Shared driveways, access lanes and car parks must be setback a minimum of 1.5 metres from windows to main habitable rooms of dwellings. This standard does not apply if the floor level of the dwelling is at least 1 metre above the driveway.	Complies	Yes
	(c) All driveways must have a minimum width of 3 metres and must be sealed to prevent surface erosion.	Driveway minimum 5m wide and sealed	Yes
	(d) For development that contains more than 2 units driveways are to have a minimum driveway width of 6m from the layback/kerb line to 6m inside the property.	Complies	Yes

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Element	Rules	Provides	Complies
	(e) Garages and carports must not visually dominate the street facade, should occupy less than 50% of the building facade and must be compatible with the building design.	No garages/carports within the front facade	Yes
	(f) Uncovered car parking spaces and turning areas can be located within the front setback to the required building line provided that this area is dominated by landscaping and/or addresses established streetscape patterns.	None provided within the front setback	Yes
	(g) Where parking spaces are located as 90° to the driveway alignment the minimum driveway width adjacent to the space is to be 6.7m, increased as necessary to allow adequate manoeuvring on site.	Complies	Yes
	(h) On site manoeuvring areas shall be provided to allow entry and exit to the site in a forward direction.	Provided	Yes
	(i) On site manoeuvring areas shall be provided to allow entry and exit to and from all car spaces including garage, carports, uncovered spaces and visitor spaces by a single turning movement.	Provided	Yes
	(j) Where more than 3 units are served by an access or the access is greater than 30m long, a turning area shall be provided at or near the end of the access.	Provided	Yes
	(k) On site manoeuvring shall be based on the Ausroads Standard 5.0m design vehicle. Templates for this standard are provided in the appendices. When using the templates a minimum of 150mm shall be provided between any fixed object and the extremities of the swept paths.	Complies	Yes
	(l) All on site car spaces shall comply with the minimum dimensions set out in Part C Chapter 2 (Car Parking and Access). Where a space adjoins a wall, fence or other fixed structures, the width shall be increased as follows to allow adequate door opening: On one side only to 3.2m On both sides to 3.8m. Refer to Part C Chapter 2 - Car Parking and Access for additional requirements.	Double carports have minimum width of 5.15m (5.8m required)	No, however is supported for reasons discussed previously within the Report

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Element	Rules	Provides	Complies
Visual Amenity	(a) Where there is potential for loss of privacy the proposal should incorporate some of the techniques illustrated in the DCP.	Satisfactory	Yes
	(b) Where there is no alternative to a window, it should be screened.	Screens provided to bedroom windows where necessary	Yes
Acoustic Privacy	(a) Acoustic privacy is to be considered at the design stage.	Satisfactory	Yes
	(b) Site layouts should ensure parking areas, streets and shared driveways have a line of sight separation of at least 3 metres from bedroom windows	Units 11 & 12 do not comply	No
	(c) A distance of at least 3 metres should separate openings of adjacent dwellings.	Not provided, however fin walls separate balconies and openings between units. This is satisfactory.	Yes
External Noise and Vibration	(a) A noise and vibration assessment must be undertaken by a suitably qualified noise consultant for any proposed residential development other than a single dwelling house located within 100 metres of the railway line or within Australian Noise Exposure Forecast (ANEF) 25 or greater.	The proposed development is not located within an ANEF Contour	Yes
	(b) Proposals must comply with the current Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance and incorporate appropriate mitigation measures.		Yes
Safety and Security	(a) Each dwelling is to be provided with direct and convenient pedestrian access to a private or public road.	Direct pedestrian access is available from each dwelling.	Yes
	(b) Barriers to prevent movement between internal roof spaces of adjoining dwellings are required.	Condition	Yes
	(c) Elements to be incorporated in site and building design and include: <ul style="list-style-type: none"> doorway/entry safety and surveillance to and from the footpath illumination of public spaces including all pedestrian paths, shared areas, parking areas and building entries to the relevant Australian Standard 	Yes Condition Yes	Yes Yes

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Element	Rules	Provides	Complies
	<ul style="list-style-type: none">• visibility to the street from the front of the development• restricted access to the rear of the site.	Yes	
Utility and Site Services	(a) Where reticulated water is not available, a minimum storage of 100000 litres must be provided. A minimum of 10000 litres must be available at all times for fire fighting.	N/A, however rainwater collection tanks proposed.	Yes
Cables	(a) The design, location and construction of <u>utility services</u> must satisfactorily meet the requirements of both the relevant servicing authority and Council.	Condition	Yes
Recycling, garbage and mail	(a) Collection areas must be integrated into the overall site and building design, such as the example shown in DCP.	Provided	Yes

oooO END OF REPORT Oooo

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Item: 163 **CP - Development Application - Torrens Title Subdivision into Eight Lots - Lot 1 DP 543262 and Lot 4 DP 1064408, 150 and 274B Hermitage Road, Kurrajong Hills - (DA0821/08, 112026, 19284, 95498)**

Development Information

File Number: DA0821/08
Property Address: 150 and 274B Hermitage Road, Kurrajong Hills NSW 2758
Applicant: Paul Garrett
Owner: Hypocrates Properties Pty Limited
Proposal Details: Torrens Title Subdivision into Eight Lots
Zone: Rural Living
Draft Zone: RU4 Rural Small Holdings
Date Received: 10 November 2008
Advertising: 17 November 2008 to 1 December 2008

Key Issues:

- ◆ Road and bridge upgrade
- ◆ Integrated Development
- ◆ Potential Koala Habitat
- ◆ Bushfire prone land
- ◆ Controlled activity (bridge)

Recommendation: Approval

REPORT:

Introduction

An application has been received seeking approval for an eight lot Torrens title subdivision upon Lot 1 DP 543262 150 Hermitage Road and Lot 4 DP1064408 274B Hermitage Road, Kurrajong Hills. The sites currently contain an existing dwelling, tennis courts and sheds, with several dams scattered throughout the properties.

The subdivision would result in a change from two lots into seven additional lots being created with areas ranging from 4 Ha to 7.44 HA. The minimum lot size applying to this land is 4 Ha.

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

This application is recommended for approval and is numerically compliant in respect to Council's development standards.

Description of Proposal

The existing Lot 1 has an area of 33.76 Ha and Lot 4 has an area of 6.298 Ha.

The application is proposing the Torrens title subdivision of land to create eight (8) allotment areas, which will be serviced by a new road within the development and the duplication of a bridge crossing (7 metres in width and two lanes) over Blue Gum Creek to satisfy 'Planning for Bushfire Protection 2006' requirements.

The existing bridge structure was approved for use as access to a single dwelling. Accordingly, prior to any design works commencing, the existing bridge is to be assessed for compliance with the relevant Australian Standards for a public road, (Including the understructure).

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Plans for upgrading or replacement of the existing bridge (as required) include widening to provide an additional lane. The works involving the construction of the bridge will require certification to be provided by a suitably qualified practicing structural engineer as complying with the Australian Standard for bridges in public roads.

The application also involves the upgrading of approximately 200 metres of an un-named section of road leading from Hermitage Road to the property boundary to the north. At present, the un-named section of road is currently unsealed and poorly drained. As this section of road is within Council's road reserve, the development requires an approval under the Roads Act to be issued by Council, with this portion of work sought unable to be privately certified.

As the site has been extensively cleared due to past grazing activities, a large centrally located paddock area remains clear for building envelopes and effluent disposal areas, which is unburdened by scrub vegetation or significant ecological communities.

The proposed lots will have the following attributes:

Lot	Area	Attributes
1	7.44 Ha	Existing dwelling, tennis courts, sheds and three dams
2	4.006 Ha	Vacant and one existing dam
3	4.034 Ha	Vacant and one existing dam
4	4.816 Ha	Vacant
5	4.481 Ha	Vacant and one existing dam
6	4.046 Ha	Vacant and one existing dam
7	5.247 Ha	Vacant and one existing dam
8	4.046 Ha	Vacant

Council Policies, Procedures and Codes to Which the Matter Relates

State Environmental Planning Policy No. 44 – Koala Habitat Protection
Hawkesbury Local Environmental Plan 1989
Sydney Regional Environmental Plan No 20
Hawkesbury Development Control Plan 2002

Section 79C Matters for Consideration

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

a. The provisions (where applicable) of any:

i. Environmental Planning Instrument:

The relevant environmental planning instruments are:

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject property is zoned Rural Living. Subdivision of land within the Rural Living zone is permissible only if the area of each of the allotments to be created is not less than 4 hectares. The subdivision will result in seven additional allotments being created with areas ranging from 4 Ha to 7.44 Ha. All allotments proposed satisfy the minimum allotment size of 4 Ha as per Hawkesbury Local Environmental Plan 1989.

In addition to the above, the following clauses of Hawkesbury Local Environmental Plan 1989 were taken into consideration:

Clause 2 - Aims, objectives etc
Clause 5 - Definitions
Clause 9 - Carrying out of development

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Clause 9a - Zone objectives
Clause 10 - Subdivision - general
Clause 11 - Rural Subdivision – general provisions
Clause 18 - Provision of water, sewerage services, etc
Clause 27 – Heritage items
Clause 37A - Development on land identified on Acid Sulfate Soils Planning Map

The application is considered to be integrated development as per Section 91 of the Environmental Planning and Assessment Act, 1979 as it requires authorisation under Section 100b of the Rural Fires Act, 1997 in respect of bush fire safety of the subdivision of land that could lawfully be used for residential or rural residential purposes from the NSW Rural Fire Service.

In addition, as the subdivision requires the construction of an additional bridge across Blue Gum Creek, the development triggered further integrated development provisions, requiring a Controlled Activity Approval to be issued under the Water Management Act, 2000. The General Terms of Approval from both the NSW Rural Fire Service and the NSW Office of Water have been issued in respect to the integrated development provisions of the Environmental Planning and Assessment Act, 1979.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

A flora and fauna assessment prepared by Anderson Environmental Consultants Pty Ltd dated November 2007 and addendum dated September 2009 was submitted with the proposed development. The report states that:

“The habitat within the area to be potentially disturbed by the proposed development represents no significant habitat for any threatened species. No signs of any threatened species were detected and the shrub layer represents poor quality as it is largely weed infested. The density of the overstorey Eucalypts does conform to SEPP 44 Koala Habitat, however no signs of Koalas were detected on site.”

Comment:

Whilst, the site has some potential to be a koala habitat, the flora and fauna assessment documented that no Koalas were detected. Clause 8 of SEPP No. 44 – Koala Habitat Protection requires:

- (1) *Before a council may grant consent to an application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself whether or not the land is a core koala habitat.*
- (2) *A council may satisfy itself as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management.*
- (3) *If the Council is satisfied:*
 - (a) *that the land is not a core Koala habitat, it is not prevented, because of this policy, from granting consent to the development application. “*

The subject lands are not considered to form a core Koala habitat based on the flora and fauna assessment conducted of the property by Anderson Environmental Consultants Pty Ltd. Accordingly in this instance, a Koala Plan of management is not required, and Council is not prevented from granting consent to the proposal.

Sydney Regional Environmental Plan 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.

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

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

Within the Draft Hawkesbury Local Environmental Plan 2009, the subject site is zoned RU4 Rural Small Holdings. The subject development is permissible only if the area of each of the allotments to be created is not less than 4 hectares. The subdivision will result in seven (7) additional allotments being created with areas ranging from 4 Ha to 7.44 Ha, thus satisfying the numerical development standards of Draft Hawkesbury Local Environmental Plan 2009.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan

The Hawkesbury Development Control Plan 2002 applies to the proposal. An assessment of the proposal against the relevant provisions of this Plan follows:

Subdivision Chapter

The following is an assessment against the relevant Rules of the Subdivision Chapter in respect to Part D.

Element	Rule	Complies
General		
Flora and Fauna Protection	(a) Any subdivision proposal which is likely to result in any clearing of native vegetation or impact on any environmentally sensitive area is to be accompanied by a flora and fauna assessment report prepared by a suitably qualified person. This report is to primarily address the Eight Part Test pursuant to the Act (Section 5A), State Environmental Planning Policy 44 – Koala Habitat protection.	Yes. The report documents that there would be no significant impacts on any threatened species, populations or endangered ecological communities as part of the proposal.
	(b) Vegetation cover should be retained where ever practicable as it acts to stabilize soils, minimize runoff, acts as a pollutant trap along watercourses and is important as a habitat for native fauna.	Yes
	(c) Degraded areas are to be rehabilitated as part of the subdivision.	Yes
	(d) Vegetation should be retained where it forms a link between other bush land areas.	Yes
	(e) Vegetation which is scenically and environmentally significant should be retained.	Yes

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Element	Rule	Complies
	(f) Vegetation which adds to the soil stability of the land should be retained.	Yes
	(g) All subdivision proposals should be designed so as to minimize fragmentation of bushland.	Yes
Visual Amenity	<p>(a) Building envelopes, accessways and road shall avoid ridge tops and steep slopes.</p> <p>(b) Subdivision of escarpments, ridges and other visually interesting places should:</p> <ul style="list-style-type: none"> ❖ Be managed in such a way that the visual impact rising from development on newly created allotments is minimal; and ❖ Retain visually significant vegetation such as that found on ridge tops and other visually prominent locations. <p>(c) Development Applications for subdivision shall take into consideration the provisions of SREP No. 20 in relation to scenic quality.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>See assessment above.</p>
Heritage	(a) A subdivision proposal on land which contains or is adjacent to an item of environmental heritage as defined in Schedule 1 of the Hawkesbury LEP should illustrate the means proposed to preserve and protect such items.	Yes.
Utility Services	<p>(a) Underground power provided to all residential and industrial subdivisions. Where infill subdivision is proposed, the existing system, whether above or underground shall be maintained.</p> <p>(b) All lots created are to have the provision of power.</p> <p>(c) Where reticulated water is not available, a minimum storage of 100,000 litres must be provided. A minimum of 10,000 litres must be available during bush fire danger periods.</p>	<p>Condition if approval granted.</p> <p>Condition if approval granted.</p> <p>Individual allotments to provide for water storage during further development of the site.</p>
Flooding, Landslip & Contaminated Land	(a) Compliance with clause 25 of Hawkesbury Local Environmental Plan 1989.	Yes.

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Element	Rule	Complies
	<p>(b) Access to the subdivision shall be located above the 1% AEP flood level.</p> <p>(c) Where a subdivision proposal is on land identified as being potentially subject to landslip, the applicant shall engage a geotechnical consultant to prepare a report on the viability of subdivision the land and provide recommendations as to the siting and the type of buildings which could be permitted on the subject land.</p> <p>(d) In the event the Council deems that there is the potential that land subject to a subdivision application is contaminated then the applicant shall engage a suitably qualified person to undertake a soil and ground water assessment.</p> <p>(e) Contaminated Land shall be remediated prior to the issue of the Subdivision Certificate.</p>	<p>Yes</p> <p>N/A</p> <p>Not considered to be contaminated.</p> <p>N/A</p>
Rural Lot Size and Shape	<p>(a) The minimum allotment size for land within rural and environmental protection zones are contained within Hawkesbury Local Environmental Plan 1989.</p> <p>(b) Lots should be able to accommodate a building envelope of 2000m² with a minimum dimension of 20 metres. Building envelopes should be located a minimum of 30 metres from significant trees and other significant vegetation or landscape features. Building envelopes will contain the dwelling house, rural sheds, landscaping, and on-site effluent treatment and disposal areas, and bushfire mitigation.</p> <p>(c) In calculating the area of a battle-axe or hatchet shaped allotment, the area of the battle axe handle should be included.</p> <p>(d) The width to depth ratio of allotments should not exceed 1:5.</p> <p>(e) Lot layout shall consider the location of watercourse vegetation and other environmental features.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
Effluent Disposal	<p>(a) An effluent disposal report prepared by a suitably qualified person is required to accompany any development application for rural and rural-residential</p>	<p>Yes</p>

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Element	Rule	Complies
	<p>subdivisions.</p> <p>(b) Any system proposed other than a Household Aerated Wastewater Treatment System is required to be installed prior to release of Subdivision Certificate.</p>	Yes
Rural Road and Access Way Design	<p>(a) The design specifications in Figure 4 at the end of this clause are to be met.</p> <p>(b) Where the road width is insufficient or unsatisfactory, an applicant should dedicate or provide land required for local road widening or new roads at no cost to Council.</p> <p>(c) Upgrading of the access way from the nearest sealed road to the proposed subdivision to an all weather standard suitable for the expected traffic generation arising from the subdivision. This work may require the sealing of the pavement dependent upon traffic generation.</p> <p>(d) Where access to the subdivision is via a Crown or Reserve road in addition to the above, the road should be fully constructed to a standard commensurate with roads in the locality and linked to the nearest Council road. Prior to any construction works being undertaken the relevant section of Crown road is to be transferred to Council.</p> <p>(e) The road fronting the subdivision shall be sealed into half width (minimum 3.5 metres). An all weather standard of road construction may be acceptable where the expected traffic volume generated by the subdivision proposal is low and no sealed road in the vicinity.</p> <p>(f) Water courses should be piped where they cross roads and the applicant should create drainage easements generally 10 metres long and 4 metres wide over the point of any discharge of any water from any public road onto private property.</p> <p>(g) All internal driveways shall be constructed to an all weather standard suitable for the expected traffic generation. An all weather access</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>NA</p> <p>N/A</p> <p>N/A</p>

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Element	Rule	Complies
	should also be provided across the footway to any battle-axe lot. Such access should be sealed within the vicinity of existing houses on adjoining lots where dust nuisance may occur and also on steeply sloping land.	
	(h) Where 3 or more individual access handles are proposed, common roads are to be provided.	N/A
	(i) Battle-axe handles shall have a minimum width of 6 metres.	N/A
	(j) Access ways should have a maximum grade of 25% (1:4) and be sealed if the grade exceeds 1:6, concrete if exceeds 1 in 5.	Can condition if approved.
	(k) Where an access way meets a public road there should be a minimum sight distance of 70 metres. This may be increased on roads with a high speed limit.	N/A
	(l) Cul-de-sacs for rural roads should have a minimum seal radii of 12.0 metres and boundary radii of 17.0 metres.	N/A

Notification Chapter

Adjoining neighbours were notified as per the requirements of Hawkesbury Development Control Plan 2002. Three (3) submissions of objection were received. The matters raised in these submissions are discussed further in this report.

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:

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

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 & Setting

Adjoining and nearby land uses predominantly consist of rural residential properties. The development proposes the creation of an additional seven allotments to be utilised for rural-residential living with allotment sizes consistent with the established subdivision pattern within the locality.

Access, Transport & Traffic

The development proposes the upgrading of approximately 200 metres of an un-named section of road leading from Hermitage Road to the property boundary to the north. At present, the un-named section of road is currently unsealed and poorly drained. As this section of road is within Council's road reserve, the development requires an approval under the Roads Act to be issued by Council, with this portion of work sought unable to be privately certified. Private Certifiers are not permitted to work on or within public roads.

As part of the subdivision, a new road will be constructed to service the eight (8) lots created. A road reserve width of 20 metres will be established. Within this road reserve, a road carriageway width of 6.5 metres with 1.2 metre shoulders and 1 metre table drains will be constructed. The road works also include the duplication of an existing bridge crossing over Blue Gum Creek, necessitated by 'Planning for Bushfire Protection 2006' requirements. The bridge will allow a carriageway width of 7 metres and the ability of two lanes of traffic to pass unobstructed. The duplication of the bridge will allow access into the property to be maintained whilst other works are undertaken within the site.

Utilities

It is considered that the proposed development will not place unreasonable demands on the provision of services.

Flora & Fauna

A flora and fauna assessment prepared by Anderson Environmental Consultants Pty Ltd dated November 2007 and addendum dated September 2009 was submitted with the proposed development. The report concluded that:

"The vegetation on the property is largely consistent with cleared grazing paddock for approximately 90% of the property. Mostly there are no trees for at least 60% of the property. There are some scattered trees in pockets which are grazed and farmed underneath and are best described as paddock trees. The vegetation generally occurs around the creek lines of Little Island Creek and Blue Gum Creek and these areas do not appear to be grazed and would not be disturbed as part of the proposed development. The vegetation within the cleared paddock areas although representing regrowth is not representative of any endangered ecological community at present as listed under the New South Wales Threatened Species Conservation Act (1995) and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999, due to its high levels of structural and floristic degradation. The vegetation along Douglas Farm Road has been disturbed in the past through maintenance and weed growth.

The fauna habitat along Douglas Farm Road is of low quality due to the disturbance from road maintenance and weed growth from previous clearing with the fauna habitat on the site within the areas proposed for development (paddock area) is generally quite poor as these areas are generally dominated by pasture grasses.

It was found that there would be no significant impacts on any threatened species, populations or endangered ecological communities as part of the proposal."

Comment:

The flora and fauna report documents that negligible vegetation is to be disturbed as part of the proposal, due to the development being located within the centrally cleared paddock areas. As such, there would be negligible disturbance to the remaining areas of bushland located to the north and south of the development site.

Natural Hazards

The site is recognised as being bushfire prone land with the application being an integrated development in respect of bush fire safety. Hence, the proposed subdivision of land is subject to approval for residential or

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rural residential purposes from the NSW Rural Fire Service. The application was referred to the NSW Rural Fire Service twice following their initial objection to the access road failing to satisfy 'Planning for Bushfire Protection 2006' requirements. In their letter of 11 February 2010, the NSW Rural Fire Service granted a bush fire safety authority subject to conditions and endorsed the modified access road design.

Heritage

The site is listed as containing items of local heritage significance consisting of an iron shed and two sunken wells. However, a walk over the site conducted by Council Planners reveals that no items of heritage significance are located upon the property. Discussions with the site owners and the farm manager of the property reveal that the sunken wells are possibly located on the neighbouring property to the east being 244 Hermitage Road, Kurrajong Hills with the iron shed demolished several years ago to accommodate a dwelling house. Further investigations in respect to the location of the sunken wells are continuing.

As a result of the site inspection conducted upon 150 and 274B Hermitage Road, Council's Strategic Planning Section are undertaking the revision of the heritage listing within Draft Hawkesbury Local Environmental Plan 2009, to remove the property 150 Hermitage Road, Kurrajong Hills as containing items of local heritage significance.

Suitability of the site for the development:

Whilst the site is recognised as being bushfire prone land, the NSW Rural Fire Service have issued a Bush Fire Safety Authority in accordance with Section 100b of the Rural Fires Act, 1997. In addition, the flora and fauna report documents that negligible vegetation is to be disturbed as part of the proposal, due to the development being located within the centrally cleared paddock areas. As such, there would be negligible disturbance to the remaining areas of bushland located to the north and south of the development site. Accordingly, the site is considered suitable to support the development proposed.

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

Integrated Development

The proposed development is integrated development and requires the approval of both the NSW Rural Fire Service and NSW Office of Water.

As the site is recognised as being bushfire prone land the application is integrated development in respect of bush fire safety. Hence the proposed subdivision of land is subject to approval for residential or rural residential purposes from the NSW Rural Fire Service. In addition, as the proposed construction of the bridge over Blue Gum Creek occurs within 40 metres of a natural watercourse, the development requires the approval of the NSW Office of Water and a subsequent, Controlled Activity Approval.

In their letter of 11 February 2010, the NSW Rural Fire Service granted a Bush Fire Safety Authority subject to conditions. These conditions are incorporated within the recommended development consent at the end of this report.

In their letter of June 2010, the NSW Office of Water granted their terms of approval. As part of their conditions, a Controlled Activity Approval is required to be obtained from the NSW Office of Water prior to the issue of any Construction Certificate. The general terms of approval form part of the recommended development consent at the end of this report.

Public Submissions

The application was publicly exhibited between 12 November 2008 and 1 December 2008. During this notification period, three (3) submissions of objection were received. The matters raised in these submissions are addressed below:

1. The state of Hermitage Road and its ability to cope with perhaps up to 24 vehicles per day.

Comment: The state of Hermitage Road resembles much of the road network system in the Local Government Area of Hawkesbury within rural areas in that the roads are similar in nature being, narrow and require maintenance. In the proposal, the development will provide an upgrade of a portion of the un-named section of road leading from Hermitage Road to the property boundary to the north. The upgrade will provide approximately 200 metres of an all weather road surface, which at present is currently not surfaced.

The increase of traffic improvements of up to 24 movements per day is not considered to have a significant impact on the current condition of Hermitage Road and surrounding road networks. Conditions are proposed that allocate the proportion of upgrade attributed to the subdivision to the developer.

2. Another development along Hermitage Road will no doubt result in further loss of our beautiful native wildlife who take shelter along Little Islands Creek and Blue Gum Creek.

Comment: The flora and fauna report found that there would be no significant impacts on any threatened species, populations or endangered ecological communities as part of the proposal and that negligible vegetation would be disturbed as part of the proposal, due to the development being located within the centrally cleared paddock areas. As such, there would be negligible disturbance to the remaining areas of bushland located to the north and south of the development site. In addition, a Controlled Activity Approval is required to be obtained from the NSW Office of Water in respect to construction activities for the proposed bridge construction over Blue Gum Creek.

3. Contamination of our land as a result of effluent runoff

Comment: An objection has been received from an eastern adjoining neighbour concerned that their land could become contaminated as a result of effluent runoff from proposed Lot 4 entering their property and contaminating grazing grounds, from which they graze cattle, butcher locally and later consume. An onsite disposal of effluent report was submitted with the application, which concluded that the sites of the proposed allotments are suitable for on site aerated septic systems, with the soil being in good condition and with no significant limitations. The report also documented that a mounded system could be used, which would utilise a smaller area compared to standard aerated system and through the use of such a system, there would be less potential for runoff to be achieved. Adequate disposal areas are available to all lots proposed with sufficient buffer distances.

4. Loss of our visual and audible privacy

Comment: An objection was received from an eastern adjoining neighbour concerned that the location of the development site for proposed Lot 4 would impact their visual and audible privacy. The objectors claim that development of the site as proposed would be visible from all rooms of their home, including external living areas.

At present, the eastern adjoining neighbours residence is situated approximately 100 metres from the western boundary of proposed Lot 4, with the proposed building envelope sited further within the lot. The proposed building envelope maximises the distance between any future residences upon proposed Lot 4 and adjoining properties and is sited to the south to avoid a central ridge, which would otherwise have a greater impact upon neighbouring properties if relocated as suggested by the objector.

The northern part of proposed Lot 4 is exposed from past grazing activities on the land and is devoid of most vegetation apart from grasses, therefore the location of any building envelope is likely to be visible to neighbouring eastern neighbours. In response to the objection received, the applicants propose the planting of screening trees in a similar manner as undertaken by eastern adjoining neighbours to lessen the impact of any building upon proposed Lot 4 to the eastern neighbouring objectors. In consideration of the significant distance between the existing residence and the proposed building envelope and the proposal by the applicant to provide for the planting of

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screening trees along the eastern boundary, the development is considered satisfactory and unlikely to significantly impact upon adjoining properties to the east of the development.

d. The Public Interest:

Whilst the site is recognised as being bushfire prone land, the proposal has been reviewed by the NSW Rural Fire Service and they have endorsed the amended road design. In addition, the flora and fauna report documents that negligible vegetation is to be disturbed as part of the proposal, due to the development being located within the centrally cleared paddock areas.

The development proposes the upgrading of approximately 200 metres of an un-named section of road leading from Hermitage Road to the property boundary to the north, which will benefit three (3) property owners in the vicinity of the site. The upgrade will provide an all weather road surface, which at present is currently not surfaced and poorly drained.

Having regard to the relevant planning considerations and the submissions received, it is concluded that it would be in the public interest to approve the proposed subdivision.

Conclusion:

The subdivision will result in a change from two lots into seven (7) additional lots being created with areas ranging from 4 Ha to 7.44 HA. The minimum lot size applying to this land is 4 Ha, which is consistent with the minimum allotment size requirement for subdivision as per Clause 11(2) of Hawkesbury Local Environmental Plan 1989.

General terms of approval have been obtained from both the NSW Rural Fire Service and the NSW Office of Water with the NSW Rural Fire Service issuing a Bush Fire Safety Authority in accordance with Section 100b of the Rural Fires Act, 1997. As part of their general terms of approval, a Controlled Activity Approval is required to be obtained from the NSW Office of Water prior to the issue of any Construction Certificate.

Flora and fauna assessment of the development reveals that there would be no significant impacts on any threatened species, populations or endangered ecological communities as part of the proposal, with negligible vegetation to be disturbed as part of the proposal, due to the development being located within the centrally cleared paddock areas.

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.

Developer Contributions

The following developer contributions apply to this development - \$5800 Accordingly, a condition of consent is required to be imposed in this regard.

RECOMMENDATION:

That:

- A. Development application DA0821/08 at Lot 1 DP 543261 150 Hermitage Road and Lot 4 DP 1064408 274B Hermitage Road, KURRAJONG HILLS NSW 2757 for Torrens title subdivision into eight lots be approved subject to the following conditions:

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General Conditions

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by Degotardi, Smith & Partners numbered 30721A03.DWG Rev . A Sheets 1-6, dated September 2009, except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
4. All the recommendations of the Flora and Fauna Assessment prepared by Anderson Environmental Consultants Pty Ltd dated November 2007 and addendum dated September 2009 shall be implemented within then development.
5. All vegetative debris (including felled trees) resulting from the approved clearing of the site for asset protection zones and construction of road/bridge works, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning unless separately approved within an " Application for approval to pile burn " by Hawkesbury City Council.
6. The new road and section of currently un-named road shall be named.

The applicant is welcome to suggest a name but the final decision rests with Council. Note that road naming can be lengthy process (3 – 6 months), the applicant is advised to contact Council and commence the process as soon as practical.

It would be preferable for the road name to be resolved by Council following a public consultation prior to the linen being released by Council.

Fees for road naming apply and are listed in Council's Fees and charges.

Prior to issue of Construction Certificate

7. The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.
8. Property access roads shall comply with Section 4.1.3 (2) of ' Planning for Bushfire Protection 2006 '.
9. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$5800 shall be paid to Hawkesbury City Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time).

The contribution is to be paid prior to the issue of the construction certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the certifying authority.

10. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

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All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

11. Construction of the road, access, drainage and retaining walls are not to commence until three copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
12. Payment of a Construction Certificate checking fee of \$5490.10 and a Compliance Certificate inspection fee of \$10,980.20 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2010. Fees required if an Accredited Certifier is used will be provided on request.
13. Under the provisions of the Road Act 1993, Council, as the roads authority shall approve all works within the existing road reserve. In this regard, plan checking and inspection fees of \$4176.90 are to be paid to Council for the construction of the section of the un-named road/Douglas Farm Road shown on the approved plans. This amount is valid until 30 June 2010.
14. Details of any fill material removed from or imported to the site shall be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites.
15. A Traffic Guidance Scheme prepared in accordance with AS 1742-3 (2002) by an appropriately qualified person shall be submitted to Council.
16. Retaining walls are to be designed by a suitably qualified and experienced Structural Engineer.
17. The existing bridge and proposed widening are to comply with the minimum Australian Standards for bridges for use as public roads.

The existing structure was approved for use as access to a single dwelling. Accordingly, prior to any design works commencing, the existing bridge is to be assessed for compliance with the relevant Australian Standards for a public road, (Including the understructure).

The existing bridge structure, plans for upgrading or replacement of the existing bridge (as required) and the widening to provide the additional lane are to be certified by a suitably qualified practicing structural engineer as complying with the Australian Standard for bridges in public roads.

18. Prior to the issue of the Roads Act approval or any Construction Certificate, a performance, damage and defects bond representing 5% of the total cost of the subdivision, with a minimum amount of \$25,000, is to be lodged with Hawkesbury City Council.

The bond is refundable on application, 12 months after the completion of all work, subject to satisfactory performance of the work.

Prior to commencement of works

19. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan.
20. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
21. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.

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22. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
23. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
24. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
25. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.
 - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - (d) The name and contact number of the Principal Certifying Authority.

During Construction

26. Water, electricity and gas are to comply with Section 4.1.3 of 'Planning for Bushfire Protection 2006'.
27. Public road access shall comply with the plans prepared by Degotardi, Smith and Partners Drawing No. 30721A03. DWG Rev A, Sheets 1-6, dated 30/09/09.
28. The road reserve, where it passes through forest vegetation, for a total width of 20m shall be managed as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
29. The existing building on proposed Lot 1 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.
30. All fill to be adequately compacted by track rolling or similar in layers not exceeding 300mm.
31. All constructed batters are to be topsoiled and turfed and where batters exceed a ratio of 3 (three) horizontal to 1 (one) vertical, retaining walls, stoneflagging or terracing shall be constructed.
32. Dust control measures, e.g. vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
33. Only vegetation nominated for removal as per the Flora and Fauna Assessment, prepared by Anderson Environmental Consultants Pty Ltd dated November 2007 and addendum dated September 2009 shall be removed.
34. Vegetation removal shall be undertaken in a safe and workman like manner.
35. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
36. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.

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37. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
- (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
38. Filling shall comprise only uncontaminated virgin excavated natural material. Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.
39. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
40. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification. (Note: that where the requirements of the NSW Rural Fire Service are greater than Council minimum requirements then these will take precedence.)
41. The road shoulders and full width sealed pavement of the new proposed road shall be constructed for the length shown on the approved plan. Works are to include signage, line marking, etc, as required.
42. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
43. Construction of full width sealed pavement and the road shoulder of the section of Douglas Farm Road/ the unnamed road from the property boundary to Hermitage Road (shown on the approved plans). Works are to include a sealed rural intersection at the continuation of Douglas Farm Road.
44. A pavement 4m wide shall be constructed to the building area on each lot appropriate to the gradient of the land in accordance with the following table:

Gradient	Surface Construction
0-16%	Compacted crushed rock
17-20%	Bitumen seal
21-25%	Reinforced concrete

Driveway gradient shall not exceed 25% in any section.

45. Inspections shall be carried out and compliance certificates issued by a practising Structural Engineer attesting that the bridge has been upgraded/constructed in accordance with the certified plans and complies with the minimum requirements for public roads.

Prior to issue of Subdivision Certificate

46. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.

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47. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
48. Written clearance from an energy service provider shall be submitted to the Principal Certifying Authority.
49. A works as executed plan shall be submitted to Council on completion of works.
50. Retaining walls are to be certified on completion by a suitably qualified and experienced Structural Engineer.
51. The bridge is to be certified on completion by a suitably qualified and experienced Structural Engineer as complying with relevant Australian Standards for bridges in public roads.
52. Easements 4m wide and 10m long shall be created over the site for drainage discharge from roads (at no cost to Council).
53. All new roads, including pathways and drainage, shall be dedicated to Council.
54. A plan of subdivision prepared to the requirements of the Land Titles Office, shall be submitted to Council, with four copies.
55. A survey plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal shall be submitted. The plan shall demonstrate that there are no encroachments over remaining or proposed boundaries.
56. Payment of a Linen Release Fee in accordance with Council's Fees and Charges at the time of lodgement of the linen plan.

Use of the development

57. The asset protection zones shall be regularly maintained for the perpetuity of the development.

General Terms of Approval – NSW Office of Water

58. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA0821/08 and provided by Council:

- (i) Site plan, map and/or surveys

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

59. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
60. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water guidelines located at www.dwe.nsw.gov.au/water_trades/rights_controlled.shtml
 - (i) Watercourse crossings
61. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.

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62. The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to the NSW Office of Water as and when required.
63. The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.
64. The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the NSW Office of Water.
65. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
66. The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.
67. The consent holder must re-establish the riparian corridor along the Creek Name in accordance with a plan approved by the NSW Office of Water, in any disturbed area within waterfront land of Blue Gum Creek caused by this development.

Advisory Notes

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- *** Should any Aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an Aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
- *** The applicant is advised to consult with:
 - (a) Sydney Water Corporation Limited
 - (b) An Energy Service Provider
 - (c) Natural Gas Company
 - (d) a local telecommunications carrierregarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.
- *** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- *** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

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ATTACHMENTS:

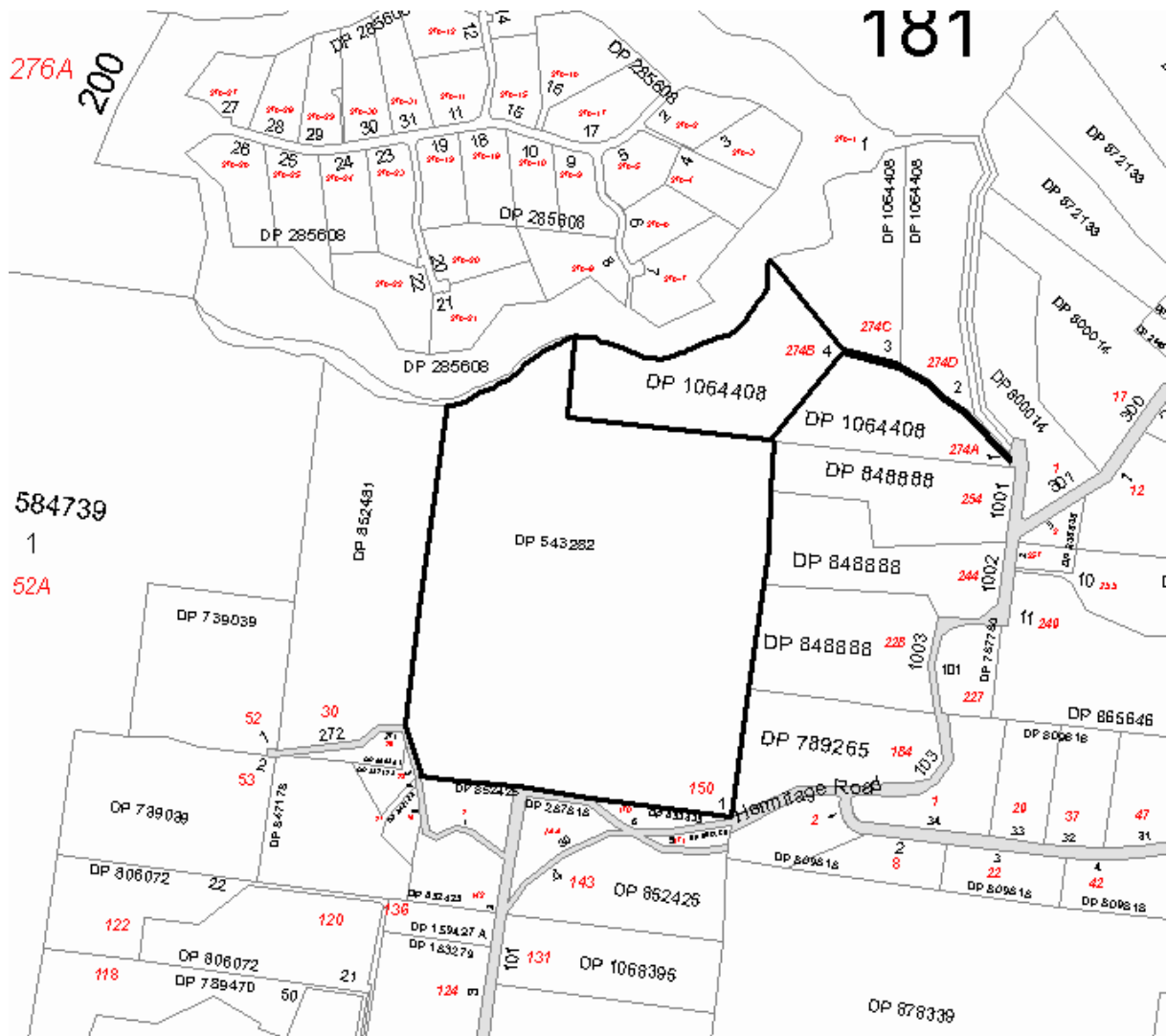
AT - 1 Locality Plan

AT - 2 Plan of Subdivision

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AT - 1 Locality Plan



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Item: 164 **CP - Development Application - Three Lot Torrens Title Subdivision - Lot 1 DP803225, 235 Yarramundi Lane and Lot 4 DP803225, 19 Price Lane, Agnes Banks - (DA0071/09, 4579, 4580, 74563, 95498)**

Development Information

File Number: DA0071/09
Property Address: Lot 1 DP803225, 235 Yarramundi Lane and Lot 4 DP803225, 19 Price Lane AGNES BANKS NSW 2753
Applicant: Falson & Associates Pty Limited
Owner: Mr GB Fitton & Mrs PA Fitton
Proposal Details: Three Lot Torrens Title Subdivision
Estimated Cost: N/A
Zone: Part Environmental Protection - Agriculture Protection and Part Rural Living under Hawkesbury Local Environmental Plan 1989

Part RU2 - Rural Landscape and Part RU4 - Rural Small Holdings under DRAFT Hawkesbury Local Environmental Plan 2009
Date Received: 20 February 2009
Advertising: 9 June 2009 to 23 June 2009

Key Issues:

- ◆ Objection under State Environmental Planning Policy No.1
- ◆ Minimum allotment size
- ◆ Flooding

Recommendation: The proposal be supported.

REPORT:

Introduction

An application has been received seeking approval for a three lot Torrens Title subdivision of Lot 1 in DP803225, 235 Yarramundi Lane and Lot 4 in DP803225, 19 Price Lane Agnes Banks.

The application is being reported to Council as the variation to the minimum allotment size exceeds 10% and it is a requirement for all State Environmental Planning Policy No. 1 variations greater than 10% to be considered by Council.

Description of Proposal

It is proposed that the three new allotments will have the following areas:

Proposed Lot 101 - 2.28ha
Proposed Lot 102 - 4.53ha
Proposed Lot 103 - 14.09ha

Proposed Lots 101 and 102 will gain direct access from Price Lane with proposed Lot 103 gaining access from Yarramundi Lane.

Description of the Land and its Surroundings

The subject site is relatively cleared with the levels of the land ranging from 19.5m AHD to 12.5m AHD.

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Existing Lot 1 in DP 803225 fronts Yarramundi Lane and has an area of 10 Ha. The site is irregular in shape, contains one dwelling, 4 (four) large sheds and is currently being used for agricultural purposes.

Existing Lot 4 in DP 803225 fronts Price Lane and has an area of 10.91Ha. The site is irregular in shape, contains one dwelling, two (2) sheds, seven (7) horse shelters and is currently being used for rural residential purposes.

Recommendation

That the objection under State Environmental Planning Policy (SEPP) No. 1 be supported and that Council seek the concurrence of the Department of Planning to the SEPP No. 1 variation.

History of the application

8 May 2009	Additional information letter sent to the applicant requesting further details with regard to effluent disposal and that an amended Statement of Environmental Effects is required identifying correct zones.
12 May 2009	Amended Statement of Environmental Effects received and request to consider effluent disposal report to be provided as part of a deferred commencement condition submitted.
3 June 2009	Applicant advised that Council officers are willing to consider the submission of an effluent disposal as part of a deferred commencement condition.
14 August 2009	Applicant advised that the subdivision proposal does not meet the necessary requirements of HLEP 1989 with respect to Clause 11(6) as proposed Lot 102 does not provide an area for the erection of a dwelling house above the 1 in 100 year flood level.
18 August 2009	Applicant requested to meet with the Director of Planning to discuss the possibility of the lodgement of an application for fill in order to comply with Clause 25 of HLEP 1989.
2 December 2009	Application for landfill submitted.

Issues Relevant to the Decision

- Objection under State Environmental Planning Policy No.1
- Minimum allotment size
- Flooding

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy 1 – Development Standards (SEPP 1)
- Sydney Regional Environmental Planning Policy 20. (No.2 - 1997) - Hawkesbury Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan (HLEP)1989
- Hawkesbury Development Control Plan (HDGP) 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 of any:

i. Environmental Planning Instrument:

Hawkesbury Local Environmental Plan (HLEP) 1989**Clause 2 - Aims, objectives etc,**

The proposed development is considered to be consistent with the general aims and objectives as outlined in Clause 2 of HLEP 1989.

Clause 9A – Zone objectives

A zone boundary runs through the subject land splitting the site into two separate zonings Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map) and Rural Living (land shown hatched on the map).

The stated objectives of the Environmental Protection - Agricultural Protection (Scenic) zone are detailed as follows;

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

The stated objectives of the Rural Living zone are detailed as follows:

- (a) *to provide primarily for a rural residential lifestyle,*

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- (b) *to enable identified agricultural land uses to continue in operation,*
- (c) *to minimise conflict with rural living land uses,*
- (d) *to ensure that agricultural activity is sustainable,*
- (e) *to provide for rural residential development on former agricultural land if the land has been remediated,*
- (f) *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,*
- (g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflict with other land uses in the locality,*
- (h) *to ensure that development occurs 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,*
 - (i) *to prevent the establishment of traffic generating development along main and arterial roads,*
- (j) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

Comment: The proposed subdivision is consistent with the objectives of both the Environmental Protection - Agricultural Protection (Scenic) and Rural Living zones of HLEP 1989 as:

- proposed Lots 101 and 102 will provide for a rural residential lifestyle and proposed Lot 103 will provide an additional 4.09ha to the existing vegetable farm located at 235 Yarramundi Lane,
- the proposal is not likely to have a negative impact on the potential agricultural use of the land,
- no significant adverse impact on water catchments, significant ecosystems or the River, or surface and groundwater quality and flows, or surface conditions is expected to occur as a result of the proposed subdivision,
- the proposed development is not likely to create any unreasonable rural land use conflicts, given the nature and use of adjoining properties,
- the subdivision will not have a negative impact on the existing landscape values of the locality,
- the proposed subdivision will not have any significant adverse impacts on river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality,
- the proposed development will not result in the significant generation of traffic on main or arterial roads, and,
- the proposal will not create unreasonable economic demands for the provisions or extension of public amenities or services.

Clause 10 – Subdivision General

The general provisions for Subdivision are detailed as follows:

- (1) *Land to which this plan applies may be subdivided, but only with development consent.*
- (2) *Land shall not be subdivided unless the boundaries of allotments so created correspond generally with the boundaries (if any) between zones as shown on the map.*
- (3) *Notwithstanding the provisions of subclause (4), the Council may consent to a plan of subdivision whereby the boundaries of allotments so created will not correspond with the boundaries between different zones as shown on the map but which, in the opinion of the Council, depart there from only to a minor effect.*
- (4) *Where, on registration of a plan of subdivision referred to in subclause (3), the boundary between land is determined in a different position from that indicated on the map, land shall be deemed to be within the appropriate zone as determined by the Council.*
- (5) *All subdivision is prohibited on the Pitt Town Site unless the area of each lot created for a dwelling house is equal to or greater than the minimum lot sizes for the land shown on the Lot Size Map and the number of lots created does not exceed the density control for the land shown on the Density Control Map.*
- (6) *State Environmental Planning Policy No 1—Development Standards does not apply to subclause (5).*

Comment: The subdivision proposal is inconsistent with Clause 10(2) in that the application seeks to create new allotment boundaries which do not correspond with the existing zone boundaries. The applicant has made an objection to this clause under SEPP 1 and is discussed in the report below.

Clause 11- Rural Subdivision - general provisions

- (1) *In this clause:*

commencement day means the day on which Hawkesbury Local Environmental Plan 1989 (Amendment No 126) commenced.

endangered ecological community means any endangered ecological community referred to in Part 3 of Schedule 1 to the Threatened Species Conservation Act 1995.

lot averaging subdivision means a subdivision of land within the Mixed Agriculture, Rural Living or Rural Housing zones that complies with subclause (4) and will not result in an original allotment being divided into more allotments than the number resulting from:

- (a) *dividing the area of the original allotment in hectares:*
 - (i) *by 10, if the land is in the Mixed Agriculture zone, or*
 - (ii) *by 4, if the land is in the Rural Living zone, or*
- (b) *multiplying the area of the original allotment in hectares by the density control shown on the map, if the land is in the Rural Housing zone.*

original allotment means an allotment in existence at the date on which Hawkesbury Local Environmental Plan 1989 (Amendment No 126) was gazetted.

regionally significant wetlands means any land shown as wetland on “the map” within the meaning of Sydney Regional Environmental Plan No 20—Hawkesbury- Nepean River (No 2—1997).

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- (2) *Except as otherwise provided by this clause and clause 13, the Council may consent to the subdivision of land in Zone No 7 (a) or 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone only if the area of each of the allotments to be created is not less than:*
- (a) *if it is not a lot averaging subdivision, that shown for the zone in Column 2 of the following Table, or*
- (b) *if it is a lot averaging subdivision, that shown for the zone in Column 3 of that Table.*

Column 1	Column 2	Column 3
Zone	Minimum allotment size if not lot averaging subdivision	Minimum allotment size if lot averaging subdivision
Mixed Agriculture (land shown hatched on the map)	40 hectares	Not applicable
Mixed Agriculture (other than land shown hatched on the map)	10 hectares	2.5 hectares
Rural Living (land shown hatched on the map)	2 hectares	Not applicable
Rural Living (other than land shown hatched on the map)	4 hectares	1 hectare
Rural Housing	Minimum lot size as shown on the map (otherwise not applicable)	1,500 square metres if the density control shown on the map is 5.0 per hectare 2,400 square metres if the density control shown on the map is 3.0 per hectare 3,750 square metres if the density control shown on the map is 2.0 per hectare
Environmental Protection—Agriculture Protection (Scenic) (land shown hatched on the map)	10 hectares	Not applicable
Environmental Protection—Agriculture Protection (Scenic) (other than land shown hatched on the map)	40 hectares	Not applicable

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Column 1 Zone	Column 2 Minimum allotment size if not lot averaging subdivision	Column 3 Minimum allotment size if lot averaging subdivision
Environmental Protection (Wetlands) 7 (a)	40 hectares	Not applicable
Environmental Protection (Scenic) 7 (d)	40 hectares	Not applicable
Environmental Protection—Mixed Agriculture (Scenic)	40 hectares	Not applicable

Comment: The proposed lots do not comply with the minimum allotment sizes prescribed under Clause 11 of HLEP 1989. Clause 11 requires a minimum allotment size of 2ha for land zoned Rural Living (land shown hatched on the map) and 10ha for land zoned Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map). The proposed lot and zone areas are detailed as follows:

Lot area	Approximate area occupied by land zoned Rural living (land shown hatched on the map)	Complies	Approximate area occupied by land zoned Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map)	Complies
Lot 101 2.28ha	1.5ha	No	7800m ²	No
Lot 102 4.53ha	4ha	Yes	5300m ²	No
Lot 103 14.09ha	100m ²	No	14.08ha	Yes

The applicant has submitted a State Environmental Planning Policy No.1 Objection in relation to minimum area provisions and is considered separately in this report.

(3) *The Council may consent to the subdivision of land to which this clause applies only if:*

(a) *there is a ratio between the depth of the allotment and the frontage of the allotment that, in the opinion of the Council, is satisfactory having regard to the purpose for which the allotment is to be used, and*

Comment: The width to depth ratio of the lots is satisfactory for the properties intended use. The proposal complies with the requirements of Hawkesbury Development Control Plan Part D Chapter 3.7.5 Lot Size and Shape.

(b) *the pattern of allotments created by the proposed subdivision and the location of any proposed buildings on those allotments will, in the opinion of the Council, minimise the impact on any threatened species, populations or endangered ecological community or regionally significant wetland, watercourses, agriculture and bush fire threat, and*

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Comment: It is considered that the proposed subdivision will not have a significant impact upon any threatened species, populations or endangered ecological communities or significant wetland, watercourses, agriculture or be subject to significant bushfire threat.

- (c) *the Council has considered a geotechnical assessment that demonstrates the land is adequate for the on-site disposal of effluent, and*

Comment: A geotechnical report has not been submitted with the application. The applicant has requested that Council consider that an geotechnical assessment be provided as part of a deferred commencement condition of consent given the uncertainty of whether or not the proposed SEPP 1 objection would be supported by the Department of Planning. This request is considered to be reasonable in this instance.

- (d) *in the opinion of the Council, each of the allotments created contains suitable areas for a dwelling-house, an asset protection zone relating to bush fire hazard and effluent disposal.*

Comment: It is considered that each lot would be able to provide suitable space for both the existing dwellings on proposed lots 101 and 103 and for a new dwelling on proposed Lot 102. The land is not subject to bushfire and an effluent disposal report will need to be provided as a recommended condition of consent.

- (4) *A subdivision of land within the Mixed Agriculture or Rural Living zone complies with this clause only if:*

- (a) *the number of allotments proposed for dwelling-houses does not exceed the number of allotments that could have been created for dwelling-houses by a subdivision of the land immediately prior to the commencement day, and*

Comment: The proposed lots will not be able to be further subdivided in accordance of HLEP 1989.

- (6) *Consent must not be granted to a subdivision of land in Zone No 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone that creates an allotment (otherwise than for use for a public purpose) unless the Council is satisfied that there is an area of land above the 1-in-100 year flood level on the allotment that is:*

- (a) *sufficient for the erection of a dwelling-house, and*
(b) *at natural surface level or at a level achieved by filling carried out with the consent of Council.*

Comment: The subject site has been identified as being flood prone. The levels of the land range from 19.5m AHD to 12m AHD. It is noted that a significant portion of the land is below the 1 in 100 year flood level of 18.3m AHD. The existing dwellings on site are consistent with Clause 25 of HLEP 1989. Development Consent No. DA0736/09 approved filling to be carried out on proposed lot 102 to create an area of land situated above the 1 in 100 year flood level to enable a dwelling to be erected consistent with the provisions of Clause 25.

Subclauses (4), (4A), (5), (7), (8) and (9) do not apply to this proposal.

Clause 18 - Provision of water, sewerage etc. services

The existing dwellings have suitable access to water, electricity, sewage and telecommunication services. Written evidence that satisfactory arrangement for the provision of these services for the subdivision is a recommended condition of consent.

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

The aim of the policy is to protect the environment of the Hawkesbury-Nepean River system by ensuring the impacts of future land use are considered in the regional context. General and specific matters for consideration, specific planning policies and recommended strategies and development controls, which are to be considered in the assessment of development applications, are included in the policy.

Comments: The subject land falls within the boundary of SREP 20 and is situated within a scenic corridor of significance beyond the region. The proposal meets the overall aim of the plan in that it is consistent with the specific planning policies which apply to the proposal. Clauses 6(1), 6(2), 6(3), 6(4), 6(6) and 6(7) of the Plan apply to the proposal and have been considered in the table below:

Specific Planning Policies and Recommended Strategies	Compliance	Comment
Cl 6(1) Total Catchment Management	Yes	The proposal is unlikely to result in any significant adverse environmental impacts on any downstream local government areas.
Cl 6(2) Environmentally Sensitive Areas	Yes	It is unlikely that the proposal will have an impact on the water table or result in the formation of acid sulphate soils.
Cl 6(3) Water Quality	Yes	It is unlikely that the proposal will have an impact on the water quality of the locality.
Cl 6(4) Water Quantity	Yes	The proposal will not increase water run-off from the site or the rate at which it leaves.
Cl 6(6) Flora and Fauna	Yes	The proposed works are in an area previously cleared and disturbed by past farming activities. It is considered that there will be no significant adverse impact on flora and fauna species, populations or habitats.
Cl 6(7) Riverine Scenic Quality	Yes	The proposal is considered to be consistent with the landscape character as described in the Scenic Quality Study.

Based on the above it is considered that the proposed development is consistent with Sydney Regional Environmental Planning Policy 20.

State Environmental Planning Policy No. 1 – Development Standards

An objection under State Environmental Planning Policy No. 1 was lodged in respect to the minimum allotment size requirement for land zoned Rural Living (land shown hatched on the map) and Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map). The SEPP No. 1 objection states:

“There is adequate room available on Lot 1 for a subdivision to take place into 2 x 2ha lots wholly within the Rural Living Zone however this would be a lesser standard of outcome to the subject proposal. In this respect the zone boundary between the Rural Living zone and the Agricultural Protection zone does not follow from any responsible physical or cadastral feature and is obviously not in a reasonable position. The proposed subdivision recognises the

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primary objection of the Rural Living portion of land to Price Lane and proposed rural/residential allotments thereto. The subdivision also recognises the primary objection of the Agricultural Protection zone and consolidates agricultural land within this zone."

In responding to the clauses of SEPP No. 1, the applicant has claimed that compliance with the development standard is considered unreasonable and unnecessary,

"for the existing zone boundary to be used given that it dissects Lot 4 without any particular apparent reason "

In addition, the applicant states that:

"The subdivision follows from proper and reasonable management of a rural residential and agricultural landholding having regard to existing physical features and to minimum allotment sizes normally required within the zone. Particularly the subdivision recognises that the land is of an irregular shape and could be better divided to consolidate agricultural land and to maximise rural/residential land."

Given that the variation in Lot size is in excess of 10%, the application requires the consideration by Council. It is proposed that should Council support the proposed subdivision, the application be referred to the Department of Planning for concurrence pursuant to the provisions of Section 79B of the Environmental Planning and Assessment Act, 1979.

Comment: Clause 11(2) limits lot sizes to 2ha for land zoned Rural Living (land shown hatched on the map) and 10ha for land zoned Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map).

It is apparent that the minimum allotment sizes for each of the zones have been employed to minimise the impact of subdivision and development of land while still provide suitable space for the development of land consistent with the objectives of each of the respective zones as outlined in HLEP 1989.

It is noted that there is sufficient area for the subdivision of lot 1 within the Rural Living Zone however this would result in a less desirable outcome than what is currently proposed with respect to flooding, access, lot layout and lot width to depth ratios. The subdivision layout proposed will intersect the existing zone boundaries in order to provide for a subdivision layout that is in keeping with the surrounding rural residential properties of Price Lane.

Given that the existing property is currently split by two different zonings which don't follow any identified cadastral or topographic feature it is considered unreasonable in this instance that the subdivision of lot 1 follow the Rural Living zone boundary. Furthermore, it is considered unlikely that the subdivision of the subject site along the existing zone boundary would result in a better natural environmental outcome.

The lots proposed will provide suitable area for their intended uses being rural residential living for the two lots fronting Price Lane and agricultural for the lot fronting Yarramundi Lane

It is considered that in the circumstances of the case the departure to the minimum allotment size criteria contained in Hawkesbury Local Environmental Plan 1989 is acceptable and accordingly it is appropriate to support the variation sought under the provisions of SEPP No. 1 in this instance.

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 2009 was exhibited 5 February 2010 to 12 April 2010. The subject lots are identified as being Zoned RU2 - Rural Landscape and RU4 - Rural Small Holdings under DRAFT Hawkesbury Local Environmental Plan 2009.

Clause 4.1 permits subdivision with development consent subject to the minimum subdivision lot sizes as shown on the Lot Size Map. DRAFT Hawkesbury Local Environmental Plan 2009 does not seek to change the minimum subdivision lot sizes that currently apply to the subject site under Hawkesbury Local Environmental Plan 1989.

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The commentary relating to the recommended variation to the minimum allotment size criteria in accordance with SEPP 1 has been discussed in the report above. Should DRAFT Hawkesbury Local Environmental Plan 2009 be gazetted the minimum allotment variation supported under SEPP 1 would prevail.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

The proposed development is generally consistent with the requirements of HDCP. 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 notified to adjacent property owners in accordance with HDCP. No submissions were received in response to the application.

Subdivision Chapter

The following is an assessment against the Rules of the Subdivision Chapter:

Element	Rule	Provides	Complies
General			
Flora and Fauna Protection	(a) Any subdivision proposal which is likely to result in any clearing of native vegetation or impact on any environmentally sensitive area is to be accompanied by a flora and fauna assessment report prepared by a suitably qualified person. This report is to primarily address the Eight Part Test pursuant to the Act (Section 5A), State Environmental Planning Policy 44 – Koala Habitat protection.	No vegetation to be removed	Yes
	(b) Vegetation cover should be retained where ever practicable as it acts to stabilize soils, minimize runoff, acts as a pollutant trap along watercourses and is important as a habitat for native fauna.	No vegetation to be removed.	Yes
	(c) Degraded areas are to be rehabilitated as part of the subdivision.	N/A	Yes
	(d) Vegetation should be retained where it forms a link between other bush land areas.	The site does not contain any bushland.	N/A
	(e) Vegetation which is scenically and environmentally significant should be retained.	No vegetation to be removed.	Yes
	(f) Vegetation which adds to the soil stability of the land should be retained.	No vegetation to be removed.	Yes
	(g) All subdivision proposals should be designed so as to minimize fragmentation of bushland.	The subdivision will have no	Yes

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Element	Rule	Provides	Complies
		impact on the fragmentation of bushland.	
Visual Amenity	(a) Building envelopes, accessways and road shall avoid ridge tops and steep slopes.		Yes
	(b) Subdivision of escarpments, ridges and other visually interesting places should: <ul style="list-style-type: none"> • Be managed in such a way that the visual impact rising from development on newly created allotments is minimal; and • Retain visually significant vegetation such as that found on ridge tops and other visually prominent locations. 		Yes
	(c) Development Applications for subdivision shall take into consideration the provisions of SREP No. 20 in relation to scenic quality		Yes
Heritage	(a) A subdivision proposal on land which contains or is adjacent to an item of environmental heritage as defined in Schedule 1 of the Hawkesbury LEP should illustrate the means proposed to preserve and protect such items.	Site does not contain or is adjacent to an item of environmental heritage	Yes
Utility Services	(a) Underground power provided to all residential and industrial subdivisions. Where infill subdivision is proposed, the existing system, whether above or underground shall be maintained.	Infill subdivision	Yes
	(b) All lots created are to have the provision of power.	Available	Yes
	(c) Where reticulated water is not available, a minimum storage of 100,000 litres must be provided. A minimum of 10,000 litres must be available during bush fire danger periods.	Onsite water collection available to the existing dwellings	Yes

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Element	Rule	Provides	Complies
Flooding, Landslip & Contaminated Land	(a) Compliance with clause 25 of Hawkesbury Local Environmental Plan 1989.	Existing dwellings to remain, building platform approved by DA0739/09 for dwelling on proposed lot 102 consistent with clause 25.	Yes
	(b) Access to the subdivision shall be located above the 1% AEP flood level.	Access to lot 101 is above 1% AEP flood level. Access lot 102 is 800mm below 1% AEP flood level but considered to be reasonable as access is level with Price Lane. Access to dwelling on lot 103 will remain below 1% AEP flood level.	No
	(c) Where a subdivision proposal is on land identified as being potentially subject to landslip, the applicant shall engage a geotechnical consultant to prepare a report on the viability of subdivision the land and provide recommendations as to the siting and the type of buildings which could be permitted on the subject land.	Not identified as land being potentially subject to landslip.	Yes
	(d) In the event the Council deems that there is the potential that land subject to a subdivision application is contaminated then the applicant shall engage a suitably qualified person to undertake a soil and ground water assessment.	Not considered to be contaminated.	Yes
	(e) Contaminated Land shall be remediated prior to the issue of the Subdivision Certificate.	N/A	N/A
Rural and Residential Subdivision			
Rural lot size and shape	(a) The minimum allotment size for land within rural and environmental protection zones are contained within the Hawkesbury Local Environmental Plan 1989.	See justification under SEPP 1 assessment in report above.	No
	(b) Lots should be able to accommodate a	Existing	Yes

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Element	Rule	Provides	Complies
	<p>building envelope of 2000m² with a minimum dimension of 20m. Building envelopes should be located a minimum of 30m from significant trees and other significant vegetation or landscape features. Building envelopes would contain the dwelling house, rural sheds, landscaping, and on-site effluent treatment and disposal areas, and bushfire mitigation.</p> <p>(c) In calculating the area of a battle-axe or hatched shaped allotment, the area of the battle-axe handle should be included.</p> <p>(d) The width to depth ratio of allotments should not exceed 1:5</p> <p>(e) Lot layout shall consider the location, the watercourse vegetation and other environmental features.</p>	<p>dwelling will be able to be accommodated on new lots with sufficient space available on proposed lot 102.</p> <p>No battle axe allotment proposed</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p>
Boundary Adjustment	Proposal is not for a boundary adjustment therefore compliance for this chapter is not required.	N/A	N/A
Rural Road and Accessway Design	<p>(a) The design specifications in Figure D3.9 at the end of this clause are to be met.</p> <p>(b) Where the road width is insufficient or unsatisfactory, an applicant should dedicate or provide land required for local road widening or new roads at no cost to council.</p> <p>(c) Upgrading of the accessway from the nearest sealed road to the proposed subdivision to an all weather standard suitable for the expected traffic generation arising from the subdivision. This work may require the sealing of the pavement dependent upon traffic generation</p> <p>(d) Where access to the subdivision is via a Crown or Reserve road in addition to the above, the road should be fully constructed to a standard commensurate with roads in the locality and linked to the nearest Council road. Prior to any construction works being undertaken the relevant section of Crown road is to be transferred to Council.</p> <p>(e) The road fronting the subdivision shall be sealed into half width (minimum 3.5 metres). An all weather standard of road construction may be acceptable where the expected traffic volume generated by the subdivision proposal</p>	<p>No new road proposed lots will be serviced by Price land and Yarramundi lane.</p> <p>N/A</p> <p>To be conditioned</p> <p>N/A</p> <p>Existing road acceptable, traffic volume considered to be low</p>	<p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>

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Element	Rule	Provides	Complies
	is low and no sealed roads in the vicinity.		
	(f) Water courses should be piped where they cross roads and the applicant should create drainage easements generally 10 metres long and 4 metres wide over the point of any discharge of any water from any public road onto private property.	N/A	N/A
	(g) All internal driveways shall be constructed to an all weather standard suitable for the expected traffic generation. An all weather access should also be provided across the footway to any battle-axe lot. Such access should be sealed within the vicinity of existing houses on adjoining lots where dust nuisance may occur and also on steeply sloping land.	To be conditioned	Yes
	(h) Where 3 or more individual access handles are proposed, common roads are to be provided.	N/A	N/A
	(i) Battle axe handles shall have a minimum width of 6 metres.	N/A	N/A
	(j) Accessways should have a maximum grade of 25% (1:4) and be sealed if the grade exceeds 1:6, concrete if exceeds 1 in 5.	To be conditioned	Yes
	(k) Where an accessway meets a public road there should be a minimum sight distance of 70 m. This may be increased on roads with a high speed limit.		Yes
	(l) Cul-de sacs for rural roads should have minimum seal radii of 12.0m and boundary radii of 17.0m.	N/A	N/A
Effluent Disposal	<p>(a) an effluent disposal report prepared by a suitably qualified person is required to accompany any development application for rural-residential subdivisions.</p> <p>(b) Any system proposed other than a Household Aerated Wastewater Treatment System is required to be installed prior to release of subdivision certificate.</p>	The applicant has requested that Council issue a condition on the consent requiring an effluent disposal report to be provided prior to the issue of a subdivision certificate, given the uncertainty of whether or not the NSW Department of Planning would support the	Yes

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Element	Rule	Provides	Complies
		SEPP 1 objection. A suitable condition will be imposed on the consent if supported.	

Conclusion

The proposed boundary adjustment has been assessed against the Hawkesbury Councils Development Control Plan and has concluded that the proposed boundary adjustment would not have an adverse impact on the locality.

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:

Not applicable.

v. Matters prescribed by the Regulations:

Not applicable.

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

It is considered unlikely that the proposed development will have any adverse environmental or social impacts on the locality.

Consideration has been given to the relevant matters under s79C (1) (b) of the EP&A Act as shown below:

Context and setting

The surrounding locality is predominantly used for a combination of rural residential and agricultural purposes. The proposal is not inconsistent with the surrounding locality and seeks to retain both the rural residential landscape character of Price Lane and agricultural character of Yarramundi Lane.

The proposal will have no unreasonable impacts on adjoining properties in terms of overshadowing, loss of privacy or views and vistas.

Flora and Fauna

The site is relatively cleared with no vegetation proposed to be removed as part of the application. It is therefore considered that the proposed development will have no significant impact on threatened species, populations, ecological communities or their habitats.

Natural Hazards

The subject site is not affected by bushfire.

Significant portions of the subject site are below the 1 in 100 year flood level of 18.3m AHD. An assessment against the relevant flood controls affecting the site have been addressed in the report above.

Access, Transport and Traffic

It is considered that the traffic generated by the proposal will have no significant impact on traffic movements within the locality.

c. Suitability of the site for the development:

The site will be suitable for this proposal subject to the implementation of the conditions outlined in the recommendation to this report.

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

No submissions were received in respect to the subject application.

e. The Public Interest:

The proposed development is considered to be in the public interest based on the following:

- The proposal is consistent with the overall objectives of the existing zones;
- The proposal generally complies with the objectives and requirements of the HDCP 2002; and,
- The proposed development is not expected to adversely impact on the amenity of the locality or the surrounding environment

Conclusion:

The assessment has identified various concerns regarding:

- The future development of proposed Lot 102,
- The discrepancy between the existing lots and existing zone boundaries, and,
- Flooding issues with the creation of a new vacant lot.

On balance this proposal is considered to be satisfactory, subject to the implementation of conditions outlined in the recommendation to this report.

The current proposal is not consistent with the minimum allotment size requirement for subdivision as per Clause 11(2) of Hawkesbury Local Environmental Plan 1989.

Under the provisions of State Environmental Planning Policy No. 1 (SEPP No.1), Council can not determine the application without the concurrence of the Director General. It is recommended that Council support the application and request that the Director General grant concurrence to the application. Should concurrence be granted, the application can be approved. Should concurrence not be granted, then the application must be refused. Both of these determination options may be undertaken under the delegated authority of the General Manager.

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.

Developer Contributions

The development is exempt from contributions under Section 94E of the Environmental Planning and Assessment Act 1979 and Council's Section 94A Contributions Plan.

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RECOMMENDATION:

That:

1. Council advise the Department of Planning that it supports the objection associated with Development Application DA0071/09 lodged pursuant to the provisions of State Environmental Planning Policy No. 1 - Development Standards and requests that the Department issue its concurrence; and,
2. Upon receipt of the concurrence, or otherwise, of the Department of Planning, determination of Development Application No. DA0071/09 for a three (3) lot Torrens Title subdivision be delegated to the General Manager.

ATTACHMENTS:

- AT - 1** Aerial Photograph
- AT - 2** Locality Plan
- AT - 3** Subdivision Plan
- AT - 4** Draft Conditions of Development

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AT - 1 Aerial Photograph

Lot 1 DP803225, 235 Yarramundi Lane and Lot 4 DP803225, 19 Price Lane, Agnes Banks

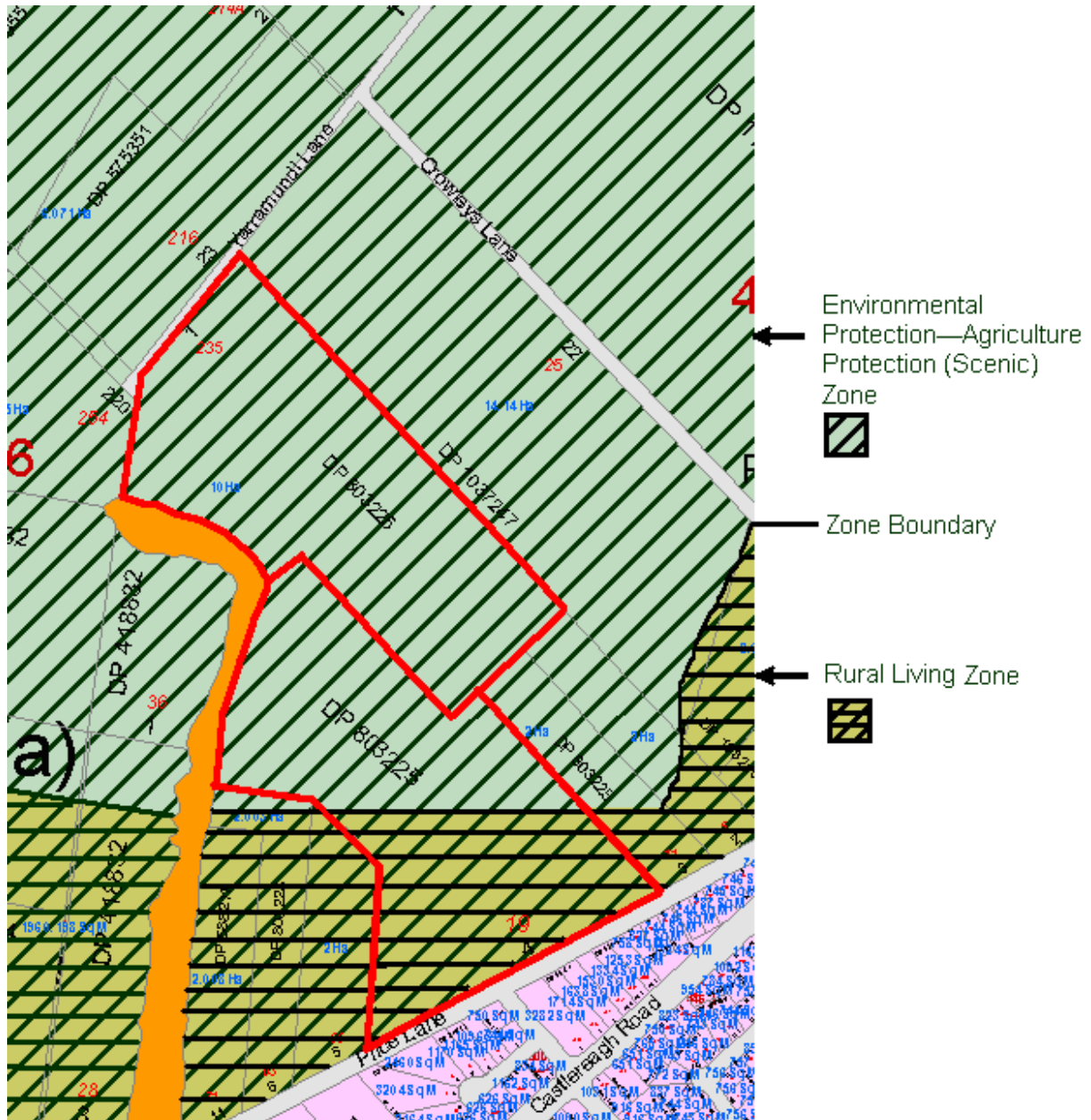


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AT - 2 Locality Plan

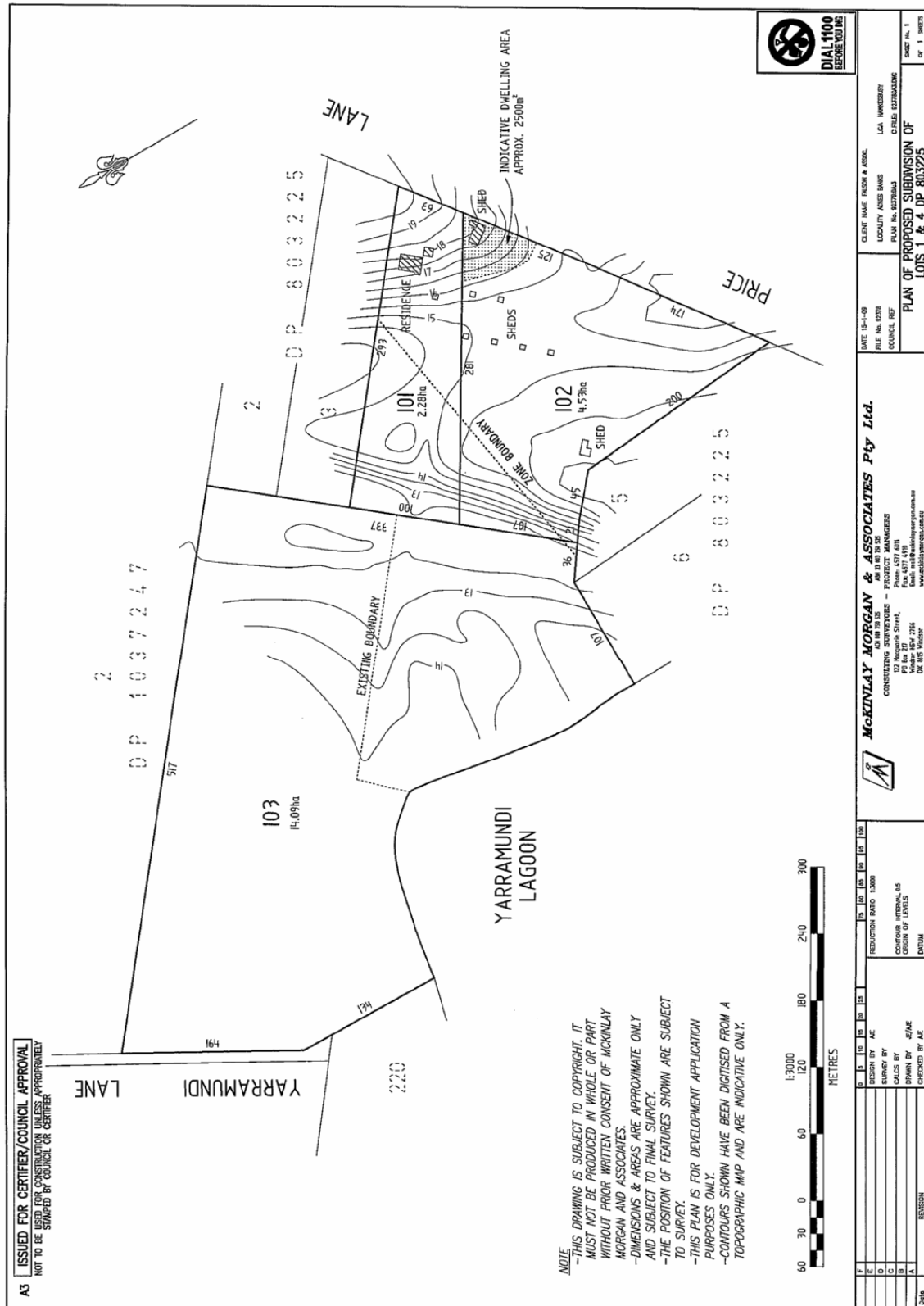
Lot 1 DP803225, 235 Yarramundi Lane and Lot 4 DP803225, 19 Price Lane, Agnes Banks



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AT - 3 Subdivision Plan



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AT - 4 Draft Conditions of Development

Draft Development Consent Conditions

The following is a list of Draft development consent conditions that would be imposed on the development should the Department of Planning issue concurrence to the development.

General Conditions

1. Upon compliance with the condition appearing in Schedule 1, and with the issue of confirmation to that effect in writing from Council, this "Deferred Commencement" consent shall commence to operate as a development consent inclusive of all conditions appearing in Schedule 2 pursuant to Section 80(3) of the Act.
2. The 'Deferred Commencement' consent will lapse in twelve months from the date of this consent unless all conditions appearing in Schedule 1 have been complied with.

Schedule 1

1. An effluent disposal report prepared by a suitably qualified consultant for the subdivision shall be submitted and approved by Hawkesbury City Council.

Schedule 2

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate construction certificate.

During Construction

3. A bitumen sealed rural footway crossing minimum 4.5 metres wide with concrete layback/dish drain shall be constructed to Lot 102 in accordance with the Hawkesbury DCP Appendix "E", "Civil Works Specification". Prior to works commencing the applicant shall consult with Asset Services and Recreation regarding fees to be paid, the works required and to organise inspections for a Compliance Certificate.
4. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
5. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
6. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
7. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
8. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.

Prior to the Issue of the Subdivision Certificate

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9. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
10. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
11. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
12. The completion of development consent DA0736/09 authorising filling works to create a building platform and all conditions of that consent are to be completed to Councils satisfaction prior to the release of the subdivision certificate.
13. A plan of subdivision prepared to the requirements of the Land Titles Office, shall be submitted to Council, with four copies.
14. A right of carriageway shall be created over the section of access driveway within proposed lot 102 in favour of proposed lot 101.
15. A survey plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal shall be submitted. The plan shall demonstrate that there are no encroachments over remaining or proposed boundaries.
16. Payment of a linen release Fee in accordance with Council's Fees and Charges at the time of lodgement of the linen plan.

Advisory Notes

- *** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

oooO END OF REPORT Oooo

Item: 169 IS - Use of McQuade Park for Moscow Circus - (79354, 95495)

REPORT:**Executive Summary**

Correspondence has been received from Weber Bros Pty Ltd requesting to hold the Moscow Circus within McQuade Park, Windsor between Monday 2 August and Sunday 15 August 2010.

Current fees and charges include exclusive use cost however were aimed at a group taking over the entire Park. It is recommended that fees and charges be reduced to \$800 per day for this event only.

Consultation

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

Background

Correspondence has been received from Weber Bros Pty Ltd requesting to hold the Moscow Circus within McQuade Park, Windsor between Monday, 2 August and Sunday, 15 August 2010.

The Moscow circus is not a traditional circus utilising trained wild animals as part of the show. Whilst miniature ponies are used in some acts, the majority of acts are performed by renowned Russian performers and international guest acts involving acrobatics, magical tricks and clowns.

Council's 2010/2011 Adopted Fees and Charges for exclusive use of a reserve/park for a corporate group is \$1,490 per day or \$2.10 per person which ever is the greater. This fee is aimed at large events such as the Bridge to Bridge where the applicant takes over the full use of a reserve and charges entry to the site. The Moscow Circus has requested use of an area on the Hawkesbury Valley Road side of the McQuade Park Lake, rather than the entire Park as shown in the attached plan.

Based on the current adopted fees and charges, Weber Bros Pty Ltd would be required to pay in excess of \$20,000 which is considered quite high, and Weber Bros Pty Ltd have subsequently requested that the fees be reconsidered. Should the current fee remain the Moscow Circus may opt to source another park or there could be a reduction of the number of days.

In comparison the Castle Hill Showgrounds charged the Moscow Circus this year \$1,335 per day which included the entire use of the oval, power and water, toilets and car parking. The site at McQuade Park is limited in that it does not have access to water and toilets and there is limited power. Based on the size and the lack of services it is recommended that consideration be given to reducing the fee to \$800 per day for this event only.

Conformance to Community Strategic Plan

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

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

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

- Encourage stronger relationships between the business and community sectors, education and training providers to increase local career options.

ORDINARY MEETING

Meeting Date: 13 July 2010

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

- Increased patronage of local businesses and attract new residents and visitors

Financial Implications

Approval of this event will result in additional income.

RECOMMENDATION:

That:

- 1 Weber Bros Pty Ltd be charged \$800 per day for the use of McQuade Park, Windsor, for the purpose of holding the Moscow Circus between Monday 2 August and Sunday 15 August 2010.
2. All other 'standard conditions of use' for the exclusive use of McQuade Park be applicable.

ATTACHMENTS:

AT - 1 Requested area of use

ORDINARY MEETING

Meeting Date: 13 July 2010

AT - 1 Requested area of use



oooO END OF REPORT Oooo



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meeting

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