



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 13 August 2013

location: council chambers

time: 6:30 p.m.



mission statement

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

How Council Operates

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

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

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

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

Meeting Procedure

The Mayor is Chairperson of the meeting.

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

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

Public Participation

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

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

Voting

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

Planning Decision

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

Business Papers

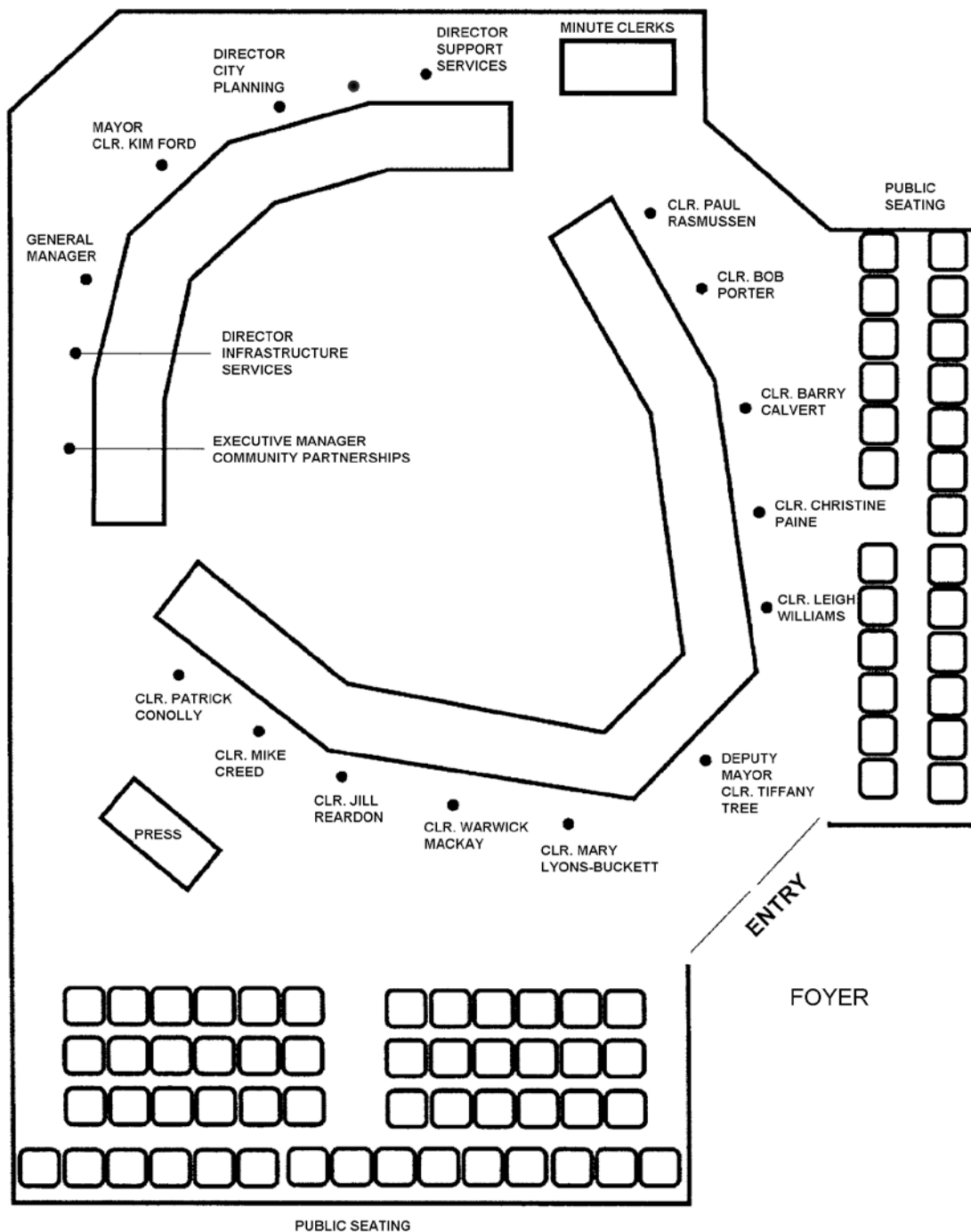
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

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

Further Information

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

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- **EXCEPTION REPORT - Adoption of Items Not Identified for Discussion and Decision**
- **SECTION 4 - Reports for Determination**

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SECTION 1 - Confirmation of Minutes

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SECTION 3 - Notices of Motion

RM - Rescission Motion - Sand Mining the Richmond Lowlands - (79351, 111627, 125610, 120428, 79353)

Submitted by: Councillor Tiffany Tree, Deputy Mayor
 Councillor Patrick Conolly
 Councillor Kim Ford, Mayor

RESCISSION MOTION:

That Council's resolution in respect of NM2 as passed by the Council on 9 July 2013 regarding the investigation of Sand mining be rescinded.

NOTE BY MANAGEMENT:

Council's resolution of 9 July 2013 in connection with this matter was as follows:

"That Council call for a report on the need for and possibility of establishing an independent panel of interested and informed community members and Council Staff to investigate the likelihood of future extraction of resources from the Richmond Lowlands."

oooO END OF RESCISSION MOTION Oooo

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Notices of Motion

NM1 - Rates 2014/2015 - (79351, 125612)

Submitted by: Councillor M Lyons-Buckett

NOTICE OF MOTION:

That Council resolve to:

1. Have a report submitted regarding;
 - a) The average change and ranges of increases/decreases in rates payable resulting from the changes to the distribution of the Notional Yield for the 2013/2014 year, such details to be provided in respect of each category/subcategory and the five suburbs with the highest number of properties in the residential category and rural-residential subcategory.
 - b) Council's current policy and/or procedures for managing approaches received from ratepayers experiencing financial hardship.
 - c) Possible additional measures that could be taken to assist ratepayers who may be experiencing additional difficulties as a result of the changes to the distribution of the Notional Yield in 2013/2014.
2. Give assurance to the ratepayers of the Hawkesbury Local Government area that any rate increase in the financial year 2014/2015 be restricted to the rate pegging amount (or if rate pegging should cease then equivalent to the CPI).
3. Ensure that any proposed alterations to the rating system are extensively and effectively communicated to the ratepayers to an extent which enables them to predict the extent of the impact from any change.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

ORDINARY MEETING

Notices of Motion

NM2 - Councillors Apologise to Rate Payers - (79351, 125612)

Submitted by: Councillor M Lyons-Buckett

NOTICE OF MOTION:

That Council request the Mayor, Deputy Mayor and Councillors Porter, Creed, Conolly, Reardon and Mackay apologise to the ratepayers of the Hawkesbury who have suffered an unprecedented imposition of additional financial burden through a rate increase, and further that these Councillors explain to the community how they consider such redistribution to equate to a 'fairer' system.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 157 **GM - Sydney Aviation Capacity Scoping Study - Update Following Councillor Briefing Session by Department of Infrastructure and Transport - (79351)**

Previous Item: MM, Ordinary (14 May, 2013)
 NM, Ordinary (5 February, 2013)
 207, Ordinary (27 November, 2013)
 NM, Ordinary (13 November, 2012)
 131, Ordinary (31 July 2012)
 46, Ordinary (24 April, 2012)
 22, Ordinary (23 February, 2010)
 23, Ordinary (23 February, 2010)

REPORT:

Executive Summary

For some time the Australian Government has been exploring the aviation capacity needs of Sydney, and the matter is of relevance to Council and the Hawkesbury community as RAAF Base Richmond is continuously raised and considered as having a role in the commercial aviation mix.

In March 2012, the Australian and NSW Governments received the Joint Study on Aviation Capacity in the Sydney region. Its purpose was to identify the Australian Government's preferred second Sydney airport site, being the Wilton site, and to progress a commitment to it.

On Friday 10 May 2013, the Australian Government released the much awaited Sydney Aviation Capacity Scoping Study, entitled, "*A Study of Wilton and RAAF Base Richmond for civil aviation operations*". A summary of the findings for RAAF Base Richmond in the Scoping Study is outlined in the Background to this report.

On the same day the Scoping Study was released, the General Manager of Sydney Aviation Capacity, Department of Infrastructure and Transport (the Department), emailed all General Managers of Western Sydney councils and, in part, advised that local councils would be involved and briefed on the next steps in the scoping study.

Council at its meeting held on 14 May 2013 considered a Mayoral Minute on the Scoping Study and the actions undertaken since the last Council resolution on the matter and resolved that a further report be submitted following the briefing to Council referred to above.

As further advice had not been received from the Department regarding the briefing the Department was contacted to ascertain when the briefing would take place. The Councillor Briefing Session on the Richmond RAAF Base next steps of the Scoping Study was subsequently held on 31 July 2013. A summary of points made by the General Manager of Sydney Aviation Capacity at the briefing is outlined in the Background to this report.

Consultation

This report is provided to update Council on developments since its last resolution and at this stage does not constitute a trigger for community engagement under Council's Community Engagement Policy.

Background

For some time the Australian Government has been exploring the aviation capacity needs of Sydney, and the matter is of relevance to Council and the Hawkesbury community as RAAF Base Richmond (the base) is continuously raised and considered as having a role in the commercial aviation mix.

In March 2012, the Australian and NSW Governments received the Joint Study on Aviation Capacity in the Sydney region (the Joint Study). Its purpose was to identify the Australian Government's preferred second Sydney airport site, being the Wilton site, and to progress a commitment to it. It saw the potential of RAAF Base Richmond as playing a role in Sydney aviation, possibly in response to changing Defence needs and in the commercial mix while the Wilton airport was built or even once the second airport was built. The next report to be undertaken was the Scoping Study.

On Friday 10 May 2013, the Australian Government released the much awaited Sydney Aviation Capacity Scoping Study, entitled, *"A Study of Wilton and RAAF Base Richmond for civil aviation operations"*. Its purpose was to:

- a) investigate and assess the suitability of the proposed Wilton site as a second Sydney airport;
- b) explore the use of RAAF Base Richmond for limited civil operations.

On the same day the Scoping Study was released, the General Manager of Sydney Aviation Capacity, within the Department, emailed all General Managers of Western Sydney councils and in part advised that the councils would be involved and briefed soon on the next steps in the scoping study.

A copy of the Sydney Aviation Capacity Scoping Study entitled, *"A Study of Wilton and RAAF Base Richmond for civil aviation operations"* has previously been provided to councillors and the report and technical papers that underpin it are available on the Department's website at:

<http://www.infrastructure.gov.au/aviation/scopingstudy/index.aspx>

Council at its meeting held on 14 May 2013, considered a Mayoral Minute on the Scoping Study and the actions undertaken since the last Council resolution on the matter. Subsequently, Council resolved:

"That the information relating to the recent release of the report titled "A study of Wilton and RAAF Base Richmond for civil aviation operations" be noted and a further report be submitted to Council following the briefing sessions referred to in the email of 10 May 2013 from the General Manager, Sydney Aviation Capacity within the Department of Infrastructure and Transport."

As further advice had not been received from the Department regarding the briefing for Council the Department was contacted to ascertain when the briefing would take place. The Councillor Briefing Session on the base next steps of the Scoping Study was subsequently held on 31 July, 2013.

The following is a summary of the findings for limited civil aviation use of the base from the Scoping Study:

- a) Use could occur under two scenarios, namely with the existing runway configuration and with the addition of a further north-south runway. The existing runway configuration has potential to provide, eventually, for up to 5 million passenger movements per year. The addition of a north-south runway has the potential, eventually, for up to 20 million passenger movements per year (if progressed).
- b) While use may be appropriate to provide supplementary capacity for Sydney its costs to expand would not be favoured in lieu of a greenfield second airport development for Sydney. However, the study suggests "if the Government decides not to proceed with a Greenfield airport, serious consideration should be given to planning and protecting the future capacity to build the north-south runway at Richmond."

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- c) RAAF's current use of the base does not preclude a level of civil operations given it is an operating airfield. Such services could commence later this decade, and significantly earlier than any greenfield site.
- d) The base cannot provide sufficient capacity for Sydney's long-term aviation needs.
- e) A decision to use the base with a north-south runway would involve significant costs and the acquisition of land from the University of Western Sydney, as well as substantially more road and rail investment.
- f) Any decision to consider expanding the base's airfield would need to be made in the wider context of how the greenfield airport would be developed
- g) The Minister for Infrastructure and Transport indicated the Australian Government will;
 - *"conduct geotechnical analysis of the Wilton site to determine the impact mining subsidence could have on an airport development; and*
 - *commence discussions to explore the possibility of opening up RAAF Base Richmond to civil aviation."*

The following is a summary of points made by the General Manager of Sydney Aviation Capacity on the Scoping Study, at the Councillor Briefing Session on 31 July 2013:

- The next steps of the Scoping Study will look into limited civil operations at the base.
- The base does not have as much coverage in the media as the Wilton site, the Badgerys Creek site or Sydney Airport; but he indicated he was aware local residents are interested in the future of the base.
- From the Joint Study the Federal Government's strategy is:
 1. Make the most of Sydney Airport.
 2. Better utilise existing aviation infrastructure (airports and Defence airfields) that are close to markets, i.e. the base.
 3. Establish a second Sydney Airport.
- The study looked at:
 - a) A Demand Analysis
 - b) The social and economic benefits of using the base, with the potential to generate some \$420 million to NSW GDP and create 6,550 jobs by 2035.
 - c) The capacity of the base's runway in the current format is small, but could handle most domestic flights. An initial operating capacity could be 1 million passengers/ year (about 9 flights in and out per day) and possibly start out at 3 flights in and out per day and build to 9 flights in and out per day. Planned full capacity could be up to 5 million passengers per year.

Williamtown RAAF Base/ Newcastle Airport have 1.2 million passengers per year and this is 9 flights/day. Gold Coast Airport has 5 million passengers per year.
 - d) Operational issues with Sydney Airport. If civil movements at the base more than 15-20 per day it would affect Sydney Airport's operations (the flight from the base would require clearance from Sydney traffic Control). Therefore, looking at civil flights at the base up to 15-20 movements per day in current format.

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- e) Operational timeframe. Looking at civil access at the base by 2017- 2020 (domestic flights).
- f) Retaining priority use of the base by Defence.
- g) Based on passengers and flight movement projections for Australia/ Sydney, the operation of Sydney Airport and the capacity of the base in its current format, the base would only account for 10% of Sydney's future aviation needs. It could not be the second Sydney airport in current format.
- The next steps of the Scoping Study are:
 1. Wilton (second airport). Investigate Mine Subsidence impact.
 2. RAAF Base. Work on a strategy to achieve some civil access to the base with Defence, including where to build civil infrastructure onsite; and work on long term vision for the base in Defence policy. Limited comment on the offsite generated infrastructure needs for civil access.
 3. Department to report back to the Federal Government on (1) and (2), including a Department and Defence united position on civil access to the base. Anticipated this would occur by the end of 2013.

Conformance to Community Strategic Plan

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

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region,

and is also consistent with the nominated strategy in the Community Strategic Plan, being;

- Actively support the retention of the RAAF Base and enhanced aviation related industry, building on existing facilities,

and is also consistent with a goal in the Community Strategic Plan, being:

- RAAF Base is retained as an active aviation centre.

Financial Implications

There are no funding implications associated directly with this report at this stage.

RECOMMENDATION:

That the information resulting from the Councillor Briefing Session on the next steps of the Sydney Aviation Scoping Study that may develop a strategy for achieving some civil aviation access to RAAF Base Richmond by representatives of the Department of Infrastructure and Transport be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 158

GM - 2013 Sister Cities Australia National Conference (79351, 110165)

REPORT:

Executive Summary

The 2013 Sister Cities Australia National Conference will be held 10 - 13 November 2013 in Broken Hill, NSW. Due to its relevance to Council's business, it is recommended that the 2013 Sister Cities Australia National 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 2013 Sister Cities Australia National Conference will be held 10 – 13 November 2013 in Broken Hill, NSW. The aim of the 2013 Sister Cities Conference is to build on the opportunities presented at the 2012 Conference. The Conference intends to explore the key elements required for the Sister Cities movement to continue and thrive both domestically and internationally.

Cost of attendance at the 2013 Sister Cities Australia National Conference will be approximately \$3,000 per delegate.

The 2013/2014 Budget contains provision of \$45,500 for Delegates Expenses with approximately \$31,235 remaining available after commitments of approximately \$14,265 are taken into account.

Conformance to Community Strategic Plan

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

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

and is also consistent with the nominated strategy in the Community Strategic Plan being:

- Broaden the resources and funding available to our community by working with local and regional partners as well as other levels of government.

Financial Implications

Funding for the cost of attendance at this Conference will be provided from the Delegates Expenses within the 2013/2014 Budget.

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RECOMMENDATION:

That the attendance of nominated Councillors and staff as considered appropriate by the General Manager, at the 2013 Sister Cities Australia National Conference at an approximate costs of \$3,000 per delegate be approved.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 159 GM - 16th International RiverSymposium - (79351)

REPORT:

Executive Summary

The 16th International RiverSymposium will be held 23 - 26 September 2013 in Brisbane, Queensland. Due to the relevance to Council's business, it is recommended that the 16th International RiverSymposium 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 16th International RiverSymposium will be held 23 – 26 September, 2013 in Brisbane, Queensland. The International RiverSymposium is a world-renowned annual conference focused on a holistic approach to river and water management. The theme of the 2013 *Symposium is Rivers: Linking Water – Energy – Food*. The RiverSymposium provides an opportunity to look at the linkages that rivers provide to water-energy-food. It will also allow dialogue to continue and build the knowledge base and capacity to inform policy decisions that must include trade-offs between river basin protection and sustainable water, energy and food security.

Cost of attendance at the 16th International RiverSymposium will be approximately \$3,500 per delegate.

The 2013/2014 Budget contains a provision of \$45,500 for Delegates Expenses with approximately \$31,235 remaining available after commitments of approximately \$14,265 are taken into account.

Conformance to Community Strategic Plan

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

- To look after our cultural and environmental assets for future generations so that they too can enjoy and benefit from, a clean river and natural eco-systems, rural and cultural landscape.
- 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 Community Strategic Plan being:

- Effective management of our rivers, waterways, riparian land, surface and groundwaters and natural eco-systems through local action and regional partnerships.

Financial Implications

Funding for the cost of attendance at this Conference will be provided from the Delegates Expenses within the 2013/2014 Budget.

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RECOMMENDATION:

That the attendance of nominated Councillors and staff as considered appropriate by the General Manager, at the 16th International RiverSymposium at an approximate cost of \$3,500 per delegate be approved.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 160 **CP - DA0401/12 - Lot 101 DP 1168480 - 1 Teale Road, East Kurrajong - Five Lot Subdivision and new road - (95498, 102260, 24004)**

Development Information

File Number: DA0401/12
Property Address: 1 Teale Road, East Kurrajong
Applicant: Montgomery Planning Solution
Owner: Mr NM Carney
Proposal Details: Subdivision - 5 Lot Torrens title subdivision and new road
Estimated Cost: \$250,000
Zone: Rural Living under Hawkesbury Local Environmental Plan 1989
RU4 Primary Production Small Lots and SP2 Infrastructure under Hawkesbury Local Environmental Plan 2012
Date Received: 28 August 2012
Advertising: 17 September to 1 October 2012

Key Issues:

- ◆ Objection under State Environmental Planning Policy No.1
- ◆ Minimum allotment size
- ◆ Flora and Fauna impacts
- ◆ Inadequate information

Recommendation: Refusal

REPORT:

Executive Summary

This application seeks approval for a one lot into five lot subdivision. As the application was submitted prior to the gazettal of the LEP 2012 the assessment is undertaken based on LEP 1989. The existing property is zoned Rural Living with a minimum lot size requirement for subdivision of 4 hectares. Each of the proposed lots to be created will be undersized, varying from the required minimum lot size by 36% up to 89%.

In this regard, an objection under State Environmental Planning Policy No. 1 – Development Standards has been submitted. Due to the variation of the size of each lot being greater than 10% the application requires determination by Council and the concurrence of the Department of Planning and Infrastructure.

The application also proposes the closing of part of Teale Road, the construction of a new section of road and its new intersection with Putty Road. The applicant seeks to justify the proposed subdivision in relation to the removal of the current Teale Road intersection with Putty Road and the perceived benefits to residents within the locality.

However, the application fails to satisfactorily demonstrate that the proposed new intersection will have a material benefit to warrant support of the additional undersized lots when compared to the existing intersection. To the contrary it reduces site distance in one direction and creates a four way intersection at Bull Ridge Road creating a more complex intersection. The information provided on the proposed intersection is inadequate to demonstrate any actual benefit that warrants the significant variation to the minimum allotment size.

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In addition, the application does not provide adequate information to assess the likely impacts of the development in respect to:

- proposed road widening;
- design of the new road;
- flora and fauna impacts; and
- compliance with the provisions of Sydney Regional Environmental Plan No. 9 – Extractive Industry

The proposal seeks to subdivide an existing lot (4.99ha) that is similar to the existing minimum lot size (4ha) and create 4 lots more akin to large lot residential parcels of land and 1 lot of 2.57ha.

The proposed variation to the minimum allotment size far exceeds 10% and as detailed later in this report, it is considered that the application does not demonstrate that the minimum lot size standard is unnecessary or unreasonable. For this reason, it is recommended that the application be refused.

Introduction

An application has been received seeking approval for a five lot Torrens Title subdivision of Lot 101 in DP 1168480, 1 Teale Road, East Kurrajong.

The application is being reported to Council in accordance with Council's Policy - State Environmental Planning Policy No.1 (Development Standards) for Rural Subdivisions Policy, which states:

"The Guidelines for consideration of applications for rural subdivision which rely on State Environmental Planning Policy No. 1 for approval are:

Applications which propose one undersized lot only which is within 10% of the minimum allotment size, be determined by Council staff under delegated authority.

Applications involving more than one undersized lot and/or a variation greater than 10% from the minimum be considered and determined by Council where they can demonstrate that the standard is unreasonable or unnecessary in the attainment of the relevant objects of the Act.

Applications which do not demonstrate that the standard is unreasonable or unnecessary be refused by Council staff under delegated authority.

Applications to re-subdivide existing undersized allotments, where no additional entitlements will result and where there are no unresolved objections, be determined by Council staff under delegated authority."

In accordance with item 3 of this Policy, this matter could be determined under delegated authority, however, is being reported to Council at the request of the Mayor, Councillor Ford.

The application is supported by:

- Statement of Environmental Effects prepared by Montgomery Planning Solutions, dated August 2012;
- Bushfire Threat Evaluation, Ref 89244/5 Lots, prepared by McKinlay Morgan & Associates, dated 29 June 2012;
- Flora and Fauna Survey and Assessment of Lot 101, DP 1168490 & Road Closure, Teale Road, Kurrajong, New South Wales, prepared by Trevor J. Hawkeswood, dated 13 July 2012;
- Traffic Impact Statement Proposed Residential Subdivision Lot 101 Teale Road, East Kurrajong, prepared by Thompson Stanbury Associates, dated 7 August 2012;

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- Feasibility of On-Site Disposal of Wastewater Proposed Subdivision Lot 101 DP 1168480 104 Teale Road, Kurrajong NSW, Report No. TFA 3388/01, prepared by Toby Fiander & Associates, dated 25 June 2012;
- Letter prepared by Trevor J. Hawkeswood, received 8 April 2013;

The application was publicly notified from 17 September to 1 October 2012. Six submissions were received; two objecting to the development and four in support. A summary of the matters raised in the submissions follows:

- Support for the creation of a safer intersection
- Loss of access to adjoining properties;
- Reduction in road frontage to adjoining property;

History of Site

The subject land was created by a subdivision approved 12 March 2009 (DA0792/08). The proponent of that previous development is also the proponent of the subject subdivision. Development Consent DA079/08 approved a four lot subdivision resulting in the following allotments:

Lot 101 – 4 ha (the land the subject of this Report)
Lot 102 – 6.3 ha
Lot 103 – 4 ha
Lot 104 – 8.7 ha

At the time of this subdivision, no proposal was put forward by the proponent in respect to the relocation of the intersection of Teale Road with Putty Road. Such a proposal would have been more appropriate at this time in terms of its economical viability and having regard to the potential for meeting the minimum lot size requirements of the zone or at least a more reasonable variation to that minimum allotment size.

History of Application

28 August 2012 -	Development application received.
17 September 2012 -	Public exhibition commences.
1 October 2012 -	Public exhibition ends.
12 October 2012 -	Council requests additional information (including matters relating to the objection under State Environmental Planning Policy No. 1, road widening, integrated development, flora and fauna, land contamination and effluent disposal) and refers to submissions being made.
14 March 2013 -	Telephone conversation with applicant and email confirmation of matters discussed. Request supply of additional information relating to construction details of the proposed road, road widening, the timing of the closing of part of Teale Road, as well as the matter previously requested in Council's letter of 12 October 2012.
8 April 2013 -	Details relating to State Environmental Planning Policy No. 1, Integrated Development, State Environmental Planning Policy No. 55, flora and fauna, effluent disposal and the matters raised in submissions was provided by the Applicant.

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Description of Proposal

The application seeks approval to divide the existing 4.992ha allotment into four new allotments having the following attributes:

- Proposed Lot 1– will have an area of 2.57ha, and will contain an existing dam.
- Proposed Lot 2 – will have an area of 5610m², and will be vacant.
- Proposed Lot 3 - will have an area of 5331m², and will be vacant.
- Proposed Lot 4 - will have an area of 5200m², and will be vacant.
- Proposed Lot 5 - will have an area of 4364m², and will be vacant.

It must be noted that Proposed Lots 2 to 5 are affected by road widening which, when implemented, will further reduce the size of these lots.

The proposed development includes the closing of part of Teale Road and the construction of a new road through the subject land to create a four way intersection at Bull Ridge Road. The Applicant advises that *“the fundamental objective of the proposal is to create a safe intersection for Teale Road and Putty Road”* and *“The cost of the roadworks and intersection construction will be offset by the additional rural residential lots to be created.”*

The closing of part of Teale Road involves that section of road from the current intersection with Putty Road to a point 24m along the Teale Road frontage of the property known as 951 Putty Road.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 1 – Development Standards
- State Environmental Planning Policy No. 44 – Koala Habitat
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No. 9 – Extractive Industry
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River
- Hawkesbury Local Environmental Plan 2012
- Hawkesbury Local Environmental Plan 1989
- Hawkesbury Development Control Plan 2002
- Council's Policy - State Environmental Planning Policy No.1 (Development Standards) for Rural Subdivisions Policy

Section 79C Matters for Consideration

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

a. The provisions of any:

i. Environmental Planning Instrument:

State Environmental Planning Policy No. 1 – Development Standards

Due to this application being submitted prior to the gazettal of Hawkesbury Local Environmental Plan 2012, assessment of the proposal is to be undertaken having regard to the provisions of Hawkesbury Local Environmental Plan 1989 (HLEP 1989).

The subject land is zoned Rural Living under HLEP 1989. Clause 11 (2) of this Plan requires lots created by the subdivision of land within the Rural Living (other than land shown hatched on the map) zone to have a minimum allotment size of 4 hectares. The proposed subdivision will result in:

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Proposed Lot	Lot Size	Degree of Variation from Minimum Lot Size of 4ha
Lot 1	2.57ha	35.75%
Lot 2	5610m ²	85.97%
Lot 3	5331m ²	86.67%
Lot 4	5200m ²	87.00%
Lot 5	4364m ²	89.09%

Land and Environment Court Planning Principle

In the Land and Environment Court hearing *Wehbe v Pittwater Council* [2007] NSWLEC 827 - 21 December 2007, CJ Preston provided principles by which to assess an objection made under State Environmental Planning Policy No. 1.

The Chief Judge suggests that support of an Objection be based on the following:

- a) That the objection is well founded
- b) That the granting of consent is consistent with the aims of SEPP 1
- c) That the matters identified in Clause 8 to SEPP 1 are satisfied:
 - i. Whether non-compliance with the development standard raises any matter of significance for State or regional environmental planning, and
 - ii. The public benefit of maintaining the planning control adopted by the environmental planning instrument.

The aim of SEPP No. 1 is to "provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a)(i) and (ii) of the Act."

The Chief Judge further identified ways in which it can be demonstrated that strict compliance with a standard would be unnecessary and unreasonable:

1. *"The objectives of the development standard are achieved notwithstanding non-compliance with the standard."*
2. *Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
3. *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
4. *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
5. *Establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary."*

Assessment of applicants SEPP 1 Objection

The Applicant provides the following grounds for objection:

1. The proposed lots are consistent with the size and use of surrounding lots. Figure A below demonstrates that the proposal is not out of context with the setting of the locality.
2. The proposal will not create any land use conflict within the zone, as it is consistent with surrounding allotments.
3. The proposal will not create any unreasonable demands for public services.
4. The proposal will not have adverse environmental impact as demonstrated by the statement of environmental effects.
5. The proposal will not create a precedent, as this SEPP 1 Objection relates to a unique parcel of land.
6. The proposal will facilitate the removal of a dangerous intersection. The intersection will be relocated to a safer location, to the benefit of all residents in the immediate locality.

The Proposed Lots do not meet the minimum allotment size requirement for the zone.

The underlying objective of the standard within the Rural Living zone is to provide land of an appropriate size to accommodate development and activities reasonably expected to support the rural residential living style of occupants and any ancillary agricultural land use. The lot size is also reflective of the desired amenity and character of an area, as well as identifying the limitations on the availability of services and amenities within a locality. This is reflected within objectives (a), (c) and (j) of the Rural Living zone.

The Objection made in accordance with State Environmental Planning Policy No. 1 and submitted with the application does not adequately demonstrate that the variation is consistent with the underlying objectives of the standard and as a result that compliance with the minimum allotment size is unreasonable or unnecessary in this case.

The SEPP 1 objection attempts to demonstrate that the objective of the standard is not relevant to the development as the proposed lots are in context with other existing undersized allotments within the locality.

It is acknowledged that properties with a minimum allotment size of approximately 4000m² exist in the immediate vicinity, including Teale Road, Bull Ridge Road and Putty Road. However, the applicant's reasoning for non compliance with the standard, i.e., many surrounding allotments are of a smaller size, is not supported as valid grounds for objection as the majority of surrounding allotments were created/approved prior to the gazettal of the current standards contained in HLEP 1989.

It is considered that the proposed lots sizes do not support a rural residential living style as the size of the proposed lots will restrict ancillary rural activities such as keeping of animals and ancillary activities e.g., horses and horse arenas.

The applicant states that the proposed subdivision will not create a precedent as "this SEPP 1 Objection relates to a unique parcel of land." The land itself is not considered to be unique, but rather its situation and the proposed development offering a potential public benefit. However, in considering this Objection under SEPP No. 1, assessment of how the proposed development achieves the objectives of a development standard is required, i.e., can the lots sizes provide for a rural residential living style, and not whether the subdivision improves an existing road intersection.

The premise of the application is that by allowing the proposed subdivision, the redirection of Teale Road will occur, thereby allegedly providing a safe intersection with Putty Road. However, the application does not provide satisfactory evidence that the new intersection provides a material benefit in this regard to warrant such a variation. This matter is discussed later in this Report (See Access, Transport & Traffic).

Given the above, it is considered that the Applicant has not satisfactorily demonstrated that compliance with the minimum allotment size criteria contained in Hawkesbury Local Environmental Plan 1989 is unnecessary or unreasonable. The objection is not considered to be well founded and it is therefore recommended that the variation not be supported.

State Environmental Planning Policy No. 44 – Koala Habitat

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

The 'Flora and Fauna Survey and Assessment' Report submitted identifies the site as being 'potential habitat', but not 'core koala habitat' as defined by State Environmental Planning Policy No. 44. However, the 'Flora and Fauna Survey and Assessment' Report is not consistent with the Threatened Species Assessment Guidelines (Department of Environment and Climate Change) and therefore cannot be relied upon in regard to being an adequate survey for identifying the presence of koalas. The adequacy of the 'Flora and Fauna Survey and Assessment' Report is discussed later in this report (See Flora and Fauna Section).

State Environmental Planning Policy No. 55 – Remediation of Land

The Applicant advises that "the current owner, Mr Niall Carney, purchased the land in 1977. At that time an area of land between the Putty Road and the now proposed new road was originally used for a stone fruit orchard. From 1977 it was used for a Bee Keeping venture called Azetene Apiaries. The use of insecticides is incompatible with bee keeping. In the thirty three (33) years he has owned the land, Mr Carney has used no chemicals on the land after clearing most of the fruit trees in 1978."

Given the above, it is considered that the property is unlikely to be contaminated to a degree that would prevent the proposed subdivision and future development of the proposed lots for rural residential purposes. A Preliminary Site Investigation is not warranted. Therefore the application is considered to be consistent with the provisions of State Environmental Planning Policy No. 55.

Sydney Regional Environmental Plan No. 9 – Extractive Industry (SREP No. 9)

Clause 16 to SREP No. 9 applies to the proposed development and states:

- 1) *This clause applies to land in the vicinity of land described in Division 1, 4, 6, 7, 8 or 9 of Schedule 1.*
- 2) *A council must not grant an application for consent to carry out development of land to which this clause applies unless it is satisfied that, if the development is carried out in accordance with the consent:*
 - a) *the proposed development will not be adversely affected by noise, dust, vibration or reduced visual amenity from any nearby extractive industry, and*
 - b) *the proposed development will not in any way adversely affect any existing nearby extractive industry or prevent any such extractive industry from realising its full economic potential by adversely affecting future expansion of the extractive industry of which the council is aware.*

An existing quarry is located approximately 530m to the north east on land described as 940 Putty Road and 21A Bull Ridge Road, Kurrajong. The existing quarry is identified within Division 8 of Schedule 1 to SREP No. 9. The application does not address the matters raised in this Clause, and therefore fails to demonstrate that the proposed lots, and any subsequent development, will not be adversely affected by the quarry operations, or that increased residential development in the locality will prevent the quarry from reaching its full potential.

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

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

Hawkesbury Local Environmental Plan 2012

Under this Plan the subject land is zoned part RU4 Primary Production Small Lots and part SP2 Infrastructure. Clause 4.1 permits subdivision with development consent subject to the minimum subdivision lot sizes as shown on the Lot Size Map. The Lot Size Map provides a minimum allotment size for subdivision of 4ha for the area of the subject land corresponding to the RU4 zone. No minimum lot size is nominated for the area of the property affected by the SP2 zone.

Clause 4.6 contains provisions for the flexibility of planning controls and development standards under certain conditions. In the RU4 Primary Production Small Lots zones Council can only support variations to lot sizes up to 10% of the standard.

As all five proposed lots will be undersized in relation to the minimum lot size requirement of 4 ha, with variations ranging from 36% to 89%, this Clause does not permit the proposed subdivision.

Having regard to the above, the proposed development is inconsistent with Hawkesbury Local Environmental Plan 2012.

Clause 1.8A - Savings provision relating to development applications states:

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

Hawkesbury Local Environmental Plan was gazetted on 21 September 2012. The subject Development Application was lodged on 28 August 2012. As a result, the application has been assessed against the relevant provisions of Hawkesbury Local Environmental Plan 1989 as detailed below.

Hawkesbury Local Environmental Plan (HLEP) 1989

Clause 2 - Aims, objectives etc.

The proposed development is considered to be inconsistent with the general aims and objectives as outlined in Clause 2 of HLEP 1989. In this regard, the proposal is considered to be contrary to Clause 2 (a) of this plan which is to provide a mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury.

A new section of Teale Road is proposed to be constructed and dedicated as part of the subdivision. The proposal pre-empts the closure of the road and subsequent transfer to the owner.

Under section 34 of the Roads Act 1993, the roads authority for Teale Road (in this case Council) can apply to close the road, but the decision is made by the Minister, who must advertise the proposed road closure and allow for submissions. In this regard, it is noted that adjoining properties obtain access from this section of road, and submissions to this application indicate that they wish to retain this road. It is also understood that with a closure of road, that all adjoining neighbours are offered an opportunity to purchase the closed road.

If the Minister proceeds with the closure of Teal Road then it remains vested with Council who would need to classify it as operational land so ownership could be transferred.

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The new section of Teale Road would need to be constructed and dedicated before the application could be made to close the old section of road. This raises questions in regard to the consequences should the Minister not support the closing of the road, or purchase of the closed road by another person. Details have not been provided in respect to whether or not 'in principle' agreement of the Minister may be provided, or if the date of closure could be delayed if supported. The applicant has not addressed these matters.

In addition, the location of the proposed new road has been chosen to suit the development. Other options to improve site distances for the existing or new intersection have not been considered in the application, such as road widening or alternative locations.

Under HLEP 2012 part of the land is zoned SP2 Infrastructure indicating road widening. This proposed road widening has not been recognised within the current application or taken into the consideration with the design of the proposed subdivision. In their letter of 26 March 2013, the Roads and Maritime Services (RMS) advised that they would grant concurrence to the development subject to a Works Authorisation Deed (WAD) however the requirements of the WAD agreement are unknown. It is predicted that the WAD will incur significant costs in relation to deceleration and turning lanes, reinstatement of the existing intersection and dedication and construction of road in the land identified as road widening. These matters are not addressed in the current development application and may render the applicant's justification for the additional allotments even more tenuous.

Electricity lines and phone lines run along the section of Teale Road proposed to be closed and incorporated into Proposed Lot 2. The applicant will need to consult with these authorities to ascertain whether the proposal is acceptable in regards to the relocation of the infrastructure and the servicing of existing lots.

Clause 9A – Zone objectives

It is considered that the proposed subdivision is inconsistent with the objectives of the Rural Living zone:

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

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It is considered that the proposal is inconsistent with the overall objectives of the Rural Living zone in that the creation of five lots significantly below the minimum allotment size requirement will not meet the expected amenity level for future rural residential occupancy. The proposed lot sizes of 4364m² to 5610m² are not sufficient to accommodate development and activities reasonably expected to support the rural residential living style of occupants and any ancillary agricultural land, especially when the following constraints on the land are taken into consideration:

- Proposed Lots 2 to 5 are affected by road widening. The Roads and Maritime Services may require the road widening to be taken, thereby reducing the size of the proposed lots further.
- Proposed Lot 2 is affected by a proposed right of carriageway;
- A minimum area of 1500m² is required on each lot for effluent disposal;

As a result ancillary rural activities such as hobby farming, the keeping of animals and recreational activities will be severely restricted or prevented.

Clause 10 – Subdivision General

This Clause permits the subdivision of land with development consent.

Clause 11- Rural Subdivision - general provisions

2. Except as otherwise provided by this clause and clause 13, the Council may consent to the subdivision of land in Zone No 7 (a) or 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone only if the area of each of the allotments to be created is not less than:
- a) if it is not a lot averaging subdivision, that shown for the zone in Column 2 of the following Table, or
 - b) if it is a lot averaging subdivision, that shown for the zone in Column 3 of that Table.

Zone	Minimum allotment size if not lot averaging subdivision	Minimum allotment size if lot averaging subdivision
<i>Rural Living (other than land shown hatched on the map)</i>	<i>4 hectares</i>	<i>1 hectare</i>

Comment: The proposed development is not a lot averaging subdivision. Clause 11 requires a minimum allotment size of 4ha for land zoned Rural Living (other than land shown hatched on the map). The proposed subdivision will result in the following allotments:

Proposed Lot	Lot Size	Degree of Variation from Minimum Lot Size of 4ha
Lot 1	2.57ha	35.75%
Lot 2	5610m ²	85.97%
Lot 3	5331m ²	86.67%
Lot 4	5200m ²	87.00%
Lot 5	4364m ²	89.09%

The applicant has submitted an Objection under State Environmental Planning Policy No.1 to minimum area provisions of the LEP. As discussed previously the Objection is not supported.

3. The Council may consent to the subdivision of land to which this clause applies only if:

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- a) there is a ratio between the depth of the allotment and the frontage of the allotment that, in the opinion of the Council, is satisfactory having regard to the purpose for which the allotment is to be used, and

Comment: The width to depth ratio of the lots is satisfactory in relation to this Clause. The proposal complies with the requirement of Hawkesbury Development Control Plan Part D Chapter 3 – Subdivision for a maximum width to depth ratio of 1:5.

- b) the pattern of allotments created by the proposed subdivision and the location of any proposed buildings on those allotments will, in the opinion of the Council, minimise the impact on any threatened species, populations or endangered ecological community or regionally significant wetland, watercourses, agriculture and bush fire threat, and

Comment: The applicant has not satisfactorily demonstrated that the proposed development will have no adverse impact on adjoining/nearby bushland and watercourses, and thereby threatened species, populations or ecological communities as discussed later in this Report.

- c) the Council has considered a geotechnical assessment that demonstrates the land is adequate for the on-site disposal of effluent, and

Comment: A 'Feasibility of On-Site Disposal of Wastewater' report was submitted in support of the application and demonstrates that wastewater disposal can be achieved on the proposed lots, however requires a 1500m² land application area and fill of this are to a depth of 300mm

- d) in the opinion of the Council, each of the allotments created contains suitable areas for a dwelling-house, an asset protection zone relating to bush fire hazard and effluent disposal.

Comment: Each proposed lot has appropriate areas for dwelling houses, asset protection zones and effluent disposal area.

- 6. Consent must not be granted to a subdivision of land in Zone No 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone that creates an allotment (otherwise than for use for a public purpose) unless the Council is satisfied that there is an area of land above the 1-in-100 year flood level on the allotment that is:
 - a) sufficient for the erection of a dwelling-house, and
 - b) at natural surface level or at a level achieved by filling carried out with the consent of Council.

Comment: The subject site is located above the 1 in 100 year flood level.

Subclauses (4), (4A), (5), (7), (8) and (9) do not apply to this proposal.

Clause 18 - Provision of water, sewerage etc. services

The land will be subject to the onsite collection of water and disposal of effluent. Electricity and telephone services are available to the land. The provision of services to the proposed lots can be ensured through conditions of consent.

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

At the time of lodgement of this application the (now gazetted) draft LEP 2012 was in draft form. As the LEP 2012 is not gazetted there are no current draft environmental planning instruments applicable to the subject property or proposed development.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

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

Part A Chapter 2 - General Information

The subject application does not provide adequate information for the assessment of the proposal and therefore is inconsistent with this Chapter. In particular sufficient information in relation to road widening, road construction and flora and fauna has not been provided to enable a proper assessment of the impacts of the proposal.

Part A Chapter 3 - Notification

The application was notified to adjacent property owners in accordance with HDCP. Six submissions were received; two objections and four in support. The matters raised in these submissions are discussed further in this Report.

Subdivision Chapter

A full assessment against the Rules of the Subdivision Chapter is shown in the attachment to this report. The proposal generally complies with this part with the exception of the following:

Flora and Fauna Protection

Rule (a) Impact on environmentally sensitive area.

Inadequate information provided to assess likely impacts;

Rule (e) Retention of scenically and environmentally significant vegetation.

Inadequate information provided to assess likely impacts;

Rural Lot Size and Shape

Rule (a) Comply with the minimum allotment size in LEP 1989.

Lot sizes are substantially smaller than the specified minimum in LEP 1989. See discussion of SEPP 1 Objection previously in this report.

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

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

v. Matters prescribed by the Regulations:

No relevant matters.

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:

Consideration has been given to the relevant matters under s79C (1) (b) of the EP&A Act as shown below:

Context and setting

The surrounding locality is predominantly used for rural residential purposes. In general, the locality comprises of lots ranging in size from approximately 4000m² to 5 hectares. The existing lots that have an area of approximately 4000m² were created prior to Hawkesbury Local Environmental Plan 1989.

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In addition, the proposed subdivision will result in a cluster of small lots along Putty Road which is not consistent with the more open character of the immediate locality.

Access, Transport and Traffic

A 'Traffic Impact Statement' prepared by Thompson Stanbury Associates was submitted in support of the application. This Report concluded:

- *The existing vertical and horizontal alignment of Putty Road results in unsatisfactory sight distance provisions along the State Road to/from Teale Road, thereby resulting in unsafe traffic conditions;*
- *The subject proposal involves the closure of the section of Teale Road on approach to Putty Road and the construction of a new subdivision access road (through which Teale Road access movements will be accommodated) intersecting with Putty Road opposite Bull Ridge Road.*
- *The prevailing vertical and horizontal alignment of Putty Road in the vicinity of Bull Ridge Road (and the new subdivision access road) will facilitate a significantly improved arrangement for Teale Road access movements with respect to safety;*
- *The provision of an exclusive left turn lane on approach to the new subdivision road is expected to further improve the level of safety with which motorists access Teale Road from Putty Road;*
- *The proposed subdivision is projected to generate a minor level of additional traffic to and from the subject site; and*
- *The existing low traffic demands within the surrounding road network, in conjunction with the proposed subdivision (and Teale Road) access arrangements, are capable of accommodating the additional traffic projected to be generated by the subject development in a safe and efficient manner.*

Based on the contents of this correspondence and above conclusion, this Practice is of the opinion that there are no traffic related issues that should prevent approval of the subject application. Importantly the proposal will provide for much safer access for residents when entering Putty Road than what is currently available at the existing Teale Road Junction."

This application has been reviewed by Council's Development Engineer who advises that:

Relocation of Intersection

The application proposes the construction of a new section of road and relocation of the intersection of Teale Road with Putty Road.

At the intersection with Teale Road and Bull Ridge Road, Putty Road has 3 traffic lanes, one to the south and 2 to the north, one of which is an overtaking lane. The intersection is proposed to be relocated approximately 200m to the south, opposite the existing intersection with Bull Ridge Road.

In the traffic impact assessment report provided, the author estimates that the current available site distance from the existing Teale Road intersection is 220m to the north and 120m to the south. The proposed new intersection location is estimated to provide 170m to the north and 220m to the south. This equates to a reduction in site distance to the north and an improvement to the south. The report quotes the Austroads safe site distance as 170m for an 80km/hr road. Review of Austroads (2010) Guide to Road Design Part 3, Geometric Design, table 3.2, would suggest that 170m is an absolute minimum.

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The view that the Teale Road intersection with Putty Road is less than ideal is well documented. However, the accident statistics available do not appear to show that the intersection has a high level of vehicle accidents. Council records show that since 2005, there have been 2 accidents in the vicinity of the intersection. It is not clear that the accidents involved vehicles entering or leaving the intersection - one is coded 'out of control on carriageway' and the other 'off carriageway left on L.H bend into object/PKD vehicle'. Similarly, records show 2 accidents in the vicinity of the Bull Ridge Road intersection.

The application relies on an improvement of 100m site distance to the south which appears beneficial. However, the reduction in the site distance to the north is not supported, especially as it reduces the visibility of the overtaking lane, where vehicles will be accelerating up the hill to overtake. An additional level of conflict is also introduced by the creation of a 4 way intersection. For example, vehicles turning right onto Bull Ridge Road would now stop opposite the new intersection with Teale Road. The movement of going straight across Putty Road from Bull Ridge Road into Teale Road and vice versa is also introduced.

It is not clear from the information provided that the new intersection would result in a significant improvement from the existing situation.

Road Design

The plan provided with the application is diagrammatic only and has been annotated 'This plan is for discussion purposes only'. It is also noted that a diagrammatic layout for the proposed intersection is included in the traffic report. Sufficient survey details and concept design for the road and intersection has not been provided to enable an assessment of the likely impacts of the development. This information was requested, however has not been provided.

Road Widening

Under HLEP 2012 part of the land is zoned SP2 Infrastructure indicating road widening. This proposed road widening has not been recognised within the application or taken into the consideration with the design of the proposed subdivision. In this regard, further details were requested, however not provided.

Flora and Fauna

A Report titled 'Fauna Survey and Assessment of Lot 101, DP 1168490 & Road Closure, Teale Road, Kurrajong, New South Wales', prepared by Trevor J. Hawkeswood, dated 13 July 2012 was submitted in support of the application. This Report concludes:

"Based on flora concerns there would appear to be no impediments to the subdivision proposal"; and

"Based on fauna concerns I see no impediments to the subdivision as proposed."

The assessment identified that remnant Shale Sandstone Transition Forest was present within the subject property. Shale Sandstone Transition Forest is identified as a critically endangered ecological community under the Threatened Species Conservation Act, 1995.

Part 5A of the Environmental Planning and Assessment Act, 1979 states:

- 1) For the purposes of this Act and, in particular, in the administration of sections 78A, 79B, 79C, 111 and 112, the following must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats:
 - a) each of the factors listed in subsection (2),
 - b) any assessment guidelines.

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The 'Flora and Fauna Survey and Assessment' Report was not considered to be consistent with the Threatened Species Assessment Guidelines (Department of Environment and Climate Change) and Council requested additional information in this respect. A supplementary letter was submitted by Dr Trevor J. Hawkeswood however it is considered that this assessment still does not meet the Guidelines in that:

- A plan showing the development area, property boundaries and study area, or a rationale for the extent of the study area, has not been provided. The supplementary letter advises that "this survey encompassed all areas which would be affected by the proposed subdivision" however justification for the statement has not been provided.
- The likely direct and indirect impacts of the development have not been identified. The flora and fauna assessment only identifies the clearing of vegetation. The proposed development may potentially have impacts from the construction of the road, effluent disposal, residential activities, soil disturbance and weed invasion, and water runoff.
- The assessment does not consider the likely impacts on the watercourses located on the land.
- The assessment does not satisfactorily identify areas of habitat within the study area, nor has a plan showing these areas been provided. For example, the report states "the property has potential habitat for some endangered reptile species but these would be rare occurrences and as the habitat will not be affected by the proposal, it is most unlikely that any endangered reptile species in the area will be affected." However, the report does not provide evidence in support of this statement such as a plan identifying the location of these habitat areas.
- The assessment advises that "within proposed Lot 1, there may be some limited shrub and fallen timber/dead branch removal as part of the APZ requirements outlined by the fire report...", however fails to consider the likely impacts of the removal of these on potential habitat for flora and fauna.
- A 'Seven part test' was only provided for the endangered ecological community 'Shale Sandstone Transition Forest', however 'seven part tests' are required to be provided for all threatened species with the potential to occur on or near the development site. This would include species within and utilising bushland areas on the subject land and adjoining land.

c. Suitability of the site for the development:

The proposal is inconsistent with the various planning controls affecting the site and it is therefore considered that the site is not suitable for subdivision of the nature proposed.

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

Department of Planning

Should the application be support, the concurrence of the Department of Planning & Infrastructure (DP&I) is required for the SEPP No. 1 objection.

NSW Rural Fire Services

The application was forwarded to the NSW Rural Fire Service being integrated development under Section 91 of the Environmental Planning and Assessment Act 1979. In their response dated 9 October 2012 the NSW Rural Fire Service granted a bush fire safety authority subject to conditions.

NSW Office of Water

The application was forwarded to the NSW Office of Water being integrated development under Section 91 of the Environmental Planning and Assessment Act 1979. In their response dated 24 April 2013 the NSW Office of Water provided their General Terms of Approval.

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Roads and Maritime Services

The application was referred to the Roads and Maritime Services (RMS) for comment. In their letter of 26 March 2013, the RMS advised that they would grant concurrence to the development subject to certain requirements.

Public Submissions

The application was publicly exhibited from 17 September 2012 to 1 October 2012. During notification of the application, six submissions were received; two objecting to the proposal and four in support. The matters raised in the submissions are discussed below:

- Support for the creation of a safer intersection
- Loss of access to adjoining properties;
- Reduction in road frontage to adjoining property;

In response to the concerns of the adjoining neighbours in respect to the loss of access, the Applicant amended the proposal to include a right of carriageway. Whilst support for the development has been shown, the creation of a safer intersection design has not been achieved as discussed in this Report.

e. The Public Interest:

The proposed development is not considered to be in the public interest based on the following:

- The proposed subdivision is inconsistent with the relevant planning controls.
- The submitted SEPP No. 1 objection to the minimum lot size standard fails to adequately address how the standard is unreasonable or unnecessary in this case. The submission also fails to adequately address the significant degree of variation sought.
- There is not a material public benefit for the intersection of Teale Road with Putty Road.

Given that the proposal fails to satisfy the relevant planning controls affecting the site and is inconsistent with the objectives of the zone it is concluded that the proposal is contrary to the general public interest.

Developer Contributions

A contribution plan applies to the land under Section 94A of the Environmental Planning and Assessment Act, 1979 and requires a levy of 1% be imposed on this development. In accordance with the above, a \$2,500.00 developer contribution applies to this development

Conclusion

As demonstrated within this Report, it is considered that the application does not provide adequate information to assess the likely impacts of the development with respect to the construction of the new road and intersection or effects of future road widening. In addition, the flora and fauna assessment does not provide adequate details to demonstrate that the proposal will have no significant adverse impacts on threatened species and populations, endangered communities, or their habitats in accordance with the Environmental Planning and Assessment Act, 1979

The current proposal is not consistent with the minimum allotment size requirement for subdivision of Hawkesbury Local Environmental Plan 1989, nor LEP 2012. The application fails to demonstrate that compliance with the minimum lot size requirement is unreasonable or unnecessary and therefore the objection under SEPP No. 1 cannot be supported. The circumstances of this application are not unique to the site and therefore the proposed subdivision will result in an undesirable precedent.

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The proposed lot sizes will not be able to accommodate development and activities reasonably expected to support the rural residential living style of occupants and any ancillary agricultural land use and are therefore inconsistent with the objectives of the Rural Living zone.

In addition, the Applicant fails to demonstrate that the new intersection would result in a significant improvement from the existing situation.

The proponent has relied on the possible public benefit of a new intersection to facilitate the proposed development. Whilst this proposal may be desirable in this respect, the application has failed to give due consideration to the relevant planning requirements, or provide supporting information to demonstrate the likely impacts of the development, or even demonstrate that the proposed new intersection is of material benefit. The benefits of a new intersection cannot outweigh the statutory obligations of the Environmental Planning and Assessment Act, 1979 in the assessment of this development.

Given these uncertainties and the need for the road closure to be undertaken for the development to proceed, it is not possible to issue a development consent that is conditional upon the road closure. Similarly a Deferred Commencement consent could not be issued as the deferred commencement condition (road closure) is not within the control of the applicant.

In view of the above, it is recommended that the application not be supported.

Planning Decision

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

RECOMMENDATION:

That Development Application DA0401/12 at Lot 101 DP 1168480, 1 Teale Road, East Kurrajong for five Lot Subdivision be refused for the following reasons:

1. The State Environmental Planning Policy No. 1 objection received in respect to the minimum allotment area is not supported as compliance with the statutory development standard was not considered to be unreasonable or unnecessary in the circumstances.
2. The proposed development is inconsistent with Part 5A of the Environmental Planning and Assessment Act, 1979 in that adequate information has not been provided to demonstrate that the proposed development will not have a significant impact on threatened species, populations or ecological communities, or their habitats.
3. The proposal fails to satisfy the requirements of State Environmental Planning Policy No.44 – Koala Habitat in that insufficient information has been provided to demonstrate that the proposed development will have no adverse impact on koala habitat.
4. The proposal does not comply with the requirements of the Hawkesbury Local Environmental Plan 1989.
5. The proposal is inconsistent with Hawkesbury Local Environmental Plan 2012.
6. The development does not comply with the Hawkesbury Development Control Plan 2002 Part D Chapter 3 – Subdivision.

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7. The development application contains insufficient information to carry out a proper assessment of the likely impacts of the proposed development in terms of Section 79C of the Environmental Planning and Assessment Act, 1979. In particular, there is insufficient information in respect of the construction of the proposed new road and intersection, road widening, and flora and fauna.
8. The application, seeking a significant variation to Council's minimum allotment size requirement, is considered to not be in the general public interest.

ATTACHMENTS:

AT 1 – Locality Plan

AT 2 – Aerial Photo

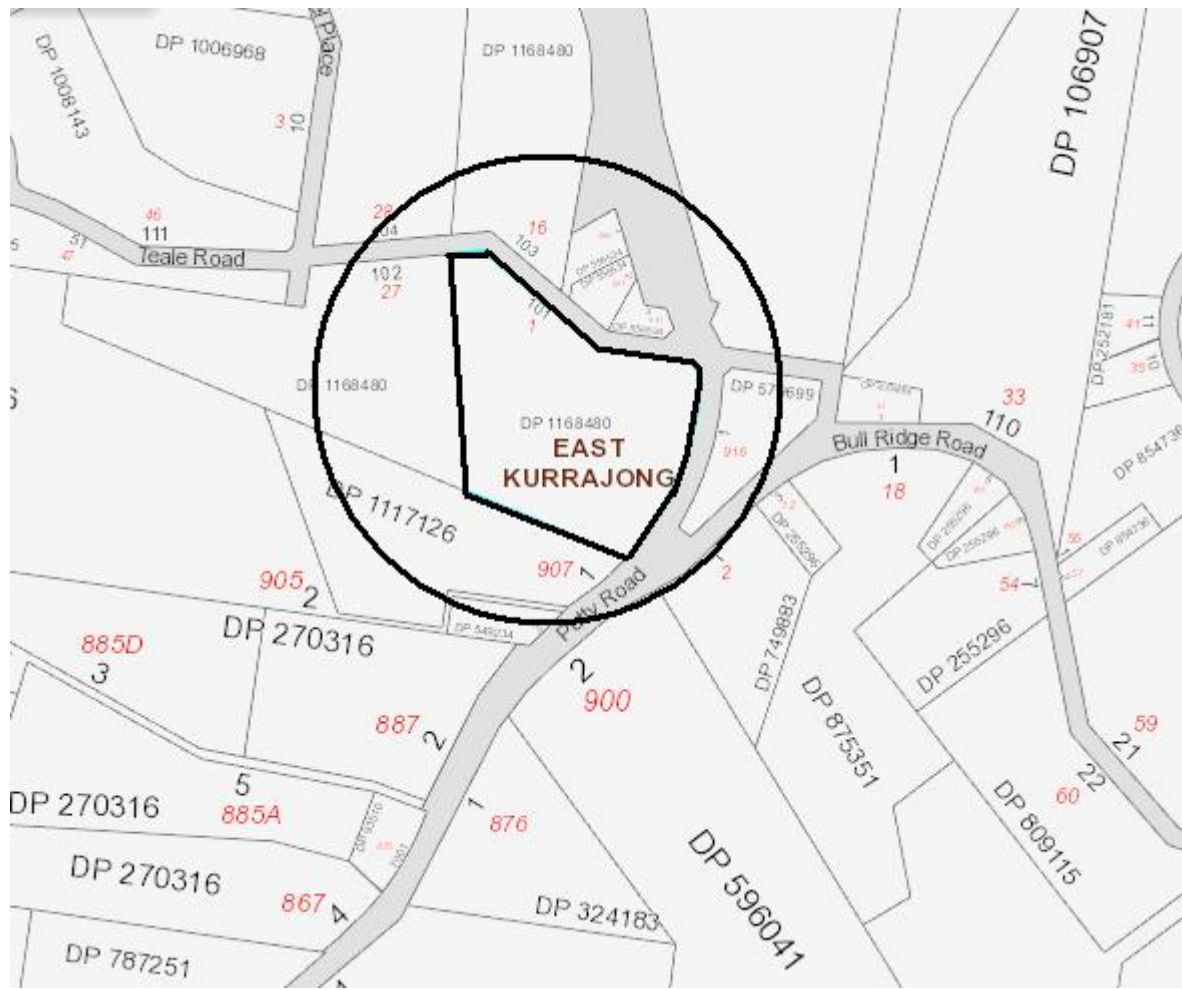
AT 3 – Subdivision Plan

AT 4 – Assessment against the Rules of the Subdivision Chapter of HDCP

<p align="center">ORDINARY MEETING</p> <p align="center">Meeting Date: 13 August 2013</p>

<p align="center">ORDINARY MEETING</p> <p align="center">Meeting Date: 13 August 2013</p>

AT 1 – Locality Plan



ORDINARY MEETING

Meeting Date: 13 August 2013

AT 2 – Aerial Photo



Meeting Date: 13 August 2013

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ORDINARY MEETING

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AT 4 – Assessment against the Rules of the Subdivision Chapter of HDCP

Element	Rule	Provides	Complies
General			
Flora and Fauna Protection	a) Any subdivision proposal which is likely to result in any clearing of native vegetation or impact on any environmentally sensitive area is to be accompanied by a flora and fauna assessment report prepared by a suitably qualified person. This report is to primarily address the Eight Part Test pursuant to the Act (Section 5A), State Environmental Planning Policy 44 – Koala Habitat protection.	Inadequate information provided to assess likely flora and fauna impacts.	No
	b) Vegetation cover should be retained where ever practicable as it acts to stabilize soils, minimize runoff, acts as a pollutant trap along watercourses and is important as a habitat for native fauna.		Yes
	c) Degraded areas are to be rehabilitated as part of the subdivision.	N/A	Yes
	d) Vegetation should be retained where it forms a link between other bush land areas.		Yes
	e) Vegetation which is scenically and environmentally significant should be retained.	Inadequate information provided to assess likely flora and fauna impacts.	No
	f) Vegetation which adds to the soil stability of the land should be retained.		Yes
	g) All subdivision proposals should be designed so as to minimize fragmentation of bushland.	The subdivision will have no impact on the fragmentation of bushland.	Yes
Visual Amenity	a) Building envelopes, accessways and road shall avoid ridge tops and steep slopes.		Yes

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Element	Rule	Provides	Complies
	<p>b) Subdivision of escarpments, ridges and other visually interesting places should:</p> <ul style="list-style-type: none"> • Be managed in such a way that the visual impact rising from development on newly created allotments is minimal; and • Retain visually significant vegetation such as that found on ridge tops and other visually prominent locations. <p>c) Development Applications for subdivision shall take into consideration the provisions of SREP No. 20 in relation to scenic quality</p>		<p>Yes</p> <p>Yes</p>
Heritage	a) A subdivision proposal on land which contains or is adjacent to an item of environmental heritage as defined in Schedule 1 of the Hawkesbury LEP should illustrate the means proposed to preserve and protect such items.	Site does not contain or is adjacent to an item of environmental heritage under Schedule 5 of HLEP 2012	Yes
Utility Services	<p>a) Underground power provided to all residential and industrial subdivisions. Where infill subdivision is proposed, the existing system, whether above or underground shall be maintained.</p> <p>b) All lots created are to have the provision of power.</p> <p>c) Where reticulated water is not available, a minimum storage of 100,000 litres must be provided. A minimum of 10,000 litres must be available during bush fire danger periods.</p>	<p>Infill subdivision. Services existing.</p> <p>Available</p> <p>Condition for future development.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Flooding, Landslip & Contaminated Land	a) Compliance with clause 25 of Hawkesbury Local Environmental Plan 1989.	Council's Development of flood Liable Land Policy now applies. Land is above 1 in 100 year flood level.	Yes

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Element	Rule	Provides	Complies
	b) Access to the subdivision shall be located above the 1% AEP flood level.	Access to the lots is above 1% AEP flood level.	Yes
	c) Where a subdivision proposal is on land identified as being potentially subject to landslip, the applicant shall engage a geotechnical consultant to prepare a report on the viability of subdivision the land and provide recommendations as to the siting and the type of buildings which could be permitted on the subject land.	Not identified as land being potentially subject to landslip.	Yes
	d) In the event the Council deems that there is the potential that land subject to a subdivision application is contaminated then the applicant shall engage a suitably qualified person to undertake a soil and ground water assessment.	Not considered to be contaminated.	Yes
	e) Contaminated Land shall be remediated prior to the issue of the Subdivision Certificate.	N/A	N/A
Rural and Residential Subdivision			
Rural lot size and shape	a) The minimum allotment size for land within rural and environmental protection zones are contained within the Hawkesbury Local Environmental Plan 1989.	See SEPP 1 assessment in report above.	No

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Element	Rule	Provides	Complies
	<p>b) Lots should be able to accommodate a building envelope of 2000m² with a minimum dimension of 20m. Building envelopes should be located a minimum of 30m from significant trees and other significant vegetation or landscape features. Building envelopes would contain the dwelling house, rural sheds, landscaping, and on-site effluent treatment and disposal areas, and bushfire mitigation.</p> <p>c) In calculating the area of a battle-axe or hatched shaped allotment, the area of the battle-axe handle should be included.</p> <p>d) The width to depth ratio of allotments should not exceed 1:5</p> <p>e) Lot layout shall consider the location, the watercourse vegetation and other environmental features.</p>		<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Rural Road and Accessway Design	<p>a) The design specifications in Figure D3.9 at the end of this clause are to be met.</p> <p>b) Where the road width is insufficient or unsatisfactory, an applicant should dedicate or provide land required for local road widening or new roads at no cost to council.</p> <p>c) Upgrading of the accessway from the nearest sealed road to the proposed subdivision to an all weather standard suitable for the expected traffic generation arising from the subdivision. This work may require the sealing of the pavement dependent upon traffic generation</p> <p>d) Where access to the subdivision is via a Crown or Reserve road in addition to the above, the road should be fully constructed to a standard commensurate with roads in the locality and linked to the nearest Council road. Prior to any construction works being undertaken the relevant section of Crown road is to be transferred to Council.</p>	<p>Can be conditioned</p> <p>N/A</p> <p>Can be conditioned</p> <p>N/A</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p>

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Element	Rule	Provides	Complies
	e) Water courses should be piped where they cross roads and the applicant should create drainage easements generally 10 metres long and 4 metres wide over the point of any discharge of any water from any public road onto private property.	Condition where required.	Yes
	f) All internal driveways shall be constructed to an all weather standard suitable for the expected traffic generation. An all weather access should also be provided across the footway to any battle-axe lot. Such access should be sealed within the vicinity of existing houses on adjoining lots where dust nuisance may occur and also on steeply sloping land.	Can be conditioned	Yes
	g) Where 3 or more individual access handles are proposed, common roads are to be provided.	N/A	N/A
	h) Battle axe handles shall have a minimum width of 6 metres.	N/A	N/A
	i) Accessways should have a maximum grade of 25% (1:4) and be sealed if the grade exceeds 1:6, concrete if exceeds 1 in 5.	Can be conditioned.	Yes
	j) Where an accessway meets a public road there should be a minimum sight distance of 70 m. This may be increased on roads with a high speed limit.		Yes
	k) Cul-de sacs for rural roads should have minimum seal radii of 12.0m and boundary radii of 17.0m.		N/A
Effluent Disposal	a) an effluent disposal report prepared by a suitably qualified person is required to accompany any development application for rural-residential subdivisions.	Effluent disposal report provided and considered satisfactory	Yes
	b) Any system proposed other than a Household Aerated Wastewater Treatment System is required to be installed prior to release of subdivision certificate.		

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 August 2013

INFRASTRUCTURE SERVICES

Item: 161 **IS - Draft Windsor Foreshore Parks Plan of Management - (95495, 79354)**

Previous Item: 342, Ordinary (29 September 2009)
 118, Ordinary (30 June 2009)

REPORT:

Executive Summary

A Draft Plan of Management for seven foreshore parks within Windsor has been developed in accordance with the Local Government Act 1993. The Plan addresses management issues and strategies for Macquarie Park, Deerubbin Park, Howe Park, Hollands Paddock, Thompson Square, Windsor Wharf Reserve and Governor Phillip Park.

The Draft Plan of Management has been developed internally and is based on the 2009 Windsor Foreshore Parks Plan of Management developed by consultants – Environmental Partnership (NSW). The updated version of the Plan considers management issues that have arisen since the 2009 Plan and is consistent with Council strategic documents developed since the original plan.

It is recommended that the Draft Plan of Management be placed on public exhibition and re-reported to Council with any changes for adoption.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. It is proposed that the Plan of Management be placed on public exhibition for the mandatory 28 day consultation period, with a further 14 day period for the completion of written submissions.

Background

The Local Government Act, 1993 (the Act) provides Councils with a specific approach to the management of community land. It states that there must be a plan of management applying to the land and outlines restrictions on the use of such land. Plans of management must be reviewed every five years.

The Plan of Management for Community Land must identify the following criteria:

- The category of land,
- The objectives and performance targets of the plan with respect to the land,
- The means by which the council proposes to achieve the plan's objectives and performance targets,
- The manner in which the council proposes to assess its performance with respect to the plan's objectives and performance targets, and
- Actions that may require the prior approval of Council to the carrying out of any specified activity on the land.

Within these foreshore parks there are seven parcels of land which are Crown Land under Council's care and control, an additional three parcels are owned by Sydney Water Corporation. To provide consistency of management, the Plan includes all parcels under Council's care and control, including Crown Land. The objectives developed in the draft Plan meets the principles of Crown Land management as set out in the Crown Lands Act 1989.

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The updated version of the Plan considers management issues that have arisen since the 2009 Plan and is consistent with Council strategic documents developed since the original plan.

It is recommended that the Draft Windsor Foreshore Parks Plan of Management be placed on public exhibition and with a further report to Council including suggested changes prior to adoption.

Conformance to Community Strategic Plan

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

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

and is also consistent with the nominated strategy in the Community Strategic Plan being:

- Recognise, protect and promote the values of indigenous, natural and built heritage through conservation and active use.

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That the Draft Windsor Foreshore Parks Plan of Management be placed on public exhibition for the mandatory 28 day consultation period, with a further 14 day period for the completion of written submissions.

ATTACHMENTS:

AT - 1 Draft - Windsor Foreshore Parks Plan of Management – *(distributed under separate cover)*.

oooO END OF REPORT Oooo

Item: 162 **IS - Proposed Rural Fire Brigade Station at Freemans Reach Reserve - (95495, 79354, 73587)**

REPORT:

Executive Summary

The Hawkesbury Rural Fire Service (HRFS) is seeking to construct a new Brigade Station at Freemans Reach Reserve. The Freemans Reach Fire Brigade has out grown their existing location and there are also safety issues when accessing and exiting their current station.

As the proposed site is crown land under Council's care and control, and a fire station is not currently permitted on the site, amendments to the controls applying to the reserve are required.

It is proposed to consult with the community regarding the proposal to gauge support prior to further consideration of the matter.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement process proposed in this report meets the criteria for the minimum level of community engagement required under Council's Policy.

Background

The Hawkesbury Rural Fire Service (HRFS) have requested Council give "in principle" approval for a proposed Brigade Station to be located at Freemans Reach Reserve. It should be noted that this is not a request for building or development approval.

The proposal is to build a new brigade Station at Freemans Reach Reserve. The Reserve is located at the intersection of Kurmond Road and Gorricks Lane (see attached site plan). It is proposed to setback the building from the road by 8 metres, facing the hard standing gravel drive, which is shared by the users of the tennis courts. The building proposed is approximately 14m (w) by 15m (d) (not inclusive of a water tank at the rear of the Station or clearing required to establish an asset protection zone).

The HRFS has estimated the cost of the building to be \$400,000 and they propose to raise the necessary funds through grants and community fundraising. In principle approval will allow Council and RFS to start the process to enable the necessary development and construction approvals.

The building is proposed over a portion of Freemans Reach Reserve which is Crown Land under Council's care and control. The "purpose" of the land is Public Recreation and the proposed extension does not currently comply, however, the Crown does have the option to either excise the area of land from the park or alternatively add a "purpose" (bush fire brigade station) to the park description. A letter would be sent to the Crown Lands seeking this change subject to Council consent.

Whilst the Reserve is Crown land, it has been categorised under the Local Government Act 1993 to ensure that areas are managed consistently. The land upon which the development is proposed has been categorised as Natural area and the proposed building/use does not currently meet the purpose of this category.

It is felt that due to the location of the proposed Brigade Station with its potential to have an effect on recreational usage (current and future), prior to the submission to Crown Lands and consistent with the approach that would be taken with Council owned reserves, the community should be consulted about the proposal in the first instance. As such it is proposed to advertise the proposal for a period of 28 days, following which the matter will be further reported to Council for consideration.

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Conformance to Community Strategic Plan

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

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

Financial Implications

The advertising expenses associated with this matter have been provided for in the 2013/2014 Budget allocation.

RECOMMENDATION:

That the proposal to seek amendment to the permitted uses in Freemans Reach Reserve to permit, subject to future development approval, a Rural Fire Service Brigade Station, be advertised for a period of 28 days and be further reported to Council for consideration.

ATTACHMENTS:

AT - 1 – Site Plan - Proposed Freemans Reach Brigade Station

ORDINARY MEETING

Meeting Date: 13 August 2013

Item: 163 **IS - Compulsory Acquisition of Lot 192, DP 729625 and Part Lot 3, DP 1105163 (Hawkesbury City Waste Management Facility) - (95495, 112179)**

REPORT:

Executive Summary

Planning for the Hawkesbury City Waste Management Facility future management has been undertaken to ensure ongoing operation beyond the currently available landfill cell. In progressing the strategic direction of future waste management services for the community, the compulsory acquisition of the currently leased parcel of Crown land on which part of the waste management facility sits, as well as a neighbouring parcel of Crown land under the care and control of the University of Western Sydney is viewed as a critical step in ensuring that the service needs of the community are met.

Council has now received advice from the Department of Trade and Investment (Crown Lands) that concurrence to the acquisition is given. This report outlines the administrative steps and resolutions now required to allow the progression of this process.

Consultation

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

Background

The currently available landfill cells at the Hawkesbury City Waste Management Facility will be fully utilised by 2019 based on current projections. Council has been developing the future strategic direction of solid waste disposal for the Hawkesbury community after this time. As part of this process, the acquisition of the currently leased parcel of Crown land on which part of the Waste Management Facility sits (Lot 192, DP 729625), as well as a neighbouring parcel of Crown land (part Lot 3, DP 1105163), under the care and control of the University of Western Sydney is viewed as a critical component in securing the long term waste management needs and strategic direction for the Hawkesbury community. (Plan attached)

On 27 October 2011 Council received the consent of the University of Western Sydney (the current land holder) for the compulsory acquisition of the two above mentioned parcels of land. Application was then made on 9 March 2012 to the Department of Trade and Investment (Crown Lands) for their concurrence of the compulsory acquisition. On the 25 March 2013 the University of Western Sydney provided correspondence to Department of Trade and Investment (Crown Lands) granting their consent to the land sale and on the 2 August 2013 Council received formal concurrence from the Department of Trade and Investment (Crown Lands) allowing the land acquisition to proceed.

Having received the concurrence of the Department of Trade and Investment (Crown Lands) for this acquisition, Council must now carry out a number of further steps for the land acquisition to take place. These steps include:

1. Resolution of the Council to approve the acquisition of the Crown Land by compulsory process under Section 186 of the Local Government Act, 1993.
2. Resolution of the Council to make an application to the Minister for Local Government to issue a Proposed Acquisition Notice under the *Land Acquisition (Just Terms Compensation) Act, 1991 (NSW)* with respect to the Crown.
3. Resolution of the Council approving the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under the *Land Acquisition (Just Terms Compensation) Act, 1991 (NSW)* with respect to the Crown land.

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4. Resolve that upon acquisition, the properties be classified as *Operational Land* for the purposes of Section 31 (2) of the Local Government Act 1993, and
5. Resolve that upon acquisition, publicly advertise for a period of 28 days the intention of Council to classify the properties as *Operational Land* for the purposes of Section 34 of the Local Government Act 1993.

In making these resolutions, the Council allows the process of compulsory land acquisition to progress facilitating the strategic waste management and resource recovery directions to develop further. It should be noted that statutory planning approvals and licensing approvals are separate from the acquisition process.

Conformance to Community Strategic Plan

This proposal is consistent with the Community Strategic Plan in a number of areas including:

Looking after people and place

- Upgrade the necessary physical infrastructure and human services to meet contemporary needs and expectations.

Caring for our environment

- Reduce our environmental footprint through resource and waste management
- Manage growth through ecologically sustainable principles
- Reduce greenhouse gas emissions
- Waste management facility operating on a commercial basis
- Reduced waste to landfill

The proposed implementation timeframe for this matter is dependent on the timeframe required for the proposed compulsory land acquisition.

Financial Implications

The Waste Management Facility is funded through an internally restricted reserve. Future income and expenditure projections impacting on this reserve are reflected in the long-term financial plan for the Facility.

Funding has been allocated within the long-term financial plan in 2015/2016 for the purchase of this land. It is anticipated that this budget allocation may need to be brought forward to the 2013/2014 financial year, subject to the progress of the acquisition process.

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RECOMMENDATION:

That Council:

1. Approve the acquisition of the Crown Land referred to in the report and as shown in Attachment 1 to the report by compulsory process under Section 186 of the Local Government Act, 1993.
2. Make an application to the Minister for Local Government to issue a Proposed Acquisition Notice under the *Land Acquisition (Just Terms Compensation) Act, 1991 (NSW)* with respect to the Crown.
3. Make an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under the *Land Acquisition (Just Terms Compensation) Act, 1991 (NSW)* with respect to the Crown land.
4. Resolve that upon acquisition, the properties be classified as *Operational Land* for the purposes of Section 31 (2) of the Local Government Act 1993, and
5. Resolve that upon acquisition, publicly advertise for a period of 28 days the intention of Council to classify the properties as *Operational Land* for the purposes of Section 34 of the Local Government Act 1993.

ATTACHMENTS:

AT - 1 Plan of Land Proposed for Compulsory Acquisition

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Meeting Date: 13 August 2013

SUPPORT SERVICES

Item: 164 SS - Pecuniary Interest Returns - Designated Persons - (95496, 79337)

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
Property Officer (maternity relief)	6 May 2013	11 June 2013

The above Designated Person has lodged their Section 449(1) Return prior to the due 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) and (b) of the Act, and the abovementioned Return is available for inspection, if requested.

ORDINARY MEETING

Meeting Date: 13 August 2013

Conformance to Community Strategic Plan

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

- Have transparent, accountable and respected leadership and an engaged community;
- and is also consistent with the nominated strategy in the Community Strategic Plan being:
- Have ongoing engagement and communication with our community, governments and industries.

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That the information be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 August 2013

CONFIDENTIAL REPORTS

Item: 165 **CP - Operation of Richmond Occasional Child Care Service - (95498, 96328)**
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)(a) of the Act as it relates to personnel matters concerning particular individuals 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

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Item: 166 **SS - Property Matter - Assignment of Lease from Jessica L'Estrange Pty Limited to Blefari Holdings Pty Ltd - Shop 6 Glossodia Shopping Centre - (126146, 126147, 124570, 112106, 95496) CONFIDENTIAL**

Previous Item: 138, Ordinary (9 July 2013)

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act, 1993, and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

In accordance with the provisions of Section 11(2) & (3) of the Local Government Act, 1993, the reports, correspondence and other relevant documentation relating to this matter are to be withheld from the press and public.

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillor Questions from Previous Meetings and Responses - (79351)

REPORT:

Questions – 30 July 2013

Due to the Council Meeting of 30 July 2013 being adjourned and not completed until 6 August 2013, responses to the questions under are unable to be provided until the Council meeting on 27 August 2013.

#	Councillor	Question	Response
1	Reardon	Asked if signs could be posted in Pughs Lagoon, Smith Park on the approach from Francis Street stating that it was the watering place for the town and that Francis Street was the principle exit route for travelling west.	Director Infrastructure Services
2	Lyons-Buckett	Asked if Council could write to the State Government outlining the importance of the Demonstration and Research Farm at the University of Western Sydney and the reasons why they intend to close the facility.	General Manager
3	Lyons-Buckett	Asked if Council had received any complaints regarding the mushroom composting factory at Mulgrave.	Director City Planning
4	Paine	Asked if residents could be better informed that it is illegal to block the footpath whilst parked in a driveway.	Director City Planning
5	Paine	Requested clarification with regard to legislative changes for water caters and their responsibilities in relation to equipment.	Director Infrastructure Services
6	Paine	Asked what the current and future status of the Toll House is, near Windsor Bridge.	Director Infrastructure Service
7	Paine	Requested Council write to the Members for Parliament regarding the closure of Windsor Court House.	General Manager
8	Calvert	Asked if Council could write to Fairfield Council requesting their feedback in relation to a recent trial they conducted in which Taxis were able to pick up/ set down in Bus Zones.	Director Infrastructure Services

ORDINARY MEETING
Questions for Next Meeting

#	Councillor	Question	Response
9	Porter	Asked when the Estuary Management Study will be completed.	Director City Planning

ATTACHMENTS:

There are no supporting documents for this report.

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ORDINARY MEETING

Questions for Next Meeting



ordinary
meeting

end of
business
paper

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