



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 29 May 2012

location: council chambers

time: 6:30 p.m.



mission statement

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

How Council Operates

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

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

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

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

Meeting Procedure

The Mayor is Chairperson of the meeting.

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

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

Public Participation

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

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

Voting

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

Planning Decision

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

Business Papers

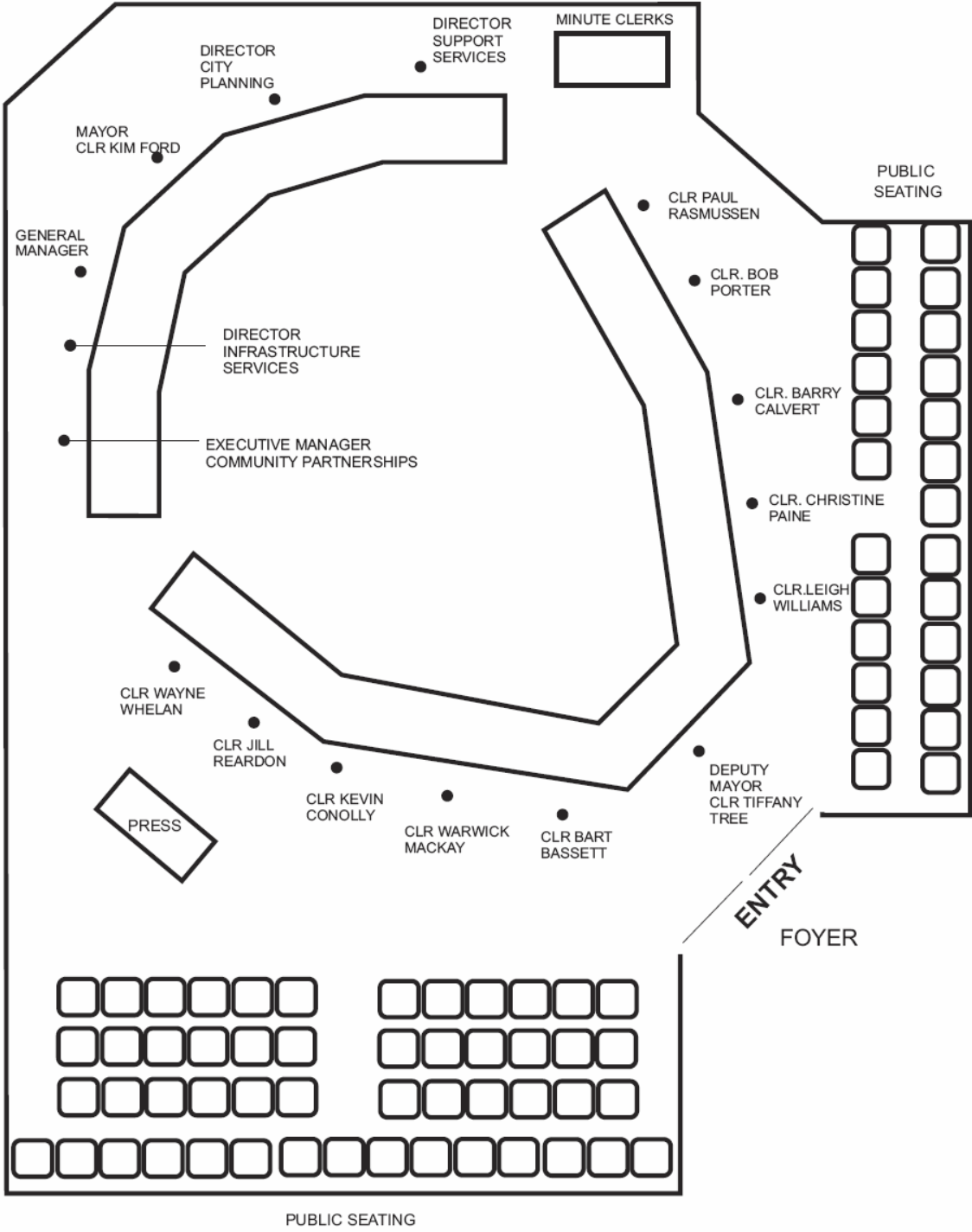
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

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

Further Information

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

council chambers



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notices of motion

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Notices of Motion

SECTION 3 - Notices of Motion

NM1 - Defence Expenditure Reduction - (111627, 79351)

Submitted by: Councillor Tiffany Tree

NOTICE OF MOTION:

That Council:

1. Write to the Prime Minister, Julia Gillard and Defence Minister, Stephen Smith to seek assurances that the Federal Government will maintain RAAF Richmond as an operational military facility and retain the Air Lift Group at Richmond following the \$251 million cut backs announced in the budget for the retirement of the C-130h heavy transport fleet based at Richmond; and
2. Seek assurances that the retirement of the fleet will not result in the loss of local jobs or reduce the ability of our Defence forces to respond to military, humanitarian and peace keeping operations.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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Notices of Motion

NM2 - Oppose Further Exploration or Production Licences for Coal Seam Gas in the Hawkesbury Local Government Area - (80093, 79351)

Submitted by: Councillor Barry Calvert

NOTICE OF MOTION:

Given that the Council's Strategic Plan contains the following direction:-

"That Hawkesbury be a place where we value, protect and enhance the historical, social, cultural and environmental character of Hawkesbury's towns, villages and rural landscapes".

That Hawkesbury City Council:-

1. Opposes any further exploration or production licences for coal seam gas in the Hawkesbury Local Government Area until the Commonwealth Government's Independent Expert Scientific Committee makes publicly available a water assessment that contains a finding to the effect that the extraction of coal seam gas in the region is not likely to have a significant impact on the water resources in the region, and,
2. Opposes any further exploration or production licences for coal seam gas in the Hawkesbury Local Government Area because of the high environmental significance of the area, including the predominance of National Parks.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

ordinary

section 4

reports
for determination

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 65 **GM - Local Government & Shires Association of NSW - Proposed Establishment of One Association for Local Government in NSW - (79351)**

Previous Item: 158, Ordinary (13 July 2010)
 159, Ordinary (25 August 2009)

REPORT:

Executive Summary

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

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

Subsequently, a Special Convention was conducted by The One Association Task Force of the LGSA in August 2010 at which the Task Force presented its recommendations that had been formulated at that stage.

The issue of the formation of one association has now progressed to the stage where documentation has been lodged with Fair Work Australia and the LGSA is now awaiting a hearing on the proposal. The LGSA is anticipating receiving approval from Fair Work Australia which would allow the conduct of a ballot of LGSA (i.e. both Associations) membership on the proposal. Council is now being requested to nominate its voting delegates for this ballot by 31 May 2012.

Whilst Council has not indicated its support of the proposal in the past it would appear that the stage has now been reached that the matter may be finally determined by a vote of LGSA members. As such it is recommended that Council nominate its voting delegates to take part in the ballot in relation to the possible formation of one association.

Consultation

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

Background

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

At the time the LGA was conducting a survey regarding the proposal and this report considered the completion of the survey by Council.

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Subsequently, Council resolved:

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

The completion of this survey indicated that Council did not support the formation of one association to replace the LGSA and that:

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

Subsequently, a Special Convention was conducted by The One Association Task Force of the LGSA in August 2010 at which the Task Force presented its recommendations that had been formulated at that stage. The matter has since been proceeding with the proposal being discussed and considered at meetings and presentations, including the LGA and SA Annual Conferences.

Correspondence dated 2 May 2012 has now been received from the President of the LGA in relation to the matter and includes a "One Association – Update & Status Report". A copy of this letter and status report is included with this report as Attachment 1.

As indicated in the above letter, the issue of the formation of one association has progressed to the stage where documentation has been lodged with Fair Work Australia and the LGSA is now awaiting a hearing on the proposal. The LGSA is anticipating receiving approval from Fair Work Australia which would allow the conduct of a ballot of LGSA (i.e. both Associations) membership on the proposal.

Council is now being requested to nominate its voting delegates for this ballot and provide relevant information to the LGA by 31 May 2012. Council is entitled to four voting delegates for this ballot and it is recommended that Council nominate these delegates to enable appropriate information to be forwarded to the LGA as requested.

Conformance to Community Strategic Plan

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

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

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

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

Financial Implications

The possible formation of one association would not appear to affect Council financially at this stage as it is not being suggested that Association membership fees would be increased.

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RECOMMENDATION:

That:

1. The information received from the Local Government Association of NSW regarding the current status of the proposal to form one association for both the Local Government Association of NSW and the Shires Association of NSW be received.
2. Council nominate four councillors as Council's voting delegates to take part in the forthcoming secret ballot to deal with the matter of one association and that the requested information regarding Council's voting delegates be forwarded to the Local Government & Shires Associations to form the Roll of Voters.

ATTACHMENTS:

AT - 1 Letter dated 2 May 2012 from the President of the Local Government Association of NSW.

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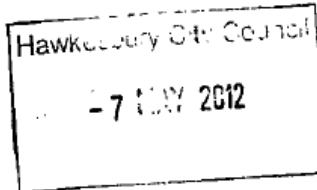
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**AT - 1 Letter dated 2 May 2012 from the President of
the Local Government Association of NSW.**

Local Government
Association of NSW

2 May 2012

Cr Kim Ford
Mayor
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756



Dear Cr Ford,

ONE ASSOCIATION - URGENT - LIST OF DELEGATES AND ADDRESSES FOR VOTING

Last week the Executive Committees of both Associations each separately took important formal steps for progressing the proposal to establish "One Association" to the next stage, which is to have the proposal submitted to a secret postal ballot of delegates of the members of each Association.

On 17 April 2012, in the case of the Executive Committee of the Shires Association, and on 20 April 2012 in the case of the Executive Committee of the Local Government Association, a number of formal resolutions were adopted authorising the two Associations to jointly apply to Fair Work Australia for its approval for the submission of the proposed amalgamation to ballot.

As a result of the resolutions being passed by both Executive the Application was lodged on Friday afternoon 20 April 2012 and a hearing before Fair Work Australia is now awaited.

If, as is hoped Fair Work Australia gives its approval in the near future, the conduct of the vote will be handed to the Australian Electoral Commission who will independently manage the voting process.

Members will be required to supply an up to date list of their voting delegates for this ballot and this process needs to be undertaken as a matter of priority, to ensure that the completion of the ballot is not delayed.

WHAT COUNCILS NEED TO DO NOW

All Councils need to supply the following to the Association by 31 May 2012:

1. The full name of their voting delegate/s; and
2. The private mailing address of their delegate/s.


The Association's staff will be following up with all members about this important information over the next few weeks, and to assist with any enquiries you may have.

In addition, your Association will be providing you with regular communications as this matter progresses through what is now the critical stages of this important initiative.

To assist you with this matter I enclose a report which I urge you to provide to your next available Council meeting.

If you have any enquiries at this stage please contact Peter Coulton at the Associations on 9242 4030.

Yours Sincerely,


Cr Keith Rhoades AFSM
President



SCANNED

GPO Box 7003 Sydney NSW 2001
L8, 28 Margaret St Sydney NSW 201
Tel: (02) 9242 4000 • Fax: (02) 9242 4

One Association – Update & Status Report

May 2012

Summary

This report provides Council with an update regarding the progress towards One Association, outlines next steps and outlines what Council needs to do next. A number of Frequently Asked Questions are also provided with answers to assist Council with their discussions surrounding this very important matter.

Report

Status as at end April 2012

On the 17 April 2012 the Shires Executive and on 20 April 2012 the Local Government Association Executive passed the formal resolutions required to progress the One Association matter to go to a vote of the members' delegates.

The Shires Association Executive unanimously resolved in favour of the resolutions. The Local Government Association Executive adopted the resolutions by a majority of 21 to 3.

The formal documentation has been lodged with Fair Work Australia. Shortly Fair Work Australia will engage the Australian Electoral Commission to undertake the secret postal ballot of members' delegates.

It is important to note that there are actually two separate secret postal ballots; one will be a ballot of LGA member's delegates, and the other will be a ballot of SA members' delegates. Both ballots need to achieve a majority of "yes" votes to enable the formation of One Association.

It is anticipated that the ballots will occur before the September 2012 Local Government general elections but exact timing will depend on Fair Work Australia.

What Councils need to do

All Councils need to supply the following to the Association by 31 May 2012:

1. The full name of their voting delegate/s, and,
2. The private mailing address of the delegate/s

This is very important as the Association is required to prepare the Roll of Voters for the Australian Electoral Commission.

Frequently Asked Questions

Q: *Why is the ballot being held before the September elections?*

A: This process has been ongoing for many years. Current Councillors should be aware of the progress of the matter. If the ballot is held over until after the 2012 general elections new councillors will not be aware of the history or the process and would not be in a position to make an informed decision.

Q: *When would One Association take effect?*

A: Assuming that the majority of delegates vote "yes" forming One Association would not take place until after 1 March 2013, but no later than 2 June 2013. Even after a positive vote there is significant work to be done in conjunction with Fair Work Australia as well as making provision for the numerous administrative changes which would have to take place, such as transferring assets and transitioning staff. The transition however needs to take effect before 2 June 2013 otherwise the Shires Association would need to hold fresh Executive elections.

Q: *Why is the ballot a secret postal ballot?*

A: Because it is a requirement under the Fair Work (Registered Organisations) Act. The Associations have no choice in this decision.

Q: *Has there been enough consultation?*

A: The issue of One Association has been discussed over many years. In more recent times it has been discussed:

- At the 2003 LGA Conference
- At the 2004 SA Conference
- At the 2004 LGA Conference
- As part of the 2005 Woods/Wearne report titled "Options for One Local Government Association in NSW"
- At the 2005 SA Conference
- At the 2005 LGA Conference
- At the 2006 SA Conference
- At the 2006 LGA Conference
- At the 2007 SA Conference
- At the 2007 LGA Conference
- At the 2008 SA Conference
- At the 2008 LGA Conference
- At the 2009 SA Conference
- At the 2009 LGA Conference
- At the One Association Convention held in August 2010
- At the 2010 LGA Conference
- In February 2011 the Associations sent all Councils a draft Constitution requesting feedback and comments
- In February 2011 the SA held a Special Conference to discuss the Principles set out at the 2010 Convention
- At the 2011 SA Conference
- In November 2011 the Associations sent all Councils a further draft Constitution requesting feedback and comments

In addition there have been numerous presentations made to all Shires Divisional meetings at various times, and to various LGA ROC meetings and in other forums.

Q: *Why is there no "No" Case?*

A: There are two reasons, firstly the Fair Work (Registered Organisations) Act does not require a "No" case to be prepared because it presumes a process towards an amalgamation would not have started in the first place unless it had been directed by members – which is the case in this instance. The issue of One Association has arrived

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at the stage of a ballot after repeated Conference resolutions calling for a single Association. It is not in the interests of the Association to prepare a case which cuts across the wishes and resolutions of the majority of our members.

Q: *How many voting delegates does my Council have for the secret postal ballot?*

A: The numbers are calculated under the current rules of each Association, so for:

- Shires Association members, each has one voting delegate, and for
- Local Government Association Members it depends on the member's population, and is calculated in accordance with the following scale:

Group No.	Population	Delegates
1	Less than 10,000	1
2	10,000 - 20,000	2
3	20,000 - 50,000	3
4	50,000 - 100,000	4
5	100,000 - 150,000	5
6	Over 150,000	7
7	County councils	2
8	Aboriginal Land Council	27

(To independently determine a Council's population see the latest release of Australian Bureau of Statistics publication 3218.0)

Q: *Can Associate members vote?*

A: No, only ordinary members can vote in the secret ballot. The Fair Work (Registered Organisations) Act treats this ballot the same as if it was a ballot for the election of members of the Executive.

Q: *How does voting work under One Association:*

A: One of the key principles to come from the One Association Convention held in August 2010 was to enshrine the concept that the overall voting numbers of the rural/regional area would be the same as the overall voting numbers of the Metropolitan/Urban areas. This was covered as Principles 4 and 5, and was, with the other Principles ratified by subsequent Conferences of both Associations. These Principles say:

- 4 *"For the purpose of voting for the Board of Directors, each region will have an equal number of votes, which will be distributed proportionally on a basis to be determined among those ordinary member councils who fall within that region, with all ordinary member councils receiving at least one vote."*
- 5 *"For the purpose of voting on motions at Conference, each region will have an equal number of votes, which will be distributed proportionally on a basis to be determined among those ordinary member councils who fall within that region, with all ordinary member councils receiving at least one vote."*

The voting arrangements satisfy the overarching requirements of equality among the regions. What this means in effect is that councils in the same region with similar populations will have the same number of votes, but this will not always be the case for similar sized councils in different regions. The reason for this is the difference in council numbers between the regions, the Rural/Regional Region has 114 general purpose Councils, 10 County Councils and 8 Regional Aboriginal Lands Councils. The Metropolitan/Urban Region has 38 general purpose Councils, 2 County Councils and 1 Regional Aboriginal Lands Council. Due to the larger number of Councils in the Rural/Regional Region additional votes needed to be allocated to the Councils in the Metropolitan/Urban Region to balance the overall voting numbers.

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Q: *But is this "fair"*

A: The One Association rules have been developed to ensure equity across the membership in a number of ways. Importantly, the One Association rules provide that only Rural/Regional voting delegates are able to vote for the 10 Rural/Regional Board members and the Rural/Regional Vice President in the same way that only Metropolitan/Urban voting delegates are able to vote for the 10 Metropolitan/Urban Board members and the Metropolitan/Urban Vice President. It makes no difference if a Metropolitan/Urban Council with the same population has a different number of voting delegates to a Rural/Regional Council with a similar population as they won't be voting for the same candidates in the same elections.

For the positions of President and Treasurer both regions have the same number of votes in total. This will allow for these positions be popularly elected overall – however, the rules also ensures that the position of President must alternate between the Metropolitan/Urban and Rural/Regional areas. This further enhances the equity.

Similarly with Conference motions, both Regions have the same overall numbers. This provides for Association policy to be made which has the sanction of the majority of members, and ensures that no Region can dominate the other.

Q: *What about the Assets of my current Association?*

A: The assets of both Associations will be merged together on the amalgamation date. Neither Association will be financial detrimentally affected in any consequential way by this merger. To illustrate this we need to use the last full year's financial statements, 2010/2011 which showed the total equity of each Association as follows:

	Total Equity (\$)	% Equity	Subscriptions \$	% Subscriptions
LGA	19,015,275	66.19	2,876,208	65.77
SA	9,713,269	33.81	1,496,629	34.23
Total Combined	28,728,544	100.00	4,372,837	100.00

The Associations' Rules (and the rules for the new One Association) provide that if the Association is dissolved any surplus funds are paid to the members in the proportion which each member's subscription for the year bears to the total amount of subscriptions for that year.

What this means is that had the Associations dissolved at the end of the 2010/11 financial year the members of each Association would have received in total the complete equity of their Association, that is, for the LGA members 100% X \$19,015,275 and for the SA 100% X \$9,713,269.

If the Associations had merged and immediately dissolved at the end of the 2010/11 financial year:

LGA members would have received: 65.77% of \$28,728,544 = \$18,894,763
SA members would have received: 34.23% of \$28,728,544 = \$9,833,781

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The overall affect would be:

	No Merge \$	Merge \$	Difference \$
LGA	19,015,275	18,894,763	(120,512)
SA	9,713,269	9,833,781	120,512
Total Combined	28,728,544	28,728,544	0

For this example, at this point in time, the LGA members combined would be "worse off" by \$120,512 on dissolution, and SA members combined would be "better off" by the same amount. On an individual Council basis Association's calculations have shown the "worse off" Councils range in dollar terms from (\$43.05) to (\$2,202.46) while the "better off" Councils range in dollar terms from \$165.47 to \$2,457.64. As the combined difference represents less than half a percent of overall total equity ($\$120,512 / \$28,728,544 \times 100 = .419\%$) it is not considered significant.

Recommendation:

That Councillor/s ~~XXXXX~~ be nominated as Councils voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.

oooO END OF REPORT Oooo

Item: 66 GM - Local Government & Shires Association Water Management Conference (79351)

REPORT:

Executive Summary

The Local Government & Shires Association of NSW (LGSA) Water Management Conference will be held 22 - 24 July 2012 in Wagga Wagga. Due to its relevance to Council's activities in this area, it is recommended that the LGSA Water Management Conference be attended by Councillors and appropriate staff.

Consultation

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

Background

The LGSA Water Management Conference will be held 22 - 24 July 2012 in Wagga Wagga. The LGSA Water Management Conference is an annual event, co-ordinated by local government for local government, providing a forum for debate and discussion on urban water supply and sewerage as well as broader water management issues.

Attendance at the Conference provides many invaluable opportunities including learning and professional development; updates on emerging issues and industry trends; networking and team building; viewing and experiencing the latest products and services.

Cost of attendance at the LGSA Water Management Conference will be approximately \$1,300.00 per delegate plus travel expenses.

It should be noted that cost associated with attendance at the LGSA Water Management Conference will be incurred in the delegate expenses budget for the next financial year. The 2012/2013 Draft Budget contains a provision of \$44,000 for Delegates Expenses.

Conformance to Community Strategic Plan

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

- Population growth is matched with the provision of infrastructure and is sympathetic to the rural environmental, heritage values and character of the Hawkesbury.

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

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

Financial Implications

Funding for this proposal will be provided from the 2012/2013 Draft Delegates Expenses Budget.

ORDINARY MEETING

Meeting Date: 29 May 2012

RECOMMENDATION:

The attendance of nominated Councillors and staff members as considered appropriate by the General Manager, at the LGSA Water Management Conference at an approximate cost of \$1,300.00 per delegate plus travel expenses be approved.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 May 2012

Item: 67 **GM - Review of Model Code of Conduct for Local Councils - Release of Consultation Drafts by Division of Local Government, Department of Premier and Cabinet - (79351)**

Previous Item: 258, Ordinary (29 November 2011)

REPORT:

Executive Summary

During 2011 the Division of Local Government (DLG) within the NSW Department of Premier & Cabinet announced its intention to review the Model Code of Conduct (MC of C) for local councils and invited initial submissions.

Subsequently, in October 2011 the DLG released a Position Paper (PP) that had been prepared in association with the review and invited submissions on the Position Paper.

At the time, the DLG has indicated that it *"is currently only seeking views on the general direction of the proposed changes"* and that *"once we have finalised the broad direction of the proposed changes we will be seeking your further views"* and indicated that a draft of the revised MC of C and associated procedures and proposals would be released for comment.

Council considered a report in relation the PP at its meeting held on 29 November 2011 and resolved to make a submission to the DLG based upon the comments contained in the report and also referring to difficulties faced by Councillors when attending public meetings.

Circular No. 12-10 dated 1 May 2012 has now been received from the DLG advising of the next stage of the review process and of the availability of Consultation Drafts (CDs). Submissions on the CDs will be received by the DLG until 26 June 2012.

The purpose of this report is to advise Council of the release of the CDs and to recommend that a submission in relation to the documents be made by Council, based on the comments in this report.

Consultation

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

Background

As part of its reform program referred to previously by the DLG, and highlighted by the *"Destination 2036"* workshop/seminar held in 2011, the DLG subsequently announced its intention to review the MC of C for local councils and invited initial submissions.

As required by the Local Government Act, all councils must adopt a Code of Conduct (C of C) and regularly review this document. To this end the DLG prescribes a MC of C and whilst Councils can supplement/alter the MC of C this can only be done if it strengthens its requirements and can't occur if its requirements were to be lessened.

In October 2011 the DLG released a PP that had been prepared in association with the review and inviting submissions on the document. At the time, the DLG has indicated that it *"is currently only seeking views on the general direction of the proposed changes"* and that *"once we have finalised the broad direction of the proposed changes we will be seeking your further views"* and indicated that a draft of the revised MC of C and associated procedures and proposals would be released for comment.

ORDINARY MEETING

Meeting Date: 29 May 2012

Council considered a report in relation to the PP at its meeting held on 29 November 2011. A copy of that report is included as Attachment 1 to this report. Subsequently, Council resolved:

"That Council make a submission in response to the Position Paper dated October 2011 released by the Division of Local Government, Department of Premier and Cabinet, in relation to the Review of the Model Code of Conduct for Local Councils in NSW based upon the comments contained in the General Manager's report in this regard including a reference to the difficulties faced by Councillors attending public meetings and subsequent actions that result under the Code as a result of such attendance."

A submission was subsequently forwarded to the DLG in accordance with Council's resolution.

Circular No. 12-10 dated 1 May 2012 has now been received from the DLG advising of the next stage of the review process and of the availability of Consultation Drafts (CDs) and inviting submissions that will be received up to 26 June 2012.

A copy of the Circular is included as Attachment 2 to this report. A copy of the Circular and CDs has also previously been forwarded to all Councillors. The CDs can also be viewed at the following link:

<http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Review of the Model Code of Conduct for Local Councils in NSW - Consultation Drafts.pdf>

The document provided by the DLG consists of a "Background Paper" and the following:

1. Summary version of the proposed new Model Code
2. Draft revised Model Code
3. Proposed procedures for the administration of the Model Code
4. Proposed amendments to the Local Government Act 1993

The intention of the previous report on the PP was not to comment on all aspects of, or proposed changes suggested in the PP, but rather focus on those areas considered to be of significance or interest to Council. In summary, the issues of concern raised in the previous report (numbering relates to PP and specific details of each issue are within the previous report included as Attachment 1) were:

4.1.6 Relationships between council officials

4.1.7 Gifts and benefits

4.2.1 A regional approach to the administration of complaints

4.2.2 The appointment of complaints coordinators

4.2.3 The appointment of complaints assessors

4.3.1 Separation of procedural requirements from the Model Code

4.4.1 The role of the division of local government

4.4.4 Disclosure of the identity of complainants

4.4.5 Provisions to prevent the misuse of the code

4.5 Proposed amendments to the misbehaviour provisions

It would appear that the CDs address, to a reasonable extent, the concerns that were raised under the above points with the exception of 4.4.4 and 4.4.5. These will be further addressed later in this report.

There were also areas of the previous PP where the suggestions/proposals were considered satisfactory and commented upon at the time. The current CDs do not appear to alter these views. These areas (numbering relates to PP and specific details of each issue are within the previous report included as Attachment 1) were:

4.1.3 Prohibition of binding caucus votes

4.3.2 How will complaints be made

4.3.4 Referral of a matter to a conduct reviewer

Sections 4.3.5 to 4.3.9 Assessment, investigation and reporting of complaints

4.4.2 Rights of review

The “Background” section of the CDs indicates that the DLG is proposing that the MC of C will be split into two documents, namely:

- *“A Model Code of Conduct for Local Councils in NSW (comprising solely of the prescribed standards of conduct), and*
- *Procedures for the Administration of the Model Code (comprising of the procedural requirements of the Code) (referred to below as the “Model Code procedures”)*”

With respect to the standards of conduct to be prescribed under the Model Code, they are proposing to make the following changes:

- *“In the interests of simplicity and clarity, to remove the “context” section of the Model Code. This is largely educational material and does not constitute enforceable standards of conduct. This will now be incorporated into the better practice Guidelines to the Model Code that will be developed separately;*
- *Prohibit binding caucus votes that prevent councillors from exercising their discretion. However councillors will still be permitted to meet to discuss council business ahead of meetings;*
- *Refine the provisions relating to the disclosure of reportable political donations to align them with subsequent amendments to the relevant legislation and to eliminate loopholes;*
- *Include provisions to address the loss of quorum arising from compliance with requirements under the code;*
- *Expand the prohibition on the acceptance of cash to include cash-like gifts;*
- *Amend the provisions relating to relationships between Council officials to allow Councillors to provide information to the Chair of the audit committee, to prohibit staff from participating in political activities that interfere with their duty to serve a council in a politically neutral manner and to allow councillors to discuss the General Manager’s performance with him or her;*
- *Remove loopholes in the provisions that relate to the use of council resources for election purposes; and*
- *Create a new class of standards relating to the maintenance of the integrity of the code of conduct. Breaches of these standards will be dealt with by the Division under the misbehaviour provisions.”*

The above proposals, when considering the documents in total appear to be reasonable. Most are generally in line with approaches either proposed or suggested as a result of the PP.

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In relation to the MC of C procedures, the DLG are proposing to make the following changes:

- *“Councils will be able to establish their own panels of conduct reviewers or to establish regional panels;*
- *An option will be created to allow councils to use conduct reviewers from a panel established by a prescribed organisation;*
- *The selection process and criteria for conduct reviewers will be prescribed;*
- *To limit the misuse of the procedures to deal with non code of conduct matters “Code of conduct complaint” will be a defined term;*
- *Complaints must be made within 3 months;*
- *General Managers and Mayors will no longer have any role in the management of complaints about councillors or the General Manager beyond the initial receipt of complaints. General Managers and Mayors will however retain the option to resolve complaints informally at the outset should they choose to do so, but this will be at their discretion;*
- *Councils will be required to nominate a member of staff other than the General Manager to be a complaints coordinator for the purposes of providing administrative support for the code. This will ensure complaints are dealt with at arms length from the General Manager and Mayor;*
- *The process for dealing with complaints about councillors and General Managers will be simplified. Where the current code prescribes a 3-tier process, (ie preliminary assessment by the General Manager or Mayor, investigation by a conduct reviewer and determination by the council), under our proposed changes, complaints will be dealt with from start to finish by a conduct reviewer at arms length from the council;*
- *Preliminary assessment of complaints will be undertaken by independent conduct reviewers;*
- *Limited provision will be made for the Division of Local Government to undertake a preliminary assessment role for a council in relation to complaints made by or about a person where the number or nature of complaints made by or about the person imposes an undue cost burden on the council or impedes the effective administration of the council’s code;*
- *A time limit will be imposed on the preliminary assessment of complaints;*
- *Conduct reviewers will only be permitted to investigate a matter where they are satisfied the alleged conduct is sufficiently serious to warrant investigation and cannot be resolved by alternate means;*
- *Provision will be made for the use of conduct review committees of three persons to investigate matters in limited circumstances;*
- *The investigation process including procedural fairness requirements will be more clearly prescribed;*
- *Councils will no longer make a determination that there has been a breach of the code. Determinations will now be made by the investigator;*
- *Investigation reports will no longer be dealt with in the public domain. The only investigation reports that will be reported to council will be those recommending the imposition of a more severe sanction (eg censure);*
- *An amendment to section 10A of the Act will be sought to permit councils to consider investigation reports in closed meetings;*

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- *Councils' role in relation to code of conduct matters will be limited to imposing more severe sanctions (eg censure) where such sanctions have been recommended by the investigator. Councils will have limited discretion in the imposition of a sanction;*
- *Lesser sanctions (eg training or counselling) will be implemented by the General Manager or, in the case of a complaint about the General Manager, by the Mayor;*
- *Where a person has a sanction imposed on them, they will have a limited right to request a review of the determination by the Division."*

Once again, the above proposals, when considering the documents in total appear to be reasonable. Most are generally in line with approaches either proposed or suggested as a result of the PP.

The "Background Paper" also provides the following comments regarding the current "misbehaviour" provisions of the Act:

"We propose to seek amendments to the Act to change the term "misbehaviour" to "misconduct". We believe this will more accurately reflect the nature of the conduct dealt with under those provisions.

We also propose to seek amendments to give the Division more options for managing misbehaviour under the Act. Accordingly the misbehaviour provisions will no longer focus simply on "suspension" as the sole form of action available for misbehaviour but will also refer to a broader range of options known collectively as "disciplinary action".

The details of proposals in this regard are contained in the proposed amendments to the Act contained within the CDs from page 70.

There are two concerns that were raised in respect of the PP that do not appear to have been addressed or altered in the CDs. These relate to the following matters (numbering relates to PP and specific details of each issue are within the previous report included as Attachment 1):

4.4.4 Disclosure of the identity of complainants

4.4.5 Provisions to prevent the misuse of the code

In respect of the issue relating to the disclosure of the identity of complainants the previous report commented as follows:

"The PP proposes to provide "greater guidance on the disclosure of the identity of complainants." However, where the complainant is a councillor it goes on to suggest:

"This requirement will not apply where the complainant is a councillor unless the complaint made by the councillor is a public interest disclosure for the purposes of the Public Interest Disclosures Act 1994. We believe that because of the position councillors occupy, the potential for a councillor to suffer detriment as a result of their having made a complaint is not the same as it is for other persons. We are also concerned that some councillors have exploited the opportunities confidentiality offers to make complaints about political opponents."

Whilst there may have been situations occur in the past, as suggested by the last sentence of the above quoted paragraph, it is suggested that the proposal in relation to councillor confidentiality is unreasonable as the same benefits, requirements and protections that apply to other persons who may make a complaint under the C of C should also apply to a councillor who may make a complaint."

Part 5.29 of the Procedures component of the CDs deals with issue of the confidentiality of a complainant, however, Part 5.30 specifies that this (confidentiality) does not apply in respect of a complaint by a councillor about other councillors or the General Manager. Parts 5.31 to 5.34 deal with how a request can be made and considered to effectively provide confidentiality, however this requires a determination. This is still considered to be an issue and the comments made previously in this regard are still considered to be valid. As such, it is considered that this matter should be included in a further submission from Council in respect of the CDs.

The second issue relating to provisions to prevent the misuse of the Code was the subject of the following comments in the previous report:

"New provisions are proposed to prevent the misuse of the C of C, including:

"It will be a breach of the code of conduct for a council official to make a complaint or to cause a complaint to be made under the code of conduct for a substantially improper purpose. The Code will define what constitutes an "improper purpose".

- *It will also be a breach of the code of conduct to take detrimental action or to cause detrimental action to be taken against any person substantially in reprisal for a complaint they have made under the code of conduct or any action or function they have exercised under the Model Code procedures. The definition of "detrimental action" will align with the definition of that phrase used in the Public Interest Disclosures Act 1994.*
- *As is currently the case, it will be a further breach of the code of conduct for a person who a council has determined to be in breach of the code of conduct to fail to comply with any council resolution requiring the person to take action as a result of that breach without a reasonable excuse.*
- *It will also be a breach of the code of conduct to fail to comply with a reasonable and lawful request made by a person exercising a function prescribed under the Model Code procedures without a reasonable excuse.*
- *It will also be a breach of the code of conduct to fail to comply with a practice ruling by the Division (see above) without a reasonable excuse.*
- *As is currently the case, it will be a breach of the code of conduct to make allegations of suspected breaches of the code of conduct at council meetings or in other public forums.*
- *It will also be a breach of the code of conduct to publicly disclose information about the consideration of a matter under the code of conduct unless the disclosure is otherwise permitted under the Model Code procedures."*

Whilst the incorporation of provisions such as suggested above is laudable it does not appear to address a current situation that exists in relation to the use of the C of C for purposes that it was not intended by complainants in relation to trivial or vexatious complaints or those not made in good faith. This aspect is incorporated in current complaint assessment criteria; however, it may be possible to incorporate further appropriate provisions in any new MC of C to attempt to circumvent some of the current problems and issues in this regard."

This matter is now proposed to be covered by a new section of the M C of C (Part 8 – Maintaining the Integrity of this Code) which appears to be quite detailed and may go some way to addressing issues of concern that have been raised across the local government industry in the past. Whilst not specifically detailed these provisions may also go some way to addressing the concern also raised in Council's resolution regarding the PP in respect of difficulties faced by councillors attending public meetings. However, it may be worth while reiterating Council's concerns in this area in a submission on the CDs.

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Another general concern relates to the potential complexity of the developing documents. Previously, a Model Code of Conduct was prescribed and the DLG issued a set of Guidelines for use with the Code. It is now proposed that there will be:

- *“A Model Code of Conduct for Local Councils in NSW (comprising solely of the prescribed standards of conduct), and*
- *Procedures for the Administration of the Model Code (comprising of the procedural requirements of the Code) (referred to below as the “Model Code procedures”)”*

In addition, the DLG indicates that it will also issue “Practice Directions” which must be taken into account when dealing with issues under the Code of Conduct.

The procedures as currently drafted contain much more detail, particularly in relation to the management and investigation of complaints which will be of assistance. However, it is a concern that rather than the process of managing Code of Conduct complaints being kept relatively straight forward and as relatively simple as possible an over prescription of process may make it far more complex than it should be and place a further difficult burden on already scarce local government resources. Comments along these lines in a submission in response to the Consultation Drafts would be appropriate.

In summary, the proposals now put forward by the DLG in the Consultation Drafts are considered to be reasonable, having regard to the existing situation, and appear to address most of the concerns raised as a result of the previously released Paper. Whilst the management and processing of complaints under the Code of Conduct has been, and will no doubt remain, a difficult process it is hoped that current proposals in the Consultation Drafts will assist the situation.

As such, it is recommended that Council make a submission in response to the Consultation Drafts generally supporting the proposals outlined in the documents and also referring to the remaining areas of concern as detailed in this report.

Conformance to Community Strategic Plan

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

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

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

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

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That Council make a submission in response to the Consultation Drafts dated May 2012 released by the Division of Local Government, Department of Premier and Cabinet, in relation to the Review of the Model Code of Conduct for Local Councils in NSW generally supporting the proposals outlined in the documents and also referring to the remaining areas of concern as detailed in the General Manager’s report in this regard.

ORDINARY MEETING

Meeting Date: 29 May 2012

ATTACHMENTS:

AT - 1 Report to Council meeting held on 29 November 2011.

AT - 2 Division of Local Government - Circular No. 12-10 dated 1 May 2012 – Review of the Model Code of Conduct for Local Councils – Request for Submissions on Consultation Draft

ORDINARY MEETING

Meeting Date: 29 May 2012

AT - 1 Report to Council meeting held on 29 November 2011

ITEM: GM – Review of Model Code of Conduct for Local Councils – Request for submissions on Position Paper by Division of Local Government, Department of Premier and Cabinet – (79351), Department of Premier and Cabinet

REPORT:

Executive Summary

Earlier this year the Division of Local Government (DLG) within the NSW Department of Premier & Cabinet announced its intention to review the Model Code of Conduct for local councils and invited initial submissions.

Circular No. 11-32 dated 24 October 2011 has now been received from the DLG regarding the review of the Code, releasing a Position Paper that had been prepared in association with the review and inviting submissions on the Position Paper.

The DLG has indicated that it *“is currently only seeking views on the general direction of the proposed changes”* and that *“once we have finalised the broad direction of the proposed changes we will be seeking your further views”* and indicates that a draft of the revised Code and associated procedures and proposals will be released for comment.

The purpose of this report is to advise Council of the Position Paper and to recommend that a submission in relation to the *“general direction of the proposed changes”* be made by Council.

Consultation

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

Background

As part of its reform program referred to previously by the DLG, and highlighted by the recent *“Destination 2036”* workshop/seminar, earlier this year the DLG announced its intention to review the Model Code of Conduct (MC of C) for local councils and invited initial submissions.

As required by the Local Government Act, all councils must adopt a Code of Conduct (C of C) and regularly review this document. To this end the DLG prescribes a MC of C and whilst councils can supplement/alter this it can only do this if it strengthens its requirements and can't occur if its requirements were to be lessened.

Circular No. 11-32 dated 24 October 2011 has now been received from the DLG regarding the review of the MC of C, releasing a Position Paper (PP) that had been prepared in association with the review and inviting submissions on the document. A copy of the Circular is included as Attachment 1 to this report. A copy of the Circular and PP has also previously been forwarded to all Councillors. The PP can also be viewed at the following link:

<http://www.dlg.nsw.gov.au/dlg/dlghome/documents/Information/Review of the Model Code of Conduct for Local Councils in NSW.pdf>

In addition, the Circular also indicates:

“The Division requests that general managers bring the position paper to the attention of their councillors and staff. Councils may also wish to notify their communities of the position paper on their own websites or by other means.”

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As indicated, the DLG Circular and PP has been forwarded previously to Councillors. Copies have also been circulated to all staff and information about the review has also been included on Council's website the link to which is:

<http://www.hawkesbury.nsw.gov.au/community/consulting-the-community/review-of-the-model-code-of-conduct>

The DLG has indicated that it *"is currently only seeking views on the general direction of the proposed changes"* and that *"once we have finalised the broad direction of the proposed changes we will be seeking your further views"* and indicate that a draft of the revised MC of C and associated procedures and proposals will be released for comment.

The PP released by the DLG is a significant document comprising some 40 pages. As the DLG has indicated that it is, at this stage, *"only seeking views on the general direction of the proposed changes"* the comments in this report will attempt to retain a *"general direction"* focus.

It will be readily acknowledged within the local government sector that the current MC of C needs to be reviewed and its implementation and operation improved and, hopefully, simplified and streamlined. Unfortunately, the PP released by the DLG does not suggest that this will occur.

Section 3 of the PP refers to what has been gleaned from submissions to date while section 4 commences by indicating:

"Based on the above considerations, we are proposing to:

- *make a number of amendments to the standards of conduct prescribed under the code;*
- *create a regional framework for the administration of complaints;*
- *prescribe the procedural requirements of the code more clearly;*
- *include provisions designed to protect the integrity of the code which will be administered directly by the Division;*
- *seek amendments to the misbehaviour provisions of the Act to allow the Division more flexibility to exercise its powers under those provisions and to expand and enhance the sanctions available to it and the Pecuniary Interest and Disciplinary Tribunal with respect to misbehaviour."*

It is not proposed to comment on all aspects of, or proposed changes suggested by the PP but rather focus on those areas considered to be of significance. As such, relevant headings from the PP will be utilised for this purpose.

4.1.4 Prohibition of binding caucus votes

It is proposed that the new MC of C will contain a provision that prohibits participation in binding caucus votes in relation to any matter. As it is made clear that this does not prevent councillors meeting to discuss any matter provided they remain free to deal with such matters on their merits this is not seen as a significant issue.

4.1.8 Relationships between council officials

It is proposed to add a section to the existing clause 9.7 to provide that councillors should not meet alone with developers to discuss DAs or proposals.

While this may be appropriate it will need to be ensured that what is meant by the term "developers" is clearly defined. This term could as easily apply to an individual property owner planning to improve/develop their own property as it could to a persons/organisation proposing a large scale,

multi-million dollar development. Clearly, there could be many situations in the former case where this type of requirement would not be appropriate or necessary.

4.1.9 Gifts and benefits

The PP suggests:

"We also propose to mandate the written disclosure of all offers of gifts and benefits regardless of their value and whether or not the gift or benefit was accepted or refused. Council officials will be required to disclose the following in writing:

- *The nature of the gift or benefit*
- *Its estimated value*
- *Whether it was accepted or refused*
- *If it was accepted why it was not refused*
- *If it was accepted, what was done with it (ie was it surrendered or kept)"*

The current MC of C contains a significant section addressing this issue. Council's C of C includes these provisions and in addition provides:

"In considering issues of personal benefit raised in this section Council has adopted a Policy titled "Gifts and Benefits Policy - Guidelines for Councillors and Staff" which supplements these provisions and should be referred to for further guidance and assistance in this regard."

Council's Gifts and Benefits Policy was developed and based upon guidelines issued by the Independent Commission Against Corruption (ICAC).

It is suggested that the existing MC of C is appropriate, particularly when supplemented by a specific policy as in this Council's case. The requirement to disclose all offers of gifts, whether or not accepted, is considered to be a disproportionate response to an issue which could more appropriately be addressed by the requirement for councils to develop a supplementary policy.

In an extreme case, if an officer was participating in an onsite meeting with a contractor, for instance, and the contractor buys two coffees then the officer would be required to make a disclosure about the coffee, even if he refused the beverage. Clearly, this is an absurd case, however, would appear to be caught by this suggestion.

4.2.4 A regional approach to the administration of complaints

The DLG proposes to prescribe regional groups of councils, which may be based on existing Regional Organisations of Councils (ROCs), and these regional groups of councils would be required to establish a regional panel of conduct reviewers. The DLG would prescribe minimum selection criteria for the appointment of persons to the regional panel. Individual councils could opt out of the use of the regional panels but only with the consent of the DLG after demonstrating the availability of suitable alternate arrangements.

As with this and a number of other suggestions in the PP, the DLG appears to be demonstrating a very prescriptive approach to this issue which gives a clear indication that it considers that councils, in general, are not able to appropriately deal with these issues themselves. It is suggested that in a majority of the cases this is not the situation and recognition should be given to the fact that councils are generally significant organisations with the capability and ability to appropriately deal with many matters affecting them, such as the situation with the MC of C, without the requirement or need for an overly prescriptive approach by the DLG.

Currently, this Council participates in a regional panel of conduct reviewers established with the support of the Western Sydney Regional Organisation of Councils (WSROC). It is understood that a similar situation exists in a number of other cases. While it may be appropriate for the DLG to more clearly detail selection criteria for conduct reviewers it is suggested that the current situation regarding the appointment of a panel should remain, perhaps with the encouragement, rather than requirement, for these to be established on a regional basis.

Other provisions are proposed regarding reviewers, however, these are considered to be reasonable and appropriate.

4.2.5 The appointment of complaints coordinators

4.2.6 The appointment of complaints assessors

The Position Paper suggests that the complaint handling procedures in respect of complaints against staff, other than the General Manager, will remain the same, which is that they will be dealt with by the General Manager. This is considered appropriate as all staff are ultimately responsible to the General Manager.

In respect of C of C complaints against councillors these are currently referred to the General Manager who is responsible for assessing them and determining an appropriate course of action in accordance with the C of C which could include referral to an independent reviewer from the panel appointed by the council.

The PP suggests that a General Manager will be required to appoint a suitably qualified member of staff as a "complaints co-ordinator" who would manage the complaint process but would not assess or determine complaints. The General Manager would not be able to perform this role.

In addition, it is suggested that councils will be required to nominate, by resolution, a General Manager of another council within a regional group (a ROC or the group nominated for establishing a panel of Reviewers) to act as the council's "complaints assessor" and one or more others as an alternate to that role. The "complaints assessor" role will be to make a preliminary assessment of complaints which is assumed to be similar to the process now required of the General Manager under the current requirements.

The PP suggests that this will have the following advantages:

- *"He or she will be independent of the council the complaint relates to*
- *He or she will have a practical understanding of how councils operate*
- *He or she will understand the local context, and*
- *The use of neighbouring general managers to make preliminary assessments is more cost effective than the use of contractors."*

While this may initially appear a reasonable suggestion it is considered that this may be inappropriate as:

- A council or its General Manager may not be prepared to accept a nomination by another council to fill this role.
- Given the varying nature and individuality of councils it is suggested that a General Manager of another council may not necessarily *"understand the local context"*.
- It could be suggested in individual cases that a General Manager could be inadvertently influenced in assessing a complaint from another council due to the circumstances that exist at the time at that council.

- It is suggested that it may not be “cost effective” to divert the resources of another council's General Manager for this purpose particularly when the demands of this role would be largely unknown.

It is acknowledged that it has been perceived that there are difficulties with the current assessment process, however, it is suggested that it is more appropriate for this to be kept within the council concerned. A possible alternative if the General Manager is to be removed from this role would be to nominate another position to fill the role. The position of Internal Auditor, which now exists within many councils, and is somewhat guided by DLG guidelines, may be suitable. It is suggested that this position, as a “complaints assessor” may be seen to be more removed from the situation; it has a level of independence within the organisation due to the nature of the role and is removed from general direct regular contact with councillors.

4.3.2 Separation of procedural requirements from the Model Code

In this regard it is of some concern that the PP suggests:

“To remove the ambiguities of the current version of the Model Code, we are proposing to make the procedural requirements of the code more prescriptive. This will necessarily result in a larger, denser document.”

- *We are concerned that this may have the effect of making it less user-friendly to council officials and members of the community seeking to identify the standards of conduct council officials are required to comply with. To overcome this we are proposing to split the Model Code into two instruments:*
- *A Model Code of Conduct for Local Councils in NSW (comprising solely of the prescribed standards of conduct), and Procedures for the Administration of the Model Code (comprising of the procedural requirements of the Code) (referred to below as the “Model Code procedures”).*

Councils will be required to adopt a code of conduct and procedures for the administration of their code of conduct that incorporate the provisions of the Model Code and the Model Code procedures respectively.”

One of the issues with the current C of C is suggested to be the fact that it is a somewhat complex and difficult document to understand, particularly by members of the public who may not regularly deal with documents such as this or the expectations that flow from it. Therefore, to suggest that there may be two sets of documents in future will make the situation more complex rather than acting to “remove ambiguities” as being suggested.

The overall aim, it is suggested, of the review of the MC of C should be to simplify the process and associated procedures; and produce both a process and associated documentation that is easily understood by all parties concerned, both in the public arena and in councils, rather than produce a multiplicity of documents and process that the general public may have difficulty in interpreting. Therefore, it is also suggested that the review should focus more directly on simplifying the process not producing a “larger, denser document”.

4.3.3 How will complaints be made

Complaints will continue to be made to the General Manager in the first instance, or the Mayor in the case of a complaint against the General Manager. The General Manager will continue to deal with complaints against staff, delegates and community members of committees. The role of General Managers and Mayors in respect of complaints about councillors and the General Manager will be restricted to the receipt of complaints. The assessment process proposed for these complaints was referred to previously, that is that the Complaints Co-ordinator will refer them to the Complaints Assessor, etc.

Complaints in this category alleging a breach of pecuniary interest provisions; management of conflicts of interest arising from receipt of a political donation and misuse of the C of C will be required to be referred to the DLG.

4.3.5 Referral of a matter to a conduct reviewer

Currently, if a matter is to be referred to a conduct reviewer it can be referred to a single reviewer or a committee of reviewers selected for the purpose. The PP proposes the MC of C procedures will only provide for the referral of matters to sole conduct reviewers. It is considered to be a suitable arrangement and it should be noted that in Council's case a committee of reviewers has not been utilised to consider referred complaints with only individual reviewers being utilised.

Sections 4.3.5 to 4.3.9

These sections largely deal with the requirements and manner in which complaints will be assessed and investigated by conduct reviewers and the preparation and consideration of conduct reviewers' reports. Whilst the PP suggests that there will be a more prescriptive approach and requirements in this regard it is suggested that this may be appropriate in this circumstance and may ensure the uniform handling of complaints by conduct reviewers.

4.4 Measures to ensure the integrity of code of conduct process

4.4.2 The role of the division of local government

The PP suggests that the DLG will take a *"more active role in the oversight of the implementation by councils of their codes of conduct"*. The DLG has established a separate Council Governance and Investigations Unit which *"will, among other things, be responsible for the oversight of the implementation of the Model Code."*

This, as well as other sections of the PP, strongly indicates that the DLG intends to take a much more prominent and prescriptive role in relation to the MC of C than has been the case in the past. Possibly this is due to difficulties that may have been encountered by some councils in the past that has drawn some significant media attention. Unfortunately, this tends to continue the trend that has occurred over the years where more and restrictive requirements have been placed upon local government in general in order to address problems that may have involved only a small number of councils.

This particular issue was raised at the recent "Destination 2036" seminar and appeared to be a trend acknowledged by the Minister with a positive approach being suggested in that both state and local government needs to work together to better handle appropriate situations so that issues with individual or a small number of councils does not result in over regulation of local government in general. Perhaps it would be appropriate for the PP to be reviewed to reflect the positive view and direction suggested by the Minister.

4.4.2 Rights of review

The current MC of C does not provide for any rights of review or appeal and the PP proposes to provide for this in the new MC of C by providing two avenues of review, both to the DLG, where it is considered that a procedural requirement under the C of C has not been complied with, or after a final determination has been made by a council under the C of C but only where it is suggested that a council has failed to comply with a procedural requirement or has misapplied the prescribed standards of conduct under the C of C.

As review or appeal provisions do not currently exist this is considered to be an appropriate suggestion for improvement to the MC of C.

4.4.4 Disclosure of the identity of complainants

The PP proposes to provide “greater guidance on the disclosure of the identity of complainants.” However, where the complainant is a councillor it goes on to suggest:

“This requirement will not apply where the complainant is a councillor unless the complaint made by the councillor is a public interest disclosure for the purposes of the Public Interest Disclosures Act 1994. We believe that because of the position councillors occupy, the potential for a councillor to suffer detriment as a result of their having made a complaint is not the same as it is for other persons. We are also concerned that some councillors have exploited the opportunities confidentiality offers to make complaints about political opponents.”

Whilst there may have been situations occur in the past, as suggested by the last sentence of the above quoted paragraph, it is suggested that the proposal in relation to councillor confidentiality is unreasonable as the same benefits, requirements and protections that apply to other persons who may make a complaint under the C of C should also apply to a councillor who may make a complaint.

4.4.5 Provisions to prevent the misuse of the code

New provisions are proposed to prevent the misuse of the C of C, including:

“It will be a breach of the code of conduct for a council official to make a complaint or to cause a complaint to be made under the code of conduct for a substantially improper purpose. The Code will define what constitutes an “improper purpose”.

- *It will also be a breach of the code of conduct to take detrimental action or to cause detrimental action to be taken against any person substantially in reprisal for a complaint they have made under the code of conduct or any action or function they have exercised under the Model Code procedures. The definition of “detrimental action” will align with the definition of that phrase used in the Public Interest Disclosures Act 1994.*
- *As is currently the case, it will be a further breach of the code of conduct for a person who a council has determined to be in breach of the code of conduct to fail to comply with any council resolution requiring the person to take action as a result of that breach without a reasonable excuse.*
- *It will also be a breach of the code of conduct to fail to comply with a reasonable and lawful request made by a person exercising a function prescribed under the Model Code procedures without a reasonable excuse.*
- *It will also be a breach of the code of conduct to fail to comply with a practice ruling by the Division (see above) without a reasonable excuse.*
- *As is currently the case, it will be a breach of the code of conduct to make allegations of suspected breaches of the code of conduct at council meetings or in other public forums.*
- *It will also be a breach of the code of conduct to publicly disclose information about the consideration of a matter under the code of conduct unless the disclosure is otherwise permitted under the Model Code procedures.”*

Whilst the incorporation of provisions such as suggested above is laudable it does not appear to address a current situation that exists in relation to the use of the C of C for purposes that it was not intended by complainants in relation to trivial or vexatious complaints or those not made in good faith. This aspect is incorporated in current complaint assessment criteria; however, it may be possible to incorporate further appropriate provisions in any new MC of C to attempt to circumvent some of the current problems and issues in this regard.

4.5 Proposed amendments to the misbehaviour provisions

In relation to this aspect, the PP suggests:

“We propose to seek amendments to the Act to simplify and streamline the process for taking action under the misbehaviour provisions. We also propose to seek amendments to give the Division more options for managing misbehaviour under the Act. Accordingly the misbehaviour provisions will no longer focus simply on “suspension” as the sole form of action available for misbehaviour but will also refer to a broader range of options known collectively as “disciplinary action”.

The amendments will maintain the existing two avenues for seeking disciplinary action to be taken against councillors under the misbehaviour provisions. These are:

- *Action by the Chief Executive as delegate of the Director General (referred to below as the Director General).*
- *Action by the Local Government Pecuniary Interest and Disciplinary Tribunal (referred to below as the Tribunal).”*

Other proposed amendments referred to in this section only appear to refine and enhance current provisions contained within the MCof C and Local Government Act in this regard.

As indicated earlier, the intention of this report was not to comment on all aspects of, or proposed changes suggested by the PP but rather focus on those areas considered to be of significance or interest to Council. Assuming Council agrees with the comments made within this report I would recommend that Council make a submission to the DLG in response to the PP along the lines of these comments. Submissions should be lodged by 5 December 2011.

Following this date, the PP indicates:

“We will consider your submission in finalising our reform proposal.

In order to give effect to our proposed changes, it will be necessary to do the following:

- *draft an amended Model Code,*
- *draft Model Code procedures,*
- *seek amendments to Act and Regulation to support the changes.*

Prior to doing so, we intend to issue the following for comment:

- *the draft amended Model Code,*
- *the draft Model Code procedures, and*
- *a summary of the proposed amendments to the Act and Regulation.*

This will provide you with a further opportunity to provide comment on the technical detail that will underpin our proposal.

We will consider your comments prior to finalising the Model Code and Model Code procedures and seeking the necessary amendments to the Act and Regulation.

As with previous versions of the Model Code we intend to supplement the new Model Code and procedures with amended Guidelines to assist in their interpretation. We also intend to reissue an

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updated education package to assist councils to raise awareness among councillors, staff, delegates and committee members of any new requirements under the new Model Code and procedures.”

Conformance to Community Strategic Plan

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

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

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

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

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That Council make a submission in response to the Position Paper dated October 2011 released by the Division of Local Government, Department of Premier and Cabinet, in relation to the Review of the Model Code of Conduct for Local Councils in NSW based upon the comments contained in the General Manager's report in this regard.

**AT - 2 Division of Local Government - Circular No. 12-10 dated
1 May 2012 – Review of the Model Code of Conduct for Local
Councils – Request for Submissions on Consultation Draft**



Premier & Cabinet
Division of Local Government

Circular to Councils

Circular No. 12-10
Date 1 May 2012
Doc ID. A275754

Contact John Davies
02 4428 4139
john.davies@dlg.nsw.gov.au

REVIEW OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS – REQUEST FOR SUBMISSIONS ON CONSULTATION DRAFT

The purpose of this circular is to:

1. advise councils of the progress of the review of the *Model Code of Conduct for Local Councils in NSW* (the Model Code),
2. invite submissions on consultation drafts of the new Model Code, Model Code procedures and proposed amendments to the *Local Government Act 1993*.

Progress of the review

Last year, at the request of the Minister for Local Government, the Division of Local Government commenced a review of the Model Code of Conduct for Local Councils in NSW. The review process has included extensive consultation with councils and other stakeholders, to design a system that supports the highest standards of behaviour in local government, in a simple, clear and cost-effective way. This included:

- 1) A discussion paper to seek the views of stakeholders and any other interested persons on the operation of the current version of the Model Code and areas for improvement.

The Division received a total of 122 submissions in response to its discussion paper from a range of sources including councils, individual council officials, conduct reviewers, unions and industry bodies, Members of Parliament, NSW Government agencies such as the ICAC and the Ombudsman and members of the community.

- 2) A position paper on a draft reform proposal for the Model Code and the misbehaviour provisions of the Act, reflecting feedback to date.

The Division received 93 submissions on the position paper from a similarly broad range of sources as those provided in response to the discussion paper. In addition the Division held a series of workshops around the State to discuss and refine the proposal. Workshops were held in Sydney (including at the LGMA Governance network meeting), Tamworth, Dubbo, Wagga Wagga and Ballina.

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Based on the feedback the Division has received from submissions and the workshops a refined proposal has now been developed.

Draft proposals

Drafts of the following have now been issued for comment:

- Proposed amendments to the Model Code (the amendments are highlighted in bold)
- Proposed new procedures for the administration of the Model Code
- Proposed amendments to the *Local Government Act 1993* and Local Government (General) Regulation 2005 (the amendments are highlighted in bold)

The consultation drafts are available on the Division's website at www.dlg.nsw.gov.au.

As foreshadowed in the position paper, the Division now seeks comment on the technical detail of the proposed changes.

The Division requests that submissions be made by email to dlg@dlg.nsw.gov.au.

Alternatively, submissions may be made in writing to the following postal address:

Division of Local Government
Department of Premier and Cabinet
Locked Bag 3015
NOWRA NSW 2541

The Division asks that submissions be received by **Tuesday, 26 June 2012**.

Should anyone wish to contact the Division to discuss the consultation drafts or the Model Code of Conduct Review, they may contact Mr John Davies, the Leader of the Division's Council Governance Team, on telephone 02 4428 4139.

oooO END OF REPORT Oooo

Item: 68 GM - Reporting Acts of Vandalism - Council Facilities, Parks and Reserves - (79351)

REPORT:

Executive Summary

This report has been prepared to provide Council with information in response to a Notice of Motion concerning ways in which Council could encourage and facilitate residents reporting acts of vandalism generally and in Council's sporting facilities, parks and reserves.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. However, consultation was carried out with staff and the Hawkesbury Sports Council and the New South Wales Police in preparing this report.

Background

At its Ordinary meeting held 11 October 2011, Council considered a Notice of Motion, the preamble to which indicated;

"Acts of vandalism generally, and in Council's sporting facilities, parks and reserves is an ongoing problem and incurs considerable costs and inconvenience for the Council and community. In view of recent significant incidents of vandalism, and in an endeavour to curb this anti-social behaviour, it may be appropriate for Council to instigate an awareness program that both encourages and provides information to residents to assist the reporting of these activities. An appropriate information program may hopefully result in a reduction in these activities and enable action to be taken against those individuals responsible for vandalism."

Subsequently, it was resolved;

"That a report be submitted to Council regarding ways in which Council could encourage and facilitate residents reporting acts of vandalism generally and in Council's sporting facilities, parks and reserves."

Report

An informal communication campaign both by Council and the Hawkesbury Sports Council has been in place for some time to create awareness of the vandalism and graffiti issue within our community and to encourage reporting through the appropriate channels.

Action by Council

A formal communication plan for vandalism has been drafted and is being implemented on an ongoing basis. The goal of the Plan is to motivate and facilitate residents to report acts of vandalism, including graffiti on public facilities.

The Plan utilises communication tools to educate residents about problems and affects of vandalism and graffiti, and encourage them to be a part of the solution by engaging them to report acts of vandalism.

Avenues used to make information easily accessible to the public include the various contact points between Council and community:

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- Website
- Quarterly newsletter
- On hold message
- Back of envelope message
- Council Notices
- Hawkesbury Loud Speaker
- Messages on bottom of outgoing emails
- Hawkesbury Show
- Participant Rotary Clubs
- Customer Service
- Local Media – Media releases and Media relations

Key Messages that the Plan utilises are:

- Vandalism costs you money – costs are passed on through rates.
- Money spent on fixing vandalism is Council money wasted
- Make your community a better, safer place by reporting vandalism
- This is a problem for our whole community and everyone is responsible – not just Council and the Police.
- Graffiti is a form of vandalism and must also be reported

Tools included in the Plan are the development of an information sheet and frequently asked questions as well as a standard tag line and flyer both for the public and distribution by participating Rotary Clubs. A local media campaign, improved website content, participation in Graffiti Action Day and the Hawkesbury Show are also features. The Plan also proposes the development of a customer service pack which includes listing authorities responsible for vandalism management and graffiti removal depending on its location and the recording of an appropriate on hold message.

Considerable action has been taken to date including the issue of six media comments, five media releases and five mayoral columns relating to general vandalism and graffiti in the last 18 months. In regard to reporting vandalism, in addition to contacting Council, residents are encouraged to report the matters to the local police, Crime stoppers or the Police Assistance Line. Media has also promoted Council's support of Rotary Club initiatives for graffiti removal and also encouraged reporting of incidents to Vandal Track TM to allow a database to be constructed. Local media have been supportive in highlighting and reporting vandalism issues.

In 2011 Council participated in and promoted Graffiti Action Day which is held in May and it is proposed to support this event again this year. Council's messages on hold feature an encouragement to report vandalism and customer service staff have a standard script which indicates how best to direct graffiti enquiries depending on who is responsible for the item targeted.

Council's Hawkesbury Show display in April featured information on vandalism and graffiti, what is being done to combat this issue and information was available on how to report vandalism.

Recently, Council has made a funding application under the Australian Government's Graffiti Prevention Reduction program for \$149,000 for a program that aims to address high risk areas of graffiti activity, through the use of a multi-faceted approach of CCTV installation, graffiti removal program and a local media campaign to increase awareness within the community.

If this funding is received Council will be able to devote resources to developing and implementing a structured local media campaign including paid advertising that addresses the issues associated with graffiti in the Hawkesbury outlining;

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- Cost to Council in the removal of graffiti
- Cost to the community
- Rotary Clubs actions in the prevention and control of graffiti
- Ways to prevent graffiti
- What the community can do to assist in reporting, preventing and assisting in reducing graffiti

The funding will also enable the production of promotional material and limited signage.

Expected outcomes of the media campaign is an increase in reporting of graffiti through the Vandal Trak™ website, increase community support in reporting and a reduction in the number of incidents.

In regard to general vandalism Council will also be aware that a Crime Prevention Working Party has been established that will prepare a draft crime prevention plan for Council's consideration targeting priority crime categories including malicious damage to property (including graffiti), stealing from motor vehicles, and alcohol related crimes (i.e. assault and/or malicious damage; and crime hot spots - Windsor and Richmond CBDs). Five community representatives form this working party along with representative from New South Wales Police and the Department of Community Services (DoCS).

Members of the Crime Prevention Working Party have recently completed community safety audits of identified crime hot spots in the Richmond and Windsor CBDs. It is expected that as part of the preparation of the draft Crime Prevention Strategy, the Committee will put forward a number of recommendations based on the crime prevention matrix developed by the Department of Attorney General and Justice. These recommendations are likely to include strategies for reducing the opportunity for crimes, including graffiti, to occur.

Council's communication staff are also working with the Local Area Command to facilitate communication regarding vandalism in the Hawkesbury local government area.

Action by Hawkesbury Sports Council

The Hawkesbury Sports Council is actively working to combat vandalism of sporting grounds. Just prior to the Christmas school holiday period in 2011 the Sports Council arranged a letterbox drop of flyers and promotional magnets encouraging the reporting of vandalism to Police. The campaign was considered successful as there were no break ins and very little vandalism, apart from graffiti during this usually prominent period.

At Deerubbin Oval signage was also erected indicating that the area was being monitored, this was also considered by the Sports Council to be successful.

Conformance to Community Strategic Plan

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

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

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

- Encourage and educate the community to care for their environment

The Vandalism Communication Plan and actions taken to date will assist in encouraging the community to be aware of vandalism and to report it by various education tools.

The proposed implementation timeframe for this matter, as specified in the CSP Milestones is 2009-2012.

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Financial Implications

Limited funding for the implementation of the Vandalism Communication Plan is provided within the 2011/2012 Draft Corporate Communication Budget. A small allocation of \$3,000 has been made in the 2012/2013 Budget to continue to implement this Plan. If the funding application under the Australian Government's Graffiti Prevention Reduction program is successful this will allow communication tools within the Plan to be extended.

RECOMMENDATION:

That the information regarding ways in which Council and the Hawkesbury Sports Council has and will encourage and facilitate residents to report acts of vandalism generally and in Council's sporting facilities, parks and reserves be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 69 **CP - Development Application - Rural Tourist Facility - Construction of Camping Site and Amenities Buildings - Lot 2 DP 1101683 - 433 Pitt Town Bottoms Road, Pitt Town Bottoms - (95498, 85782, 90731)**

Development Information

File Number: DA0644/11
Property Address: 433 Pitt Town Bottoms Road, Pitt Town Bottoms NSW 2756
Applicant: Urban City Consulting Pty Limited
Owner: Ski Across Pty Limited
Proposal Details: Rural Tourist Facility – Construction of camping sites and amenities buildings
Estimated Cost: \$225,000.00
Zone: Environmental Protection – Agriculture Protection
Date Received: 2 November 2011
Advertising: 15 November to 29 November 2011

Recommendation: Refusal

REPORT:

This application seeks the consent of Council to operate a rural tourist facility, construct camping sites, amenities buildings and an internal access road at 433 Pitt Town Bottoms Road, Pitt Town Bottoms.

The applicant has nominated that the proposed development falls under the definition of a rural tourist facility. However, the Hawkesbury Local Environmental Plan 1989's (HLEP 1989) definition of a 'rural tourist facility' refers to "*low scale holiday accommodation*". Given the number of sites, the individual servicing of the sites and the permanency of structures to be accommodated, the applicant's assertion that the proposal comprises a rural tourist facility is not supported. Instead it is considered that the development falls under the definition of a 'tourist facility'.

Tourist facilities are prohibited within the Environmental Protection – Agriculture Protection zone under the HLEP 1989. The proposal is defined as a 'caravan park' under the Draft Hawkesbury Local Environmental Plan 2011 (Draft HLEP 2011) and is a prohibited use.

The subject property comprises flood liable land. The area of the property that is to house the camping sites and buildings is significantly below the 1-in-100 flood level, and would also be subject to the inundation of more frequent 1-in-50, 1-in-20, 1-in-10 and 1-in-5 year flood events.

Council is able to consider minor structures on flood affected land. However, it is not accepted that the proposed buildings are of a minor nature. It is considered that the provision of individual buildings for each of the camping sites, as well as the size, layout and permanency of these buildings, represents a more intensive form of development and may also result in longer-term residential use. Given the extent of the flood affectation, as well the intensity of the development, the proposal is not supported on flooding and safety grounds and is recommended for refusal.

A number of applications involving similar proposals have previously been submitted to Council for the site. These applications were withdrawn by the Applicant. The application is being reported to Council given the history of the site and the fact that one of the previous applications for structures on the site (since withdrawn by the applicant) was called to Council by Councillor Porter.

Key Issues Relevant to the Decision

- Definition and permissibility of the development;
- Flooding;
- Size and appearance of structures.

Development Description

The proposal involves the following:

- The establishment of 10 grassed camping sites with areas of 64m²;
- The construction of five buildings, each of which are split in two to service the ten camping sites. These 10 individual buildings will each have enclosed areas of 70m² and covered courtyards of 35m². The submitted plans and documentation indicate that the enclosed areas of the buildings will contain bathroom facilities and also be used for the storage and parking of vehicles, boats, canoes, water skiing equipment, etc. Each of the covered courtyards are to be provided with barbecue facilities;
- The construction of an internal access road to service the buildings; and
- The removal of weeds from the riverbank and the plantation of indigenous vegetation to the riverbank and surrounds of the rural tourist facility.

The submitted documentation suggests that the site will operate as a caravan park. The 'amenities buildings' will not be used for habitable purposes and will instead be used for the storage of vehicles and equipment. Tents, caravans and the like are to be set up within the designated camping sites to provide short-term accommodation.

A concrete boat ramp providing access to the Hawkesbury River exists to the north-eastern corner of the site. During an inspection a relocatable pontoon was also observed along the riverbank. It is understood that waterskiing, canoeing and boating will be undertaken from the site.

Portions of the proposed structures are to be located within 40 metres of the Hawkesbury River and as such the proposal was referred to the NSW Office of Water as 'Integrated Development'.

Site and Locality Description

The subject site is known as 433 Pitt Town Bottoms Road, Pitt Town Bottoms. The site is irregularly shaped and the site currently operates as a turf farm. Several sheds and ancillary structures currently exist on the site relating to the use of the site as a turf farm. The site has direct frontage to the Hawkesbury River.

On the opposite side of Hawkesbury River, to the north of the subject site is a State Heritage Item, Australiana Pioneer Village (496 Wilberforce Road). On the opposite side of Hawkesbury River to the east is the Butterfly Farm (446 Wilberforce Road) which is a local heritage item.

Turf farms and other agricultural uses generally dominate the locality, although water skiing parks exist at 505 Pitt Town Bottoms Road and 482 Wilberforce Road.

History

The Applicant has submitted two development applications previously for the site; DA0524/09 for the construction of five recreational storage sheds with recreational facilities and DA0160/10 (called to Council by Councillor Porter) for five rural sheds with attached carports. Both of these applications were withdrawn.

A brief timeline for the current application, DA0644/11, is included below:

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- The application was submitted to Council on 2 November 2011 and notified from 15 to 29 November 2011.
- The proposal was referred to the NSW Office of Water given its proximity to the Hawkesbury River. Comments from the NSW Office of Water were received on 2 December 2011.
- The proposal was referred to the NSW Office of Environment and Heritage (formerly known as the NSW Heritage Council) given its proximity to the Australiana Pioneer Village. Comments from the NSW Office of Environment and Heritage were received on 14 December 2011.
- A response to the comments provided by the NSW Office of Environment and Heritage was supplied by the Applicant on 28 February 2012.

Council Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
- Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (SREP No. 20)
- State Environmental Planning Policy No. 21 – Caravan Parks (SEPP No. 21)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP No. 64)
- Draft Hawkesbury Local Environmental Plan 2011 (Draft HLEP 2011)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Section 79C Matters for Consideration

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

(a) (i) Environmental Planning Instruments

Hawkesbury Local Environmental Plan 1989

The subject land is zoned Environmental Protection – Agriculture Protection under the HLEP 1989.

The Statement of Environmental Effects (SoEE) submitted with the application indicates that the north-eastern portion of the site will be used as a short-term camping site. The Applicant has defined this use as a rural tourist facility.

The HLEP 1989 contains the following definition for a rural tourist facility:

rural tourist facilities means a building or place in a rural area that is used to provide low scale holiday accommodation, recreation or education for the travelling or holidaying public, and may consist of holiday cabins, horse riding facilities, refreshment rooms or the like.

It is acknowledged that camping sites or caravan parks can fall under the definition of rural tourist facilities. However, the HLEP 1989's definition includes a reference to "*low-scale accommodation*". Unlike the majority of caravan parks which provide camping grounds and communal facilities such as toilets and showers, the submitted application proposes the construction of large buildings to service each of the individual sites. It is not accepted that these structures comprise low-scale accommodation and, given the past history of applications for the site, there are also concerns that they will be used for habitable or long-term residential occupation.

Considering the number of sites, the individual servicing of the sites as well as the size, layout and permanency of the structures, it is considered that the proposal represents a more intensive form of development and does not comprise low-scale accommodation. Instead it is considered that the development more accurately falls under the definition of a tourist facility.

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The HLEP 1989 defines a tourist facility as:

tourist facilities means a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidaying public.

Tourist facilities are prohibited within the Environmental Protection – Agriculture Protection under the HLEP 1989.

In addition to camping, extracts from the Applicant's Business Management Plan indicates that ski lessons, boat rides and the hiring of canoes and paddleboards will be undertaken from the site. Such a use would generally fall under the definition of a 'recreational establishment', which "*means a building or place used for health farms, religious retreat houses, rest homes, youth camps, outdoor recreational activities, sporting activities and the like, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause*".

Like tourist facilities, recreation establishments are prohibited within the Environmental Protection – Agriculture Protection zone.

The submitted SoEE does not address this aspect of the proposal in terms of permissibility. Whilst it is acknowledged that such activities may be subservient to an overriding permissible use, this has not been raised by the Applicant nor are the potential impacts generated by such activities discussed.

Clause 25(2) of the HLEP 1989 outlines that a "*building shall not be erected on any land lying at a level lower than 3 metres below the 1-in-100 year flood level for the area..., except as provided by subclauses (4), (6) and (8)*". Clause 25(6) continues "*minor structures such as outbuildings, sheds and garages may be erected on land below the 1-in-100 year flood level, with the consent of the Council. The Council shall, in the assessment of a development application for such a structure, consider the likely frequency of flooding, the potential flood damage and measures to be taken for the evacuation of the property*".

A survey was not lodged in support of the application. However, levels between 9.47 metres AHD and 9.81 metres AHD are nominated for the area of the site that is to accommodate the proposed structures and camping grounds. A floor level of 10m AHD is nominated for the amenities buildings.

The property comprises flood liable land, given that a level of 17.3m AHD is predicted for the 1-in-100 year flood event.

The adopted flood levels for the locality are as follows:

1-in-100 year flood	17.3m AHD
1-in-50 year flood	15.7m AHD
1-in-20 year flood	13.7m AHD
1-in-10 year flood	12.3m AHD
1-in-5 year flood	11.1m AHD

Consequently, the development would be significantly inundated by each of the predicted flood events (ranging from 1.1 metres to 7.3 metres). The camping sites and buildings would be immersed under several metres of water during the predicted 1-in-100, 1-in-50, 1-in-20 and 1-in-10 year flood events. The camping sites and amenities buildings would also be immersed by more than 1m of water during the predicted 1-in-5 year flood event.

As detailed previously, Council is able consider minor structures on flood affected land pursuant to Clause 25(6) of the HLEP 1989. However, it is not accepted that the proposed development is minor in nature. It is considered that the provision of individual buildings for each of the camping sites, as well as the size, layout and permanency of these buildings, represents a more intensive form of development and may also result in longer-term residential use. On this basis the amenities buildings cannot be considered as 'minor' under Clause 25(6) and would instead have to be considered against Clause 25(2) of the HLEP 1989, which prohibits the construction of buildings on land more than 3 metres below the predicted 1-in-100 year flood level. As the site's natural ground levels are more than 3 metres below 17.3 metres AHD the proposed amenities buildings are prohibited.

Given the frequency and extent of the flooding predicted, the land is not considered suitable for the proposed use, in particular one that includes the construction of numerous permanent buildings. It is considered that the large size and layout of the amenities buildings, and their likely adaption to provide short or longer-term accommodation, increases the risks associated with this proposal.

A flood evacuation management plan has been prepared and submitted by the Applicant. However, this document is limited and does not include information such as evacuation routes, contact numbers and the like. Further to this, it should be noted that evacuation plans do not reduce the risk of flood or associated property damage.

On these grounds the proposal is not supported on flooding and safety grounds.

Section 9A of the HLEP 1989 establishes the following objectives for the Environmental Protection – Agriculture Protection zone:

- a) *to protect the agricultural potential of rural land in order to promote, preserve and encourage agricultural production,*
- b) *to ensure that agricultural activities occur in a manner:*
 - i. *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*
 - ii. *that satisfies best practice guidelines and best management practices,*
- c) *to ensure that development does not create or contribute to rural land use conflicts,*
- d) *to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component,*
- e) *to preserve river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality,*
- f) *to protect hilltops, ridge lines, river valleys, rural landscapes and other local features of scenic significance,*
- g) *to prevent the establishment of traffic generating development along main and arterial roads,*
- h) *to control outdoor advertising so that it does not disfigure the rural landscape,*
- i) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services,*
- j) *to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,*
- k) *to encourage existing sustainable agricultural activities.*

It is considered that the proposal is inconsistent with the objectives of the zone in that the row of buildings are distinctly residential in character and will detract from the locality's rural character and the scenic quality of the Hawkesbury River. Given that the exact location of the effluent disposal area has not been indicated it is further considered that the proposal will result in land use conflict.

Therefore, in summary, it is considered that the development fails to satisfy the provisions of the HLEP 1989.

Sydney Regional Environmental Planning Policy 20 – Hawkesbury – Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context*". SREP No. 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

The subject property is located within an area identified by SREP No. 20 as being of local significance. The accompanying study documentation indicates that the scenic value of this portion of the Hawkesbury River has been reduced by bank and recreation site treatments. The supporting study documents suggest the existing caravan, camping and water-ski parks project a visual presence that varies "*from pleasant to obtrusive*".

Sections 6 (7) and (11) of the SREP No. 20 outline a number of strategies for recreation and tourist facilities, as well as vegetation, located along the river. Strategies include:

- *Plan and manage recreational and tourist developments, and associated access points, cycleways and footpaths, so as to minimise any adverse environmental impacts on the river.*
- *Maintain areas of extensive, prominent or significant vegetation to protect the character of the river.*
- *Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study.*
- *Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, and shrubs, particularly locally indigenous plants.*

Landscaping plans have been submitted in support of the application and generally satisfy the provisions of this Policy through the use of indigenous vegetation along the river. However, the appearance of the amenities buildings is seen to be incompatible with the scenic character of the area. As opposed to a more agricultural/rural character, the row of buildings is seen to be residential in appearance.

Clause 11 of SREP No. 20 also establishes development controls for land uses in or near the river. In the assessment of such proposals, Council must consider:

The need to locate access points where riverbanks are stable, away from river shallows and major beds of attached aquatic plants, away from fishing grounds and fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities, and where significant fauna and wetland habitats will not be adversely affected.

The area sought for development has previously been cleared and disturbed by past farming activities. The structures are to be located approximately 40 metres from the banks of the river and it is considered that the structures and camping sites will have no significant adverse impact on flora and fauna species, populations or habitats.

However, it is clear that there is also intent is to carry out recreational activities using the river and riverbank such as boating, waterskiing and fishing. This aspect of the development has been largely ignored in the documentation submitted to Council.

A concrete boat ramp providing access to the Hawkesbury River exists to the north-eastern corner of the site. During an inspection a relocatable pontoon was also observed along the riverbank. As detailed in previous reports prepared for this site, Council does not have any record of approval for these structures.

Retrospective approval would be required for the boat ramp; whilst the relocatable pontoon would also require approval should there be a desire to retain it. To obtain consent for these structures the written consent of the Department of Lands would be required should these structures be located over Crown Land (the Hawkesbury River). Comments and approvals would also be required from the NSW Office of Water and NSW Department of Primary Industries – Fishing and Aquaculture.

Until approvals are obtained for these structures the operation of recreation activities from the site cannot be considered. Accordingly it is felt that the proposal does not satisfy the objectives of SREP No. 20.

State Environmental Planning Policy No. 21 – Caravan Parks

SEPP No. 21 establishes controls for the establishment of caravan parks. This Policy defines a 'caravan park' as "land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed".

The proposal involves the establishment of ten camping sites and would therefore fall under the above SEPP No. 21 (and Draft HELP 2011) definition of a caravan park. As such the provisions of SEPP No. 21 would apply to the development.

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The consent of Council is required for the operation of caravan parks pursuant to Clause 8 (1) of the Policy.

Section 3 (1) of SEPP No. 21 aims to encourage:

- a) *the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and*
- b) *the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and*
- c) *the provision of community facilities for land so used, and*
- d) *the protection of the environment of, and in the vicinity of, land so used.*

Council may grant a development consent required by this Policy only after it has considered the following:

- a) *whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*
- b) *whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*
- c) *whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*
- d) *whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*
- e) *any relevant guidelines issued by the Director, and*
- f) *the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.*

The submitted application does not address the provisions of this Policy.

As detailed elsewhere in this report, the property comprises flood-liaible land. Whilst the Draft Management Plan and SoEE outlines that the caravan park will only provide short-term accommodation, the provision of large fixed structures servicing each individual camping site suggests these structures may be used on a more permanent basis. Given the frequency and extent of the flooding predicted, the land is not considered suitable for use as a caravan park of this nature. The flood and safety risks associated with the development are considered unacceptable.

SEPP No. 21 requires an assessment of the proposal against the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. This assessment is required on the basis that caravan parks also need operational approval under Section 68 of the Local Government Act 1993.

The submitted application contains no assessment against the requirements of Part 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation. Insufficient information has been provided to allow a detailed assessment against these requirements. Additionally, it should be noted that the proposal fails to comply with the Regulation's facility, laundry, separation, visitor, disabled access, management plan, road width and lighting requirements.

State Environmental Planning Policy No. 36 – Manufactured Home Estates

SEPP No. 36 does not apply to the Sydney region and the proposed structures do not strictly fall under the definition of a 'manufactured home'. For the purposes of this Policy a manufactured home means "a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:

- a) *that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and*
- b) *that is not capable of being registered under the Traffic Act 1909,*

and includes any associated structures that form part of the dwelling.

Whilst similar the proposed amenities buildings do not fall under this definition as they are not pre-manufactured nor do they contain laundries.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

Council's mapping system indicates that the subject site contains Alluvial Woodland and weed plumes. The Alluvial Woodland vegetation community is defined as an endangered ecological community and may also comprise koala habitat.

No trees are to be removed to accommodate the proposed development (with the exception of noxious weed removal), and it is highly unlikely that koala populations exist within the locality or that the remnant vegetation onsite could support koalas. Therefore, having regards to the requirements of SEPP No. 44, it is considered that the proposal will not impact any significant strands of vegetation or disturb any natural habitats which would be considered as 'core koala habitat'.

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

The site is currently used as a turf farm and has a long history of use for agricultural purposes. Documentation contained within the submitted SoEE suggests that agricultural practices have been undertaken that are unlikely to have contaminated the land.

Whilst this may be the case, based on the supplied information, Council cannot be confident that the site is free from contamination. The application fails to satisfy the requirements of SEPP No. 55 in that a contamination report has not been provided and insufficient evidence has been provided to demonstrate that the land is suitable for its intended use.

State Environmental Planning Policy No. 64 – Advertising and Signage

The submitted SoEE outlines that signage will be installed on the site to advertise and identify the proposed development. However no details regarding the location, size and appearance of this signage has been included. As such an assessment against the provisions of Sections 3(1) (a) and 8 of SEPP No. 64 has not been undertaken.

(a) (ii) Draft Environmental Planning Instruments

Hawkesbury Local Environmental Plan 2011

Draft HLEP 2011 has been publicly exhibited and is a matter of consideration under Section 79C (1) (a) (ii) of the EP&A Act.

Under Draft HLEP 2011 the subject site would be zoned RU2 Rural Landscape. The proposed development would most appropriately be defined as a 'caravan park' under Draft HLEP 2011's Dictionary. Like SEPP No. 21, Draft HLEP 2011 defines a caravan park as "*land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed*".

Caravan parks are prohibited within the RU2 Rural Landscape zone.

The weight to be placed on the provisions of the Draft HLEP 2011 is dependent on how 'certain and imminent' the gazettal of a draft instrument is. At the time of submission, Council had exhibited and forwarded the draft instrument to the Department of Planning and Infrastructure for gazettal. As Draft HLEP 2011 represents Council's planning intent significant weight should still be given to the provisions of this draft.

The Draft HLEP 2011 establishes the following objectives for the RU2 Rural Landscape zone:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To ensure that development occurs in a manner 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 waterways.*
- *To ensure that development retains or enhances existing landscape values which includes a distinctive agricultural component.*
- *To preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.*
- *To protect hilltops, ridge lines, river valleys, rural landscape and other local features of scenic significance.*
- *To ensure that development does not create unreasonable or economic demands, or both, for provision or extension of public amenities or services.*

The proposal is seen to be inconsistent with these objectives on the grounds that the use of a portion of the site as a caravan park and the rest of the site for agricultural purposes (turf farm) will result in a conflict between land uses. It is further considered that the residential appearance of the amenities buildings is incompatible with the area's rural character.

It is therefore considered that the proposal fails to satisfy the provisions of Draft HLEP 2011.

(a) (iii) Development Control Plans

Hawkesbury Development Control Plan 2002

The proposal was notified in accordance with the Part A Chapter 3 of the HDCP 2002. No submissions were received.

Table 2.5.5 of Part C Chapter 2 establishes the following parking controls for caravan parks:

- One space per caravan/camping site, plus
- One visitor space per ten (10) sites or part thereof

Provided the amenities buildings are used for the parking of vehicles, each of the camping sites would be provided with a single space as required.

The provision of visitor parking is not shown on the submitted plans, although it is recognised that space may be available onsite.

Effluent disposal is discussed further in this report.

(a) (iv) Planning Agreements

There are no planning agreements applicable to the proposed development.

(a) (v) Matters Prescribed by the Regulations

These matters have been considered in the assessment of this application.

(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

The submitted application is largely silent on the use of the site for recreational purposes. Extracts from the Business Management Plan indicate that ski lessons, boat rides and the hiring of canoes and paddleboards will be undertaken from the site. This plan suggests fees will be charged for lessons and the hiring of equipment. However, it is unclear if this equipment and services are only available to tourists staying at the park, or if they will be available to the wider public.

The Draft Management Plan and SoEE are deficient in that they do not address this matter.

Likewise, the likely impacts of recreational activities being undertaken from the premises has not been explored or addressed by the applicant within the SEE.

The Draft Management Plan fails to address the day-to-day operation of the caravan park, e.g. the Draft Management Plan does not outline whether a manager/supervisor will be permanently located onsite. Without these details Council cannot be confident that the park will operate in a manner so as to minimise amenity, social and environmental impacts to neighbours and the locality.

On-site Effluent Disposal

An effluent disposal report has been submitted in support of the application and details that onsite sewage systems will be installed for each of the buildings.

Council's Environmental Health Officer has reviewed the report and has provided the following comments:

- *A site plan with the location of the proposed on-site sewage management systems has not been provided.*
- *The buffer distance of 100 metres to the Hawkesbury River needs to be complied with so that the disposal area is more than 100 metres away.*
- *The report has not addressed maximum hydraulic loads over the summer and holiday season (when the sport of water skiing is most popular) when the site will be utilized the most. How are they going to limit the number of people per site to three?*
- *I am concerned that the volume of effluent calculated to be produced by each building is underestimated for peak times.*

Insufficient information has therefore been provided to demonstrate that the development satisfies Part C Chapter 7 of the HDCP 2002.

Council's Environmental Health staff have been unable to provide further comments with respect to the proposal given that the submission does not address the provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation.

(c) Suitability of the site for the development

During times of flood the development site may be inundated by several metres (up to 7 metres) of water across the entire site. Due to the frequency and extent of the flooding predicted for the site, it is

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considered that the land is not suitable for the proposed use. The flooding and safety risks cannot be justified given the scale and intensity of the proposed development.

Should the structures be accepted as bona fide non-habitable amenities buildings there would be a requirement that they are constructed of flood compatible materials and strengthened to increase resistance to floodwater flow, buoyancy and debris impact.

(d) Submissions

The application was publicly exhibited in accordance with Part A Chapter 3 of the HDCP 2002 between 15 and 29 November 2011. No submissions were received in response to the notification of this application.

Comments received from the NSW Office of Water and NSW Office of Environment and Heritage are discussed later in this report.

(e) The Public Interest

The Applicant's classification of the development as a rural tourist facility is not accepted on the account of its scale and intensity. As such the development is prohibited under both the HLEP 1989 and Draft HLEP 2011. Given the flood risks involved it is also considered that the approval of this application would set an inappropriate precedent for the area.

Furthermore, the cumulative impact of this and/or similar developments on properties affected by the 1-in-100 year event are considered to not be in the public interest in terms of flood risk.

The proposal is therefore seen to be contrary to the public's interest.

Referrals

NSW Office of Water – The submitted plans indicate that the structures are to be located within 40 metres of the Hawkesbury River. Consequently the proposal was referred to the NSW Office for Water as Integrated Development.

However, the NSW Office of Water has advised that a Controlled Activity Approval is not required on the basis that the proposed works are not occurring on waterfront land (being land within 40 metres of the Mean High Water Mark [MHWM] of the river).

In this regard it should be noted that the submitted application was largely silent with the respect to the use of the site for recreational activities and the use of the existing boat ramp and pontoon.

NSW Office of Environment and Heritage – The proposal was referred to the NSW Office of Environment and Heritage given its proximity to the state-listed Australiana Pioneer Village (496 Wilberforce Road). In turn the NSW Office of Environment and Heritage has provided general advice for Council's consideration.

Whilst the recommendations of the NSW Office of Environment and Heritage have been noted, it is considered that sufficient separation exists between the subject site and the State-listed heritage item across the river. Given that the area has been largely cleared and minimal excavation would be required for the buildings, further archaeological assessment is considered unreasonable in this instance.

Financial Implications

Based on the supplied value-of-works of \$225,000.00, the payment of a Section 94A Development Contribution of \$2,250.00 would be payable should the application be supported.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C(1) having been taken into consideration. The proposal falls under the definition of a tourist facility under the HLEP 1989 and a caravan park under Draft HLEP 2011. Under

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each of these instruments the proposal represents a prohibited form of development. On account of the frequency and extent of the flooding predicted for the site, it is also considered that the land is not suitable for the proposed use. The flooding and safety risks associated with the development cannot be justified given the scale and intensity of the proposed development.

The development is therefore recommended for refusal.

Planning Decision

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

RECOMMENDATION:

That Development Application No. DA0644/11 for the operation of a tourist facility, construction of camping sites, amenities buildings and an internal access road on Lot 2 DP: 1101683, known as 433 Pitt Town Bottoms Road, Pitt Town Bottoms, be refused for the following reasons:

1. The proposal falls under the definition of a ‘tourist facility’ and under the Hawkesbury Local Environmental Plan 1989 is prohibited within the Environmental Protection – Agriculture Protection zone.
2. The proposal is inconsistent with the objectives of the Hawkesbury Local Environmental Plan 1989.
3. Under the provisions of Draft Hawkesbury Local Environmental Plan 2011 the use of the site as a caravan park is prohibited within the RU2 Rural Landscape zone.
4. The proposal is inconsistent with the objectives of the RU2 Rural Landscape zone.
5. The proposal does not demonstrate compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
6. The proposal fails to satisfy the requirements of State Environmental Planning Policy No. 55 – Remediation of Land in that insufficient evidence has been provided to demonstrate that the land is suitable for its intended use.
7. The flooding and safety risks associated with the development, given the scale and intensity, are high and are too great to mitigate in the circumstances.
8. The row of buildings is residential in appearance and will adversely impact on the scenic quality of the locality.
9. Insufficient information has been provided for the full and proper assessment of the proposal.
10. Approval of structures and this use in the locality subject to high flood risk is not in the public interest.

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ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Aerial Photograph

AT - 3 Architectural Plans

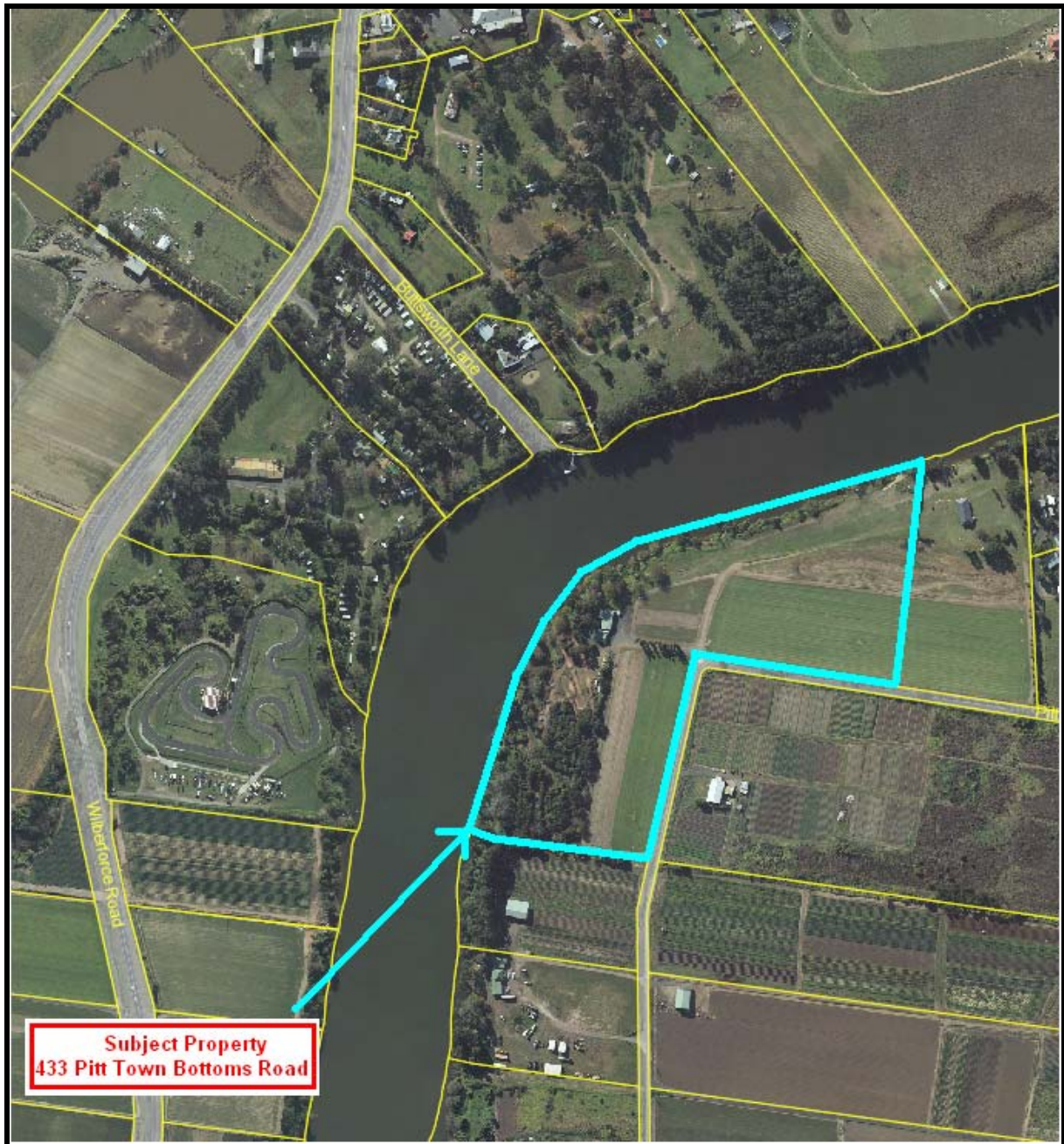
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The map displays a residential area with numerous property lots, each labeled with a DP (Deeds Plan) number. Key roads include Wilberforce Road, Pitt Town Bottoms Road, and Hawkeshill Road. The Hawkesbury River is shown flowing through the area. A red line outlines the subject property at 433 Pitt Town Bottoms Road, which is located near the intersection of Wilberforce Road and Hawkeshill Road. The map also shows the location of the Wilberforce and Pitt Town Bottoms areas.

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AT - 2 Aerial Photograph



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Part Site Plan
1:500

Hawkesbury River

Top of river bank

Shed 1
Shed 2
Shed 3
Shed 4
Shed 5

Note provide 10,000 litre water tank to each shed

Existing gravel roadway shown dotted

Existing turf farm to remain

Scale 1:500

North Arrow

**Proposed Rural Tourist Facility
at PTH Town Bottoms Road,
PTH Town
for SK Across Pty Ltd**

Client: SK Across Pty Ltd
Project: Proposed Rural Tourist Facility
Drawn by: [Name]
Checked by: [Name]
Date: 01/01/11

Decommissioned/Approved
Drawn by: [Name]
Checked by: [Name]
Date: 01/01/11

Scale: 1:500
DA: A
Not for Construction

oooO END OF REPORT Oooo

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Item: 70 **CP - Development Application - Multi Unit Housing - Detached Dual Occupancy - Lot 17 DP 207834 - 46 Grose Vale Road - (95498, 18688, 18687)**

Development Information

File Number: DA0707/11
Property Address: 46 Grose Vale Road, North Richmond
Applicant: Peter Joseph Gatt
Owner: Mrs S Gatt & Mr PJ Gatt
Proposal Details: Multi Unit Housing – Detached Dual Occupancy
Estimated Cost: \$416740
Zone: Housing under HELP 1989
Date Received: 2 December 2011
Advertising: 9 December 2011 to 23 December 2011

Recommendation: Refusal

REPORT:

Executive summary

The application seeks approval for the construction of Multi Unit Housing – Detached Dual Occupancy on Lot 17 in DP 207834, 46 Grose Vale Road, North Richmond.

The proposal is prohibited under Draft Hawkesbury Local Environmental Plan 2011 and inconsistent with the aims and objectives of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan 2002. It is recommended that the application not be supported as the application is inconsistent with the planning controls relevant to the proposal.

The application is being reported to Council for determination at the request of the Mayor, Councillor Ford.

Description of Proposal

The application proposes the demolition of an existing dwelling and construction of a detached dual occupancy on Lot 17 in DP 207834, 46 Grose Vale Road, North Richmond.

Proposed dwelling 1, would be located at the front of the property and proposed dwelling 2, would be located at the rear of the property. Both dwellings would contain three bedrooms, a rumpus room, lounge room, dining room, bathroom, kitchen, laundry and a double garage. It is proposed that each dwelling would have separate driveway access to Grose Vale Road.

History of the Application

This application was lodged with Council on 2 December 2011. As Council would recall, on 7 June 2011 Council resolved to forward the Draft Hawkesbury Local Environmental Plan 2011 to the Department of Planning and Infrastructure for finalisation and gazettal. The Draft LEP 2011 will prohibit the development of multi-unit housing (dual occupancy) on the subject site.

On 22 June 2011 the draft plan was received by the Department of Planning and Infrastructure. Since the draft plan was sent to the Department of Planning and Infrastructure there has been a considerable amount of consultation with Council staff with a view to finalising the draft plan. This consultation has been in relation to technical matters (definitional matters and mapping) that do not relate to the changing of any uses of this site. On 1 May 2012 Council was advised by Department of Planning and Infrastructure that

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the draft plan is considered to be complete and would like the document and maps to be checked by Council staff prior to sending it to the Director General of Planning and Minister for Planning for Gazettal.

At the time of lodgement of this application the applicant was advised that the proposal was unlikely to be supported as the development is prohibited under Draft Hawkesbury Local Environmental Plan 2011 and it was considered that this plan was imminent and certain.

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| 3 January 2012 | Letter sent to the applicant advising issues regarding owner's consent and non compliances regarding HDCP 2002 are required to be addressed. |
| 12 January 2012 | Applicant provided a response to matters addressed in letter dated 3 January 2012. |
| 20 February 2012 | Letter sent to the applicant advising that the proposal is prohibited under Draft Hawkesbury Local Environmental Plan 2010 and is not supported. |

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Sydney Regional Environmental Plan 20. (No.2 - 1997) - Hawkesbury Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan (HLEP) 1989
- Draft Hawkesbury Local Environmental Plan (DHLEP) 2011
- 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 (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been issued for the proposed development. Should the application be supported a condition of consent will be required to be imposed ensuring that the development meets the necessary performance requirements as set out in the BASIX certificate, therefore complying with SEPP (BASIX) 2004.

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

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 contained in this plan.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject property is zoned Housing under Hawkesbury Local Environmental Plan 1989.

An assessment of the proposal reveals that the development is inconsistent with the overall aims and objectives of this plan. The proposal being defined as multi unit development is prohibited under Clause 9 of this plan.

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The application has been submitted pursuant to Clause 53A – Special provision relating to multi unit housing. It should be noted that Clause 53A was introduced by the NSW Department of Planning without the consultation of Council. This clause introduced a three year time limit to Council's decision to prohibit multi unit development within the housing zone. The three years was considered sufficient at that time due to the original deadline to be placed on Council for the preparation of the Draft LEP 2011. However, due to a number of unforeseen issues arising with the Standard Instrument and the conversion of the Hawkesbury LEP 1989 to the LEP 2011 the three year time limit on prohibiting multi unit housing in the housing zone has lapsed. This has given Council the opportunity to consider the proposal.

However, it has always been the intention to remove Clause 53A with the preparation of Draft Hawkesbury Local Environmental Plan 2011 to revert the planning controls to that proposed in 2006, i.e., that multi unit development be limited to land zoned for medium density residential development. This has been the long term planning intent for the last five years.

It is considered that approving a multi unit development within the housing zone would be inconsistent with both Council's intention for multi unit development and the overall objectives of the zone which is to provide for low density housing.

Furthermore, the proposal does not comply with Hawkesbury Development Control Plan 2002, see assessment below. Support of a proposal that does not meet standard residential requirements is considered to be inconsistent with the overall objectives for the zone, which are to protect the character of traditional residential development and streetscapes.

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 2011

Under this plan the land is zoned R2 Low Density Residential. The development being defined as Multi Dwelling Housing is prohibited within the R2 Low Density Residential zone.

Currently the Draft Hawkesbury Local Environmental Plan 2011 is with the Department of Planning prior to sending it to the Director General of Planning and Minister for Planning for Gazettal. This means that the Draft plan is within the final stages of its adoption and is therefore imminent.

As mentioned previously Council have reviewed the permissibility of multi dwelling housing within the low density residential zone as part of the creation of this plan. Accordingly it was decided that, consistent with longer term Policy, multi unit housing be restricted to areas zoned for medium residential development. It is considered that there is a reasonable degree of certainty that it is Council's position to restrict development on land that has not been zoned for multi dwelling housing.

Support of this proposal would create a non-conforming use with the Draft plan and would result in a poor strategic planning outcome knowing that Council has already decided to prohibit multi dwelling housing on land zoned for low density residential development.

In light of the above it is considered that the Draft plan should be given significant weight with the determination of this application as the proposal to prohibit the development is imminent and certain. Consequently it is recommended that the application be refused on the basis that the proposal is prohibited under Draft Hawkesbury Local Environmental Plan 2011.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

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 this plan. No submissions were received in response to the application.

Part D Chapter 1 - Residential development

An assessment of the proposal against the requirements of this chapter has revealed that the proposal is inconsistent with the following residential development requirements:

Chapter 1.3 Height

Proposed Unit 2 does not fit within the building height plane. The western wall and roof extend approximately 500mm outside of the building height plane on the western property boundary; this was calculated using the architectural plans submitted, see attachment 3. Variations to this rule can only be supported for single dwellings on lots less than 14 metres wide or on flood prone land. This rule is not applicable to this case.

Chapter 1.9 Vehicle Access and Parking

Rule 1.9 (h) requires onsite manoeuvring to be provided to allow vehicles to enter and exit the site in a forward direction. The development does not comply with this rule as it is proposed that the residents of dwelling one would be required to reverse onto Grose Vale Road. It is considered that traffic reversing into Grose Vale Road has the potential to impact the safety of the occupants of the site and traffic along Grose Vale Road.

Also an objective of this chapter is to confine site access to a single point in order to maintain street parking and landscaping opportunities. In this regard the provision of an individual driveway for each dwelling is not supported.

It is considered that insufficient reasoning has been provided as to why Council should support a multi unit development that does not comply with the above requirements. Support of the proposed design would be contrary to the overall objectives for residential development within the Hawkesbury.

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:

Should the application be supported the Environmental Planning and Assessment Regulation 2000, requires the development to:

- Comply with the National Construction Code – Building Code of Australia
- Be levied against Council's S94A Developments Contributions Plan
- Comply with the BASIX requirements specified in the BASIX Certificate issued for the development.

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

An assessment of the proposal has revealed that there are a number of inconsistencies with relevant planning controls applying to the site indicating that the proposal has the potential to impact on the built environment. Particularly in relation to supporting a development that is contrary to Council's decision to prohibit multi dwelling housing within low density residential areas.

ORDINARY MEETING

Meeting Date: 29 May 2012

c. Suitability of the site for the development:

The proposal is inconsistent with the strategic direction for the locality and with various other planning controls affecting the site and is therefore not considered suitable for the proposed development. Should the development be supported it is recommended that the proposal be amended to achieve compliance with the requirements of Hawkesbury Development Control Plan 2002.

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

No submissions were received as a result of the submission of this application.

e. The Public Interest:

The applicant has not been able to provide sufficient reasoning as to why Council should support a proposal contrary to Council's decision to prohibit multi dwelling housing within the low density residential zone.

It is considered that supporting a development which is prohibited under Draft Hawkesbury Local Environmental Plan 2011 is contrary to the public interest.

Conclusion

An assessment of the proposal has revealed that the development is inconsistent with the aims and objectives of Hawkesbury Local Environmental Plan 1989 and is a prohibited form of development under Draft Hawkesbury Local Environmental Plan 2011.

Furthermore the proposal does not comply with the residential development controls contained within Hawkesbury Development Control Plan 2002.

In light of the above it is recommended that the proposal not be supported.

Planning Decision

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

RECOMMENDATION:

That development application DA0707/11 at Lot 17 DP 207834, 46 Grose Vale Road, North Richmond NSW 2754 for Multi Unit Housing - Detached Dual Occupancy be refused for the following reasons:

1. The proposed development is inconsistent with the aims and objectives of the Housing zone contained under Hawkesbury Local Environmental Plan 1989.
2. The proposal being Multi Dwelling Housing is prohibited in the R2 Low Density Residential zone under Draft Hawkesbury Local Environmental Plan 2011.
3. The proposed development is inconsistent with Hawkesbury Development Control Plan 2002. The proposal does not comply with the building height and vehicle access requirements.
4. Due to the above reasons the proposal is considered to not be in the public interest.

ORDINARY MEETING

Meeting Date: 29 May 2012

ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Aerial Photograph

AT - 3 Architectural Plans

ORDINARY MEETING

Meeting Date: 29 May 2012

AT - 1 Locality Plan



ORDINARY MEETING

Meeting Date: 29 May 2012

AT - 2 Aerial Photograph

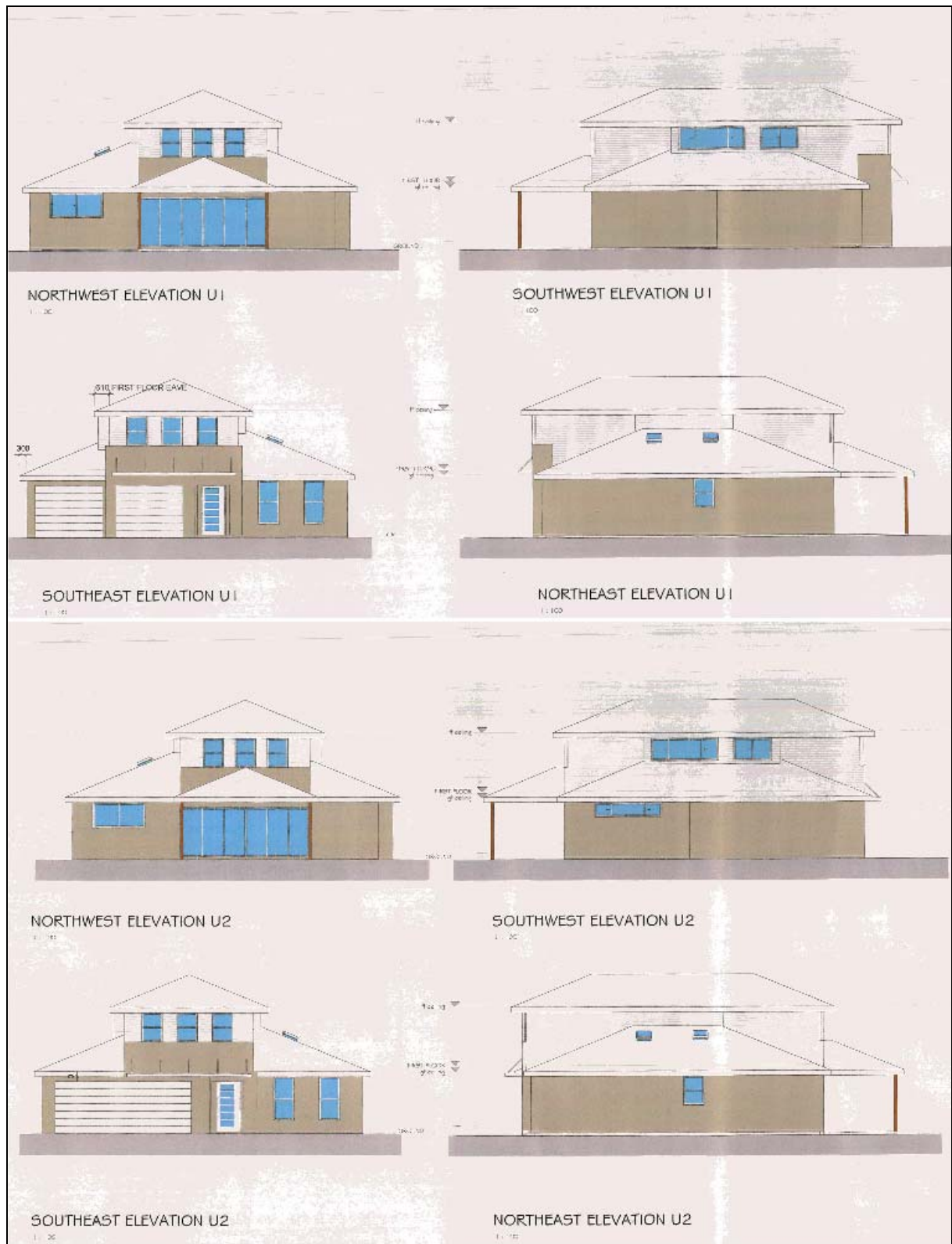


Meeting Date: 29 May 2012

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ORDINARY MEETING

Meeting Date: 29 May 2012



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ORDINARY MEETING

Meeting Date: 29 May 2012

Item: 71 **CP - Development Application - Recreational Establishment - Electric Kart Track, Mini Bike Track and Two Laser Skirmish Parks - Lot 205 DP 752061 - 303 Windsor Road, Vineyard - (95498, 12793, 12794)**

Development Information

File Number: DA0740/11
Property Address: 303 Windsor Road, Vineyard NSW 2756
Applicant: Montgomery Planning Solutions
Owner: Mr P Perich & Mrs S Perich
Proposal Details: Recreational Establishment – Electric Kart track, Mini bike track and two laser skirmish parks
Estimated Cost: \$740,000.00
Zone: Rural Living under HELP 1989
Date Received: 19 December 2011
Advertising: 30 December 2011 to 16 January 2012

Recommendation: Approval

REPORT:

Executive Summary

The applicant is seeking approval for a Recreational Establishment on Lot 205 in DP752061, known as 303 Windsor Road, Vineyard. The recreational establishment will consist of an electric kart track, mini bike track and two laser skirmish areas.

The proposal is contrary to the flooding development controls contained within Clause 25 (2) of Hawkesbury Local Environmental Plan 1989 (HLEP 1989) as the proposal involves the erection of a building on land greater than 3 metre below the 1 in 100 year flood level for the area.

It is considered that the applicant has been able to satisfactorily justify, via a SEPP 1 objection, the non compliance in relation to the flood control requirements and it is recommended that the application be supported.

The application is being reported to Council as the variation to the flooding control contained within HLEP 1989 is 35-77% and it is a requirement for all State Environmental Planning Policy No. 1 variations greater than 10% to be considered by Council.

Issues relevant to the decision

- SEPP 1 Variation to Clause 25(2) of HLEP 1989
- Flooding
- Context of the site
- Visual impact of proposed awning
- Proposed signage
- Landscaping
- Noise
- Drainage of the site

ORDINARY MEETING

Meeting Date: 29 May 2012

Description of Proposal

It is proposed that the recreational establishment would operate 7 days a week between daylight hours and comprise of the following:

- An electric kart track that will accommodate up to 12 karts which can be used by both adults and children,
- A mini bike track designed to accommodate 10 mini bikes for children up to 12 years of age,
- Mini bike learning area,
- Two 5,000m² laser skirmish fields which will accommodate up to 10 people each and consist of a number of non-permanent structures and moveable props.

As part of the proposal it is intended that existing buildings onsite will be used as a workshop, café and office. The existing pools located onsite will be retained with one to be converted into a sandpit and the other to be used as part of the overall recreational facility.

The awning proposed over the electric kart track will be of metal frame construction with colorbond roofing material. The awning will be coloured charcoal grey, with a maximum length of 120 metres, width of 54 metres, height of 7.3 metres and total floor area of 5,400m².

It is intended that the existing dwelling on the land will remain and be occupied by a caretaker who will look after the property and provide adequate security for the site after operating hours.

The application is supported by the following:

- A Statement of Environmental Effects prepared by Montgomery Planning Solutions, dated November 2011;
- An objection pursuant to State Environmental Planning Policy No 1 prepared by Montgomery Planning Solutions, dated 11 November 2011;
- A flora and fauna assessment report prepared by T.J. Hawkeswood Scientific Consulting, dated 15 September 2011;
- An environmental noise impact report prepared by Day Design PTY LTD, dated 14 October 2011;
- An assessment of soils report prepared by Parsons Brinckerhoff, dated 21 July 2003

History of the application

23 February 2011	Letter sent to the applicant advising that the steel framed roof structure proposed over the kart track was not supported as it would result in an adverse visual impact on the locality.
1 March 2012	Meeting held at Council with the applicant and Council's officers to discuss the letter sent 23 February 2012. Applicant advised to address the visual impacts associated with the proposed roof over the kart track. It was suggested that the issues related to the proposed roof form, setback and landscaping.
3 April 2012	Amended plans received addressing concerns raised in meeting held 1 March 2012.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy 1 – Development Standards (SEPP 1)
- State Environmental Planning Policy 44 (SEPP 44) - Koala Habitat Protection
- State Environmental Planning Policy No. 55 (SEPP 55)- Remediation of Land
- State Environmental Planning Policy 64 (SEPP64) – Advertising and Signage
- Sydney Regional Environmental Plan No 20 (SREP 20) - Hawkesbury Nepean River
- Hawkesbury Local Environmental Plan (HLEP) 1989
- Draft Hawkesbury Local Environmental Plan (DHLEP) 2011

- 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. 1 – Development Standards

An objection under State Environmental Planning Policy No. 1 was lodged in respect to the variation to Clause 25 (2) of Hawkesbury Local Environmental Plan 1989. Clause 25 (2) of this plan restricts the construction of a building on land greater than 3 metres below the 1 in 100 year flood level.

The 1 in 100 year flood level for the area is 17.3 metres AHD and the application proposes the construction of the awning over the kart track on land between 12 metres and 13.25 metres AHD. Given that the proposal seeks to construct a building between 1.05 metres and 2.3 metres below the prescribed 3 metres development standard the application proposes a degree of variation between 35% and 77% against Clause 25 (2) of HLEP 1989.

The applicant has requested Council support a variation to this rule as the buildings proposed are non-habitable, not located within a floodway and can be designed to withstand prolonged immersion in water. It is also noted that the main building consists of a roof only and no enclosed walls.

Clause 25 (4) of HLEP 1989 reads as follows:

- (2) *A building shall not be erected on any land lying at a level lower than 3 metres below the 1-in-100 year flood level for the area in which the land is situated, except as provided by subclauses (4), (6) and (8).*

The above control is a development standard which can be varied under SEPP 1 as it sets a numerical standard for the minimum building level required for development below the 1 in 100 year flood level. Council has also previously received legal advice confirming that this clause is a development standard which can be varied under SEPP 1.

The applicant has detailed that a variation to this standard should be supported given:

- *The NSW Government's Flood Plain Development Manual, 2005 clearly advocates that a merit approach should be adopted for all development decisions in the floodplain to take into account, social, economic and ecological factors as well as flooding considerations.*
- *The buildings proposed are non-habitable. The kart track roof has no walls, therefore the flow of floodwater will not be interrupted.*
- *The proposed recreational establishment is an appropriate use of flood prone rural land.*
- *There is sufficient advance warning of a flood event to allow the operators to remove equipment and ensure that the premises are not operating in a flood warning.*
- *The construction of the buildings is compatible with periodic inundation and the materials used are capable of withstanding prolonged immersion in water.*
- *The rural design of the buildings and rural nature of the use is compatible with the surrounding land.*
- *Given the land is not within a floodway, the flood hazard is considered to be low.*

The submission received had also reviewed a set of Planning Principles provided by his honour Chief Judge Preston in Land and Environment Court hearing *Wehbe v Pittwater Council* 2007 NSWLEC 827 - 21 December 2007.

The proposal is believed to be consistent with these planning principles as the applicant has been able to justify that the objectives of the standard are achieved notwithstanding non-compliance with the numerical standard, the standard is not relevant to the development, compliance with the standard would be unreasonable and the standard would prohibit a permissible development within the zone.

It is considered that the objection submitted is well founded as granting consent to the proposal would allow for the appropriate development of flood liable land which is the overall intention of Clause 25 (4) of HLEP 1989.

Furthermore, support of this objection in this instance does not raise any matter of state or regional planning significance and would not adversely impact the public in contravening this development standard.

In conclusion of the above it is considered that the submission provided by the applicant is sufficient reasoning for Council to support the proposal and it is recommended that the objection made under SEPP 1 be supported.

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

The proposed development does not require the removal of any significant vegetation that is identified under the SEPP and it is therefore considered that the proposed development will not have an impact on 'potential koala habitat' or 'core koala habitat' as defined by SEPP 44.

State Environmental Planning Policy No. 55 - Remediation of Land

This policy requires Council to consider prior to the issue of any consent whether or not land subject to development is contaminated. If the land is contaminated Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed.

A search into the history of the site has revealed that previous unauthorised fill has been imported to the site. It is noted that a site inspection of the property reveals that the site has been used to store building rubble and construction materials which has also been observed in the flora and fauna assessment report submitted with the application.

An assessment of soils report prepared by Parsons Brinckerhoff, dated 21 July 2003 has been submitted with the application reviewing the contamination of some of the fill which has been imported into the subject site. This report certifies that the fill which has been imported at the front of the property is considered to be *'suitable for the current open space land use'*.

The contamination report does not cover the entire property. Given the proposed increase in use and intensity of the site, soil contamination of the site will need to be addressed as part of any approval.

It is considered that sufficient information has been provided with the application to recommend, via a deferred commencement condition of consent, that a contamination report be completed making specific reference to the proposed use of the site as a recreational facility. This report should demonstrate that the site is suitable for its future use and that if the land is contaminated, demonstrate that the land is suitable in its contaminated state or will be suitable after remediation.

A separate application may be required to be submitted and approved if further remediation works are required to satisfy the requirements of the SEPP 55.

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

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.

State Environmental Planning Policy No. 64 Advertising and Signage

Under SEPP No.64 Part 2 Signage, Generally, *"A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied that signage is consistent with the overall objectives of this policy and assessment criteria specified in Schedule 1."*

The proposed sign is best defined as a 'business identification' signage under the provisions of SEPP No. 64.

The applicant proposes to replace an existing sign located on the property with a 2 metre high by 4 metres wide illuminated pylon sign 5 metres off the ground. It is noted that the sign approved on the site as part of DA0904/04 for a retail plant nursery did not approve an illuminated pylon sign but allowed one non-illuminated sign measuring not more than 4 metres long by 2 metres high but not higher than 2.5 metres above the existing ground level.

It should be noted that no suitable justification has been provided as to why the sign is required to be illuminated given that the proposed hours of operation of the facility would mean that the development will generally occur between daylight hours. The additional height proposed is further considered to be inconsistent with Council's sign policy contained under HDGP 2002, see discussion below.

The matters to be taken into consideration are;

- the previous approvals relating to the land;
- provisions of the SEPP 64 (aims, objectives and Schedule 1);
- the proposed use;
- the proposal to have a illuminated sign along Windsor Road; and
- the surrounding land uses (both commercial and rural)

It is recommended that the height of the signage be reduced to be no more than 2.5 metres above the ground and the sign not be illuminated. The applicant will be required to submit these details for approval.

Hawkesbury Local Environmental Plan 1989

The land is zoned Rural Living and the proposal being defined as a "Recreational Establishment" is permitted with the consent of Council.

The application is generally consistent with the overall objectives of the Rural Living zone as it will not result in rural land use conflicts or have a significant impact on the landscape character of the locality or significant adverse effect on water catchments or important ecosystems.

The proposal is considered to be consistent with Clause 22 – Development fronting a main or arterial road given that:

- The proposed development is consistent with the appearance of the locality with the proposed awning being of similar in size and appearance of industrial/commercial buildings located along Windsor Road,
- The development is unlikely to result in adverse traffic impacts along Windsor Road,
- The proposed awning will be appropriately setback from Windsor Road,
- Landscaping has been proposed to screen the development from Windsor Road, and,
- Access to the site will be gained via Henry Road.

The proposal is further considered to be consistent with Clause 25(5), (6) and (7) relating to flood impacts as the facility will not operate in the event of a predicted flood and the buildings have been designed to be constructed of flood compatible materials.

It is noted that the floor levels of the proposed buildings do not comply with Clause 25 (2). However, an objection to this clause pursuant to SEPP 1 has been submitted and is discussed in the report above.

An assessment of the development application has revealed that the proposal complies with the matters raised in each of the following clauses of Hawkesbury Local Environmental Plan 1989:

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

Other than the non compliance with Clause 25(2), as addressed in the SEPP 1 objection, it is considered that the proposal is generally consistent with the requirements of HLEP 1989.

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 2011 applies to the proposal. The subject lot is identified as being zoned RU4 Rural Small Holdings.

The proposal being defined as a '*Recreation Facility (outdoor)*' is permissible with the consent of Council under this plan. The proposal is considered to be consistent with the overall objectives of the zone and the following clauses.

Clause 4.3 - Height of Buildings.

All buildings proposed are below 10 metres;

Clause 6.3 - Acid Sulfate soil controls.

The works proposed would unlikely lower the watertable below 1 metre;

Clause 6.7 - Flood Planning.

The site is not located within a floodway, suitable building materials have been proposed and the site would be able to be safely evacuated in the event of a flood.

Clause 6.9 - Biodiversity controls.

The applicant has been able to demonstrate that the proposal will not adversely impact any flora or fauna.

It is therefore considered that the proposal is not contrary to the Draft plan.

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 2002. 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. One submission was received in response to the neighbour notification process. The issues raised as a result of the neighbour notification process have been listed under the submission section of this report.

Part C Chapter 1 - Landscaping

Landscaping has been proposed to screen the development from Windsor Road using a combination of native and exotic species. It is noted that not all native species proposed to be planted are endemic to the locality. Therefore, it is recommended (via a condition of consent) that the applicant provide a revised landscaping plan using native trees endemic to the locality. This plan will be required to be prepared by a suitably qualified person.

Part C Chapter 2 – Car parking and Access

Access to the site is considered to be acceptable for the development as it occurs on a side road (Henry Street) and the proposal will unlikely have an impact on the traffic of Windsor Road.

The application indicates an existing gravel car park to be used for the development. However, a site inspection has revealed that the car park is not fully constructed. A condition of consent is recommended to ensure that the car park is constructed in accordance with the plans submitted. The car park will be required to be sealed and marked in accordance with Council's DCP requirements and disabled parking to be provided in accordance with AS2890.6.

The application proposes to provide 40 onsite car parking spaces for the proposed activity. The applicant estimates that not more than 100 customers and 10 staff members would be expected to be on the site at any one time and that given that the facility would cater for a range of age groups it could be assumed that people visiting the site will arrive in groups rather than individually.

The applicant anticipates that each car will carry an average of three customers and that one space will be required to be provided for every two employees resulting in the need to provide 38.3 spaces for proposed activity operating at full capacity.

It is noted that there is no numerical car parking rate for a recreational establishments of this nature within the DCP.

It is considered that appropriate car parking will be able to be provided on the subject site and that the number of customers visiting the site is below the traffic generating development threshold of 50 cars which would be required to be referred to the NSW Roads and Maritime Services Department under the requirements of State Environmental Planning Policy (Infrastructure) 2007.

Part C Chapter 3 – Signs

Chapter 3.4 requires signs in rural zones to be limited to one sign per property measuring a maximum area of 0.75m² and not more than 2.5 metres above ground level.

The plans submitted propose the erection of a 2 metres high x 4 metres wide illuminated sign 5 metres off the ground.

As detailed under the SEPP 64 assessment section of this report Council has previously approved one non-illuminated sign on the site measuring not more than 4 metres long by 2 metres high and not higher than 2.5 metres above the existing ground level.

It is considered that the signage proposed as part of this application is inconsistent with the requirements for signage under this chapter and is not supported. It is however acknowledged that Council have approved a sign for the retail plant nursery on the land larger than what is prescribed under Chapter 3.4 and therefore recommended that signage be modified to be consistent with what was previously approved on the subject land. This will be enforced via a recommended condition of consent.

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

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

v. Matters prescribed by the Regulations:

In accordance with the Environmental Planning and Assessment Regulation 2000 the development will be required to comply with the following:

- The National Construction Code – Building Code of Australia, and
- Council's S94A Contributions Plan. In this regard Hawkesbury Council's S94A Development Contributions Plan 2006 requires a developer contributions levy of \$7,400.00 to be imposed on the development.

Suitable conditions have been included as part of the recommended consent in order to ensure that the proposal complies with the above requirements.

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

The surrounding land uses consist of a combination of rural residential/agricultural developments and scattered commercial developments on the Northern side of Windsor Road. Developments on the Southern side of Windsor Road consist of a variety of commercial and industrial developments. The proposal is considered to be compatible with surrounding developments and will unlikely change the nature of development within the locality.

The application proposes the establishment of landscaping to screen the development from Windsor Road. It is considered that the proposed development will not unreasonably impact on adjoining properties in terms of loss of visual or acoustic privacy, or loss of views and vistas.

The location of the development will ensure the minimisation of any land use conflicts between adjoining properties and within the dwelling located on the subject property itself. The dwelling on the property will be occupied by a caretaker associated with the recreational establishment.

The awning proposed to be constructed over the electric kart track will use charcoal grey coloured colorbond as a roofing material. It is considered that due to the size and location of the building to Windsor Road the colour of the roof would blend in with the natural environment and proposed landscaping. Furthermore no details have been provided in respect to the colour of the 2.4 metre metal sheet fencing proposed to be installed around the facility. It is recommended that an amended colour schedule be submitted choosing colours that would blend in with the natural environment.

Access, Transport and Traffic

Access to the site is considered satisfactory. The traffic generated by the development is unlikely to have any significant impact on the safety and efficiency of traffic using Windsor Road or surrounding roads. Suitable onsite car parking has been proposed for the development allowing vehicles to enter and exit the site in a safe manner.

Water

The proposed development is not likely to have a significant impact on water quality. The majority of the site drains to the dam located on the subject site. The spillway to the dam is not indicated, and this should be located to ensure that flows will not adversely impact on adjoining properties.

Whilst a concept drainage plan has been submitted no specific details or calculations have been provided as to how the development will be able to be appropriately drained. It is recommended that

a comprehensive drainage strategy be submitted to ensure that the site will be able to be suitably drained. Accordingly conditions of consent have been recommended in the report below.

Soils

The proposed development will not result in any adverse impacts on the locality in terms of erosion and sedimentation. As detailed under the SEPP 55 section of this report the applicant will need to address potential site contamination as part of any approval for the use of the site for recreational activities.

Cutting and filling details have not been submitted so it is assumed that fill is not proposed to be brought to the site. However, even where filling is not proposed, some level of earthworks will be required to accommodate the development. It is suggested that a plan showing proposed finished site levels be requested as a deferred commencement condition.

Noise

The acoustic assessment report submitted has been reviewed. The report has not included acoustic modelling for the residence located on the subject site and that modelling for the nearby commercial premises was based on the Industrial Noise Source Policy Commercial premises criteria of 65 dB(A) LAeq.

Based on the acoustic modelling provided and the nature of the locality it was considered that the proposal would be able to operate in a manner that does not generate intrusive noise i.e. not exceeding more than 5dB (A) (LAeq) at all receptors. It is considered appropriate that a condition be recommended on any consent requiring the acoustic assessment report to be submitted demonstrating that the noise control measures proposed could achieve compliance with the intrusive noise criteria.

Utilities

Electricity, water, sewer and telephone services are available to the site. The applicant will be required to obtain written clearance from the relevant service providers that to confirm that services available are suitable for the proposed development. It is considered that the proposal would not place unreasonable demands on the provision of services.

Flora & Fauna

The site is relatively cleared with up to five trees proposed to be removed for the construction of the kart track and mini bike area. The plans provided do not clearly show the trees proposed to be retained within the laser skirmish parks.

The flora and fauna report submitted with the application has identified that trees located on the site are representative the Grey Box Woodland endangered ecological community, which is a type of Cumberland Plains Woodland. The flora and fauna report concludes that the proposal will have no significant impact on threatened species, populations, ecological communities or their habitats.

It is considered that the limited removal of trees shown for the kart track and mini bike area is acceptable and that the vegetation proposed to be retained in laser skirmish parks will not have an impact on existing native vegetation. A condition has been included in the recommended consent requiring the trees within the laser skirmish parks to be retained.

It is therefore considered that the requirements of Part 5A of the EP & A Act are satisfied in that the proposed development will have no significant impact on threatened species, populations, ecological communities or their habitats.

Natural Hazards

The site is subject to Bushfire and the 1 in 100 year flood level of the area. It is considered that the proposal would not create a risk to the occupiers of the land or adjoining properties in terms of bushfire and flood as the facility would not operate in either a flood or bushfire.

The proposed structures are considered to be suitably setback from large tracts of vegetation and the materials proposed would not be susceptible to ember attack in the event of a bushfire.

An assessment of the proposal against the flooding controls contained within HLEP 1989 has already been addressed in this report.

Economic Impact on the Locality

The proposal will have a positive economic impact on the locality as it will support a permissible form of development which will provide employment and recreational activities to the local community.

Cumulative Impact

The proposed development is permissible with the consent of Council and no significant negative cumulative impact is foreseen.

c. Suitability of the site for the development:

There are no constraints from surrounding land uses that would make this development prohibitive and it is considered that the development will not adversely impact upon critical habitats and threatened species, populations, ecological communities and habitats.

Adequate services and utilities are available to the site and access to the site is satisfactory for the intended use.

The site is considered able to support the proposed development. Suitable services are available onsite and will not be required to be changed/ upgraded as a result of the proposal.

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

Two submissions were received as a result of the submission of the application and are discussed below:

Public Submissions

One submission raising objection to the proposal was received in response to the neighbour notification process. The submission raised the following issues:

- unauthorised fill has been imported onto the site in the past
- inadequate car parking and amenities provided onsite based on scale of the development
- proposal will compound existing drainage onsite
- potential noise impacts
- hours of operation not nominated in application

The above assessment report indicates that the concerns raised above have been adequately addressed or can be resolved by conditions of consent. As detailed in the report above, adequate information has been provided with the application to demonstrate that the proposal will be able to be supported onsite without having any adverse impacts on the environment. Furthermore it is noted that a number of conditions have been recommended as part of this report to ensure that details in terms of possible site contamination, site drainage, proposed colours, landscaping and noise can be appropriately managed as part of the development of the site.

Australian Defence Force (Richmond RAAF Base)

One submission was received from the Richmond RAAF Base requesting additional information in respect to the proposed laser skirmish parks. Specifically in relation to whether or not the laser skirmish weapons will emit a laser beam or work on infrared technology. The applicant has provided details of the proposed equipment to be used.

On 16 May 2012 it was confirmed that the Richmond RAAF Base raised no concerns to the subject proposal.

e. The Public Interest:

The proposed development is generally consistent with the relevant planning controls affecting the site and is therefore considered to be consistent with the public's interest and the matters raised in the submissions received do not warrant refusal of the application.

Support of the SEPP 1 objection is not contrary to the public interest as the variation requested is specific to the subject development.

Conclusion:

The proposed development is considered to be satisfactory, subject to the implementation of conditions proposed within this report. The support of a variation to Clause 25 (2) of HLEP 1989 will allow for a permitted land use. Based on the assessment report above it is recommended that Council support the application.

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 DA0740/11 at Lot 205 DP 752061, 303 Windsor Road, Vineyard NSW 2765 for Recreational Establishment – Electric Kart track, Mini bike track and two laser skirmish parks be approved as a Deferred Commencement Consent subject to the following conditions:

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

Schedule 1

1. A site contamination report shall be prepared for the subject site and shall demonstrate that the site is suitable for the proposed use of the land and that if the land is contaminated, demonstrate that the land is suitable in its contaminated state or will be suitable after remediation.

Should remediation works be required a separate development application may be required to be lodged and approved by Council. Remediation works will be required to be completed and certified prior to the issue of any construction certificate for the development.

Schedule 2

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

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3. The buildings shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the National Code of Construction - 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 days of issuing the certificate. A registration fee applies.
6. No trees within the laser skirmish parks shall be removed without Council approval.

Prior to Issue of Construction Certificate

7. An acoustic report shall be provided confirming that the development is able to operate without creating intrusive noise (the development is not exceed 5 dB(A) (LAeq) above background noise levels) at all receptors including the southern commercial receptor and the residence on the property during the day and evening. Should the proposal not be able to operate without creating intrusive noise at all receptors further noise control measures will be required to be provided to meet the intrusive noise criteria.
8. An amended colour schedule for the proposed awning shall be submitted choosing earthtone colours that would blend in with the natural environment. In this respect muted greens and browns shall be used for the awning over the electric kart track and fencing. Bright/stark colours such as white, black, blue, yellow or red or variations of these (e.g. cream, grey, orange) are generally not acceptable except as a minor detail colour (e.g. gutters).
9. An amended sign design shall be submitted involving a non-illuminated pylon sign measuring 4 metres wide by 2 metres high and not more than 2.5 metres above ground level.
10. The submission of a comprehensive drainage strategy for the development including plans and calculations prepared by a suitably qualified person for Council's approval. The following items are to be included, but not necessarily be limited to:
 - a) Details regarding how the flows from the existing 450mm diameter culvert under Henry Street to the dam will be managed through the development;
 - b) The concept drainage proposal for the car park, other buildings, tracks and other hardstand areas;
 - c) The capacity of the existing dam to accept the additional stormwater from the roof and hardstand areas. The dam is to have sufficient freeboard to store the runoff from the 1 in 20 year ARI storm. Any proposed low flow pipe is to have the capacity to discharge the 1 in 5 year ARI storm, with the spillway sufficient to discharge the 1 in 20 year ARI storm. Where any modifications to the dam is required to achieve the above, a concept design is to be provided for consideration;
 - d) A report, from a suitably qualified and experienced Geotechnical Engineer, on the dam wall is to be submitted. The report shall assess the adequacy of the dam wall for use as track including a detailed layout of the proposed track and existing and proposed ground levels, and any spillway(s) in the vicinity of the crossing. The report shall detail any works necessary to upgrade the dam wall for the proposed use as an access road; and
 - e) The existing drainage channel along the north western boundary of the site is to be maintained with sufficient capacity to convey the 1 in 20 year ARI flows.
11. The submission of a plan showing the proposed finished site levels for the development for Council's approval. Any proposed fill is required to be indicated on the plan.

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12. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$7,400.00 shall be paid to Hawkesbury City Council.

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

The contribution is to be paid prior to the issue of the Construction Certificate and copies of receipt(s) confirming that the contribution has been fully paid are to be provided to the Principal Certifying Authority.

13. A site contamination report prepared by a suitably qualified person, certifying that the land is suitable for the proposed recreational establishment shall be provided to the Principal Certifying Authority.
14. The existing structures proposed to be retained by the development shall be checked and certified by a structural engineer as complying with the Building Code of Australia and relevant Australian Standards with regard to structural adequacy. Evidence shall be submitted to the certifying authority prior to issue of the Construction Certificate.
15. A landscaping plan prepared by a suitably qualified person shall be submitted to the Principal Certifying Authority. Landscaping shall be chosen to screen the development from property boundaries consisting of native grasses, shrubs and trees endemic to the locality.
16. Prior to the issue of a Construction Certificate a report from a suitably qualified structural engineer shall be submitted to the Principal Certifying Authority verifying the following:
- a) Any damage to the proposed structures sustained by flood will not generate debris capable of causing damage to downstream buildings or property.
 - b) Any part of the structure at or below the 1 in 100 year flood level will be able to withstand the force of floodwaters (including buoyancy forces) and the impact of debris.
 - c) All finishes, plant fittings and equipment subject to inundation will be of materials and functional capability resistant to the effects of floodwaters.
17. 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.
18. Construction of the car park, drainage, and dam works as required are not to commence until three copies of the plans and specifications of the proposed works are submitted to and approved by Council's Director of City Planning or an Accredited Certifier.
19. Payment of a Construction certificate checking fee and a Compliance Certificate inspection fee when submitting Civil Engineering Plans for approval. A quote will be provided on request. Fees required if an accredited certifier is used will be provided on request.
20. A Traffic Guidance Scheme prepared in accordance with AS1742-3 2002 by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Maritime Services controlled roads, the traffic guidance scheme is to be approved by the Roads and Maritime Services before submission to Council.

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Prior to Commencement of Works

21. 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.
22. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan.
23. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
24. The building shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the external walls under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority. Any easements must be shown on the Survey Certificate.
25. 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.
26. 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.
27. 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.
28. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - a) Unauthorised access to the site is prohibited.
 - b) The owner of the site.
 - c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - d) The name and contact number of the Principal Certifying Authority.
29. 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.
30. 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 appropriately stamped the plans before the issue of any Construction Certificate; or
- If there is a combined Development/Construction Certificate application or Complying Development, include the above condition as one to be met prior to works commencing on site.

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During Construction

31. 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.
32. The site shall be secured to prevent the depositing of any unauthorised material.
33. 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.
34. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
35. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
36. 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.
37. At all times during demolition, a competent person shall directly supervise work. It is the responsibility of the person to ensure that:
 - a) Adjoining owners are given 24 hours notice, in writing, prior to commencing demolition.
 - b) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
 - c) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
 - d) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - e) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
 - f) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.
 - g) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings
 - h) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
 - i) All work shall be carried out in accordance with AS2601 and the Work Plan submitted with the development application.

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- j) Unless otherwise permitted by Council, the structure is to be demolished in reverse order of construction, being progressive and having regard to the type of construction, to enable the maximum separation and recycling of demolished materials to take place.
 - k) No material is to be burnt on site.
38. During the demolition and construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
39. No excavated material, including soil, shall be removed from the site.
40. Landscaping shall be completed in accordance of the approved landscaping plan. Planting shall consist of a combination of trees, shrubs and ground species of local provenance.
41. All materials used in the construction below the level of 17.3 metres AHD shall be capable of withstanding prolonged immersion in water without swelling or deteriorating.
42. All roof water shall be drained to appropriate water storage vessel/s. Any overflows are to be designed so as to disperse flows so as to minimise erosion and scouring.
43. Provision shall be made for access to the buildings with adequate aids provided for those with disabilities (i.e. mobility, hearing, site impaired) in accordance with the Discrimination Against People with Disabilities Act (DDA), Building Code of Australia and Council's Access Policy.
44. The existing buildings and facilities shall be upgraded to comply with the Disability (Access to Premises –Buildings Standards) 2010.
45. Any proposed works to the dam shall be constructed in accordance with the Dam Construction chapter of Hawkesbury Development Control Plan.
46. 40 off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.
47. Disabled parking shall be provided in accordance with AS2890.6.
48. The development shall be constructed of flood compatible materials in accordance with the NSW Government Flood Plain Manual. In this respect the following design precautions must be adhered to in all respects:
- a) all electrical, heating and air conditioning service installations are to be located above the 2% AEP flood level of 15.7 metre AHD;
 - b) the building is to be constructed of flood compatible materials such as galvanised steel frame, galvanised zinc alum cladding doors and door frames; and
 - c) the structure and walls shall be strengthened to a level of 17.3 metres AHD to increase resistance to floodwater flow and debris impact.
49. 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.
50. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.

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51. 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.

Prior to Issue of an Occupation Certificate

52. The existing pool fencing shall be upgraded to comply with the requirements of the Swimming Pools Act and AS1926.1-2007. The existing water recirculation system of the swimming pool shall also be checked and upgraded if necessary to comply with the Building Code of Australia Volume Two and AS1926.3-2010. Evidence shall be submitted to the certifying authority prior to issue of the occupation certificate.
53. Prior to requesting an occupation certificate the owner/agent shall certify that each of the essential fire safety measures:
- a) has been installed and assessed by a properly qualified person, and
 - b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

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

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

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

54. Creation of a drainage easement 2.5 metres wide over the existing/proposed pipeline draining the culvert under Henry Street, from the property boundary to the outlet headwall. Documentary evidence to be submitted prior to the issue of any occupation certificate.
55. The applicant shall submit a report from a suitably qualified Engineer which verifies the following:
- a) Any damage to the proposed structure sustained in a flood will not generate debris capable of causing damage to downstream buildings or property.
 - b) Any part of the structure at or below the 1 in 100 year flood level will be able to withstand the force of floodwaters (including buoyancy forces) and the impact of debris.
 - c) All finishes, plant fittings and equipment subject to inundation will be of materials and functional capability resistant to the effects of floodwaters.
56. The applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures and emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building in a prominent location and maintained at all times.
57. The structural adequacy of the dam and spillway capacity is to be certified by a suitably qualified and experienced engineer.
58. A works as executed plan shall be submitted to Council on completion of works. The plan shall include the location of the dam in relation to property boundaries.
59. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.

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60. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

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

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

61. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.

Use of the Development

62. Operating hours shall be limited to daylight hours only between; 10:00am and 7pm, during spring and summer and 10:00am and 5pm, during autumn and winter.
63. No internal or external alterations shall be carried out without prior approval of Council.
64. The development shall be limited to the area shown on the submitted plans.
65. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
66. All vehicles shall enter and exit the site in a forward direction.
67. 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.
68. Any fuels, oils, lubricants and chemicals stored on the site are to be stored in a bunded area to the satisfaction of Council. Details to be provided to Council prior to the use of the site.
69. Bunded areas shall be maintained in such condition to ensure that all spillage or leakage is retained within the bund, until disposed of by means that do not pollute waters or land.
70. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
71. 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.
72. Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
73. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), does not exceed 5 dB(A) (LAeq) above background noise levels at any receptor in the day and evening (defined by the NSW EPA Industrial Noise Policy). This is to include at the southern commercial receptor and the residence on the premises.

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74. Prevent the emission of offensive noise as defined by the Protection of the Environment Operations Act 1997 during the night ('night' defined by the NSW EPA Industrial Noise Policy).
75. Dust, vibration, odour or other emission from the development shall not exceed the limit prescribed in the Protection of the Environment Operations Act 1997.
76. Waste is to be stored in an appropriate manner in a covered area and removed at regular intervals.
77. The development is to comply with the Food Act 2003 and Australian Standard 4674-2004 Design, construction and fit-out of food premises. The development is to be limited to the sale of pre-packaged food.

Advisory Notes

- Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
- The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- The applicant is advised to consult with 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.

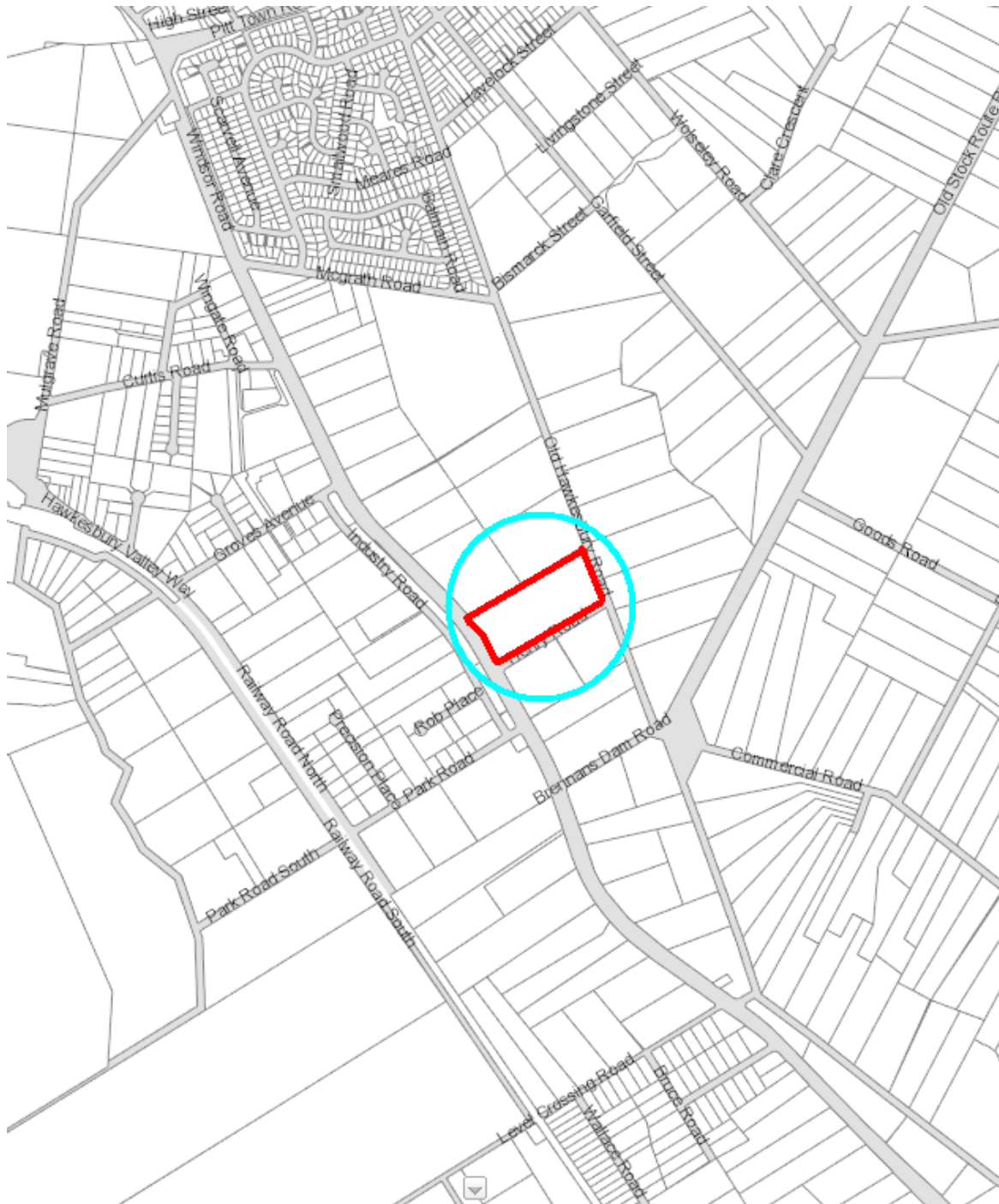
ATTACHMENTS:

- AT - 1** Locality Plan
- AT - 2** Aerial Photograph
- AT - 3** Site Plan
- AT- 4** Landscape and Elevation Plan

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AT - 1 Locality Plan



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AT - 2 Aerial Photograph

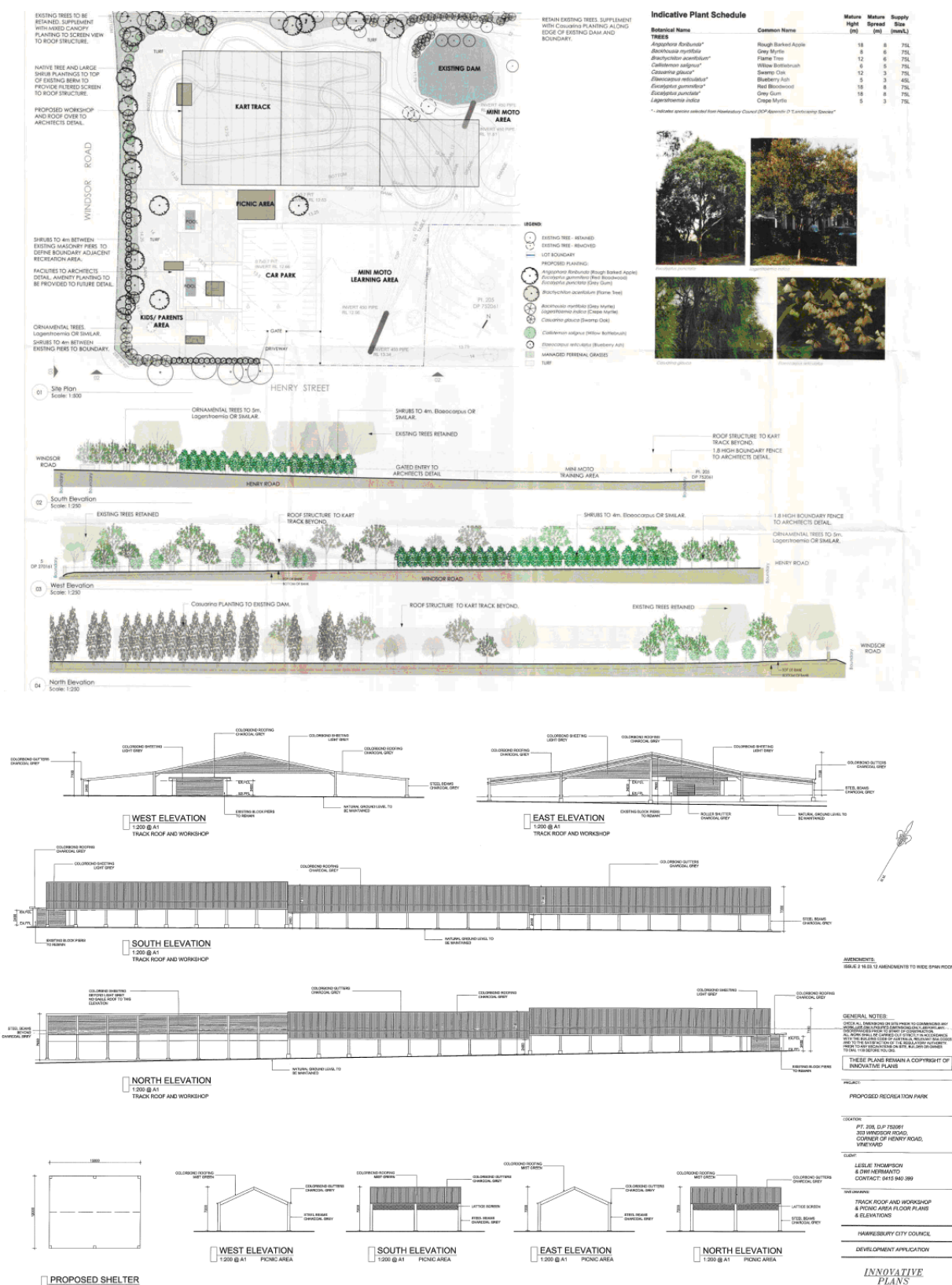


Meeting Date: 29 May 2012

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AT- 4 Landscape and Elevation Plan



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Item: 72 **CP - Development Application - Section 96 Modification of Development Consent
- Lot 4 DP 224860 - 30 Chapman Road, Vineyard - (95498, 116177)**

Previous Item: 3, Ordinary (1 February 2011)
 220, Ordinary (27 September 2011)

Development Information

File Number: DA0737/09A
Property Address: 30 Chapman Road, Vineyard
Applicant: Liddell Investments Pty Limited
Owner: Liddell Investments Pty Limited
Proposal Details: Section 96 modification of Development consent DA0737/09 incorporating the following changes:
 1. Delete the proposed Rural Shed
 2. Remove conditions relating to constructing the shed, contamination report for placement of shed and structural engineers relating to the shed (SCHEDULE 1-Conditions 1 & 2)
 3. Alter (SCHEDULE 1-Condition 2) Bushfire Attack Level-BAL from BAL 40 to BAL 29.
Estimated Cost: \$45,000
Zone: Rural Living under Hawkesbury Local Environmental Plan 1989
Date Received: 11 May 2012
Advertising: Not Applicable

Key Issues: ♦ Bushfire
 ♦ Deletion of Rural Shed

Recommendation: Approval

REPORT:

Executive Summary

The application seeks to modify the original development consent DA0737/09 under Section 96 of the Environmental Planning and Assessment Act 1979 for dwelling additions and a rural shed.

The modification application requests to delete the rural shed from the consent and remove conditions set out under Schedule 1 (Deferred Commencement conditions) relating to the construction of the shed. As the current approval is a Deferred Commencement Consent the development consent is not operational until the Deferred Commencement conditions have been satisfied.

Council at the Ordinary Meeting of 27 September 2011 considered the original application as the principle issue was the previous use of the site and the size of the shed. The resolution was to issue a Deferred Commencement consent. The Deferred Conditions required a contamination report, the application and approval of a 149A Building Certificate and Bushfire Attack Level (BAL) details for the proposed deck.

This Section 96 application is reported to Council in accordance with the *"Application Determined by Council – Re-application Process Policy"*.

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Description of Proposal

The applicant seeks to modify the development consent DA0737/09 in the following manner:

1. Delete the proposed Rural Shed
2. Remove conditions relating to constructing the shed, contamination report for placement of shed and structural engineers relating to the shed (SCHEDULE 1-Conditions 1 & 2).
3. Alter (SCHEDULE 1-Condition 2) Bushfire Attack Level-BAL from BAL 40 to BAL 29.

Schedule 1 – Item 1 requires the applicant to lodge a contamination report in conjunction with earthworks associated with the construction of the shed. The applicant is now proposing not to proceed with the shed construction and this requirement can therefore be removed from the development consent.

Schedule 1 – Item 2 required the applicant to lodge a 149A Building Certificate for the deck that was constructed without prior consent. The structure has since been removed from the dwelling and the applicant has requested removal of the Building Certificate requirement. As such this condition can be removed from the consent.

Schedule 1 – Item 3 required the applicant to provide engineer's certification for the deck structure. This deck has been removed from the dwelling. The certificate is not required to be submitted and this condition can be removed from the development consent.

Schedule 1 – Item 4 requires the applicant to provide specifications for the materials to be used in the construction of the new deck for Bushfire Attack Level (BAL) 29 which is proposed to be rebuilt on issue of the appropriate approval and construction certificate. This satisfies schedule 1 – Item 4 of the deferred commencement consent.

It is considered reasonable that the items of the Deferred Commencement Schedule may be removed as they are no longer applicable to this proposal.

Further it is also considered that the applicant has satisfied the requirements and has provided specifications for the materials to be used in construction of the deck for Bushfire Attack Level (BAL) 29.

Assessment of Section 96

Section 96 (1A)

The proposed section 96 modification is considered substantially the same development as originally submitted. The proposed amendment is to remove the Deferred Commencement consent conditions that will no longer be relevant to the proposal as the shed is no longer proposed as part of this development.

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. 55 - Remediation of Land

This policy requires Council to consider prior to the issue of any consent whether or not land subject to development is contaminated. If the land is contaminated Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed.

Comment: The previous application proposed the erection of the rural shed on land previously used as a sawmill. The applicant seeks to remove the rural shed from the application. It is considered a contamination report is not required.

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 amended proposal is defined as a dwelling house and is permissible with consent in the Rural Living zone under HLEP 1989.

The proposal is consistent with the objectives of the zone as it will provide for the continued use of the land for rural residential purposes and will provide primarily for a rural residential lifestyle.

The subject site is subject to the predicted 1 in 100 year flood level of the area which is 17.3m AHD. The proposal is considered to be consistent with Clause 25 Development of Flood Liable Land.

The proposed dwelling additions are consistent with Clause 25 (4) of this plan with the existing dwelling being located at approximately 16.5m AHD.

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

Clause 5 - Definitions

Clause 9 - Carrying out of development

Clause 18 - Provision of water, sewerage services, etc

Clause 20 - Development below high-water mark etc

Clause 24 – Development in certain environmental and other zones

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

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

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 2011 applies to the proposal. The subject lot is identified as being zoned RU4 Rural Small Holdings.

The dwelling additions proposed are permissible with the consent of Council under this plan being ancillary to the use of the land for rural residential purposes. The proposal is considered to be consistent with the Draft plan.

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 2002. 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 not required to be notified.

Part C Chapter 1 - Landscaping

Landscaping has been proposed and is considered to be appropriate.

Part C Chapter 2 – Car parking and Access

Suitable parking is available for the dwelling.

Part D Chapter 8 Erection of Rural Sheds

The rural shed is proposed to be removed from the application.

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

There are no planning agreements applicable to the proposed development.

v. Matters prescribed by the Regulations:

There are no discernable matters prescribed by the Regulations.

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 detrimental social, economic or environmental impact on the locality considering the nature of the development being proposed.

c. Suitability of the site for the development:

The site is considered able to support the proposed development. Suitable services are available onsite and will not be required to be changed/upgraded as a result of the proposal.

Access, Transport & Traffic

It is considered that the traffic generated by the proposal will have no significant impact on traffic movements within the locality. The proposed modification reduces intensity of development of the land and the property will continue to be used for the purposes of rural residential use.

Utilities

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

Flora & Fauna

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

Natural Hazards

The site is subject to Bushfire.

The condition relating to the Bushfire Attack Level (BAL) 40 is to be reduced to Bushfire Attack Level (BAL) 29. An assessment was carried out using the Australian Institute of Building Surveyors Bushfire Attack Level Assessment Report and the format was adopted to ascertain the correct Bushfire Attack Level (BAL). Plans and specifications referenced from AS3959 have been provided by the applicant to reflect the proposal being constructed to Bushfire Attack Level (BAL) 29. This satisfies Schedule 1 Condition 2 and the determination can be issued without deferred commencement conditions. Further the applicant lodged a submission in relation to Bushfire Attack Level (BAL) 40. The Bushfire Attack Level (BAL) was reviewed and it is considered that Bushfire Attack Level (BAL) 29 is a more reasonable Bushfire Attack Level (BAL).

The site is also affected by the 1 in 100 year flood level of the area. An assessment of the proposal against the flooding controls contained within HLEP 1989 has been addressed in the report above.

Context and Setting

The locality consists of allotments used for agriculture, rural residential, industrial and commercial purposes. The proposed development is consistent with these surrounding land uses and the proposal is unlikely to have an impact on the context or development of the area given the proposed use and appearance.

Water

It is noted that the New South Wales Office of Water General Terms of Approval is no longer required as all works will be in excess of 40 metres from any natural watercourse. This was previously required due to the location of the shed.

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

The modification application is not required to be notified under HDCP 2002 and no submissions were received.

e. The Public Interest:

The proposed development is consistent with the relevant planning controls affecting the site as detailed in the assessment report above. It is considered that the development will allow for the continued use of the land for rural residential purposes. It is therefore considered to be consistent with the public's interest.

Conclusion

The proposed modification is considered to be satisfactory, subject to the implementation of conditions recommended in the report. The development is generally consistent with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan 2002.

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:

a. That DA0737/09 be modified as follows:

1. Modify the development description from "**Dwelling additions and Rural Shed**" to "**Dwelling additions**"
2. Delete the approved Site Plan (Attachment 3) and replace with the amended Site Plan (Attachment 4)
3. Delete Schedule 1 of Deferred commencement consent from DA073/09.
4. Modify development consent to include conditions 22 and 23 added for Bushfire Attack Level (BAL) 29, as follows:

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22. *The building shall comply with the requirements of "Planning for Bush Fire Protection" prepared by Planning NSW and AS 3959 - 2009 Construction of Buildings in Bush Fire Prone Areas.*
 23. *The building shall comply with the requirements of AS 3959 – 2009 Construction of Buildings in Bush Fire Prone Areas, Bushfire Attack Level – BAL 29.*
- b. A full revised set of development consent conditions for DA0737/09 be issued to the applicant showing the above amendments.

ATTACHMENTS:

- AT - 1 Location Plan
- AT - 2 Aerial Photo
- AT - 3 Originally Approved Plans
- AT - 4 Proposed Section 96 Site Plan

Meeting Date: 29 May 2012

Meeting Date: 29 May 2012

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17000

70.1

1000

3000

30.45

RESIDENCE

PROPOSED VERANDAH

ROADWAY

51.9

0.01

EXIST. SMALL SHED

ROOSTING SHACK/HOUSE

TWO ROWS OF CASURINA STRICTA

PROPOSED MACHINERY SHED

COMPACTED ROAD-BASE DRIVEWAY

1500

COUNCIL APPROVED SEDIMENT CONTROL FENCE

CHAPMAN ROAD

0.01

ADDITIONAL LAND SCAPING TO THIS AREA

HEAVY BORDER LANDSCAPING MADE UP OF MELALEUCA ARMILLARIS, ASSORTED GREVILLEAS, ASSORTED ACACIAS

NATIVE PLANT BORDER

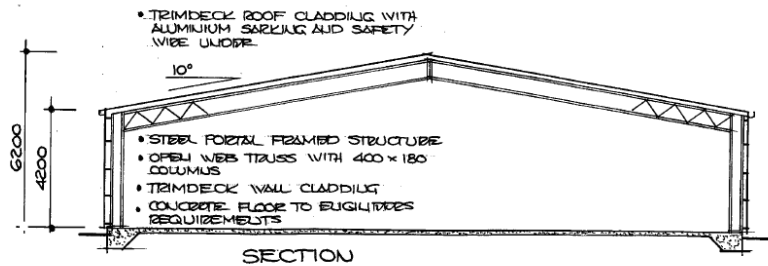
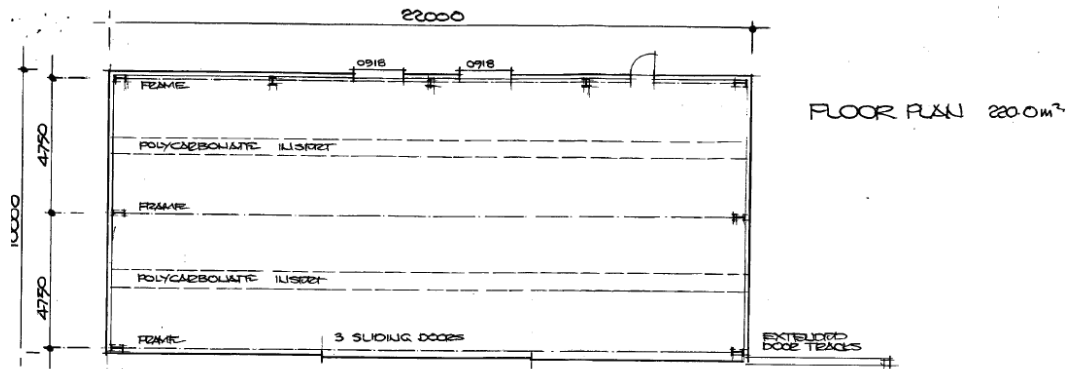


DP. 224860
LOT N^o 4
2.044 ha

SITE PLAN
PROPOSED VINEYARD AND
MACHINERY SHED
FOR:
LIDDELL INVESTMENTS
AT:
30 CHAPMAN ROAD
VINEYARD
SCALE 1:500 OCTOBER 2009
JOHN APTED PLAINS 47762429
DRA. 11°

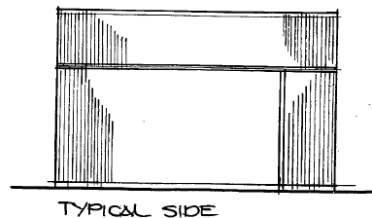
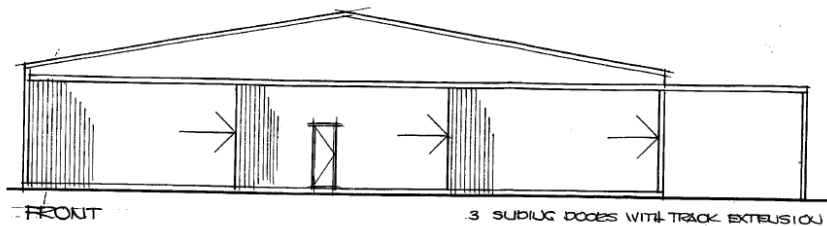
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MODIFIED PLAN OF
PROPOSED MACHINERY SHED
(REDUCED FROM 312.8m² TO
220.0m²)

FOR:
LIDDELL INVESTMENTS
AT:
30 CHAPMAN ROAD
VILVET
SCALE 1:100 JUNE 2011
JOHN APTEID PLANS 47162429
DEC. NO 201/1676/1/1



COLOUR SCHEDULE

ROOF — OFF WHITE
FRONT GABLE — "
WALLS — LIGHT GREY
DOORS — "

MODIFIED PLAN OF
PROPOSED MACHINERY SHED
(REDUCED IN SIZE)

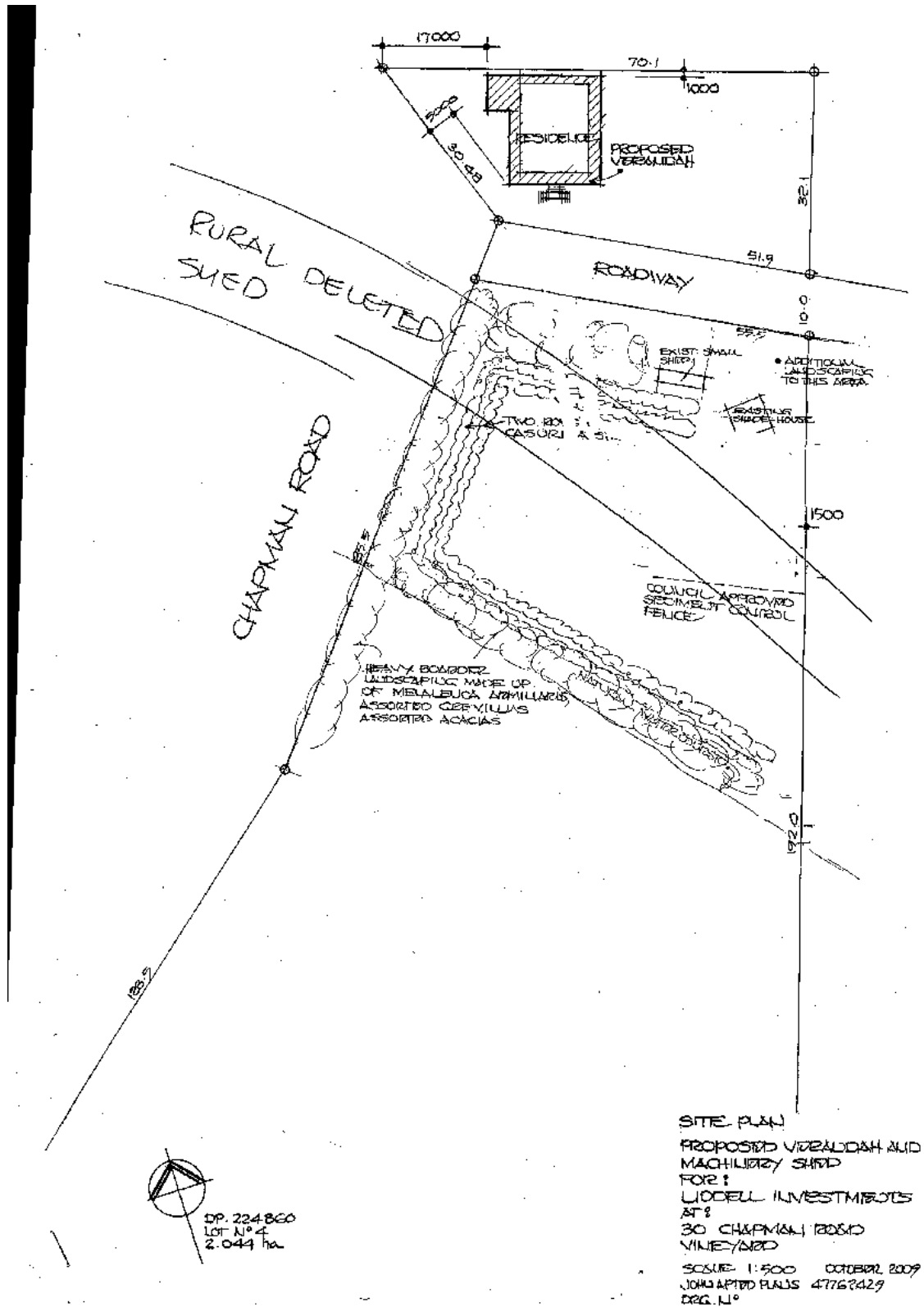
FOR:
LIDDELL INVESTMENTS
AT:
30 CHAPMAN ROAD
VILVET

SCALE 1:100 JUNE 2011
JOHN APTEID PLANS 47162429

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AT - 4 Proposed Section 96 Site Plan



oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 May 2012

Item: 73 **CP - Development Report - Dwelling - House with attached garage and part Demolition of Shed - Lot 51 DP 1150214 - 685 A George Street, South Windsor - (95498, 117837, 123493)**

Development Information

File Number: DA0003/12
Property Address: 685 A George Street, South Windsor NSW 2756
Applicant: Allan Maxwell Madgwick
Robyn Susan Madgwick
Owner: Mr AM Madgwick & Mrs RS Madgwick
Proposal Details: Dwelling House with attached garage and part Demolition of shed
Estimated Cost: \$241,050
Zone: Housing and Rural Living
Date Received: 4 January 2012
Advertising: 10 January to 24 January 2012

Key Issues:

- ◆ Building Height Plane Projection
- ◆ Flood liable land
- ◆ Loss of view

Recommendation: Approval

REPORT:

Executive summary

The application seeks approval for the construction of a new dwelling and partial demolition of an existing shed at Lot 51, DP 1150214, 685 A George Street, South Windsor.

The Hawkesbury Development Control Plan (HDCP) – provides guidelines for the construction of dwellings. The new dwelling is proposed to be outside the building height plane, however this is a result of the building being elevated so as to comply with the minimum floor height standard as the land is flood prone.

This matter is being reported to Council at the request of Councillor Paine.

Introduction

The application is proposing the construction of a dwelling with partial demolition of an existing shed. The subject site (Lot 51) is a battle-axe allotment and is 3056 square metres in area.

The land falls from front to rear (east to west) and the entire property is flood liable with a relatively small portion of the land being above 14.3 metres that is considered a developable area. An existing shed occupies a reasonable proportion of this developable area. Any dwelling constructed on this property would be required to be two storeys in height in order to comply with the flooding provisions of Hawkesbury Local Environmental Plan 1989. It should be noted that shed structures are not subject to flood related controls in the same manner as dwellings.

The parcel of land to the front of the subject site (fronting George Street - Lot 52) already contains a two storey dwelling and is 1128 square metres in area. The land adjacent on either side to the north and south of the subject site contain older single storey dwellings and are single parcels of land.

History

The subdivision of the original parcel of land (parent property) was approved in October 2006. The subdivision was registered with NSW Land and Property Information (former Land Titles Office) on 21 December 2011.

Council Policies, Procedures and Codes to Which the Matter Relates

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
Draft Hawkesbury Local Environmental Plan 2011 (DHLEP 2011)
Sydney Regional Environmental Plan No 20 (SREP 20)
Hawkesbury Development Control Plan 2002 (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 (where applicable) of any:

i. Environmental Planning Instrument:

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

It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury-Nepean River either in a local or regional context and that the development is not inconsistent with the general and specific aims, planning considerations, planning policies and recommended strategies.

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

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

An assessment of the proposal against the relevant clauses of HLEP 1989 is made below:

Clause 9 - Carrying out of development

The subject site has a dual zoning being Rural Living and Housing under HLEP 1989. The proposed dwelling and shed alterations are a permissible form of development in both the Housing and Rural Living zones.

Clause 9A - Zone Objectives

The objectives of the Housing zone are as follows:

- a) *to provide for low density housing and associated facilities in locations of high amenity and accessibility,*
- b) *to protect the character of traditional residential development and streetscapes,*
- c) *to ensure that new development retains and enhances the existing character,*
- d) *to ensure that development is sympathetic to the natural amenity and ecological processes of the area,*
- e) *to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character,*
- f) *to control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council,*
- g) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

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Comment: The proposed development is for residential purposes and is similar to surrounding development in terms of its character and scale. The dwelling is proposed on land within the Housing zone.

There is adequate provision for the connection to the existing water supply and sewerage disposal. The development is not expected to create unreasonable economic demands on the existing public amenities or services.

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

Comment: The proposed development is considered to be consistent with the objectives of the Rural Living zone as the dwelling is essentially domestic in scale and character and similar to existing development elsewhere along George Street in the immediate locality.

Clause 25 – Development of flood liable land

Clause 25 of HLEP 1989 permits the erection of a dwelling on land that is up to 3 metres below the 1 in 100 year flood level but requires the habitable floor level to be at or above the 1 in 100 year flood level. The development as proposed is consistent with the provisions of Clause 25 as the dwelling has non-habitable uses on the ground floor, and all habitable rooms are located on the first floor which has a finished floor level at a height greater than the 100 year flood level of RL 17.3 metres AHD.

Given that the contours of the site fall away to the rear of the property; the owner is restricted to constructing any dwelling within the higher portion of the property that is above the 14.3 contour. The only developable area as a result is in the area adjacent to the rear of the front allotment (Lot 52).

The proposed conditions of consent include conditions in relation to constructing with flood compatible materials.

Draft Hawkesbury Local Environmental Plan 2011

Draft Hawkesbury Local Environmental Plan 2011 is currently with the Department of Planning and Infrastructure. Its gazettal is imminent and certain. The subject lot is identified as being both proposed zone R2 Low Density Residential at the front of the allotment and RU4 Rural Small Holdings at the rear.

The objectives of R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To protect the character of traditional residential development and streetscapes.*
- *To ensure that new development retains and enhances the existing character.*
- *To ensure that development is sympathetic to the natural amenity and ecological processes of the area.*
- *To enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character.*
- *To control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council.*
- *To ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities or services.*

Comment: It is considered that the proposal is consistent with the objectives of the proposed zone as it provides for the housing needs of the community and is not dissimilar to other development in the immediate locality.

The dwelling is in keeping with the traditional and existing character of the area, whilst providing low density housing, and is not expected to create unreasonable demands upon public amenities.

The objectives of the RU4 Rural Small Holdings zone are:

- *To enable sustainable primary industry and other compatible land uses.*
- *To maintain the rural and scenic character of the land.*
- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To ensure that development occurs in a manner 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 waterways.*

Comment: It is considered that a dwelling is not inconsistent with the zone objectives as it does not demonstrably affect the scenic quality of the area and is not considered to create unreasonable demands for the public amenities.

Clause 6.6 Flood Planning

The objectives of this clause are:

- a) *to maintain the existing flood regime and flow conveyance capacity; and*
- b) *to enable safe occupation and evacuation of land in a flood event; and*
- c) *to avoid significant adverse impacts upon flood behaviour; and*
- d) *to avoid significant adverse effects on the environment that would cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river bank/watercourse; and*
- e) *to limit uses to those compatible with flow conveyance function and flood hazard.*

It is considered that the proposal is consistent with the objectives of the proposed Clause 6 - Flood Planning. The lot is already in existence and there is an expectation of a dwelling entitlement for this land. Access is available to George Street which is higher than the land on which the dwelling will be constructed and the dwelling itself is not considered to significantly affect flood levels or flood behaviour.

ii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

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.

Three objections were received and will be discussed later in this report.

Part D - 1.3 Height

Due to the proposal being located on flood prone land, exemptions to the Building Height Plane may be granted. The property owners have reduced the intrusion into the Building Height Plane by increasing the boundary setbacks to both 683 and 685 George Street as shown in the amended plans submitted on the 11 May 2012.

There is still a breach of the Building Height Plane requirement on the North-Eastern elevation of the building (adjoining No. 683 George Street). The extent of this non-compliance is relatively minor and is limited to the top half of the first floor wall and a small portion of the roof. The intent of the Building Height Plane requirement is to reduce overshadowing onto adjoining land, reduce potential loss of privacy and to improve the visual appearance of buildings. Given the encroachment is to the North-eastern side, there is no adverse overshadowing of adjoining properties resulting from the proposal. Suitable privacy screens have also been provided to this elevation of the building to address any privacy concerns. As the building levels are governed by the flood planning level, there is limited opportunity to reduce the encroachment.

Council staff have attempted to negotiate an acceptable outcome in relation to this matter and the applicant has made certain limited changes to the proposal but have not been prepared to alter the design of the first floor. It is considered that the current proposal is not an unreasonable outcome from these negotiations as overshadowing and loss of privacy have been suitably addressed and exemptions to the Building Height Plane are often granted on flood liable land.

Part D – 1.4 Setbacks

HDCP 2002 requires a minimum 6 metre setback from the rear boundary of the front allotment. The setback as indicated on the amended plans, comply in this regard. The intent of this 6 metre setback is to provide an acceptable spatial separation between dwellings where battle-axe lots are involved to assist with privacy issues to the private open space of the front allotment. Nothing prevents this area being used for vehicle manoeuvring or other ancillary uses.

Part D – 1.9 Vehicle Access and Car Parking

The existing access and driveway comply with the HDCP 2002. This aspect was assessed as a part of Development Consent DA0589/06 for the subdivision.

The design of the garage is integrated into the dwelling and, with amended design features, is not dominant to the elevation. Parking for two cars and their safe egress and access has been assessed and considered acceptable.

Part D - 1.11 Visual Privacy

The design of the dwelling, with living room windows facing to the rear of the property and provision of suitable privacy screening, highlight windows and obscure glazing on other first floor windows assists the maintenance of visual privacy to adjoining properties.

Part D - 1.14 Safety and Security

Given the nature of a battle axe block, the dwelling is unable to provide surveillance to the footpath of George Street. Design elements of the dwelling, such as door and window location allow for visual surveillance of the front entry and driveway thereby assisting in safety and security for the occupants of the dwelling.

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

There are no planning agreements applicable to the proposed development.

iv. Matters prescribed by the Regulations:

The proposed development is consistent with the provisions of the Environmental Planning and Assessment Regulation, 2000. There are no relevant matters that are prescribed by the Regulations that affect this development.

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:

The proposal is not considered to have any demonstrable adverse impacts upon the natural or built environment or adverse social or economic impacts upon the locality that warrant further change or refusal of the application.

c. Suitability of the site for the development:

The subject site does not contain any significant constraints that would make this development prohibitive. The site is suitable for the development.

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

The application was notified to adjacent property owners in accordance with HDCP. During the notification period, Council officers were made aware that a change in ownership had occurred at 685 George Street (the property to the front of the subject site). Once Council was made aware of the situation, the notification period was extended to allow for the new property owners to review the plans and provide comment.

Three submissions were received in relation to the proposal. The following concerns were raised:

Setback

The proposed location for the two storey dwelling does not meet the minimum setbacks from property boundary.

Comment: The setbacks as proposed are compliant with the provisions of the Hawkesbury Development Control Plan. The closest boundary setback is two metres. As discussed above, there is a breach in the Building Height Plane requirement which indirectly will influence setbacks

(as the higher the wall, the further that wall will need to be from a boundary in order to comply with the Building height plane requirement). In the circumstances, a setback of two metres is not considered unreasonable.

Loss of view to rural outlook and valley view;

Comment: As discussed below, views in the general locality are not considered to be iconic and this has been tested with the Land and Environment Court Planning Principal – View Sharing – an extract of which is provided below.

Tenacity Consulting v Warringah [2004] NSWLEC 140

1. *The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Comment: The existing views from 683 and 685 George Street to the rear are of farm land. Further afield there is some open space but is not recognised as being significant (e.g. National Park, or World Heritage Listing, etc). In the distance will be views of the Kurrajong Heights escarpment. It is not reasonable to expect that the current view over an adjoining property, whilst enjoyed by the neighbours due to the lack of development on the site, will remain when it could be lost simply by the construction of a 1.8 metre high boundary fence.

There is an existing shed on the subject property adjacent to the location of the proposed dwelling. This application involves the demolition of approximately half of the existing shed to make way for the new dwelling. It is considered that the current view enjoyed by the residents of 683 and 685 George Street is obscured or partially obscured by this existing shed structure.

2. *The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Comment: Loss of views over the adjoining land will occur from rear private open space, internal living areas and bedroom windows located on the first floor. Any residential development occurring on the subject site will need to be two storey and will need to be in the general location that the current proposal is situated due to the constraints on the land.

3. *The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Comment: It is considered the extent of the impact upon loss of views would be minor. There will still be a partial view of the mountains in the distance and considering that the view is over an adjoining property that has a dwelling entitlement and currently partially obscured due to the existing shed, the loss of view is not significant.

4. *The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered*

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unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment: A two storey dwelling is not unreasonable on this site, especially considering the minor flood affectation of the site. The proposal complies with all relevant planning controls with the exception of the Building Height Plane (discussed above). Were the proposal to be fully compliant with the Height Plane requirement, there would be no significant difference in the affected view.

Breaches Council Height Plane;

Comment: As discussed above, HDCP 2002 permits breaches to the Building Height Plane in circumstances where the building is occurring on flood prone land. The encroachment has been reduced with the amended plans provided 11 May 2012. The issues of overshadowing and loss of privacy have been assessed and considered acceptable in this particular case.

Concerns with site access and safety; property owners have failed to explore other avenues of flood mitigation;

Comment: Designing to build at the appropriate flooding heights does not prevent excavation, and the applicant has designed the dwelling to achieve a finished floor level of the living areas to be at the floor height standard.

Location of a temporary toilet facility in proximity to the adjoining boundary;

Comment: This issue is not considered to be sufficient to warrant refusal or amendment of the application. The location of builder's toilets on construction sites is a matter for the builder. In most cases chemical closets are used but in some circumstances, if reticulated sewer exists, the builder may construct a temporary W.C with running water. The sewer junction for the subject site is in the south-east corner of the site (adjacent to the boundary with No. 685 George Street). In all probability such a temporary arrangement would be constructed in that location.

Not sympathetic of surrounding development:

Comment: The surrounding development is a mix of new and older style dwellings. Others have had alterations and additions and there is no defined design pattern. The proposed dwelling incorporates elements of the surrounding development such as an entry portico and first floor balcony, into the design of this proposal.

Increase soil erosion and dust;

Comment: This is a matter for the builder to manage during the construction process as required by the development consent conditions. Should the proposal be worthy of support, appropriate draft conditions have been recommended. Should complaints be received during the construction phase, the matter will be investigated and the builder directed to undertake action as appropriate.

Lack of ability to provide private open space:

Comment: The plans provided on the 11 May 2012, increase the setback to the adjoining front property to 6 metres. As a result, there is clear private open space provided to the proposed dwelling and this allows for separation from the open space of the land at 685 George Street.

Lack of landscaping to driveway;

Comment: No landscaping requirements were imposed for the driveway under Development Consent DA0589/06, for a two lot subdivision. There is nothing preventing the current owners from undertaking landscaping of this area.

External noise and vibration, ANEF Contours;

Comment: Clause 37 of HLEP 1989 and Part 6, 6.a of the DHLEP 2011 detail that land affected by the Australian Noise Exposure Forecast (ANEF) Contour of 20 or above or in otherwise in proximity to RAAF Richmond shall have consideration to the effects of aircraft noise on sensitive receivers. The property is located outside the contour of ANEF 20 and is not in proximity to RAAF Richmond. Further the site is not located with the proximity of a railway line and is in excess of 60 metres to a major road.

Safety, security and surveillance; Fails to consider or respect right to privacy; Setbacks; Landscaped areas and hard surfaces and Loss of private open space;

Comment: These issues have been discussed as a part of the assessment against the provisions of HDCP 2002.

Absence of sunlight to the living areas of 685 George Street, South Windsor. Reduction of 20-30 % in winter

Comment: Amended plans submitted on the 11 May 2012 show an increase to the setback of the common boundary. This is considered to alleviate the overshadowing potential. Further the shadow diagrams submitted indicate that adequate access to sunlight is provided for adjoining properties.

Increase adjoining owner's reliance on fossil fuels for heating and cooling and limiting access for solar power options; Impact on future value of the adjoining properties;

Comment: The amended plans result in an acceptable outcome. There is no evidence to indicate positive or negative impacts on the future value of properties.

Having provided shadow diagrams for winter only;

Comment: The shadow diagrams provided are adequate. Council does not require that both summer and Winter Solstices diagrams are provided. Only winter shadow diagrams are required as the shadow length is at its greatest during winter.

e. The Public Interest:

Approval of the development is not considered to be contrary to the public interest.

Developer Contributions

The following developer contributions apply to this development - \$2,410.50. Accordingly, a condition of consent is required to be imposed in this regard.

Planning Decision

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

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RECOMMENDATION:

That development application DA0003/11 for the construction of a two storey dwelling and partial demolition of the existing shed at 685A George Street, South Windsor (Lot 51, DP 1150214) 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:

Plans are listed as follows:

DA1, 869c - 11 May 2012
DA2, 869c - 11 May 2012
DA3, 869c - 11 May 2012
DA4, 869c - 11 May 2012
BASIXS Certificate 410921s_02 issued 17 April 2012

2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate construction certificate.
3. The development shall comply with the provisions of the National Construction Code / Building Code of Australia at all times.
4. The approved use shall not commence until all conditions of this Development Consent have been complied with.
5. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
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 Construction Certificate Issue

7. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$ 2,410.50 shall be paid to Hawkesbury City Council.

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

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

Prior to Commencement of Works

8. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
9. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the principal certifying authority prior to commencement of works.

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10. 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.
11. 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.
12. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.
 - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - (d) The name and contact number of the Principal Certifying Authority.
13. 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.

During Construction

14. Any water tanks, outbuildings or other ancillary structures shall be finished in colours and materials of earth tones of low reflective quality to blend in with the surrounding landscape.
15. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
16. 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.
17. 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.
18. Compliance certificates (known as Part 4A Certificates) as are to be issued for Critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 as required by section 109E (3) (d) of the Environmental Planning and Assessment Act 1979 by the nominated Principal Certifying Authority .
19. No trees, outside the site of the proposed approved structures, are to be removed without the approval of Council.

Prior to Issue of Occupation Certificate

20. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:

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- a) The type and method of termite treatment (complying with AS 3660) provided to walls and floors, pipe penetrations, jointing of new work to existing and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
- b) Glazing materials installed in the building in accordance with AS1288 and AS2047 - Glass in Buildings - Selection and Installation, e.g. windows, doors, footlights and showers.
- c) The type of timber installed indicating both species and durability as required by AS 1684.
- d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS 3786 and be connected to the consumer mains power where supplied to the building.
- e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority, certifying that all commitments made on the BASIX certificate have been implemented and installed as approved

Advice to this consent

21. The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

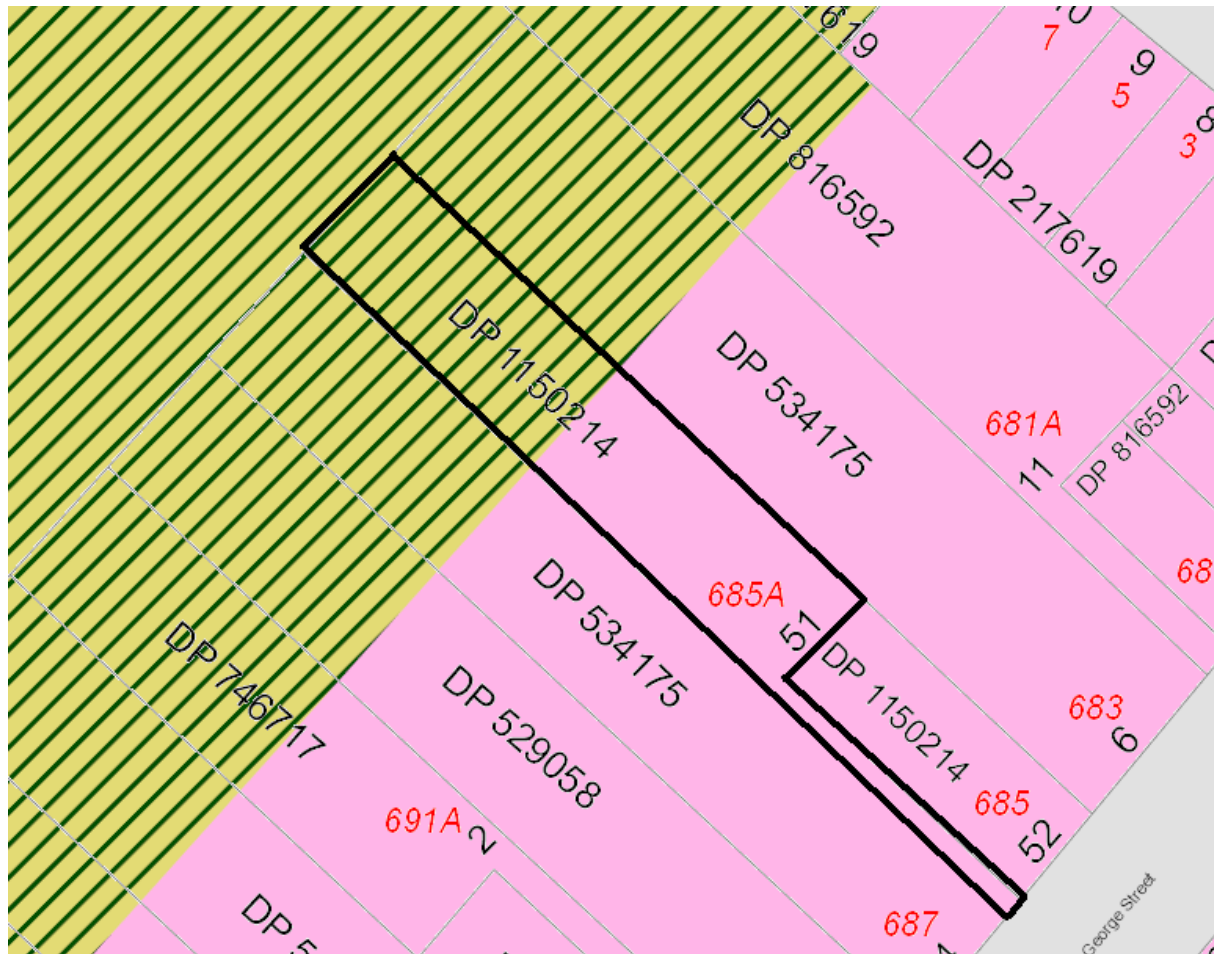
ATTACHMENTS:

- AT - 1** Locality Plan and Zoning
- AT - 2** Aerial Photograph
- AT - 3** Plans

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AT - 1 Locality Plan and Zoning



Hatched area – **Rural Living Zone**

Non hatched – **Housing Zone**

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AT - 2 Aerial Photograph



AT - 3 Plans

Image 1 – Elevation Plan

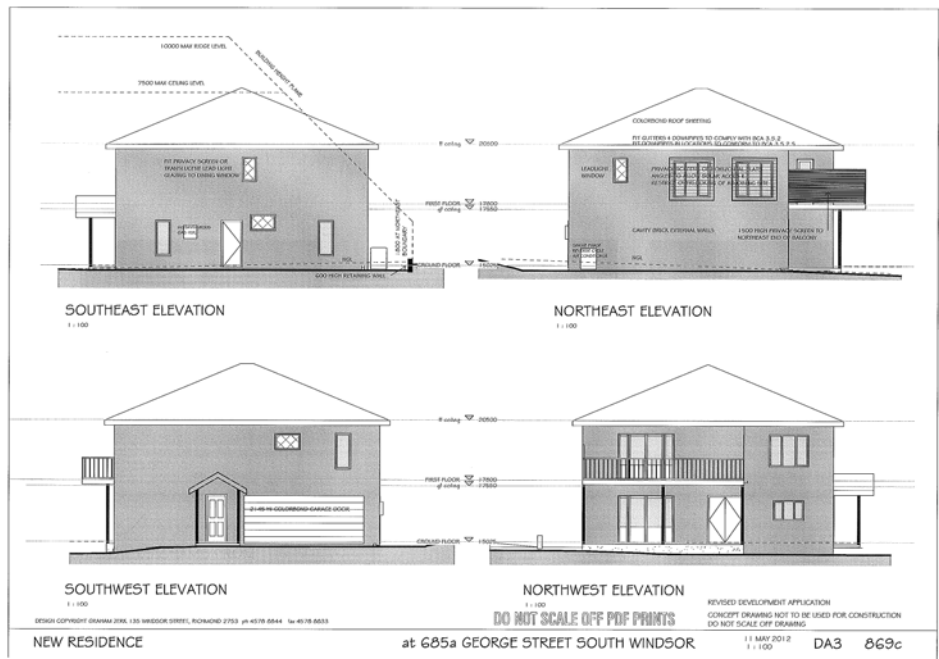
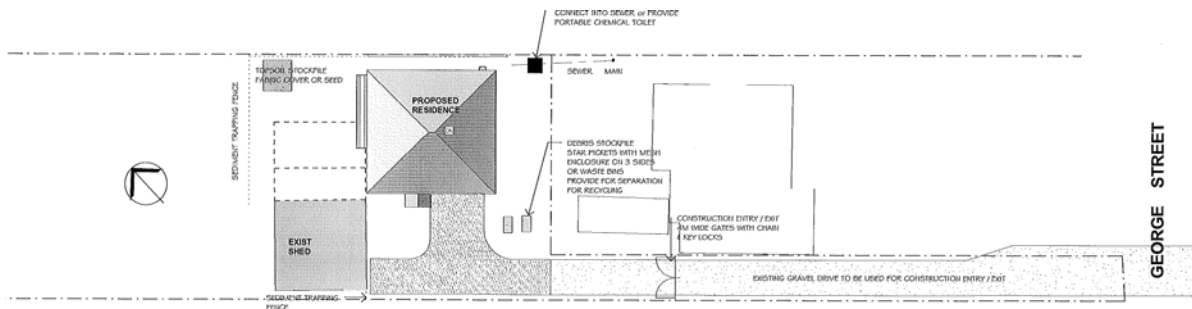


Image 2 - Site Plan



oooO END OF REPORT Oooo

Item: 74 CP - Applications Determined by Council - Re-application Process Policy - (95498)

REPORT:

Executive Summary

The purpose of this report is to discuss the review of the “*Applications Determined by Council – Re-application Process Policy*” of Council as this Policy was created in 1995 and is now 17 years old. It is the recommendation of this review that, due to the provisions of Section 96 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the current delegations, the Policy be archived.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council’s Community Engagement Policy. However, it should be noted that Section 96 modification applications will continue to be notified to adjoining properties and previous objectors as required by the EP&A Act or the Hawkesbury Development Control Plan 2002.

Background

The current “*Applications Determined by Council – Re-application Process Policy*” was created as an additional part of the resolution relating to development application for a change of use for a heritage item in Grose Vale in August 1995, and states the following:

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

A review of the Council meeting minutes from August 1995 does not indicate why the additional part was added to the resolution, nor the intended outcome of the resolution. The result of this Policy is that all development applications that were originally determined by Council, i.e., not determined by Council staff, must have any subsequent amendment (Section 96) applications reported to Council for determination as well. This is regardless of how minor the amendment application is.

As Council is aware the governing legislation for the assessment and determination of development applications is the *Environmental Planning and Assessment Act 1979* (EP&A Act). Section 96 of the Act sets out the provisions for the assessment and amendment of a development approval. Section 96 of the Act is long and will not be reproduced in this report.

In summary, Section 96 sets out provisions for dealing with modifications to a development consent. These modifications can range from an application to correct an error in the determination that may be an obvious typing or calculation error, e.g., error in Lot or DP or street number, fee calculation error, etc; Modifications that have minimal or no environmental impact, e.g., modification to staging of a development, minor height change or orientation to a structure with no impacts on surrounding environment; or Modifications that may have minor impacts or changes to another Authority’s conditions or minor relocation of a structure (Note, this would only be in a minor way).

It should be noted that the provisions of Section 96 in ALL of the above cases is ***“that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted before that consent as originally granted was modified”***.

The EP&A Act does not attempt to define what modifications are permitted and what is “substantially the same development”. Similarly case law on the use and definition of Section 96 matters does not define “substantially the same” as this varies with each individual development. However, it is clear from case law that the definition as to what is a Section 96 modification and what is a new application rests with the Consent Authority and that this is difficult, if not impossible, to define for all cases.

In recent times the Section 96 matters that have been reported to Council have related to changes to staging of a development, i.e., the order of construction of the development and not the development itself, minor redesign matters to rooflines, room sizes, etc, and the most recent being the development application for 52 Macquarie Street, Windsor that was reported to Council on 8 May 2012 as the floor level of the proposed units required raising up to 450mm due to a more detailed drainage design that was required by the original development approval. It is not uncommon for larger, more complex development approvals to submit one or more S96 applications to modify a condition as particular construction or drainage issues only arise once the full design of these matters is undertaken.

As can be seen from the above examples, the modifications to these developments are minor or very minor in some cases and in all cases the changes would not be noticeable, but the Act requires a formal application to change those conditions.

Current staff delegations permit the determination of Section 96 matters under certain conditions relating to the matter being “substantially the same development”, consistency with current Council Policy and subject to direction of the General Manager or Director City Planning. Council's internal “peer review” system requires that the Section 96 applications are discussed with another staff member (usually Director, Planning Manager or Coordinator) to ensure, amongst other issues, that the application is correctly classified for the purposes of Section 96 of the Act. This peer review process takes advantage of the 60+ years of experience available between these staff and the fact that two of these staff are Certified Practising Planners (CPP). Similarly, if there is no agreement in this process Council staff may also seek legal advice from Council's solicitors on the matter.

Given that the current Policy is approximately 17 years old it is appropriate to review the terms and need for that Policy. As seen from the above, the matters that have been subject to Section 96 applications and reported to Council are, as required in the EP&A Act, relatively minor. The need to report these matters to a Council meeting results in additional processing time and expense (in delays) to the applicant. The archiving of this Policy will mean that these minor matters can be dealt with by staff in a faster, more efficient manner whilst retaining the ability for Councillors to call a matter up to a Council meeting or for staff to refer the matter to a Council meeting where there is no agreement amongst staff or where the matter may require Policy direction from Council.

Conformance to Community Strategic Plan

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

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

Financial Implications

The archiving of this Policy will not, in itself, have any financial implications for Council. However, the archiving of the Policy will have financial benefits to applicants and Council in that the time saved in preparation of the report by staff and removal of the lead-in times to Council meetings will enable these modifications to an approval to be processed in a quicker, more efficient manner.

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

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matter is put to the meeting. This will enable the names of those Councillors voting for or against the motion to be recorded in the minutes of the meeting and subsequently included in the required register.

RECOMMENDATION:

That the Council Policy “*Applications Determined by Council – Re-application Process*” be removed from Council’s Policy Register and archived.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 75**CP - Review of Community Sponsorship Program - (95498)**

REPORT:**Executive Summary**

This report has been submitted in response to Council's resolution seeking information on the application of Council's current Sponsorship Policy and the procedures for the processing of requests for financial assistance. The report outlines the background to the adoption of the current Sponsorship Policy and the development of administrative procedures to process requests for financial assistance received under this Policy. The report also outlines the history of Council resolutions amending the criteria for the assessment of requests for financial assistance and other matters which have had a bearing on the application of the Sponsorship Policy.

Consultation

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

Background

On 17 April 2012, Council considered a report recommending the public exhibition of the Draft Delivery Program 2012/2016 and the Draft Operational Plan 2012/2013. Council subsequently resolved (in part) that:

"A report be submitted to Council reviewing the application of Council's current Sponsorship Policy and associated procedures in respect of organisations seeking financial assistance from Council"

There have been a large number of previous Council reports dealing with the review of financial assistance programs, the drafting and adoption of Council's Sponsorship Policy, and procedures for the processing of requests for financial assistance. A summary of the matters covered in these reports is outlined below:

Adoption of Sponsorship Policy and Related Procedures

On 14 June 2005 Council resolved to undertake a review of the Community and Cultural Grants Program. A Discussion Paper "Review of the Community and Cultural Grants and Donations Program" was subsequently reported to Council, placed on public exhibition and distributed to current and past recipients of financial assistance. The Discussion Paper identified a number of matters relating to the administrative consistency, financial sustainability and equity of the existing grants programs and proposed a number of broad principles to guide the future operation of Council's financial assistance programs. The submissions received in response to the public exhibition of the Discussion Paper were supportive of the intent of the 15 principles within the Paper and were endorsed by Council. These principles, outlined below, provided the policy framework, assessment criteria and procedures for the revised Community Sponsorship Program which commenced in 2007/2008:

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AIM	improving administrative integrity	improving equity	improving financial sustainability
PRINCIPLES	<p>A1 - consolidate (community + cultural) financial assistance programs within one Grants Program administered by a single Branch.</p> <p>A2 - revise current policies to deliver a transparent, equitable, and application based grants program while still retaining Council's discretionary capability</p> <p>A3 - establish common administrative requirements for all financial assistance programs</p> <p>A4 - develop guidelines for categories of financial assistance based on the following functions;</p> <ul style="list-style-type: none"> • 3 yr Event Sponsorship Agreements • Access to Council Facilities • Program + Activity Seeding Grants • Rapid Response Donations <p>A5 - implement an accountability regime so that outcomes of financial assistance grants can be evaluated and reported to Council and the community</p>	<p>E1 - move away from the provision of annual operating subsidies towards the funding of specific projects with agreed outcomes.</p> <p>E2 - realign the objectives and aims of grant programs to reflect current community priorities identified in Council plans</p> <p>E3 - recognise that priority for funding should be given to local community groups with limited access to other sources of funding</p> <p>E4 - broaden some categories of assistance to provide all eligible organisations with the same opportunity to apply for financial assistance</p> <p>E5 - eliminate the discriminatory aspects of some current categories of financial assistance.</p>	<p>FS1 - discontinue open-ended and long term funding commitments.</p> <p>FS2 - encourage the long term sustainability of projects and events by limiting the duration of grants to a maximum of three years (with provision for further extensions in special circumstances).</p> <p>FS3 - review programs where there is currently no incentive on applicants to contain costs, reinstate dollar-for-dollar funding arrangements, and limit programs where Council provides a 100% operational subsidy</p> <p>FS4 – re-establish a requirement for grant applicants to demonstrate some capacity to secure other sources of revenue or sponsorship in order to reduce the level of subsidy provided by Council over the life of a grant or agreement.</p> <p>FS5 - specify a maximum level of grant (within each category of financial assistance).</p>

Table 1 – Adopted Principles for revised Community Sponsorship Program

At the same time as the review of Council's financial assistance programs was being undertaken, the Independent Commission Against Corruption (ICAC) released guidelines intended to assist public sector agencies to develop policies and procedures for both receiving and granting sponsorship. A draft Sponsorship Policy, prepared in accordance with the ICAC guidelines was prepared, placed on public exhibition and adopted by Council on 13 March 2007.

Adjustments to Community Sponsorship Program

Following the adoption of the policy and procedures for the revised Community Sponsorship Program, a number of matters were reported to Council with Council subsequently resolving to make adjustments to the assessment criteria. These included;

- Council to only consider one application for sponsorship from a single organisation in any one financial year (resolved by Council on 30 March 2008)
- the inclusion of an additional category of financial assistance “Improvements to Council Owned Community Facilities” (resolved by Council on 29 July 2008)
- inclusion of a temporary additional category of financial assistance “Macquarie 2010 Seeding Grants” (resolved by Council on 28 July 2009)
- a reduction in the amount of funds to be provided to organisations seeking to extend a 3 year sponsorship agreement for a further three years with applications to be funded at 75% of the amount approved in the previous event sponsorship agreement in the first year of the renewal period and at lower levels in the subsequent years (resolved by Council on 11 August 2009)

- the identification of a maximum grant amount of \$3,000 (resolved by Council on 27 July 2010)

Community Sponsorship Program - Variations

Council has also resolved to make special provisions for community sponsorship to the Hawkesbury Eisteddfod and to approve out-of-policy requests for financial assistance.

In considering a number of reports relating to the sponsorship of the Hawkesbury Eisteddfod, Council resolved to treat sponsorship of the Eisteddfod as a special category under the Community Sponsorship Program with the aim of maintaining its long term funding commitment to the Hawkesbury City Eisteddfod Society (HCES). On 29 April 2008, Council resolved to identify the Hawkesbury Eisteddfod as a 'flagship' cultural event, to quarantine \$18,000 from the Section 356 financial assistance budget allocation (to be adjusted by CPI in following years) and to enter into a renewable five-year sponsorship agreement with the HCES. The 5 year agreement is due for renewal in 2012/2013 and an amount of \$19,592 has been identified in the Draft 2012/2013 Budget for the continued sponsorship of the Eisteddfod.

Sponsorship requests which have fallen outside the CSP guidelines have been duly reported to Council. On one occasion Council has resolved to support an out-of-policy sponsorship request, and on other occasions to provide the opportunity for applicants to re-submit their request for consideration. In addition, the amounts requested by applicants are reported to Council together with the amount recommended by staff. While generally Council has endorsed staff recommendations, on two occasions Council resolved to vary the recommended amount. The CSP does provide Council with the discretion to determine sponsorship applications as it sees fit.

Conclusion

Since the commencement of the revised Community Sponsorship Program in 2007/2008 Council has approved 173 requests for sponsorship and declined 21 requests. A number of the declined requests were subsequently reconsidered and approved by Council. In total Council has distributed \$289,496.95 under the Community Sponsorship Program.

The Program has been implemented effectively, transparently and in accordance with its adopted assessment criteria which, as outlined above, were based on a set of principles endorsed by Council and through the public submissions received during the review of the previous grants program. The Program has been operating in a way that provides community organisations with the same opportunity to seek financial assistance from Council. The majority of applications (90%) having been approved by Council.

Since its introduction, Council has approved a number of adjustments to the assessment criteria with the intention of improving the equity and financial sustainability of the Program. In general, variations to adopted procedures and assessment criteria of the Program have been limited. The major variation from the application of the Program criteria - the funding of the Hawkesbury Eisteddfod - is a purposeful amendment covered by a separate Council resolution.

Conformance to Community Strategic Plan

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

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

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

- Develop and implement a community participation and partnership program.

It will also contribute to the Goal within the *Shaping our Future Together* element within the Community Strategic Plan:

- "Support community initiatives and volunteers"

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and assist Council to achieve the following CSP measure:

- *“Level of support to community organisations”*

Financial Implications

There are no financial implications arising from this report.

RECOMMENDATION:

That the Information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 76 **CP - Representations - Mobile Pre-School Services in the Hawkesbury - (96328, 95498)**

Previous Item: NM5, Ordinary (29 July 2008)
 105, Ordinary (31 May 2011)

REPORT:

Executive Summary

This report has been prepared to advise Council of correspondence received from Hawkesbury Community Outreach Services Inc. (HCOS) and Peppercorn Services Inc. (PSI) regarding the future viability of mobile pre-school services operating in the rural periphery of the Hawkesbury. Changes to funding arrangements for these services have resulted in the closure of the mobile pre-school venue at Colo Heights and are likely to result in the closure of mobile pre-school venues at Bilpin, Blaxlands Ridge, South Maroota and Wisemans Ferry. Both organisations have requested that Council make representations on their behalf in relation to this matter. Council has made previous representations about this issue - however the core concerns of HCOS and PSI remain unresolved.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. It should be noted that residents have been advised by PSI and HCOS of the likely closure of the affected mobile pre-school venues should the new children's services funding arrangements be implemented by the NSW Government.

Background

HCOS (formerly the Colo Wilderness Mobile Resource Unit) and PSI operate a range of funded community services. HCOS primarily operates on the western side of the Hawkesbury River providing services to residents of Kurrajong and surrounding rural districts including Berambing, Bilpin, Colo Heights and Blaxlands Ridge. PSI operates across the Hawkesbury and manages a range of funded community services on Council's behalf. In this capacity PSI operates the Forgotten Valley Mobile Resource Unit which provides services to residents of the rural districts within the Macdonald Valley and the Hawkesbury Valleys between Lower Portland and Spencer. Both HCOS and PSI are funded by the Department of Education to operate mobile pre-school services within these localities.

Changes to Pre-School Funding Arrangements

Since the establishment of the HCOS and Forgotten Valley mobile pre-school services well over 25 years ago, there have been a number of changes to their funding arrangements. The most significant of these has been the introduction, by the then Department of Community Services, in 2008 of the Pre-School Investment and Reform Plan (PIRP). Under the PIRP, operational funding levels for child pre-school services were to be realigned and determined by a Resource Allocation Model (RAM) linked to actual child care enrolments rather than the licensed capacity of a child care service. This meant that whereas previously a service with a licensed capacity of 20 child care places was funded for these 20 places, under the RAM operational funding would rise and fall based on actual enrolment numbers.

For a number of reasons, the RAM funding formula discriminates against services such as the HCOS and Forgotten Valley services which largely operate in rural areas but, which under the RAM, are classified as 'outer metropolitan'. Council has been previously advised of the challenges faced by these services in maintaining enrolment levels due to their relative geographic isolation and the limited population growth. As a consequence, it has been historically difficult for these services to maintain a level of enrolments which matches their licensed capacity. For example, the long term level of utilisation for the Forgotten Valley Mobile Pre-School (which operates venues at South Maroota and Wiseman's Ferry) has been 65%

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of its licensed capacity. Under the RAM, operational funding for the Forgotten Valley would be reduced by 35%. A reduction of this magnitude would have serious repercussions on the future viability of the service. Effectively, under the RAM, a mobile pre-school in the rural periphery of the Hawkesbury cannot operate at less than its licensed capacity, but its geographic and demographic catchment effectively prevents it from achieving this goal.

The RAM does make allowances for geographic isolation. A service can be classified as a 'remote service' and receive a funding supplement to address the viability issues arising from their location. Unfortunately, both the Forgotten Valley and HCOS services are classified as 'outer metropolitan' as they are located within the Hawkesbury Local Government Area (LGA) and under RAM are treated the same as child care services located in Penrith or the Blue Mountains.

Previous Representations

Council has made representations to the relevant Government Departments, their Ministers and State Members about this issue. In July 2008, Council considered a Notice of Motion in relation to this matter and subsequently resolved, in part, to:

"Make written representations, on behalf of Peppercorn Services Inc., to the Hon. Kevin Greene, NSW Minister for Community Services, the State Member for Riverstone, Mr. John Aquilina, the State Member for Londonderry Mr. Alan Shearan, and the State Member for Hawkesbury Mr. Ray Williams to:

- a. increase the level of operational assistance funding to state funded child care services,*
- b. finalise the funding model for the Pre-School Investment and Reform Plan (PIRP) to ensure that the PIRP funding model takes into account the viability issues faced by child care services operating in isolated rural areas - and further that the PIRP funding model needs to deliver a predictable funding stream to ensure that these services can maintain a core level of service and staffing infrastructure."*

In response to the resolution, correspondence from the General Manager was forwarded to relevant parties and in addition the Mayor wrote to the Minister for Community Services to request a meeting with the Minister and Departmental staff to discuss the matter.

A response from the Minister was received in November 2008 confirming that funding under the PIRP would be based on enrolment levels but advised Council to contact the Director of Partnerships and Planning at the DoCS Metro West Region to request a review of funding. In December 2008, Council lodged a submission with the Department requesting that the Department review the proposed funding level for the Forgotten Valley Pre-School under the 'exceptional circumstances' provisions of the PIRP'.

The practical outcomes of the submissions and representations has been to preserve the funding levels of the Forgotten Valley pre-school which, together with a restructure of the pre-school, and the continuing subsidisation of the service by Council and PSI, has enabled the pre-school to continue its operations. HCOS has also continued to subsidise the operation of its pre-school service to maintain its operation.

As part of the restructure process, Council wrote to The Hills Shire Council, Hornsby Shire Council and Gosford City Council to request that these Councils give consideration to contribute to funding the operating losses of the Forgotten Valley pre-school given that the primary users of the pre-school service were residents of their respective local government areas. All three Councils declined to provide financial assistance.

Council will also be aware that more recently, Council resolved to write to The Hills Shire Council to request that they review proposed changes to the leasing arrangements for the South Maroota venue of the Forgotten Valley Pre-school which is owned by The Hills Shire Council. The proposed changes to the leasing arrangement would see the annual lease fee for the pre-school increase from \$500 to \$10,000 over the next five years. The Hills Shire Council declined to review its decision.

Current Situation

As from 1 July 2011, responsibility for administering the operational funding for the HCOS and PSI mobile pre-schools was transferred from the Department of Family and Community Services to the Department of Education (DoE). Both HCOS and PSI have been advised by the Department of Education that as from 1 July 2012, their operational funding would be reduced based on the application of the RAM. For the Forgotten Valley Pre-school the reduction will be in the order of \$60,000 (from \$101,015 to \$37,420).

The projected reduction of operational funding has called into question the viability of mobile pre-schools operating in the Hawkesbury. HCOS has already been required to close its Colo Heights venue and, without additional financial assistance, there is a strong possibility that it will be required to close its Bilpin and Blaxlands Ridge venues. PSI has already advised parents that as a result of the RAM changes it is likely that the pre-school venues at South Maroota and Wisemans Ferry will be required to close at the end of the calendar year. PSI has given a commitment to fund the increased operating losses of these pre-school venues for the remainder of the calendar year to enable it to implement a transition plan to ensure some continuity in pre-school services for residents of the Forgotten Valley.

In their correspondence to Council, PSI and HCOS have advised that there has been limited communication from the Department of Education about this matter. The issues raised in previous representations to the Department of Community Services, regarding the particular circumstances of mobile pre-schools in the Hawkesbury, appear to have been overlooked by the DoE.

Summary of issues facing HCOS and PSI

The representations received from HCOS and PSI raise the following concerns:

- HCOS and PSI provide mobile pre-school services to outlying rural communities within the Hawkesbury which cannot reasonably be classified as 'outer metropolitan' - these communities are geographically isolated and rely on HCOS and PSI for their access to local services which support the education, health and safety of young children and families;
- the mobile pre-school services have been substantially under-funded for many years, with HCOS and PSI (in conjunction with Council) making up the financial shortfalls generated by these services while at the same time providing considerable operational support to maintain high quality service provision to residents;
- if the proposed reduction in funding is implemented it will impact on the long term viability of the other HCOS and PSI services due to the loss of revenue which helps to meet the overhead costs of operating these services across a large geographic area with a dispersed population. The potential loss of the mobile pre-school services will impact on the community and its viability, including levels of school enrolments.

Accordingly HCOS and PSI have requested that Council make the following representations to the Minister for Education, the Minister for Family and Community Services and local state members to seek their support in ensuring;

1. The continuation of current level of funding for 2012/2013 to facilitate a considered review of the impacts of the RAM funding model for mobile pre-school in the Hawkesbury and, if required, permit a reasonable transition time frame should pre-school services to outlying communities be required to close.
2. That the Department of Education, give careful consideration to the current funding classification of mobile pre-schools as an 'outer metropolitan' given their particular geographic and demographic challenges which are more consistent with services operating in remote/rural localities.
3. Request a meeting with representatives of the Department of Education to enable HCOS, PSI and Council to discuss the changes to the resource allocation model.

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Conformance to Community Strategic Plan

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

- maintain its independent identity and voice through strong local government and community institutions.

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

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

The report requests Council make representations to ensure the continued financial viability and operation of critical children's services to outlying rural communities. The provision and maintenance of human services to meet the diverse needs of the community is a key goal within the Hawkesbury Community Strategic Plan.

Financial Implications

There are no financial implications for Council arising directly from this report. However, should the representations be unsuccessful, then there may be a requirement for Council to increase its level of operating subsidy to Peppercorn Services Inc. to fund the operating losses incurred by the pre-school service prior to its possible closure. This requirement will be reported to Council for determination.

RECOMMENDATION:

That Council make representations to the Minister for Education, the Minister for Family and Community Services and Local State Members on behalf of Hawkesbury Community Outreach Services Inc. (HCOS) and Peppercorn Services Inc. as outlined in this report.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 77 CP - Draft Customer Service Policy - (95498, 12492)

Previous Item: 44, Ordinary (13 March 2007)
138, Ordinary (29 June 2010)
200, Ordinary (31 August 2010)

REPORT:**Executive Summary**

This report has been prepared to seek Council's approval to place a draft Customer Service Policy on public exhibition. The Customer Service Policy has been developed as part of the implementation of Council's Customer Service and Communication Strategy.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement process proposed in this report meets the criteria for the minimum level of community engagement required under Council's policy. It is proposed that the Draft Customer Service Policy be placed on public exhibition for a period of 28 days.

Background

On 13 March 2007 Council adopted a Customer Service and Communication Strategy following a public exhibition period. The Strategy outlined targets which Council was required to implement to achieve independent accreditation by the Customer Services Institute of Australia (CSIA) under the International Customer Service Standard (ICSS). A number of substantial corporate processes and workplace changes have been completed or are in train to give practical effect to the intent of the Strategy.

One of the elements of the ICSS requires an organisation 'to provide sufficient information about how the organisation will work with customers and what customers can expect'. To this end in June 2010, Council adopted a Customer Service Charter and Customer Contact and Service Standards, and in August 2010 adopted a Statement of Business Ethics. Council has also recently revised its Complaints Policy to take into account recent changes to Council's customer service structure and processes, and anticipated changes to the Model Code of Conduct for Local Councils in NSW.

To finalise compliance with the ICSS elements, a draft Customer Service Policy has been prepared. The Policy draws together the documents referred to above to establish a framework to assist Council staff and customers to understand their reciprocal responsibilities in situations where a customer has contacted Council to obtain a service or to make an enquiry, request or customer service complaint.

The Policy also provides a framework based on the NSW Ombudsman's *Managing Unreasonable Complainant Conduct Practice Manual*, to assist staff in responding to situations where customers may feel aggrieved, or become distressed when dealing with Council staff and may exhibit challenging behaviours which according to the NSW Ombudsman could constitute 'unreasonable conduct'. In rare circumstances, where unreasonable conduct poses safety concerns for staff and other customers, or poses significant resource management and equity issues for Council, the Policy provides options for the General Manager to limit a customer's contact with Council. Notwithstanding these provisions, the focus of the Policy remains on preventing unreasonable conduct through the skilled, early management of customer concerns and complaints and the treatment of customers with fairness and respect. It also recognises the right of customers to continue to seek a service that Council ordinarily provides to the community, to inspect Council documents, attend Council meetings, raise concerns with Councillors, or to lodge a written complaint under Council's Complaints Policy or Code of Conduct.

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Conformance to Community Strategic Plan

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

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

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

- Implement and monitor Council's sustainability principles

Principle 8 of Council's adopted sustainability principles refer to the need for Council to embrace continual improvement based on accountability, transparency and good governance - the adoption of a Customer Service Policy is consistent with this principle.

Financial Implications

There are no financial implications arising from this report.

RECOMMENDATION:

That Council place the Draft Customer Service Policy on public exhibition for a period of 28 days.

ATTACHMENTS:

AT - 1 Draft Customer Service Policy - *(Distributed Under Separate Cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 29 May 2012

Item: 78 CP - Execution of Service Agreement - Family & Community Services - (107429, 95498)

REPORT:

Executive Summary

This report has been prepared to seek Council's approval to execute a service agreement with Family & Community Services, NSW Government to accept \$605,111 in funding for the 2012/2013 financial year. These funds are provided for the operation of community and child care services.

Consultation

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

Background

Hawkesbury City Council receives funding from Family & Community Services, NSW Government (formerly Community Services Department of Human Services NSW) to operate a number of community services within the City of Hawkesbury. In May 2012 Council received a Service Agreement from Family & Community Services for total annual funding of \$605,111 for the services and funded positions as listed below;

Community Builders Salary Subsidy	\$11, 038
Community & Youth Worker Salary Subsidy	\$33, 941
Family Support Hawkesbury & Community Hub	\$212, 532
Forgotten Valley Mobile Resource Unit	\$101, 015
Forgotten Valley Vacation Care	\$3, 428
Richmond Occasional Care	\$31, 256
Peppercorn Forgotten Valley Community & Youth	\$107, 770
Peppercorn Family Services Forgotten Valley	\$104, 131
Total 2012/2013 Funding	\$605,111

With the exception of the Local Government Salary Subsidy Programs, Council has delegated management responsibility for the operation of these funded services to Peppercorn Services Inc. This delegation requires PSI to operate within the policy and operational framework defined by Council's legal and statutory responsibilities as the funding auspice for these services. These responsibilities are clearly outlined in the documents which drive the operations of these services including;

- the funding agreement between Council and Family & Community Services, NSW Government;
- the Children's Services Regulation;
- the industrial awards under which staff are employed;
- other legislation relating to workplace safety, child protection etc.
- the *Associations Incorporation Act 2009*

Peppercorn Services Inc. has established a financial, operational and governance systems to manage and operate the services transferred to its control in compliance with these documents and regulations.

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To facilitate the remittance of these funds, Family & Community Services NSW Government, requires Council to execute a Service Agreement. This Service Agreement is required to be executed under the Seal of Council.

Conformance to Community Strategic Plan

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

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

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

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

The Community Strategic Plan plans and advocates for the continued provision of a range of human services to address the diverse needs of the Hawkesbury Community. Executing funding agreements for the provision of these human services in partnership with government agencies and community organisations is a primary strategy for achieving the broad thrust of the Community Strategic Plan.

Financial Implications

There are no financial implications arising from this report.

RECOMMENDATION:

That the authority be given to execute, under the Seal of Council, a Service Agreement with Family & Community Services, NSW Government to accept funds for the 2012/2013 financial year as outlined in this report.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

**Item: 79 CP - Execution of Service Agreement - Ageing Disability & Home Care,
Department of Human Services - (116110, 95498)**

REPORT:

Executive Summary

This report has been prepared to seek Council's approval to execute an Acceptance of Funding Variation to Service Agreement from Ageing Disability & Home Care, Department of Human Services to accept \$75,000 additional funding. These funds are provided for the operation of community services.

Consultation

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

Background

Hawkesbury City Council receives funding from Ageing, Disability & Home Care, Department of Human Services to operate a number of community services within the City of Hawkesbury. In September 2011 Council submitted a tender application for \$75,000 growth funds for provision of lawn mowing program through Peppercorn Services Inc.

In May 2012 Council received notification of the success of tender bid for \$75,000 for provision of lawn mowing program through Peppercorn Services Inc.

To facilitate the remittance of these funds, Ageing Disability & Home Care, Department of Human Services, requires Council to execute an Acceptance of Funding Variation to Service Agreement. This Acceptance of Funding Variation Service Agreement is required to be executed under the Seal of Council.

Conformance to Community Strategic Plan

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

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

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

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

The Community Strategic Plan plans and advocates for the continued provision of a range of human services to address the diverse needs of the Hawkesbury Community. Executing funding agreements for the provision of these human services in partnership with government agencies and community organisations is a primary strategy for achieving the broad thrust of the Community Strategic Plan.

Financial Implications

There are no financial implications arising from this report.

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RECOMMENDATION:

That the authority be given to execute, under the Seal of Council, an Acceptance of Funding Variation Service Agreement with Ageing, Disability & Home Care, Department of Human Services to accept funds for the 2012/2013 financial year as outlined in this report.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date: 29 May 2012****SUPPORT SERVICES****Item: 80****SS - Monthly Investments Report - April 2012 - (96332, 95496)****REPORT:****Executive Summary**

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

This report indicates that Council held \$38.90 million in investments at 30 April 2012.

It is recommended that this report be received and noted.

Consultation

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

Background

The following table indicates that Council held \$38.90 million in investments as at 30 April 2012. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions, both in the short term and the long term, and the percentage of the total portfolio, are provided below:

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
On Call								
ANZ	A1+	AA-	30-Apr-12		5.75%	2,600,000	6.69%	
ANZ	A1+	AA-	30-Apr-12		5.75%	500,000	1.28%	
CBA	A1+	AA-	30-Apr-12		4.75%	350,000	0.90%	3,450,000
Term Investments								
ANZ	A1+	AA-	18-May-11	16-May-12	6.35%	500,000	1.29%	
ANZ	A1+	AA-	23-Mar-12	17-Oct-12	6.00%	400,000	1.03%	
ANZ	A1+	AA-	16-Dec-11	16-May-12	6.00%	1,500,000	3.86%	
Bankwest	A1+	AA-	11-Apr-12	25-Jul-12	5.75%	1,500,000	3.86%	
Bankwest	A1+	AA-	22-Feb-12	22-Aug-12	5.85%	1,200,000	3.08%	
Bankwest	A1+	AA-	07-Mar-12	05-Sep-12	5.85%	2,000,000	5.14%	
Bankwest	A1+	AA-	21-Mar-12	05-Sep-12	5.90%	500,000	1.29%	

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Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
CUA	A-2	BBB	07-Mar-12	06-Feb-13	6.05%	250,000	0.64%	
NAB	A1+	AA-	22-Feb-12	22-Aug-12	5.85%	1,000,000	2.57%	
NAB	A1+	AA-	11-Jan-12	16-May-12	6.09%	2,000,000	5.14%	
NAB	A1+	AA-	27-Jul-11	25-Jul-12	6.29%	1,000,000	2.57%	
NAB	A1+	AA-	06-Jul-11	05-Jul-12	6.25%	2,000,000	5.14%	
NAB	A1+	AA-	16-Nov-11	16-May-12	5.72%	1,000,000	2.57%	
NAB	A1+	AA-	25-Jan-12	25-Jul-12	5.91%	2,000,000	5.14%	
NAB	A1+	AA-	25-Jan-12	25-Jul-12	5.91%	1,800,000	4.63%	
NAB	A1+	AA-	11-Apr-12	10-Oct-12	5.72%	2,000,000	5.14%	
St George	A1+	AA-	09-Feb-12	08-Aug-12	5.93%	1,000,000	2.57%	
St George	A1+	AA-	24-Feb-12	05-Sep-12	6.01%	800,000	2.05%	
Westpac	A1+	AA-	10-Aug-11	08-Aug-12	6.00%	2,000,000	5.14%	
Westpac	A1+	AA-	17-Aug-11	15-Aug-12	6.00%	1,000,000	2.57%	
Westpac	A1+	AA-	23-Nov-11	09-May-12	5.75%	3,000,000	7.71%	
Westpac	A1+	AA-	06-Dec-11	06-Jun-12	6.00%	2,500,000	6.43%	
Westpac	A1+	AA-	06-Dec-11	20-Jun-12	6.00%	3,000,000	7.71%	
Westpac	A1+	AA-	26-Apr-12	24-Oct-12	5.70%	500,000	1.29%	
Westpac	A1+	AA-	26-Apr-12	24-Oct-12	5.70%	1,000,000	2.57%	35,450,000
TOTAL INVESTMENT AS AT 30 APRIL 2012								38,900,000

Performance by Type

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	3,450,000	5.65%	UBS 90 Day Bank Bill Rate	4.25%	1.40%
Term Deposit	35,450,000	5.93%	Reserve Bank Cash Reference Rate	4.09%	1.84%
Total	38,900,000	5.91%			

Restricted/Unrestricted Funds

Restriction Type	Amount \$
External Restrictions -S94	7,445,506
External Restrictions - Other	9,445,556
Internal Restrictions	12,962,472
Unrestricted	9,046,466
Total	38,900,000

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Funds subject to external restrictions cannot be utilised for any purpose other than that specified, in line with legislative requirements. Externally restricted funds include funds relating to S94 Contributions, Domestic Waste Management, Stormwater Management and Grants.

Internal restrictions refer to funds allocated through a Council Resolution for specific purposes, or to meet future known expenses. Whilst it would 'technically' be possible for these funds to be utilised for other purposes, such a course of action, unless done on a temporary internal loan basis, would not be recommended, nor would it be 'good business practice'. Internally restricted funds include funds relating to Tip Remediation, Plant Replacement, Risk Management and Election.

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

Investment Commentary

The investment portfolio decreased by \$2.40 million for the month of April 2012. During April, various income was received totalling \$2.93 million, including rate payments amounting to \$1.20 million, while payments to suppliers and staff costs amounted to \$5.17 million.

The investment portfolio currently involves a number of term deposits and on-call accounts. Council's current investment portfolio is not subject to share market volatility.

As at 30 April 2012, Council has invested \$7.0 million with 2nd tier financial institutions, that are wholly owned subsidiaries of major trading banks, and \$0.25 million invested with a 2nd tier institution that is not a wholly owned subsidiary of a major Australian trading bank, with the remaining funds being invested with 1st tier institutions. Council's adopted Investment Policy allows Council to invest funds with 2nd tier Authorised Deposit-taking Institutions that are wholly owned subsidiaries of major Australian trading banks, subject to conditions stipulated in the Policy. Investments in 2nd tier financial institutions, that are not wholly owned subsidiaries of major trading banks, are limited to the amount guaranteed under the Financial Claims Scheme (FCS) for Authorised Deposit-taking Institutions (ADIs), in line with Council's Investment Policy.

The FCS protects depositors by guaranteeing deposits (up to the cap) held in ADIs incorporated in Australia, and allows quick access to deposits if an ADI becomes insolvent. A permanent guarantee cap, per account holder, per ADI, of \$250,000, has been in place since 1 February 2012.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Independent advice is sought on new investment opportunities, and Council's investment portfolio is independently reviewed by Council's investment advisor each calendar quarter.

Council's investment portfolio complies with Council's Investment Policy, adopted on 28 June 2011.

Investment Certification

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

Conformance to Community Strategic Plan

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

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

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

- Maintain and review a sustainable long term financial framework.

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Financial Implications

Funds have been invested with the aim of achieving budgeted income in 2011/2012.

RECOMMENDATION:

The report regarding the monthly investments for April 2012 be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 81 **SS - March 2012 Quarterly Review - 2011/2012 Management Plan - (79351, 95496, 96332, 107)**

Previous Item: 121, Extraordinary (21 June 2011)

REPORT:

Executive Summary

Within two months of the end of each quarter, Council is required to review its progress in achieving the objectives set out in its Management Plan. This report and the relevant attachment provide information on Council's financial performance and financial position for the third quarter of the 2011/2012 financial year, and the resulting financial position including the Budget variations proposed.

The March 2012 Quarterly Budget Review Statement, recommends a number of variations, that result in a balanced budgeted position being maintained.

The report and attachment provide details on the major Budget variations proposed in this Quarterly Budget Review and provide a list of variations requested. The attachment to this report also includes the Quarterly Operational Plan Review, providing an update on the achievement of Council's adopted targets for the 2011/2012 financial year.

The Quarterly Budget Review Statement has been prepared in accordance with the Division of Local Government Circular 10/32 dated 10 December 2010.

Consultation

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

Background

Council adopted its Management Plan for 2011/2012 on 21 June 2011.

Clause 203 of the Local Government (General) Regulation 2005 stipulates that the Responsible Accounting Officer of a Council must prepare and submit to the Council a Budget Review Statement within 2 months after the end of each quarter (except the June quarter).

The March 2012 Quarterly Review has been prepared and is attached for Council's information. The Quarterly Budget Review Statement has been prepared in accordance with the Division of Local Government Circular 10/32 dated 10 December 2010. To comply with this Circular, Budget Review Statements have been prepared for Income and Expenses, the Capital Budget, Cash and Investments, Key Performance Indicators, Contracts, and Consultancy and Legal Expenses, and are included in the Quarterly Budget Review Statement Attachment.

The attachment to this report also includes the March 2012 Quarterly Operational Plan Review, providing an update on the achievement of Council's adopted targets for 2011/2012.

Financial Position

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

The March 2012 Quarterly Budget Review Statement recommends Budget adjustments that result in a balanced adjustment for the quarter, and in the opinion of the Responsible Accounting Officer, maintains a

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satisfactory short term financial position for Council. The Responsible Accounting Officer Statement is included in the Quarterly Review Statement Attachment.

The more significant items of the March 2012 Review include:

- **Investment Earnings Income – Net Favourable Variance \$300K**
(Adopted Management Plan –Part 2 – SS Pg 38)

The Full Year Budget for investment earnings income for 2011/2012 is \$1.8M. As at the end of March 2012, Council's investment earnings had already surpassed the Full Year budget at \$1.95M. A favourable variance of \$300K has been included based on the current level of investment funds and the associated trend in relation to interest rates.

- **Road Rehabilitation – Favourable Variance \$102K**
(Adopted Management Plan –Part 2 – IS, Pg 28)

A favourable adjustment of \$102K for road rehabilitation expenditure has been included in this Review. These funds have been reallocated to expense lines requiring additional funding within the Construction and Maintenance Branch. Despite the reallocation of road rehabilitation funding, it is noted that funding for roadworks operational expenditure has been increased, due to the receipt of Natural Disaster Relief funding received as a result of a claim submitted by Council in relation to recent floods and damage arising, there from affecting a number of areas within the Hawkesbury LGA.

- **Legal Services – Favourable Variance \$146K**
(Adopted Management Plan –Part 2 – SS Pg 47)

Adjustments resulting in a net favourable variance of \$146K have been processed in this Review in relation to legal expenses. As a result of favourable court rulings, Council has received reimbursements totalling \$81K for legal expenses incurred and a variation matching this amount is included in this Review. In addition to this variation, a further \$65K favourable variation with regard to the Legal Expenditure Budget has also been included based on current trend and commitments. Any unspent funds remaining at year end will be transferred to a legal expenses internally restricted reserve, to cover unexpected spikes in legal expenditure in future years.

- **Rates Income – Favourable Variance \$64K**
(Adopted Management Plan –Part 2 – SS Pg 36)

A favourable variance has been included to reflect a net overall surplus in the rates revenue across all rating categories of \$64K. The variance is mainly a result of variations in the number and valuation of rateable properties, as a result of changes in relation to subdivisions, re-categorisations and supplementary valuations issued by the NSW Valuer General Department.

- **Strategic Activities – Favourable Variance \$53K**
(Adopted Management Plan –Part 2 – GM Pg 7)

A reduction in the Budget of \$53K for Strategic Activities in relation to expenditure is included in this Review. The majority of this variation (\$38K) relates to adjustments made to the Local Economic Development Program as a result of delays in projects within this Program due to resourcing and timing issues. The remaining \$15K reduction is made on contributions to outside bodies, licenses and subscriptions and Section 356 expenditure.

- **Infringement Processing Fees – Favourable Variance \$30K**
(Adopted Management Plan – CP Pg 21)

A favourable variance of \$30K for infringement processing costs in relation to car parking is included in this Review. The reduction is in line with the projected full year result as indicated by the YTD actuals of \$34K as against a Full Year Budget of \$80K.

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- **Inspection Fees - Favourable Variance \$22K**
(Adopted Management Plan – CP Pg 10)

A favourable adjustment of \$22K for Inspection Fees Income has been included in this Review. The trend as at the end of March 2012 indicates that this financial year this income stream will be in the vicinity of \$193K, compared to the current budget of \$171K. This is as a result of the introduction of the fees in relation to connections to the Water Factory at Pitt Town.

- **Advertising Expenses – Favourable Variance \$18K**
(Adopted Management Plan –Part 2 – SS Pg 5)

Included in this Review is a reduction of \$18K for advertising expenses. The actuals as at the end of March 2012 are \$92K, trending to \$132K against the current Full Year Budget of \$150K.

- **Employee Leave Provision –Unfavourable Variance \$300K**

Council is required to ensure that it maintains its employee leave entitlements provisions at an appropriate level. Council's liability in respect of employee leave entitlements as at 30 June 2012 are likely to increase as a result of increases in hourly rates and untaken leave balances. The unfavourable variance of \$300K will assist in providing adequately for the increases in provisions at year end. Further funding may be required when finalising the 2011/2012 Financial Statements.

- **Building Construction – Unfavourable Variance \$213K**
(Adopted Management Plan –Part 2 – CP Pg 3, Pg 36; SS Pg 9, Pg 10, Pg 11, Pg20, Pg 23, Pg 24, Pg 26, Pg 27, Pg 29; IS Pg 5, Pg 8, Pg 9, Pg 17, Pg 35, Pg 41, Pg 42, Pg 49, Pg 50, Pg 52, Pg 53, Pg 54, Pg 69)

A net unfavourable variance of \$213K has been included in this Review in relation to the building works scheduled to be completed by the end of the financial year. The majority of the increase (\$185K) relates to increases in Buildings Maintenance as a result of both increases in programmed activities and unexpected expenses incurred as a result of reactive works.

- **Plant Running Costs – Net Unfavourable Variance \$69K**
(Adopted Management Plan –Part 2 – IS Pg 38)

A net unfavourable variance of \$69K has been incorporated into this Review in relation to plant running costs as a result of higher than budgeted fuel and insurance costs.

- **Development Applications Income – Unfavourable Variance \$84K**
(Adopted Management Plan –Part 2 – CP Pg 32)

Included in this Review is a reduction of \$84K in relation to development applications income. The actuals as at the end of March 2012 are \$311K, which is trending to \$400K as against the current Full Year Budget of \$484K.

- **Rental Income – Unfavourable Variance \$65K**
(Adopted Management Plan –Part 2 – SS Pg 9)

An unfavourable variance of \$65K is included in the March Quarterly Review. This adjustment is required as a result of extended and early vacancies. Favourable variances were included for the lease of 69 Macquarie Street, Windsor (Pizza Hut) resulting from the lease being renewed, and in relation to increased rent expected from the lease of Suite 3, Deerubbin Centre. Unfavourable variances made include vacancies at the Johnson Building and the Old Hospital Building and in relation to the lease for Suite 2, Deerubbin Centre not being renewed.

- **Community Services Program Expenses – Unfavourable Variance \$34K**
(Adopted Management Plan –Part 2 – CP Pg 3)

An unfavourable variance of \$34K is included in the March Quarterly Review. This adjustment is required as a result of the increased levels of unfilled enrolments at childcare centres managed by Peppercorn Services Inc. The anticipated loss at year end is projected to be greater than originally budgeted as

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advised by Peppercorn Services. This variance represents 50% of the anticipated loss and the remaining loss will be funded by Peppercorn Services.

- **Grants**

A number of adjustments relating to variations between grant funding received and amount budgeted, are included in this Review. These adjustments have a nil effect on the budget position. The major adjustment relating to grant funding is outlined below:

- *Natural Disaster Relief Funding* – Council has received funding from Roads and Maritime Services of \$645K to assist in the cost of road rehabilitation and maintenance required, as a result of the recent floods affecting the Hawkesbury LGA.

- **Reserve Funded Adjustments**

The following adjustments are within internally or externally restricted funds, and consequently have a net nil impact on Council's overall position:

- *Sullage Program* – The combined number of properties in Freemans Reach, Wilberforce and Glossodia connecting to sewerage provided by Sydney Water has been greater than expected, resulting in a significant drop in contractors expenses expected for the remaining of the 2011/2012 financial year. Included in this Review is a favourable variance for this expense line of \$129K.
- *Hawkesbury Waste Management Facility* – A favourable adjustment of \$102K is included in this Review in respect of disposal fees income received by Council in the current financial year. The YTD actuals indicate that the full year result is likely to be \$711K against a Full Year Budget of \$609K.
- *Sewerage Program* – Unfavourable adjustments of \$90K are included in this Review for sewer maintenance and repairs, and \$63K for pumping station maintenance and repairs, in line with observed trends. A favourable variance of \$320K is also included for upgrading pump stations due to project delays. Another favourable variance of \$169K for trade waste income has been incorporated to align the observed trend.
- *South Windsor Effluent Reuse Scheme* – Due to a significant underspend on the completed South Windsor Effluent Reuse Scheme, a favourable variance of \$635K has been included in the March Quarterly Review. The unspent amounts in relation to the funding provided by the Hawkesbury Nepean River Recovery Project is anticipated to be returned by the end of the financial year, however this amount is yet to be determined.
- *Risk Management Reserve* – An unfavourable adjustment of \$50K has been included in relation to public liability claims, which have been funded by the Risk Management Reserve. As at the end of March 2012, public liability claims amounted to \$139K against a Full Year Budget of \$63K. This expenditure is difficult to predict and the Risk Management Reserve is in place as a contingency to cover unexpectedly high claims.
- *S94A Contributions* – A favourable variance of \$117K is included in the March Quarterly Review to match received contributions as the end of March 2012.

The Review includes a number of minor adjustments and reallocation of funds that have not been detailed above. Further details can be found in the attachment to this report.

Conformance to Community Strategic Plan

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

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

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

- *Maintain and review sustainable long term financial framework.*

Funding

Funding and budget impacts have been specified within this report and attached Review documents.

RECOMMENDATION:

That:

1. The information contained in the report on the 2011/2012 Management Plan – March 2012 Quarterly Review, be received.
2. The Quarterly Review of the 2011/2012 Management Plan for the period ending 31 March 2012, be adopted.

ATTACHMENTS:

AT - 1 2011/2012 Management Plan Review – March 2012 Quarter - *(distributed under separate cover)*

oooO END OF REPORT Oooo

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Item: 82

SS - 2012/2013 Remuneration for Councillors and Mayor - (95496, 96332)

REPORT:

Executive Summary

The Local Government Act 1993 (the Act) makes provision for the payment of fees to the Mayor and other Councillors and the categories that individual councils are placed into.

The Local Government Remuneration Tribunal (the Tribunal), each year, reviews and sets the minimum and maximum amount of fees to be paid to mayors and councillors of councils. The Tribunal also, at least, once every three years, reviews and determines the categories for councils and mayoral offices.

The Tribunal has recently handed down its determination of fees and categories for 2012/2013. This report recommends that Council set the maximum amount under the Tribunal's determination applicable to Hawkesbury City Council.

Consultation

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

Background

The Local Government Remuneration Tribunal, pursuant to Section 239 of the Act, is required to determine the categories of councils and mayoral offices at least once every three years. The Tribunal undertook its last review of the categories of councils in 2009, with Hawkesbury City Council being categorised as "Regional Rural".

The Tribunal has recently undertaken a review of the categories for councils and mayoral offices. The Tribunal's review had regard to issues raised in submissions made by the Local Government and Shires Associations of NSW and individual councils including a submission made by Hawkesbury City Council. The Tribunal has determined that no change is warranted to the existing categorisation framework, or to the current categorisation of individual councils. Accordingly, Hawkesbury City Council will continue to be categorised as "Regional Rural".

In addition, the Tribunal, pursuant to Section 241 of the Act, is required, each year, to determine the minimum and maximum fees for mayors and councillors, as well as chairpersons and members of county councils. The Tribunal has recently determined to increase these annual fees payable by 2.5%, effective from 1 July 2012.

Accordingly, the annual fees to be paid to mayors and councillors for the period 1 July 2012 to 30 June 2013 for a Regional Rural Council (which includes Hawkesbury City Council), are as follows:

	Councillor Annual Fee		Mayor Additional Fee	
	<i>Minimum</i>	<i>Maximum</i>	<i>Minimum</i>	<i>Maximum</i>
Regional Rural	\$7,740.00	\$17,060.00	\$16,480.00	\$37,230.00

In the past, it has been the practice for Council to pay the maximum fee, and the following table depicts the annual and monthly payments that would be paid to Councillors, the Mayor and the Deputy Mayor, should this practice continue. The Deputy Mayor fee has been maintained at 15% of the Mayoral fee, which is deducted from the Mayor's annual fee.

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	Councillors Fees		Mayor / Deputy Mayor *		Maximum Total	
	Maximum - Annual	Maximum - Monthly	Maximum - Annual	Maximum - Monthly	Annual	Monthly
Councillors	\$17,060.00	\$1,421.67			\$17,060.00	\$1,421.67
Mayor	\$17,060.00	\$1,421.67	\$37,230.00 less \$5,584.50 = \$31,645.50	\$2,637.12	\$48,705.50	\$4,058.79
Deputy Mayor	\$17,060.00	\$1,421.67	\$5,584.50	\$465.37	\$22,644.50	\$1,887.04

* Note; It should be noted that pursuant to Section 249 (2) of the Act, the fee paid to the Mayor and Deputy Mayor, is paid in addition to the fee paid to the Mayor and Deputy Mayor as a Councillor.

The current fees for Councillors and the Mayor are \$16,640.00 and \$36,320.00 respectively, with an additional fee of \$5,448.00 being paid to the Deputy Mayor, and deducted from the Mayor's fees.

Based on Council's previous practice of paying the maximum fees, as determined by the Tribunal, the following recommendation is submitted for Council's consideration.

Conformance to Strategic Plan

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

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

Funding

Councillor and Mayoral fees have been provided for in Component 69 - Elected Members of the 2012/2013 Draft Budget.

RECOMMENDATION:

That:

1. The annual fee for Councillors for 2012/2013 be set at \$17,060.00.
2. The additional annual fee for the Mayor be set at \$37,230.00, and the Deputy Mayor's additional annual fee be set at \$5,584.50, to be deducted from the Mayor's annual fee.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 83 SS - Local Government and Shires Association of NSW - Request for Financial Assistance with Legal Costs - Blacktown City Council - (112608, 78149, 95496)

REPORT:

Executive Summary

Correspondence dated 27 April 2012 has been received from the Local Government and Shires Association of NSW (LGSA) requesting financial assistance towards estimated legal costs to be incurred by Blacktown City Council in a matter before the Administrative Decisions Tribunal (the ADT).

This report recommends that Council contribute the amount of \$170.94 towards the estimated legal costs that will be incurred by Blacktown City Council in regard to this matter.

Consultation

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

Background

The following letter dated 27 April 2012 has been received from the LGSA requesting financial assistance towards estimated legal costs to be incurred by Blacktown City Council, in a matter before the ADT, involving a request for access to the performance assessment report of Blacktown Council's General Manager, by way of the Government Information (Public Access) Act 2009.

"The Local Government Association has resolved to assist Blacktown City Council by way of the Legal Assistance Policy and Guidelines in a matter before the Administrative Decisions Tribunal (the ADT).

The matter involves a request for access to the performance assessment report of Blacktown City Council's General Manager by way of the Government Information (Public Access) Act 2009 (the GIPA).

The applicant was granted access to a copy of the report to council of the performance of the General Manager including the performance criteria and a copy of the standard contract for the General Manager. Access was refused to all personal details including comments made by the assessment panel and the individual ratings/scores.

The applicant was not satisfied with this outcome and wants all documents and information associated with the performance review and has made application to the ADT in this regard.

The Office of the Information Commissioner (the OIC), which was established to provide assistance to applicants or respondents to requests for access to information under the GIPA, has also supported the applicants view that it is in the public interest to release all documents.

Blacktown City Council have resolved to defend the application in the ADT as it is concerned that the OIC considers that it is in the public interest to disclose the full performance review report of an employee including personal details.

Council is also concerned that the decision of the OIC will set a benchmark for similar applications and thereby establish a precedent which may have far reaching consequences for agencies including impacting on the integrity and basis of performance records. Council considers that to achieve effective and fair performance assessments, they must involve full and frank discussion between an employer and employee. Council is concerned that this

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situation may be compromised if an employer is compelled to release to the public any personal or confidential information emanating from that process.

The estimated costs of this matter are \$12,000 and your council's contribution is \$170.94.

By the terms of the Legal Assistance Policy and Guidelines your council is under no obligation to provide assistance."

It is noted that the LGSA has resolved to assist Blacktown City Council by way of the Legal Assistance Policy and Guidelines and have apportioned the amount of \$170.94 to Hawkesbury City Council, based on Council's share of the LGSA's total membership subscriptions.

It is a longstanding convention for Council to assist other councils with contributions to legal costs where the LGSA recommends such assistance. In this way, councils support each other, and the awareness of legal precedent is available for the benefit of all councils.

Conformance to Community Strategic Plan

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

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

Financial Implications

Funding is available in Component 42 - Legal Services of the 2011/2012 Adopted Budget for a contribution of \$170.94.

RECOMMENDATION:

That Council contribute the amount of \$170.94, as outlined in the letter dated 27 April 2012 from the Local Government and Shires Association of NSW, towards estimated legal costs to be incurred by Blacktown City Council in a matter before the Administrative Decisions Tribunal involving access to the performance assessment report of Blacktown Council's General Manager.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

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Item: 84 **SS - 37 Macquarie Street and Macquarie Street Car Park, Windsor - (95496, 112106)**

Previous Item: 52, Ordinary (24 April 2012)
 33, Ordinary (28 February 2012)

REPORT:

Executive Summary

Council, at its meeting on 24 April 2012, gave consideration to a report regarding estimated costs associated with the demolition of the building at 37 Macquarie Street, Windsor, the restoration of this site for use as a car park and costs for the construction of a public toilet building in the Macquarie Street Car Park.

At that meeting, Council resolved, in part, as follows:

"That further reports be submitted to Council regarding:

1. *An appropriate source of funding for the demolition of the building at 37 Macquarie Street, Windsor (former KFC store) and restoration of the site for car parking purposes.*
2. *A suitable alternate site, either within or in close proximity to the existing Macquarie Street Car Park, for a new public toilet building and possible sources of funding for the facility."*

This report identifies potential sources for funding within the 2011/2012 Adopted Budget for the demolition of the building and the restoration of the site for car parking purposes. Also, this report identifies possible sources for funding within the 2012/2013 Draft Budget for the construction of a new public toilet building, as resolved by Council. All identified potential sources of funding, if utilised, would result in the reallocation of funds for the budgeted projects and/ or prioritisation of works.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. It should be noted that should Council adopt the recommendation in this report, public consultation would occur as part of the design and approval process from the building.

Background

Kentucky Fried Chicken Pty Limited (KFC) has, until recently, leased the land at 37 Macquarie Street, Windsor. The on-site KFC store ceased trading on 29 December 2011. KFC vacated the premises, and thereby transferred ownership to Council on 9 March 2012.

Council, at its meeting on 28 February 2012, considered a report regarding the future of the subject site, and resolved as follows:

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"That:

1. The information regarding the lease between Kentucky Fried Chicken Pty Limited and Council of 37 Macquarie Street, Windsor be noted.
2. A report be submitted to Council with estimates for the demolition of the building at 37 Macquarie Street, Windsor, restoration of this site for use as a carpark and costs for the erection of a public toilet building in that location."

Subsequently, Council at its meeting on 24 April 2012, gave consideration to a report regarding estimated costs associated with the demolition of the building at 37 Macquarie Street, Windsor, the restoration of this site for use as a car park and costs for the construction of a public toilet building in the Macquarie Street Car Park.

The report considered by Council on 24 April 2012, contained the following details regarding cost estimates associated with the building demolition, car park restoration and construction of a public toilet building:

"The following pre-design estimates, as required in accordance with Council's resolution of 28 February 2012, have been provided by Council's Infrastructure Services Staff.

Demolition of existing KFC Building:

Building Demolition (including removal and tipping fees)	\$25,000
Development Application Fees	\$2,500
Asbestos Removal	\$5,000
Temporary Fencing and Sediment Control Devices	\$5,000
Disconnection of Services (Water, Gas, Electricity, etc)	\$5,000
	\$42,500

Car Parking:

Reconstruction of Bitumen Surface	\$85,000
Design and Survey	\$5,000
Line Marking and Sign Posting	\$8,000
Kerb and Guttering (including wheel stops)	\$28,000
Street Lighting Installation	\$35,000
	\$161,000

The demolition of the KFC building and car park construction would create approximately 33 additional car parking spaces on the site. There would be minor savings on the above car parking cost estimates if public toilets were constructed on the existing site as not all of the 33 car spaces would need to be constructed.

Public Toilets:

Construction of Amenities Building - on the exact site of the current KFC building	\$215,600
Development Application Fees	\$2,500
Temporary Fencing and Sediment Control Devices	\$5,000
	\$223,100

The abovementioned estimates are based on an amenities building being constructed exactly where the KFC building is currently situated. Given the subject location, the proposed facilities are of a similar aesthetic to the facilities currently located within Richmond Park, which would suit the heritage/historic nature of Windsor, and the buildings surrounding the car park area. The construction of an amenities building based on the above costs would include male toilets (2 cubicles and a urinal), female toilets (3 cubicles), and a disabled toilet.

It is important to note that if a more basic facility was to be provided instead, the costs would be slightly less. However, if the facilities were to be relocated to an alternate site within the

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car park (ie on the median strip within the existing car park), the costs could be slightly more due to the need for plumbing and electrical infrastructure to be extended.

In addition to the demolition and construction costs, as outlined above, ongoing annual maintenance costs are estimated to be \$30,300, as outlined below. These costs are based on the average annual maintenance costs of similar public amenities within the Council's area currently.

General Cleaning	\$20,000
Consumables (such as soap, paper towel and toilet tissue)	\$1,000
Reactive Maintenance and Repairs (including graffiti and vandalism)	\$7,000
Scheduled Maintenance and Repairs	\$800
Utilities (such as electricity and water)	\$1,500
TOTAL (per annum):	\$30,300"

At its meeting on 24 April 2012, Council resolved, in part, as follows:

"That further reports be submitted to Council regarding:

1. An appropriate source of funding for the demolition of the building at 37 Macquarie Street, Windsor (former KFC store) and restoration of the site for car parking purposes.
2. A suitable alternate site, either within or in close proximity to the existing Macquarie Street Car Park, for a new public toilet building and possible sources of funding for the facility."

In accordance with the above resolution, the following information is provided:

1. Demolition of KFC Building and Restoration of Car Park

As outlined earlier, the estimated total cost to demolish the KFC building and restore the site for car parking purposes is approximately \$203,000.

As indicated earlier in the report, the KFC store ceased trading on 29 December 2011, and has been vacant since this date. It is noted that Council does not wish to further lease the building and therefore, it is considered that the building should be demolished as soon as possible and the site restored for car parking purposes.

Accordingly, the following potential funding sources have been identified from the 2011/2012 Adopted Budget that could be reallocated to fund the building demolition and car park restoration:

Source of Funding	Amount	Comments
Section 94 Reserve	\$150,000	See comments below
Lower Portland Amenities	\$ 41,000	Convert existing building to accessible facilities and re-roof
Bell Bird Lookout	\$ 12,000	Convert old toilet block to shelter
TOTAL	\$203,000	

It is noted that should Council proceed to reallocate the funding for the above identified projects, these projects will not proceed in 2011/2012 and will need to be allowed for in future budgets. These projects were identified as being possibly able to be deferred.

With regard to the funding from the Section 94 Reserve, it is noted that there was discussion at the Council Meeting on 24 April 2012 regarding contributions received in lieu of the provision of car parking under the provisions of Section 94 of the Environmental Planning and

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Assessment Act. In this regard, Council received legal advice from its Solicitors which indicated that whilst acknowledging the issues raised regarding the ability to utilise the Section 94 contributions to demolish the KFC building and restore the site for car parking purposes, the Solicitors generally considered having regard to all of the facts, that the demolition of the KFC building and the laying out of the site for car parking is expenditure that may be authorised by the Section 94 Contributions Plan. The amount of \$150,000 identified above, represents the approximate amount of developer contributions collected under the Section 94 Plan for Car Parking within the Windsor Catchment.

2. New Public Toilet Building

It is noted that Council resolved that a further report be submitted regarding a suitable alternate site for a new public toilet building and possible sources of funding for the facility. Further time is required to assess a suitable alternate site and therefore, a separate report will be submitted to Council in the near future. However, the possible sources of funding for the facility will be provided in this report.

As outlined earlier in the report, the estimated cost for the construction of a new public toilet building on the current site of the KFC building would be approximately \$223,000. This estimate is based on the facility being of a similar aesthetic to the facility currently located within Richmond Park, and would include male toilets (2 cubicles and a urinal), female toilets (3 cubicles) and a disabled toilet.

In addition to the construction costs, ongoing annual maintenance costs are estimated to be approximately \$30,000.

Accordingly, the following approximate costs will be required to construct and maintain a toilet facility:

Construction Costs (if on existing KFC site)	\$223,100
Additional Construction Costs (if on an alternate site)	\$12,000
Maintenance Costs (for 3 months)	\$7,500

Approximate Total Funding Required: \$242,600

The above approximate costs assume that the construction will occur during 2012/2013 and be functioning by late 2012/2013. There would be ongoing maintenance costs of approximately \$30,000 per annum required from 2013/2014.

Based on the above, the following funding sources have been identified from the 2012/2013 Draft Budget currently on public exhibition. It is noted that these potential funding sources total \$635,500 and that only \$243,000 is required to be identified.

Potential Source of Funding	Amount	Comments
Section 94A Reserve	\$70,000	See comments below
Hawkesbury Sports Council	\$140,000	Capital contribution
St Albans School of Arts	\$ 13,500	Fence replacement and stabilisation of rock embankment
South Windsor Family Centre	\$ 13,000	Upgrade security system
Old Pitt Town Road, Oakville	\$ 80,000	Ongoing rehabilitation of pavement
Shoulder Sealing	\$ 40,000	Repairs and preventative maintenance
Eldon Street, Pitt Town	\$ 25,000	Footpaving
Roberts Creek Crossing	\$234,000	Construction of culverts to replace causeway
Planning Proposal - Heritage Items	\$ 20,000	Specialist heritage advice and assistance
TOTAL	\$635,500	

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It is noted that should Council proceed to reallocate the funding of any of the above projects, these projects will not proceed in 2012/2013.

With regard to the funding from the Section 94A Reserve, it is noted that the Council's Section 94A Plan (S94A Plan) was adopted in 2006 and is current. The works identified within the S94A Plan were based on the income estimated to be received through developer contributions during the following ten years. This income estimate amounted to approximately \$10 million over a period of ten years. Shortly after the S94A Plan was adopted, changes were made to parts of the Environmental Planning and Assessment Act 1979, which restricted the ability of Council to levy developer contributions. This legislation change has resulted in the adopted S94A Plan being overstated in the amount of contributions expected and in the funds available to deliver the works identified in the S94A Plan. Consequently it is necessary to rationalise the works identified in the S94A Plan.

Since the implementation of the S94A Plan in 2005/2006 financial year, over the last seven years, developer contributions received amount to \$1.9 million. This equates to approximately 30% of the income estimated to be received under the S94A Plan. Based on the current restrictions arising from legislative changes referred to above, this shortfall is expected to continue for the remaining life of the S94A Plan.

Based on the level of funding received to date, and expected to be received under the current S94A Plan, it is recommended that should Council proceed with utilising Section 94A funding to partially fund the construction of the amenities, that only a portion of the construction cost is funded with those funds. Based on the level of funds received under the S94A Plan, as compared to the funds expected to be received, it is recommended that only 30% of the construction cost is funded by way of Section 94A funds. This equates to approximately \$70,000.

In summary, the report outlines potential appropriate sources of funding in the amount of approximately \$200,000 from the 2011/2012 Adopted Budget, for the demolition of the KFC building and the restoration of the site for car parking purposes. The report also outlines potential sources of funding, totalling approximately \$635,500, from the 2012/2013 Draft Budget currently on public exhibition, that could be reallocated to be used to fund construction of a new public toilet building. The approximate cost of construction and maintenance for 2012/2013 is \$243,000, and therefore, Council is required to identify which funding sources, to the value of \$243,000, it wishes to utilise to construct the new facility.

Conformance to Community Strategic Plan

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

- Plan for, maintain and renew our physical infrastructure and community services, facilities and communication connection for the benefit of residents, visitors and businesses.

Financial Implications

The implications for the 2011/2012 Adopted Budget, the 2012/2013 Draft Budget and Section 94A Reserve are as follows:

1. 2011/2012 Adopted Budget

The projects and Reserve identified as potential sources of funding for the demolition of the KFC building and the restoration of the car parking site and other associated costs are currently included in the 2011/2012 Adopted Budget. Should Council proceed to reallocate those funds from those projects to the building demolition and car park restoration, it will be necessary to make appropriate budgetary adjustments.

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2. 2012/2013 Draft Budget

The projects and Reserve identified as potential sources of funding for the construction of the amenities building and other associated costs are included in the 2012/2013 Draft Budget which is currently on public exhibition. An Extraordinary Meeting will be held on 19 June 2012 to consider any submissions received and to fix the rates and charges for 2012/2013.

Should Council proceed to reallocate those funds to the construction of a new amenities building and other associated costs, it will be necessary for Council to address the matter at the Extraordinary Meeting held on 19 June 2012.

3. Section 94A Reserve

The potential source of funding from the Section 94A Reserve, if utilised, will result in reduced funding available for other projects already identified in the Section 94A Plan.

RECOMMENDATION:

That:

1. Funding in the approximate amount of \$203,000 for the demolition of the building at 37 Macquarie Street, Windsor (former KFC store) and the restoration of the site for car parking purposes, be provided for from the following sources within the 2011/2012 Adopted Budget:

a)	Section 94 Reserve	\$150,000
b)	Lower Portland Amenities	\$ 41,000
c)	Bell Bird Lookout	\$ 12,000
2. Council identify funding in the approximate amount of \$243,000 for the construction of a new public toilet building either within or in the proximity to the existing Macquarie Street Car Park from the sources outlined in the report that have been identified from the 2012/2013 Draft Budget currently on public exhibition.
3. The adjustments to the 2012/2013 Draft Budget outlined in Part 3 above be made at the Extraordinary Council Meeting on 19 June 2012, when the Draft Delivery Program 2012/2016 and the Draft Operational Plan 2012/2013 are considered following public exhibition.
4. A further report be submitted regarding a suitable alternate site, either within or in close proximity to the existing Macquarie Street Car Park, for a new public toilet building.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

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CONFIDENTIAL REPORTS

Item: 85 GM - Co-Generation Plant - (79351) CONFIDENTIAL

Previous Item: 195, Ordinary (30 August 2011)
 150, Ordinary (29 June 2010)
 38, Ordinary (23 February 2010)
 10, Ordinary (2 February 2010)
 184, Ordinary (8 September 2009)
 32, Ordinary (26 February 2008)

Reason for Confidentiality

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

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(g) of the Act as it relates to legal advice concerning possible legal action in relation to Council's Co-Generation Plant and the information is regarded as advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

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Meeting Date: 29 May 2012

**Item: 86 SS - Property Matter - Lease to B & C Munro Investments Pty Ltd - Shop 1
Wilberforce Shopping Centre - (123129, 95496, 112106) CONFIDENTIAL**

Reason for Confidentiality

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

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

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

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Meeting Date: 29 May 2012

Item: 87 **SS - Property Matter - Lease to Christopher Heron Wallace - Shop 4 McGraths Hill Shopping Centre - (10912,112106, 95496) CONFIDENTIAL**

Reason for Confidentiality

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

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

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

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**Item: 88 SS - Property Matter - Lease to David John Spencer - Nursery, Wilberforce
Shopping Centre - (95496, 112106, 86218, 102508) CONFIDENTIAL**

Reason for Confidentiality

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

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

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

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Item: 89 SS - Property Matter - Lease to Pirasta Pty Ltd - Part of Lot 50 in Deposited Plan 1073306 "Hollands Paddock" - (95496, 112106, 8736) CONFIDENTIAL

Reason for Confidentiality

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

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

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

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Waste Management Advisory Committee Minutes - 18 April 2012 - (95249, 95498)

The meeting commenced at 4.09am

Present:	Councillor Christine Paine, Deputy Chairperson Councillor Jill Reardon, Hawkesbury City Council Councillor Leigh Williams, Hawkesbury City Council Mr William Sneddon, Community Member
Apologies:	Councillor Bob Porter, Chairperson Ass Professor Basant Maheshwari, University of Western Sydney
In Attendance:	Mr Matthew Owens, Hawkesbury City Council Mr Jeff Organ, Hawkesbury City Council Mr Ramiz Younan, Hawkesbury City Council Ms Dianne Tierney, Hawkesbury City Council Mr Matthew Collins, Hawkesbury City Council Ms Amanda Monaco, Hawkesbury City Council Ms Robyn Kozjak - Minute Taker, Hawkesbury City Council
Non Attendance:	Mr Geoff Bessell

REPORT:

The Deputy Chair acknowledged the attendance of Ms Anne Prince of APC Environmental Management and welcomed her to the Committee.

Mr Geoff Bessell's absence and previous apologies were noted and it was suggested he be contacted to ascertain if he was available to continue his membership with the WMAC.

RESOLVED on the motion of Councillor Reardon and seconded by Mr Bill Sneddon that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Reardon and seconded by Mr Bill Sneddon that the Minutes of the Waste Management Advisory Committee held on 9 November 2011, be confirmed.

- Councillor Williams referred to the last item of the previous Minutes wherein it stated a report would be brought back to the Committee to enable consideration of options for progressing a drop off centre. Mr Younan reported plans for the facility were progressing, advising inherent safety for staff and members of the public was paramount in the design and layout of the facility and its associated infrastructure. Mr Younan reported he envisaged the matter would be reported at the next WMAC meeting for the Committee's review and comment.
- Councillor Paine advised she wished to thank staff for organising the site visit to the WMF to view the demonstration of the Tarpomatic.

SECTION 3 - Reports for Determination

Item 1: Waste Management Facility - Mulch Reuse

DISCUSSION:

- Mr Organ recommended the mulch be made available free of charge for a trial period of six months, after which time marketing options / promotion of the material would need to be reviewed.
- Councillor Williams raised concern commercial companies may try to take advantage of the offer and Mr Younan confirmed the offer would be made available only to residents.

RECOMMENDATION:

It is recommended that:

1. A report be submitted to Council proposing a change in the price of mulch from the current \$5/tonne to make it free of charge.
2. Limited advertising in local papers including Council's Public Notices and Website be used to promote the availability of mulch at the Waste Management Facility, along with exploring options for reuse of mulch on Council owned properties including the Waste Management Facility.

MOTION:

RESOLVED on the motion of Councillor Williams, seconded by Councillor Reardon.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

It is recommended that:

1. A report be submitted to Council proposing a change in the price of mulch from the current \$5/tonne to make it free of charge for a trial period of 6 months.
2. Limited advertising in local papers including Council's Public Notices and Website be used to promote the availability of mulch at the Waste Management Facility, along with exploring options for reuse of mulch on Council owned properties including the Waste Management Facility.

Item 2: Garden Organics Collection

DISCUSSION:

Anne Prince from APC Environmental Management commenced her presentation on Garden Waste Service Options and subsequently invited and addressed questions from the Committee.

- Councillor Paine enquired if there was a market for composted waste and Ms Prince reported the material was in demand by organisations involved in land rehabilitation and broad acre farming systems. Ms Prince further reported the waste industry was evolving, advising Remondis was proposing to construct an integrated recycling facility at Camellia, which was

expected to process 100,000 tonnes of commercial and industrial waste and 50,000 tonnes of kerbside source separated food and green waste.

- Councillor Williams referred to the consultation results and commented it was unfortunate the data did not capture (separate) responses from the various development types, (ie units, smaller blocks, rural residential etc). Councillor Williams suggested residents living on larger parcels were not likely to view a garden organics collection favourably, as these residents were more likely to utilise/consume organic waste around their property (eg composting, poultry etc)
- Councillor Williams reported he understood from the survey that 16% of paper was disposed of in landfill, and asked Mr Collins if he could provide figures for other recyclables going to landfill. Mr Collins responded with the following data:

Plastics: 9.8%, Glass: 3.9%, Ferrous Metal 2.97%, Non Ferrous Metal .62%.
- Councillor Paine asked what was involved in opening a new land facility. Ms Prince responded the process would take (minimally) five years, a large budget, committed staff and an engaged and well informed community.
- Ms Tierney enquired if other Councils had used existing 240 litre bins for organic waste (and provided smaller bins for general waste). Ms Prince made reference to Penrith City Council's lid replacement program which unfortunately was not successful, essentially due to the lids not sealing correctly. Ms Prince responded existing bins would be able to be utilised provided good quality lids were used to replace existing lids, and provided the existing bin was in overall good condition.
- Ms Prince recommended residents should be given the option to receive a weekly service, to be trialled over a period of at least twelve months.
- Mr Owens advised the proposed garden organics collection service would be subject to the usual public tendering process, and Ms Tierney suggested a cost analysis be made to investigate the potential for Council's own trucks to be utilised for the proposed service.
- Councillor Paine invited comments on the most appropriate methods to educate the public on the benefits of organic waste collection and Ms Prince responded the education process should be a continual, multi faceted process utilising a large range of media and medium, suggesting brochures, stickers, dvds etc.

RECOMMENDATION:

That the information be reported to Council with a recommendation to tender for the provision of a garden organics collection service as follows:

1. Tenders be called for the provision of an organics collection service based upon the following combinations of providing the service:
 - Collection service be provided to properties in the urban areas of the LGA only, approximately 12,000 services.
 - Collection service be provided to all properties in the LGA currently receiving a domestic waste service, approximately 21,000 services.
2. The tender process also includes, for both of the above, options that the successful contractor:
 - Collects, processes and disposes of the organics at a site of their choosing,
 - Collects, processes and disposes of the organics at their own site with Council receiving a share of the product,

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- Collects and delivers to Council's waste management facility for processing and disposal by others,
 - Collects and processes the organics within a leased area of Council's waste management facility.
3. As part of the tender and evaluation process, consideration should be given to the results of the public consultation, environmental responsibility, and cost effectiveness for the Hawkesbury community.

MOTION:

RESOLVED on the motion of Councillor Williams, seconded by Mr Bill Sneddon.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

1. Tenders be called for the provision of an organics collection service based upon the following combinations of providing the service:
 - Collection service be provided to properties in the urban areas of the LGA only, approximately 12,000 services.
 - Collection service be provided to all properties in the LGA currently receiving a domestic waste service, approximately 21,000 services.
2. The tender process also includes, for both of the above, options that the successful contractor:
 - Collects, processes and disposes of the organics at a site of their choosing,
 - Collects, processes and disposes of the organics at their own site with Council receiving a share of the product,
 - Collects and delivers to Council's waste management facility for processing and disposal by others,
 - Collects and processes the organics within a leased area of Council's waste management facility.
3. As part of the tender and evaluation process, consideration should be given to the results of the public consultation, environmental responsibility, and cost effectiveness for the Hawkesbury community.

Item 3: Proposed Extension of the Hawkesbury City Waste Management Facility

DISCUSSION:

- It was reported negotiations are in train in relation to the potential acquisition of the existing site and additional land to extend the landfill's operational life. Councillor Paine advised she was mindful a new Council and new WMAC would be formed at the end of the year and urged staff to actively pursue negotiations to ensure the matter progresses.
- It was further reported a broad range of waste options was being investigated, including waste energy options such as plasma torch technology (a technology which breaks down metals and plastics and vaporises them into their raw elements, which results in the release of a large amount of gases which can be burnt and turned into energy).

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Councillor Williams, seconded by Mr Bill Sneddon.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be received.
2. Further negotiations between Hawkesbury City Council and the UWS relating to the leased land, be reported back to the Committee.

SECTION 4 - Reports for Information

Item 4: Progress Report - Waste Education Officer - Education Updates

DISCUSSION:

- Ms Monaco referred to the postcards she had sent out to businesses and function centres to promote cork recycling. Councillor Paine asked if more of these cards could be printed and forwarded to Lions and Rotary Club groups. Ms Monaco responded she would arrange for extra cards to be printed and distributed.
- Councillor Williams enquired if a recycling program was proposed for compact fluorescent lamps (CFL's) and Mr Collins responded at present Council holds a chemical clean out once per year where CFL's are accepted. Mr Collins further advised it was proposed by July this year, a CFL recycling program would commence wherein collection points for CFL's would be established.

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Councillor Williams, seconded by Mr Bill Sneddon.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be received.
2. Staff be congratulated for progressing the recycling of electronic goods and CFL's.

Item 5: Progress Report - Waste Education Officer - National Recycling Week

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Councillor Reardon, seconded by Mr Bill Sneddon.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. That the information be received.
2. Staff be congratulated on the report.

SECTION 5 - General Business

- Presentation by Ms Anne Prince of APC Environmental Management - Garden Organics Collection Services

The meeting closed at 5.53pm.

oooO END OF REPORT Oooo

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Reports of Committees

ROC - Local Traffic Committee - 14 May 2012 - (80245)

Minutes of the Meeting of the Local Traffic Committee held in the Large Committee Room, Windsor, on Monday, 14 May 2012, commencing at 3.00pm.

ATTENDANCE

Present: Councillor Kim Ford (Chairman)
Mr Richard McHenery, Roads and Maritime Services
Mr Kevin Conolly, MP, (Riverstone)
Mr Bart Bassett, MP, (Londonderry)
Snr Constable Brad Phillips, NSW Police Force

Apologies: Mr Ray Williams, MP, (Hawkesbury)
Mr Peter Ramshaw, NSW Taxi Council
Ms Jodie Edmunds, Westbus
Mr Carlos DeSousa, Hawkesbury Valley Bus Service

In Attendance: Mr C Amit, Manager, Design & Mapping Services

The Chairman tendered an apology on behalf of Mr Ray Williams, MP, (Hawkesbury), advising that Mr Ray Williams, MP, (Hawkesbury), concurred with recommendations as contained in the formal agenda and had granted proxy to himself to cast vote(s) on his behalf.

SECTION 1 - Minutes

Item 1.1 Confirmation of Minutes

The Committee resolved on the motion of Mr Kevin Conolly, MP, seconded by Mr Richard McHenery, that the minutes from the previous meeting held 16 April 2012 be confirmed.

Item 1.2 Business Arising

There was no business arising from the previous minutes.

SECTION 2 - Reports for Determination

Item 2.1 LTC - 14 May 2012 - Item 2.1 - Bridge to Bridge Water Ski Classic, 2012 - (Hawkesbury, Londonderry & Riverstone) - (80245, 74204)

REPORT:

Introduction

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An application has been received from the NSW Water Ski Federation Ltd, seeking approval (in traffic management terms) to conduct the Bridge to Bridge Water Ski Classic on Saturday, 1 and Sunday, 2 December 2012.

The event organiser has advised;

- The Bridge to Bridge Water Ski Classic is an annual water ski time trial event along the Hawkesbury River extending from Dangar Island, Brooklyn to Governor Phillip Reserve, Windsor.
- Event Schedule:
 - Saturday, 1 December 2012: 7.00am – 5.00pm.
 - Starting at Sackville Ski Gardens and finishing at Governor Phillip Reserve, Windsor.
 - Sunday, 2 December 2012: 6.00am - 8.00pm.
 - Starting at Dangar Island Brooklyn and finishing at Governor Phillip Reserve, Windsor.
- The suspension of ferry services, controlled by the Roads and Maritime Services - RMS (formerly RTA) and Council, is required on Sunday 2 December 2012:
 - Wisemans Ferry (RMS): 11.45am – 12.15pm
 - Webbbs Creek Ferry (RMS): 11.45am – 12.15pm
 - Lower Portland Ferry (HCC): 8.30am – 1.30pm
 - Sackville Ferry (RMS): 8.30am – 1.30pm
- This annual event has been held for over fifty years and is a regular feature of the local community calendar in the Hawkesbury LGA.
- The number of participants expected is approximately 800 for the event.
- Expecting approximately 2000 spectators for the event at the finish venue in Windsor.
- Parking will be at Governor Phillip Reserve with additional parking available off street utilising vacant land adjacent to Governor Phillip Reserve. Parking is available for approximately 4000 vehicles
- The effect on traffic is not expected to be significant.
- Emergency vehicles will be allowed access at all times.
- Affected Streets are;
 - George Street, Windsor: between Bridge Street and Palmer Street
 - Arndell Street, Windsor: the full length
 - Palmer Street, Windsor: the full length
 - North Street/Court Street, Windsor: the full length
- It is expected that the event will impact only marginally on traffic using Windsor Road, Bridge Street, Macquarie Street and Wilberforce Road compared to the normal traffic during weekends.
- As no road closures will be in place, there will be little effect on traditional afternoon peak hour southeast bound traffic on Windsor Road.

Discussion

The event organiser is seeking Council and Roads and Maritime Services - RMS (formerly RTA) approval for the suspension of the following Ferry Services on Sunday, 02 December 2012:

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- Wisemans Ferry (RMS) 11.45am – 12.15pm
- Webbs Creek Ferry (RMS) 11.45am – 12.15pm
- Lower Portland Ferry (HCC) 8.30am – 1.30pm
- Sackville Ferry (RMS) 8.30am – 1.30pm

Suspension of Wisemans Ferry and Webbs Creek Ferry is required only for the Super Class Series competitors. Reduced Operation of these two ferries will apply at all other times, whereby a full load of vehicles are to be aboard prior to the ferry undertaking a crossing. The suspension and reduced operation of these two ferries is required to cater for the respective type of competitors and will enable free flow of competitors across the ferry crossings.

Total suspension of Lower Portland Ferry and Sackville Ferry is required due to poor sight distance leading to these two ferries and the bends in the river. The total suspension of these two ferries will enable a free flow of competitors across the ferry crossings.

Emergency vehicles will be allowed access onto the ferries. Safety vessels with crew will be placed downstream from each ferry with suitable equipment to indicate to competitors that a ferry may be operating and with communication between the boat and the ferry vessel.

The Lower Portland Ferry Service is under the care and control of Hawkesbury City Council. The Wisemans Ferry, Webbs Creek Ferry and Sackville Ferry Services are under the care and control of the RMS and hence, RMS approval is to be sought directly by the event organiser for the suspension of ferry services maintained by them.

Ferry operations are not affected on Saturday, 01 December 2012, as Wiseman Ferry, Webbs Creek Ferry, Sackville Ferry and Lower Portland Ferry are all located downstream of the Sackville Ski Gardens.

Even though the event will be held along the Hawkesbury River and within the Governor Phillip Reserve, the event and the spectators travelling to the event may impact heavily on the state road network on Windsor Road, Macquarie Street, Wilberforce Road and Bridge Street and in particular the local roads such as George Street and Court Street as well as the Ferry services. It would be appropriate to classify the event as a "Class 1" special event under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) given that perceived impact.

The event organiser has submitted the following items in relation to the event: Attachment 1 (ECM Document No: 4025195):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Transport Management Plan (TMP) and Traffic Control Plans (TCP) which have expired,

Reserve Matters:

The event organiser has made application under separate cover to Councils' Parks and Recreation section for exclusive use of Governor Philip Reserve.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Kevin Conolly, MP, seconded by Mr Bart Bassett, MP.

That:

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1. The Bridge to Bridge Water Ski Classic 2012 event planned for Saturday 01 and Sunday 02 December 2012, be classified as a “**Class 1**” special event, in terms of traffic management, under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the Roads and Maritime Services - RMS (formerly RTA) publication “Guide to Traffic and Transport Management for Special Events” (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.
4. It is strongly recommended that the event organiser visits Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/organising-an-event>, and refers to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they are familiar with the contents and requirements of this information. The approval conditions listed below relate only to matters relating to the traffic management of the event.
5. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

Prior to the event:

- 5a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 5b. the event organiser is to assess the risk and address the suitability of the entire route as part of the risk assessment considering the possible risks for all. This assessment should be carried out by visual inspection of the route / site by the event organiser prior to the event;
- 5c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 5d. the event organiser is to obtain approval from the Roads and Maritime Services - RMS (formerly RTA) as this is a “**Class 1**” event; **a copy of the Roads and Maritime Services - RMS (formerly RTA) approval to be submitted to Council;**
- 5e. the event organiser **is to submit a Traffic Control Plan (TCP) to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 5f. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an

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amount not less than **\$20,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**

- 5g. the event organiser is to obtain the relevant approval to conduct the event along the Hawkesbury River from the Roads and Maritime Services - RMS (formerly NSW Maritime); **a copy of this approval to be submitted to Council;**
- 5h. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of Governor Philip Reserve;
- 5i. the event organiser is to obtain approval from the respective Land Owners for the use of their land for the event; **a copy of this approval to be submitted to Council;**
- 5j. the event organiser is to advise all adjoining Councils such as Gosford, The Hills and Hornsby of the event and in particular the suspension/reduced operation of the ferries and obtain any necessary approvals from these Councils; **a copy of this approval to be submitted to Council;**
- 5k. the event organiser is to advertise the event in the local press stating the entire route/extent of the event, - including the proposed road/ferry closures - and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 5l. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5m. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, - including the proposed road/ferry closures - and the traffic impact/delays expected, due to the event for at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5n. the event organiser is to directly notify all the residences and businesses which may be affected by the event, - including the proposed road/ferry closures - and the traffic impact/delays expected, due to the event for at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council;**
- 5o. the event organiser is to **submit** the completed " Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" to Council;

During the event:

- 5p. access is to be maintained for businesses, residents and their visitors;
- 5q. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 5r. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5s. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);

- 5t. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- 5u. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity,

Ferry Services

- 6. The applicant is to seek Roads and Maritime Services - RMS (formerly RTA) approval for the suspension/reduced operation of the Wisemans Ferry, Webbs Creek Ferry and Sackville Ferry Services. There is no objection to the suspension of the Lower Portland Ferry Service on Sunday, 02 December 2012 between 8.30am and 1.30pm. Suspension/reduced operation of the ferry services on Sunday 02 December 2012 as listed below:

- Wisemans Ferry (RMS): 11.45am – 12.15pm
- Webbs Creek Ferry (RMS): 11.45am – 12.15pm
- Lower Portland Ferry (HCC): 8.30am – 1.30pm
- Sackville Ferry (RMS): 8.30am – 1.30pm

is subject to the applicant complying with the following conditions, as well as any conditions imposed by the Roads and Maritime Services - RMS (formerly RTA):

- 6a. the applicant is to contact Hawkesbury City Council's Construction and Maintenance Section and the Ferry operator, three weeks prior to the event with regard to the suspension of the Lower Portland Ferry service maintained by Hawkesbury City Council
- 6b. Advertising of the proposed event is to be undertaken at the expense of the event organiser in both Sydney and Local newspapers, two weeks prior to the event, in relation to :
 - traffic impact and delays,
 - exclusive use of Governor Phillip Reserve,
 - timings of suspension/reduced operation of ferry services,

such notice is to be incorporated in the news sections of those newspapers and to be approximately 1/8 (one-eighth) page size;

- 6c. signs are to be erected at the expense of the event organiser in locations indicated in the approved Transport Management Plan and Traffic Control Plan and at a size indicated in the same, on all roads leading to the ferries, as well as on each ferry, for at least two weeks prior to the event;
- 6d. safety precautions outlined in the TMP are to be in place at all ferry locations, such to include a boat and crew upstream and/or downstream from each ferry as applicable with suitable equipment to indicate to competitors that a ferry may be operating and with communication between that boat and the ferry vessel, such procedures are to be implemented to the satisfaction of the Roads and Maritime Services - RMS (formerly RTA and NSW Maritime) and Hawkesbury City Council; and,
- 6e. the Roads and Maritime Services - RMS (formerly RTA) and Council be authorised to alter ferry suspension/reduced operation times if necessary.

Item 2.2 LTC - 14 May 2012 - Item 2.2 - Shahzada 400 Kilometre Horse Endurance Ride, St Albans 2012 - (Hawkesbury) - (80245, 86185, 114819)

REPORT:

Introduction:

An application has been received from Shahzada Memorial Endurance Test Inc. seeking approval (in traffic management terms) to conduct the Shahzada 400 Kilometre Horse Endurance Ride, in and around the St Albans and Macdonald Valley areas. The event will be held over 5 days from Monday, 27 August 2012 to Friday, 31 August 2012.

The event organiser has advised:

- This is an annual event which has been held for over 31 years.
- It is a 400 kilometre horse endurance event, held over 5 days in conjunction with a 120 kilometre, 3 day training ride.
- The event will be undertaken between 4.00am and 5.00pm each day.
- There will be approximately 120 horse riders participating.
- There will be approximately 50 spectators.
- Start and end point for the event will be within the St Albans village.
- Route/Course for the Rides:

400 Kilometre Endurance Ride and 120 Kilometre Training Ride:

- Monday, 27 August 2012: (Leg 1) The 400 kilometre ride starts at 4.00am and riders will travel out on Wollombi Road to Johnny's Hill, along the Transmission Road, down Blue Hill and Wrights Creek Road, right into Settlers Road and back to Town. (Leg 2), Later in the day riders will go out to Joe's Crossing, right into the Branch Road (Upper Macdonald Road), left into McKechnie's, left along the Woomerah Path, left into Jacks Track, back to the Branch Road, over Joe's Crossing and back to St Albans on Wollombi Road.
- Tuesday, 28 August 2012: (Leg 1) The 400 kilometre riders will leave town at 4.00am with the 120 kilometre Training riders at 6.30am, going around the Settlers Arms and down Bulga Street past the Fickle Wombat, along Settlers Road to Shepherds Gully Road, up the Great Northern Road, left into the 8 Mile, left into Wrights Creek Road and back into Town on Settlers Road passing the front of the Pub. (Leg 2) Later in the morning the riders will go out again the same way on Settlers Road turning into Mary O'Toole's driveway and up Careflight Hill, right into the Great Northern Road, down Shepherds Gully and back to Town on Settlers Road.
- Wednesday, 29 August 2012: (Leg 1) The 400 kilometre riders will leave from 4.00am and the 120 kilometre training riders from 6.30am, go around the Settlers Arms, down Bulga Street and Settlers Road to the Word of Life Crossing, turning left into St Albans Road, right up Boyd's Hill, along the Woomerah Path and down McKechnie's to the Branch Road where the 400 kilometre riders will turn left and out to Clarie's Bridge, over Prestons, right into Wollombi Road and back to St Albans and the Training riders will turn right at the Branch Road, back

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over Joe's Crossing and right into Wollombi Road to return to St Albans. (Leg 2) Later in the day the 400 kilometre riders will leave St Albans, around Settlers Arms into Bulga Street and down Settlers Road, left into Wrights Creek Road, up Blue Hill, right into Transmission Road, left into Short Wellums, right into Settlers Road and back to Town.

- Thursday, 30 August 2012: (Leg 1) The 400 kilometre riders will leave town at 4.00am and the 120 kilometre Training riders will leave at 6.30am, all travelling the same way out of town to Wrights Creek Road, up Blue Hill, right into Transmission Road until Brown's Road, where the Training riders may elect to continue on Transmission Road, down Johnny's Hill and back to Town on the Wollombi Road but the majority will turn left and go down the Steps coming out on Wollombi Road closer to Town. (Leg 2) Later in the day, the riders will go out on Wollombi Road, left across Joe's Crossing, left into the Branch Road, up Jack's Track, along the Woomerah Track, left down Boyd's Hill, right into St Albans Road, right across Word of Life Crossing, left into Settlers Road back into St Albans turning left at Bulga Street and around the Settlers Arms to the timekeeper in Bulga Street via Wollombi Road.
- Friday, 31 August 2012: (Leg 1) The 400 kilometre riders will leave at 4.00am going out on Wollombi Road to Joe's Crossing, left into the Branch Road, up Jack's Track, along the Woomerah to a turnaround near Webbs Creek Hill, going back along the Woomerah and right down McKechnie's, right into the Branch Road, left over Joe's Crossing, right into Wollombi Road and back to Town. (Leg 2) Later in the day, riders will go out on Wollombi Road, turning right at the old Quarry, up the Steps, along Brown's Road, left into the Transmission Road, left into Wollombi road and back to Bulga Street in St Albans.
- Road Inventory

The route/course of the ride is predominantly on the tracks within the Parr State Recreational Area, Yengo National Park, private farmlands and on the following public roads;

 - Bulga Street – Sealed section
 - Settlers Road – Sealed and Unsealed Road
 - Shepherds Gully Road – Unformed Road
 - St Albans Road - Sealed Road
 - Upper Macdonald Road (The Branch Road) – Unsealed Road
 - Webbs Creek Road - Unsealed Road
 - Wharf Street – Sealed Road
 - Wollombi Road – Sealed and Unsealed Road
 - Wrights Creek Road - Unsealed Road
 - Crossing of the Macdonald River at various locations.
- The event is also traversing along the Great Northern Road, which is under the care and control of the National Parks and Wildlife Service (Office of Environment and Heritage).
- St Albans Bridge, which is under the care and control of the Roads and Maritime Services - RMS (formerly RTA), will only be used in the event of flooding of the Macdonald River. All riders will be instructed to walk over the bridge.
- Road closures are not required.
- Parking of vehicles will be predominantly on private land,
- Warning signage shall be in place on all approaches to inform traffic of Horse and Riders ahead,
- All riders will be instructed to keep to the left hand side of the road and obey road rules,
- All riders wear bibs with reflective cloth tape stitched onto them. On the front the colour is white/silver and on the back the colour is red.

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- When riding in the dark on public roads all riders are required to either wear head lights on their helmets or carry torches.
- Wicens are at all checkpoints on the course, who will communicate with the ride base on the progress of all riders as they follow the course. This communication is also used to convey an emergency on the course.

Details of the Event Course Maps for the 400 Kilometre Endurance Horse Ride and 120 Kilometre Ride are contained in Attachments 1 to 8.

Discussion:

It would be appropriate to classify the event as a “**Class 2**” special event under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as this event may impact minor traffic and transport systems and there is a low scale disruption to the non-event community.

The event organiser has submitted the following items in relation to the event: Attachment 9 (ECM Document Nos: 4037516 & 4043256):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Traffic Management Plan (TMP) and Traffic Control Plans (TCP),
5. Event Course Maps,
6. Public Liability Insurance to the value of \$20,000,000, which expires on 01 January 2013,
7. Copy of the Advertisement to be placed in the Forgotten Valley News and Hawkesbury Gazette,
8. Copy of the correspondence to be forwarded to the Residents and Businesses,
9. Copy of correspondence forwarded to the NSW Police.

Authorisation for the use of St Albans Bridge is required from the Roads and Maritime Services - RMS (formerly RTA).

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Bart Bassett, MP, seconded by Snr Constable Brad Phillips.

That:

1. The Shahzada 400 Kilometre Horse Endurance Ride event, in and around the St Albans and Macdonald Valley areas, planned from Monday, 27 August 2012 to Friday, 31 August 2012 be classified as a “**Class 2**” special event, in terms of traffic management, under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the Roads and Maritime Services - RMS (formerly RTA) publication “Guide to Traffic and Transport Management for Special Events” (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.

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4. It is strongly recommended that the event organiser visits Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/organising-an-event>, and refers to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they are familiar with the contents and requirements of this information. The approval conditions listed below relate only to matters relating to the traffic management of the event.
5. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

Prior to the event:

- 5a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 5b. the event organiser is to assess the risk and address the suitability of the entire route as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route / site by the event organiser prior to the event;
- 5c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 5d. the event organiser is to obtain approval from the Roads and Maritime Services - RMS (formerly RTA) as the event may traverse across the St Albans Bridge; **a copy of the Roads and Maritime Services - RMS (formerly RTA) approval to be submitted to Council;**
- 5e. the Event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be addressed as outlined in the TMP;
- 5f. the event organiser is to obtain the relevant approval to conduct the event from the Roads and Maritime Services - RMS (formerly NSW Maritime) to cross the Macdonald River; **a copy of this approval to be submitted to Council;**
- 5g. the event organiser is to obtain the relevant approval from the Office of Environment and Heritage to cross the Macdonald River; **a copy of this approval to be submitted to Council;**
- 5h. the event organiser is to obtain approval from the National Parks and Wildlife Service (Office of Environment and Heritage) for the use of the Parr State Recreational Area, Yengo National Park and the Great Northern Road; **a copy of this approval to be submitted to Council;**
- 5i. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of a Council Park/Reserve;

- 5j. the event organiser is to obtain approval from the NSW Department of Primary Industries for the use of any Crown Road or Crown Land; **a copy of this approval to be submitted to Council;**
- 5k. the event organiser is to obtain approval from the respective Land Owners for the use of their land for the event; **a copy of this approval to be submitted to Council;**
- 5l. the event organiser is to obtain any necessary approvals from adjoining Councils; **a copy of this approval to be submitted to Council;**
- 5m. the event organiser is to advertise the event in the local press stating the entire route/extent of the event, and the traffic impact/delays expected, due to the event two weeks prior to the event; **a copy of the proposed advertisement has been submitted to Council;**
- 5n. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5o. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, and the traffic impact/delays expected, due to the event for at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5p. the event organiser is to directly notify all the residences and businesses which may be affected by the event, and the traffic impact/delays expected, due to the event for at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence has been submitted to Council;**
- 5q. the event organiser is to **submit** the completed " Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" **to Council;**

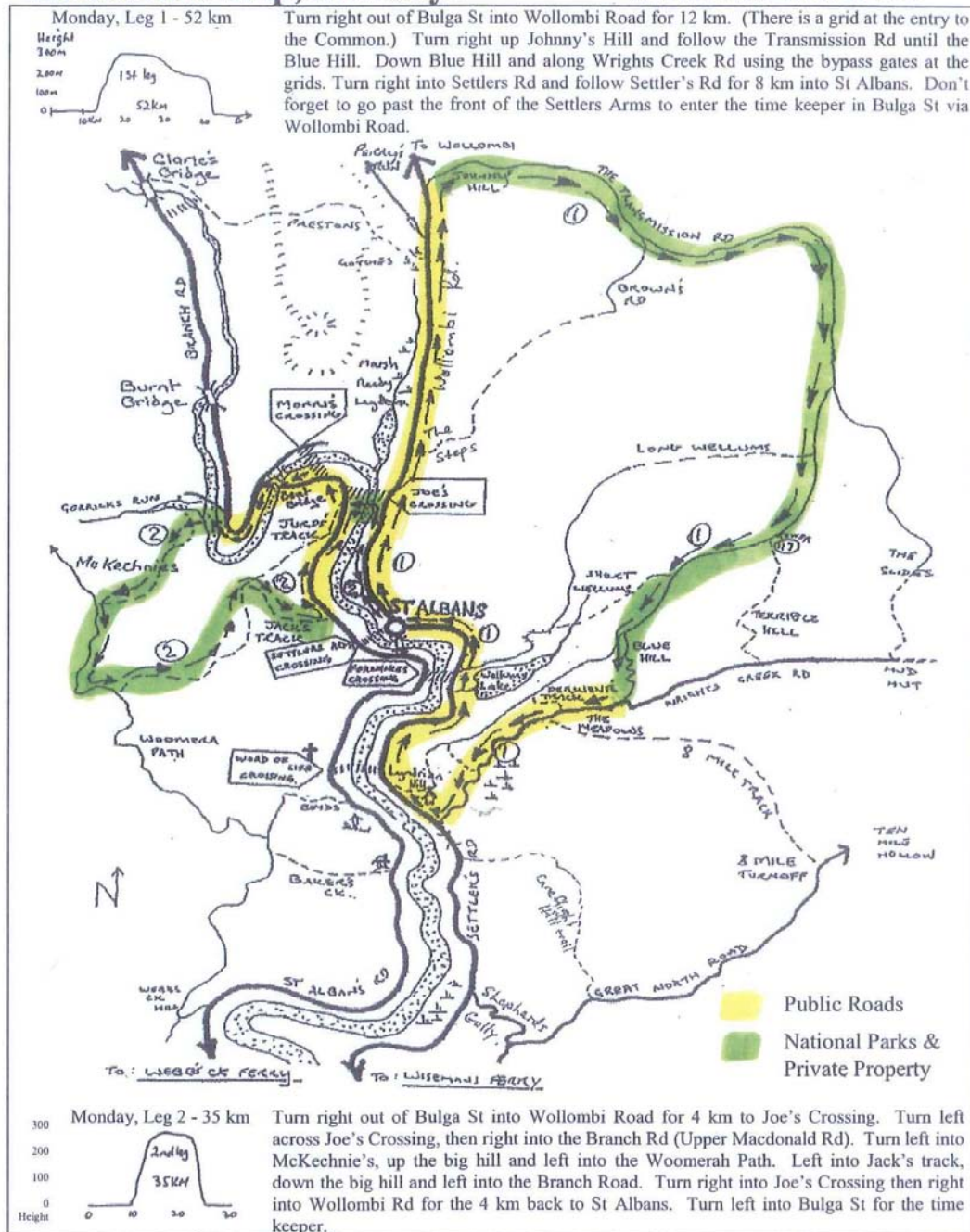
During the event:

- 5r. access is to be maintained for businesses, residents and their visitors;
- 5s. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 5t. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5u. the riders are to be made aware of and are to follow all the general road user rules whilst riding on public roads;
- 5v. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5w. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event;
- 5x. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity, and,
- 5y. the event organiser is to ensure that dust along the unsealed sections of road utilised by the

event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be undertaken as outlined in the TMP.

APPENDICES:

- AT – 1** Event Course Map – 400 Klm Endurance Ride - Monday - Leg 1 (52 Klm) & Leg 2 (35 Klm).
- AT - 2** Event Course Map - 400 Klm Endurance Ride - Tuesday - Leg 1 (47 Klm) & Leg 2 (33 Klm).
- AT - 3** Event Course Map - 400 Klm Endurance Ride - Wednesday - Leg 1 (49 Klm) & Leg 2 (28 Klm).
- AT - 4** Event Course Map - 400 Klm Endurance Ride - Thursday - Leg 1 (50 Klm) & Leg 2 (30 Klm).
- AT - 5** Event Course Map - 400 Klm Endurance Ride - Friday - Leg 1 (46 Klm) & Leg 2 (30 Klm).
- AT - 6** Event Course Map - 120 Klm Training Ride - Tuesday - 47 Klm.
- AT - 7** Event Course Map - 120 Klm Training Ride - Wednesday - 28 Klm.
- AT - 8** Event Course Map - 120 Klm Training Ride - Thursday - 50 Klm.
- AT – 9** Special Event Application - (ECM Document Nos: 4037516 & 4043256) - *see attached*.

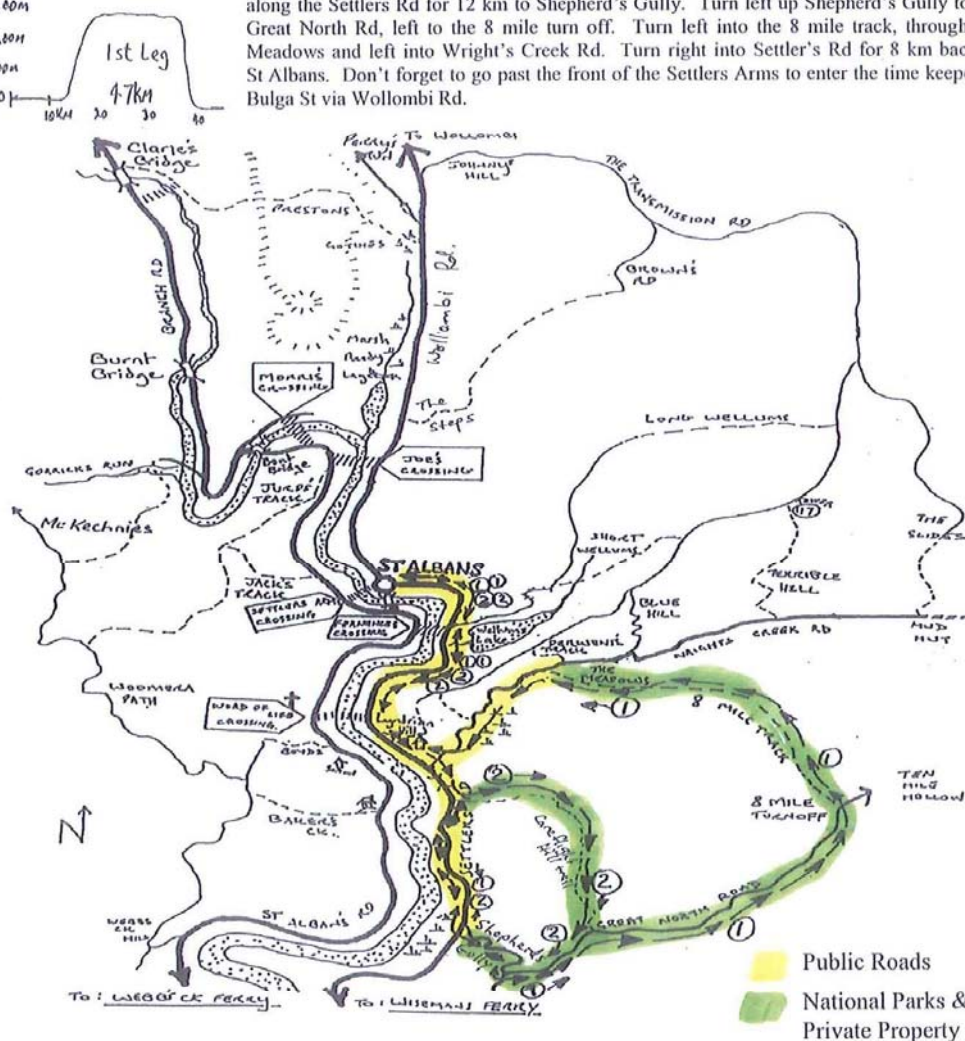
AT – 1 Event Course Map – 400 Klm Endurance Ride - Monday - Leg 1 (52 Klm) & Leg 2 (35 Klm).**SHAHZADA COURSE MAP****400km ride Map, Monday :****Markers are RED**

Riders must allow spacing of several horse lengths on steep or narrow sections of the course.
When a gate on the course is closed, always close it after going through.

AT - 2 Event Course Map - 400 Klm Endurance Ride - Tuesday - Leg 1 (47 Klm) & Leg 2 (33 Klm).**SHAHZADA COURSE MAP****400km Ride Map, Tuesday :****Markers are BLACK or WHITE.**

Tuesday, Leg 1 - 47 km

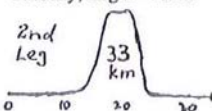
Height
300m
200m
100m
0



Starting at the time keeper, left into Wollombi Rd and past the front of the Settlers Arms. Left into Wharf St and right into Bulga St past the Fickle Wombat. Use the bypass gate then along the Settlers Rd for 12 km to Shepherd's Gully. Turn left up Shepherd's Gully to the Great North Rd, left to the 8 mile turn off. Turn left into the 8 mile track, through the Meadows and left into Wright's Creek Rd. Turn right into Settler's Rd for 8 km back to St Albans. Don't forget to go past the front of the Settlers Arms to enter the time keeper in Bulga St via Wollombi Rd.

Tuesday, Leg 2 - 33km

300
200
100
0
Height



Starting at the time keeper, left into Wollombi Rd and past the front of the Settlers Arms. Left into Wharf St and right into Bulga St past the Fickle Wombat. Use the bypass gate then along the Settler's Rd for just over 8 km until Mary O'Toole's driveway about 100 metres past the Wrights Creek bridge, turn left then up CareFlight hill. Turn right into the Great North Rd then right down Shepherd's Gully and right into Settler's Rd and return 12 km to St Albans on Settlers Rd. Don't forget to go past the front of the Settlers Arms to enter the time keeper in Bulga St via Wollombi Rd.

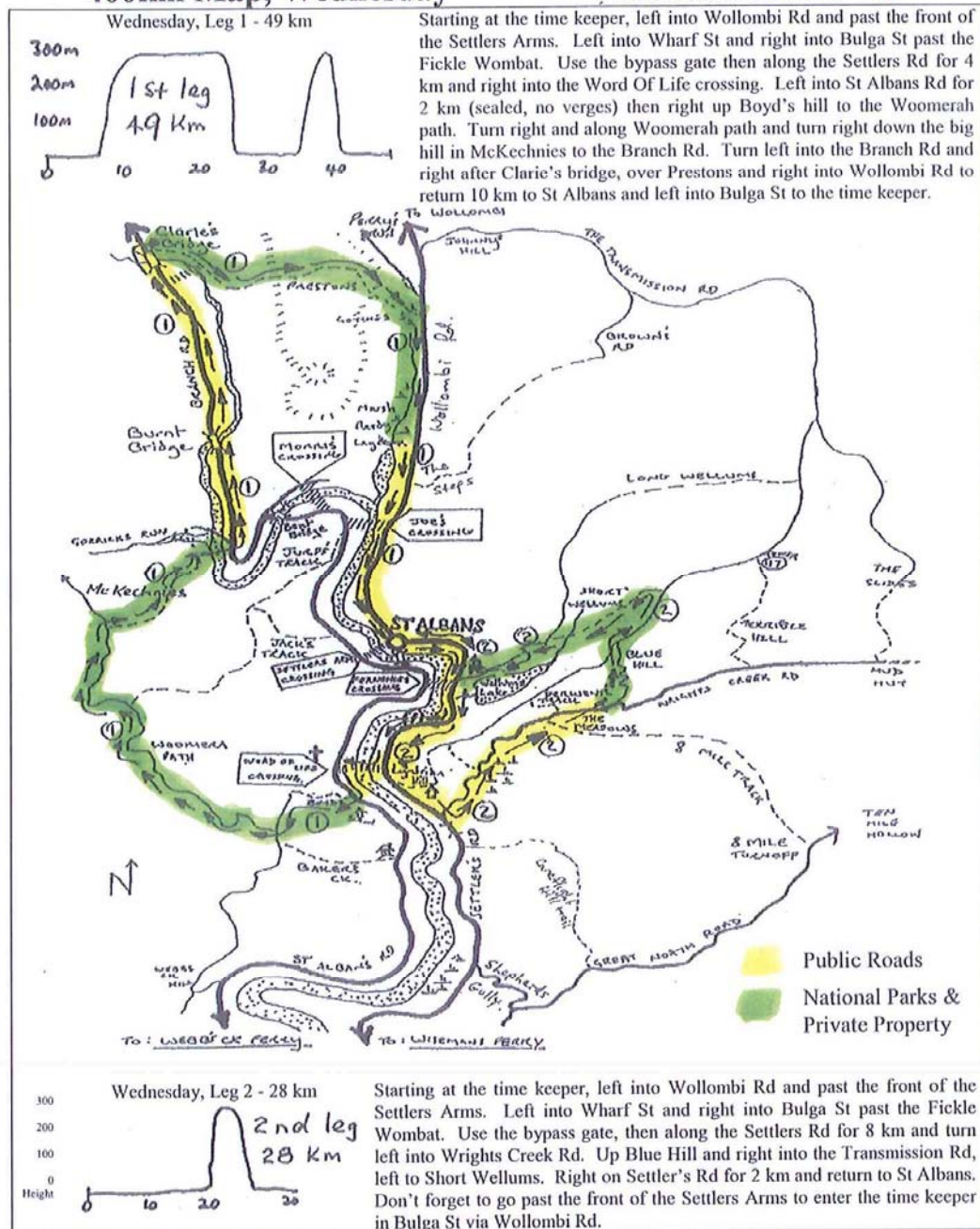
Riders must allow spacing of several horse lengths on steep or narrow sections of the course.
When a gate on the course is closed, always close it after going through.

AT - 3 Event Course Map - 400 Klm Endurance Ride - Wednesday - Leg 1 (49 Klm) & Leg 2 (28 Klm).

SHAHZADA COURSE MAP

400km Map, Wednesday

Markers are BLUE

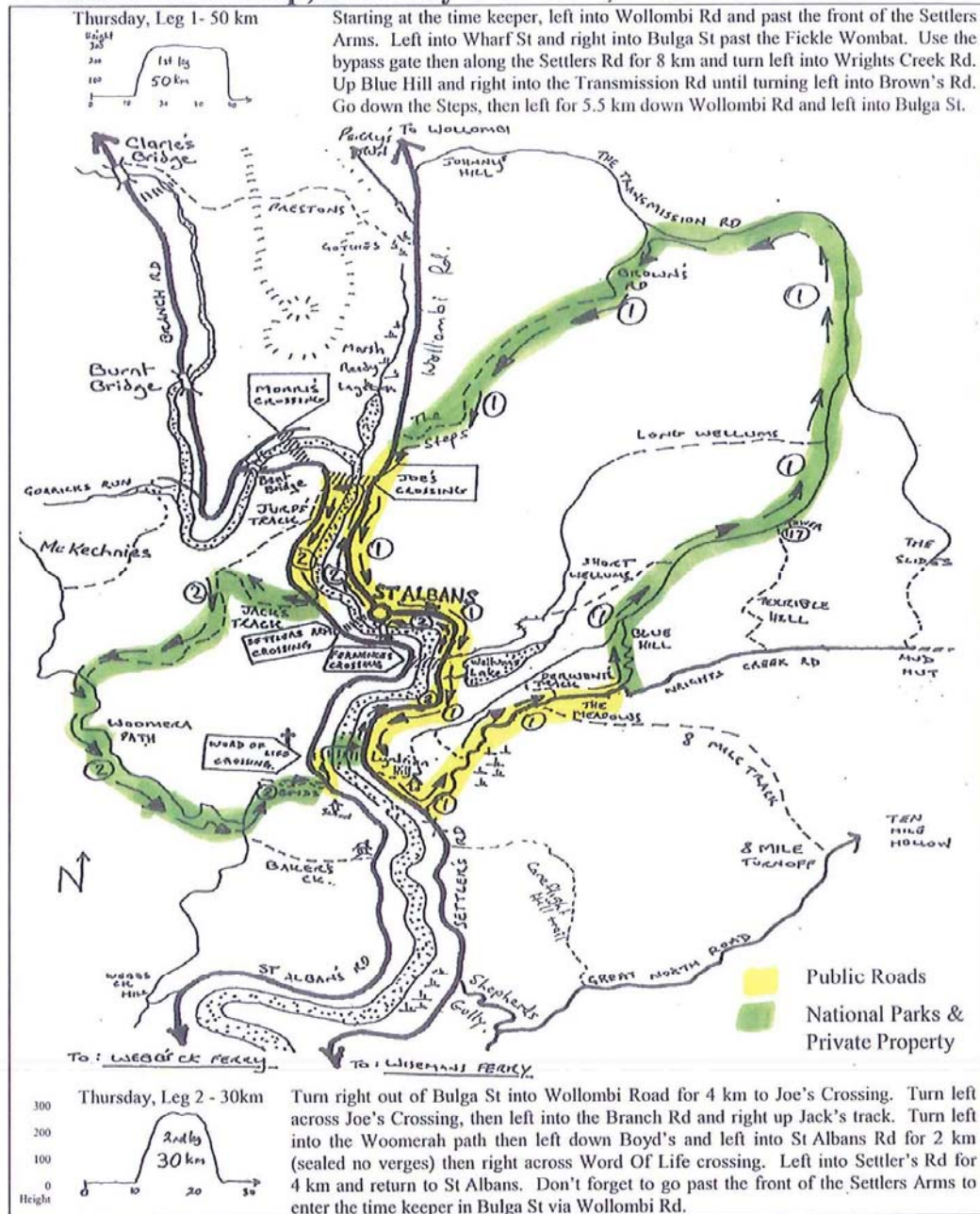


AT - 4 Event Course Map - 400 Klm Endurance Ride - Thursday - Leg 1 (50 Klm) & Leg 2 (30 Klm).

SHAHZADA COURSE MAP

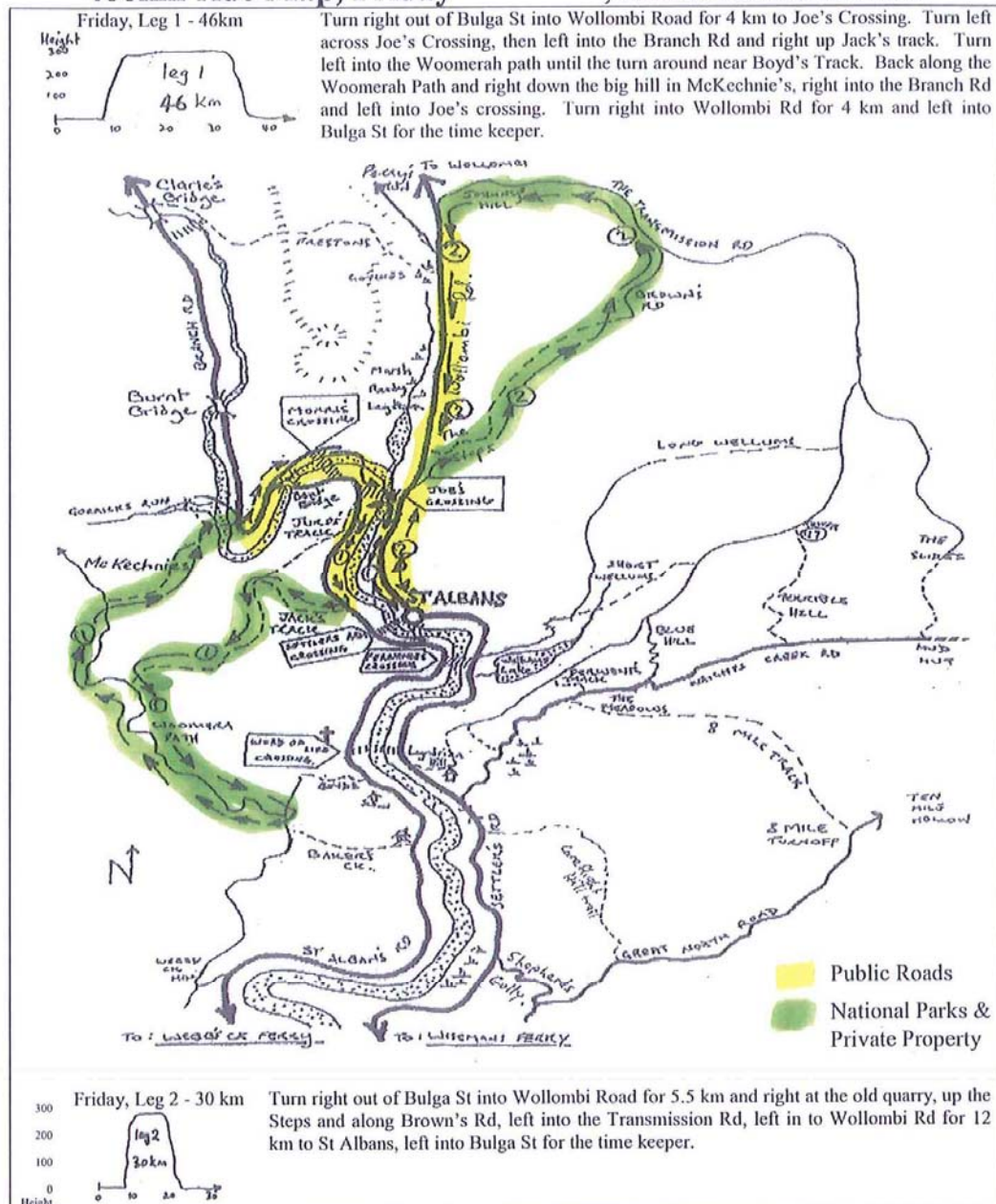
400km Ride Map, Thursday

Markers are GREEN



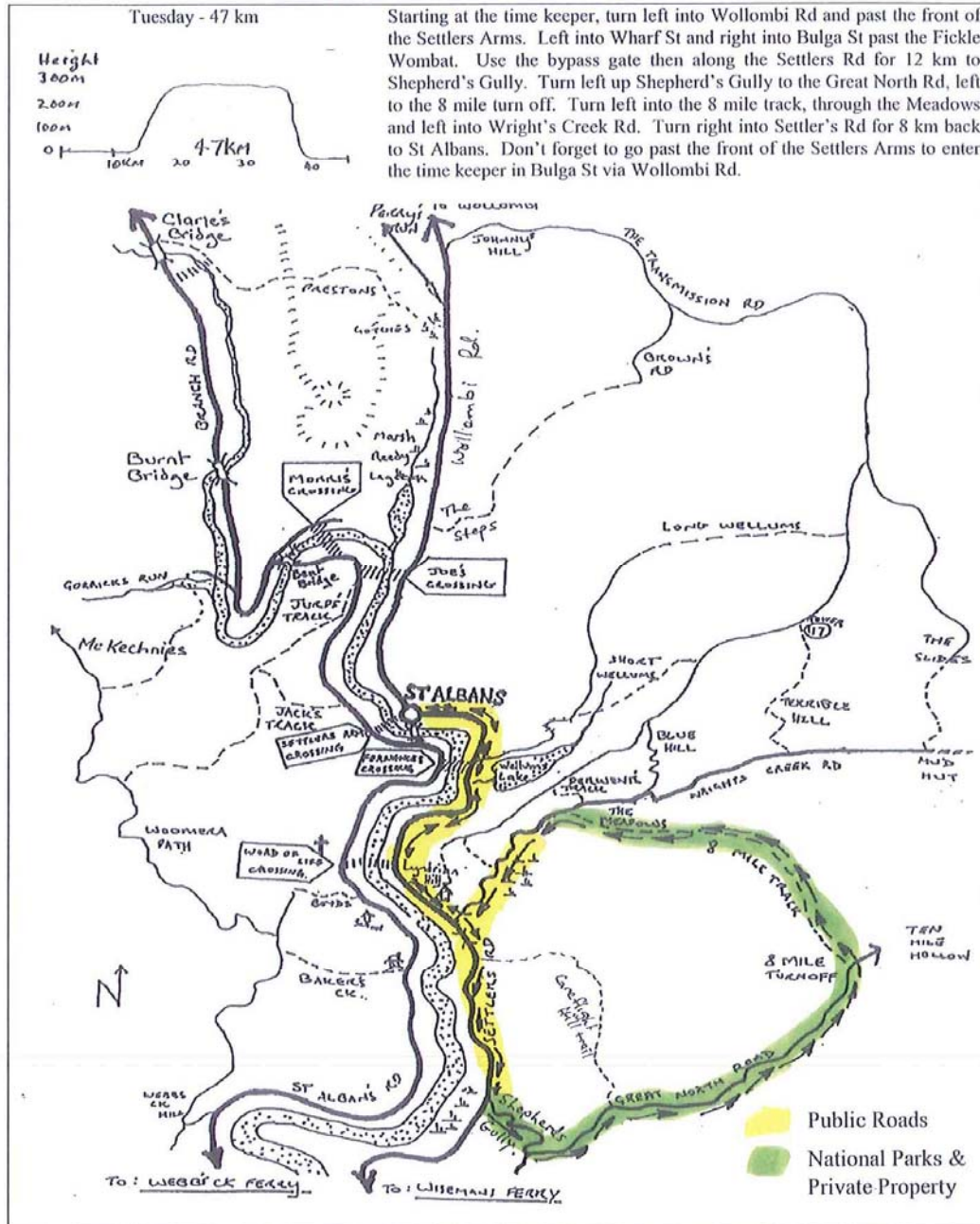
Riders must allow spacing of several horse lengths on steep or narrow sections of the course, especially The Steps.

When a gate on the course is closed, always close it after going through.

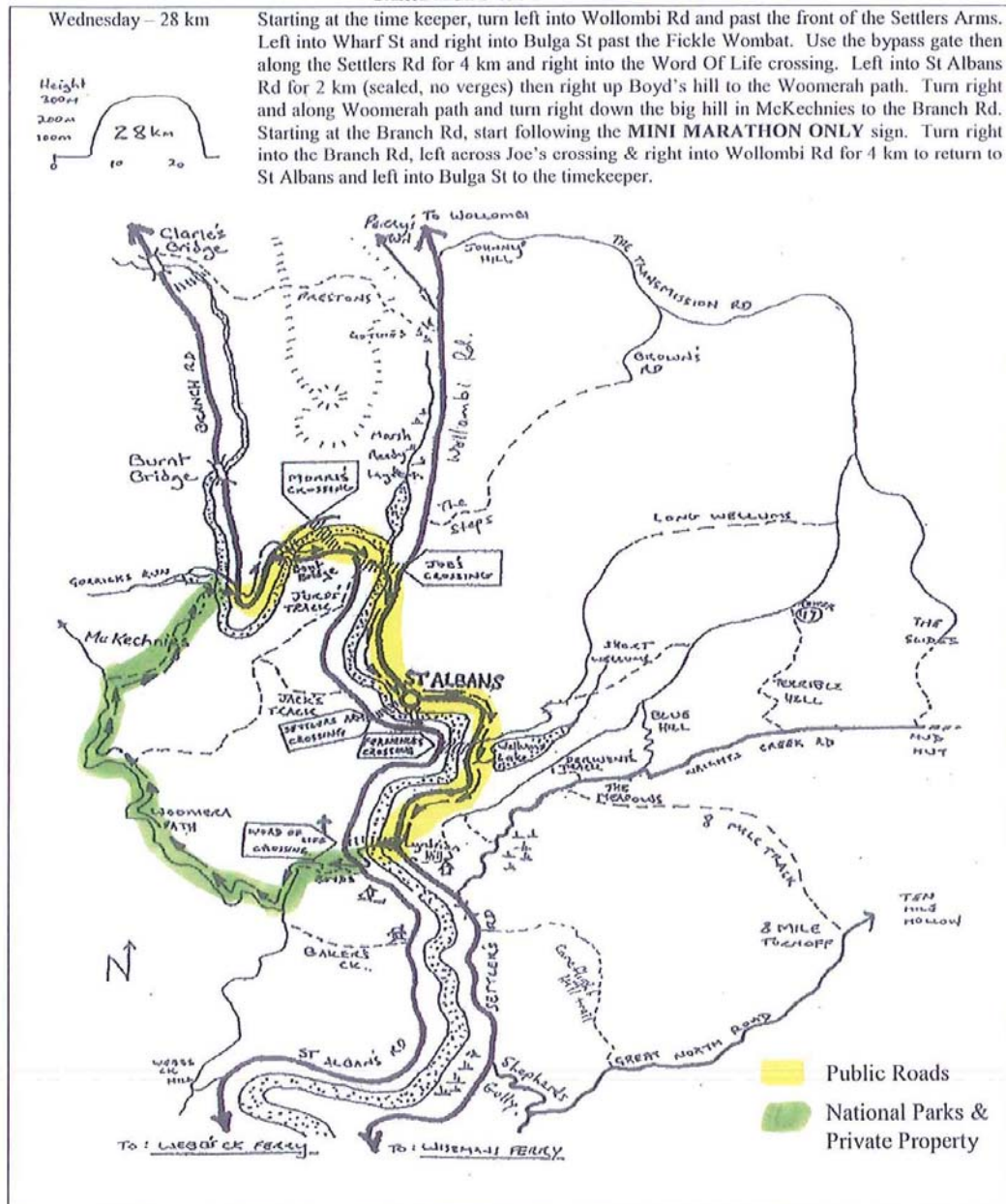
AT - 5 Event Course Map - 400 Klm Endurance Ride - Friday - Leg 1 (46 Klm) & Leg 2 (30 Klm).**SHAHZADA COURSE MAP****400km ride Map, Friday****Markers are GOLD**

Riders must allow spacing of several horse lengths on steep or narrow sections of the course, especially The Steps.

When a gate on the course is closed, always close it after going through.

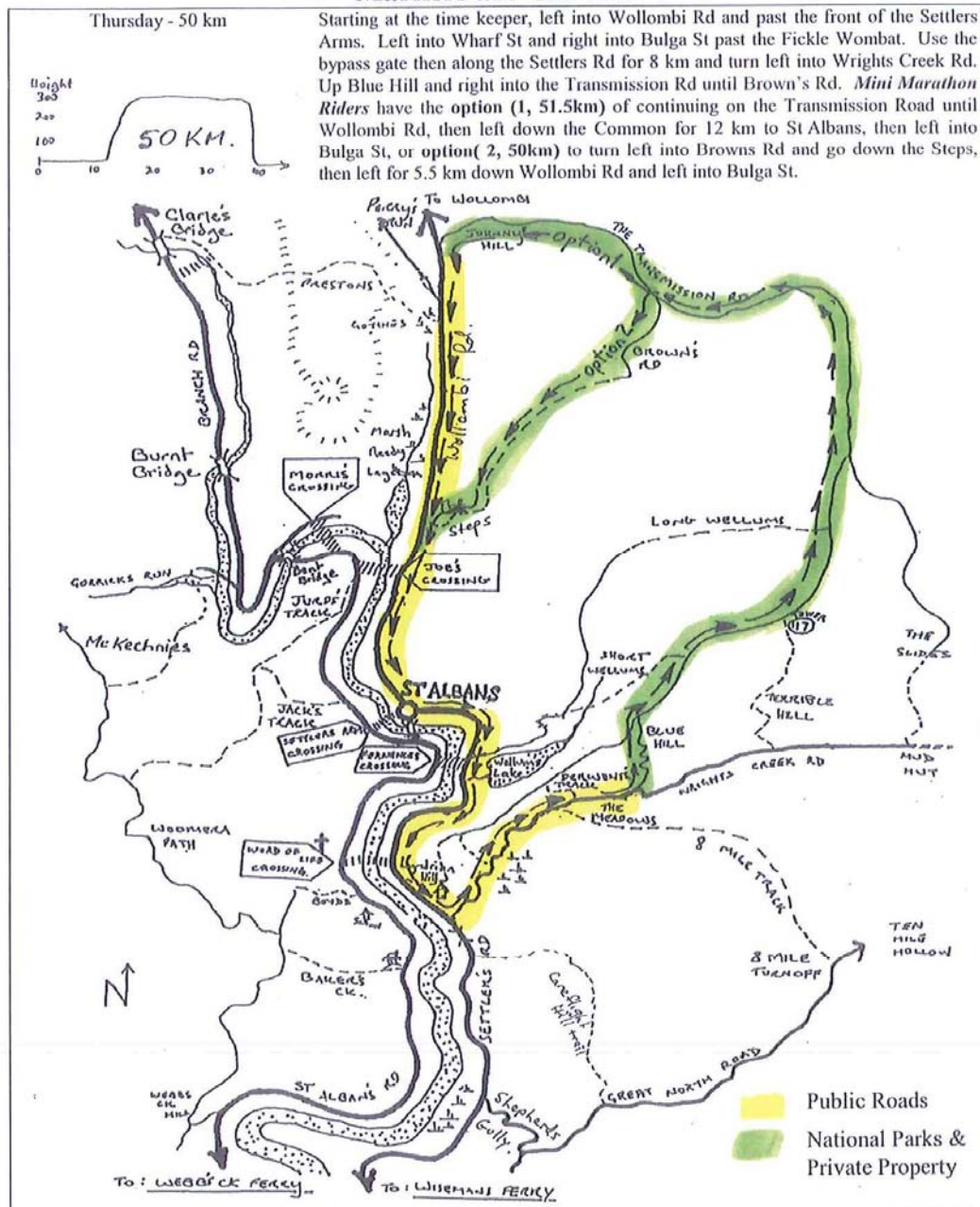
AT - 6 Event Course Map - 120 Klm Training Ride - Tuesday - 47 Klm.**SHAHZADA COURSE MAP****MINI MARATHON MAP FOR TUESDAY****Markers are BLACK or WHITE.**

Riders must allow spacing of several horse lengths on steep or narrow sections of the course.
When a gate on the course is closed, always close it after going through.

AT - 7 Event Course Map - 120 Klm Training Ride - Wednesday - 28 Klm.**SHAHZADA COURSE MAP****MINI MARATHON MAP FOR WEDNESDAY****Markers are BLUE.**

Riders must allow spacing of several horse lengths on steep or narrow sections of the course, especially in Boyds and McKechnies.

When a gate on the course is closed, always close it after going through.

AT - 8 Event Course Map - 120 Klm Training Ride - Thursday - 50 Klm.**SHAHZADA COURSE MAP****MINI MARATHON MAP FOR THURSDAY****Markers are GREEN**

Riders must allow spacing of several horse lengths on steep or narrow sections of the course, especially on The Steps.

When a gate on the course is closed, always close it after going through.

SECTION 3 - Reports for Information

There were no reports for Information.

SECTION 4 - General Business

ITEM: **LTC - 14 May 2012 - Item 4.1 - Kurrajong Heights Lookout Sight distance issues for vehicles exiting the lookout onto Bells Line of Road, Kurrajong Heights (Riverstone) - (80245)**

REPORT:

Mr Kevin Conolly, MP, advised the Committee that there are sight distance issues for vehicles exiting the Kurrajong Heights Lookout onto Bells Line of Road. The main line of sight impeded is looking to the North. It is requested that improvements to the exiting sight distance be investigated which may result in the clearing of vegetation to the North.

COMMITTEE RECOMMENDATION:

Resolved on the motion of Mr Kevin Conolly, MP, seconded by Mr Bart Bassett, MP.

That the sight distance for vehicles exiting the Kurrajong Heights Lookout onto Bells Line of Road, Kurrajong Heights be investigated for any necessary improvements.

APPENDICES:

There are no supporting documents for this report.

ITEM: **LTC - 14 May 2012 - Item 4.2 - Investigate the extent of the existing Bus Stop in Colonial Drive, Bligh Park adjacent to Bligh Park Shops (Riverstone) (80245)**

REPORT:

Mr Kevin Conolly, MP, advised the Committee that the existing Bus Stop in Colonial Drive, Bligh Park adjacent to the Bligh Park Shops was not clearly defined. The current position of the Bus Stop was inhibiting parking for vehicles in this vicinity and in particular near Sirius Road.

Mr C Amit advised the Committee that Westbus, through Transport for NSW, has upgraded Bus Stop signs and in particular at this location. The existing signs are for a Bus Stop and not a Bus Zone. Under the Australian Road Rules a vehicle cannot park either side of a Bus Stop sign (20 metres on the approach and 10 metres on the departure). It would appear that this site requires a Bus Zone to be installed.

It was requested that the site be investigated for the provision of a Bus Zone to be positioned in vicinity of the existing Bus Stop and Bus Shelter in Colonial Drive, Bligh Park adjacent to Bligh Park Shops.

COMMITTEE RECOMMENDATION:

Resolved on the motion of Mr Kevin Conolly, MP, seconded by Snr Constable Brad Phillips.

That the existing position and signs of the Bus Stop in Colonial Drive, Bligh Park adjacent to Bligh Park Shops be investigated with a view to providing a Bus Zone which will provide a clear definition of where vehicles are able to park.

APPENDICES:

There are no supporting documents for this report.

ITEM: LTC - 14 May 2012 - Item 4.3 - Speeding Vehicles in Grose Vale Road, Kurrajong in the vicinity of Kurrajong Public School (Londonderry) - (80245)

REPORT:

Mr Bart Bassett, MP advised the Committee that there are issues with speeding vehicles along Grose Vale Road, Kurrajong in the vicinity of Kurrajong Public School and towards Old Bells Line of Road.

Snr Constable Brad Phillips advised the Committee that Windsor Police have the area listed for speed check tasking following a complaint from a resident in Old Bells Line of Road. Grose Vale Road will be added to this Tasking.

Mr C Amit advised the Committee that two Traffic Counters are planned for Old Bells Line of Road in the vicinity of House Number 124 and north past Kurrajong Road due to the complaint from a resident in Old Bells Line of Road. These Counters are programmed to be installed in the next 2-3 months. It would be feasible to install a further 2 Counters along Grose Vale Road either side of the School. The location along Grose Vale Road will be generally on straight sections of road and to be determined on site.

COMMITTEE RECOMMENDATION:

Resolved on the motion of Mr Bart Bassett, MP, seconded by Snr Constable Brad Phillips.

That the information be received.

APPENDICES:

There are no supporting documents for this report.

ORDINARY MEETING
Reports of Committees

**ITEM: LTC - 14 May 2012 - Item 4.4 - Change of Date - Zone One Q60 Endurance Horse Ride
- From March to October 2012 - Upper Colo Reserve (Hawkesbury) - (80245, 85005)**

REPORT:

Mr C Amit advised the Committee that correspondence had been received from Zone One of The NSW Endurance Riders' Association, advising that due to the recent flooding of the Hawkesbury River, the dates for the Zone One Q60 Endurance Horse Ride, utilising Upper Colo Reserve as a base area, had been changed from the approved date of Sunday, 11 March 2012 to Sunday, 07 October 2012

COMMITTEE RECOMMENDATION:

Resolved on the motion of Mr Bart Bassett, MP, seconded by Snr Constable Brad Phillips.

That the Information be received.

APPENDICES:

There are no supporting documents for this report.

SECTION 5 - Next Meeting

The next Local Traffic Committee meeting will be held on 18 June 2012 at 3.00pm in the Large Committee Rooms.

The meeting terminated at 3.40pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillors Questions from Previous Meetings and Responses - (105109)

REPORT:

Questions – 5 May 2012

#	Councillor	Question	Response
1	Whelan	Requested information regarding the heritage survey that has been undertaken by Roads and Maritime Services for Bridge Street.	Director Infrastructure Services advised that a letter has been forwarded to the RMS requesting advice in relation to any progress on the archaeological survey as well as requesting the final report when available.
2	Conolly	Referred to Council previously considering the use of the eastern portion of Thorley Street, Bligh Park as a Flood Evacuation Route, and asked about the current status of this. Secondly, the section that is constructed as a Flood Evacuation Road, what is the width of that road and is it wide enough to be marked as three lanes, two outbound and one inbound.	Director Infrastructure Services advised that discussions have commenced with the National Parks and Wildlife Services to secure the site, and subject to successfully obtaining the land, application will be made for suitable grants in order to undertake construction. The road width for the constructed section is 10 metres, and whilst capable of supporting 3 traffic lanes, this additional width was required by the SES and RMS to ensure that at times of evacuation, the road will provide for 2-way traffic movement with the provision of a break down lane to ensure satisfactory management of evacuation.
3	Williams	Advised that Packer Road, especially the Putty Road end, requires attention and requested works to be undertaken to improve the road surface.	Director Infrastructure Services advised that instructions have been issued for grading/gravelling works.
4	Williams	Requested Council staff to investigate the provision of parking for longer vehicles at Wilberforce Shops.	Director Infrastructure Services advised that provision for parking of long vehicles in Wilberforce Shops Car Park has been previously investigated and designed to include parking bays in 2 locations within the car park; along the access road entering from George Road, on the left hand side, for a length of 70 metres (including tapers), and along the access road entering from King

ORDINARY MEETING
Questions for Next Meeting

#	Councillor	Question	Response
			<p>Road, on the left hand side, for a length of 40 metres (including tapers).</p> <p>The provision of the bay off the King Road entry is not desirable as it would result in the removal of approximately five mature trees. The estimated cost of the George Street entry bay is \$30,000, and no funding has been identified for this work.</p>
5	Williams	<p>Requested to be kept up to date in relation to the progress of the Lower Portland Ferry and its future use, as it is only certified until the end of 2012.</p> <p>Councillor Williams also asked that Councillors be notified via email regarding this matter and others like this so that they are kept informed of issues.</p>	Director Infrastructure Services advised that a report in relation to the future operation of the Ferry will be bought back to Council in the near future.
6	Williams	Asked is he could be provided with an update in relation to the North Richmond storm water study.	Director Infrastructure Services advised that the further refinement of the study by staff in relation to assessing mitigation options is nearing completion. The final report is expected to be available in June 2012, and will be presented to Council at a Briefing Session.
7	Williams	<p>Referred to the Roads and Maritime Services flyer regarding Option 1 for the new Windsor Bridge which indicated that excavations would be undertaken in Old Bridge Street, Windsor Wharf and on the opposite side of the river, however they have also been digging in Thompson Square.</p> <p>Councillor Williams asked if an explanation could be provided as to why the contractors have been digging in Thompson Square after information indicated that they would not interfere with the park.</p>	Director Infrastructure Services advised that a letter has been forwarded to the RMS requesting advice in relation to any progress on the archaeological survey, and seeking clarification of the extent of archaeological excavations undertaken.
8	Paine	Referred to the current condition of South Windsor in the vicinity of the shops and asked if Council staff could gurney the footpath and do a general tidy up.	Director Infrastructure Services advised that specialist contractors are being sought, and it is expected that the works will be scheduled for completion in June.
9	Paine	Asked if there was anything Council could do regarding the condition of Fairfield House, particularly loose roof sheeting as there are issues relating to safety in strong winds.	Director Infrastructure Services advised that the property is privately owned and Council is unable to undertake these works.

ORDINARY MEETING**Questions for Next Meeting**

#	Councillor	Question	Response
10	Porter	Requested an investigation be undertaken in relation to reopening old shale pits in outer areas of the Hawkesbury, to be used in the on going maintenance of unsealed roads.	Director Infrastructure Services advised that investigations are being undertaken in relation to the current status of the pits to ascertain environmental, legal and commercial viability, and that the outcome of this investigation will be reported to Council.
11	Rasmussen	Requested a summary of the Grants that Council has applied for in the past 6 months and whether they had been successful.	Director Support Services advised that a summary of the grants that Council has applied for during the period from 1 July 2011 to 31 March 2012 will be forwarded to Councillors on 28 May 2012 in the Councillors' Newsletter. The summary includes the current status of each application.
12	Rasmussen	Advised that the southern car park sign in Yarramundi Reserve has been down since the flooding and requested that it be repaired.	Director Infrastructure Services advised that repairs to this sign and other areas within the Reserve are the subject of a flood damage claim and repairs will be undertaken when the outcome of the claim is known.
13	Rasmussen	Asked if the State Government is still committed to the North West Rail Link project following this week's announcement from Infrastructure Australia which casted doubt on the project following the announcement.	The General Manager advised that when the matter was discussed in Parliament on 8 May, 2012 in connection with the announcement from Infrastructure Australia, the Premier advised the House that "This Government does intend to build the North West Rail Link" (Hansard).

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

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