



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 30 November 2010

location: council chambers

time: 6:30 p.m.

ORDINARY MEETING

Table of Contents

Meeting Date: 30 November 2010

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
CITY PLANNING		3
Item:262	CP - Development Application - Dam - Lot 3 DP 205812, 90 Stahls Road, Oakville - (DA0496/10, 11613, 11614, 95498)	3
Item:263	CP - Development Application - LPG Storage Tank - Lot 11 DP 621493, 299 Castlereagh Road, Agnes Banks - (DA0549/10, 88870, 88871, 95498)	20
Item:266	CP - Public Exhibition - Statement of Business Ethics - (95498)	35
INFRASTRUCTURE SERVICES		44
Item:268	IS - Underground Piped Drainage System - 22 Price Lane, Agnes Banks - (95495, 79344)	44

ORDINARY MEETING

Table of Contents

Meeting Date: 30 November 2010

ORDINARY MEETING

Meeting Date: 30 November 2010

CITY PLANNING

Item:262 CP - Development Application - Dam - Lot 3 DP 205812, 90 Stahls Road, Oakville - (DA0496/10, 11613, 11614, 95498)

Development Information

File Number: DA0496/10
Property Address: 90 Stahls Road, Oakville
Applicant: Mr Paul Arthur Roumanos
Owner: Mr PA Roumanos & Mrs L Roumanos
Proposal Details: Dam
Estimated Cost: \$2,000
Current Zone: Rural Living under Hawkesbury Local Environmental Plan 1989
Draft Zone: RU4 - Rural Small Holdings under Draft Hawkesbury Local Environmental Plan 2009
Date Received: 20 July 2010
Advertising: 29 July 2010 to 12 August 2010

Key Issues:

- ◆ Sediment Control
- ◆ Removal of extracted material

Recommendation: Approval subject to conditions

REPORT:

Description of Proposal

The subject application seeks approval for a dam at Lot 3 DP 2055812 No. 90 Stahls Road, Oakville. The purpose of the dam is to provide for domestic use to irrigate gardens, landscaping and as a water feature. The dam has a capacity of 2.9 mega litres.

The application is being reported to Council as a result of a previous request by Councillor Paine to report all development applications for dams to Council for determination.

Relevant Council Policies, Procedures and Codes

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

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

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

a. The provisions of any:

i. Environmental Planning Instrument:

Hawkesbury Local Environmental Plan (HLEP) 1989

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

Clause 2 - Aims, objectives etc,

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

Clause 5 - Definitions

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

Clause 8 - Zones indicated on the map

The subject land is situated within the Rural Living zone

Clause 9 - Carrying out development

'Dams' are permissible with development consent within the Rural Living zone.

Clause 9A - Zone Objectives

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

The objectives of Rural Living zone are as follows:

- (a) *to provide primarily for a rural residential lifestyle,*
- (b) *to enable identified agricultural land uses to continue in operation,*
- (c) *to minimise conflict with rural living land uses,*
- (d) *to ensure that agricultural activity is sustainable,*
- (e) *to provide for rural residential development on former agricultural land if the land has been remediated,*
- (f) *to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,*
- (g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflict with other land uses in the locality,*
- (h) *to ensure that development occurs in a manner:*
 - (i) *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*
 - (ii) *that satisfies best practice guidelines and best management practices,*
- (l) *to prevent the establishment of traffic generating development along main and arterial roads,*
- (j) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

ORDINARY MEETING

Meeting Date: 30 November 2010

Comments:

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

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

Clause 25 - Development on flood liable land

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

Clause 27 - Heritage items

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

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

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

Comments:

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

ORDINARY MEETING

Meeting Date: 30 November 2010

Specific Planning Policies and Recommended Strategies	Compliance	Comment
6(1) - Total Catchment Management	Yes	The proposal is unlikely to result in any significant adverse environmental impacts on any downstream local government areas.
6(2) - Environmentally Sensitive Areas	Yes	It is unlikely that the proposal will have an impact on the water table or result in the formation of acid sulphate soils.
6(3) - Water Quality	Yes	It is predicted that the proposal will have a positive benefit on the quality of water entering any watercourse as the dam will reduce the amount of pollution entering the river system. Soil and sediment erosion controls will be required to be installed and maintained as per a condition of consent.
6(4) - Water Quantity	Yes	The proposal will not increase water run-off from the site or the rate at which it leaves. The installation of the dam will reduce the quantity of water exiting the site.
6(5) – Cultural Heritage	Yes	The application has not been highlighted as requiring further consideration by the Deerubbin Local Aboriginal Land Council. An appropriate advisory note has been included in the recommendation regarding any aboriginal site or relic disturbed during the course of works.
6(6) - Flora and Fauna	Yes	Adequate Flora and Fauna report accompany the proposal. It is considered that there will be no significant adverse impact on flora and fauna species, populations or habitats.
6(7) - Riverine Scenic Quality	Yes	The proposal is considered to be consistent with the landscape character as described in the Scenic Quality Study.

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

State Environmental Planning Policy 44 - Koala Habitat Protection (SEPP 44)

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

Comments:

Having regards to the requirements of SEPP No. 44 it is noted that the proposal will not include the removal of any significant stands of vegetation or disturbance of any natural habitats which would be considered as 'core koala habitat'.

The submitted Flora and fauna report demonstrated that the subject site is not considered to be core Koala habitat.

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

Draft Hawkesbury Local Environmental Plan 2009 was exhibited from 5 February to 12 April 2010. The subject lot is identified as being within proposed Zone RU4 (Rural Small holding) under Draft HLEP 2009. The proposed development is best defined as *Water bodies (artificial)* and is permissible within the RU4 (Rural Small holding) zone with development consent.

i. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

Part A Chapter 2 - General Information

It is considered that the subject application has provided adequate information for the assessment of the proposal and therefore complies with this chapter.

Part A Chapter 3 - Notification

The application was notified to adjacent property owners in accordance with HDCP 2002. No submissions were received in response to the notification of the application.

Part C Chapter 4 - Erosion and Sediment

Appropriate conditions addressing erosion and sediment control are included in the recommendation of this report.

Part D Chapter 6 - Dam Construction

The objectives of this Chapter are to:

- (a) *ensure that any dam proposed is compatible with the existing natural and rural character of the site and the area generally.*
- (b) *ensure that no adverse impact results on local drainage or floodway characteristics in a catchment from dam construction;*
- (c) *ensure that appropriate environmental measures are applied to dam construction sites in order to conserve the landscape and protect the surrounding environment;*
- (d) *establish, maintain and promote appropriate site rehabilitation or revegetation techniques for dam construction;*

ORDINARY MEETING

Meeting Date: 30 November 2010

- (e) *maintain and enhance the visual and scenic quality of the locality by controlling form, bulk and scale to complement the environment and have minimum environmental impact;*
- (f) *ensure no adverse effects on adjoining properties (drainage, structure, stability, fences);*
- (g) *protect, restore and maintain the local non-urban character of areas and ensure viable agricultural land is sustained;*
- (h) *protect the health and safety of human residents; maintain water quality within the Hawkesbury Nepean Catchment area; and*
- (j) *ensure that degradation of the environment does not occur from acid sulphate soils, sodic soil or saline soils.*

Comments:

It is considered that the proposal is consistent with the objectives of this Chapter as the development is distinctively agricultural in nature and therefore compatible with the existing scenic character of the locality. The proposed earthworks will not change the floodway characteristics of the area and the proposed dam will improve the quality of water discharged to watercourses by allowing sediment to settle in the dam prior to discharging into a water body.

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

Element	Rules	Provides	Complies
Crest	(a) The width of the dam crest is to be a minimum of 3 metres for a 3 metre high dam wall. The crest should increase in width 0.5 metre for every metre above a 3 metre high dam.	Crest width 3m.	Yes
Freeboard	(a) A minimum of 1 metre is to be established for freeboard. This should increase by 10% for every metre over a 3 metre high wall.	Plans detail compliance.	Yes
Embankments	A soil with 25% clay content is ideal to form an impervious barrier. The following soil types should not be used for dam construction: - Sand, - gravels, - organic - soils or - peat. Topsoil should be stripped and stockpiled from the excavation and wall areas before the dam wall is constructed, with the stockpile located clear of any natural watercourse. There should be no excavation above high water mark.	Suitable condition applied. Complies No natural watercourses run through the subject property. Suitable conditions of consent applied.	Yes Yes Yes

ORDINARY MEETING

Meeting Date: 30 November 2010

Element	Rules	Provides	Complies
	<p>The embankment is to be completed with at least 100 millimetres of top soil. It is to be planted with a good holding grass such as couch. Trees or shrubs are not to be planted on the embankment as roots may provide seepage paths for water.</p> <p>The slope of the upstream embankment batters should be no steeper than the ratio of 3.0 horizontal to 1.0 vertical, while the downstream batter should be no steeper than 2.5 horizontal to 1.0 vertical.</p>	<p>Suitable conditions of consent applied.</p> <p>Suitable conditions of consent applied.</p>	<p>Yes</p> <p>Yes</p>
Spillway	<p>(a) The spillway should be a minimum of 3 metres in width increasing in size dependent on the size of the dam and catchment. Generally, spillways are to be designed so as not to overflow more than half the depth of the freeboard.</p> <p>(b) The width of the outlet is not to be less than the inlet width. The spillway also is not to direct flows onto the downstream toe. The spillway area should be grassed, stable and able to accept runoff flow. In some instances it may be necessary to turf the spillway area.</p> <p>(c)</p> <p>(d) The spillway cut batter should have a maximum steepness of 2:5:1.</p> <p>(e) A small diameter (100 millimetres) pipe is required where spring flows or small flows of long duration occur to ensure that the spillway does not erode.</p> <p>(f) Where dams are to be constructed in gullies or water courses, a diversion weir is to be constructed up stream of the dam. The weir is to incorporate two pipes 200 millimetres in diameter.</p>	<p>Suitable conditions of consent applied.</p> <p>NA</p> <p>NA</p> <p>NA</p> <p>NA</p>	<p>Yes</p> <p>NA</p> <p>Yes</p> <p>NA</p> <p>NA</p>
Cut-Off Trench	<p>(a) The cut-off trench is to be constructed along the entire length of the embankment at a minimum width of 2 metres. The trench should be excavated at least 1 metre into impervious soil and backfilled with impervious material.</p>	<p>NA</p>	<p>NA</p>

ORDINARY MEETING

Meeting Date: 30 November 2010

Element	Rules	Provides	Complies
Vegetation Filters and Tree Planting	(a) A gate should be provided in the fence so that the filter area can be renovated by light grazing during rapid growth seasons. Prolonged grazing in dam catchments has potential to cause algal and weed growth in the dam due to the introduction of nutrients from manure.	NA	NA
Hydrological Aspects	(a) Clay lining and limiting depths of dam construction to above the water table are consent requirements to minimise the threat of contamination to groundwater.	Proposed	Yes
	(b) All excavations which intercept the groundwater are required to be licensed by Department of Land and Water Conservation under the Water Act.	Proposal does not seek to intercept groundwater	NA
Dam Construction	(a) The dam wall is to be adequately compacted by track rolling or a sheet foot roller or similar in layers no greater than 150 millimetres.	Suitable conditions of consent applied.	Yes
	Erosion and sediment control devices are to be installed and maintained to ensure that there is no increase in downstream levels of nutrients, litter, vegetation debris or other water borne pollutants.	Suitable conditions of consent applied.	Yes

Maximum Harvestable Right

The Maximum Harvestable Right criteria apply in this instance given the size of the subject land and the proposed capacity of the dam (2.9ML). Licences are not required for farm dams with a volume of up to one (1) mega litre on small properties on land that were approved for subdivision prior to 1 January 1999. The proposed dam exceeds the harvestable right, hence a licence will be required from NSW Office of Water to authorise storage capacity in excess of the Harvestable Right.

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

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

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

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

Context and Setting

It is considered that the proposal is compatible with the character of the locality.

Water

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

Soils

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

Air and Noise

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

Waste

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

Safety

The point of access associated with the site achieves satisfactory performance for safety of the vehicles on Stahls Road.

Construction

In order to protect and mitigate the impact of ongoing land disturbance and possible land degradation it is considered that a reasonable time for completion would be 12 months from the date of commencement. The recommendation of this report includes conditions to manage construction works to ensure that disruption to the locality is minimised.

Cumulative Impact

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

c. Suitability of the site for the development:

The applicant submitted a Flora and fauna Assessment and Seven Part Test of significance prepared by Laterals Environmental in support of the development. This report satisfactorily demonstrated that the proposal will not have a significant impact on the threatened species populations, ecological communities or their habitats in accordance with section 5A of the EP&A Act 1979.

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

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

No submissions were received as the result of notification of the proposal.

ORDINARY MEETING

Meeting Date: 30 November 2010

e. The Public Interest:

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

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

Conclusion

The proposal has been assessed having regard to the provisions contained in Hawkesbury Local Environmental Plan 1989, Draft Hawkesbury Local Environmental Plan 2009, Development Control Plan 2002 and other relevant planning policies. It is considered that the proposal constitutes a satisfactory form of development as detailed in the main body of this report and accordingly the subject application seeking approval for a dam of 2.9ML is recommended for approval subject to conditions as detailed in the recommendation.

Planning Decision

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

RECOMMENDATION:

That development application DA0496/10 at Lot 3 DP 205812 Vol 9080 Fol 187, 90 Stahls Road, Oakville for a Dam be approved subject to the following conditions:

NSW OFFICE OF WATER
ERM2010/0863

GENERAL TERMS OF APPROVAL

WATER ACT (1912)

SURFACE WATER LICENCE

1 General and Administrative Issues

- 1.1 The location of the dam as shown on a plan retained in the office of the NSW Office of Water shall not be altered. Please be advised that any installation of an additional dam and /or enlargement of an existing dam may require further local council approval and /or an amended license from the NSW Office of Water.
- 1.2 Subject to any access or flow condition contained in the license, the holder may divert part or all of the stored water from the licensed work.

ORDINARY MEETING

Meeting Date: 30 November 2010

- 1.3 The applicant shall not allow any tail water drainage to discharge into or onto:
- any adjoining public or crown road;
 - any other persons land;
 - any Crown Land;
 - any river, creek or watercourse;
 - any groundwater aquifer;
 - any area of native vegetation as described in the Native Vegetation Conservation Act 1997;
 - any wetlands of environmental significance
- 1.4 Your attention is particularly drawn to the provisions of condition (1.3) regarding disposal of drainage waters. The discharge of polluted waters into a river or lake otherwise than in accordance with the conditions of a license under the Protection of the Environment Operations Act may render the offender subject to prosecution and penalty under the Act. Therefore where an approved drainage disposal system involves the possible discharge of drainage water into a river or lake, a license may be required under the Protection of the Environment Operations Act to authorise such discharge.
- 1.5 The existing profile of the channel and bank of any watercourse or drainage depression must not be disturbed any more than is necessary in order to site and maintain the authorised work. Any area that is disturbed when carrying out such work shall be stabilised and maintained by vegetation cover, stone pitching or any other approved material as directed and to this Department's satisfaction so as to prevent the occurrence of erosion.
- 1.6 Works used for the purpose of conveying, distributing or storing water taken by means of the authorised work shall not be constructed or installed so as to obstruct the reasonable passage of floodwaters flowing into or from a river.
- 1.7 Works used for the purpose of conveying, distributing or storing water taken by means of the authorised work shall not be constructed or installed so as to obstruct the reasonable passage of floodwaters other than water to be impounded or obstructed.
- 1.8 The pumping and ancillary equipment and pump site shall be, at all times, properly secured and/or sealed so as to prevent any leakage of petroleum based products and/or noxious material from entering any river or lake. Typically, a bunding wall of hay bales or other approved material shall be installed around the pumping plant to avoid contamination of any river or lake through spills or leaks of oils, fuels or greases.
- 1.9 The existing profile of the channel and bank of any watercourse or drainage depression must not be disturbed any more than is necessary in order to site and maintain the authorised work. Any area that is disturbed when carrying out such work shall be stabilised and maintained by vegetation cover, stone pitching or any other approved material as directed and to this department's satisfaction so as to prevent the occurrence of erosion.
- 1.10 Any drainage channels or cross banks associated with the authorised works or access roads to or from that work shall have installed and maintained a bunding wall of hay bales or other approved material, to prevent siltation reaching any river or lake.
- 1.11 The work shall be constructed and maintained in such manner as will ensure its safety and as will preclude the possibility of damage being occasioned by it, or resulting from it, to any public or private interest.
- 2 Conditions Specific to DA0496/10**
- 2.1 All inflow and outflow drainage lines shall be maintained with sufficient vegetation to ensure optimum quality of water entering the dam.
- 2.2 The level of the embankment crest shall be fixed at not higher than RL 51.00 (Ref Plan No: 92074: E: 2) and particulars of which are retained in the NSW Office of Water.

ORDINARY MEETING

Meeting Date: 30 November 2010

- 2.3 The bywash of the dam must be stabilized and vegetated within 3 months of the issue of the license. The bywash level is to be fixed at not higher than RL 50.00 (Ref. Plan No. 92074: E :!)

3 Formal Application Issues

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

Hawkesbury City Council Conditions

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. This consent covers the removal of trees which are necessary to allow the construction of works covered by, and detailed on plans approved as part of a Construction Certificate issued for the development. No other trees or vegetation are to be removed without prior approval.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
5. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.
6. The dam shall have a maximum capacity of 2.9 mega litres.

Prior to Issue of Construction Certificate

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

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.
8. Construction of the dam and filling are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
9. Payment of a Construction certificate checking fee of **\$390.00** and a Compliance Certificate inspection fee of **\$520.00** when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2011. Fees required if an accredited certifier is used will be provided on request.
10. Details of any fill material removed from site shall be submitted with the engineering plans. Details to include quantities and disposal sites.
11. Submission of a water licence for the dam from the NSW Office of Water under the Water Act 1912.

ORDINARY MEETING

Meeting Date: 30 November 2010

Prior to Commencement of Works

12. 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.
13. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
14. The name and licence number of the contractor/builder who has been contracted to do or intends to do the work must be submitted to Council in writing by the owner prior to the commencement of any works relevant to this approval.

During Construction

15. The dam shall be constructed in accordance with the Dam Construction Chapter of Hawkesbury Development Control Plan, except where requirements are varied by conditions of consent.
16. To ensure that flows are appropriately managed during periods of high rainfall, the spillway is to be designed to cater for the runoff generated by the critical 1 in 100 year ARI storm for the catchment.
17. To ensure that sufficient storage is provided for catchment runoff, a minimum 1.0 metre freeboard is to be provided.
18. The topsoil shall be stripped and stockpiled and used to cover the landfill.
19. The filled area, including batters, shall be grassed immediately after filling takes place.
20. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved plan and Hawkesbury Development Control Plan chapter on Soil Erosion and Sedimentation.
21. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
22. All fill to be adequately compacted by track rolling or similar in layers not exceeding 300mm.
23. The top 300mm of fill shall be topsoil in order to ensure site revegetation.
24. No fill material, apart from clay as detailed on the construction certificate plans, shall be imported onto the site.
25. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
26. Care is to be undertaken when excavating not to intercept ground water. If ground water is discovered then excavation works are to cease immediately and the Principal Certifier is to be notified.
27. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
28. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
29. The structural adequacy of the dam and spillway capacity is to be certified by a suitably qualified and experienced engineer upon completion of works.

ORDINARY MEETING

Meeting Date: 30 November 2010

30. A works as executed plan shall be submitted to Council on completion of works. The plan shall include the location of the constructed dam in relation to property boundaries.

Use of the Site

31. Trees and shrubs are to be kept clear from the dam wall at all times.

Advisory

- *** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- *** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- *** Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
- *** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

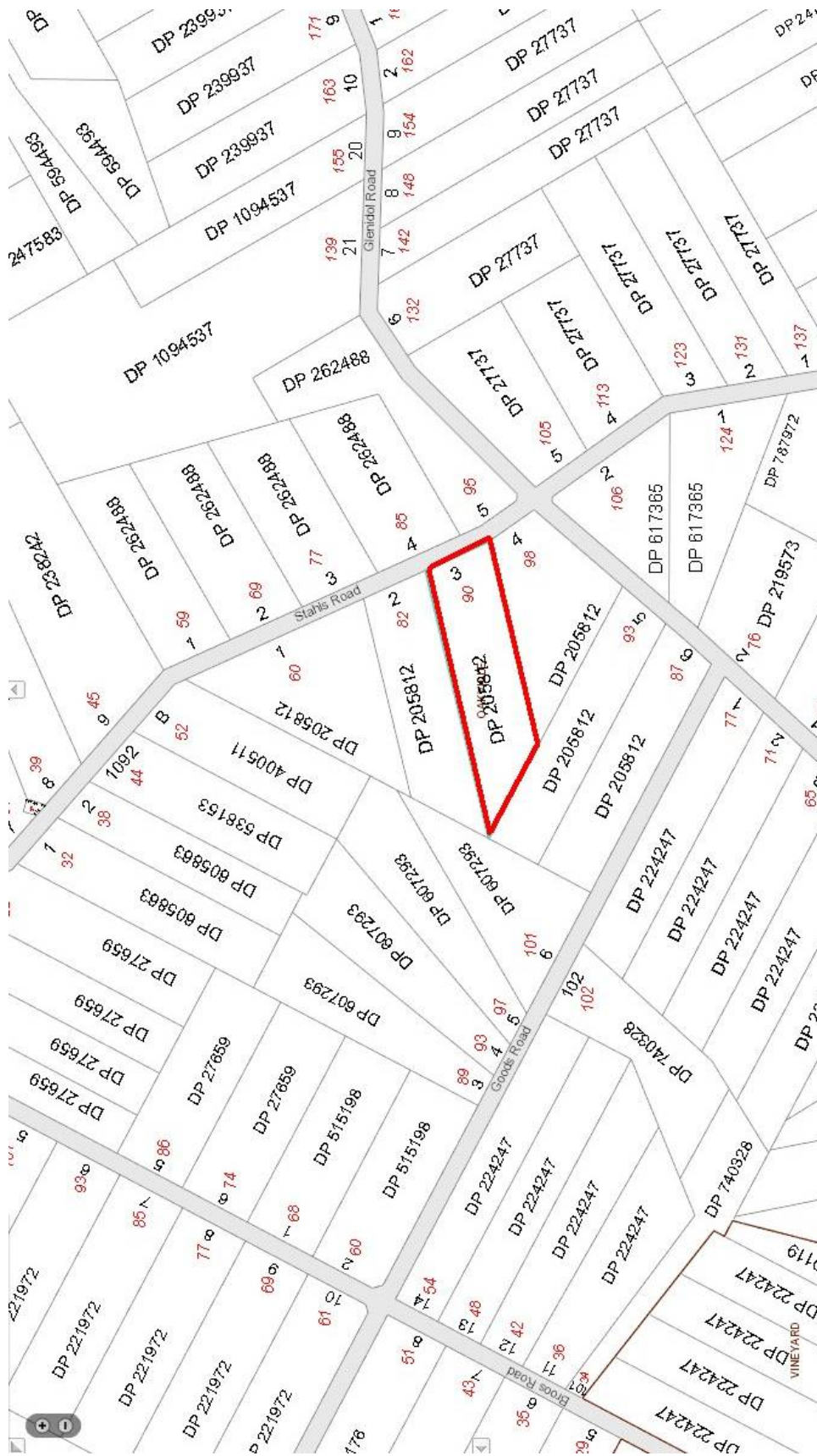
ATTACHMENTS:

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

ORDINARY MEETING

Meeting Date: 30 November 2010

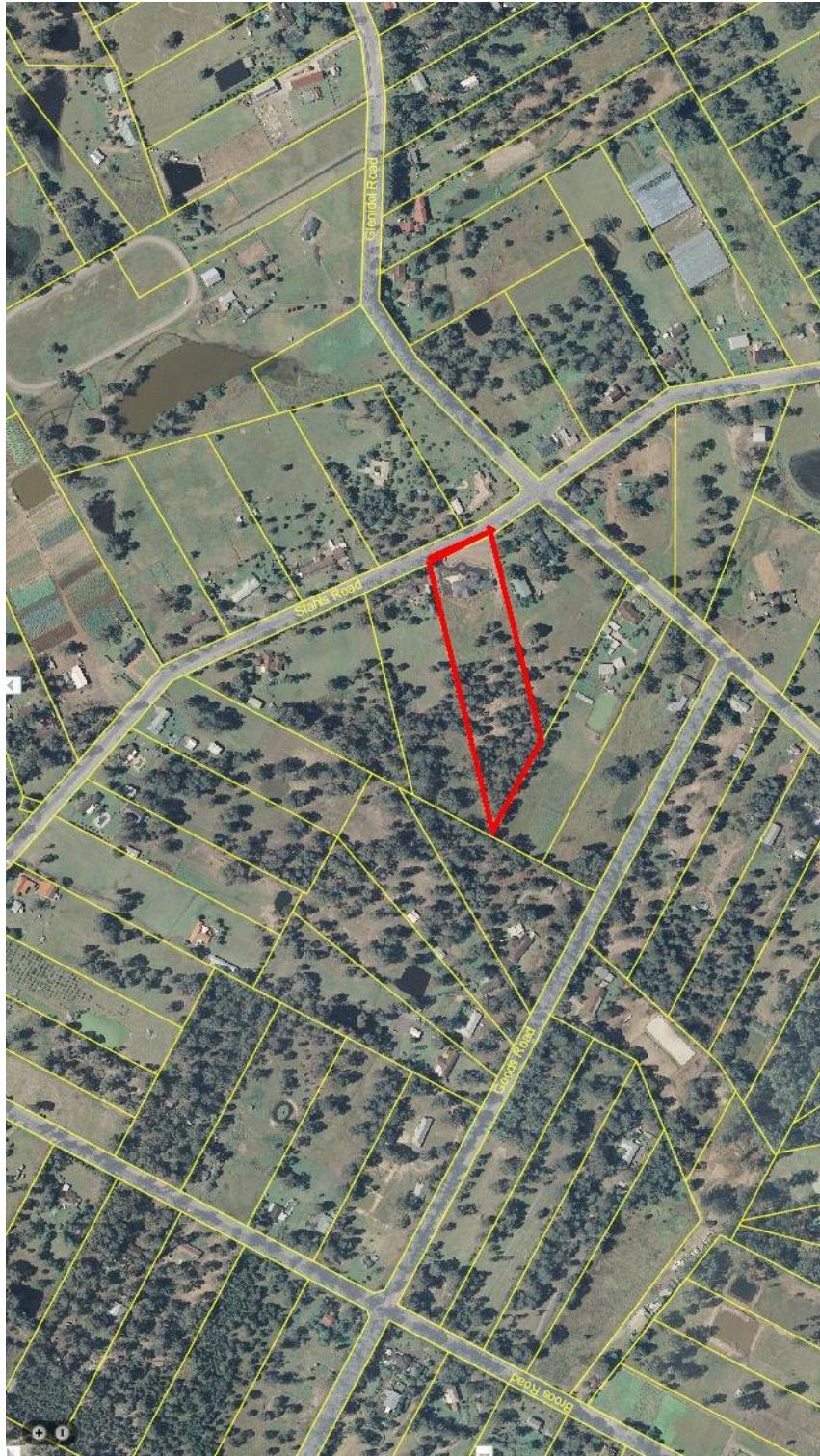
AT - 1 Locality Plan



ORDINARY MEETING

Meeting Date: 30 November 2010

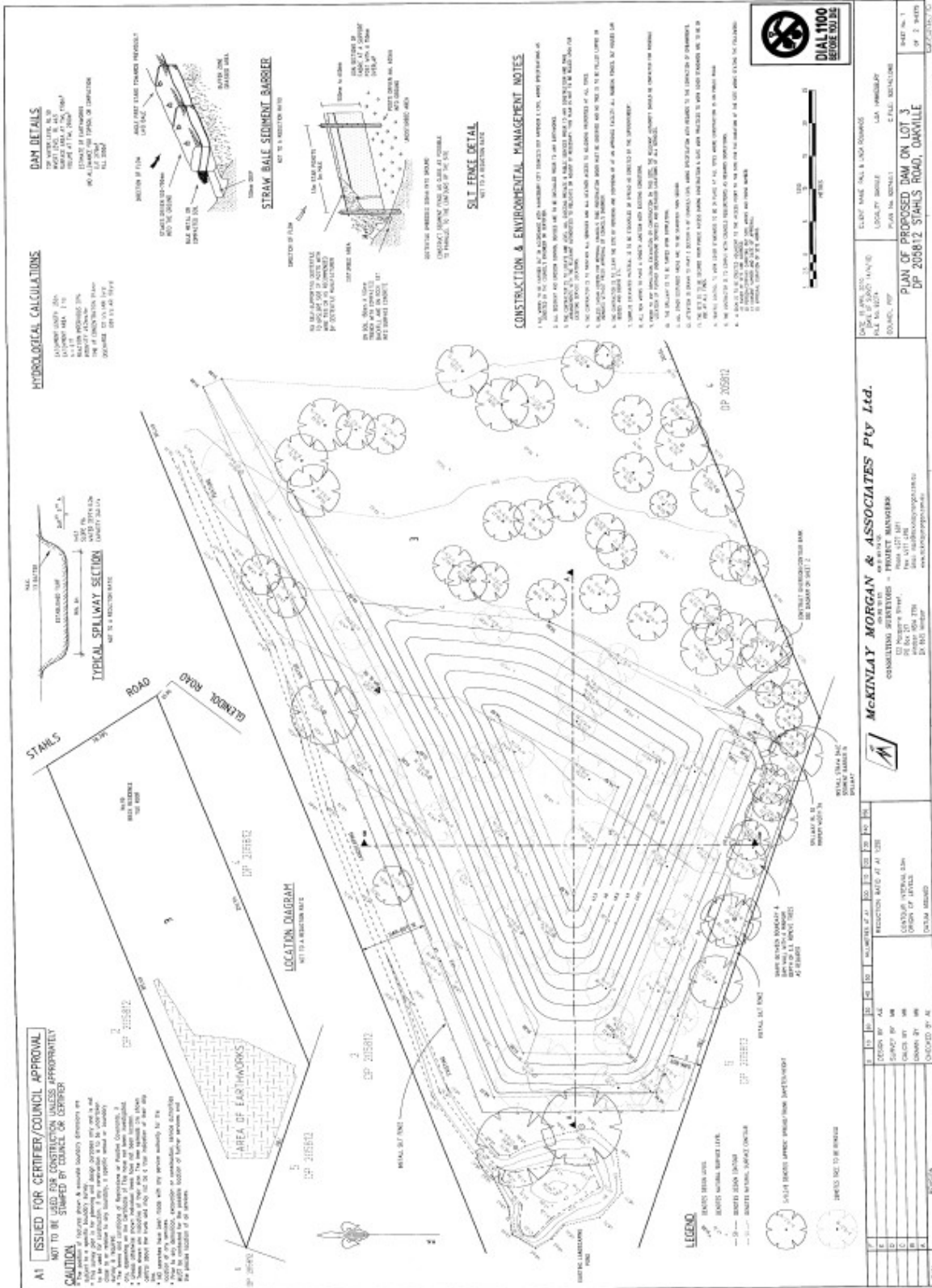
AT - 2 Aerial Photographs



ORDINARY MEETING

Meeting Date: 30 November 2010

AT - 3 Plan of proposed dam



ooo END OF REPORT ooo

ORDINARY MEETING

Meeting Date: 30 November 2010

Item:263 **CP - Development Application - LPG Storage Tank - Lot 11 DP 621493, 299
Castlereagh Road, Agnes Banks - (DA0549/10, 88870, 88871, 95498)**

Development Information

File Number: DA0549/10
Property Address: 299 Castlereagh Road, Agnes Banks
Applicant: Michael David Neilson and Sharee Marlene Neilson
Owner: Mr MD Neilson and Mrs SM Neilson
Proposal Details: Installation of LPG Storage Tank
Estimated Cost: \$20,000
Zone: Housing under Hawkesbury Local Environmental Plan 1989
Date Received: 13 August 2010
Advertising: 2 September 2010 to 30 September 2010

Key Issues:

- ◆ Permissibility
- ◆ Safety concerns of the surrounding residents
- ◆ Residential amenity
- ◆ Potential gas leaks, explosion or fire
- ◆ Proximity of development to UWS Research facility
- ◆ Changes to parking or landscaping

Recommendation: Approval

REPORT:

Executive summary

Council has received a development application for the installation of a LPG storage tank at Lot 11 DP 621493 Vol 14808 Fol 46, 299 Castlereagh Road, Agnes Banks.

The LPG storage tank is considered to be ancillary to the use of the premises for the storage, display, sale and distribution of LPG gas and appliances approved under Development Consent Number DA1350/03.

The application addresses the relevant planning controls affecting the proposed development and it is recommended that the application be supported.

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

Description of Proposal

The proposal involves the installation of a 6-8 tonne LPG storage tank and a cylinder filling dock. The proposal is intended to be used for the filling of domestic cylinders associated with Hawkesbury Gas who currently operate from the premises.

The proposed cylinder filling dock will be used by trucks associated with Hawkesbury Gas entering the property from Castlereagh Road, where they will park on the existing sealed driveway and fill domestic LPG cylinders that commonly service homes and businesses

History of the Application

Prior to the submission of the application a pre-lodgement meeting was held with the applicant and Council officers on 23 February 2010. As a result of the meeting the applicant was requested in writing to address

ORDINARY MEETING

Meeting Date: 30 November 2010

various issues in relation to the proposal. The details raised have been addressed in the submitted application.

Approvals relating to the subject site

Development Consent No.	Approval	Approval Date
DA215/85	Change of use of existing non-conforming box manufacturing factory to its use for the manufacture of non-toxic veterinary products.	12 July 1985
DA1350/03	Change of use of existing building for the storage, display, sale and distribution of LPG gas and appliances and construction of associated 7mx4m shed.	21 May 2004
DA0512/05	Consent for additional commercial uses in conjunction with Hawkesbury Gas.	7 December 2005
DA0627/06	Signage for the 'National Institute for Christian Education'	4 September 2006
DA0307/10	Advertisement signage for units and Hawkesbury Gas	1 July 2010

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy 33 - Hazardous and Offensive Development
- Sydney Regional Environmental Planning Policy 20. (No.2 - 1997) - Hawkesbury Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan (HLEP)1989
- DRAFT Hawkesbury Local Environmental Plan (DHLEP)2009
- Hawkesbury Development Control Plan (HDCP) 2002

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

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

a. The provisions of any:

i. Environmental Planning Instrument:

State Environmental Planning Policy No. 33 - Hazardous and Offensive Development

This policy requires Council to determine whether a development is a hazardous or offensive industry and if so propose measures to be employed to reduce the impact of the development.

An assessment of the proposal was carried out in regards to this plan with reference made towards the New South Wales Planning departments "Applying SEPP 33 (Consultation Draft)" document dated July 2008.

Liquefied Petroleum Gas (LPG) has been identified as a Class 2.1 flammable gas under the "Applying SEPP 33 (Consultation Draft)" document. The proposed 6-8 tonne LPG storage tank is below the maximum 10 tonne threshold specified for the above ground storage of LPG. Therefore the proposal is not considered to be a hazardous industry based on the information supplied by the applicant.

Further to the above, the proposal is not considered to be a potentially offensive industry as the installation of a 6-8 tonne LPG gas storage facility does not require a licence under the Protection of

ORDINARY MEETING

Meeting Date: 30 November 2010

the Environmental Operations Act 1997. In addition it is considered that the operation of the facility in accordance of AS/NZS1596:2008 LP Gas – Storage and Handling would ensure that any discharges or emissions emanating from the facility can be controlled to a level which is not significant.

It is concluded that sufficient information has been provided for the determination of this application and that no further assessment against SEPP 33 is required to be provided for the development.

Sydney Regional Environmental Plan No. 20 (No.2 – 1997) – Hawkesbury – Nepean River

The proposal is consistent with the aims and objectives of SREP No. 20. It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury-Nepean River either in a local or regional context and that the development is not inconsistent with the general and specific aims, planning considerations, planning policies and recommended strategies.

Hawkesbury Local Environmental Plan 1989

The proposal is consistent with the requirements of Hawkesbury Local Environmental Plan 1989. The subject property is zoned Housing. The use of the subject site has been previously dealt within under DA1350/03 and DA0512/05 which issued approval for the use of the premises for the storage, display, sale and distribution of LPG gas and appliances. The proposal is considered to be ancillary to the existing approved use of the land which is a permissible form of development within the zone being defined as an *'identified land use'* under Clause 9 of Hawkesbury Local Environmental Plan 1989. The proposal is consistent with the objectives of the zone as the development will not adversely impact the surrounding residential character or amenity of the locality as the current, approved use of the property will remain unchanged.

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

Clause 2 - Aims, objectives etc

Clause 5 - Definitions

Clause 18 - Provision of water, sewerage services, etc

Clause 22 – Development fronting a main or arterial road

Clause 28 - Development in the vicinity of heritage items

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

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

Draft Hawkesbury Local Environmental Plan 2009 was exhibited 5 February 2010 to 12 April 2010. The subject lot is identified as being zoned proposed part SP2 – Infrastructure and part R2 Low Density Residential. The development is proposed entirely on the portion of the land proposed to be zoned R2 Low Density Residential. Although this plan does not identify the proposal as a permitted form of development within the R2 Low Density Residential zone, the development could be considered under *Part 5 Existing Uses* of the *Environmental Planning and Assessment Regulation 2000* which enables Council to consider alterations or additions to an existing development that was granted approval before the commencement of an environmental planning instrument having the effect of prohibiting the use. Should Draft Hawkesbury Local Environmental Plan 2009 be gazetted the consideration of the proposal against the *Environmental Planning and Assessment Regulation 2000* would prevail.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

The proposed development is generally consistent with the requirements of HDCP. An assessment of the proposal against the relevant provisions of this Plan follows:

Part A Chapter 2 - General Information

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

Part A Chapter 3 - Notification

The application was notified to adjacent property owners in accordance with HDCP. Six (6) submissions raising objection to the proposal were received in response to the application and are discussed under the submissions section of this report.

Part C Chapter 1 - Landscaping

Landscaping has previously been approved on the subject site as apart of DA0512/05 and will not be required to be changed as part of the proposal.

Part C Chapter 2 – Carparking and Access

The proposal is consistent with the requirements of this chapter. Carparking requirements will not change as a result of the proposal as no additions to the total floor area of the existing building are proposed and the use of the site will remain as approved under development consent number DA0512/05.

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

Not applicable.

v. Matters prescribed by the Regulations:

The development will be required to comply with the Building Code of Australia and the Occupational Health and Safety Regulation 2001.

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

Context and setting

Adjoining land uses predominantly consist of single dwelling houses.

It is considered that the proposal will not have an adverse impact on the surrounding residential character of the locality as the proposed development remains consistent with the approved use of the site and the residential character of the locality will not be changed.

Access, Transport and Traffic

The proposed development does not fall within the parameters of Schedule 3 Traffic generating development to be referred to the RTA under State Environmental Planning Policy (Infrastructure) 2007.

Traffic entering the subject site will not have a negative impact on the capacity of the Castlereagh Road which is a main/arterial road. Access to the subject site is considered appropriate and will not be required to be upgraded as a result of the proposal.

ORDINARY MEETING

Meeting Date: 30 November 2010

The applicant anticipates that the proposed LPG storage facility would result in a decrease in traffic movements on site. Currently empty gas bottles have to be dropped off and picked up to be filled offsite. The installation of the LPG storage facility will reduce the amount of traffic having to make deliveries to and from the premises as the gas bottles will be able to be filled and loaded onsite.

The location of the cylinder filling dock is considered to be suitable as it proposed along the north eastern boundary of the site, which is situated away from the adjoining residences located to the south west.

Noise

The activities proposed as a result of this development, including the filling of gas cylinders is not expected to result in the generation of any offensive noise that would significantly impact the adjoining residential area.

Cumulative Impacts

No negative cumulative impacts are foreseen as the proposal is permissible within the zone and the proposal relates specifically to the current approved use of the site.

c. Suitability of the site for the development:

The proposal is consistent with the various planning controls affecting the site and it is therefore considered that the site is suitable for the proposed development. The overall use of the subject land does not change as a consequence of the proposal as the development is ancillary to the approved use of the property. However, the installation of the storage tank will result in a reduction of traffic movements to the site as the domestic cylinders can be filled on site and will not be required to be removed for filling. Carparking and landscaping previously approved on the subject site under development consent notice No. DA0512/05 is considered to be acceptable for the proposal and will remain unchanged.

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

The application was publicly notified to adjoining owners from 2 September 2010 to 30 September 2010. Six submissions, all raising objections were received. The issues raised in these submissions are identified and considered below:

Safety

- Location of tank to residential properties and road.
- Should there be a fire the residents of Markwell Place will not be able to exit their properties.
- The development does not comply with AS/NZS 1596:2008 – The storage and handling of LPG Gas.
- The proposed vehicle protection barriers are only from within the site and do not prevent a vehicle driving into the tank from Markwell Place.
- The proposal will have an impact on the safety of the Agnes Banks residents as a similar gas filling station in St Mary's was destroyed by fire with explosions and flames impacting neighbouring properties.

Comment: The proposal will be required to comply with the relevant standards concerning safety, use and installation of a LPG gas storage facility. The proposal has not been identified as either a potentially hazardous or a potentially offensive industry under SEPP 33.

ORDINARY MEETING

Meeting Date: 30 November 2010

It is understood that there is a concern about the risk of explosion or fire should the development be supported. However, the LPG facility must meet the required standards for proper installation and management that would result in any risk to be very low and managed. In this regard it is not unreasonable to consider the development.

Use of the site

- The site was restricted to any further development as a part of development consent Notice DA0512/05.
- The proposal will change the way in which the site will be used with the expansion of the business.
- Further development of the site will have a detrimental impact on the residences at Markwell Place.

Comment: Further development of the site is permitted subject to development complying with the relevant planning policies. The proposal is considered to be ancillary to the approved use of the site issued under consent notice DA0512/05 and not an expansion of the operation. The permissibility of the proposal has been discussed in the report above and it is considered that the proposal is not likely to have a negative impact on the setting of the surrounding residential properties.

Proposal inconsistencies

- Applicant has indicated that a 6-8 tonne tank will be installed, but they may need to use two tanks to achieve the requested capacity based on standard LPG tank storage sizes.

Comment: The application proposes the installation of one tank. Should this proposal change another separate development application would be required.

Impacts on the University of Western Sydney's research facility

- Interment or sustained emissions emanating from the LPG tank will have an impact on the University of Western Sydney's Climate Change and Energy research facility which has been approved by Council for nearby field experiments. The emissions will make it difficult to measure and analyse information gained from equipment measuring atmospheric data in the locality.
- The LPG filling tank station will increase the risk of an uncontrolled bushfire which could have an impact on the assets of the University of Western Sydney's field experiments.

Comment: The research facility was approved by the Joint Regional Planning Panel with a development consent being issued on 28 April 2010 under development consent notice DA0710/09. Prior to UWS lodging a submission discussions were held with representatives of the research facility requesting information in regards to the likely amount of LPG gas spillage that would be required to emanate from the site to have a direct impact on the research stations. The submission received has not provided substantial evidence that the quantity of emissions which may emanate from the development would have a direct impact on the research facility.

Furthermore the proposal does not require the concurrence of the Rural Fire Service. It is considered that the proposal would not change the nature in which a bushfire would spread throughout the locality.

Illegal issues relating to the existing development

- Current use of the premises does not comply with development Consent notice No DA0512/05
- Site is used for manufacturing

ORDINARY MEETING

Meeting Date: 30 November 2010

- Storage of materials outside of approved areas
- Alterations have been made to the building
- The existing premise does not operate within the approved hours of operation.
- Illegal shade structure constructed.

Comment: Council's compliance officers are aware of the complaints raised and have been investigating and monitoring the use of the subject site for the past twelve (12) months. A site inspection of the property by Council's officers on the 13 September 2010 revealed that the tenants of the premises are complying with their consent. The objectors have previously been advised of the investigation and monitoring outcomes.

The above matters are separate matters and are not relevant to the determination of this application.

Visual impacts

- The tree removal will have an impact on the landscaping buffer currently provided.
- The surrounding area will become industrial in nature.
- Residential properties resale value will decrease.

Comment: The landscaping approved under development consent notice DA0512/05 will not be altered and is required to be maintained on the subject site. The subject application is consistent with the existing approved use of the site and will not have an impact on the residential character of the locality. The use of the premises is permitted within the zone and is currently operating. No evidence has been submitted to indicate that the current proposal will impact on property values and it is considered that potential impacts on property values are unlikely to be altered by this proposal.

Amenity of the neighbourhood

- Noise impacts will increase with trucks entering the site when they fill the LPG tank.
- Odour emitting from filling of LPG tank.

Comment: It is unlikely that the proposal would have any additional impact on the surrounding locality in terms of noise than from what is currently being generated from the existing development. As mentioned previously in this report it is expected that the installation of the gas facility would result in the reduction of traffic movements on the subject site. Noise and hours of operation controls currently relate to the subject site and have been dealt with under development consent number DA0512/05. A suitable condition regarding the control of odour from the premises has been recommended as a condition of development consent within this report.

e. The Public Interest:

Based on the assessment of the proposal made in this report it is considered that the development is not contrary to the general public interest. The proposal is consistent with the relevant planning controls affecting the site and the matters raised in the submissions received do not warrant the refusal of the application.

Conclusion

The matters raised in the submissions have been addressed and it is considered that the matters raised in the submissions do not warrant refusal of the application or any alteration to the recommended conditions of consent.

ORDINARY MEETING

Meeting Date: 30 November 2010

The assessment has identified various concerns regarding the permissibility and safety of the development. On balance this proposal is considered to be satisfactory, subject to the implementation of conditions outlined in the recommendation to this report.

Developer Contributions

The development is exempt from contributions under Council's Section 94A Contributions Plan.

Planning Decision

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

RECOMMENDATION:

That development application DA0549/10 at Lot 11 DP 621493 Vol 14808 Fol 46, 299 Castlereagh Road, Agnes Banks for Installation of LPG Storage Tank be approved subject to the following conditions:

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia.
5. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
6. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.

Prior to Issue of Construction Certificate

7. Details demonstrating compliance with the relevant sections of the following standards shall be submitted with the Construction Certificate application:
 - (a) Occupational Health and Safety Act 2000.
 - (b) Occupational Health and Safety Regulation 2001.
 - (c) Storage and handling of dangerous goods code of practice 2005.
 - (d) AS/NZS 1596:2008 The storage and handling of LP gas.
 - (e) AS/NZS 3788:2005 Pressure equipment –In-service inspections. and

ORDINARY MEETING

Meeting Date: 30 November 2010

8. An emergency response plan for the development shall be submitted and approved by Council. This plan shall cover the management and operation of the facility with specific reference being made towards the following standards:
 - (a) Department of Environment and Climate Change and Water Guidelines - *Technical BU Bunding and Spill Management*;
 - (b) Department of Environment and Climate Change and Water Guidelines "*Surface water management on the covered forecourt areas of service stations*".
 - (c) AS1940-2004: The storage and handling of flammable and combustible liquids.

Prior to Commencement of Works

9. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
10. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
11. 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.
12. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
13. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
14. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.
15. The approved plans must be submitted to a Sydney Water Quick Check agent or customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site www.sydneywater.com.au, see Building Developing and Plumbing then Quick Check or telephone 13 20 92.

The consent authority or a private accredited certifier must either:

- Ensure that Quick Check agent/Sydney Water has appropriate stamped the plans before the issue of any Construction Certificate; or
 - If there is a combine Development/Construction Certificate application or Complying Development, include the above condition as one to be met prior to works commencing on site.
16. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.

ORDINARY MEETING

Meeting Date: 30 November 2010

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

During Construction

- 17. The site shall be secured to prevent the depositing of any unauthorised material.
- 18. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
- 19. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
- 20. During the construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
- 21. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
- 22. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
- 23. Landscaping as shown on the plans approved under development consent notice DA0512/10 shall be retained and maintained.

Prior to Issue of the Occupation Certificate

- 24. The following Fire Safety Measures shall be provided and installed in the building/property by a suitably qualified person and a Certificate of Installation shall be provided to the owner/agent:
 - (a) Portable Fire Extinguishers

Use of the Development

- 25. No internal or external alterations shall be carried out without prior approval of Council.
- 26. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - (a) been assessed by a properly qualified person, and
 - (b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.

ORDINARY MEETING

Meeting Date: 30 November 2010

27. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
28. All vehicles shall be driven in a forward direction at all times when entering and leaving the premises.
29. Vehicles and equipment shall only be washed/hosed down within an approved wash bay(s) that drains to the sewer system in accordance with Sydney Water requirements.
30. Operating hours shall be limited to 7:00am to 6:00pm Monday to Saturday as approved under development consent notice DA0512/10.
31. The storage and handling of liquids associated with activities on the premises is to be carried out in accordance with the requirements of;
 - (a) NSW Workcover
 - (b) Environment Protection Authority Guidelines - *Technical BU Bunding and Spill Management*.
 - (c) AS/ NZS 1596-2008 The storage and handling of LP gas.
32. Any activity carried out in accordance with this approval shall not give rise to air pollution (including offensive odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
33. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
34. In accordance with the requirements of Part 5.7 Protection of the Environment Operations Act 1997, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.
35. Sufficient supplies of appropriate absorbent materials and/or other appropriate spill clean up equipment shall be kept on site to recover any liquid spillage. Liquid spills must be cleaned up using dry methods only and shall not give rise to an offence under the Protection of the Environment Operations Act 1997.
36. All waste shall be stored suitably and disposed of by an appropriate waste contractor. Under no circumstances is waste from the activity to be disposed of through Council's waste collection services.

Advisory Notes

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- *** Should any Aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.

ORDINARY MEETING

Meeting Date: 30 November 2010

*** The applicant is advised to consult with the relevant:

- (a) water and sewer provider
- (b) electricity provider
- (c) natural gas provider
- (d) telecommunications carrier
- (e) road authority

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

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

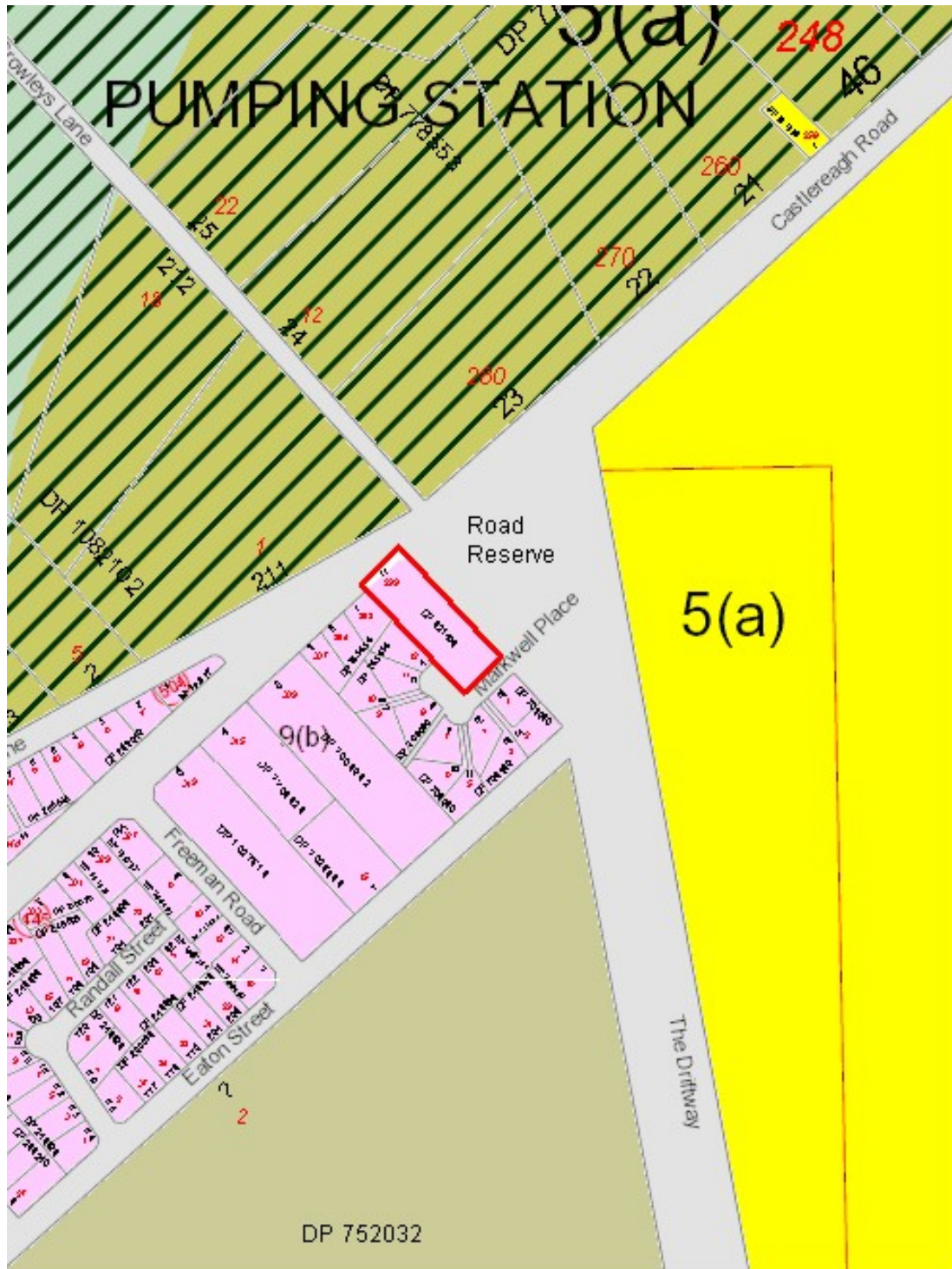
ATTACHMENTS:

- AT - 1** Aerial Photograph
- AT - 2** Locality Plan
- AT - 3** Site Plans

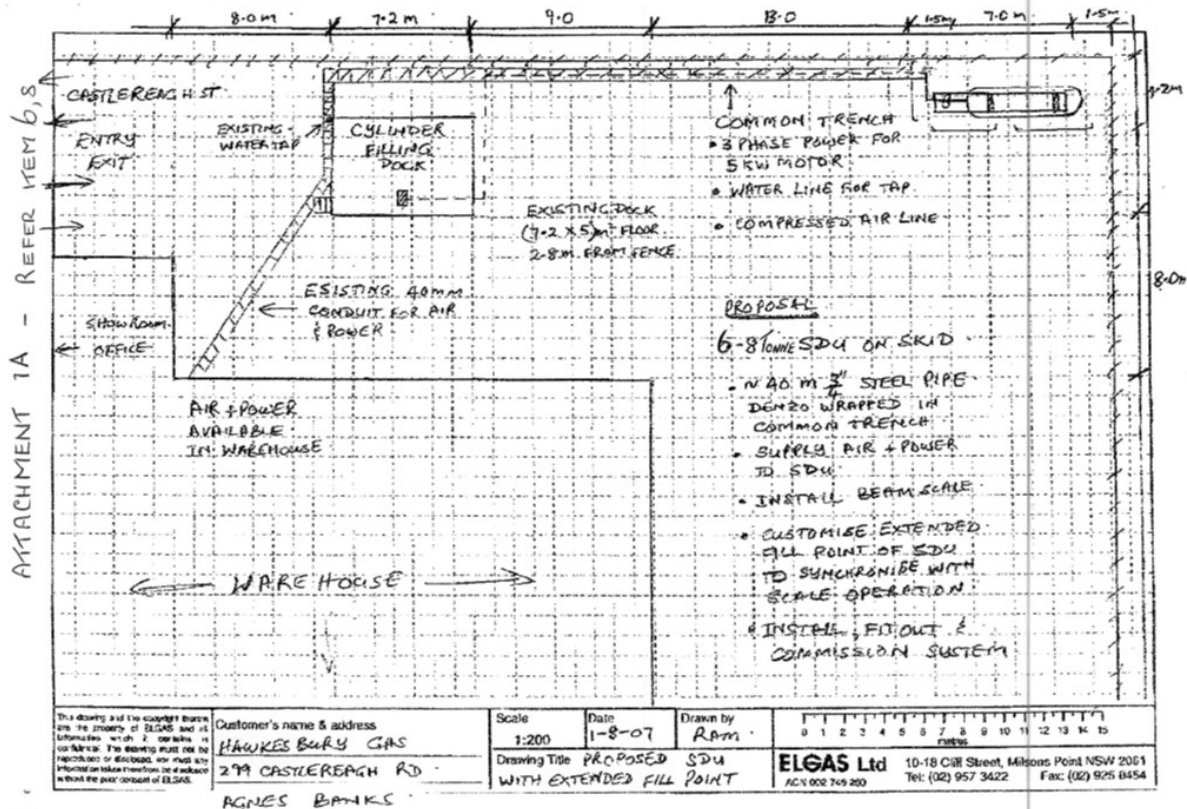
ORDINARY MEETING

Meeting Date: 30 November 2010

AT - 2 Locality Plan



AT - 3 Site Plans



0000 END OF REPORT 0000

Item:266 CP - Public Exhibition - Statement of Business Ethics - (95498)

Previous Item: 200, Ordinary (31 August 2010)

REPORT:

Executive Summary

This report has been prepared to advise Council of submissions received following the public exhibition of the (Draft) Statement of Business Ethics. The report proposes amendments to the Statement in response to public submissions and provides additional information in relation to issues raised by Councillors regarding the content of the Statement. The report recommends that Council adopt the revised Statement of Business Ethics subject to any further amendments as may be determined by Council.

Consultation

This report outlines the outcomes of community consultation which has been undertaken in accordance with Council's Community Engagement Policy.

Background

The Independent Commission Against Corruption (ICAC) has recommended the adoption of a *Statement of Business Ethics* to communicate core public sector values and principles and establish clear expectations for the conduct of business relationships. ICAC has issued guidelines to assist NSW public sector agencies to prepare a Statement of Business Ethics.

A draft *Statement of Business Ethics* was prepared in accordance with ICAC guidelines and reported to Council at its Ordinary Meeting of 31 August 2010. In considering this report Council resolved;

"That Council exhibit for 28 days the draft Hawkesbury City Council Statement of Business Ethics prepared in accordance with guidelines issued by the Independent Commission Against Corruption (ICAC)."

The draft *Statement of Business Ethics* was subsequently placed on public exhibition between 16 September and 15 October 2010. One submission was received.

Summary of Issues Raised

The submission received by Council raised the following matters;

1. Page 1, Para 5. This document aims to capture 'customers'. This is a very broad term and creates problems elsewhere in the document. It seems to me that Council needs to differentiate between those that enter into a relationship with Council for the purpose of financial gain and those that don't, particularly those who are simple ratepayers or householders.
2. Page 2, Section 4, Para 1: I believe it unreasonable to 'require' ratepayers and householders to follow the guidelines set out. Not only is it unreasonable, I suspect it would create a duty of care for Council in that Council would have to outline these guidelines at various stages of its interaction with the public. This is not realistic. Whilst it is easy to build these guidelines into commercial relationships, I believe it impractical to create such a requirement from the general public except for matters of law.

In addition to these two matters, during Council's consideration of the draft *Statement of Business Ethics* at its Ordinary Meeting of 31 August 2010, concern was expressed at the obligations that the draft *Statement of Business Ethics* appeared to place on customers in relation to the conflict of interest provisions as outlined in Section 4 of the Statement

Response

In response to these issues the following amendments to the draft *Statement of Business Ethics* are proposed:

1. Section 1 - Introduction: In paragraph 5 the generic term 'customer' has been deleted and replaced by specific reference to 'suppliers, contractors, consultants, tenderers, business partners, property owners lodging Development Applications and persons making submissions in relation to these Applications'. The use of this more detailed descriptor of the persons to whom the draft *Statement of Business Ethics* applies distinguishes between ordinary ratepayers and residents, who routinely use Council services and facilities, and those categories of customers who enter into business partnerships to ostensibly derive a commercial gain or advantage. The deletion of the generic term of customer provides a more specific context for the operation of the *Statement of Business Ethics* to capture those customer transactions which go beyond the simple 'purchase' of a standard Council service or product which are generally delivered in a uniform way. Under ICAC guidelines, the provisions of the *Statement of Business Ethics* are intended to apply to business transactions involving the outlay of significant public funds for the purchase or supply of goods and services; commercial and/or private/public partnerships; and decisions involving the determination of development and land use proposals under relevant legislation.
2. Section 4 - Council's Expectations and Requirements. A footnote has been incorporated into the opening paragraph to clarify those categories of customers to whom Council's requirements should be perceived as applying. The wording of the footnote reflects the narrative outlined above.
3. Section 6 - Guidance Notes. The 'Conflicts of Interest' note has been expanded to provide an explanation for the Council requirement that 'suppliers, contractors, consultants, tenderers, business partners, property owners lodging Development Applications and persons making submissions in relation to these Applications' should be bound by the obligation to declare a conflict of interest where such a conflict is known. This provision arises directly from the scope of the ICAC Act which does not limit possible findings of corruption to Council officials - private individuals may be subject to findings of corruption where they have engaged in activities with the aim of misleading or improperly influencing Council in the honest and impartial exercise of its official functions. In this context, a private individual should not automatically assume that it is solely the responsibility of a Council official to declare a conflict of interest where such a conflict may exist - for example where the individual may be related to the Council official making a determination and/or where a private individual has a business or other relationship with a Council official making a determination. Under these circumstances the fact that a Council official did not declare such a relationship does not necessarily absolve the private individual of making such a declaration where it can be proven that the relationship may improperly influence a Council decision. For these reasons, there is a cautionary justification for the *Statement of Business Ethics* to require 'suppliers, contractors, consultants, tenderers, business partners, property owners lodging Development Applications and persons making submissions in relation to these Applications' to declare an actual or perceived conflict of interest (where such a conflict is known) to protect them against a possible adverse finding.

The attached revised version of the draft *Statement of Business Ethics* highlights the proposed deletions and amendments.

Conformance to Community Strategic Plan

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

ORDINARY MEETING

Meeting Date: 30 November 2010

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

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

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

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

Financial Implications

There are no financial implications applicable to this report.

RECOMMENDATION:

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

ATTACHMENTS:

- AT - 1** Hawkesbury City Council, Statement of Business Ethics: For business dealings between Hawkesbury City Council, the private sector and other parties.

ORDINARY MEETING

Meeting Date: 30 November 2010

AT - 1 Hawkesbury City Council, Statement of Business Ethics:

For business dealings between Hawkesbury City Council, the private sector and other parties

Statement of Business Ethics

July 2010



STATEMENT OF BUSINESS ETHICS

**For business dealings between Hawkesbury City Council,
the private sector and other parties**

**Public Document
Adopted by Council.**

1. INTRODUCTION

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

The Independent Commission Against Corruption (ICAC) has noted that there are important differences between the public and private sector in terms of their responsibilities, principles and goals¹. Hawkesbury City Council (as a public sector agency) is required to conduct its business in conformance within the provisions of the *Local Government Act 1993* and other legislation. This legislative framework directs Council's day-to-day operations through the enactment of government codes of practice and codes of conduct as well as specific procurement and tendering guidelines. These codes and guidelines are based on core public sector values of integrity, accountability, impartiality and transparency.

An understanding of these values are integral to the development of positive and ethical business relationships between private and public sector agencies. ICAC has recommended the adoption of a *Statement of Business Ethics* to communicate core public sector values and principles and establish clear expectations for the conduct of business relationships.

This Statement of Business Ethics has been developed to assist those dealing with Council to know and understand the ethical standards that the community expects from all Council officials (Councillors and staff) and those that enter into a business relationship with Council.

By complying with Council's Statement of Business Ethics, those that enter into a business relationship with Council will be able to advance their business objectives and interests in a fair and ethical manner. Council expects all its customers suppliers, contractors, consultants, tenderers, business partners, property owners lodging Development Applications (and persons making submissions in relation to these Applications), to comply with this statement and to know and understand the standards that this Statement promotes.

In turn, Council will require all staff to conduct our business activities in accordance with Council's Code of Conduct and observe the highest standards of probity, ethical behaviour and integrity in their business dealings.

It is important to be aware of the consequences, for both public officials and public sector personnel, of not complying with the requirements of the Statement when conducting business with or on behalf of Council.

2. OUR VALUES and BUSINESS PRINCIPLES

Hawkesbury City Council will align its business objectives to the directions and goals within the Hawkesbury Community Strategic Plan 2010-2030. In pursuing these objectives Council will operate in a way that values:

- equity, fairness and community harmony;
- the contributions of people and the exchange of ideas;
- pride in the heritage and natural beauty of our area;
- sustainable development and social cohesion;
- continuous improvement to the quality of our services;
- the sound management of our assets and resources;
- innovation and the pursuit of new opportunities;
- integrity and ethical standards;
- accountable and transparent decision making;
- strong leadership, teamwork and co-operation.

¹ *Developing a statement of business ethics. A guide to building ethical business relationships between NSW public sector organisations and the private sector*. Independent Commission Against Corruption, May 2004.

Council will conduct its business in conformance with these values and in ways that deliver value for money to the community based on the principles of transparency, impartiality and fairness. Fairness means being objective, reasonable and even-handed, but does not necessarily mean that Council's business decisions will please everyone or that some people may not be adversely affected by a particular decision.

Council will strive to be fair by ensuring that wherever practicable, procurement and tendering processes are appropriate, open and accountable. This does not mean that Council will always go to open public tender, or call for bids for items of low monetary value. From time to time, or in exceptional circumstances, Council may not accept the lowest tender or may deal exclusively with parties where it can be demonstrated that there are valid reasons for doing so, based on sound probity principles.

3. COUNCIL'S OBLIGATIONS and COMMITMENTS.

Council will ensure that its policies, procedures and practices relating to tendering, contracting, purchasing of goods and services, assessment of development applications, use of consultants and/or contractors and interaction with lobbyists are consistent with best practice and the highest standards of ethical conduct.

Council officials are bound by Council's code of conduct. When doing business with the community or private sector, Council officials are accountable for their actions and are expected to:

- use Council resources efficiently and effectively;
- act honestly, legally and ethically when dealing with the community and others
- avoid conflicts of interest, both real and perceived,
- act with due care and diligence and in the public interest;
- comply with Occupational Health and Safety requirements.

To achieve probity, Council will consider at all stages of the purchasing, tendering, contracting, and development application processes, the following essential factors:

- transparency of processes;
- accountability;
- ethically managing potential conflicts of interest;
- obtaining best value;
- monitoring and evaluation of performance;

Council's dealings will be transparent, accountable and open to public scrutiny whenever possible. However there will be times when confidentiality will be required by Council.

4. COUNCIL'S EXPECTATIONS and REQUIREMENTS.

Hawkesbury City Council requires all suppliers of goods and services, consultants, contractors, business partners, property owners and DA applicants (and persons making submissions in relation to Development Applications) and anyone doing business with the Council² to observe the following principles;

- act ethically and honestly in their dealings with Council;

² In the context of this Statement of Business Ethics, the term 'doing business with council' does not generally refer to customers (whether ratepayers or residents) who may routinely use or access Council services or facilities on an everyday basis (i.e. the customer is not seeking to derive a commercial gain or advantage from a transaction other than which might ordinarily flow from the uniform supply of a standard service which is generally delivered in a fixed and predictable way. In these situations Council's *Customer Service Charter* outlines the respective standards and obligations applicable to Council's dealings with its customers.

- respect the obligations of Council officials to act in accordance with this Statement and Council's code of conduct;
- declare actual or perceived conflicts of interest and soon as knowledge of a possible conflict of interest is known;
- provide accurate and reliable information when required and respond to reasonable requests for information in a timely manner;
- comply with Council's purchasing, and tendering policies and procedures;
- take all reasonable measures to prevent disclosure of confidential Council information and ensure compliance with privacy legislation;
- abstain from collusive practices;
- refrain from offering Council officials inducements or incentives designed to improperly influence the conduct of their duties;
- assist Council to prevent unethical practices in its business relationships.
- comply will all on-site occupational health and safety requirements.

5. WHAT IS THE IMPACT OF BUSINESS ETHICS.

For Suppliers. There are considerable benefits flowing from compliance with Council's Statement of Business Ethics. By aligning business practices with Council's ethical expectations, suppliers can expect to:

- compete for business on an even playing field;
- prepare their business for dealing with the ethical requirements of other public sector agencies with similar compliance requirements.

There also significant consequences for not complying with the principles of business ethics as outlined in this statement. These include;

- investigation for corruption or other offences
- termination of contracts
- loss of future opportunities with Council
- loss of reputation
- matters being referred for criminal investigation

For Council Officials. If Council officials do not comply with this Statement, the consequences may include

- formal investigation
- disciplinary action including termination of employment
- loss of civic office for Councillors
- potential criminal charges.

(ICAC Advice. It should be noted that ICAC defines those people employed by Council as consultants or contractors to be 'public officials'. In this capacity, consultants and contractors are subject to the jurisdiction of ICAC as they are considered to be 'public officials' for the purpose of the ICAC Act. In addition, any individual can be found to be corrupt by ICAC (even if they are not a public official) if they try to improperly influence a public official or Council's honest or impartial exercise of its official functions).

6. GUIDANCE NOTES.

Gifts and Benefits. Customers doing business with Council should not provide (and Council officials are not permitted to accept) a wide range of gifts and benefits including hospitality (in accordance with Council's *Gifts and Benefits Policy* adopted on 8 April 2008).

ORDINARY MEETING

Meeting Date: 30 November 2010

Statement of Business Ethics

July 2010

Token gifts may be accepted by Council officials with the approval of their supervisor/manager. All gifts of value must be declared by Council officials in Council's Gift Register. All attempts should be made to decline gifts of value where possible.

Conflicts of Interest. Conflicts or potential conflicts of interest must be disclosed by Council officials to ensure their actions withstand public scrutiny.

Conflicts of interest exist when it is likely that a Council official may be influenced, or perceived to be influenced, by a personal interest in carrying out their public duty.

Conflicts of interest that lead to partial decision-making may constitute corrupt conduct. Perceptions of a conflict of interest can be as important as actual conflicts.

Suppliers, consultants, contractors, business partners, property owners, DA applicants (and persons making submissions in relation to Development Applications) ~~Councillors, staff, and customers~~ doing business with Council ~~are required to disclose in writing any perceived or actual conflicts and have that recorded~~ should note that under the ICAC Act, an individual may be found to be corrupt (even if they are not a public official) if they try to improperly influence a public official or Council's honest or impartial exercise of its official functions. In these circumstances a failure or omission by a supplier, consultant, contractor, business partner, property owner, DA applicant (and persons making submissions in relation to these Applications) to declare a conflict of interest could well be perceived as impacting on 'Council's honest and impartial exercise of its official functions'. A supplier, consultant, contractor, business partner, property owners, DA applicant (and persons making submissions in relation to Development Applications) should not automatically assume that it is a Council Official's responsibility to declare a conflict of interest where such a conflict may exist as all parties to a business dealing with Council may be bound by the provisions of the ICAC Act.

Sponsorship. Council will not ask for or solicit any sponsorship or enter into a sponsorship agreement that is not open and transparent and transacted in accordance with Council's Sponsorship Policy (adopted by Council on 13 May 2007). Council will not accept sponsorship if such sponsorship creates a perception that it could be part of an attempt to improperly influence Council's decision making processes.

Confidential and Personal Information. Council maintains corporate information about customers and the community and has an obligation to protect this information and maintain its integrity within its systems.

Council officials and private sector agencies engaged by Council must abide by privacy legislation governing the collection, holding, use, correction, disclosure or transfer of personal information obtained through dealings with Council. Information obtained from Council must only be used for the purpose for which it has been provided and should not be used or removed from Council premises unless authorised.

Council will also require private sector agencies to provide access to any Council documentation held by the agency or information relating to work done on Council's behalf to facilitate an application for access to information under the *Government Information Public Access Act*.

Intellectual Property. In business relationships with Council, all parties will respect each other intellectual property rights and will formally negotiate any access, licence or use of intellectual property.

ORDINARY MEETING

Meeting Date: 30 November 2010

Statement of Business Ethics

July 2010

Development Applications. Council is required to determine Development Applications in accordance with matters prescribed in legislation in a way that is open and transparent and is seen to be fair to all parties involved. Council officials should not be expected to offer support or otherwise for any party associated with the Development Application process.

Council Resources. Council resources should only be used for Council purposes and in the public interest. Councillors, members of staff and customers doing business with Council are expected to be efficient, economical and ethical in their use and management of Council resources, including staff time.

Other Employment or Business. Council staff shall not engage in outside employment or business that could conflict, or be seen to conflict, with their duties with the Council and can only engage in a second job or business if they have the written approval of the General Manager.

Reporting Unethical Behaviour. Possible breaches of this Statement, or conduct that could involve fraud, corrupt conduct, maladministration or serious and substantial waste of public funds, should be referred to Council's General Manager or one of Council's Directors. It is a requirement of ICAC that the Director must inform the General Manager immediately if a report of this nature has been made. Once the General Manager is made aware of a possible breach as described above, that it is incumbent upon the General Manager to report this directly to the ICAC.

External reporting can also be made to:

Independent Commission Against Corruption 8281 5999
NSW Ombudsman 9286 1000
NSW Department of Local Government 4428 4100

Public officials reporting corrupt conduct, maladministration or waste can be protected by the Protected Disclosures Act 1994. This Act protects public officials who are disclosing corrupt conduct from reprisal or detrimental action and ensures disclosures are properly investigated. The Council has an adopted policy on Internal Reporting adopted on 1 November 2005.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 30 November 2010

INFRASTRUCTURE SERVICES

Item:268 **IS - Underground Piped Drainage System - 22 Price Lane, Agnes Banks - (95495, 79344)**

Previous Item: 249, Ordinary (9 November 2010)

REPORT:

Executive Summary

Council at its meeting of 9 November 2010, considered a report regarding an underground piped drainage system at Agnes Banks, where it was resolved that the matter be deferred and a report be brought back to the next meeting of Council. This basis of this report has been taken from the previous reports, with additional information provided where necessary.

The adopted Capital Works Program for 2007/2008 provided, in part, an amount of \$220,000 for the construction of an underground piped drainage system to alleviate a flooding problem within properties 340 Castlereagh Road and 22 Price Lane, Agnes Banks.

Due to the level of compensation requested by the property owners for the provision of easements on the properties, there are insufficient funds to complete this project at this stage and due to the length of time expected to finalise the easements, it is recommended that this proposal be given further consideration by Council when determining projects for inclusion in a future Works Program. It is further recommended that the remaining funds be reallocated to an alternate project located at the intersection of Chapel and Windsor Streets, Richmond and further negotiations proceed with the property owners in Price Lane regarding the provision of the requisite drainage easements.

Consultation

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

Both property owners have communicated their concerns in writing and telephone conversations with a number of Council Officers and the Valuer. The property owners have also been advised that the current level of funding will not meet the total cost of the project at this stage and it will be necessary for Council to reconsider this project in a future Capital Works Program.

Background

A natural depression exists from Price Lane through private property to Castlereagh Road, then along Castlereagh Road towards Freeman Road, Agnes Banks which forms an outlet to a large catchment area commencing within the University of Western Sydney land to the north east of The Driftway. The catchment is approximately 74 hectares and whilst there has been some formalisation of the drainage depression into culverts where subdivisions have occurred and under roads, there has been no diversion of other catchments into this system and it still follows the natural depression referred to previously.

Two properties between Castlereagh Road and Price Lane experience flooding problems during periods of heavy rainfall, due to the presence of the natural watercourse located approximately mid-block in each property. The third property known as 342 Castlereagh Road is not prone to any flooding problems and to date has not responded to any communication. A small corner of this property approximately 7m² in area is required for continuity of the pipeline and an easement has been identified as necessary for this purpose. It appears that a compulsory acquisition process may be required to gain an easement through this property to enable the drainage project to proceed. The natural watercourse referred to previously was identified on

ORDINARY MEETING

Meeting Date: 30 November 2010

a topographic map for the area produced by the then Department of Lands as an "intermittent stream or watercourse". Notwithstanding, the contours for the area clearly show that the depression between Castlereagh Road and Price Lane exists and is the outlet for the catchment identified.

The project proposes to provide a twin cell 825mm diameter pipeline within Castlereagh Road from approximately Freeman Road, to 22 Price Lane, proceeding diagonally through 340 and 342 Castlereagh Road, crossing Price Lane diagonally and discharging to a continuation of the natural depression on the north western side of Price Lane.

The project has not proceeded to date, due to issues and debate associated with design and easement requirements including the amount of monetary compensation to be paid to each property owner.

The original estimate for this project was considered to provide improvement to the subject properties and did not anticipate the amount of compensation which would be sought by the property owners. It is noted that both lots have the potential for subdivision and should an application be lodged, it would be a normal condition of consent, if the development was supported, to require the dedication of a drainage easement, free of cost to Council as a condition of consent for the development.

A summary of the requested compensation is listed as follows:

22 Price Lane	\$35,000 **
340 Castlereagh Road	\$25,000 **
342 Castlereagh Road	<u>\$20,000 ##</u>
	\$80,000

** The above amounts do not include survey and legal costs associated with the registration of the plan and drainage easements.

This amount is only an estimate and is based on a compulsory acquisition process including survey, legal and application costs.

It is proposed to provide funding in an amount of \$40,000 to pursue the provision of drainage easements through 22 Price Lane and 340/342 Castlereagh Road from funds available in the Kerb and Gutter Reserve.

In summary there are insufficient funds to complete the project at this stage and it is recommended that the proposal be given further consideration when determining projects for inclusion in a future Works Program. It is further recommended that the available funding be reallocated to another drainage project located at the intersection of Chapel and Windsor Streets, Richmond. Apart from the street flooding at this location, a number of cottages fronting Chapel Street are experiencing severe flooding problems during moderate to heavy rainfall periods.

Whilst there is an undersized pipeline existing which carries small flows from Chapel Street to Francis Street, it is proposed to construct a more substantive pipeline which would convey stormwater from Chapel Street, including the intersection of Chapel and Windsor Streets which floods during low to moderate rainfall, via a pipeline to be constructed in Windsor Street towards Pughs Lagoon.

Conformance to Community Strategic Plan

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

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

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

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

ORDINARY MEETING

Meeting Date: 30 November 2010

Financial Implications

The funding allocation for the Price Lane Project, less expenditure for the survey, design and valuation costs, to date is \$197,116.

The cost of the Windsor/Chapel Street project is estimated at \$202,000 and any minor shortfall could be funded from within the drains maintenance budget. This estimate makes no provision for utility adjustments, if warranted. However, given the depth of the proposed pipeline there may be sufficient scope to make adjustments if necessary, to avoid a utility conflict.

Funding in the amount of \$40,000 to pursue the provision of drainage easements through properties 22 Price Lane and 340/342 Castlereagh Road, Agnes Banks, (24 and 26) Price Lane be provided from the Kerb and Gutter Reserve.

RECOMMENDATION:

That:

1. The proposal to construct a piped drainage system through properties, 22/24/26 Price Lane (338/340/342 Castlereagh Road), Agnes Banks not proceed and be considered in a future works program.
2. The residue funding in the amount of \$197,166 from the Price Lane project be reallocated to the construction of a piped drainage system at the intersection of Windsor and Chapel Streets, Richmond.
3. Funding in the amount of \$40,000 available in the Kerb and Gutter Reserve be utilised as required to pursue the provision of drainage easements through, 22 Price Lane (338 Castlereagh Road) and, 24 Price Lane (340 Castlereagh Road), and 26 Price Lane (342 Castlereagh Road), Part Lot 4 DP513439 Agnes Banks including compulsory acquisition if required.

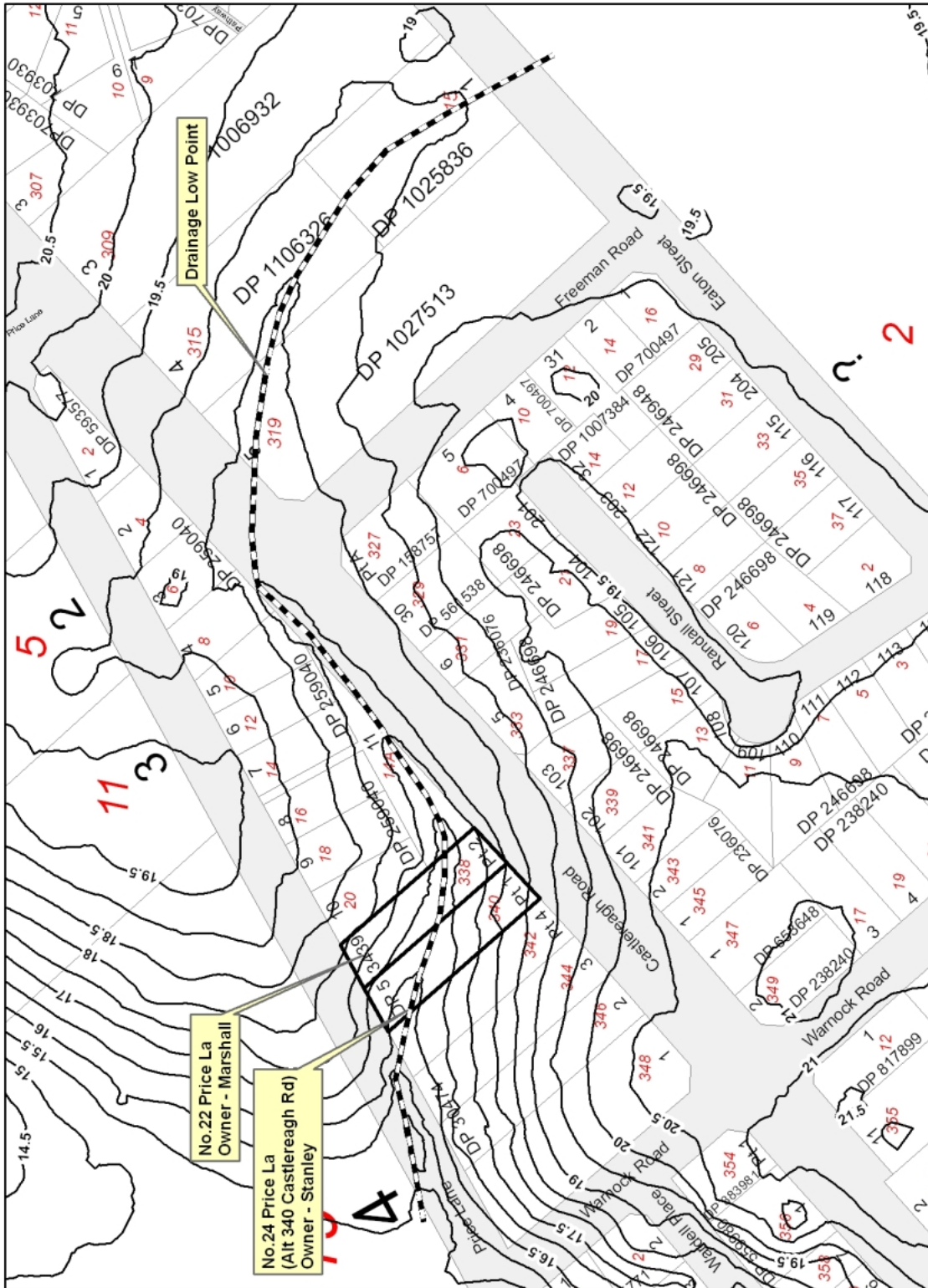
ATTACHMENTS:

- AT1** - Price Lane - No. 22 and No.24 (ALT.No.340 Castlereagh Road)
- AT2** - Price Lane - Total Catchment Area

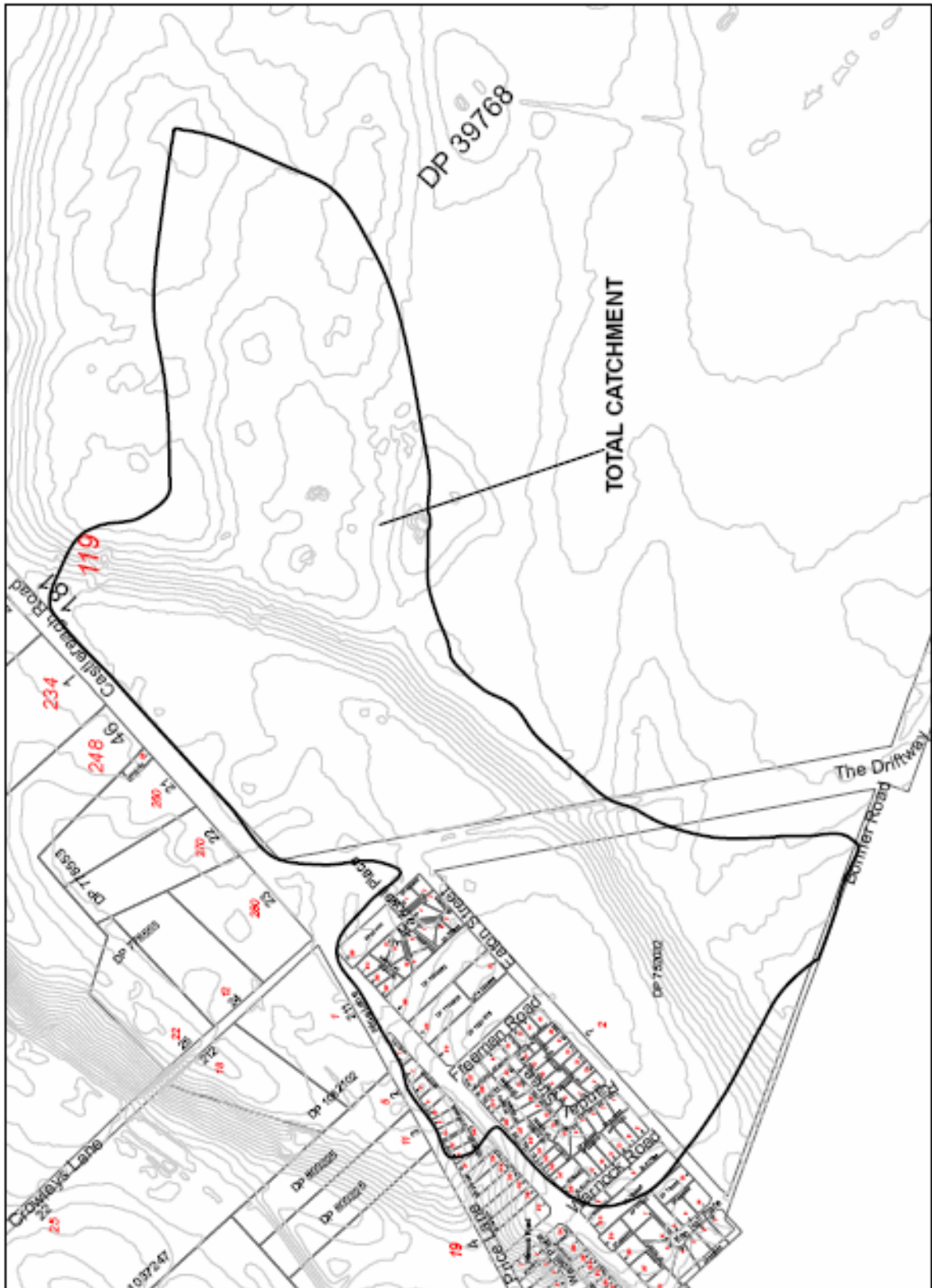
ORDINARY MEETING

Meeting Date: 30 November 2010

AT1 - Price Lane - No. 22 and No.24 (ALT.No.340 Castlereagh Road)



AT2 - Price Lane - Total Catchment Area



oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

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