



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 31 August 2010

location: council chambers

time: 6:30 p.m.



mission
statement

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

How Council Operates

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

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

Ordinary Meetings of Council are held on the second Tuesday of each month, except January, and the last Tuesday of each month, except December. The meetings start at 6:30pm and are scheduled to conclude by 11:00pm. These meetings are open to the public.

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

Meeting Procedure

The Mayor is Chairperson of the meeting.

The business paper contains the agenda and information on the issues to be dealt with at the meeting. Matters before the Council will be dealt with by an exception process. This involves Councillors advising the General Manager at least two hours before the meeting of those matters they wish to discuss. A list will then be prepared of all matters to be discussed and this will be publicly displayed in the Chambers. At the appropriate stage of the meeting, the Chairperson will move for all those matters not listed for discussion to be adopted. The meeting then will proceed to deal with each item listed for discussion and decision.

Public Participation

Members of the public can request to speak about a matter raised in the business paper for the Council meeting. You must register to speak prior to 3:00pm on the day of the meeting by contacting Council. You will need to complete an application form and lodge it with the General Manager by this time, where possible. The application form is available on the Council's website, from reception, at the meeting, by contacting the Manager Corporate Services and Governance on 4560 4426 or by email at fsut@hawkesbury.nsw.gov.au.

The Mayor will invite interested persons to address the Council when the matter is being considered. Speakers have a maximum of five minutes to present their views. If there are a large number of responses in a matter, they may be asked to organise for three representatives to address the Council.

A Point of Interest

Voting on matters for consideration is operated electronically. Councillors have in front of them both a "Yes" and a "No" button with which they cast their vote. The results of the vote are displayed on the electronic voting board above the Minute Clerk. This was an innovation in Australian Local Government pioneered by Hawkesbury City Council.

Planning Decision

Under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a 'planning decision' 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.

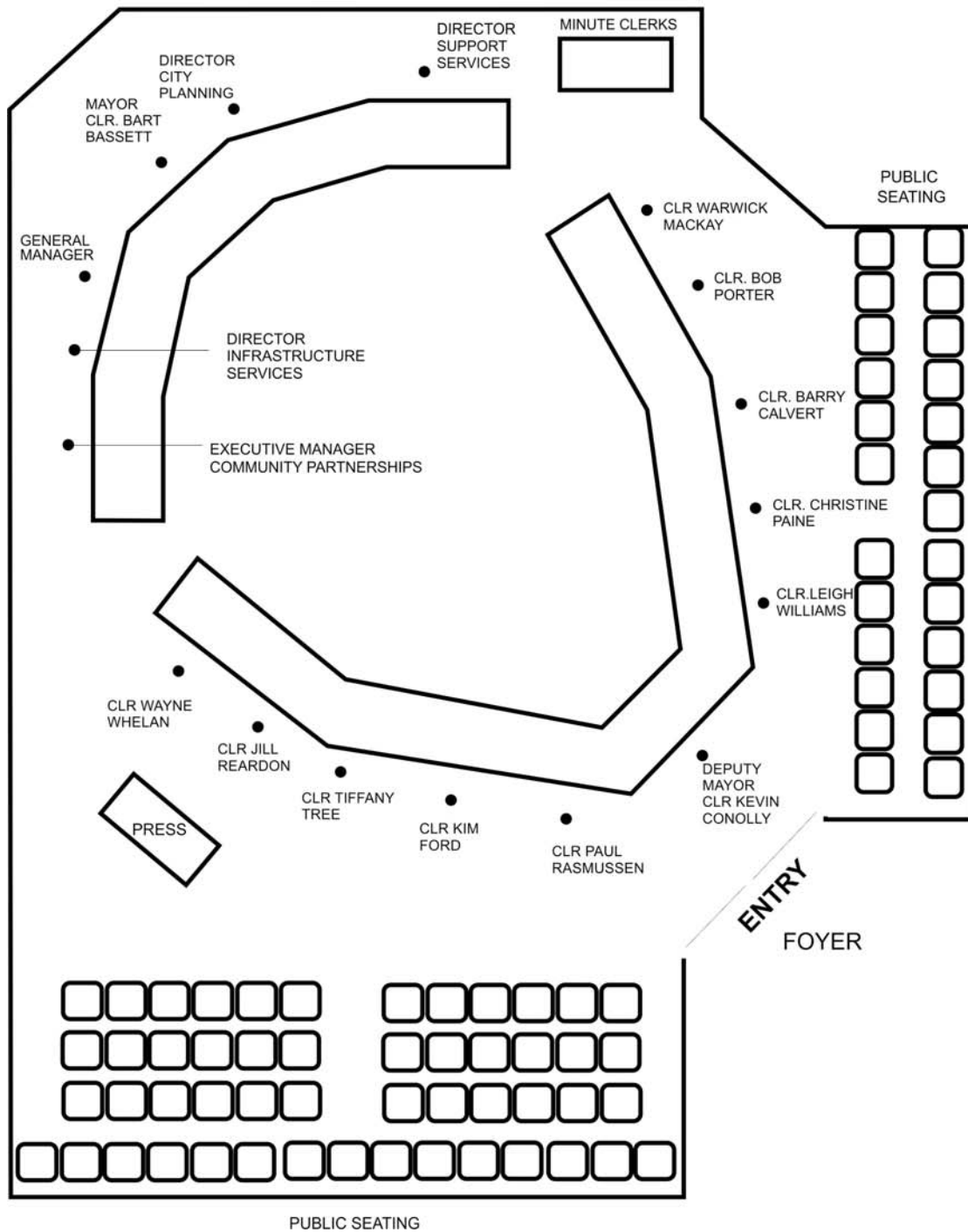
Website

Business Papers can be viewed on Council's website from noon on the Friday before each meeting. The website address is www.hawkesbury.nsw.gov.au.

Further Information

A guide to Council Meetings is available on the Council's website. If you require further information about meetings of Council, please contact the Manager, Corporate Services and Governance on, telephone 02 4560 4426.

council chambers



ORDINARY MEETING

Table of Contents

Meeting Date: 31 August 2010

AGENDA

- **WELCOME / EXPLANATIONS / PRAYER**
- **APOLOGIES**
- **DECLARATION OF INTERESTS**
- **SECTION 1 - Confirmation of Minutes**
- **AGENDA ITEMS SUBJECT TO PUBLIC ADDRESS**
- **SECTION 2 - Mayoral Minutes**
- **QUESTIONS WITH NOTICE**
- **SECTION 3 - Notices of Motion**
- **EXCEPTION REPORT - Adoption of Items Not Identified for Discussion and Decision**
- **SECTION 4 - Reports for Determination**

General Manager

City Planning

Infrastructure Services

Support Services

- **SECTION 5 - Reports of Committees**
- **QUESTIONS WITHOUT NOTICE**

ORDINARY MEETING

Table of Contents

Meeting Date: 31 August 2010

ORDINARY MEETING**Table of Contents**

Meeting Date: 31 August 2010

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
SECTION 1 - Confirmation of Minutes		3
SECTION 4 - Reports for Determination		7
GENERAL MANAGER		7
Item: 192	GM - Contingency Reserve - Purpose and Possible Partial Use in Association with 2009/2010 June Quarterly Review - (79351)	7
CITY PLANNING		11
Item: 193	CP - Modification to Development Consent - Relocation of Dwellings, Amended Dwelling Design, Deletion of Condition 53 Requiring Construction of Footpath - 19 Old Bells Line of Road, Kurrajong NSW 2758 - (MA0844/98C, 36126, 37882, 95498)	11
Item: 194	CP - Development Application - Rural Tourist Facility - Farm Gate Sales and Coffee Shop - Part Lot 1 DP582878, 1917 Bells Line of Road and Lot 2 DP582878 1913 Bells Line of Road, Kurrajong Heights - (DA0660/08, 21925, 83790, 83789, 21924, 95498)	34
Item: 195	CP - Retrospective Application - Dam - Lot 287 DP 752050, 32 Scheyville Road, Oakville - (DA0068/10, 105378, 98207, 108944, 95498)	46
Item: 196	CP - Draft Notice of Approval - Protection of the Environment Operations (Clean Air) Regulation 2002 - (96330, 95498)	63
Item: 197	CP - Potential Redevelopment of Hawkesbury Seniors Leisure and Learning Centre (HSLLC) March Street, Richmond - (96328)	73
Item: 198	CP - Interpretive Signage and Public Art Policy - (96328, 95498)	77
Item: 199	CP - Community Gardens Policy - (95498, 96328)	82
Item: 200	CP - Statement of Business Ethics - (95498)	84
Item: 201	CP - Support for Homeless People - (96328)	87
INFRASTRUCTURE SERVICES		91
Item: 202	IS - Proposed Memorandum of Understanding between Penrith City Council and Hawkesbury City Council for the Maintenance of The Driftway, Londonderry - (73553, 95495)	91
Item: 203	IS - Proposed Concrete Footpaving in Grose Vale Road, Kurrajong & Mileham Street, Windsor - (79344, 95495)	96
SUPPORT SERVICES		98
Item: 204	SS - Code of Meeting Practice - Questions Without Notice - (95496, 79337)	98

ORDINARY MEETING**Table of Contents****Meeting Date:** 31 August 2010

ITEM	SUBJECT	PAGE
Item: 205	SS - Policy for Payment of Expenses and Provision of Facilities to Councillors - Review - (95496)	118
Item: 206	SS - Consultants Utilised by Council - 1 January to 30 June 2010 - (95496, 79337)	121
Item: 207	SS - Monthly Investments Report - July 2010 - (96332, 95496)	125
Item: 208	SS - June 2010 Quarterly Review - 2009/2010 Management Plan - (95496, 96332, 107)	130
CONFIDENTIAL REPORTS		135
INFRASTRUCTURE SERVICES		135
Item: 209	IS - Confidential Report - Tender Number 02110, Sewer Pump Station 'V' and Rising Main - (95495, 79344) CONFIDENTIAL	135
SUPPORT SERVICES		136
Item: 210	SS - Property Matter - Approval to use Footway for Restaurant Purposes - Thompson Square Decking Area, Windsor - (95496, 73700, 4773, 103842) CONFIDENTIAL	136
Item: 211	SS - Property Matter - Surrender of Lease from Hutchison Telecommunications (Australia) Limited and New Lease with Hutchison 3G Australia Pty Limited - Wilberforce Works Depot, Old Sackville Road, Wilberforce - (95496, 79337, 73984) CONFIDENTIAL	137
Item: 212	SS - Property Matter - Lease to Amos Leighton - Café Facility within the Deerubbin Cultural Precinct - (111401, 112106, 95496) CONFIDENTIAL	138
SECTION 5 - Reports of Committees		141
ROC - Hawkesbury Macquarie 2010 Committee Meeting Minutes - 12 August 2010 - (114013)		141

ordinary

section

1

confirmation of minutes

ORDINARY MEETING
Confirmation of Minutes

ORDINARY MEETING
Confirmation of Minutes

SECTION 1 - Confirmation of Minutes

ORDINARY MEETING
Confirmation of Minutes

ordinary

section 4

reports
for determination

ORDINARY MEETING

Meeting Date: 31 August 2010

SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 192 GM - Contingency Reserve - Purpose and Possible Partial Use in Association with 2009/2010 June Quarterly Review - (79351)

REPORT:

Executive Summary

Elsewhere in the Business Paper for this meeting of Council is a report in relation to the 2009/2010 June Quarterly Review which is, effectively, the final review and financial adjustments for the concluded 2009/2010 financial year.

That report indicates a surplus for the quarter of \$80,018 which is to be transferred to the Contingency Reserve. It also includes an amount of \$275,000 proposed for a "Supplementary Road Rehabilitation Program" in lieu of this amount, as a surplus for the quarter, also being transferred to the Contingency Reserve.

The Contingency Reserve was established as a "buffer" to difficult financial situations as has occurred in the past. However, it is suggested that the Reserves' level is such that would allow a supplementary program to be implemented, as has occurred in the past, for the benefit of the community whilst still maintaining the Reserve at an acceptable level.

As such it is recommended that an amount of \$275,000 be allocated as part of the 2009/2010 June Quarterly Review for a "Supplementary Road Works Maintenance Program".

Consultation

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

Background

The Council's current Contingency Reserve was established in 2006 when the surplus from the June Quarterly Review and finalisation of the 2005/2006 final accounts was transferred to this new Reserve. This followed a considerable number of quarterly reviews that were initially in deficit requiring cuts to budgets to bring them into balance. In fact, in preceding years some \$2m had to be cut from the budgets each year to ensure they remained in balance.

In establishing the Contingency Reserve it was indicated that its purpose was to provide a source for meeting, if necessary, deficits in future quarterly reviews if they should occur or to provide a source of funds to meet unexpected expenditure requirements or a reduction in income should they occur and not be able to be met from normal budgetary actions.

It will be noted that elsewhere in this Business Paper the 2009/2010 June Quarterly Review is presented and shows the transfer of a surplus of \$80,018 into the Contingency Reserve. Subsequently, the Contingency Reserve will total some \$933,000. The Contingency Reserve has been built up from modest surpluses from the last 16 quarterly budget reviews and is a significant achievement given the negative results that occurred in the 2004/2005 and 2005/2006 financial years.

ORDINARY MEETING

Meeting Date: 31 August 2010

However, this is not to suggest that a similar situation could not recur in the future and Council's management of the Contingency Reserve should reflect this possibility. In fact, the preparation for the 2010/2011 Budget provided some considerable difficulties in producing a balanced budget due to increasing costs and expectations of Council in both operational and capital budget areas increasing at a higher rate than Council's income. It will be difficult to maintain Council's financial position during the forthcoming year and this will continue to require ongoing close monitoring.

From another perspective, the Contingency Reserve was established to benefit the community with a buffer against possible future requirements to reduce budgets so an issue is what level the Reserve should actually be maintained at.

As such, in view of the current level of the Contingency Reserve, which should be able to be maintained during the current financial year, and the continual need for additional funds to maintain Council's road infrastructure, I would like to recommend that an amount of \$275,000 should be allocated from the 2009/2010 June Quarterly Review, as distinct from being transferred to the Contingency Reserve, toward a "Supplementary Road Rehabilitation Program". This allocation would be in addition to funds that have already been allocated as part of the 2010/2011 Budget. An appropriate item to reflect this recommendation has been included within the 2009/2010 June Quarterly Review that has been separately reported to this meeting.

It will be recalled that Council, in view of the level of the Reserve at the time, also adopted a recommendation to allocate an amount of \$275,000 for a "Supplementary Road Shoulder Maintenance Program" in February 2009.

To assist in this matter, the Director Infrastructure Services has prepared a "Supplementary Road Rehabilitation Program" for the above-suggested amount, a copy of which is included as Attachment 1 to this report. This Program has been developed on the basis of providing work to areas of high priority.

A recommendation for the allocation of these funds is not taken lightly, however, it is suggested that it would not be unreasonable, in view of the current level of the Contingency Reserve, for a proportion to be allocated towards further maintenance of Council's infrastructure for the benefit of the community.

Conformance to Community Strategic Plan

The proposal is consistent with the Linking the Hawkesbury Directions statement;

- Have a comprehensive system of well maintained local and regional roads to serve the needs of the community.
- Plan for, maintain and renew our physical infrastructure and community services, facilities and communication connections for the benefit of residents, visitors and businesses.

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 allocation of the recommended \$275,000 for a "Supplementary Road Rehabilitation Program" in association with the 2009/2010 June Quarterly Review, as distinct from the funds being transferred to the Contingency Reserve, can be accommodated whilst maintaining the Reserve at what appears to be an appropriate level.

ORDINARY MEETING

Meeting Date: 31 August 2010

RECOMMENDATION:

That an amount of \$275,000 be allocated from the 2009/2010 June Quarterly Review, as distinct from being transferred to the Contingency Reserve, for the purposes of conducting a "Supplementary Road Rehabilitation Program" as identified in Attachment 1 to the General Manager's Report in this regard.

ATTACHMENTS:

AT - 1 Suggested "Supplementary Road Rehabilitation Program".

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Suggested "Supplementary Road Rehabilitation Program"

Road Rehabilitation Program	
Project	Amount
Scheyville Road, Scheyville Rehabilitate failed section north of Dunns Road	\$93,115
Grose Vale Road, North Richmond Rehabilitate failed sections east of Grose River Road	\$43,875
Sackville Road, Ebenezer Rehabilitate failed road pavement on approaches to bridge east of West Portland Road intersection	\$43,890
George Street, Windsor Reconstruct failed pavement with a deeplift asphalt between the new roundabout and rail underpass	\$57,120
Golden Valley Drive, Glossodia Rehabilitate failed road pavement at the intersection with Lindsay Place	\$18,000
Mt Lagoon Road, Bilpin Rehabilitate failed sections	\$19,000
Total	\$275,000

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

CITY PLANNING

Item: 193 **CP - Modification to Development Consent - Relocation of Dwellings, Amended Dwelling Design, Deletion of Condition 53 Requiring Construction of Footpath - 19 Old Bells Line of Road, Kurrajong NSW 2758 - (MA0844/98C, 36126, 37882, 95498)**

Development Information

File Number: MA0844/98C
Property Address: 19 Old Bells Line of Road, Kurrajong NSW 2758
Applicant: Montgomery Planning Solutions
Owner: Mrs PD Bennett & Mr KRM Bennett
Proposal Details: Modification to Development Consent - relocation of dwellings; amended dwelling design; deletion of Condition 53 requiring construction of footpath.
Estimated Cost: \$5,400,000
Zone: Mixed Agriculture
Date Received: 23 December 2009
Advertising: 19 January 2010 to 25 February 2010

Key Issues:

- ◆ State Environmental Planning Policy No. 5 – Housing for Older People or People with a Disability
- ◆ Disabled access to Vincents Road

Recommendation: Approval

REPORT:

Executive Summary

An application has been received to modify an approved development for aged/disability housing. This Report demonstrates that the proposed modified development provides a better outcome in respect to amenity and access to services and facilities, within and outside the site. In particular the proposed modification is considered beneficial, given that:

- The proposed modified appearance of the dwellings is more in keeping with the existing character of the locality and existing development within the area;
- The modified designs of the dwellings are more sympathetic to the topography of the land and sit more comfortably within the existing landscape;
- Garages are incorporated within the dwelling houses providing better access and amenity for future residents;
- A central open space area will be created providing increased amenity within the development and better visual presentation of the development.
- The relocation of the dwelling houses has provided wheelchair access from the internal road to a larger proportion (13 dwellings) of the dwelling houses than previously (9 dwellings);
- A greater number of dwellings (eight (8)) within the proposed modified development provide appropriate internal wheelchair access to all required facilities. Only one (1) dwelling within the originally approved development provided such access.

ORDINARY MEETING

Meeting Date: 31 August 2010

Introduction

An application under Section 96 of the Environmental Planning and Assessment Act, 1979 has been received to modify Development Consent MA0844/98 which approved a development for aged/disability housing at 19 Old Bells Line of Road, Kurrajong.

The modification application was publicly exhibited from 19 January 2010 to 25 February 2010, and no submissions were received.

The proposed modified development will result in an improved design which complements the existing character of the locality and provides increased amenity and access for future residents of the development.

The application is being reported to Council in accordance with Council Policy – *Applications Determined by Council – Re-application Process Policy*, which states:

“For any application determined by Council (rather than under delegated authority by staff), subsequent applications relating to the same project in relation to amendments or changes are also to be considered and determined by Council.”

The development was approved by Council at its meeting of 8 June 1999.

The proposed modification is recommended for approval.

Description of Proposal

The application seeks to modify Development Consent MA0844/98, which approved construction of aged/disability housing on Lot 19 DP 874188, 19 Old Bells Line of Road, Kurrajong.

The proposed modification seeks to redesign the dwellings so that they *“are more in character with the locality and more useable for the residents. The dwellings each contain a double garage and are clad with timber weatherboards and colourbond roof sheeting.”* The proposed modified development provides for three (3) designs for the dwellings, all of which are two storeys.

The proposal also seeks to reconfigure the dwellings within the development site. The proposed relocation of dwellings will result in the construction of new internal roads and the creation of a centralised communal open space area which incorporates the community hall.

The proposed modification also requests the deletion of Condition 53, which states:

"53 The construction of a continuously accessible pathway 1.2 wide from the Vincent Road entrance to the intersection of Old Bells Line of Road incorporating ramps to accommodate changing ground levels where required (including a ramp to ensure access to the existing pathway on the western side of Old Bells Line of Road)."

Background

Council, at its meeting of 8 June 1999 resolved to approve Development Application MA0844/98 for aged/disability housing.

The proposed development comprised eighteen (18) single dwelling units in the form of a village cluster with access via a circular loop driveway. The dwellings were to be of single or two storey construction, each comprising two bedrooms plus either a study or sun room. The development included a community hall for use by the residents of the estate. The application was considered under the provisions of State Environmental Planning Policy No. 5 – Housing for Older People or People with a Disability.

ORDINARY MEETING

Meeting Date: 31 August 2010

History of the Site

- 13 September 1994 Council approved thirty two (32) unit aged housing development
- 12 September 1996 s.102 amendment was approved deleting the community centre, reducing the number of parking spaces and increasing the number of units in Stage 1 to eighteen (18). The amendment also relocated the road layout and location of units.
- 13 August 1998 Application received to modify existing consent by the reduction of units to eighteen (18) detached dwellings and amend road layout. This application was withdrawn as a result of it not being substantially the same development to that originally approved.
- 15 June 1999 Consent issued for aged/disability housing comprising eighteen (18) units (MA0884/98). (A modification to this consent is the subject of this Report.)
- 29 March 2001 Construction Certificate for Road and Drainage Works in association with MA0844/98 was issued. Construction of the internal loop road and drainage of this road has been completed, thereby securing the consent.
- 20 March 2009 s.96 application (MA0844/98A) approved for the relocation of the sewerage treatment plant and effluent disposal areas.
- 20 March 2009 DA0154/08 approved for a three lot boundary adjustment. Upon registration of this subdivision the development will be located on Lot 10 having an area of 2.909ha.
- 23 December 2009 s.96 application (MA0844/98B) approved for amendment to the design of the community hall.

Council Policies, procedures and Codes to Which the Matter Relates

- Environmental Planning and Assessment Act, 1979
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
- State Environmental Planning Policy No. 5 – Housing for Older People or People with a Disability
- State Environmental Planning Policy No. 44 – Koala Habitat
- Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River
- Hawkesbury Local Environmental Plan 1989
- Hawkesbury Development Control Plan
- Council Policy – Applications Determined by Council – Re-application Process Policy,

Environmental Planning and Assessment Act 1979

Assessment of Section 96(2)

This application is to be determined under the provisions of s96 (2) - *Other Modifications* - of the EPA & A Act, 1979.

- (2) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*
- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all) under this section, and*

ORDINARY MEETING

Meeting Date: 31 August 2010

Comment: Following both a quantitative and qualitative comparison between the proposed modified development and the approved development, it is considered that the development as modified is substantially the same as the approved development. The proposed modifications in the design and location of the dwellings are not considered to be material. Following the proposed changes the development will remain a low density, independent living, housing development for seniors and people with a disability, as was originally approved.

(b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: The original proposal was identified as 'integrated development' and required referral to the then Department of Land and Water Conservation (now known as NSW Office of Water) and the Environmental Protection Authority

The Department of Land and Water Conservation did not object to the proposed development, did not require the proponent to obtain a Part 3 permit and did not impose any conditions on the development.

The on site effluent disposal system which was to service the development had been approved by the Environmental Protection Authority (EPA) as part of a previous consent. In this respect, a Pollution Control Approval for the land had been previously issued by the EPA, who verified in 1999 that that approval was valid for the eighteen (18) unit aged/disability housing development.

Since this time, the EPA has transferred the responsibility of the approval and monitoring of sewage management facilities to Councils. As a result, the proposed effluent disposal system servicing the proposed modified development no longer requires approval or licensing by the EPA.

(c) *it has notified the application in accordance with:*

- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The proposed modification was notified in accordance with Hawkesbury Development Control Plan – Part A, Chapter 3 – Notification. The notification period was between 19 January 2010 and 25 February 2010.

(d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: No submissions were received as a result of notification.

(3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.*

Comment: The relevant matters for consideration under s.79C (1) of the EP&A Act are discussed later in this report.

(4) *Modification of a development consent in accordance with this section is not to be construed as the granting of development consent under this Part but a reference in this or any other Act to a development consent is a reference to the development consent so modified.*

ORDINARY MEETING

Meeting Date: 31 August 2010

Comment: Council has previously obtained legal advice (2001) in respect to s.96(2) of the EP & A Act, 1979, which advised that "*Council may only approve or refuse a section 96 application in total and not approve one part and refuse another.*"

(5) *Development consent of the kind referred to in section 79B(3) is not to be modified unless the requirements of section 79B(3)-(7) have been complied with in relation to the proposed modification as if the proposed modification were an application for development consent.*

Comment: The proposed modification is not located on land that is, or is a part of, critical habitat, or is likely to significantly affect a threatened species, population, or ecological community, or its habitat. Therefore, section 79B (3) - (7) do not apply.

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:

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

Clause 6 to SEPP (Housing for Seniors or People with a Disability) states:

Clause 6 Transitional provisions relating to certain development applications and development

(1) *Despite clause 5(1), State Environmental Planning Policy No 5 – Housing for Older People or People with a Disability as in force immediately before its repeal continues to apply to and in respect of the following as if it had not been repealed:*

(a) *N/A*

(b) *any development application, whether made before or after the commencement of this Policy, that relates to a development for which a development consent was granted under the Policy as referred to in section 80(4) of the Act, and*

(c) *the carrying out of any development for which development consent was granted under the Policy before its repeal or that is granted under the Policy (as continued in force by this subclause).*

By way of Clause 6, the modification application is required to be assessed under the provisions of State Environmental Planning Policy No. 5 – Housing for Older People or People with a Disability.

State Environmental Planning Policy No. 5 – Housing for Older People or People with a Disability (SEPP No. 5)

Attachment 6 to this Report shows how the proposal has been reviewed against the provisions of SEPP No. 5. This review has revealed the following inconsistencies:

Wheelchair access

SEPP No. 5 requires at least 50% of the dwellings to have wheelchair access to an adjoining public road or an internal road. The proposed modified development complies with this requirement. However, the Policy further requires that 10% of these dwellings have wheelchair access to an adjoining public road. Wheelchair access to Vincents Road cannot be provided.

ORDINARY MEETING

Meeting Date: 31 August 2010

Comment: Whilst the proposed modified development does not, and cannot meet this requirement, it is noted that the approved development did not and could not comply as well. The applicant proposes to provide a community bus to enable residents to access services, facilities and amenities within Kurrajong and the Hawkesbury Area in general (see following discussion on accessibility).

Accessibility

SEPP No. 5 requires that *“the proposed development should, where appropriate have convenient, obvious and safe pedestrian and bicycle links from the site that provide access to public transport services and local facilities”*.

Comment: Development Consent MA0844/98 required the provision of a pathway along Vincent Road to Old Bells Line of Road. The applicant provides the following advice from their civil works designers:

“The pathway location is along the southern side of Vincents Road and follows the existing grades of Vincents Road. The grades range from 0.5% to 17%. The average grade from the start at the entrance to the retirement village to the top of the hill is 10%.

The Austroads Guide to Road Design “Pedestrian & Cyclist Paths” Part 6A set design parameters, identifies a maximum grade of 10% for wheelchairs to avoid tipping backwards (which is less than 12.5% defined in AS1428.1-1993). The proposed pathway grade exceeds both maximum grades and would not be suitable for wheelchairs.

AS1428.1 & 2 – 2001 also requires level rest areas 1.2 metres long to be provided at intervals of less than 9 metres, where the gradient is 7%. The gradient on the proposed pathway is up to 17% for a considerable distance and averages over 7% for a whole rise. There is insufficient room to establish the required rest areas and the provision of the rest area would make the gradient even steeper.

Compliance with AS1478.1 & 2 2001 is not and cannot be satisfied in the design.”

Following an assessment by Councils Development Engineers it is agreed that the construction of the pathway is impracticable.

To compensate for this lack of pedestrian access to public transport, the applicant proposes to provide a minibus to be used by the residents of the development as an appropriate way of meeting the transport requirements of future residents. The minibus will be used for weekly and special outings by the village operator. *“The proposed development comprises 18 independent living dwellings and it is therefore anticipated that demand for regular use of the bus for shopping trips will be very low if at all. Notwithstanding, this transport facility will be provided on a needs basis to meet the demands of village residents.”*

The provision of a minibus is considered to be an appropriate alternative to the provision of the pathway in providing access to facilities and services within Kurrajong village and the Hawkesbury area. It will be a requirement of the modified consent that the bus be wheelchair accessible.

The application was referred to Councils Community Services section, who advised that, whilst the application proposes the inclusion of a minibus, it is considered that accessibility to services outside of the site is not ideal. However, the provision of the minibus will provide for improved access when compared to the original approved development.

Whilst the applicant requests the deletion of the requirement to construct the pathway along Vincents Road, the applicant still intends to construct the bus shelter in accordance with Condition 55 of the Development Consent.

In all other respects the proposed modified development is considered to be consistent with the requirements of this Policy.

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

The subject land falls within the boundary of SREP 20. This Policy aims "to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context." SREP 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

It is considered that the proposed modifications will not result in the development significantly impacting 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.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The proposed development does not require the removal of native vegetation. Consequently, an investigation into whether or not the land is a potential koala habitat is not required for the development.

Hawkesbury Local Environmental Plan 1989.

The subject property is zoned Mixed Agriculture under the provisions of HLEP 1989. 'Units for aged persons' are prohibited within the Mixed Agriculture zone. However, the original application was considered under the provisions of State Environmental Planning Policy No. 5 – Housing for Older People or People with a Disability which allowed this type of development in rural zones where they adjoin or are adjacent to a residential zoning, where reticulated water is available and where adequate arrangements for the disposal of sewerage is available. Both the original application and the proposed modified application satisfy these requirements.

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 part RU1 Primary Production. The provisions of SEPP (Housing for Seniors or People with a Disability) 2004 would prohibit development for aged/disability housing on the subject land. However, development consent for this use was granted in 1999, and this application is to modify this approval. As such that prohibition does not apply.

iii) any development control plan applying to the land

It is considered that the proposed modified development is considered to be consistent with the relevant requirements of Hawkesbury Development Control Plan including the requirements for notification, effluent disposal and residential development.

iv) any matters prescribed by the regulations

Suitable conditions of consent have been imposed within the original Consent in regard to the Building Code of Australia (refer to Condition 32) and the Home Building Act 1989 (Condition 20) in accordance with Clause 98 of the Regulations.

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

The proposed development is expected to have a positive social and economic impact on the built environment. The development is expected to generate employment during construction and operation.

ORDINARY MEETING

Meeting Date: 31 August 2010

The development will provide housing with adequate access to services and facilities. The relevant considerations under s79C (1) (b) of the EP&A Act are assessed below:

Context and Setting

Dwelling Design E and Dwelling Design N2 follow the contour of the land and therefore will provide improved opportunity in achieving wheelchair access to these dwellings. Dwelling Design W2 will require cut and/or fill to create a level platform for construction. Given that no details have been provided with the application as to the proposed extent of any cut and fill, the modified consent will be conditioned to include a limit on fill to minimise environmental and visual impacts.

In addition, Conditions 28, 29 & 30 of Development Consent MA0844/98 relate to the construction of the dwelling houses. These conditions are not longer applicable given that the requirements to which they relate are covered by the provisions of the Building Code of Australia and/or they are no longer relevant due to the changes in design of the dwellings. As a result it is recommended that these conditions be deleted from the Consent.

The proposed modified development is considered to be compatible with adjoining landuses. The proposal will not unreasonably overshadow adjoining properties or adversely impact on the visual or acoustic privacy of neighbours, or views and vistas.

Access Transport and Traffic

The modified development proposes a double garage to each dwelling. In addition seven (7) visitor spaces will be constructed along the internal ring road. A space will also be provided next to the communal hall for the minibus. It is considered that the parking and access as proposed is adequate.

Flora and Fauna

The proposed modified development does not involve the removal of any 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.

Waste

A report titled 'On-site Wastewater Management Report' for Lot 19 Vincent Road, Kurrajong NSW, prepared by Envirotech P/L, Report No. REP-21408-A dated 3rd December 2009 has been provided with the application. This Report demonstrates that the site is capable of supporting on-site disposal of effluent for the proposed modified development.

This Report recommends that full water reduction facilities be fitted to all water use outlets in the house and include:

- Reduced flush 6/3 litre water closets
- Aerator faucets
- Front-load washing machines
- Shower-flow restrictors

It is recommended that a Condition be included within the amended consent requiring the installation/use of these water reduction facilities

c) the 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 modified development for the following reasons:

ORDINARY MEETING

Meeting Date: 31 August 2010

- The modified development responds more positively to the topography of the land minimising the developments visual impact and improving access and amenity for future residents;
- The land is classified as 'bush fire prone' and is located within an area of moderate bushfire risk. These affectations are not prohibitive to the development.
- The land is serviced by electricity, telephone and reticulated water supply. The land is capable of supporting onsite disposal of wastewater.

d) any submissions made in accordance with the EPA Act or Regulations

The modification application was notified from 19 January 2010 to 25 February 2010 in accordance with Hawkesbury Development Control Plan. No submissions were received.

e) the public interest

The proposed modified development provides additional housing for seniors and people with a disability within the Kurrajong locality. The modified proposal is compatible with adjoining development and the streetscape and the design of the dwellings more positively respond to the topography of the land. The proposed modified development provides increased amenity and access for future residents when compared to original approved development. For these reasons it is considered that the proposed development is in the public interest.

Conclusion:

As demonstrated within this Report the proposed modified development provides for increased accessibility to services and facilities both within the development and within the general locality than that provided by the originally approved development. The modified designs of the dwelling are more compatible with the existing character and landscape of the locality, and the provision of a centralised communal open space provides increased amenity for future residents. It is therefore recommended that the application to modify Development Consent MA0844/98 be supported.

Planning Decision

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

RECOMMENDATION:

That Development Consent MA0844/98 for construction of aged/disability housing on Lot 19 DP 874188, 19 Old Bells Line of Road, Kurrajong be amended in the following manner:

General

Conditions 1 and 7 be amended to read:

1. To confirm and clarify the terms of this approval:
 - a) the development shall take place in accordance with:
 - the stamped approved plans (numbered 001, 002, 003, 004 dated September 2009) and documentation submitted with s.96 Modification Application M0844/98B; and
 - the stamped approved plans (numbered 00, 01, 03 & 04 prepared by enviro studio) and documentation submitted with s.96 Modification Application M0844/98C;

excepting as modified by these further conditions; and

ORDINARY MEETING

Meeting Date: 31 August 2010

- b) no approval is granted for the caretaker's residence (as shown on the Site Plan numbered 00) and this shall be deleted. All construction certificate plans shall be consistent with this requirement.

Prior to Issue of Construction Certificate

7. To ensure that all necessary services are provided to the development and these services will function properly:

- (a) the development shall be connected to the Sydney Water's water supply;
- (b) An application to install a Sewage Management Facility (SMF) must be lodged and approved by Hawkesbury City Council.

The Sewage Management Facility shall be designed in accordance with the 'On-site Wastewater Management Report' for Lot 19 Vincent Road, Kurrajong NSW, prepared by Envirotech P/L, Report No. REP-21408-A dated 3 December 2009. The design needs to demonstrate that the appropriate minimum buffer distances can be provided from the proposed waste water disposal areas to the following:

- 6m if up-gradient and 3m if down gradient of driveways and boundaries (existing/proposed)
- 15m to dwellings
- 3m to paths and walkways
- 40m to farm dams

The application shall be accompanied by a site plan showing the location of a reserve land application area which can be made available for expansion, for the resting of the land application system, or for duplication of the land application system if unforeseen circumstances require this at some future time.

- (d) the development shall be served by water storage tanks for domestic uses in accordance with the water balance report submitted with the application.
- (e) satisfactory arrangements shall be made with Integral Energy, Sydney Water and Telstra for the provision/extension of services to and within the subject land. Written evidence of such arrangements shall be obtained prior to issue of the construction certificate.

Prior to the Commencement of Works

Delete Condition 28

During Construction

Delete Condition 29 and replace with the following:

29. To minimise the visual impact of the development, filling to create any building platforms is to be limited to 1 metre from the original natural surface level.

Delete Condition 30

Delete Condition 53

Use of the site

Insert the following new conditions:

ORDINARY MEETING

Meeting Date: 31 August 2010

65. A minibus and driver shall be provided to the development, by the operator, to service the transport needs of the residents for the life of the development. This minibus shall have a minimum seating capacity of 14 seats and shall be capable of wheelchair access.
66. Full water reduction facilities shall be fitted to all water use outlets to all dwellings and include:
- Reduced flush 6/3 litre water closets
 - Aerator faucets
 - Front-load washing machines
 - Shower-flow restrictors

ATTACHMENTS:

- AT - 1** Locality Plan and Aerial photo
AT - 2 Site Plan
AT - 3 Elevation Plan Dwelling Design E
AT - 4 Elevation Plan Dwelling Design W2
AT - 5 Elevation Plan Dwelling Design N2
AT - 6 Assessment of Application against State Environmental Planning Policy No. 5

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Locality Plan and Aerial photo

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 2 Site Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 3 Elevation Plan Dwelling Design E

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 4 Elevation Plan Dwelling Design W2

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 5 Elevation Plan Dwelling Design N2

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

State Environmental Planning Policy No. 5 – Housing For Older People or People with a Disability		
Requirements	Comment	
<p>A consent authority must not consent to a development application made pursuant to this Part unless:</p> <p>(a) wheelchair access:</p> <p>(i) at least 50 per cent of any dwellings will have wheelchair access to an adjoining public road or an internal road or a driveway that is accessible to all residents, and</p> <p>(ii) 10 per cent of any dwellings which meet the requirements of subparagraph (i) will have wheelchair access to an adjoining public road, and</p> <p>(iii) 10 per cent of any dwellings which meet the requirements of subparagraph (i) also have, or are capable of being modified so that they have, wheelchair access to all essential areas and facilities inside the dwellings, including a toilet, bathroom, bedroom and a living area, and</p> <p>(iv) access is provided so that a person using a wheelchair can use common areas and facilities associated with the development, and</p> <p>(b) N/A</p>	<p>The proposed modified development complies with this requirement, with 13 of the 18 dwellings having access to the internal road on land having a slope less than 1:10.</p> <p>The existing approved development and the proposed modified development do not meet this requirement. See discussion within the Report.</p> <p>Eight (8) of the dwellings which comply with (i) above will be Dwelling Design E. this design provides for wheelchair access within the dwellings to all required facilities, including toilet, bathroom, bedroom and living areas.</p> <p>Can be achieved as per the original application. The proposed modified development includes pathways within the communal open space area.</p>	<p>✓</p> <p>X</p> <p>✓</p> <p>✓</p>
<p>Clause 14 Standards which cannot be used as grounds for refusal</p> <p>The consent authority must not refuse consent to a development application under this Part on the grounds of:</p> <p>(a) Building height <i>if all proposed buildings are 8 metres or less in height</i></p>	<p>The proposed modified development includes three (3) dwelling house designs, two of which have a maximum height of 9m and 10m. The heights of the dwellings are considered satisfactory given the bulk, scale and appearance of the dwellings, and the topography of the</p>	<p>✓</p>

ORDINARY MEETING

Meeting Date: 31 August 2010

State Environmental Planning Policy No. 5 – Housing For Older People or People with a Disability		
Requirements	Comment	
<p>(b) Density and scale <i>if the density and scale of the buildings when expressed as a floor space ratio is:</i></p> <p>(i) 0.5:1 or less</p> <p>(ii) N/A</p> <p>(c) Landscaped area: <i>if a minimum of 35m² of landscaped area per dwelling and 25m² of landscaped area per hostel or residential care facility bed is provided</i></p> <p>(d) Parking <i>if at least the following is provided:</i></p> <p>(i) N/A</p> <p>(ii) <i>in the case of dwellings, at least:</i></p> <ul style="list-style-type: none"> • 0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider, or • N/A 	land. The height is considered compatible with the locality.	✓
	The floor space ratio for the proposed modified development is 0.15:1 (based on a land size of 2.909ha).	✓
	The proposed modified development satisfies this requirement.	
	Each dwelling will have three (3) bedrooms and each dwelling will be provided with a double garage, which satisfies this requirement.	✓
Part 3 Design requirements		
<p>Clause 24 Site analysis</p> <p>25 Design of residential development</p> <p>Consent must not be granted for development to which this Part applies unless the consent authority is satisfied that the proposed development demonstrates that adequate regard has been given to the following principles:</p> <p>(a) Streetscape: The proposed</p>		

ORDINARY MEETING

Meeting Date: 31 August 2010

State Environmental Planning Policy No. 5 – Housing For Older People or People with a Disability		
Requirements	Comment	
<p>development should:</p> <p>(i) contribute to an attractive residential environment with clear character and identity, and</p> <p>(ii) N/A</p> <p>(b) Visual and acoustic privacy: The proposed development should, where practicable, consider the visual and acoustic privacy of neighbours in the vicinity and residents by:</p> <p>(i) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and</p> <p>(ii) ensuring acceptable noise levels in internal living and sleeping areas of new buildings</p> <p>(c) Solar access and design for climate: The proposed development should, where possible:</p> <p>(i) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and</p> <p>(ii) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting.</p> <p>(d) Stormwater: the proposed development should, where possible:</p> <p>(i) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters, and</p>	<p>It is considered that the proposed modified designs of the dwelling houses are compatible with the existing streetscape and rural character of the locality.</p> <p>Given the size of the property and the setbacks of the modified development from boundaries it is considered that the proposal will have no unreasonable impacts on the visual or acoustic privacy of adjoining neighbours.</p> <p>The design of the dwelling houses and inclusion of landscaping will afford an acceptable level of acoustic privacy between dwellings within the development and an acceptable internal noise level.</p> <p>It is considered that the proposed modified development provides for adequate sunlight access to living areas and private open space to both adjoining properties and dwelling houses within the development.</p> <p>It is considered that the siting and design of the dwelling houses is satisfactory in terms of the availability of natural ventilation, solar access and natural lighting to each dwelling.</p> <p>The proposed modified development is consistent with these requirements as per the original development application.</p>	<p align="center">✓</p> <p align="center">✓</p> <p align="center">✓</p> <p align="center">✓</p> <p align="center">✓</p> <p align="center">✓</p> <p align="center">✓</p>

ORDINARY MEETING

Meeting Date: 31 August 2010

State Environmental Planning Policy No. 5 – Housing For Older People or People with a Disability		
Requirements	Comment	
<ul style="list-style-type: none"> (ii) include, where practical, on-site stormwater detention or re-use for second quality water uses, and (iii) be designed with regard to the scope for on-site infiltration of water. <p>(e) Crime prevention: The proposed development should, where possible, provide personal property security for residents and visitors and encourage crime prevention by:</p> <ul style="list-style-type: none"> (i) site planning that allows, from inside each dwelling, general observation of the street, the site and the approaches to the dwelling's entry, and (ii) N/A (iii) providing dwellings designed to allow residents to see who approaches their dwelling without the need to open the front door. <p>(f) Accessibility: The proposed development should, where appropriate:</p> <ul style="list-style-type: none"> (i) have convenient, obvious and safe pedestrian and bicycle links from the site that provide access to public transport services and local facilities, and (ii) provide attractive, yet safe, environments for pedestrians, cyclists and motorists with convenient access and parking for residents and visitors, and (iii) where feasible, involve site layout and design that enables people with a disability to access, on one continuous accessible path of travel, the street frontage, car 	<p>The proposed modified development is considered satisfactory in respect to these requirements. Surveillance of the internal road, driveways and front entry is possible from each dwelling.</p> <p>Development Consent MA0844/98 required the provision of a pathway along Vincent Road to Old Bells Line of Road. Due to the slope of the land, the construction of this pathway cannot comply with access requirements of this Policy. To address this matter, the applicant proposes to provide a community bus to provide access to Kurrajong Village and other amenities and services. (See discussion within the Report).</p> <p>It is considered that satisfactory access and parking has been provided within the proposed modified development.</p> <p>As per the original development application/consent.</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>X</p> <p>✓</p> <p>✓</p> <p>✓</p>

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 194 **CP - Development Application - Rural Tourist Facility - Farm Gate Sales and Coffee Shop - Part Lot 1 DP582878, 1917 Bells Line of Road and Lot 2 DP582878 1913 Bells Line of Road, Kurrajong Heights - (DA0660/08, 21925, 83790, 83789, 21924, 95498)**

Development Information

File Number: DA0660/08
Property Address: Part Lot 1 in DP582878, No. 1917 Bells Line of Road and Lot 2 in DP582878 No. 1913 Bells Line of Road KURRAJONG HEIGHTS NSW 2758
Applicant: Cynthia Jane Demmocks
Owner: Mr C Kezik, Mrs ML Demmocks, Ms CJ Demmocks and Mr JT Groat
Proposal Details: Rural Tourist Facility - Farm gate sales & coffee shop
Estimated Cost: \$2,000
Current Zoning: Environmental Protection - Agriculture Protection and Zone 9 (b) (Proposed Road) under Hawkesbury Local Environmental Plan 1989.
Draft Zoning: RU2 Rural Landscape and SP2 Infrastructure under DRAFT Hawkesbury Local Environmental Plan 2009
Date Received: 4 September 2008
Date Formal: 11 June 2010
Advertising: 11 November 2008 to 25 November 2009

Key Issues:

- ◆ Community Land
- ◆ Carparking and access
- ◆ Owners Consent
- ◆ Traffic generating development

Recommendation: Refusal

REPORT:

Executive summary

This proposal seeks approval for the continued use of the land for the Tutti Fruitti farm gate sales and café. The tourist facility previously obtained an approval and is supported. However, the key issue for this application is the proposed use of Community Land for carparking. Council is not legally able to grant permanent use of Community Land for the benefit of a private development. Until an alternative location for carparking is proposed this application can not be supported.

The application is being reported to Council for determination as requested by Councillor Calvert.

Key Issues Relevant to the Decision

- Community Land
- Carparking and access
- Owners Consent
- Traffic generating development

Introduction

An application has been received seeking approval for a Rural Tourist Facility - Farm gate sales and coffee shop on Part Lot 1 in DP582878, No. 1917 Bells Line of Road and Lot 2 in DP582878 No. 1913 Bells Line of Road Kurrajong Heights. The existing lot at present contains the Tutti Fruitti café.

ORDINARY MEETING

Meeting Date: 31 August 2010

This application seeks formal approval for the continued use of the Tutti Fruitti Café which currently operates from the subject site.

This report recommends refusal as Lot 2 in DP582878 No. 1913 Bells Line of Road, proposed to be used for the construction of the new carparking area, is owned by Hawkesbury City Council and is classified as 'Community' land under the Local Government Act 1993. Council is not legally able to grant consent to the use of Community Land exclusively to one private development.

Description of Proposal

The application is proposing a Rural Tourist Facility - Farm gate sales and coffee shop at the above address. The application has been submitted for the continued use of the existing coffee shop approved under Development Consent No. DA0310/93 for a Tourist Facility – Craft and Coffee Shop. This approval granted consent for the use of an existing cottage as a craft and coffee shop on 11 January 1994 for a period of three years.

When assessed in 1994 it was noted that the subject site was affected by road widening and although the existing cottage was partly located on adjoining Council owned land consent was granted to the use of the cottage as a craft and coffee shop with associated parking to be provided at the rear of the existing building. The carparking area was required to be located behind the café building on Part Lot 1 in DP582878, No. 1917 Bells Line of Road.

Tutti Fruitti currently contains a café and shop which sells farm grown produce and local products to the travelling public. The property also contains a rose garden and orchards with tours being made available to tourists such as garden clubs, senior citizen groups and other social groups.

The application seeks approval to operate 7 days a week between the hours of 9am and 6pm. Seating for 40 people is provided for the café in the courtyard, verandah and customer gardens.

It is proposed that access to the site will be directly from Bells Line of Road with seventeen (17) new car parking spaces proposed to be primarily constructed over Lot 2 in DP582878 No. 1913 Bells Line of Road. This lot is currently being used as an informal parking/accessway to the existing café without consent. This application seeks to change the carpark arrangement previously approved under Development Application No. DA0310/93 which gave approval for the construction of twelve (12) parking spaces behind the craft and coffee shop.

Chronology of the application

4 September 2008	Application received.
October 2008	Discussions between Council and Roads and Traffic Authority (RTA) concerning development along main road.
7 November 2008	Application was neighbour notified with a copy of the application sent to the RTA.
15 December 2008	Preliminary comments from Council's subdivision and development engineer received and forwarded to RTA.
4 March 2009	Advice received from the RTA.
11 March 2009	Letter sent to applicant requesting a site survey and amended carparking design in accordance of HDCP 2002, <i>Australian Standard - AS2890.1 and AS2890</i> and comments received from the RTA dated 4 March 2009. Applicant advised that signage shall be restricted to one sign per property and that the second sign proposed for the property is not supported.
6 May 2009	Applicant submitted additional information and plans to address the above. Information then forwarded to the RTA for comment.

ORDINARY MEETING

Meeting Date: 31 August 2010

9 July 2009	RTA responded to additional information provided raising issues to be considered by Council.
July - October 2009	Assessment of submitted information made and discussion with Council's Property Section about the possible use of Lot 2 in DP582878 No. 1913 Bells Line of Road for carparking as this land is currently owned by Council.
5 November 2009	Letter sent to applicant advising that all parking areas shall be provided on Lot 1 in DP582878 No. 1917 Bells Line of Road as Council does not have the power to grant consent to the use of Council owned 'community' land for car parking.
16 December 2009	Letter sent to applicant requesting a response to Council's letter dated 5 November 2010.
16 December 2009	Applicant requested additional time in order to provide a response to the letter dated 5 November 2009.
6 January 2010	Applicant proposed to purchase Council owned land for carparking area and have land reclassified as 'operational' land under the Local Government Act 1993.
14 April 2010	Councils Property Section advised Applicant that Council has no legal right to sell the property whilst classified " <i>Community</i> " and that there are no guarantees that: a) Council will support a reclassification; b) The State Government will approve a reclassification or c) Council will sell the property once it has been reclassified."
21 April 2010	Based on information from Council's Property Section a letter was sent to the applicant confirming that an amended parking layout shall be provided with the car parking area to be wholly located on Lot 1 in DP582878 No. 1917 Bells Line of Road.
6 May 2010	Applicant advised Council that they were in the process of amending the car park to be contained wholly within Lot 1 DP582878. However, the applicant requested that Council consider the use of the current car park entrance/exit on Council owned land.
6 May 2010	Letter sent to the applicant advising that all carparking areas including the entrance and exit to the car park shall be located wholly on Lot 1 in DP582878 No. 1917 Bells Line of Road.
May 2010	Telephone conversation with the applicant advising that Council is unable to consider the use of Lot 2 without owners consent.
10 June 2010	Letter sent to the applicant requesting the application to be amended to address Council's previous concerns.

Council Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan (HLEP)1989
- Sydney Regional Environmental Planning Policy 20. (No.2 - 1997) - Hawkesbury Nepean River (SREP No. 20)
- State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)
- Hawkesbury Development Control Plan (HDCP) 2002

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

ORDINARY MEETING

Meeting Date: 31 August 2010

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 1989

The proposal is defined as a “*Rural Tourist Facility*” under Clause 5 of HLEP 1989.

Part Lot 1 in DP582878, No. 1917 Bells Line of Road is zoned Environmental Protection Agriculture Protection (Scenic) and Lot 2 in DP582878 No. 1913 Bells Line of Road is zoned Zone 9 (b) (Proposed Road).

Clause 9 of HLEP 1989 permits rural tourist facilities with the consent of Council within the Environmental Protection Agriculture Protection (Scenic) and Clause 31 (5) of HLEP 1989 enables Council to grant the use of land Zoned 9 (b) (Proposed Road) for any purpose until the subject land is acquired for the purposes of road widening.

Should the application be supported Council would need to be certain that the use of the land zoned for road widening purposes will not have an impact on any future potential road widening works and that suitable parking for the development could be provided elsewhere.

The parking area in front of the café does not provide for a development that is sympathetic to the surrounding rural locality and will appear more like a commercial development from Bells Line of Road. Parking for the existing café was previously approved behind the existing café which is considered to be more appropriate given that the development will appear low scale in nature from the road frontage. It is considered that the carparking area as proposed will have an unacceptable impact on the visual quality of Bells Line of Road and is therefore considered to be inconsistent with the objectives of the Environmental Protection – Agriculture Protection Zone which are to preserve the rural landscape character of the locality by controlling the choice of access roads and landscaping.

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

Clause 2 - Aims, objectives etc
Clause 9a - Zone objectives
Clause 18 - Provision of water, sewerage services, etc
Clause 22 - Development fronting a main or arterial road
Clause 23 - Advertising Structures
Clause 37A - Development on land identified on Acid Sulfate Soils Planning Map
Clause 43 - Rural tourist facilities

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.

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

State Environmental Planning Policy (Infrastructure) 2007

The application has been identified as traffic generating development under Schedule 3 of SEPP (Infrastructure 2007) and as a result referred to the Roads and Traffic Authority (RTA) for comment.

ORDINARY MEETING

Meeting Date: 31 August 2010

The RTA have reviewed and assessed the application and in their most recent correspondence dated 9 July 2009 requested a proposed carparking layout in accordance of AS2890.1 – 2004 and AS2890.2 – 2002. The information requested was forwarded to the applicant. No amended design or response has been received from the applicant.

i. 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 SP2 Infrastructure under DRAFT Hawkesbury Local Environmental Plan 2009.

The proposal would be defined as “*food and drink premises*” which is a permissible form of development with the consent of Council within the RU2 - Rural Landscape zone. Clause 5.1 (3) of this permits Council to approve the use of land zoned SP2 Infrastructure for any purpose prior to its acquisition by a public authority.

Should it be considered appropriate that the proposed new carpark be located on the portion of land zoned SP2 Infrastructure, the proposal would be consistent with the provisions of DRAFT Hawkesbury Local Environmental Plan 2009.

i. 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:

Car Parking and Access

The application proposes seventeen (17) new carparking spaces to cater for the forty (40) seats provided in the café. The number of proposed parking spaces for the development is considered appropriate as it is greater than the required maximum rate for refreshment rooms outside of commercial areas which is one (1) space per three (3) seats. i.e. 13.3 spaces would be required.

While it is considered that there is suitable space available for carparking on Lot 1 in DP582878 the applicant has requested that Council consider the carparking arrangement proposed in front of the existing café on Council owned land.

The proposal is inconsistent with the aims, rules and objectives of HDCP 2002 in that the proposed the parking area is not safe in terms of access and manoeuvring as the design is inconsistent with Australian Standard 2890.1.

ii. 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.

iii. Matters prescribed by the Regulations:

The applicant has not provided an amended plan for the proposed new carpark or owners consent (as Council is unable to grant that consent) for the use of Lot 2 in DP582878 No. 1913 Bells Line of Road. In this respect, the application is inconsistent with Clause 54 and the provisions of Schedule 1 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

It is considered that the proposed carparking arrangement on Lot 2 in DP582878 No. 1913 Bells Line of Road will have a negative visual impact on the appearance of the streetscape of Bells Line of Road compared to the carparking area previously approved for the site under Development Consent Notice No. DA0310/93 which was to be located behind the café.

It is considered that the parking area behind the café building would be more consistent with the locality in terms of visual appearance and pedestrian/vehicle safety as the setback of a carpark from Bells Line of Road would be more appropriate than the current proposal.

Access, Transport & Traffic

The plans provided are inconsistent with the AS2890.1 and HDCP 2002.

Council officers have encouraged the applicant to locate the carpark wholly on Part Lot 1 in DP582878, No. 1917 Bells Line of Road, consistent with Development Approval No. DA0310/93. Council does not have the authority under the Local Government Act 1993 to approve the use of "Community land" as a private carpark. To this date no amended design has been provided by the applicant and it is considered that the access, transport and traffic arrangements as proposed are unacceptable for the development.

Cumulative Impacts

Approval of the use of the portion of land zoned for road widening purposes would result in the loss of carparking for the development should the land be acquired for road widening purposes which in turn does not promote or coordinate the orderly and economic use of development of the land.

c. Suitability of the site for the development:

As detailed previously in this report the applicant has been encouraged to provide the car parking area behind the existing café on Part Lot 1 in DP582878, No. 1917 Bells Line of Road as it will provide for a development that would be more sympathetic to the rural character of the locality as opposed to the current design.

It is considered that there is suitable area available on Lot 1 to provide the necessary carparking spaces for the development as required in Council's previous approval granted under Development Consent No. DA0310/93. However, despite Council officer's recommendation that all parking be provided on Lot 1 the applicant has requested that Council consider the use of Council Owned Land.

As outlined under the chronology section of this report Council's Property Section have investigated the possibility of the sale of Council owned land being Lots 2 & 3 in DP 582878 as requested by the applicant for the proposed new carpark.

The advice provided as a result of the investigations found that *"Council does not have the power to grant consent to the use of the land for car parking as Council currently has no legal right to sell whilst the property is classified as "Community land" under the Local Government Act 1993 and that the reclassification of the land is lengthy process in which there are no guarantees that the property will be able to be sold."*

Given that a revised parking arrangement has not been provided and the proposal involves the use of "community land" which cannot be legally sold or used for the purpose of a carpark it is considered that the subject site is not suitable for the proposed development.

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

As mentioned under the assessment of SEPP Infrastructure 2007 in this report Council has received advice from the RTA requesting additional information. The applicant has not addressed the issues raised in the RTA's submission.

e. The Public Interest:

Based on the findings of the report above it is considered that the proposal has not adequately addressed the matters identified under Section 79c of the Environmental Planning and Assessment Act 1989 and is therefore considered to be contrary to the public interest.

Conclusion

The proposal cannot legally be supported in its current form as the land for carparking is "Community land". The applicant has not considered carparking alternatives as previously approved and the café is currently in breach of the Environmental Planning and Assessment Act 1979 as the previous consent has expired.

This report has identified various concerns of the proposal with respect to the use of 'community' land, the visual appearance of the car park from Bells Line of Road and the use of land zoned for road widening purposes. Based on the carparking design currently proposed the application cannot be supported.

Developer Contributions

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

Planning Decision

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

RECOMMENDATION:

That:

- A. That development application DA0660/08 at Part Lot 1 in DP582878, No. 1917 Bells Line of Road and Lot 2 in DP582878 No. 1913 Bells Line of Road, Kurrajong Heights NSW 2758 for Rural Tourist Facility - Farm gate sales and coffee shop be refused for the following reasons:
1. The proposal includes the use of Lot 2 DP 582878, 1913 Bells Line of Road, Kurrajong Heights which is Council owned land classified as 'Community Land' and, under the provisions of the Local Government Act 1993, Council has no powers to grant formal use of the land for a private development.
 2. The development application contains insufficient information to carry out a proper assessment of the likely impacts of the proposed development in terms of Section 79C of the Environmental Planning and Assessment Act, 1979.
 3. The proposed car park is unsuitable in terms of vehicle manoeuvring and pedestrian safety and is inconsistent with the aims, objectives and rules of Hawkesbury Development Control Plan 2002.
 4. The carpark proposed in front of the café will have an unacceptable impact on the visual quality of Bells Line of Road and is inconsistent with the objectives of the Environmental Protection – Agriculture Protection Zone contained within Hawkesbury Local Environmental Plan 1989.

ORDINARY MEETING

Meeting Date: 31 August 2010

5. Approval would not be in the public interest as approval for the use of land zoned for road widening purposes would result in the loss of carparking for the development should the land be acquired for road widening purposes and inturn does not promote or coordinate the orderly and economic use of development of the land.

- B. The unlawful use of the existing building as a café and unlawful use of Lot 2 in DP582878 No. 1913 Bells Line of Road KURRAJONG HEIGHTS as a car park be referred to Councils Regulatory Services Department for appropriate action.

ATTACHMENTS:

- AT - 1** Aerial Photograph
- AT - 2** Locality Plan
- AT - 3** Parking Layout
- AT - 4** Site Plan

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Aerial Photograph

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 2 Locality Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 3 Parking Layout

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 4 Site Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 195 CP - Retrospective Application - Dam - Lot 287 DP 752050, 32 Scheyville Road, Oakville - (DA0068/10, 105378, 98207, 108944, 95498)

Development Information

File Number: DA0068/10
Property Address: 32 Scheyville Road, Oakville NSW 2765
Applicant: Mr P Sultana
Owner: Mr E Sultana & Mrs M Sultana
Proposal Details: Retrospective Application - Dam
Current Zone: Rural Living under Hawkesbury Local Environmental Plan 1989
Current Zone: RU4 - Rural Small Holdings under Draft Hawkesbury Local Environmental Plan 2009
Date Received: 4 February 2010
Date Formal: 4 February 2010
Advertising: 11 March 2010 to 25 March 2010

Key Issues:

- ◆ Retrospective application
- ◆ Sediment Control
- ◆ Rectification works

Recommendation: Approval subject to conditions

REPORT:

Introduction

The application is seeking retrospective approval for a dam. The application is being reported to Council at the request of Councillor Christine Paine. The report recommends approval.

Description of Proposal

The subject application seeks retrospective approval for an existing dam expansion at Lot 287 DP 752050. The dam has a total capacity of 2.85 mega litres. The dam is constructed in an existing low point situated on the property. The total catchment area is relatively small and the dam is considered small relative to other dams situated in the immediate area.

An inspection of the dam was undertaken by Council staff during the assessment of the application and this had revealed that the structure, as constructed, did not satisfy the design criteria contained in Council's Development Control Plan. Given that the construction of the dam did not meet the minimum standards adopted by Council in its Development Control Plan various works will be required to modify the structure so that it satisfies these criteria.

In order to address these deficiencies appropriate conditions have been included in the recommendation requiring remedial works to be undertaken and to ensure that the dam is completed to a satisfactory standard.

Relevant Council Policies, Procedures and Codes

- Hawkesbury Local Environmental Plan (HLEP) 1989
- Draft Hawkesbury Local Environmental Plan (HLEP) 2009.
- Sydney Regional Environmental Plan No 20 (SREP 20) - Hawkesbury Nepean River
- State Environmental Planning Policy No 44 (SEPP 44) - Koala Habitat Protection
- Hawkesbury Development Control Plan (HDCCP) 2002
- Community Strategic Plan

Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979 (EP&A 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

The relevant clauses of Hawkesbury Local Environmental Plan 1989 are addressed below:

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 HLEP 1989.

Clause 5 - Definitions

The proposed development is defined as a 'dam'. A 'Dam' means "*an artificial pond created by the erection of walls or excavation.*"

Clause 8 - Zones indicated on the map

The subject land is situated within Rural Living zone.

Clause 9 - Carrying out development

A 'Dam' is permissible with development consent within the Rural Living zone

Clause 9A - Zone Objectives

Clause 9A states that consent shall not be granted for a development unless, in the opinion of Council, the carrying out of the development is consistent with the objectives of the zone.

The objectives of Rural Living zone are as follows:

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

Comments:

It is considered that the proposal is consistent with the objectives of the zone as:

- It is considered that the proposed development will not create any unreasonable rural land use conflicts, given the nature and use of adjoining properties.
- The proposed development involves a dam which is a feature typical of the surrounding area.
- The proposed development will not have any adverse impact on river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality.
- The proposal is consistent with the rural character of the locality and it is therefore considered that there will be no negative impact on local features of scenic significance.
- The proposal will not create unreasonable economic demands for the provision or extension of public amenities or services.
- The proposed development will preserve the rural landscape character.

Clause 25 - Development on flood liable land

The proposed development site is below PMF but above the 1-in-100 year flood level. The proposal will not have any adverse impact upon the flood regime associated with the area.

Clause 27 - Heritage items

The subject lot is not identified as a heritage item as listed in Schedule 1 of HLEP1989.

Clause 28 - Development in the vicinity of heritage items

The subject lot is not located within the vicinity of any heritage item as identified under Schedule 1 of HLEP 1989.

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 aims 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 as detailed in the table below:

ORDINARY MEETING

Meeting Date: 31 August 2010

Specific Planning Policies and Recommended Strategies	Compliance	Comment
Total Catchment Management	Yes	The proposal is unlikely to result in any significant adverse environmental impacts on any downstream local government areas.
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.
Water Quality	Yes	It is predicted that the proposal will have a positive benefit on the quality of water entering the adjacent watercourse as the dam will reduce the amount of pollution entering the river system by retention of nutrients from the run-off. Soil and sediment erosion controls will be required to be installed and maintained as per a condition of consent.
Water Quantity	Yes	The installation of the dam will reduce the quantity of water exiting the site. It is considered that the overall impact of the proposal upon the river system would be minimal.
Flora and Fauna	Yes	The proposed works are in an area previously cleared. It is considered that there will be no significant adverse impact on flora and fauna species, populations or habitats.
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 44 - Koala Habitat Protection (SEPP 44)

The aim of the policy is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

Comments:

Having regards to the requirements of SEPP No. 44 it is noted that the proposal will not include the removal of any significant stands of vegetation or disturbance of any natural habitats which would be considered as 'core koala habitat'. The area proposed for this development has been currently used for the same purpose and it is considered that the proposed development will not impact any potential core koala habitat areas.

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 from 5 February to 12 April 2010. The subject lot is identified as being within proposed Zone RU4 (Rural Small holding) under Draft HLEP 2009. The proposed development is best defined as *Water bodies (artificial)* and is permissible within the RU4 (Rural Small holding) 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 2002. No submissions were received in response to the notification of the application.

Part C Chapter 4 - Erosion and Sediment

Appropriate conditions addressing erosion and sediment control 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*
- (j) *ensure that degradation of the environment does not occur from acid sulphate soils, sodic soil or saline soils.*

ORDINARY MEETING

Meeting Date: 31 August 2010

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 not change the floodway characteristics of the area and the proposed dam will improve the quality of water discharged to adjacent watercourses by allowing sediment to settle within the structure.

The following table provides an assessment of the dam as currently constructed against the design standards contained in 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.	Crest width range from 2m to 3m. No dam wall is proposed, the dam will sit below the natural ground level. A bund wall will be constructed around the dam to direct surface water flow into the dams.	No Appropriate condition included
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.	Approximately 0.5m	No Appropriate condition included requiring minimum 1.0 freeboard
Embankments	A soil with 25% clay content is ideal to form an impervious barrier. The following soil types should not be used for dam construction: <ul style="list-style-type: none"> • Sand, • gravels, • organic • soils or • peat. 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.	Condition Complies No natural watercourses run through the subject property. Suitable	Yes Yes Yes

ORDINARY MEETING

Meeting Date: 31 August 2010

Element	Rules	Provides	Complies
	<p>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>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>conditions of consent applied.</p> <p>Upstream 1:1.2 to 1:1.5</p> <p>Downstream 1.1.5 to 1:2</p>	<p>See Condition</p> <p>No</p> <p>No</p> <p>Considered satisfactory given nature of structure</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 millimetres) pipe is 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>Less than 1m</p> <p>NA</p> <p>NA</p> <p>NA</p>	<p>No</p> <p>Appropriate condition included requiring minimum of 3m</p> <p>NA</p> <p>NA</p> <p>NA</p>

ORDINARY MEETING

Meeting Date: 31 August 2010

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.	NA	NA
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.	NA	NA
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.	No	Appropriate condition included
	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	NA
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.	Dam wall not proposed.	Batters and bund walls will be required to be compacted as a condition of consent.
	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.		Appropriate condition included

Comment

It was observed that the quality of construction work undertaken on the subject site is not in conformity with the submitted plan or the design standards contained in the Development Control Plan as detailed in the table above. In this regard the recommendation contains suitable conditions to address these concerns. It is noted that the subject site is able to accommodate the upgrade required for the dam to satisfactorily address the above provisions.

Maximum Harvestable Right

The Maximum Harvestable Right criteria apply in this instance given the size of the subject land and the proposed capacity of the dam (2.85ML). Licences are not required for farm dams with a volume of up to one (1) mega litre on small properties on land that were approved for subdivision prior to 1 January 1999. The proposed dam exceed the harvestable right, hence a licence will be required from NSW Office of Water to authorise storage capacity in excess of the Harvestable Right.

The NSW Office of Water is prepared to grant a new surface water licence and has provided its General Terms of Approval.

Subject to NSW Office of Water Licence and additional works that have been included as recommended conditions of consent; it is considered that the dam will satisfy the design construction requirement for an earth dam. The dam proposal is consistent with the aims, objectives and rules of this Chapter.

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 character of the locality. The proposal is compatible with the existing use of the locality.

Access, Transport and Traffic

The proposal would have no long term impact on traffic movements within the locality.

Water

It is considered that the proposed development would improve the quality of water discharged to adjacent watercourse by allowing sediment to collect within the confines of the dam.

Soils

Erosion and sedimentation controls will be utilised during construction. Once the dam has been constructed it will act as sediment pond and aid in controlling sediments exiting the subject property.

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 removing the soil from 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 site is to be kept tidy and maintained to the satisfaction of Council during the construction period.

Construction

In order to protect and mitigate against the impact of ongoing land disturbance and possible land degradation it is considered that a reasonable time for completion would be 12 months from the date

ORDINARY MEETING

Meeting Date: 31 August 2010

of commencement. 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:

The site is 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 during public notification of the proposal.

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 objectives and requirements of HLEP 1989, SREP No. 20 and SEPP 44;
- The proposal complies with the objectives and requirements of the HDGP 2002
- The proposed development is not expected to adversely impact on the amenity of the locality or the surrounding environment

Conclusion:

The proposal has been assessed having regard to the provisions contained in Hawkesbury Local Environmental Plan 1989, Draft Hawkesbury Local Environmental Plan 2009, Development Control Plan 2002 and other relevant planning policies. The subject application seeking retrospective approval for a dam having a total capacity of 2.84 mega litres is recommended for approval subject to the implementation of conditions outlined in this report.

Planning Decision

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

RECOMMENDATION:

That Development Application No DA0068/10 at Lot 287 DP 752050, 32 Scheyville Road OAKVILLE seeking retrospective approval for a dam be approved subject to the following conditions:

NSW Office of Water Conditions for General Terms of Approval Water Act (1912) - Surface Water Licence

In accordance with the Environmental Planning and Assessment Act 1979 and Regulation 1994 (as amended) the NOW has an approval role in relation to Development Application DA0068/10 Hawkesbury City Council.

ORDINARY MEETING

Meeting Date: 31 August 2010

Based on details disclosed in the development application, a licence under Part 2 of the Water Act (1912) is required to licence the proposed 2.84 megalitre dam for the conservation of water and water supply for domestic purposes on Lot 287 DP 752020, Parish of Pitt Town, County of Cumberland.

Pursuant to Part 2 of the Water Act, the NOW, having reviewed the documentation associated with the Development Application, proposes to grant an approval to DA0068/10 (as presented). The general terms of approval are set out below:

1. General and Administrative Issues

- 1.1. The location of the dam as shown on a plan retained in the office of the NSW Office of Water shall not be altered. Please be advised that any installation of an additional dam and/or enlargement of an existing dam may require further local council approval and/or an amended licence from the NSW Office of Water.
- 1.2. Subject to any access or flow condition contained in the licence, the holder may divert part or all of the stored water from the licensed work.
- 1.3. The applicant shall not allow any tailwater drainage to discharge into or onto:
 - Any adjoining public or crown road;
 - Any other persons land;
 - Any Crown Land;
 - Any river, creek or watercourse;
 - Any ground water aquifer;
 - Any area of native vegetation as described in the Native Vegetation Conservation Act 1997;
 - Any wetlands of environmental significance.
- 1.4. Your attention is particularly drawn to the provisions of condition (1.3) regarding disposal of drainage waters. The discharge of polluted waters into a river or lake otherwise than in accordance with the conditions of a licence under the Protection of the Environment Operations Act may render the offender subject to prosecution and penalty under the Act. Therefore where an approved drainage disposal system involves the possible discharge of drainage water into a river or lake, a license may be required under the Protection of the Environment Operations act to authorise such discharge.
- 1.5. The existing profile of the channel and bank of any watercourse or drainage depression must not be disturbed any more than is necessary in order to site and maintain the authorised work. Any area that is disturbed when carrying out such work shall be stabilised and maintained by vegetation cover, stone pitching or any other approved material as directed and to this Department's satisfaction so as to prevent the occurrence of erosion.
- 1.6. Works used for the purpose of conveying, distributing or storing water taken by means of the authorised work shall not be constructed or installed so as to obstruct the reasonable passage of floodwaters following into or from a river.
- 1.7. Works used for the purpose of conveying, distributing or storing water taken by means of the authorised work shall not be constructed or installed so as to obstruct the reasonable passage of floodwaters other than water to be impounded or obstructed.
- 1.8. The pumping and ancillary equipment and pump site shall be, at all times, properly secured and/or sealed so as to prevent any leakage of petroleum based products and/or noxious material from entering any river or lake. Typically, a bunding wall of hay bales or other approved material shall be installed around the pumping plant to avoid contamination of any river or lake through spills or leaks of oils, fuels or greases.

ORDINARY MEETING

Meeting Date: 31 August 2010

- 1.9. The existing profile of the channel and bank of any watercourse or drainage depression must not be disturbed any more than is necessary in order to site and maintain the authorised work. Any area that is disturbed when carrying out such work shall be stabilised and maintained by vegetation cover, stone pitching or any other approved material as directed and to this department's satisfaction so as to prevent the occurrence of erosion.
- 1.10. Any drainage channels or cross banks associated with the authorised works or access roads to or from that work shall have installed and maintained a bunding wall of hay bales or other approved material, to prevent siltation reaching any river or lake.
- 1.11. The work shall be constructed and maintained in such manner as will ensure its safety and as will preclude the possibility of damage being occasioned by it, or resulting from it, to any public or private interest.

2. Conditions Specific to DA0068/10

- 2.1. All inflow and outflow drainage lines shall be maintained with sufficient vegetation to ensure optimum quality of water entering the dam.
- 2.2. The level of the bywash crest shall be fixed at not higher than RL 99.38 (Ref Plan No: 2077) and particulars of which are retained in the NSW Office of Water.
- 2.3. The bywash of the dam must be stabilised and vegetated within 3 months of the issue of the license.

3. Formal Application Issues

- 3.1. Upon receipt of an approved development application from Hawkesbury City Council, NOW will issue a new license under Section 10 of the Water Act, 1912.
- 3.2. A licence under Part 2 of the Water Act would generally fall due for renewal every five years.

Hawkesbury City Council Conditions

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application as amended in red and as modified by the following conditions.
2. All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.
3. Construction of the dam and filling 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.
4. Details of any fill material removed from the site shall be submitted with the engineering plans. Details to include quantities and disposal sites.

Prior to Commencement of Works

5. 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.
6. 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.

ORDINARY MEETING

Meeting Date: 31 August 2010

7. A Copy of the Water Licence issued under the Water Act 1912 by the NSW Office of Water be submitted to the Principal Certifier prior to commencement of works.
8. The name and licence number of the contractor/builder who has been contracted to do or intends to do the work must be submitted to Council in writing by the owner prior to the commencement of any works relevant to this approval.
9. Payment of a Compliance Certificate inspection fee of \$520.00.

During Construction

10. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
11. 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.
12. Except as varied below, all dam rectification works shall be constructed in accordance with the Dam Construction Chapter of Hawkesbury Development Control Plan.
13. A minimum 1 metre freeboard is to be established.
14. In establishing the freeboard the by wash (spillway) is to be widened to 3 metres and graded at 1% away from the dam. Erosion and sediment control is to be maintained in place.
15. The existing embankment is to be graded level for its full length. Compaction shall be applied by track rolling in layers not exceeding 300mm.
16. A minimum of 200mm of suitable topsoil is to be spread over the top of the embankment and its adjoining downstream face. The works are to be stabilised with a suitable holding grass.
17. Erosion and sediment control is to be maintained in place until the site is stabilised.
18. Confirmation of vertical control (final top of wall and by wash levels) is to be verified by submission of a land survey prepared by a registered surveyor.

Prior to Issue of a Compliance Certificate

19. 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.
20. The structural adequacy of the dam and spillway capacity is to be certified by a suitably qualified and experienced engineer.

Use of the Development

21. The development shall be limited to the area shown on the submitted plans.
22. Trees and shrubs are to be kept clear of the dam wall at all times.

Advisory Notes

- **** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.

ORDINARY MEETING

Meeting Date: 31 August 2010

- **** 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.
- **** 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.

ATTACHMENTS:

- AT - 1** Locality Plan
- AT - 2** Aerial Photographs
- AT - 3** Plan of proposed dam

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Locality Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 2 Aerial Photograph

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 3 Plan of Proposed Dam

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 196 **CP - Draft Notice of Approval - Protection of the Environment Operations (Clean Air) Regulation 2002 - (96330, 95498)**

Previous Item: 296, Ordinary (12 December 2006)

REPORT:

Executive Summary

Hawkesbury City Council has granted in the past general approval under Clause 6G(2)(a) of the Protection of the Environment Operations (Clean Air) Regulation 2002 (Regulation) for the pile burning of dead and dry vegetation grown on a property, in the open, where the land is 4,000 square metres (one acre) or greater and/or is designated as an Extreme Risk under the Hawkesbury Bush Fire Risk Management Plan. The current Notice of Approval was enacted by Council for a period five (5) years, with the approval due to expire on 30 September 2010 (*please refer to Attachment 1, Council's existing Notice of Approval*). Without the adoption of draft Notice of Approval, residents will be unable to conduct pile burning in the Hawkesbury Local Government Area.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement process proposed in this report meets the criteria for the minimum level of community engagement required under Council's policy.

In accordance with clause 6G(3)(e) of the Protection of Environment Operations (Clean Air) Regulation 2002 the opinions of the DECCW were obtained in regard to the extension of Council's existing Notice of Approval (Attachment 2).

DECCW's key concerns related to the impact on air quality and native vegetation. To address DECCW's concerns regarding air quality it is proposed to include several DECCW suggested conditions in Council's draft Notice of Approval and continue to incorporate the condition which requires possible alternative means e.g. re-use, recycling, composting, to dispose of dead and dry vegetation are utilised in preference to pile burning. In regard to the removal of dead trees and the potential impact this might have on habitat for threatened species, Council's Tree Preservation Order requires that prior to the removal of a dying or dead tree written notification be provided to Council. The written notice should be given at least 14 days prior to the removal of the tree (except in emergency situations). This information has been again included in the draft Notice of Approval.

A copy of an initial draft Notice of Approval was provided to DECCW. All of DECCW's suggestions in the initial draft Notice of Approval have been incorporated into the final draft Notice of Approval.

Background

The Regulation allows local councils to assess local conditions and to select the appropriate control of burning for the area. The Regulation lists the level of control for Hawkesbury City Council as follows:

1. All burning of vegetation in the open or in an incinerator is prohibited except with approval. Councils have powers to grant approvals for burning dead and dry vegetation on the premises on which the vegetation grew.
2. The burning of domestic waste on residential premises where domestic waste management services are not available.

The Protection of the Environment Operations (Clean Air) Regulation 2002 outlines, for local councils and fire management authorities, burning requirements. The Regulation:

ORDINARY MEETING

Meeting Date: 31 August 2010

- Requires anyone who burns anything in the open or in an incinerator to do so in a manner that prevents or minimises air pollution.
- Imposes a statewide ban on the burning of tyres, coated wire, paint/solvent containers and residues, and treated timber.
- Controls the burning of domestic waste and vegetation.
- Gives powers to councils to control the extent of vegetation burning in their Local Government area where they have elected to have this control.
- Permits agricultural, cooking and recreational fires.
- Allows other burning if approved by the Department of Conservation, Climate Change and Water (DECCW).
- Bans home-unit incinerators.

The Regulation does not affect bushfire hazard reduction work allowed under the Rural Fires Act, the destruction of prohibited plants or drugs, or the burning of diseased animal carcasses.

Currently, Hawkesbury City Council grants general approval for the pile burning of dead and dry vegetation grown on any property, in the open, where the land is 4,000 square metres (one acre) or greater and/or is designated as an Extreme Risk under the Hawkesbury Bush Fire Risk Management Plan. Areas designated Extreme Risk include properties from Yarramundi, Bowen Mountain, Tabaraga Ridge - Kurrajong Heights, "The Islands Estate", Blaxland Ridge, Grose Vale and Kurrajong Village.

The reasons given for requesting an extension of Council's Notice of Approval include the following:

- The current Notice of Approval will lapse on 30 September 2010.
- Allow residents on properties 4,000 square metres (one acre) or greater and/or designated as Extreme Risk, with the ability to burn dead and dry vegetation, therefore protecting themselves against wildfires.
- Collection and disposal of vegetation in Council's waste service is not practical - waste service bins are too small; stockpiling/composting is dangerous.

Conformance to Community Strategic Plan

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

- Take active steps to encourage lifestyle choices that minimise the ecological footprint;

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

- Encourage and educate the community to care for their environment.

Financial Implications

Funding for this initiative can be met from within the Regulatory Services approved budget.

Conclusion

Council's existing Notice of Approval provides residents on properties greater than 4,000 square metres (one acre) or greater and/or is designated as an Extreme Risk, the ability to pile burn dead and dry vegetation outside of the Bush Fire Season a 'blanket' approval.

ORDINARY MEETING

Meeting Date: 31 August 2010

It is also proposed that the Draft Notice of Approval will remain in force for a period of five years. Hence, outside of the Bush Fire Season residents on properties greater than one acre, and residents on properties less than one acre which are designated as an Extreme Bush Fire Risk will be able to pile burn, dead and dry vegetation in accordance with the draft Notice of Approval, i.e. individual consent from Council will not be required. These residents will only need to seek consent from Council when they wish to burn dead and dry vegetation outside of the restrictions of the draft Notice of Approval. It should be noted that it is still necessary for residents to seek the necessary approvals from the Rural Fire Service during the declared Bush Fire Season.

RECOMMENDATION:

That:

1. In accordance with Clause 6G(3)(d) of the Protection of Environment Operations (Clean Air) Regulation 2002, Council place on public exhibition its draft Notice of Approval (Attachment 3) for a period of 14 days.
2. Following the public exhibition of the draft Notice of Approval, if any public submissions are received, a further report be prepared for Council's consideration. Should there be no submissions received following the expiration of the public exhibition period, the draft Notice of Approval as outlined in the report be adopted.

ATTACHMENTS:

AT - 1 Current Notice of Approval

AT - 2 Correspondence from DECCW Re: extension of Council's existing Notice of Approval

AT - 3 Draft Notice of Approval

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Current Notice of Approval

**Clean Air Regulation 2002
Notice of Approval
Rural Areas and Villages**

Hawkesbury City Council hereby grants general approval for the pile burning of dead and dry vegetation grown on that property, in the open, on land which is 4,000 square metres (one acre) or greater and/or is designated as an Extreme Risk under the Hawkesbury Bush Fire Risk Management Plan.

Properties from Yarramundi, Bowen Mountain, Tabaraga Ridge - Kurrajong Heights, "The Islands Estate", Blaxlands Ridge, Grose Vale and Kurrajong village are designated as Extreme Risk. ***In all circumstances Council should be contacted to confirm the individual property is designated Extreme Risk.***

This approval remains in force from 30 September 2006 to the 30 September 2010.

It is prohibited to burn

1. Without the approval of the NSW Fire Brigade throughout the year in the following areas: McGraths Hill, Windsor Downs, Bligh Park, South Windsor, Windsor, Vineyard, Clarendon, Richmond, and North Richmond.
2. Without the approval of the Rural Fire Service between 1 October to 31 March or until the commencement of the Bush Fire Season if declared earlier.

This approval does not include:-

1. The burning of other matter other than dead and dry vegetation grown on the property.
2. The burning of vegetation resulting from land clearance. Development consent is required to be obtained from Council.
3. The burning of vegetation which has been cleared for commercial development or building construction as development consent must be obtained from Council.
4. The removal of dead or dying trees as written notification needs to be provided to Council under its Tree Preservation Order.
5. Ecological/bush regeneration burns which are carried out to destroy infestations of noxious weeds or the clearance of land for native species regeneration. Individuals and organisations that wish to carry out these burns should apply to the Department of Environment and Conservation (DEC), PO Box 668 Parramatta NSW 2124.

The approval is granted subject to the provisions of the Protection of the Environment Operation (Clean Air) Regulation 2002 and to the following conditions:

1. Pile burning of dry and dead vegetation should NOT be seen as the best method for disposing of dry and dead vegetation. Alternative means of disposal such as re-use; recycling; composting; disposal through Council's waste service, kerbside collection service or waste management facility; should be thoroughly investigated and are the preferred disposal methods.
2. Only dry and dead vegetation originating on a property that is included in this approval shall be burnt on that property. Burning is to be conducted in accordance with the NSW Rural Fire Service "Standards for Pile Burning" February 2006;
<http://www.hawkesbury.nsw.gov.au/environment/19544.html>

ORDINARY MEETING

Meeting Date: 31 August 2010

3. Burning must at all times be carried out by such practical means as are necessary to prevent or minimise air pollution. The potential for smoke impacting on any person due to wind direction and weather conditions must be taken into account.
4. In the event of a Total Fire Ban being declared, this approval is suspended. Any existing fire is to be extinguished and cannot be re-commenced until the Total Fire Ban is lifted.
5. In the event of a No Burn Day being declared by the EPA, this approval is suspended for the duration of the declaration. When a "No Burn" notice is issued, it applies to the lighting of new fires in the declared areas. Existing fires should be allowed to continue as extinguishing the fire will result in more smoke. "No Burn Notices" are notified in the Public Notices section of the Sydney Morning Herald not later than on the day on which the order is to take effect. Recorded information about "No Burn Notices" is usually available from 4pm the day before the notice comes into effect and can be accessed by calling ph: 1300 130 520 or is available on the Department of Environment and Climate Change NSW (DECC) website at www.environment.nsw.gov.au/air/airqual.htm
6. Adjoining neighbours and people likely to be affected by smoke are to be notified at least 48 hours before the fire is lit. This will allow for smoke-sensitive people such as asthmatics, to plan to be away from the area when the burn is conducted.
7. Written or oral notice is to be given to the Hawkesbury Rural Fire Service at least 24 hours prior to the burn. (The Rural Fire Service will require additional time during the Bush Fire Season). Such notice must specify the location, purpose, period and time of the fire proposed to be lit. Contact details include:

RFS Pile burning notification line Ph: (02) 4575 1143, FAX 4575 1475, email hawkesbury@rfs.nsw.gov.au
8. A responsible supervising adult over the age of eighteen shall be on site at all times with enough water to extinguish the fire, if required, for that time the fire is active.
9. Burning shall only be conducted between the hours of 8am and 5pm on any day.
10. Any residue waste from the burning must be disposed of in an environmentally satisfactory manner and in accordance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996". On completion of the burn, the burnt area must be maintained in a condition that minimises or prevents the emission of dust from the area and prevents sediment or ash from fires being washed from the area into waters.

Failure to comply with this approval may result in an On The Spot fine of \$500.00 for an individual or \$1,000.00 for a corporation. In the event of prosecution, the maximum penalty is \$5,500.00 for an individual and \$11,000.00 for a corporation.

If you do not comply with the conditions specified above you are not permitted to burn without separate approval being issued by Council.

For further information please contact:

Hawkesbury City Council
Regulatory Services
PO Box 146
Windsor NSW 2756

Ph: (02) 4560 4444
Fax: (02) 4560 4400
Email: council@hawkesbury.nsw.gov.au

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 2 - Correspondence from DECCW Re: Extension of Council's existing Notice of Approval

Our reference: DOC10/33903
Contact: Marcus Leslie, 9995 6849

Mr G Baldry
Manager Regulatory Services
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756

Dear Mr Baldry

Open burning policy in the Hawkesbury local government area

Thank you for your letter of 26 June 2010 seeking the opinion of the Department of Environment, Climate Change and Water (DECCW) on Council's proposal to extend its Clean Air Regulation 2002 Notice of Approval Rural Areas and Villages to include premises greater than 4000 square meters and/or premises designated as an Extreme Risk under the Hawkesbury Bush Fire Risk Management Plan, as required under the *Protection of the Environment Operations (Clean Air) Regulation 2002*. DECCW previously commented (18 July 2006) on an earlier version of this Notice of Approval and many of our comments are still relevant.

I wish to reassure Council that DECCW is fully supportive of Council meeting its obligations in relation to fire risk as a first priority. DECCW's further input as follows is to ensure that all other legislative responsibilities of government are fully addressed with the Council changes proposed.

DECCW has reviewed the Notice of Approval and our key concerns relate to the impacts on air quality, native vegetation, in particular threatened species and their habitat, and a possible increase in the incidence of fire in extreme bushfire risk areas. These are discussed in more detail below. DECCW also considers that the Notice of Approval is ambiguous in terms of what is or is not permitted and has made some suggested changes to address this, as well as some of our concerns (see attached Notice).

DECCW's current position on open burning for local government areas listed on Part 1 of Schedule 8 of the POEO (Clean Air) Regulation 2002 is to prohibit all open burning with the exception of burns undertaken for ecological purposes or special effects. This approach aims to better protect air quality and amenity by minimising burning. DECCW believes that there are alternative options available for the reuse or disposal of vegetative waste and encourages Council to promote these.

Impacts on Air Quality

An extension of the current open burning approval in the Hawkesbury local government area (LGA) is likely to lead to further increases in local and regional air pollution. Clause 6G(3) of the POEO (Clean Air) Regulation 2002 requires Council take into consideration the impact on local and regional air quality and amenity; the feasibility of re-use, recycling or other alternative means of disposal; and the opinions of those members of the public likely to be most affected by the proposed approval, before granting such an approval.

As stated in our earlier correspondence, DECCW encourages Council to give serious consideration to minimising any such impacts by:

ORDINARY MEETING

Meeting Date: 31 August 2010

- ensuring residents in the LGA have access to, and are aware of, green waste services, such as kerbside collections, or alternatives, such as composting or chipping services;
- minimising and coordinating any necessary burns so that local residents are not subject to ongoing smoke impacts and poor air quality brought about by an increased frequency of open burns;
- consulting with those stakeholders likely to be affected by the proposal.

Impacts on native vegetation, threatened species and their habitat

Remnant native vegetation in the Hawkesbury LGA includes endangered ecological communities (EECs), threatened species and/or their habitat. As discussed in our previous correspondence, even dead trees (standing or logs) may be habitat for threatened species. DECCW is concerned that this Notice of Approval may lead to the unauthorised removal or inappropriate burning of such vegetation and recommends that Council make it quite clear in the Notice of Approval that any works likely to impact on threatened species, populations or endangered ecological communities or their habitat must be adequately assessed and approved. Removing live or dead vegetation from an endangered ecological community or from the habitat of threatened species, may constitute an offence under the National Parks & Wildlife Act unless it is subject to a consent from Council, a licence from DECCW or some other valid form of approval. Landholders should be encouraged to check the DECCW website <http://threatenedspecies.environment.nsw.gov.au/index.aspx> or talk to Council to obtain more information about threatened species in their area. Where a consent from Council or other form of approval is not required for such works, then landholders will need to apply for a s. 91 licence from DECCW. A licence application form can be obtained from the DECCWW website at: http://www.nationalparks.nsw.gov.au/PDFs/Application_Form_s91_jan07.pdf.

Bushfire Management

As detailed in our previous correspondence, DECCW has concerns that the Clean Air Regulation 2002 Notice of Approval Rural Areas and Villages may be misinterpreted by residents and be used to remove vegetation to reduce bushfire risk in extreme risk areas. The prescriptions under the POEO (Clean Air) Regulation 2002 do not cover bush fire hazard reduction works. A clear distinction between the purpose of pile burns and hazard reduction burns should be made with reference to the relevant assessment and approval processes required for hazard reduction works under the Bush Fire Environmental Assessment Code and The Rural Fires Act 1997. DECCW is concerned that misinterpretation of this Notice of Approval may result in an increased risk of bushfires in areas that have already been identified as extreme risk areas.

Compliance

A random inspection program following changes to control of burning approvals would be beneficial to ensure compliance with the new Notice of Approval.

I trust you find this information helpful and I also wish to promptly set up a meeting between DECCW and Council to discuss the above, to ensure efficiency and clarity for all. Could you please contact Marcus Leslie on 9995 6849 or Deb Stevenson A/ Manager Metropolitan Projects and Support on 9995 6842 to arrange this meeting.

Yours sincerely



GISELLE HOWARD
Director Metropolitan
Environment Protection and Regulation

13 August 2010

Enclosure

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 3 - Draft Notice of Approval

Clean Air Regulation 2002 Notice of Approval Rural Areas and Villages

Hawkesbury City Council hereby grants general approval for the pile burning of dead and dry vegetation grown on that property, in the open, on land which is 4,000 square metres (one acre) or greater and/or is designated as an Extreme Risk under the Hawkesbury Bush Fire Risk Management Plan.

Properties from Yarramundi, Bowen Mountain, Tabaraga Ridge - Kurrajong Heights, "The Islands Estate", Blaxlands Ridge, Grose Vale and Kurrajong village are designated as Extreme Risk (or as amended from time to time by the Bush Fire Management Plan). ***In all circumstances Council should be contacted to confirm the individual property is designated Extreme Risk and to check whether any other approvals are required.***

This approval remains in force from 1 October 2010 to the 30 September 2015. **It is limited by the following prohibitions and conditions:**

It is prohibited to burn

1. For the purposes of bush fire hazard reduction. Bush fire hazard reduction burns are not covered under this Notice. Such burns need to be assessed and approved under the Rural Fires Act 1997 and residents should apply to the relevant local authority.
2. Without the approval of the NSW Fire Brigade throughout the year in the following areas: McGraths Hill, Windsor Downs, Bligh Park, South Windsor, Windsor, Vineyard, Clarendon, Richmond, and North Richmond.
3. Without the approval of the Rural Fire Service between 1 October to 31 March or until the commencement of the Bush Fire Season if declared earlier.
4. Ecological/bush regeneration burns to be carried out in vegetation which is listed as an Endangered Ecological Community (EEC) or which is habitat for threatened species will require a licence from the Department of Environment, Climate Change and Water (DECCW). See the DECCW website for further information about threatened species and EECS (<http://www.environment.nsw.gov.au/threatenedspecies/>) and for a licence application form (<http://www.environment.nsw.gov.au/wildlifelicences/ScientificResearchLicences.htm>).

This approval does not include:-

1. The burning of other matter other than dead and dry vegetation grown on the property.
2. The burning of vegetation resulting from land clearance. Development consent is required for the clearing of native vegetation which can be obtained from Council.
3. The burning of vegetation which has been cleared for commercial development or building construction as development consent must be obtained from Council.
4. The removal of dead or dying trees as written notification needs to be provided to Council under its Tree Preservation Order.

ORDINARY MEETING

Meeting Date: 31 August 2010

5. The removal or burning of any native vegetation that comprises an EEC or habitat for threatened species which requires assessment and approval under the Rural Fires Act.

The approval is granted subject to the provisions of the Protection of the Environment Operation (Clean Air) Regulation 2002 and to the following conditions:

1. Pile burning of dry and dead vegetation should NOT be seen as the best method for disposing of dry and dead vegetation. Alternative means of disposal such as re-use; recycling; composting; disposal through Council's waste service, kerbside collection service or waste management facility; should be thoroughly investigated and are the preferred disposal methods.
2. Only dry and dead vegetation originating on a property that is included in this approval shall be burnt on that property. Burning is to be conducted in accordance with the NSW Rural Fire Service "Standards for Pile Burning" February 2006;
http://www.hawkesbury.nsw.gov.au/_data/assets/pdf_file/0003/1785/StandardsForPileBurning.pdf
3. Burning must at all times be carried out by such practical means as are necessary to prevent or minimise air pollution. The potential for smoke impacting on any person due to wind direction and weather conditions must be taken into account.
4. In the event of a Total Fire Ban being declared, this approval is suspended. Any existing fire is to be extinguished and cannot be re-commenced until the Total Fire Ban is lifted.
5. In the event of a No Burn Day being declared by the EPA, this approval is suspended for the duration of the declaration. When a "No Burn" notice is issued, it applies to the lighting of new fires in the declared areas. Existing fires should be allowed to continue as extinguishing the fire will result in more smoke. "No Burn Notices" are notified in the Public Notices section of the Sydney Morning Herald not later than on the day on which the order is to take effect. Recorded information about "No Burn Notices" is usually available from 4pm the day before the notice comes into effect and can be accessed by calling ph: 131 555 or is available on the Department of Environment, Climate Change and Water (DECCW) website at
<http://www.environment.nsw.gov.au/air/aboutnb.htm>
6. Adjoining neighbours and people likely to be affected by smoke are to be notified at least 48 hours before the fire is lit. This will allow for smoke-sensitive people such as asthmatics, to plan to be away from the area when the burn is conducted.
7. Written or oral notice is to be given to the Hawkesbury Rural Fire Service at least 24 hours prior to the burn. (The Rural Fire Service will require additional time during the Bush Fire Season). Such notice must specify the location, purpose, period and time of the fire proposed to be lit. Contact details include: **RFS Pile burning notification line Ph: (02) 4575 1143, FAX 4575 1475, email hawkesbury@rfs.nsw.gov.au**
8. A responsible supervising adult over the age of eighteen shall be on site at all times with enough water to extinguish the fire, if required, for that time the fire is active.
9. Burning shall only be conducted between the hours of 8am and 5pm on any day.
10. Any residue waste from the burning must be disposed of in an environmentally satisfactory manner and in accordance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996". On completion of the burn, the burnt area must be maintained in a condition that minimises or prevents the emission of dust from the area and prevents sediment or ash from fires being washed from the area into waters.

ORDINARY MEETING

Meeting Date: 31 August 2010

Failure to comply with this approval may result in an On The Spot fine of \$500.00 for an individual or \$1,000.00 for a corporation. In the event of prosecution, the maximum penalty is \$5,500.00 for an individual and \$11,000.00 for a corporation.

If you do not comply with the conditions specified above you are not permitted to burn without separate approval being issued by Council and/or the local Rural Fire Service authority.

For further information please contact:

Hawkesbury City Council
Regulatory Services
PO Box 146
Windsor NSW 2756

Ph: (02) 4560 4444
Fax: (02) 4560 4400
Email: council@hawkesbury.nsw.gov.au

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 197 **CP - Potential Redevelopment of Hawkesbury Seniors Leisure and Learning Centre (HSLLC) March Street, Richmond - (96328)**

Previous Item: 30, Ordinary (26 February 2008)
 318, Ordinary (1 November 2005)

REPORT:

Executive Summary

This report has been prepared to seek Council's approval to establish a working party to prepare a design brief for the redevelopment of the Hawkesbury Seniors Leisure and Learning Centre (HSLLC). The extension and redevelopment of the HSLLC is a project identified in Council's adopted Section 94 and Section 94A Developer Contributions Plans. The redevelopment of the HSLLC will assist Council to respond to the future needs of its ageing population. The report outlines the proposed delegation to be conferred onto the working party.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. It is proposed that Council undertake community engagement in compliance with Council's policy: "*establish a working party*".

Background

The Hawkesbury District Senior Citizens Centre in March Street, Richmond, was opened in 1972. Up until 2004, the Centre was managed by the Hawkesbury District Senior Citizens Centre Committee Inc. under a Section 377 Delegation. In July 2004, Council delegated care, control and management of the Centre to Peppercorn Services Inc (PSI).

In July 2005, a Seniors Survey was conducted by PSI to gauge the views of senior residents about how the Centre could be improved. The findings of the Survey were adopted by Council and have been used to inform the development of the Seniors Centre. A number of new services and programs have been established at the Centre in response to the survey findings.

In November 2005, Council approved a name-change for the Hawkesbury District Senior Citizens Centre which is now known as the Hawkesbury Seniors Leisure and Learning Centre. This name change reflected the changing role of Seniors Centres as places which support life-long learning and active leisure instead of the sedate activities previously associated with 'traditional' Seniors Centres.

Currently persons aged 65+ make up 10% of the total population, this is projected to increase to 17% by 2031 (which equates to an additional 6,000 persons over the age of 65). As a result Council will be increasingly required to develop new facilities and services for this growing population particularly in areas such as Richmond which has the highest number (and highest proportion) of persons aged 65+ within the City of Hawkesbury.

The current Section 94 Development Contribution Plan (prepared in November 2005) and the Section 94A Development Contributions Plan (2006) include provision for extensions to the Hawkesbury Seniors Leisure and Learning Centre within the community facilities works program. The indicative time frame for this work is listed as 2010/11 with an estimated value of \$1.5M. There is currently \$800,000 in the Section 94 Plan for this project and a further \$300,000 in the Section 94A Plan which could be contributed to the project.

Unfortunately, the rate of development within the City of Hawkesbury, coupled with amendments to the Section 94A Developer Contribution framework, has required Council to revise its Section 94 and Section 94A income projections. As a consequence of these trends, it is unlikely that Council will collect the level of developer contributions required to construct extensions to the Hawkesbury Seniors Leisure and Learning Centre within the time frames outlined in the Section 94 and Section 94A Development Contribution Plans. For the project to be completed, in the proposed timeframe, it is likely that Council will need to supplement developer contributions from either its general funds or through external grants. Otherwise the works program will need to be delayed until sufficient funds are available in the Section 94 and 94A accounts.

Redevelopment of the Seniors Leisure and Learning Centre

As noted above, there is currently insufficient developer contributions to undertake and complete the proposed redevelopment/expansion of the Seniors Leisure and Learning Centre. However, it is proposed that planning for the redevelopment/expansion should commence and, as a first step, a draft design brief be prepared so that a provisional estimate of costs can be assessed.

The preparation of a draft design brief will enable stakeholder groups to canvas the kinds of facilities and spaces which could be included in the redeveloped Centre. Demographic projections and service trends can also be investigated to ensure that the redeveloped Centre has the capacity to meet the current and projected future needs of senior residents. To this end, it is envisaged that the working party appointed by Council would inspect similar facilities in other local government areas to better gauge contemporary approaches to the design of multi-functional seniors facilities.

It is proposed that the completed draft design brief will provide the basis for some preliminary design sketches and costings which can be further considered and refined by the working party to facilitate the preparation of a final draft brief to be reported to Council. Preliminary costings will assist in determining if additional funds (beyond those held in the Section 94 reserves) are likely to be required to complete the project and/or whether the project can be staged.

These funding and timing issues can then be considered by Council in conjunction with the determination of its capital works programs and financial estimates. The preparation of building designs and sketches will also place Council in a better position to apply for grant funding as applications for capital works funding generally require plans to be submitted with grant applications. Having plans available will also enable Council to take advantage of any further stimulus or infrastructure funding rolled out by the state and/or federal government.

Council will be aware that for many senior residents, the prospect of change can be a source of anxiety. The seniors who currently use the Senior Leisure and Learning Centre have a strong sense of ownership of the Centre, and are understandably very interested in any proposals which may affect the operation of the Centre. It will therefore be important to involve seniors in the design process.

Establishment of Working Party

The proposed redevelopment of a local/district community facility which may have a high impact on a local area or group of people has been identified within Council's *Community Engagement Policy* as a 'trigger' for community engagement. While at this stage the proposal is only to prepare a draft design brief for the redevelopment of the Seniors Leisure and Learning Centre, it will be necessary for Council to establish a mechanism to authorise and undertake this task on Council's behalf.

As such it would be appropriate to clearly outline the parameters of this delegation to ensure that any tasks conferred can be expeditiously and reasonably transacted. For this reason it is recommended that Council establish this mechanism in conformance with its Community Engagement Policy.

Under Council's Community Engagement Policy (CEP) the following parameters are applicable:

Scope of issue or proposal - the proposed re-development of a local/district community facility is classified as a Level 2 'trigger' for community engagement in that it may have a high impact on a township area or group of people.

ORDINARY MEETING

Meeting Date: 31 August 2010

Level of community engagement - The minimum recommended community engagement strategy for a Level 2 issue is 'consult'. In view of the partnerships and issues that will need to be considered in drafting a design brief for the possible redevelopment of the Seniors Leisure and Learning Centre, a higher level of community engagement will be required. It is recommended that a 'collaborate' strategy be employed in this situation.

Recommended community engagement tool - a working party is recommended as the most appropriate community engagement tool to complete the identified task (within those tools identified for the 'collaborate' community engagement strategy).

Methodology and Delegation - the 'collaborate' community engagement strategy will require Council to authorise the working party to prepare a draft design brief for the proposed redevelopment of the Seniors Leisure and Learning Centre to be reported to Council.

Governance - the 'collaborate' community engagement strategy authorises the working party to undertake a task on Council's behalf. Council is required to clearly articulate the governance framework for the working party with specific reference to;

- (i) *delegated decision-making power* - members of the working party are authorised to prepare an agreed draft design brief. Council retains responsibility for a final decision in relation to the adoption of the brief.
- (ii) *terms of reference* - the working party is authorised to prepare a draft design brief for Council's consideration which will include;
 - a. the documentation of the requirements of Centre user groups;
 - b. a summary of design issues (having regard to demographic projections, service trends and Section 94 requirements);
 - c. floor space requirements and projected allocations for proposed uses;
 - d. issues which may arise for the multiple uses of the site - relationships between different uses, user groups and target populations;
- (iii) *timing* - The draft design brief is to be reported to Council within nine-months following the establishment of the working party.
- (iv) *membership* - It is proposed that the membership of the working party include;
 - (a) Council staff from Community Services and Cultural Services Branches.
 - (b) Representative from Sydney West Area Health Service.
 - (c) Representatives from Peppercorn Services Inc (who currently manage the site).
 - (d) Representatives from the Seniors Advisory Committee and Seniors Computer Club.
 - (e) Representative of the Home and Community Care Forum.

Where required the working party would co-opt Council staff and other persons where specialist advice was required.

- (v) *governance arrangements* - procedures relating to conflicts of interest, meeting practice and code of conduct as outlined in Council's *Code of Conduct* and *Template Constitution for Advisory Committees* are to apply to the working group. Working Party appointees will be required to sign the standard Council acknowledgement that they have received a copy of the Code of Conduct. As members of the working party will be preparing a draft design brief for a community facility, it will be important for persons appointed to the working party to understand that their role is to assess and

ORDINARY MEETING

Meeting Date: 31 August 2010

represent the broad interests of the seniors' community rather than the sectional interests of a group or organisation to which they may belong. The working party is not intended to operate as a lobbying/advocacy forum. The role of the working party will be to consider a broad range of information - the current and future needs of the seniors' community; demographic trends; building design trends and operations; construction costs; and available funding - in developing a final draft design brief for reporting to Council.

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:

- Engage the community to help determine affordable levels of service.

The report proposes the establishment of a working party to prepare a draft design brief for a critical piece of community infrastructure to increase Council's capacity to respond to the needs of an ageing community. This is the first step in a process to ensure that the infrastructure proposed is affordable and can be financially sustained over the long term.

Financial Implications

There may be a minor cost associated with the development of draft design sketches but this cost can be met from the appropriate Section 94 Reserve for this project.

RECOMMENDATION:

That Council:

1. Seek nominations from the organisations and groups as outlined in this report to establish a working party to develop a draft design brief for the redevelopment of the Hawkesbury Seniors Leisure and Learning Centre with the draft brief to be reported to Council.
2. Delegate to the working party the roles, authorities and governance framework as outlined in this report.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 198 CP - Interpretive Signage and Public Art Policy - (96328, 95498)

Previous Item: NM1, Ordinary (2 February 2010)
55, Ordinary (30 March 2010)
138, Ordinary (29 June 2010)

REPORT:

Executive Summary

This report has been prepared to advise Council of the outcome of the public exhibition of the draft Interpretive Signage and Public Art Policy. No submissions were received with respect to the draft Policy although Council has received representations in relation to another matter which may have a bearing on the draft Policy. The report recommends that Council adopt the Interpretive Signage and Public Art Policy with certain proposed amendments to address the needs of the vision impaired. The report also provides information on a proposal for a public art/interpretive trail for which Council has lodged a funding application. The proposal has been included to highlight the practical application of the principles and objectives of the draft Interpretive Signage and Public Art Policy.

Consultation

The draft Interpretive Signage and Public Art Policy was placed on public exhibition in conformance with Council's Community Engagement Policy.

Background

At its Ordinary Meeting held on 2 February 2010 Council resolved (in response to a Notice of Motion):

"That a report be brought to Council regarding the installation of interpretive signs identifying significant historic structures, localities and sites of aboriginal significance."

A report was subsequently considered by Council at its Ordinary Meeting of 30 March 2010. In considering this report Council resolved (in part);

"That:

- 1. A draft interpretive signage policy be developed for Council's consideration to provide staff, residents and stakeholders with guidelines dealing with the purpose, commissioning, design, installation and maintenance of interpretive signage."*

A draft 'Interpretive Signage and Public Art Policy: Telling Hawkesbury Stories' Policy was reported to Council on 29 June 2010. Council resolved to place the draft policy on public exhibition.

The draft policy was placed on public exhibition between 15 July and 13 August 2010. No submissions were received in response to the public exhibition of the draft policy.

Provision for Vision Impairment

As noted above, there were no submissions received during the exhibition period. However, Council has received representations in relation to the interpretation signage project at the Governor Lachlan Macquarie Statue in McQuade Park Windsor. The representations concerned the compliance of the proposed project with the draft Interpretive Signage and Public Art Policy in relation to its provision for the vision impaired. This matter was also raised at the August meeting of the Macquarie 2010 Committee with the specific suggestion that the interpretive panels associated with the Macquarie project should incorporate Braille characters. The Committee was advised that Council was exploring downloadable audio technology to cater for the needs of the vision impaired.

ORDINARY MEETING

Meeting Date: 31 August 2010

The draft Interpretive Signage and Public Art Policy does not contain a specific reference to a requirement for the design of interpretive signage and public art to comply with the Disability Discrimination Act and other relevant legislation, as this is taken as a given. As with any Council Policy, it should be read in conjunction with Council's 'Access Policy' which embraces the protections afforded to people under the Disability Discrimination Act, Council's 'Statement of Equity Principles' which commits Council to the application of an 'Equity Principle' to encourage the greater participation and sense of belonging by all members of the Hawkesbury community through equal and active citizenship and relevant Legislation.

In response to the representations regarding the vision impaired, and specifically the use of Braille, Council staff have consulted with Vision Australia (the national peak body representing the interests of persons with vision impairment) to determine the most appropriate solutions for meeting the needs of the vision impaired. Council staff also consulted with adjoining Councils.

The information obtained is summarised below;

- Braille is a language that is required to be learned.
- Braille users make up 9% of blind people and constitute a small percentage of the vision impaired.
- Anecdotally, Vision Australia indicate that dedicated Braille users - those who depend on Braille as the primary means of communication - number about 4,000 persons in Australia.
- Braille takes up 3 times the space requirement of ordinary text.
- Braille is generally used for directional information signage e.g. the Opera House has Braille information on the location of toilets.
- Braille is not commonly used for interpretive signage or where significant or story telling text is required.
- Consultation with adjoining Councils has indicated that across Blacktown and Penrith, the inclusion of Braille text on interpretive signs has been used on one occasion with respect to two interpretive signs. Neither Council has a policy on the use of Braille.

Vision Australia (VA) prefers to use the term print disability, as this is more inclusive of people who have difficulty reading for a range of reasons. Such reasons may include blindness or vision impairment (either sustained from birth or a young age as well as at other stages of life), learning difficulties, dyslexia, or coming from a Non English Speaking Background (NESB) where reading skills may not be as advanced as those from English speaking backgrounds.

VA recommends the use of 'plain English', good sized fonts and the inclusion of images and graphic material on signs. In the longer term VA endorses the use of new technologies - specifically downloadable audio - to assist people with print disabilities. VA is taking an active and leading role in the use of new media and adaptive (assistive) technology and advises that audio is the most widely used and most popular accessibility alternate format for people with a print disability. VA has recommended that Council investigate these audio-based solutions in preference to Braille as Braille is prescriptive and limited in its capacity to meet the needs of the broad range of people who have a print disability. VA also suggested that it would be cost-prohibitive for Council to fund a range of solutions and that achieving accessibility is a longer-term project. Vision Australia has indicated that they will work with Council to provide advice on rolling out a disability strategy for the people with a print disability.

Council staff involved in writing text for the Macquarie statue interpretive signs have been conscious of the need to write very short and Plain English text so that font sizes can be large and the information can also be accompanied by images.

In view of this information it is proposed that Council adopt the draft Policy as appended to this report (under separate cover) with the following proposed amendments (as highlighted) to specified clauses;

Clause 1.3 - To provide guidelines for the design, location and installation of interpretive signage and public art within the City of Hawkesbury which reflects best practice design principles, and conforms with Council's Asset Management Policy and asset management objectives, and the provisions of the Disability Discrimination Act.

ORDINARY MEETING

Meeting Date: 31 August 2010

Clause 2.1 (d) - promote a consistent approach to the installation of interpretive and directional signs through the application of 'good practice' principles as they apply to the design, location and construction of these signs having particular regard to the needs of people with disabilities;

Clause 5.5.3 - the interpretation of the site, object or event can be supported and enhanced by paper-based, audio or electronic guides sourced from readily available historical records and/or contemporary research and supplemented by the use of adaptive (assistive) technology to meet the needs of people with a print disability (as recommended by Vision Australia);

Clause 5.6.2 - design is consistent with Council's guidelines regarding the use of fonts, formats, content style and texts and where the information presented is relevant and attractive to the visitor and is provided at level appropriate to the general public including provision for the use of adaptive (assistive) technology to assist people with a print disability;

Water in the Landscape Cultural Art Project

In May of this year Council submitted an Expression of Interest under the Western Sydney Regional Organisation of Council's (WSROC) \$400,000 'Water in The Landscape' (WiTL) Program.

Council's proposal was for a public art/interpretive trail linking the Regional Museum and Deerubbin Centre. The trail would tell stories about the Hawkesbury River and its profound impact on the history and changes within the Hawkesbury, with a focus on water management and flooding issues and inclusion of an Indigenous perspective. The trail would incorporate public art sculpture, installations and interpretive signage.

Community consultation workshops held in conjunction with the 2008 *Windsor Cultural Mapping Project* funded by Arts NSW endorsed the concept of linking the two nodes of the 'Cultural Precinct' with a public art trail. Positive support came from individuals and from specific groups including Macquarie Towns Art Society, Windsor Business Group and Hawkesbury Historical Society. The public art trail is a goal in the Hawkesbury Cultural Plan.

In July, WSROC indicated its interest in further pursuing the idea of a public art trail in Windsor and requested additional information from Council about the project. WSROC also requested advice as to the extent of Council's contribution to the project (should it be funded or part funded by WSROC) and the possibility of staging the project over a number of years.

Council staff have prepared further information in response to this request, which outlines focussing the funding of one public art sculpture which would be the first component of a public art trail. The sculpture would also establish best practice in public art development and community engagement. The proposal is to commence the public art trail with an indigenous artwork and to broaden the overall scope and focus of the ongoing public art trail to incorporate other existing sites which speak about the Hawkesbury River and its impact and importance to the Hawkesbury.

There are significant heritage items and sites relating to the Hawkesbury River that could be interpreted. These include the Tollhouse across South Creek; Windsor reservoir and water pumping station; Windsor Wharf; the commemorative waterwheel in the Windsor Mall; the river height gauge, located on the Doctors House embankment; and the marker of the 1867 flood level located on the wall of the Macquarie Arms Hotel. It may also be possible to integrate the walkways along the Hawkesbury River in Howes Park, and the footbridge across Rickabys Creek in the proposed trail.

The 'Water in the Landscape' proposal provides an excellent example of the type of integrated interpretive/public art trail which the draft 'Interpretive Signage and Public Art Policy: Telling Hawkesbury Stories' is intended to promote. The 'Water in the Landscape' proposal meets the objectives and principles of the policy in that;

- it tells a broad story about the Hawkesbury, linking the past with the present

- links sites, objects and events together through an interpretive trail
- it would be located in a prominent and accessible public space
- it can be supported and enhanced by paper-based, audio or electronic guides
- there is a good possibility that Council can secure an external source of funding to contribute to the project
- it will add value to visitor experiences and provide a focus for tourist visitation and support the revitalisation of the Windsor Town Centre
- it is consistent with the strategies within the Windsor Master Plan, Cultural Plan and Community Strategic Plan, and the tourism related projects within the Section 94A Contributions Plan.

The outcome of the 'Water in the Landscape' proposal will be further reported to Council.

Conformance to Community Strategic Plan

The proposal is consistent with the "*Looking After People and Place*" Direction statement:

- Be a place where we value the historical, social, cultural and environmental character of Hawkesbury's towns villages and rural landscapes

And is also consistent with the Strategies in the Community Strategic Plan being:

- Develop plans to enhance the character and identity of our towns and villages
- Develop and implement a plan to conserve and promote heritage

It will also contribute to the Goal within the Supporting Business and Local Jobs element within the Community Strategic Plan:

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

The adoption of the draft Policy will provide a mechanism by which Council can investigate the installation of interpretive signage and public art to give effect to the goals in not only the Community Strategic Plan but other Council strategies such as the Hawkesbury Cultural Plan and Tourism Strategy (when finalised).

Financial Implications

There are no direct financial implications arising out of this report. If adopted, the Policy may require the allocation of staff hours to meet Council's obligations as set out in the Policy. The allocation of staff resources will be negotiated in conjunction with normal workload demands.

The funding of interpretive trails (as provided for in the draft Policy) would ordinarily be considered in conjunction with the implementation of the actions and strategies within Council's adopted Management Plans, Section 94A Contributions Plan, Cultural Plan, Community Strategic Plan and tourism strategies. The Policy includes provision of financial assistance under Council's Community Sponsorship Program for ad-hoc interpretive signage requests which can be determined by Council in accordance with existing guidelines and processes.

ORDINARY MEETING

Meeting Date: 31 August 2010

RECOMMENDATION:

That:

1. Council adopt the draft Interpretive Signage and Public Art Policy: Telling Hawkesbury Stories' inclusive of the proposed amendments as outlined in this report.
2. Work with Vision Australia to develop a strategy for responding to the needs of people with a print disability.

ATTACHMENTS:

- AT - 1** 'Draft Interpretive Signage and Public Art Policy: Telling Hawkesbury Stories' - (*Distributed Under Separate Cover*).

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 199 CP - Community Gardens Policy - (95498, 96328)

Previous Item: NM3, Ordinary (8 December 2009)
57, Ordinary (30 March 2010)
137, Ordinary (29 June 2010)

REPORT:

Executive Summary

This report has been prepared to advise Council of the outcome of the public exhibition of the draft Community Gardens Policy. No submissions were received with respect to the draft Policy. The report recommends that Council adopt the Community Gardens Policy.

Consultation

The draft Community Gardens Policy was placed on public exhibition in conformance with Council's Community Engagement Policy.

Background

At its Ordinary Meeting held on 8 December 2009 Council resolved (in response to a Notice of Motion):

"That a report be submitted to Council to identify possible strategies which could be undertaken by Council to support the establishment of community gardens in the Hawkesbury with a particular focus on the involvement of local schools".

A report was subsequently considered by Council at its Ordinary Meeting of 30 March 2010. In considering this report Council resolved (in part);

"That:

- 1. A draft community gardens policy be developed for Council's consideration to provide guidelines for residents or community organisations who may be interested in establishing or sponsoring a community garden on Council-owned land zoned open-space."*

A draft Community Gardens Policy was reported to Council on 29 June 2010. Council resolved to place the draft policy on public exhibition.

The draft policy was placed on public exhibition between 15 July and 13 August 2010. No submissions were received in response to the public exhibition of the draft policy. It is therefore proposed that Council adopt the draft Policy as appended to this report (under separate cover).

Conformance to Community Strategic Plan

The proposal is consistent with the "*Looking After People and Place*" Direction statement

- Have friendly neighbourhoods, connected communities and supported households and families.

And is also consistent with the strategy in the Community Strategic Plan being:

- Identify community needs, establish benchmarks, plan to deliver and advocate for required services and facilities.

ORDINARY MEETING

Meeting Date: 31 August 2010

The adoption of the draft Policy will provide a mechanism by which interested community groups can explore the feasibility of establishing neighbourhood community gardens which, if viable, will increase social capital and connectedness within these neighbourhoods.

Financial Implications

There are no direct financial implications arising out of this report. If adopted, the Policy may require the allocation of staff hours to meet Council's obligations as set out in the Policy. The allocation of staff resources will be negotiated in conjunction with normal workload demands. The Policy includes provision of financial assistance under Council's Community Sponsorship Program which can be determined by Council in accordance with existing guidelines and processes.

RECOMMENDATION:

That Council adopt the draft Community Gardens Policy.

ATTACHMENTS:

AT - 1 Draft Community Gardens Policy - (*Distributed Under Separate Cover*).

oooO END OF REPORT Oooo

Item: 200 CP - Statement of Business Ethics - (95498)

REPORT:

Executive Summary

This report has been prepared to seek Council's approval for the adoption of a *Statement of Business Ethics* prepared in accordance with guidelines issued by the Independent Commission Against Corruption (ICAC).

The Statement incorporates core organisational values which reflect the directions of Council's Community Strategic Plan. The Statement outlines Council's obligations and commitments in conducting its business and its expectations and requirements for those seeking to enter into a business relationship with Council. The Statement has been developed to assist those dealing with Council to know and understand the ethical standards that the community expects from all Council officials (Councillors and staff).

Consultation

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

Statement of Business Ethics

Strong working relationships with the private sector are important in ensuring that Council can provide efficient and cost effective services to residents.

The Independent Commission Against Corruption (ICAC) has noted that there are important differences between the public and private sector in terms of their responsibilities, principles and goals. Council (as a public sector agency) is required to conduct its business in conformance within the provisions of the *Local Government Act 1993* and other legislation. This legislative framework directs Council's day-to-day operations through the enactment of government codes of practice and codes of conduct as well as specific procurement and tendering guidelines. These codes and guidelines are based on core public sector values of integrity, accountability, impartiality and transparency.

An understanding of these values is integral to the development of positive and ethical business relationships between private and public sector agencies. ICAC has recommended the adoption of a *Statement of Business Ethics* to communicate core public sector values and principles and establish clear expectations for the conduct of business relationships. To this end, ICAC has issued guidelines to assist NSW public sector agencies to prepare a Statement of Business Ethics.

The ICAC guidelines recommend that Council incorporate a mandatory requirement within its tender processes to the effect that applicants and tenderers should acknowledge that they have read and accepted the *Statement of Business Ethics* and that the statement should therefore be included in tender and bid documents. ICAC also recommends that the statement should be distributed with rezoning applications, made available at customer contact points, and posted on Council's web-site.

Within its *Promoting Better Practice Program*, the Division of Local Government (DLG) has identified the adoption of a *Statement of Business Ethics* as an element of its 'health check' self assessment process which it uses to evaluate the effectiveness and efficiency of council operations.

Organisational Values

The DLG 'health check' also identifies a requirement for councils to identify an explicit set of organisational values to align council operations and governance framework with Section 8 of the *Local Government Act 1993* ('the council's charter'). Section 2 of the *Statement of Business Ethics* incorporates a set of

ORDINARY MEETING

Meeting Date: 31 August 2010

proposed values which have been derived from the content of Council's Community Strategic Plan. The values are intended to broadly represent the principles which will underlie Council's approach to how it will conduct its business as a local government authority; a supplier and procurer of services and facilities; and an elected body representing the interests and aspiration of its community.

Table 1 plots the derivation of the proposed organisational values based on the content and interpretation of Council's Community Strategic Plan.

Vision	Vision Statement (from Community Strategic Plan)	Interpretation (based on the directions and strategies in the CSP)	Value Statements - Council will operate in a way that values
Looking after people and place	a community in which the area's character is preserved and lifestyle choices are provided with sustainable, planned, well serviced development, within strongly connected, safe and friendly neighbourhoods.	Development which offers lifestyle choices grounded in a good understanding of people's aspirations and expectations for the Hawkesbury. Development which builds strong and inclusive neighbourhoods where people enjoy access to services and facilities and can participate in civic life.	<ul style="list-style-type: none"> • the contributions of people and the exchange of ideas • equity, fairness and community harmony
Caring for our environment	a community dedicated to minimising its ecological footprint, enjoying a clean river and an environment that is nurtured, healthy, protected and provides opportunities for its sustainable use.	The Hawkesbury is blessed with significant natural (and cultural) assets which should be carefully managed for future generations. Collectively and responsibly looking after these assets in a way that balances benefits and costs and minimises ecological footprints.	<ul style="list-style-type: none"> • pride in the heritage and natural beauty of our area • sustainable development and social cohesion
Linking the Hawkesbury	A community which is provided with facilities and services efficiently linked by well maintained roads and accessible and integrated transport and communication systems which also connect surrounding regions	Council is the custodian of substantial public assets and provides services which are vital to the everyday life and concerns of residents Maintaining, renewing and improving these assets.	<ul style="list-style-type: none"> • the sound management of our assets and resources • continuous improvement to the quality of our services
Supporting Business and Local Jobs	New and existing industries which provide opportunities for a range of local employment and training options, complemented by thriving town centres.	Adapting to changing economic and business trends to promote new, sustainable business opportunities and maintain viability of town centres. Developing strong partnerships with business and community sectors	<ul style="list-style-type: none"> • innovation and the pursuit of new opportunities • integrity and ethical standards
Shaping our Future Together	An independent, strong and engaged community, with a respected leadership which provides for the future needs of its people in a sustainable and financially responsible manner.	Making balanced, prudent and informed decisions to secure and manage resources needed to provide sustainable and affordable services and facilities. Working together to meet current and future needs by providing the planning leadership to deliver on these needs.	<ul style="list-style-type: none"> • accountable and transparent decision making • strong leadership, teamwork and co-operation

Table 1 – Proposed organisational values (based on Hawkesbury Community Strategic Plan)

Conformance to Community Strategic Plan

The proposal is consistent with the Vision Statements and Directions within the Community Strategic Plan. The proposal recommends the adoption of organisational values which reflect the content of the Plan.

ORDINARY MEETING

Meeting Date: 31 August 2010

The remaining content of Statement of Business Ethic is consistent with the Shaping our Future Directions statement:

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

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

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

Financial Implications

There are no financial implications applicable to this report.

RECOMMENDATION:

That Council adopt the *Hawkesbury City Council Statement of Business Ethics* prepared in accordance with guidelines issued by the Independent Commission Against Corruption (ICAC).

ATTACHMENTS:

- AT - 1** Hawkesbury City Council, Statement of Business Ethics: For business dealings between Hawkesbury City Council, the private sector and other parties - (*Distributed under Separate Cover*)

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 201 CP - Support for Homeless People - (96328)

Previous Item: NM1, Ordinary (13 July 2010)

REPORT:

Executive Summary

This report has been prepared in response to a Notice of Motion. The report summarises information on initiatives and strategies for working with homeless people in the Hawkesbury. The report proposes that Council continue to support and participate in the work of the Nepean Regional Task Force on Homelessness and to consider the recommendations and requests which may be received from the Task Force for implementation where appropriate. The report also proposes a number of other actions for Council's consideration.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. In the preparation of this report, Council staff consulted with the Hawkesbury Community Kitchen and Wentworth Community Housing. Council is also a member of the Nepean Regional Task Force on Homelessness and information provided by the Task Force has been incorporated into this report.

Background

This report has been prepared in response to a Notice of Motion considered by Council at its Ordinary Meeting held on 13 July 2010. In considering the Notice of Motion Council resolved:

"That a report be brought to Council to investigate possible strategies that Council could consider to support the provision of practical assistance to homeless people, particularly on weekends".

Homelessness refers to a set of circumstances where people are unable to access safe and secure accommodation and may be required to stay in a refuge or with friends - in this context homelessness is often invisible. People sleeping 'rough' in public spaces constitutes a smaller but more visible proportion of the homeless population. Homelessness is generally associated with a range of factors - mental illness, substance abuse, domestic violence, poverty and family breakdown - which can prevent people from accessing appropriate housing. Some people, faced with a complex set of needs, may not have the life skills required to maintain secure housing.

Historically, governments have responded to homelessness by:

- managing visibility - viewing homeless people as an 'unsightly problem' who need to be 'moved on' by employing strategies like alcohol free zones, anti-loitering provisions etc
- alleviation - accepting that homeless people are members of the community who require accommodation and support services.

Commonwealth and state governments hold the legislative responsibility for funding services to assist homeless people. These can be direct services like refuges or social housing projects, or 'indirect' services which target the causes of homelessness - i.e. employment programs, income support, alcohol and mental health counselling, family reconciliation, skills training etc. In general, local government does not have access to the resources required to supply or maintain such services and its primary role has been to work with other levels of government and community organisations to better co-ordinate strategies to respond to the needs of homeless people.

Homelessness Policy

Council adopted a Homelessness Policy on 6 May 2002 (based on the Local Government and Shires Association *Local Government Model Policy on Homelessness*). The Policy commits Council to working in partnership with state and commonwealth governments and other stakeholders to undertake a broad range of strategies including examining issues of homelessness; facilitating co-ordinated approaches by local services; advocating for reforms that address the underlying structural issues linked to the causes of homelessness; lobbying for the adequate funding of services for homeless people; encouraging the provision of affordable housing; ensuring that homeless people are not denied access to council services, facilities and public spaces; and by training Council staff to consider the needs of homeless people in their work.

To give effect to this Policy, Council is represented on a number of key agencies and groups including Wentworth Community Housing, the Nepean Regional Task Force on Homelessness and the Hawkesbury Housing Forum. The agencies and groups have implemented a number of practical projects to support homeless people and to increase the stock of affordable and social housing in the Hawkesbury. Council may be aware of two recent projects - the Hawkesbury Hub and Project 40 - which are currently being implemented to provide practical assistance to homeless people and to help them into stable housing.

Responding to Homelessness in the Hawkesbury

In recent times, homelessness strategies have been directed at providing longer term solutions to homelessness through a 'housing first' approach which aims to help people secure permanent housing and then provide the support service required to help people stabilise and stay in their homes.

This is the focus of Project 40, which has recently received \$2M in funding to provide longer-term solutions to homelessness by utilising housing stock made available by Wentworth Community Housing (WCH). WCH will make available up to 60 houses across the Nepean Region to enable Project 40 to house rough sleepers - 15 of these houses will be in the Hawkesbury. This housing first approach is complemented by agencies working together to better co-ordinate services to homeless people through such strategies as the 'Hawkesbury Homeless Hub' which bring agencies together in one location to provide a 'drop-in' service for homeless people to access information, receive practical assistance, apply for housing etc. Project 40 will employ staff to work with existing service providers to better co-ordinate the provision of secure housing and practical assistance to homeless people.

Practical Assistance to Homeless People on the Weekend

Council staff have consulted with the Hawkesbury Community Kitchen (HCK) in relation to this issue. HCK is well supported by local organisations including the Richmond Club, and receives regular donations from a range of businesses to support its operations. The HCK receives no funding from state or federal governments and its operations are sustained by an active and dedicated pool of volunteers.

The HCK provides services to people in need and is not specifically targeted at homeless people. At any one time it provides services for up to 35 people, of which 6 to 8 may be homeless. The service provides dinner five days a week, and lunch on three days each week (the Uniting Church also provides lunch on one day a week at a different venue). The HCK does not operate on weekends as its services are dependent on a pool of reliable and long-term volunteers and their experience suggests that there are challenges in recruiting an adequate pool of volunteers willing to undertake regular volunteering on weekends. The HCK have identified a need for larger and more flexible accommodation and administrative support services as two critical impediments which prevents their service from expanding its operations.

Community support services for homeless people aim to help homeless people resolve those factors which prevent them from securing housing and then assisting them to stay in their homes. There is a balance between autonomy and dependency which these service are required to navigate. Evidence suggests that the most effective strategies involve service providers working with homeless people to help them make more appropriate and sustainable choices which will enable them to secure and maintain housing, rather than reinforcing actions or behaviours which entrench their disadvantage.

Council Support for Homeless People - Options

The Nepean Regional Task Force on Homelessness is currently finalising a 10 year plan to reduce and eliminate homelessness in the Nepean Region (which includes the Hawkesbury). The Plan will incorporate strategies by which local governments can practically support the delivery of co-ordinated responses to homelessness. In this context, it is proposed that Council continue its work with the Task Force and, when complete, that the plan be reported to Council for endorsement and implementation. At this time, Council can consider specific recommendations or requests for Council support and practical assistance.

Maintaining its representation on the Board of Wentworth Community Housing, will further strengthen Council's capacity to effectively advocate for the needs of local residents for affordable social and community housing and, as WCH will be the managing agent for Project 40, the needs of homeless people in the Hawkesbury.

In the short term Council can continue to offer practical assistance for co-ordinated strategies such as Project 40, the Hawkesbury Street Count and the Hawkesbury Hub - for example, through the provision of subsidised community transport to enable homeless people to access the Hub. The organising committee for the Hawkesbury Hub has met to evaluate the outcome of the first homeless hub and to plan the regular staging of this event. The organising committee may identify additional ways that Council can offer practical support to homeless people and these can be further reported and considered by Council. It is also likely that Council may be asked to review and update its Homelessness Policy, and review its approach to the enforcement of local by-laws as they impact on homeless people.

Council may also wish to make representations to state and federal parliamentarians on behalf of the Hawkesbury Community Kitchen to request that consideration be given to the state or federal government providing financial assistance to the HCK to enable it to secure larger accommodation and/or provide the administrative resources required to support its volunteer operations.

Council staff have also been requested by homeless people (through the homelessness advisers who worked on the recent homeless street count) to reinstate the shower facility in the public toilets in Macquarie Park. The shower had been repeatedly vandalised and was decommissioned. Council may wish to consider repairing the shower so it can be used by homeless people. It may be appropriate to install a sign at the facility indicating that Council has provided the shower facility at the request of homeless people and would seek people's co-operation in ensuring it remains operable and available for this purpose. The shower facility can be monitored for vandalism for a period of six months to determine if it is viable for it to be maintained in the long term.

Conformance to Community Strategic Plan

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

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.

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

- Identify community needs, establish benchmarks, plan to deliver and advocate for required services and facilities.

This report proposes actions which will enable Council to continue to work in partnership with community organisations to ensure that Council can meet its obligation - as defined in the Community Strategic Plan - for the provision of appropriate services and facilities to residents, in this case, homeless people.

Financial Implications

There are direct financial implications arising out of this report. Requests for additional Council support or assistance for homelessness projects or strategies will be reported to Council for consideration at which

ORDINARY MEETING

Meeting Date: 31 August 2010

time financial implications can be assessed. The recommissioning of the shower facility at Macquarie Park will incur minor expenditure which can be met from existing budgets.

RECOMMENDATION:

That Council:

1. Continue to support and participate in the work of the Nepean Regional Task Force on Homelessness and to consider the recommendations and requests which may be received from the Task Force for implementation as appropriate.
2. Continue to participate on, and offer practical assistance, for co-ordinated strategies such as Project 40, the Hawkesbury Street Count and the Hawkesbury Hub as can be met through approved budget allocations.
3. Make representations to state and federal parliamentarians on behalf of the Hawkesbury Community Kitchen to request the provision of financial assistance to the HCK to support its volunteer operations.
4. Recommission the damaged shower facility in the public toilets at Macquarie Park and install signage indicating that Council has provided the shower facility at the request of homeless people and seeking user's co-operation in ensuring it remains operable and available for this purpose.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

INFRASTRUCTURE SERVICES

Item: 202 IS - Proposed Memorandum of Understanding between Penrith City Council and Hawkesbury City Council for the Maintenance of The Driftway, Londonderry - (73553, 95495)

REPORT:

Executive Summary

Discussions have been held with Penrith City Council Staff regarding the possibility of sharing costs associated with the maintenance of The Driftway.

It is recommended that a Memorandum of Understanding between Penrith City Council and Hawkesbury City Council be entered into, to enable the costs involved with the ongoing maintenance of The Driftway to be shared equally between both Councils.

Consultation

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

Background

Discussions have been held with Penrith City Council regarding the possibility of sharing costs associated with the maintenance of The Driftway.

The current gazetted Council boundary between Penrith City Council and Hawkesbury City Council follows the northern boundary of properties located within the Penrith Local Government Area, between Bonner Road and Reynolds Road, Londonderry.

The entire road reserve is located within the Hawkesbury LGA with the University of Western Sydney and Hawkesbury City Waste Management Facility on the northern side, and rural residential for the full length on the southern side. It should be noted that Hawkesbury City Council does not receive any rate income from properties on either side of The Driftway, however is solely responsible for all ongoing maintenance costs of the road.

The residents on the southern side of The Driftway pay their rates to Penrith City Council and it is understood that there is an expectation from residents that Penrith City Council contributes to the ongoing maintenance. Whilst Penrith Council does not have a legal obligation to maintain The Driftway, it has previously contributed funds to Hawkesbury City Council for the upgrading and sealing of this road.

The proposed Memorandum of Understanding is similar to the arrangement with the Hills Shire Council for the maintenance of Boundary Road except each member Council will rotate maintenance on a yearly basis. Each Council will contribute 50% of the yearly maintenance costs and any proposed major works will require prior agreement for inclusion in a future works program.

The attached Memorandum of Understanding sets out the conditions and obligations of each Council.

Conformance to Community Strategic Plan

The proposal is consistent with the Linking the Hawkesbury Directions statement;

ORDINARY MEETING

Meeting Date: 31 August 2010

- Have a comprehensive system of well maintained local and regional roads to serve the needs of the community.

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

- Establish partnership with neighbouring Councils and transport providers to service the Hawkesbury.

Financial Implications

Council is presently responsible for all ongoing maintenance, resealing and future upgrade costs. The proposed arrangement if adopted by both Councils is considered to be a significant benefit to this Council for the following reasons:

1. Potential financial savings as cost will be shared on a 50:50 basis between both Councils.
2. Potential for additional works to be carried out resulting in improved road safety for both residents and general public.

RECOMMENDATION:

That the Memorandum of Understanding between Hawkesbury City Council and Penrith City Council for the maintenance of The Driftway be approved and executed and a letter of appreciation be forwarded to Penrith City Council for their co-operation in this regard.

ATTACHMENTS:

- AT - 1** Proposed Memorandum of Understanding between Penrith City Council and Hawkesbury City Council for the Maintenance of The Driftway, Londonderry

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Proposed Memorandum of Understanding between Penrith City Council and Hawkesbury City Council for the Maintenance of The Driftway, Londonderry

MEMORANDUM OF UNDERSTANDING

This memorandum of understanding made the day of 2010

BETWEEN: **PENRITH CITY COUNCIL** of 601 High Street Penrith in the State of New South Wales
("Council")

AND: **HAWKESBURY CITY COUNCIL** of 366 George Street Windsor in the State of New South
Wales ("Council")

1. BACKGROUND

- 1.1 Both Penrith City Council and Hawkesbury City Council recognise that the gazetted Council boundary along The Driftway (between Bonner Road and Reynolds Road) is the northern property boundary of properties within the Penrith Local Government Area.
- 1.2 The Driftway benefits both the residents of Penrith City Council and Hawkesbury City Council

2. INTERPRETATION

Unless the contrary intention appears:

- 2.1 monetary references are to Australian currency;
- 2.2 the clause and sub-clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
- 2.3 a cross reference to a clause number is a reference to all its sub-clauses;
- 2.4 words in the singular number include the plural and vice versa;
- 2.5 words importing one gender include the other;
- 2.6 a reference to a person includes a partnership and a body whether corporate or otherwise;
- 2.7 a reference to any legislation or legislative provision includes any statutory modification, re-enactment, regulation or statutory instrument issued under that legislation;
- 2.8 A reference to a clause or sub-clause is a reference to a clause or sub-clause of this Contract; and
- 2.9 Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- 2.10 Minor Works comprise any road works up to a total value of \$60,000.00 +/- 10% per annum.
- 2.11 Major Works comprise any road works exceeding \$60,000.00 per annum.
- 2.12 The amount applicable to minor/major works can be varied by agreement between member Councils.

ORDINARY MEETING

Meeting Date: 31 August 2010

3. OPERATIVE PART

3.1 The MOU refers specifically to the section of The Driftway, Londonderry between Bonner Road and Reynolds Road

3.2 Maintenance of the road by Penrith City Council shall consist of:

i. Footway and drainage (verge area) along the southern side of The Driftway

3.3 Maintenance of the road by Hawkesbury City Council shall consist of:

i. Footway and drainage (verge area) along the northern side of The Driftway

3.4 Road rehabilitation / resurfacing / pothole works.

A. Minor Works:

i. The annual maintenance of the sealed road surface and associated road shoulder area is performed by one of the member Councils on an alternating yearly roster.

ii. Annual costs for roadworks will be evenly shared between the two Councils

B. Major Works:

i. Agreement will be reached by both Councils in December of the financial year preceding any proposed major roadworks along The Driftway for inclusion of those works in the following years Roads program

ii. Costs for major works be evenly shared between the two Councils

3.5 Traffic facilities

i. Consultation will occur between the two Councils prior to the implementation or modification of any traffic facilities/ restrictions along The Driftway

ii. Costs for implementation and maintenance of the traffic facilities will be equally shared between the two Councils

4. TERM

4.1 This memorandum of Understanding will remain effective for 10 years.

5. INDEMNITY

5.1 N/A

5.2 N/A

6. DISPUTE RESOLUTION

6.1 If any dispute arises out of the operation of this Memorandum of Understanding, the parties will make all possible efforts to resolve the dispute themselves, by agreement.

6.2 If the parties are unable to resolve a dispute themselves, then, in accordance with Council's Negotiation and Consensus Policy, a conciliation or facilitation meeting may be held to try and identify and resolve the issues in dispute.

ORDINARY MEETING

Meeting Date: 31 August 2010

SIGNED

On behalf of Penrith City Council by its Authorised Officer

.....
Authorised Officer

In the presence of

.....
Witness

SIGNED

On behalf of Hawkesbury City Council by its Authorised Officer

.....
Authorised Officer

In the presence of

.....
Witness

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 203 **IS - Proposed Concrete Footpaving in Grose Vale Road, Kurrajong & Mileham Street, Windsor - (79344, 95495)**

REPORT:

Executive Summary

Requests have been received for the provision of concrete footpaving in Mileham Street, Windsor adjacent to the Windsor Police Station and Grose Vale Road, Kurrajong in front of Kurrajong Public School. It is recommended that the proposal for new footpaving construction in both locations be supported and undertaken as part of the 2010/2011 Capital Works Program.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement process proposed in this report meets the criteria for the minimum level of community engagement required under Council's policy.

The proposal to construct concrete foot paving in Grose Vale Road, Kurrajong and Mileham Street, Windsor has been discussed with the appropriate organisations, including the Principal of Kurrajong Public School and Senior Officers from the new Windsor Police Station. It should be noted that both proposals are fully supported by the respective organisations.

The proposed works are consistent with the priorities and principles within the adopted Hawkesbury Mobility Plan which was adopted following extensive community consultation.

Background

The footpath area in front of Kurrajong Public School has existing concrete footpaving at its northern and southern ends only. The central portion adjacent to the main school entry is not paved and potentially hazardous due to the irregular surface and slippery conditions when wet. The proposed works, if approved will provide an all weather pedestrian access for the full frontage of the school.

The newly completed Police Station in Mileham Street, Windsor has concrete footpaving across its own frontage. However, this footpaving is not connected to existing footpaving approximately 50 m to the north. The construction of the missing link will provide a continuous footpath from the Police Station to Day Street and through to the Windsor shopping precinct.

Conformance to Community Strategic Plan

The proposal is consistent with the Linking the Hawkesbury Directions statement;

- Be linked by accessible, viable public transport, cycleways and pathways to the major growth and commercial centres within and beyond the Hawkesbury.

Financial Implications

The estimated cost to provide concrete footpaving at both locations is detailed as follows:

Mileham Street	\$30,500.00
Grose Vale Rd	<u>\$15,000.00</u>
Total	\$45,500.00

ORDINARY MEETING

Meeting Date: 31 August 2010

Funding for this proposal could be utilised from the 2010/2011 Capital Works Program footpath reconstruction component.

RECOMMENDATION:

That:

1. The request for the provision of concrete footpaving in Mileham Street, Windsor adjacent to the Windsor Police Station and Grose Vale Road, Kurrajong in front of Kurrajong School, be approved.
2. Funding of \$45,500.00 be provided from the 2010/2011 Capital Works Program for footpath reconstruction.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

SUPPORT SERVICES

Item: 204 **SS - Code of Meeting Practice - Questions Without Notice - (95496, 79337)**

Previous Item: 107, Ordinary (25 May 2010)
 11, Ordinary (2 February 2010)
 210, Ordinary (29 September 2009)
 123, Ordinary (30 June 2009)
 NM, Ordinary (12 May 2009)
 201, Ordinary (28 June 2005)
 62, Ordinary (9 November 2004)

REPORT:

Executive Summary

Council adopted a revised Code of Meeting Practice on 29 September 2009 which became effective from 10 November 2009. At the time, the review highlighted an apparent inconsistency between Council's adopted Code and the Local Government Act 1993 (LGA) and its Regulations in relation to the agenda item, for Council's Ordinary Meetings, "Questions Without Notice". Following extensive deliberations of advice received, Council at its meeting of 25 May 2010 resolved to place on public exhibition a hybrid practice consistent with the LGA and its Regulations allowing Councillors to raise questions at a Council Meeting as suggested by the Division of Local Government, Department of Premier and Cabinet (known as "DLG"). No submissions have been received as a result of the public exhibition of the proposed changes. These are recommended for approval along with changes to the Code to meet statutory changes in relation to the access to information regime for local government which commenced on 1 July 2010.

Consultation

Prior to adopting an amended Code of Meeting Practice, unless the amendments are not substantial, Council is required to prepare a Draft Code of Meeting Practice for public exhibition (Section 361 of the LGA). The exhibition period must not be less than 28 days.

The proposed amendments to the Code of Meeting Practice were placed on public exhibition as required by the LGA. No submissions were received. Other proposed amendments as a result of statutory changes to the access to information regime do not require exhibition.

Background

Following a review process, Council adopted a revised Code of Meeting Practice on 29 September 2009 which became effective from 10 November 2009. As a result of the review process, some debate was generated as to the legalities of having "Questions Without Notice" as an agenda item for Council's Ordinary Meetings as advice from the DLG was that this was inconsistent with the LGA.

Council considered a further report on this matter on 25 May 2010 in which it was noted that in light of the various professional advices received by Council, it was clear that even if Council did not delete the provision from the Code, the operation of Section 360 of the LGA would have that effect. As such Council was prevented from including "Questions Without Notice" in its Code of Meeting Practice. A copy of the report considered by Council on 25 May 2010 is attached to this report as Attachment 1.

Council considered a suggestion from the DLG to introduce an agenda item "Questions for Next Meeting" and as such resolved to publicly exhibit the following proposed amendments to the Code being:

- Deleting reference to "Questions Without Notice".

ORDINARY MEETING

Meeting Date: 31 August 2010

- The inclusion of new clause 3.3.12 titled "Questions For Next Meeting" reading as follows:

"3.3.12 Questions For Next Meeting"

1. *At all Council meetings, each Councillor may ask questions for the next Council meeting under the segment of the business paper designated for that purpose. The Mayor or Chairperson of the meeting may exercise discretion in limiting questions or ruling any question out of order.*
 2. *Questions for the next meeting should relate to questions concerning items not on the business paper of the Meeting where the question is raised.*
 3. *The chairperson must not permit discussion or any reply to a question under this clause.*
 4. *Councillor questions for the next meeting and responses shall be included on the next Council Meeting's business paper or, if this is not possible, the one following the next or an explanation given as to the reasons for delay and anticipated time of final response.*
 5. *These questions and subsequent reports responding to the questions are not subject to discussion, debate or public address at the meeting asked and/or answered.*
 6. *This clause does not apply to an extraordinary meeting of the Council.*
 7. *Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting."*
- A consequential amendment to the order of business for Ordinary Meetings whereby Item 12 of Clause 2.3.6 - "Order of Business" would be amended to read "Questions For Next Meeting" in lieu of "Questions Without Notice".

The adoption of these changes would mean that the last agenda item of the Ordinary Council Meeting prior to reports proposed to be discussed in Confidential Session, would have Councillors ask questions as is now the case noting that there will be no responses to those questions until the following meeting if possible.

No public submissions were received by Council during the public exhibition process.

During the public exhibition process of the proposed amendments, Section 12 of the LGA and the Freedom of Information Act were repealed and the Government Information (Public Access) Act 2009 become effective from 1 July 2010. These statutory changes to the access to information regime requires consequential changes to Council's Code of Meeting Practice by the deletion of the current Annexure B "Access to Information" and deletion of Section 10.5 and its sub sections of Annexure D "Open Meetings Guidelines" as these relate to the provisions of Section 12. The Code has been renumbered in light of those amendments. As these amendments are statutory based the public exhibition of such amendments are not necessary nor recommended.

In summary, the public exhibition of the revised Code of Meeting Practice did not generate any public submissions. Accordingly the amended Code of Meeting Practice as attached as Attachment 2 containing the exhibited changes and the statutory changes is recommended for adoption.

Conformance to Community Strategic Plan

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

- Have transparent, accountable and respected leadership and an engaged community.
- and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:
- Have ongoing engagement and communication with our community, governments and industries.

ORDINARY MEETING

Meeting Date: 31 August 2010

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That:

1. The Code of Meeting Practice be amended as follows:
 - a. Delete Annexure B "Access to Information" and renumber Annexure C "Pecuniary Interests" as Annexure B and make the associated reference changes in the Code.
 - b. Delete Section 10.5 and its subsections of Annexure D "Open Meetings Guidelines" and renumber Annexure D as Annexure C and make the associated reference changes in the Code.
 - c. Delete reference to Questions Without Notice as follows:
 - i. Delete sub clause 4) (Tabling of Documents During Question Time) of Clause 2.3.4.
 - ii. Delete Item 12 (Councillors' Questions Without Notice) of Clause 2.3.6 - Order of Business.
 - d. Insert reference to Questions For Next Meeting as follows:
 - i. Add Clause 3.3.12 as follows:

"3.3.12 Questions For Next Meeting

 1. *At all Council meetings, each Councillor may ask questions for the next Council meeting under the segment of the business paper designated for that purpose. The Mayor or Chairperson of the meeting may exercise discretion in limiting questions or ruling any question out of order.*
 2. *Questions for the next meeting should relate to questions concerning items not on the business paper of the Meeting where the question is raised.*
 3. *The chairperson must not permit discussion or any reply to a question under this clause.*
 4. *Councillor questions for the next meeting and responses shall be included on the next Council Meeting's business paper or, if this is not possible, the one following the next or an explanation given as to the reasons for delay and anticipated time of final response.*
 5. *These questions and subsequent reports responding to the questions are not subject to discussion, debate or public address at the meeting asked and/or answered.*
 6. *This clause does not apply to an extraordinary meeting of the Council.*
 7. *Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting."*
 - ii. Reword Item 12 of Clause 2.3.6 - "Order of Business" to read "Questions For Next Meeting" in lieu of "Questions Without Notice".
2. The amended Code of Meeting Practice as attached as Attachment 2 be adopted from the date of this meeting.

ORDINARY MEETING

Meeting Date: 31 August 2010

ATTACHMENTS:

- AT - 1** Report to Council of 25 May 2010: SS - Code of Meeting Practice - Questions Without Notice - (79337)
- AT - 2** Draft Revised Code of Meeting Practice - (*Distributed under separate cover*)

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Report to Council of 25 May 2010: SS - Code of Meeting Practice - Questions Without Notice - (79337)

ITEM: Business Paper - Ordinary Meeting Agenda - 31 August 2010

Previous Item: 11, Ordinary (2 February 2010)
210, Ordinary (29 September 2009)
123, Ordinary (30 June 2009)
NM, Ordinary (12 May 2009)
201, Ordinary (28 June 2005)
62, Ordinary (9 November 2004)

REPORT:

Executive Summary

Council adopted a revised Code of Meeting Practice on 29 September 2009 which became effective from 10 November 2009. The review highlighted an apparent inconsistency between Council's adopted Code and the Local Government Act (LGA) and its Regulations in relation to the agenda item, for Council's Ordinary Meetings, "Questions Without Notice". Council, following legal advice, resolved to make representations to retain this practice. The Division of Local Government, Department of Premier and Cabinet (DLG) has responded confirming that "Questions Without Notice" is inconsistent with the Regulations and that the LGA prevents Council from including it in its Code. In light of the advice, this report recommends a hybrid practice consistent with the LGA and its Regulations allowing Councillors to raise questions at a Council Meeting as suggested by the DLG.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. However, prior to adopting an amended Code of Meeting Practice, unless the amendments are not substantial, Council is required to prepare a Draft Code of Meeting Practice for public exhibition (Section 361 of the LGA). The exhibition period must not be less than 28 days.

In this regard, the proposed amendments are considered to be not substantial, as they reflect required legislative compliance, and public exhibition is not recommended.

Background

Following a review process, Council adopted a revised Code of Meeting Practice on 29 September 2009 which became effective from 10 November 2009. As a result of the review process, some debate was generated as to the legalities of having "Questions Without Notice" as an agenda item for Council's Ordinary Meetings following advice from the DLG that this was not consistent with the legislation.

Following consideration of amendments to the Council's Code of Meeting Practice, Council resolved to seek legal advice as to whether the asking of questions seeking information and answering of those questions by councillors or staff constitutes transaction of business in the terms of Section 241 of the Local Government (General) Regulation 2005. Legal advice was sought on 29 October 2009 and received by letter dated 16 December 2009. The legal advice supported the views expressed by the then Department of Local Government in its updated Practice Note 16 – Meetings Practice issued in August 2009. The legal advice in relation to having Questions Without Notice as an agenda item concludes by stating:

"Whilst it may have been the practice of some councils in the past to have an agenda item for 'Questions Without Notice' we agree with the view expressed by the Division of Local Government, Department of Premier and Cabinet in Practice Note 16 that having such an agenda item is inconsistent with the provisions of the Regulations and is likely to constitute a

ORDINARY MEETING

Meeting Date: 31 August 2010

breach of the LG Act in respect of which any person may bring proceedings in the Land and Environment Court to remedy or restrain (see section 674 of the LG Act)."

Council considered the legal advice (see report attached as Attachment 1) and at its meeting of 2 February 2010 resolved as follows:

"That:

1. *Reference to Questions Without Notice remain in Council's Code of Meeting Practice.*
2. *Council make representations to the Director General of the Division of Local Government and the Minister for Local Government indicating that Council believes that Questions Without Notice should remain as part of Council's meeting practice and present details in support of such a position.*
3. *Council seek support from its Local State Members of Parliament."*

In accordance with Council's resolution, representations were made to the various persons mentioned in the resolution.

By letter date 16 April 2010, the Chief Executive, Local Government (a Division of the Department of Premier and Cabinet) responded on behalf of the Minister for Local Government and the Director General of the Department of Premier and Cabinet. A copy of that letter is attached as Attachment 2 to this report.

The response maintains the view that having an agenda item "Questions Without Notice" is inconsistent with the provisions of the Local Government (General) Regulation 2005. It concludes with the following advice:

"As it is considered that having an agenda item "Questions Without Notice" is inconsistent with clause 241(1) of the Regulation (clause 1.4.11 of the Practice Note), it follows that section 360 of the Act would operate to prevent a council from including in its code of meeting practice a provision authorising such an agenda item for its meetings."

Suggested Approach

In light of the various professional advices received by Council on this matter, it is clear that "Questions Without Notice" irrespective of the arguments in support of such a practice, is, in essence, unlawful. Even if Council does not delete the provision from the Code, the operation of Section 360 of the LGA would have that effect. As such Council is prevented from including it in its Code of Meeting Practice.

Previously, it was reported that the advice in the Practice Note in relation to this issue is that:

- Councillors may ask questions during the meeting on matters on the business paper as outlined in the Code (see 3.2.7 and 3.3.6 of Council's Code);
- Councillors can ask questions of the General Manager using the "questions with notice" provisions of the Code including appropriate notice (see 3.3.7 of Council's Code);
- A matter not on the business paper may be dealt with where the matter is ruled by the chairperson to be of great urgency but only after a motion is passed to allow this particular business to be dealt with (see 2.2.3 (3) of Council's Code).

In addition, as previously reported, for operational matters Councillors may utilise existing protocols and contacting the General Manager or relevant Director for a response. It should be also noted that Council is investigating an electronic Customer Request Management System which may also be utilised by Councillors to lodge enquiries, questions and the like.

In view of the various advices now received it would appear that Council should now formally dispense with the Questions Without Notice item of the Council Meeting, and, as such, could resolve that the Code of Meeting Practice be amended as follows:

ORDINARY MEETING

Meeting Date: 31 August 2010

- In Clause 2.3.4 - delete sub clause 4) – tabling of Documents during question time.
- In Clause 2.3.6 - “Order of Business” - delete Item 12) “Councillors’ Questions without Notice”.

Such amendments are not required to be publicly exhibited as they are amendments required to bring the Code in line with legislative requirements.

The Departmental response offers a further suggestion and states:

“...Council may wish to consider adopting a practice where councillors, just prior to the end of an open council meeting, are given an opportunity to raise questions on the understanding that the answers will be provided at the following meeting.

Such questions should be recorded in the minutes of the meeting. This could be formalised by way of an agenda item “Questions for Next Meeting”. This would constitute notice of the question for the following meeting, provided that there is sufficient time between the two meetings to meet the notice requirements of clause 241 of the Regulation.”

In terms of the suggestion to introduce an agenda item “Questions for Next Meeting”, a practical way this would work would be for Councillors at the Council Meeting to raise their questions, these would be noted in the minutes and a formal response would be provided in the Business Paper for the next meeting, if timing permitted. In cases where business paper deadlines do not make it possible to have a formal written response to the questions at the next meeting, a response would be provided at the meeting after. In cases where a response cannot be provided within two meetings, a response outlining why the question cannot be answered and an anticipated timeframe for the response will be provided.

On the basis of Council's previous discussions and resolution to lobby for the continuation of “Questions Without Notice”, it would seem that the DLG's suggestion for an agenda item “Questions for Next Meeting” is a reasonable solution and is proposed. The proposal would be effected by the inclusion of a new clause 3.3.12 titled “Questions For Next Meeting” which would read as follows:

“3.3.12 Questions For Next Meeting

1. *At all Council meetings, each Councillor may ask questions for the next Council meeting under the segment of the business paper designated for that purpose. The Mayor or Chairperson of the meeting may exercise discretion in limiting questions or ruling any question out of order.*
2. *Questions for the next meeting should relate to questions concerning items not on the business paper of the Meeting where the question is raised.*
3. *The chairperson must not permit discussion or any reply to a question under this clause.*
4. *Councillor questions for the next meeting and responses shall be included on the next Council Meeting's business paper or, if this is not possible, the one following the next or an explanation given as to the reasons for delay and anticipated time of final response.*
5. *These questions and subsequent reports responding to the questions are not subject to discussion, debate or public address at the meeting asked and/or answered.*
6. *This clause does not apply to an extraordinary meeting of the Council.*
7. *Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.”*

A consequential amendment would be required to the order of business for Ordinary Meetings. In this regard it is proposed that Item 12 of Clause 2.3.6 - “Order of Business” would be amended to read “Questions For Next Meeting” in lieu of “Questions Without Notice”. This would mean that the last agenda item of the Ordinary Council Meeting prior to reports proposed to be discussed in Confidential Session, would have Councillors ask questions as is now the case with the exception that there will be no responses to those questions until the following meeting if possible.

ORDINARY MEETING

Meeting Date: 31 August 2010

Section 362(2) of the LGA requires proposed amendments to Council's Code of Meeting Practice be publicly exhibited prior to adoption, unless the Council is of the opinion that the amendments are not substantial.

It is considered that the proposed amendments to the Code of Meeting Practice are not substantial as they mainly reflect amendments which are compulsory to bring it in line with the Regulations, and provide a minor variation to the Questions With Notice item.

It is, therefore, considered that public exhibition of the amended Code of Meeting Practice is not required.

Conformance to Community Strategic Plan

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

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

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

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

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That:

1. The Code of Meeting Practice be amended as follows:

- a. Delete reference to Questions Without Notice as follows:

- i. Delete sub clause 4) (Tabling of Documents During Question Time) of Clause 2.3.4.
- ii. Delete Item 12 (Councillors' Questions Without Notice) of Clause 2.3.6 - Order of Business.

- b. Insert reference to Questions For Next Meeting as follows:

- i. Add Clause 3.3.12 as follows:

“3.3.12 Questions For Next Meeting

1. *At all Council meetings, each Councillor may ask questions for the next Council meeting under the segment of the business paper designated for that purpose. The Mayor or Chairperson of the meeting may exercise discretion in limiting questions or ruling any question out of order.*
2. *Questions for the next meeting should relate to questions concerning items not on the business paper of the Meeting where the question is raised.*
3. *The chairperson must not permit discussion or any reply to a question under this clause.*
4. *Councillor questions for the next meeting and responses shall be included on the next Council Meeting's business paper or, if this is not possible, the one following the next or an explanation given as to the reasons for delay and anticipated time of final response.*
5. *These questions and subsequent reports responding to the questions are not subject to discussion, debate or public address at the meeting asked and/or answered.*

ORDINARY MEETING

Meeting Date: 31 August 2010

6. *This clause does not apply to an extraordinary meeting of the Council.*
 7. *Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting."*
- ii. Reword Item 12 of Clause 2.3.6 - "Order of Business" to read "Questions For Next Meeting" in lieu of "Questions Without Notice".
2. As the amendments to the Code of Meeting Practice are not substantial, the changes not be advertised and the amended Code of Meeting Practice be adopted from the date of this meeting.

ATTACHMENTS:

- AT - 1** Report to Council of 2 February 2010: SS - Code of Meeting Practice - Questions Without Notice - (79337)
- AT - 2** Response from the Department of Premier and Cabinet dated 16 April 2010.

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Report to Council of 2 February 2010: SS - Code of Meeting Practice - Questions Without Notice - (79337)

ITEM: Business Paper - Ordinary Meeting Agenda - 31 August 2010

Previous Item: 210, Ordinary (29 September 2009)
123, Ordinary (30 June 2009)
NM, Ordinary (12 May 2009)
201, Ordinary (28 June 2005)
62, Ordinary (9 November 2004)

REPORT:

Council, at its meeting of 29 September 2009, in relation to its review of the Code of Meeting Practice, resolved in part:

"That:

- 1. In Council's view the amendments, other than that relating to the proposal to discontinue "Questions Without Notice", made since exhibition of Council's Draft Code of Meeting Practice are not substantial and accordingly, but for that one exception, they may be adopted without further exhibition.*
- 2. The sections of the existing Code of Meeting Practice relating to "Questions Without Notice" be retained in the Revised Code on an interim basis.*
- 3. The Revised Draft Code of Meeting Practice, as exhibited and amended by this resolution be adopted by Council.*
- 4. The Revised Code of Meeting Practice as amended take effect from 10 November 2009.*
- 5. In Council's view, the practice of "Questions Without Notice" does not constitute transacting business in the terms of Section 241 of the Local Government (General) Regulation 2005, as no resolutions of Council are made by means of that practice, unless through the moving of a motion of urgency as provided for in Section 241 (3).*
- 6. Council obtain legal advice as to whether the asking of questions seeking information and answering of those questions by councillors or staff constitutes transaction of business in the terms of Section 241 of the Local Government (General) Regulation 2005.*
- 7. In the event that legal advice supports the view that "Questions Without Notice" are not inconsistent with Section 241 of the Local Government (General) Regulation 2005, Council write to the Minister for Local Government conveying that advice and stating its view that "Questions Without Notice" are an important dimension of councillors' role on behalf of the community and the Department's Practice Note No. 16 should be amended to permit the continuation of such questions with appropriate procedural conditions."*

In relation to point 6 above, legal advice was sought from Marsdens Law Group, and a copy of the legal advice, received by letter dated 16 December 2009, is attached as Attachment 1 to this report.

The legal advice supports the views expressed by the then Department of Local Government in its updated Practice Note 16 – Meetings Practice, issued in August 2009. The legal advice, in relation to having Questions on Notice as an agenda item, concludes by stating:

ORDINARY MEETING

Meeting Date: 31 August 2010

“Whilst it may have been the practice of some councils in the past to have an agenda item for ‘Questions Without Notice’ we agree with the view expressed by the Division of Local Government, Department of Premier and Cabinet in Practice Note 16 that having such an agenda item is inconsistent with the provisions of the Regulations and is likely to constitute a breach of the LG Act in respect of which any person may bring proceedings in the Land and Environment Court to remedy or restrain (see section 674 of the LG Act).”

As previously reported, under Section 360(2) of the Local Government Act, 1993 (the Act), Council may establish a Code of Meeting Practice. The Code must incorporate meeting procedures set out in the Act, and Local Government (General) Regulation 2005, and can incorporate local provisions. However, in adopting local provisions, the Code must be consistent with the relevant legislative provisions.

Accordingly, the Code of Meeting Practice meets the above requirements, except in respect of the issue of “Questions Without Notice”. The advice in the Practice Note, in relation to this issue, is that:

- Councillors may ask questions during the meeting on matters on the business paper, as outlined in the Code;
- Councillors can ask questions of the General Manager using the “questions on notice” provisions of the Code, including appropriate notice;
- A matter, not on the business paper, may be dealt with where the matter is ruled by the Chairperson to be of great urgency, but only after a motion is passed to allow this particular business to be dealt with.

In addition, and as previously mentioned for operational matters, Councillors may utilise existing protocols, and contact the General Manager or relevant Director for a response. Council is investigating upgrading the electronic Customer Request Management System which may also be utilised by Councillors to lodge enquiries, questions and the like.

In light of the legal advice and the advice contained within the Practice Note, it is suggested that the Code of Meeting Practice be amended to delete reference to “Questions Without Notice”, by making the following changes:

- In Clause 2.3.4 - delete sub clause 4 – Tabling of Documents during question time.
- In Clause 2.3.6 - “Order of Business” - delete Item 12 “Councillors’ Questions without Notice”, and renumber remainder.

Such amendments are not required to be publicly exhibited as they are amendments required to bring the Code in line with legislative requirements.

It is pointed out that these changes are only being recommended to ensure that Council's Code meets legislative requirements and the Practice Note issued by the Division of Local Government.

Conformance to Strategic Plan

The proposal is consistent with the *Shaping our future together* Directions statement;

“Have transparent, accountable and respected leadership and an engaged community.”

and is also consistent with the strategy in the Community Strategic Plan being:

“Having ongoing engagement and communication with our community, *governments and industries.*”

Funding

Not applicable.

ORDINARY MEETING

Meeting Date: 31 August 2010

RECOMMENDATION:

That Council's Code of Meeting Practice be amended to delete references to "Questions Without Notice", by deleting Sub-Clause 4 of Clause 2.3.4, and Item 12. "Councillors' Questions Without Notice" in Clause 2.3.6.

ATTACHMENTS:

AT - 1 Legal advice received from Marsdens Law Group dated 16 December 2009.

ORDINARY MEETING

Meeting Date: 31 August 2010

AT - 1 Legal advice received from Marsdens Law Group dated 16 December 2009

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

AT – 2 Response from the Department of Premier and Cabinet dated 16 April 2010

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 31 August 2010

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

oooO END OF REPORT Oooo

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 205 **SS - Policy for Payment of Expenses and Provision of Facilities to Councillors - Review - (95496)**

Previous Item: 209, Ordinary (29 September 2009)
 193, Ordinary (9 September 2008)

REPORT:

Executive Summary

Councils are required by the Local Government Act 1993 (LGA) to adopt a Policy on the provision for the payment of expenses and the provision of facilities to Councillors. The LGA requires that the Policy be reviewed annually and generally any proposed changes be publicly exhibited prior to changes to the Policy being adopted.

The annual review of Council's Policy has been undertaken and has taken into account the Guidelines issued in October 2009 by the Division of Local Government, Department of Premier and Cabinet (known as DLG). The existing Policy complies with the Guidelines. The existing Policy allows for a range of equipment to be provided to Councillors to meet their civic duties. It is recommended that the Policy be amended to include the provision of an appropriate USB memory stick to Councillors for use with their computers for the storing and/or transfer of work and the provision of an appropriate diary, either in hardcopy or electronic format, to assist Councillors in the conduct of their civic duties. Some housekeeping changes are also recommended to the Policy.

Consultation

There has been some industry debate given the wording of the specific provisions of the LGA relating to this Policy as to whether or not "non substantial" changes to Policy need to be advertised. The revised DLG Guidelines attempt to clarify the issue indicating that the adoption of a proposed Policy and any amendments require a public exhibition period of 28 days.

In keeping with the DLG's interpretation it is considered that the public be provided with the opportunity to review and comment on the Policy and its proposed amendments through a 28 day public exhibition process prior to its adoption.

Background

At the meeting of Council held on 29 September 2009, Council adopted a revised "Policy on the Payment of Expenses and Provision of Facilities to Councillors".

Section 252 of the Local Government Act 1993 (LGA) requires a council, within five months after the end of each financial year, to adopt a policy in this regard.

Section 253 of the LGA also details requirements to be complied with prior to such a policy being adopted or amended in the following terms:

- "(1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submission and make any appropriate changes to the draft policy or amendment.*

ORDINARY MEETING

Meeting Date: 31 August 2010

- (3) *Despite subsection (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- (4) *Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:*
 - (a) *a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and*
 - (b) *a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and*
 - (c) *a copy of the notice given under subsection (1).*
- (5) *A council must comply with this section when proposing to adopt a policy each year in accordance with section 252(1) even if the council proposes to adopt a policy that is the same as its existing policy."*

The 2008 review had taken into account the DLG's Guidelines issued in 2008. As a result of feedback received from councils, the DLG issued a revised version of the Guidelines in October 2009 clarifying a number of areas. A council's policy must comply with any Guidelines issued by the DLG. The review of Council's existing policy indicates that it does comply with those Guidelines.

The review identified some necessary housekeeping changes as a consequence of the State Government change resulting in the Department of Local Government becoming a Division within the Department of Premier and Cabinet. It is also proposed to make a minor change to the facilities provided to Councillors by including the provision of USB memory sticks. It is now common with latest electronic technology to use portable USB memory sticks to enable the transfer of electronic files easily and conveniently from one computer to another. It is proposed to include the provision of such USB memory sticks to Councillors by the amendment of Part 3 Section 2 (a) (iv) and (c) (xii) of the Policy. It is also proposed to provide for the provision of an appropriate diary, either in hardcopy or electronic format, to assist Councillors in the conduct of their civic duties by the inclusion of Part 3 Section 2 (a) (xii) and (c) (xiv) of the Policy.

A copy of the existing Policy updated to reflect these changes (in bold) is attached to this report, as Attachment 1. The updated policy as attached is recommended for public exhibition and a report back to Council.

Conformance to Community Strategic Plan

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

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

and is also consistent with the strategy in the Community Strategic Plan being:

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

Financial Implications

The cost of 12 USB memory sticks and an appropriate diary would be minimal and would be met from the existing budget allocation for Councillor expenses.

RECOMMENDATION:

That the amended Policy for Payment of Expenses and Provision of Facilities to Councillors attached as Attachment 1 to the report be placed on public exhibition for a period of 28 days and that the matter be reported back to Council at the conclusion of the exhibition period.

ORDINARY MEETING

Meeting Date: 31 August 2010

ATTACHMENTS:

AT - 1 Amended Policy for Payment of Expenses and Provision of Facilities to Councillors - (*Distributed Under Separate Cover*).

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 31 August 2010**Item: 206** **SS - Consultants Utilised by Council - 1 January to 30 June 2010 - (95496, 79337)****Previous Item:** 187, Ordinary (14 June 2005)
34, Ordinary (23 February 2010)**REPORT:****Executive Summary**

At the meeting of Council held on 14 June 2005 consideration was given to a report regarding the consultants utilised by Council in 2003/2004 and 2004/2005. Subsequently, in recent years Council has been provided with reports outlining consultants utilised by Council on a six monthly basis.

This purpose of this report is to provide details of the various firms or persons the Council has utilised as consultants for the period from 1 January to 30 June 2010.

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 14 June 2005 consideration was given to a report regarding the consultants utilised by Council. That report detailed various consultants, the purpose of the engagement and the expenditure in 2003/2004 and 2004/2005.

Subsequently, in recent years Council has considered reports outlining consultants utilised by Council for six monthly periods, being January to June and July to December each year.

The following table provides details of the various firms or persons the Council has utilised as consultants for the period from 1 January to 30 June 2010, detailing the purpose of the consultancies and the amount paid in this period:

Firm	Purpose	Funding Source	External Requirement	6 Months to 30/06/2010
Agsol Pty Ltd	South Windsor Effluent Reuse Scheme workshop	Grant	No	\$1,859.20
Archaeological & Heritage Management Solutions Pty Ltd Pty Ltd	Archaeological Assessment – Streeton Lookout	Grant	No	\$3,300.00
Barker Ryan Stewart Pty Ltd	Design Services – Thorley St Bligh Park	Grant	No	\$16,856.00
Barker Ryan Stewart Pty Ltd	Development engineering services	General Funds	No	\$15,950.00
Berzins Environmental Planning Pty Ltd	Preparation of LEP	General Funds	No	\$2,000.00

ORDINARY MEETING

Meeting Date: 31 August 2010

Firm	Purpose	Funding Source	External Requirement	6 Months to 30/06/2010
Bewsher Consulting Pty Ltd	Hawkesbury Overland Flow Study	Grant	No	\$14,935.06
Chameleon	Computer software	General Funds	No	\$675.00
Christopher Hallam and Associates Pty Ltd	Suffolk Street Study	General Funds	No	18,000.00
Computer Systems Australia	Computer software	General Funds	No	\$4,421.50
Consulting Earth Scientists Pty Ltd	WMF quarterly environmental monitoring and annual reporting	General Funds	Dept of Environment & Climate Change	\$28,831.30
David Braunstein Consulting	OH&S Training	General Funds	No	\$5,865.00
Dept Services, Technology & Administration	South Windsor Water Recycling Scheme – Review of Environmental Factors	Grant	No	\$88,475.00
Donald Ellsmore Pty Ltd	Heritage advisory services	General Funds	No	\$9,350.00
Dylarna Corporation Pty Ltd trading as The Playground Doctor	Council playgrounds site inspections	General Funds	No	\$3,810.00
Edds & Associates	Slab Barn study	General Funds/Grant	No	\$15,500.00
Edge Land Planning	Preparation of evidence regarding legal matter	General Funds	No	\$8,750.00
Environmental Partnership (NSW) Pty Ltd	Architectural landscaping – Windsor Foreshore	Grant	No	\$25,080.00
ESRI Australia	Computer software	General Funds	No	\$3,300.00
Golder and Associates Pty Ltd	Environmental monitoring – East Kurrajong landfill	General Funds	Dept of Environment & Climate Change	8,434.00
Government Records Repository	Records management	General Funds	No	\$4,500.00
GTA Consultants (NSW) Pty Ltd	Hawkesbury Mobility Plan	General Funds	No	\$1,000.00
Harris Page & Associates Pty Ltd	Fire services design and documentation – Administration Building fibre optic cabling	General Funds	No	\$3,200.00
Hassell Ltd	Hawkesbury Residential Development Strategy	General Funds	No	\$1,600.00

ORDINARY MEETING

Meeting Date: 31 August 2010

Firm	Purpose	Funding Source	External Requirement	6 Months to 30/06/2010
HBA Consulting Services	Preparation of design and tender documentation – Hawkesbury Oasis	Grant	No	\$3,200.00
HBA Consulting Services	Preparation of design and tender documentation – Hawkesbury Administration Building – Air conditioning	General Funds	No	\$8,000.00
IAB Services	Review of Waste Management Facility	General Funds	No	\$3,858.28
Jackson Teece	Urban Analysis of Development Applications	General Funds	No	\$2,600.00
John Woodhouse	Training of Waste Management staff	General Funds	No	\$686.00
J Wyndham Prince	Civil engineering design services – George/Drummond Sts, Roundabout	Grant	No	\$15,100.00
J Wyndham Prince	North Richmond drainage strategies	General Funds	No	\$34,110.00
K D Wood Valuations (Aust) Pty Ltd	Property valuations for leasing and sale purposes	General Funds	No	\$5,200.00
K D Wood Valuations (Aust) Pty Ltd	2010 Asset valuations	General Funds	Local Govt Accounting Code	\$15,000.00
Lunney Watt and Associates Pty Ltd	Rental valuation assessments	General Funds	No	\$3,000.00
Mercury Commercial	Waste Management Facility workplace review	General Funds	No	\$5,600.00
OHS Services Australia Pty Ltd trading as Minerva Consulting Group	OH&S Professional Services May/June 2010	General Funds	No	\$10,760.00
Power Visions Pty Ltd	Power line relocation design – Hermitage Rd Kurrajong Hills	General Funds	No	\$2,692.73
QASCO (NSW) Pty Ltd	WMF aerial photography and waste volumetric analysis December 2009	General Funds	No	\$13,860.00
Ross Heathcote	Education plan for Hawkesbury Regional Museum	Grant	No	\$1,800.00
Spectra Financial Services	Investment advisory services	General Funds	DLG Investment Policy Guidelines	\$6,697.50

ORDINARY MEETING**Meeting Date:** 31 August 2010

Firm	Purpose	Funding Source	External Requirement	6 Months to 30/06/2010
Travers Environmental Pty Ltd	Flora & Fauna Assessment Webbs Creek Bridge	General Funds	No	\$6,161.75
University of Western Sydney	Water Irrigation Strategy Enhancement research	General Funds	No	\$6,000.00
Warwick Donnelly Pty Ltd	Structural engineering services– Hawkesbury Mortuary restoration and Hawkesbury Oasis	Grant	No	\$11,802.50
Workplace Navigation	Self-insurer Case Management Audit	General Funds	Workcover	\$1,800.00
TOTAL				\$443,620.82

Conformance to Community Strategic Plan

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

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

Financial Implications

This is an information report requested by Council and costs detailed have been met within existing budgets.

RECOMMENDATION:

That the information concerning consultancies utilised by Council during the period from 1 January to 30 June 2010 be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 207 SS - Monthly Investments Report - July 2010 - (96332, 95496)**Previous Item:** 17, Ordinary (3 February 2009)
82, Ordinary (28 April 2009)**REPORT:****Executive Summary**

According to Clause 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer must provide the Council with a written report setting out details of all money that the Council has invested under Section 625 of the Local Government Act 1993. The report must include a certificate as to whether or not investments have been made in accordance with the Act, the Regulation and the Council's Investment Policy.

This report indicates that Council held \$41.47 million in investments at 31 July 2010.

It is recommended that this report be received and noted.

Consultation

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

Background

The following table indicates that Council held \$41.47 million in investments as at 31 July 2010. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term and the percentage of the total portfolio, are provided below.

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
On Call								
CBA	A1+	AA	31-Jul-10		5.00%	3,970,000	9.60%	3,970,000
Term Investments								
AMP	A1	A	20-Jan-10	21-Jan-11	6.86%	1,000,000	2.41%	
ANZ	A1+	AA	24-Mar-10	20-Oct-10	6.25%	1,000,000	2.41%	
ANZ	A1+	AA	25-Nov-09	24-Nov-10	6.00%	1,000,000	2.41%	
ANZ	A1+	AA	02-Sep-09	02-Sep-10	5.25%	2,000,000	4.82%	
ANZ	A1+	AA	10-Feb-10	11-Aug-10	6.20%	500,000	1.21%	
ANZ	A1+	AA	03-Mar-10	29-Nov-10	6.30%	2,000,000	4.82%	
Bank of Cyprus	Moody's P-1	A	02-Nov-09	27-Oct-10	5.70%	1,000,000	2.41%	
Bank of Queensland	A-2	BBB+	19-May-10	17-Nov-10	6.15%	1,000,000	2.41%	
Bankwest	A1+	AA	19-Aug-09	19-Aug-10	5.00%	1,000,000	2.41%	

ORDINARY MEETING

Meeting Date: 31 August 2010

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
Bankwest	A1+	AA	21-Jul-10	20-Apr-11	6.25%	1,000,000	2.41%	
Bendigo and Adelaide Bank	A-2	BBB+	09-Oct-09	13-Oct-10	5.30%	1,000,000	2.41%	
Credit Union Australia	unrated	BBB	26-Jul-10	23-Feb-11	6.21%	1,000,000	2.41%	
Defence Force Credit Union	unrated	unrated	26-May-10	27-Oct-10	6.19%	1,000,000	2.41%	
IMB	A-2	BBB	10-Feb-10	11-Aug-10	6.25%	1,000,000	2.41%	
Investec Bank	Moody's P-2	BBB	02-Sept-09	02-Sep-10	5.74%	1,000,000	2.41%	
Macquarie Bank	A-1	A	15-Jun-10	13-Dec-10	6.00%	1,000,000	2.41%	
Members Equity	A-2	BBB	02-Jun-10	02-Dec-10	6.20%	1,000,000	2.41%	
NAB	A1+	AA	08-Dec-09	08-Dec-10	6.80%	3,000,000	7.23%	
NAB	A1+	AA	03-Dec-09	03-Dec-10	6.80%	2,000,000	4.82%	
NAB	A1+	AA	02-Sep-09	04-Aug-10	5.20%	1,000,000	2.41%	
NAB	A1+	AA	03-Jun-10	20-Jan-11	6.21%	4,000,000	9.65%	
NAB	A1+	AA	20-Jul-10	20-Jul-11	6.24%	1,000,000	2.41%	
Newcastle Permanent	A-2	BBB+	15-Jun-10	15-Jun-11	6.10%	1,000,000	2.41%	
Qantas Staff Credit Union	unrated	unrated	27-Apr-10	25-Aug-10	6.15%	500,00.00	1.21%	
Qantas Staff Credit Union	unrated	unrated	19-May-10	20-Oct-10	6.30%	500,00.00	1.21%	
Rural Bank	A-2	BBB	16-Jun-10	15-Jun-11	6.40%	1,000,000	2.41%	
Suncorp	A-1	A	15-Jun-10	15-Jun-11	6.50%	1,000,000	2.41%	
Westpac	A1+	AA	21-Dec-09	21-Dec-10	7.00%	3,000,000	7.23%	
Westpac	A1+	AA	26-May-09	27-Jan-11	6.10%	1,000,000	2.41%	37,500,000
TOTAL INVESTMENT AS AT 31 JULY 2010								41,470,000

Bench Marking

Bench Mark	Bench Mark %	Actual %
UBS 90 Day Bank Bill Rate	4.78%	6.21%
Reserve Bank Cash Reference Rate	4.50%	5.00%

Performance by Type

Category	Balance \$	Average Interest	Difference to Benchmark
Cash at Call	3,970,000	5.00%	0.50%
Term Deposit	37,500,000	6.21%	1.43%
Total	41,470,000	6.09%	1.31%

ORDINARY MEETING

Meeting Date: 31 August 2010

Restricted Funds

Restriction Type	Amount \$
External Restrictions -S94	6,075,589
External Restrictions - Other	10,992,539
Internal Restrictions	19,691,314
Unrestricted	4,710,558
Total	41,470,000

The various sources of the restricted funds referred to in the above table are as follows:

External Restrictions – Section 94 Contributions

External Restrictions – Other (reserve details below)

- Waste Management
- Sewerage
- Unexpended Grants
- Stormwater Management

Internal Restrictions (reserve details below)

- Employees Leave Entitlements
- Election
- Information Technology
- Plant Replacement
- Infrastructure
- Property Development (currently negative balance)
- Risk Management
- Heritage
- Sullage
- Tip Remediation

With regard to the above details those funds subject to external restrictions **cannot** be utilised for any purpose other than that specified.

Internal restrictions, refer to funds allocated for specific purposes or to meet future known expenses that should be provided for on an ongoing basis. Whilst it would “technically” be possible for these funds to be utilised for other purposes, such a course of action, unless done on a temporary internal loan basis, would not be recommended nor would it be “good business practice”.

Unrestricted funds may be used for general purposes in line with Council's adopted budget.

Investment Commentary

The investment portfolio decreased by \$2.81 million for the month of July, 2010. During July, various income was received totalling \$4.86 million, including rate payments amounting to \$1.66 million, while payments to suppliers and staff costs amounted to \$7.63 million.

The investment portfolio currently involves a number of term deposits and on-call accounts.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Council's investment portfolio has been reviewed and rebalanced in favour of investments not subject to share market volatility. Comparisons are made between existing investments with available products that are not part of Council's portfolio. Independent advice is sought on new investment opportunities and Council's investment portfolio is independently reviewed each calendar quarter.

ORDINARY MEETING

Meeting Date: 31 August 2010

On 25 May 2010 the Division of Local Government released the Investment Policy Guidelines to assist councils in the preparation of their Investment Policy. Consequently, Council has reviewed and adopted a revised Investment Policy on 29 June 2010.

Council's investment portfolio complies with the adopted policy.

As at 31 July 2010, Council has invested \$16 million with 2nd tier financial institutions, noting that one of these institutions is a subsidiary of a major Australian trading bank. The investment of up to \$1 million with 2nd tier banks is entirely covered by the free Government Guarantee Scheme, and is in accordance with Council's Investment Policy. Also, Council's adopted Investment Policy allows Council to invest above \$1 million with 2nd tier banks that are wholly owned subsidiaries of major Australian trading banks.

The Governor of the Reserve Bank of Australia released the following statement on monetary policy on 3 August 2010:

"At its meeting today, the Board decided to leave the cash rate unchanged at 4.5 per cent.

The global economy grew faster than trend over the year to mid 2010. The expansion has been uneven, with the major advanced countries recording only moderate growth overall but growth in Asia and Latin America very strong. There are indications that growth in China is moderating to a more sustainable rate as policies are now less accommodating. Similar adjustments to policies and growth rates are occurring in other countries in the Asian region. In Europe, while output in some key countries has been improving significantly, prospects for next year are more uncertain given planned fiscal contraction. US growth was stronger in the first half of 2010 but the pace of labour market improvement has been slow and the expansion may be somewhat lacklustre in the second half of 2010. Overall, the Bank expects global growth to be about trend over the coming year.

The caution evident in financial markets in the past few months has abated of late, helped by the disclosure of information about European banks. Nonetheless, the global outlook remains somewhat more uncertain than a few months ago and this is reflected in the volatility of financial prices. Commodity prices are off their peaks but those most important for Australia remain at very high levels, and the terms of trade are around their peak of two years ago.

With the high level of the terms of trade expected to add to incomes and demand, output growth in Australia over the year ahead is likely to be about trend, even though the effects of earlier expansionary policy measures will be diminishing. Consumption spending is recording a modest increase at present, with households displaying a degree of caution, but most indicators suggest business investment will increase over the coming year. Business credit has stabilised, though credit conditions for some sectors remain difficult. Credit outstanding for housing has continued to expand, but the upward pressure on dwelling prices appears to have abated.

The labour market has continued to firm gradually, and after the significant decline last year, growth in wages has picked up a little, as had been expected. Recent data for inflation were consistent with the Bank's May forecasts, with underlying inflation declining to about 2¾ per cent, the lowest rate for about three years. The rate of CPI increase was a little above 3 per cent due to the effects of increases in tobacco taxes announced earlier in the year. Through to mid 2011, underlying inflation is likely to be in the top half of the target zone, while CPI inflation will probably be just above 3 per cent for a few quarters due to the impact of the tax changes and increases in utilities prices.

The current setting of monetary policy is resulting in interest rates to borrowers around their average levels of the past decade. With growth likely to be close to trend, inflation close to target and the global outlook remaining somewhat uncertain, the Board judged this setting of monetary policy to be appropriate."

ORDINARY MEETING

Meeting Date: 31 August 2010

Investment Certification

I, Emma Galea (Responsible Accounting Officer), hereby certify that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

Conformance to Community Strategic Plan

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

- Be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services.

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

- Maintain and review a sustainable long term financial framework.

Financial Implications

Funds have been invested with the aim of achieving budgeted income in 2010/2011.

RECOMMENDATION:

The report regarding the monthly investments for July 2010 be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 208 **SS - June 2010 Quarterly Review - 2009/2010 Management Plan - (95496, 96332, 107)**

Previous Item: 109, Extraordinary (16 June 2009)

REPORT:

Executive Summary

The Local Government Amendment (Planning and Reporting) Act 2009 provides transitional provisions for phasing in the legislative requirements of the Integrated Planning and Reporting framework over a three-year period. Transitional provisions provide that councils continue to operate under the legislative requirements in place prior to the Amendment Act, until such time as their Group commences under the new Integrated Planning and Reporting framework. Hawkesbury City Council has decided to be a Group 3 council, implementing the Integrated Planning and Reporting Framework by June 2012.

In light of transitional provisions, the June Quarterly Review has been prepared in accordance with the legislative requirements in place prior to the Amendment Act.

In accordance with Clause 203 of the Local Government (General) Regulation 2005, within two months of the end of each quarter, Council is required to review progress in achieving the objectives set out in its Management Plan.

Section 407 (Repealed) of the Local Government Act 1993 requires the General Manager to report to Council the extent to which strategies set by the Council's current Management Plan have been achieved during that quarter.

This report and the relevant attachment provide information on Council's financial performance, financial position and progress in achieving the objectives set out in its Management Plan, as at 30 June 2010.

Clause 211 of the Local Government (General) Regulation 2005, allows for votes relating to works, services, facilities and goods and services started, carried out, provided or contracted to be carried out or provided before the end of the year concerned not to lapse at the end of the financial year. Included in the attachment is an itemised list of projects falling in this category as at 30 June 2010, requiring funding to be carried over into the 2010/2011 financial year.

Consultation

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

Background

Council adopted its Management Plan for 2009/2010 on 16 June 2009.

The Quarterly Review for the quarter ending 30 September 2009 was adopted by Council on 24 November 2009. The Quarterly Review for the quarter ending 31 December 2009 was adopted by Council on 23 February 2010. The Quarterly Review for the quarter ending 31 March 2010 was adopted by Council on 25 May 2010.

The June 2010 Quarterly Review has been prepared and is attached to this report as Attachment 1.

Financial Position

As part of the Management Plan Review, Clause 203 of the Local Government (General) Regulation 2005 requires a revised estimate of the income and expenditure for the year.

ORDINARY MEETING

Meeting Date: 31 August 2010

The June 2010 Review has been completed and reports an estimated year-end surplus position of \$80,018 subject to final audit.

The June 2010 Review results in a balanced end of year position, and in the opinion of the Responsible Accounting Officer, maintains a satisfactory short term financial position for Council.

Operating Income

For the year ended 30 June 2010, Council's total operating revenue from rates, fees and charges, grants and contributions and other revenue is \$58.8M, exceeding estimates by \$2.3M. This variance includes the advance 2010/2011 payment of the Financial Assistance Grant in the amount of \$1.1M.

A range of revenue streams have contributed to the remaining variance. Interest revenue earned on Council's investment portfolio exceeded the full year budget by \$0.4M. A revaluation of Council's investment property portfolio resulted in a revaluation profit of \$0.2M. Profit on sale of assets exceeds the budgeted amount by \$0.2M. It is to be noted that while this profit inflates the operating revenue figure, it does not have an effect on the retained surplus / deficit available for general funding purposes. The remaining operating revenue positive variance consists of a number of revenue streams performing better than budgeted. These include Property income, Town Planning income and Animal Control income. Positive variances over a number of other income streams make up the remaining variance. Also contributing to the variance is a number of unbudgeted grants received in the last quarter of 2009/2010.

Operating Expenditure

Council's operating expenditure is required for the provision of core services including road maintenance, parks, cultural and recreational facilities, regulatory services, building and development control, waste management, environmental and sewerage facilities. For the year ending 30 June 2010, total operating expenditure, excluding depreciation and including grant funded works is \$48.2M compared to a budget of \$51.3M. Operational funds of approximately \$2.3M are being requested to be carried over to the 2010/2011 financial year as part of this review. These include grant funded works. Operational unspent amounts relating to Reserve funded programs remain in the respective Reserves. Major favourable variances include savings in street lighting expenditure, IT network administration, legal expenditure, and movement in employee entitlements provisions.

A number of operating income and expenditure budget line items ended the 2009/2010 financial year with a budget variance within acceptable variation limits. The items detailed in this report are some of the major variations identified.

The budgetary controls in place at Council ensure that major variances or trends are identified in a timely manner and accounted for as part of quarterly budget reviews. Managers are required to explain variances outside the acceptable threshold on a monthly basis, and are required to address these variances as part of the quarterly review process.

Capital Expenditure

Council manages and maintains \$557M worth of assets, and during 2009/2010 has spent \$15M of a \$26M capital budget on road construction, kerb, guttering and drainage works, bridges, footpaths, open spaces, stormwater assets, sewerage assets, waste management assets, public works plant, community buildings, fleet replacement and the cultural precinct. A further \$14.8M has been added to Council's assets through dedicated assets and non-cash developer contributions. Capital works requested to be carried over to the 2010/2011 financial year amount to \$10.8M. A detailed list of projects being requested to carryover in the 2010/2011 financial year is contained within the attachment to this document.

Investments

As at the end of June 2010, Council's investment portfolio amounted to \$37.5M averaging earnings of 6.18%.

ORDINARY MEETING

Meeting Date: 31 August 2010

Restricted Assets

As at 30 June 2010, Council's Reserves amount to \$37.6M, with \$18.1M being externally restricted, and \$19.5M being internally restricted.

The more significant items of the June 2010 review include:

- **Interest Income – Favourable Variance \$400K**
(Adopted Management Plan –Part 2 – SS Pg 32)

The full year budget for interest earnings for 2009/2010 is \$1.6M. As at the end of June 2010, Council's investment earnings are \$2M, resulting in a positive variation of \$0.4M. This positive variance results from a combination of a variation in the capital invested and favourable interest rates movements. When placing investments, it is Council's business practice to seek a number of market quotations to ensure that the best rate is obtained for funds being invested in accordance with Council's Investment Policy.

- **Property Income – Favourable Variance \$40K**
(Adopted Management Plan –Part 2 – SS Pg 5)

Council has a varied investment property portfolio, consisting of commercial and residential properties across the LGA. When negotiating leases, Council obtains independent market rental valuations to ensure an optimal rental rate is negotiated. The actual income generated through Council's investment properties exceeded the full year budget by approximately \$40K. This favourable variance is mainly due to less than budgeted vacancies, combined with better than expected rental returns negotiated.

- **Animal Control Income – Favourable Variance \$45K**
(Adopted Management Plan –Part 2 – CP Pg 16)

The full year budget for Animal Control income for 2009/2010 is \$433K. As at the end of June 2010, actual income received through the program is \$478K, resulting in a favourable variance of \$45K. The favourable variance is mainly attributed to income received in respect of animal registration.

- **Town Planning Income – Favourable Variance \$45K**
(Adopted Management Plan –Part 2 – CP Pg 29, 31)

Council generates over \$1M annually through building and development income. The main revenue streams are construction certificates, S149 certificates, subdivision fees and development applications. Income from construction certificates exceeded budget by \$12K, income from subdivision fees exceeded budget by \$18K, with the remaining positive variance being attributed to other town planning income. The main driver for the increased subdivision income has been the development occurring in Pitt Town. At the time the budget for 2009/2010 was being prepared, the expected continued impact of the global financial crisis on this revenue stream was reflected in the budgeted amounts. The impact of new development in the LGA has partially offset the downturn and the adopted budget for 2009/2010 was subsequently increased by approximately \$60K through quarterly budget reviews, ending the financial year with a further positive variance of \$45K.

- **Investment Properties Revaluation – Favourable Variance \$206K**
(Not in the Adopted Management Plan –Part2)

The Local Government Code of Accounting Practice and Financial Reporting set out a requirement for Council's investment properties to be carried at fair value, which is based on active market process, adjusted if necessary, for any difference in the nature, location or condition of the specific asset. If this information is not available, Council may use alternative valuation methods such as recent prices in less active markets or discounted cash flow projections. A valuation by a member of the Australian Property Institute is required every 3 years. Changes in fair values are recorded in the income statement as part of other income, or other expenses as applicable. In 2007, KD Wood Valuations (Aust.) Pty Ltd provided independent market valuations for Council's investment properties. In accordance with the Code, a revaluation has been undertaken as at June 2010. While some properties showed an increase in values,

ORDINARY MEETING

Meeting Date: 31 August 2010

others have resulted in a decrease in value. The overall resulting increase in fair value of Council's investment properties is \$206K. This increase has been transferred to the Property Reserve.

- **Legal Expenditure – Favourable Variance \$245K**
(Adopted Management Plan –Part 2 – SS Pg 43)

The full year budget for legal expenditure for 2009/2010 is \$491K. For the financial year ending 30 June 2010, total net legal expenditure is \$246K, resulting in a positive variance of \$245K. It is to be noted that \$210K was received in respect of legal proceedings determined in favour of Council. These payments, relating to proceedings which may have commenced in previous financial years, have been offset against expenditure incurred during the 2009/2010 financial year. The actual legal expenditure incurred by Council was within acceptable budget variation limits.

- **IT Network Administration – Favourable Variance \$66K**
(Adopted Management Plan –Part 2 – SS Pg 39)

As at the end of June 2010, actual expenditure incurred in relation to information technology network administration was \$66K under budget. The variance mainly relates to leasing expenses. Council leases the majority of computer equipment. This procurement approach results in Council always having up to date equipment, as well as avoiding large capital expenditures impacting a particular budget year.

- **Street Lighting Expenditure – Favourable Variance \$80K**
(Adopted Management Plan –Part 2 – IS Pg 33)

The full year budget for street lighting for 2009/2010 is \$611K. Actual expenditure incurred during 2009/2010 is \$531K, resulting in a saving of \$80K. At the time of preparing the 2009/2010 budget significant increases in the cost of electricity were expected and allowed for. The impact on the street lighting electricity contract was less than expected, resulting in a saving for the year.

- **Employee Entitlements Provision –Unfavourable Variance \$466K**

Council is required to ensure that it maintains its employee leave entitlements provisions at an appropriate level. Council's liability in respect of employee leave entitlements as at 30 June 2010 has been determined and results in an increase in the overall provisions required for Annual Leave, Leave in Lieu, Long Service Leave and Pre 93 Sick Leave of \$466K.

- **Transfer to Election Reserve – Unfavourable Variance \$100K**
(Adopted Management Plan –Part 2 – GM Pg 13)

As Council is aware, following the passing of Councillor Dr Rex Stubbs OAM, a By-Election was held on 19 June 2010. The next Council election will be held in the 2012/2013 financial year.

Council elections are funded by an internally restricted reserve, the Election Reserve. An amount is set aside in each annual budget with the aim of the Reserve achieving a sufficient level of funding in line with the election cycle. As at the end of June 2010, the Election Reserve amounted to \$269K. Based on annual transfers to the Reserve of \$100K, and the allocation of the By-Election costs, it is estimated the Reserve balance will be in the vicinity of \$350K by 2012/2013. In light of annual increases in costs, these funds may not be sufficient to fully fund the cost of the next Council election.

In order to ensure that sufficient funds are available in the Election Reserve to cover the next Council election, and to minimise the pressure on future years, an amount of \$100K has been transferred to the Election Reserve in this Review.

- **Contingency Reserve – Transfer \$80K**

The surplus resulting after all the necessary adjustments and subject to final audit is \$80K. In addition an interest allocation of \$13K has also been transferred to the Contingency Reserve.

ORDINARY MEETING

Meeting Date: 31 August 2010

The balance of the Contingency Reserve as at 30 June 2010 takes into account funding of a "Supplementary Road Rehabilitation Program" of \$275K, details of which are included in a separate report within this business paper.

It is to be noted that the preparation of the annual financial statements entails the consolidation of other entities accounts with Council's figures. The income and expenses of Hawkesbury Leisure Centres and Hawkesbury Sports Council are consolidated with Council's figures. Also, the equity interest in Westpool is taken into account.

Conformance to Community Strategic Plan

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

- Be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services

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

- Maintain and review sustainable long term financial framework

Financial Implications

Funding and budget impacts have been specified within this report and attached review documentation.

RECOMMENDATION:

That the:

1. Information contained in the report on the 2009/2010 Management Plan – June 2010 Quarterly Review be received.
2. Quarterly Review of the 2009/2010 Management Plan for the period ending 30 June 2010 be adopted.

ATTACHMENTS:

AT - 1 2009/2010 Management Plan Review – June 2010 Quarter - *(distributed under separate cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 31 August 2010

CONFIDENTIAL REPORTS

INFRASTRUCTURE SERVICES

Item: 209 **IS - Confidential Report - Tender Number 02110, Sewer Pump Station 'V' and Rising Main - (95495, 79344) CONFIDENTIAL**

Reason for Confidentiality

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

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

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

ORDINARY MEETING

Meeting Date: 31 August 2010

SUPPORT SERVICES

Item: 210 **SS - Property Matter - Approval to use Footway for Restaurant Purposes - Thompson Square Decking Area, Windsor - (95496, 73700, 4773, 103842)**
CONFIDENTIAL

Reason for Confidentiality

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

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

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

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 211 **SS - Property Matter - Surrender of Lease from Hutchison Telecommunications (Australia) Limited and New Lease with Hutchison 3G Australia Pty Limited - Wilberforce Works Depot, Old Sackville Road, Wilberforce - (95496, 79337, 73984) CONFIDENTIAL**

Previous Item: 250, Ordinary (25 November 2008)

Reason for Confidentiality

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

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

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

ORDINARY MEETING

Meeting Date: 31 August 2010

Item: 212 SS - Property Matter - Lease to Amos Leighton - Café Facility within the Deerubbin Cultural Precinct - (111401, 112106, 95496) CONFIDENTIAL

Reason for Confidentiality

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

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

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

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Hawkesbury Macquarie 2010 Committee Meeting Minutes - 12 August 2010 - (114013)

The meeting commenced at 9.05 am in the Council Chambers, Hawkesbury City Council.

Present:	Councillor. Bart Bassett	Hawkesbury City Council
	Councillor Jill Reardon	Hawkesbury City Council
	Carol Edds	Community Representative
	Colin Mitchell	Community Representative
	John Miller	Community Representative
	Jean Stephens	Community Representative
	Judy Newland	Community Representative
	Brian Lindsay	Community Representative
	Frank Holland	Community Representative
	Gai Timmerman	Community Representative
	Esther Perry	Hawkesbury City Council
	Keri Whiteley	Hawkesbury City Council
Apologies:	John Christie	Community Representative
	Tony Miller	Hawkesbury City Council
In Attendance:	Joseph Litwin	Hawkesbury City Council

REPORT:

RESOLVED on the motion of John Miller and seconded by Councillor Jill Reardon that the apologies be accepted.

SECTION 1 - Conformation of Minutes

1. Conformation of Minutes

RESOLVED on the motion of John Miller seconded by Councillor Jill Reardon that the Minutes of the Hawkesbury Macquarie 2010 Committee held on 10 June, 2010 be accepted.

2. Matters arising from Previous Minutes

There were no matters arising.

SECTION 2 – REPORTS FOR DETERMINATION

Item 35: Update of progress of Mosaic Art Sculpture at Governor Macquarie Statue, McQuade Park Windsor

Ms Perry presented the final version of the design of the mosaic art sculpture.

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Councillor Jill Reardon and seconded by Colin Mitchell.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION.

That the information be received.

Item 36: Interpretation of the 'Major General Lachlan Macquarie, Governor of NSW 1810-1821 statue

Ms Whiteley briefed the committee on the project and advised that the location of the interpretive panels (as identified in the report) had been amended to ensure safe access for people with disabilities - particularly wheelchair uses.

John Miller sought confirmation as to whether the project conformed with Council's Interpretive Signage Policy. Mr Litwin advised that the Policy was currently on public exhibition and had not yet been reported to Council for adoption. Mr. Miller also suggested that it would be preferable for the interpretive panels to be cast in bronze.

Carol Edds requested clarification as to whether the project catered for people with visual disabilities and suggested that the interpretive panels should include provision for Braille. Ms Whiteley advised that Council was investigating the use of downloadable audio which would assist the vision impaired. Ms Whiteley indicated that Council would however investigate the feasibility and use of Braille.

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Colin Mitchell and seconded by Gai Timmerman.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION

That the information be received.

SECTION 3 – REPORTS OF WORKING PARTY MEETINGS

ROWP - Hawkesbury Macquarie 2010 Branding + Marketing Working Party

Colin Mitchell advised the committee that a project team had been established to compile a booklet based on the weekly Macquarie 2010 articles in the Hawkesbury Gazette.

ROWP - School Involvement Working Party

Brian Lindsay tabled a written report in relation to the Schools Visual Arts Project.

ORDINARY MEETING
Reports of Committees

SECTION 4 - GENERAL BUSINESS

Esther Perry advised that the Community Report distributed with rate notices included the Macquarie 2010 Program for the next six months.

NEXT MEETING – to be held at 3.00 pm on Thursday 14 October 2010, in the Council Chambers, Hawkesbury City Council, 366 George St. WINDSOR.

The Meeting Closed at 10.15 am.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees



ordinary
meeting

end of
business
paper

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