



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 08 March 2016

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 11pm. 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 3pm 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 register to speak on any items in the business paper other than the Confirmation of Minutes; Mayoral Minutes; Responses to Questions from Previous Meeting; Notices of Motion (including Rescission Motions); Mayoral Elections; Deputy Mayoral Elections; Committee Elections and Annual Committee Reports. To register, you must lodge an application form with Council prior to 3pm on the day of the meeting. The application form is available on Council's website, from the Customer Service Unit or by contacting the Manager - Corporate Services and Governance on (02) 4560 4444 or by email at council@hawkesbury.nsw.gov.au.

The Mayor will invite registered persons to address the Council when the relevant item is being considered. Speakers have a maximum of three minutes to present their views. The Code of Meeting Practice allows for three speakers 'For' a recommendation (i.e. in support), and three speakers 'Against' a recommendation (i.e. in opposition).

Speakers representing an organisation or group must provide written consent from the identified organisation or group (to speak on its behalf) when registering to speak, specifically by way of letter to the General Manager within the registration timeframe.

All speakers must state their name, organisation if applicable (after producing written authorisation from that organisation) and their interest in the matter before speaking.

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

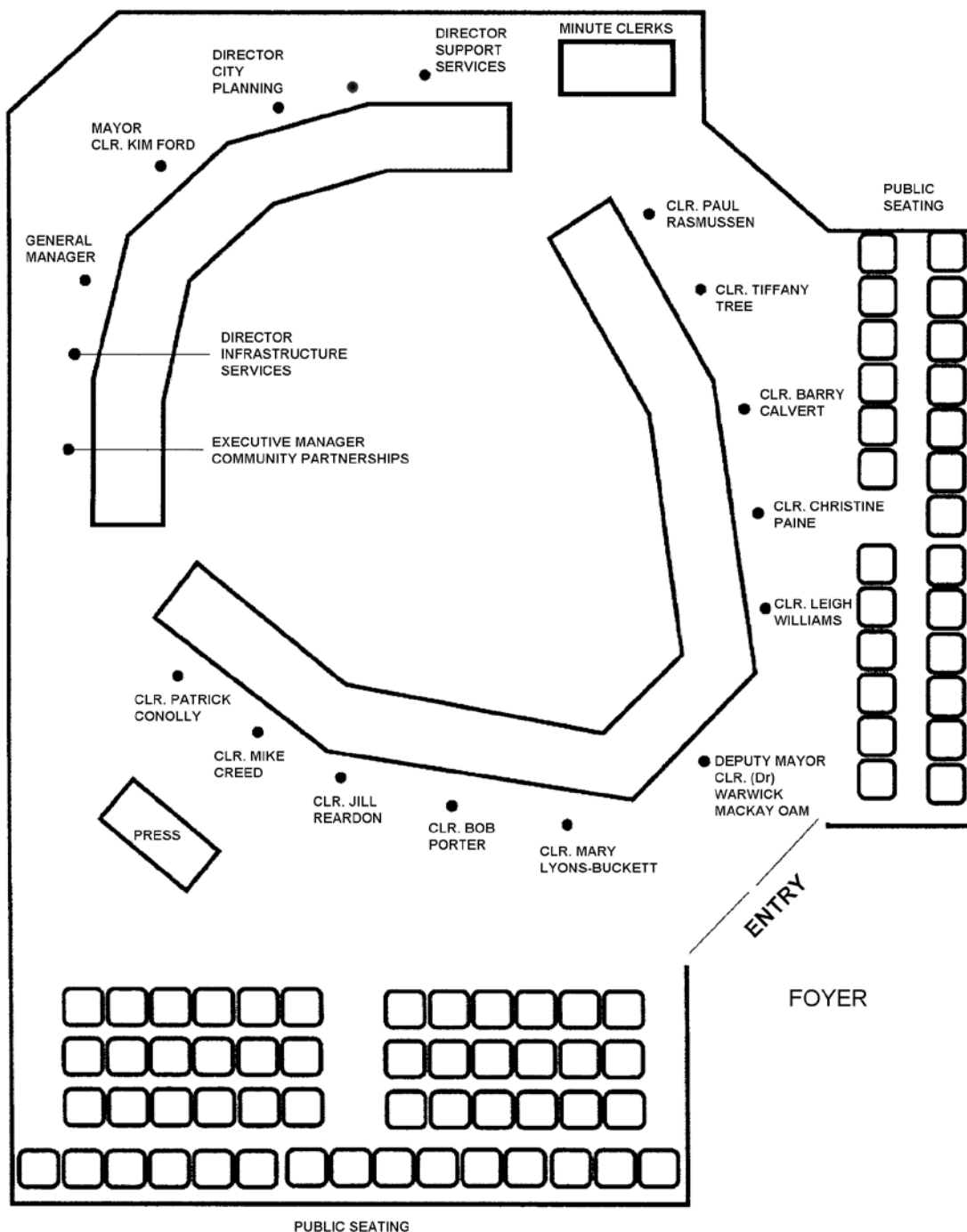
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

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 4444.

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- **APOLOGIES AND LEAVE OF ABSENCE**
- **DECLARATION OF INTERESTS**
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- **ACKNOWLEDGEMENT OF OFFICIAL VISITORS TO THE COUNCIL**
- **SECTION 2 - Mayoral Minutes**
- **EXCEPTION REPORT - Adoption of Items Not Identified for Discussion and Decision**
- **SECTION 3 - Reports for Determination**
 - Planning Decisions**
 - General Manager**
 - City Planning**
 - Infrastructure Services**
 - Support Services**
- **SECTION 4 - Reports of Committees**
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- **REPORTS TO BE DISCUSSED IN CONFIDENTIAL SESSION**

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SECTION 1 - Confirmation of Minutes

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SECTION 3 - Reports for Determination

PLANNING DECISIONS

Item: 41 **CP - DA0668/15 - 225 Sackville Road, Wilberforce - Lot A DP412944 - Dwelling Ancillary Development - Outbuilding - (94598, 92108, 113423)**

Development Information

File Number: DA0668/15
Property Address: 225 Sackville Road, Wilberforce
Applicant: Mr GM Aggar and Ms FM Phelps
Owner: Mr GM Aggar and Ms FM Phelps
Proposal Details: Dwelling Ancillary Development - Outbuilding
Estimated Cost: \$32,000
Zone: RU1 Primary Production
Date Received: 29 October 2015
Advertising: Not required to be notified under HDCP 2002

Key Issues:

- ◆ The floor area of the outbuilding
- ◆ The setback from the boundary with Sackville Road

Recommendation: Refusal

REPORT:

Council is in receipt of a Development Application seeking approval for an outbuilding ancillary to a dwelling (the structure) at Lot A DP 412944, 225 Sackville Road, Wilberforce.

The application has been assessed having regard to the heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979. The proposed outbuilding is inconsistent with Council's Development Control Plan and is considered to represent an unsatisfactory form of development. In summary the primary areas of non-compliance are:

- size of the outbuilding
- setback to Sackville Road being a regional road
- visual impact from the regional road.

The matter is being reported to Council at the request of Councillor Porter.

Description of Proposal

The application is seeking approval for construction of a detached metal outbuilding ancillary to a dwelling (the structure) at Lot A DP 412944, 225 Sackville Road, Wilberforce.

The subject site has an area of 2,605 square metres and currently contains an existing single storey dwelling and a detached garage.

The proposed structure will have an area of 187 square metres with dimensions of 17.0 metres by 11.0 metres and a maximum roof height of 4.73 metres at the roof ridge line. The structure will be located forward of the building line of the dwelling with Sackville Road. The structure will be setback 5.05 metres from the property boundary with Sackville Road and setback 5.0 metres from the nearest side property boundary.

Although the front of the dwelling faces Sackville road vehicle access is via Old Sackville Road.

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The site for the proposed structure is level and the proposal does not involve tree removal.

The structure will be Colorbond construction with three roller doors with the colour including:

- roof, walls and roller doors: Colorbond 'Shale Grey'
- gutters and down pipes: Colorbond 'Deep Ocean'.

It is proposed to use the structure for the storage of the owner/occupants vehicles, trailers, ride on mower, machinery and equipment.

Recommendation

Refusal.

History

The development application was lodged with Council on 29 October 2015 for construction of a new outbuilding.

Council reviewed the proposal and raised concerns regarding the floor area of the outbuilding and the setback of the outbuilding to Sackville Road.

- | | |
|-----------------|--|
| 1 December 2015 | Council's Development Review Panel (Manager and senior staff in the Development Services branch) considered the application and determined that the proposed structure was not supported on the grounds of the excessive floor area and the reduced setback distance to the property boundary with Sackville Road. |
| 1 December 2015 | The applicant was contacted by email and telephone and advised to provide amended plans or to withdraw the application. |
| 5 February 2016 | A Council Officer attended the site for a site inspection and to take photos. |

Issues Relevant to the Decision - In Point Form

- Proposed structure is inconsistent with the HDCP 2002 requirements for maximum floor area,
- Proposed structure is inconsistent with the minimum setbacks to a regional road,
- The proposed structure will have a significant adverse visual impact from the regional road.

Council Policies, Procedures and Codes to Which the Matter Relates

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (SREP No. 20)
Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
Hawkesbury Development Control Plan 2002 (HDCP 2002)

Section 79C Matters for Consideration

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

a. **The provisions (where applicable) of any:**

i. **Environmental Planning Instrument:**

State Environmental Planning Policy 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".*

A search of Councils' records indicated that the land has been used for agricultural purposes however the proposal is ancillary to the existing residential use and therefore any contamination of the land would not have any impact that would be detrimental to the use of the land. Consequently, under Clause 7 of SEPP No. 55 Council is not prevented from granting consent to the proposal.

Sydney Regional Environmental Plan No 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 proposal is not contrary to the general and specific aims, planning considerations, planning policies and recommended strategies of this plan. The site is not located within a river scenic corridor of significance. 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.

Hawkesbury Local Environmental Plan 2012

The property is zoned RU1 Primary Production under this plan. The applicant seeks approval for construction of an outbuilding as ancillary development to the existing dwelling.

Outbuilding

The proposed outbuilding is consistent with Hawkesbury Local Environmental Plan 2012. The property is zoned RU1 Primary Production. An outbuilding is not defined in the HLEP 2012. Therefore to be permissible, an outbuilding is defined as a structure ancillary to a use. In this case, the outbuilding will be a structure ancillary to a dwelling which is permissible on the land with Council consent under this plan.

The objectives of the RU1 zone are:

- to enable sustainable primary industry and other compatible land uses
- to encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature
- to minimise conflict between land uses within this zone and land uses within adjoining zones
- to ensure that development occurs in a way 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.

The proposed outbuilding is consistent with the zone objectives and the relevant clauses of the HLEP 2012 as discussed below.

The property is zoned RU1 Primary Production. The construction of an 'outbuilding' is permissible within the RU1 Primary Production zone. The proposed outbuilding constitutes development ancillary to a dwelling which is permissible in the zone with consent. All works are below the 10 metre building height requirements and the property is not subject to flood related development controls, aircraft noise or within a heritage conservation area.

Clause 6.1 – Acid Sulfate soils

The proposal is located on Class 5 – Low impact acid sulfate soil and the works are considered to be unlikely to lower the water table or expose acid sulphate soils.

Clause 6.4 – Terrestrial Biodiversity

The land is affected by biodiversity. The land is mapped as containing endangered ecological communities and connectivity between remnant vegetation. However, the site has been previously cleared and the development does not involve the removal of trees or vegetation. The proposed outbuilding will have no significant impact on existing flora and fauna.

Clause 6.7 – Essential Services

Services for electricity and communications to the site exist. It is considered that the development will have satisfactorily services available.

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

There are no draft planning instruments that apply to the subject development.

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

Hawkesbury Development Control Plan 2002

An assessment of the proposal against the relevant provisions of this Plan follows:

Part C: Chapter 1 – Landscaping

The proposal is considered to be generally consistent with the landscaping chapter of the HDCP 2002.

Part C Chapter 4 - Erosion and Sediment

Erosion and sediment control can be addressed through conditions of consent if the proposal is supported by Council.

Part C: Chapter 6 – Energy Efficiency

A BASIX certificate is not required as the outbuilding is a detached class 10a structure. The proposal is generally consistent with the energy efficiency chapter of the HDCP 2002.

Part C: Chapter 9 – Preservation of Trees and Vegetation

The development does not propose any tree or vegetation removal. Support of the proposal would not result in any significant adverse impact on any native flora and fauna habitats.

Part D: Chapter 8 – Farm Buildings and Outbuildings

This chapter was revised by Council in June 2015 due to concerns that the previous “Rural Shed” chapter contained inappropriate building size restrictions. The new controls introduced, as requested by Council, a graduated scale of building sizes that related to, and increased, with land sizes, i.e., the larger the land the larger the structure. These ranged from 60m² on land 1,000m² or less to 325m² (and more) on 10 ha or more. In relation to this site area of 2,605m² a structure of 110m² (for sites of 1,000 – 4,000m²) is permitted. These sizes were adopted by Council on 30 June 2015.

8.5.4 Size, setback and height**Size**

The proposed outbuilding exceeds the DCP maximum floor area controls. The subject lot has a land area of 2,605m² and the proposed outbuilding is 187m². The DCP control for outbuildings requires for lots with a land area of between 1,000m² to less than 4,000m² the maximum allowable floor area is 110m². The proposal results in a 70% variation to the recently adopted development controls.

The applicant's justification for the size variation is to enable the structure to accommodate the storage of the owner's vehicles, trailers, ride on mower, machinery and other equipment.

It is considered that an outbuilding with a floor area of 187m² is a significant departure from the maximum provisions within the DCP. The justification provided in support of the variation is not supported as the use is not consistent with the existing use of the land or of a reasonable scale for an outbuilding ancillary to a dwelling house. It is considered that the storage of equipment used for the maintenance of the land of this size can be adequately catered for within the prescribed maximum standard.

Setback

The proposed outbuilding is inconsistent with the DCP setback controls. The minimum front setback from the primary road is to be behind the building line of the existing dwelling or 10 metres, whichever is greater. If the primary frontage of the site is considered to be Old Sackville Road then the proposal is consistent with this requirement.

However, Sackville Road, being the secondary frontage, is a regional road and the required setback distance from a regional road is a minimum of 10 metres.

The proposed setback is only 5 metres from the boundary with Sackville Road.

The applicant's justification for the setback variation is on the basis of the site being located on a corner block, with driveway access from Old Sackville Road. In addition, the footpath and letter box face Old Sackville Road. The application's justification for the position of the outbuilding is to allow for the occupants to manoeuvre vehicles on the site and to enter and exit safely from the existing driveway located on Old Sackville Road.

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The front door of the existing dwelling fronts Sackville Road (see photograph 1 in the Attachments). The side of the dwelling fronts Old Sackville Road (see photograph 2 in the Attachments). The justification provided in support of the variation to the front setback would normally be considered appropriate for a corner allotment if the site was not on a regional road.

However, in this case the regional road, Sackville Road, is a high traffic carriageway; the site is on the high side of the road on the crest of a hill; there is no existing or proposed landscaping provided along this boundary in the vicinity of the proposed structure and the property is at the gateway to Wilberforce. In this regard the proposed structure would have a significant adverse visual impact from Sackville Road.

It is considered that the outbuilding can be adequately catered for on the site whilst providing the prescribed minimum standard. Consequently, the variation for a reduced front setback is not supported.

As a result of the specific circumstances of this case the 10 metre setback should be retained.

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 that apply to the subject development.

v. Matters prescribed by the Regulations:

In accordance with the Environmental Planning and Assessment (EP&A) Regulation 2000 the development would be required to comply with the National Construction Code – Building Code of Australia (BCA).

Should the proposal be worthy of support, appropriate conditions of consent would be imposed.

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 the proposed outbuilding is excessive in scale, bulk and size and, given the reduced setback in this locality, would likely result in an unreasonable adverse visual impact on the locality and would detract from the rural gateway character of the site and locality.

c. Suitability of the site for the development:

The proposed development is located on bushfire prone land and it is considered that the proposal is able to 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. The proposed outbuilding is more than 10 metres from the existing dwelling and as a result is not required to comply with bushfire construction requirements should Council support the application.

The land is suitable for a similar proposal for an outbuilding on the site providing that the size is reduced to be more commensurate with the size of the land and the location amended to reduce the visual impact from the site.

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

This proposal was not required to be exhibited as per the HDCP 2002 however there was one written submission received in support of the proposal.

e. The Public Interest:

The proposal (specifically the floor area and the setback to Sackville Road) is considered to be contrary to public interest as it is inconsistent with the relevant development controls and may create an undesirable precedent for similar inappropriate development which would not be in the public interest.

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Development Contributions

Development Contributions do not apply to this development as the building is a class 10a building.

Conclusion

The application has been assessed having regard to the heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979. The proposed outbuilding is inconsistent with the applicable development controls and is considered to represent an unsatisfactory form of development and is not 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 No. DA0668/15 at Lot A DP 412944, 225 Sackville Road, Wilberforce for construction of a new outbuilding ancillary to a dwelling be refused for the following reasons:

1. The development fails to comply with the aims, objectives and provisions of the Farm Buildings and Outbuildings Chapter of Hawkesbury Development Control Plan 2002.
2. The proposal will result in an adverse visual impact upon the scenic quality of the gateway locality.
3. The proposal will create an undesirable precedent which would not be in the public interest.

ATTACHMENTS:

AT - 1 Locality plan

AT - 2 Aerial photo

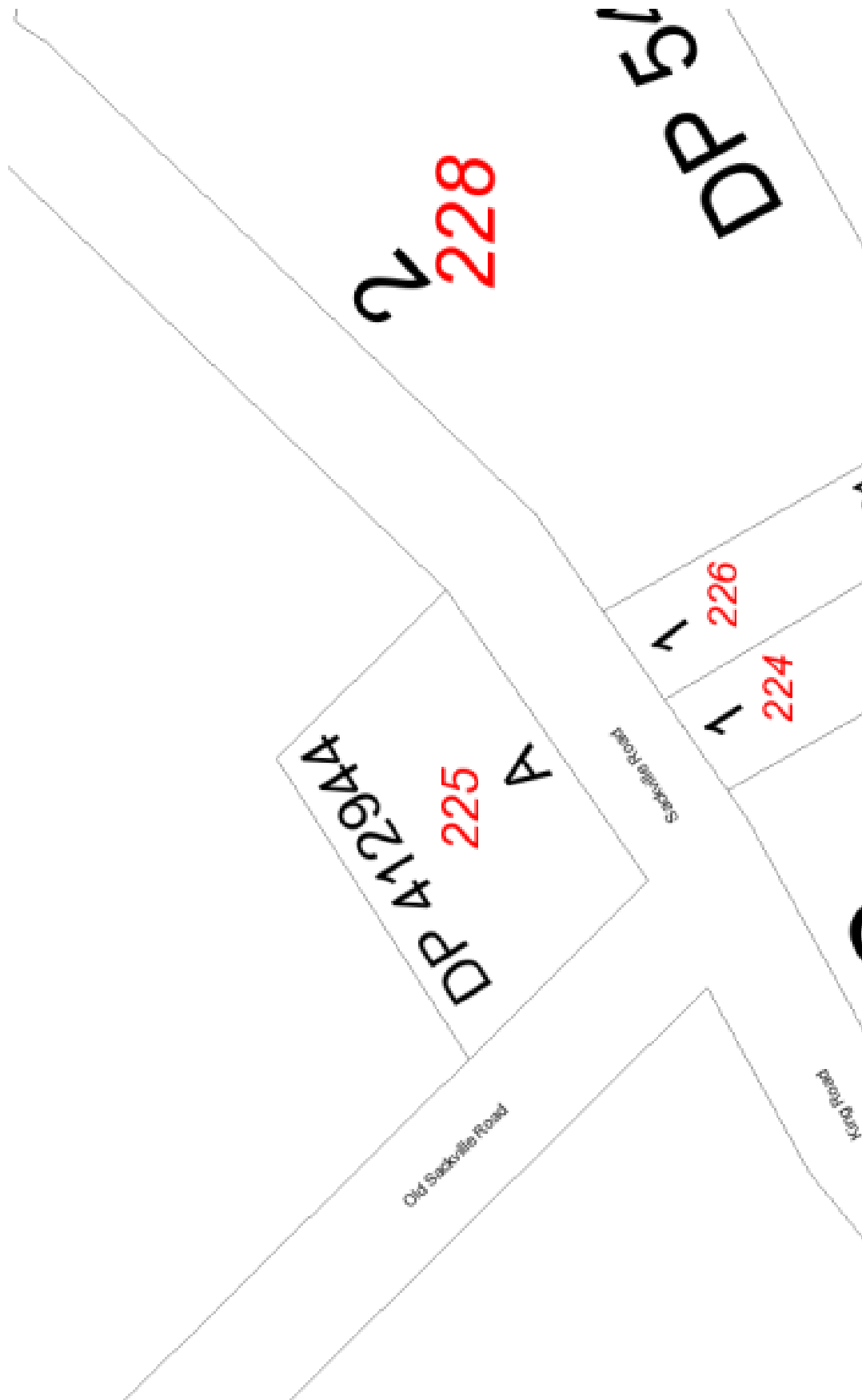
AT - 3 Site photos

AT - 4 Plans of the proposal

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AT - 1 Locality plan



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AT - 2 Aerial photo



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AT - 3 Site photos



Photograph 1: The dwelling as viewed from Sackville Road.



Photograph 2: The side of the dwelling facing towards Old Sackville Road.
Note the existing garage in the background.

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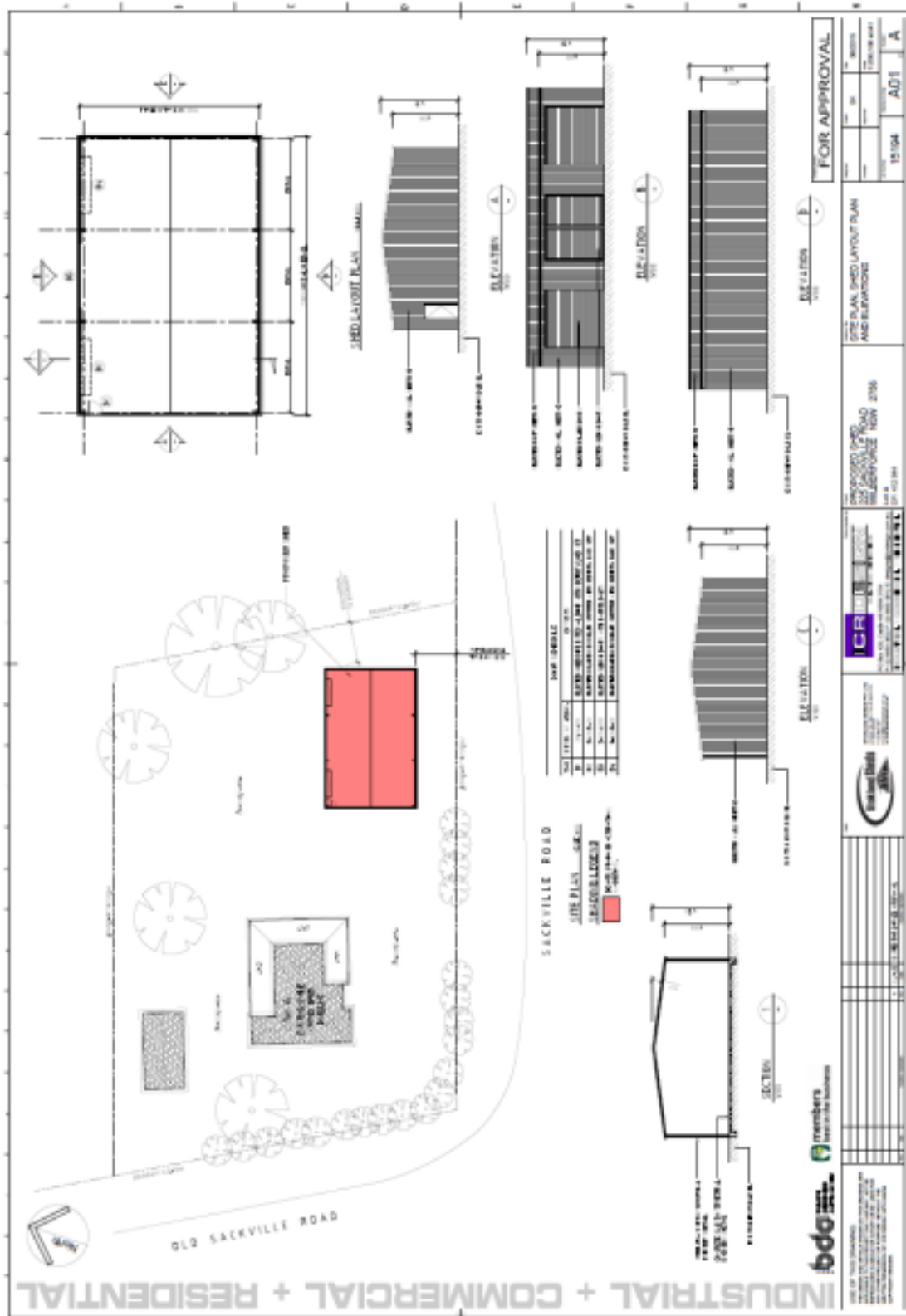


Photograph 3: The site of the proposed outbuilding as viewed from Sackville Road.

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AT - 4 Plans of the proposal



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Item: 42 CP - DA0702/15 - 1 Powells Lane, Richmond Lowlands - Lot 25 DP 66377 - Temporary Use of an Existing Building as a Function Centre- (94598, 78522)

Previous Item: 87, Ordinary (30 June 2015)
67, Ordinary (12 May 2015)
3, Ordinary (3 February 2015)

Development Information

File Number: DA0702/15
Property Address: 1 Powell Lane, Richmond Lowlands
Applicant: Basscave Pty Ltd
Owner: Basscave Pty Ltd
Proposal Details: Temporary use of existing Polo Barn and Garden Pavilion as a function centre and surrounding land for associated wedding ceremonies
Estimated Cost: \$1,000
Zone: RU2 Rural Landscape
Date Received: 10 November 2015
Advertising: 5 January 2016 to 2 February 2016

Key Issues:

- ◆ Noise, traffic and management of the operation
- ◆ Waste disposal
- ◆ Land and Environment Court Judgement relating to Temporary Uses

Recommendation: Approval subject to conditions

REPORT:

Executive Summary

This application seeks approval for the temporary use of two existing buildings and surrounding land for the purposes of a function centre to support wedding receptions and other functions being held at the Sydney Polo Club site.

The buildings proposed to be used are described in the plans and documentation as the 'Polo Barn' and 'Garden Pavilion'. It is proposed that the existing buildings would be used not more than 28 days within a 12 month period and that a maximum of 14 associated wedding ceremonies would be held outdoors on surrounding land which forms part of the Sydney Polo Club site.

Council has previously considered the temporary use of the buildings and surrounding land as a function centre as part of Development Application No. DA0156/15 and issued consent subject to conditions.

The validity of that consent was challenged in the Land and Environment Court and the decision of *Marshall Rural Pty Limited v Hawkesbury City Council and Ors* [2015] NSWLEC 197 found the consent invalid on the grounds that the appropriate owners consent was not provided and that Council did not adequately consider the temporary use provisions of Clause 2.8 of Hawkesbury Local Environmental Plan (LEP) 2012 during the assessment of the application.

The Court has imposed orders on the operator to allow the activity to continue until 27 March 2016 and the current application seeks approval to continue to use the land for the purposes of holding functions.

As a result of the Court proceedings the applicant has submitted appropriate owners consent and amended the statement of environmental effects in order to ensure that the application can suitably address Clause 2.8 of LEP 2012.

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The current application differs from the previous development application received by Council and this application must be assessed based on the reports submitted and activities proposed as part of this application.

An assessment of the current application and the outcomes of the most recent judgement has been undertaken and it has been found that, whilst all relevant matters must be considered, the main factor pertaining to the proposal is that Council must be satisfied that the development can meet the requirements of Clause 2.8 (3)(b) of LEP 2012 which specifies that the temporary use 'will not adversely impact on any adjoining land or the amenity of the neighbourhood'.

Twelve submissions have been received in response to the proposal raising a number of issues in respect to noise, traffic, services, flooding, visual impacts and overall management of the site. These issues have been considered and there is no objection to the proposal in principal provided that the activity is operated in a manner that addresses these concerns.

In assessing the impacts associated with the proposal a "test" of the suitability of the proposed land use has been undertaken and it is recommended that the application be approved subject to the proposed land use operating hours being limited to 10pm and that the land use be managed in a way that does not adversely impact on any adjoining land or the amenity of the neighbourhood.

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

Description of Proposal

Pursuant to Section 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's approval for the temporary use of existing Polo Barn and Garden Pavilion as a function centre and surrounding land for associated wedding ceremonies. The proposal specifically involves the following:

- temporary use of the Polo Barn building as a function centre, consisting of the following:
 - function room area at ground floor level
 - small function room area on level 1
 - bride suite on level 1.
- temporary use of the Garden Pavilion building as a function centre
- a maximum of fourteen associated wedding ceremonies to be held outdoors elsewhere on the Sydney Polo Club site.

It is proposed that a maximum of 28 functions would occur within a 12 month period. The application has specified the following dates for the use of the Polo Barn and Garden Pavilion.

Month 2016	Day/date
January*	Saturday 23
February*	Friday 19, Saturday 20, Saturday 27
March	Saturday 12, Friday 18, Saturday 19
April	Saturday 2, Saturday 16, Sunday 17
May	Saturday 14, Saturday 21
June	Sunday 5, Saturday 11
July	Nil
August	Saturday 27
September	Friday 2, Saturday 3, Saturday 10, Saturday 24
October	Saturday 8, Wednesday 19, Saturday 22, Friday 28, Saturday 29
November	Saturday 5, Saturday 12, Saturday 26
December	Saturday 3

* Indicates events undertaken under Court directions

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The functions being held in the Polo Barn and/or Garden Pavilion would have capacity for 200 seats and employ up to 10 staff. There will be a maximum of one function at any one time for 200 people. All food will be prepared offsite by contract caterers and delivered to the functions ready to serve. The supplied documentation outlines the following operational details for the proposed use:

Polo Barn function centre use

- Sunday – Thursday: 11am to 11pm – Music off by 10:30pm, doors open until 10pm and patrons to leave premises by 11pm.
- Friday – Saturday: 11am to 12 midnight – Music off by 11:30pm, doors open until 10pm and all patrons to leave premises by 12 midnight.

Garden Pavilion function centre use

- Sunday – Thursday: 11am to 11pm – Acoustic music until 8pm, any microphone or music to finish at 8pm
- Friday – Saturday: 11am to 12 midnight – Acoustic music until 8pm, any microphone or music to finish at 8pm

Outdoor locations for ceremonies

- Seven days a week: 11am to 8pm – Acoustic music only up to 8pm, any use of microphone or music to finish at 8pm.

40 hardstand parking spaces and 27 overflow spaces would be provided for guests.

Guests would access the site via the Sydney Polo Club main entrance via Ridges Lane and travel through the site to the existing car park.

Service vehicles would access the site via Powells Lane close to the intersection of Edwards Road.

The application is supported by the following documentation:

- Statement of Environmental Effects, December 2015, prepared by JBA Urban Planning Consultants Pty Ltd
- Noise impact assessment, 151217_Noise_Rev4, 17 November 2015, prepared by Benbow Environmental
- Traffic Study, October 2015, prepared by GTA Consultants
- BCA Statements, September 2015, prepared by DDS Architects and Holmes Fire
- Plan of Management, September 2015 prepared on behalf of Basscave Pty Ltd.

Site and Locality Description

The application proposes to utilise existing buildings and land associated with the Sydney Polo Club Site at 1 Powells Lane Richmond Lowlands. The application states that the Polo Barn function centre and car park is located on Lot 25 in DP663770 with the vehicle access and the proposed 14 wedding ceremonies being over Lots 1 and 2 in DP 997087, Lot 1 in DP 659412, Lot 1 in DP797310 and Lot 1 in 120794. These lots total approximately 70.71ha in area.

The main entrance to the Polo Barn and Garden Pavilion is via a private road which connects to Ridges Lane to the south. The site adjoins Powells Lane and Edwards Road to the east and borders with the Hawkesbury River to the north. The property is located within the Richmond Lowlands, approximately 2km from the Richmond town centre.

The site contains a number of polo fields, a stable complex, wetlands, a rural workers dwelling, agricultural farm buildings and the subject Polo Barn and Garden Pavilion.

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Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite side of the Hawkesbury River is comprised of a steep escarpment with residential properties located at the top of that escarpment along Terrace Road.

A separate development application (DA0703/15) was lodged at the same time as this application seeking the use of another part of the Sydney Polo Club located on separate allotments, known as the 'Sunnybrook Barn' function centre. It is proposed that people booking functions at the Sunny Brook Barn would hold up to 14 wedding ceremonies over Lots 1 and 2 in DP 997087, Lot 1 in DP 659412, Lot 1 in DP797310 and Lot 1 in 120794.

Background

Council has previously considered the use of the subject Polo Barn and site to hold functions and issued a Temporary Use consent to operate a function centre as part of development approval No. DA0156/15. A Class 4 appeal against Council's decision to support the proposal was lodged with the Land and Environment Court where it was determined that the consent issued was invalid on the basis that inappropriate owners consent was provided with the application and that Council did not adequately assess the Clause 2.8 provisions of the LEP.

The Court Judgement considered that the Council did not apply the appropriate "test" to the development in relation to the LEP clause 2.8 requirement to "not adversely impact" adjoining land or the amenity of the neighbourhood. In this regard the judgement stated "that the Council must approach the consideration and determination of any such application with a marked degree of precision and caution." The judgement has stated that the error in the previous assessment was that the assessment considered the "acceptable impact rather than absence of adverse impact."

This current application seeks to address the matters identified in the Court judgement and has been lodged to obtain consent to continue to use the property for the purposes of holding functions.

The application was lodged on 10 November 2015 and details regarding the application history are as follows:

18 November 2015	Application notified to adjoining neighbours between 19/11/2015 - 3/12/2015.
18 December 2015	Applicant submitted updated statement of environmental effects and supporting reports following court proceedings of Marshall Rural Pty Limited v Hawkesbury City Council and Ors [2015] NSWLEC 197
5 January 2016	Amended information submitted and application renotified between 5/01/2016 - 2/02/2016.

Issues Relevant to the Decision

- Noise, traffic, onsite waste disposal, management of the development, Land and Environment Court decision of Marshall Rural Pty Limited v Hawkesbury City Council and Ors [2015] NSWLEC 197.

Recommendation

Approval subject to conditions.

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Council Policies, Procedures and Codes to Which the Matter Relates

- Sydney Regional Environmental Plan No. 9 – Extractive Industry (SREP No. 9)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

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

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

a. **The provisions of any:**

i. **Environmental Planning Instrument:**

Sydney Regional Environmental Plan No. 9 – Extractive Industry

The subject property is located on land that is identified in Schedule 5 of this Plan being "the land identified on Sheet 9 of the map as Richmond Lowlands sand/gravel".

SREP No. 9 does not contain any specific requirements in relation to the individual development of the land for other purposes. The proposed development would have no impact on the potential use of the land for extractive purposes in the future.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The subject land falls within the boundary of SREP 20 and is situated within a scenic corridor of regional significance. A wetland identified under this Plan is located on the subject property and a number of identified wetlands are located in the vicinity of the development.

The proposed development involves the use of existing buildings, parking areas and access for functions. The Polo Barn and Garden Pavilion are situated approximately 140m and 180m from the Hawkesbury River, existing vegetation will be maintained and no works or activities are proposed within the mapped ephemeral wetland on the property.

Clauses 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7) and 11(9), 11(15), 11(16) & 11(17) of the Plan are relevant to the proposal.

Given that the proposed development does not involve building works or substantial earthworks, and is located within previously cleared areas, it is considered that the proposal is generally consistent with the specific planning policies and recommended strategies under Clauses 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7), 11(15) & 11(16) of this Policy, as the proposal will have no adverse impact on:

- the water catchment
- the habitat of native flora and fauna, including aquatic habitats
- the riverine scenic quality
- the stability of the riverbank
- the quantity and quality of water entering the Hawkesbury River or nearby watercourses and wetlands, or on groundwater quality
- land conditions
- cultural heritage.

The application proposes that both portable toilets and the existing onsite wastewater treatment system would be used to service the development. Therefore, the application is consistent with Clause 11(17) which relates only to the installation of a new system. However, the adequacy of the existing system is discussed later in this Report.

Schedule 1 of SREP No. 20 identifies the property as containing items of non-aboriginal heritage; being a farm building and fence. These items have been identified by this Policy as being located "*Edwards Road, corner of Powells Lane, Richmond Lowlands*". Site inspections carried out by Council officers and Council's Heritage advisor has failed to locate these items, or any buildings or structures of heritage value on the land. It is also noted that the property is not listed as a heritage item under Hawkesbury Local Environmental Plan 2012.

The proposal is consistent with the aims, planning considerations, planning policies, recommended strategies and development controls of SREP No. 20.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The application does not involve the removal of potential or core Koala habitat as identified under this plan. It is therefore considered that the proposal is unlikely to disrupt any potential or core Koala habitat and that the proposal is consistent with the aims and objectives of this plan.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines that 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 has a history of being used for agricultural, sporting and residential purposes. A search into the history of these areas confirms that the current owners have cleaned the buildings including the Polo barn and added new impervious flooring suitable for the proposed use.

The proposal to utilise the existing structures on the land, outdoor areas for functions and level areas for car parking would not result in the disturbance of soils. There is no evidence that the previous uses of the land would have contaminated the land so as to prevent the proposed development. The land is therefore considered suitable for the proposed commercial development with regard to the provisions of SEPP No. 55.

Hawkesbury Local Environmental Plan 2012

An assessment of the proposed development against the relevant provisions of Hawkesbury Local Environmental Plan 2012 follows:

Clause 2.2 Zoning of land to which Plan applies

The subject application comprises six individual lots over the Sydney Polo Club Site and is zoned part RU2 Rural Landscape and part E2 Environmental Conservation. The activities associated with the proposal are to be located wholly on land within the RU2 Rural Landscape zone. Temporary Uses, under the provisions of clause 2.8, are permitted in this zone.

Clause 2.3 Zone objectives and Land Use Table

Subclause (2) requires the consent authority must have regard to the objectives for development for development in a zone when determining an application.

The objectives of the RU Rural Landscape zone are as follows:

- 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 in the zone and land uses in adjoining zones
- to ensure that development occurs in a way 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 including 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 ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.

Whilst it is acknowledged that the application proposes a land use that is normally prohibited in the zone it is noted that the temporary use of the site as a function centre would utilise existing structures and areas that are associated with the agricultural use of the land and the Sydney Polo Club.

The temporary function centre use would not change the principal use of the land or prevent the land from being used for other permitted land uses in the future.

The application is supported by documentation confirming that the activity can be carried out in a manner that would not compromise the existing rural landscape values of the site or result in the creation of any adverse impacts with neighbouring land uses with respect to noise, traffic or services.

The property has a distinctive rural character and the key factor in attracting people to the property that provides a rural setting and amenity for guests.

Clause 2.8 Temporary use of land

The application seeks approval for the temporary use of the Polo Barn and Garden Pavilion for the holding of functions under the provisions of Clause 2.8 of HLEP 2012. An assessment against the specific requirements of Clause 2.8 has been undertaken below:

- (1) *the objective of this clause to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*

Comment: The application proposes the use of existing buildings, car parking areas, gardens and access associated with the Sydney Polo Club. The application does not seek to significantly augment or modify site which is for the keeping of horses/ agricultural use of the land. The temporary use relies on food and toilet facilities being transported to the site and the use of existing developed areas associated with the Sydney Polo Club.

Consequently it is considered that the proposal is consistent with this provision as it would not compromise the long term future development of the site, or have detrimental economic, social, amenity or environmental impacts on the land.

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- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.*

Comment: The application seeks consent to use the Polo Barn and Garden Pavilion for 28 events with up to a maximum of associated 14 wedding ceremonies on separate allotments of land surrounding the subject buildings until December 2016.

The application specifies that the associated wedding ceremonies would be shared between the functions carried out as part of this application and the proposed Sunnybrook function centre in order to ensure that there are no more than 28 collective wedding ceremonies on the Sydney Polo Club site. The following extracts from the statement of environmental effects identifies the areas the development would be restricted to.

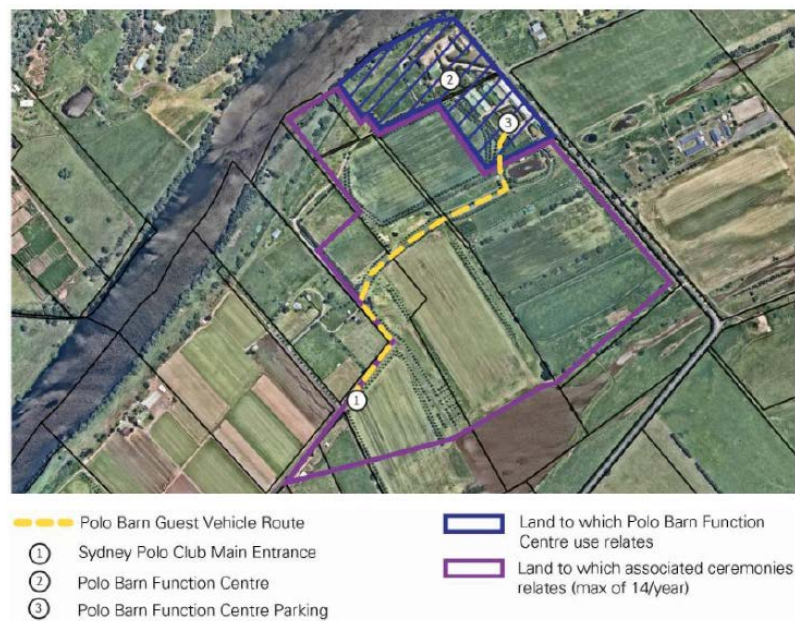


Figure 1: Polo Barn application



Figure 2: Sunnybrook application

Figure 1 shows that the Polo Barn function centre area (including Garden Pavilion) relies on passing through the land marked to be used with the associated wedding ceremonies and Figure 2 shows that the Sunnybrook function centre would utilise the same shared access/areas for associated wedding ceremonies.

Given that the current application proposes to utilise the existing access road to the subject buildings for a maximum 28 days it is considered that allowing an additional 14 associated wedding ceremonies for the Sunnybrook function centre on the same areas results in an overlap that would exceed the limit of 28 uses in a 12 month period. In order to address this matter it is recommended that the wedding ceremonies associated with the Sunnybrook function centre be limited to being carried out only on Lot 27 in DP 566434.

The development as proposed and amended by the recommended consent conditions will comply with the provisions of this part of the clause.

- (3) *Development consent must not be granted unless the consent authority is satisfied that:*
- (a) *the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*

Comment: As previously detailed the function centre use is temporary and can be carried out without interrupting existing land uses on the subject property. The nature of the proposal does not require any specific building works and all associated support services are reversible. The function centre and associated wedding ceremonies would be restricted to a total of 28 days within a 12 month period.

Works required to support the temporary use would not prejudice the carrying out of any future development in accordance with the LEP.

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- (b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*

Comment: Council has previously considered the temporary use of this site for a function centre under separate application DA0156/15 and issued consent subject to conditions. A Class 4 appeal was lodged with the Land and Environment Court and the decision of *Marshall Rural Pty Limited v Hawkesbury City Council and Ors* [2015] NSWLEC 197 found Council did not adequately consider the temporary use provisions of Clause 2.8 (b).

The judgement identified that Council applied the usual test for acoustic, and other, impacts as being "acceptable" amenity impacts, rather than the clause 2.8 test that requires "no" adverse amenity impact. The Court judgement stated that the clause 2.8 test is cast in "absolute terms" and therefore a significantly higher threshold exists than that which would normally be applied.

This stricter test does not mean that the temporary use cannot be undertaken. It does require that the temporary use has "no adverse impact" on adjoining land or property. In this regard, adverse impact is considered in the light of a "reasonable person", i.e., simply hearing or seeing activity does not necessarily constitute an "adverse impact". However, impacts that are over and above what would be considered by a "reasonable person" would not be permitted.

In order to assess the potential impacts of the proposal on the amenity of the locality consideration needs to be given to adjoining properties and their land uses, which are made up of a combination of agricultural, residential and animal boarding and training establishments. These uses establish the amenity of the area and it can be often expected that these land uses are most active during the day and early evening (before 10pm).

It should be noted that Clause 2.8 (b) does not specify that the proposal should have no impact but rather it should have no *adverse* impact.

The majority of factors contributing towards the proposed use relates to holding functions for up to 200 people on the site at a time which is out of character with the amenity of the locality, and hence the potential for adverse impacts. Particularly given that the existing activities and impacts in the surrounding area generally consist of general residential use noises, local traffic, tractor usage and general agricultural activities.

In reviewing the recent court judgement, information submitted with the application and the submissions received in response to this application it is clear that the primary issue concerning the proposal relates to having up to 200 people on the site and potentially disrupting surrounding properties. With particular emphasis placed on noise and traffic emanating from the proposed land use.

The acoustic report submitted with the application states that the proposed temporary use can be carried out in a manner that does not adversely impact background noise levels. An independent review of this acoustic report was submitted as part of a respondent's submission questioning background noise levels.

Both the applicant's and the respondent's reports were reviewed by Council's Environmental Health Officers. To assist with that assessment Council staff also gathered their own background noise levels from the locality. It was found that both submitted acoustic assessments were based on background noise levels which were lower than those obtained during Council's noise monitoring.

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As result it was confirmed that the majority of predicted levels from the applicant's report would be below the background noise levels. There may be some instances when the noise from the development is audible (demonstrated by a predicted LAmax level above the background level). However, this would be rare and only intermittent, with the predicted averaged noise level being below the background level in the majority of instances. In this regard, if the predicted noise levels are below the background noise levels the proposed temporary use would not result in any adverse impacts to a reasonable person in the surrounding locality.

Whilst the development could be conditioned against background noise levels consistent with the recommendations of the acoustic report submitted it is noted that significant weight is required to be given to the nuisance or disruption the activity has on adjoining land uses and the fact that the development is prohibited in the zone.

Certain characteristics of the neighbourhood can be seen as making the development suitable with minimal to no noise intrusion and traffic impacts expected during the day and evening (up to 10pm). However, the proposal to have up to 200 people active on the site during the night (after 10pm) has the potential to interfere with the character of existing inhabitants. Consequently more weight should be given to considering the activity operating during the night.

The application proposes various hours of operation and noise controls during different days with the latest hours of operation ceasing at 12 midnight. In considering the proposed hours of operation it is clear that there are three main time periods that relate to the proposal, i.e. day, evening and night. The times of these activities coincides with standard acoustic modelling time periods.

Background noise during the day and evening hours is generally louder between these periods as there are more activities occurring within the surrounding area, particularly in respect to traffic, use of farming machinery and general residential noise. The potential for noise to be generated from the proposed use during the day and evening hours until 10pm would be considered to have a minimal environmental impact, if any, and would not result in any adverse impact on the locality.

The proposal to run a function centre on the site at night is considered to be where the potential to have an adverse impact on the amenity of the neighbouring land uses. (This is applying the more stringent "Temporary Use test" rather than the acceptable impact test.)

Whilst noise levels during the night period (after 10pm) may be able to be managed based on the recommendations of the acoustic report and/or conditions of consent, there may still be instances where noise is above the assessed background levels. When considering the "Temporary Use Test" the proposed land use and hours of operation have the potential to disrupt adjoining and established development within the locality at night where the surrounding area is generally at its quietest and least active.

In order to ensure that the proposed temporary use has no adverse impacts in respect to the amenity of the locality it is recommended that the proposal be limited to being carried out during daytime and evening hours and that the use cease at 10pm. This would ensure that the main concerns regarding noise and traffic would not result in any adverse impacts on adjoining land or the amenity of the neighbourhood.

It is considered reasonable that noise monitoring of the activity during the day and evening be undertaken to ensure compliance with any development consent conditions and to confirm that the noise levels within the acoustic report are being achieved.

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In addition to the above it is noted that matters raised in the submissions received have been assessed in the report below and it is considered that the proposal would not result in any other adverse impacts on the locality in respect to visual appearance, light impacts, traffic impacts, privacy or environmental concerns subject to the conditions recommended in this report.

- (c) *the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*

Comment: The application relies on using existing access, parking, buildings and surrounding land associated with the principal use of the land. No significant works are proposed as a result of the temporary use with portable toilets being the main service that would be provided.

Installation of portable toilets for guests is required as it has been determined that the existing amenities could not cater for the predicted wastewater loads. It is recommended that a condition for portable toilets be imposed.

The proposal would not have any adverse impacts on the environmental attributes of the land as wastewater will be appropriately managed by providing portable toilets and that risk in respect to bushfire and flooding can be managed so that the proposed activity does not occur after a warning has been issued.

- (d) *at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*

Comment: No building works are proposed as part of this application. Therefore, the use of the site as a function centre with associated ceremonies would not permanently alter the land and the site is capable of being restored to the condition in which it was before the commencement of the use.

Based on the above assessment it is considered that the proposal is consistent with the Clause 2.8 provisions of the LEP in the following manner:

1. the temporary use will not prejudice the subsequent carrying out of development on the land as permitted by the LEP
2. for the reasons outlined previously in this report and the imposition and enforcement of the recommended consent conditions, the approved temporary use will not adversely impact on adjoining land or the amenity of the neighbourhood
3. for the reasons outlined previously, and later, in this report the temporary use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that affect the land
4. the temporary use is utilising existing buildings and the land can be restored to the condition previous to the temporary use if required.

Clause 4.3 Height of buildings

Existing buildings are below 10m in height with no new works proposed.

Clause 6.1 – Acid Sulphate Soils

The land affected by the development falls within Class 4 and Class 5 as identified on the Acid Sulfate Soils Planning Map. The proposed development does not include any works as defined within this clause and therefore no further investigations in respect to acid sulphate soils are required. The proposal is consistent with the requirements of this Clause.

Clause 6.3 – Flood Planning

The adopted 1-in-100 (1%) year flood level for the area is approximately 17.4m AHD and the level for the 1-in-5 (20%) year flood level is 12.5m.

Council's mapping indicates that the area of the site that accommodates the Polo Barn and Garden Pavilion has a land level of approximately 15m AHD. The lowest point on the main access route to and from the site is 10m AHD and the main parking area has a minimum level at approximately 11m AHD. The property is therefore defined as flood prone land.

Access to the property will be subject to flooding on a more frequent basis than the buildings which are located at a higher level. The application states:

The proposed development is compatible with the flood hazard status of the land as it does not involve new building works and therefore will not alter flood behaviour in the area, or impact on environmentally sensitive lands.

A structural review was prepared for the Polo Barn (as part of the Building Certificate Application approved by Council on 11 September 2015 in accordance with Condition 7 of DA0156/15) which considered the structure's ability to resist a typical flood event. It found that the materials and methods used in the construction of the building are considered capable of withstanding the effects of standing water, scour, erosion, hydrostatic and buoyancy forces, provided all doors and windows remain open during a flood event, and that any damage to the structure sustained in a flood will not generate debris capable of causing significant damage to downstream structures which have been certified as flood compatible. Thus, the Polo Barn is considered to have adequate structural integrity to resist a typical flood level.

In addition to the above it is noted that the Garden Pavilion has been constructed taking into account flooding impacts as this building is a solid open style structure of similar construction and materials to the polo barn. In order to confirm this it is recommended that a condition be included as part of any consent requiring this structure to be certified as being suitable having regard to resistance to the impact of floodwaters.

In respect to suitability of flood risk to life the applicant has confirmed that the use would not operate in the event of a flood as surrounding roads would be inundated by any backwater flooding from the river and advanced warning would be provided to ensure patrons could be notified that the functions would not be held.

It is expected that the warning time for an impending flood would generally be in excess of 24 hours. The applicant has previously prepared a flood evacuation management plan for the site, August 2015, as part of conditions of development consent No. DA 0156/15. This plan is generally acceptable for the evacuation of the property. The statement of environmental effects states that functions would not be held after a flood warning and that the temporary use would not impede on the evacuation of the property. It is considered that the flood evacuation management plan should be updated to refer to the cancellation of events during issue of a flood warning for the locality.

Further to the above it is considered that the proposal is not contrary to Council's Development of Flood Liable Land Policy. No new buildings are proposed to be erected, all structures would be for non-habitable (non-residential) purposes and that patrons would not be subject to flood evacuation risk as the land would not be used for functions during flood warning periods.

As a result of the above it is considered that the proposal is satisfactory having regard to Clause 6.3 of the HLEP 2012 and Council's Development of Flood Liable Land Policy.

Clause 6.4 – Terrestrial Biodiversity

Northern and southern portions of the site are identified on the Terrestrial Biodiversity Map as comprising 'Endangered Ecological Communities' and 'Connectivity between significant vegetation' under this Clause. No tree removal is proposed and the development area is clear of the mapped areas identified above. The development is therefore seen to be consistent with this Clause.

Clause 6.5 – Wetlands

The development is located a minimum of approximately 250m from the wetland located on the property and approximately 180m from the closest mapped wetland located on a nearby property. No works are proposed within these wetlands as areas associated with the proposal are well established, particularly in respect to existing buildings and stormwater run-off from existing hardstand areas. It is considered that the proposed temporary use would not result in any adverse impacts on the subject wetlands.

Clause 6.7 – Essential Services

The application states that all necessary services are available at the site. Specifically;

- existing electricity connections to the Polo Barn and Garden Pavilion
- wastewater is treated and disposed on-site by means of the existing aerated wastewater treatment system and irrigation system
- roof water will be collected in a tank and reticulated for toilet flushing and hand washing
- guests will be served bottled water and all taps within the amenities will be labelled "water not suitable for drinking".

The Polo Barn was originally constructed as a milking shed. Works have been carried out on this building and the associated parking areas to support the use of the site for functions, being a commercial use.

On 11 September 2015 Council received an interim occupation certificate from Construction Certification Solutions for the building and car park addressing the list of conditions previously imposed on the site by Council as part of development Consent No DA0156/15. This occupation certificate confirms that both the existing building and car park is acceptable having regard to the Building Code of Australia and Council requirements for electricity, telephone, water and access/parking. Consequently the proposal is considered satisfactory in terms of essential services.

It is noted that the parking areas have not yet been marked or finalised. Suitable conditions in respect to parking have been recommended.

The proposal to use existing onsite effluent disposal system for the temporary use is not supported based on the limitations of the existing system and it would be required that portable toilets be provided to service the proposed functions.

The development would also be conditioned to provide bottled water as proposed.

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

There are no Draft Environmental Planning Instruments relevant to the subject land or development.

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

Hawkesbury Development Control Plan (HDCP) 2002

The HDCP 2002 applies to the proposal. An assessment of the proposal against the relevant provisions of this Plan follows:

Part A Chapter 3 – Notification

The application was notified in accordance with Part A Chapter 3 of the HDCP 2002 between 18 November 2015 and 3 December 2015. Four submissions raising objection to the application were received.

On 18 December 2016, the applicant submitted amended documentation following the Court proceedings in respect to the property and the application was renotified between 6 January 2016 to 2 February 2016. Eight submissions raising objection to the proposal were received.

A total of nine respondents replied to both exhibition periods. The matters raised in these submissions are discussed under the submissions section of this report.

Part C Chapter 2 – Car parking and Access

Part C Chapter 2 of the HDCP 2002 outlines that car parking for 'restaurants, reception centres and refreshment rooms' is to be provided at a rate of one space per 20m² of gross floor area or one space per three seats, whichever is greater.

Based on a 200 guest capacity, 67 car parking spaces are required. The development proposes to provide a total of 40 hardstand parking spaces and 27 overflow spaces for guests consistent with the DCP and the maximum numbers of guests anticipated. This arrangement has been assessed by GTA Consultants and is considered to be reasonable given the temporary nature of the proposal and that the general demand of parking spaces would be dependent on guest numbers.

A site inspection has confirmed that the 40 space car park has not been fully constructed or marked with no works as executed plan being prepared for the existing car parking arrangements. Upgrading of the access would ensure safe efficient access for guests.

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:**

N/A

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

The EP&A Regulation 2000 outlines that the development is to:

- comply with the National Construction Code / Building Code of Australia (BCA)
- be levied against Council's S94A Development Contributions Plan (where applicable).

Suitable conditions have been recommended requiring to the proposal to comply with the BCA. It is noted that the application does not propose any new works that would be required to be levied against Council's S94A Development Contributions Plan 2015.

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

Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite side of the Hawkesbury River comprises a steep escarpment with residential properties located at the top of that escarpment along Terrace Road.

Information submitted with the application confirms that the proposed function centre could be managed in a manner that does not adversely impact the locality in terms of noise or traffic. In order to protect the amenity of the locality it is recommended that suitable conditions be imposed to ensure the operations are in accordance with the information submitted and that the proposal fits in with the existing context and setting and that the hours of operation do not result in any adverse impact on the surrounding locality.

The proposed use does not seek to significantly change the views or vistas or modify the current principal use of the land.

Access, Transport and Traffic

The application is supported by a traffic impact assessment report that confirms that the existing road network and number of onsite parking spaces are suitable for the traffic anticipated by the proposal with a maximum of up to 67 vehicles accessing the site.

In considering potential traffic impacts it is noted that this application has been submitted at the same time as another application (DA0703/15) which seeks to operate a separate function centre in the building known as Sunnybrook Barn on the Sydney Polo Club site. This function centre would operate in the same manner with respect to the maximum number of guests and vehicles.

The dates specified for the Sunnybrook Barn function centre would coincide with 15 of the function dates specified in this application. In order to ensure that the proposed activity does not result in any adverse impacts on the locality in terms of traffic leaving the site at the same time it is recommended that these functions be operated in a manner that does not result in vehicles accessing or leaving the site at the same time. This would reduce any potential cumulative impacts on the amenity of the locality. Suitable conditions have been recommended in this regard.

Given the above, the proposed development would not result in adverse traffic, transport or access impacts upon the surrounding road network having regard to the current usage of the roads in the locality, their capacity and condition.

c. Suitability of the site for the development

Adequate services and utilities are available to the site.

The development would not impact upon critical habitats and threatened species, populations, ecological communities and habitats as no clearing of native vegetation is required.

The flooding affectation of the land is not prohibitive to the proposed development as previously discussed.

The site is located within a rural area subject to low background noise levels. However, this is not considered to be prohibitive to the development as mitigation measures proposed by the application and relevant conditions (and as has been demonstrated previously by Council's noise monitoring) can be undertaken to achieve compliance with relevant noise controls.

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The statement of environmental effects makes an assessment against a list of conditions imposed on the site as part of DA0156/15 which were considered to potentially inhibit the functional operation of the premises. In particular:

- *The need to submit a noise assessment for the first ten events is considered to be excessive due to the recommendations of the current report.*
- *The previously proposed hours of operation should be allowed to be extended based on the recommendations of the traffic and acoustic report submitted.*
- *Restricting entertainment and amplified activities to indoor areas does not allow outdoor ceremonies to be conducted when suitable acoustic conditions could be imposed consistent with the acoustic report submitted.*
- *Requiring doors of buildings to be closed is not required as the acoustic report confirms that it would have a negligible impact on surrounding properties.*
- *The number of portable toilet numbers required is considered to be excessive as existing amenities in the building would be used.*
- *Portable toilets should be removed within 72 hours not 24 given weekend working hours of operators.*

As previously detailed in this report, using the "Temporary Use Test" it is recommended that reduced hours should be imposed on the development to ensure the proposal is consistent with the overall objectives of the LEP and that the activity does not have any adverse impacts on the amenity of the surrounding locality, particularly in respect to noise during the "night" period. It is considered that the acoustic measures proposed prior to 10pm are acceptable as they would have no adverse environmental impact on the amenity of the locality and that reporting could be reduced to the first five events to enforce consent conditions and to confirm that acoustic modelling provided is accurate.

It is recommended that the need to provide portable toilets should remain consistent with Council's original recommendation as Council has not received an application to modify the existing sewer management facility to support the proposal. There are no objections to having the toilets remain on the site for a maximum of 72 hours on the basis that functions would generally occur over the weekend.

The site is considered to be suitable for the development subject to the implementation of the conditions attached to this Report.

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

The application was notified in accordance with the HDCP 2002. Nine submissions from adjoining property owners were received in response to this notification. The matters raised in the submissions are discussed below:

Noise

- *The development noise disrupts adjoining residents.*
- *Prior reports submitted state that doors shall be closed to avoid impacts on adjoining properties.*
- *Proposal now proposes to have outdoor ceremonies and use open areas for wedding ceremonies such as the garden pavilion.*
- *Noise generated is not just from microphones and sound systems also from guests cheering, clapping and yelling.*
- *No works are proposed to soundproof the buildings.*
- *An acoustic report has been submitted by a respondent that argues the acoustic report submitted was based on ensuring the proposal has acceptable impacts as opposed to ensuring that it would have no adverse impact on surrounding properties.*
- *Numerous neighbourhood concerns received by council and the court have been submitted including affidavits that confirm that functions held on the site have resulted in impacting surrounding properties in terms of noise.*
- *Council previously requested all doors to be shut.*
- *Unacceptable impacts during late hours of the night interrupting sleep.*

Comment: Whilst previous reports and applications proposed different noise measures the current proposal was assessed based on the report submitted with the subject application. Council's Environmental Health officers have undertaken noise monitoring, reviewed the acoustic report submitted by the applicant and reviewed the acoustic report submitted by the respondent.

It was found that the activity would be able to be carried out in a manner that does not exceed more than 5 dB above background in any Octave Band Frequency. Whilst this impact may be considered acceptable for permitted types of development it should be noted that the application proposes a prohibited land use in the zone and relies on the Temporary Use provisions of the LEP. In this regard the "Temporary Use Test" should be used to assess the impacts of the proposal. An assessment against the temporary use provisions has been undertaken in the report above and it is recommended that the proposed hours of operation be limited to 10pm.

Operating functions and associated wedding ceremonies until 10pm is considered reasonable and that any noise impacts anticipated during this time would have a minimal impact, if any, and no adverse impact on adjoining properties or the amenity of the locality. Suitable conditions have been recommended in this regard.

Operation of the function centre

- *The proposal seeks to increase operating hours and further impact adjoining properties.*
- *The application seeks to loosen conditions imposed as part of DA0156/15.*

Comment: As previously discussed it is recommend that the hours of operation be restricted to 10pm as there would be no adverse impacts before this time and any noise being generated at night, after this time, has the potential to result in having adverse impacts on adjoining properties amenity. Suitable conditions have been recommended in this regard.

Conditions included as part of DA0156/15 have been discussed under the suitability of the site section of this report and it is recommended that some conditions be modified as the previous conditions related to the previous applications and not to the subject application.

Sewer

- *The existing system is unacceptable for the proposal and would burden the existing system.*
- *Having toilets on the site for 72 hours after the function would lead to impacts on adjoining properties in terms of smell.*
- *Council previously required toilets to be removed after 24 hours.*

Comment: It is agreed that the existing system should not be used to support the proposed temporary use and it is recommend that the development be serviced by portable toilets consistent with Council's previous recommendations.

The use of portable toilets would ensure that the activity does not put any strain on the existing system. The portable toilets are designed to cater for temporary events and it would be considered unreasonable and unnecessary to require a complete commercial system to be installed to support the proposed temporary use.

The portable toilets are not permanent structures, would be serviced regularly, should not result in the generation of any adverse smell impacts and will be removed from the property within a maximum 72 hour period after the event. This would ensure that the proposal does not lead to any perceivable issues in respect to smell or the environment.

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Waste

- *The application does not specify that rubbish and refuse collection can be managed without having any adverse impacts in terms of vermin, pest and feral animals.*
- *Measures to deal with a potential of 400 guests on one day plus other events on the site have not been considered.*
- *Removal of rubbish and service deliveries between 7am and 5pm is too early for weekends.*
- *Insufficient area for storage of rubbish.*
- *The \$1000 budget for the development would not allow proper waste storage facilities to be provided.*

Comment: Waste generated from the proposal would be managed on a case by case basis dependant on number of guests and type of function. It would be up to the operator to ensure that this waste is appropriately managed and controlled onsite. There are existing outbuildings on the premises and within the building that can be used to ensure the proposal does not raise any issues in respect to the collection, storage and removal of waste from the site. It is recommended that removal of rubbish and service deliveries be limited between 7am and 5pm.

The temporary use relies on caterers and staff to control these matters as part of the operational management plan and that this activity is for a temporary use.

Water, services, flooding, fire

- *The application has not adequately addressed the fresh water needs for property with increased usage relating to washing hands, preparing food, washing utensils, etc.*
- *The way in which fresh water needs would be met if the site is flooded has not been considered.*
- *Fire risk of persons smoking around wooden barns on Powell's lane has not been adequately considered.*

Comment: The application states that guests would be served bottled water and all taps within the amenities will be labelled "water not suitable for drinking", portable toilets would provide washing facilities for guests and the washing of equipment/utensils would be managed by caterers using existing water available onsite. The food would be made offsite and it would be up to the manager of the site to ensure that the site is adequately serviced.

In respect to flooding the application has proposed, and appropriate conditions are recommended, that the activity not operate when the surrounding area is inundated by localised floodwaters or if flooding warning has been issued for the Hawkesbury River.

A fire safety certificate has been issued for the buildings proposed to be used and suitable fire safety measures would be required to be in place.

Visual impact

- *Flashing lights and planes associated with previous functions alters the ambiance of the adjoining properties.*
- *Visual appearance of cars, portable toilets and service vehicles associated with functions impacts the visual quality of the area.*

Comment: The application does not propose any flashing lights or planes and a condition in relation to lighting at the site is also recommended. The proposed function centre usage is temporary in nature and does not require significant alteration to the existing areas on the site. The proposal is to operate until 3 December 2016 and any visual aspects associated with the proposal are temporary and would only be associated with the limited number of functions proposed. The proposal is largely agricultural in appearance and would fit in with existing buildings and landscaping.

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Traffic

- *The cumulative impact for the Polo Barn application and Sunnybrook Barn application should be evaluated.*
- *Impact on delivery trucks catering the site has not been considered.*
- *Cumulative parking requirements have not been considered especially where the car parks are not sealed.*
- *The traffic report confirms that the vehicles movements would have no impact on the operational performance not whether it would have any adverse impacts on traffic.*
- *Impacts from car pollution.*
- *Level usage exists on old kurrajong road and increase total of vehicles would impact the rural setting.*
- *The risk of patrons being affected by alcohol and potential antisocial behaviour.*
- *Previous complaints concerning loitering and guests under the influence of Alcohol.*
- *People may choose to park cars overnight and pick up the cars the following day due to alcohol consumption.*
- *Council cannot assume that the proposal would not impact safety of the roads.*

Comment: The traffic assessment report submitted confirms that the road has the capacity to cater for the expected number of vehicles. The specified dates for the proposed Polo Barn/Garden Pavilion function centre and the Sunnybrook Barn function centre overlap on 15 occasions. In order to ensure that the proposed activity does not have any cumulative impacts in terms of traffic it is recommended that the functions be managed in a way that the starting and finishing times of these events do not overlap.

An interim occupation certificate has been issued for the car park, however further works are required to finalise parking areas. Suitable conditions have been recommended in this regard.

Restricting the development until 10pm would ensure that the proposal does not result in adverse impacts on the amenity of the locality after these hours when traffic matters are at their most sensitive.

In respect to anti-social behaviour and people under the influence of alcohol the patron management plan covers these issues and ensures that the proposal is managed in accordance with appropriate liquor licencing requirements.

Guest vehicles being parked onsite overnight is unlikely to result in any adverse impacts in terms of safety, noise, traffic and amenity on the locality as the number would be expected to be low and that vehicles would be collected during daylight hours. Guests to functions are expected to abide with the law and it would be unreasonable to prevent the proposal on the basis that people may be under the influence of alcohol and generate unsocial or illegal behaviour. Similarly, it is unreasonable to assume that the proposal will result in unsafe impacts on the local roads.

Plan of management

- *The plan of management submitted is dated September 2015 and does not take into account the information within the statement of environmental effects.*

Comment: The plan of management submitted is based on a set of conditions previously imposed by Council. In reviewing the plan it is confirmed that the operators had taken on board the previous conditions of consent and outlined how they would be able to operate in accordance with Council's requirements. Whilst this application is not the same as the previous application it is expected that this management plan would need to be adjusted to take into consideration the recommended conditions included in this report.

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Compliance with the LEP

- *The proposal is not for a temporary use as the application states that this would be a temporary use until such time as function centres are made a permissible use.*
- *The property owner has often held more than one function on the property on one day in the past and therefore the total number of people onsite within one day could be doubled.*
- *The application cannot meet the high threshold of no adverse impact required by clause 2.8 of the LEP.*

Comment: An assessment of the proposal in respect to temporary use provisions of the LEP has been undertaken and it is considered that the proposal can be supported subject to the recommended conditions of this report.

The application confirms that the temporary use would not extend beyond December 2016 and that any future change in land use would be subject to a separate assessment.

Competing land uses

- *Functions such as the gold cup have not been factored into the application, in particular in respect to services, noise and traffic.*

Comment: Respondents have submitted documentation showing that the Sydney Polo Club would be holding an event known as the 'Gold Cup'. This event is not associated with the current application and is associated with the use of the polo fields. This activity is listed as being held on 16 October 2016 which does not coincide with the dates listed as part of this temporary use application.

It is noted that there are many polo events undertaken on the lowlands and it would be unreasonable to prevent the temporary use application on the basis that the subject site, and other adjoining sites, run other events during the year associated with the Sydney Polo Club.

e. The Public Interest

The proposed development is considered to be generally consistent with the relevant legislation and policies applying to the proposal. With the implementation of reduced hours and noise mitigation measures recommended in this report, it is considered that the proposed development would not have any adverse impact on the amenity of the locality. The issues raised as a result of the notification of the application have been assessed and it is considered that these matters do not warrant refusal of the application.

On this basis it is the proposed development is considered to be not contrary to the public interest.

Conclusion

The proposed development is considered to be consistent with the relevant provisions of Hawkesbury Local Environmental Plan 2012, Sydney Regional Environmental Plan No. 9, Sydney Regional Environmental Plan No. 20, State Environmental Planning Policies No. 44 & 55, Hawkesbury Development Control Plan, and other relevant policies.

An assessment of the proposal against the temporary use provisions of the LEP has been undertaken and it is considered that limiting the proposed land use until 10pm would ensure that the proposal does not result in the creation of any adverse impacts on the neighbourhood or surrounding locality. The assessment has found that the proposal is consistent with the provisions of Clause 2.8 of the LEP as follows:

1. the temporary use will not prejudice the subsequent carrying out of development on the land as permitted by the LEP

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2. for the reasons outlined previously in this report and the imposition and enforcement of the recommended consent conditions, the approved temporary use will not adversely impact on adjoining land or the amenity of the neighbourhood
3. for the reasons outlined previously in this report the temporary use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that affect the land
4. the temporary use is utilising existing buildings and the land can be restored to the condition previous to the temporary use if required.

It is recommended that the proposal be supported subject to the conditions recommended in this report.

Planning Decision

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

RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 approve Development Application No. DA0702/15 at Lot 25 in DP663770, Lot 1 DP 997087, Lot 2 in DP 997087, Lot 1 in DP 659412, Lot 1 in DP797310 and Lot 1 in 120794 1 Powells Lane, Richmond Lowlands for the temporary use of the existing Polo Barn and Garden Pavilion as a function centre and surrounding land for associated wedding ceremonies be approved subject to the following conditions:

General Conditions

1. The development shall take place generally in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. This consent is limited it being operated under the following dates:

Month 2016	Day/date
March	Saturday 12, Friday 18, Saturday 19
April	Saturday 2, Saturday 16, Sunday 17
May	Saturday 14, Saturday 21
June	Sunday 5, Saturday 11
July	Nil
August	Saturday 27
September	Friday 2, Saturday 3, Saturday 10, Saturday 24
October	Saturday 8, Wednesday 19, Saturday 22, Friday 28, Saturday 29
November	Saturday 5, Saturday 12, Saturday 26
December	Saturday 3

3. Wedding ceremonies associated with the function centre shall be limited to a total of 28 in accordance with the dates specified above.
4. The development shall comply with the provisions of the National Construction Code/Building Code of Australia.

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5. The building shall not be used for functions prior to the issue of an appropriate Occupation Certificate.

Prior to Commencement of Works

6. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
7. 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.
8. 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.
9. 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.
10. 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.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

During Construction

12. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
13. Forty car parking spaces to service the development, together with access driveways and turning areas, shall be constructed with an all-weather seal, signposted, line marked and maintained. The car park is to comply with AS2890.1 2004, as a minimum standard.
14. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
15. Disabled parking shall be provided in accordance with AS2890.6 - 2009.
16. A servicing area with a minimum all-weather surface is to be provided in a suitable location adjacent to the development. The dimensions of the service area are to comply with the requirements of AS2890.2, 2002, for the largest vehicle required to regularly service the site.
17. During the construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
18. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am - 6pm and on Saturdays between 8am - 4pm.

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19. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project.

Prior to operation

20. A works as executed plan shall be submitted to Council on completion of the car park construction works. The plan shall demonstrate that the car parking and servicing areas have been provided in accordance with the conditions of consent.
21. An amended plan of management shall be prepared taking into consideration the operational conditions included in this consent. The management plan shall specifically refer to each condition of consent relating to the proposal and demonstrate how compliance would be achieved.
22. The applicant shall update the flood emergency evacuation and management plan for the site to refer to the cancellation of events during issue of a flood warning for the locality.
23. The applicant shall submit a report for the Garden Pavilion 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 or 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.

Use of the Development

24. Operating hours shall be limited to:
- a) Polo Barn Function centre use
Monday – Sunday: 11am to 9:30pm
All patrons must leave the premises by 10pm.
 - b) Garden Pavilion function centre use
Monday – Sunday: 11am to 9:30pm
Acoustic music only until 8pm, any microphone or music to finish at 8pm
All patrons must leave the premises by 10 pm.
 - c) Outdoor locations for ceremonies
Seven days a week: 11am to 8pm
Acoustic music only up to 8pm, any use of microphone or music to finish at 8pm.
25. The use of the Polo Barn and Garden Pavilion function centre and associated wedding ceremonies shall be coordinated in a manner that does not result in the starting and finishing times coinciding with the proposed Sunnybrook Barn function centre and its associated wedding ceremonies as approved in DA0703/15.
26. No more than 200 guests are permitted at any function or wedding ceremonies at any given time.
27. No more than 67 vehicles associated with the function centre wedding ceremonies are permitted on the premises at any given time.

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28. The operator shall keep a register detailing the date and times of when the premises is being used for a function and the number of guests attending. This register must be made available to Council officers on request and a copy is to be forwarded to Council by the end of each month of the approved operating period.
29. Functions and associated wedding ceremonies shall not occur during flood warning periods or when access roads are inundated by water after rain events. Staff and guests shall be given advanced warning to not access the site during these periods.
30. The noise emitted from the development shall not exceed more than 5 dB above background in any Octave Band Frequency (31.5 Hz-8 kHz inclusive) at the boundary of any affected residence.
31. No noise after 10pm should be emitted from the approved land use.
32. Noise assessments are to be conducted for each of the first five events/functions/wedding ceremonies held at the premises. The noise assessment must be conducted by a suitably qualified acoustic consultant who is a member of the Association of Australian Acoustic Consultants (ACCC), and in accordance with Council directions. Upon completion of each noise assessment for each event, the assessment report that demonstrates compliance with this consent is to be submitted to Council for review. Each noise assessment carried out is to be completed at the owners' expense. For any non-compliances that occur during any of the noise assessments, the acoustic consultant is to make recommendations within the assessment and submit these recommendations for review by Council, prior to the next function. Following Council endorsing these recommendations, any changes are to be implemented prior to the next function.
33. Potable water shall be provided to the development in accordance with the NSW Health Private Water Supply Guidelines.
34. All premises offering food, packaged or otherwise, are to be registered with Council and have inspections conducted by Council's officers as necessary/required. These premises are required to comply with the Food Act 2003, associated Regulations, and the Food Safety Standards 3.2.2 and 3.2.3. These are available on line at www.foodstandards.gov.au. A plan showing the food preparation/serving area and details demonstrating compliance with the Food Act, 2003 and associated regulations and standards must be submitted with the registration form
35. A copy of this Development Consent shall be kept on the premises at all times and be made available to Council, Police or other authorised persons upon request.
36. Farewells to the bride and groom for functions at the Polo Barn must occur inside the barn or on the southern front side of the Polo Barn.
37. Signs must be placed in clearly visible positions within the building and in the car park areas requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
38. Service deliveries to and from the site shall be limited to 8am to 5pm Monday to Sunday.
39. The activity shall be carried out in accordance with the approved Patron Management Plan.
40. Portable toilets are to be provided to service each function. Amenities are required to be provided for a maximum number of people attending and at the following rates:
 - a) male facilities are to be provided at a rate of 3 water closets, 8 urinals and 2 hand basins per 200 people attending
 - b) female facilities are to be provided at a rate of 13 water closets and 2 hand basins per 200 people attending
 - c) hand washing facilities are required at a rate of one hand wash facility per 125 people attending.

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41. All Portable toilets and amenities are to be removed from the site within 72 hours of the completion of each function.
42. 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
 - 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.
43. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
44. The lighting from the development is to be directed away from surrounding properties, at an angle of 45 degrees towards the ground and shielded if needed to prevent any light spillage onto adjoining properties.
45. All work and the storage of goods, materials and waste shall be confined within the building or approved storage areas at all times.
46. All waste materials are to be stored in covered vermin proof waste storage bins and regularly removed from the property. Waste is to be separated where appropriate for re-use and recycling purposes. Waste is to be contained in such a manner to prevent it from being blown, moved or located around the property or surrounding properties.

Advisory Notes

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** 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 development. 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.
- *** 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.
- *** In accordance with the requirements of Part 5.7 Protection of the Environment Operations Act 1997, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.

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ATTACHMENTS:

AT - 1 Locality Map

AT – 2 Aerial Map

AT – 3 Plans

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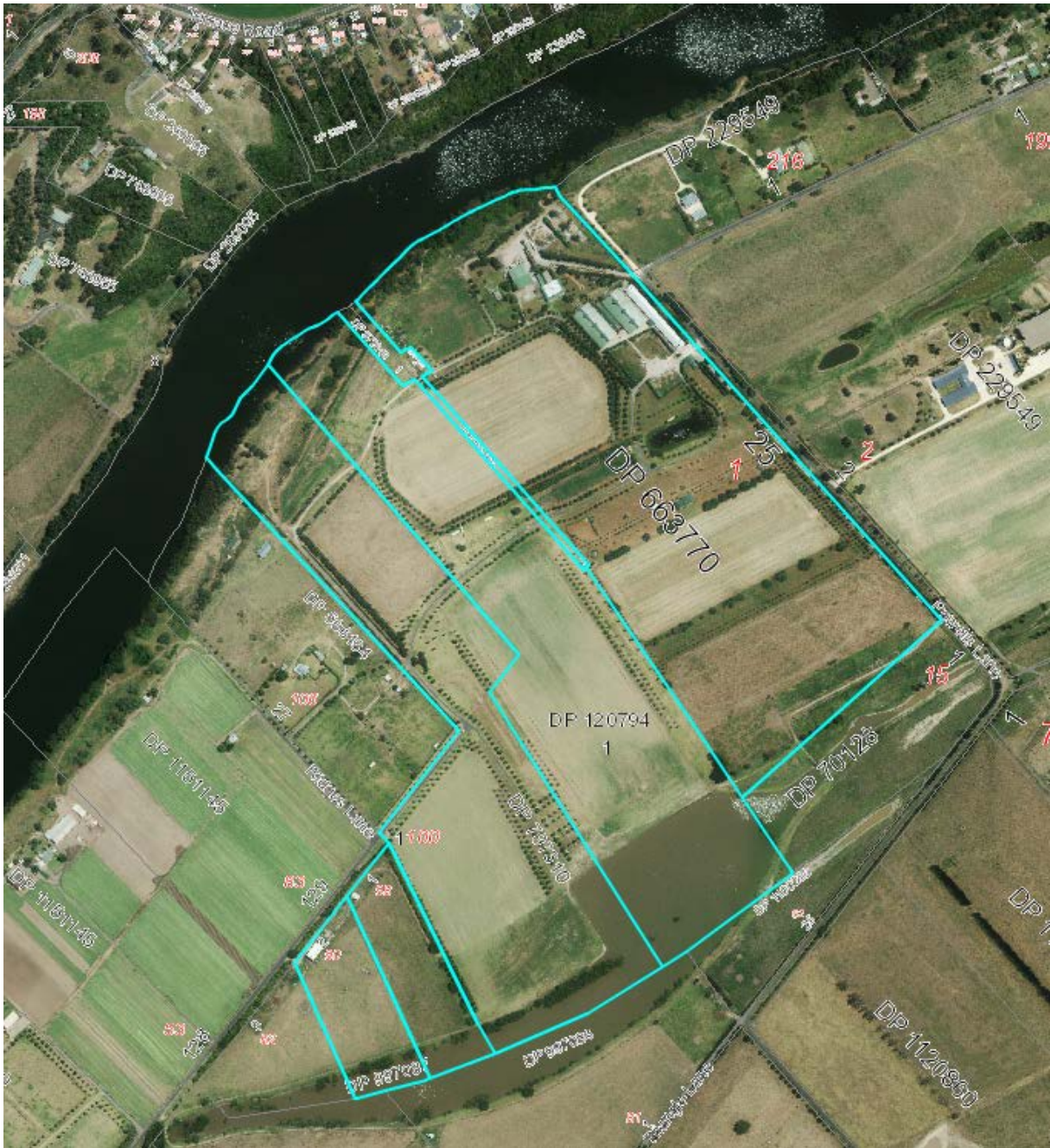
AT - 1 Locality Map



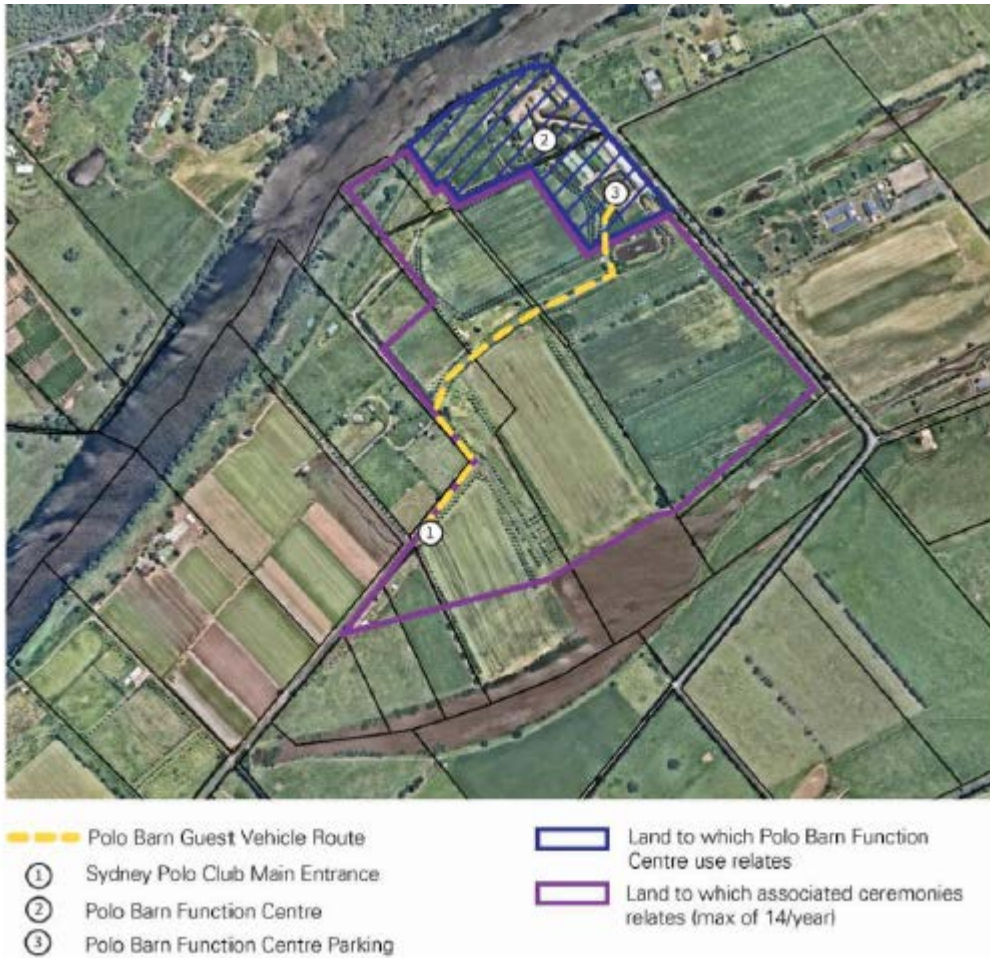
ORDINARY MEETING

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AT – 2 Aerial Map



AT – 3 Plans



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— Guest vehicle route

— Service vehicle route

- | | | | |
|---|-----------------------|---|------------------|
| ① | Farm shed | ⑤ | Garden Pavillion |
| ② | Food preparation area | ⑥ | Stables |
| ③ | Polo Barn | ⑦ | Guest car park |
| ④ | Arena | ⑧ | Guest amenities |

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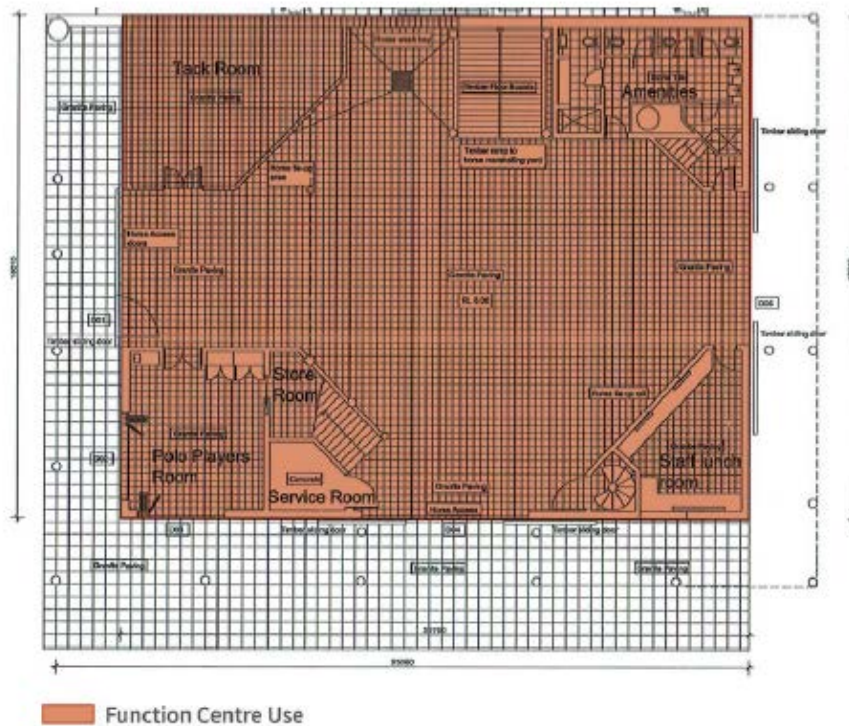


Figure 13 – Ground floor of Polo Barn
Source: DDC Architects

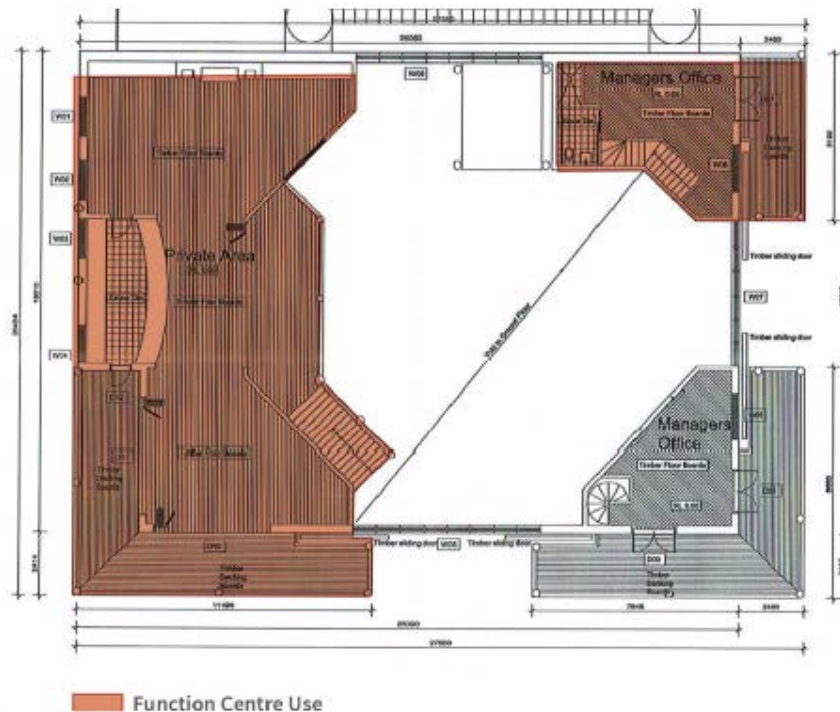


Figure 15 – Level 1 of Polo Barn
Source: DDC Architects

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ORDINARY MEETING

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Item: 43 CP - DA0703/15 - 106 Ridges Lane, Richmond Lowlands - Lot 27 DP 56634 - Temporary use of and Existing Building as a Function Centre - (94598, 78522)

Previous Item: 88, Ordinary (30 June 2015)
68, Ordinary (12 May 2015)
4, Ordinary (3 February 2015)

Development Information

File Number: DA0703/15
Property Address: 106 Ridges Lane, Richmond Lowlands
Applicant: Basscave Pty Ltd
Owner: Basscave Pty Ltd
Proposal Details: Temporary use of existing Sunnybrook Barn as a function centre and surrounding land for associated wedding ceremonies
Estimated Cost: \$1,000
Zone: RU2 Rural Landscape
Date Received: 10 November 2015
Advertising: 5 January 2016 to 2 February 2016

Key Issues:

- ◆ Noise and traffic
- ◆ Waste disposal and management of the operation
- ◆ Land & Environment Court Judgement relating to Temporary Use Clause

Recommendation: Approval

REPORT:

Executive Summary

This application seeks approval for the temporary use of an existing building and surrounding land for the purposes of a function centre to support wedding receptions and other functions being held at the Sydney Polo Club site.

The building proposed to be used is described in the plans and documentation as the 'Sunnybrook Barn'. It is proposed that this building would be used not more than 28 days within a 12 month period and that a maximum of 14 associated wedding ceremonies would be held outdoors on surrounding land which forms part of the Sydney Polo Club site.

Council has previously considered the temporary use of this building and surrounding land as a function centre as part of Development Application No. DA0157/15 and issued consent subject to conditions.

The validity of the consent was challenged in the Land and Environment Court and the decision of Marshall Rural Pty Limited v Hawkesbury City Council and Ors [2015] NSWLEC 197 found the consent invalid on the grounds that the appropriate owners consent was not provided and that Council did not adequately consider the temporary use provisions of Clause 2.8 of Hawkesbury Local Environmental Plan (LEP) 2012 during the assessment of the application.

The court has imposed orders on the operator to allow the activity to continue until 27 March 2016 and the current application seeks approval to continue to use the land for the purposes of holding functions.

As a result of the Court proceedings the applicant has submitted appropriate owners consent and amended the statement of environmental effects in order to ensure that the application can suitably address Clause 2.8 of LEP 2012.

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The current application differs from the previous development application received by Council and this application must be assessed based on the reports submitted and activities proposed as part of this application.

An assessment of the current application and the outcomes of the most recent judgement has been undertaken and it has been found that, whilst all relevant matters must be considered, the main factor pertaining to the proposal is that Council must be satisfied that the development can meet the requirements of Clause 2.8 (3)(b) of LEP 2012 which specifies that the temporary use 'will not adversely impact on any adjoining land or the amenity of the neighbourhood'

Ten submissions have been received in response to the proposal raising a number of issues in respect to noise, traffic, services, flooding, visual impacts and overall management of the site. These issues have been considered and there is no objection to the proposal in principal provided that the activity is operated in a manner that addresses these concerns.

In assessing the impacts associated with the proposal a "test" of the suitability of the proposed land use has been undertaken and it is recommended that the application be approved subject to the proposed land use operating hours being limited to 10pm and that the land use be managed in a way that does not adversely impact on any adjoining land or the amenity of the neighbourhood.

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

Description of Proposal

Pursuant to Section 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's approval for the temporary use of the existing Sunnybrook Barn as a function centre and surrounding land for associated wedding ceremonies. The proposal specifically involves the following:

- temporary use of the first floor of the existing 'Sunnybrook Barn' building as a function centre
- a maximum of fourteen associated wedding ceremonies to be held outdoors elsewhere on the Sydney Polo Club site.

It is proposed that a maximum of 28 functions would occur within a 12 month period. The application has specified the following 28 dates for the use of the Sunnybrook Barn.

Month 2016	Day/date
March	Saturday 12, Wednesday 16, Thursday 24
April	Saturday 2, Saturday 23, Saturday 30
May	Saturday 7
June	Saturday 25
July	Nil
August	Friday 26, Saturday 27
September	Friday 2, Saturday 3 , Friday 9 , Saturday 10, Friday 23 , Saturday 24
October	Saturday 8, Saturday 22, Friday 28, Saturday 29
November	Saturday 5, Friday 11, Saturday 12, Friday 18, Saturday 19, Friday 25, Saturday 26
December	Saturday 3

The functions being held in the Sunnybrook Barn would have capacity for 200 seats and employ up to 10 staff. There will be a maximum of one function at any one time for 200 people. All food will be prepared offsite by contract caterers and delivered to the functions ready to serve.

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The supplied documentation outlines the following operational details for the proposed use:

Sunnybrook function centre use

- Sunday – Thursday: 11am to 11pm – Music off by 10:30pm, doors open until 10pm and patrons to leave premises by 11pm.
- Friday – Saturday: 11am to 12 midnight – Music off by 11:30pm, doors open until 10pm and all patrons to leave premises by 12 midnight.

Outdoor locations for ceremonies

- Seven days a week: 11am to 8pm – Acoustic music only up to 8pm, any use of microphone or music to finish at 8pm.

40 hardstand parking spaces and 27 overflow spaces would be provided for guests.

Guests and service vehicles would access the site via the existing access way and driveway along Ridges Lane separate of the Sydney Polo Club's main entrance.

The application is supported by the following documentation:

- Statement of Environmental Effects, December 2015, prepared by JBA Urban Planning Consultants Pty Ltd
- Noise impact assessment, 151217_Noise_Sunnybrook Rev2, November 2015, prepared by Benbow Environmental. (Including supporting letter Ref: 151217_)
- Traffic Study, reference #15S1501100, October 2015, prepared by GTA Consultants. (Including supporting letter dated January 2016)
- Plan of Management, July 2015 prepared on behalf of Basscave Pty Ltd.

Site and Locality Description

The application proposes to utilise existing buildings and land associated with the Sydney Polo Club Site at 106 Ridges Lane Richmond Lowlands. The application states that the Sunnybrook Barn and associated car park is located on Lot 27 in DP 566434 and part Lot 1 in DP797310 with the proposed outdoor 14 wedding ceremonies being over Lots 1 and 2 in DP 997087, Lot 1 in DP 659412, Lot 1 in DP797310 and Lot 1 in 120794. These lots total approximately 80.35 in area.

Access to the Sunnybrook function centre would be via an existing driveway along Ridges Lane past the main entrance to the Sydney Polo Club site.

The Sydney Polo Club's main entrance is via a private road which connects to Ridges Lane to the south. The site adjoins Powells Lane and Edwards Road to the east and borders with the Hawkesbury River to the north. The property is located within the Richmond Lowlands, approximately 2km from the Richmond town centre.

The site contains a number of polo fields, a stable complex, wetlands, a rural workers dwelling, agricultural farm buildings and the subject Sunnybrook Barn.

Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite side of the Hawkesbury River is comprised of a steep escarpment with residential properties located at the top of that escarpment along Terrace Road.

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A separate development application (DA0702/15) was lodged at the same time as this application seeking the use of another part of the Sydney Polo Club located on a separate allotment, known as the 'Polo Barn' and 'Garden Pavilion' function centre. It is proposed that people booking functions at the Polo Barn and Garden Pavilion function centre would hold up to 14 wedding ceremonies over Lots 1 and 2 in DP 997087, Lot 1 in DP 659412, Lot 1 in DP797310 and Lot 1 in 120794.

Background

Council has previously considered the use of the subject building and site to hold functions and issued a Temporary Use consent to operate a function centre as part of development approval No. DA0157/15. A Class 4 appeal against Council's decision to support the proposal was lodged with the Land and Environment Court where it was determined that the consent issued was invalid on the basis that inappropriate owners consent was provided with the application and that Council did not adequately assess the Clause 2.8 provisions of the LEP.

The Court Judgement considered that the Council did not apply the appropriate "test" to the development in relation to the LEP clause 2.8 requirement to "not adversely impact" adjoining land or the amenity of the neighbourhood. In this regard the judgement stated "that the Council must approach the consideration and determination of any such application with a marked degree of precision and caution." The judgement has stated that the error in the previous assessment was that the assessment considered the "acceptable impact rather than absence of adverse impact."

This current application seeks to address the matters identified in the Court judgement and has been lodged to obtain consent to continue to use the property for the purposes of holding functions.

The application was lodged on 10 November 2015 and details regarding the application history are as follows:

- | | |
|------------------|---|
| 15 November 2015 | Application notified to adjoining neighbours between 16/11/2015 - 30/11/2015. |
| 18 December 2015 | Applicant submitted updated statement of environmental effects and supporting reports following court proceedings of Marshall Rural Pty Limited v Hawkesbury City Council and Ors [2015] NSWLEC 197 |
| 5 January 2016 | Amended information submitted and application renotified between 5/01/2016 - 2/02/2016. |
| 20 January 2016 | Applicant submitted supporting letters from traffic consultant and acoustic consultant confirming that the proposed change in vehicle access would not impact the recommendations of their reports. |

Issues Relevant to the Decision

- Noise, traffic, onsite waste disposal, management of the development, Land and Environment Court decision of Marshall Rural Pty Limited v Hawkesbury City Council and Ors [2015] NSWLEC 197.

Recommendation

Approval subject to conditions.

Council Policies, Procedures and Codes to Which the Matter Relates

- Sydney Regional Environmental Plan No. 9 – Extractive Industry (SREP No. 9)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

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

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

a. The provisions of any

i. Environmental Planning Instrument

Sydney Regional Environmental Plan No. 9 – Extractive Industry

The subject property is located on land that is identified in Schedule 5 of this Plan being "the land identified on Sheet 9 of the map as Richmond Lowlands sand/gravel".

SREP No. 9 does not contain any specific requirements in relation to the individual development of the land for other purposes. The proposed development would have no impact on the potential use of the land for extractive purposes in the future.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The subject land falls within the boundary of SREP 20 and is situated within a scenic corridor of regional significance. A wetland identified under this Plan is located on the subject property and a number of identified wetlands are located in the vicinity of the development.

The proposed development involves the use of an existing building, parking areas and access for functions. The building is situated approximately 110m from the Hawkesbury River, existing vegetation will be maintained and no works or activities are proposed within the mapped ephemeral wetland on the property.

Clauses 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7) and 11(9), 11(15), 11(16) & 11(17) of the Plan are relevant to the proposal.

Given that the proposed development does not involve building works or substantial earthworks, and is located within previously cleared areas, it is considered that the proposal is generally consistent with the specific planning policies and recommended strategies under Clauses 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7), 11(15) & 11(16) of this Policy, as the proposal will have no adverse impact on:

- the water catchment
- the habitat of native flora and fauna, including aquatic habitats
- the riverine scenic quality
- the stability of the riverbank
- the quantity and quality of water entering the Hawkesbury River or nearby watercourses and wetlands, or on groundwater quality
- land conditions
- cultural heritage.

The application proposes that both portable toilets and the existing onsite wastewater treatment system would be used to service the development. Therefore, the application is consistent with Clause 11(17) which relates only to the installation of a new system. However, the adequacy of the existing system is discussed later in this Report.

The proposal is consistent with the aims, planning considerations, planning policies, recommended strategies and development controls of SREP No. 20.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

The application does not involve the removal of potential or core Koala habitat as identified under this plan. It is therefore considered that the proposal is unlikely to disrupt any potential or core Koala habitat and that the proposal is consistent with the aims and objectives of this plan.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines that 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 has a history of being used for agricultural, sporting and residential purposes. The subject building is of modern construction (approved with Development Consent No. DA1127/04) and was previously used for the storage of hay prior to its current use.

The proposal to utilise the existing structures on the land, outdoor areas for functions and level areas for car parking would not result in the disturbance of soils. It is unlikely that the previous uses of the land would have contaminated the land so as to prevent the proposed development. The land is therefore considered suitable for the proposed commercial development with regard to the provisions of SEPP No. 55.

Hawkesbury Local Environmental Plan 2012

An assessment of the proposed development against the relevant provisions of Hawkesbury Local Environmental Plan 2012 follows:

Clause 2.2 Zoning of land to which Plan applies.

The subject application comprises seven individual lots over the Sydney Polo Club Site and is zoned part RU2 Rural Landscape and part E2 Environmental Conservation. The activities associated with the proposal are to be located wholly on land within the RU2 Rural Landscape zone. Temporary Uses, under the provisions of clause 2.8, are permitted in this zone.

Clause 2.3 Zone objectives and Land Use Table

Subclause (2) requires the consent authority must have regard to the objectives for development for development in a zone when determining an application.

The objectives of the RU Rural Landscape zone are as follows:

- 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 in the zone and land uses in adjoining zones
- to ensure that development occurs in a way 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 including a distinctive agricultural component

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- to preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality
- to ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.

Whilst it is acknowledged that the application proposes a land use that is normally prohibited in the zone it is noted that the temporary use of the site as a function centre would utilise existing structures and areas that are associated with the agricultural use of the land and the Sydney Polo Club.

The temporary function centre use would not change the principal use of the land or prevent the land from being used for other permitted land uses in the future.

The application is supported by documentation confirming that the activity can be carried out in a manner that would not compromise the existing rural landscape values of the site or result in the creation of any adverse impacts with neighbouring land uses with respect to noise, traffic or services.

The property has a distinctive rural character and the key factor in attracting people to the property that provides a rural setting and amenity for guests.

Clause 2.8 Temporary use of land

The application seeks approval for the temporary use of the Sunnybrook Barn for the holding of functions under the provisions of Clause 2.8 of HLEP 2012. An assessment against the specific requirements of Clause 2.8 has been undertaken below:

- (1) *the objective of this clause to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*

Comment: The application proposes to use an existing building, car parking areas, gardens and access associated with the Sydney Polo Club. The application does not seek to significantly augment or modify the site which is for the keeping of horses/ agricultural use of the land. The temporary use relies on food and toilet facilities being transported to the site and the use of existing developed areas associated with the Sydney Polo Club.

Consequently it is considered that the proposal is consistent with this provision as it would not compromise the long term future development of the site, or have detrimental economic, social, amenity or environmental impacts on the land.

- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.*

Comment: The application seeks consent to use the Sunnybrook Barn for 28 events with up to a maximum of associated 14 wedding ceremonies on separate allotments of land surrounding this building until December 2016.

The application specifies that the associated wedding ceremonies would be shared between the functions carried out as part of this application and the proposed Polo Barn/Garden Pavilion function centre in order to ensure that there are no more than 28 collective wedding ceremonies on the Sydney Polo Club site. The following extracts from the statement of environmental effects identifies the areas the development would be restricted to.

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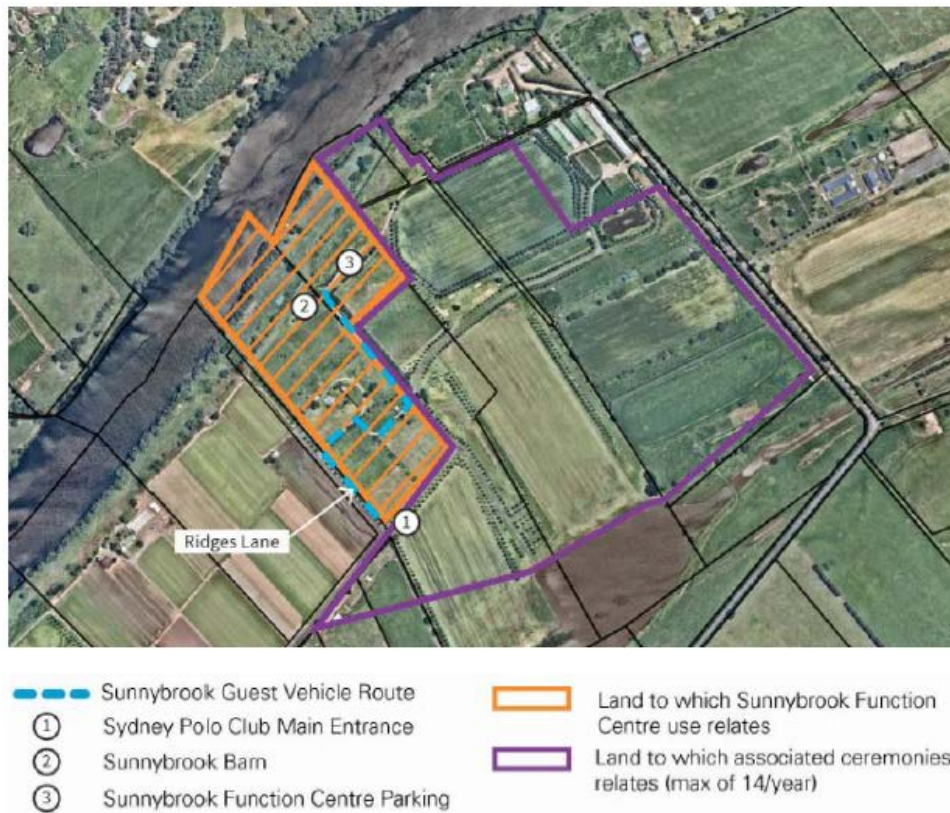


Figure 1: Sunnybrook application

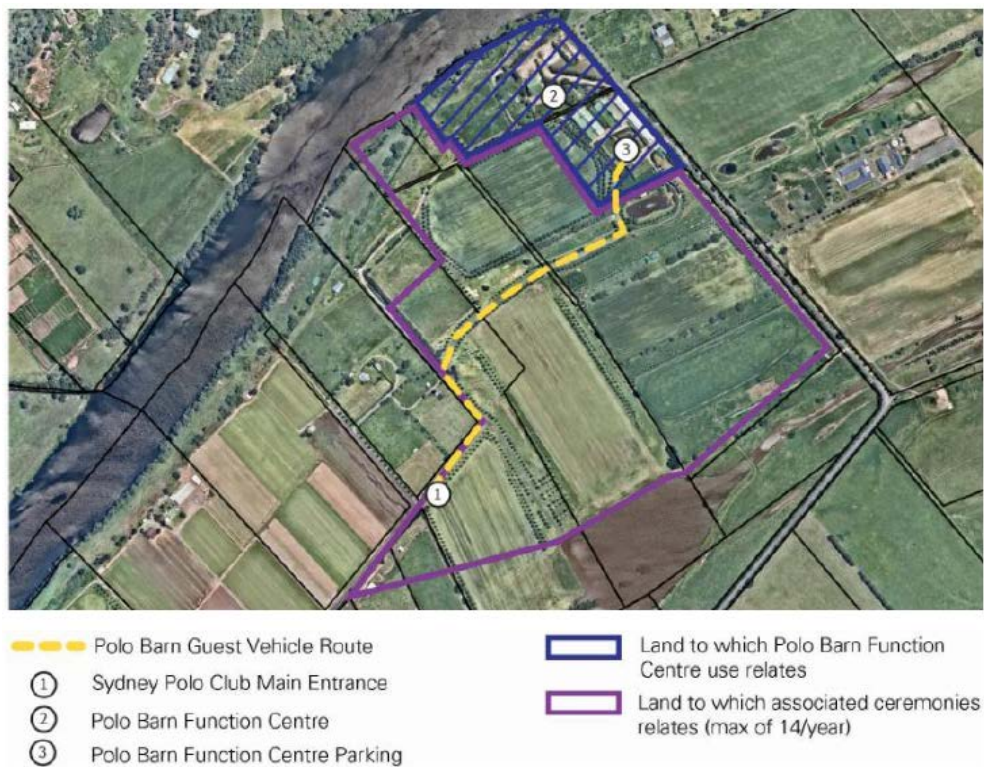


Figure 2: Polo Barn/Garden Pavilion application

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Figure 1 shows that the Sunnybrook application can obtain access to the building separate of the Polo Barn/Garden Pavilion function centre access. Figure 2 shows that the wedding ceremonies associated with this application would utilise the access areas required for the proposed Polo Barn/Garden Pavilion function centre.

Given that the proposed Polo Barn/Garden Pavilion function centre intends to utilise the access through the wedding ceremony areas for a maximum 28 days it is considered that allowing an additional 14 associated wedding ceremonies for the Sunnybrook Barn function centre on the same areas results in an overlap that would exceed the limit of 28 uses in a 12 month period. In order to address this matter it is recommended that the wedding ceremonies associated with the Sunnybrook function centre be limited to being carried out only on Lot 27 in DP 566434. Suitable conditions have been recommended in this regard.

The development as proposed and amended by the recommended consent conditions will comply with the provisions of this part of the clause.

(3) *Development consent must not be granted unless the consent authority is satisfied that:*

(a) *the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*

Comment: As previously detailed the function centre use is temporary and can be carried out without interrupting existing land uses on the subject property. The nature of the proposal does not require any specific building works and all associated support services are reversible. The function centre and associated wedding ceremonies would be restricted to a total of 28 days within a 12 month period.

Works required to support the temporary use would not prejudice the carrying out of any future development in accordance with the LEP.

(b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*

Comment: Council has previously considered the temporary use of this site for a function centre under separate application DA0157/15 and issued consent subject to conditions. A Class 4 appeal was lodged with the Land and Environment Court and the decision of Marshall Rural Pty Limited v Hawkesbury City Council and Ors [2015] NSWLEC 197 found Council did not adequately consider the temporary use provisions of Clause 2.8 (b).

The judgement identified that Council applied the usual test for acoustic, and other, impacts, as being "acceptable" amenity impacts, rather than the clause 2.8 test that requires "no" adverse amenity impact. The Court judgement stated that the clause 2.8 test is cast in "absolute terms" and therefore a significantly higher threshold exists than that which would normally be applied.

This stricter test does not mean that the temporary use cannot be undertaken. It does require that the temporary use has "no adverse impact" on adjoining land or property. In this regard, adverse impact is considered in the light of a "reasonable person", i.e., simply hearing or seeing activity does not necessarily constitute an "adverse impact". However, impacts that are over and above what would be considered by a "reasonable person" would not be permitted.

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In order to assess the potential impacts of the proposal on the amenity of the locality consideration needs to be given to adjoining properties and their land uses, which are made up of a combination of agricultural, residential and animal boarding and training establishments. These uses establish the amenity of the area and it can be often expected that these land uses are most active during the day and early evening (before 10pm).

It should be noted that Clause 2.8 (b) does not specify that the proposal should have no impact but rather it should have no adverse impact.

The majority of factors contributing towards the proposed use relates to holding functions for up to 200 people on the site at a time which is out of character with the amenity of the locality, and hence the potential for adverse impacts. Particularly given that the existing activities and impacts in the surrounding area generally consist of general residential use noises, local traffic, tractor usage and general agricultural activities.

In reviewing the recent court judgement, information submitted with the application and the submissions received in response to this application it is clear that the primary issue concerning the proposal relates to having up to 200 people on the site and potentially disrupting surrounding properties. With particular emphasis placed on noise and traffic emanating from the proposed land use.

The acoustic report submitted with the application states that the proposed temporary use can be carried out in a manner that does not adversely impact background noise levels. An independent review of this acoustic report was submitted as part of a respondent's submission questioning background noise levels.

Both the applicant's and the respondent's reports were reviewed by Council's Environmental Health Officers. To assist with that assessment Council staff also gathered their own background noise levels from the locality. It was found that both submitted acoustic assessments were based on background noise levels which were lower than those obtained during Council's noise monitoring.

As result it was confirmed that the majority of predicted levels from the applicant's report would be below the background noise levels in the locality. There may be some instances when the noise from the development is audible (demonstrated by a predicted L_{Amax} level above the background level). However, this would be rare and intermittent, with the predicted averaged noise level being below the background level in the majority of instances. In this regard, if the predicted noise levels are below the background noise levels the proposed temporary use would not result in any adverse impacts to a reasonable person in the surrounding locality.

Whilst the development could be conditioned against background noise levels consistent with the recommendations of the acoustic report submitted it is noted that significant weight is required to be given to the nuisance or disruption the activity has on adjoining land uses and the fact that the development is prohibited in the zone.

Certain characteristics of the neighbourhood can be seen as making the development suitable with minimal to no noise intrusion and traffic impacts expected during the day and evening (up to 10pm). However, the proposal to have up to 200 people active on the site during the night (after 10pm) has the potential to interfere with the character of existing inhabitants. Consequently more weight should be given to considering the activity operating during the night.

The application proposes various hours of operation and noise controls during different days with the latest hours of operation ceasing at 12 midnight. In considering the proposed hours of operation it is clear that there are three main time periods that relate to the proposal, i.e. day, evening and night. The times of these activities coincides with standard acoustic modelling time periods.

Background noise during the day and evening hours is generally louder between these periods as there are more activities occurring within the surrounding area, particularly in respect to traffic, use of farming machinery and general residential noise. The potential for noise to be generated from the proposed use during the day and evening hours until 10pm would be considered to have a minimal environmental impact, if any, and would not result in any adverse impact on the locality.

The proposal to run a function centre on the site at night is considered to be where the potential to have an adverse impact on the amenity of the neighbouring land uses. (This is applying the more stringent "Temporary Use test" rather than the acceptable impact test.)

Whilst noise levels during the night period (after 10pm) may be able to be managed based on the recommendations of the acoustic report and/or conditions of consent, there may still be instances where noise is above the assessed background levels. When considering the "Temporary Use Test" the proposed land use and hours of operation have the potential to disrupt adjoining and established development within the locality at night where the surrounding area is generally at its quietest and least active.

In order to ensure that the proposed temporary use has no adverse impacts in respect to the amenity of the locality it is recommended that the proposal be limited to being carried out during daytime and evening hours and that the use cease at 10pm. This would ensure that the main concerns regarding noise and traffic would not result in any adverse impacts on adjoining land or the amenity of the neighbourhood.

It is considered reasonable that noise monitoring of the activity during the day and evening be undertaken to ensure compliance with any development consent conditions and to confirm that the noise levels within the acoustic report are being achieved.

In addition to the above it is noted that matters raised in the submissions received have been assessed in the report below and it is considered that the proposal would not result in any other adverse impacts on the locality in respect to visual appearance, light impacts, traffic impacts, privacy or environmental concerns subject to the conditions recommended in this report.

- (c) *the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*

Comment: The application relies on using existing access, parking, buildings and surrounding land associated with the principal use of the land. No significant works are proposed as a result of the temporary use with portable toilets being the main service that would be provided.

Installation of portable toilets for guests is required as it has been determined that the existing amenities could not cater for the predicted wastewater loads. It is recommended that a condition for portable toilets be imposed.

The proposal would not have any adverse impacts on the environmental attributes of the land as wastewater will be appropriately managed by providing portable toilets and that risk in respect to bushfire and flooding can be managed so that the proposed activity does not occur after a warning has been issued.

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- (d) *at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*

Comment: No building works are proposed as part of this application. Therefore, the use of the site as a function centre with associated ceremonies would not permanently alter the land and the site is capable of being restored to the condition in which it was before the commencement of the use.

Based on the above assessment it is considered that the proposal is consistent with the Clause 2.8 provisions of the LEP in the following manner:

1. The temporary use will not prejudice the subsequent carrying out of development on the land as permitted by the LEP.
2. For the reasons outlined previously in this report and the imposition and enforcement of the recommended consent conditions, the approved temporary use will not adversely impact on adjoining land or the amenity of the neighbourhood,
3. For the reasons outlined previously, and later, in this report the temporary use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that affect the land,
4. The temporary use is utilising existing buildings and the land can be restored to the condition previous to the temporary use if required.

Clause 4.3 Height of buildings

Existing buildings are below 10m in height with no new works proposed.

Clause 6.1 – Acid Sulphate Soils

The land affected by the development falls within Class 4 and Class 5 as identified on the Acid Sulfate Soils Planning Map. The proposed development does not include any works as defined within this clause and therefore no further investigations in respect to acid sulphate soils are required. The proposal is consistent with the requirements of this Clause.

Clause 6.3 – Flood Planning

The adopted 1-in-100 (1%) year flood level for the area is approximately 17.4m AHD and the level for the 1-in-5 (20%) year flood level is 12.5m.

Council's mapping indicates that the area of the site that accommodates the Sunnybrook Barn has a land level of approximately 15.5m AHD. The lowest point on the main access route to and from the site is 10m AHD and the main parking area has a minimum level at approximately 11m AHD. The property is therefore defined as flood prone land.

Access to the property will be subject to flooding on a more frequent basis than the Sunnybrook Barn which is located at a higher level. The application states:

The proposed development is compatible with the flood hazard status of the land as it does not involve new building works and therefore will not alter flood behaviour in the area, or impact on environmentally sensitive lands.

A structural review was prepared for the Sunnybrook Barn (as part of the Building Certificate Application approved by Council on 21 August 2015 in accordance with Condition 7 of DA0157/15) which considered the structure's ability to resist forces from a flood event which results in a depth of flow = 2.0m and a flow velocity of 1.5m/s. The structural review made a number of recommendations to strengthen the Sunnybrook Barn structure which have now been implemented. Thus, the Sunnybrook Barn is considered to have adequate structural integrity to resist a typical flood level.

In respect to suitability of flood risk to life the applicant has confirmed that the use would not operate in the event of a flood as surrounding roads would be inundated by any backwater flooding from the river and advanced warning would be provided to ensure patrons could be notified that the functions would not be held.

It is expected that the warning time for an impending flood would generally be in excess of 24 hours. The applicant has previously prepared a flood evacuation management plan for the site, August 2015, as part of conditions of development consent No. DA 0157/15. This plan is generally acceptable for the evacuation of the property. The statement of environmental effects states that functions would not be held after a flood warning and that the temporary use would not impede on the evacuation of the property. It is considered that the flood evacuation management plan should be updated to refer to the cancellation of events during issue of a flood warning for the locality.

Further to the above it is considered that the proposal is not contrary to Council's Development of Flood Liable Land Policy. No new buildings are proposed to be erected, all structures would be for non-habitable (non-residential) purposes and that patrons would not be subject to flood evacuation risk as the land would not be used for functions during flood warning periods.

As a result of the above it is considered that the proposal is satisfactory having regard to Clause 6.3 of the HLEP 2012 and Council's Development of Flood Liable Land Policy.

Clause 6.4 – Terrestrial Biodiversity

Northern and southern portions of the site are identified on the Terrestrial Biodiversity Map as comprising 'Endangered Ecological Communities' and 'Connectivity between significant vegetation' under this Clause. No tree removal is proposed and the development area is clear of the mapped areas identified above. The development is therefore seen to be consistent with this Clause.

Clause 6.5 – Wetlands

A mapped wetland is located in the southern portion of the site. The existing building is located approximately 700m from this wetland and the proposed use is unlikely to impact the waterbody.

No works are proposed within these wetlands as areas associated with the proposal are well established, particularly in respect to existing buildings and stormwater off existing hardstand areas. It is considered that the proposed temporary use would not result in any adverse impacts on the subject wetlands.

Clause 6.7 – Essential Services

The application states that all necessary services are available at the site. Specifically;

- existing electricity connections to the Barn
- wastewater is treated and disposed on-site by means of the existing aerated wastewater treatment system and irrigation system
- roof water will be collected in a tank and reticulated for toilet flushing and hand washing
- guests will be served bottled water and all taps within the amenities will be labelled "water not suitable for drinking".

Building Certificate Application BC0003/16 was issued for the Sunnybrook Barn on 12 November 2015 and on 22 August 2012 Council received an interim occupation certificate from Construction Certification Solutions for the building and car park addressing the list of conditions previously imposed on the site by Council as part of development Consent No DA0157/15.

Whilst the conditions from DA0157/15 are not directly relevant to this application, this occupation certificate confirms that both the existing building and car park is acceptable having regard to the Building Code of Australia and Council requirements for electricity, telephone, water and access/parking. Consequently the proposal is considered satisfactory in terms of essential services.

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It is noted that access to the Sunnybrook Barn differs for the access previously considered by Council under DA0157/15 and that this would be required to be ungraded to be an all-weather design. Suitable conditions have been recommended in this regard.

The proposal to use existing onsite effluent disposal system for the temporary use is not supported based on the limitations of the existing system and it would be required that portable toilets be provided to service the proposed functions.

The development would also be conditioned to provide bottled water as proposed.

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

There are no Draft Environmental Planning Instruments relevant to the subject land or development.

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

Hawkesbury Development Control Plan (HDCP) 2002

The HDCP 2002 applies to the proposal. An assessment of the proposal against the relevant provisions of this Plan follows:

Part A Chapter 3 – Notification

The application was notified in accordance with Part A Chapter 3 of the HDCP 2002 between 16 November 2015 to 30 November 2015. Two submissions raising objection to the application were received.

On 18 December 2016 the applicant submitted amended documentation following the Court proceedings in respect to the property and the application was renotified between 5 January 2016 to 2 February 2016. Eight submissions raising objection to the proposal were received.

A total of seven respondents replied to both exhibition periods. The matters raised in these submissions are discussed under the submissions section of this report.

Part C Chapter 2 – Car parking and Access

Part C Chapter 2 of the HDCP 2002 outlines that car parking for 'restaurants, reception centres and refreshment rooms' is to be provided at a rate of one space per 20m² of gross floor area or one space per three seats, whichever is greater.

Based on a 200 guest capacity, 67 car parking spaces are required. The development proposes to provide a total of 40 hardstand parking spaces and 27 overflow spaces for guests consistent with the DCP and the maximum numbers of guests anticipated. This arrangement has been assessed by GTA Consultants and is considered to be reasonable given the temporary nature of the proposal and that the general demand of parking spaces would be dependent on guest numbers.

The application proposes a new access to the Sunnybrook Barn than has been used in the past to ensure that the proposal is separate to the proposed Polo Barn/Garden Pavilion function centre (DA0702/15).

A site inspection has confirmed that the 40 space car park has not been fully constructed or marked with no works as executed plan being prepared for the existing car parking arrangements. Upgrading of the access would ensure safe efficient access for guests.

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**

N/A

v. Matters prescribed by the Regulations

The EP&A Regulation 2000 outlines that the development is to:

- comply with the National Construction Code / Building Code of Australia (BCA)
- be levied against Council's S94A Development Contributions Plan (where applicable).

Suitable conditions have been recommended requiring to the proposal to comply with the BCA. It is noted that the application does not propose any new works that would be required to be levied against Council's S94A Development Contributions Plan 2015.

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

Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite side of the Hawkesbury River comprises a steep escarpment with residential properties located at the top of that escarpment along Terrace Road.

Information submitted with the application confirms that the proposed function centre could be managed in a manner that does not adversely impact the locality in terms of noise or traffic. In order to protect the amenity of the locality it is recommended that suitable conditions be imposed to ensure the operations are in accordance with the information submitted and that the proposal fits in with the existing context and setting and that the hours of operation do not result in any adverse impact on the surrounding locality.

The proposed use does not seek to significantly change the views or vistas or modify the current principal use of the land.

Access, Transport and Traffic

The application is supported by a traffic impact assessment report that confirms that the existing road network and number of onsite parking spaces are suitable for the traffic anticipated by the proposal with a maximum of up to 67 vehicles accessing the site.

In considering potential traffic impacts it is noted that this application has been submitted at the same time as another application (DA0702/15) which seeks to operate a separate function centre in the buildings known as the Polo Barn and Garden Pavilion on the Sydney Polo Club site. This function centre would operate in the same manner with respect to the maximum number of guests and vehicles.

The dates specified for the Polo Barn and Garden Pavilion function centre application (DA0702/15) would coincide with 15 of the function dates specified in this application. In order to ensure that the proposed activity does not result in any adverse impacts on the locality in terms of traffic leaving the site at the same time it is recommended that these functions be operated in a manner that does not result in vehicles accessing or leaving the site at the same time. This would reduce any potential cumulative impacts on the amenity of the locality. Suitable conditions have been recommended in this regard.

Given the above, the proposed development is would not result in unreasonable traffic, transport or access impacts upon the surrounding road network having regard to the current usage of the roads in the locality, their capacity and condition.

c. Suitability of the site for the development:

Adequate services and utilities are available to the site.

The development would not impact upon critical habitats and threatened species, populations, ecological communities and habitats as no clearing of native vegetation is required.

The flooding affectation of the land is not prohibitive to the proposed development as previously discussed.

The site is located within a rural area subject to low background noise levels. However, this is not considered to be prohibitive to the development as mitigation measures proposed by the application and relevant conditions (and as has been demonstrated previously by Council's noise monitoring) can be undertaken to achieve compliance with relevant noise controls.

The statement of environmental effects makes an assessment against a list of conditions imposed on the site as part of DA0157/15 which were considered to potentially inhibit the functional operation of the premises. In particular:

- *The need to submit a noise assessment for the first ten events is considered to be excessive due to the recommendations of the current report.*
- *The previously proposed hours of operation should be allowed to be extended based on the recommendations of the traffic and acoustic report submitted.*
- *Restricting entertainment and amplified activities to indoor areas does not allow outdoor ceremonies to be conducted when suitable acoustic conditions could be imposed consistent with the acoustic report submitted.*
- *Requiring doors of buildings to be closed is not required as the acoustic report confirms that it would have a negligible impact on surrounding properties.*
- *The number of portable toilet numbers required is considered to be excessive as existing amenities in the building would be used.*
- *Portable toilets should be removed within 72 hours not 24 given weekend working hours of operators.*

As previously detailed in this report, using the "Temporary Use Test" it is recommended that reduced hours should be imposed on the development to ensure the proposal is consistent with the overall objectives of the LEP and that the activity does not have any adverse impacts on the amenity of the surrounding locality, particularly in respect to noise during the "night" period. It is considered that the acoustic measures proposed prior to 10pm are acceptable as they would have no adverse environmental impact on the amenity of the locality and that reporting could be reduced to the first five events to enforce consent conditions and to confirm that acoustic modelling provided is accurate.

It is recommended that the need to provide portable toilets should remain consistent with Council's original recommendation as Council has not received an application to modify the existing sewer management facility to support the proposal. There are no objections to having the toilets remain on the site for a maximum of 72 hours on the basis that functions would generally occur over the weekend.

The site is considered to be suitable for the development subject to the implementation of the conditions attached to this Report.

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

The application was notified in accordance with the HDCP 2002. Eight submissions from adjoining property owners were received in response to this notification. The matters raised in the submissions are discussed below:

Noise

- *The development noise disrupts adjoining residents.*
- *Prior reports submitted state that doors shall be closed to avoid impacts on adjoining properties*
- *Proposal now proposes to have outdoor ceremonies and use open areas for wedding ceremonies.*
- *Noise generated is not just from microphones and sound systems also from guests cheering, clapping and yelling.*
- *No works are proposed to soundproof the buildings.*
- *An acoustic report has been submitted by a respondent that argues the acoustic report submitted was based on ensuring the proposal has acceptable impacts as opposed to ensuring that it would have no adverse impact on surrounding properties.*

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- Numerous neighbourhood concerns received by Council and the Court have been submitted including affidavits that confirm that functions held on the site have resulted in impacting surrounding properties in terms of noise.
- Council previously requested all doors to be shut.
- Unacceptable impacts during late hours of the night interrupting sleep.
- The application proposes to change hours of operation and noise of conditions originally imposed on as part of DA0157/15. The previous operation of the function centre with the doors open has impacts surrounding properties amenity which was much better controlled when the operators were required to keep the doors closed.
- Acoustic music and PA systems during functions have previously had impacts on neighbouring properties.

Comment: Whilst previous reports and applications proposed different noise measures the current proposal was assessed based on the report submitted with the subject application. Council's Environmental Health officers have undertaken noise monitoring, reviewed the acoustic report submitted by the applicant and reviewed the acoustic report submitted by the respondent.

It was found that the activity would be able to be carried out in a manner that does not exceed more than 5 dB above background in any Octave Band Frequency. Whilst this impact may be considered acceptable for permitted types of development it should be noted that the application proposes a prohibited land use in the zone and relies on the Temporary Use provisions of the LEP. In this regard the "Temporary Use Test" should be used to assess the impacts of the proposal. An assessment against the temporary use provisions has been undertaken in the report above and it is recommended that the proposed hours of operation be limited to 10pm.

Operating functions and associated wedding ceremonies until 10pm is considered reasonable and that any noise impacts anticipated during this time would have a minimal impact, if any, and no adverse impacts on adjoining properties or the amenity of the locality. Suitable conditions have been recommended in this regard.

Operation of the function centre

- The proposal seeks to increase operating hours and further impact adjoining properties.
- The application seeks to loosen conditions imposed as part of DA0157/15.
- Previous temporary marquees have been installed to cater for guests for the Sunnybrook Barn.

Comment: As previously discussed it is recommend that the hours of operation be restricted to 10pm as there would be no adverse impacts before this time and any noise being generated at night, after this time, has the potential to result in having adverse impacts on adjoining properties amenity. Suitable conditions have been recommended in this regard.

Conditions included as part of DA0157/15 have been discussed under the suitability of the site section of this report and it is recommended that some conditions be modified as the previous conditions related to the previous applications and not to the subject application.

The application does not propose to install any additional structures temporary or otherwise. A condition has been recommended to ensure that no temporary marquees be installed.

Sewer

- The existing system is unacceptable for the proposal and would burden the existing system.
- Having toilets on the site for 72 hours after the function would lead to impacts on adjoining properties in terms of smell.
- Council previously required toilets to be removed after 24 hours.

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Comment: It is agreed that the existing system should not be used to support the proposed temporary use and it is recommended that the development be serviced by portable toilets consistent with Council's previous recommendations.

The use of portable toilets would ensure that the activity does not put any strain on the existing system. The portable toilets are designed to cater for temporary events and it would be considered unreasonable and unnecessary to require a complete commercial system to be installed to support the proposed temporary use.

The portable toilets are not permanent structures, would be serviced regularly, should not result in the generation of any adverse smell impacts and will be removed from the property within a maximum 72 hour period after the event. This would ensure that the proposal does not lead to any perceivable issues in respect to smell or the environment.

Waste

- *The application does not specify that rubbish and refuse collection can be managed without having any adverse impacts in terms of vermin, pest and feral animals.*
- *Measures to deal with a potential of 400 guests on one day plus other events on the site have not been considered.*
- *Removal of rubbish and service deliveries between 7am and 5pm is too early for weekends.*
- *Insufficient area for storage of rubbish.*
- *The \$1000 budget for the development would not allow proper waste storage facilities to be provided.*

Comment: Waste generated from the proposal would be managed on a case by case basis dependant on number of guests and type of function. It would be up to the operator to ensure that this waste is appropriately managed and controlled onsite. There are existing outbuildings on the premises and within the building that can be used to ensure the proposal does not raise any issues in respect to the collection, storage and removal of waste from the site. It is recommended that removal of rubbish and service deliveries be limited between 7am and 5pm.

The temporary use relies on caterers and staff to control these matters as part of the operational management plan and that this activity is for a temporary use.

Water, services, flooding, fire

- *The application has not adequately addressed the fresh water needs for property with increased usage relating to washing hands, preparing food, washing utensils, etc.*
- *The way in which fresh water needs would be met if the site is flooded has not been considered.*
- *Fire risk of persons smoking around wooden barns on Powell's lane has not been adequately considered.*

Comment: The application states that guests would be served bottled water and all taps within the amenities will be labelled "water not suitable for drinking", portable toilets would provide washing facilities for guests and the washing of equipment/utensils would be managed by caterers using existing water available onsite. The food would be made offsite and it would be up to the manager of the site to ensure that the site is adequately serviced.

In respect to flooding the application has proposed, and appropriate conditions are recommended, that the activity not operate when the surrounding area is inundated by localised floodwaters or if flooding warning has been issued for the Hawkesbury River.

A fire safety certificate has been issued for the buildings proposed to be used and suitable fire safety measures would be required to be in place.

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Visual impact

- *Flashing lights and planes associated with previous functions alters the ambience of the adjoining properties.*
- *Visual appearance of cars, portable toilets and service vehicles associated with functions impacts the visual quality of the area.*

Comment: The application does not propose any flashing lights or planes and a condition in relation to lighting at the site is also recommended. The proposed function centre usage is temporary in nature and does not require significant alteration to the existing areas on the site. The proposal is to operate until 3 December 2016 and any visual aspects associated with the proposal are temporary and would only be associated with the limited number of functions proposed. The proposal is largely agricultural in appearance and would fit in with existing buildings and landscaping.

Traffic

- *The cumulative impact for the Polo Barn application and Sunnybrook Barn application should be evaluated.*
- *Impact on delivery trucks catering the site has not been considered.*
- *Cumulative parking requirements have not been considered especially where the car parks are not sealed.*
- *The traffic report confirms that the vehicles movements would have no impact on the operational performance not whether it would have any adverse impacts on traffic.*
- *Impacts from car pollution.*
- *Level usage exists on old kurrajong road and increase total of vehicles would impact the rural setting.*
- *The risk of patrons being affected by alcohol and potential antisocial behaviour.*
- *Previous complaints concerning loitering and guests under the influence of Alcohol.*
- *People may choose to park cars overnight and pick up the cars the following day due to alcohol consumption.*
- *Council cannot assume that the proposal would not impact safety of the roads.*

Comment: The traffic assessment report submitted confirms that the road has the capacity to cater for the expected number of vehicles. The specified dates for the proposed Polo Barn/Garden Pavilion function centre and the Sunnybrook Barn function centre overlap on 15 occasions. In order to ensure that the proposed activity does not have any cumulative impacts in terms of traffic it is recommended that the functions be managed in a way that the starting and finishing times of these events do not overlap.

An interim occupation certificate has been issued for the car park, however further works are required to finalise parking areas. Suitable conditions have been recommended in this regard.

Restricting the development until 10pm would ensure that the proposal does not result in adverse impacts on the amenity of the locality after these hours when traffic matters are at their most sensitive.

In respect to anti-social behaviour and people under the influence of alcohol the patron management plan covers these issues and ensures that the proposal is managed in accordance with appropriate liquor licencing requirements.

Guest vehicles being parked onsite overnight is unlikely to result in any adverse impacts in terms of safety, noise, traffic and amenity on the locality as the number would be expected to be low and that vehicles would be collected during daylight hours. Guests to functions are expected to abide with the law and it would be unreasonable to prevent the proposal on the basis that people may be under the influence of alcohol and generate unsocial or illegal behaviour. Similarly, it is unreasonable to assume that the proposal will result in unsafe impacts on the local roads.

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Plan of management

- *The plan of management submitted is out-dated and does not take into account the information within the statement of environmental effects.*
- *The plan of management and number of seating available for the function centre do not match as the Sunnybrook Barn does not have a capacity for 200 people and people would be forced outside.*

Comment: The plan of management submitted is based on a set of conditions previously imposed by Council. In reviewing the plan it is confirmed that the operators had taken on board the previous conditions of consent and outlined how they would be able to operate in accordance with Council's requirements. Whilst this application is not the same as the previous application it is expected that this management plan would need to be adjusted to take into consideration the recommended conditions included in this report.

In respect to the number of people the application states that a maximum of 200 guests is variable and it is noted that the majority of the functions being held in the evening would have less number due to seating arrangements. It is considered that there is sufficient space available on the land to allow for a maximum of 200 guests for associated wedding ceremonies and or use of this building to provide cocktails or refreshments without adversely impacting surrounding properties.

Compliance with the LEP

- *The proposal is not for a temporary use as the application states that this would be a temporary use until such time as function centres are made a permissible use.*
- *The property owner has often held more than one function on the property on one day in the past and therefore the total number of people onsite within one day could be doubled.*
- *The application cannot meet the high threshold of no adverse impact required by clause 2.8 of the LEP.*

Comment: An assessment of the proposal in respect to temporary use provisions of the LEP has been undertaken and it is considered that the proposal can be supported subject to the recommended conditions of this report.

The application confirms that the temporary use would not extend beyond December 2016 and that any future change in land use would be subject to a separate assessment.

Competing land uses

- *Functions such as the gold cup have not been factored into the application, in particular in respect to services, noise and traffic.*

Comment: Respondents have submitted documentation showing that the Sydney Polo Club would be holding an event known as the 'Gold Cup'. This event is not associated with the current application and is associated with the use of the polo fields. This activity is listed as being held on 16 October 2016 which does not coincide with the dates listed as part of this temporary use application.

It is noted that there are many polo events undertaken on the lowlands and it would be unreasonable to prevent the temporary use application on the basis that the subject site, and most other adjoining sites, run other polo events during the year associated with the Sydney Polo Club.

e. The Public Interest

The proposed development is considered to be generally consistent with the relevant legislation and policies applying to the proposal. With the implementation of reduced hours and noise mitigation measures recommended in this report, it is considered that the proposed development would not have any adverse impact on the amenity of the locality. The issues raised as a result of the notification of the application have been assessed and it is considered that these matters do not warrant refusal of the application.

On this basis it is the proposed development is considered to be not contrary to the public interest.

Conclusion

The proposed development is considered to be consistent with the relevant provisions of Hawkesbury Local Environmental Plan 2012, Sydney Regional Environmental Plan No. 9, Sydney Regional Environmental Plan No. 20, State Environmental Planning Policies No. 44 & 55, Hawkesbury Development Control Plan, and other relevant policies.

An assessment of the proposal against the temporary use provisions of the LEP has been undertaken and it is considered that limiting the proposed land use until 10pm would ensure that the proposal does not result in the creation of any adverse impacts on the neighbourhood or surrounding locality. The assessment has found that the proposal is consistent with the provisions of Clause 2.8 of the LEP as follows:

1. The temporary use will not prejudice the subsequent carrying out of development on the land as permitted by the LEP.
2. For the reasons outlined previously in this report and the imposition and enforcement of the recommended consent conditions, the approved temporary use will not adversely impact on adjoining land or the amenity of the neighbourhood,
3. For the reasons outlined previously in this report the temporary use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that affect the land,
4. The temporary use is utilising existing buildings and the land can be restored to the condition previous to the temporary use if required.

It is recommended that the proposal be supported subject to the conditions recommended in this report.

Planning Decision

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

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RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 approve Development Application No. DA0703/15 at Lot 27 in DP 566434 and part Lot 1 in DP797310, 106 Ridges Lane, Richmond Lowlands for the temporary use of the existing Sunnybrook Barn as a function centre and surrounding land for associated wedding ceremonies be approved subject to the following conditions:

General Conditions

1. The development shall take place generally in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. This consent is limited it being operated under the following dates:

Month 2016	Day/date
March	Saturday 12, Wednesday 16, Thursday 24
April	Saturday 2, Saturday 23, Saturday 30
May	Saturday 7
June	Saturday 25
July	Nil
August	Friday 26, Saturday 27
September	Friday 2, Saturday 3 , Friday 9 , Saturday 10, Friday 23 , Saturday 24
October	Saturday 8, Saturday 22, Friday 28, Saturday 29
November	Saturday 5, Friday 11, Saturday 12, Friday 18, Saturday 19, Friday 25, Saturday 26
December	Saturday 3

3. Wedding ceremonies associated with the Sunnybrook function centre shall be limited to being undertaken on Lot 27 in DP 566434 and be limited to the dates specified above.
4. The development shall comply with the provisions of the National Construction Code/Building Code of Australia.
5. The building shall not be used for functions prior to the issue of an appropriate Occupation Certificate.

Prior to Commencement of Works

6. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
7. 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.
8. 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.

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9. 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.
10. 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.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - a) unauthorised access to the site is prohibited
 - b) the owner of the site
 - c) the person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers)
 - d) the name and contact number of the Principal Certifying Authority.

During Construction

12. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
13. Forty car parking spaces to service the development, together with access driveways and turning areas, shall be constructed with an all-weather seal, signposted, line marked and maintained. The car park is to comply with AS2890.1 2004, as a minimum standard.
14. A bitumen sealed rural footway crossing 6 metres wide shall be constructed to the access driveway proposed for the Sunnybrook Barn in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification.
15. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
16. Disabled parking shall be provided in accordance with AS2890.6 - 2009.
17. A servicing area with a minimum all-weather surface is to be provided in a suitable location adjacent to the development. The dimensions of the service area are to comply with the requirements of AS2890.2, 2002, for the largest vehicle required to regularly service the site.
18. During the construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
19. 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.
20. 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.

Prior to operation

21. A works as executed plan shall be submitted to Council on completion of the car park construction works. The plan shall demonstrate that the car parking and servicing areas have been provided in accordance with the conditions of consent.
22. An amended plan of management shall be prepared taking into consideration the operational conditions included in this consent. The management plan shall specifically refer to each condition of consent relating to the proposal and demonstrate how compliance would be achieved.

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23. The applicant shall update the flood emergency evacuation and management plan for the site to refer to the cancellation of events during issue of a flood warning for the locality.

Use of the Development

24. Operating hours shall be limited to:
- a) Sunnybrook Barn Function centre use
Monday – Sunday: 11am to 9:30pm
All patrons must leave the premises by 10pm.
 - b) Outdoor locations for ceremonies
Seven days a week: 11am to 8pm
Acoustic music only up to 8pm, any use of microphone or music to finish at 8pm.
25. The use of the Sunnybrook Barn function centre and associated wedding ceremonies shall be coordinated in a manner that does not result in the starting and finishing times coinciding with the proposed Polo Barn and Garden Pavilion Function centre and its associated wedding ceremonies as approved in DA0702/15.
26. No more than 200 guests are permitted at any function or wedding ceremonies at any given time.
27. No more than 67 vehicles associated with the function centre wedding ceremonies are permitted on the premises at any given time.
28. The operator shall keep a register detailing the date and times of when the premises is being used for a function and the number of guests attending. This register must be made available to Council officers on request and a copy is to be forwarded to Council by the end of each month of the approved operating period.
29. Functions and associated wedding ceremonies shall not occur during flood warning periods or when access roads are inundated by water after rain events. Staff and guests shall be given advanced warning to not access the site during these periods.
30. The noise emitted from the development shall not exceed more than 5 dB above background in any Octave Band Frequency (31.5 Hz-8 kHz inclusive) at the boundary of any affected residence.
31. No noise after 10pm should be emitted from the approved land use.
32. Noise assessments are to be conducted for each of the first five events/functions/wedding ceremonies held at the premises. The noise assessment must be conducted by a suitably qualified acoustic consultant who is a member of the Association of Australian Acoustic Consultants (AACC), and in accordance with Council directions. Upon completion of each noise assessment for each event, the assessment report that demonstrates compliance with this consent is to be submitted to Council for review. Each noise assessment carried out is to be completed at the owners' expense. For any non-compliances that occur during any of the noise assessments, the acoustic consultant is to make recommendations within the assessment and submit these recommendations for review by Council, prior to the next function. Following Council endorsing these recommendations, any changes are to be implemented prior to the next function.
33. Potable water shall be provided to the development in accordance with the NSW Health Private Water Supply Guidelines.

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34. All premises offering food, packaged or otherwise, are to be registered with Council and have inspections conducted by Council's officers as necessary/required. These premises are required to comply with the Food Act 2003, associated Regulations, and the Food Safety Standards 3.2.2 and 3.2.3. These are available on line at www.foodstandards.gov.au. A plan showing the food preparation/serving area and details demonstrating compliance with the Food Act, 2003 and associated regulations and standards must be submitted with the registration form
35. A copy of this Development Consent shall be kept on the premises at all times and be made available to Council, Police or other authorised persons upon request.
36. Farewells to the bride and groom for functions at the Sunnybrook Barn must occur inside the building or on the eastern side of the building.
37. Signs must be placed in clearly visible positions within the building and in the car park areas requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
38. Service deliveries to and from the site shall be limited to 8am to 5pm Monday to Sunday.
39. The activity shall be carried out in accordance with the approved Patron Management Plan.
40. Portable toilets are to be provided to service each function. Amenities are required to be provided for a maximum number of people attending and at the following rates:
 - a) male facilities are to be provided at a rate of 3 water closets, 8 urinals and 2 hand basins per 200 people attending
 - b) female facilities are to be provided at a rate of 13 water closets and 2 hand basins per 200 people attending
 - c) hand washing facilities are required at a rate of one hand wash facility per 125 people attending.
41. All Portable toilets and amenities are to be removed from the site within 72 hours of the completion of each function.
42. No temporary marquees shall be installed as part of this approval.
43. 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
 - 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.
44. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
45. The lighting from the development is to be directed away from surrounding properties, at an angle of 45 degrees towards the ground and shielded if needed to prevent any light spillage onto adjoining properties.
46. All work and the storage of goods, materials and waste shall be confined within the building or approved storage areas at all times.
47. All waste materials are to be stored in covered vermin proof waste storage bins and regularly removed from the property. Waste is to be separated where appropriate for re-use and recycling purposes. Waste is to be contained in such a manner to prevent it from being blown, moved or located around the property or surrounding properties.

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Advisory Notes

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** 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 development. 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.
- *** 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.
- *** In accordance with the requirements of Part 5.7 Protection of the Environment Operations Act 1997, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.

ATTACHMENTS:

AT - 1 Locality Map

AT – 2 Aerial Map

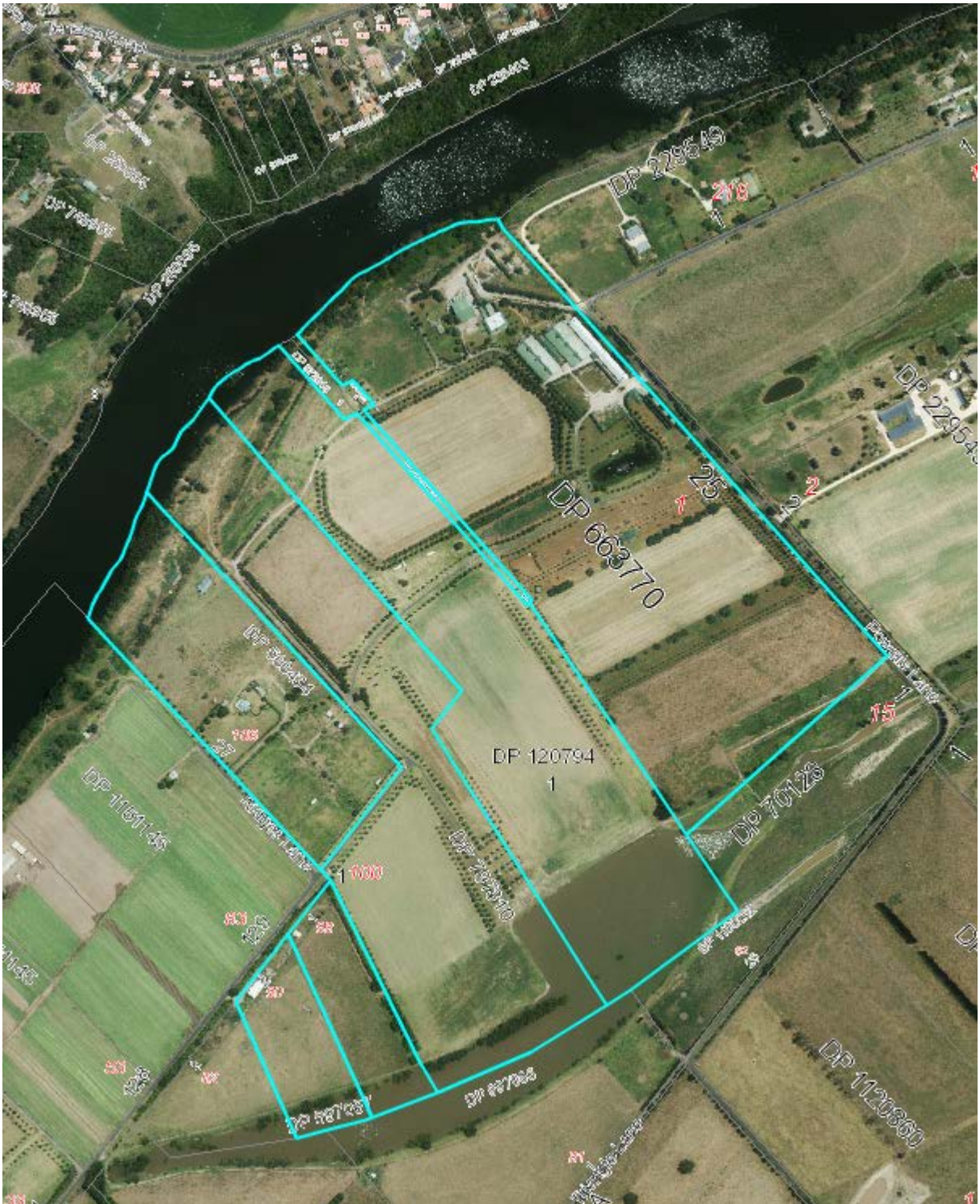
AT – 3 Plans

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AT – 2 Aerial Map



AT – 3 Plans



- | | | | |
|---|------------------------------------|--|--|
| | Sunnybrook Guest Vehicle Route | | Land to which Sunnybrook Function Centre use relates |
| ① | Sydney Polo Club Main Entrance | | Land to which associated ceremonies relates (max of 14/year) |
| ② | Sunnybrook Barn | | |
| ③ | Sunnybrook Function Centre Parking | | |

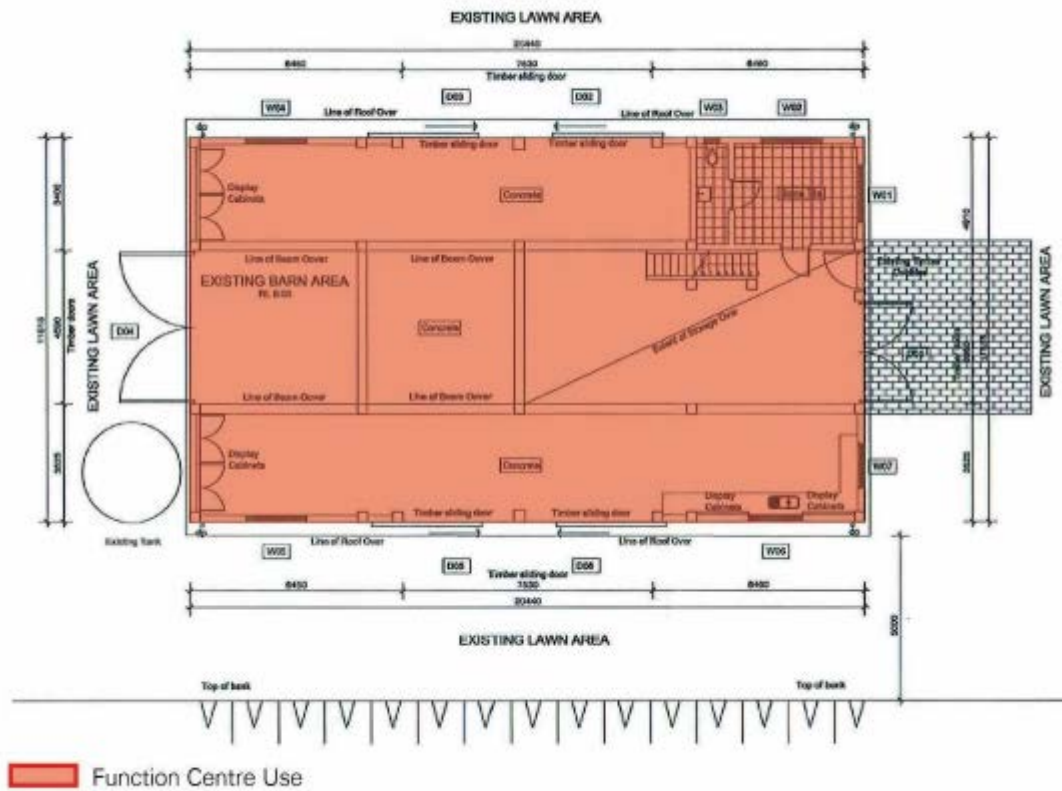


Figure 13 – Ground floor of Sunnybrook Barn

Meeting Date: 08 March 2016

Lot 27 DP 566434



ORDINARY MEETING

Meeting Date: 08 March 2016

GENERAL MANAGER

Item: 44 **GM - Amendment to Council's Code of Conduct - (79351)**

Previous Item: 3, Ordinary (5 February 2013)

REPORT:

Executive Summary

Council adopted its current Code of Conduct on 5 February 2013.

On 13 November 2015, amendments to the Local Government Act 1993 brought about by the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015 required councils to amend their Codes of Conduct.

Consultation

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

Background

Council's current Code of Conduct was adopted on 5 February 2013.

The Office of Local Government issued Circular 15-41 dated 17 December 2015 advising of amendments to the Local Government Act 1993 made by the Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015 which commenced on 13 November 2015. The Circular indicates that councils must amend their Codes of Conduct to reflect the amendments. Circular 15-41, which also outlines the reasons for these amendments, is attached as Attachment 1 to this report.

As a consequence of this legislation, there are two changes required to Council's Code of Conduct.

These are as follows:

- At the end of paragraph 3 of Part 1 - Introduction, the following sentence is added:
"A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years."
- In Part 4 - Clause 4.29:
 - A new subclause (b) is included, as follows:
"(b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and"
 - Former subclause (b) becomes subclause (c).

These changes must be incorporated in Council's Code of Conduct to ensure that it accords with the Model Code of Conduct for Local Councils in NSW.

Additionally, the opportunity should be taken to renumber the Council's Code of Conduct from 7.11 onwards in Part 7, because of duplication in the numbering and to correct the title of the Office of Local Government in Clauses 8.9 and 8.14, as well as in the Definitions.

ORDINARY MEETING

Meeting Date: 08 March 2016

Council's Code of Conduct has been updated to reflect the amendments to the Model Code of Conduct for Local Councils in NSW and to pick up the minor changes referred to in the above. These amendments are shown as "track changes" in the copy of Council's amended Code of Conduct, attached as Attachment 2 to this report.

It is recommended that Council adopt the amended Code of Conduct attached to this report.

Conformance to the Hawkesbury 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

There are no financial implications applicable to this report.

RECOMMENDATION:

That Council adopt the amended Code of Conduct attached as Attachment 2 to this report.

ATTACHMENTS:

AT - 1 Office of Local Government Circular 15-41 dated 17 December 2015

AT - 2 Council's Amended Code of Conduct

AT - 1 Office of Local Government Circular 15-41 dated 17 December 2015Office of
Local Government

Circular to Councils

Circular Details	15-41 / 17 December 2015 / A446439
Previous Circular	
Who should read this	Councillors / General Managers / Complaints Coordinators
Contact	Council Governance Team / 4428 4100
Action required	Information

Commencement of the Local Government Amendment (Councillor Misconduct and Poor Performance Act) 2015**What's new or changing**

- Amendments to the *Local Government Act 1993* made by the *Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015* commenced on **13 November 2015**.

What this will mean for your Council**Councillors and General Managers must note the following:**

- As of the commencement date, Councillors who have previously been suspended on two or more occasions will be automatically disqualified from holding office in a Council for 5 years if they are suspended on a further occasion. The Office has written directly to Councillors who have been suspended on two or more occasions to inform them of this change.
- The definition of "misconduct" has been expanded to include acts or omissions by Councillors that are intended to prevent the proper or effective functioning of a council or a committee of a Council (e.g. by disrupting decision making). Penalties for Councillor misconduct include suspension and disqualification from holding office.
- Councillors will no longer be permitted to participate in the consideration of the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area they have pecuniary interests in unless:
 - the only interests affected by the changes are the interests they or their relatives have in their principal places of residence; **and**
 - they have made a special disclosure of the affected interests.
- This amendment is complemented by an amendment to clause 4.29 of the *Model Code of Conduct for Local Councils in NSW* which also commenced on 13 November 2015. The amendment will mean that councillors with significant non-pecuniary conflicts of interests in the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of their local government area will no longer be permitted to participate in consideration of those matters unless:

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- the only interests affected by the changes relate to the interest a person (e.g. a close friend or affiliate of a Councillor) has in their principal place of residence; and
- the Councillor has disclosed the affected interests.

Complaints coordinators must note the following:

- Councils must amend their adopted codes of conduct as soon as possible to reflect the amendment to clause 4.29 referred to above. The amended Model Code of Conduct is available on the Office of Local Government's website at www.olg.nsw.gov.au.
- Notice is no longer required of a motion to censure a Councillor for misconduct under section 440G. Under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*, Councils can only formally censure a Councillor for misconduct where this is recommended in a report by an independent investigator. This will be reported to the Council under cover of a staff report by a Council's complaints coordinator.

Other key changes

- The amendments are also designed to:
 - ensure a faster but fair investigation process for Councillor misconduct;
 - remove impediments to effective action in response to serious corrupt conduct;
 - maximise the effectiveness of Performance Improvement Orders issued by the Minister for Local Government to a Council; and
 - more effectively address Council maladministration.

Where to go for further information

- For more information on the amendments to the Act, see the attachment to this Circular.
- An updated version of the *Model Code of Conduct for Local Councils in NSW* has been published on the Office of Local Government's website at www.olg.nsw.gov.au.
- Contact the Office's Council Governance Team on 4428 4100.

Tim Hurst
Acting Chief Executive
Office of Local Government

ATTACHMENT

The amendments to the *Local Government Act 1993* referred to in this Circular are designed to:

More effectively deter and address Councillor misconduct by:

- providing for the automatic disqualification of a Councillor from holding civic office for a period of 5 years where they have been suspended for misconduct on a third occasion;
- expanding the definition of “misconduct” in the Act to include conduct that is intended to prevent the proper or effective functioning of a Council (i.e. through the disruption of Council and Committee meetings).

Streamline the process for dealing with Councillor misconduct to ensure faster but fair outcomes by:

- removing the requirement for notice to be given of a motion at a Council meeting to formally censure a Councillor in recognition that Councils may now only do so on the recommendation of an independent investigator following a formal investigation process;
- removing the mandatory requirement for the Chief Executive of the Office of Local Government to undertake an investigation as a prerequisite to taking disciplinary action for misconduct where the conduct has previously been investigated under a Council's code of conduct and for minor misconduct that requires only a reprimand or counselling, and removing rights of appeal in relation to reprimand and counselling;
- providing that prior to taking disciplinary action against a Councillor, the Chief Executive is to give the Councillor at least 14 days' notice of his or her intention to take disciplinary action, including the disciplinary action that is proposed to be taken and the grounds upon which the proposed disciplinary action is to be taken and to consider any submissions made by the Councillor in relation to the notice;
- expanding the class of persons the Chief Executive may direct to provide written information or a document for the purposes of investigating Councillor misconduct to “any person” but excluding privileged information or documents without the person's consent.

Promote community confidence in Council planning decisions by:

- amending the provision in the Act that allows Councillors to participate in the consideration of changes to a planning instrument applying to the whole or a significant part of a Council's area they have pecuniary interests in by limiting its application to the interests Councillors have in their and related persons' principal places of residence, thereby preventing participation in consideration of such matters by Councillors with other property interests.

Remove impediments to effective action in response to serious corrupt conduct by:

- providing that a former Councillor may be disqualified from holding civic office for serious corrupt conduct;
- providing that where the Minister, on a recommendation by the ICAC, suspends a Councillor from civic office for serious corrupt conduct and the Councillor brings legal proceedings to challenge the ICAC's recommendation, the suspension will continue until the proceedings are concluded and for six months

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afterwards to allow time to arrange for their dismissal and disqualification should this be warranted;

Maximise the effectiveness of Performance Improvement Orders issued by the Minister to a Council by:

- reducing the minimum consultation period for a notice of intention to issue a Performance Improvement Order from 21 to 7 days;
- providing that a Council may be required to provide more than one compliance report on its compliance with a Performance Improvement Order, allowing the Minister to vary the terms of an Order on giving 7 days' notice, and allowing other intervention action while the Order is in force;
- deterring non-compliance by individual Councillors with a requirement under a Performance Improvement Order by:
 - empowering the Minister, where he or she is satisfied that a Councillor has failed to comply with such a requirement, to effectively suspend the Councillor until they have complied with the requirement or for a period of up to 3 months (with a possible extension of a further 3 months) (whichever is the lesser); and
 - allow the Minister to request the Chief Executive to refer non-compliance to the NSW Civil and Administrative Tribunal for disciplinary action.

More effectively address Council maladministration by:

- reducing the time in which a Council is required to respond to recommendations made by the Chief Executive arising from the investigation of a council from 40 to 28 days.

AT - 2 Council's Amended Code of Conduct



Hawkesbury City Council

Code of Conduct

DRAFT

~~Adopted by Council at the
Ordinary Meeting Held on
5 FEBRUARY 2013~~

(Based on the Model Code of Conduct
for Local Councils in NSW
Issued by
The ~~Office~~Division of Local Government
Dated: ~~November~~March 201~~5~~3)

ORDINARY MEETING

Meeting Date: 08 March 2016



HAWKESBURY CITY COUNCIL POLICY

ADOPTED Code of Conduct

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HAWKESBURY CITY COUNCIL POLICY

ADOPTED Code of Conduct

PART 1 INTRODUCTION

This Model Code of Conduct for Local Councils in NSW ("the Model Code of Conduct") is made for the purposes of section 440 of the *Local Government Act 1993* ("the Act"). Section 440 of the Act requires every council to adopt a code of conduct that incorporates the provisions of the Model Code. For the purposes of section 440 of the Act, the Model Code of Conduct comprises all parts of this document.

Councillors, administrators, members of staff of council, independent conduct reviewers, members of council committees including the conduct review committee and delegates of the council must comply with the applicable provisions of council's code of conduct in carrying out their functions as council officials. It is the personal responsibility of council officials to comply with the standards in the code and regularly review their personal circumstances with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with council's code of conduct may give rise to disciplinary action.

PART 2 PURPOSE OF THE CODE OF CONDUCT

The Model Code of Conduct sets the minimum requirements of conduct for council officials in carrying out their functions. The Model Code is prescribed by regulation.

The Model Code of Conduct has been developed to assist council officials to:

- understand the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in the integrity of local government.

The Council's Code contains provisions that were not included in the Model Code and these provisions have provided for a standard of behaviour from Hawkesbury City Council officials that is stricter than is provided for in the model Code. These provisions are not inconsistent with the requirements of the Model Code.



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PART 3 GENERAL CONDUCT OBLIGATIONS

General conduct

- 3.1 You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:
- a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies
 - b) is detrimental to the pursuit of the charter of a council
 - c) is improper or unethical
 - d) is an abuse of power or otherwise amounts to misconduct
 - e) causes, comprises or involves intimidation, harassment or verbal abuse
 - f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
 - g) causes, comprises or involves prejudice in the provision of a service to the community. (*Schedule 6A*)

NOTE: For the assistance of members of staff Operational Management Standards have been developed in respect of Harassment Prevention and Drugs & Alcohol in the workplace. Copies of these Operational Management Standards are available on Council's Intranet and should be referred to by staff.

- 3.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (*section 439*)
- 3.3 You must treat others with respect at all times.

Fairness and equity

- 3.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Harassment and discrimination

- 3.6 You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.

Development decisions

- 3.7 You must ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the development assessment process.



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- 3.8 In determining development applications, you must ensure that no action, statement or communication between yourself and applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

Binding caucus votes

- 3.9 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.10 For the purposes of clause 3.9, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.11 Clause 3.9 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.12 Clause 3.9 does not apply to a decision to elect the Mayor or Deputy Mayor or to nominate a person to be a member of a council committee.

Relations with the Media

- 3.13 Where a situation arises where a Councillor's comment is sought on an issue of community interest, the Councillor must clearly state that their expressed view is a personal view, and does not necessarily represent the views of the Council on the particular issue.
- 3.14 The Mayor or the Deputy Mayor if acting for the Mayor, and the General Manager or his delegate are the official spokespersons for the Council for the purposes of providing public comment on Council's policies and activities.
- 3.15 Council staff must not make public comment on Council affairs without the approval of the General Manager or relevant Director. Public comment includes interview with the media, public speaking engagements, and expressing views in letters to the media or in notices, articles or any other medium.

NOTE: Council has adopted a Media Policy to provide a framework for the Council's participation in the media in order to keep the Hawkesbury community informed of its activities. A copy of the policy is available on the Council's Intranet, the 2012 Councillor Handbook, or from Council's Manager, Corporate Services and Governance.

Health, wellbeing and safety

- 3.16 You should ensure that Council's premises are adequate to ensure the health, safety and well being of other Council officials and members of the public. Any instance of unsafe work conditions should be reported to the General Manager, your Manager or Supervisor or to Council's Risk Management Branch.



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NOTE: Council has adopted an Occupational Health and Safety Policy. A copy of the policy is available on the Council's Intranet, the 2012 Councillor Handbook, or from Council's Manager, Corporate Services and Governance.

Appointment to other organisations

- 3.17 If you are appointed or nominated by Council as a member of another organisation you will be bound by the rules of conduct of both organisations.

Child Protection Obligations

- 3.18 As a Council Official you will be bound by Council's Child Protection Operating Management Standard and Children in the Workplace Operating Management Standard which detail the behaviour that is reasonable for the purposes of discipline, management and care of children. The Operating Management Standard specifies what is acceptable behaviour and what is not acceptable behaviour towards children as well as what will happen if you commit a breach of the Operating Management Standard.

PART 4 CONFLICT OF INTERESTS

- 4.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 4.2 You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 4.3 Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 4.4 Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 4.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (section 442)
- 4.6 A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (section 443)
- 4.7 Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
- a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (section 449)



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- b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
 - c) designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)
- 4.8 Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.
- 4.9 Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

What are non-pecuniary interests?

- 4.10 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 4.11 The political views of a councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

- 4.12 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 4.13 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.
- 4.14 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 4.15 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
 - b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
 - c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 4.16 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:



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- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
 - b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply
- 4.17 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.18 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 4.19 Despite clause 4.16(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff through the general manager, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) above.

Reportable political donations

- 4.20 Councillors should note that matters before council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- 4.21 Where a councillor has received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) where the major political donor has a matter before council,
- then the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16(b).
- 4.22 For the purposes of this Part:
- a) a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the Election Funding, Expenditure and Disclosures Act 1981,
 - b) a "major political donor" is a "major political donor" for the purposes of section 84 of the Election Funding, Expenditure and Disclosures Act 1981.
- 4.23 Councillors should note that political donations below \$1,000, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 4.24 If a councillor has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that councillor is not prevented from participating in a decision to delegate council's decision-making role to council staff



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through the general manager or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

Loss of quorum as a result of compliance with this Part

- 4.25 Where a majority of councillors are precluded under this Part from consideration of a matter the council or committee must resolve to delegate consideration of the matter in question to another person.
- 4.26 Where a majority of councillors are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the councillors may apply in writing to the Chief Executive to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.
- 4.27 The Chief Executive will only exempt a councillor from complying with a requirement under this Part where:
- a) compliance by councillors with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
 - b) the matter relates to the exercise of a function of the council that may not be delegated under section 377 of the Act.
- 4.28 Where the Chief Executive exempts a councillor from complying with a requirement under this Part, the councillor must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.
- 4.29 A councillor, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:
- a) the matter is a proposal relating to
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
 - b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
 - b)c) the councillor declares any interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.

Other business or employment

- 4.30 If you are a member of staff of council considering outside employment or contract work that relates to the business of the council or that might conflict with your council duties, you must notify and seek the approval of the general manager in writing. (section 353)
- 4.31 As a member of staff, you must ensure that any outside employment or business you engage in will not:
- a) conflict with your official duties



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- b) involve using confidential information or council resources obtained through your work with the council
- c) require you to work while on council duty
- d) discredit or disadvantage the council.

NOTE: For the assistance of members of staff an Operational Management Standard has been developed in respect of the Outside Employment. A copy of this Operational Management Standard is available on Council's Intranet and should be referred to by staff.

Personal dealings with council

- 4.32 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

PART 5 PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

Gifts and benefits

- 5.1 You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the council.
- 5.2 You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.

Token gifts and benefits

- 5.3 Generally speaking, token gifts and benefits include:
- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - (i) the discussion of official business
 - (ii) council work related events such as training, education sessions, workshops
 - (iii) conferences
 - (iv) council functions or events
 - (v) social functions organised by groups, such as council committees and community organisations
 - b) invitations to and attendance at local social, cultural or sporting events



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- c) gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers
- e) prizes of token value.

Gifts and benefits of value

- 5.4 Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

How are offers of gifts and benefits to be dealt with?

- 5.5 You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) accept any gift or benefit of more than token value
- e) accept an offer of cash or a cash-like gift, regardless of the amount.

- 5.6 For the purposes of clause 5.5(e), a "cash-like gift" includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.

- 5.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Mayor or the general manager. The recipient, supervisor, Mayor or general manager must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to council, unless the nature of the gift or benefit makes this impractical.

Bribes

- 5.8 If a bribe or other improper inducement is offered to you, you must immediately report the matter to the General Manager, to enable the General Manager to fulfil his/her obligations pursuant to Section 11 of the Independent Commission Against Corruption Act 1988. Such a report must be in writing and be provided to the General Manager as soon as possible following the incident.

Improper and undue influence

- 5.9 You must not use your position to influence other council officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the appropriate exercise of their representative functions.



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- 5.10 You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for council in order to obtain a private benefit for yourself or for any other person or body.
- 5.11 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.

PART 6 RELATIONSHIP BETWEEN COUNCIL OFFICIALS

Obligations of councillors and administrators

- 6.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. The governing body has the responsibility of directing and controlling the affairs of the council in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 6.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager in the performance of council's functions by way of council or committee resolution, or by the Mayor or administrator exercising their power under section 226 of the Act (*section 352*)
 - b) in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the member or delegate (*Schedule 6A of the Act*)
 - c) contact a member of the staff of the council on council related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
 - d) contact or issue instructions to any of council's contractors or tenderers, including council's legal advisers, unless by the Mayor or administrator exercising their power under section 226 of the Act. This does not apply to council's external auditors or the Chair of council's audit committee who may be provided with any information by individual councillors reasonably necessary for the external auditor or audit committee to effectively perform their functions.

NOTE; Council has a Policy for the Provision of Information and Interaction between Councillors and Staff. A copy of the Policy is available on Council's Intranet, the 2012 Councillor Handbook, or from Council's Manager, Corporate Services and Governance.

Obligations of staff

- 6.3 The general manager is responsible for the efficient and effective operation of the council's organisation and for ensuring the implementation of the decisions of the council without delay.
- 6.4 Members of staff of council must:
- a) give their attention to the business of council while on duty



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- b) ensure that their work is carried out efficiently, economically and effectively
- c) carry out lawful directions given by any person having authority to give such directions
- d) give effect to the lawful decisions, policies, and procedures of the council, whether or not the staff member agrees with or approves of them
- e) ensure that any participation in political activities outside the service of the council does not conflict with the performance of their official duties.

Obligations during meetings

- 6.5 You must act in accordance with council's Code of Meeting Practice, if council has adopted one, and the *Local Government (General) Regulation 2005* during council and committee meetings.
- 6.6 You must show respect to the chair, other council officials and any members of the public present during council and committee meetings or other formal proceedings of the council.

Inappropriate interactions

- 6.7 You must not engage in any of the following inappropriate interactions:
 - a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
 - b) Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
 - c) Council staff refusing to give information that is available to other councillors to a particular councillor.
 - d) Councillors and administrators who have lodged a development application with council, discussing the matter with council staff in staff-only areas of the council.
 - e) Councillors and administrators being overbearing or threatening to council staff.
 - f) Councillors and administrators making personal attacks on council staff in a public forum.
 - g) Councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make.
 - h) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.
 - i) Council staff meeting with applicants or objectors alone AND outside office hours to discuss applications or proposals.
 - j) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by council associated with current or proposed legal proceedings unless permitted to do so by council's general manager or, in the case of the Mayor or administrator, exercising their power under section 226 of the Act.

PART 7 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information



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- 7.1 The general manager and public officer are responsible for ensuring that members of the public, councillors and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.
- 7.2 The general manager must provide councillors and administrators with information sufficient to enable them to carry out their civic office functions.
- 7.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to carry out their civic office functions and in accordance with council procedures.
- 7.4 Members of staff of council who provide any information to a particular councillor in the performance of their civic duties must also make it available to any other councillor who requests it and in accordance with council procedures.
- 7.5 Councillors and administrators who have a private (as distinct from civic) interest in a document of council have the same rights of access as any member of the public.

NOTE: As mentioned in Part 6 of this Code, Council has adopted a Policy for the Provision of Information and Interaction between Councillors and Staff. A copy of the Policy is available on Council's Intranet, the 2012 Councillor Handbook, or from Council's Manager, Corporate Services and Governance.

Councillors and administrators to properly examine and consider information

- 7.6 Councillors and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with council's charter.

Refusal of access to documents

- 7.7 Where the general manager and public officer determine to refuse access to a document sought by a councillor or administrator they must act reasonably. In reaching this decision they must take into account whether or not the document sought is required for the councillor or administrator to perform their civic duty (see clause 7.2). The general manager or public officer must state the reasons for the decision if access is refused.

Use of certain council information

- 7.8 In regard to information obtained in your capacity as a council official, you must:

- a) only access council information needed for council business
- b) not use that council information for private purposes
- c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have by virtue of your office or position with council
- d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 7.9 You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.



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7.10 In addition to your general obligations relating to the use of council information, you must:

- a) protect confidential information
- b) only release confidential information if you have authority to do so
- c) only use confidential information for the purpose it is intended to be used
- d) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- e) not use confidential information with the intention to cause harm or detriment to your council or any other person or body
- f) not disclose any information discussed during a confidential session of a council meeting.

NOTE: If you have access to information as part of a local government function not obtained through normal public access means, you are in a position of absolute trust and have a fiduciary duty to Council to keep confidential the information to which you have access.

Record Keeping

7.11 You are responsible and accountable for creating, registering and keeping records contained within the State Records Act 1998. To fulfil these requirements you are responsible for knowing and abiding by Council's Records Management Operational Management Standard and using the required systems and procedures.

Personal information

7.124 When dealing with personal information you must comply with:

- a) *the Privacy and Personal Information Protection Act 1998*
- b) *the Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) council's privacy management plan
- e) the Privacy Code of Practice for Local Government

Use of council resources

7.132 You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.

NOTE: For the assistance of members of staff Operational Management Standards have been developed in respect of the usage of email, the internet and mobile phones. Copies of these Operational Management Standards are available on Council's Intranet and should be referred to by staff.

7.143 Union delegates and consultative committee members may have reasonable access to council resources for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes



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c) functions associated with the role of the local consultative committee.

- | 7.154 You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- | 7.165 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- | 7.176 You must not use council resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- | 7.187 You must not use council letterhead, council crests and other information that could give the appearance it is official council material for:
 - a) the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- | 7.198 You must not convert any property of the council to your own use unless properly authorised.
- | 7.2049 You must not use council's computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

Councillor access to council buildings

- | 7.219 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- | 7.224 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or delegate) or as provided in the procedures governing the interaction of councillors and council staff.
- | 7.22 7.23 Councillors and administrators must ensure that when they are within a staff area they avoid giving rise to the appearance that they may improperly influence council staff decisions.
- | 7.23 7.24 Councillors and administrators who are not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public



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PART 8 MAINTAINING THE INTEGRITY OF THIS CODE

- 8.1 You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

Complaints made for an improper purpose

- 8.2 You must not make a complaint or cause a complaint to be made under this code for an improper purpose.
- 8.3 For the purposes of clause 8.2, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to intimidate or harass another council official
 - b) to damage another council official's reputation
 - c) to obtain a political advantage
 - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
 - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
 - f) to avoid disciplinary action under this code
 - g) to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
 - h) to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
 - i) to prevent or disrupt the effective administration of this code.

Detrimental action

- 8.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made under this code except as may be otherwise specifically permitted under this code.
- 8.5 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under this code except as may be otherwise specifically permitted under this code.
- 8.6 For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
 - b) intimidation or harassment
 - c) discrimination, disadvantage or adverse treatment in relation to employment
 - d) dismissal from, or prejudice in, employment
 - e) disciplinary proceedings.

Compliance with requirements under this code

- 8.7 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.



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- 8.8 You must comply with a reasonable and lawful request made by a person exercising a function under this code.
- 8.9 You must comply with a practice ruling made by the [OfficeDivision](#) of Local Government.
- 8.10 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

Disclosure of information about the consideration of a matter under this code

- 8.11 You must report breaches of this code in accordance with the reporting requirements under this code.
- 8.12 You must not make allegations of suspected breaches of this code at council meetings or in other public forums.
- 8.13 You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part

- 8.14 Complaints alleging a breach of this Part (Part 8) by a councillor, the general manager or an administrator are to be made to the [OfficeDivision](#) of Local Government.
- 8.15 Complaints alleging a breach of this Part by other council officials are to be made to the general manager.

ORDINARY MEETING

Meeting Date: 08 March 2016



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ADOPTED Code of Conduct

PART 9 DEFINITIONS

In the Model Code of Conduct the following definitions apply:

the Act	the <i>Local Government Act 1993</i>
act of disorder	see the definition in clause 256 of the Local Government (General) Regulation 2005
administrator	an administrator of a council appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Office Division of Local Government, Department of Premier and Cabinet
committee	a council committee
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
council committee	a committee established by resolution of council
"council committee member"	a person other than a councillor or member of staff of a council who is a member of a council committee
council official	includes councillors, members of staff of council, administrators, council committee members, conduct reviewers and delegates of council
councillor	a person elected or appointed to civic office and includes a Mayor
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	see the definition in section 441 of the Act
election campaign	includes council, State and Federal election campaigns
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
the Regulation	the Local Government (General) Regulation 2005

The term "you" used in the Model Code of Conduct refers to council officials.

The phrase "this code" used in the Model Code of Conduct refers also to the procedures for the administration of the Model Code of Conduct prescribed under the Local Government (General) Regulation 2005.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 08 March 2016

Item: 45

GM - 56th Floodplain Management Australia Conference - (79351)

REPORT:

Executive Summary

The 56th Floodplain Management Australia Conference will be held from 17 to 20 May 2016 in Shoalhaven, NSW. Due to its relevance to Council's business, it is recommended that the 56th Floodplain Management Australia 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

Floodplain Management Australia, previously known as the Floodplain Management Association, has held their annual conference for over 50 years and is considered the most respected floodplain industry event held in Australia. The 56th Conference will be held from 17 to 20 May 2016 in Shoalhaven. The Conference will include Australian and International keynote speakers, plenary and concurrent presentations.

Cost of attendance at the 56th Floodplain Management Australia Conference will be approximately \$1,780 plus travel expenses per delegate.

Budget for Delegate Expenses - Payments made:

Total Budget for Financial Year 2015/2016	\$48,000
Expenditure to date	\$13,861
Outstanding Commitments as at 1 March 2016 (approx.)	\$650
Budget balance as at 1 March 2016 (approx. including outstanding commitments)	\$34,489

It should be noted that the outstanding commitments referred to above are in relation to councillor attendance at the 2016 Local Government NSW Tourism Conference to be held in March 2016 as previously authorised by Council.

It should also be noted that Councillor attendance at the 2016 Australian Local Government Women's Association Conference to be held in March 2016 and the 2016 Local Government Professionals Australia National Congress & Business Expo to be held in May 2016 is pending. Should attendance at either conference proceed, the balance of outstanding commitments will change to reflect the costs associated with these conferences.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking After People and Place Direction Statement;

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

and is also consistent with the nominated strategy in the CSP being:

- Provide for a safer community through planning, mitigation and response.

ORDINARY MEETING

Meeting Date: 08 March 2016

Financial Implications

Funding for attendance at this conference will be provided from the Delegates Expenses within the adopted 2015/2016 Operational Plan.

RECOMMENDATION:

That attendance of nominated Councillors and staff as considered appropriate by the General Manager, at the 56th Floodplain Management Australia Conference at an approximate cost of \$1,780, plus travel expenses per delegate be approved.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 08 March 2016

Item: 46 GM - Waste 2016 Conference - (79351)

REPORT:

Executive Summary

The Waste 2016 Conference will be held from 3 to 5 May 2016 in Coffs Harbour. Due to its relevance to Council's business, it is recommended that the Waste 2016 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 Waste 2016 Conference will be held from 3 to 5 May 2016 in Coffs Harbour. The two day Conference is recognised as Australia's leading waste management conference and has been running since 1996. The Waste Conference attracts leading companies and individuals from Australian and overseas and offers a comprehensive two day program, as well as an extensive trade display and networking opportunities. Council has been represented at this Conference regularly in the past.

Cost of attendance at the Waste 2016 Conference will be approximately \$2,800 per delegate.

Budget for Delegate Expenses - Payments made

Total Budget for Financial Year 2015/2016	\$48,000
Expenditure to date	\$13,861
Outstanding Commitments as at 1 March 2016 (approx.)	\$650
Budget balance as at 1 March 2016 (approx. including outstanding commitments)	\$34,489

It should be noted that the outstanding commitments referred to above are in relation to Councillor attendance at the 2016 Local Government NSW Tourism Conference to be held in March 2016 as previously authorised by Council.

It should also be noted that Councillor attendance at the 2016 Australian Local Government Women's Association Conference to be held in March 2016 and the 2016 Local Government Professionals Australia National Congress & Business Expo to be held in May 2016 is pending. Should attendance at either conference proceed, the balance of outstanding commitments will change to reflect the costs associated with these conferences.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Direction Statement

- Take active steps to encourage lifestyle choices that minimise our ecological footprint.
- Work with our communities and businesses to use our resources in a sustainable way and employ best practices and technologies that are in harmony with our natural environment.

and is also consistent with the nominated strategy in the CSP being:

- Reduce our environment footprint through resource and waste management.
- Engage with the community and work together to care for our environment.

ORDINARY MEETING

Meeting Date: 08 March 2016

Financial Implications

Funding for attendance at this conference will be provided from the Delegates Expenses within the adopted 2015/2016 Operational Plan.

RECOMMENDATION:

That attendance of nominated Councillors and staff as considered appropriate by the General Manager, at the Waste 2016 Conference at an approximate cost of 2,800 per delegate be approved.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 08 March 2016

Item: 47 **GM - Sister City and City-Country Alliance Program - Annual Report 2014/2015 (79351, 73610k 85814, 90568)**

REPORT:

Executive Summary

The purpose of the report is to provide Council with an overview of the Sister City and City-Country Alliance Program (Program) during the 2014/2015 financial year. The Program is undertaken in association with the Hawkesbury Sister City Association (Association), which has delegated authority to undertake program activities on behalf of Council.

Council and the Hawkesbury community has two international sister cities being, Temple City, California, USA and Kyotamba, Kyoto, Japan; and two City-Country Alliance towns being, Weddin Council (main town of Grenfell) and Cabonne Council (main town of Molong).

The Program includes provision for culture, sport and youth exchanges between the Hawkesbury community and the sister cities and alliance towns.

Consultation

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

Background

Council at its meeting held on 10 July 2007, adopted its Sister City Program Policy to address exchange activities with its international sister cities; and amended the Policy on 24 February 2009 to include exchange activities with Council's City-Country Alliance 'towns'. Council has been involved in its Sister City activities since 1984.

Council in adopting the Policy, also delegated authority to the Association to undertake exchange activities on Council's behalf with our sister cities and alliance towns.

To support the activities of the Program, Council allocates appropriate funding as part of the annual Operational Plan process. The Association was established in 1983 and has been involved in the Program since then.

Council and its international sister cities celebrates over 30 years of friendship with Temple City and over 25 years of friendship with Kyotamba in 2014.

Program Financials

Table 1 shows Council's budgeted funds and actual expenditure for the Program for the year ended 30 June 2015. Council's full year budget was \$19,700, which was used for payments to the Association and costs associated with activities undertaken by Council; and \$6,000 as donation funds for the Program's student exchange visits.

The Program for the year ended 30 June 2015 tracked well with a relatively minor under expenditure. This reflects the variance in accounts received and activities that vary between years. Twelve students travelled overseas on the student exchange program (\$500 donation per student), which accounts for all funds in this budget allocation.

ORDINARY MEETING**Meeting Date:** 08 March 2016**Table 1 - Hawkesbury Sister City Program – Financial Summary for 2014/2015**

Council	Budget \$	Expenditure \$
General contribution	19,700	17, 662
Donation to students	6,000	6,000
Total for Program	25,700	23,662

Overall, the financial position at the end of 2014/2015 was in line with planned Program costs, including both Association and Council activities.

The Minutes of the Association's Annual General Meeting held on 9 November 2015, including the Association's financial statements for the year ending 30 June 2015, shows Council's contribution to the Association for the year as \$17,000. The balance of this fund was used by Council for direct payment of other Association expenses such as printing, and other program expenses like the Sister Cities Australia membership and Civic Mayoral functions and program development.

Program Activities by the Association

The Minutes of the Association's Annual General Meeting held on 9 November 2015, including the Association's President's report is shown as Attachment 1 to this report. The report indicates that the Association had a busy year organising and hosting student exchanges, individual visits from sister cities and associated activities.

The President's report acknowledges the support of the Mayor Councillor Ford, Councillor Delegate Councillor Calvert, Councillor Mackay who is the honorary medical officer and Council staff and importantly, the Association members and the Hawkesbury families who hosted the intentional students during their exchange visit to the area, who help make the exchange visit a success for the students. A thank you was also extended to Richmond Rotary who assisted financially to enable Hawkesbury students to visit an intentional sister city. Councillor Paine is also a member of the Association in a private capacity.

Activities undertaken by the Association during that period include:

1. Monthly meetings and AGM, including membership growth
2. Calendar of events
3. Review of student exchange program's selection of student process and timing of student exchanges
4. Student exchange - Hawkesbury representatives travel to sister cities, including:
 - a) Selection process and information sessions for students
 - b) Farewell and Welcome Home functions for students
 - c) Organisation of travel plans
 - d) Attendance of Hawkesbury exchange students at a Council meeting.

The exchange students were:

Kyotamba

Mr T. Purser-Hanson
Ms I. Simmons
Ms A Simpson
Ms L. Stanton
Ms O. Ridgewell
Ms M. Young

ORDINARY MEETING

Meeting Date: 08 March 2016

Temple City

Ms B. Gibson
Ms A. Fradd
Ms A. Micallef
Mr F. Ryan
Ms A-A. Schultz
Mr T. Smithers

5. Student exchange – sister cities representatives travel to Hawkesbury, including:
 - a) Host families for visiting students selection and arrangements
 - b) International students attend school with host family students
 - c) Welcome and Farewell functions for students and host families
 - d) Management of exchange activities for both sister cities visiting at the same time.
6. Adult Exchanges – Ms M Matsamui visited from Kyotamba in January 2015 and a Temple City delegation visited in March 2015. Association members visited Temple City and Kyotamba during the year (at their own costs).
7. Upgrade the Sister Cities Display cabinet in Council's top foyer by the Association and Council staff.

Program Activities by Council

Council provides support to the Association, undertakes other Program activities and maintains the Sister City Agreement relationship. During the period in 2014/2015, and referred to above, the following activities were undertaken:

1. Student Donation - Council approved donations for the student exchanges to the sister cities at its meeting in on 31 March, 2015.
2. Association support, including:
 - a) Acknowledgement of Hawkesbury exchange students at Council Meetings held 11 August, 2015 and presentation of certificates
 - b) Donations cheques, printing and postage; budget management, activities advice and meetings.
3. Hosted event for Temple City delegation on 18 March 2015, including viewing of Sister City Display cabinet.
4. Sister cities and alliance towns engagement, including communication with the Mayors and Council officers, and program development discussions and gifts for exchange visits.
5. Exchange visit to Weddin Alliance town – Manager Corporate Communication and Events Coordinator visited Weddin Shire Council to gain an understanding of its operations and activities and to attend the Henry Lawson Festival during June 2015.

Conformance to the Hawkesbury Community Strategic Plan

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

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

and is also consistent with the nominated strategy in the CSP being:

- Achieve community respect through good corporate governance and community leadership and engagement.

ORDINARY MEETING

Meeting Date: 08 March 2016

Financial Implications

All costs were met from approved budgets within the 2014/2015 Operational Plan.

RECOMMENDATION:

That the 2014/2015 annual report for the Sister City Program be received.

ATTACHMENTS:

AT - 1 Minutes of the AGM of the Hawkesbury Sister City Association of Monday, 9 November 2015

ORDINARY MEETING

Meeting Date: 08 March 2016

**AT - 1 Minutes of the AGM of Hawkesbury Sister City Association of
Monday 9 November, 2015**

**Minutes of the AGM of Hawkesbury Sister City Association
on Monday 9th November, 2015 at 7.30 pm.**

PRESENT: T. Tallack, Y. Whalan, B. Russell, J. Nash, J. Thomas, N. Mulford,
M. Edwards, B. Smithers, L. Richardson, H. Schultz, A. Schultz, S. Hetherington, S. Simmons
and Clr. B. Calvett.

APOLOGIES: Clr C. Paine, N. Rudyk, P. Tallack, I Simmons, J & E Davies and
R. Dyson.

*Resolved on the motion of J. Nash and seconded by N. Mulford that the apologies be
accepted.*

CONFIRMATION OF PREVIOUS MINUTES:

*Resolved on the motion of N. Mulford and seconded by S. Hetherington that the Minutes of
the last AGM held on the 10th November 2014, be confirmed.*

BUSINESS ARISING FROM THE PREVIOUS MINUTES:

Nothing arising

*Clr. B. Calvett has been appointed Returning Officer and because he was due at another
Meeting the election of Office Bearers was changed to allow for this.*

T. Tallack stepped down and Clr B. Calvertt Chaired the Meeting.

The Election then took place and the positions were filled as follows:

PRESIDENT:	T. Tallack
VICE PRESIDENT:	Vacant
SECRETARY:	Y. Whalan
TREASURER:	P. Tallack
ASSISTANT SECRETARY:	B. Russell
YOUTH REPS:	A. Schultz and I. Simmons
HISTORIAN/ ARCHIVES:	J. Thomas
PUBLICITY OFFICER	Vacant
INTERPRETOR:	N. Mulford
CATERING OFFICER:	J. Nash

ORDINARY MEETING

Meeting Date: 08 March 2016

COMMITTEE MEMBERS: L. Richardson, N. Rudyk, B. Smithers,
H. Schultz, S. Hetherington, S. Simmons, M. Edwards and J & E Davies.

All positions are now filled. Congratulations to all that were nominated, all have been successful.

Being no further business the AGM was concluded.

A vote of thanks was given to Clr. B. Calvett for acting as returning officer.

PRESIDENT'S REPORT: (copy of Report attached)

Resolved on the motion of T. Tallack and seconded by N. Mulford that the President's report be accepted.

TREASURER'S REPORT: (copy of Report attached)

The Auditor's Report was submitted and accepted.

Resolved on the motion of T. Tallack moved that the Treasurer's report be accepted and seconded by Y. Whalan.

Y. Whalan thank everyone for their support during the year, she also welcomed the new Members along with the Youth Reps for their invaluable contributions that they will give during the year.

A special vote of thanks was given to T. Tallack for incredible job that she has performed during the past year, this was seconded by all the Committee.

J. Nash thanked all that stepped in during her absence.

The Membership fee will remain at \$ 2.00 for the 2016-17 period, resolved on the motion by T. Tallack seconded by J. Nash.

T. Tallack welcomed the new Members and welcomed any new ideas especially the youth Members

The meeting closed at 7.30 pm.

Hawkesbury Sister City Association

President's Report – November 2014 to November 2015

During the past year we have seen a number of visits to and from the Hawkesbury by members of the Kyotamba, Temple City and Hawkesbury sister city committees.

In January 2015 Miyuki Matsumi made a personal visit to Hawkesbury and, along with her son and a friend with two children, the visitors stayed at the home of the Clarke family in Bowen Mountain. The Committee held a morning tea for the group and it was wonderful that our 2015 Hawkesbury exchange students and their parents had the opportunity to meet Miyuki.

In March a delegation from Temple City visited the Hawkesbury. The group was made up by Temple City Sister City President Steve Terry, committee members Nancy Terry and Leanne Baroldi, plus Lance Baroldi. During their visit the group visited Canberra, including the War Memorial where they enjoyed seeing the exhibits in memory of the 100th ANZAC anniversary. The delegation also made a courtesy visit to Hawkesbury Council to meet Mayor Kim Ford and saw the refurbished sister city display located in the 1st floor foyer of the Council office. HSCA organised a bush dance with invitations extended to the 2015 Hawkesbury exchange students going to Temple City and their family, past Hawkesbury exchange students and host families, and other Hawkesbury residents who have been involved in the sister city relationship with Temple City. It was a great time for the visitors to catch up with old friends and make new friends.

Hawkesbury Committee members Nicole Pritchett, Noriko Rudyk and myself all visited Kyotamba during the year, and Yvonne visited Temple City. Nicole and her little daughter Emma went to a wedding, Noriko celebrated a milestone birthday, and I made a courtesy visit to Kyotamba and met the new Kyotamba International Friendship Society Chairperson Mr Kitamura. Yvonne made a courtesy visit to Temple City and also went on a cruise with Steve and Nancy Terry.

All recommendations made after the 2014 student exchange program were adopted. As a result the 2015 Hawkesbury exchange students were selected in late 2014 and our preparation program commenced earlier. The program was also change so that a session early in the program was more 'social' to encourage the development of a rapport between the student groups, and also the committee. Another activity added during the year was taking our students going to Kyotamba to a Japanese restaurant so that they could experience Japanese food. This was introduced because, during her visit to Kyotamba, Nicole was informed that some Hawkesbury students were finding the Japanese diet difficult to adapt to when they arrived in Japan. The various changes to our program seem to have proved effective in addressing issues identified by the HSCA Management Committee at the end of 2014.

The 2015 exchange students were –
Hawkesbury students to Kyotamba –

- Thomas Purser-Hanson
- Isabella Simmons
- Angela Simpson

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- Leila Stanton
- Olivia Ridgewell
- Merryn Young

Hawkesbury students to Temple City –

- Brooke Gibson
- Amy Fradd
- Alyssa Micallef
- Fergus Ryan
- Amy-Anne Schultz
- Tom Smithers

Kyotamba students –

- Miss Miyu Ota hosted by Simpson family
- Miss Miyu Kobayashi hosted by Simmons family
- Miss Natsumi Senoo – hosted by Ridgewell family
- Miss Meiko Nagasawa – hosted by Stanton family
- Miss Mako Hori – hosted by Simpson family
- Miss Sayaka Hori – hosted by Ellis / Purser-Hanson family

Temple City students –

- Cassie Carmona hosted by Paraha family
- Tanner Celano hosted by Ryan family
- Jessica Huang hosted by Schultz family
- Agnes Mok hosted by Smithers family
- Amber Wong hosted by Fradd family
- Ari Pinedo hosted by Micallef family

Thanks go to the commitment of local families who hosted the incoming exchange students, especially those who had no children involved in the 2015 program, and also those families who hosted two students. While we seem to have addressed our issues with the outbound students we unfortunately continue to have some problems with the inbound students, especially in regard to the use of phones and some students putting pressure on the committee and host families to do what they want rather than immerse themselves in experiencing the Australian lifestyle and the program offered by the HSCA committee. While the majority of students are polite and appreciative, those who aren't do cause a degree of angst and difficulty for the Hawkesbury volunteer committee and families who host these students. Perhaps part of the issue is caused by our Association and, in particular the Temple City Sister City Association, have differing views on how students should be managed and the focus of the overall student exchange program. HSCA will continue to discuss and identify ways to manage these issues.

Thanks also go to Richmond Rotary for their financial support of one of our 2015 Hawkesbury exchange students.

While our committee is a dedicated group of volunteers, we are a small group and as such all members are all quite active with our sister city commitments. We welcome Jim and Elizabeth Davey back onto the Committee, and we are hopeful that Sue Simmons, Bridget

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Smithers, Amy-Anne Schultz and Helen Schultz will join us as we look forward to their input and perspective on the programs we run.

To our small group I would like to recognise and thank you for all your hard work. Nicole, thank you for your commitment to our training sessions and I know this year has not been easy working full time, moving house, having a toddler to care for, and expecting a baby and experiencing quite a bit of discomfort this time around. To Jo thanks for your involvement in the training and many other aspects of the exchange and program; Brian thanks for safely transporting us around and also for all the many other ways you help; Jan – the catering is always 10 out of 10 and appreciated by so many as are your other contributions to the committee; Shirley your energy and support is fantastic and we are so happy you are now part of our association; Lorraine the gifts you organise are so thoughtful and appropriate; Ian and Maddie you are an asset, always available when I contact you with special requests and your input is very welcomed; Robyn you have had a bad year but still always eager to be involved; and Noriko always available if I need your advice or assistance. .

Thanks also go to Councillor Barry Calvert for his continued representation on our Committee - your input and the work you do for us is greatly appreciate. Barry please also pass on my thanks to Mayor Kim Ford and Council for their continued support. I would also like to mention and thank Council officers Fiona Mann, Robyn Felsch and Peter Opt'land.

Finally, to Vice President Christine Paine, Secretary Yvonne Whalan and Treasurer Peter Tallack, thank you for your commitment and your support. I have found this year a difficult one and you have all been there for me. Words cannot express how much I appreciate that support.

Tina Tallack
President
Hawkesbury Sister City Association Inc

9th November 2014

ORDINARY MEETING

Meeting Date: 08 March 2016

COMPILATION REPORT TO HAWKESBURY SISTER CITY ASSOCIATION INCORPORATED

We have compiled the accompanying special purpose financial statements of Hawkesbury Sister City Association Incorporated which comprise the balance sheet as at 30 June 2015, profit and loss statement for the year then ended, a summary of significant accounting policies and other explanatory notes.

The specific purpose for which the special purpose financial statements have been prepared is to provide financial information to the committee of management.

The responsibility of the committee of management

The Committee of Management is solely responsible for the information contained in the special purpose financial statements and has determined that the basis of accounting adopted is appropriate to meet the needs of the committee of management for the purpose of complying with the association's constitution.

Our responsibility

On the basis of information provided by the committee of management we have compiled the accompanying special purpose financial statements in accordance with the significant accounting policies adopted as set out in Note 1 to the financial statements and APES 315: Compilation of Financial Information.

Our procedures use accounting expertise to collect, classify and summarise the financial information, which the Committee of Management provided, in compiling the financial statements. Our procedures do not include verification or validation of procedures. No audit or review has been performed and accordingly no assurance is expressed.

The special purpose financial statements were compiled exclusively for the benefit of the committee of management. We do not accept responsibility to any other person for the contents of the special purpose financial statements.

We have reviewed the accounting records of the Hawkesbury Sister City Association Incorporated, and based on the information provided, the payments and receipts reconcile to the bank statements as at the bank balance noted in the balance sheet, and notes to the accounts

Name of Firm: DK Audit Accountants Pty Ltd
Chartered Accountants

Name of Partner: David Kean

Address: 97 Francis Street, Richmond NSW 2753

Dated this day of

ORDINARY MEETING**Meeting Date: 08 March 2016****HAWKESBURY SISTER CITY ASSOCIATION INCORPORATED****BALANCE SHEET
AS AT 30 JUNE 2015**

	Note	2015 \$	2014 \$
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	2	10,258.38	10,258.38
Trade and other receivables	3	1,402.00	2,215.89
TOTAL CURRENT ASSETS		<u>11,660.38</u>	<u>12,474.27</u>
NON-CURRENT ASSETS			
Property, plant and equipment	4	910.60	795.88
TOTAL NON-CURRENT ASSETS		<u>910.60</u>	<u>795.88</u>
TOTAL ASSETS		<u>12,570.98</u>	<u>13,270.15</u>
LIABILITIES			
CURRENT LIABILITIES			
TOTAL CURRENT LIABILITIES		<u>-</u>	<u>-</u>
TOTAL LIABILITIES		<u>-</u>	<u>-</u>
NET ASSETS		<u>12,570.98</u>	<u>13,270.15</u>
MEMBERS' FUNDS			
Retained earnings	5	12,570.98	13,270.15
TOTAL MEMBERS' FUNDS		<u>12,570.98</u>	<u>13,270.15</u>

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HAWKESBURY SISTER CITY ASSOCIATION INCORPORATED

INCOME STATEMENT FOR THE YEAR ENDED 30 JUNE 2015

	Note	2015 \$	2014 \$
INCOME			
Contributions From HCC		17,000.00	20,200.00
Refunds		-	123.00
Registrations		30.80	30.80
Reimbursements		1,462.40	-
		<u>18,493.20</u>	<u>20,353.80</u>
EXPENDITURE			
Accountancy Fees		500.00	500.00
Advertising		150.25	691.17
Bank Charges		120.00	120.00
Catering		2,451.42	1,129.01
Depreciation		618.00	422.00
Fines		-	550.00
Gifts		1,175.94	745.43
Hospitality		7,084.49	5,953.71
Insurance		854.00	884.40
Phone, Fax, Postage & Stationery		1,567.54	506.86
Sundry Expenses		181.22	612.88
Travelling Expenses		4,489.51	2,895.85
		<u>19,192.37</u>	<u>15,011.31</u>
(Loss) Profit before income tax		<u>(699.17)</u>	<u>5,342.49</u>
(Loss) Profit for the year		<u>(699.17)</u>	<u>5,342.49</u>
Retained earnings at the beginning of the financial year		<u>13,270.15</u>	<u>7,927.66</u>
Retained earnings at the end of the financial year		<u><u>12,570.98</u></u>	<u><u>13,270.15</u></u>

ORDINARY MEETING**Meeting Date: 08 March 2016****HAWKESBURY SISTER CITY ASSOCIATION INCORPORATED****NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2015**

	2015 \$	2014 \$
2 Cash and Cash Equivalents		
Cash on Hand	103.35	103.35
Cash at Bank	10,155.03	10,155.03
	<u>10,258.38</u>	<u>10,258.38</u>
3 Trade and Other Receivables		
Current		
GST Payable (Refundable)	<u>1,402.00</u>	<u>2,215.89</u>
4 Property, Plant and Equipment		
Plant & Equipment - at cost	3,455.40	2,722.68
Less: Accumulated Depreciation	<u>(2,544.80)</u>	<u>(1,926.80)</u>
	<u>910.60</u>	<u>795.88</u>
Total Plant and Equipment	<u>910.60</u>	<u>795.88</u>
Total Property, Plant and Equipment	<u>910.60</u>	<u>795.88</u>
5 Retained Earnings		
Retained earnings at the beginning of the financial year	13,270.15	7,927.66
(Net loss) Net profit attributable to the association	<u>(699.17)</u>	<u>5,342.49</u>
Retained earnings at the end of the financial year	<u>12,570.98</u>	<u>13,270.15</u>

ORDINARY MEETING

Meeting Date: 08 March 2016

HAWKESBURY SISTER CITY ASSOCIATION INCORPORATED

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2015

1 Statement of Significant Accounting Policies

This financial report is a special purpose financial report and it has been prepared in order to satisfy the financial reporting requirements of the Associations Incorporation Act NSW. The committee has determined that the association is not a reporting entity.

The financial report has been prepared in accordance with the requirements of the Associations Incorporation Act.

No Accounting Standards or other authoritative pronouncements of the Australian Accounting Standards Board have been applied to this report.

The following is a summary of the material accounting policies adopted by the association in the preparation of this report. Unless otherwise stated, the accounting policies are consistent with the previous period.

Fixed Assets

Plant and equipment is carried at cost less, where applicable, any accumulated depreciation.

The depreciable amount of all fixed assets are depreciated over the useful lives of the assets to the association commencing from the time the asset is held ready for use.

ORDINARY MEETING

Meeting Date: 08 March 2016

HAWKESBURY SISTER CITY ASSOCIATION INCORPORATED

STATEMENT BY MEMBERS OF THE COMMITTEE

The committee has determined that the association is not a reporting entity and that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 to the financial statements.

In the opinion of the committee the financial report:

1. Presents a true and fair view of the financial position of Hawkesbury Sister City Association Incorporated as at 30 June 2015 and its performance for the year ended on that date.
2. At the date of this statement, there are reasonable grounds to believe that Hawkesbury Sister City Association Incorporated will be able to pay its debts as and when they fall due.

This statement is made in accordance with a resolution of the Committee and is signed for and on behalf of the Committee by:

Committee
Member _____

Committee
Member _____

Dated this day of

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 08 March 2016

INFRASTRUCTURE SERVICES

Item: 48 **IS - Proposed Closure of Part of St Albans Road, St Albans - (95495, 112106, 99070, 105324)**

REPORT:

Executive Summary

The owners of 1521 St Albans Road, St Albans have made an application to the Department of Primary Industries Lands ("DPIL") to close the part of St Albans Road, St Albans that adjoins their property. St Albans Road is a Council road and a resolution of Council is required before the DPIL can close and sell the road.

This Report recommends Council agree to the proposed part road closure to enable DPIL to carry out the road closure process.

Consultation

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

Background

The owners of 1521 St Albans Road, St Albans have made an application to the Department of Primary Industries Lands ("DPIL") to close the part of St Albans Road, St Albans that adjoins their property. St Albans Road is a Council road and a resolution of Council is required before the DPIL can close and sell the road. The Applicants have also lodged a separate application with the DPIL to purchase the adjoining former bed of the Macdonald River.

The river now follows a course further east of the unformed "road reserve" that the DPIL is proposing to close, bisects Lot 6 in DP 1079629 and Lot 4 in DP 1079629. The road reserve area located within 1575 St Albans Road, St Albans (Lot 4 in DP 1079629) will also be closed at the same time and offered to the adjoining land owners.

In 2007 Council reconstructed St Albans Road. During the project the area of St Albans Road adjoining 1521-1575 St Albans Road, St Albans was re-designed. Amended survey/boundary plans were subsequently registered; however, the surplus road reserve was not closed at this time.

The attached location plan shows in yellow the area owned by the Applicant, the blue area shows the old river bed which is Crown Land, the green area is the formed St Albans Road, and the pink area is the unformed St Albans Road proposed to be closed.

The portion of the Reserve Road proposed for closure has been identified as surplus to Council requirements.

Whilst the subject land is a public road within the meaning of the Roads Act 1993, no sealed road construction has ever been undertaken.

In accordance with Section 38 of the Roads Act a public road, where no construction has ever taken place, will vest in the Crown upon closure. All proceeds from a proposed closure and sale of unformed sections of such a road are payable to the Crown.

All negotiations arising from the Road Closure Application will be between the Applicant and that DPIL with final determination of the proposal by that authority.

ORDINARY MEETING

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Given that the subject unformed portion of the Reserve Road is surplus to Council requirements and DPIL will carry out the closure process it is recommended that the road closure be agreed to by Council.

Conformance to the Hawkesbury Community Strategic Plan

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

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

Financial Implications

There are no financial implications applicable to this report.

RECOMMENDATION:

That Council approve the proposed closure of the unformed portions of the Road Reserve bisecting Lots 4 and 6 in DP 1079629 as outlined in this report and shown on the attached plan.

ATTACHMENTS:

AT - 1 Location Plan - St Albans Road

Meeting Date: 08 March 2016

[illegible]

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 08 March 2016

SUPPORT SERVICES

Item: 49 **SS - Deed of Agreement between Council and Bay Lake Investments Pty Limited - Laneway adjoining 156 George Street, Windsor - (95496, 112106, 131177)**

REPORT:

Executive Summary

In 1978, Council entered into an agreement with the Commonwealth Bank of Australia (CBA) pertaining to an exchange of land wherein the CBA allowed Council to utilise the laneway beside their property at 156 George Street, Windsor in exchange for five car spaces at the rear of their property. The property at 156 George Street, Windsor has now been sold. The new property owners, Bay Lake Investments Pty Limited, wish to enter into a new agreement with Council.

This report recommends Council enter into a new agreement.

Consultation

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

Background

In 1978, Council entered into an agreement with the CBA. The agreement pertained to an exchange of land wherein the CBA allowed Council to utilise the laneway beside their property at 156 George Street, Windsor in exchange for five car spaces at the rear of their property, within the existing Macquarie Street Car Park.

The previous agreement contained a clause which enabled the arrangement to be terminated by either party issuing the other with six months' notice. Upon the sale of the property at 156 George Street, Windsor, the CBA provided written notice of their intention to terminate the agreement, and the new owners, Bay Lake Investments Pty Limited, provided written notice of their intention to enter into a new agreement.

The laneway, which runs from Council's Macquarie Street Car Park to Windsor Mall, is well used and accepted by the public to be a public access way. Therefore, it is considered reasonable and necessary that Council continue the previous arrangement wherein the laneway is exchanged for five car spaces at the rear of 156 George Street, Windsor.

Regarding the laneway, Council shall be responsible for the repair and maintenance of the surface to ensure that it is in a suitable and usable condition at all times and that, by using all reasonable endeavours, that the laneway remains unobstructed, clean and clear.

In return, regarding the car spaces, Bay Lake Investments Pty Limited, shall be responsible for maintaining the car spaces including (but not limited to) the surface, the line marking and any required signage.

Furthermore, Bay Lake Investments Pty Limited will provide and pay for the electricity necessary to operate the lights within the laneway from dusk to dawn every day.

As with the previous agreement, this arrangement will continue until terminated by either party by giving the other party not less than six months' notice and stating the date on which the licence will end.

ORDINARY MEETING

Meeting Date: 08 March 2016

Council's Solicitors, Marsdens Law Group, have been liaising with the solicitors for Bay Lake Investments Pty Limited, being HWL Ebsworth Lawyers, and an agreement has been reached which adequately protects the interests of both parties.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Strategic Plan Theme:

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

Financial Implications

This proposal has no impact on the budget, excluding the payment of Council's own legal fees from Service Account 142 – Legal Services of the 2016/2017 Adopted Operational Plan.

RECOMMENDATION:

That:

1. Council agree to enter into an agreement with Bay Lake Investments Pty Limited as outlined in the report, pertaining to an exchange of land wherein Council maintains and utilises the laneway beside 156 George Street, Windsor in exchange for five car spaces at the rear of the property, within the existing Macquarie Street Car Park.
2. Authority be given for any documentation in association with this matter to be executed under the Seal of Council.
3. Details of Council's resolution be conveyed to Bay Lake Investments Pty Limited, together with advice that Council is not, and will not, be bound by the terms of its resolution, until such time as appropriate legal documentation to put such resolution into effect has been executed by all parties.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 08 March 2016

Item: 50

SS - Pecuniary Interest Return - Designated Person - (95496, 96333)

REPORT:

Executive Summary

The Local Government Act, 1993 details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Returns by Councillors and Designated Persons. This report provides information regarding a Return recently lodged with the General Manager by a Designated Person. It is recommended that Council note that the Disclosure of Pecuniary Interests and Other Matters Return, lodged with the General Manager, has been tabled.

Consultation

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

Background

Section 450A of the Local Government Act, 1993 relates to the register of Pecuniary Interest Returns and the tabling of these Returns, which have been lodged by Councillors and Designated Persons. Section 450A of the Act is as follows:

- "1. *The General Manager must keep a register of returns required to be lodged with the General Manager under section 449.*
2. *Returns required to be lodged with the General Manager under section 449 must be tabled at a meeting of the council, being:*
 - (a) *In the case of a return lodged in accordance with section 449 (1)—the first meeting held after the last day for lodgement under that subsection, or*
 - (b) *In the case of a return lodged in accordance with section 449 (3)—the first meeting held after the last day for lodgement under that subsection, or*
 - (c) *In the case of a return otherwise lodged with the general manager—the first meeting after lodgement."*

With regard to Section 450A(1), a register of all Returns lodged by Councillors and Designated Persons, in accordance with Section 449 of the Act, is currently kept by Council as required by this part of the Act.

With regard to Section 450A(2), all Returns lodged by Councillors and Designated Persons, under Section 449 of the Act, must be tabled at a Council Meeting as outlined in subsections (a), (b) and (c).

With regard to Section 450(2)(a), the following Section 449(1) Return has been lodged:

Position	Return Date	Date Lodged
Human Resources Coordinator	7 December 2015	29 February 2016

The above Designated Person has lodged their Section 449(1) Return prior to the due date (being three months after the Return Date), as required by the Act for the receipt of the Return.

The above details are now tabled in accordance with Section 450A(2)(a) of the Act, and the abovementioned Return is available for inspection if requested.

ORDINARY MEETING

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Conformance to the Hawkesbury 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

No financial implications applicable to this report.

RECOMMENDATION:

That the information be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 08 March 2016

ordinary

section 4

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 4 - Reports of Committees

ROC **Audit Committee - 25 November 2015 - (95496, 91369)**

The meeting commenced at 4:06pm.

Present: Harry Khouri, Community Member
 Nisha Maheshwari, Chairperson
 Councillor Paul Rasmussen, Hawkesbury City Council

Apologies: Councillor Patrick Conolly, Hawkesbury City Council
 Ellen Hegarty, Deputy Chairperson
 Dennis Banicevic - Council's External Auditor

In Attendance: Peter Jackson - General Manager
 Laurie Mifsud - Director Support Services
 Steven Kelly - Internal Auditor
 Emma Galea - Chief Financial Officer
 Jan Readford - Minute Secretary

REPORT:

RESOLVED on the motion of Councillor Paul Rasmussen and seconded by Mr Harry Khouri that the apologies be accepted.

Attendance Register of Audit Committee

Member	23/9/2015	25/11/2015			
Councillor Patrick Conolly	A	A			
Councillor Paul Rasmussen	A	✓			
Councillor Bob Porter (Alternate)	N/A	N/A			
Ms Ellen Hegarty	A	A			
Mr Harry Khouri	✓	✓			
Ms Nisha Maheshwari (Chair)	✓	✓			

Key: **A** = Formal Apology **✓** = Present **x** = Absent - no apology

Ms Maheshwari advised that the minutes of the 26 August 2015 incorrectly noted her as an apology. On checking following this meeting, it was found that Ms Maheshwari arrived at 4.15pm, which was after the meeting had been opened by the Deputy Chair, Ms Ellen Hegarty.

Councillor Paul Rasmussen noted that the minutes of the 26 August 2015 had noted him as being an apology, however on checking, it was found that this was correct.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Paul Rasmussen and seconded by Mr Harry Khouri that the Minutes of the Audit Committee meetings held on the 26 August 2015 and 23 September 2015, be confirmed.

SECTION 3 - Reports for Determination

Item: 1 AC - Status Report - Management Responses to Audit Recommendations - October 2015 - (91369, 79351, 121470)

DISCUSSION:

- Mr Kelly referred to Delegations and advised that Council's Manager, Human Resources retires this Friday and that a new Manager, Human Resources had been appointed who will continue to work with the Manager Information Services. Council currently has a suite of products that meets its requirements, in contrast to the software packages recently reviewed, so this recommendation will be dealt with in-house.
- Mr Kelly referred to Governance Health Check and advised that Council's Manager, Corporate Services and Governance is on maternity leave and that an external appointment was made to fill the position during this leave. Mr Kelly has had discussions with the newly appointed Manager, Corporate Services and Governance and he will deal with the Conflicts of Interest Policy for Councillors and Staff. A report will be prepared for Council in March 2016.
- Mr Kelly referred to Procurement and advised that the procedures associated with Council's Tendering OMS are being formalised, with only a couple to finalise relating to formalising the contract and negotiating. The process is already happening and the process will now be documented. Once finalised, the procedures and relevant templates will be reported to MANEX.
 - Ms Galea advised Council now has a Tendering and Contracts Officer whose primary role is to assist people across the organisation with the tendering procedures and processes. Council is now value adding.
- Ms Maheshwari indicated that if the majority of the procedures/ templates will be completed in the next year, is there another audit planned to identify any further requirements.
 - Mr Kelly advised there are further Procurement procedures to be finalised in 2016, however, a future audit could be scheduled. The review of Council's procedures has been an area of concern in the past as the process was ad hoc.
- Ms Maheshwari enquired if Council has implemented more controls as part of this process.
 - Ms Galea advised that the controls have been in place for some time. A bi-annual audit has been established and Ms Galea conducts spot checks. Ms Galea advised it's about getting people to comply. Its more than compliance, we are adding value at the front end of the process by asking the necessary questions, testing the market properly and thinking about what we are asking for.
 - Mr Jackson advised that Council's Procurement process has improved considerably with the new process.

RECOMMENDATION TO COMMITTEE:

That the attached Status Report on Management Responses regarding Audit recommendations be noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Paul Rasmussen, seconded by Mr Harry Khouri.

That the attached Status Report on Management Responses regarding Audit recommendations be noted.

Item: 2 AC - Governance Health Check - (91369, 79351, 121470)

DISCUSSION:

- Mr Kelly advised that Council is doing well against the benchmarks provided under the Governance Health Check which was developed by ICAC and the Local Government Professionals and the Office of Local Government's Promoting Better Practice Toolkit to help councils improve their processes.
- Mr Jackson advised the development of the Governance Health Check was the result of ongoing measures reported by councils to the Department of Local Government.
- Ms Maheshwari enquired about the age of the Toolkit and Mr Kelly advised the Toolkit is approximately two years old and includes the requirements under the Code of Conduct and the Code of Meeting Practice. Mr Kelly advised that Council do exceeds the requirements under the Model Code of Conduct.
- Mr Kelly advised that Council has highlighted the need to include drugs and alcohol, and a mobility focus.
- Mr Kelly indicated that Conflicts of Interest is an outstanding matter, however, is covered under the Code of Conduct, which outlines what has to happen if Council does have an issue. Council does ensure that staff understand what to do if there is a conflict of interest.
- Mr Kelly referred to the recommendation for a Register of Outside Employment notifications to be established and noted that once a person lodges an application for secondary employment, the request is considered in line with Council's Operational Management Standard, and approval is given by the General Manager. However, there has been no follow-up regarding any change in circumstances. The Manager Human Resources will be required to review this approval on an annual basis.
- Mr Kelly referred to Council's Management Standards (OMS) and Council's Policies and Procedures and advised a Document Control system will be established to ensure these are reviewed on an ongoing basis rather on an ad hoc basis. Some existing policies go back to the year 2000 and may no longer be needed.

RECOMMENDATION TO COMMITTEE:

That the Internal Audit Report – Governance Health Check be received and noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Paul Rasmussen, seconded by Mr Harry Khouri.

That the Internal Audit Report – Governance Health Check be received and noted.

Item: 3 AC - Roads and Maritime Services DRIVES Database - (91369, 79351, 121470)

DISCUSSION:

- Mr Kelly advised that Council found the completion of the Roads and Maritime Services (RMS) Drive 24 System Local Government Compliance Audit Template a challenge.
- Ms Maheshwari enquired if this was the first time that completion of the template was required by the RMS. Mr Kelly advised that the template is new. Previously Council provided a copy of its annual compliance audit report to the RMS in accordance with the Terms of the Agreement, however, Council has now been advised the template is to be completed in future on an ongoing basis. Mr Jackson noted that the RMS are protective and being thorough about their requirements.
- Mr Kelly advised that there are only two people on Council's staff who have access to the DRIVES database, and one of those do not use the system, they only use it to check. This is a sensitive area and Council handles it very well.
- Ms Maheshwari noted that there are a few typos in the completed template to the RMS. Mr Kelly advised that Council's Compliance and Enforcement Co-ordinator reviews the content and this is also documented.

RECOMMENDATION TO COUNCIL:

That the Internal Audit Report – Roads and Maritime Services DRIVES Database, be received and noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Paul Rasmussen, seconded by Mr Harry Khouri.

That the Internal Audit Report – Roads and Maritime Services DRIVES Database, be received and noted.

ORDINARY MEETING
Reports of Committees

Item: 4 AC - Financial Statements - (91369, 79351, 121470)

DISCUSSION:

- Ms Maheshwari referred to the review of the Financial Statements by the Committee at its meeting in September 2015 and enquired if the Auditor, PricewaterhouseCoopers made any comments regarding issues following the audit.
- Ms Galea advised that when the Financial Statements were discussed at the Committee meeting, the audit was already in progress and the auditor indicated that at that stage, the Financial Statements were satisfactory. The Financial Statements were presented to Council on 10 November 2015 with a presentation given by the Auditor.
- Ms Galea advised that since the audit, the Office of Local Government has issued an audit check list to Councils. Council has undertaken a self-assessment and has developed solutions where required. Council's auditor has audited the self-assessment and has provided recommendations of what Council needs to do for the next year.
- Councillor Rasmussen referred to the PricewaterhouseCoopers report and indicated it was a good report when considering the numbers and benchmarks.

RECOMMENDATION:

That the attached reports from PricewaterhouseCoopers be noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Harry Khouri, seconded by Councillor Paul Rasmussen.

That the attached reports from PricewaterhouseCoopers be noted.

Item: 5 AC - Meeting Dates for 2016 - 91369, 79351, 121470)

DISCUSSION:

- Ms Maheshwari noted that the meeting dates have been moved from the usual pattern.
- Mr Kelly advised the dates were moved to avoid a clash with another Committee.

RECOMMENDATION TO COMMITTEE:

That the Audit Committee meeting dates for 2016, as outlined in the report, be approved.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Harry Khouri, seconded by Councillor Paul Rasmussen.

That the Audit Committee meeting dates for 2016, as outlined in the report, be approved.

ORDINARY MEETING
Reports of Committees

SECTION 4 - General Business

There were no matters raised.

The meeting terminated at 4.40pm.

Submitted to and confirmed at the meeting of the Audit Committee held on 9 March 2016.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC Human Services Advisory Committee - 11 February 2016 - (123486, 95498)

The meeting commenced at 9:40am in Council Chambers.

Present: Ms Vickie Shackley, Chairperson
 Councillor Barry Calvert, Deputy Chairperson
 Councillor Mary Lyons-Buckett, Hawkesbury City Council
 Ms Denise Handcock, Peppercorn Services
 Mr Douglas Carbery, Community Representative
 Ms Birgit Walter, Community Representative

Apologies: Ms Jenny Ranft, Wentworth Community Housing
 Ms Jacquie Menzies, Community Representative
 Mr Glenn Powers, Community Representative
 Ms Megan Ang, Hawkesbury City Council
 Mr Matthew Owens, Hawkesbury City Council

In Attendance: Mr Joseph Litwin, Hawkesbury City Council
 Mr Michael Laing, Hawkesbury City Council
 Mr Stephen Lillie, Hawkesbury District Health Service
 Ms Robyn Kozjak, Minute Taker, Hawkesbury City Council

REPORT:

The Chair welcomed guest speaker Mr Stephen Lillie from Hawkesbury District Health Service.

RESOLVED on the motion of Mr Carbery and seconded by Councillor Calvert that the apologies be accepted.

CONFIRMATION OF MINUTES

Mr Carbery referred to Item 1 of the previous Minutes and noted point 4 of the resolution where the HSAC was to be given the opportunity to review and provide input into draft correspondence to NBMLHD. Mr Carbery noted the draft response was the subject of Item 1 in the current HSAC agenda, however, raised concern his request for the draft letter to be emailed to the Committee (prior to it being published), did not occur.

9:43am - Councillor Lyons-Buckett arrived at the meeting.

Mr Carbery suggested as the Committee met only four times per year, more communication should be had via email, to progress matters in between meetings.

RESOLVED on the motion of Mr Carbery and seconded by Ms Walter that the Minutes of the Human Services Advisory Committee held on the 5 November 2015, be confirmed.

ORDINARY MEETING
Reports of Committees

Attendance Register of Human Services Advisory Committee

Member	11.02.16				
Councillor Barry Calvert	✓				
Councillor Mary Lyons Buckett	✓				
Ms Vickie Shackley	✓				
Ms Denise Handcock	✓				
Mr Douglas Carbery	✓				
Ms Jenny Ranft	A				
Mr Glenn Powers	A				
Ms Jacquie Menzies	A				
Ms Birgit Walter	✓				

Key: A = Formal Apology

✓ = Present

X = Absent - no apology

SECTION 3 - Reports for Determination

Item 1: HSAC - Draft Correspondence - Nepean Blue Mountains Health District (NBMHD) Business Plan 2015 - 2016 - (123486)

Previous Item: 1, HSAC (5 November 2015)

DISCUSSION:

- The Committee raised discussion in relation to gaps in health services in the Hawkesbury and determined to request a meeting with Mr Strephon Billingham, CEO of St John of God Health Care / Hawkesbury District Health Service to identify areas of disadvantage and specific gaps in health services in the Hawkesbury region. Ms Handcock offered to attend that meeting.

RECOMMENDATION TO COMMITTEE:

That the:

- Information be received.
- HSAC review the attached draft correspondence and make comments at the next HSAC meeting of 11 February 2016.
- Final correspondence be forwarded to Ms Kay Hyman, Chief Executive - NBMLHD and a copy of this correspondence be forwarded to the NSW Health Minister, The Hon. Jillian Skinner, NSW Minister for Health, and the Hon. Dominic Perrottet, Member for Hawkesbury.

ORDINARY MEETING
Reports of Committees

MOTION:

RESOLVED on the motion of Councillor Calvert, seconded by Councillor Lyons-Buckett.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the:

1. Committee request that Council make representations to Nepean Blue Mountains Local Health District as per draft correspondence, with amendments as discussed.
2. Committee request that Council authorise a delegation of members of the Human Services Advisory Committee to attend a meeting with the CEO of St John of God Health Care / HDHS to identify specific health issues and services needed by Hawkesbury residents.
3. Matter be further reported to Council.

SECTION 5 - General Business

- Mr Lillie gave an overview of the status of the transition of Hawkesbury District Health Service to St John of God Health Care.
- Mr Laing advised Kaleidoscope Lodge in Bells Line of Road was going through renovation which would provide crisis accommodation for women. Mr Laing advised One80TC would provide six units for women with drug or alcohol addiction, and Christ Mission Possible would provide six units for women in crisis such as escaping domestic violence.
- Mr Lillie advised the next Hawkesbury Homelessness Hub and Hub Meeting were scheduled as follows:
 - Hawkesbury Hub - 3 March 2016 - St Matthews Church, Windsor
 - Meeting - Hawkesbury Hub - 5 May 2016

The meeting closed at 10:40am.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC **Floodplain Risk Management Advisory Committee - 18 February 2016 - (86589, 95498)**

The meeting commenced at 4:05pm in Council Chambers.

Present: Councillor Bob Porter, Chairperson
Mr Les Sheather, Deputy Chairperson
Councillor (Dr) Warwick Mackay, (OAM) Hawkesbury City Council
Councillor Jill Reardon, Hawkesbury City Council
Mr Trevor Devine, Community Representative
Mr Damian Moon, Community Representative
Mr Harry Panagopoulos, Office of Environment and Heritage

Apologies: Councillor Mary Lyons-Buckett, Hawkesbury City Council
Councillor Kim Ford, Hawkesbury City Council
Mr Kevin Jones, SES
Mr Geoffrey Bessell, Community Representative
Mr Ted Books, Community Representative
Mr Chris Amit, Hawkesbury City Council

In Attendance: Mr Matthew Owens, Hawkesbury City Council
Mr Philip Pleffer, Hawkesbury City Council
Ms Robyn Kozjak - Minute Taker, Hawkesbury City Council

Non Attendance: Ms Kirstan Smelcher, Department of Defence
Snr Inspector Robert Bowman, Department of Primary Industries
Mr Peter Cinque, SES

REPORT:

RESOLVED on the motion of Councillor Reardon and seconded by Mr Devine that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Reardon and seconded by Mr Sheather that the Minutes of the Floodplain Risk Management Advisory Committee held on 3 December 2015, be confirmed.

Attendance Register of Floodplain Risk Management Advisory Committee

Member	03.12.15	18.02.16			
Councillor Bob Porter - Chairperson	✓	✓			
Mr Les Sheather - Deputy Chairperson	✓	✓			
Councillor Kim Ford	✓	A			
Councillor Mary Lyons-Buckett	✓	A			
Councillor Jill Reardon	✓	✓			
Councillor (Dr) Warwick Mackay OAM	✓	✓			
Mr Peter Cinque OAM - (SES Sydney Western Division)	A	X			
Mr Harry Panagopoulos - (Office of Environment and Heritage)	✓	✓			
Ms Kirstan Smelcher - (Dept of Defence)	A	X			
Snr Inspector Robert Bowman - (Industry & Investment NSW) - Primary Industries	A	X			
Mr Kevin Jones - (SES Headquarters)	✓	A			
Mr Geoffrey Bessell - (Community Member)	A	A			
Mr Damian Moon - (Community Member)	A	✓			
Mr Trevor Devine - (Community Member)	✓	✓			
Mr Ted Books - (Community Member)	✓	A			

Key: A = Formal Apology

✓ = Present

X = Absent - no apology

SECTION 3 - Reports for Determination

ITEM: 1 FRMAC - Declarations of Interest - (86589)

RECOMMENDATION TO COMMITTEE:

That:

1. General disclosures of interest listed in this report be received.
2. Other specific disclosures of interest be declared if deemed appropriate.

MOTION:

RESOLVED on the motion of Councillor Reardon, seconded by Mr Devine.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. General disclosures of interest listed in this report be received.
2. Other specific disclosures of interest be declared if deemed appropriate.

ITEM: 2 FRMAC - Floodplain Management Grants Program - (86589)

DISCUSSION:

- Mr Devine noted the closing date (17 March 2016) for applicants to apply for funding and asked if it was possible to be given an extension of time until the Taskforce report was received. Mr Devine added he believed it was not practical to put items from the Plan into effect until the Committee had knowledge of the content of the government report.

Mr Panagopoulos suggested an application be made as it was not possible for an extension of time to be granted, adding the Committee was not obliged to accept an offer of funding should it be successful. Mr Panagopoulos advised most of the items in No. 1 of the Plan were being dealt with by the Taskforce and subsequently identified other items in the Plan that the Committee may wish to consider.

4.15pm - Councillor Mackay arrived at the meeting

- Discussion and debate ensued in relation to other items in the Plan and the Committee agreed to an application for funding being made for Item 1(h) - (Installation of flood icons/markers) and Item 5 - (Investigation of Voluntary House Raising).

RECOMMENDATION TO COMMITTEE:

That the:

1. Committee make a recommendation to set a priority list of actions from Item 1 - Community Flood Education and Resilience section of Table 9.1 of the Hawkesbury Floodplain Risk Management Plan.
2. Priority list be tested by staff against the funding criteria for the NSW Government Floodplain Management grant program with the project that has the highest priority and greatest compatibility with the funding criteria to be used in an application for funding under that program.

MOTION:

RESOLVED on the motion of Councillor Reardon, seconded by Mr Moon.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Committee recommends the actions listed in Item 1(h) and Item 5 of Table 9.1 of the Floodplain Risk Management Study and Plan be identified as priorities for grant funding.

SECTION 5 - General Business

- Mr Sheather referred to an issue previously raised in relation to blocked drainage channels and asked whose responsibility it was to clear the drains. Mr Sheather advised the main road to Wiseman's Ferry was closed for a week as the bridge at McKenzies Creek was under water due to inadequate drainage.
- Councillor Porter advised the Hawkesbury River County Council was aware of the issue and a representative of that organisation (a State Member) was to bring the matter to the attention of Local Member for Hawkesbury, Mr Perrottet.

The meeting closed at 5pm.

oooO END OF REPORT Oooo

ordinary

section 5

notices of motion

ORDINARY MEETING

Notices of Motion

ORDINARY MEETING

Notices of Motion

SECTION 5 - Notices of Motion

NM **Audit of Rural Fire Service Infrastructure - (79351, 105109, 125612, 80104)**

Previous Item: NM, Ordinary (23 February 2016)

Submitted by: Councillors M Lyons-Buckett and C Paine

NOTICE OF MOTION:

That Council carry out an audit on the rural fire service local brigade infrastructure and distribution of appliances among local brigades.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

ORDINARY MEETING

Notices of Motion

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillor Questions from Previous Meetings and Responses - (79351)

REPORT:

Questions - 23 February 2016

#	Councillor	Question	Response
1	Rasmussen	Enquired if it is possible to include an attendance register in the minutes of the Local Traffic Committee.	The Director Infrastructure Services advised that as this Committee operates under a delegation from RMS, the issue of an attendance register is a matter for the Committee's determination. It should be noted that voting and commentary can be done by correspondence for this Committee. The issue will however be raised for the Committee's consideration.
2	Rasmussen	Requested an update on Richmond polo fields court case.	The Director City Planning advised that this matter was the subject of a Councillor Briefing Session on 1 March 2016.
3	Rasmussen	Enquired when Council will start to issue rates notices via email.	The Director Support Services advised that historically the demand from ratepayers to have rates notices delivered electronically has been low. However, Council Officers have been reviewing ways to deliver rates notices other than by mail so as to minimise postage costs and environmental footprint. Electronic delivery options include email, Digital Mailbox and Bpay View. The determination of cost-effective options that could be implemented will be followed by a mail-out to all ratepayers offering electronic delivery as an option. Council cannot impose an electronic delivery method unless the ratepayer agrees and signs up for the service. It is expected that the process is likely to be completed within the next few months.

ORDINARY MEETING

Questions for Next Meeting

#	Councillor	Question	Response
4	Rasmussen	Enquired if legal advice could be sought to verify the comments that were made at the public inquiry into the amalgamation process of 22 February 2016, regarding the need for a plebiscite to be held for forced council amalgamations.	<p>The General Manager advised that in connection with proposed amalgamations of Councils or boundary alterations the conduct of a postal survey, opinion poll or a formal poll is only required in the case of "a joint proposal of 2 or more councils" (Section 218F (3) of Local Government Act) that is a proposal submitted/initiated by 2 or more councils.</p> <p>When a proposal is referred by the Minister to the Boundaries Commission or to the Department Chief Executive (current situation with the appointment of "Delegates") the Commission or Delegate "may conduct (in such manner as it thinks appropriate) an opinion survey or poll of the residents or ratepayers" (Section 265 of the Act which also applies to the Delegate by way of Section 218F (2) of Act).</p> <p>Council's solicitors have confirmed the conduct of an opinion poll or survey (or plebiscite) is not a requirement of the current Government initiated merger proposal referred to Delegates as the Act says they "may conduct" these and is only a requirement in respect of "a joint proposal of 2 or more councils", i.e. a proposal submitted by 2 or more councils.</p>
5	Williams	In relation to Redbank Creek, enquired how can it be claimed there has been only one breach of conditions if there has been at least five to seven events where the turbidity has exceeded more than 400ntu.	The Director City Planning advised that the previous statements related to a breach of the development consent for this development. The development consent conditions do not state any requirements in relation to turbidity. However, these matters are being pursued via other legislation. The matter of compliance for this development is ongoing and being pursued by staff.

ORDINARY MEETING**Questions for Next Meeting**

#	Councillor	Question	Response
6	Williams	In relation to Redbank Creek, noted that Condition 24 (h) of the consent for DA0471/14, details the need for water quality monitoring at the Redbank North Richmond development site and enquired if the developer complied as was required during the pre-construction stages of the development.	The Director City Planning advised that, despite multiple requests, not all information is available from the developer in relation to this matter. Staff have advised the developer of their responsibilities in this matter and compliance is being pursued .
7	Williams	Enquired if there were any concerns raised by the Redbank North Richmond developer in their monitoring of the water quality.	The Director City Planning advised that the results from the water monitoring to date indicated that there were some concerns with the runoff from the site. These results have been utilised by staff and the developer to require and design additional erosion and sediment control measures to improve results.
8	Williams	Enquired as to how many water quality reports Council received from the Redbank North Richmond developer, what the results were and if Council required any further action.	The Director City Planning advised that to date one report has been received as advised above. Staff are pursuing the developer for additional reports in order to monitor runoff from the site.
9	Williams	Suggested that the conditions/controls pertinent to the Redbank North Richmond development were clearly ineffective and enquired if these would be strengthened for future developments.	<p>The Director City Planning advised that, as stated in a question response to the meeting of 23 February 2016, a review of the existing approvals and controls was undertaken by a third party (funded by the developer). The review results, the existing erosion and sediment controls and the potential wording of future consent conditions was workshopped with the developer, construction contractor, staff and the third party reviewer.</p> <p>Any new development consent conditions will take these matters into consideration.</p>

ORDINARY MEETING**Questions for Next Meeting**

#	Councillor	Question	Response
10	Williams	Enquired if Council now has the capacity to ensure our environment and waterways are protected to a reasonable standard, as a result of pollution of Redbank Creek.	The Director City Planning advised that whilst Council has finite resources to deal with all issues, Council compliance staff within the Environment and Regulatory Services Branch and the Development Engineering staff have recently acquired additional (0.5EFT) resources. Whilst all compliance and monitoring tasks are important, at times some matters require prioritisation that may not result in optimal satisfaction with all of the community. Development compliance monitoring is prioritised in these cases to ensure protection of the environment is maximised.

oooO END OF REPORT Oooo

ORDINARY MEETING
CONFIDENTIAL REPORTS

CONFIDENTIAL REPORTS

Item: 51 **IS - Tender No. 00969 - Cleaning of Council Buildings - (95495, 79340)**
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)(d) of the Act as it relates to tenders for the provision of cleaning of various Council buildings and the information is regarded as being commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ORDINARY MEETING
CONFIDENTIAL REPORTS

Item: 52

IS - Tender No. 00972 - Floor Coverings to Various Council Sites - (95495, 79340) 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)(d) of the Act as it relates to details concerning tenders for the supply of goods and/or services to Council and it is considered that the information is regarded as being commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ORDINARY MEETING
CONFIDENTIAL REPORTS

Item: 53 **IS - Tender No. 00973 - Modifications to Hawkesbury Oasis Aquatic and Leisure Centre and Various Child Care Centres - (95495, 79340, 93487, 73685, 34584, 97505, 73510, 78578) 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)(d) of the Act as it relates to details concerning tenders for the supply of goods and/or services to Council and it is considered that the release of the information would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ORDINARY MEETING
CONFIDENTIAL REPORTS



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