



# Hawkesbury City Council

## ordinary meeting business paper

date of meeting: 13 November 2012

location: council chambers

time: 6:30 p.m.



# mission statement

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

## **How Council Operates**

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

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

Ordinary Meetings of Council are generally held on the second Tuesday of each month (except January), and the last Tuesday of each month (except December), meeting dates are listed on Council's website. The meetings start at 6.30pm and are scheduled to conclude by 11:00pm. These meetings are open to the public.

When an Extraordinary Meeting of Council is held, it will usually also be held on a Tuesday and start at 6.30pm. These meetings are also open to the public.

### **Meeting Procedure**

The Mayor is Chairperson of the meeting.

The business paper contains the agenda and information on the items to be dealt with at the meeting. Matters before the Council will be dealt with by an exception process. This involves Councillors advising the General Manager by 3:00pm on the day of the meeting, of those items they wish to discuss. A list of items for discussion will be displayed at the meeting for the public to view.

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

### **Public Participation**

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

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

### **Voting**

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

### **Planning Decision**

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

### **Business Papers**

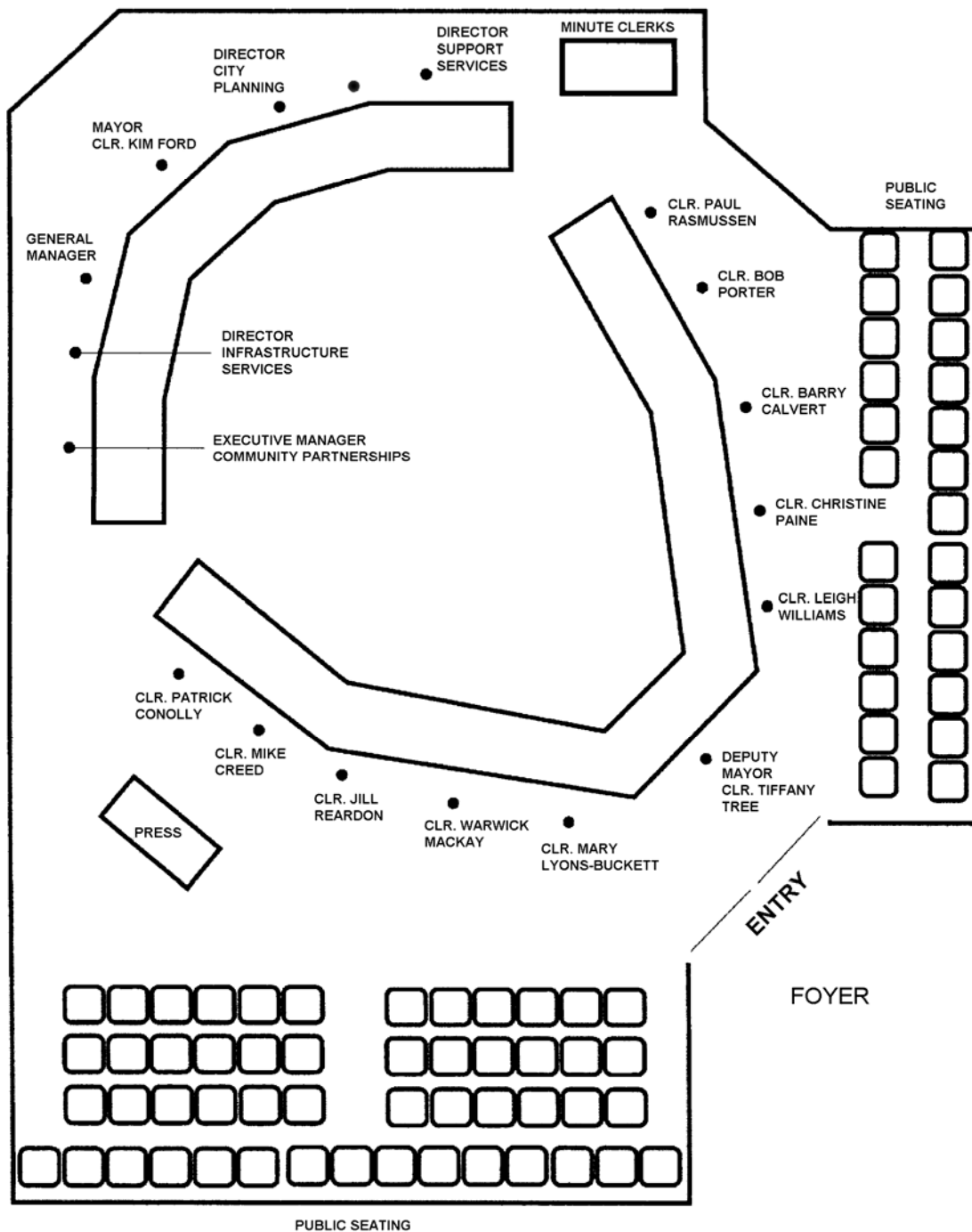
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

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

### **Further Information**

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

# Hawkesbury City Council



**ORDINARY MEETING**

**Table of Contents**

**Meeting Date: 13 November 2012**

**AGENDA**

- **WELCOME / EXPLANATIONS / PRAYER**
- **APOLOGIES**
- **DECLARATION OF INTERESTS**
- **PRESENTATION BY COUNCIL'S AUDITOR, MR DENNIS BANICEVIC OF PRICEWATERHOUSECOOPERS, IN RESPECT OF COUNCIL'S AUDITED 2011/2012 FINANCIAL REPORTS**
- **SECTION 1 - Confirmation of Minutes**
- **AGENDA ITEMS SUBJECT TO PUBLIC ADDRESS**
- **SECTION 2 - Mayoral Minutes**
- **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 FOR NEXT MEETING**

**ORDINARY MEETING**

**Table of Contents**

**Meeting Date:** 13 November 2012

**ORDINARY MEETING****Table of Contents****Meeting Date:** 13 November 2012**TABLE OF CONTENTS**

<b>ITEM</b>	<b>SUBJECT</b>	<b>PAGE</b>
<b>SECTION 1 - Confirmation of Minutes</b>		<b>3</b>
<b>SECTION 3 - Notices of Motion</b>		<b>7</b>
NM1 -	Establishment of Economic Development Advisory Committee - (79351, 80106)	7
NM2 -	Policy regarding Dual Occupancy Dwellings on Acreage - (79351, 90477)	8
NM3 -	Dredging of Hawkesbury River - (79351,90477)	9
NM4 -	Possible Future Use of Richmond RAAF Base For Commercial Aviation Purposes - (79351, 801804)	10
NM5 -	Establishment of a Sustainability Advisory Committee - (79351, 125612)	11
<b>SECTION 4 - Reports for Determination</b>		<b>14</b>
<b>GENERAL MANAGER</b>		<b>14</b>
Item: 189	GM - Local Infrastructure Renewal Scheme - (79351)	14
Item: 190	GM - Establishment of Development Application Monitoring Advisory Committee - (79351)	19
Item: 191	GM - Sustainable Economic Growth for Regional Australia (SEGRA) Conference - (79351)	22
Item: 192	GM - Nomination to the Board of Western Sydney Academy of Sport (79351, 80256)	24
<b>CITY PLANNING</b>		<b>26</b>
Item: 193	CP - Development Report - DA0058/12 - Agriculture - Including removal of native vegetation and erection of shed - Lot 545 DP 751665 - 58 Reserve Road Freemans Reach - (94598, 111280)	26
Item: 194	CP - Development Report - DA0281/12 - Recreation Establishment - Outdoor recreational tree top facility and associated amenities - Lot 1 DP 235341 - 167-213 Springwood Road Yarramundi - (94598, 19123)	49
Item: 195	CP - Planning Proposal for Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave (LEP89004/10) - (95498)	80
Item: 196	CP - Application for a Hotel - General Bar Liquor Licence - Darren Fahey Shop 1/180 George Street, Windsor - (94598)	113
Item: 197	CP - Possible Amendment of the Hawkesbury Local Environmental Plan to Permit Secondary Dwellings in Rural and Environmental Protection area and Infrastructure Levy for Secondary Dwellings - (94598)	117

## ORDINARY MEETING

### Table of Contents

Meeting Date: 13 November 2012

Item: 198	CP - Hawkesbury City Council - Annual Report - 2011/2012 - (95498)	128
<b>SUPPORT SERVICES</b>		<b>130</b>
Item: 199	SS - Monthly Investments Report - September 2012 - (96332, 95496)	130
Item: 200	SS - Exemption from Rating - 24 Church Street, South Windsor - (95496, 96332, 124932)	134
Item: 201	SS - General Purpose Financial Statements and Special Purpose Financial Statements for the period ended 30 June 2012 - (96332, 95496)	136
<b>CONFIDENTIAL REPORTS</b>		<b>140</b>
Item: 202	IS - Tender No. 00916 - Concrete Works - Restoration of Footpaths and Kerb & Guttering - (95495, 79344) CONFIDENTIAL	140
Item: 203	IS - Tender No.00917 - Provision of a Septic Tank & Collection Well Effluent Removal Service - (95495, 112179) CONFIDENTIAL	141
Item: 204	SS - Property Matter - Assignment of Lease from Andreas and Catarina Froemel to Denise O'Rourke - Shop 2, Glossodia Shopping Centre - (95496, 1121406, 73977, 24232) CONFIDENTIAL	142
<b>QUESTIONS FOR NEXT MEETING</b>		<b>143</b>
Councillors Questions from Previous Meetings and Responses		143



**ORDINARY MEETING**

**Table of Contents**

**Meeting Date:** 13 November 2012

ordinary

section 1

confirmation of minutes

**ORDINARY MEETING**  
Confirmation of Minutes

**ORDINARY MEETING**  
Confirmation of Minutes

**SECTION 1 - Confirmation of Minutes**

**ORDINARY MEETING**  
Confirmation of Minutes

ordinary

section

3

notices of motion

**ORDINARY MEETING**

Notices of Motion

## ORDINARY MEETING

### Notices of Motion

#### SECTION 3 - Notices of Motion

##### NM1 - Establishment of Economic Development Advisory Committee - (79351, 80106)

---

**Submitted by:** Councillor P Rasmussen

#### NOTICE OF MOTION:

That:

1. A Report be submitted to Council regarding the feasibility of establishing an Economic Development Advisory Committee (EDAC).
2. The Report to also address related issues such as costs involved, funding sources, community membership, committee constitution and operating procedures, and any other related issues including a brief summary of Council's previous such Committees.

#### BACKGROUND:

1. Many NSW Councils have EDACs within their Committee structure and many such Committees, comprising a strategic mix of local business people, Council staff, Councillors and other community stakeholders/entities, have been very successful in enabling, invigorating and facilitating economic growth in their local area and region.
2. For years Hawkesbury City Council had an EDAC, or similar Committee, which operated, in my view, very successfully to enhance, promote and stimulate the local economy. For various reasons this, and other related Committees (eg Marketing Committee) were abandoned by Council some years ago.
3. Council requires a strategic approach and framework to economic development of the local economy and the establishment of an EDAC could be the practical manifestation of such thinking, policy direction and formulation within Council.
4. Council has formulated several key economic objectives within its planning framework (eg Community Strategic Plan) and the establishment of an EDAC would be a good fit for such planning objectives to be achieved over the planning time frame.
5. Within the Hawkesbury City there are many stakeholders in the growth and enhancement of the local economy and bringing these stakeholders together in a strategic and focussed framework would enable a much more vigorous and coordinated approach to economic development throughout the LGA.

#### ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo



**ORDINARY MEETING**

**Notices of Motion**

**NM2 - Policy regarding Dual Occupancy Dwellings on Acreage - (79351, 90477)**

---

**Submitted by:** Councillor B Porter

**NOTICE OF MOTION:**

That Hawkesbury City Council adopt the same policy as Penrith City Council regarding dual occupancy dwellings on acreage.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

#### **NM3 - Dredging of Hawkesbury River - (79351,90477)**

---

**Submitted by:** Councillor B Porter

#### **NOTICE OF MOTION:**

That:

1. Council investigate the dredging of the Hawkesbury River at the seven points previously identified as having a sediment build up.
2. The \$46,000 previously allocated for this purpose be used to identify; volumes, types of dredged material and suitable storage locations.
3. Council make application to the State Government for a licence to dredge before 30 June 2013.

#### **BACKGROUND:**

Previous Notice of Motions adopted by Council at its Ordinary meetings dated 30 March 2010 and 9 November 2010.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

**ORDINARY MEETING**

**Notices of Motion**

**NM4 - Possible Future Use of Richmond RAAF Base For Commercial Aviation Purposes  
- (79351, 801804)**

---

**Submitted by:** Councillor C Paine

**NOTICE OF MOTION:**

That in view of recent announcements concerning the possible future use of the Richmond RAAF Base for commercial aviation purposes that Council hold public meetings in Windsor and North Richmond to further inform the community of these proposals and to ascertain the communities views in this regard.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

#### **NM5 - Establishment of a Sustainability Advisory Committee - (79351, 125612)**

---

**Submitted by:** Councillor M Lyons-Buckett

#### **NOTICE OF MOTION:**

That a report be submitted to Council regarding the possible establishment of a Sustainability Advisory Committee, such report to address issues such as appropriate functions and objectives, membership, meeting frequency, etc.

#### **BACKGROUND:**

This would be an advisory committee which would work with Council to promote sustainable practices and reduce the ecological footprint of the Hawkesbury LGA.

The aim would be to assist Council to integrate environmental sustainability into Council policies, plans and operations and promote sustainable practices in the community and particularly to fulfill the intent contained within strategic documents (eg. CSP 'Caring for our Environment').

Some of the objectives of the proposed Committee, which could be further addressed in the proposed report, would be;

- To assist in the achievement of the key environmental goals contained in Council's Community Strategic Plan
- To facilitate information-sharing, education and support necessary for informed action on sustainability throughout the community.
- To maximise resource reduction, reuse and recycling
- To establish and maintain natural resource management (NRM) networks
- To support and progress an active volunteer network for NRM and sustainable activities
- To engage the community in the development and implementation of sustainability initiatives and activities

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

ordinary

section 4

reports  
for determination

**ORDINARY MEETING**

**Meeting Date:** 13 November 2012

**SECTION 4 - Reports for Determination**

**GENERAL MANAGER**

**Item: 189                      GM - Local Infrastructure Renewal Scheme - (79351)**

---

**REPORT:**

**Executive Summary**

At its meeting held on 31 January 2012 Council considered a report in relation to correspondence received from the Division of Local Government (DLG) providing details of the "Local Infrastructure Renewal Scheme" (LIRS). The Circular indicated that the LIRS *"provides the opportunity for local councils to access interest subsidies for the purpose of funding legitimate infrastructure backlogs"* by way of loan funding.

Subsequently, Council resolved to lodge a submission under this Scheme in respect of a "Timber Bridge Replacement Program" (the Program) as outlined in the report and authorised the General Manager to take other actions as necessary to progress Council's submission.

Council's submission was then lodged prior to the required date of 30 March 2012. In July 2012 Council was advised that its submission for an interest subsidy (4% under the LIRS on a proposed loan of \$5million) in respect of the Program which had a total estimated cost of \$5,260,000 was successful subject to a satisfactory assessment of the Council by TCorp. This assessment was completed by TCorp and forwarded to the DLG for consideration with Council's LIRS submission.

Correspondence has now been received from the DLG indicating that *"TCorp has now completed its financial assessment and has supported the provision of an interest subsidy for the"* Program. The DLG has also provided the relevant Funding Agreement documentation for the LIRS which requires execution under the Seal of Council.

In the intervening period Council has been successful in obtaining funding of \$1,600,000 for the replacement of one of the bridges contained in the Program from another source. As such, a submission has been forwarded to the DLG to include an additional three timber bridges in the Program in lieu of this bridge.

It is now proposed that the loan amount will be for the full estimated cost of the Program (\$5,260,000) with the Council receiving the interest subsidy under the LIRS for the submitted amount of \$5million. As such, quotations have been obtained from a number of banks for the proposed loan of \$5,260,000 for the Program, details of which are included in this report.

Submissions have also recently been invited for Round Two of the LIRS, however, in view of the issues outlined in the report it is not proposed that Council make a submission under this latest Round.

The purpose of this report is to advise Council of the progress of Council's LIRS submission, to enable Council to formally accept the proposed loan for the Program and to obtain Council's authority to execute the Funding Agreement for the LIRS and documentation in association with the loan under the Seal of Council.

**Consultation**

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

## ORDINARY MEETING

Meeting Date: 13 November 2012

### Background

At its meeting held on 31 January 2012 Council considered a report in relation to correspondence received from the Division of Local Government (DLG) providing details of the "Local Infrastructure Renewal Scheme" (LIRS). The Circular indicated that the LIRS *"provides the opportunity for local councils to access interest subsidies for the purpose of funding legitimate infrastructure backlogs"* by way of loan funding.

The above report suggested that Council should lodge a submission under the LIRS for the Program which was proposed to consist of the following timber bridges to be replaced:

Location	Length(m)	Approx. Replacement Cost
Stannix Park Road	6	\$480,000
Upper Colo Road	14	\$320,000
Upper Colo Road	7	\$330,000
Upper Macdonald Rd	41	\$1,500,000
Upper Macdonald Rd	7	\$180,000
Upper Macdonald Rd	10	\$250,000
Wrights Creek Road	8	\$195,000
West Portland Rd	16	\$1,600,000
<b>Total</b>		<b>\$4,885,000</b>

Subsequently, the Council resolved:

*"That Council:*

- 1. Lodge a "Pre-notification" with the Division of Local Government by 10 February 2012, as required, indicating its intention to submit an application under the Local Infrastructure Renewal Scheme for the proposals as outlined in the report in this regard.*
- 2. Lodge the associated application with the Division of Local Government by 30 March 2012, as required in this regard.*
- 3. Authorise the General Manager to commence other necessary actions, including negotiations with potential lenders, to facilitate the lodgement and subsequent consideration of Council's submission with the matter being reported back to Council as necessary."*

Whilst the above suggested a replacement cost of approximately \$4,885,000 and the report referred to a proposed loan of \$5million the final estimates prepared for inclusion in Council's detailed submission resulted in an estimated cost of \$5,260,000 and this was the amount that was utilised as the value of the Program with a proposed loan of \$5million to receive the interest rate subsidy available under the LIRS.

Council's submission was then lodged prior to the required date of 30 March 2012. In July 2012 Council was advised that its submission for an interest subsidy (4% under the LIRS on a loan of \$5million) in respect of the Program with the estimated cost of \$5,260,000 was successful subject to a satisfactory assessment of the Council by TCorp. TCorp was subsequently provided with all required information in association with its assessment of Council's financial position. The assessment was undertaken during July/August 2012 and when finalised was forwarded by TCorp to the DLG for consideration with Council's LIRS submission.

Correspondence dated 16 October 2012 (received 22 October 2012) has now been received from the DLG indicating that *"TCorp has now completed its financial assessment and has supported the provision of an interest subsidy for the"* Program. The DLG has also provided the relevant Funding Agreement documentation for the LIRS which requires execution under the Seal of Council.



## ORDINARY MEETING

Meeting Date: 13 November 2012

However, in the intervening period Council has been successful in obtaining funding of \$1,600,000 (revised cost estimate) for the replacement of the timber bridge in Upper MacDonald Road (length 41m) under one of the disaster assistance programs following the minor floods earlier this year. As such, a submission has been forwarded to the DLG to include the following additional three timber bridges in the Program in lieu of this bridge so as to maintain the estimated cost of the Program at the approved level of \$5,260,000:

Location	Location	Approx. Replacement Cost
Upper Macdonald Road	Approximately 20 km north of St Albans village	\$600,000
Upper Macdonald Road	Approximately 23 km north of the St Albans Village	\$700,000
Wrights Creek Road	Approximately 4.6 km north of Settlers Road	\$300,000
<b>Total</b>		<b>\$1,600,000</b>

Note that the above estimates are based on average unit rates derived from recently completed projects. Unknown factors such as pile depth, hydraulic requirements & utilities may have an influence over the final cost.

As Council's participation in the LIRS has now received final approval following the satisfactory financial assessment by TCorp it is necessary for Council to source the loan funds and draw these down as soon as possible as the interest rate subsidy is only payable for a maximum of 10 years; payable in June and November of each year with the final subsidy payment to occur in November 2022.

So as to ensure that there is not a funding short fall over the life of the Program it is now proposed that the loan amount will be for the full estimated cost of the Program (\$5,260,000) with the Council receiving the interest subsidy under the LIRS for the submitted amount of \$5million.

Accordingly, quotations were sought from the Commonwealth, Westpac, ANZ and NAB banks for a loan of \$5,260,000 for a period of 10 years based upon 6 monthly repayments of principal and interest. Responses were received from the Commonwealth, Westpac and ANZ banks with the Commonwealth Bank currently offering the lowest interest rate for the loan at 5.47% fixed for the period of the loan. With the LIRS interest subsidy of 4% final interest on \$5million of the loan would, effectively, be 1.47%. If the loan is not drawn down by November a shorter repayment period will be required to ensure that the last repayment occurs in November 2022 which is when the final interest subsidy payments must be made under the LIRS. Appropriate provision has been made in the recommendation to cover this possible situation.

As the terms and conditions attached to the loan offers are relatively similar it is proposed to recommend that Council accept the lowest interest rate offered, namely for a loan from the Commonwealth Bank.

Recently, the DLG announced the commencement of Round Two of the LIRS and called for submissions for interest subsidies under this round to be submitted between 1 November and 31 December 2012. Generally the Guidelines for Round Two are similar to those for Round One. Round Two will provide a 3% interest subsidy on loans taken out for infrastructure backlog works as well as for projects providing infrastructure to enable new housing. The Guidelines also indicate that preference will be given to projects/programs or groups of projects/programs with a total cost of at least \$1million.

Whilst the TCorp assessment of Council undertaken as part of Round One was satisfactory for Council's participation in that Round it also indicated that if Council's borrowing were increased to around \$6million Council would exceed some of the accepted financial ratios concerning its borrowing capacity. This suggests that at this stage the Council should not undertake any further loan borrowings that would take its level of debt up to or beyond \$6million. Also having regard to this TCorp may be unlikely to support any further proposals under the LIRS in view of this and any amount up to the referenced \$6million level (up to \$740,000) is below the preferred \$1million level suggested as part of the Guidelines for Round Two.

In view of the above it is recommended that Council not make a submission under Round Two of the LIRS.

### Conformance to Community Strategic Plan

## ORDINARY MEETING

Meeting Date: 13 November 2012

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.

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

- A local road network that balances road condition with available resources and community needs.

### Financial Implications

As indicated in the previous report on this matter the timber bridges that form the basis of Council's LIRS submission are currently included within Council's 10 Year Capital Works Program. However, the issue of actual funding being able to be made available in any of those years would be dependant on budgetary considerations and other potential priorities at the time.

As Council has now been successful with its submission it will allow the completion of these works to be ensured and achieved as well as being brought forward.

Whilst there will be a rebate of approximately \$1.1million from the State Government over the life of the scheme in respect of the interest payable there is still the balance of the interest costs and the repayment of the principal which would need to be incorporated as part of Council's ongoing budgetary processes which would have some impact on funds available generally. Conversely, whilst maintenance costs will not be completely eliminated there will be a significant reduction in this requirement for these particular bridges.

### RECOMMENDATION:

That:

1. The information concerning the status of Council's submission for a Timber Bridge Replacement Program under the Local Infrastructure Renewal Scheme Round One be noted.
2. The action of the General Manager in seeking the substitution of bridges within the Program as detailed in the report be endorsed.
3. Council agree to obtain a loan of \$5,260,000 in order to undertake the Timber Replacement Program as approved under the Local Infrastructure Renewal Scheme and accept the quotation received from the Commonwealth Bank on either of the following basis depending upon the most suitable at the time of entering into the loan having regard to the terms of the Scheme:

Amount	Loan Term	P & I Repayments	Fixed Interest Rate
\$5,260,000	10 years with principal and interest repayments over the loan term, fully amortising	Semi-annual	5.47%pa
	9 years 11 months with principal and interest repayments over the loan term, fully amortising	Semi-annual	5.47%pa

4. In the event of the terms of the proposed loan varying due to a change in interest rates or other terms and conditions the General Manager be authorised to agree to these changes and to proceed with the proposed loan.

## **ORDINARY MEETING**

**Meeting Date:** 13 November 2012

5. Authority be given for the Local Infrastructure Renewal Scheme Funding Agreement; any other associated documentation and documentation in association with the proposed loan from the Commonwealth Bank to be executed under the Seal of Council.
6. In view of the comments contained within the report concerning Council's capacity to undertake further loan borrowings at present that Council not make a submission under Round Two of the Local Infrastructure Renewal Scheme.

### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 13 November 2012

**Item: 190**                    **GM - Establishment of Development Application Monitoring Advisory Committee - (79351)**

**Previous Item:**            Item 168 (Extra Ordinary, 25 September 2012)

---

### REPORT:

#### Executive Summary

Council, at its Extra Ordinary meeting held on 25 September 2012 resolved that a report be submitted regarding the establishment and operation of a Development Application Monitoring Advisory Committee (the Committee).

This report details legislative provisions in this regard and proposes appropriate membership, functions and procedures for the Committee as well as suggesting topics for reports that may be initially submitted to the Committee.

The report recommends that the Committee be established based upon the membership, functions and procedures proposed in the report and that Council appoint the membership of the Committee.

#### Consultation

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

#### Background

At the Extra Ordinary meeting held on 25 September 2012 Council considered the appointment of Committees, Delegates and Representatives for the 2012/2013 Mayoral term and also resolved, in part, that:

*"The General Manager submit a report to Council regarding the establishment and operation of an advisory committee to be titled the "Development Application Monitoring Committee", or similar, with a primary focus being, but not limited to, the process for applications relating to river front land with the membership of such advisory committee consisting of four councillors, the General Manager and the Director City Planning."*

With regard to the establishment of committees, Clauses 260 and 261 of the Local Government (General) Regulation 2005 (incorporated within Council's Code of Meeting Practice as Clauses 5.2.2 and 5.2.3) provides that:

#### **"260 Council may establish committees**

- (1) *A council may, by resolution, establish such committees as it considers necessary.*
- (2) *A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.*
- (3) *The quorum for a meeting of a committee is to be:*
  - (a) *such number of members as the council decides, or*
  - (b) *if the council has not decided a number—a majority of the members of the committee.*

## ORDINARY MEETING

Meeting Date: 13 November 2012

### **261 Functions of committees**

*A council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions."*

As Council is aware, Council's other Advisory Committees have a constitution to cover their operations, however, this is largely due to the fact that those committees also consist of community members. Given that in the terms of Council's resolution the Committee would not have community representatives it is considered that Council's existing Code of Meeting Practice (Part 5 deals specifically with Committees) would have sufficient provisions to cover the operations of the Committee once established by Council.

Based upon Council's resolution the following format is proposed for the Committee:

#### **Name:**

Development Application Monitoring Advisory Committee

#### **Membership:**

Four councillors plus the Mayor, together with the General Manager and Director City Planning.

Other members of staff to attend meetings in relation to relevant matters being considered by the Committee as considered appropriate by the General Manager.

Membership of the Committee to be reviewed annually at the same time as Council reviews the membership of other Advisory Committees.

#### **Functions:**

Initially, the functions of the Committee are to:

- Monitor the assessment process and processing times of development applications generally;
- Review and monitor the assessment process and processing times in respect of development applications relating to works proposed on river front land/properties;
- Generally review the planning controls and requirements, both from a legislative and Council imposed aspect, that apply to the processing of development applications;
- Review, at least on a quarterly basis, details of outstanding development applications;
- Review provisions applying to exempt and complying development with a view to recommending to Council appropriate amendments to or expansion of these provisions in order to facilitate a reduction in the need for the submission of a development application in appropriate circumstances.

Council may, from time to time, amend or add to the functions of the Committee as considered appropriate.

#### **Procedures:**

The procedures of the Committee are to be governed by the relevant provisions of Council's Code of Meeting Practice.

The Committee should meet at least quarterly or on a more frequent basis as considered necessary by a majority of the members of the Committee.

## ORDINARY MEETING

Meeting Date: 13 November 2012

It is suggested that, initially, reports could be submitted to the Committee in relation to the following matters:

- Legislative processes and requirements associated with the consideration and processing of development applications generally;
- Legislative processes and requirements associated with the consideration and processing of development applications relating to works proposed on river front land/properties;
- Statistics relating to current and past performance in respect of the processing of development applications, both generally and as related to works proposed on river front land/properties;
- Current and proposed utilisation of technology in relation to the processing of development applications.

### Conformance to Community Strategic Plan

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

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

### Financial Implications

There are no financial implications applicable to this report. The proposed Committee will be supported with existing resources.

### RECOMMENDATION:

That:

1. A Development Application Monitoring Advisory Committee be established based upon the membership, functions and procedures proposed within the report in this regard.
2. Council nominate councillors for the membership of the Committee.

### ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 13 November 2012

### Item: 191      **GM - Sustainable Economic Growth for Regional Australia (SEGRA) Conference - (79351)**

---

#### **REPORT:**

##### **Executive Summary**

The 2012 Sustainable Economic Growth for Regional Australia (SEGRA) Conference will be held 19 - 22 November, 2012 in Terrigal, NSW. Due to its relevance to Council's activities, it is recommended that the 2012 SEGRA Conference be attended by Councillors and appropriate staff.

##### **Consultation**

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

##### **Background**

The 2012 Sustainable Economic Growth for Regional Australia (SEGRA) Conference will be held 19 -22 November, 2012 in Terrigal, NSW. SEGRA, Australia's premier conference on regional issues, is about assisting regional, rural and remote Australia to source and identify the techniques, skills and issues they need to address to achieve successful economic growth and development. The SEGRA Conference provides a unique opportunity for all sections of the Australian community (rural and urban) to explore the key issues affecting regional, rural and remote Australia and be part of providing positive sustainable outcomes to ensure future prosperity.

Cost of attendance at the 2012 SEGRA Conference will be approximately \$2,800 plus travel expenses per delegate.

##### **Budget for Delegate Expenses - Payments made**

- |   |          |
|---|----------|
| • Total Budget for Financial Year 2012/2013 | \$44,000 |
| • Expenditure to date                       | \$12,137 |
| • Budget Balance as at 31/10/12             | \$31,863 |

It should be noted that commitments of approximately \$4,800 for attendance at 2012 National Local Roads & Transport Congress to be held in Hobart, Tasmania in November, 2012 are not included in the expenditure to date.

##### **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.
- A balanced set of decisions that integrate jobs, housing, infrastructure, heritage and environment that incorporates sustainability principles.

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

- Implement and monitor Council's sustainability principles.
- Maintain and review a sustainable long term financial framework.

##### **Financial Implications**

**ORDINARY MEETING**

**Meeting Date:** 13 November 2012

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

**RECOMMENDATION:**

That attendance of nominated Councillors, and staff members as considered appropriate by the General Manager, at the 2012 SEGRA Conference, at an approximate cost of \$2,800 plus travel expenses per delegate, be approved.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**



## ORDINARY MEETING

Meeting Date: 13 November 2012

**Item: 192**      **GM - Nomination to the Board of Western Sydney Academy of Sport (79351, 80256)**

---

### REPORT:

#### Executive Summary

Council currently provides a representative to the Western Sydney Academy of Sport (WSAS) Advisory Forum. Advisory Forum representatives are permitted to be nominated to the WSAS Board of Directors and Council's approval is sought in relation to submitting a nomination to the Board.

#### Consultation

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

#### Background

The Western Sydney Academy of Sport (WSAS) Advisory Forum is comprised of one representative from each local government area in Western Sydney. At the Extra Ordinary meeting of Council held on 25 September 2012 Councillor M Creed was appointed as Council's representative to the WSAS Advisory Forum for the period September 2012 to September 2013.

The WSAS Constitution provides for the election of three Forum representatives to the Board of Directors of the Academy.

The operating guidelines of the Advisory Forum state the following:

- The Forum representatives elected to the WSAS Board must represent a financial member for the Forum.
- The Forum Directors will be appointed to the Board for a minimum one year term.
- Once appointed, the Forum Directors are expected to attend both WSAS Board meetings and one of the Academy's sub-committee meetings - however their attendance at Forum meetings will be as Board Directors and not Forum representatives, and will have no voting rights at Forum meetings.
- Those Councils who have provided Forum Directors to the WSAS Board are entitled to appoint replacement Forum representatives to attend and vote at Forum meetings.

Consideration of Council is now sought in relation to the nomination of Councillor Creed to one of the three Forum nominations to the WSAS Board. Councillor Creed has indicated his willingness to accept a nomination to the WSAS Board of Directors, should Council resolve to submit his nomination.

All nominations to the Board are to be considered by the members of the Advisory Forum for approval before proceeding to the Board for consideration and endorsement.

#### 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.

**ORDINARY MEETING**

**Meeting Date:** 13 November 2012

**Financial Implications**

There are no financial implications applicable to this report.

**RECOMMENDATION:**

That the nomination of Councillor M Creed to the Western Sydney Academy of Sport (WSAS) Board of Directors be endorsed by Council and forwarded to the WSAS Advisory Forum for consideration and submission to the WSAS Board.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 13 November 2012

### CITY PLANNING

**Item: 193**      **CP - Development Report - DA0058/12 - Agriculture - Including removal of native vegetation and erection of shed - Lot 545 DP 751665 - 58 Reserve Road Freemans Reach - (94598, 111280)**

---

#### Development Information

**File Number:** DA0058/12  
**Property Address:** 58 Reserve Road, Freemans Reach  
**Applicant:** DJ Hore Pty Ltd  
**Owner:** Mr D Sammut & Mrs JM Sammut  
**Proposal Details:** Agriculture - Including removal of native vegetation and erection of shed  
**Estimated Cost:** \$100,000  
**Zone:** RU1 Primary Production under HELP 2012  
**Date Received:** 8 February 2012  
**Advertising:** 15 February - 5 March 2012

**Recommendation:** Approval

---

#### REPORT:

The application seeks approval for the removal of native vegetation and erection of a rural shed for the purposes of agriculture, specifically for the growing of turf and lucerne. As part of the development of the land it is proposed that 4.03 hectares of native vegetation be cleared and a new shed and driveway be constructed.

An assessment of the proposal has revealed that the proposed turf farm would be able to be satisfactorily established on the site however insufficient information has been provided to justify the removal of native vegetation for the proposed lucerne farming area or the need for the construction of a new driveway.

It is recommended that the establishment of the turf farm including the construction of the shed be supported and that the lucerne farm and new driveway entrance not be supported.

The application is being reported to Council for determination at the request of Councillor Williams.

#### Description of Proposal

The application proposes the removal of native vegetation, erection of a rural shed and construction of a new driveway to allow for the use of the site for agriculture on Lot 545 in DP 751665, 58 Reserve Road Freemans Reach. The application identifies that the farming activities would be divided into the following three areas:

- |        |   |
|--------|---|
| Area A | Located at the front of the property, covers 1.10ha, is predominantly covered in native vegetation and would be used to grow lucerne. |
| Area B | Located on the Western side of the existing dams, covers 1.4ha, is covered with scattered vegetation and be used to grow turf.        |
| Area C | Located on the Eastern side of the existing dams, covers 1.53ha, is scattered with native vegetation and would be used to grow turf.  |

## ORDINARY MEETING

Meeting Date: 13 November 2012

It is proposed that runoff from the turf farming activity would drain into the existing two dams located on the subject property where water would be treated and reused for the farm. As part of the development it is proposed that native vegetation would be retained and planted around the existing dams and along the property boundaries.

The application proposes to construct a new driveway connecting to Reserve Road to service the proposed shed. The shed would total 304m<sup>2</sup> and be used to store farm machinery and equipment associated with the agricultural use of the land.

The application is supported by the following documents:

- Statement of Environmental Effects, prepared by D.J. Hore Pty Limited, January 2012;
- Flora and Fauna Assessment and Seven Part Test of Significance report, prepared by Anderson Environmental Consultants Pty Ltd, dated December 2011;
- Vegetation Management Plan, prepared by Anderson Environmental Consultants Pty Ltd, dated December 2011;
- Farm Management Plan, prepared by D.J. Hore Pty Limited, January 2012; and
- Water balance report, prepared by Harris Environmental Consulting, dated August 2012.

### Description of the site and its locality

The subject land has an area of 6.5ha, is generally rectangular in shape, fronts Reserve Road and backs onto an unformed road reserve.

The subject site contains an existing dwelling, garage and two dams that total approximately 4.1 mega litres. The majority of the site is covered in native vegetation, contains a number of horse paddocks and is primarily used for rural residential purposes.

There is no identified watercourse on the land however the site naturally drains towards the dams located on the property which have been identified as being part of the upper catchment of Currency Creek.

The adjoining lots are currently being used for a combination of agricultural and rural residential purposes. The proposed activity would be located directly upstream of the market garden established on 76 Reserve Road Freemans Reach.

### History of the application

29 March 2012	Correspondence from the NSW Office of Water received requesting additional information to be provided in respect to the existing dams located on the subject site. Letter forwarded to the applicant.
20 April 2012	Letter sent to applicant advising that there were a number of issues which need to be addressed, specifically in relation to flora and fauna, water quality, the location of the proposed shed and the proposed new driveway.
9 May 2012	Meeting held with applicant and property owner explaining Councils letter dated 20 April 2012. Applicant advised that the location of the shed, second driveway and the removal of native vegetation for lucerne farming are not supported and consideration should be given to amending the proposal as per Councils original request.
27 July 2012	Letter sent to applicant requesting that additional information previously sought is required to be provided within 7 days.
2 August 2012	Revised plans received from applicant detailing the relocation of the shed, proposed landscape planting, vegetation management and dam capacity.
8 August 2012	NSW Department of Primary Industries – Office of Water issued General Terms of Approval.

## ORDINARY MEETING

Meeting Date: 13 November 2012

14 August 2012      Water balance report submitted by applicant.

### Issues Relevant to the Decision

- Removal of native vegetation
- Water quality

### Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 44 - Koala Habitat Protection
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan 20. (No.2 - 1997) - Hawkesbury Nepean River
- Hawkesbury Local Environmental Plan 2012
- Hawkesbury Local Environmental Plan 1989
- Hawkesbury Development Control Plan 2002

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

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

a. The provisions of any:

i. Environmental Planning Instrument:

**State Environmental Planning Policy No. 44 - Koala Habitat Protection**

The application is supported by a flora and fauna assessment report which has made an assessment relating to koala potential of the site. The flora and fauna report concluded that:

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

Based on the flora and fauna assessment report it is considered that the applicant has satisfactorily demonstrated that the proposed development would not involve the disturbance of 'core koala' habitat as identified by this plan. Council is not prevented from granting consent to the proposal under this plan. It is therefore considered that the development is consistent with the overall aims and objectives of this plan.

**State Environmental Planning Policy No. 55 – Remediation of Land**

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

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

Information supplied by the Applicant and an inspection of the site suggest that the site has previously been used for agricultural purposes, such as grazing. No evidence of contamination could be found. Given the information available there is no evidence to suggest that past uses of the site will compromise the use of the site for agricultural purposes.

**ORDINARY MEETING****Meeting Date:** 13 November 2012**Sydney Regional Environmental Plan No 20 (SREP No. 20) - Hawkesbury - Nepean River (No 2—1997)**

An assessment of the proposal against this plan has been undertaken and it is considered that the proposed turf farm component of the development is consistent with the general and specific matters for consideration, specific planning policies and recommended strategies and development controls of this plan.

It is considered that insufficient information has been provided to determine whether or not the proposed lucerne farm is contrary to the aims of the specific planning policies that relate to the development. An assessment into the information submitted in relation to the lucerne farm has been discussed under the water section of this report.

An assessment of the proposed turf farm against the specific planning policies which apply to the development has been detailed in the table below:

<b>Planning Strategy</b>	<b>Comments</b>
Cl. 6(1) Total Catchment Management	It is unlikely the turf farm would have any particular impact on the downstream catchment as the works involved would not negatively impact the quality or quantity of water entering the catchment.
Cl. 6(2) Environmentally sensitive areas	It is unlikely that the operation of the proposed turf farm would have an impact on the water table or result in the formation of acid sulphate soils as no major excavation works are proposed as part of the proposal. An assessment of the proposed vegetation removal has been undertaken and it is considered that the proposal can be managed so as to not have a significant impact on any environmentally sensitive areas.
Cl. 6(3) Water quality	<p>It is considered that the proposed turf farm would not result in an increase in pollutant loads on receiving waters, as:</p> <ol style="list-style-type: none"><li>1. Sedimentation would be controlled by retaining and planting vegetation between the proposed activities and the dams located on the site;</li><li>2. Water from the turf farm would be directed into the existing dams; and,</li><li>3. Vegetation buffer zones would be maintained along property boundaries.</li></ol> <p>It is considered that the design of the proposal is consistent with best practice guidelines. Appropriate conditions ensuring that water quality is managed during the operation of the farming activity has been recommended in this report.</p>
Cl. 6(4) Water quantity	<p>It is considered that the operation of the turf farm would have no significant impact on the amount or rate of water leaving the site.</p> <p>The proposal would not increase water run-off from the site or the rate at which it leaves. The proposed activity has been designed to control irrigation runoff through the use of drip line irrigation and stormwater runoff would be directed through proposed vegetation buffers. The natural flow of water from the property will not change as a consequence of the proposal.</p>

## ORDINARY MEETING

Meeting Date: 13 November 2012

Planning Strategy	Comments
Cl. 6 (6) Flora and Fauna	It is considered that there would be no significant adverse impact on flora and fauna species, populations or habitats. An assessment into flora and fauna impacts has been discussed under the flora and fauna section of this report.
Cl. 6 (8) Agriculture/ aquaculture and fishing	It is considered that the proposed development would not have a detrimental impact on the future use of the property for other agricultural uses and that sufficient separation exists between the proposed activity and adjoining land uses. The proposal would encourage agricultural activities in a rural zone where agricultural activities are permitted.

### **Hawkesbury Local Environmental Plan 2012**

The subject land is zoned RU1 Primary Production under Hawkesbury Local Environmental Plan 2012. The proposed development is defined as 'intensive plant agriculture', which "means any of the following:

- (a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),
- (b) horticulture,
- (c) turf farming,
- (d) viticulture."

The proposal is permissible with development consent within the RU1 zone, consistent with the overall objectives of the zone and the specific planning considerations of this plan. Nevertheless the application was lodged prior to the gazettal of this plan and Clause 1.8A - Savings provision relating to development applications states:

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

As a result of Clause 1.8A the application has been assessed against Hawkesbury Local Environmental Plan 1989 in the report below.

### **Hawkesbury Local Environmental Plan 1989 (HLEP 1989)**

The proposal is consistent with the requirements of Hawkesbury Local Environmental Plan 1989. The subject property is zoned Mixed Agriculture and it is considered that the proposal would enable the use of the land for a permitted use which is consistent with the Clause 9A Objectives of the zone given that:

- The proposed development encourages sustainable agricultural production;
- The proposed development would not create any unreasonable rural land use conflicts as it is consistent with the existing agricultural/rural character of the area;
- The proposal would use land that is appropriate for agricultural activities;
- The development can be conducted in a manner that would not have a significant adverse impact on water catchments, groundwater quality, land surface conditions or important ecosystems;
- The proposal would be able to be conducted in a manner that satisfies best practice and management guidelines for agriculture;
- The establishment of a vegetation management plan would promote the conservation of native vegetation;
- The proposed development would not create a significant level of traffic generation; and,

## ORDINARY MEETING

Meeting Date: 13 November 2012

- The proposal would not result in the creation of unreasonable demand for the provision or extension of public amenities or services.

The proposed development is best defined as 'Agriculture' under Clause 5 of Hawkesbury Local Environmental Plan 1989. Agriculture means *"the use of land for any of the following purposes:*

- (a) *horticulture,*
- (b) *husbandry (including the keeping or feeding of livestock, poultry, fish or bees),*
- (c) *growing of fruit, vegetables and the like,*

*but does not include animal establishments or intensive agriculture (within the meaning of clause 44) or any use of the land for a purpose listed in paragraphs (a)–(c) if the produce is for the personal consumption or enjoyment of the occupier of the land."*

It is considered that the growing of turf and lucerne is not intensive agriculture within the meaning of clause 44 as the proposal does not rely on the growing of plants or fungi involving any of the following:

- (a) hydroponics,
- (b) artificial housing,
- (c) crop protection structures,
- (d) market gardening,
- (e) orcharding, or
- (f) the growing of field flowers.

In addition to the above, the proposal is considered to be consistent with the following clauses of Hawkesbury Local Environmental Plan 1989 which were taken into consideration as part of the assessment of the application:

Clause 2 - Aims, objectives etc  
Clause 5 - Definitions  
Clause 9 - Carrying out of development  
Clause 18 - Provision of water, sewerage services, etc  
Clause 36 – Clearing of land in certain environmental and other zones  
Clause 37A - Development on land identified on Acid Sulfate Soils Planning Map

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

There are no draft environmental planning instruments that directly relate to the land or the specified development.

**iii. Development Control Plan applying to the land:**

**Hawkesbury Development Control Plan 2002**

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

**General Information Chapter**

The application provides adequate information for the assessment of the proposal and is therefore consistent with the requirements of this chapter.

**Notification Chapter**

The application was notified to adjacent property owners in accordance with HDCP 2002. 11 submissions were received as a result of the notification of the development and the issues raised have been discussed under the submissions section of this report.



**Landscaping Chapter**

A landscape plan has been submitted indicating where vegetation will be retained and planted adjacent to the existing dams and property boundaries. It is considered that the details provided are satisfactory and that the plans are consistent with the requirements of this chapter. A condition of recommended consent has been included so that landscaping works be completed prior to the commencement of the farming activities on the site.

**Car Parking and Access Chapter**

It is considered that sufficient space is available onsite for the parking and manoeuvring of vehicles associated with the farming activity.

The applicant has requested that a secondary driveway be constructed to allow for vehicles associated with the farming activity to access the site.

A review of the location of the proposed driveway has been made and it is considered that the location is not suitable given available line of sight along this portion of Reserve Road. It is recommended that the existing driveway be used to access the site given that it has already been established and there is a better line of sight for vehicles and pedestrians.

**Rural Sheds Chapter**

The application proposes the construction of a rural shed with a total floor area of 304m<sup>2</sup> (24.4m x 12.45m) and height of 6.5m. The shed would consist of steel frame construction with 'green mist' 'colorbond' sheeting to be used for the roofing and walls.

It is proposed that the shed would be used in conjunction with the farming activities proposed onsite and be primarily used to provide storage of produce grown on the property, parking of trucks, storage of tractors and storage of irrigation equipment. A mezzanine level is proposed containing a workbench area, shed washroom and storage area.

The proposed shed is not contrary to the size and height requirements of this chapter as the applicant has been able to satisfactorily justify the need for the size and height of the building. The proposal is further considered to be consistent with rules of this chapter relating to form, colour, type of building materials and landscaping.

It is noted that the application originally proposed the shed to be located behind the existing dwelling, however its location was on a slope and required the removal of native vegetation. The applicant has relocated the shed to be in front of the existing dwelling in order to reduce the amount of earthworks and native vegetation removal that would be required to what was originally proposed.

The applicant has requested that Council consider a variation to the siting rules of this chapter which require the shed to be located behind the existing dwelling.

An assessment into the proposed location of the shed has been undertaken and it is considered that the shed:

- is suitably setback from Reserve Road;
- would be suitably screened from adjoining development;
- would not obstruct any views; and,
- would not be visually prominent given the proposed colours and use of landscaping.

It is further noted that the shed would be setback further from the street than the dwelling on the adjoining property (46 Reserve Road).

It is recommended that the variation to the siting rule be supported as it is considered that the proposed location of the shed is consistent with the overall aims and objectives of the chapter.

**Soil Erosion and Sediment Control Chapter**

Erosion and sediment control has been addressed in the documentation supporting the application and is considered satisfactory. In addition, erosion and sediment control would be enforced through conditions of consent.

**DRAFT Hawkesbury Development Control Plan - Intensive Agriculture Chapter**

Council has developed a draft chapter for intensive agriculture however this plan has not yet been adopted. An assessment of the proposal against this draft chapter has revealed that the development is generally consistent with its stated aims and objectives given that:

- The applicant has chosen to locate the turf farm in an area which would require the least amount of vegetation removal;
- The applicant has been able to justify that establishment of a vegetation management plan would allow for both the protection of significant vegetation and use of the land for agriculture;
- The applicant has been able to demonstrate that suitable water supply can be provided for the development by using the existing dams;
- The farm management plan submitted has detailed that the farming activity can be undertaken in a manner that would not result in any unreasonable impacts in respect to noise, dust, odour and water pollution;
- Site drainage has been designed taking into consideration the sites natural topography;
- Acceptable vegetation buffer zones have been proposed between property boundaries, drainage lines and between the proposed farming activity and the dams;
- The proposed activity is located within a rural area and would not have a visual impact on the locality;
- Sufficient information has been provided in respect to chemical storage; and
- The application has taken into consideration the importance of protecting flora and fauna onsite in conjunction with the proposed farming of the land.

**Conclusion**

It is considered that the proposed development is generally consistent with the aims, objectives and rules of the relevant chapters of Hawkesbury Development Control Plan 2002 including the DRAFT Chapter on Intensive Agriculture.

**iv. Planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F:**

Not applicable.

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

In accordance with the Environmental Planning and Assessment Regulation 2000 the development would be required to be completed in accordance with the requirements of the Building Code of Australia.

Developer contribution fees are not applicable to the development under the Environmental Planning and Assessment Regulation 2000 as the estimated cost of development is not greater than the minimum levy threshold of \$100 000 set by Hawkesbury City Council Section 94A Development Contribution Plan 2006.

**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:**

An assessment into the key issues relating to the proposal has been undertaken below.

**Context**

The surrounding locality is used for a combination of rural residential and agricultural purposes. The proposal is considered to be compatible with surrounding developments and would unlikely change the nature of development within the locality. The application proposes to plant additional vegetation around the existing dams and along property boundaries in order to screen the development and create a corridor between vegetation located on the subject site and surrounding properties.

**Flora and Fauna**

A flora and fauna assessment and seven part test of significance report, prepared by Anderson Environmental Consultants Pty Ltd, dated December 2011, supports the application.

The report identifies that the property contains remnant over storey species what would have once been Shale Plains Woodland. This has been confirmed using Council's vegetation mapping which shows that vegetation on the land consists of Shale Plains Woodland which forms part of a critically endangered ecological community known as Cumberland Plain Woodland.

The application divides the property into three main areas with:

- Area A located at the front of the property and proposed to be used for lucerne farming; and,
- Area B and C located behind the existing dwelling and proposed to be used for turf farming.

After a review of the flora fauna assessment report and a site inspection the applicant was advised that there were a number of issues concerning the removal of native vegetation located in areas A and C.

Following this advice the applicant was able to address Councils concerns in relation to area C by increasing the vegetation buffer zones located around the dam in order to retain a habitat link between native vegetation located on adjoining properties and the subject site.

The applicant requested that Council reconsider the proposal to remove vegetation within area A because this area was previously cleared and the vegetation located in this area is predominately covered by regrowth. This was demonstrated by providing aerial photographs dated August 1974.

Whilst the land has been previously disturbed it is noted that the vegetation which has regrown is representative of the Shale Plains Woodland vegetation community. It is considered that the retention of native regrowth is as important as this is representative of the vegetation that was originally located on the land. It is clear that the properties ability to recover from past clearing activities is high, given the number of large over storey trees which exist in this area. It should be noted that the plans provided do not show the full extent of trees located in this area.

Given that the applicant has not been able to satisfy Councils concerns in relation to the removal of vegetation located within area A (eastern frontage of the site) it is recommend that this area remain in its current state and be excluded from the recommendation for approval.

The retention of native vegetation in this area would reduce potential water run off from this part of the site onto Reserve Road and provide a visual screen between the proposed farming activity and Reserve Road.

Furthermore it is considered that the retention of the native vegetation in this area would offset the vegetation proposed to be removed as part of the proposed turf farming activity.

**Waste**

A sewer management facility application would be required to be lodged for approval prior to the construction of the shed. On site wastewater disposal has been reviewed by Council's Sewerage Management Facility Team and is considered satisfactory having regard to the nature and size of the property. Appropriate conditions having regard to this aspect of the development have been included in the recommendation.

**Traffic**

As discussed under the HDCP assessment section of this report it is recommended that the proposed new driveway not be supported and that the existing driveway be used to access the site. Confining access to the site would provide a much safer option than the construction of an additional driveway.

Furthermore there is suitable space available onsite to provide access to the proposed rural shed. Amended driveway plans would be required to be provided in conjunction with a suitable condition of consent.

**Water**

The application is supported by a Water balance report, prepared by Harris Environmental Consulting, dated August 2012.

It is proposed that water from the turf farm would run into the existing dams located on the property with the first dam working primarily as a sediment basin and the second dam being used as a treatment basin. The report recommends the construction of grassed swales, grassed buffer zones and earth bulk drains to direct water runoff into the existing dams located on site. The report estimates that the operation of the turf farm in accordance with its recommendations would result in a reduction in the amount of suspended soils, phosphorus and nitrogen leaving the site from pre-development levels.

Appropriate conditions have been included as part of the recommended conditions of consent to ensure the development is constructed and operated in accordance with the recommendations made in the water balance report.

It is noted that the water balance report has not addressed the way in which water runoff from the proposed lucerne farming area would be managed. Based on the topography of the land and location of the proposed lucerne farm it is considered that insufficient information has been provided to determine whether the lucerne farm could operate without having an impact on downstream properties.

Given that the majority of the proposed lucerne farming area drains towards Reserve Road and no assessment into water runoff has been made it is recommended that the lucerne farm component of the application not be supported in conjunction with this application.

**Economic Impact on the Locality**

It is considered that the proposed development would have a positive impact on the economy of the locality. The development would promote the use of the land for agriculture and provide the increased opportunity for employment in the locality.

**Cumulative Impacts**

The application has not satisfactorily demonstrated that the establishment of the lucerne farm would not have a cumulative impact on the removal of native vegetation or quantity/quality of water leaving the site.

It is however noted that the turf farm would be able to be appropriately managed and developed on the subject land. In this respect the application is supported by a farm management plan which has detailed ways in which native vegetation, water quality/quantity, noise, odour and air quality could be controlled during the operation of the farming activities. It is unlikely that there would be any adverse cumulative impacts associated with supporting the proposed turf farm component of the development as this would be consistent with the recommendations set out in the DRAFT Intensive Agriculture Chapter of Hawkesbury Development Control Plan 2002.

**c. Suitability of the site for the development:**

A summary of the suitability of the site for the development has been undertaken and it is considered that the proposed turf farm is consistent with the planning controls which relate to the land.

As detailed in the report above it is considered that the application has not been able to demonstrate that the site is suitable to support the proposed lucerne farm and a new access driveway. In this respect it is recommended that the vegetation proposed to be removed for the lucerne farm is retained and the existing driveway be used to service the farm.

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

**NSW Office of Water**

The application was referred to the NSW Office of Water as the use of the existing dams for the farming activity requires a water licence to be issued. On 29 March 2012 the NSW Office of Water requested that the applicant provide information regarding the existing dams and their proposed use. This information was forwarded to the NSW Office of Water who issued their General Terms of Approval on 8 August 2012. The conditions attached to the General Terms of Approval have been included as part of the recommended conditions of consent.

The NSW Office of Water requested that if Council were to support the proposal that any consent be issued as a deferred commencement, requiring the applicant to submit evidence that they have obtained the necessary water licence approval for the development.

It is considered that it would be more appropriate to require this evidence to be provided prior to the issue of any construction certificate as the deferred commencement consent is limited to a period of 12 months and it may take longer to obtain a water licence required for the development. Appropriate conditions have been included in the recommendation to ensure that this evidence is provided prior to the issue of any construction certificate.

**Public Submissions**

The application was publicly notified from 15 February 2012 to 5 March 2012. Eleven (11) submissions were received in response to the proposal raising the following concerns:

Environmental Impacts

- Removal of native vegetation
- Adequacy of proposed vegetation buffer zones
- Impact on water quality entering Currency Creek
- Impacts on amenity of residential development along Reserve Road
- Impact on health of neighbouring animals and residents
- Setback of the rural shed

Comment: The application is supported by a Flora and Fauna Assessment report, Vegetation Management Plan, Farm Management Plan and Water Balance Report. These reports have satisfactorily addressed how issues in terms of water pollution, air pollution, noise pollution and removal of native vegetation and can be controlled or carried out in a way which would not result in the creation of significant environmental impacts. It is further noted that the location of the rural shed would unlikely result in visual impacts on neighbouring properties as landscaping within the vegetation buffer zones would be retained. It should also be noted that the vegetation removal in area A is not recommended in this assessment report.

Traffic

- Line of sight for new driveway is poor
- Pedestrian and vehicular safety along Reserve Road ( i.e. residents, New Haven Farm residents (home for people with a disability), school kids and horse riders)
- Road infrastructure is not adequate for heavy vehicle movements
- Road wear resulting from increased traffic movements
- Safety of vehicles on Boundary Road

Comment: It is noted that the concerns regarding the proposed new driveway are warranted and that that applicant has not been able to satisfactorily justify the need for a secondary driveway. As previously discussed in this report it is recommended that the existing driveway be used to service the site.

## ORDINARY MEETING

Meeting Date: 13 November 2012

### Management and Operation of Farm

- Use of chemicals will impact the locality, i.e. pollution – sickness
- Chemical over spray drift
- Hours of operation of the farm
- Odour from fertilisers and manure
- Operators are not reputable
- Use of unregistered trucks, evidence of runoff, hours of operation
- Use of unregistered vehicles (tractors) along Reserve Road

*Comment:* Based on the information submitted the applicant has been able to provide sufficient information to demonstrate that the land is suitable for the proposed development and could be operated in a manner that is consistent with best practice guidelines in relation to odour, water and noise control.

Whilst there have been a number of claims that the operators are not reputable farmers there has been no substantial information to support this, furthermore it is noted that the history of the operators is not a matter for consideration as part planning assessment process.

Issues regarding the use of unregistered vehicles and operating out of proposed hours are matters which would be controlled by the relevant regulatory authorities, i.e. Police and Councils Regulatory Services.

### Proposed Lucerne farm

- Water currently runs from the front of the property onto Reserve Road and the lucerne farm will change the quantity and quality of water leaving the site
- The application does not demonstrate that the land is suitable for lucerne farming,
- No details in relation to, fertilizers, chemical usage, drainage and irrigation have been provided in relation to the proposed lucerne farm
- Existing trees provide a good screen from the road

*Comment:* As mentioned under the flora and fauna and water section of this report it is considered that the application has not provided suitable information in order to justify the removal of vegetation and establishment of a lucerne farm in area A. In this regard the use of this area is not supported in the recommendation of this assessment report.

### **Conclusion**

Since the notification of the proposal the applicant has attempted to answer all the concerns raised by the submissions, providing additional information and clarification to each issue raised. Whilst the applicant has been able to satisfactorily address the majority of the issues raised above it is considered that the issues concerning the proposed lucerne farm and new driveway still remain. Consequently it is recommended that the proposed lucerne farm and new access driveway component of the application not be supported.

It is considered that the matters raised in the submissions received do not warrant refusal of the turf farm component of the application. Suitable conditions have been included in the recommended consent to ensure that the turf farm can be operated in accordance with the documents submitted with the application as amended.

### **e. The Public Interest:**

It is considered that the support of the turf farm is not contrary to public interest as the proposal would encourage the use of the land for agricultural purposes. It is considered that the matters raised as a result of the neighbour notification process have been adequately addressed as part of the assessment of this proposal.

**Conclusion**

The environmental impacts anticipated with the proposal are those relating to removal of native vegetation, noise, dust, odour and water pollution. The management of these impacts has been addressed in the information submitted with the application.

The extent of the clearing proposed with the creation of the lucerne farm is not supported on the basis that it would significantly impact on the critically endangered Shale Plains Woodland vegetation community and that insufficient information has been submitted with respect to water quality/quantity control. In addition to the above it is considered that no suitable justification for a new driveway has been provided.

Following an assessment of the proposal it is recommended that:

- the turf farm component of the application be supported subject to the conditions recommended in this report;
- the proposed driveway be removed from the proposal and that the existing driveway be used to access the site; and
- that the native vegetation proposed to be removed for the lucerne farm be retained.

**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. DA0058/12 at Lot 545 in DP 751665, 58 Reserve Road Freemans Reach for the erection of an agricultural shed and Turf Farm only (excluding the area proposed for growing lucerne and the additional driveway) be approved subject to the following conditions:

**NSW Office of Water Conditions*****Standard***

1. The General Terms of Approval (GTAs) relate to the above development within the proposed development site.
2. The GTAs do not constitute an approval under the *Water Management Act 2000 (WMA)*.
3. If the consent authority determines to grant consent, the GTAs are to form part of the development consent.
4. Any amendments to the development application may void these GTAs.
5. The consent holder must submit to the NSW Office of Water (NOW), a completed application form for a water supply works approval prior to the commencement of any development/works for a new or modified dams or ponds that propose to capture more rainfall runoff than the harvestable right associated with the development.
6. The application for a water supply works approval is subject to the assessment provisions of the Water Management Act 2000, which may take up to 6 months to assess, including public advertisement of the proposal. The consent holder must not use any water supply works approval is obtained by NOW.

## ORDINARY MEETING

Meeting Date: 13 November 2012

7. The consent holder must obtain a water access licence to extract water from a water source if the volume of water to be extracted is in excess of the harvestable rights provisions for the development prior to extracting any water from a water source.
8. Works Approval applications are required to be in accordance with the GTAs.

### ***Works Approval Application***

9. The consent holder has submitted an application under the Water Act 1912 prior to the implementation of the Water Management Act 2000 on 1 July 2011. The following must accompany this application:
  - (a) A copy of the development consent
  - (b) Appropriate fee (to be determined once DA is granted)

### ***Relevant Plans and Documents***

10. The approval holder must ensure that development / works are completed in accordance with the following drawings and / or documents:
  - (a) D.J. Hore Pty Limited – Plan Showing Contours, Detail & Levels Over Existing Dams Upon Lot 545. No. 58 Reserve Road, Freemans Reach – dated 14-06-2012.

### ***Works***

11. The approval holder must not allow any tailwater or drainage water to discharge, by any means including surface or sub-surface drains or pipes, from the approval holders property, into or onto:-
  - any adjoining public or crown road
  - any other persons land
  - any crown land
  - any river, creek or watercourse
  - any groundwater aquifer
  - any area of native vegetation as described in the Native Vegetation Conservation Act 1997 or the Native Vegetation Act 2003
  - any wetlands of environmental significance
  - any identified site of aboriginal significance
  - any identified site of cultural significance
12. Your attention is particularly drawn to the provisions of Condition (11) regarding disposal of drainage waters. The discharge of polluted waters into a river or lake otherwise than in accordance with the conditions of a license 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.
13. The location of the dam as shown on a plan retained in the 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 approval from the Office of Water.
14. 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 must 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.



## ORDINARY MEETING

Meeting Date: 13 November 2012

15. The holder of the approval must not construct or install works used for conveying, distributing or storing water taken by means of the approved work that obstruct the reasonable passage of floodwaters other than that water that is to be impounded or obstructed.
16. The pumping and ancillary equipment and pump site shall be, at all times, properly secured and/or sealed as to prevent 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.
17. 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.
18. The holder of the approval must construct and maintain the approved work in a safe and proper manner that will minimise the possibility of damage being occasioned by it, or resulting from it to any public or private interest.
19. The level of the bywash crest of the upper dam shall be fixed at not higher than RL 39.83 (Plan Showing Contours, Detail & Levels Over Existing Dams Upon Lot 545. No. 58 Reserve Road, Freemans Reach) and particulars of which are retained in the Office of Water.
20. The level of the bywash crest of the upper dam shall be fixed at not higher than RL 39.49 (Plan Showing Contours, Detail & Levels Over Existing Dams Upon Lot 545. No. 58 Reserve Road, Freemans Reach) and particulars of which are retained in the Office of Water.

### **NSW Office of Water – Advisory Notes**

- For the purpose of the GTAs, the term ‘consent holder’ refers to the applicant for the integrated development application.
- A works approval will not give the holder the right to use and occupy any land without the consent of the registered owner/s of the property.
- A works approval will not relieve the approval holder of any obligations or requirements of any other acts, regulations, planning instruments or Australian standards.

### **Hawkesbury City Council Conditions**

#### **General Conditions**

21. 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 these further conditions.
22. This approval does not cover the establishment of the lucerne farm or construction of a new access driveway to the site as proposed in the application.
23. The development shall comply with the provisions of the National Construction Code / Building Code of Australia.
24. No excavation, site works, building works or the removal of vegetation shall be commenced prior to the issue of any construction certificate.
25. The shed shall not be used until the issue of an occupation certificate.

## ORDINARY MEETING

Meeting Date: 13 November 2012

26. Hawkesbury City Council is the sewer authority for this development; inspection for compliance certification for internal and external sewer drainage shall be requested and approved prior to covering any pipe.
27. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.
28. Prior to the issue of any Construction Certificate or commencement of any works, the consent holder shall provide details proving that they have been issued with a water supply works approval under the *Water Management Act 2000* and obtained the appropriate water access licence of the correct volumes for the development from the NSW Office of Water.

### Prior to Issue of Construction Certificate

29. Amended plans shall be provided showing that the development is consistent with the recommendations made in the Water balance report, prepared by Harris Environmental Consulting, dated August 2012.
30. Construction of the drainage and dam alterations 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 of City Planning or an Accredited Certifier.
31. Payment of a Construction Certificate checking fee and a Compliance Certificate Inspection fee in accordance with Council's fees and charges when submitting Civil Engineering Plans for approval. Fees required if an Accredited Certifier is used will be provided on request.

### Prior to Commencement of Works

32. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the Hawkesbury Development Control Plan chapter on Soil Erosion and Sedimentation.
33. 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.
34. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
35. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
  - (a) Unauthorised access to the site is prohibited.
  - (b) The owner of the site.
  - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
  - (d) The name and contact number of the Principal Certifying Authority.

### During Construction

36. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
37. The shed shall be connected to an approved Sewer Management Facility System. An application to install a Sewer Management Facility System shall be submitted to and approved by Council prior to the commencement of any works.
38. Measures shall be implemented at all times to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.

## ORDINARY MEETING

Meeting Date: 13 November 2012

39. No material, including soil, shall be removed from the site.
40. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
41. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
42. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
43. During the demolition and construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
44. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
45. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification – Part II, Table 1.1.
46. A bitumen sealed rural footway crossing of suitable width to cater for the largest vehicle required to regularly service the site, shall be constructed in accordance with the requirements of AS2890.1 – Figure 3.1 and Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification.
47. All internal vehicle parking areas and loading areas are to be of all weather design.
48. The vegetation removal and management activities approved as part of this consent shall be undertaken in accordance with the Vegetation Management Plan prepared by Anderson Environmental Consultants Pty Ltd and dated December 2011.  
  
Vegetation plantings proposed around the dams shall consist of a mixture of trees, shrubs and groundcovers endemic to the locality. All vegetation planting required under this consent shall be completed prior to the use of the site for any farming activities.
49. The native vegetation areas and buffer zones shall be fenced from the proposed farming activity.
50. No bush rock shall be removed from the site. Any bush rock to be moved shall be placed in the native vegetation areas to be retained on the site.
51. The shed platform shall be created using a balanced combination of cut and fill.
52. Any water tanks, outbuildings or other ancillary structures shall be finished in colours and materials of earth tones of low reflective quality to blend in with the bushland.

### Prior to Use of the Site

53. The vegetation buffer zones shown on the plans shall be planted out before any agricultural activity, use or irrigation of the turf farm is commenced.

## ORDINARY MEETING

Meeting Date: 13 November 2012

54. Creation of a restriction on use of land on Lot 545 in DP 751665 as follows:

- (a) Requiring that native vegetation onsite be managed in accordance with the Vegetation Management Plan prepared by Anderson Environmental Consultants Pty Ltd and dated December 2011.
- (b) That native vegetation maintenance be undertaken at the land holder's expense in accordance with best practice techniques. This may include weed control, or replacement plantings and maintenance of fencing to ensure that the works approved under the vegetation management plan can be protected.
- (c) Prohibiting the removal of native vegetation on the site without the consent of Hawkesbury City Council.
- (d) Prohibiting stock or domestic animals from entering native vegetation areas located on the site.

### Use of the land

- 55. The farm shall be operated in accordance with the Farm Management Plan dated January 2012.
- 56. The development shall be limited to the area shown on the submitted plans.
- 57. The shed shall not be used for the purposes of a dwelling.
- 58. No stockpiles of any organic fertiliser/animal manure are to be kept at the property.
- 59. Manure and compost shall to be mixed into the soil directly following delivery to the site to prevent odour or dust being blown onto surrounding properties.
- 60. Stockpiles of any soils, sand, aggregate, spoil or other material capable of being moved by running water is to be stored clear of any drainage line, easement, natural water course or road surface.
- 61. All waste materials are to be regularly removed from the property. Waste is to be separated where appropriate for re-use and recycling purposes.
- 62. Chemical storage areas shall be bunded to contain chemical spills, lockable, and well ventilated. Adequate spill control and clean up materials are to be located in close proximity to the chemical store. Any fuel kept at the property is to be kept in an appropriately bunded area.
- 63. Chemical containers are to be disposed of at a waste management facility. Chemical containers are to be prepared for disposal in accordance with the Agsafe Standard for 'Effective Rinsing of Farm Chemical Containers'. Excess chemicals, herbicides or insecticides are to be disposed of through the "ChemClear" programme conducted by Agsafe or through other appropriate programs.
- 64. All plastics including, but not limited to, plastic sheeting used for crop production shall be disposed of through an approved method. No plastic is to be disposed of by burning or burial. All plastics made loose during harvesting are to be collected. Plastic is not to be permitted to drift beyond the property boundary.
- 65. The operation of pumps, cool rooms and air-conditioners or the like shall be conducted in such a manner that the LAeq noise levels measured in accordance with the NSW EPA's Industrial noise Policy (2000) do not exceed 5dB (A) above background levels with respect to noise amenity of residential dwellings, between 7:30am and 4:30pm.
- 66. Between 4:30pm and 7:30am, the operation (including but not limited to vehicles/machinery/pumps/air-conditioners/tractors) is not to cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.

## ORDINARY MEETING

Meeting Date: 13 November 2012

67. Care is to be taken at all times not to interfere or damage the root structure of the buffer zone with the operations of the proposed activity and maintained in a healthy condition.
68. Noxious or nuisance plants are not to be propagated or sold at the premises. Weed infestations are to be controlled by ensuring any composting areas are contained and treated with herbicides sparingly.
69. The property is to be regularly monitored for algal growth both terrestrial and aquatic and noxious weeds growth and where detected are to be dealt with appropriately.
70. The site access shall be maintained to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
71. All runoff and excess irrigation water is to be directed into the drainage lines and dam. No runoff is to flow into natural watercourses or onto adjoining land.
72. Dust control measures shall be applied to reduce surface and airborne movement of sediment blown from exposed areas. In this regard, ploughing or tilling should not be undertaken on windy days where there would be a likelihood of dust nuisance impacting adjacent land.
73. There is to be no spray drift of chemicals onto surrounding properties. Spraying is not to be conducted on windy days or when humidity is very high. Adjoining neighbours are to be given 24 hours notice prior to spraying occurring.
74. Only chemicals that have been assessed and registered with the Australian Pesticides & Veterinary Medicines Authority or are covered by an APVMA permit are permitted on the property. All pesticides are to be used, stored and disposed of in accordance with the APVMA instructions on the label or the permit. No pesticide is to be used for purposes other than as specified on the product. No pesticides are to be stored in bottles or buckets or in any open container. All pesticides are to be kept in their original labelled container and stored in a locked enclosure that is concreted, bunded and equipped with sump traps.
75. NSW WorkCover Authority is to be consulted with regards to the storage of dangerous goods on site and a Dangerous Goods Licence sought where necessary. Comply with the requirements of NSW WorkCover storage of Dangerous Goods.
76. The storage of goods or materials associated with the turf farm shall be confined to within the shed.
77. All vehicles being loaded or unloaded shall stand entirely within the property.
78. All vehicles shall be driven in a forward direction at all times when entering and leaving the premises.
79. Vegetation around the existing dam shall be left undisturbed except for the control of invasive weeds.
80. Fallow crops or other suitable measures are to be used on land not under crop to reduce any potential dust impacts.

### Advisory Notes

- 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.

## ORDINARY MEETING

Meeting Date: 13 November 2012

- 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.
- The applicant is advised to make detailed inquiries as to whether approval by the Australian Government Minister for the Environment and Heritage is necessary under the Environment Protection and Biodiversity Conservation Act
- The applicant is advised of their responsibility that the development is not to contribute to water pollution or pollution of waters as defined by the Protection of the Environment Operations Act 1997.
- The applicant is advised that the application, managing and record keeping of pesticides on the premises must comply with the following legislation, Pesticides Act 1999, WorkCover NSW 1998 "Code of Practice for the safe use of Pesticides and Storage of Chemicals in Agriculture" and NSW Agriculture 1998, "Principles of Spray Drift Management", NSW Ag "Reducing herbicide spray drift", NSW DPI "Spray Drift Management - Principles, strategies and supporting information".

### ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Aerial Photograph

AT - 3 Site Plan

**Meeting Date:** 13 November 2012

[illegible]



ORDINARY MEETING

Meeting Date: 13 November 2012

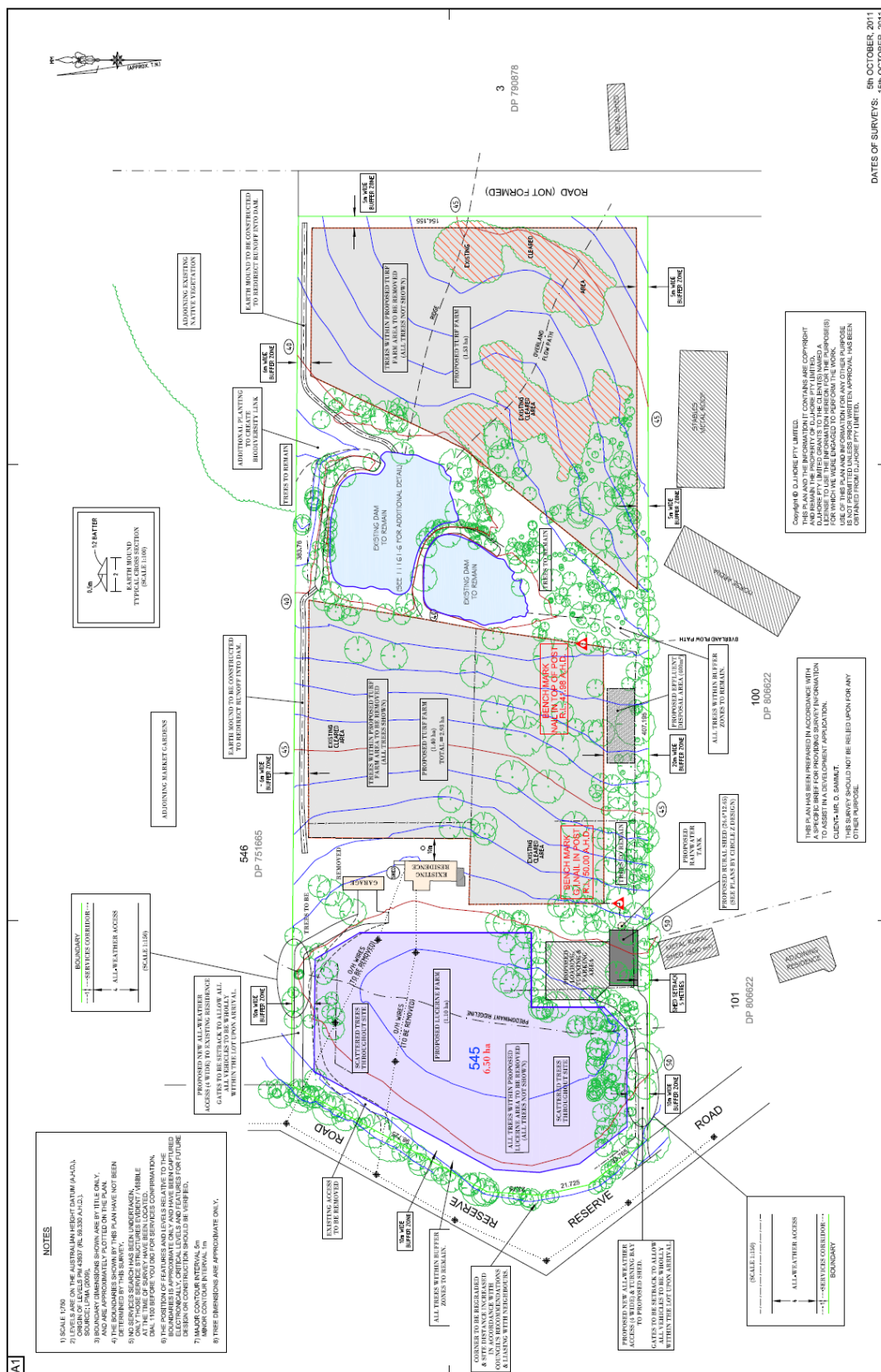
AT - 2 Aerial Photograph





**Meeting Date:** 13 November 2012

## AT - 3 Site Plan



oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 13 November 2012

**Item: 194**      **CP - Development Report - DA0281/12 - Recreation Establishment - Outdoor recreational tree top facility and associated amenities - Lot 1 DP 235341 - 167-213 Springwood Road Yarramundi - (94598, 19123)**

---

### Development Information

**File Number:** DA0281/12  
**Property Address:** 167-213 Springwood Road Yarramundi  
**Applicant:** Jeanne Elizabeth Mody Rasmussen  
**Owner:** Mr PRM Rasmussen & Mrs JEM Rasmussen  
**Proposal Details:** Recreation Establishment - Outdoor recreational tree top facility and associated amenities  
**Estimated Cost:** \$298,000  
**Zone:** E4 Environmental Living under Hawkesbury Local Environmental Plan 20127  
(d) Environmental Protection (Scenic) under Hawkesbury Local Environmental Plan 1989  
**Date Received:** 15 June 2012  
**Advertising:** 22 June - 10 July 2012  
**Key Issues:**

- ◆ Flooding
- ◆ Noise
- ◆ Traffic
- ◆ Flora/ Fauna

**Recommendation:** Approval

---

### REPORT:

#### Executive summary

The application seeks approval for a recreational establishment on Lot 1 DP 235341, 167-213 Springwood Road, Yarramundi.

An objection pursuant to State Environmental Planning Policy No. 1 has been submitted seeking a variation to Clause 25 (2) contained within Hawkesbury Local Environmental Plan 1989. It is considered that the applicant has been able to satisfactorily justify the non compliance in relation to this Clause and it is recommended that the objection be supported.

The application is being reported to Council as the variation to the flooding control contained within Hawkesbury Local Environmental Plan 1989 exceeds 10% and it is a requirement for all State Environmental Planning Policy No. 1 variations greater than 10% be considered by Council.

It is recommended that the application be approved, subject to conditions.

#### Description of Proposal

The proposed recreational establishment will involve:

- Tree top obstacle course;
- Flying fox courses;
- Amenities building and
- Carparking.

## ORDINARY MEETING

Meeting Date: 13 November 2012

### The Statement of Environmental Effects states:

*"The Trees Adventure experience is an outdoor recreational activity that consists of a series of platforms in the treetops from which there are a variety of challenges consisting of rope walks, wooden cages, flying foxes and similar devices, all designed with utmost care to ensure safety and enjoyment*

*These activities are ideal for youth from 5 years upward as they are graded into five levels of difficulty catering for participants of varying competencies and confidence. Skilled staff train, build and develop these attributes encouraging participants to challenge themselves while having fun"*

The proposed hours of operation are 8:00am to 8:00pm daily, with an extension to 12:00 midnight once per month "when conditions permit a special moonlight session."

Groups of 10 to 15 participants will utilise any one course at a time. It is proposed that a maximum of five courses will be constructed. It is anticipated that, once established, a maximum of 40,000 visitors per year will visit the development. The development will employ 6 to 10 staff.

The proposed amenities building will contain a wooden deck, training area, harnessing area, kiosk, reception, office, store and workshop, with adjacent toilets, and will be constructed of steel, besser blocks, wood cladding and 'colorbond' roof (Eucalyptus in colour) and trim (Sandbank in colour).

The carparking area will cater for two buses and 57 car spaces. The construction of the car park will require the importation of 510m<sup>3</sup> of fill.

### Description of Site

The subject land is approximately 9.5 hectares in area, with a Grose River frontage of approximately 800m. The property fronts and gains access from, Springwood Road, which is an arterial road. The proposed development will occupy approximately 3.5 hectares of the property. The submitted plans indicate the following areas within the development site:

Area A – Car park

Area B – Tree top courses

Area C – Area to be used in the future (subject to future approval)

Area D – Amenities building; and

Area E – Effluent disposal

### Council Policies, Procedures and Codes to Which the Matter Relates

- Sydney Regional Environmental Plan No 20
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 1 – Development Standards
- State Environmental Planning Policy No. 44 – Koala Habitat
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- Hawkesbury Local Environmental Plan 2012
- Hawkesbury Local Environmental Plan 1989
- Hawkesbury Development Control Plan
- Hawkesbury City Council's Flood Policy

### 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:

**ORDINARY MEETING****Meeting Date: 13 November 2012****1. The provisions (where applicable) of any:****(i) Environmental Planning Instrument:****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.

The subject land is located within a scenic corridor of regional significance. Specifically Clauses 6(1), 6(2), 6(3), 6(4), 6(6), 6(7), 6(11) and 11(7), 11(14), 11(15), 11(16) & 11(17) of the Plan applies to the proposal and have been considered in the table below:

<b>Specific Planning Policies and Recommended Strategies</b>	<b>Compliance</b>	<b>Comment</b>
Total Catchment Management	Yes	It is considered that the proposed development will not have a significant impact on the local catchment of the Grose and Hawkesbury Rivers in respect to water quality as demonstrated further in this Report.
Environmentally sensitive areas	Yes	It is considered that the proposed development will have no adverse environmental impact on the Grose River or its environs.
Water Quality	Yes	The proposal will have no adverse impact on the quality of water entering nearby watercourses, given the nature and scale of the development, and the location, design and management of the effluent disposal system. It will be a requirement of the consent that water quality management devices be installed to ensure that stormwater runoff from the car park will have no adverse impact on the water quality of the Grose River.
Water Quantity	Yes	Stormwater from the proposed car park will drain to the Grose River. Whilst this is the case, it is considered that the proposed development will not result in a significant increase in the quantity of water entering the Grose River.
Flora and Fauna	Yes	There will be no significant adverse impact on threatened flora and fauna species, populations or habitats, or endangered ecological communities, as discussed further in this Report.
Riverine scenic quality	Yes	The proposed development provides the opportunity to enhance and maintain the Endangered Ecological Community located within the riparian zone of the Grose River on the site. The proposed building and structures, given their scale, form and location, will have no significant adverse impact on the scenic quality of the riverine corridor.

**ORDINARY MEETING****Meeting Date:** 13 November 2012

<b>Specific Planning Policies and Recommended Strategies</b>	<b>Compliance</b>	<b>Comment</b>
Recreation and tourism	Yes	The proposed development provides recreational opportunities along the River and is complimentary to other recreational uses in the locality. The proposed development includes the appropriate infrastructure to support it. It will have no adverse impact on the river or the scenic quality of the locality.
<b>Development Controls</b>	<b>Compliance</b>	<b>Comments</b>
Filling	Yes	Consent required.
Recreational facilities	Yes	Consent required.
Land uses in or near the river	Yes	Consent required. The proposed development will enable the management of the site to reduce weeds and encourage regeneration of native species, thereby improving flora and fauna habitats on the property, including the riparian zone. Erosion and sediment controls will be implemented during construction. Devices will be installed to ensure the quality of water entering the Grose River from the site meet acceptable standards. The creation and implementation of a Vegetation Management Plan for the site is a requirement of the NSW Office of Water General Terms of Approval.
Land uses in riverine scenic areas	Yes	Consent required. It is considered that the proposed development is not large scale, high density or visually intrusive, given the design, materials and siting of the proposed building and car park area. The proposal will have no adverse impact on the bank of the Grose River.
Sewerage systems or works	Yes	Consent required. A wastewater feasibility assessment for the proposed effluent disposal system was submitted with the application and demonstrates that onsite disposal of wastewater will have no adverse environmental or health impacts.

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 or specific aims, planning considerations, planning policies, recommended strategies and development controls.

**State Environmental Planning Policy (Infrastructure) 2007**

Clause 104 requires that applications for certain types of traffic generating development must be referred to the Roads and Maritime Services (RMS) for consideration. Various elements of this proposal, such as its direct connection to a classified road and the number of on site parking spaces, trigger the referral provisions of the Policy.

Traffic related considerations of clause 104 are satisfied as the RMS considered this proposal and did not raise any objections with regards to traffic generation or road safety. In their letter of 28 August 2012 the RMS provided comments and conditions. These have been included in the Recommendation to this Report.

#### **State Environmental Planning Policy No. 1 – Development Standards**

The proposed amenities building will be located on land having a level of approximately 12.5 to 13.5m AHD. The 1 in 100 year flood level for the locality is approximately 18.3m AHD. Clause 25(2) to Hawkesbury Local Environmental Plan 1989 does not permit buildings to be erected on land more than 3 metres below the 1 in 100 year flood level. In this regard, the requirements of Clause 25(2) are considered to be a development standard and therefore may be varied under the provisions of SEPP No. 1.

An objection under State Environmental Planning Policy No. 1 was lodged in respect to this non-compliance. In responding to the clauses of SEPP No. 1, the applicant states that compliance with the development standard is considered unreasonable and unnecessary for the following reasons:

1. *The NSW Government's Flood Plain Development Manual, 2005 clearly advocates that a merit approach should be adopted for all development decisions in the floodplain to take into account social, economic and ecological factors as well as flooding considerations.*
2. *The building proposed is non-habitable. The amenities complex has no external walls and the small-scale structure presents a very narrow profile to the flow of floodwater minimizing any interruption. The buildings could be considered to be minor in nature and are, in fact very similar in both scale and construction, to the amenities buildings provided in the adjacent low-level Yarramundi Reserve.*
3. *There is sufficient advance warning of a flood event to allow the operator to remove the equipment and securely store it away from the floodwaters. There is an unimpeded flood evacuation route via Springwood Road to the mountains. The operation would cease and the facility be closed well before a flood event reached the site.*
4. *The construction of the building is compatible with periodic inundation and the materials used are capable of withstanding prolonged immersion in water.*
5. *The proposed recreational establishment is an appropriate use of flood prone rural land.*
6. *This development has a very low ecological footprint and in addition, the development restores and maintains the riparian corridor, the resident native species, both flora and fauna.*
7. *The rural design of the building and rural nature of the use is compatible with the surrounding land and complies with the permissible use of the land currently zoned Environmental Protection (Scenic) and Environmental Living (E4 under the Draft Hawkesbury LEP 2011).*
8. *The subject development will provide local employment and tourist dollars for the community in addition to recreation activities for the local youth."*

#### **Assessment of Grounds for objection under SEPP 1**

In determining whether or not an objection to SEPP 1 should be supported it is recommended that any assessment use a set of tests provided by his honour Chief Judge Preston in Land and Environment Court hearing *Wehbe v Pittwater Council* [2007] NSWLEC 827 - 21 December 2007. The Chief Judge suggests that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

## ORDINARY MEETING

Meeting Date: 13 November 2012

3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

**Comment:** The objectives of the development standards are to minimise the impacts of flooding having regard to loss of life, safety, extent of flood damage, financial loss and provide standards for the development of flood liable land.

The SEPP 1 objection attempts to demonstrate that the objectives of the development standards are met notwithstanding non-compliance with the standard in that the proposal is a small scale recreational use not involving a residential/habitable use.

The proposed building and structures associated with the development are considered to be small scale. The use of the land is non-habitable, and with available flood warning times, the site can be closed during flood events. For these reasons it is considered that support of the proposal will not hinder the objectives of the standard.

Chief Judge Preston also highlighted the assessment process shall look at the following points:

1. The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;

**Comment:** The SEPP 1 objection submitted with the application is considered to be well founded as the applicant has demonstrated that compliance with the development standard would be unreasonable or unnecessary given the nature and scale of the proposed development.

2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the Environmental Planning & Assessment Act 1979; and

**Comment:** The purpose of the standard is to minimize the impacts of flooding on development. Compliance with the standard would prevent a development that on merit achieves the objectives of the standard by its nature and scale.

3. It is also important to consider:
  - (a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and

**Comment:** It is considered that non compliance with this standard does not raise any matter of significance for state or regional planning.

- (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

**Comment:** The proposal is contrary to the numerical standard contained within Clause 25 of HLEP 1989. However, it is considered that the public benefit will be maintained as support of the proposal would not undermine the objectives of this clause or set an undesirable precedent for the development of flood liable land.

Given the above, it is considered that the application has demonstrated that compliance with the requirements of Clause 25(2) is unreasonable and unnecessary in the circumstances. It is therefore recommended that the objection under State Environmental Planning Policy No. 1 be supported.

**State Environmental Planning Policy No. 44 - Koala Habitat Protection**

State Environmental Planning Policy No. 44 - Koala Habitat applies to land within the Hawkesbury Local Government Area to which a development application has been made and has an area of more than 1 hectare.

The flora and fauna report submitted advises:

*“One Koala food tree species Forest Red Gum (Eucalyptus tereticornis) as listed on Schedule 2 of State Environmental Planning Policy No. 44 – Koala Habitat Protection, was recorded during survey. Only a single tree was observed within the western boundary of the study area. This is less than the 15% indicated by SEPP 44, therefore the study area is not considered to be PKH (potential koala habitat) as defined under SEPP 44 and no further assessment under this policy is required.”*

Therefore, under Clause 8 of S.E.P.P. No. 44, Council is not prevented from granting consent to the proposal.

**State Environmental Planning Policy No. 55 - Remediation of Land**

The applicant advises that *“the subject land was previously owned by Boral Quarries and was partially planted in poplar trees of a species used to make matches. The plantation has been left to deteriorate and die at end of life. Some clearing of dead trees has been carried out.*

*Boral Quarries also constructed an all weather driveway to access their extraction pump set up to provide water from the Grose River under licence for the quarrying enterprise solely carried out on the Southern side of Springwood Road on the land parcel known as Lot 2 DP235341.”*

A search of Council files indicated that the land has not been used for any activities which would render the soil contaminated to such a degree as to prevent the future development of the land for the proposed recreational use. Therefore, the application is considered to be consistent with the provisions of State Environmental Planning Policy No. 55.

**State Environmental Planning Policy No. 64 – Advertising and Signage**

Given the ‘environmental protection’ zoning of the land, only ‘building identification’ or ‘business identification’ signs are permissible on the land under this Policy. Whilst the specific details of the proposed signage has not been provided with the application, it is considered that any proposed signs can meet the requirements of this Policy, Hawkesbury Local Environmental Plan and Hawkesbury Development Control Plan. This will be ensured through conditions of consent.

**Hawkesbury Local Environmental Plan 2012**

Under this Plan the subject land is zoned E4 Environmental Living. The proposed development is defined as ‘recreation facility (outdoor), which means:

*“a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).”*



Recreation facility (outdoor) is permissible with consent within the E4 zone. Clause 1.8A - Savings provision relating to development applications states:

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

Hawkesbury Local Environmental Plan was gazetted on 21 September 2012. The subject Development Application was lodged on 15 June 2012. As a result, the application has been assessed against the relevant provisions of Hawkesbury Local Environmental Plan 1989 as detailed below.

Regardless, the proposed development is considered to be consistent with the relevant provisions of the Plan, including the E4 zone objectives.

On 31 July 2012 Council adopted the 'Development of Flood Liable Land Policy' and the Policy took effect on 21 September 2012 upon gazettal of HLEP 2012. The purpose of the Policy is to convert Clause 25 of HLEP 1989 into a Council Policy to provide some interim provisions for flood assessment until the Floodplain Risk Management Study and Plan (currently on public exhibition) is completed.

The Policy only applies to development applications lodged on or after 21 September 2012. Older applications are still assessed against the relevant Clause 25 provisions of HLEP 1989 relating to the development of flood liable land.

#### **Hawkesbury Local Environmental Plan 1989 (HLEP 1989).**

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

#### **General provisions of HLEP 1989.**

##### **Clause 2 - Aims, objectives etc,**

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

##### **Clause 5 - Definitions**

The proposal is defined as 'recreational establishment', which means *"a building or place used for health farms, religious retreat houses, rest homes, youth camps, outdoor recreational activities, sporting activities and the like, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purposes elsewhere specifically defined in this clause."*

##### **Clause 8 - Zones indicated on the map**

The subject land is within the Environmental Protection (Scenic) 7(d) zone.

##### **Clause 9 - Carrying out development**

A 'Recreational establishment' is permissible with development consent within the Environmental Protection (Scenic) 7(d) 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 the Environmental Protection (Scenic) 7(d) zone are:

1. preserve the existing wooded ridges and escarpments,

**Comment:** The proposed development will have no adverse environmental impact.

2. protect hilltops, ridgelines, river valleys and other local features of scenic significance by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,

## ORDINARY MEETING

Meeting Date: 13 November 2012

**Comment:** It is considered that the types and colours of building materials, location of buildings, access road and car parking, as well as the proposed landscaping, will have no adverse impact on the scenic quality of the locality.

3. prevent the establishment of traffic generating development along main and arterial roads,

**Comment:** Springwood Road is an arterial road. In accordance with State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads and Maritime Services (RMS) for comment. In their letter of 28 August 2012, RMS raised no objection to the proposed development.

4. control outdoor advertising so that it does not disfigure the rural landscape,

**Comment:** The proposed signage is consistent with the requirements of State Environmental Planning Policy No. 64 – Advertising and Signage and Hawkesbury Development Control Plan. Additionally, it is considered that it is in keeping with the character of the locality.

5. protect the low density, broad-acre character of the rural areas, and

**Comment:** The scale of the proposed development is considered to be compatible with the low density scale of the locality.

6. protect orcharding in the Bilpin area.

**Comment:** Not applicable.

### Clause 18 – Provision of water, sewerage etc services

Electrical and telephone services are available to the site. It is considered that these available services are satisfactory for the proposed development. The development will be serviced by an onsite effluent disposal system and on site collection of water. An onsite wastewater feasibility assessment was submitted with the application and satisfactorily demonstrates that the site can support the disposal of wastewater generated by the proposed development.

### Clause 20 – Development below high-water mark etc

This Clause requires development consent for any development on land within 40 metres of the bank of a tidal or non-tidal river.

### Clause 22 - Development fronting a main or arterial road

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

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

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

A driveway from Springwood Road exists. Access to the proposed development will be via a new driveway to the west of the existing driveway. This access is considered satisfactory in terms of traffic safety and use as a result of the proposal. As access to the property from Springwood Road is existing, the proposed new access is considered acceptable.

**Clause 23 – Advertising structures**

This Clause allows Council to consent to the erection of an advertising structure on land within a ‘Rural’ zone only if the advertising structure displays only notices relating to the purpose for which the land is used.

The proposed signage is consistent with the requirements of this Clause, as only signs relating to the ‘Trees Adventure’ activity will be displayed.

**Clause 24 – Development in certain environmental and other zones**

This clause requires consideration of the height and siting of buildings and the colour of materials to be used in the erection of the buildings. It is considered that the construction materials and colours, location and design of the proposed building is satisfactory having regard to the building’s likely visual impact and to the scenic quality of the locality.

**Clause 25 - Development of flood liable land**

The subject land has natural ground levels of between approximately 1.5m AHD and 16m AHD. The 1 in 100 year flood level for the area is approximately 18.3m AHD. The proposed building will be located on land having a level of between 12.5m and 13.5m AHD. As the building will be located on land more than 3m below the 1 in 100 year flood level, the application is accompanied by an objection under State Environmental Planning Policy No. 1.

As previously discussed in this report, it is considered that the objection satisfactorily demonstrates that the standard is unreasonable and unnecessary, in this case, for the proposed building to be erected on land having a level of 15.3m AHD or higher.

The use of flood compatible materials for construction can be ensured through conditions of consent.

**Clause 36 – Clearing of land in certain environmental and other zones.**

This Clause prohibits the felling of trees, filling or otherwise altering the surface level of land without the consent of the Council.

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

The land affected by the development falls within Class 5 as identified on the Acid Sulfate Soils Planning Map. The proposed development does not include any works as defined within this Clause and therefore no further investigations in respect to acid sulphate soils are required. The proposal is consistent with the requirements of this Clause.

- (i) **Draft Environmental Planning Instrument that is or has been placed on exhibition and details of which have been notified to Council:**

There are no draft environmental planning instruments relevant to this development or the subject land.

- (ii) **Development Control Plan applying to the land:**

**Hawkesbury Development Control Plan (DCP)**

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

**General Information Chapter**

This Chapter provides an explanation of the development application process and provides the requirements for lodging a development application for different land uses.

It is considered the subject application provides adequate information for the assessment of the proposal and generally complies with this Chapter.

**Notification Chapter**

The adjoining neighbours were notified as per the requirements of this Chapter. No submissions were received.

**Landscaping Chapter**

The applicant proposes a weed management/removal program to restore the riverbank area, landscaping of the proposed carpark and in the vicinity of the new building. Whilst a formal landscape plan has not been submitted in this regard, this can be ensured through conditions of consent by requiring a landscape plan to be submitted for approval prior to the issue of the construction certificate. Revegetation of the river bank is a requirement of the General Terms of Approval issued by the NSW Office of Water.

**Car Parking Chapter**

A 'Traffic & Parking Impact Statement' prepared by Thompson Stanbury Associates dated 12 June 2012 was submitted in support of the application. This Report concluded:

- The traffic generated by the proposed use, based on surveys of a similar use in Belgrave Victoria, is anticipated to be very low and likely to occur during off-peak traffic periods on Springwood Road;
- In order to ensure that interruption to through traffic flows on Springwood Road are minimised (if not eliminated), localised widening is to be undertaken on the shoulder of Springwood Road opposite the proposed access point to the development, in accordance with a type "BAR" treatment as provided within the Roads & Maritime Services' Road Design Guide;
- Provision for on-site parking has been provided again based on patronage surveys of the existing similar use in Belgrave Victoria for both passenger vehicles and buses; and
- The on-site parking area design prepared by this Practice incorporates turning paths for the largest vehicle proposed to utilise the area as well as being compliant with the relevant Australian Standards.

Based on the contents of this correspondence and above conclusions, this Practice is of the opinion that there are no traffic and parking related issues that should prevent approval of the subject application.

All vehicles can enter and exit the site in a forward direction. Access to the proposed development will be via one driveway. The design and construction of all works within Springwood Road will be supervised by Roads and Maritime Services, including road widening, a right hand turn lane and the new driveway.

Hawkesbury Development Control Plan does not provide a specific carparking rate for the proposed development. The Traffic Report provided has made an assessment of the parking requirement for the proposal based on a similar operation in Victoria. This Report concluded that the proposed car park comprising:

- 57 carparking spaces,
- including three disabled spaces consistent with Australian Standard AS2890.6, and
- a bus bay (for two buses),

was adequate to cater for the ultimate development. This was based on the carparking demand experienced at the Victorian operation, and in particular having regard to the typical maximum demand of 41 spaces.

The proposed car park layout is consistent with the requirements of this Chapter of the DCP.

## ORDINARY MEETING

Meeting Date: 13 November 2012

The proponent originally requested that only part of the carparking area be sealed, and an unsealed overflow parking area be provided as follows:

*“The car park pavement consists of a 200mm thick layer of crushed rock over an approved subgrade. It is not proposed to seal the pavement surface for the following reasons:*

- *The car park site is in a rural area and there are no adjoining residences in the immediate vicinity. Therefore there will be no noise or dust impacts from the car park’s use.*
- *The car park will not be in constant use, with some days participants only arriving by one or two buses.*
- *The car park will be maintained by the operators as required, ensuring that dust is kept to a minimum and regrading the surface when required.*
- *The unsealed surface of the car park can be marked by raised pavement markers attached to the pavement by spikes.”*

Additional justification was submitted by the applicant following concerns raised during the assessment of the application. The applicant has proposed that 10 spaces, the bus bay and adjacent aisle are proposed to be sealed. The following additional justification has been provided:

- The maximum carparking demand will not be required for sometime until the activity is fully operational and established. Sealing of the rest of the parking area can be carried out when needed.
- Buses and cars typically do not visit the site at the same time. In general buses visit during the week for school groups etc, and on weekends participants arrive via cars.
- Six cars can utilise the bus parking area on weekends.

The sealing of car parks is a usual requirement for commercial developments within commercially zoned areas. It prevents the generation of dust, and stormwater runoff from unsealed areas that will typically contain more sediments than from sealed areas. Maintenance of unsealed areas is more intensive than for sealed areas. Some variation to this requirement has been granted in the past for certain developments outside commercial/urban environments or where overflow parking may be required on an infrequent basis.

The ultimate proposed car park is large scale, being approximately 3200m<sup>2</sup> and contains 57 car spaces, two bus parking spaces and significant manoeuvring areas. The car park is to be located directly from a regional road, and will drain into the Grose River. The car park is proposed to be utilised on a daily basis. Pedestrian safety within the car park should also be considered, with the unsealed surface requiring a very good standard of maintenance to be suitable for the use of disabled people in particular.

Support of a variation to not seal a car park of this scale at all would set an undesirable precedent. In this regard a compromise to seal part of the car park to enable the operation to commence and build patronage in the short term is proposed. The sealing of the remainder of the car park at a later date, once the business has established itself and the parking requirements are better understood, is also proposed. A consent condition requiring the sealing of the car park in stages is included in the recommendation.

### **Signs Chapter**

It is considered that any proposed signage can meet the requirements of this Chapter. It will be a requirement of any consent that details of any signage be submitted to Council for approval.

### **Soil Erosion and Sediment Control Chapter**

It is a requirement of this plan that any proposal which will or may involve the disturbance of the existing surface of the earth or placement of fill or changes in the rate and/or volume of run-off entering a watercourse, or flowing over land, shall be subject to the provisions of this chapter.

In this regard, erosion and sediment control will be ensured through conditions of consent.

### **Effluent Disposal**

This Chapter requires that certain "*development requiring or relying on an existing or proposed on-site sewage management facility must be accompanied by a waste water feasibility study (or similar) prepared by a suitably qualified and experienced expert.*"

A wastewater feasibility assessment was submitted in support of the application and is considered satisfactory.

**(iii) Planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F:**

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

**(iv) Matters prescribed by the Regulations:**

Conditions have been included in the Recommendation to this Report in respect to:

- (a) Compliance with the National Construction Code – Building Code of Australia, and
- (b) Payment of Developer contributions in accordance with Council's S94A Development Contributions Plan.

**2. 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**

The locality contains a mix of rural residential uses, cattle grazing, market gardens and recreational uses, including the nearby YMCA. The proposed use is considered consistent with these land uses.

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

### **Heritage**

The subject land is not identified as a heritage item, or is located within the vicinity of a heritage item.

The Deerubbin Local Aboriginal Land Council was notified of the application and did not make any submissions.

### **Water**

Stormwater from the car park will be diverted via swales to a sediment pond prior to release from the site and into the Grose River.

Roof water from the amenities building will be captured within a water tank and reused for landscaping purposes.

### **Flora & Fauna**

The trees to be used for support of structures for the obstacle courses will be inspected on an annual basis for suitability. An Interim Tree Management Report prepared by ArborSite was submitted with the application, where the conditions of trees within the obstacle course area were evaluated and suitable trees were identified. Platforms within trees will be reviewed and relocated on an annual basis to protect the health of the trees.

An 'Ecological assessment' Report prepared by Travers Bushfire & Ecology, Ref: A12036 and dated 12 June 2012 was submitted in support of the application, and concludes:

## ORDINARY MEETING

Meeting Date: 13 November 2012

*"In accordance with Section 5A of the EPA Act 1979, the 7 part test (Attachment 3) has concluded that the proposed development will not have a significant impact on any state listed threatened flora or fauna species or populations. This is provided that the mitigation measures outlined with the recommendations of this report are undertaken in respect to the recorded Large-footed Myotis and other microchiropteran bat species with potential to occur.*

*There has been some weed control works undertaken by The Good Bush People. The proponent expects this to continue such that the riparian zone of Areas A and C contain only indigenous species. Whilst this proposal will modify minor specimens within the overall River-flat Eucalypt Forest on Coastal Floodplain, the proponent has an opportunity to be able to remove and control weeds and allow natural regeneration of the more degraded portions to ultimately gain a net benefit to the EEC."*

The applicant's report also recommends:

*"To minimise adverse ecological impacts on threatened and protected species and EEC's, the following mitigation measures are proposed:*

- No development of any kind is to be located within 125 metres of the white-bellied Sea Eagle nest location.
- No disturbance should take place on the development site from May until the white-bellied Sea Eagle pair has raised their young – which should be around late September.
- Noise levels are to be controlled by addressing this issue during all pre-activity briefings.
- The removal of any tree containing hollows should be conducted under the supervision of a fauna ecologist to ensure appropriate animal welfare procedures are taken, particularly if a Large-footed Myotis colony is found. Hollows of high quality or with fauna recorded residing within should be sectionally dismantled and all hollows should be inspected for occupation, activity and potential for reuse.
- Re-used hollows or those with likely/recorded occupation are to be reattached to remaining trees within the subject site that are not used as part of the adventure course. All other hollows of potential occupation that are removed should be replaced with nest boxes. Every second box should be a design for microbat species. Boxes should be constructed all of weatherproof timber (marine ply), fasteners and external paint and should also be fixed to trees that are not used as part of the adventure course.
- If any fauna species, a nest or roost is located during development works, then works should cease until safe relocation can be advised by a contact fauna ecologist.
- Thin out larger shrubs such as the coloniser Trema Tomentosa for Zone A to provide good access under the ropes course as a safety precaution and for Zone B to allow other small shrub species to recolonise as part of the regeneration process.
- Ensure soil stability and provide standard sediment and erosion control measures if/where the removal of any vegetation or any excavation may cause an impact upon the Grose River.
- Consider planting native locally occurring trees and shrubs within the car park area (Zone A).
- If additional planting of Zones B and C are required to assist native regeneration, then plant grasses, forbs and small shrubs that occur locally and naturally within the River-flat Eucalypt Forest on Coastal Floodplains EEC."

The above will be ensured through conditions of consent.

## ORDINARY MEETING

Meeting Date: 13 November 2012

Given the above, it is 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 "Assessment for the siting of an effluent management system in relation to the proposed Trees Adventure Park at Lot 1 DP235342, No.167 – 213 Springwood Road, Yarramundi", prepared by Blue Mountains Geological and Environmental Service P/L, Ref No. 120403 and dated April 2012, was submitted in support of the application. This Report concluded that the onsite disposal of wastewater can be achieved on the site to cater for the proposed development.

### **Noise & Vibration**

The proposed hours of operation are 8:00am to 8:00pm daily, with an extension to 12:00 midnight once per month *"when conditions permit a special moonlight session."*

The Applicant advises:

*"All participants are encouraged to enjoy the challenges quietly (there is a strict 'no screaming or calling out' policy) and to concentrate on the challenge and on their achievement."*

*"The equipment emits little discernable noise as it is principally made of wood suspended by ropes. Where there are wheels they are rubber, particularly on the flying foxes to ensure a quiet passage with none of the familiar high pitched squeal associated with metal wheels on steel cables."*

It is considered that the proposed development will have no adverse impact on the locality in respect to noise given the distance of the activity from adjoining residential properties and subject to management practices, including pre-course briefings.

### **Natural Hazards**

As discussed previously, the flood affectation of the property is not considered to be prohibitive to the proposed development.

The land is identified as 'bushfire prone land'. Given the nature and scale of the proposal, it is also considered that this affectation is not prohibitive to the proposed development.

### **Cumulative Impacts**

The proposed development is compatible with land uses in the locality. Having regard to the scale and nature of the proposal, no negative cumulative impact is foreseen.

### **3. Suitability of the site for the development:**

The area is characterised by rural land uses and it is considered that the size and shape of the allotment can sustain the proposed land use. The location and design of the development will ensure minimal impact on the amenity of the adjoining properties and natural environment.

Adequate access is available to the site and the proposed use will not generate unmanageable traffic demand for the existing road network. The subject site area is adequate to accommodate on-site effluent disposal. Other utilities such as electricity and telephone are also available to the site.

The development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats.

There are no constraints from surrounding land uses that would make this development prohibitive.

The flood and bushfire affectation of the land is not considered to be prohibitive to the development.

For these reasons, it is considered that the subject land is suitable for the proposal.



**4. Any submissions made in accordance with the Act or the Regulations:*****NSW Office of Water***

The proposed development was referred to the NSW Office of Water as 'integrated development' under Section 91A of the Environmental Planning and Assessment Act 1979. In their letter of 4 July 2012, the NSW Office of Water provided their General Terms of Approval (GTA). These have been incorporated into the recommendation of this report.

***Roads and Maritime Services***

The proposal was referred to the Roads and Maritime Services (RMS) for in accordance with the requirements of State Environmental Planning Policy (Infrastructure) 2007. In their letter of 31 August 2012, RMS advised that they would grant concurrence to the development subject to certain requirements. These requirements have been incorporated into the recommendation of this report.

**5. The Public Interest:**

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

- The proposal will provide recreational opportunities to the public and is a compatible use with other development within the locality;
- The proposed development is consistent with the overall objectives of the existing zone;
- The proposal generally complies with the objectives and requirements of the Hawkesbury Development Control Plan 2002;
- The proposed development is not expected to adversely impact on the amenity of the locality or the surrounding environment, and
- The proposal will have no adverse impact on threatened or endangered species, populations, ecological communities, or their habitat.

**Conclusion:**

The proposed development is consistent with the relevant provisions of Hawkesbury Local Environmental Plan 2012, Hawkesbury Local Environmental Plan 1989, Sydney Regional Environmental Plan No. 20, State Environmental Planning Policies No. 1, 44, 55 & 64, and Hawkesbury Development Control Plan.

The flooding affectation of the property is not prohibitive to the development, and the objection under State Environmental Planning Policy No. 1 to permit the erection of the amenities building on land more than 3 metres below the 1 in 100 year flood level is supported.

It is considered that the proposal will have no significant adverse impact on the locality, subject to the implementation of appropriate control measures via conditions of consent.

**Development Contributions**

The following developer contributions apply to this development - \$2,980.00. Accordingly, a condition of consent is required to be imposed in this regard.

**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. DA0281/12 at Lot 1 DP 235341, 167-213 Springwood Road Yarramundi for a Recreation Establishment - Outdoor recreational tree top facility and associated amenities be approved subject to the following conditions:

**Department of Primary Industries – Office of Water Conditions****General Terms of Approval*****Plans, standards and guidelines***

1. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA0281/12 and provided by Council:

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

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

2. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
3. The consent holder must prepare or commission the preparation of :
  - (i) Vegetation Management Plan
  - (ii) Erosion and Sediment Control Plan
  - (iii) Soil and Water Management Plan
4. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
5. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
6. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
7. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
8. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
9. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

**Roads and Maritime Service (RMS) Conditions**

10. If not already in place, full time “No Stopping” restrictions are to be implemented along the full Springwood Road frontage of the development site. This restriction should be implemented prior to the commencement of any demolition works relating to the development. Prior to the installation of the parking restrictions the applicant is to contact the RMS Traffic Engineering services on phone: (02) 8849 2294 for a works inspection.
11. RMS supports the introduction of the “BAR” treatment, auxiliary right turn lane, from Springwood Road to the site. This treatment should include localised widening of the sealed carriageway and a detailed design shall be submitted to RMS for approval, in accordance with RMS requirements, prior to undertaking road works by the Developer.
12. The proposed driveway along Springwood Road shall be in accordance with AS2890.1 – 2004 and RMS requirements. Details of these requirements shall be obtained from RMS Project Services Manager, Traffic Projects Section, Parramatta (telephone 02 8849 2496). Detailed design plans of the proposed modified driveway are to be submitted to RMS for approval prior to the commencement of any road works.
13. A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by RMS.
14. The developer will be required to enter into a ‘Works Authorisation Deed’ (WAD) with the RMS for the abovementioned driveway and auxiliary right turn, “BAR” treatment. In this regard, the developer is required to submit detailed design plans and all relevant additional information, as may be required in the RMS Works Authorisation Deed documentation, for each specific change to the State road network for RMS assessment and final decision concerning the work. The detailed design plans submitted shall be in accordance with the RMS’s – Road Design Guide, AUSTROADS, relevant RMS supplements and other RMS requirements.

Post development stormwater flows from the subject site into the RMS drainage system shall not exceed the pre-development discharge. In the event that there are changes to the RMS drainage system, detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to RMS for approval, prior to the commencement of any works.

Details should be forwarded to:

Sydney Asset Management  
Roads and Maritime Services  
PO Box 973,  
Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required prior to RMS approval being issued. With respect to the civil works requirements, please contact the RMS project engineer, External Works on (02) 8849 2114 or fax (02) 8849 2766.

15. A Road Occupancy Licence shall be obtained from the Transport Management Centre for any works that may impact on traffic flows on Springwood Road during Construction Activities.
16. All vehicles are to enter and leave the site in a forward direction.
17. All vehicles are to be wholly contained on the site before being required to stop.
18. The layout of the proposed car parking area associated with the subject development application (including driveways, grades, turn-paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions should be in accordance with AS2890.1 2004 or in accordance with the requirements of the Hawkesbury Development Control Plan where this imposes a greater standard (added by Council).

## ORDINARY MEETING

Meeting Date: 13 November 2012

19. The turning areas must be kept clear of all obstruction and /or parking vehicles at all times to allow turning manoeuvres within the site.
20. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the verge of Springwood Road.
21. The developer shall be responsible for all public adjustments/relocation works, necessitated by the above works and as required by the various public utilities and/or their agents.
22. All roadwork/regulatory signposting associated with the proposed development shall be at no cost to RMS.

### Hawkesbury City Council Conditions

#### General Conditions

23. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
24. This Approval does not consent to development within Area C.
25. No development of any kind is to be located within 125 metres of the white-bellied Sea Eagle nest location.
26. Construction of the development shall only take place between October and May so as not to disturb the breeding white-bellied Sea Eagle pair.
27. This development shall be modified in the following manner:
  - (i) The carpark shall be amended to ensure that it is located a minimum of 5 metres from the front boundary to allow for landscaping and to ensure that the batters are a minimum of 1 metre from the front boundary.
28. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
29. The development shall comply with the provisions of the National Code of Construction.
30. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, are to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.
31. All premises offering food, packaged or otherwise, are to be registered with Hawkesbury City Council and have inspections conducted by Council's officers as necessary/required. These premises are required to comply with the Food Act 2003, associated Regulations, and the Food Safety Standards 3.2.2 and 3.2.3. These are available on line at [www.foodstandards.gov.au](http://www.foodstandards.gov.au)
32. All food premises are to comply with Hawkesbury City Council's Food Premises Fit Out Code.

#### Prior to Issue of Any Construction Certificate

33. Prior to the issue of any Construction Certificate written evidence that a Controlled Activity Approval has been obtained from NSW Office of Water is to be submitted, including associated approved plans and documentation (Vegetation Management Plan, Erosion and Sedimentation Control and Soil and Water Management Plan, etc), with the application for any construction certificate.

## ORDINARY MEETING

Meeting Date: 13 November 2012

34. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$2,980.00 shall be paid to Hawkesbury City Council.

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

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

35. Submission for approval of a landscaping plan (suitable for construction) for the carpark and amenities building. Such landscaping shall include a mixture of trees, shrubs and groundcover utilising species of local provenance.
36. Submission for approval of details for proposed signage, including location, size, height, colour and wording of all proposed signage.
37. Submission for approval of a management plan for the activity and shall include:
- (i) Noise management
  - (ii) Maintenance of sediment pond
  - (iii) Monitoring/maintenance of trees and platforms for safety

### ***Prior to Issue of an Engineering Construction Certificate***

38. Construction of car park, drainage 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.
39. Payment of a Construction Certificate checking fee of \$405.50 and a Compliance Certificate inspection fee of \$498.90 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2013. Fees required if an Accredited Certifier is used will be provided on request.
40. A Traffic Guidance Scheme prepared in accordance with AS1742-3 2002 by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Maritime Services controlled roads, the traffic guidance scheme is to be approved by Roads and Maritime Services before submission to Council.

### ***Prior to Issue of a Building Construction Certificate***

41. Submission of a National Construction Code/Building Code of Australia Section J Energy Efficiency report.
42. The development shall comply with the provisions of the National Construction Code/Building Code of Australia; details of compliance are to be provided to the Principal Certifying Authority prior to issue of a Construction Certificate.
43. The development shall comply with the Disability (Access to Premises – Buildings) Standards 2010. Details of compliance are to be provided to the Principal Certifying Authority prior to issue of a Construction Certificate.
44. A qualified Structural Engineer's design is to be provided to the Principal Certifying Authority prior to issue of a Construction Certificate for the following; consideration is to be given to the intended live and dead loads:

## ORDINARY MEETING

Meeting Date: 13 November 2012

- (i) Flying fox, rope ladder, walking wire, timber bridge, suspended logs, climbing nets, and associated supports;
- (ii) Tree Platforms;
- (iii) All reinforced concrete and structural steel associated with the building housing the kiosk, viewing platform, toilets, training and equipment store etc.

### ***Prior to Commencement of Works***

- 45. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan.
- 46. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
- 47. 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.
- 48. 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.
- 49. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
- 50. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
  - (a) Unauthorised access to the site is prohibited.
  - (b) The owner of the site.
  - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
  - (d) The name and contact number of the Principal Certifying Authority.

### ***During Construction***

- 51. During the demolition and construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
- 52. Landscaping shall be completed as shown on the approved landscaping plan. A suitably qualified and experienced Landscape Architect or Horticulturist shall certify that landscaping has been completed in accordance with the approved landscaping plan.
- 53. The removal of any tree containing hollows should be conducted under the supervision of a fauna ecologist to ensure appropriate animal welfare procedures are taken, particularly if a Large-footed Myotis colony is found. Hollows of high quality or with fauna recorded residing within should be sectionally dismantled and all hollows should be inspected for occupation, activity and potential for reuse.
- 54. Re-used hollows or those with likely/recorded occupation are to be reattached to remaining trees within the subject site that are not used as part of the adventure course. All other hollows of potential occupation that are removed should be replaced with nest boxes. Every second box should be a design for microbat species. Boxes should be constructed all of weatherproof timber (marine ply), fasteners and external paint and should also be fixed to trees that are not used as part of the adventure course.

**ORDINARY MEETING****Meeting Date:** 13 November 2012

55. If any fauna species, a nest or roost is located during development works, then works should cease until safe relocation can be advised by a contact fauna ecologist.
56. Larger shrubs, such as the coloniser *Trema Tomentosa* for Zone A, are to be thinned out to provide good access under the ropes course as a safety precaution and for Zone B to allow other small shrub species to recolonise as part of the regeneration process.
57. The development shall be completed in accordance with the approved colours and finishes:

Structural Element	Material	Colour
Roof	0.42 Corodek Colorbond	Eucalyptus
Ridge Capping	Colorbond Ridgecapping	Eucalyptus
Wall/Fascia	042 Corodek Colorbond	Sandbank
Gutter	Metroline Square –Colorbond	Sandbank
Downpipe	Downpipe	Sandbank
Decking	Treated Cyprus Pine	Natural Wood
Building Cladding	Weatherex Ecogroove 300	Natural Wood
External Doors	Solid Treated Timber	Natural Wood
Toilet Block Walls	Besser Brick	Natural Grey
Toilet Floors	Polished Cement	Natural Grey
Toilet Roof	0.42 Corodek Colorbond	Eucalyptus

58. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
59. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
- (i) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
  - (ii) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
  - (iii) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
60. The topsoil shall be stripped and stockpiled and used to cover the landfill, as appropriate
61. All fill to be adequately compacted by track rolling or similar in layers not exceeding 300mm.
62. All constructed batters are to be topsoiled and turfed and where batters exceed a ratio of 3 (three) horizontal to 1 (one) vertical, retaining walls, stone flagging or terracing shall be constructed.
63. The site shall be secured to prevent the depositing of any unauthorised material.
64. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
65. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
66. Off-street car parking spaces, together with access driveways and turning areas, shall be constructed in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification, drained, signposted and maintained, generally as shown on the approved plan. The paving, sealing and line marking of the car park may be undertaken in stages as follows:

## ORDINARY MEETING

Meeting Date: 13 November 2012

- (i) Stage one – entry driveway, manoeuvring and turning areas, bus bays and 20 car spaces (including disabled spaces) are to be sealed and line marked prior to the issue of the occupation certificate,
  - (ii) Stage two – sealing and line marking of the remainder of the car park is to be completed within three years of the date of issue of the occupation certificate.
67. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
68. Disabled parking shall be provided in accordance with AS2890.6.
69. A ticketing system is to accompany any material being brought to the site. A register is to be kept on site to cross reference against the source records. An independent site auditor is to be engaged to undertake appropriate certification regarding the monitoring and validation of the fill material imported to the site as being sound, suitable for the proposed use and free of contamination.
70. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
71. The development shall be constructed of flood compatible materials in accordance with the NSW Government Flood Plain Manual. In this respect the following design precautions must be adhered to in all respects:
- (a) all electrical, heating and air conditioning service installations are to be located above the 2% AEP flood level of 17.4m AHD;
  - (b) the building is to be constructed of flood compatible materials such as galvanised steel frame, galvanised zinc alum cladding doors and door frames; and
  - (c) the structure and walls shall be strengthened to increase resistance to floodwater flow and debris impact.
72. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
73. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
74. Water quality control devices and energy dissipaters shall be constructed at the point of discharge of stormwater from the site.
75. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
76. Illumination is to be provided to the car park and pedestrian areas in accordance with the relevant requirements of AS1158.
77. Ceilings throughout the food preparation and serving premises are to be solid and are to comply with section 4.0 of Hawkesbury City Council's Food Premises Fit Out Code. "Drop in" ceiling panels are not permitted over food preparation or food storage areas.
78. All walls, floors, benches, shelves, chairs, fittings and the like are to be constructed with materials that are smooth, durable, impervious to moisture, and capable of being easily cleaned with a disinfectant. Fittings and equipment should be constructed so as not to harbour food, insects or vermin.



## ORDINARY MEETING

Meeting Date: 13 November 2012

79. The floors are to be covered with a durable, non-toxic, impervious surface, graded to trapped floor waste outlets (where necessary), and connected to an approved drainage installation. The floor covering is to be free of protrusions or gaps. Where used, floor tiles are to be epoxy grouted.
80. All wall/floor junctions in the food preparation and storage area(s), including any prefabricated low temperature room wall and floor, shall be coved according to Hawkesbury City Council's Food Premises Fit Out Code. The coving is to be a minimum radius of 25mm using a smooth impervious material of a light colour. Where walls and floors are tiled, the coving is to be of a tile type. "Stick on" coving is not permitted. Feather edge skirting is not permitted.
81. The premise is to be fitted with adequate hand washing facilities for the preparation of food. Hand washing basins are required in addition to other basins and sinks in any toilet, and in any food preparation area. Where separate additional food preparation areas are provided, an additional hand washing basin is needed. Hand washing basins are required;
  - (a) to be fitted with hand's free taps such as knee or foot operated devices;
  - (b) with hot and cold running potable water;
  - (c) with a common spout Centigrade delivering water of at least 40°
  - (d) to be easily accessible at all times.

### ***Prior to Issue of the Occupation Certificate***

82. The applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures and emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building in a prominent location and maintained at all times.
83. A works as executed plan shall be submitted to Council on completion of works.
84. The following Fire Safety Measures shall be provided and installed in the building/property by a suitably qualified person and a Certificate of Installation shall be provided to the owner/agent:
  - (a) Portable Fire Extinguishers
  - (b) Exit Signs

Prior to requesting an occupation certificate the owner/agent shall certify that each of the essential fire safety measures specified in this statement:

- (a) has been installed and assessed by a properly qualified person, and
- (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

A copy of the Fire Safety Certificate to be completed is available from Council.

(This Certificate cannot be signed by persons who inspected and/or tested the installed services)

A copy of the Initial Certificate and the Annual Certificate, together with the relevant Fire Safety Schedule must be forwarded to the Council and the Commissioner of the New South Wales Fire Brigades. A copy of this Certificate, together with the relevant Fire Safety Schedule must be prominently displayed in the building.

Annually:

The Fire Safety Measures are to be regularly serviced/ maintained and the owner/agent (including subsequent owners) shall certify annually that each of the fire safety measures specified in this statement has:

## ORDINARY MEETING

Meeting Date: 13 November 2012

- (a) Been assessed by a properly qualified person, and
  - (b) Found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
85. A qualified Structural Engineer is to certify for the following has been constructed in accordance with the design details:
- (a) Flying fox, rope ladder, walking wire, timber bridge, suspended logs, climbing nets, and associated supports & connections;
  - (b) Tree Platforms;
  - (c) all reinforced concrete and structural steel associated with the building housing the kiosk, viewing platform, toilets, training and equipment store etc;

### ***Use of the Development***

86. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
87. Operating hours shall be limited to 8:00am to 8:00pm. A night time session is permitted once a month and the operating hours shall finish at 12 midnight on these occasions.
88. Noise generated as a result of the development shall be managed so that the LAeq noise levels, measured at any point in accordance with the NSW DECs' Industrial Noise Source Policy, do not exceed 5dB(A) (LAeq) above background levels (LA90) with respect to noise amenity of other properties and associated outdoor areas.
89. The use of the premises shall not give rise to 'offensive noise' as defined by the Protection of the Environment Operations Act 1997.
90. Annually a qualified Structural Engineer is to certify that the following is in good repair and suitable for continued use:
- (a) Flying fox, rope ladder, walking wire, timber bridge, suspended logs, climbing nets, and associated supports & connections;
  - (b) Tree Platforms

### ***Advisory Notes***

\*\*\* Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.

\*\*\* The applicant is advised to consult with:

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

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

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

## ORDINARY MEETING

Meeting Date: 13 November 2012

\*\*\* 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.

The following advice is provided at the request of RMS:

The developer is advised that the conditions of consent set by Council do not guarantee RMS final consent to the specific road work and other structure works on the classified road network. RMS must provide a final consent for each specific change to the State road network prior to the commencement of any work.

### ATTACHMENTS:

AT - 1 Locality Plan and Aerial Photo

AT - 2 Site Plan

AT – 3 Elevation Plan (Eastern & Western)

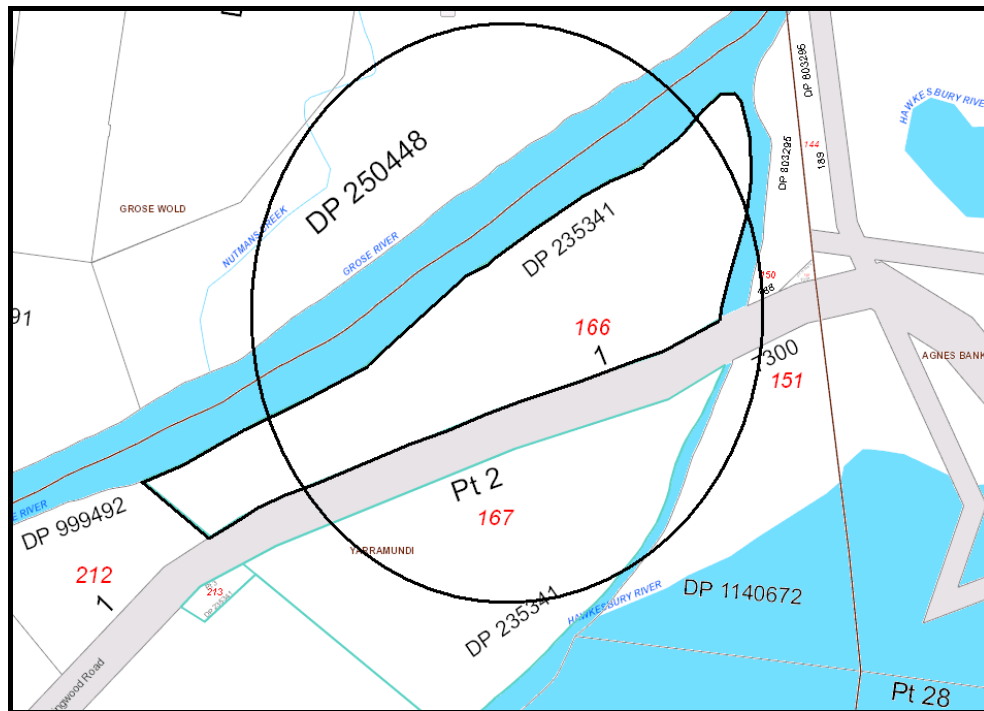
AT – 4 Elevation Plan (Northern & Southern)

AT – 5 Platform Design

ORDINARY MEETING

Meeting Date: 13 November 2012

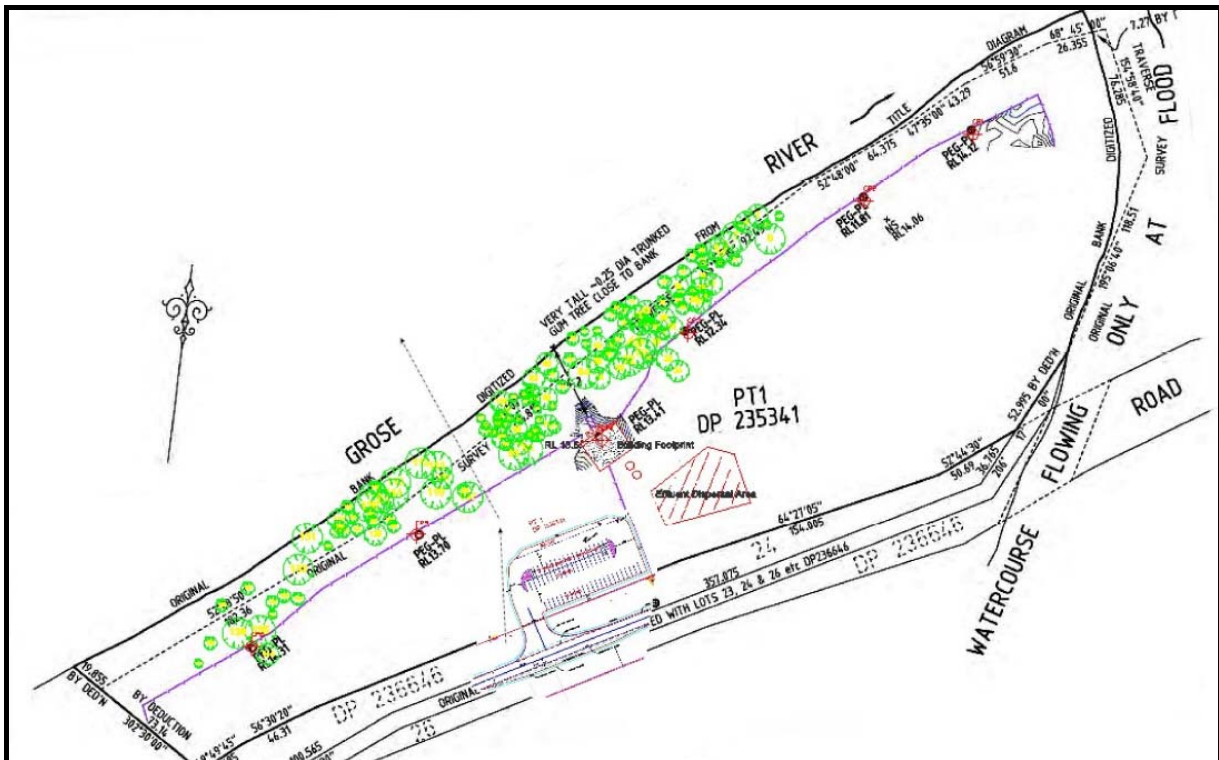
**AT - 1 Locality Plan and Aerial Photo**



ORDINARY MEETING

Meeting Date: 13 November 2012

AT - 2 Site Plan

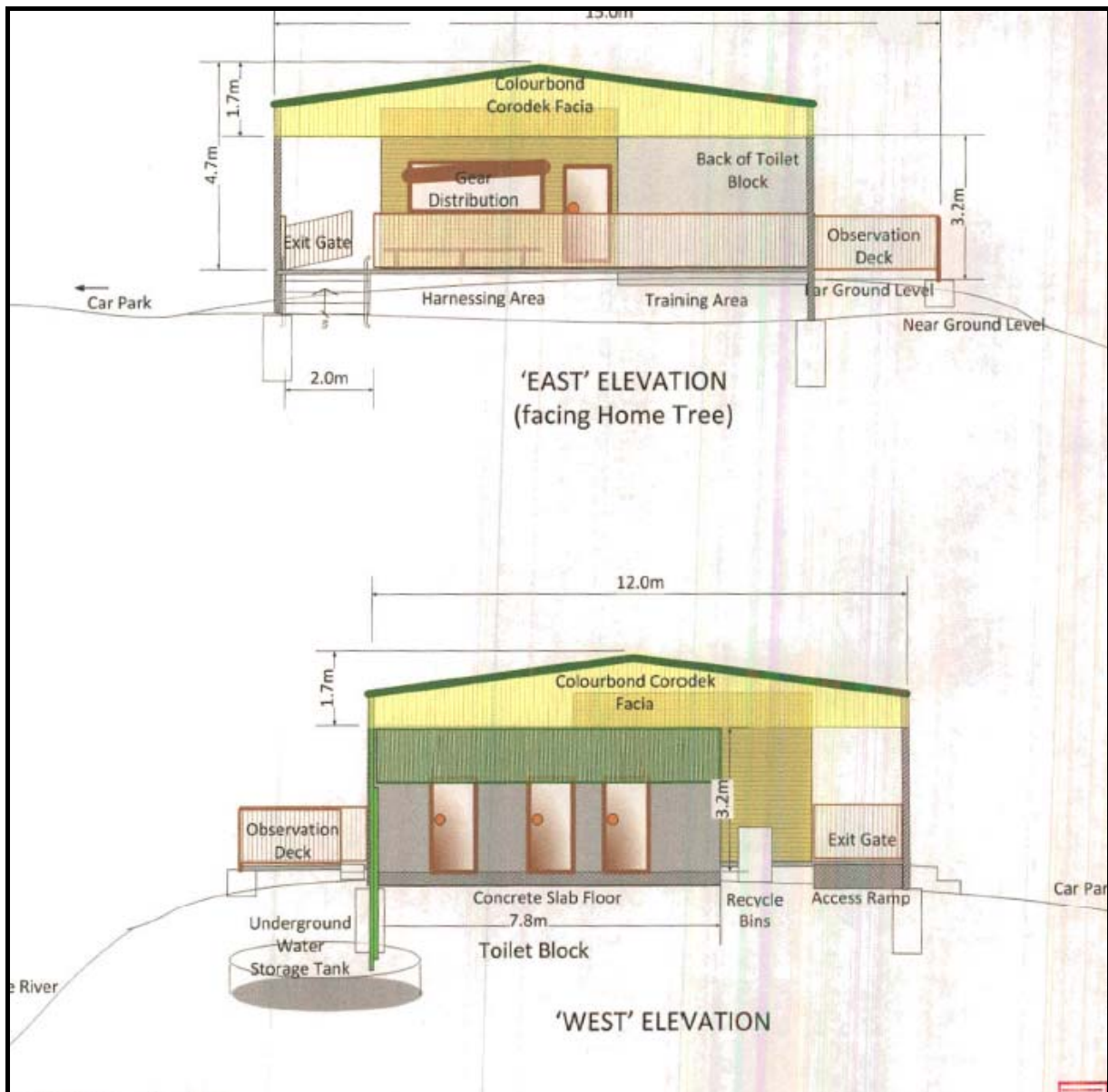




## ORDINARY MEETING

Meeting Date: 13 November 2012

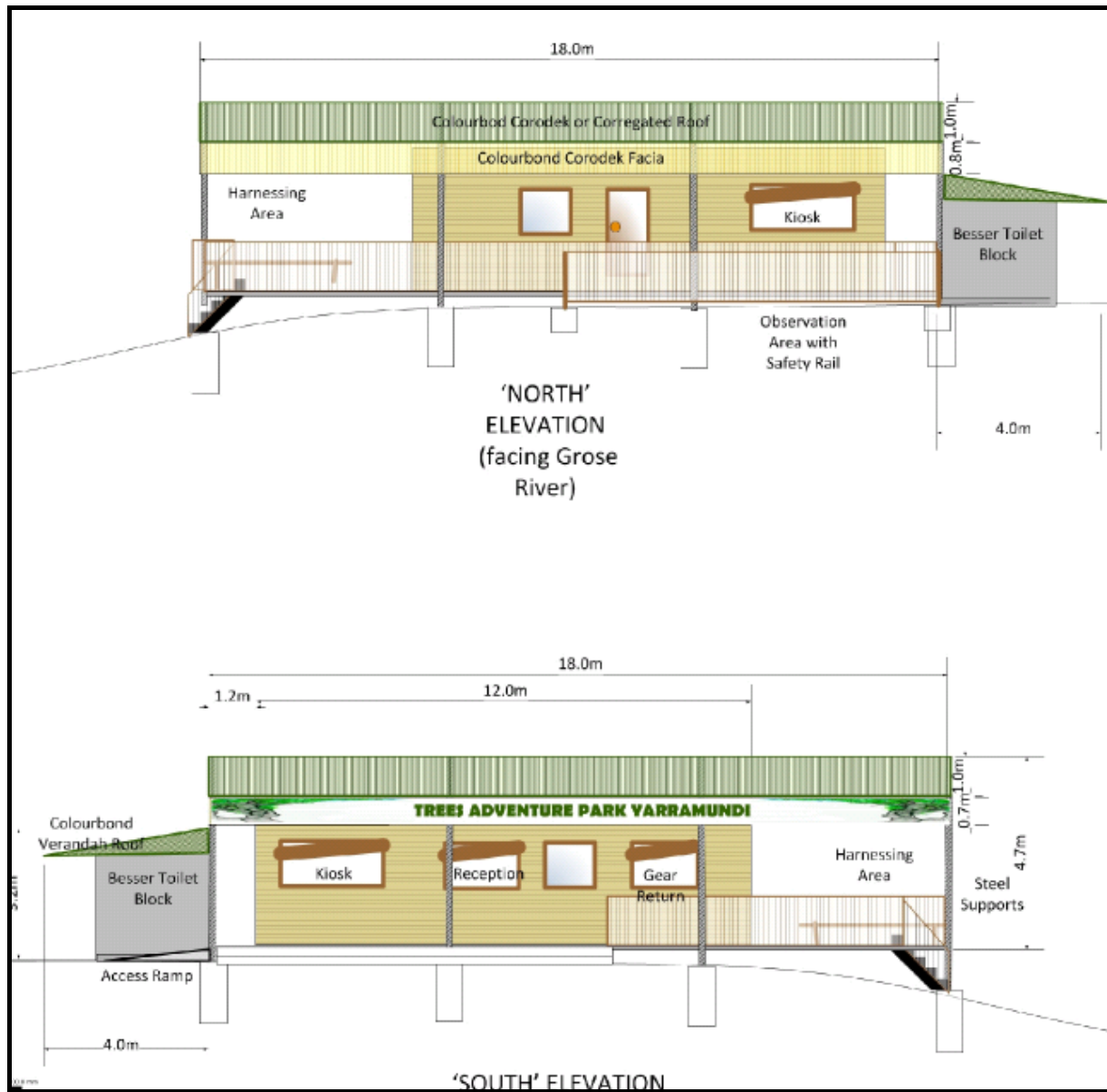
### AT – 3 Elevation Plan (Eastern & Western)



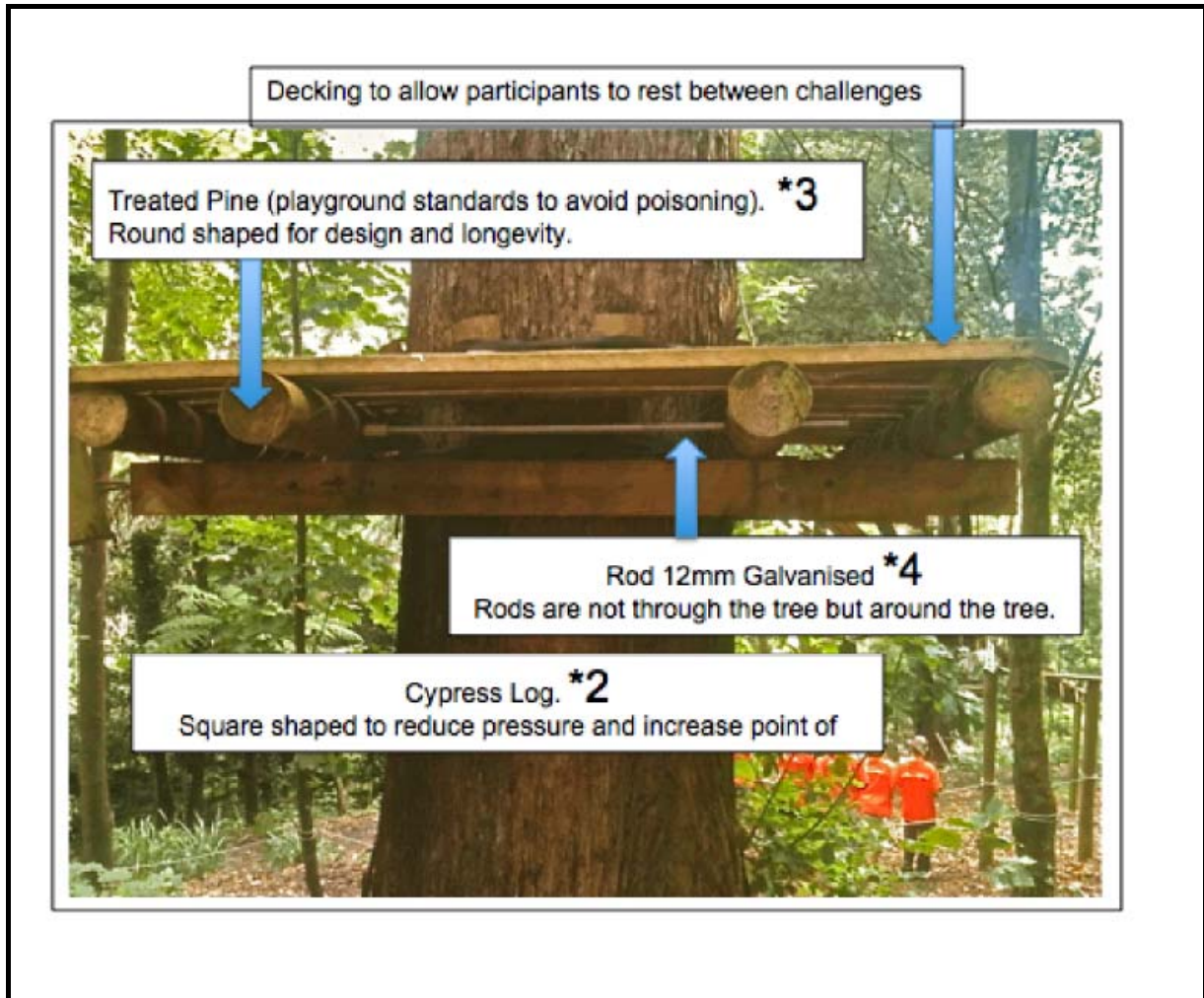
## ORDINARY MEETING

Meeting Date: 13 November 2012

### AT – 4 Elevation Plan (Northern & Southern)



AT – 5 Platform Design



oooO END OF REPORT Oooo



## ORDINARY MEETING

Meeting Date: 13 November 2012

**Item: 195**                    **CP - Planning Proposal for Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave (LEP89004/10) - (95498)**

**Previous Item:**            203, Ordinary (13 September 2011)

---

### REPORT:

#### Executive Summary

The purpose of this report is to advise Council of submissions received due to the public exhibition and public authority consultation relating to a planning proposal to rezone Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave.

The submissions received by Council do not give rise to amending or abandoning the rezoning. It is recommended that the planning proposal be forwarded to the Department of Planning and Infrastructure (DP & I) for finalisation and gazettal.

#### Consultation

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

#### Background

On 13 September 2011 Council considered a report to rezone Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave from Rural Living to Mixed Agriculture under the Hawkesbury Local Environmental Plan 1989 (LEP 1989) or to RU1 Primary Production under the draft Hawkesbury Local Environmental Plan 2011 (dLEP 2011). At this meeting Council resolved as follows:

*"That the planning proposal for Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave be supported and forwarded to the Department of Planning and Infrastructure for a "gateway" determination."*

Given the change in Council as a result of the Local Government elections in September 2012 a copy of the previous report to Council is attached to this report for background information.

The planning proposal was forwarded to the DP & I on 21 September 2011. In October 2011 the DP & I requested the submission of an amended planning proposal. The amendments mainly dealt with the format and justifications of the planning proposal and did not change the overall intent of the planning proposal which was to rezone the land to RU1 Primary Production.

In May 2012 the applicant (Montgomery Planning Solutions) provided an amended planning proposal and this was referred to the DP & I.

On 8 June 2012 a "gateway determination" was issued that allowed the proposal to proceed to consultation with certain public authorities and community consultation.

On 21 September 2012 Hawkesbury Local Environmental Plan 2012 (LEP 2012) commenced and LEP 1989 was repealed. The effect of this is that the planning proposal will result in an amendment to LEP 2012.

**Referrals to Public Authorities**

The planning proposal was referred to the following public authorities:

- NSW State Emergency Service
- NSW Rural Fire Service
- Office of Environment and Heritage
- Hawkesbury - Nepean Catchment Management Authority

Council received an acknowledgement letter from the NSW State Emergency Service and submissions from the NSW Rural Fire Service and Office of Environment and Heritage.

The NSW Rural Fire Service raised no objection to the planning proposal.

The Office of Environment and Heritage's (OEH) submission is attached to this report. The OEH submission deals with floodplain risk issues and encourages Council to consider the heads of consideration of the NSW Floodplain Development Manual 2005 (the Manual) in assessing any future development application. The submission draws Council's attention to specific matters relating to floodway and flood hazard, emergency management, cumulative impacts, filling and climate change.

It is considered that these matters are best addressed at development application stage where specific development proposals can be assessed against the matters raised by the OEH. It is also considered that these matters should not hinder the progression of the planning proposal to finalisation and gazettal by the DP & I.

It is noted that Council is currently exhibiting the Draft Hawkesbury Floodplain Risk Management Study and Plan and if adopted it will provide direction for the assessment of development applications on flood liable land such as the subject site.

**Results of Community Consultation**

The planning proposal and supporting documentation was publically exhibited for the period 10 – 24 August 2012. A notice was placed in the Hawkesbury Courier on 9 August 2012 and letters were sent to adjoining and nearby landowners and occupiers advising of the proposal and the exhibition period. The planning proposal was available on Council's website and at Council's Main Administration Building.

Council received no submissions.

**Conformance to Community Strategic Plan**

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

- A balanced set of decisions that integrate jobs, housing, infrastructure, heritage, and environment that incorporates sustainability principles

**Financial Implications**

The applicant has paid the fees required by Council's Revenue Pricing Policy for the preparation of a local environmental plan.

**Planning Decision**

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

## **ORDINARY MEETING**

**Meeting Date:** 13 November 2012

### **RECOMMENDATION:**

That the planning proposal to rezone Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave to RU1 Primary Production under Hawkesbury Local Environmental Plan 2012 be forwarded to the Department of Planning and Infrastructure for finalisation and gazettal.

### **ATTACHMENTS:**

**AT - 1** Report to Council dated 13 September 2011

**AT - 2** Copy of submission from Office of Environment and Heritage

## ORDINARY MEETING

Meeting Date: 13 November 2012

### **AT - 1 Report to Council dated 13 September 2011**

**ITEM: CP - Planning Proposal for Lot 12 SP 1138749, 46 Mulgrave Road, Mulgrave (LEP89004/10) - (95498)**

---

#### **REPORT:**

##### **Executive Summary**

This report discusses a planning proposal which seeks to rezone Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave from Rural Living to Mixed Agriculture under Hawkesbury Local Environmental Plan 1989 (LEP 1989) or RU1 Primary Production under draft Hawkesbury Local Environmental Plan 2011 (dLEP 2011).

##### **Consultation**

The planning proposal has not been exhibited. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and associated Regulations.

##### **Site and Surrounds**

The site is generally rectangular in shape and has an area of approximately 26.42ha. The site fronts Mulgrave Road to the east with industrial zoned land beyond, the McGraths Hill Sewage Treatment Plant to the north, South Creek to the west with Mixed Agriculture zoned land beyond, a mushroom substrate production facility to the south. The Hawkesbury Valley Way Flood Evacuation Route/Jim Anderson Bridge passes through the middle of the site.

Most of the site is cleared low lying flood liable land with an elevation less than 11.1m AHD (i.e the 1 in 5 year flood event height). A small raised part of the site is located near the northern boundary between the Jim Anderson Bridge and Mulgrave Road. This area has a maximum height of approximately 16.5m AHD and contains a dwelling, various sheds, animal pens, motor vehicles, and assorted farm machinery.

A minor water course runs through the property and incorporates three dams.

The site falls within the South Creek Catchment Area and is partly within an area of Regional Scenic Significance (Landscape Unit No 3.3.1) under of *Sydney Regional Environmental Plan No. 20 Hawkesbury - Nepean River (No.2 – 1997)*.

##### **Description of Proposal**

The planning proposal seeks to rezone Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave from Rural Living to Mixed Agriculture under Hawkesbury Local Environmental Plan 1989 (LEP 1989) or RU1 Primary Production under draft Hawkesbury Local Environmental Plan 2011 (dLEP 2011).

The applicant for the planning proposal is Montgomery Planning Solutions (MPS). MPS claim that the current Rural Living zone is somewhat of an anomaly in this location due to the surrounding land uses, which include the sewage treatment plant, mushroom substrate production facility and various industrial uses. Further MPS claim the current Rural Living zone precludes a number of uses which are suitable for the site and that the objectives of the Rural Living zone are not valid in respect of the subject land. In particular, MPS note that road transport terminals, rural industries, sawmills, stock and sales yards and truck depots are prohibited in the Rural Living zone however permitted with consent in the Mixed Agriculture zone.

The objective of the planning proposal is:

## ORDINARY MEETING

Meeting Date: 13 November 2012

*To provide a more suitable zoning for 46 Mulgrave Road Mulgrave, than the current Rural Living Zone, which has more appropriate objectives and which will permit a broader range of land uses which are more in character with the locality.*

MPS offer the following justification for the rezoning:

- 1. The Rural Living zone is clearly no longer appropriate for the site, considering the flood prone nature of the land, the surrounding land uses and the severing of the land by the elevated Hawkesbury Valley Way flood evacuation route.*
- 2. The residential amenity of the land is extremely poor.*
- 3. The land has the appropriate physical characteristics to support more intensive agriculture or other uses permitted in the Mixed Agriculture zone.*
- 4. Intensive agriculture or other suitable uses may be inconsistent with the objectives of the current Rural Living zone.*
- 5. The proposed rezoning will make use of existing infrastructure.*
- 6. The proposal is appropriate in terms of the NSW Flood Plain Development Manual.*
- 7. There will be no adverse environmental or visual impact as a consequence of more intensive use of the land.*

### NSW Department of Planning's Gateway Process

In July 2009, the NSW Government changed the way that local environmental plans (LEPs) are developed and approved. This system is known as the 'gateway' plan-making process.

The gateway process has the following steps:

Planning proposal - This is prepared by a Council or the Minister for Planning and Infrastructure and is to explain the intended effect of a proposed local environmental plan and sets out the justification for making that plan.

Gateway - The Minister (or delegate) determines whether the planning proposal is to proceed. This gateway acts as a checkpoint to ensure that the proposal is justified before further studies are done and resources are allocated to the preparation of a plan. A community consultation process is also determined at this time. Consultation occurs with relevant public authorities and, if necessary, the proposal is varied.

Community consultation - The proposal is publicly exhibited for a minimum period of either 14 or 28 days depending on the nature of the proposal. Any person making a submission may also request a public hearing be held.

Assessment - The relevant planning authority considers public submissions and the proposal is varied as necessary. Parliamentary Counsel then prepares a draft local environmental plan, the legal instrument.

Decision - With the Minister's (or delegate's) approval the plan becomes law and is published on the NSW legislation website.

### Assessment

#### Section 117 Directions

Section 117 directions are issued by the Minister for Planning and Infrastructure and apply to planning proposals. Typically, the 117 directions will require certain matters to be complied with and/or require

## ORDINARY MEETING

Meeting Date: 13 November 2012

consultation with government authorities during the preparation of the planning proposal. The key 117 directions, given the objective of the planning proposal, are as follows:

1.2 Rural Zones - planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The proposal seeks to change the rural zone of the land but not change it to a residential, business, industrial, special use or special purpose zone.

4.1 Acid Sulfate Soils - requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of Department of Planning and Infrastructure (DP&I). The subject site is partly Class 4 and partly Class 5 on the Acid Sulfate Soils Map held by Council. MPS notes that LEP 1989 contains the model acid sulfate clause, i.e. clause 37A. MPS advise that no works are proposed as part of the planning proposal that would trigger an assessment of acid sulfate soils and the proposal is of minor significance. Given the current provisions LEP 1989 and the minor nature of the planning proposal it is considered that a detailed consideration of the DP&I's Acid Sulfate Soils Planning Guidelines is not required at this stage. The DP&I will consider this as part of their "gateway" determination and if required can request further information/consideration of this matter.

4.3 Flood Prone Land - this direction applies when a planning proposal creates, removes or alters a zone or provisions that affect flood prone land. The planning proposal seeks to change the rural zone of the land. However, it does not affect the current flood related development controls in LEP 1989. Given the minor nature of the planning proposal it is considered that strict compliance with this direction is not required.

4.4 Planning for Bushfire Protection - requires consultation with the NSW Rural Fire Service and compliance with Planning for Bushfire Protection 2006.

7.1 Implementation of the Metropolitan Strategy - requires planning proposals to be consistent with the NSW Government's Metropolitan Strategy City of Cities, A Plan for Sydney's Future.

The 117 directions do allow for planning proposals to be inconsistent with the directions. In general terms a planning proposal may be inconsistent with a direction only if the DP&I is satisfied that the proposal is:

- (a) justified by a strategy which:
  - gives consideration to the objectives of the direction, and
  - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
  - is approved by the Director-General of the Department of Planning, or
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- (d) is of minor significance.

### *State Environmental Planning Policies*

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy No. 55 Remediation of Land* and *Sydney Regional Environmental Plan No. 20 Hawkesbury - Nepean River (No.2 – 1997)*.

SEPP 55 requires consideration as to whether or not land is contaminated, and if so, is it suitable for future permitted uses in its current state or does it require remediation. The SEPP may require Council to obtain

## ORDINARY MEETING

Meeting Date: 13 November 2012

and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. MPS advise that the land has been used for agriculture for many years and the planning proposal does not rezone the land for residential use or for any purpose which may expose people to any potential contamination.

Further MPS note that the Department of Planning and Infrastructure's Local Plan Making Guidelines States:

*In some cases it will be necessary to undertake technical studies or investigations to justify different aspects of a planning proposal. Generally, these studies or investigations should not be carried out in the first instance. Instead, the issues giving rise to the need for these studies or investigations should be identified in the planning proposal. The initial gateway determination will then confirm the studies or investigations required and the process for continuing the assessment of the proposal, including whether it will need to be resubmitted following completion of the studies or investigations.*

MPS claim that in terms of this planning proposal, it is considered that no study is warranted in order to progress the draft LEP. Any future development application for the use of the land may then require further investigation.

The aim of SREP No 20 (No. 2 – 1997) is to protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This requires consideration of the impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as environmentally sensitive areas, water quality, water quantity, flora and fauna, riverine scenic quality, agriculture, and metropolitan strategy. It is considered that the planning proposal achieves satisfactory compliance with the provisions of SREP No 20 (No. 2 – 1997).

### *Land Use Permissibility differences between Rural Living and Mixed Agriculture*

Under the current provisions of LEP 1989 extractive industries, forestry, junk yards, mineral sand mines, mines, poultry farms, piggeries, road transport terminals, rural industries, rural workers dwellings, sawmills, stock and sale yards, truck depots are permitted in the Mixed Agriculture zone however prohibited in the Rural Living zone. Hence, rezoning the land to Mixed Agriculture would make these uses permitted with consent on the subject site.

The site is in a highly visible location, in particular when viewed from Jim Anderson Bridge, hence the visual impact of these uses would have to be carefully considered in the event of a development application being submitted to Council. Given the flood affectation of the land, its relatively low height and close proximity to South Creek it is considered that the potential for the site to be developed for these uses is limited and would most likely occur within the vicinity of the current structures on the land. Such development potential however could also act as an incentive to improve the current relatively poor appearance of the site and provide for a more visually acceptable and formalised structures, parking areas, and storage areas.

### *Draft Hawkesbury Local Environmental Plan 2011*

Under Draft LEP 2011 the subject site is proposed to be zoned RU4 Rural Small Holding (now known as RU4 Primary Production Small Lots due to a recent amendment to the Standard Order Instrument). MPS request that the land be zoned RU1 Primary Production being the equivalent zone to Mixed Agriculture in LEP 1989.

The McGraths Hill Sewage Treatment Plant to the north of the site is proposed to be zoned RU4 and the mushroom substrate production facility to the south of the site is proposed to be zoned partly RU4 and IN2 Light Industry. If this rezoning occurs then the subject site would be an isolated parcel of RU1 Primary Production land on the eastern side of South Creek. So as to bring about consistency in zone application, however not to complicate or delay this rezoning, it is recommended that the zoning of the McGraths Hill Sewage Treatment Plant and the mushroom substrate production facility be considered in the event that the subject site be rezoned to RU1.

## ORDINARY MEETING

Meeting Date: 13 November 2012

### *Flooding*

As mentioned above, most of the site has an elevation less than 11.1m AHD (i.e the 1 in 5 year flood event height) and a small raised part of the site is located near the north boundary has a height of approximately 16.5m AHD. The 1 in 100 year flood event level for the area is 17.3m AHD.

MPS note that the New South Wales Floodplain Development Manual, April 2005, encourages a merit based approach for development decisions in the floodplain and argues that the flood prone nature of the land renders it unsuitable for rural residential development and that the land is better suited for the range of uses permitted in the Mixed Agriculture zone.

As mentioned previously there are a number of uses that are permissible with consent in the Mixed Agriculture zone which are prohibited in the Rural Living zone. The flood affectation of the land does not necessarily make the land unsuitable for these additional uses however the flood affectation will impact upon the location, design, scale and operation of any such development.

### **Conformance to Community Strategic Plan**

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

- A balanced set of decisions that integrate jobs, housing, infrastructure, heritage, and environment that incorporates sustainability principles

### **Financial Implications**

The applicant has paid the fees required by Council's Revenue Pricing Policy for the preparation of a local environmental plan.

### **Planning Decision**

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

### **RECOMMENDATION:**

That the planning proposal for Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave be supported and forwarded to the Department of Planning and Infrastructure for a "gateway" determination.

### **ATTACHMENTS:**

- AT - 1** Planning Proposal for Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave prepared by Montgomery Planning Solutions dated November 2010 and letter by Montgomery Planning Solutions dated 12 January 2011.



ORDINARY MEETING

Meeting Date: 13 November 2012

AT - 1 Planning Proposal for Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave

prepared by Montgomery Planning Solutions dated November 2010

# Planning Proposal



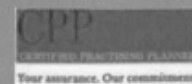
Lot 12 DP 1138749 (No. 46)  
Mulgrave Road Mulgrave



Submitted to  
Hawkesbury City Council

November 2010

© MONTGOMERY PLANNING SOLUTIONS  
REPRODUCTION OF THIS DOCUMENT OR ANY PART  
THEREOF IS NOT PERMITTED WITHOUT PRIOR  
WRITTEN PERMISSION. PH 02 4572 2042



Planning Proposal: 46 Mulgrave Road Mulgrave

## Contents

1. Introduction.....	1
2. The Site .....	2
2.1 Description of Site.....	2
2.2 Surrounding Land Use .....	5
3. Statutory Context.....	6
3.1 Hawkesbury Local Environmental Plan 1989 .....	6
3.2 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River.....	7
4. Environmental Considerations .....	9
4.1 Flooding.....	9
4.2 Traffic and Access .....	9
4.3 Services.....	10
5. Appropriate Zone for the Site .....	10
6. Strategic Context .....	11
6.1 North West Subregional Strategy .....	11
6.2 Hawkesbury Employment Lands Study.....	11
7. Section 117 Directions.....	12
8. NSW Department of Planning Circulars .....	13
9. Justification for Rezoning.....	14
10. Conclusion .....	15

## 1. Introduction

Montgomery Planning Solutions has been engaged by the owner of the land to prepare a rezoning submission (Planning proposal) to Hawkesbury City Council. The current owner has recently purchased the land, which became somewhat rundown and neglected over a number of years by previous owners. A preliminary discussion was held with the Council's Director of City Planning in January 2009, where no objection was raised in principle to the proposal and it was conceded that the current Rural Living zone is not the most appropriate zone for the land.

The land, which is 26.42 hectares in area, is currently zoned Rural Living under the provisions of Hawkesbury Local Environmental Plan 1989. The land is bisected by the Hawkesbury Valley Way flood evacuation road, which is elevated some metres above the ground. The land contains a dwelling and large farm building.

The Rural Living zoning is somewhat of an anomaly in this location due to the surrounding land uses, which include the Windsor Sewerage Treatment Plant, Elf Farms mushroom substrate production facility and various industrial activities. The current Rural Living zone precludes a number of uses which are suitable for the land.

This submission provides a review of environmental considerations and the information necessary to allow Council to make an informed decision with respect to preparing a draft local environmental plan.

It is recommended that Council prepare a draft local environmental plan to rezone the land to either:

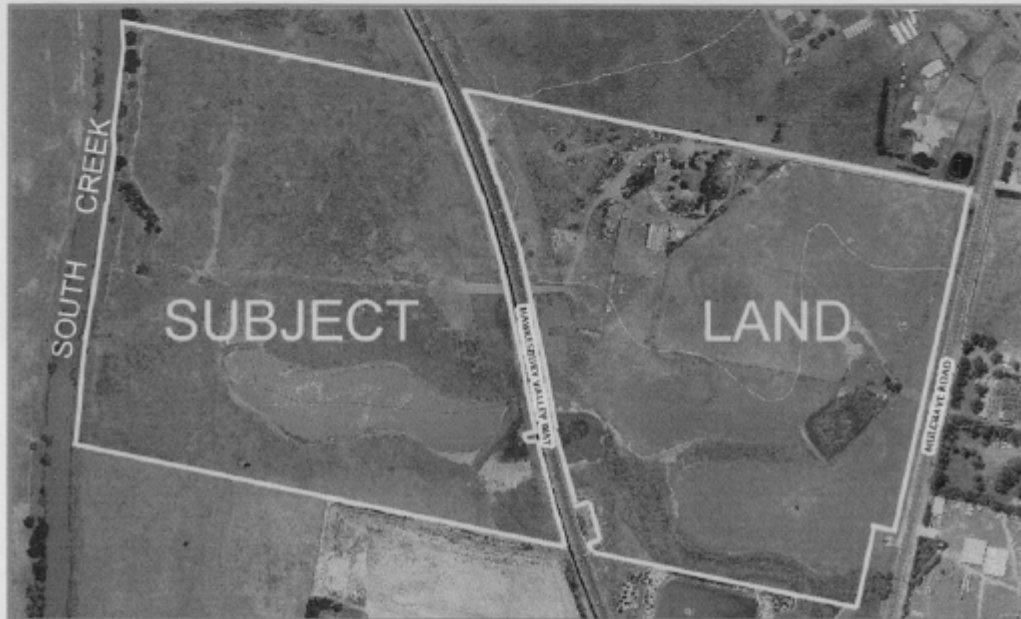
- Mixed Agriculture under Hawkesbury Local Environmental plan 1989; or
- RU1 Primary Production under Hawkesbury Draft LEP 2009 (when gazetted)

## 2. The Site

### 2.1 Description of Site

The land is described as Lot 12 DP 1138749 (No. 46) Mulgrave Road Mulgrave. The land is 26.42 hectares in area and is rectangular in shape. The land has a frontage to Mulgrave Road of 308.8m and a similar length frontage to South Creek.

Figure 1: Site Boundary Source – NSW LPMA SIX Viewer



The land is severed by the Hawkesbury Valley Way flood evacuation route. The road is elevated in this section, and access from the eastern part to the western part of the land is gained under the elevated road. There is no constructed access and it appears that there is no easement or right of way in favour of the subject land. Access under the roadway is therefore gained on an informal basis only.

Figure 2: View West towards Hawkesbury Valley Way



The land is gently undulating and ranges in height from approximately 5m AHD at the top of the bank of South Creek, to 16.5m AHD near the northern boundary.

Figure 3: Contours Source HCC GIS map (contours at 0.5m intervals)



A minor watercourse (currently dry) runs through the property and incorporates three dams.

Figure 4: Dam near Mulgrave Road



## ORDINARY MEETING

Meeting Date: 13 November 2012

Planning Proposal: 46 Mulgrave Road Mulgrave

Page 4

A dwelling house and farm building are located on the higher parts of the land.

Figure 5: Dwelling and Farm Buildings (view from Mulgrave Road)



Figure 6: Farm buildings



Figure 7: View to northwest across subject land from Mulgrave Road



## 2.2 Surrounding Land Use

The land is surrounded by a variety of land uses. Hawkesbury Sewage Treatment Plant adjoins to the north. The Elf Farms mushroom substrate production facility adjoins to the south, while a range of industrial land uses and Windsor High School are located on the eastern side of Mulgrave Road.

Figure 8: Surrounding Land Use Source – NSW LPMA SIX Viewer





### 3. Statutory Context

#### 3.1 Hawkesbury Local Environmental Plan 1989

The land is zoned "Rural Living" under the provisions of Hawkesbury LEP 1989.

The Hawkesbury Sewage Treatment Plant and the Windsor High School sites are both zoned Special Uses 5(a). The subject land and the adjoining land to the south<sup>1</sup> are zoned Rural Living. Land on the eastern side of Mulgrave Road is zoned 4(a) and 4(b) Light Industrial. The land on the western side of South Creek and the southern side of the rail line is zoned Mixed Agriculture.

Figure 9: Surrounding Zoning Source - LEP 1989 Map Sheet 3



<sup>1</sup> Draft Hawkesbury LEP 2009 proposes to zone the majority of the property to the south as IN2 Light Industry.



The objectives of the Rural Living Zone are:

- (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,*
- (j) *to prevent the establishment of traffic generating development along main and arterial roads,*
- (k) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

In our view it is clear that these objectives are not valid in respect of the land. There is no rural residential lifestyle available, as the closest neighbours are a sewerage treatment plant and industrial development. The property is overlooked by vehicles travelling on the elevated roadway. In particular there is no privacy for the existing dwelling due to the recent construction of Hawkesbury Valley Way.

### 3.2 Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River

The aim of SREP 20 is to protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

Part 2 of SREP 20 provides general planning considerations, specific planning policies and recommended strategies. The following specific policies and strategies are relevant to the Planning Proposal:

#### **2) Environmentally sensitive areas**

*Policy: The environmental quality of environmentally sensitive areas must be protected and enhanced through careful control of future land use changes and through management and (where necessary) remediation of existing uses.*

**Note.** Environmentally sensitive areas in the Hawkesbury-Nepean catchment are: the river, riparian land, escarpments and other scenic areas, conservation area subcatchments, national parks and nature reserves, wetlands, other significant floral and faunal habitats and corridors, and known and potential acid sulphate soils.

There are a number of strategies which may be relevant in the context of any future development application for a land use permitted in the Mixed Agriculture zone. It is considered that the Planning Proposal is consistent with the relevant strategies.

**(3) Water quality**

*Policy: Future development must not prejudice the achievement of the goals of use of the river for primary contact recreation (being recreational activities involving direct water contact, such as swimming) and aquatic ecosystem protection in the river system. If the quality of the receiving waters does not currently allow these uses, the current water quality must be maintained, or improved, so as not to jeopardise the achievement of the goals in the future. When water quality goals are set by the Government these are to be the goals to be achieved under this policy.*

**Note.** *Aquatic ecosystems and primary contact recreation have the same meanings as in the document entitled Australian Water Quality Guidelines for Fresh and Marine Waters, published in 1992 by the Australian and New Zealand Environment and Conservation Council.*

It is considered that the Planning Proposal will not have create adverse impact on water quality.

**(6) Flora and fauna**

*Policy: Manage flora and fauna communities so that the diversity of species and genetics within the catchment is conserved and enhanced.*

The land is cleared pasture, with a few trees associated with the dwelling house and in the vicinity of the dams. It is considered that future development in accordance with the proposed Mixed Agriculture zone would not create adverse impact in terms of flora and fauna.

**(7) Riverine scenic quality**

*Policy: The scenic quality of the riverine corridor must be protected.*

It is considered that the proposed rezoning is consistent with the Riverine Scenic Quality policy of SREP 20.

## 4. Environmental Considerations

### 4.1 Flooding

The land is below the 1-in-100 year flood level of 17.3m AHD. The land is gently undulating and ranges in height from approximately 5m AHD at the top of the bank of South Creek, to 16.5m AHD near the northern boundary.

The New South Wales Floodplain Development Manual published in April 2005 states;

"The primary objective of the New South Wales Flood Prone Land Policy, as outlined below, recognises the following two important facts:

- Flood prone land is a valuable resource that should not be sterilised by unnecessarily precluding its development; and
- If all development applications and proposals for rezoning of flood prone land are assessed according to rigid and prescriptive criteria, some appropriate proposals may be unreasonably disallowed or restricted, and equally quite inappropriate proposals may be approved."<sup>2</sup>

The Manual also includes the following policy statement at page 1:

"The primary objective of the policy is to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods, utilising ecologically positive methods wherever possible. That is:

- A merit approach shall be adopted for all development decisions in the floodplain to take into account social, economic and ecological factors, as well as flooding considerations."

The Manual clearly advocates that decisions should be made on the merits of each specific proposal. In my opinion, the flood prone nature of the land renders it unsuitable for rural residential development in accordance with the current Rural Living zone. The land is better suited to the Mixed Agriculture zone, which permits a range of uses which are more compatible with the frequency of flooding by South Creek.

### 4.2 Traffic and Access

Access to the land is from Mulgrave Road. The land has a frontage to Mulgrave Road of some 309 metres. Adequate sight distance is available in both directions. Mulgrave Road is an industrial standard road which services the existing industrial area to the east.

<sup>2</sup> Floodplain Development Manual: the management of flood liable land, NSW Government, April 2005, pg 1.

### 4.3 Services

All services are connected to the site, ie water, power, sewer and telecommunications.

## 5. Appropriate Zone for the Site

Based on the impact of surrounding land uses and the flood affectation of the land, it is considered that the most appropriate zone for the site is Mixed Agriculture under Hawkesbury LEP 1989 or RU1 Primary Production under Hawkesbury Draft LEP 2009 (when gazetted)

This zone provides a wider range of permissible land uses, including a number of uses which are more suited to the site than rural residential development. For example, the following land uses are permissible in the Mixed Agriculture zone, but prohibited in the current Rural Living zone:

- road transport terminals,
- rural industries,
- sawmills,
- stock and sale yards,
- truck depots

Any of these land uses would be suitable for the land, subject to assessment of a development application, and would benefit from the proximity to the existing road network and supporting industrial activities located east of Mulgrave Road.

It is noted that intensive agriculture is permitted in both the Rural Living and Mixed Agriculture zones. However the objectives of the Rural Living zone are at odds with viable intensive agriculture.

## 6. Strategic Context

### 6.1 North West Subregional Strategy

This Draft Strategy was released for comment in December 2007. The Strategy identifies an employment capacity target for Hawkesbury of 3,000 new jobs by 2031. This proposal will assist in adding to employment opportunities in an area which is well serviced by road and rail transport.

Although technically not within an existing industrial zone, the land is effectively surrounded by industrial scale activities. The proposal could fall within Category 2 Employment Lands – *Land with Potential to allow for a Wider Range of Employment Uses*. The location is well serviced by public transport and its physical characteristics make it unsuitable for rural living development.

### 6.2 Hawkesbury Employment Lands Study

The Hawkesbury Employment Lands Study was adopted by Council in December 2008. The study was prepared to provide a planning framework to support and enhance the economic competitiveness of the Region. It was undertaken within the employment lands planning framework set by the Metropolitan Strategy and the draft North West Subregional Strategy.

The subject land was not specifically included in the Employment Lands Study, as the brief was to examine existing industrial and commercial land, some specific sites and gateway areas generally. However, there is no doubt that the current Rural Living zone is not appropriate due to the flood prone nature of the land, the surrounding land uses and the elevated Hawkesbury Valley Way flood evacuation route which bisects the land.

There is the potential for the land to contribute to employment opportunities in the agricultural sector if it was zoned appropriately. Strategy 6 of the Employment Lands Study is relevant in terms of the subject land:

***"Strategy 6: Investigate the nature of employment activities on non-employment zoned lands and their contribution to agriculture and tourism sectors.***

*The economic analysis found that there are a significant number of jobs located outside the LGA south area and on agriculturally zoned land. Manufacturing and accommodation and other tourism related jobs are additional to agriculture jobs. A deeper picture of the LGAs economy can only be gained through comprehensive analysis of all aspects of employment. This should include a detailed analysis of industrial activities on non-industrial zoned land such as 'rural industries' on mixed agricultural land."*<sup>3</sup>

Although Hawkesbury City Council has not carried out this further analysis to date, it is clear that the subject site can make a positive contribution to agriculture related jobs, with the appropriate zone.

<sup>3</sup> Hawkesbury Employment Lands Strategy, SGS Economics & Planning, December 2008, pg 122.

Preliminary discussions were held with the Council's City Planning Director concerning the subject land. It was indicated that an industrial zone for the site may not be appropriate. However, the site may be suited to the Mixed Agriculture zone.

## 7. Section 117 Directions

The following S117 Directions (as issued by the Minister for Planning on 17 July 2007) are relevant to the proposal.

Direction	Consistency	Reason
1.2 Rural Zones	Yes	<p>The draft LEP does not rezone land to residential, business, industrial, village, or tourist zone.</p> <p>The draft LEP does not contain provisions which will increase the permissible density of land within a rural zone.</p> <p>The subject land does not have frontage to a classified road..</p>
4.3 Flood Prone Land	Yes	<p>The draft LEP does not rezone land to residential, business, industrial, special use or special purpose zone.</p> <p>The draft LEP does contain any of the provisions listed in clause (6) (a) to (e).</p> <p>The draft LEP is consistent with clauses (4), (7) &amp; (8).</p>

It is submitted that the proposed draft LEP is consistent with all relevant Directions.

## 8. NSW Department of Planning Circulars

### ***PS 06-005: Local environmental plan review panel – 16 February 2006***

The Circular explains the role of the LEP review panel and sets out the evaluation criteria to be used.

**Attachment 1** to this submission is the LEP pro-forma evaluation criteria for spot rezoning with comments relevant to the proposal. It is considered that the draft LEP would meet the evaluation criteria.

### ***PS 06-008: Standard Instrument (LEPs) Order 2006 – 3 April 2006***

The Circular gives an overview of the Order and its implications for preparing local environmental plans. Council has prepared its draft template LEP conversion. The draft LEP has been exhibited and Council is currently in the process of considering submissions received.

This submission recommends that the land be rezoned to Mixed Agriculture or alternatively RU1 Primary production, should the template LEP precede this draft plan.

### ***PS 06-013: Local environmental studies – 2 May 2006***

The Circular explains the processes used to identify when a local environmental study is required for an amendment to a local environmental plan. The Circular gives guidance on process, the information required to support rezoning applications, who prepares a local environmental study, terms of reference and what should occur with material prepared on behalf of a proponent.

In particular, the Circular states:

*"The decision to rezone land and the amount of information required to make this decision is a matter for council. However, it is not appropriate that detailed local environmental study style rezoning applications be expected before council or the Director-General has agreed to proceed with a rezoning.*

*As such councils should refrain from asking for excessive amounts of detail before a proposal is considered by council and the Director-General."*

The Circular then provides a list to be used as a guideline for information to be provided.

It is submitted that this report contains sufficient information to allow Council to resolve to prepare a draft local environmental plan.

***PS 06-015: Spot rezoning – 15 June 2006***

The Circular restates the evaluation criteria set down in PS 06-005 and concludes that the Department will continue to assess spot rezoning proposals on a merit basis.

It is submitted that the proposal has sufficient merit to warrant consideration under this Circular.

## **9. Justification for Rezoning**

The NSW Department of Planning Circular PS 06-013, issued on 2 May 2006, suggests that the information submitted in support of a rezoning application should include compelling reasons for the proposed rezoning.

The reasons in support of the proposed rezoning are summarised as:

1. The Rural Living zone is clearly no longer appropriate for the site, considering the flood prone nature of the land, the surrounding land uses and the severing of the land by the elevated Hawkesbury Valley Way flood evacuation route.
2. The residential amenity of the land is extremely poor.
3. The land has the appropriate physical characteristics to support more intensive agriculture or other uses permitted in the Mixed Agriculture zone.
4. Intensive agriculture or other suitable uses may be inconsistent with the objectives of the current Rural Living zone.
5. The proposed rezoning will make use of existing infrastructure.
6. The proposal is appropriate in terms of the NSW Flood Plain Development Manual.
7. There will be no adverse environmental or visual impact as a consequence of more intensive use of the land.



## 10. Conclusion

The purpose of this submission is to examine the suitability of the land for rezoning to Mixed Agriculture. The current Rural Living zone is clearly inappropriate given the flood prone nature of the land, the surrounding land uses and the severing of the land by the elevated Hawkesbury Valley Way flood evacuation route.

It is considered that there will be no adverse environmental impacts arising from the proposal and this report has demonstrated that the subject land is suitable for rezoning.

Accordingly it is recommended that Council prepare a draft local environmental plan to rezone the land to Mixed Agriculture. Should the template LEP precede this draft plan, the appropriate zone for the land is RU1 Primary Production.

*Attachment 1- LEP Pro-forma Evaluation Criteria Category 1: Spot Rezoning LEP*

**Attachment 1:**  
**LEP Pro-forma Evaluation Criteria**  
**Category 1: Spot Rezoning LEP**

1.	Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?	The LEP will be compatible with the draft North West Subregional Strategy. This is a minor spot rezoning, with no impact in terms of regional strategy.
2.	Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	The LEP will be consistent with State and Regional Policies. In regional terms the proposal is relatively minor and should be considered on merit.
3.	Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub regional strategy?	No.
4.	Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	The LEP may facilitate a permanent employment generating activity. There is no loss of employment land.
5.	Will the LEP be compatible/complementary with surrounding land uses?	The LEP will be compatible and complementary with the surrounding land uses. The surrounding uses are a mix of special uses and industrial.
6.	Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	The land is somewhat unique in terms of physical characteristics and location. The draft LEP is unlikely to create a precedent.
7.	Will the LEP deal with a deferred matter in an existing LEP?	No.
8.	Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes. Land adjoining to the south is proposed to be zoned IN2 under draft Hawkesbury LEP 2009. Land on the corner of Mulgrave and Windsor Roads was recently rezoned to Light Industry 4(b) under Amendment 157 to HLEP 1989.

## ORDINARY MEETING

Meeting Date: 13 November 2012

### Correspondence by Montgomery Planning Solutions dated 12 January 2011

Tel: 4572 2042  
Fax: 4572 2044  
Mobile: 0407 717 612

Our Ref: 10/33  
Your Ref: LEP89004/10  
12 January 2011

The General Manager  
Hawkesbury City Council  
PO Box 146  
Windsor NSW 2756



ABN: 25087661426

PO Box 49  
Kurmond NSW 2757

#### **Attention Philip Pleffer**

Dear Philip

I refer to your letter dated 20 December 2010. You raised four matters which in your view require additional information. The following responses are provided.

#### **1. Department of Planning Guide to Preparing Planning Proposals**

The Planning Proposal submitted to Council was prepared generally in accordance with the DOP Guide. Your letter is not specific as to why the submitted proposal is not in accordance with the Guide. However, I assume that it is a matter of addressing the specific parts of the Guide under the specific headings.

##### Part 1 – Objectives or Intended Outcomes

Although not stated as an objective, the objectives are made clear in the Introduction on page 1 and under the heading *Appropriate Zone for the Site* on page 10. However, for strict adherence to the Guide, the objective of the planning proposal is as follows:

To provide a more suitable zoning for 46 Mulgrave Road Mulgrave, than the current Rural Living Zone, which has more appropriate objectives and which will permit a broader range of land uses which are more in character with the locality.

##### Part 2 – Explanation of Provisions

Section 5 – Appropriate Zone for the Site is in effect the explanation of the proposed provisions. For the sake of clarity, the following explanation is provided:

Given the of surrounding land uses, the impact of the elevated road and the flood affectation of the land, the provisions of the Rural Living zone are not suitable for the land.

This Mixed Agriculture zone provides a wider range of permissible land uses, including a number of uses which are more suited to the site than rural residential development. The following land uses are permissible in the Mixed Agriculture zone, but prohibited in the current Rural Living zone:

- road transport terminals,

[robert@montgomeryplanning.com.au](mailto:robert@montgomeryplanning.com.au)



- rural industries,
- sawmills,
- stock and sale yards,
- truck depots

Any of these land uses would be suitable for the land, subject to assessment of a development application, and would benefit from the proximity to the existing road network and supporting industrial activities located east of Mulgrave Road.

It is considered that the proposed LEP provisions will achieve the Objective for this planning proposal.

#### Part 3 - Justification

The justification is set out on page 14 of the submitted Planning Proposal. Notwithstanding that most of the matters are addressed in various sections of the Planning Proposal, the following specific answers are provided to the questions posed in the DOP Guide.

*1. Is the planning proposal a result of any strategic study or report?*

No.

*2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes. It is considered that the planning proposal is the best means of achieving the objective for this site.

*3. Is there a net community benefit?*

In our submission, the planning proposal is a minor, site specific LEP. There will be no external benefits or costs associated with the proposal.

*4. Is the planning proposal consistent the objectives and actions contained within the applicable regional or subregional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The Planning Proposal is not inconsistent with the North West Subregional Strategy. Refer to Section 6.1 of the Planning Proposal.

*5. Is the planning proposal consistent with the local Council's Community Strategic Plan or other local strategic plan?*

The Council's Strategic Plan is a high level document which does not contain specific objectives which would be relevant to this Planning Proposal.

*6. Is the planning proposal consistent with applicable state environmental planning policies?*

A review of state environmental planning policies reveals that the following may be applicable and relevant:

SEPP 30 – Intensive Agriculture.  
SEPP (Rural Lands) 2008

**ORDINARY MEETING****Meeting Date: 13 November 2012**

12 January 2011

Page 3/5

It is considered that the Planning Proposal is not inconsistent with these Policies.

*7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?*

The following table lists the S117 Directions which are relevant to the proposal, with commentary re consistency. The table effectively replaces the table on page 12 of the Planning Proposal.

Direction	Consistency	Reason
1.2 Rural Zones	Yes	<p>The draft LEP does not rezone land to residential, business, industrial, village or tourist zone.</p> <p>The draft LEP does not contain provisions which will increase the permissible density of land within a rural zone.</p> <p>The subject land does not have frontage to a classified road.</p>
1.5 Rural Lands	Yes	<p>The draft LEP is consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</p>
4.1 Acid Sulfate Soils	Yes	<p>Figure 1 below is an extract from the Council's Acid Sulfate Map, which shows that the property is part Class 4 and Part Class 5.</p> <p>Hawkesbury LEP 1989 contains the Model acid sulfate clause (37A). No works are proposed as part of the draft LEP which would trigger an assessment of acid sulfate soils. Notwithstanding, the proposal is considered to be of minor significance and is therefore consistent.</p>
4.3 Flood Prone Land	Yes	<p>The draft LEP does not rezone land to residential, special use or special purpose zone.</p> <p>The draft LEP does not contain any of the provisions listed in clause (6) (a) to (e).</p> <p>The draft LEP is consistent with clauses (4), (7) and (8).</p>

Figure 1: Extract from HCC DLEP 2009 Acid Sulfate Sheet 18



8. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The Council's biodiversity mapping identifies a riparian corridor along South Creek as "Connectivity Between Significant Vegetation". The remainder of the land is not identified as containing any significant vegetation. Accordingly, the proposal is unlikely to adversely affect any critical habitat or threatened species.

9. *Are there any other likely environmental effects as a result of the planning proposal and how are these to be managed?*

This question is addressed in Section 4 of the Planning Proposal.

10. *How has the planning proposal adequately addressed any social and economic effects?*

The social and economic effects of the proposal are limited to those of the land itself. That is the land is currently zoned inappropriately as *Rural Living* and the proposal will have a positive social and economic effect by applying a more appropriate zone to the land and therefore allowing the land to be used for its best economic use.

12 January 2011

Page 5/5

There are no negative effects.

*11. Is there adequate public infrastructure for the planning proposal?*

Yes. There will be no additional demands placed on public infrastructure.

## **2. State Environmental Planning Policy 55 – Remediation of Land**

The land has been used for agriculture for many years. The planning proposal does not rezone the land for residential use or for any purpose which may expose people to any potential contamination. In fact the proposal will reduce this risk by zoning the land as *Mixed Agriculture*.

Notwithstanding, it is noted that the Department of Planning Local Plan Making Guidelines states as follows:

*In some cases it will be necessary to undertake technical studies or investigations to justify different aspects of a planning proposal. Generally, these studies or investigations should not be carried out in the first instance. Instead, the issues giving rise to the need for these studies or investigations should be identified in the planning proposal. The initial gateway determination will then confirm the studies or investigations required and the process for continuing the assessment of the proposal, including whether it will need to be resubmitted following completion of the studies or investigations.*

In terms of this planning proposal, it is considered that no study is warranted in order to progress the draft LEP. Any future development application for the use of the land may then require further investigation.

## **3. Section 117 Direction 4.1 Acid Sulfate Soils**

As detailed above, Hawkesbury LEP 1989 contains the Model acid sulfate clause (37A). No works are proposed as part of the draft LEP which would trigger an assessment of acid sulfate soils. Notwithstanding, the proposal is considered to be of minor significance and is therefore consistent with this Direction.

## **4. Zoning of Lot 13 DP 1138749 (84) Mulgrave Road**

As you are aware, Montgomery Planning Solutions made a formal submission to Council in response to the exhibition of draft Hawkesbury LEP 2009 on behalf of the owner of this land. The submission, dated 12 April 2010, requests Council to extend the proposed IN2 zone on the land to the northern boundary. Should Council agree to amend draft LEP 2009 as requested there would be no isolated parcel of Rural Living land.

As all matters have now been addressed in accordance with your letter of 20 December 2010, your attention in advancing the draft LEP is now requested.

Yours sincerely



Robert Montgomery MPiA, CPP  
Principal

---

Montgomery Planning Solutions

ORDINARY MEETING

Meeting Date: 13 November 2012

AT - 2 Copy of submission from Office of Environment and Heritage



Office of  
Environment  
& Heritage

Your reference: LEP89004/10  
Our reference: DOC12/24920  
Contact: Richard Bonner 9995 6833

Mr Phillip Pfeffer  
Strategic Planning Co-ordinator  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

Hawkesbury City Council

17 JUL 2012

Dear Mr Pfeffer

I refer to your letter of 15 June 2012 seeking comments from the Office of Environment and Heritage (OEH) on a planning proposal to rezone Lot 12 DP 1138749, 46 Mulgrave Road, Mulgrave from RU4 Primary Production Small Lots to RU1 Primary Production under draft Hawkesbury Local Environmental Plan 2012.

OEH has reviewed the documents provided and provides the following advice in relation to the floodplain risk issues.

The primary objectives of the Government's Flood Prone Land Policy is to reduce the impact of flooding and flood liability on owners and occupiers of flood prone land and to reduce private and public losses resulting from floods. The most appropriate method to assess the development of flood prone land is through the floodplain risk management process which is detailed in the *NSW Floodplain Development Manual (2005)* (the Manual).

Council should consider that in assessing any future application for development, the heads of consideration outlined in the Manual will need to be considered. Some of the issues that should be addressed are outlined below. Council should also seek the advice of a specialist flood consultant to undertake a detailed flood assessment as other flood related issues may need to be addressed.

**1. Floodway**

OEH notes the land is in a high hazard floodway. Council will therefore need to be satisfied that any proposed development will not impact on flow conveyance or increase the flood hazard in the floodway. In addition, Council's assessment should not be limited to consideration of the 100 year ARI flood extent and level. Rather, it should be based on a comprehensive understanding of the nature of the flood hazards and risk to people and property for the full range of flood up to the PMF (probable maximum flood). Matters that should be considered include: flood depths, water velocity, rates of water rise, warning time and potential isolation.

OEH is aware that Council is currently preparing the final draft of its *Hawkesbury Floodplain Risk Management Study and Plan*, which contains valuable information on the flood risk to life and property at this location. Extensive work has also been undertaken under the *Hawkesbury-Nepean Floodplain Management Strategy*.

PO Box 668 Parramatta NSW 2124  
Level 7, 79 George Street Parramatta NSW  
Tel: (02) 9995 5000 Fax: (02) 9995 6900  
ABN 30 841 387 271  
www.environment.nsw.gov.au



SCANNED



## 2. Emergency Management

Risk to life during all flooding events needs to be understood by the owners and occupiers of the land noting that mainstream flooding from South Creek and the Hawkesbury River can occur. Investigations should be undertaken, preferably by a flood consultant, to ensure these and other issues (e.g. local stormwater and flash flooding) are considered when assessing the flooding vulnerability of future land uses. For activities such as a truck depot, the impacts of flooding could be catastrophic. As such, a contingency plan involving the early relocation of equipment when warnings are issued by the Bureau of Meteorology will be essential. Similarly the potential pollution impacts of stored hazardous goods during times of flood will need to be considered.

OEH notes consultation with the State Emergency Service (SES) is required as a condition of the Gateway Determination. OEH's expectation is that the SES's comments will address; flood awareness and the resilience of owners/occupiers, the severe flood risk of the property, the need for a flood emergency response plan, evacuation strategies, emergency management issues and constraints and impact of any future development on the capacity or operation of existing local or regional evacuation routes. As Council will be aware, the *Hawkesbury-Nepean Floodplain Management Strategy* includes development guidance materials to assist in dealing with these risks.

## 3. Cumulative Impacts

In assessing the rezoning proposal, Council should consider the adverse impacts of future development on flood behaviour (i.e. levels, velocities and duration of flooding) on adjacent, downstream and upstream areas, particularly for the smaller flood events. The potential long term cumulative impacts of future development within the catchment should also be considered.

## 4. Filling within the floodplain

It is noted that a minor watercourse incorporating three small dams runs through the property. From a flood management perspective, Council should be aware these dams may act as flood storages. OEH also understands the proposal may involve extensive land filling. Council will need to consider these impacts to ensure no adverse impacts on flood behaviour, especially during minor to moderate flood events.

## 5. Climate Change

Council should consider the impacts of increased rainfall intensity due to climate change for the catchment area. This could be undertaken by a sensitivity analyses for the 100 year ARI flood event for the post development scenario, with appropriate discussion of the impact to assist in future decision making. Reference should be made to *Practical Consideration of Climate Change* (DECCW, 2007) and Council's draft *Hawkesbury Floodplain Risk Management Study and Plan*.

Should you have any queries in regard to these comments please contact Richard Bonner on 9995 6833.

Yours sincerely



SUSAN HARRISON  
Manager Planning  
Conservation and Regulation, Metropolitan  
Office of Environment and Heritage

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 13 November 2012

**Item: 196 CP - Application for a Hotel - General Bar Liquor Licence - Darren Fahey Shop  
1/180 George Street, Windsor - (94598)**

---

### REPORT:

#### Executive Summary

Council has received a Notice from Macquarie Bar Pty Ltd that an application for a Hotel Liquor Licence at the subject premises has been lodged with the NSW Casino, Liquor and Gaming Control Authority. Council may make representations to the NSW Casino, Liquor and Gaming Control Authority in respect of the proposal.

The subject premises is known locally as the Old Post Office in Windsor and has been converted to accommodate a range of shops comprising a beauty therapist, an accountant, a dentist, a church and an internet website development agency.

Development Consent for the use of the premises as a hotel is required however such approval has not been sought at this stage. In this regard, Council staff cannot support the Liquor Licence application lodged with the Casino, Liquor and Gaming Control Authority.

It is recommended that a response be provided to the Casino, Liquor and Gaming Control Authority advising that Council cannot support the Liquor Licence Application as Development Consent is required for the use of the premises as a Hotel and that such development consent has not yet been obtained.

#### Consultation

The process for obtaining a Hotel Liquor Licence requires an applicant to prepare a Community Impact Statement (CIS) before lodging an application for a Liquor Licence. The applicant is required to consult with Council, the Local Area Command (NSW Police Service) and the community.

As part of that consultation, Council received a letter from a tenant. The issues raised include noise disturbance to customers, a lack of security within the building, intoxicated persons congregating near the premises, smoking outside the premises and a general lack of carparking and toilet facilities on the premises.

Council staff responded to the applicant to indicate that Development Consent is required for this proposed use. (As part of the development application process, the community and Police would have opportunity to provide comment to Council on the detail of the proposal).

At this stage however, Council is being asked to represent the views of the community to the NSW Casino, Liquor and Gaming Control Authority as part of the Liquor Licence Application process.

#### Background

At the Ordinary Meeting of 30 June 2009 Council resolved to have all liquor licence applications reported to Council that required the preparation of a Community Impact Statement (CIS) until such time as a policy for dealing with liquor licence applications was adopted by Council.

#### Hotel – General Bar - Liquor Licence Application

Council has received correspondence on 22 October 2012 that an application for a Hotel – General Bar - Liquor Licence has been lodged by Macquarie Bar Pty Ltd with the NSW Casino, Liquor and Gaming Control Authority. The licence (if granted) will allow the sale of liquor on the premises. Council may make representations to the Casino, Liquor and Gaming Control Authority in respect of the application.

## ORDINARY MEETING

Meeting Date: 13 November 2012

Development Consent is currently in force for the use of the premises as shops, but not for the use as a Hotel or Bar.

The hours of operation for the Liquor Licence as proposed by the applicant are Monday to Saturday 10:00am – 12:00 midnight and Sunday 10:00am – 10:00pm. The proposed maximum number of patrons in the licensed area is 40 persons.

Council staff are not necessarily opposed to a hotel being located on the site – subject to the development assessment process being undertaken with the appropriate level of detail being provided by the applicant to enable a proper assessment of the merits and the potential impact of the development.

Given that development consent has not been granted for the use of the premises as a hotel, it is recommended that Council respond to the Casino, Liquor and Gaming Control Authority advising that it cannot support the Liquor Licence Application as Development Consent is required for the use of the premises as a Hotel and that such development consent has not yet been obtained.

### **Conformance to Community Strategic Plan**

The consideration of the Liquor Licence Application would be consistent with the Shaping Our Future Together Direction statement;

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

### **Financial Implications**

There are no financial implications applicable to this report.

### **RECOMMENDATION:**

That a response be provided to the Casino, Liquor and Gaming Control Authority advising that Council cannot support the Liquor Licence Application as Development Consent is required for the use of the premises as a Hotel and that such development consent has not yet been obtained.

### **ATTACHMENTS:**

**AT - 1** Locality Plan

**AT - 2** Liquor Licence Notification

# ORDINARY MEETING

Meeting Date: 13 November 2012

## AT - 1 Locality Plan



# ORDINARY MEETING

Meeting Date: 13 November 2012

## AT - 2 Liquor Licence Notification



Independent  
Liquor & Gaming  
Authority

LIQUOR LICENCE  
Application form

### LIQUOR LICENCE APPLICATION - NOTICE TO LOCAL CONSENT AUTHORITY

When lodging this application, the applicant must within two working days lodge a copy of this notice with:

- the local council or other consent authority
- if the premises are within 500 metres of another local government area, the local council or other consent authority for that area
- the Minister for Lands if the premises are on Crown land

Complete all details below - then copy this notice and lodge the copy with each applicable organisation listed above.

NOTE - This original notice must be lodged with the application. It will be posted on the Office of Liquor, Gaming & Racing website [www.qlgr.nsw.gov.au](http://www.qlgr.nsw.gov.au) while the application is pending.

Hawkesbury City Council  
22 OCT 2012  
Application for that area

Applicant's name Marquise Bar P/L  
Applicant's address 15 Greenway Crescent Windsor NSW 2756

has applied to the Independent Liquor & Gaming Authority for a hotel licence

☐ Hotel licence - full hotel

or

☒ Hotel licence - general bar

Name of existing or proposed premises

Marquise Bar

Address of existing or proposed premises

Shop 1/180 George St Windsor NSW 2756

Standard trading hours for a hotel licence are 5.00am to midnight Monday to Saturday; 10.00am to 10.00pm Sunday except on Good Friday and Christmas Day. Extended trading hours can be approved under the liquor laws. Trading hours allowed by the local consent authority (e.g. the local council) may be different.

Proposed trading hours for this licensed premises are:

Monday to Saturday start time 10.00 am End time 12.00 am  
Sunday start time 10.00 am End time 10.00 pm

Proposed maximum number of patrons in the proposed licensed premises

40

Will entertainment be supplied on the proposed licensed premises?

Yes ☒ No ☐

Is an extended trading authorisation proposed as part of this application?

Yes ☐ No ☒

Submissions about this application can be made to the Independent Liquor & Gaming Authority within 30 days. Check the noticeboard at [www.qlgr.nsw.gov.au](http://www.qlgr.nsw.gov.au) for the closing date for this application. Lodge submissions via the noticeboard.

Signature

Date 22/10/12

### COUNCIL OR OTHER CONSENT AUTHORITY USE ONLY

I, (insert name, position and organisation)

Certify that this notice was received on:

DEVELOPMENT CONSENT STATUS

(tick one)

☐ development consent is not required to permit the proposed activity

☐ development consent is required but not in place

DA number is

☐ development consent is required and in place

Send this notice to the Independent Liquor & Gaming Authority, GPO Box 7060, Sydney, NSW, 2001. Fax (02) 9995 0219. Email [liquorapplications@qlgr.nsw.gov.au](mailto:liquorapplications@qlgr.nsw.gov.au)

### AUTHORITY USE ONLY

Application number

Lodged date

Submission close



SCANNED

Hotel licence APP400 0611

13 of 15

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 13 November 2012

**Item: 197**      **CP - Possible Amendment of the Hawkesbury Local Environmental Plan to Permit Secondary Dwellings in Rural and Environmental Protection area and Infrastructure Levy for Secondary Dwellings - (94598)**

**Previous Item:**      156, Ordinary (26 June 2012)

---

### REPORT:

#### Executive Summary

On 26 June 2012 Council resolved as follows:

*"That a report be submitted to Council regarding the possible amendment of the Hawkesbury Local Environmental Plan to incorporate provisions, similar to those utilised by The Hills and Penrith City Councils, allowing second dwellings on appropriately sized lots and the possible implementation of an associated infrastructure levy where a second dwelling is approved to contribute to the cost of upgrading infrastructure, including roads, affected by such approvals."*

The purpose of this report is to explain options available for Council to amend the Hawkesbury Local Environmental Plan 2012 (LEP 2012) to permit secondary dwellings in rural zones and E3 and E4 zones and recommend Council commence discussion with Department of Planning and Infrastructure (DP & I) staff regarding the most appropriate course of action prior to preparation of a planning proposal.

#### Consultation

The matters raised in this report do not require community consultation at this stage. If the LEP2012 is to be amended community consultation with occur as part of the planning proposal process.

#### Background

##### ***Definition of secondary dwelling***

Secondary dwellings are defined by the State Government, through the Standard Instrument LEP, as follows:

*secondary dwelling means a self-contained dwelling that:*

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling.*

Secondary dwelling is a relatively new definition, and prior to LEP 2012 such development would have been defined as either an attached or detached dual occupancy in Hawkesbury Local Environmental Plan 1989.

Secondary dwellings are currently permissible with the Hawkesbury LGA by way of the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009* and the LEP 2012 (in the form of attached and detached dual occupancy dwellings). The provisions of which are discussed below.

***State Environmental Planning Policy (Affordable Rental Housing) 2009***

In response to Australia's ageing population, increasing cost of housing and rental accommodation, and children staying longer at home, the NSW Government introduced *State Environmental Planning Policy (Affordable Rental Housing) 2009* (AHSEPP) in July 2009.

The AHSEPP provides a number of planning incentives to encourage home owners and developers to invest and develop affordable rental housing.

Under the AHSEPP secondary dwellings are permissible in all residential zones. The AHSEPP makes no provision for secondary dwellings in rural or environmental zones.

The AHSEPP specifies the following criteria for a secondary dwelling:

- only one dwelling house and one secondary dwelling on the allotment
- the total floor area of the house and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under the local environmental plan
- minimum allotment size is 450m<sup>2</sup>
- the maximum floor area is 60m<sup>2</sup> or the maximum floor area specified in the local environmental plan
- the allotment is not to be subdivided
- the development must meet all the relevant criteria within Building Code of Australia (BCA)

***Hawkesbury Local Environmental Plan 2012 (LEP 2012)***

Due to the overriding provisions of AHSEPP, secondary dwellings are permissible in all residential zones in the Hawkesbury LGA. In order to ensure secondary dwellings remain small low impact developments that is subordinate to the principal dwelling, Clause 5.4 of LEP 2012 sets the maximum total floor area of the secondary dwelling (excluding any area used for parking) as 60m<sup>2</sup> or 10% of the total floor area of the principal dwelling, whichever is the greater. This means if the floor area of the principal dwelling is up to 600m<sup>2</sup>, the maximum floor area of the secondary dwelling is 60m<sup>2</sup>, if the floor area of the principle dwelling is greater than 600m<sup>2</sup> then the floor area of the secondary dwelling may be greater than 60m<sup>2</sup>.

Under the provisions of LEP 2012 dwelling houses and attached dual occupancies are permitted in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Rural Village, E3 Environmental Management and E4 Environmental Living zones. Rural workers' dwellings are permissible in RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and E4 Environmental Living zones. However, secondary dwellings and detached dual occupancies are prohibited in these zones. The prohibition of detached dual occupancies in these zones has been a long standing provision of Council, reflected in Council's previous LEPs and carried over into LEP 2012. A possible reason for this prohibition is concern that a proliferation of multiple detached dwellings on land so zoned may adversely affect the rural character of an area, adversely increase residential density in rural areas, adversely affect the sustainable and productive use of rural resource lands, unduly increase demand for public infrastructure and services, and create pressure on Council to approve subdivision of rural and environmental zoned land with lot sizes below the minimum lot size provision for the respective zone.

In the past some property owners have expressed concern to Council staff that Council's development controls relating to attached dual occupancies are too onerous or undesirable due to difficulties associated with blending new development with existing development in terms of form, function, topography, privacy and cost of construction. (However, these landowner concerns are usually based on individual financial desires rather than sound planning principles.) As an alternative to an attached dual occupancy, some owners seek approval for a rural worker's dwelling (which may be detached). However, they may not be able to meet the prerequisite of having an agricultural or rural industry use on the land. As a result, some land owners unlawfully construct and/or occupy second detached dwellings or use rural sheds as dwellings. These unauthorised activities create a significant drain on the community and Council's staffing resources in investigation and resolution of these matters.

**Possible advantages of secondary dwellings in rural and environment protection zones**

The inclusion of suitable provisions allowing secondary dwellings in rural and E3 and E4 zones may provide the following positive outcomes:

- facilitate a diversity of housing and increased housing choice
- provide a form of low cost accommodation (However, this is not within the control of Council and is subject to individual agreements),
- allow affordable retirement accommodation and/or aging in place,
- provide accommodation for those who want to remain in the area with their families e.g. older people, people with disabilities, and young people,
- provide supplementary income for agricultural enterprises,
- provide seasonal accommodation for farm workers, particularly where the extent of the agricultural activities does not warrant a rural workers dwelling,
- create opportunities for Council to levy for monetary contributions towards the provision of additional public amenities and infrastructure,
- decrease unauthorised occupation of rural structures (e.g. sheds, barns) which often result in significant time and resources of council to investigate and resolve.

**Possible disadvantages of secondary dwellings in rural and environment protection zones**

The inclusion of suitable provisions allowing secondary dwellings in rural and E3 and E4 zones may provide the following negative outcomes:

- result in increased residential density in rural or predominately rural residential zoned areas,
- adversely affect the existing character of the rural localities,
- increase the potential for conflicts between residential and agricultural pursuits on adjoining properties due to the increase in dwellings on a site,
- result in additional clearing of native vegetation on properties to achieve bushfire buffers, etc,
- increase traffic generation in rural areas,
- increase on-site effluent disposal systems and the risk of failure of those systems,
- increase costs of servicing these additional dwellings without the corresponding increase in rates income (due to additional dwellings being on the same allotment),



## ORDINARY MEETING

Meeting Date: 13 November 2012

- if the objective is for the provision of affordable housing there is no mechanism to ensure that the secondary dwelling is initially or retained as affordable housing,
- Increase pressure in future on Council to approve subdivision of the secondary and principle dwellings.

As a result a number of NSW councils including The Hills and Penrith City Council include provisions in their LEPs to permit secondary dwellings with consent in certain rural and environmental zones. The provisions of The Hills and Penrith are discussed later in this report.

### Likely size of secondary dwellings in the Hawkesbury

According to Council's construction certificate records (see note below) 45 dwelling houses with a floor area equal to or greater than 600m<sup>2</sup> were approved in the LGA for the period 1/1/2002 to date. 44 of these are located in rural or environment protection zones. Table 1 below shows 28 dwellings were approved in the RU4 zone and only one dwelling was approved in the E4 zone. No dwellings were approved in the RU5 or E3 zones. There were only 7 dwellings approved with a floor area greater than 1000m<sup>2</sup>.

Table 1: Construction Certificate for Dwelling Houses => 600m<sup>2</sup> in Rural and Environment Protection Areas (1/1/2002 to present)

Floor Area (M2)	Zone						Maximum floor area for Secondary Dwelling (M <sup>2</sup> ) if 10% of Principal Dwelling Floor Area
	RU1	RU2	RU4	RU5	E3	E4	
600 – 800	8	5	18	-	-	-	80
801 – 1000	1	-	6	-	-	-	100
1001 – 1200	-	-	3	-	-	1	120
1201 – 1400	-	1	-	-	-	-	140
1401 - 1600		1	1				150
<b>Total</b>	<b>9</b>	<b>7</b>	<b>28</b>	<b>0</b>	<b>0</b>	<b>1</b>	

Hence it appears that the construction of dwellings with a floor area in excess of 600m<sup>2</sup> is relatively rare and therefore it is likely that the majority of future secondary dwellings will have a maximum floor area (excluding any area used for parking) of 60m<sup>2</sup>.

Note; construction certificate records were used in lieu of development consent records as whilst development consent may be issued the actual development may not proceed. The issuing of a construction certificate gives a more likely indication that a development will proceed.

### The Hills LEP 2012

The Hills considers secondary dwellings as an alternative housing option to an attached dual occupancy which is currently the only way a second dwelling is permitted in rural areas (apart from rural workers dwellings).

The Hills LEP 2012 includes secondary dwellings as a permitted land use with Council consent in the RU1, RU2, RU6 Transition and E4 zones. Although dwellings are permitted in the E3 zone, secondary dwellings are a prohibited use in this zone. The Hills LEP 2012 does not contain the RU4 or RU5 zones.

The Hills LEP 2012 specifies the maximum permissible total floor area of a secondary dwelling (excluding any area used for parking) as 60m<sup>2</sup> or 20% of the floor area of the principal dwelling, whichever is the greater.

The Hills LEP 2010 does not specify a minimum allotment size for development of secondary dwellings.

In order to make this form of development acceptable and achievable for rural settings and ensure they integrate with the principal dwelling, achieve adequate servicing, minimise adverse environmental impacts and preserve rural character, a number of development controls including controls restricting the use of temporary demountable structures and portable modular buildings (including cabins and sheds) are included in The Hills Development Control Plan 2011.

### **Penrith LEP 2010**

Similar to Hawkesbury LEP 2012, Penrith LEP 2010 contains the RU1, RU2, RU4 and RU5 rural zones and E3 and E4 environmental zones. The Penrith LEP 2010 includes secondary dwellings as a permitted land use with Council consent in these zones.

Penrith LEP 2010 specifies the maximum permissible total floor area of a secondary dwelling (excluding any area used for parking) as 60m<sup>2</sup> or 10% of the floor area of the principal dwelling, whichever is the greater.

In addition Clause 6.8 subclause (4) of Penrith LEP 2010 contains the following provision relating to minimum allotment size and on-site effluent disposal for secondary dwellings in the abovementioned rural (other than RU5 zone) and environmental zones:

- (4). *'Development consent must not be granted for a secondary dwelling on a lot to which this clause applies unless the lot has an area of at least 2 hectares or it can be demonstrated that the existing on-site effluent disposal system has sufficient capacity for the secondary dwelling.'*

The above Clause essentially restricts the on-site effluent disposal to one system for the two dwellings.

### **Hawkesbury Residential Land Strategy (HRLS)**

The HRLS provides Council with direction on how Council may achieve an additional 5,000 to 6,000 additional dwellings within the Hawkesbury by 2031.

The HRLS identifies a number of major issues associated with rural - residential development in the LGA. These include servicing and infrastructure, access to facilities and services, access to transport, significant natural constraints, maintaining and preserving the rural character, scenic landscape, unique natural environment, and existing agricultural operations. Suitable land with reasonable access to required services and facilities and substantially free from major environmental constraints, such as flooding and bushfire threat, for residential purposes are very limited in rural and environment protection areas in the LGA. As a result the HRLS proposed that the additional dwellings be provided primarily within the existing urban areas or areas immediately adjacent to these urban areas.

The HRLS also recognises the importance of maintaining the viability of existing rural villages and as such it has developed a strategy for rural - residential development to focus around existing rural villages. Accordingly, the HRLS recommends future development of rural villages is to:

- be low density and large lot residential dwellings, which focus on proximity to villages and services and facilities
- minimise impacts on agricultural land, protect scenic landscape and natural areas, and occur within servicing limits or constraints

Additionally development within and adjacent to rural villages must:

- be able to have onsite sewerage disposal
- cluster around or on the periphery of villages
- cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within a 1km radius)
- address environmental constraints and with minimal environmental impacts
- only occur within the capacity of the rural village

### **Options to amend Hawkesbury Local Environmental Plan 2012**

In line with the above recommendations of the HRLS the inclusion of appropriate provisions in LEP 2012 allowing for secondary dwellings which are limited in size and scale and with reasonable access to services and facilities within rural and environmental zoned areas as a low cost accommodation and an alternative to attached dual occupancies is considered appropriate. At present there appears to be two options available to Council in preparing a planning proposal to amend LEP 2012:

1. Inclusion of secondary dwellings as a permitted land use with consent within all rural zones and the E3 and E4 environmental zones in the Land Use Table of the LEP 2012.
2. Use of "Clause 2.5 Additional permitted uses for particular land" of the LEP 2012 to allow secondary dwellings as an additional permitted use in certain areas and circumstances.

These two options are explained briefly below.

#### *1. Include secondary dwellings as a permitted land use in the Land Use Table of LEP 2012*

This option has been adopted by both The Hills and Penrith City Councils. However, it could be argued that rural and environmental zoned land in the Hawkesbury LGA has significant development constraints such as flooding, native vegetation, bushfire risk, and access to services and facilities compared with similar zoned land within The Hills and Penrith LGAs.

Furthermore, such an approach would be in conflict with the HRLS which aims to concentrate rural - residential development within and around the existing rural villages and neighbourhood centres.

Finally, the proliferation of secondary dwellings throughout these zones in an ad-hoc fashion may adversely affect the rural character, the sustainable and productive use of rural resource lands and create an unreasonable demand for additional services and facilities.

#### *2. Use of Clause 2.5 Additional permitted uses for particular land*

"Clause 2.5 Additional permitted uses for particular land" allows the use of certain land for specific additional uses. By using this clause, it may be open to Council, to identify land within a certain distance (say a radius of one kilometre) of a rural village and/or neighbourhood centre and permit secondary dwellings with Council consent. Attachment 1 to this report depicts an example how properties within 1km radius from the commercial centre of Kurrajong could be identified. Similar approaches could be provided to other village centres. (The approach in that attachment would be refined and the inclusion line would be conservatively, i.e., generously, be adjusted to align with the cadastral boundaries of the included properties).

At present, due to the above mentioned concerns about Option 1, Option 2 is preferred. However, Council is advised that no known council currently utilises this approach through the Standard Instrument LEP. The form and function of the Standard Instrument LEP is determined by the DP & I, hence, it is recommended that advice and guidance on this approach be sought from the DP & I prior to Council preparing a planning proposal.

The operation of on-site effluent disposal systems is a key environmental issue within the Hawkesbury LGA. Reticulated sewerage system is currently available for limited areas in the LGA, and generally the rural and environmental zoned areas do not have access to a reticulated sewerage system. Therefore, it may be appropriate to include a minimum lot size provision for secondary dwellings within the LEP. As stated previously, Penrith LEP 2010 adopts a minimum lot size of 2ha, it is recommended that this be further investigated and reported back to Council after discussions with DP & I staff regarding the above mentioned Option 2.

Furthermore in order to minimise possible adverse impacts on streetscape and character of the rural and environmental zones it may be necessary to specify a minimum lot size for secondary dwellings. It is considered that the necessity for such a provision should be determined by the proximity of secondary dwellings to existing rural villages and neighbourhood centre. That is, if secondary dwellings are to be relatively close to existing villages and centres, a minimum lot size provision may not be required or may be relatively small. If they are to be permitted generally throughout rural and environmental zones then a larger minimum lot size may be required to maintain the overall rural character and streetscape.

Regardless of the approach taken it is foreshadowed that in order to enable this form of development to integrate with the principal dwelling, achieve adequate servicing, minimise adverse environmental impacts, and preserve rural character the Residential Development chapter of the Hawkesbury Development Control Plan will require amendment. Attachment 2 of this report provides some indicative, concept development controls in this respect.

### **Options for Levying for Infrastructure**

The second part of Council's resolution of 26 June 2012 required investigation of an associated infrastructure levy to contribute to the cost of upgrading infrastructure, including roads.

At present Council has two development contributions plans:

Section 94 Contributions Plan 2008 – this plan applies to the Pitt Town Residential Precinct and development consents issued by Council prior to the commencement of Council's Section 94A plan (prior to 2006). For the purpose of the Pitt Town Residential Precinct, contributions are levied with respect to the subdivision of the land and no contributions are required for other types of development e.g. dwellings, swimming pools, outbuildings.

Section 94A Development Contributions Plan 2006 – this plan applies to all new development outside of the Pitt Town Residential Precinct. As a result of the provisions of this plan and the then Minister for Planning's Direction dated 10 November 2006, no contributions can be levied on development up to \$100,000. Above this amount contributions can be levied on an increasing percentage of cost of development basis up to a maximum of 1% of the cost of development for developments in excess of \$200,000. Furthermore, the Ministerial Direction states that a levy under Section 94A of the Act cannot be imposed on development, other than the subdivision of land, where a condition under Section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out.

Given the previous discussion regarding the likely size of secondary dwellings (i.e. typically 60m<sup>2</sup> or less) it is anticipated that many applicants will claim that the cost of development to be less than \$100,000 hence under the Section 94A plan there would appear little opportunity to levy for contributions towards the provision of infrastructure. This would be further compounded in situations where the secondary dwelling is the conversion, or use, of an existing structure.

If Council wished to levy for contributions, it is considered that both plans would require amendment with the ability to levy being provided for via the Section 94 plan and the Section 94A plan deferring to the Section 94 plan for the purposes of secondary dwellings.

In amending the Section 94 plan Council would typically have to define the areas in which secondary dwellings are to be developed, forecast an expected development take up rate and occupancy rate, forecast the likely increase in demand for public services and amenities generated by these developments, prepare and cost a works program, and then determine a monetary contribution. At present it is considered that forecasting a take up rate would be particularly difficult as there is no equivalent development to compare historical development trends with. This however could be further examined and reported back to Council upon resolution of which option to pursue and subject to further discussions with DP & I staff.

### **Conclusion**

It is considered that utilising “Clause 2.5 Additional permitted uses for particular land” of LEP 2012 to allow with Council consent secondary dwellings within 1km of a rural village or neighbourhood centre has merit as it would provide Council with a better statutory framework to control and limit secondary dwellings within and around rural villages and neighbourhood centres, help prevent the proliferation of secondary dwellings in rural zones and the E3 and E4 environmental zones and thereby minimise the likely adverse impacts on the rural character and the demand for additional services and facilities.

It is noted that no known council currently utilises this approach through the Standard Instrument LEP and hence it is recommended that advice and guidance on this approach be sought from DP & I prior to Council proceeding with the preparation of a planning proposal.

### **Conformance to Community Strategic Plan**

Council’s proposed approach in the preparation of a planning proposal allowing secondary dwellings within and around rural village and/or neighbourhood centres would be consistent with the following Community Strategic Plan Themes and Direction statements:

#### *Looking after People and Place*

- *Offer residents a choice of housing options that meets their needs whilst being sympathetic to the qualities of the Hawkesbury.*
- *Population growth is matched with the provision of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.*
- *Have friendly neighbourhoods, connected communities, and supported households and families.*

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

- Prepare residential land strategy.

One of the key strategies in the Community Strategic Plan (CSP) was the preparation of a residential land strategy. The HRLS was adopted by Council in May 2009 and that Strategy has incorporated the relevant Directions, Strategies and Goals contained in the CSP in relation to provision of housing, infrastructure and community development.

Consideration of the proposed approach leading to the preparation of planning proposal is consistent with the requirements of the CSP and HRLS.

### **Financial Implications**

There are no financial implications arising from this report.

## ORDINARY MEETING

Meeting Date: 13 November 2012

### Planning Decision

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

### RECOMMENDATION:

That:

1. Advice and guidance on the Council’s preferred approach to permit secondary dwellings as additional permitted uses on land identified within a certain distance of rural village and/or neighbourhood centres and possible levying of Section 94 contributions for secondary dwellings, as explained in this report, be sought from the Department of Planning and Infrastructure.
2. A further report be put forwarded to Council after receipt of advice and the guidance from the Department of Planning & Infrastructure on the matter prior to preparation and submission of a planning proposal to the Minister for Planning and Infrastructure seeking a “gateway determination”.

### ATTACHMENTS:

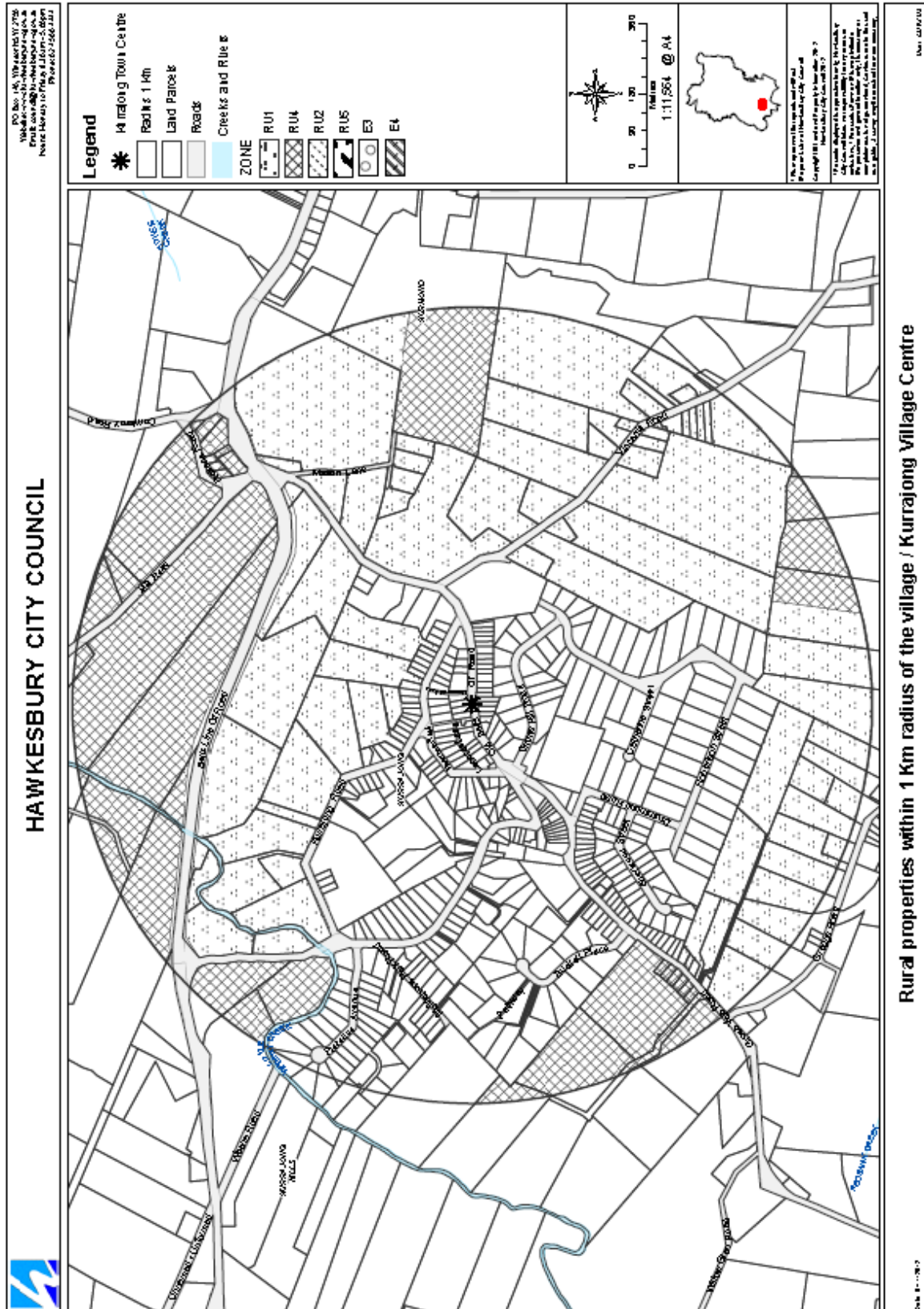
**AT - 1** A map identifying rural properties within 1km radius of Kurrajong Village Centre (Example only).

**AT – 2** Proposed development controls for secondary dwellings

# ORDINARY MEETING

Meeting Date: 13 November 2012

## AT - 1 A map identifying rural properties within 1km radius of Kurrajong Village Centre (Example only)



## ORDINARY MEETING

Meeting Date: 13 November 2012

### **AT – 2 Proposed concept development controls for secondary dwellings**

1. The attached or detached secondary dwelling must be designed to compliment the primary dwelling and the character of the locality with respect to external materials, finishes and colours.
2. The detached secondary dwelling must be located behind the primary dwelling and be setback a minimum of 5 metres from the primary dwelling.
3. Where the secondary dwelling is proposed as an extension to the primary dwelling, the secondary dwelling is to be constructed of the same materials as the primary dwelling.
4. The secondary dwelling is to be single storey where the primary dwelling is a single storey.
5. The minimum area of the private open space is to be 40% of the floor area of the secondary dwelling. The area is to be directly accessible from the rear or side of the dwelling and capable of containing a minimum of 4 metres x 5 metres landscaping area.
6. Where the site has no access to a reticulated sewerage system or the existing on-site effluent disposal system has no capacity for the secondary dwelling, the development must comply with the requirements in Part C, Chapter 4 Effluent Disposal of the DCP.
7. The use of temporary buildings and moveable structures with reflective surfaces including metal/aluminium sheet claddings or similar materials not blending with the external materials and finishes of the primary dwelling and the immediate surrounding as secondary dwellings is not permitted.
8. A common driveway is to be used to access both the secondary dwelling and the primary dwelling.
9. The secondary dwelling must comply with requirements of the Building Code of Australia.

**oooO END OF REPORT Oooo**



## ORDINARY MEETING

Meeting Date: 13 November 2012

Item: 198

CP - Hawkesbury City Council - Annual Report - 2011/2012 - (95498)

---

### REPORT:

#### Executive Summary

The 2011/2012 Annual Report has been prepared in accordance with the requirements of Section 428 of the *Local Government Act 1993*, *Local Government (General) Regulation 2005* and the Division of Local Government Circular to Councils number 12-06 dated 16 March 2012.

#### Consultation

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

#### Background

Section 428 of the *Local Government Act 1993* requires that "within five months after the end of each year, a Council is required to prepare a report as to its achievements with respect to the objectives and performance targets set out in its management plan for that year".

The Act also prescribes specific reporting requirements that govern the content of the report and submission of audited Financial Statements and State of the Environment report for the year ending 30 June 2012.

The Annual Report is a statutory requirement for all New South Wales Councils and must be submitted to the Division of Local Government by 30 November 2012.

#### 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 an ongoing engagement and communication with our community, governments and industries.

#### Financial Implications

There are no funding implications from the preparation of this report.

### RECOMMENDATION:

That:

1. Council's 2011/2012 Annual Report be received and noted and a copy be forwarded to the Division of Local Government and any other necessary authorities prior to 30 November 2012 as required.
2. Council display the full Annual Report on Council's website by the 30 November 2012.

**ORDINARY MEETING**

**Meeting Date:** 13 November 2012

**ATTACHMENTS:**

**AT - 1** Annual Report 2011/2012 - *(Distributed Under Separate Cover)*

**AT - 2** General Purpose and Special Purpose Financial Report and Special Schedules for the period ending 30 June 2012 - *(Distributed Under Separate Cover)*

**oooO END OF REPORT Oooo**

**ORDINARY MEETING****Meeting Date:** 13 November 2012**SUPPORT SERVICES****Item: 199            SS - Monthly Investments Report - September 2012 - (96332, 95496)****Previous Item:**        144, Ordinary (29 June 2010)**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 \$39.55 million in investments at 30 September 2012.

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 \$39.55 million in investments as at 30 September 2012. 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 \$
<b>On Call</b>								
ANZ	A1+	AA-	30-Sep-12		5.00%	4,200,000	10.60%	
CBA	A1+	AA-	30-Sep-12		4.00%	200,000	0.51%	
<b>Total On-call Investments</b>								<b>4,400,000</b>
<b>Term Investments</b>								
ANZ	A1+	AA-	23-Mar-12	17-Oct-12	6.00%	400,000	1.01%	
ANZ	A1+	AA-	13-Jun-12	07-Nov-12	5.10%	1,000,000	2.53%	
Bankwest	A1+	AA-	21-Mar-12	20-Mar-13	5.90%	500,000	1.26%	
Bankwest	A1+	AA-	31-July-12	30-Jan-13	5.10%	1,000,000	2.53%	
Bankwest	A1+	AA-	01-Aug-12	30-Jan-13	5.10%	500,000	1.26%	

# ORDINARY MEETING

Meeting Date: 13 November 2012

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
Bankwest	A1+	AA-	08-Aug-12	06-Feb-13	5.10%	3,000,000	7.59%	
CUA	A-2	BBB	07-Mar-12	06-Feb-13	6.05%	250,000	0.63%	
NAB	A1+	AA-	11-Apr-12	10-Oct-12	5.72%	2,000,000	5.06%	
NAB	A1+	AA-	16-May-12	20-Nov-12	5.35%	2,000,000	5.06%	
NAB	A1+	AA-	16-May-12	20-Nov-12	5.35%	1,000,000	2.53%	
NAB	A1+	AA-	06-Jun-12	05-Dec-12	5.15%	2,500,000	6.32%	
NAB	A1+	AA-	13-Jun-12	16-Jan-13	5.12%	1,000,000	2.53%	
NAB	A1+	AA-	25-Jul-12	30-Jan-13	5.04%	2,000,000	5.06%	
NAB	A1+	AA-	25-Jul-12	24-Jul-13	4.92%	1,000,000	2.53%	
St George	A1+	AA-	17-May-12	20-Nov-12	5.35%	1,000,000	2.53%	
St George	A1+	AA-	15-Aug-12	21-Aug-13	5.15%	2,000,000	5.06%	
St George	A1+	AA-	22-Aug-12	18-Sept-13	5.16%	2,000,000	5.06%	
St George	A1+	AA-	22-Aug-12	16-Oct-13	5.16%	1,500,000	3.79%	
Westpac	A1+	AA-	09-May-12	07-Nov-12	5.55%	3,000,000	7.59%	
Westpac	A1+	AA-	06-Jun-12	05-Dec-12	5.10%	1,000,000	2.53%	
Westpac	A1+	AA-	26-Apr-12	24-Oct-12	5.70%	500,000	1.26%	
Westpac	A1+	AA-	26-Apr-12	24-Oct-12	5.70%	1,000,000	2.53%	
Westpac	A1+	AA-	05-Sep-12	20-Feb-13	5.05%	1,500,000	3.79%	
Westpac	A1+	AA-	05-Sep-12	04-Mar-13	5.05%	2,500,000	6.32%	
Westpac	A1+	AA-	26-Sep-12	20-Mar-13	5.00%	1,000,000	2.53%	
<b>Total Term Investments</b>								<b>35,150,000</b>
<b>TOTAL INVESTMENT AS AT 30 SEPTEMBER 2012</b>								<b>39,550,000</b>

## Performance by Type

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	4,400,000	4.95%	Reserve Bank Cash Reference Rate	3.50%	1.45%
Term Deposit	35,150,000	5.25%	UBS 90 Day Bank Bill Rate	3.37%	1.88%
<b>Total</b>	<b>39,550,000</b>	<b>5.22%</b>			

## ORDINARY MEETING

Meeting Date: 13 November 2012

### ***Restricted/Unrestricted Funds***

Restriction Type	Amount \$
External Restrictions -S94	7,638,832
External Restrictions - Other	6,438,287
Internal Restrictions	18,515,790
Unrestricted	6,957,091
<b>Total</b>	<b>39,550,000</b>

Funds subject to external restrictions cannot be utilised for any purpose other than that specified, in line with legislative requirements. Externally restricted funds include funds relating to Section 94 Contributions, Domestic Waste Management, Stormwater Management and Grants.

Internal restrictions refer to funds allocated through a Council Resolution for specific purposes, or to meet future known expenses. 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'. Internally restricted funds include funds relating to Tip Remediation, Plant Replacement, Risk Management and Election.

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

### ***Investment Commentary***

The investment portfolio increased by \$0.50 million for the month of September 2012. During September 2012, income was received totalling \$5.64 million, including rate payments amounting to \$3.36 million, while payments to suppliers and staff costs amounted to \$5.62 million.

The investment portfolio currently involves a number of term deposits and on-call accounts. Council's current investment portfolio is not subject to share market volatility.

As at 30 September 2012, Council has invested \$11.50 million with second tier financial institutions, that are wholly owned subsidiaries of major trading banks, and \$0.25 million invested with a second tier institution that is not a wholly owned subsidiary of a major Australian trading bank, with the remaining funds being invested with first tier institutions. Council's adopted Investment Policy allows Council to invest funds with second tier Authorised Deposit-taking Institutions that are wholly owned subsidiaries of major Australian trading banks, subject to conditions stipulated in the Policy. Investments in second tier financial institutions, that are not wholly owned subsidiaries of major trading banks, are limited to the amount guaranteed under the Financial Claims Scheme (FCS) for Authorised Deposit-taking Institutions (ADIs), in line with Council's Investment Policy.

The FCS protects depositors by guaranteeing deposits (up to the cap) held in ADIs incorporated in Australia, and allows quick access to deposits if an ADI becomes insolvent. A permanent guarantee cap, per account holder, per ADI, of \$250,000, has been in place since 1 February 2012.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Independent advice is sought on new investment opportunities, and Council's investment portfolio is independently reviewed by Council's investment advisor each calendar quarter.

Council's investment portfolio complies with Council's Investment Policy, adopted on 26 June 2012.

### ***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.

## **ORDINARY MEETING**

**Meeting Date:** 13 November 2012

### **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 2012/2013.

### **RECOMMENDATION:**

The report regarding the monthly investments for September 2012 be received and noted.

### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 13 November 2012

Item: 200      **SS - Exemption from Rating - 24 Church Street, South Windsor - (95496, 96332, 124932)**

---

### REPORT:

#### Executive Summary

A rating exemption may be sought by an individual or organisation based on certain criteria as set out in the Local Government Act, 1993.

The Local Government Act 1993, Part 6, stipulates the criteria required to be met for a rating exemption to apply. Section 555(1)(a) stipulates that land owned by the Crown, not being land held under a lease for private purposes, is exempt from rates.

An application has been received from the NSW Department of Family and Community Services (Ageing, Disability and Home Care) requesting exemption from rating for the property known as 24 Church Street, South Windsor (Lot E DP 39080).

This report recommends that Section 555(1)(a) of the Local Government Act 1993 is applied to the rating exemption sought, and that the property known as 24 Church Street, South Windsor (Lot E DP 39080), is granted exemption from all rates applicable to the property, in accordance with Section 555(1)(a) of the Act.

#### Consultation

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

#### Background

An application has been received from the NSW Family and Community Services (Ageing, Disability and Home Care) requesting exemption from rating for the property known as 24 Church Street, South Windsor (Lot E DP 39080).

The property was purchased by the Minister for Disability Services on 6 June 2012, and is operated by the NSW Family and Community Services (Ageing, Disability and Home Care).

The application for rate exemption is made in accordance with Section 555(1)(a) of the Local Government Act, 1993, which provides as follows:

***"S 555 What land is exempt from all rates?***

*(1) The following land is exempt from all rates:*

*(a) land owned by the Crown, not being land held under lease for private purposes."*

#### 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.

## **ORDINARY MEETING**

**Meeting Date:** 13 November 2012

### **Funding**

This report recommends the abandonment of an amount of \$759.05. This amount will be funded from the Rating budget allocation for 2012/2013, and will subsequently be recovered through the notional yield calculation for 2013/2014.

### **RECOMMENDATION:**

That:

1. The Minister for Disability Services be granted an exemption from rating from 1 July 2012 for the property known as 24 Church Street, South Windsor (Lot E DP 39080).
2. An amount of \$759.05 be abandoned in respect of rates for the period 1 July 2012 to 30 June 2013.

### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**



## ORDINARY MEETING

Meeting Date: 13 November 2012

### Item: 201      **SS - General Purpose Financial Statements and Special Purpose Financial Statements for the period ended 30 June 2012 - (96332, 95496)**

#### REPORT:

##### Executive Summary

Council's General Purpose Financial Statements and Special Purpose Financial Statements for the period ended 30 June 2012 have now been completed, audited and advertised in accordance with the provisions of the Local Government Act 1993 (LGA). The unqualified audit certificate from Council's Auditors, PricewaterhouseCoopers (PwC), has been received and is available for inspection by Councillors and the community.

The purpose of this report is to submit the General Purpose Financial Statements and Special Purpose Financial Statements for the period ended 30 June 2012 to Council, in accordance with the requirements of the LGA. The report also recommends the suspension of Standing Orders to allow Council's Auditor, Mr Dennis Banicevic of PwC, to make a presentation in respect of Council's audited 2011/2012 financial statements.

##### Consultation

Public notice of the Council Meeting of 13 November 2012 has been given in the Hawkesbury Courier on Thursday, 1 November 2012. The General Purpose Financial Statements and Special Purpose Financial Statements, for the period ended 30 June 2012, have been placed on exhibition from Thursday, 1 November 2012.

In accordance with Section 420(1) of the LGA, any person may make a submission to Council regarding the financial statements or with respect to the Auditor's reports. All submissions must be in writing and will be referred to Council's Auditor's, PwC, and Council can take such action as it considers appropriate. The closing date for submissions is Tuesday, 20 November 2012.

##### Background

Council's General Purpose Financial Statements and Special Purpose Financial Statements for the period ended 30 June 2012 have been completed, audited and advertised in accordance with the provisions of the Local Government Act 1993 (LGA). The unqualified audit certificate from Council's Auditors, PricewaterhouseCoopers (PwC), has been received and is available for inspection by Councillors and the community.

The LGA requires that the meeting set for the presentation of the financial reports, must be at least seven days after public notice is given, and within five weeks after the Auditor's reports are given to Council. The Auditor's reports were received on 22 October 2012, and public notice was given in the Hawkesbury Courier on 1 November 2012.

##### Operating Performance

Given below is a summary of Council's financial result for the period ended 30 June 2012.

Statement of Financial Performance	2011/12 \$'000	2010/11 \$'000	Movement Inc/(Dec)
Income from continuing operations	77,075	68,438	8,637
Expenses from continuing operations	68,767	63,931	4,836

# ORDINARY MEETING

Meeting Date: 13 November 2012

Statement of Financial Performance	2011/12 \$'000	2010/11 \$'000	Movement Inc/(Dec)
Net Operating Result for the year	8,308	4,507	3,801
Capital Grants & Contributions	17,161	12,266	4,895
<b>Net Operating Result before Capital Grants &amp; Contributions</b>	<b>(8,853)</b>	<b>(7,759)</b>	<b>(1,094)</b>

Details of revenues and expenses for 2011/2012 as compared to the previous year are as follows:

Income from continuing operations	2011/12 \$'000	2010/11 \$'000	Movement Inc/(Dec)
Rates and Annual Charges	38,900	37,638	1,262
User Charges and Fees	5,082	4,576	506
Interest	2,791	2,945	(154)
Grants & Contributions – Operating	9,367	6,981	2,386
Grants & Contributions – Capital	17,161	12,266	4,895
Other Operating Revenue	3,562	3,534	28
Profit from Disposal of Assets & Joint Venture Equity	212	498	(286)
<b>Total Income from Continuing Operations</b>	<b>77,075</b>	<b>68,438</b>	<b>8,637</b>

Expenses from continuing operations	2011/12 \$'000	2010/11 \$'000	Movement Inc/(Dec)
Employee costs	21,284	21,381	(97)
Materials and Contracts	17,513	16,823	690
Borrowing costs	538	562	(24)
Depreciation & Amortisation	18,407	16,242	2,165
Other Expenses	10,736	8,923	1,813
Net Losses from Disposal of Assets	289	-	289
<b>Total Expenses from Continuing Operations</b>	<b>68,767</b>	<b>63,931</b>	<b>4,836</b>

## Balance Sheet

The Balance Sheet discloses the assets, liabilities and equity of Council. The table below displays Council's reported Balance Sheet as at 30 June 2012

Statement of Financial Position	2011/12 \$'000	2010/11 \$'000	Movement Inc/(Dec)
Current Assets	45,617	48,510	(2,893)
Non Current Assets	766,590	755,118	11,472
<b>Total Assets</b>	<b>812,207</b>	<b>803,628</b>	<b>8,579</b>
Current Liabilities	12,914	13,991	(1,077)

**ORDINARY MEETING****Meeting Date: 13 November 2012**

<b>Statement of Financial Position</b>	<b>2011/12 \$'000</b>	<b>2010/11 \$'000</b>	<b>Movement Inc/(Dec)</b>
Non Current Liabilities	8,195	7,776	419
<b>Total Liabilities</b>	<b>21,109</b>	<b>21,767</b>	<b>(658)</b>
Net Assets	791,098	781,861	9,237
<b>Equity</b>	<b>791,098</b>	<b>781,861</b>	<b>9,237</b>

**Performance Indicators**

Council's financial statements disclose a number of financial indicators, which are detailed below:

<b>Financial Performance Indicator</b>	<b>June 2012</b>	<b>June 2011</b>
Unrestricted Current Ratio	4.86	4.26
Debt Service Ratio	0.71%	0.74%
Rate Coverage %	50.5%	55%
Rates Outstanding %	6.3%	7.1%

**Interpretation of Financial Results**

Council's operating result improved from a surplus of \$4.5 million in 2010/2011 to \$8.3 million in 2011/2012. The result before capital grants and contributions was a deficit of \$8.8 million in 2011/2012, compared to \$7.8 million in 2010/2011. Council's overall cash position declined from \$44 million to \$40 million during the reporting period under review, and included restricted and unrestricted funds.

Council's net current assets declined from \$34 million to \$32 million in 2011/2012. Available working capital as at June 2012 was \$7.3 million.

Council's Unrestricted Current Ratio as at June 2012 is 4.86. This was an increase from the previous year, and remains significantly above the accepted industry benchmark of 1. The Debt Service Ratio was 0.71% and remains well below the accepted industry benchmark of 10%. The Rate Coverage Ratio decreased from 55% for 2010/2011, to 50.5% for 2011/2012, mainly due to the significant increase in capital grants and contributions. The Rates Outstanding Ratio as at the end of June 2012 decreased to 6.3% of collectables. This ratio is an improvement on the previous year but remains higher than the accepted industry benchmark of 5%.

The Asset Renewals Ratio indicates that infrastructure assets are being renewed at 64% of the rate at which they are depreciating.

All indicators remain better than accepted industry benchmarks except for the rates outstanding ratio which is improving.

Council's financial position for the period ended 30 June 2012 is considered to be sound and stable. However projections based on current income and expenditure levels indicate future financial difficulties for Council, if not addressed.

Increasing difficulties will be experienced to maintain a balanced budget position, with a gap continuing to exist between funds required to maintain Council's assets to a satisfactory standard and the revenue required to sustain it. It is important to take into consideration Special Schedule 7(SS7) (unaudited), which provides estimates on the amount of funds required to bring the existing infrastructure back to a satisfactory condition. As tabled in SS7 it is estimated that Council needs to spend over \$75.4 million to bring its assets back to the standard as indicated in SS7, an annual maintenance requirement of \$14.1 million compared with the current funding of \$9.7 million.

## ORDINARY MEETING

Meeting Date: 13 November 2012

### Conformance to Community Strategic Plan

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

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

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

### Funding

There are no financial implications applicable to this report.

### RECOMMENDATION:

That Council:

1. Note the completion of the General Purpose and Special Purpose Financial Statements and Special Schedules for the period ended 30 June 2012.
2. Suspend standing orders to allow Council's Auditor, Mr Dennis Banicevic of PricewaterhouseCoopers, to make a presentation in respect of Council's audited 2011/2012 financial statements.

### ATTACHMENTS:

- AT - 1** General Purpose and Special Purpose Financial Statements and Special Schedules for the Period Ended 30 June 2012 - *(Distributed under Separate Cover)*

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 13 November 2012

### CONFIDENTIAL REPORTS

Item: 202      IS - Tender No. 00916 - Concrete Works - Restoration of Footpaths and Kerb & Guttering - (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:** 13 November 2012

**Item: 203            IS - Tender No.00917 - Provision of a Septic Tank & Collection Well Effluent  
Removal Service - (95495, 112179)    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: 13 November 2012

Item: 204      **SS - Property Matter - Assignment of Lease from Andreas and Catarina Froemel to Denise O'Rourke - Shop 2, Glossodia Shopping Centre - (95496, 1121406, 73977, 24232)    CONFIDENTIAL**

---

### Reason for Confidentiality

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

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

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

**ORDINARY MEETING**  
Questions for Next Meeting

**QUESTIONS FOR NEXT MEETING**

**Councillors Questions from Previous Meetings and Responses**

**REPORT:**

**Questions – 9 October 2012**

#	Councillor	Question	Response
1	Lyons-Buckett	Asked if the Gardener employed by Council to maintain Windsor Mall could be provided with a vehicle to transport his tools and equipment.	The Director Infrastructure Services advised that acquisition of a vehicle is included in the current years budget and is anticipated to be delivered in December.
2	Tree	<p>Asked if Council staff could advise what rural land studies the Council has supported over the last 20 years? As far as the community member is aware there have been at least two studies for which Council has records; one by Dr Frank Kelleher and a second called the Hawkesbury Agricultural Retention through Diversification and Clustering (HARtDAC).</p> <ol style="list-style-type: none"> <li>1. What were the objectives of Dr Kelleher's Study?</li> <li>2. What were the objectives of HARtDAC: <ul style="list-style-type: none"> <li>• How much funding was involved?</li> <li>• The names of the individuals and the properties who received interest free grants and the amounts.</li> </ul> </li> <li>3. Details on the primary producer rate rebates provided to farmers over the last 20 years.</li> <li>4. Details on the previous strategy on rural land in the Hawkesbury.</li> <li>5. Any other initiatives over the last 20 years promoting or supporting farming and rural lands in the Hawkesbury.</li> <li>6. When will Council commence work on our Rural Land Strategy?</li> </ol>	See Attachment 1 for a response to this question.



## ORDINARY MEETING

### Questions for Next Meeting

#	Councillor	Question	Response
3	Williams	Asked if Council was involved with Blacktown Council or any other Council in the investigation into the die back of the Grey Box trees on Windsor, Richmond and Blacktown Roads due to a insect infestation.	The Director Infrastructure Services advised that Council is participating in discussions with the NSW Office of Environment and Heritage as well as adjoining council regarding the impact on the Grey Box trees across Western Sydney. Further advice will be forwarded to Councillors following a briefing/meeting with Office of Environment and Heritage in November.
4	Williams	Requested the illuminated sign at Wilberforce Shopping Centre be repaired.	The Director Infrastructure Services advised that the light has been repaired.
5	Paine	Asked how Council would go about making Yarramundi Reserve a Dog Free Zone due to a recent incident.	<p>The Director City Planning advised this could be done as an adoption by Council to declare that the reserve is a dog free area (under the Companion Animals Act "<i>a prohibited place</i>" Clause 14.1) and appropriate signage is conspicuously exhibited on the boundaries at reasonable intervals.</p> <p>Council's Regulation staff could then fine offenders for non compliance with the prohibition order of Council. The current fine is \$330 to the owner or person in charge of the animal, if that person is over 16 years of age.</p>
6	Paine	Requested that the entrance to McQuade Park behind the grandstand be repaired as there are a number of large pot holes.	The Director Infrastructure Services advised that repairs to the carpark are complete.
7	Paine	Asked if Council would provide tourism information at a Conference at Richmond Club being held by the Maternity Unit of Hawkesbury Hospital on the 19 October 2012.	The General Manager advised that staff from the Visitor Information Centre established a display at the Conference, incorporating promotional material, a presentation and information bags concerning the Hawkesbury. Staff were also in attendance at Conference breaks to provide advice and information and responded to enquiries from participants.
8	Calvert	Asked if the traffic island on Macquarie Street, Windsor was Council's responsibility or the Roads and Maritime Services as the island is difficult to see at night and would like to see it re-painted.	The Director Infrastructure Services advised that a request has been forwarded to the RMS requesting a review the delineation of the traffic islands in both Hawkesbury Valley Way and Macquarie Street in the area of the traffic lights, Windsor.

**ORDINARY MEETING**  
Questions for Next Meeting

#	Councillor	Question	Response
9	Porter	Asked if there is a Code of Conduct breach lodged against a Councillor by a senior staff member, would there be a conflict with the General Manager selecting an independent arbitrator.	The General Manager advised that under the provisions of Clause 12.8 of the Code of Conduct (the Code) the General Manager is responsible for assessing complaints under the Code against Councillors using the criteria from Clause 13.1. Subsequently, under Clause 12.9 of the Code the General Manager must determine to take a course of action contained within this Clause, one of which is to refer the complaint to a Conduct Reviewer. Council has previously established, as required, a panel of independent conduct reviewers and when a referral occurs, a reviewer is selected from this panel. This procedure is required under the Code in respect to complaints against Councillors, whether they be from members of the public, other Councillors or staff and a conflict would not arise simply due to the complaint being submitted by a member of staff. The Division of Local Government has also concurred with this position.
10	Rasmussen	Asked what action Council staff can take against vicious dogs roaming properties emanating from Council reserves.	The Director City Planning advised Council staff would use the powers of the Companion Animals Act which could include impoundment of the animal where no person in charge of the animal is present, issuing of penalty notices and orders for such things as the dog not being on a leash and/or not under effective control, to the animal being declared dangerous where evidence existed to warrant this course of action.

**ATTACHMENTS:**

**AT - 1** Response to Question 2 - Council Meeting 9 October 2012 - Rural Land Studies.

**AT - 1 Response to Question 2 - Council Meeting 9 October 2012 - Rural Land Studies.**

The Director City Planning and the Director Support Services advised as follows:

1. The Kelleher Study was titled *Rural Subdivision Impact on Agricultural Industries. The Natural Resource Base & Socio-Economic Development of Rural & Peri-Urban Environments*, University of Western Sydney, 1997.

The aim of this work was to research the impact of subdivision on agriculture and agriculture land resources together with community attitudes and perceptions on agriculture and its regional socio-economic importance. The research was centred on Hawkesbury, Wollondilly and Mudgee LGA. This work was not commissioned or adopted by Council. However, it was used as a reference in the preparation of the Hawkesbury Sustainable Agricultural Development Strategy.

2. The objectives of HARTDAC as detailed in its final report were:

**Primary Objectives**

- (a) To formulate a community-driven vision for sustainable rural development in Hawkesbury.
- (b) To incorporate, through extensive community and stakeholder consultation and involvement, their views and values.
- (c) To prepare a relevant socio-economic profile of Hawkesbury, including agricultural production.
- (d) To undertake survey and analysis on microclimate, soil and water availability to determine farming options for a network of farms.
- (e) To investigate the economic feasibility of clusters of growers which would benefit from working together.
- (f) To develop strategies for the potential expansion of the study approach to other peri-urban agricultural areas in the Sydney Basin.

**Supporting Objectives**

- (a) To gain an understanding and document the Hawkesbury's agricultural areas in terms of their physical and biological characteristics, environmental and landscape significance, historical and cultural values, and socio-economic aspects. (*Economic, community and environmental aspects*).
  - (b) To ensure that the development of agriculture considers the visual qualities and diverse character of Hawkesbury's rural areas. (*Cultural and community aspects*).
  - (c) To provide the strategic foundation for a review of existing planning controls and local policies to realise the vision for the retention of agriculture in Hawkesbury. (*Planning and administrative aspects*).
- The HARTDAC Program had total funding of \$199,600. The Program was funded through a combination of Council funds (\$30,000); grants from the then Department of Transport and Regional Services (\$94,100) and the Greater Western Regional Economic Development Board (\$28,000); and contributions by ten participating farmers (\$47,500).

## ORDINARY MEETING

### Questions for Next Meeting

With the exception of one farmer who paid the contribution upfront, the remaining participants paid their contributions towards the Program through instalments. No interest was applicable to these contributions.

- Due to privacy issues and following discussion with Council's solicitors, the names of the individuals and the properties cannot be provided. However, nine farmers agreed to pay their contributions of \$5,225 (including GST) each to Council through instalments, with no interest being applied by Council. All nine farmers subsequently paid their contribution in full and there are no outstanding amounts in this regard.
- 3. Over at least the last 20 years, properties categorised as "Farmland" have been levied at a lower rate in the dollar compared to properties categorised as "Residential". The lower rate in the dollar for "Farmland" properties, has been approximately 80% of the rate in the dollar for "Residential" properties. Over the last 20 years, this lower rate in the dollar has provided a total discount for "Farmland" properties of approximately \$5.5 million.
- 4. The "previous strategy" is called *Hawkesbury Sustainable Agriculture Development Strategy*, September 1997. The terms of reference were as follows:
  - To identify the location and importance of agricultural activities within the City
  - To provide a set of strategies which address the various conflicts, problems and opportunities that face agriculture in the Hawkesbury LGA
  - To recommend strategies that ensure the local agricultural industry remains sustainable in economic, social and environmental terms;
  - To encourage the involvement of all relevant stakeholders in the decision making process so that the outcomes are accepted by the community
  - To provide a strategy that is considered an example of best practice so it can be used as a guideline for other authorities to produce similar projects.

The Strategy was an outcome of the "Our City Our Future" process and was accompanied by an Action Plan with the highest priority actions being centred on amendments to LEP1989. This resulted in the priority planning actions being implemented via Amendment 108 (change to zone names, objectives and land use table) and Amendment 126 (lot averaging subdivision).

5. Other initiatives over the last 20 years have not been Hawkesbury specific but within the region include the following:
  - Rural Resources Land Study, SJB Planning, April 2006. Study area The Hills, Campbelltown, Gosford, Hawkesbury, Hornsby, Penrith and Wollondilly LGAs. Aim – confirmation of values of the lands and the best planning and other mechanisms available for the long term protection of these lands.
  - North West Subregion Draft Subregional Strategy, Department of Planning, 2007 – various references throughout the document to retention of agricultural lands, agricultural sustainability etc.
  - North-West and West Central Sydney Employment Strategies, Urban Research Centre, University of Western Sydney, 2008. Goal of the strategy was to ensure the region is composed in ways that enhance its economic development, such that the region functions as an ongoing generator of employment, income and wealth with an enduring capacity for dynamic efficiency, being the capacity to re-engineer from one successful economic configuration to another over time.
  - Sydney's Agricultural Lands an Analysis, prepared for the NSW Department of Planning by the Urban Research Centre, University of Western Sydney, 2010. This report assesses the available data and information on the number of farms, area and economic value of Sydney's agricultural lands by reviewing the findings and limitations of existing studies.

## ORDINARY MEETING

### Questions for Next Meeting

6. In the current Operational Plan 2012 – 2013, Action 7.1, is “*Develop a framework and investigate funding opportunities for the preparation of a Rural Lands Strategy*”. Work on this project is expected to be undertaken within this financial year.

**oooO END OF REPORT Oooo**





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.