



Hawkesbury City Council

hawkesbury  
independent  
hearing and  
assessment  
panel  
minutes

date of meeting: 17 May 2018

location: council chambers

time: 11:30 a.m.



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## **HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL**

**MINUTES: 17 May 2018**

Minutes of the Hawkesbury Independent Hearing and Assessment Panel held in Council Chambers, Council Offices, Windsor, on 17 May 2018, commencing at 11.35am.

### **ATTENDANCE**

Present: David Ryan, Expert Representative, Alternate Chair  
Michael Harrison, Expert Representative  
Deborah Sutherland, Expert Representative  
Paul Rogers, Community Representative

In Attendance: Ms Judy Clark, Acting Director City Planning  
Ms Cristie Evenhuis, Manager Development Services  
Mr Andrew Johnston, Senior Town Planner  
Mr William Pilon, Senior Town Planner  
Ms Ursula Lang, Town Planner  
Miss Ammie Herrington, Governance Officer

Apologies: Alison McCabe, Expert Representative, Chair

### **DECLARATIONS OF INTEREST**

There were no declarations of interest made.

### **ADDRESS BY SPEAKERS**

The following persons addressed the Panel:

<u>SPEAKER/S</u>	<u>ITEM NO./SUBJECT</u>
Mr Glenn Apps	003 – DA0332/16 - 396 Bells Line of Road, Kurmond – Subdivision Involving Earthworks, Filling of Dams, Constriction of Roads Including Creek Crossing, Installation of Sewer Main and Revegetation of Riparian Area to Create 37 Residential Lots
Mr Mike Caris	003 – DA0332/16 - 396 Bells Line of Road, Kurmond – Subdivision Involving Earthworks, Filling of Dams, Constriction of Roads Including Creek Crossing, Installation of Sewer Main and Revegetation of Riparian Area to Create 37 Residential Lots
Mr Ken Hardaker	003 – DA0332/16 - 396 Bells Line of Road, Kurmond – Subdivision Involving Earthworks, Filling of Dams, Constriction of Roads Including Creek Crossing, Installation of Sewer Main and Revegetation of Riparian Area to Create 37 Residential Lots
Mr Simon Ochudzawa	004 – DA0545/16 – 122-132 Macquarie Street Windsor – Demolition of Existing Structures and Construction of Residential Flat Building comprising 40 Residential Units and Basement Parking

## HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL

### SECTION 2 – Reports for Determination

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### SECTION 3 – Reports for Determination

**Item: 003** CP - DA0332/16 - 396 Bells Line of Road, Kurmond - Subdivision Involving Earthworks, Filling of Dams, Construction of Roads Including Creek Crossing, Installation of Sewer Main and Revegetation of Riparian Area to Create 37 Residential Lot - (137333)

**Previous Item:** 001 - HIHAP (28 March 2018)

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The Panel inspected the subject site and context prior to the public meeting.

Mr Glenn Apps, Mr Mike Caris, and Mr Ken Hardaker, speaking against the recommendation, addressed the Panel.

The applicant tabled a copy of his written submission to the previous Panel's discussion and written submission from his planning consultant.

#### 003 RESOLUTION:

The Panel unanimously resolved that development application DA0332/16, for a Subdivision Involving Earthworks, Filling of Dams, Construction of Roads Including Creek Crossing, Installation of Sewer Main and Revegetation of Riparian Area to Create Residential Lots, at 396 Bells Line of Road, Kurmond, be determined by way of deferred commencement consent, subject to the below deferred commencement condition and general conditions.

#### SCHEDULE 1 – DEFERRED COMMENCEMENT CONSENT

This is a Deferred Commencement Consent and does not operate until the matters listed in "Schedule 1" of this consent have been addressed.

All matters listed in "Schedule 1" are required to be satisfactorily addressed within 12 months from the Determination Date that is shown on this consent. Failure to satisfy these matters by the specified date will result in the lapsing of this consent.

Upon receipt of satisfactory evidence in relation to the matters listed in "Schedule 1", Council will give written notice to the person having benefit of the consent advising of the date from which this consent is to operate. The requirements of the consent will then be subject to the conditions listed in "Schedule 2" and any additional conditions imposed by Council associated with the satisfaction of "Schedule 1".

#### Schedule 1

1. That the applicant is to submit for the approval of Council's Director City Planning an amended plan of subdivision, amalgamating the following lots into single lots with an area of at least 4000m<sup>2</sup>:
  - Lots 16 and 17
  - Lots 18 and 19
  - Lots 20, 21 and 22

**HAWKESBURY INDEPENDENT HEARING AND ASSESSMENT PANEL****SECTION 2 – Reports for Determination****MINUTES: 17 May 2018****SCHEDULE 2 – OPERATIONAL CONDITIONS****General conditions****1. Approved Plans and Supporting Documentation**

The development must be carried out generally in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by other conditions of this consent:

**a) Plans Reference:**

<b>Drawing Number/Name</b>	<b>Prepared By</b>	<b>Issue</b>	<b>Date</b>
Drawing No. 14820/231 Sheet 1 'Plan of Proposed Subdivision'	North Western Surveys	00	18 October 2017
Drawing No. 14820/229 'Plan of Proposed Subdivision – Riparian'	North Western Surveys	00	15 December 2016
Drawing No. 14820 Sheet 1 'Face Sheet'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 2 'Engineering Plans'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 3 'Civil Plan'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 4 'Civil Plan 2'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 5 'Road 1 Long Sections'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 6 'Road 2 Long Sections'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 7 'Road 3 Long Sections'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 8 'Road 1 Cross Sections'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 9 'Road 1 Cross Sections 2'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 10 'Road 1 Cross Sections 3'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 11 'Road 2 Cross Sections'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 12 'Road 2 Cross Sections 2'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 13 'Road 3 Cross Sections'	North Western Surveys	01	16 December 2016
Drawing No. 14820 Sheet 19 'Intersection Overall Works'	North Western Surveys	02	6 October 2017
Drawing No. 14820 Sheet 20 'Intersection Details'	North Western Surveys	02	6 October 2017
Drawing No. 14820 Sheet 21 'Intersection Layout'	North Western Surveys	02	6 October 2017
Drawing No. 14829 Sheet 1 'Sewer Rising Main'	North Western Surveys	00	17 February 2017
Drawing No. 14829 Sheet 2 'Sewer Rising Main'	North Western Surveys	00	17 February 2017

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Drawing No. 14829 Sheet 3 'Sewer Rising Main'	North Western Surveys	00	17 February 2017
Drawing No. 14829 Sheet 4 'Sewer Rising Main'	North Western Surveys	00	17 February 2017
Drawing No. 14829 Sheet 5 'Sewer Rising Main'	North Western Surveys	00	17 February 2017
Drawing No. 14829 Sheet 6 'Sewer Rising Main'	North Western Surveys	00	17 February 2017
Drawing No. 14829 Sheet 7 'Sewer Rising Main'	North Western Surveys	00	17 February 2017
Drawing No. 14829 Sheet 8 'Sewer Rising Main'	North Western Surveys	00	17 February 2017
Drawing No. 14829 Sheet 9 'Sewer Rising Main'	North Western Surveys	00	17 February 2017

No works other than those approved are permitted by this consent.

**Note:** The residue lots identified as Lots 40 and 41 are not approved as part of this consent. These areas must be consolidated with adjoining properties at 406 Bells Line Of Road (Lot 1 DP 607906) and 1 Inverary Drive (Lot 1 DP 600414). All Construction Certificate and Subdivision Certificate plans must reflect this requirement.

#### 2. Integrated Development – General Terms of Approval

The General Terms of Approval from the following Authorities, as referred to in Section 93 of the *Environmental Planning and Assessment Act 1979* and referenced below, are attached and form part of the consent conditions for this approval:

- a) NSW Rural Fire Service – The General Terms of Approval (Reference No. D16/1801 DA16060702265 BB) issued by the Rural Fire Service and dated 27 June 2016 and 31 January 2017 are attached and form part of this consent.
- b) NSW Department of Primary Industries – Water – The General Terms of Approval (Reference No. 10 ERM2016/0425) issued by the Department of Primary Industries – Water and dated 30 June 2016 are attached and form part of this consent.

#### 3. Commencement of Subdivision Works and Appointment of a Principal Certifying Authority

Any civil works associated with this consent must not commence before the following matters are addressed:

- a) A Construction Certificate (Subdivision) is issued;
- b) A Principal Certifying authority has been appointed;
- c) The Principal Certifying Authority has provided notification to Council of its appointment no later than two days before the subdivision work is proposed to commence; and
- d) The person having the benefit of the consent has given at least two day's notice to Council of the person's intention to commence the subdivision works.

**Note:** If the Construction Certificate is issued by an Accredited Certifier that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval (a registration fee is payable upon lodgement).

#### 4. Planning Agreements

The provisions of any relevant Planning Agreement shall be complied with.

**5. Remediation of Land**

The site is to be remediated in accordance with:

- Preliminary and Detailed Site Investigation Report (Reference No. P30254.1\_R01) prepared by Geotest Services and dated 29 March 2016;
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55);
- The guidelines (if any) in force under the Contaminated Land Management Act 1997; and
- National Environment Protection (Assessment of Site Contamination) Measure.

A Notice of Remediation must be given to Council at least 30 days before the commencement of any remediation work. The Notice of Remediation must be in writing and be consistent with Clause 16 of SEPP No. 55. The notice must also include contact details of the remediation contractor responsible for ensuring compliance of the remediation work.

The remediation work must be completed under the supervision of an appropriately qualified consultant.

Within 30 days after the completion of the remediation works a Notice of Completion including a Validation Report must be submitted to Council verifying that the site has been fully remediated in accordance with the recommendations of the approved report. This notice must:

- be in writing and signed by the person who carried out the work,
- provide the person's name, address and business telephone number,
- provide details of the person's qualifications to carry out the work,
- specify, by reference to its property description and street address, the land on which the work was carried out,
- state when the work was completed,
- specify the uses of the land, and the substances, that contaminated it in such a way as to present a risk of harm to human health or some other aspect of the environment,
- briefly describe the method of remediation used in the work,
- specify the guidelines that were complied with in the work, and
- specify the standard of remediation achieved (in the light of the use of the land).

The Notice of Completion must be prepared by an appropriately qualified person and state that the subject land (including the residential and community lots) is suitable for residential use.

**6. Classification of Excavated Soils**

Any soils excavated from the subject site are to be classified under the NSW DECC Waste Classification Guidelines (2008). Testing is required prior to offsite disposal.

All waste materials must be removed to appropriately licensed waste facilities by a suitably qualified contractor in accordance with NSW DECC (2008) Waste Classification Guidelines.

Details of soil excavation, transportation and disposal works must be reported to Council by a suitably qualified consultant. If required this is to be submitted as part of the validation reporting for the development.

**7. Construction Certificate (Subdivision) Required**

A Construction Certificate (Subdivision) must be obtained for this development covering:

- a) Earthworks;
- b) Road works and drainage; and



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- c) Detention and water quality structures.

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

#### 8. Subdivision Certificate Required

An application for a Subdivision Certificate is required to be lodged with the Principal Certifying Authority for approval. This is to allow the plan of subdivision to be submitted to and registered with Land and Property Information (formerly the Land Titles Officer). The application is to be accompanied by

- a) four paper prints of the final plan of subdivision prepared to the requirements of NSW Land and Property Information and incorporating Council approved road names; and
- b) the original and three paper copies of the 88B Instrument and Administration Sheet.

The plan of subdivision is to be prepared in accordance with the requirements set by Land and Property Information.

#### 9. Section 6.16(1) Certificates

The accredited certifier shall provide copies of all Section 6.16(1) Certificates issued under the *Environmental Planning and Assessment Act 1979* relevant to this development to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

#### 10. Civil Works Specification Compliance

All civil construction works required by this consent shall be undertaken in accordance with Hawkesbury Development Control Plan 2002 – Appendix E 'Civil Works Specification'. Inspections shall be carried out and compliance certificates issued by Council or an Accredited Certifier.

#### 11. Roads Act 1993 – Approval Required

A separate approval is required from Council (for local roads) or Roads and Maritime Services (for State Roads) under Section 138 of the Roads Act 1993 to undertake any of the following:

- a) erect a structure or carry out a work in, on or over a public road; or
- b) dig up or disturb the surface of a public road; or
- c) remove or interfere with a structure, work or tree on a public road; or
- d) pump water into a public road from any land adjoining the road; or
- e) connect a road (whether public or private) to a public road.

#### 12. Works on Public Land – Not Permitted Without Approval

No work can be undertaken within adjoining public lands (i.e. parks, reserves, roads etc.) without the prior written consent of Council or other relevant authority. In this regard the person having benefit of the consent is to contact Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

The developer must bear the cost of all works associated with the development that occurs on public land, including the restoration of damaged areas.

#### 13. Bank Guarantee Requirements

Any bank guarantee submitted in lieu of a cash bond must comply with the following:

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- a) have no expiry date;
- b) be sent to Council direct from the bank;
- c) reference the development application, condition and matter to which it relates;
- d) the amount must match that required to be paid; and
- e) if a single bank guarantee is used for multiple bonds, it must be itemised.

**14. No Vegetation Removal Prior to Issue of Construction Certificate**

No vegetation removal shall be undertaken until a Construction Certificate (Subdivision) has been issued for the development.

**15. Disposal of Cleared Vegetation**

Vegetation waste resulting from the approved clearing of the site shall be salvaged for re-use, either in log form, or as a woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots, stumps or declared weed species shall be disposed of in an approved manner.

No vegetative material is to be disposed of by burning onsite.

**Prior to Issue of a Subdivision Construction Certificate**

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate (Subdivision) relating to the approved subdivision, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate.

Where Council is elected as the Certifying Authority, the payment of a Construction Certificate Checking Fee and a Compliance Certificate Inspection Fee will be required when submitting Civil Engineering Plans for approval.

**16. Security Bond**

Prior to issue of a Construction Certificate (Subdivision) or an approval issued under the *Roads Act 1993*, a security bond of **\$20,000.00** is to be submitted to Council to guarantee the protection of the road pavement and other public assets in the vicinity of the site.

The bond is recoverable upon written application to Council on completion of the works, subject to satisfactory restoration as required. Fees for the lodgement of the bond apply.

**17. Department of Primary Industries – Water – Controlled Activity Permit**

A Construction Certificate shall not be issued over any part of the site requiring a Controlled Activity Permit from the Department of Primary Industries (DPI) – Water until a copy of the approval is provided to the Certifying Authority.

The riparian corridor must satisfy the requirements of the Controlled Activity Permit issued by DPI – Water, the 'Guidelines for Riparian Corridors on Waterfront Land' issued by DPI – Water and the 'Landscape/Vegetation Management Plan' prepared by Woodlots and Wetlands Pty Ltd and dated September 2016. The width of the riparian corridor shall be measured from the top of the highest bank on both sides the watercourses.

**18. Watercourse Crossings – Design Requirements**

The road crossing over the watercourse shall be constructed as a bridge or arch structure from the top of bank to the top of bank. The design of the crossing shall be in accordance with the Department of Primary Industries (DPI) – Water's 'Controlled Activities – Guidelines for watercourse crossings' and 'Policy and Guidelines for Fish Friendly Waterway Crossings'.

Detailed design plans demonstrating compliance with the above requirements must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

**19. Provision of Access and Associated Works to Neighbouring Property**

Detailed plans shall be prepared for the provision of vehicular access from Road 1 to the adjoining property at 406 Bells Line Of Road (Lot 1 DP 607906) in accordance with Drawing No. 14820 Sheet 19 'Intersection Overall Works' Rev No. '02' prepared by North Western Surveys and dated 6 October 2017. This plan must detail all works required to accommodate the new vehicular crossing, internal driveway and road widening works, such as the driveway design, car parking arrangements, the relocation of signage, the relocation of any poles, the relocation of the greasetrap, the removal of any trees and any landscaping works.

The vehicular crossing must have a minimum width of 6m within the road reserve.

Detailed design plans demonstrating compliance with the above requirements must be submitted to Council for approval prior to issue of the Construction Certificate.

**20. Roads and Maritime Services – Road Construction**

The design and construction of the connection of Road 1 to Bells Line Of Road shall be in accordance with Roads and Maritime Services (RMS) requirements. Details of these requirements shall be obtained from Manager Developer Works, Statewide Delivery, Parramatta (Phone 9598 7798).

Detailed design plans of the proposed kerb and gutter crossing are to be submitted to RMS for approval prior to the issue of a Construction Certificate and commencement of any road works.

The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to RMS assessment of the detailed civil design plans.

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.

**21. Roads and Maritime Services – Stormwater**

Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime Services' (RMS) stormwater drainage system are to be submitted to RMS for approval prior to the release of the Construction Certificate or the commencement of works. Details should be forwarded to [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au)

A plan checking fee will be payable and a performance bond may be required before RMS approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works (Phone 8849 2114).

**22. Roads and Maritime Services – Swept Paths**

The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to the

Certifying Authority for approval prior to the release of the Construction Certificate which shows that the development complies with this requirement.

**23. Roads and Maritime Services – Sight Distances**

Any landscaping and/or fencing must not restrict sight distances to pedestrians and cyclists travelling along the footpath of Bells Line Of Road. Details demonstrating compliance with this requirement shall be provided to the Certifying Authority for approval prior to the release of the Construction Certificate.

**24. Road Design**

Kerb and gutter, stormwater drainage, full road width pavement (including traffic facilities such as roundabouts and median islands etc.) and paved footpaths shall be constructed along the full length of the new roads.

All road and associated infrastructure shall be designed in accordance with the relevant requirements of the Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification and the Roads and Maritime Services' provisions. Final road design plans shall be prepared by a registered engineer or surveyor.

Details demonstrating compliance with the above requirements must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

**25. Public Lighting Design Brief**

The developer must submit a Public Lighting Design Brief to Council for approval for the provision of street lighting on all new public roads dedicated to Council. A street lighting design plan must be prepared by an accredited service provider for contestable works in NSW and submitted to the energy provider for approval prior to construction.

All street lighting must comply with the electricity service provider's Street Lighting Policy and illumination requirements. All costs associated with the installation of street lighting must be borne by the developer.

**26. Road and Drainage Plans**

Road and drainage plans must be prepared by a suitably qualified engineer in accordance with Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification. The plans must be submitted to the Certifying Authority for approval. All road and drainage work must then be constructed in accordance with Council's construction standards and approval at no cost to Council.

All stormwater pipes within the road reserves and within drainage easements intended to be dedicated to Council must be installed generally to the HS3 Standard in accordance with the current edition of AS3725 'Design for Installation of Buried Concrete Pipe'.

**27. Kerb Design**

All kerb used is to be in accordance with Part I Chapter 6 of the Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification.

Vertical or barrier kerbs must be constructed with either fibre reinforced concrete or standard kerb and gutter concrete mix for machine laying. Roll-top type kerb and gutter is not accepted.

Details satisfying these requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**28. Paved Concrete Footpath**

Paved concrete footpaths that are 1.2m wide shall be provided along one side of all roads.

Details satisfying this requirement are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**29. Paved Concrete Shared Pathway**

A pedestrian and bicycle shared concrete pathway with a width of 2.5m wide shall be provided along the frontage of the development in Bells Line Of Road (including the area forward of 406 Bells Line Of Road (Lot 1 DP 607906)).

**30. Traffic Management Plan**

A detailed Traffic Management Plan must be submitted to the Certifying Authority prior to the issue of the Construction Certificate. This Plan must detail how construction vehicles will safely enter and exit the site in a practical manner whilst minimising any negative effects on the surrounding roads and community.

The Traffic Management Plan must also include the following:

- a) Construction access to the site is to be solely from the approved located in the Traffic Management Plan.
- b) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any structures within the site shall be detailed.
- c) All loaded vehicles entering or leaving the site must have their loads covered.
- d) The proposed method of access to and egress from the site for vehicles is to be safe and practical.
- e) Any associated Traffic Control Plans prepared in accordance with the Roads and Maritime Services' publication 'Traffic Control at Worksites' by an appropriately qualified person.

**31. Traffic Control Plan**

A Traffic Control Plan prepared in accordance with the Roads and Maritime Services' publication 'Traffic Control at Worksites' is to be prepared by an appropriately qualified person and submitted to Council for approval prior to the release of the Construction Certificate. Where the site adjoins a Roads and Maritime Services controlled road, the Traffic Management Plan is to be approved by Roads and Maritime Services before submission to Council for approval.

**32. Traffic Committee – Signposting and Line Marking Plan**

A Signposting and Line Marking Plan is required for this development which clearly denotes priorities at all intersections and clearly signposts 'No Through' roads. Prior to the implementation of the Signposting and Line Marking Plan, the Plan must be lodged with Councils Traffic Committee for written approval. This Plan must detail all facilities, signage and line marking required within and surrounding the development.

**33. Roads – Naming**

A written application for road naming must be submitted to Council for approval. Evidence of submission is to be provided to the Certifying Authority prior to issue of the Construction Certificate.

The road names proposed must comply with requirements of the NSW Geographical Names Board and Council. The application must nominate three suggested names per road, in order of preference, and the source of the names proposed.

**Note:** Fees are payable for this service as specified in Council's Fees and Charges Policy.

**34. Private Sewer System – Sydney Water Approval**

Sydney Water approved plans for the private sewer reticulation, rising mains, pump station and gravity mains must be submitted to the Certifying Authority prior to the release of the Construction Certificate. All sewer works must comply with Sydney Water specifications.

**35. Private Sewer System – Plan of Management**

A Plan of Management for the operation, maintenance and renewal of the sewer system must be provided. The plan must outline operation and maintenance, renewal and life cycle costing. The company/organisation structure for the private sewer management and the mechanism for resourcing the operation and maintenance of the system in perpetuity must also be provided.

**36. Sydney Water – Section 73 Notice of Requirements**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained. Application must be made through an authorised Water Servicing Coordinator. For details refer to Sydney Water's website.

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

The 'Notice of Requirements' must be submitted to the Certifying Authority prior to the release of the Construction Certificate.

**37. Earthworks**

All earthworks onsite must comply with the following:

- (a) Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.
- (b) All disturbed areas are to be stabilised/revegetated, using a minimum 300mm surface layer of topsoil, as soon as practicable after the completion of filling works.
- (c) Where batters exceed a ratio of three horizontal to one vertical (3:1), retaining walls, stoneflagging or terracing shall be constructed.
- (d) All fill within the site shall be placed in layers not exceeding 300mm thickness and compacted to achieve a minimum dry density ratio of 98% when tested in accordance with Australian Standard AS1289 'Methods of testing soils for engineering purposes' unless otherwise specified.
- (e) Filling shall comprise only uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.

Details satisfying the above requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**38. Staging of Earthworks to Minimise Erosion**

The approved earthworks are to be carried out in stages so as to minimise the area of disturbed soil at any given time. Stages are to be fully stabilised prior to the commencement of

subsequent stages. The negative effects of runoff from disturbed areas on local waterways during storm events must be considered and minimised as much as possible. In this respect the size of disturbed areas, volume of runoff, the amount of both coarse and fine material carried by runoff, the size of receiving waterway and effects on ecosystems must be duly considered. A staging plan, satisfying the above criteria, is to be submitted as part of the Soil and Water Management Plan (SWMP).

**39. Retaining Wall – Structural Engineer’s Design**

Any retaining walls in conjunction with the development having a height exceeding 600mm are required to be designed by a practicing structural engineer. Retaining walls are to be located within private property.

Details satisfying the above requirements are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**40. On Site Stormwater Detention**

On Site Detention (OSD) for stormwater is required to be provided for this development. This OSD must comply with the following:

- a) OSD shall be provided to maintain all stormwater discharges for storms up to the 100 year Average Recurrence Interval (ARI) storm event at pre-development levels;
- b) The OSD system is to be designed in accordance with Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification, Part 1 – Design Specifications and Part 2 – Construction Specifications); and
- c) Any proposed stormwater detention system installed within the subdivision Lots must be secured by Positive Covenant on the title.

**41. Water Quality Infrastructure**

A detailed design of the water quality elements is to be provided, together with modelling to demonstrate that the water quality targets required by Section 8.3.5 of Part I Chapter 8 of the Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification are achieved.

**42. Inter-allotment Drainage**

Any lots that do not drain directly to Council's stormwater drainage systems are to be provided with an easement and inter-allotment drainage system that comply with Council's Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification and Australian Standard AS3500 'Plumbing and Drainage'. Council is to be the party empowered to release, vary or modify the easement.

The inter-allotment drainage details are to be included on detailed drainage plans submitted to the Certifying Authority prior to the release of the Construction Certificate.

**43. Overland Flow**

The development shall not create adverse impacts to neighbouring properties in relation to overland flow and must meet the following requirements:

- a) water flowing from the property must not be redirected or concentrated to adjoining properties;
- b) water flowing into the property from adjoining lots shall not be impeded or diverted; and
- c) water flow shall follow the natural flow directions without increasing velocity.

Details demonstrating compliance with the above requirements shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.

**44. Stormwater Discharge to Natural Watercourse**

Stormwater discharge points to the natural watercourse must be protected against erosion. Details are to be provided on the drainage plans submitted to the Certifying Authority prior to the release of the Construction Certificate.

**45. Structural Design of Deep Pits**

All pits deeper than 900mm must be designed by a certified structural engineer and be in accordance with AS3600:2009. Pits deeper than 1.2m must have step irons and pits deeper than 1.8m are to be reinforced concrete. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the Certifying Authority prior to the issue of the Construction Certificate.

**46. Construction Management Plan**

A Construction Management Plan shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The Construction Management Plan shall include the following:

- (a) Background: The Plan shall provide details of the works including the extent, staging and proposed timing of the works.
- (b) Consultation: The Plan shall outline the proposed manner in which adjoining property owners will be kept advised of the timeframes for the completion of each phase of the development/construction process and the establishment of a protocol for complaints handling and management.
- (c) Traffic: A detailed Traffic Management Plan shall be provided in accordance with the 'Traffic Management Plan' condition requirements.
- (d) Erosion and Sediment Control: Plans detailing the erosion and sediment control measures for the site shall be provided.
- (e) Noise: Details shall be provided in relation to how works will be undertaken in accordance with the 'Interim Construction Noise Guideline' published by the NSW Environment Protection Authority.
- (f) Vibration: A Vibration Compliance Letter shall be provided to satisfy the Vibration condition requirements.
- (g) Dust: Details shall be provided in accordance with the Dust Management Measures condition requirements.
- (h) Environmental: Details shall be provided with respect to any site specific ecological impact mitigation measures.

An 'Unexpected Finds Protocol', including stop work procedures, shall also be developed to manage any unexpected finds of potential asbestos-containing materials or other contamination.

**47. Dilapidation Survey – Damage to Public Infrastructure**

A Dilapidation Survey and Report (including photographic record) must be prepared detailing the pre-developed condition of the road and footpath/cycleways within Bells Line Of Road from the frontage of the subject property and the Sydney Water Sewerage Treatment Plant at 110 Bells Line Of Road. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development.

Details demonstrating compliance with the above requirements must be submitted to the Certifying Authority prior to issue of the Construction Certificate. Where Council is not the



Certifying Authority, a copy of the Dilapidation Survey and Report must be lodged with Council prior to the issue of the Construction Certificate.

**Note:** The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no Subdivision Certificates shall be released for this development until damage caused as a result of the carrying out of the development is rectified.

**48. Dilapidation Survey – Private Properties (Neighbouring Properties)**

A Dilapidation Report of the adjoining and nearby properties at 406 Bells Line Of Road (Lot 1 DP 607906), 424 Bells Line Of Road (Part Lot 23 DP 28974), 426 Bells Line Of Road (Part Lot 22 DP 28974), 430 Bells Line Of Road (Lot 21 DP 28974), 432 Bells Line Of Road (Lot 20 DP 656913), 1 Inverary Drive (Lot 1 DP 600414), 3 Inverary Drive (Lot 3 DP 218802), 4 Inverary Drive (Lot 4 DP 218802), 1381 Kurmond Road (Lot 252 DP 751649), 1421 Kurmond Road (Lot 45 DP 1211375), 3 Silks Road (Lot 2 DP 3598), 44 Silks Road (Lot 4 DP 3598) and 46 Silks Road (Lot 6 DP 3598) detailing the physical condition of structures on those properties – both internally and externally – including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, shall be prepared and submitted to the Certifying Authority prior to the release of the Construction Certificate.

The survey and report is to be prepared by an appropriately qualified person agreed to by both the applicant and the owners of the adjoining properties. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of the Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access, advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

**Note:** This documentation is for record keeping purposes only, and may be used by an Applicant or affected property owner to assist in any action required to resolve any dispute over damage to nearby properties arising from the works. It is in the Applicant's and the nearby owner's interest for it to be as full and detailed as possible.

**49. Soil and Water Management Plan**

The applicant must submit to and obtain approval from the Certifying Authority of a Soil and Water Management Plan (SWMP) prior to issue of a Construction Certificate. The SWMP must take into account the requirements of Landcom's publication 'Managing Urban Stormwater – Soils and Construction (2004)' and shall contain, but not be limited to:

- a) A clear identification of site features, constraints and soil types;
- b) Details of a strategy for phasing of construction works so that land disturbances are confined to areas of a manageable size and kept to a minimum;
- c) Erosion and sediment control plans shall be provided for three phases of construction:
  - (i) prior to commencement of works;
  - (ii) during bulk earthworks;
  - (iii) post drainage construction;

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- d) Any temporary sediment basins shall be as a minimum designed to a five day 85<sup>th</sup> percentile rainfall event and soil type in calculations shall be confirmed by a geotechnical engineer;
- e) Erosion and Sediment Control Plans shall provide site-specific management measures, including details of short and long-term measures to be employed to minimise soil erosion and the discharge of sediment to land and/or waters including the locations and capacities of sediment fencing/straw bales, temporary sediment basins, sediment filters, filter barriers and other controls;
- f) A strategy for the progressive revegetation and rehabilitation of disturbed areas of earth as rapidly as practicable after completion of the earthworks;
- g) Identification of all potential sources of water pollution and a detailed description of the remedial action to be taken or management systems to be implemented to minimise emissions of these pollutants from all sources within the subject site;
- h) Measures to handle, test, treat, re-use and dispose of stormwater and contaminated water and soil;
- i) Procedures for the re-use, treatment and disposal of water from sedimentation basins; and
- j) A program for reporting on the effectiveness of the operational and construction sedimentation and erosion control system against performance goals.

**50. Landscaping Plan**

A detailed landscaping plan must be prepared by a suitably qualified architect, landscape designer/architect or professional landscape consultant and approved by Council's Parks and Recreation Section. The landscaping plan is to detail the following:

- a) Blueberry Ash (*Elaeocarpus reticulatus*) trees shall be planted evenly within the grass verges of Roads 1, 2 and 3. At a minimum one street tree shall be planted evenly in front of each residential allotment. These trees are to be advanced NATSPEC-certified specimens with a minimum pot size of 45L and height of 2.5m. Protection structures are to be installed around the trees.
- b) Design, material and colour details of all footpath paving, fencing, retaining walls, roundabouts, traffic devices and driveways etc. shall be provided.
- c) Measures to ensure the maintenance and survival of the landscaping are to be provided.
- d) Open rural-style fencing (post and wire or post and rail) must be installed to define and protect the riparian corridors.

Evidence of an approval from Council's Parks and Recreation Section must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

**Prior to the Commencement of Works**

**51. Principal Certifying Authority – Details**

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*.

**52. Notice of Commencement**

No work shall commence until a notice of commencement has been provided to Council. This notice is to be provided not less than two days from the date on which it is proposed to commence work associated with this Development Consent. The notice must also contain:

- a) details of the appointment of a Principal Certifying Authority (PCA) providing name, address and telephone number; and
- a) details of the name, address and licence details of the contractor.

**53. Principal Certifying Authority (PCA) Site Sign**

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifying Authority for the work;
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**54. Site Meeting**

A site meeting with Council's Engineer, the applicant and the contractor must be held not less than seven days prior to the commencement of work onsite.

**55. Inspections by Certifying Authority**

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 Specifications, Part II, Table 1.1.

**56. Safety Fencing**

The site is to be secured by a fence, in accordance with NSW WorkCover requirements, to prevent unauthorised access during the period of all works.

Entry and exit points shall be secured at all times to prevent the unauthorised entry of vehicles and to ensure the site manager can control and prevent dumping of waste and potentially contaminated material whilst any fill material is being imported or managed onsite.

**57. Toilet Facilities**

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

**58. Implementation of Construction Management Plan**

All aspects of the Construction Management Plan must be implemented and maintained until the completion of works.

**59. Traffic Management Devices**

All traffic management devices shall be installed and maintained in accordance with the approved Traffic Management Plan.

**60. Roads and Maritime Services – Construction Activities**

All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Bells Line Of Road.

A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Bells Line Of Road during construction activities.

**61. Implementation of Soil and Water Management Plan**

The measures required in the Soil and Water Management Plan (SWMP) approved by the Certifying Authority must be implemented prior to the commencement of works.

The measures required in the SWMP approved by the Certifying Authority must be implemented as a priority over general construction works. The controls must be maintained at all times during each stage of the development and checked for adequacy daily. The controls must not be removed until the development is completed and the disturbed areas have been stabilised.

Maintenance must include but is not limited to ensuring:

- a) all sediment fences, sediment traps and socks are properly placed and are working effectively and,
- b) drains, gutters and roads are maintained clear of sediment at all times.

**Note:** It is an offence under the *Protection of the Environment Operations Act 1997* to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.

**62. Fill Requirements**

Prior to works commencing, documentary evidence shall be provided to the Principal Certifying Authority demonstrating that any proposed fill material is either:

- a) Uncontaminated Virgin Excavated Natural Material (VENM) as defined under the provisions of the NSW Protection of the Environment Operations Act 1997; or
- b) Excavated Natural Material (ENM) as defined by the 'Excavated Natural Material Exemption 2012' of the NSW Environment Protection Authority. The material must be from a known origin and composition, free of contamination from manufactured chemicals, process residues, building debris, sulfidic ores or other foreign matter; or
- c) Fill which has been characterised and validated by a suitably qualified and experienced site contamination consultant, in accordance with the NSW Office of Environment and Heritage publication 'Contaminated Sites – Sampling Design Guidelines 1995'.

Written details are to be kept of address for the origin of the fill; quantities, dates, and times of delivery from each location; registration numbers and driver's identification details; and laboratory test results/consultant reports. These details must be available for inspection by the Principal Certifying Authority or Council upon receipt of a written request.

All fill shall be placed in accordance with the standards specified in Table 5.1 of Australian Standard AS3798 'Guidelines on Earthworks for Commercial and Residential Developments'.

**63. Management of Dust**

All reasonable measures to minimise dust generated during construction are to be implemented. This includes but is not limited to:

- a) Clearly defined stop work thresholds whereby work on site will be ceased with the exception of water trucks. Thresholds must be provided that relate to velocity and direction of wind;
- b) Dust screen installation and maintenance around the perimeter of the site for the duration of the works;
- c) The use of water trucks to regularly wet down areas;
- d) The stabilisation of stockpiles, and

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- e) A definition of the maximum allowable height and grades on batters of stockpiles.

Dust management measures are to be incorporated into the Construction Management Plan.

**64. Vibration from Plant and Equipment**

All plant and equipment to be used or installed on the premises must comply with the vibration limits specified in 'Assessing Vibration: A Technical Guideline' prepared by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A Vibration Compliance Letter from an appropriately qualified acoustic consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Principal Certifying Authority certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating simultaneously will comply with the requirements of this condition.

**During Construction**

**65. Construction Hours**

Clearing of land, running of machinery, excavation, and/or earthworks, civil works and the delivery of building materials shall be carried out between the following hours:

- a) between 7am and 6pm, Mondays to Fridays inclusive;
- b) between 8am and 4pm, Saturdays;
- c) no work on Sundays and public holidays; and
- d) works may be undertaken outside these hours where:
  - (i) the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities;
  - (ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
  - (iii) a variation is approved in advance in writing by Council.

**66. Site Management During Construction**

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Copies of receipts stating the following must be given to the Principal Certifying Authority:
  - (i) the place to which waste materials were transported;
  - (ii) the name of the contractor transporting the materials; and
  - (iii) the quantity of materials transported off-site and recycled or disposed of.
- d) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- e) During construction:
  - (i) all vehicles entering or leaving the site must have their loads covered;
  - (ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads; and
  - (iii) any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to the public.
- f) At the completion of the works, the work site must be left clear of waste and debris.

**Note:** In the event it is not possible to keep the footpath or road reserve clear during construction works written approval from Council shall be obtained prior to any closing of the road reserve or footpath area. The closure shall take place in accordance with

Council's written approval. The area shall be signposted and such signposting be maintained in a way that ensures public safety at all times.

**67. Loading and Unloading During Construction**

The following requirements apply to the development:

- a) All loading and unloading associated with construction activity must be accommodated on site.
- b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- c) A Works Zone may be required if loading and unloading is not possible onsite. If a Works Zone is warranted an application must be made to Council at least eight weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval must be obtained from Council.

**68. Construction Noise**

The works must be undertaken in accordance with the 'Interim Construction Noise Guideline' published by the NSW Environment Protection Authority.

**69. Construction – Flora and Fauna Protection Measures**

The following measures are to be undertaken to minimise flora and fauna impacts during construction:

- (a) Existing native vegetation forming part of the riparian corridor shall be retained and protected during the works.
- (b) The felling of hollow-bearing trees is to be conducted under the supervision of a fauna ecologist to ensure appropriate animal welfare procedures are taken, particularly for any threatened species. Hollows of high quality or with fauna recorded residing within shall be sectionally dismantled and all hollows shall be inspected for occupation, activity and potential for reuse.
- (c) If any fauna species, a nest or roost are located during development works, then works should cease until safe relocation can be advised by a fauna ecologist.
- (d) Water levels within the dams to be removed/altered shall be progressively lowered over a minimum one week period to a depth of 1m so as to allow any vertebrates an opportunity to migrate to other dams and/or water sources. An ecologist must be present for the final dewatering of the dams to identify and relocate native fauna as required.
- (e) The water of the dams shall be tested for nutrients and turbidity prior to release. Released dam water must pass through a cage wrapped in silt fence and then via the grassland to guard against introduced fish or flora being transferred into downstream watercourses or water bodies.
- (f) Usable sections of cleared trees shall be relocated into the riparian corridor to increase available habitat for ground-dwelling mammals.

**70. Lots and Site Filling**

All lot and site filling must be performed under Level 1 Geotechnical supervision in accordance with AS3798:2007.

**71. Retaining Walls – Along Boundaries**

All retaining walls must be located wholly within the property, including footings and agricultural drainage lines. Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing structures.

**72. Earthworks – Maximum Approved Level**

The level of fill shall not exceed the levels shown on the approved Development Consent plans.

A certificate prepared by a Registered Surveyor confirming compliance with this requirement is to be submitted to the Principal Certifying Authority upon the completion of the earthworks.

**73. Geotechnical Testing – Drainage**

Geotechnical testing must be carried out and results submitted to the Certifying Authority to verify that the pipe trench bedding and backfill complies with the requirements outlined in Australian Standard AS3725 'Design for Installation of Buried Concrete Pipe'. Geotechnical testing must verify that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill must be performed at the rate of one test per 50m of pipeline with not less than two tests in any section of pipe exceeding 25m in length.

**74. Stabilisation of Existing Watercourse**

Watercourse/channel stabilisation work shall be carried out using suitable natural materials like rocks, jute or coconut fibres and vegetation planting to stabilise the channel bed and eroded banks.

**75. Road Drainage, Sewer and Service Conduit Crossings**

Drainage lines, sewer lines and services conduit crossings must be placed across carriageways prior to the placing of any sub-base pavement material. In this regard, a copy of the services plans must be submitted to the Principal Certifying Authority prior to the placement of sub-base pavement material. Alternatively, the services crossings must be under bored.

**76. Excavation Water Management**

All excavated areas are to be kept free from the accumulation of water.

Excavation pit water shall be disposed in either of the following ways:

- a) pumped into tankers for disposal at an Environment Protection Authority (EPA) licensed waste facility; or
- b) pumped into Council's stormwater system – subject to meeting minimum requirements for water quality in relation to suspended solids, acidity, chemical composition or any other contaminants. A report from a NATA accredited laboratory of sample test results is required to be provided to Council for consideration.

Prior to disposal of any excavation water into Council's stormwater system written approval from Council is required.

Should groundwater enter the excavation area a Groundwater Licence under Part 5 of the *Water Act 1912* is required from the NSW Office of Water prior to any dewatering taking place.

**77. Asbestos Handling**

If asbestos is encountered during any work, measures must be in place in accordance with WorkCover NSW guidelines and the Occupation Health and Safety Regulation 2001. Work

shall not commence or continue until all the necessary safeguards required by WorkCover NSW are fully in place.

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

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

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

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

**78. Topsoil and Stockpiles of Materials**

Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

Stockpiles of topsoil, sand, aggregate, spoil or other material stored on the site that is capable of being moved by running water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface.

Suitable sediment and erosion control devices shall be installed prior to the stockpile being created. The stockpile shall be treated so its surface is erosion resistant to wind and water action.

**79. Sewer Reticulation – Provision of Sewer**

Sewerage reticulation, including junctions, shall be constructed to each residential lot in the subdivision and to 406 Bells Line of Road (Lot 1 DP 607906).

**Prior to Issue of a Construction Compliance Certificate**

**80. Construction Compliance Certificate Fee**

Where Council is nominated as the Certifying Authority, the Applicant shall pay a Construction Compliance Certificate fee in accordance with Council's adopted Fees and Charges when submitting Civil Engineering Plans for approval.

**81. Completion of Construction Certificate Works**

Prior to the issue of a Construction Compliance Certificate, all works must be completed in accordance with the approved Construction Certificate (Subdivision) Plans, approved supporting documentation and to the satisfaction of the Principal Certifying Authority.

**82. Detailed Works As Executed Plans**

Works As Executed plans must be submitted to the Principal Certifying Authority by a registered surveyor certifying compliance with the approved design plans. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Design Compliance Certificate plans. The plans must verify:



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- a) compliance with the approved design plans of all drainage works within Council land, road reserve and drainage easements including connection into the subject lots, surface and invert levels of all pits, invert levels and sizes of all pipelines;
- b) certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement;
- c) compliance with the approved design plans of paved areas within rights of carriageway and road reserve;
- d) the extent, depth and final levels of filling;
- e) the location of all underground service conduits; and
- f) all deviations from the approved Civil Engineering Plans.

All levels must relate to the datum level of the approved design plans.

**83. Final Geotechnical Report**

A final geotechnical report prepared by a suitably qualified and experienced geotechnical engineer must be submitted to the Principal Certifying Authority prior to the issue of the Construction Compliance Certificate. The report must include, but is not necessarily limited to:

- a) all earthwork operations;
- b) a fill plan showing extent and depth of fill;
- c) certification that all earthworks within the site have complied with the Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification. This must include appropriate test results, test location diagram and date of testing;
- d) certification that all recommendations contained in geotechnical reports lodged in support of this development have been satisfied;
- e) the exact extent of any restricted building zones or any other restrictions affecting any of the allotments;
- f) identification of all land affected by landslip or instability constraints (if applicable); and
- g) verification that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill.

**84. Lot Creation Geotechnical Report**

A Geotechnical Engineer's Report must be submitted to the Principal Certifying Authority with the Subdivision Certificate application. The report must be prepared by a suitably experienced and qualified practicing registered engineer and must include:

- a) the classification of the allotments in accordance with the Australian Standard AS2870 'Residential Slabs and Footings';
- b) the classification of the allotments in relation to risk of slope instability; and
- c) the required site preparation and construction constraints within the building envelope of the allotments appropriate to the assessed risk of slope instability.

**85. CCTV Inspection of Stormwater Pipes**

All stormwater pipes within road reserves and within drainage easements intended to be dedicated to Council must be inspected by CCTV. The CCTV must be carried out after all earthworks and road pavement works within the locality of the pipelines has been completed. A copy of the CCTV inspection must be recorded and submitted to the Principal Certifying Authority.

Damaged pipes must either be replaced or repaired to the Principal Certifying Authority's satisfaction prior to the issuing of the Construction Compliance Certificate.

**86. Installation of Signposting and Line Marking Plan**

All signposting and line marking works are to be completed as per the Traffic Committee's approved Signposting and Line Marking Plan prior to the completion of the works. Line marking works must be completed on both the first layer and second layer of asphalt where applicable.

**87. Street Name Signs**

Street name signs shall be provided at the junction of the new roads in accordance with Part II Section 13.1 of the Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification.

**Prior to Issue of Subdivision Certificate**

**88. Subdivision Certificate – Final Plan of Subdivision and 88B Instrument**

Prior to the release of the Subdivision Certificate it will be required to submit:

- a) four paper prints of the final plan of subdivision prepared to the requirements of NSW Land and Property Information and incorporating Council approved road names; and
- b) the original and three paper copies of the 88B Instrument and Administration Sheet.

The residue lots identified as Lots 40 and 41 are not approved as part of this consent. These areas must be incorporated into the community lot (Lot 1) or alternatively consolidated with adjoining residential lots.

The dedication of road widening must be included on the final plan of subdivision.

**89. Payment of Subdivision Certificate Release Fee**

The payment of a linen release fee is required in accordance with Council's Fees and Charges at the time of lodgement of the linen plan.

**90. Obtainment of Construction Compliance Certificate**

A Construction Compliance Certificate must be obtained for the relevant civil engineering works prior to the release of a Subdivision Certificate.

**91. Planning Agreement – Public Works Contributions**

A monetary contribution towards the provision of public works shall be made to Council in accordance with the Voluntary Planning Agreement between Hawkesbury City Council and 101 Group Pty Ltd dated 20 April 2017. Evidence of payment and compliance with any relevant provisions of this Planning Agreement shall be provided to Principal Certifying Authority prior to the release of any Subdivision Certificate.

This monetary contribution is subject to indexation in accordance with the Planning Agreement.

**92. Defects Maintenance Bond**

A defects maintenance bond to the value of 5% of the civil works value or a minimum of **\$5,000.00** must be lodged with Council prior to issue of the Subdivision Certificate. The bond can be in the form of an unconditional bank guarantee or cash security. The bond is refundable on application, six months after the release of the Subdivision Certificate, upon satisfactory final inspection.

**93. Subdivision – Maintenance Period**

Civil works constructed under the development consent, must be maintained for a minimum period of 12 months commencing from the date of the issue of the Subdivision Certificate, unless otherwise agreed to in writing by Council. The developer must ensure that any defective works shall be rectified and/or replaced during the maintenance period in accordance with the approved Construction Certificate plans. All costs arising during the maintenance period must be borne by the developer.

The civil works must be maintained in their original construction condition for the duration of the maintenance period.

The developer must notify Council for a re-inspection at the end of the maintenance period.

**94. Remediation – Notice of Completion and Validation**

A Notice of Completion and Validation Report must be prepared by an appropriately qualified person and state that all the residential and community allotments are unconditionally suitable for residential use and that any areas to be dedicated to Council as unconditionally acceptable for public use.

This validation must be provided prior to the issue of a Subdivision Certificate.

**95. Roads and Maritime Services – Dedication of Land**

Roads and Maritime Services (RMS) requires the strip of land at the frontage of the subject property for road as shown by pink colour on the Aerial photograph – "X" and DP 448216. Any new buildings or structures together with any improvements integral to the future use of the site are to be erected clear of the land required for road (unlimited in height or depth) along the Bells Line Of Road boundary.

**96. Riparian Corridor – Completion of Works**

The riparian corridors must be revegetated, protected and conserved in accordance with the requirements of the Controlled Activity Permit issued by the Department of Primary Industries (DPI) – Water, the 'Guidelines for Riparian Corridors on Waterfront Land' issued by DPI – Water and the 'Landscape/Vegetation Management Plan' prepared by Woodlots and Wetlands Pty Ltd and dated September 2016.

Open rural-style fencing (post and wire or post and rail) must be installed to define and protect the riparian corridors.

**97. Section 88B Instrument – Vegetation Management**

An instrument shall be registered on the titles of Lots 10, 23, 25 and 26 pursuant to Section 88B of the *Conveyancing Act 1919* requiring the riparian corridor to be protected, managed and maintained in accordance with the approved 'Landscape/Vegetation Management Plan' prepared by Woodlots and Wetlands Pty Ltd and dated September 2016.

The erection of buildings within the riparian corridor is prohibited.

Only Council shall be empowered to modify or extinguish this 88B Instrument.

The 88B Instrument shall be registered on the titles of the properties prior to the issue of the relevant Subdivision Certificate.

**98. Completion of Landscaping**

Landscaping works shall be completed generally in accordance with the approved landscaping plan. The use of other species must be agreed to in writing by Council's Parks Project Officer.

The submission of a verification statement confirming compliance with the approved scheme and this condition is required prior to the release of the Subdivision Certificate.

**99. Completion of Access and Rectification Works to Neighbouring Property**

All works required within 406 Bells Line Of Road (Lot 1 DP 607906) resulting from the development, including the provision of vehicular access from Road 1, the installation of the internal driveway, the modifications to the car park, the relocation of signage, the relocation of poles, the relocation of the greasetrap, the connection to reticulated sewer and other rectification works must be completed prior to the release of the Subdivision Certificate.

**100. Section 88B Instrument – Building Envelopes**

An instrument shall be registered on the titles of Lots 10 and 26 pursuant to Section 88B of the *Conveyancing Act 1919* restricting the location of dwelling houses to the building envelopes shown on Drawing No. 14820/229 Sheet 1 'Plan of Proposed Subdivision – Riparian' prepared by North Western Surveys and dated 15 December 2016.

Only Council shall be empowered to modify or extinguish this 88B Instrument.

The 88B Instrument shall be registered on the titles of the properties prior to the issue of the relevant Subdivision Certificate.

**101. Section 88B Instrument – Access Restriction**

An instrument shall be registered on the title of Lot 2 pursuant to Section 88B of the *Conveyancing Act 1919* restricting access to this allotment from the local road (Road 1) only. No access to the allotment is to be provided from Bells Line of Road.

Only Council shall be empowered to modify or extinguish this 88B Instrument.

The 88B Instrument shall be registered on the titles of the properties prior to the issue of the relevant Subdivision Certificate.

**102. Section 88B Instrument – Right of Carriageways**

Right of carriageways over the temporary turning areas and the access to septic holding tank and pump station shall be registered on the title of 2 Inverary Drive (Lot 2 in DP 600414) for the benefit of the community association pursuant to Section 88B of the *Conveyancing Act 1919*.

Only Council shall be empowered to modify or extinguish this 88B Instrument.

The 88B Instrument shall be registered on the titles of the properties prior to the issue of the relevant Subdivision Certificate.

**103. Section 88B Instruments – Residential Design**

Instruments shall be registered on the title of the residential lots pursuant to Section 88B of the *Conveyancing Act 1919* to establish front and side setback, garage, outbuilding and shed controls, material and finishes, fencing and landscaping controls in accordance with Section 5 of the 'Addendum to Statement of Environmental Effects' prepared by Montgomery Planning Solutions dated 8 January 2018.

Only Council shall be empowered to modify or extinguish the 88B Instruments.

The 88B Instruments shall be registered on the titles of the properties prior to the issue of the relevant Subdivision Certificate.

**104. Easements and Restrictions**

Lots affected by new easements must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifying Authority and the relevant utility provider prior to release of the Subdivision Certificate.

**105. Plan of Management for Private Sewer System**

A Plan of Management for the private sewer system (reticulation, pump station, rising and gravity mains) must be submitted to Council prior to the release of the Subdivision Certificate.

**106. Subdivision Certificate – Sydney Water Section 73 Compliance Certificate**

A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be provided to the Principal Certifying Authority prior to issue of the Subdivision Certificate. For details refer to Sydney Water's website.

**107. Subdivision Certificate – Energy Provider Certificate**

Documentary evidence from an energy provider confirming that satisfactory arrangements have been made to serve the proposed development shall be provided to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

**108. Subdivision Certificate – Telecommunications Provider Certificate**

Documentary evidence from a telecommunications carrier confirming that services are available for the development shall be provided to the Principal Certifying Authority prior to issue of the Subdivision Certificate.

**109. Dedication of Land to Council**

All road reserves and public areas shall be dedicated to Council (at no cost to Council).

**Advisory Notes**

- This consent operates from the *determination date* shown on the top of this notice and will lapse unless the development is commenced within five years from the date endorsed on this consent.
- If you are dissatisfied with this decision Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after the date on which you receive this notice.
- To undertake works within the road reserve approval under Section 138 of the Roads Act 1993 must be obtained from Council for local and regional roads or from Roads and Maritime Services for State roads.

Private accredited Certifiers do not have any authority to issue Engineering Approvals or carry out inspections for works on Public Roads under the Roads Act 1993.

- 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

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relevant to the property in order to prevent the possibility of legal proceedings against them.

- Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- The developer shall be responsible for all public utility adjustment/relocation works necessitated by the approved work and as required by the various public utility authorities and/or their agents.
- All works/regulatory signposting associated with the development are to be at no cost to Roads and Maritime.
- Prior to commencement of work, the free national community service 'Dial Before You Dig' shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.
- The applicant is advised to consult with:
  - a) Sydney Water Corporation Limited;
  - b) the relevant electricity supply authority;
  - c) the relevant gas supply authority; and
  - d) the 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 the works either onsite or on the adjacent public roads.

- All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

**Note:** Further information and details can be obtained from the WorkCover website.

- Any bank guarantee submitted in lieu of a cash bond must comply with the following:
  - a) have no expiry date;
  - b) reference the development application, condition and matter to which it relates;
  - c) the amount must match that required to be paid; and
  - d) if a single bank guarantee is used for multiple bonds, it must be itemised. It should be noted that partial releases of Bank Guarantees is not permitted.
- Any person or contractor undertaking works on public land must take out a Public Risk Insurance policy with a minimum cover of \$10 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent.

The policy is to note, and provide protection/full indemnification for Council, as an interested party. A copy of the policy must be submitted to Council prior to commencement of any works. The policy must be valid for the entire period that the works are being undertaken.

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- If any object having heritage significance is uncovered during the course of the work:
  - a) all work must stop immediately in that area; and
  - b) the NSW Office of Environment and Heritage and Council must be advised of the discovery.

**Note:** Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further work can continue.

- If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:
  - a) all excavation or disturbance of the area must stop immediately in that area; and
  - b) the Office of Environment and Heritage and Council must be advised of the discovery.

All necessary approvals from the NSW Office of Environment and Heritage shall be obtained and a copy provided to Council prior to works recommencing.

**Note:** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

#### REASONS FOR DECISION:

The Panel generally agrees with the considerations of the Panel Meeting dated 28 March 2018, in which the Panel recognised the following relevant matters:

- *“The pattern of proposed development did not demonstrate a differentiation in lot size reflective of the topography and prevailing rural-residential character of the area;*
- *The road network and site works will have a substantial impact on the rural-residential character of the area; and*
- *As a consequence of the above two points, there will be visual impact arising from the development.*

*These considerations lead the Panel to their recommendation that a modified subdivision layout could possibly be more sympathetic to the existing rural-residential character of the area.”*

*“The Panel was of the view that a modified design that provided a greater differentiation in lot sizes with smaller lots (not less than the permissible minimum lot size) between Bells Line of Road and the creek corridor, and larger lots (with an average lot size of not less than 4000m<sup>2</sup>) to the east of the creek corridor, would provide an outcome more in keeping with the existing and desired future character of the area.”*

The Panel notes that the applicant did not take up the opportunity to submit amended plans reflecting the previous Panel's recommendation. The Panel considered that the recommendations as outlined by the previous Panel could be satisfactorily achieved by deferred commencement conditions of consent, whereby the seven lots along the rear (northeastern) boundary of the site are increased in size to at least 4000m<sup>2</sup>.

The Panel believes that this will provide a better transition and interface with the larger land holdings adjacent to the site, address visual impacts on the rural landscape, and will provide a more satisfactory outcome in terms of Clause 6.4 of the Hawkesbury LEP.

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The Panel considered the implications of Clause 4.1D in relation to minimum lot sizes in “Area A”. The Panel considered that the 4000m<sup>2</sup> minimum should be read to apply only to lots that will not be serviced by a reticulated sewerage system.

**Public interest considerations**

*“The public interest is best served when development proposals are consistent with the established planning regime and when areas in transition can be managed effectively to ensure that there are positive outcomes resulting from development.”*

In this instance, the Panel believes that it is in the public interest to enable the proposed development to proceed (subject to the proposed deferred commencement condition of consent), where it is consistent with recently gazetted planning controls for the site, and noting that it is at the edge of the Kurmond-Kurrajong Investigation Area, beyond which there are no foreseeable changes planned.



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**Item: 004**                      **CP - DA0545/16 - 122-132 Macquarie Street Windsor - Demolition of Existing Structures and Construction of Residential Flat Building comprising 40 Residential Units and Basement Parking - (95498, 105984, 133876)**

**Directorate:**                City Planning

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The Panel inspected the subject site and context prior to the public meeting.

Mr Simon Ochudzawa, speaking against the recommendation, addressed the Panel.

**004 RESOLUTION:**

The Panel unanimously resolved that development application DA0545/16 for the Demolition of Existing Structures and Construction of Residential Flat Building comprising 40 Residential Units and Basement Parking at 122-132 Macquarie Street, Windsor, be refused, in accordance with the recommendation, for the reasons below provided by Council staff, and for the additional reasons considered by the Panel.

**REASONS FOR REFUSAL:**

1. The proposed development exceeds the maximum building height development standard of 12 metres prescribed under Clause 4.3 of Hawkesbury Local Environmental Plan 2012 by 31.6% for Block B and 7.5% and 6.5% for Blocks A and C respectively, and an exception to this development standard is not supported under Clause 4.6 of Hawkesbury Local Environmental Plan 2012. The application fails to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and the written request provided has failed to provide well-founded planning grounds to justify the contravention of the development standard.
2. The proposed development is unacceptable having regard to the design quality principles contained within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, and in particular:
  - (a) The site analysis plan lacks detail on adjoining residential dwellings which are likely to be significantly impacted by the proposed development, and especially by Block B which is proposed at 4 storeys. The site analysis plan lacks information about distances to adjoining dwellings, the characteristics of their private spaces, including trees and land levels, location and height of existing windows, detail on living areas of these dwellings, balconies, wall and fence heights, sight lines from proposed balconies and living areas of the proposed development, all of which are specified as required information of the Apartment Design Guide (ADG). Accordingly, it does not satisfy Objective 3A-1 in Part 3 of the ADG;
  - (b) The proposed development fails to provide the minimum 6m setbacks on the eastern and southern boundaries for Blocks A and B, resulting in habitable rooms and balconies being located less than 6m to boundaries. Accordingly, the development is considered unsatisfactory in terms of Objective 3F -1 relating to Visual Privacy of the ADG;
  - (c) The proposed development does not satisfy the minimum requirement for Common Open Space specified in Part 4 of the ADG in which the Design Criteria to meet the Objective 3D-1 specifies a minimum area equal to 25% of the site. The common open space plan (21 of 32) Issue C dated 16 May 2017 shows parts of the common open space to be less than 2m in width ie along the south western and south eastern boundaries which will be landscaped but which are clearly not useable as recreational

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area. Also, the areas occupied by the proposed electricity sub-station in the northern corner and areas forward of the front fence and affected by an RMS easement are clearly not usable, and should not be included.

- (d) The proposed development lacks details on external finishes and landscape features including details of seating, lighting, pathway finishes, front fencing, letter box design, screening of balconies which overlook rear properties and planting in areas affected by easements.
  - (e) The proposed removal of 5 existing mature trees on the subject site was not supported by a tree survey and assessment report by a qualified arborist, and as such it is not possible to properly assess whether or not some of these existing trees could have been retained in the design of the development.
3. The proposed development fails to adequately respond to Clause 2.3 of Hawkesbury Local Environmental Plan 2012, Zone objectives and Land Use Table, and the objectives of the R1 zone, in its failure to ensure the development retains or enhances existing landscape values and does not detract from the existing residential character of the site and the surrounds.
  4. The proposed development fails to adequately respond to Clause 4.3 of Hawkesbury Local Environmental Plan 2012, Height of Buildings, in that the proposed buildings as a whole do not fit within the maximum building height shown for the land and the rear building block in particular does not provide for an appropriate height transition with adjoining development.
  5. The proposed development fails to adequately respond to Clause 6.3 of Hawkesbury Local Environmental Plan 2012, Flood related development controls, in that the application is not supported by a flood risk assessment report.
  6. The proposed development fails to provide the 10 metre setback to an Arterial Road as required under Hawkesbury Development Control Plan 2002 (Part D Section 1.4 of the Residential Chapter). The proposed setback does not provide for an attractive streetscape and would result in providing an unsatisfactory amenity for future residents.
  7. A Disability Access Report has not been submitted with the application and therefore there is concern that the proposed development may not be able to ensure a network of accessible pathways to all communal parts of the development, including letterboxes, waste disposal areas and storage areas.
  8. The proposed development presents an unsatisfactory built form for the subject site and the desired future streetscape.
  9. The proposed development lacks a reasonable level of design quality, especially considering the heritage context of the area. For example, the proposal lacks diversity of design in the various building elements, including over-repetitiveness of the same design for windows, balustrades and balconies; a lack of sight-lines from the street between buildings to the rear; a lack of acoustic treatment to street-facing rooms, such as double-glazing for windows and enclosed balconies; building separation; and landscape quality.
  10. Due to the above reasons, the proposal is not considered to be in the public interest.

### **REASONS FOR DECISION**

The Panel notes that the applicant's architect requested that the Panel defer a decision of this matter to allow the applicant the opportunity to discuss amendments to address the reasons for refusal, including the removal of the fourth storey, and to consider other matters such as privacy, setbacks,

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traffic and tree removal. Notwithstanding this, the Panel considers the deficiencies of the current proposal to be so fundamental as to require a redesign which adopts a different design approach, to address the reasons for refusal.

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**Item: 005                      SS - Pecuniary Interest Returns - (95496, 95498)**

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**005      RESOLUTION:**

The Panel unanimously resolved that:

- a)      The Section 4.15 Pecuniary Interest Returns be received and noted.
- b)      The Section 4.15 Pecuniary Interest Returns be made available on Council's website.

The meeting terminated at 3:26pm.