



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 27 September 2011

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 held on the second Tuesday of each month, except January, and the last Tuesday of each month, except December. 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 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 issues 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 at least two hours before the meeting of those matters they wish to discuss. A list will then be prepared of all matters to be discussed and this will be publicly displayed in the Chambers. At the appropriate stage of the meeting, the Chairperson will move for all those matters not listed for discussion to be adopted. 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 a matter raised in the business paper for the Council meeting. You must register to speak prior to 3:00pm on the day of the meeting by contacting Council. You will need to complete an application form and lodge it with the General Manager by this time, where possible. The application form is available on the Council's website, from reception, at the meeting, by contacting the Manager Corporate Services and Governance on 4560 4426 or by email at arouse@hawkesbury.nsw.gov.au.

The Mayor will invite interested persons to address the Council when the matter is being considered. Speakers have a maximum of five minutes to present their views. If there are a large number of responses in a matter, they may be asked to organise for three representatives to address the Council.

A Point of Interest

Voting on matters for consideration is operated electronically. Councillors have in front of them both a "Yes" and a "No" button with which they cast their vote. The results of the vote are displayed on the electronic voting board above the Minute Clerk. This was an innovation in Australian Local Government pioneered by Hawkesbury City Council.

Planning Decision

Under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a 'planning decision' 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.

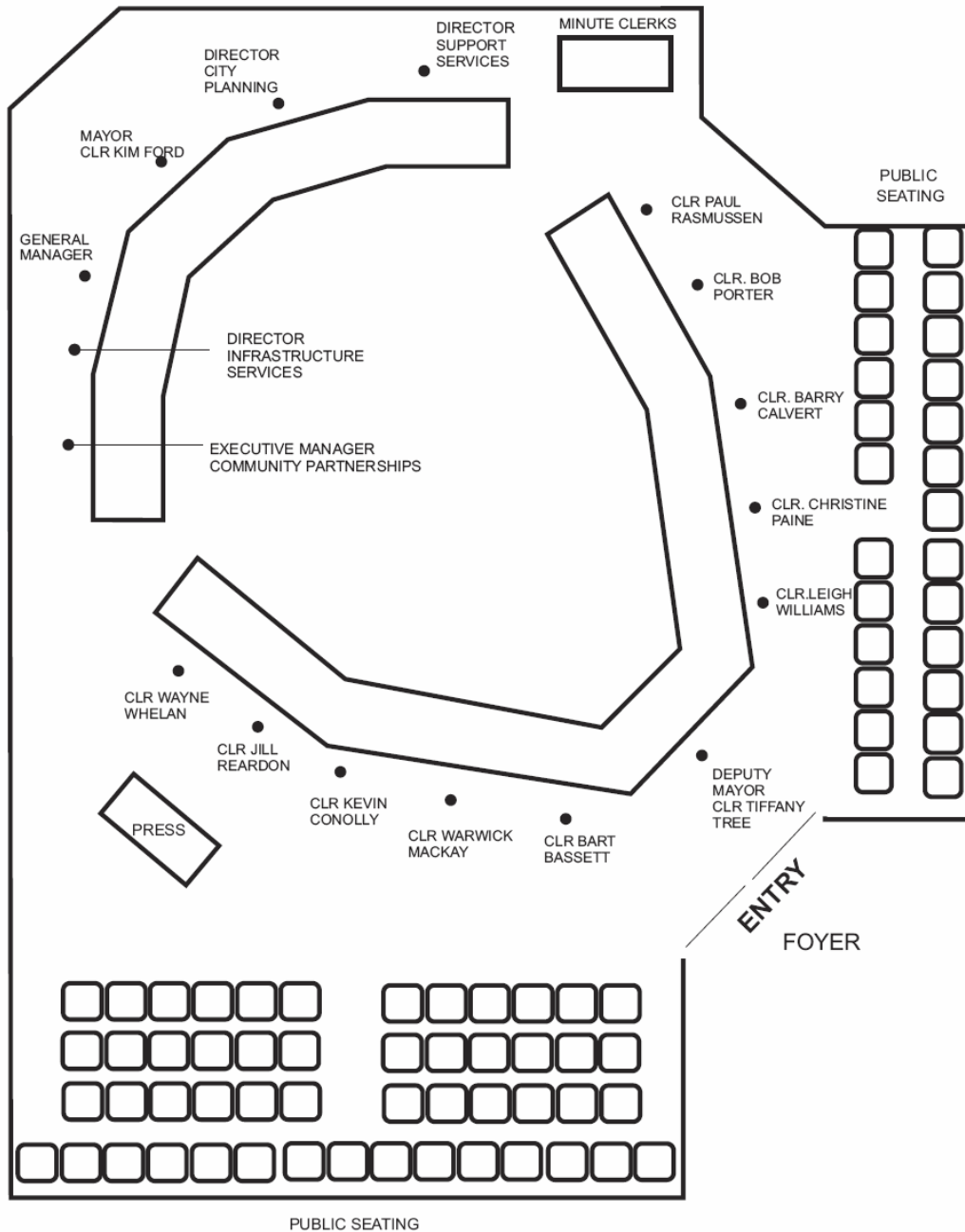
Website

Business Papers can be viewed on Council's website from noon on the Friday before each meeting. The website address is www.hawkesbury.nsw.gov.au.

Further Information

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

council chambers



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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 217 **GM - Hills, Hawkesbury & Riverlands Tourism - Request for Contribution Towards "Famil" - (79351)**

Previous Item: 127, Ordinary (28 June 2011)
 45, Ordinary (10 March 2009)
 101, Ordinary (27 May 2008)

REPORT:

Executive Summary

Council has resolved to participate in the Destination Hawkesbury Committee recently formed by Hills, Hawkesbury & Riverlands Tourism Inc. and nominated Councillor Ford and the General Manager, or his nominee, as its representatives to the Committee.

The Committee has now met twice and as part of its activities is proposing to conduct a "Famil" with the objective of the promotion and development of tourism within the Hawkesbury region and has requested Council to contribute \$2,000.00 towards the cost of conducting the event.

It is recommended that Council provide the contribution as requested.

Consultation

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

Background

At the Meeting of Council held on 28 June 2011 a report was considered regarding an invitation to be part of the "Destination Hawkesbury Committee" (the Committee) being established by Hills, Hawkesbury and Riverland Tourism Inc (HHART) to look at the future of tourism in the Hawkesbury.

Council subsequently resolved to accept the invitation to be part of the Committee with Council's representatives to be Councillor Ford and the General Manager, or his nominee.

Two meetings of the Destination Hawkesbury Committee have since been held, the first being 4 August 2011 and the second on 12 September 2011. A Council Officer nominated by the General Manager as well as Councillor Ford attended both meetings.

At the meeting held on 4 August 2011, Council requested that the Terms of Reference for the Committee be drafted and provided to Council.

At the Destination Hawkesbury Committee meeting held on 12 September 2011, the following documents were tabled:

- Draft Terms of Reference
- Hills Hawkesbury Tourism Innovative Marketing Tools

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- Hills Hawkesbury Tour Operator Famil Business Case

Of these documents, the Draft Terms of Reference is currently being considered by Council Officers. The Hills Hawkesbury Tourism Innovative Marketing Tools document is a concept only at this stage.

A copy of The Hills Hawkesbury Tour Operator Famil Business Case (the Famil) is included as Attachment 1 to this report. This Business Case in relation to the Famil, which is effectively an organised tour of the area and its features for tour operators to encourage further tourism business for the area, states its objectives as being:

- *"To have a range of tour operator professionals given a tour of the area and assist in giving pointers on how to encourage more packaged operators to the area*
- *To present the region to these professionals in the event that they may package a Hawkesbury product to sell to consumers."*

It will be noted that the Famil Business Case also suggests funding from Council towards the costs of the event and in this regard the following letter has also been received from HHART:

"The Destination Hawkesbury Committee on behalf of Hills Hawkesbury & Riverlands Tourism (HHART) would like to formally submit a request for funding of an upcoming familiarisation to the Hawkesbury Region.

The strategic purpose of the familiarisation tours is to drive business to the Hawkesbury area with the aim to enable future development of experienced based touring, and identify potential opportunities to do so.

The highlights and activities experienced on this "famil" will be centred along the Hawkesbury River, utilising the services of various businesses within the area to provide catering, accommodation and transport facilities. The businesses involved have been strategically chosen, not to promote their individual products, but for their assistance through use of their facilities and services that are required to make this famil a reality.

As a result of ongoing relationships with HHART, several of the businesses have been able to discount their costs for the famil, which has directly enabled us to reduce our request for funding from Hawkesbury City Council to an amount of \$2,000.

Please find attached the business case for the familiarisation that has been prepared by the Destination Hawkesbury Committee in conjunction with HHART for your attention."

Effectively, this request for Council's financial assistance towards the cost of the Famil is a request for support of the activities of the Destination Hawkesbury Committee towards the promotion and development of tourism within the Hawkesbury.

In this regard, and as previously indicated, Council is directly supporting the tourism-business sector by providing visitor services at the Hawkesbury VIC, being a member of HHART and sponsoring business awards - tourism awards (i.e. Greater Sydney Tourism Inc) and general awards (Local Business Awards, Precedent Productions).

However, given the Council's ongoing support of the activities of HHART; its support for the establishment of the Destination Hawkesbury Committee and the potential benefit that may result for the local tourism industry as a result of the Famil, Council may wish to favourably consider the current request for support towards the cost of this event.

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Conformance to Community Strategic Plan

The proposal is consistent with the Supporting Business and Local Jobs and Shaping Our Future Together Direction statements;

- Plan a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.
- Help create thriving town centres, each with its own character that attract residents, visitors and businesses.
- Have constructive and productive partnerships with residents, community groups and institutions.

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

- Develop economic development strategy that promotes local industry in a regional context.
- Work with industry and education providers to promote sustainable business practices.
- Have ongoing engagement and communication with our community, governments and industries.

It will also contribute to Goals;

- Jobs across a greater range of industry sectors.
- Increased patronage of local business and attract new residents and visitors.

and assist Council to achieve the following Measures:

- Growth and sustainability of new and existing industries.
- Increased number of new residents and visitors.

Financial Implications

Specific provision has not been provided within the 2011/2012 Adopted Budget for the contribution towards the proposed Famil, however, it is considered that funds towards this request could be allocated from appropriate sections within the Strategic Activities Component of the Budget if Council wished to support the event.

RECOMMENDATION:

That Council agree to contribute an amount of \$2,000.00 as requested by the Destination Hawkesbury Committee on behalf of Hills, Hawkesbury & Riverlands Tourism towards the cost of the proposed Hills Hawkesbury Tour Operator Famil.

ATTACHMENTS:

AT - 1 Hills Hawkesbury Tour Operator Famil Business Case

AT - 1 Hills Hawkesbury Tour Operator Famil Business Case



HILLS HAWKESBURY TOUR OPERATOR FAMIL

OBJECTIVES

- To have a range of tour operator professionals given a tour of the area and assist in giving pointers on how to encourage more packaged operators to the area
- To present the region to these professionals in the event that they may package a Hawkesbury product to sell to consumers.

BACKGROUND

Following the Report that was conducted in partnership between the Hills Shire Council, Hawkesbury City Council, Hornsby Shire Council & Department of Trade & Investment, Regional Infrastructure & Services (previously Department of Industry & Investment), there were several recommendations made by the author. One of these was to encourage tour operators to the region by showcasing the area.

Further to this, a growing problem in tourism is the availability of packaged product that could entice visitors to come to an area, as there is little expectation of what there is to see and do. In addition there is a gap in the product of more experiential opportunities in the Hawkesbury area.

A database of contacts from key National & Regional Tour Operators has been targeted for this famil. Once budget has been confirmed, we will be flagging the opportunity with each of them and asking for availability, hoping it will take place in October. It is envisaged that a famil of 6-8 attendees would be a perfect number to create discussion, questions and ideas.

TIME FRAMES

October 2011

- Pick-up 5:30pm Day 1

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- Drop-off 5:00pm Day 2

EXPENSES BUDGET

Based on 10 attendees including Host & Driver

Bus Operator		\$ 2,000
Dinner	\$ 60 pp	\$ 600
Australis Retreat	\$ 130 p/r	\$ 1,300
Breakfast	\$ 20 pp	\$ 200
NPWS	\$ 8 pp	\$ 80
Morning Tea	\$ 10 pp	\$ 100
Boat Hire		\$ 1,200
Lunch	\$ 30 pp	\$ 300
Gifts	\$ 50 pp	\$ 500

		\$ 6,280

FUNDING PARTNERS

HHART	\$ 1,000
Hills Shire Council	\$ 2,000

	\$ 3,000

POTENTIAL FUNDING PARTNERS

Department of Investment, Trade Regional Infrastructure & Services	\$ 1,000
Hawkesbury City Council	\$ 2,000
Hornsby Council	\$ 2,000

	\$ 4,000

PROPOSED ITINERARY

DAY 1

6:30-6:45pm	Pick Up at Dural Visitor Information Centre, Old Northern Rd, Dural Cars locked in Carpark Bus picks up attendees to Australis Retreat At Wisemens, 5564 Old Northern Road, Wisemens Ferry
6:45pm-7:22pm	Drive to Australis Retreat at Wisemens
7:22pm-7:40pm	Check in to Australis Retreat at Wisemens
7:40pm-9:30pm	Dinner at The Riverbend Restaurant over a Pre-Brief of the Famil Overnight at Australis Retreat at Wisemens.

DAY 2

8:00am	Convict Road & National Parks Famil Talk to NPWS Officer about development opportunities
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10:00am	St Albans Famil & chat with Historian
11:00am	Bike track, walking tracks and possible kayaking locations
	Chat with a local event organizer for the Red Bull Grand Prix
12:00pm	Golf Resort & Lunch and chat with Red Bull Cliff Diving Championship Host
1:15pm	Board Boats to Windsor
	Interpretation by local Historian & Bush generation Volunteer
3:00pm	Afternoon Tea with Hawkesbury Harvest Representative & Bridge to Bridge organiser
3:30pm	Bus pick up from Windsor Wharf with a stop off at Clarendon Visitor Information Centre and meet the Hawkesbury Visitor Information Centre staff
4:10pm	Arrive back at Mungerie House, 16 Bellcast Road, Rouse Hill
4:10pm-5:00pm	Debrief; Feedback & Ideas Fest as Mungerie house and thank you drinks. Bus arrive back to Dural 5:30pm.

FAMIL ATTENDEE INFORMATION

All attendees to the famil will receive a background information folder on the Hawkesbury area including a map, key Council contacts, and a list of operators in the HHART area. All collateral will be co-branded with all supporting Council logos.

There will also be an opportunity for the inclusion of information sheets on the region as provided by Hawkesbury City Council. Attendees will also receive information fact sheets from the various speakers as the famil progresses.

EVAULATION

To measure the success of this famil and gain feedback on the potential of the region we have allocated time in the itinerary to discuss and gain direct feedback from the operators as shown below:

4:10pm-5:00pm	Debrief; Feedback & Ideas Fest as Mungerie house and thank you drinks. Bus arrive back to Dural 5:30pm.
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Post famil, HHART will follow up with each attendee as to the possibility of commencing operations in the Hawkesbury and follow-up on any recommendations or needs established as a result of the familiarisation tour.

Dialogue will continue between the attendees and HHART post famil, with a follow up survey conducted in addition to direct conversations via telephone and email.

The evaluation activities scheduled within the famil, results from the follow up survey and any other feedback received via telephone and email will be collated and communicated to the Destination Hawkesbury Committee members, which includes the Hawkesbury City Council committee representatives.

oooO END OF REPORT Oooo

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Item: 218 **GM - Destination 2036 Workshop Conducted by NSW Division of Local Government - (79351)**

REPORT:

Executive Summary

The Division of Local Government (DLG) within the NSW Department of Premier and Cabinet conducted a "Destination 2036 Workshop" (the Workshop) in Dubbo on 17 and 18 August 2011 with the Mayor and General Manager of all NSW councils being invited to attend together with representatives from other industry groups.

In summary, the purpose of the Workshop was to look to the future of local government; its development and ongoing role and what needs to be done, both by and for the sector, to meet the challenges of the future. Whilst structural change, including the issue of amalgamations, was raised it was not the focus of the Workshop.

During "Questions for Next Meeting" at the meeting of Council held on 30 August 2011, Councillor Paine requested that a report be submitted regarding the Workshop and this report is submitted for Council's information in response to that question.

Consultation

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

Background

At the meeting of Council held on 30 August 2011 Councillor Paine raised a "Question for Next Meeting" requesting that a report be submitted regarding the "Destination 2036 Workshop" (the Workshop) and this report is submitted for Council's information in response to that question.

At a seminar conducted by the then Department of Local Government (now Division of Local Government (DLG) within the Department of Premier and Cabinet) in 2010 and attended by many Mayors and General Managers from across the State, the Chief Executive (CE) of the DLG raised the possibility of a major "workshop" being held with representatives for all councils to consider the future of local government in New South Wales.

Subsequently, the Workshop concept was developed and titled "Destination 2036 Workshop" and was held in Dubbo on 17 and 18 August 2011. The Workshop had in excess of 350 attendees which included representatives from all local government authorities in New South Wales and representatives from other industry groups such as the Local Government & Shires Association of NSW, Regional Organisations of Councils, LGMA, the Australian Centre for Excellence for Local Government, relevant government departments, etc.

The Workshop was also attended by the Minister for Local Government, the Hon Don Page MP, the Minister for Western NSW, the Hon Kevin Humphries MP, both of whom addressed Workshop participants, and many senior staff from the DLG and other state government departments.

The program for the Workshop suggested that its purpose was:

- *"To create a bold vision - a preferred future for local government"*
- *To identify the roadmap that will put us on a path to this vision*

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- *To develop a shared view on the right models for local government*
- *To develop and get excited about a short term Action Plan: not a wish list but something clever and achievable that focuses on priorities for the next 4 years*
- *To create an opportunity for new relationships of trust within and between local and state government to help deliver strong local government for the communities of NSW."*

Elton Consulting were engaged by the DLG to facilitate the Workshop and as part of this process produced a Discussion Paper titled "*Our Communities, Our Councils, Our Future*" prior to the Workshop which was made available to all participants. A copy of the Discussion Paper is included as Attachment 1 to this report. In distributing this discussion Paper the DLG suggested:

"This paper, "Our Communities, Our Councils, Our Future", presents a snapshot of NSW communities and their councils and brings together key ideas from a range of work on local government in NSW and Australia done by a large number of organisations and individuals in recent years. It also poses a series of questions as a starting point for discussion before, during, and after the Destination 2036 workshop."

In addition, the CE of the DLG issued a message for all participants at the Workshop titled "*Destination 2036; Some Food For Thought*" a copy of which is included as Attachment 2 to this report.

An on-line survey of intending workshop participants was also undertaken prior to the Workshop and sought feedback and views on issues such as:

- Most important changes affecting local government in the last 10 years;
- Most important challenges currently affecting councils;
- Biggest changes on the horizon for NSW in the next 10-20 years;
- Fears for the workshop;
- Greatest hopes for the workshop;
- Visions of the survey participants in relation to the future of local government.

The results of the survey were reviewed by the Workshop; rated as to overall relevance and importance and facilitated discussion on various issues that were considered.

As would be appreciated, there was a wide and varied range of issues relating to the future of local government that were raised and discussed at the Workshop and while the issue of structural change, including the issue of amalgamations, was considered I would suggest that it was not the focus of the Workshop.

Among the key points determined by the conference participants that will be considered by the NSW Government and the Local Government and Shires Associations were; a need to clarify the key responsibilities, roles and functions of councils; to review and strengthen financial arrangements for local government; a strong endorsement from councils to form or strengthen regional collaborative arrangements, and develop resource sharing partnerships as well as developing and enhancing the way we operate to improve efficiencies and services provided.

Also considered was; an understanding among councils that a variety of models for local government are required, which would be applied to different circumstances in regional, remote, rural or metropolitan councils; a need to review the State's legislative framework to ensure the local government sector will have necessary powers to confront future challenges facing communities; and a need for the NSW Government to improve and streamline the process by which voluntary council boundary alterations can be considered and accommodated.

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At the conclusion of the Workshop, the Minister for Local Government advised that a Steering Committee had been formed to progress the work undertaken at the Workshop, consisting of the LGSA, the LGMA and the DLG. The first meeting of the Steering Committee was planned for 2 September 2011 where the Committee would look at the next steps to progress the Action Plan developed at the Workshop. This Action Plan, together with an Outcomes Paper will be distributed to local government for comment.

After the Workshop the DLG issued a Communiqué titled *"Destination 2036 Workshop – Mapping the future for better local government"*, which outlined *"the challenges for the future, a draft vision statement, the strategic initiatives ("roadmap") and the next steps in the process of achieving reform"* following on from the Workshop. A copy of this Communiqué is included as Attachment 3 to this report.

Appropriate advice will be forwarded to councillors when further information is received following the Steering Committee's activities.

Conformance to Community Strategic Plan

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

- Maintain its independent identity and voice through strong local government and community institutions.

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

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

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That the information regarding the Destination 2036 Workshop conducted by NSW Division of Local Government on 17 and 18 August 2011 be received and noted.

ATTACHMENTS:

- AT - 1** Destination 2036 Workshop Discussion Paper *"Our Communities, Our Councils, Our Future"* produced by Elton Consulting - *(Distributed Under Separate Cover)*.
- AT – 2** *"Destination 2036; Some Food For Thought"* A personal message from Ross Woodward, Chief Executive Division of Local Government - *(Distributed Under Separate Cover)*.
- AT – 3** Communiqué titled *"Destination 2036 Workshop – Mapping the future for better local government"* issued following the Workshop.

AT – 3 Communiqué titled “Destination 2036 Workshop – Mapping the future for better local government” issued following the Workshop.



Communiqué – 18 August 2011 – Dubbo

Destination 2036 Workshop - Mapping the future for better local government

The leaders from NSW local government came together for an historic meeting in Dubbo on 17 and 18 August 2011 to begin the process of creating a strong and viable local government sector.

Over 350 representatives from every council in the State worked cooperatively and constructively over the two days to lay down a shared vision for the sector and develop a set of clear actions to achieve that vision.

Representatives at the Destination 2036 Workshop recognised the need to reshape the structure, governance and financing arrangements, functions and capacity of the sector to better enable councils to serve their communities in a challenging and rapidly changing environment.

The two-day workshop represented the first stage in a significant process of reform for the sector and a new era in State/Local Government relations. It sets the stage for the biggest reforms to local government in its history.

The Minister for Local Government, the Hon Don Page MP, the President of the Local Government Association, Councillor Keith Rhoades, the President of the Shires Association, Councillor Ray Donald, and the President of Local Government Managers Australia (NSW Branch) Mr Mark Ferguson, joined together at the end of the workshop to praise participants and to share their commitment to jointly pursuing this reform process.

Challenges for the future

Representatives at the workshop acknowledged that there will be a number of challenges in the short, medium and longer term that will impact on the capacity of councils to meet the needs of their communities. The key challenges identified and discussed at the workshop include:

- Demographic change
- Increasing community expectations
- Technological change
- Economic, financial and industry change
- Environmental change
- Social change

The Vision for NSW Local Government

During the course of the two day event a working draft of a future vision statement was developed for further consultation.

Vision 2036

Strong Communities through Partnerships

- *By 2036, all NSW communities will be healthy and prosperous – led and served by strong, effective and democratically elected local government*
- *Through leadership, local knowledge and partnerships with community, government and other sectors, we will plan our futures and deliver quality services and infrastructure*
- *We will be recognised, respected and responsible for:*
 - *Upholding the highest ethical standards*
 - *Sound financial management*
 - *Sensitive environmental stewardship*
 - *Meaningful community engagement, advocacy and leadership*
 - *Our adaptability, innovation and learning*
 - *Developing the full potential of our people*
 - *Responding to our diverse cultures and environments*
 - *Creating places that people value*

Achieving the vision – a roadmap for Local Government

There was broad consensus among representatives that change and reform is needed within the sector to meet changing community needs; this will be achieved through the pursuit of the following strategic initiatives (the "roadmap").

- The development of a new vision for local government based on a working draft
- Continue to improve the relationship between state and local government, including a review of the intergovernmental agreement
- Commitment to review the legislative framework to ensure that local government can meet the needs and challenges facing communities in the future
- Commitment to clarify the key functions, roles and responsibilities of councils
- Recognition that a variety of operating models for local government are needed that can be applied in the differing circumstances of remote, regional, rural and Sydney basin councils, because one size does not fit all.
- The need to develop new funding models to ensure the financial viability of councils
- Strong endorsement to strengthen regional collaboration and resource sharing
- Commitment to improve the process by which voluntary boundary alterations can be accommodated
- Pilot programs with volunteer councils to test new models

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Next steps

Steering Committee to oversee implementation of the Action Plan

Who

An Implementation Steering Committee (ISC), consisting of the Chief Executive of the Division of Local Government (Chair) the Presidents of the Local Government and Shires Associations and the President of the LGMA has been established to build on the work of the Destination 2036 workshop.

How

The ISC will meet on 2 September to consider the workshop outcomes. The ISC will refine the list of actions into a draft action plan that will be distributed around the end of September for consultation.

Feedback will be considered and incorporated into the final action plan by the end of the year so that implementation by the two tiers of government can commence in 2012.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 219 **CP - Development Application - Alterations and Additions to Existing Rural Shed, Lot 1 DP 836565 - 138a Comleroy Road, Kurrajong - (95498, 35048, 35047, DA0262/11)**

Development Information

File Number: DA0262/11
Property Address: 138A Comleroy Road, Kurrajong
Applicant: Barbara Tarnawski Architects
Owner: Mr RJ Coote & Mrs RJ Coote
Proposal Details: Alterations and Additions to an Existing Shed
Estimated Cost: \$22,000
Zone: Rural Living
Date Received: 9 May 2011
Exhibition Dates: 30 May 2011 - 13 June 2011

Key Issues: ♦ Prohibited use
 ♦ Shed size

Recommendation: Refusal

REPORT:

Executive summary

The application seeks approval for alterations and additions to the existing "Rural Shed" at Lot 1 DP 836565, 138a Comleroy Road, Kurrajong.

The proposed shed and use do not comply with Hawkesbury Local Environmental Plan 1989 (HLEP) and Hawkesbury Development Control Plan (HDCP) in relation to both its size and intended use of the structure. The size of the existing and proposed sheds results in a total floor area of 295m² (square metres).

The applicant's intended use of the structure is for the storage of vehicles and materials associated with a business / commercial use as a plumbing contractor. Such a use is prohibited under Hawkesbury Local Environmental Plan 1989 (HLEP) in the Rural Living Zone.

The application is recommended for refusal.

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

Introduction

The application is for alterations and additions to the existing shed on the subject land. The proposed use of the shed is for the storage of vehicles and equipment associated with the owner's plumbing business operation.

The floor area of the existing shed is 90 square metres. An awning of 30 square metres in area is attached to the existing shed. The existing shed has approval under Development Consent No. 1042/04. The site also has an existing barn located adjacent to an existing dwelling, with a floor area of 80m² (square metres). The cumulative total floor area of the current "Rural Sheds" on the site is 170 square metres

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which is already in excess of the maximum floor area permitted under Hawkesbury Development Control Plan (HDCP) – being 170 square metres.

The proposed alterations and additions will increase the existing floor area by a further 124.8 square metres. The cumulative total of all sheds/ barns would be 294.8 square metres. This exceeds the maximum cumulative total floor area for sheds by 124.8m² which is the permitted maximum – a variation of 73% to the HDCP requirement.

Use of Premises

The Statement of Environmental Effects describes the proposal as follows:

"The proposal consists of alterations and additions to the existing shed to house vehicles and equipment that they use in running the business".

Comment:

Based on this information, it is considered that the proposed activity is best defined as 'commercial premises'.

'Commercial premises' means "a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause;"

The applicant was advised of this definition and was given the opportunity of either withdrawing the application or amending the proposal to demonstrate compliance.

In response, additional information was provided by the applicant to clarify and justify the proposal as a 'rural shed' under Clause 5 of the Hawkesbury Local Environmental Plan 1989:

The applicant submitted that:

A 'Rural shed' means "a building or structure used for the storage of the property of the occupiers of the subject land or property associated with an agricultural use or other permissible land use conducted on the same parcel of land, but does not include a building or structure elsewhere specifically defined in this clause or a building or structure used for a purposes elsewhere specifically defined in the clause."

The applicant further stated that "The proposal is not considered to be "commercial premises" as the term "commercial premises" is not contained in Clause 5 of Hawkesbury LEP 1989 and cannot be used to override the definition of "rural shed". Notwithstanding this observation, the proposal complies with the definition of "rural shed".

Comment:

Definitions adopted for use in the LEP are contained in Clause 5 and Clause 6. The 'commercial premises' definition is a 'model provisions' definition which is adopted under Clause 6 of the Local Environmental Plan. A Local Environmental Plan applies in its entirety, and no clause can be interpreted in isolation. A development proposal is defined by the proposed or existing use of the development. In order to undertake this definition of use, the land use definition/s within the Local Environmental Plan which best fits the proposal is applied.

The response from the applicant's representative also provided additional details in relation to the use:

"In this case the applicant will be using the shed to house vehicles and equipment associated with the owner's occupation as a Plumbing contractor."

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Comment:

The submitted floor plan indicates how the area of the proposed shed is to be utilised, including areas for building material storage, workshop and storage of building tools, shower, truck parking, stables, feed stalls and hay storage area. It is considered that the building material storage areas, the truck parking and corridor area, and workshop and building tools storage area are associated with the owner's building business. This use occupies a substantial proportion of the floor area of the existing and the proposed shed.

It is considered that whilst part of the shed will be used for agricultural storage, a substantial portion of this proposal is best defined as 'commercial premises' (storage of vehicles, equipment and materials to be used off site). This matter was discussed with the property owner and forms the basis of the Council Officer's concerns with regards to the size and intended use of the proposed alterations and additions to the existing shed.

Council Policies, Procedures and Codes to Which the Matter Relates

Sydney Regional Environmental Plan No 20 (SREP20) Hawkesbury Nepean River
Hawkesbury Local Environmental Plan (HLEP) 1989
Draft Hawkesbury Local Environmental Plan (HLEP) 2009
Hawkesbury Development Control Plan (HDCP)

Matters for Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 (EPA Act).

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

a. The provisions (where applicable) of any:

i. Environmental Planning Instrument:

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

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

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

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

Clause 2 – Aims and Objectives (General)

The general aims and objectives of Hawkesbury Local Environmental Plan 1989 are:

- (a) *to provide the mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury,*
- (b) *to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- (c) *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- (d) *to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City of Hawkesbury for future generations, and*

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- (e) *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City.*

The proposal is not inconsistent with the General Aims and Objectives of Hawkesbury Local Environmental Plan 1989.

Clause 9 - Carrying out of development

The proposed shed is inconsistent with the requirements of HLEP 1989 being a prohibited use within the Rural Living Zone.

Clause 9A - Zone Objectives

The objectives of the Rural Living Zone should be met where they are applicable. In this instance the following objectives are applicable:

- (a) *to provide primarily for a rural residential lifestyle,*

Comment: The proposed commercial use is not consistent with rural residential lifestyle. The size and height of the proposed shed fails to protect the visual landscape. It will likely have an unacceptable visual impact upon adjoining properties which will adversely affect the rural-residential character of the area.

- (b) *to enable identified agricultural land uses to continue in operation,*

Comment: The subject site currently does not have an identified land use that would support the need for a shed of the size proposed and the dominant use of the extended shed is for commercial purposes;

- (g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflict with other land uses in the locality,*

Comment: Ancillary uses on Rural-Living land would generally be expected to be associated with the use or maintenance of the property. Ordinarily this would be limited to a specific agricultural or domestic activity associated with the property, which as previously stated is not the case with regard to this application.

The current proposal appears to be designed for commercial storage that is neither ancillary to the household nor for the storage of personal items or equipment. It is considered that the existing shed and barn on the property provides sufficient space for these needs.

Clause 25 – Development of flood liable land

The subject site is above the 1 in 100 year flood level and therefore is not subject to flood related development controls for flood events up to the 1 in 100 year flood level

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

The application does not propose to carry out works below the natural ground level or works that would result in raising the water table.

Assessment of the Development Application reveals that the proposal meets the matters raised in the above clauses of Hawkesbury Local Environmental Plan 1989.

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

Draft Hawkesbury Local Environmental Plan 2011 is currently with the Department of Planning and Infrastructure awaiting gazettal. The subject lot is proposed to be zoned as RU4 - Rural Small Holdings.

The use of the proposed shed has been identified in the information submitted with the application and is best defined as a 'depot' for the reasons previously discussed above.

'Depot' means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (that support the operations of an existing undertaking) when not required for use.

Depot's are prohibited in the proposed zone.

Further the size and height of the shed is not considered to adequately maintain the rural and scenic character of the land.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

The proposed development is inconsistent with the requirements of HDCP 2002.

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

Part A Chapter 2 - General Information

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

Part A Chapter 3 - Notification

The application was required to be notified to adjacent property owners in accordance with HDCP.

No submissions were received as a result of the notification.

Part D – 1.4 Setbacks

The setbacks are non-compliant as the shed is proposed to be located in front of the existing dwelling. However, this proposal involves an addition to an existing approved shed. The variation to the requirements of HDCP 2002 were previously granted. The property is a Battle-axe allotment with no direct street frontage.

Part D – Chapter 8 Rural Sheds

8.2.1 Siting – The objective of this Clause is to integrate rural sheds into the landscape so that they complement the rural character of the area and are not visually dominant.

Comment: The location of the proposed shed is considered suitable however the size and height of the shed are considered to increase the visual dominance of the structure in the locality.

8.2.2 Size – The objective of this Clause is to control the size of rural sheds to minimise their visual dominance in the landscape

Comment: The proposed shed has an area of 294.8m² (square metres). This is greater than the maximum of 170m² (square metres) permitted under Hawkesbury Development Control

Plan by 124.8 metres square or 73%. This variation is unable to be supported in this case as there is no agricultural use attached to the land which justifies the need for a shed of this size and height.

8.2.3 Height – The objective of this Clause is to control the height of rural sheds to minimise their dominance and bulk in the landscape.

Comment: The proposed shed has an overall height of approximately 5.9 metres above natural ground level at the ridge. This exceeds the DCP maximum permitted height of 5 metres. The additional height adds to the bulk and scale of the shed. The proposed shed would have an unacceptable visual impact upon the rural landscape. The existing shed is approximately 3.3 metres high.

8.2.4 Form - The objective of this Clause is to encourage the design of rural sheds so that they enhance the rural landscape and character of an area.

Comment: The proposed design does not enhance the rural landscape or character of the Kurrajong area. This is due to the overall size and height of the structure, the lack of aesthetic features such as changes in the roof form with the lack of features to the external appearance.

8.2.5 Colour – The objective of this Clause is to encourage attractive developments by controlling the colour of rural sheds so as to blend in with the rural landscape and existing buildings on a property.

Comment: A condition of consent can be applied to ensure the colour of the proposed alterations and additions to the existing shed matches the existing and is of an earth tone if Council chooses to support the application.

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

There are no planning agreements applicable to the proposed development.

v. Matters prescribed by the Regulations:

There are no prescribed matters that affect the proposal.

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

The proposed development would have an unacceptable visual impact resulting from the excessive size and height of the proposed structure. The proposed use is more appropriate for a commercial or industrial location.

c. Suitability of the site for the development:

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

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

The application was notified for a period of fourteen days 30 May 2011 to the 13 June 2011 to adjacent property owners in accordance with HDCP. No submissions were received.

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e. The Public Interest:

The proposal is not consistent with the relevant planning instruments affecting the site. Approval of the development may create an undesirable precedent for similar inappropriate development which would not be in the public interest.

Conclusion

The alterations and additions to the existing shed, its proposed size, height and intended use are not consistent with the objectives or provisions of the Hawkesbury Local Environmental Plan 1989 (HLEP) or the Rural Shed Chapter of Hawkesbury Development Control Plan. Hence, the proposal in its current form cannot be supported.

Developer Contributions

The proposal is exempt from Section 94A Development contributions as the building work involves a Class 10a structure only.

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 DA0262/11 for alterations and additions to the existing Rural Shed at 138a Comleroy Road, Kurrajong be refused for the following reasons:

1. The proposed development is a prohibited land use in the Rural Living Zone under the provisions of Hawkesbury Local Environmental Plan 1989.
2. The proposed development is a prohibited land use in the RU4 - Rural Small Holdings Zone under the provisions of the Draft HELP 2009.
3. The proposed development is inconsistent with objectives (a), (b) and (g) of the Rural Living zone contained within Hawkesbury Local Environmental Plan 1989.
4. The proposed development is inconsistent with the aims and objectives of Hawkesbury Development Control Plan.
5. The proposed development does not comply with the requirements of the Hawkesbury Development Control Plan, in particular Part D, Chapter No.8, Erection of Rural Sheds.
6. The proposed development is inconsistent with the established character of the locality.
7. The proposed development will have an unacceptable impact on the visual quality of the area.
8. The proposed development will have an unacceptable impact on the locality in terms of scale, bulk, mass, form and design.
9. In the circumstances, approval of the development would not be in the public interest.

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ATTACHMENTS:

- AT - 1** Locality Map
- AT - 2** Aerial Photo
- AT - 3** Site Plan
- AT - 4** Floor Plan
- AT - 5** Elevations

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AT - 1 – Locality Map 138A Comleroy Road, Kurrajong



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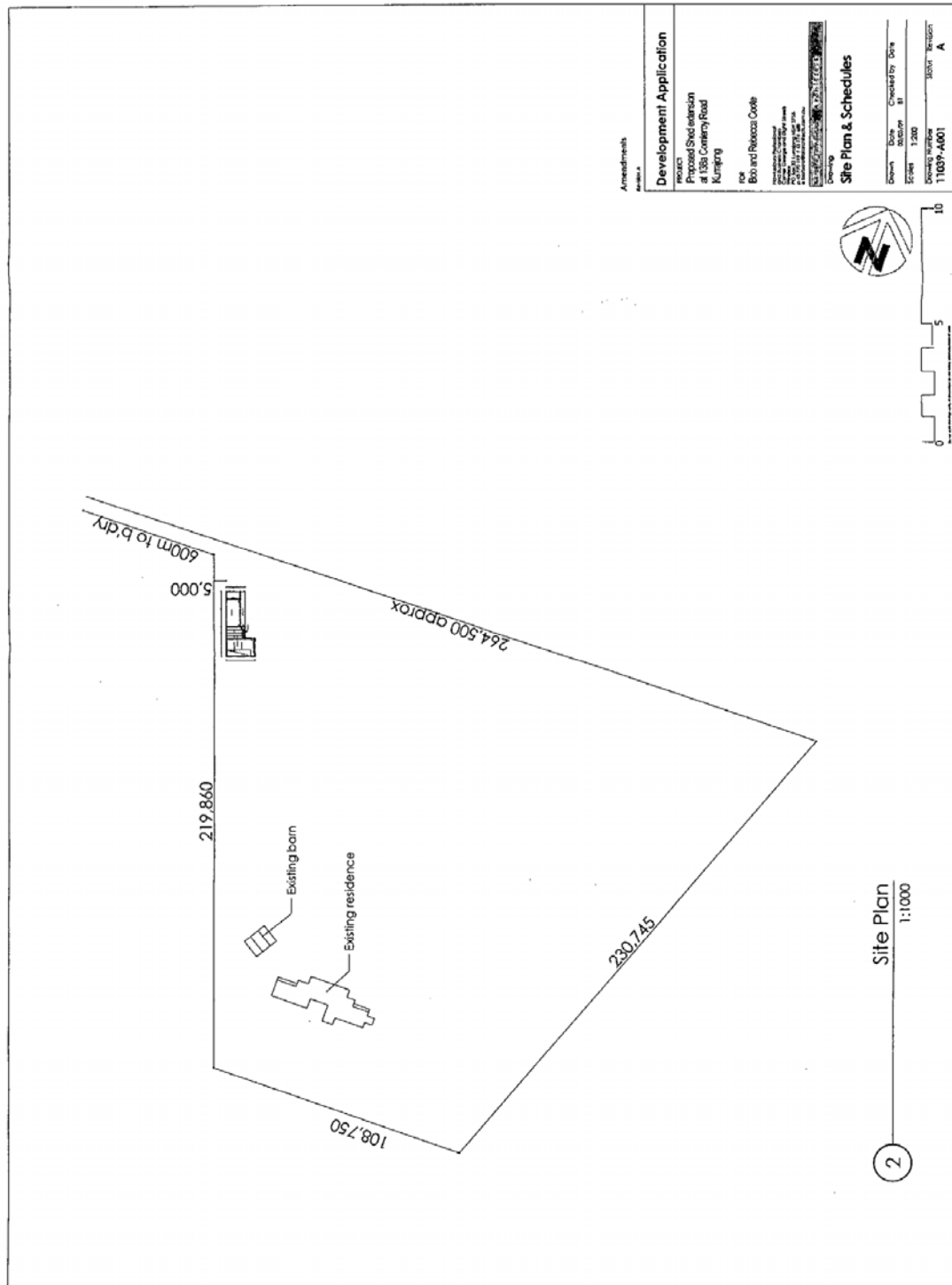
AT - 2 - Aerial Photo



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AT – 3 - Site Plan



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[illegible]

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Architectural drawings for a development application, showing elevations and sections of a building. The drawings are labeled 1 through 5.

1 East Elevation: Shows the front elevation of the building with a gabled roof and a central entrance. A note indicates: "existing entrance door to be replaced with a new door".

2 West Elevation: Shows the rear elevation of the building with a gabled roof and a central entrance. A note indicates: "existing entrance door to be replaced with a new door".

3 South Elevation: Shows the side elevation of the building with a gabled roof and a central entrance. A note indicates: "existing entrance door to be replaced with a new door".

4 North Elevation: Shows the side elevation of the building with a gabled roof and a central entrance. A note indicates: "existing entrance door to be replaced with a new door".

5 Section AA: A cross-section of the building showing the internal structure, including the roof, walls, and floor. A note indicates: "existing entrance door to be replaced with a new door".

6 Section BB: A cross-section of the building showing the internal structure, including the roof, walls, and floor. A note indicates: "existing entrance door to be replaced with a new door".

Development Application

Project: New development at 1000, Canterbury Road, Murrumbidgee.

Site: Bob and Rebecca Coole.

Architect: Murrumbidgee Architectural Services, 1000 Canterbury Road, Murrumbidgee, NSW 2580. Phone: 06 633 1111. Fax: 06 633 1112. Email: murrumbidgee@architectural.com.au.

Drawn by: Murrumbidgee Architectural Services.

Checked by: Murrumbidgee Architectural Services.

Scale: 1:100.

Sheet: 11001-A003.

Project Number: 11001-A003.

Revision: A.

North Arrow: A circular arrow pointing North.

Scale Bar: A scale bar showing 0, 5, and 10 meters.

oooO END OF REPORT Oooo

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Item: 220 **CP - Development Application - Deferred Commencement - Dwelling Additions and Rural Shed - 30 Chapman Road, Vineyard - (102260, 116177, DA0737/09)**

Previous Item: 3, Ordinary - (1 February 2011)

Development Information

File Number: DA0737/09
Property Address: 30 Chapman Road, Vineyard
Applicant: Montgomery Planning Solutions
Owner: Liddell Investments Pty Limited
Proposal Details: Dwelling additions and Rural Shed
Estimated Cost: \$45,000
Zone: Rural Living under Hawkesbury Local Environmental Plan 1989
Date Received: 3 December 2009
Advertising: 22 August 2011 to 5 September 2011

Key Issues:

- ◆ Rural Shed Size
- ◆ Rural Shed Height
- ◆ Potential Site Contamination
- ◆ Unauthorised Commencement of Works
- ◆ Bushfire
- ◆ Shed Colour

Recommendation: Approval

REPORT:

Executive Summary

On 1 February 2011, the application was presented to Council for consideration of dwelling additions and construction of a shed to contain a sawmill operation at Lot 4 DP 224860, 30 Chapman Road, Vineyard. The report recommended refusal of the proposal based on suitability of the development and insufficient information being provided to make a determination. In particular evidence was sought about the existing use rights claim for the sawmill. A copy of the original assessment report is attached.

At this meeting, Council resolved:

"That the matter be deferred to allow further discussions to take place between the applicant and Council Staff regarding Development Application DA0737/09 at Lot 4 DP 224860, 30 Chapman Road, Vineyard."

Subsequently the applicant was requested to address the matters identified in the report. On 16 June 2011 the applicant advised Council that no documentation in relation to the operation of the sawmill on the site could be obtained from the previous owner. The applicant then requested that the sawmill component be removed from the development application and Council consider the new building as a rural shed. The shed size has been reduced since the original proposal.

An assessment of the amended proposal has been undertaken and it is considered that the proposal generally complies with the codes and policies applicable to the development. It is recommended that the application be supported subject to the conditions contained in this report.

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

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Description of Proposal

The application seeks approval for dwelling additions and the construction of a rural shed at 4 DP 224860, 30 Chapman Road, Vineyard.

The proposed dwelling additions include the construction of a veranda and deck. A secondary recent site inspection of the property revealed that the works in relation to the deck have commenced.

The proposed rural shed will have dimensions of 22m x 10m (220m²) with a ridgeline height of 6.2m. The building will be a steel frame structure with colorbond sheeting to be used for the roofing and walls. The rural shed is an existing airport hanger (312.8m²) currently located at Hoxton Park Airport which will be required to be dismantled and modified.

The application proposes that landscaping and the removal of a number of existing structures onsite to improve the visual appearance of the land. The structures to be removed onsite consist of a number of small outbuildings/sheds and shelters associated with previous activities undertaken onsite.

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

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

a. The provisions of any:

i. Environmental Planning Instrument:

State Environmental Planning Policy No. 55 - Remediation of Land

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

Comment: The applicant was asked to provide a preliminary contamination report for the site to verify that the activities undertaken on the site in relation to the sawmill operations did not result in the contamination of the site. The applicant has not provided a report but did submit a letter from the original owner and operator of the sawmill who has indicated that no hazardous chemicals were used or stored on the site.

Given the previous use of the subject site as a sawmill and the proposed residential use it is recommend a deferred commencement condition be imposed on any consent that a preliminary contamination report be completed for the subject site.

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

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

Hawkesbury Local Environmental Plan 1989

The proposed use of the land for dwelling additions and a rural shed is consistent with the requirements of HLEP 1989 being permissible forms of development within the Rural Living Zone.

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

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considered that the location of the shed is appropriate and will not result in the generation of significant traffic or impact the rural landscape character of the locality. The site improvements proposed regarding the removal of existing structures and planting of landscaping are considered to be consistent with the overall objectives of the zone.

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

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

The proposed shed being a minor structure is considered to be acceptable under Clause 25 (6) of this plan which allows the floor level to be below the 1 in 100 year flood level for the area.

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

Clause 5 - Definitions

Clause 9 - Carrying out of development

Clause 18 - Provision of water, sewerage services, etc

Clause 20 - Development below high-water mark etc

Clause 24 – Development in certain environmental and other zones

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

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

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

Draft Hawkesbury Local Environmental Plan 2011 applies to the proposal. The subject lot is identified as being zoned RU4 Rural Small Holdings.

The dwelling additions proposed are permissible with the consent of Council under this plan. The proposed shed is considered to be ancillary to the use of the land for rural residential purposes. The proposal is considered to be not contrary to the Draft plan.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

The proposed development is generally consistent with the requirements of HDCP 2002. An assessment of the proposal against the relevant provisions of this Plan follows:

Part A Chapter 2 - General Information

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

Part A Chapter 3 - Notification

The application was notified to adjacent property owners in accordance with HDCP. Two (2) submissions were received in response to the neighbour notification process. The issues raised as a result of the neighbour notification process have been listed under the submissions section of this report.

Part C Chapter 1 - Landscaping

Landscaping has been proposed and is considered to be appropriate.

Part C Chapter 2 – Car parking and Access

Suitable parking is available for the dwelling.

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Part D Chapter 8 Erection of Rural Sheds

An assessment of the proposal against the rural sheds chapter is below:

Element	Rules	Provides	Complies
Sitting	<p>(a) Sheds shall be located no closer to the road than the existing dwelling house on the property. (Refer to Figure D8.1).</p> <p>(b) Cut and fill shall be limited to 2m of cut and 900mm of fill. (See Figure D8.2).</p> <p>(c) Sheds shall not be erected on land having a slope in excess of 10%. (Refer Figure D8.2).</p> <p>(d) The erection of rural sheds shall involve minimal disturbance to native vegetation.</p>	<p>Existing residence is located closer to the road</p> <p>No fill proposed</p> <p>The proposed shed building platform will be flat.</p> <p>No native vegetation will be removed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Size	<p>(a) The maximum size of sheds in the 1(c). 1(c1) areas shall not exceed 170m². The cumulative total of all outbuildings shall not exceed 170m² on any one property in these zones.</p> <p>(b) In zones 1(a), 1(b), 7 (d), 7(d1), 7(e), the applicant will need to justify the size of any shed exceeding 150m² in terms of the use of the shed and the land, as well as measures taken to minimize the impact on neighbors and the general area.</p>	<p>See comments in regards to shed size below.</p> <p>N/A</p>	<p>No</p> <p>N/A</p>
Height	<p>(a) The total height of a rural shed erected in a rural 1(c) and 1(c1) zones shall be no more than 5m or no higher than the height of the ridgeline of the dwelling house on the same property, whichever is less.</p> <p>(b) In other zones the total height of a rural shed exceeding 5m shall be justified in terms of the use of the shed and the visual impact of the development.</p> <p>(c) The total height of 'barn style' sheds may exceed 5m based on individual merit.</p>	<p>See comments in regards to shed height below.</p> <p>Not barn style</p>	<p>No</p> <p>No</p> <p>N/A</p>
Form	<p>(a) Rural sheds with standard roof form will be limited to rectangular shapes.</p> <p>(b) Sheds of other roof forms, for example barn style, will be encouraged.</p>	<p>Rectangular shaped shed</p>	<p>Yes</p> <p>N/A</p>
Colour	<p>(a) The colour of a rural shed will match or blend in with those of existing buildings.</p>	<p>The applicant has submitted colours for the shed that are not earth tone colours with light grey being proposed for walls and</p>	<p>No</p>

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Element	Rules	Provides	Complies
	(b) On vacant land the colour of rural sheds shall be taken from the natural environment.	off white being proposed for the roof. A condition requiring the shed to be coloured to match with the existing dwelling or the natural environment has been included as a recommended condition. The land is not vacant	N/A
Type of building materials	(a) Building materials used in the construction of rural sheds are to be new, preprinted and non-reflective. (b) The use of corrugated iron will be considered subject to the size, height, design and location of the rural shed. (c) Any part of a building below the 1-100 year flood level is to be constructed of flood compatible materials.		Yes N/A Yes
Landscaping	(a) Plantings are to be a mix of trees, shrubs and ground cover. (b) Trees shall include species that at maturity have a height above the ridgeline of the shed. (c) Shrub mass shall provide adequate screening. (d) Plants endemic to the area must be chosen.	Landscaping has been proposed on the northern, western and southern sides for the proposed rural shed fronting Chapman Road. It is proposed that a heavy boarder of native trees and shrubs will be planted inside of the existing line of trees which front Chapman Road.	Yes

Shed Size

The applicant has requested a variation to the shed size requirement of 170m², proposing a shed of 220m². The applicant has indicated that the property owner needs the additional 50m² to store the property owners goods which include a tractor, motorhome, horse float, boat, motobikes and cars. The applicant has proposed additional landscaping to screen the shed. The shed size has been reduced from the original 313m² to the proposed size to 220m².

Comment: It is considered that the proposal is consistent with the overall objectives of the zone as the additional shed size would unlikely result in a visual impact on the surrounding locality and the use of the shed is associated with the rural residential use of the land. It is recommended that the variation be supported.

Shed Height

The applicant has requested that the shed height be 6.2m. The applicant has indicated that because the property owners intend to use a relocated airplane hanger as a rural shed the width of the building frame would result in a height of 6.2m at the ridgeline. The applicant has indicated that the shed height will also be required for the residents vehicles which will be housed in the shed with specific reference to the motorhome, horse float and boat. The applicant has detailed that the height is not dissimilar to other sheds within the locality and that additional landscaping would reduce the visual appearance the shed would have from adjoining property boundaries.

Comment: It is considered that the 1.2m height difference is acceptable as it is unlikely that the increased shed height would contravene the overall objectives of the height controls. It is considered that the shed height will not dominate the skyline or landscape and it is recommended that the variation be supported.

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

There are no planning agreements applicable to the proposed development.

v. Matters prescribed by the Regulations:

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation 2000 and the development will be required to comply with the requirements of the Building Code of Australia.

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

It is considered unlikely that the proposed development will have any detrimental social, economic or environmental impact on the locality considering the nature of the development being proposed. The increased shed height and size is considered acceptable given the location of the shed and landscaping proposed.

c. Suitability of the site for the development:

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

Access, Transport & Traffic

It is considered that the traffic generated by the proposal will have no significant impact on traffic movements within the locality. The proposal does not seek to change the use or intensity of development of the land as the property will continue to be used for the purposes of rural residential use.

Utilities

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

Flora & Fauna

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

Natural Hazards

The site is subject to Bushfire. An assessment of the proposal against *Planning for Bush Fire Protection 2006* has revealed that the deck additions to the dwelling are subject to a Bushfire Attack Level (BAL) of 40. In this respect the proposed treated pine timber deck is not identified as an acceptable performance solution for building construction and design within land affected by a BAL of 40. The applicant will be required to provide details demonstrating that the proposed deck will be

able to be constructed consistent with the requirements of Planning for Bush Fire Protection 2006 prior to the issue of a construction certificate.

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

Context and Setting

The locality consists of lots used for agriculture, rural residential, industrial and commercial purposes. The proposed development is consistent with these surrounding land uses and the proposal is unlikely to have an impact on the context or development of the area given the proposed use and appearance. A condition has been recommended in the consent requiring the colours of the shed to be chosen to match with either the existing dwelling or natural landscape.

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

Public Submissions

The amended application was submitted and was publicly notified to adjoining owners from 22/08/2011 - 11/09/2011. Two submissions were received. The issues raised in these submissions are listed below:

1. Access to the shed should be via Chapman Road rather than from the road reserve.

Comment: The subject site has legal access to the road reserve and it is considered that access via the road reserve would be acceptable as part of the proposal.

2. The application included the description of sawmill on the neighbour notification letter.

Comment: Although the neighbour notification letter described the proposal as "dwelling additions and the construction of a shed to contain existing saw mill operation". The application has been amended since notification to remove the sawmill component of the proposal.

Integrated development - NSW Office of Water

The application was referred to NSW Office of Water seeking concurrence under Section 91 of the Environmental Planning and Assessment Act 1989 as the proposal involves works within 40m of a watercourse.

In their letter dated 22 October 2010, the NSW Office of Water granted concurrence to the proposal subject to the applicant obtaining a controlled activity approval for the works. Appropriate conditions have been included in the recommended consent.

e. The Public Interest:

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

Conclusion

The amended application has removed the sawmill component of the use of the shed and the shed has been reduced in size. The proposed development is now considered to be satisfactory, subject to the implementation of conditions recommended in the report. The development is generally consistent with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan 2002. It is considered that the variations requested to the rural sheds chapter are acceptable in the circumstances of this case and that the application should be supported.

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Developer Contributions

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

Planning Decision

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

RECOMMENDATION:

That Development Application DA0737/09 at Lot 4 DP 224860, 30 Chapman Road Vineyard for dwelling additions and rural shed be approved as a deferred Commencement Consent subject to the following conditions:

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

Schedule 1

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

Should remediation works be required a separate development application may be required to be lodged and approved by Council. Remediation works will be required to be completed and certified prior to the issue of any construction certificate for the works.
2. A Section 149A Building Certificate Application would be required to be lodged and approved for the deck which has been constructed.

A structural engineer is required to provide a report certifying that any remaining works as constructed are suitable for their intended loading.

The applicant should submit a specification of proposed materials to be used in the construction of the deck which demonstrates compliance with AS 3959-2009. Any work that does not meet the requirements for the nominated Bushfire Attack Level (BAL) 40 will be required to be removed and replaced with compliant materials.

Schedule 2

1. The development is to be carried out in compliance with the stamped plans, specifications and accompanying documentation submitted with the application except where amended by other conditions of consent.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate construction certificate.
3. The buildings shall not be used or occupied prior to the issue of an Occupation Certificate.

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4. The approved use shall not commence until all conditions of this Development Consent have been complied with.
5. The development shall comply with the provisions of the Building Code of Australia.

Prior to Issue of Construction Certificate

6. The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.
7. The dwelling additions shall comply with the requirements of "Planning for Bush Fire Protection" prepared by Planning NSW and AS 3959 - 2009 Construction of Buildings in Bush Fire Prone Areas, Bushfire Attack Level (BAL) 40.

A written specification of the proposed materials to be used, demonstrating compliance with AS 3959-2009 shall be provided to the Principle Certifying Authority prior to the issue of a construction certificate.

8. A qualified Structural Engineer's design for all reinforced concrete and structural steel for the shed slab shall be provided to the Principle Certifying Authority.

Prior to Commencement of Works

9. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
10. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
11. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
12. A waste management plan for the development shall be submitted to and checked by the Principal Certifying Authority. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
13. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.
 - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - (d) The name and contact number of the Principal Certifying Authority.

During Construction

14. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am - 6pm and on Saturdays between 8am - 4pm.
15. At all times during demolition, a competent person shall directly supervise work. It is the responsibility of the person to ensure that:

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- (a) Adjoining owners are given 24 (twenty four) hours notice, in writing, prior to commencing demolition.
 - (b) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
 - (c) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
 - (d) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - (e) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
 - (f) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.
 - (g) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings
 - (h) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
 - (i) All work shall be carried out in accordance with AS2601 and the Work Plan submitted with the development application.
 - (j) Unless otherwise permitted by Council, the structure is to be demolished in reverse order of construction, being progressive and having regard to the type of construction, to enable the maximum separation and recycling of demolished materials to take place.
 - (k) No material is to be burnt on site.
16. During the demolition and construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
17. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
18. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
- (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
19. No excavated material, including soil, shall be removed from the site.

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20. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
21. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
22. The site shall be secured to prevent the depositing of any unauthorised material.
23. Landscaping shall be completed in accordance of the approved landscaping plan. Planting shall consist of a combination of trees, shrubs and ground species of local provenance.
24. All materials used in the construction below the level of 17.3 metres AHD shall be capable of withstanding prolonged immersion in water without swelling or deteriorating.
25. All roof water shall be drained to appropriate water storage vessel/s. Any overflows are to be designed so as to disperse flows so as to minimise erosion and scouring.
26. The rural shed shall be coloured to match with either the natural environment or the existing dwelling.

Use of the Development

27. No internal or external alterations shall be carried out without prior approval of Council.
28. The rural shed shall not be occupied for human habitation/residential, industrial or commercial purposes.
29. The shed shall be only used for the storage of goods associated with the rural residential use of the property.
30. The development shall be limited to the area shown on the submitted plans.
31. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
32. All vehicles shall enter and exit the site in a forward direction.
33. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties.

New South Wales Office of Water General Terms of Approval

34. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to 4/224860 and provided by Council:

- (i) Site plan, map and/or surveys

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

35. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material within 40 metres of the top of the bank or shore of the river identified.
36. The consent holder must prepare or commission the preparation of
 - (i) Erosion and Sediment Control Plan

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37. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water guidelines located at www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml
 - (i) Outlet structures
38. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
39. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
40. The consent holder must establish all erosion and sediment control works and water diversion.

Advisory Notes

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

ATTACHMENTS:

- AT - 1** Location Plan
- AT - 2** Aerial Photo
- AT - 3** Architectural Plans
- AT - 4** Assessment report presented to Ordinary Meeting on 1 February 2011

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AT – 1 Location Plan

Lot 4 DP 224860, 30 Chapman Road, Vineyard



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AT – 2 Aerial Photo

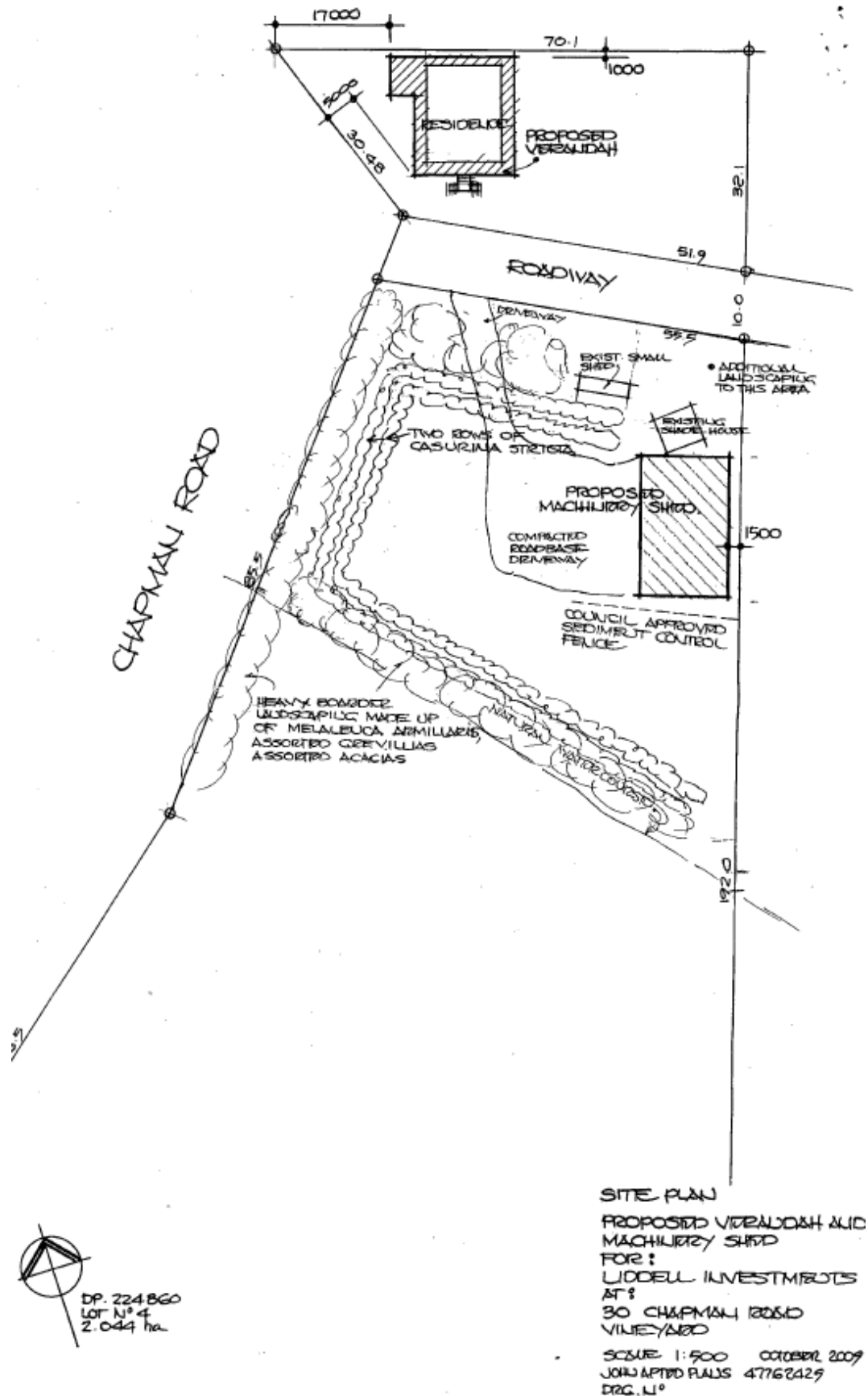
Lot 4 DP 224860, 30 Chapman Road, Vineyard



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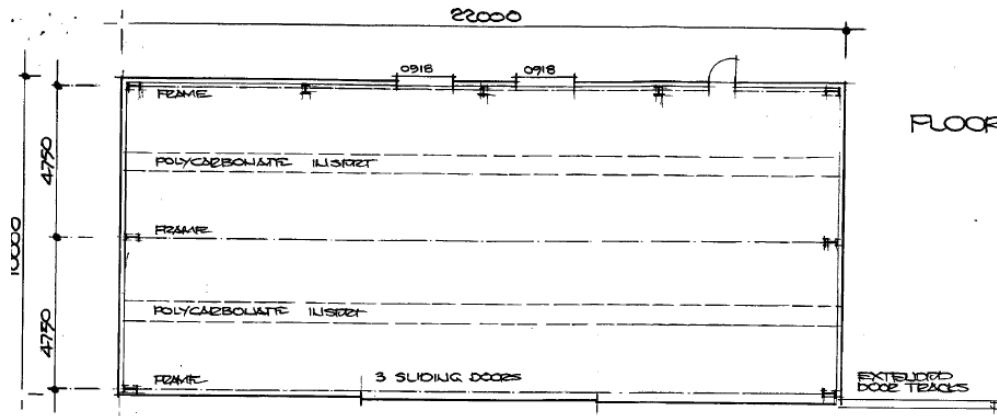
Meeting Date: 27 September 2011

AT - 3 Architectural Plans

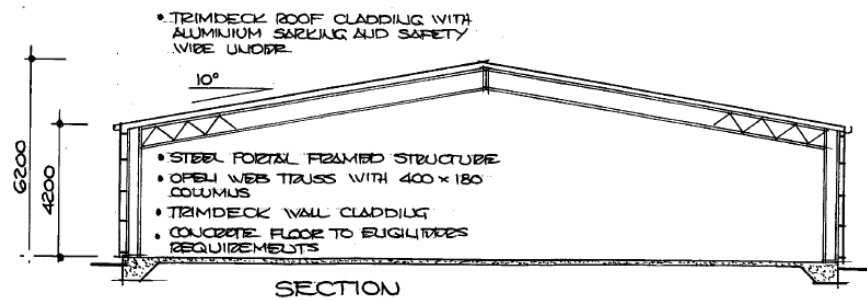


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FLOOR PLAN 220.0m²

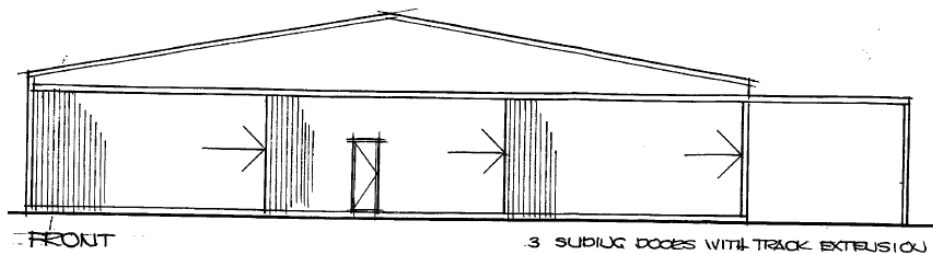


SECTION

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

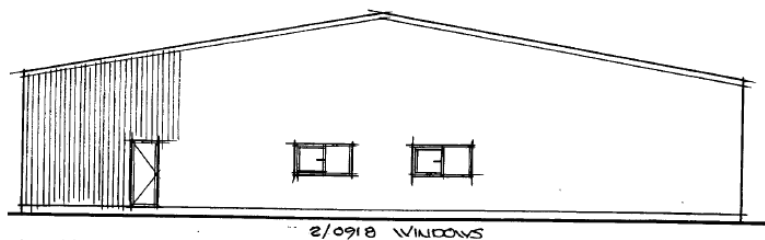
FOR:
UPDELL INVESTMENTS
AT:
30 CHAPMAN ROAD
VILVETSD

SCALE 1:100 JUNE 2011
JOHN APTEO PLANS 47762429
DOC. NO 201/1676/1/1

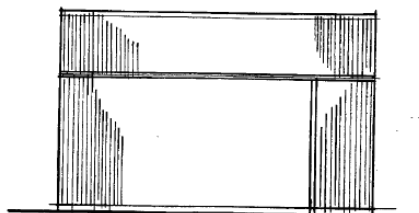


FRONT

3 SLIDING DOORS WITH TRACK EXTENSION



REAR



TYPICAL SIDE

COLOUR SCHEDULE

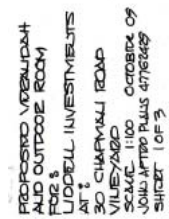
ROOF	OFF WHITE
FRONT GABLE	"
WALLS	LIGHT GREY
DOORS	"

MODIFIED PLAN OF PROPOSED MACHINERY SHED (REDUCED IN SIZE)

FOR:
UPDELL INVESTMENTS
AT:
30 CHAPMAN ROAD
VILVETSD

SCALE 1:100 JUNE 2011
JOHN APTEO PLANS 47762429

Meeting Date: 27 September 2011



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Attachment 4 - Assessment report presented to Ordinary Meeting on 1 February 2011

Executive Summary

An application has been received for Dwelling additions and construction of a shed to contain a sawmill operation on Lot 4 in DP 224860 30 Chapman Road Vineyard.

The application originally proposed additions to the existing dwelling and the erection of a 312.8m² rural shed on the subject site. Following a preliminary assessment of the proposal the applicant was advised that the proposed rural shed was inconsistent with the rural shed provisions of the Hawkesbury Development Control Plan 2002 and it was requested that the application be amended to comply with the specific rules of this plan.

The applicant amended the application asking for the proposed building to be considered as ancillary to the use of the site as a sawmill (instead of a rural shed). The applicant is claiming that the site has existing use rights as a sawmill. However, the assessment of the proposal has revealed that insufficient information has been provided in respect to the permissibility and potential impacts of the development.

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

Description of the proposal

The application seeks approval for the relocation of a 312.8m² shed to contain an existing sawmill operation and dwelling additions at the above address. The shed is an existing airport hanger currently located at Hoxton Park Airport.

Issues relating to the Application

- Existing use rights

Recommendation

Refusal

History

11 July 1973	Development Consent No. 51/1973 to "Establish a Sawmill" issued for Lots 4 and 5, DP 224860 and DP2249152 Chapman Road Vineyard.
3 December 2009	Current Development Application Received
11 December 2009	Advice received from NSW Office of Water requesting the shed to be located 35m from the Killarney Chain of Ponds Creek.
23 December 2009	Applicant was advised that the proposed rural shed does not comply with various rules of HDCP 2002 including shed size. Floor plans and elevation plans of the shed were also requested.
5 January 2010	Site inspection with applicant undertaken.
16 February 2010	Applicant provided partial information in response to Council's letter dated 23 December 2009 with the submission of floor plans and elevation plans for the proposed shed.

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29 March 2010	Telephone conversation with the applicant advising that the proposed shed size of 313m ² is not supported and information about the dwelling history was also requested.
19 April 2010	Details of dwelling history submitted and a land use survey comparing the proposed shed size with other developments in the locality.
7 May 2010	Telephone conversation with the applicant advising that the land use survey does not justify why a rural shed of that size should be supported.
30 June 2010	Applicant amended application to seek approval for the proposed building as being ancillary to the existing use of the site as a sawmill (so that the building does not have to be assessed against the requirements for rural sheds contained within HDCP 2002).
28 July 2010	Amended application notified to adjoining neighbours.
24 August 2010	Additional information requested from the applicant in relation to amended plans, history of the sawmill operation, possible site contamination and assessment of the amended proposal against the Hawkesbury Development Control Plan 2002.
13 September 2010	Applicant requested additional time to provide information requested.
6 October 2010	Applicant submitted the additional information seeking endorsement of the sawmill as an "existing use".

Council Policies, Procedures and Codes to Which the Matter Relates

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
Draft Hawkesbury Local Environmental Plan 2009
Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River
State Environmental Planning Policy No. 55 – Remediation of Land (SEPP55)
Hawkesbury Development Control Plan 2002 (HDCP 2002)

Section 106 Definition of "existing use"

The existing use rights provisions contained in the Environmental Planning and Assessment Act allow land or a building to be lawfully used for a particular purpose, notwithstanding that an environmental planning instrument has subsequently *prohibited* the use of the land or building for that purpose.

These provisions provide an exception to a prohibition contained in an environmental planning instrument. Section 106 of the EP&A Act defines an existing use as follows:

- (a) *the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for [the exceptions provided in the EP&A Act], have the effect of prohibiting that use, and*
- (b) *the use of a building, work or land:*
 - (i) *for which development consent was granted before the commencement of a provision of an EPI having the effect of prohibiting the use, and*
 - (ii) *that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

The applicant has provided the following commentary having regard to the sawmill and the operation of Section 106 of the EPA Act:

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In relation to the history of the sawmill, you are advised that the sawmill is an existing use pursuant to Section 106(b). Development consent was issued on 11 July 1973, at which time the sawmill was permissible with the consent of Council. Sawmill was permissible with consent until the gazettal of Hawkesbury LEP 1989 Amendment 108 on 18 August 2006, which zoned the land Rural Living.

For the purposes of Section 106(b)(ii), the development commenced in 1973 in accordance with the consent and was in operation well before August 2006, when HLEP amendment 108 was gazetted. The consent has therefore not lapsed and the question of abandonment or continued use beyond the securing of the consent does not arise.

It is considered that the issue of the continuity of this use has not been adequately demonstrated in conjunction with this application. Correspondence on Council's file relating to the property has been reviewed and this suggests that the site has been used for the purpose of a second hand building materials supply yard subsequent to the sawmill use.

Council has previously investigated the extent of which existing use rights apply to the subject property and advised the previous property owner that Council did not have any documentary proof of any approvals granted by Windsor Municipal Council or Hawkesbury City Council for the use of the land as a second hand building materials supply yard.

Section 107 Continuance of and limitations on existing use of the EPA Act

Section 107 of the EPA Act clarifies existing use rights and sets the limits on their operation. The provisions contained in Section 107 are detailed as follows:

107 Continuance of and limitations on existing use

- (1) *Except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use.*
- (2) *Nothing in subsection (1) authorises:*
 - (a) *any alteration or extension to or rebuilding of a building or work, or*
 - (b) *any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or*
 - (c) *without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or*
 - (d) *the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 80A (1) (b), or*
 - (e) *the continuance of the use therein mentioned where that use is abandoned.*
- (3) *Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

The information supplied in association with the application has not adequately demonstrated that the sawmill has operated continuously on the site and as such evidence is required to be submitted that this use has not in fact been abandoned as detailed by Section 107 above.

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In this regard it is noted that the Land and Environment Court have considered the issue of existing use rights and abandonment. In the case of *Star Property Investments Pty Ltd & Anor -v- Leichhardt Municipal Council* [2000] NSW LEC 235, His Honour Justice Talbot considered circumstances where existing use rights for the purpose of light industry on a particular site had been established, however, the site had subsequently been used for a six year period for a use inconsistent with the existing use right. His Honour had regard to the subjective intention of the owners of the site to preserve existing use rights contrasted with the actual maintenance of the existing use on the site, and determined that the actual use of the site for a period of six years was manifestly inconsistent with an intention to maintain the continuance of that particular existing use.

In his conclusion, His Honour summed up the position of the Court in relation to the continuance of an existing use right:

The applicants have not established the fact that the properties have been used continuously for an existing use upon which they can rely for the purpose of the development application.

The Respondent Council has successfully demonstrated that the existing use has been sufficiently interrupted to justify a finding that the use for woodworking purposes has been relevantly abandoned, even though it may have been subsequently recommenced in part.

Clause 42 of the EP&A Regulations identifies that any enlargement, expansion or intensification of existing use rights must "be carried out only on the land on which the existing use was carried out immediately before the relevant date". Based upon inspections carried out of the property it appears that the existing use has been abandoned (as a result of the site being used as a second hand building materials supply yard).

Ordinarily Clause 42 would permit the sawmill to be relocated into a new building in circumstances where the existing use has not been abandoned. As noted above it is considered that the sawmill operation has been abandoned and therefore Council are prevented from granting consent to the development pursuant to Clause 41 of the Regulation.

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

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

f. The provisions of any:

i. Environmental Planning Instrument:

State Environmental Planning Policy No. 55 - Remediation of Land

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

Comment: The applicant was asked to provide a preliminary contamination report for the site to verify that the activities undertaken on the site in relation to the sawmill operations did not result in the contamination of the site. The applicant provided a letter from the original owner and operator of the sawmill who has indicated that no hazardous chemicals were used or stored on the site. It is considered that the letter provided does not satisfactorily address concerns of potential contamination and SEPP 55 requirements. Therefore Council is unable to fully consider whether or not the land is suitable for the development which is proposed on the site.

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

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

Hawkesbury Local Environmental Plan 1989

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

Clause 9 - Carrying out of development

The proposed dwelling additions and alterations are consistent with the requirements of HLEP 1989 being a permissible form of development within the Rural Living Zone.

The proposed shed will be used to contain a sawmill. Sawmills are a prohibited form of development under HLEP 1989.

The applicant has suggested that Council can consider the use of the shed under the existing use right provisions of the Environmental Planning and Assessment Act 1979, as Council has previously issued approval for the establishment of a sawmill on the premises under Development Consent No. 51/1973.

A site inspection of the property on 5 January 2010 revealed that no sawmilling activity was being undertaken on the premises, with only a variety of old machinery and second-hand building materials being stored on the site.

Although it is noted that equipment previously used in conjunction with the sawmill is in-situ on the property, the applicant was requested to provide evidence demonstrating that the use of the property as a sawmill has not been abandoned and has continued lawfully since the issue of the consent.

The applicant provided a letter from the previous owner of the land detailing that the property was being used as a second hand building supply yard and sawmill. The use of the premises as a second-hand building supply yard and a sawmill is contrary to Council's previous approvals issued on the property.

It is considered that the use of the premises as a sawmill has not continued lawfully since the issue of the original consent with no suitable documentary evidence, including receipts or registration of the sawmill business being provided by the applicant to justify the continued use of the sawmill operation.

In addition to the above it is noted that the application originally proposed the construction of a rural shed for the storage of the property for the occupiers of the land with no mention of the existing use of the site as a sawmill. This further raises the question of whether or not the property owner originally intended to use the property for a sawmilling purpose or is merely seeking the construction of a shed larger than what is permitted by the Rural Shed Chapter of HDCP 2002.

Based on the information above, it is believed that the use of the proposed shed as a sawmill cannot be considered under the existing use right provisions of the Environmental Planning and Assessment Act 1979 as it is considered that the sawmill operation has been abandoned with no suitable evidence being provided demonstrating that the sawmill has lawfully continued in operation since the issue of its original consent.

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Clause 9A - Zone objectives

It is considered that the proposal is inconsistent with the overall objectives of the Rural Living zone and has been assessed below:

- (a) *to provide primarily for a rural residential lifestyle,*

Comment: The proposed dwelling works are consistent with this objective of the zone however it is considered that the sawmill activity will not promote the preservation of the rural residential character of the area which will in turn have negative impact on the rural residential lifestyle of the locality.

- (b) *to enable identified agricultural land uses to continue in operation,*

Comment: The proposal will not have any significant impact upon agricultural land uses situated in the immediate area.

- (c) *to minimise conflict with rural living land uses,*

Comment: The proposed sawmill if supported will lend itself to conflict with surrounding rural living land uses in that it will result in a development that is prohibited in the zone.

- (d) *to ensure that agricultural activity is sustainable,*

Comment: The application does not seek an agricultural use of the land.

- (e) *to provide for rural residential development on former agricultural land if the land has been remediated,*

Comment: The proposed dwelling alterations are consistent with this objective. The site contamination potential has not been adequately addressed.

- (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,*

Comment: It is considered that the shed proposed to be constructed will not assist in the preservation of the rural landscape character of the area as the application proposes the construction of a 312.8m² shed which is industrial in nature and far greater than what would typically be expected in a rural living area. HDCP 2002 prescribes limiting the cumulative total of outbuildings within a rural living area to be limited to a maximum of 150m².

- (g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflict with other land uses in the locality,*

Comment: The application does not seek an agricultural use of the land.

- (h) *to ensure that development occurs in a manner:*

- (i) *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*
- (ii) *that satisfies best practice guidelines and best management practices,*

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Comment: It is considered that the proposal would not have an adverse impact having regard to water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands.

- (i) *to prevent the establishment of traffic generating development along main and arterial roads,*

Comment: Traffic generation has not been adequately addressed in the application.

- (j) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

Comment: It is not envisaged that the proposal would contribute to significant demand for the provision or extension of services.

Clause 25 Development of Flood Liable Land

The subject site is affected by the predicted 1 in 100 year flood level of the area which is 17.3m AHD.

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

The proposed building envelope for the shed is at approximately 15.5m AHD. It is considered that the application has not adequately assessed the likely frequency of flooding, potential flood damage or measures for evacuation of the property associated with the construction of a new shed building below the 1 in 100 year flood level for the area.

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

Draft Hawkesbury Local Environmental Plan 2009 was exhibited 5 February 2010 to 12 April 2010. The subject lot is identified as being zoned RU4 Rural Small Holdings.

The dwelling alterations and additions proposed are permissible with the consent of Council under this plan.

The proposed use of the shed being defined as a *sawmill or log processing works* is a prohibited form of development within the RU4 Rural Small Holdings zone under this draft plan.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

The proposed development is generally consistent with the requirements of HDCP 2002. An assessment of the proposal against the relevant provisions of this Plan follows:

Part A Chapter 2 - General Information

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

Part A Chapter 3 - Notification

The application was notified to adjacent property owners in accordance with HDCP. Two (2) submissions were received in response to the neighbour notification process. The issues raised as a result of the neighbour notification process have been listed under the submissions section of this report.

Part C Chapter 1 - Landscaping

Landscaping has been proposed and is considered to be appropriate.

Part C Chapter 2 – Carparking and Access

Suitable parking is available for the dwelling.

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

Not applicable.

v. Matters prescribed by the Regulations:

The proposal has been considered against the existing use right provisions of the Environmental Planning and Assessment Regulation 2000.

Existing use right provisions under the regulation do not apply to this land as discussed under the assessment of HLEP 1989 previously in this report. Council is prevented from granting consent to the use of the new shed for the purposes of containing a sawmill as the applicant has not been able to satisfactorily demonstrate that the sawmill has lawfully operated since the issue of its approval.

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

The application proposes the construction of a shed of greater size than what would typically be considered within a rural area under HDCP 2002. Whilst it is acknowledged the building proposed to contain the sawmill is not restricted by the rural sheds chapter, it is considered that the proposal, apart from being prohibited development in the zone, will have an unacceptable impact on the locality as the application proposes a prohibited form of development that is inconsistent with the overall objectives of the rural living zone.

h. Suitability of the site for the development:

The site does not benefit from the existing use right provisions set out under the Environment Planning and Assessment Act 1979 and in turn the application proposes a prohibited form of development under HLEP 1989.

As the proposed use of the shed is inconsistent with the various planning controls affecting the site it is considered that the site is not suitable for the proposed development.

Insufficient information in regards to potential site contamination has been provided to enable Council officers to determine whether or not the site is suitable for the proposed development.

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

Public Submissions

The application was publicly notified to adjoining owners from 28/07/2010 - 11/08/2010. Two (2) submissions were received. The issues raised in these submissions are listed below:

Sawmill operation

- Sawmill has not operated for at least 35 years
- The application originally proposed a rural shed and did not mention continued use of the sawmill operation.

Traffic

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- The construction and operation of the sawmill will have a negative impact in terms of noise and dust on the locality.

Water pollution

- The activity will result in chemicals entering the Killarney Chain of Ponds during a flood.
- Stormwater or effluent details of the shed have not been provided.

Flooding

- The shed to be constructed will be inundated by the predicted 1 in 100 year flood.

Inconsistent with HDCP 2002

- Proposal does not meet the specific requirements for Rural Sheds under HDCP 2002.

Illegal issues relating to the existing site

- The property owner has previously undertaken illegal filling works.
- New driveways have been constructed without consent.

Comment: It is considered that the matters raised above are justified in that insufficient information has been provided to demonstrate that the development is consistent with the relevant planning controls affecting the site.

Council's Regulatory Services department have investigated the concerns raised in regards to illegal earthworks on the premises where it was found that the works undertaken were associated with the maintenance of the premises and did not require development consent.

Integrated development - NSW Office of Water

The application was referred to NSW Office of Water seeking concurrence under Section 91 of the Environmental Planning and Assessment Act 1989 as the proposal involves works within 40m of a watercourse.

In their letter dated 22 October 2010, the NSW Office of Water granted concurrence to the proposal subject to the applicant obtaining a controlled activity approval for the works.

j. The Public Interest:

Without sufficient information to fully assess the application to determine the permissibility of the use, suitability of the site to sustain the use and potential impacts of the development, the application is considered not to be within the public interest.

Developer Contributions

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

Conclusion

The assessment has identified various concerns regarding the permissibility and visual impacts of the development. The sawmill proposal is not a permissible form of development within the Rural Living zone and is inconsistent with the stated objectives of the zone in that the development does not provide a positive contribution to the rural residential character of the area.

Notwithstanding the permissibility aspect, it remains that the contamination potential of the site has not been adequately addressed in the application and does not meet the requirements of SEPP 55. Therefore,

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based on the assessment of the proposal against the relevant planning controls affecting the site, it is recommended that the application be refused.

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 DA0737/09 at Lot 4 DP 224860, 30 Chapman Road Vineyard for dwelling additions and construction of shed to contain a sawmill operation be refused for the following reasons:

1. 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.
2. The development application has failed to provide suitable evidence demonstrating that the sawmill activity has existing use rights under the Environmental Planning and Assessment Regulation 2000.
3. The proposal is inconsistent with State Environmental Planning Policy No. 55 – Remediation of Land. The proposal has not satisfactorily addressed whether or not the land is contaminated or suitable for its intended use.
4. The proposal constitutes a “Sawmill” being a prohibited land use in the Rural Living Zone under the provisions of Clause 9 - Carrying out of Development of Hawkesbury Local Environmental Plan 1989.
5. The proposal is inconsistent with the stated objectives contained in Clause 9A of Hawkesbury Local Environmental Plan 1989 in respect of the Rural Living Zone in that:
 - (a) The construction of a shed to contain a sawmill does not provide primarily for a rural residential land use.
 - (b) The development of the sawmill will create conflict with existing rural living land uses.
 - (c) The construction of a shed for a sawmill will not assist in the preservation of the rural landscape character of the area.
6. The proposal is inconsistent with Draft Hawkesbury Local Environmental Plan 2009.

oooO END OF REPORT Oooo

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Item: 221 **CP - Development Application - Construction of Rural Shed at Lot 3 DP 521263, 187 Oakville Road, Oakville - (95498, 85782, 118345, 118344 , DA0090/11**

Development Information

File Number: DA0090/11
Property Address: 187 Oakville Road Oakville
Applicant: Urban City Consulting Pty Limited
Owner: Mr BJ Merriman & Mrs LS Merriman
Proposal Details: Rural Shed
Estimated Cost: \$50,000
Zone: Rural Living
Draft Zone RU4 – Rural Small Holdings
Date Received: 23/02/2011
Advertising: 14/03/2011 - 28/03/2011.

Key Issues: ♦ Non compliance with Hawkesbury Development Control Plan - Size and Height of Shed

Recommendation: Refusal

REPORT:

Executive summary

The application seeks approval for the construction of a Rural Shed at Lot 3 DP 521263, 187 Oakville Road, Oakville.

The proposed shed does not comply with Hawkesbury Development Control Plan (HDCP) in relation to both its size and height. The proposed shed has a floor area of 288 square metres and the height of the shed is proposed to be approximately 6.1 metres above finished ground level. Some filling is proposed to the shed site to create a building platform. The fill is not proposed to exceed one (1) metre.

The site has a number of existing sheds which are proposed to be removed at the completion of the new shed.

The proposal is considered to be visually dominant within the landscape of the locality due to the size and height of the proposed structure.

The application is recommended for refusal.

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

Introduction

The application is proposing the construction of a rural shed on the subject land. The proposed use of the shed is for the storage of vehicles, machinery and personal items. The shed will also contain three stables, a tack room and feed storage.

The proposed shed area is 24 x 12 metres with a height of approximately 6.4 metres at the highest point (inclusive of anticipated fill material).

The site currently contains five structures of various ages and construction methods. These structures have been in place for some time and none of these structures appear to have received Development

Consent in the past. It is proposed to remove the five structures following the completion of the proposed shed.

Council Policies, Procedures and Codes to Which the Matter Relates

Sydney Regional Environmental Plan No 20 (SREP20) Hawkesbury Nepean River
State Environmental Planning Policy No 44 (SEEP44) Koala Habitat Protection
Hawkesbury Local Environmental Plan (HLEP) 1989
Draft Hawkesbury Local Environmental Plan (HLEP) 2011
Hawkesbury Development Control Plan (HDCP)
Hawkesbury Development Control Plan – Contaminated land

Matters for Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 (EPA Act).

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

a. The provisions (where applicable) of any:

i. Environmental Planning Instrument:

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

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

State Environmental Planning Policy No 44 (SEEP44) Koala Habitat Protection

No trees are proposed to be removed as part of this application. It is considered that the development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

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

Clause 2 – Aims and Objectives (General)

The general aims and objectives of Hawkesbury Local Environmental Plan 1989 are:

- (a) *to provide the mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury,*
- (b) *to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- (c) *to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- (d) *to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City of Hawkesbury for future generations, and*
- (e) *to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City.*

The proposal is generally consistent with the General Aims and Objectives of Hawkesbury Local Environmental Plan 1989.

Clause 9 - Carrying out of development

The proposed shed is consistent with the requirements of HLEP 1989 being a permissible form of development within the Rural Living Zone.

Clause 9A - Zone Objectives

The objectives of the Rural Living Zone should be met where they are applicable. In this instance the following objectives are applicable:

- (a) *to provide primarily for a rural residential lifestyle,*

Comment: The size and height of the proposed shed fails to protect the visual landscape. It will likely have an unacceptable visual impact upon adjoining properties which will adversely affect the rural-residential character of the area.

- (b) *to enable identified agricultural land uses to continue in operation,*

Comment: The subject site currently does not have an identified land use that would support the need for a shed of the size proposed;

- (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,*

Comment: The rural landscape character of the area will not be preserved with the choice of design or colour of the proposed shed. The Rural Shed is considered to be excessive in both size and height and is considered to adversely impact upon the scenic qualities of the area.

- (g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflict with other land uses in the locality,*

Comment: Ancillary uses on Rural-Residential land would generally be expected to be associated with the use or maintenance of the property. Ordinarily this would be limited to gardening or animal needs, together with some ancillary household or storage of personal items/equipment.

The current proposal appears to be designed to cater for storage that is not ancillary to the household or for storage of personal items/equipment. There appears to be excessive space proposed within the shed which is not required or needed to perform the function of the shed. In this regard, it is considered that a smaller, more compliant size for the shed would be able to accommodate the items and equipment proposed to be stored within the structure.

Clause 25 – Development of flood liable land

The subject site is above the 1 in 100 year flood level and therefore is not subject to flood related development controls for flood events up to the 1 in 100 year flood level.

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

The application does not propose to carry out works below the natural ground level or works that would result in raising the water table.

Assessment of the Development Application reveals that the proposal meets the matters raised in the above clauses of Hawkesbury Local Environmental Plan 1989.

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

Draft Hawkesbury Local Environmental Plan 2011 is currently with the Department of Planning and Infrastructure awaiting gazettal. The subject lot is proposed to be zoned as RU4 - Rural Small Holdings. Farm buildings are permitted in the draft zone with consent.

The use of the proposed shed has not been identified in the information submitted with the application to be used for an identified agricultural land use.

Further the size and height of the shed is not considered to adequately maintain the rural and scenic character of the land.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

The proposed development is not considered to be consistent with the requirements of HDCP 2002.

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

Part A Chapter 2 - General Information

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

Part A Chapter 3 - Notification

The application was required to be notified to adjacent property owners in accordance with HDCP.

No submissions were received as a result of the notification.

Part D – 1.4 Setbacks

The setbacks are compliant and the shed is proposed to be located behind the existing dwelling.

Part D – Chapter 8 Rural Sheds

8.2.1 Sitting – The objective of this Clause is to integrate rural sheds into the landscape so that they compliment the rural character of the area and are not visually dominant.

Comment: The location of the proposed shed is considered suitable however the size and height of the shed are considered to increase the visual dominance of the structure in the locality.

8.2.2 Size – The objective of this Clause is to control the size of rural sheds to minimise their visual dominance in the landscape

Comment: The proposed shed has an area of 288 square metres. This is greater than the maximum of 170 square metres permitted under Hawkesbury Development Control Plan by 118 metres square or 69%. This variation is unable to be supported in this case as there is no agricultural use attached to the land which justifies the need for additional storage area.

8.2.3 Height – The objective of this Clause is to control the height of rural sheds to minimise their dominance and bulk in the landscape.

Comment: The proposed shed has an overall height of approximately 6.4 metres above natural ground level at the ridge. This exceeds the DCP maximum permitted height of 5 metres. The additional height adds to the bulk and scale of the shed. The proposed shed will have an unacceptable visual impact upon the rural landscape.

8.2.4 Form - The objective of this Clause is to encourage the design of rural sheds so that they enhance the rural landscape and character of an area.

Comment: The proposed design does not enhance the rural landscape or character of the Oakville area. This is due to the overall size and height of the structure, the lack of aesthetic features such as changes in the roof form, the proposed single colour choice for the walls and roof, together with the lack of features to the external appearance.

8.2.5 Colour – The objective of this Clause is to encourage attractive developments by controlling the colour of rural sheds so as to blend in with the rural landscape and existing buildings on a property.

Comment: Given the location of the proposed shed is in proximity to residential areas it is considered that the proposed colours being colourbond colour – ‘cream’ on the walls and roof are not considered to be suitable for the area.

In a recent Land and Environment Court case involving Hawkesbury City Council (Vella v’s Hawkesbury City Council - February 2011), the court determined in relation to colours of that proposal which was a landscape feature (lighthouse):

The colours considered to be bushland tones are as follows: Sandbank, Jasper, Dune and Bushland. The colour cream is not an earth tone colour suitable for the landscape.

In this regard, the use of colourbond ‘cream’ for the walls and roof of the proposed shed are considered unacceptable.

Conclusion

The location of the shed, its proposed size, height, colour and design are not consistent with the objectives or provisions of the Rural Shed Chapter of HDCP. The proposed variations cannot be supported in this instance.

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

There are no planning agreements applicable to the proposed development.

v. Matters prescribed by the Regulations:

There are no prescribed matters that affect the proposal.

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:

There are no likely adverse impacts associated with the proposed development other than an unacceptable visual impact resulting from the excessive size and height of the proposed structure.

c. Suitability of the site for the development:

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

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

The application was notified for a period of fourteen days 14 March 2011 to the 28 March 2011 to adjacent property owners in accordance with HDCP. No submissions were received.

e. The Public Interest:

The proposal is not consistent with the relevant planning instruments affecting the site. Approval of the development may create an undesirable precedent for similar inappropriate development which would not be in the public interest.

Developer Contributions

The proposal is exempt from Section 94A Development contributions as the building work involves a Class 10a structure only.

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 DA0090/11 for the construction of a rural shed at 187 Oakville Road, Oakville known as Lot 3, DP 521263, be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate compliance the provisions of the Hawkesbury City Council Local Environmental Plan 1989;
2. Pursuant to Section 79C(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate compliance the provisions of the Draft Hawkesbury City Council Local Environmental Plan 2011;
3. Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate compliance with Hawkesbury Development Control Plan (HDCP) in relation to both the Aims and objectives of the Rural Shed Chapter;
4. Pursuant to Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse visual impact upon the scenic quality of the landscape.
5. Pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application based may create an undesirable precedent for similar inappropriate development which is not in the public interest.

ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Aerial Photograph

AT - 3 Plans

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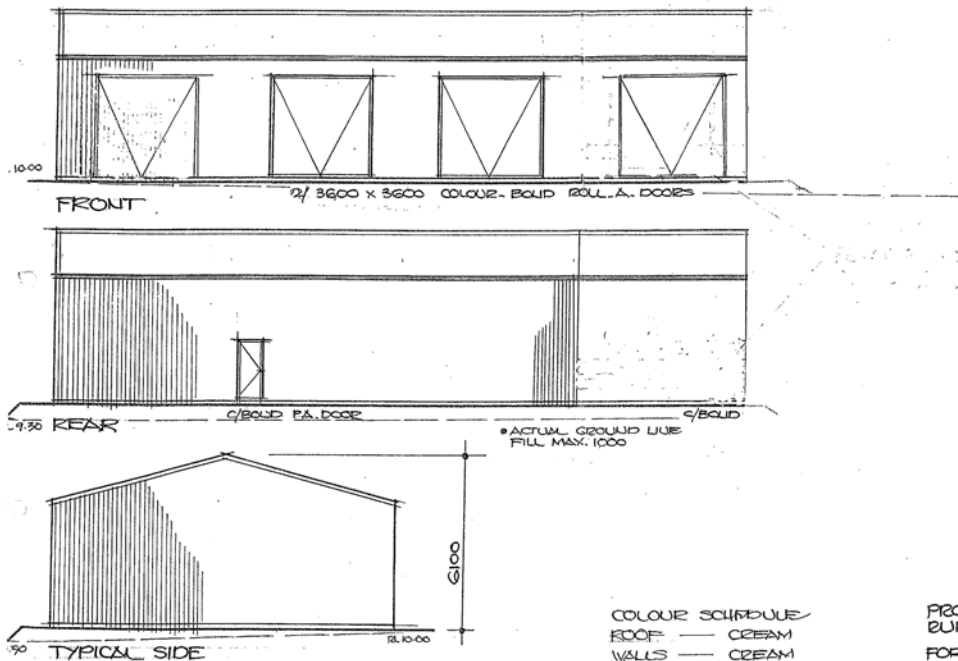
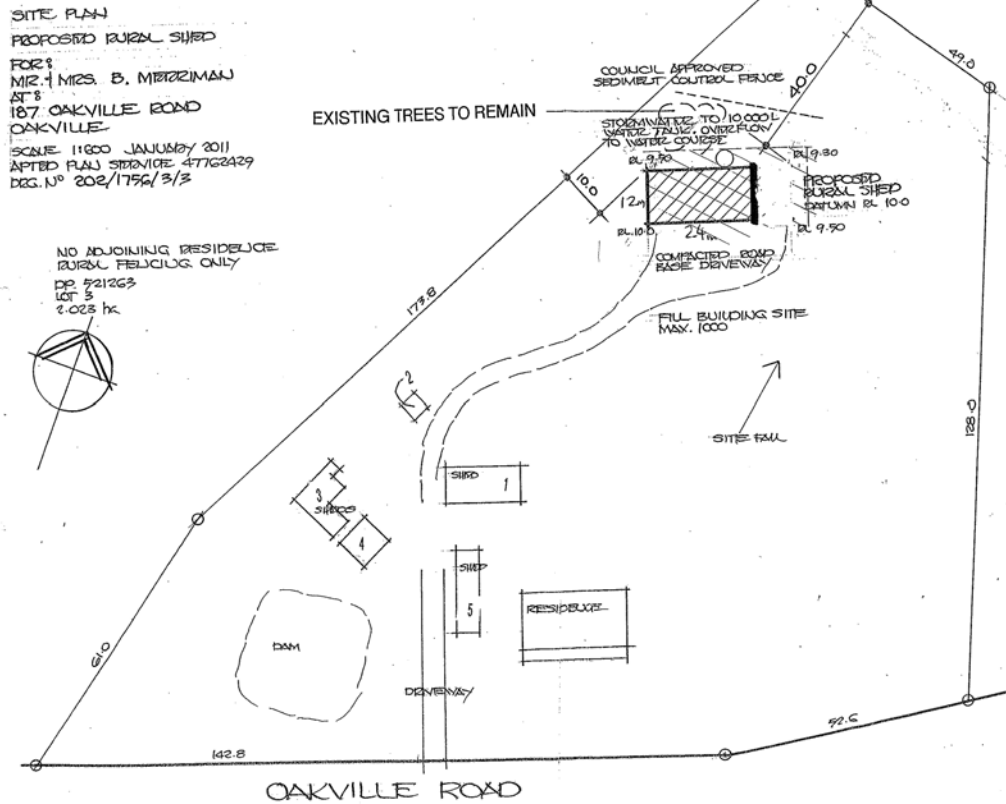
AT - 2 - Aerial Photograph



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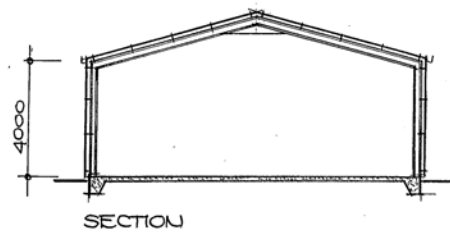
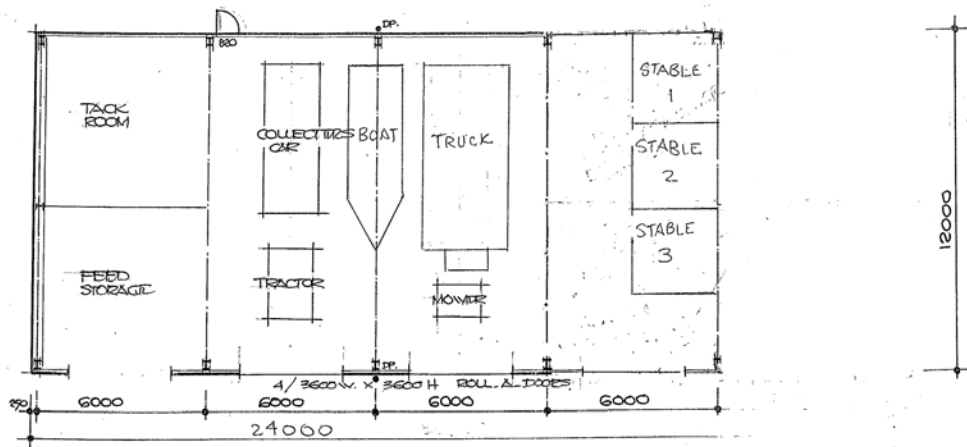
AT - 3 - Plans



PROPOSED RURAL SHED
 FOR:
 MR & MRS. B. MERRIMAN
 AT:
 187 OAKVILLE ROAD
 OAKVILLE
 SCALE: 1:100 JANUARY 2011
 APD PLAN SERVICE 47762429
 DRS. N° 202/1756/2/3

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- SHED TO BE MANUFACTURED AND INSTALLED TO MANUFACTURERS SPECIFICATIONS
- CONCRETE FLOOR AND FOOTINGS TO ENGINEERS DETAILS
- COLOUR BOND ROOF AND WALL CLADDING
- COLOUR BOND GUTTERING AND DOWNPIPES CONNECTED TO 10,000 L WATER TANK, OVERFLOW TO NATURAL WATERCOURSE

FLOOR PLAN

SHED 288m² (24x12)

TOTAL 288m²

PROPOSED RURAL SHED

FOR:
MR. & MRS. B. MERRIMAN
AT:
187 OAKVILLE ROAD
OAKVILLE

SCALE 1:100 JANUARY 2011
ADPTD PLAN SERVICE 47762425
DRCN° 202/1756/1/3

oooO END OF REPORT Oooo

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Item: 222 CP - Establishment of Police and Community Youth Club - Expression of Interest - (95498)

REPORT:

Executive Summary

This report has been prepared to seek Council's approval to lodge an Expression of Interest (EOI) with the NSW Government to establish a Police and Community Youth Club (PCYC) in the Hawkesbury Local Government Area. The report outlines the EOI requirements and the preferred operating framework for a PCYC, and assesses possible options for the location of a PCYC consistent with the EOI selection criteria. The report proposes that Council submit an EOI to redevelop the Tiningi Community Centre, corner Rifle Range Road and Colonial Drive, Bligh Park as a PCYC venue.

Consultation

The issues raised in this report concern matters which, at this time, do not require community consultation under Council's Community Engagement Policy. Discussions have been held with the Hawkesbury Area Local Command and the YMCA regarding the PCYC proposal.

If the EOI proposal is approved, Council will need to consult with current users of the Tiningi Community Centre and Bligh Park Community Services Inc (who manage the Centre on Council's behalf) to work through the Centre usage and management issues which will arise should the EOI prove successful.

Background

The NSW Government has recently called for Expressions of Interest from local councils wishing to establish a new PCYC in their local government area. Funding will be made available to support the establishment of eight new PCYC facilities within NSW between 2011 and 2015. The NSW Government has identified south-western Sydney as a location for one of these facilities.

Five capital allocations of \$250,000 and two allocations of \$2.5M will be made available to assist in establishing a PCYC facility. These allocations will be provided to assist with facility development or expansion. Locations will be selected on the basis of the following criteria:

- The absolute number of young people in the community to be served.
- The socio-economic status of the community or communities to be served.
- Juvenile crime statistics for the area.
- Extent of other youth services/programs available in the area or to be collocated or transferred to the facilities.
- The facilities or funding to be contributed by the local Council.
- The commitment of local community leaders to support a new Club.
- Transport and accessibility of the proposed facilities.
- The likely viability of the Club once operational.

In relative terms, the criteria are likely to favour urban or regional localities with significant populations of young people, and relatively high levels of juvenile crime and socio-economic disadvantage. While the Hawkesbury Local Government Area is unlikely to be ranked as a high priority location on the basis of these criteria, its peripheral location within Metropolitan Sydney, its geography and relative lack of public transport and services for young people would justify the establishment of a PCYC. It is probable however that the two capital allocations of \$2.5M will go to high priority locations in Western, South Western Sydney or larger regional centres, and for this reason it is proposed that Council's EOI seek a capital allocation of \$250,000 to support the refurbishment of an existing community facility into a PCYC.

The Operations of PCYC Facilities.

PCYC facilities are required to provide a range of sporting, cultural and recreational activities to ensure viable Club operations and Police programming. In general, Club facilities should include a sports court, multi-purpose activity rooms, offices and activity space for Police programs, passive recreation space, and adequate amenities. PCYC are not intended to operate as simple youth 'drop-in' centres.

Each new PCYC will be provided two Police Youth Case Managers and one Club Manager, through the NSW Police Force Youth Command and PCYC respectively. These positions are funded by the NSW Government.

PCYC's partnerships with councils usually involve the long-term (20 year) lease of facilities at a peppercorn rate to ensure operational costs and resulting charges for participation are minimised. Such a lease normally involves councils being responsible for the building and plant, with PCYC being responsible for operational maintenance. Documentation usually includes an interdependent lease and project agreement.

Available Options

Given these requirements Council staff investigated a number of possible options to facilitate the establishment of a PCYC. These included;

- a. co-location with the Hawkesbury Sports Stadium at South Windsor - this option was not considered viable as the Stadium currently enjoys high usage and discussions with the YMCA suggested there were limited time-slots during which a PCYC could operate. PCYC facilities generally operate on an exclusive use basis with a Club having primary use of a facility (but still making the venue available for hire by other groups when not being used for PCYC activities).
- b. the lease of a warehouse facility - this option was not considered viable as the indicative annual lease costs for a suitable facility of the required size would be in the vicinity of \$60,000. It would be difficult for a PCYC to cover this cost without an ongoing Council subsidy and the requirement to pay a market rent would prejudice the viability of a club.
- c. redevelopment of existing community facility – following discussion with PCYC NSW, this was identified as the most viable option should Council lodge an EOI. Consultation with the Hawkesbury Area Local Command suggested that, on the basis of juvenile crime statistics, Richmond, South Windsor or Bligh Park would be the most appropriate location for a PCYC. In demographic terms, Bligh Park has the highest youth 'catchment' population in the Hawkesbury.

Proposed Redevelopment of the Tiningi Community Centre.

Council staff identified the Tiningi Community Centre as a possible location and arranged for representatives of the YMCA and the Hawkesbury Area Local Command to inspect this facility to assess its feasibility. It was determined that the venue could accommodate a range of PCYC activities and the presence of an outdoor sports court was also identified as an advantage. In addition the Bligh Park Community Youth Project operates from an adjoining building and would effectively be co-located with the PCYC on the one site. The site is also on a public transport bus route.

The Tiningi Community Centre is relatively under utilised and there would seem to be no practical reason why current users could not continue to use the venue subject to the re-negotiation of time-slots. There is the potential to increase the usage of the Centre through its refurbishment to support martial arts (which are one of the primary activities of PCYC facilities in other locations). The Centre could be hired out to commercial martial arts operators. Discussions with Council's Building Services also suggest that the outdoor sports court could be covered to increase its potential usage. The YMCA has also indicated it will work with a PCYC operator to develop a complementary program of sporting and recreational activities.

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It is therefore proposed that Council lodge an EOI with the NSW Government to seek a \$250,000 capital allocation to refurbish the Tiningi Community Centre as a PCYC venue.

Conformance to Community Strategic Plan

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

- Have friendly neighbourhoods, connected communities, and supported households and families

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

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

Financial Implications

There are no financial implications arising out of this report.

RECOMMENDATION:

That:

1. Council lodge an Expression of Interest with the NSW Government to seek a \$250,000 capital allocation to refurbish the Tiningi Community Centre as a PCYC venue.
2. Council advise Bligh Park Community Services Inc. of its intention to lodge an EOI and commence discussions with the management committee to facilitate the refurbishment of the Tiningi Community Centre as a PCYC venue. Council staff to also consult with the management committee regarding the future management and usage of the Centre to minimise disruption to existing user groups should the EOI be successful.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

INFRASTRUCTURE SERVICES

Item: 223 IS - 22 Clergy Road, Wilberforce (DA 0352/11) - (95495, 95498, 121979)

REPORT:

Executive Summary

The purpose of the report is to authorise the Seal of Council to be affixed to the necessary documentation required to vary the 88B instrument for a drainage easement benefitting Lot 7, DP 249290 (22 Clergy Road, Wilberforce) over Lot 6, DP 249290 (24 Clergy Road, Wilberforce).

Consultation

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

Background

A development application for the construction of a dwelling on Lot 7, DP 249290 (22 Clergy Road, Wilberforce) has revealed that an interallotment drainage easement, which should be benefitting this property, over Lot 6, DP 249290 (24 Clergy Road, Wilberforce) is in fact benefitting Colo Shire Council.

A deferred commencement consent has been issued with the following schedule:

"The applicant shall provide documented evidence that Lot 7 – DP 249290 has the benefit of the registered easement for drainage over Lot 6 – DP 249290."

The Solicitor acting on behalf of the property owner has prepared the necessary documentation to transfer the beneficiary of the easement, which is required to be executed under the Seal of Council.

The purpose of the report is to seek Council's agreement to transferring the benefit of the easement and to authorise the Seal of Council to be affixed to the necessary documentation required to vary the 88B instrument for the drainage easement benefitting Lot 7, DP 249290 (22 Clergy Road, Wilberforce) over Lot 6, DP 249290 (24 Clergy Road, Wilberforce).

Conformance to Community Strategic Plan

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

- Offer residents a choice of housing options that meets their needs whilst being sympathetic to the qualities of the Hawkesbury.

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

- Develop plans to enhance the character and identity of our towns and villages.

Financial Implications

There are no financial implications as a result of this report.

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RECOMMENDATION:

That the transfer of the benefit of the easement from Council to Lot 7, DP 249290 be endorsed and the Seal of Council be affixed to the necessary documentation required to vary the 88B instrument for a drainage easement benefitting Lot 7, DP 249290 (22 Clergy Road, Wilberforce) over Lot 6, DP 249290 (24 Clergy Road, Wilberforce).

ATTACHMENTS:

AT - 1 Location Map

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According to Clause 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer must provide the Council with a written report setting out details of all money that the Council has invested under Section 625 of the Local Government Act 1993. The report must include a certificate as to whether or not investments have been made in accordance with the Act, the Regulation and the Council's Investment Policy.

This report indicates that Council held \$41.52 million in investments at 31 August 2011.

It is recommended that this report be received and noted.

Consultation

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

Background

The following table indicates that Council held \$41.52 million in investments as at 31 August 2011. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term, and the percentage of the total portfolio, are provided below:

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
On Call								
CBA	A1+	AA	31-Aug-11		5.25%	6,320,000	15.20%	6,320,000
Term Investments								
ANZ	A1+	AA	18-May-11	16-May-12	6.35%	500,000	1.20%	
ANZ	A1+	AA	29-Nov-10	26-Oct-11	6.36%	1,500,000	3.61%	
ANZ	A1+	AA	25-Nov-10	23-Nov-11	6.60%	1,000,000	2.41%	
ANZ	A1+	AA	25-Nov-10	23-Nov-11	6.60%	2,000,000	4.82%	
ANZ	A1+	AA	23-Feb-11	22-Feb-12	6.24%	1,200,000	2.89%	
ANZ	A1+	AA	10-Mar-11	20-Dec-11	6.35%	2,000,000	4.82%	
ANZ	A1+	AA	14-Mar-11	11-Jan-12	6.35%	2,000,000	4.82%	

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ANZ	A1+	AA	23-Mar-11	21-Mar-12	6.24%	500,000	1.20%	
Bankwest	A1+	AA	04-May-11	05-Oct-11	6.00%	1,000,000	2.41%	
Defence Force Credit Union Ltd	unrated	unrated	18-May-11	21-Sep-11	6.11%	500,000	1.20%	
ING Direct	A-1	A+	23-Feb-11	21-Sep-11	6.22%	1,000,000	2.41%	
NAB	A1+	AA	17-Nov-10	16-Nov-11	6.46%	1,000,000	2.41%	
NAB	A1+	AA	02-Dec-10	07-Dec-11	6.44%	1,000,000	2.41%	
NAB	A1+	AA	03-Dec-10	07-Dec-11	6.45%	2,000,000	4.82%	
NAB	A1+	AA	08-Dec-10	07-Dec-11	6.44%	500,000	1.20%	
NAB	A1+	AA	20-Jan-11	14-Sep-11	6.22%	2,000,000	4.82%	
NAB	A1+	AA	09-Feb-11	09-Feb-12	6.27%	1,000,000	2.41%	
NAB	A1+	AA	15-Jun-11	25-Jan-12	6.16%	2,000,000	4.82%	
NAB	A1+	AA	27-Jul-11	25-Jul-12	6.29%	1,000,000	2.41%	
NAB	A1+	AA	06-Jul-11	05-Jul-12	6.25%	2,000,000	4.82%	
NAB	A1+	AA	24-Aug-11	22-Feb-12	5.85%	1,000,000	2.41%	
Westpac	A1+	AA	20-Jan-11	19-Oct-11	6.20%	1,000,000	2.41%	
Westpac	A1+	AA	11-May-11	16-Nov-11	6.15%	1,000,000	2.41%	
Westpac	A1+	AA	22-Jun-11	25-Jan-12	6.18%	2,000,000	4.82%	
Westpac	A1+	AA	01-Jun-11	01-Oct-11	6.15%	1,500,000	3.61%	
Westpac	A1+	AA	10-Aug-11	8-Aug-12	6.00%	2,000,000	4.82%	
Westpac	A1+	AA	17-Aug-11	15-Aug-12	6.00%	1,000,000	2.41%	35,200,000
TOTAL INVESTMENT AS AT 31 AUGUST 2011								41,520,000

Bench Marking

Bench Mark	Bench Mark %	Actual %
UBS 90 Day Bank Bill Rate	4.86%	6.26%
Reserve Bank Cash Reference Rate	4.75%	5.25%

Performance by Type

Category	Balance \$	Average Interest	Difference to Benchmark
Cash at Call	6,320,000	5.25%	0.50%
Term Deposit	35,200,000	6.26%	1.40%
Total	41,520,000	6.11%	1.25%

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Restricted Funds

Restriction Type	Amount \$
External Restrictions -S94	6,909,634
External Restrictions - Other	10,441,218
Internal Restrictions	16,164,109
Unrestricted	8,005,039
Total	41,520,000

Funds subject to external restrictions cannot be utilised for any purpose other than that specified in line with legislative requirements. Externally restricted funds include funds relating to S94 Contributions, Domestic Waste Management, Stormwater Management and Grants.

Internal restrictions refer to funds allocated through a Council Resolution, for specific purposes or to meet future known expenses. Whilst it would “technically” be possible for these funds to be utilised for other purposes, such a course of action, unless done on a temporary internal loan basis, would not be recommended nor would it be “good business practice”. Internally restricted funds include funds relating to Tip Remediation, Plant Replacement, Risk Management and Election.

Unrestricted funds may be used for general purposes in line with Council's adopted budget.

Investment Commentary

The investment portfolio increased by \$2.37 million for the month of August, 2011. During August, various income was received totalling \$10.3 million, including rate payments amounting to \$6.44 million, while payments to suppliers and staff costs amounted to \$7.48 million.

The investment portfolio currently involves a number of term deposits and on-call accounts. Council's current investment portfolio is not subject to share market volatility.

As at 31 August 2011, Council has invested \$2.5 million with 2nd tier financial institutions, with the remaining funds being invested with 1st tier institutions. The investment of up to \$1 million with 2nd tier Authorised Deposit Taking Institutions (ADIs) is entirely covered by the free Government Guarantee Scheme, and is in accordance with Council's Investment Policy. Also, Council's adopted Investment Policy allows Council to invest above \$1 million with 2nd tier Authorised Deposit Taking Institutions that are wholly owned subsidiaries of major Australian trading banks, subject to conditions stipulated in the Policy.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Independent advice is sought on new investment opportunities and Council's investment portfolio is independently reviewed by Council's investment advisor each calendar quarter.

Council's investment portfolio complies with Council's Investment Policy, adopted on 28 June 2011.

Investment Certification

I, Emma Galea (Responsible Accounting Officer), hereby certify that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

Conformance to Community Strategic Plan

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

- Be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services

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

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- Maintain and review a sustainable long term financial framework.

Financial Implications

Funds have been invested with the aim of achieving budgeted income in 2011/2012.

RECOMMENDATION:

The report regarding the monthly investments for August 2011 be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 225 SS - Potential Financial Impact of Carbon Price Mechanism on Council's Operations - (95496, 107)

REPORT:**Executive Summary**

The Australian Government's comprehensive plan for tackling climate change, 'Securing a Clean Energy Future' (CEF), was announced in July 2011. The comprehensive plan includes putting a price on carbon pollution, promoting innovation and investment in renewable energy, improving energy efficiency and creating opportunities in the land sector to cut pollution. A main part of this comprehensive plan is the introduction of the Carbon Price Mechanism.

Whilst Council as an entity will not be directly liable for the carbon price, it is expected that there will be flow-through cost impacts on areas such as fuel, building construction, road maintenance, energy and waste disposal costs.

The purpose of this report is to provide some background information of how the Carbon Price Mechanism is expected to work, and the potential impact a carbon price would have on Council's operations via increased costs in running Council's buildings and provision of services. The main areas expected to be potentially impacted are street lighting, energy, fuel and Council's Waste Management Facility.

The financial impact on the various areas predicted in this report is only intended to provide an indication of what the impact may be. At the time of writing this report it is not certain what industries will be impacted, and if there will be any concessions or rebates available for councils. It is also difficult to predict which industries will pass their costs on, and if they are, to what extent.

Vast literature on the proposed legislation and its potential impact on councils have been published by the Australian Government and other agencies. These publications include – Australian Local Government and Climate Change (Australian Centre of Excellence for Local Government), Strong Growth, Low Pollution Modelling a Carbon Price Overview (Australian Government Treasury), Local Government Climate Change Roundtable (UTS, ACELG), The Carbon Price and Local Government (Australian Landfill Owners Association), and Financial Implications of Carbon Emissions Trading on Victorian Councils (Municipal Association of Victoria). Current and comprehensive information is also available on the Australian Government's website – Clean Energy Future. These publications have been used as a source of information when preparing this report.

Consultation

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

Background

At the United Nations 2009 Copenhagen Climate Change Conference, and at the 2010 Conference in Cancun, more than 100 countries have agreed to limit carbon pollution so that the average global temperature rise can be held below 2 degrees Celsius above pre-industrial levels, which is broadly consistent with global concentrations of 450 parts per million. The United States and China, the world's biggest polluters, have committed themselves to this ambition. With this global goal in place, countries from around the world have set targets to reduce their carbon pollution.

The Australian Government has committed to responsible targets to reduce carbon pollution and to play its part in the global effort to avoid climate change. The Government has committed to reduce carbon pollution by 5 per cent from 2000 levels by 2020, irrespective of what other countries do, and by up to 15 or 25 per cent depending on the scale of global action.

The Australian Government's comprehensive plan for tackling climate change, 'Securing a Clean Energy Future' (CEF), was announced in July 2011. The comprehensive plan includes putting a price on carbon pollution, promoting innovation and investment in renewable energy, improving energy efficiency, and creating opportunities in the land sector to cut pollution. The CEF package includes compensation for certain industries and households.

A main part of this comprehensive plan is the introduction of the Carbon Price Mechanism (CPM), aimed at reducing carbon emissions. The Government expects the CPM legislation to be passed by Parliament in late 2011, and the CPM to commence from 1 July 2012.

The framework is based on an emissions trading scheme, beginning with a fixed price in the form of a tax for greenhouse emissions in the first three years, before transitioning to a variable price set by the market.

From 1 July 2012, every tonne of carbon dioxide equivalent (CO₂-e) produced by Australia's largest direct emitters, will be priced at \$23 per tonne. The carbon price will be indexed annually by 2.5% for three years from 2012 to 2015. From 1 July 2015, a floating market-based Emissions Trading Scheme (ETS) will commence whereby the Government sets the emissions level cap for Australia, and the market determines the price of permits. Therein lays the linkage of the carbon price to the emissions reduction targets of 5% by 2020, and 80% by 2050.

The greater the reduction target, the lower the annual emissions cap and the higher the carbon price. The first five years of caps will be announced by the Government in the 2014 Budget. During the fixed price period, the large emitters will be required to buy a fixed-price permit from the Government in exchange for every tonne of CO₂-e produced. Once the floating ETS commences, the carbon price will be subject to a \$15 floor price and a ceiling price of \$20 above international carbon prices, with each rising annually at 4% and 5% respectively. The CEF package states that an independent body, the Climate Change Authority (CCA), to be headed by former Reserve Bank Governor, Bernie Fraser, will set annual emission targets for approval by the Federal Parliament.

During the fixed price period the use of international credits will be limited and companies will not be able to sell domestic permits overseas. International permits will be allowed to offset an entity's carbon liability, in the floating price period, with a 50% limit until 2020.

The sectors covered by the CPM are stationary energy (e.g. power stations), industrial processes (e.g. aluminium smelting), fugitive processes (e.g. coal mines, natural gas fields and gas pipelines), non-legacy waste and limited coverage of the transport sector (under changes to the fuel tax regime). Agriculture and land-use emissions are excluded. These emissions activities (including forestry) are covered by the Carbon Farming Initiative (CFI) and are not covered by the CPM.

The CPM will cover four of the six greenhouse gases under the Kyoto Protocol – carbon dioxide, methane, nitrous oxide and perfluorocarbons (PFCs) from aluminium smelting. Other synthetic greenhouse gases are excluded – emissions of hydrofluorocarbons and sulphur hexafluoride will instead face an equivalent carbon price applied through existing synthetic greenhouse gas legislation.

The Government has set up the Clean Energy Finance Corporation (CEFC) that will assist businesses seeking funds to get innovative clean energy proposals and technologies off the ground, and commercialise clean energy projects. It will have \$10 billion in funding over 10 years from 2013/2014, and will be focussed on the commercialisation and deployment of technologies for businesses to transform Australia to a low carbon economy. Funding will be split between renewable energy and clean energy. The CEFC may provide finance in the form of commercial loans, concessional loans, loan guarantees or equity. The CEFC will not invest in capture and storage technologies.

The Government has indicated that approximately 500 companies will be directly liable for the carbon price. These organisations will need a permit for every tonne of carbon pollution they produce – the cost of that permit is the carbon price. Generally, a threshold of 25,000 tonnes of direct CO₂-e emissions will apply for determining whether a facility will be covered by the carbon pricing mechanism. All direct

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emissions except for emissions from transport fuels or synthetic greenhouse gases will count towards the thresholds. Liable entities will be those with 'operational control' in line with the National Greenhouse and Energy Reporting Act (NGER) definition.

Households, small businesses and other organisations will have no direct obligations under the carbon price. A carbon price will not apply to agricultural emissions or emissions from light on-road vehicles.

Whilst Council, as an entity, will not be directly liable for the carbon price, it is expected that there will be flow-through cost impacts on areas such as fuel, building construction, road maintenance, energy and waste disposal costs. Overall, the Government is predicting a CPI effect of + 0.7% for 2012/2013 resulting from the proposed carbon price. As a possible partial offset, there are increased grants available to Local Government to help lower energy costs.

To offset some of the CEF package costs, there are a number of funding programs aimed at renewable energy and energy efficiency which will be available to Local Government. In particular, the Low Carbon Communities Program will be expanded to promote energy efficiency at a local level and among low-income households. Funding for the Program will be increased from \$80 million to \$330 million. Councils and community organisations will be able to apply for grants to undertake energy efficiency upgrades, and retrofits to council and community-use buildings, facilities and lighting. Community facilities that may benefit from this Program include stadiums, education facilities, town halls and nursing homes.

The following table provides the estimated potential financial impact of a carbon price, through increased costs passed on to Council. The estimates are based on 2010/2011 consumption, and costs, and estimated increases in cost ranging between 9% for gas, and between 10% and 20% for electricity. It is to be noted that, as a number of variables are still not confirmed, the estimates provided are only intended to provide an indication of the potential financial impact of the proposed legislation.

	Annual Cost 2010/2011	Potential Estimated Additional Cost	Estimated Annual Increase
Electricity Costs	\$734K	10% - 20%	\$73K - \$147K
Gas Costs	\$67K	9%	\$6K
Street Lighting	\$582K	10% -20%	\$58K - \$116K

Electricity costs and street lighting may potentially increase through the introduction of a carbon price, assuming increased energy production costs are passed on by the energy companies. The extent of the impact is difficult to predict accurately, as not only the percentage increase is unknown, but also the different components of electricity and street lighting charges to which increases may, or may not, be applicable is also unknown at this stage. The estimated potential increases in gas costs are based on increases announced by the Federal Treasury.

Whilst at this stage petrol and diesel from the bowsters will not attract a carbon price, an effective carbon price may be imposed on some businesses, including councils, through reduced fuel tax credit entitlements, and reductions to the automatic remission of excise on gaseous fuel used for non-transport purposes. The current fuel tax regime provides fuel tax credits that remove or reduce the incidence of fuel tax from business inputs, so that fuel tax falls primarily on non-business consumers and light commercial vehicles. By reducing existing fuel tax credits by an amount equal to the carbon price, the Government will impose an effective carbon price on businesses liquid and gaseous fuel emissions through the existing fuel tax regime. Fuel tax credits for businesses will be reduced for fuels acquired after 1 July 2012 by the amount of the fixed carbon price, as set at the beginning of each of the fixed price years, from 2012/2013 to 2014/2015. When Australia moves to an Emissions Trading Scheme in 2015/2016, the fuel tax credit changes will be determined on a six-monthly basis, based on the average carbon price over the previous

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six months. Council may be potentially negatively affected through reduced credits claimed under the Diesel Fuel Rebate Scheme, estimated at a reduction of 6c per litre. Also, heavy commercial vehicles may be impacted from 2014 onwards. Council could potentially incur additional costs in the vicinity of \$40K per annum, by way of reduced credits.

The introduction of a Carbon Price, could also potentially impact Council through increased materials and construction costs passed on to Council, through increased contract costs and cost of materials purchased. Increases in CPI, above annual increases, are predicted to be somewhere between 0.7% and 2%, based on various reports.

As indicated in the table above, the introduction of a Carbon Price would potentially result in an additional cost to Council's operations in the vicinity of between \$180K and \$310K per annum. These estimates are indicative only, and do not include the impact of an additional CPI increase on materials, contract and services potentially faced by Council.

Impact on the Hawkesbury City Waste Management Facility

The Waste Management industry is one of the sectors expected to be impacted by the proposed legislation. As the operator of the Hawkesbury City Waste Management Facility (HCWMF), Council may be liable to pay the Carbon Price.

The Manager Waste Management has provided the information below regarding the impact of the proposed legislation on the costs of operating the HCWMF.

Under the National Greenhouse and Energy Reporting requirements, Council has reported its greenhouse gas emissions to the Department of Climate Change and Energy Efficiency for the past two years. The emissions for the HCWMF have been calculated by placing the estimated tonnages deposited to landfill into an approved mathematical formula.

Due to the emissions almost reaching the Facility threshold for compulsory reporting, it was decided that other methods for calculating the emissions, and methods to reduce the amount of emissions, be investigated.

Golder Associates completed a landfill gas flux box test of the site, in July 2010, to determine the feasibility of using an alternate method to determine the quantity of greenhouse gasses being emitted from the HCWMF. The test did determine that the alternate method using flux boxes may reduce the estimated quantities of gas produced.

A landfill gas feasibility desktop study was undertaken by Golder Associates to determine the estimated quantities of gas being produced by the Facility, and the feasibility of flaring the gas, or utilising the gas, for electricity generation.

This study confirmed that the estimated quantities of gas being produced by the Facility, to be approximately 16,000 to 17,000 tonnes of CO₂e, which is below the 25,000 tonne threshold for ETS liability.

This has been confirmed by an updated CO₂e calculator provided by the Office of Environment Heritage for reporting purposes.

If however the proximity rule was to be enacted by Parliament, then the HCWMF would be liable for the ETS, as the threshold would then be 10,000 tonnes of CO₂e. The application of the proximity rule would mean that smaller landfills, if they are within a certain distance of a large landfill, would have a lower threshold for the purpose of calculating the ETS liability. The distance governing the proximity rule is yet to be determined.

Emissions liabilities for landfill waste facilities, will only apply to emissions from new waste deposited after Scheme commencement (1 July 2012) and emissions from waste deposited prior to Scheme commencement, otherwise known as "Legacy" emissions, will be excluded from Scheme liabilities.

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Although emissions from Legacy waste will not incur a liability under the Scheme, Legacy emissions will continue to count towards a landfill facility's threshold.

Based on the current situation, it is assumed that the HCWMF will close by approximately 2018 (expected life of landfill cells), and the amount of waste going to landfill will increase at the rate of 2.45% (average rate of increase of waste into landfill over the total life of the facility-worst case scenario), then the estimated costs of the ETS if the Facility was to close in 2018 would be approximately \$1.9 million over the period to 2026. This estimated cost would only be applicable if the proximity rule was to apply to this Facility.

It should be noted that waste will continue to degrade within the landfill past the closure date and contribute to gas emissions to 2026. Thus the South Windsor WMF will continue to be liable for ETS until the CO₂e levels drop below the threshold level, in this case 10KT.

This burden would have to be shouldered by those using the Facility.

Flaring would be an option to reduce CO₂e emissions; however a business case will need to be developed to determine viability.

It is noted that Council sent a submission in relation to Clean Energy Legislative Package, specifically in relation to the proximity rule referred to above. A copy of the submission is attached to this report.

The Carbon Farming Initiative will provide opportunities for local governments, operating landfills that are able to lower pollution from the existing waste stored in these sites. The Government's Carbon Farming Initiative will provide an important revenue stream for lowering emissions of greenhouse gases from legacy waste stored in landfills. The Carbon Farming Initiative will create credits from saving or storing carbon pollution in the landscape, agricultural industries, and the so-called legacy waste stored in landfills often operated by local government. It will be complemented by a range of programs to enhance regional natural resource planning, and better identify the regional impacts of climate change, develop new methods of storing or reducing carbon in the landscape, and provide extension and outreach on land sector issues. This initiative may, or may not, be viable for Council, and should the proposed legislation be passed, a more detailed analysis into the relevance of this initiative for Council would need to be undertaken.

At the time of writing this report, the legislation has been finalised following widespread consultation with stakeholders and the broader community, with more than 300 submissions presented on the exposure drafts of the main Clean Energy Bills, which were released in late July. The Australian Local Government Association (ALGA) has presented a submission on the Clean Energy Future legislative package. However, many of the key areas of concern for local government, including the inclusion of landfills, will be determined in regulations which are yet to be developed. A Joint Select Committee is expected to be established, comprising a cross-section of parliamentary members, which would hold an inquiry into the legislation and report back to Parliament on its findings. The Government plans to have the legislation passed by Christmas. ALGA will continue to work with the Department of Climate Change and Energy Efficiency on the development of the regulations. Until these are available, councils will not know which landfills will be included in the Scheme, and which will not be covered.

Actions taken by Council

If the CPM was to be implemented, the most effective way for Council to reduce its exposure to the additional costs, is to reduce its greenhouse emissions, and therefore its consumption of fuels being impacted by this carbon price.

Actions taken by Council to reduce energy consumption and carbon emissions will partially offset the potential cost impacts of a carbon price. Council has already implemented a number of actions, and is in the process of implementing more actions it committed to undertake under the Waste and Sustainability Improvement Program. All the actions under the Program are aimed at reducing waste of various forms to keep the amount of waste going to landfill to a minimum, as well as reducing greenhouse emissions.

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Actions include:

- Waste Education Program
- Sustainable Event Management Policy
- Sustainable Procurement Standard
- Sustainable Fleet and Plant Policy Standard
- Sustainability Reporting Standard
- Garden Organics Standard
- On-line Sustainable Living Guide
- Pool Blankets
- Climate Change Adaptation Plan
- Climate Change Risk Assessment Plan
- Alternative Waste Treatment Feasibility Study
- Study into the use of methane gas for the Hawkesbury Waste Management Facility
- Waste Classification
- Energy Saving at the Hawkesbury Leisure Swimming Centre
- Public Place Recycling
- Corporate Waste Reduction
- Green Purchasing Guide

All reduction in waste and greenhouse emissions arising from the above programs will result in reduced energy costs, thereby partially absorbing potential costs increases from a carbon price.

As further details regarding the carbon price are released, a more accurate analysis of the financial impact will be possible. The projections in this report are only to be used as a basis for initial planning for the impacts of a carbon price.

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

Funding

The proposed carbon price, if legislated and implemented, will have no impact upon the 2011/2012 Budget, as the CPM does not start until the 2012/2013 Budget year. In preparing the 2012/2013 Budget, costs for the CPM, if applicable, will be accounted for with all current information available at the time, and various funding options will be explored to pay for the increased costs.

RECOMMENDATION:

That the information concerning the potential financial impact of the proposed Carbon Price Mechanism on Council's operations be received.

ATTACHMENTS:

AT - 1 Submission to the Clean Energy Legislative Package - August 2011

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Attachment 1: Submission to the Clean Energy Legislative Package - August 2011

Your Ref:

Our Ref:

22 August 2011

Carbon Price Legislation Branch
Carbon Strategy and Markets Division
Department of climate Change and Energy Efficiency
GPO Box 864
Canberra ACT 2601

Dear Sir/Madam

Submission to the Clean Energy Legislative Package

Thankyou for the opportunity to comment on the Government's Clean Energy Legislative Package.

Background to the Hawkesbury

The Hawkesbury Local Government Area is located 55 kilometres north west of Sydney on the fringe of the Sydney Metropolitan Area. With an area of 2,793 square kilometres it is the largest geographical local government area in the Sydney basin, with an estimated population of 62,814. Approximately 95% of the local government area is located on the North West side of the Hawkesbury-Nepean River.

The domestic kerbside waste bin collection is undertaken by Council's day labour staff to 24,321 services. The waste is being locally transported and treated at Hawkesbury City Council Waste Management Facility located on the corner of Blacktown Road and The Driftway, South Windsor. This facility is situated on 31.5Ha and consists of a gatehouse, weighbridges, a putrescibles waste landfill and drop off areas for recycling collection and reprocessing on site.

The amount of waste landfilled during the reporting period 2010-2011 was twenty three thousand, seven hundred and fourteen (23,714) tonnes. This amount remains static however with a 3% population increase (2006-2010) the total annual waste per resident has decreased in relative terms.

After careful review of the documents available under the Clean Energy Legislative Package, with consideration that this plan is to assist in the reduction of carbon pollution to the environment while ensuring households are assisted and jobs are supported, the following comments and consequential recommendations are provided.

Prescribed Distance Rules in the Clean Energy Legislative Package

The Environmental Protection and heritage Council (EPHC) identified 665 landfills around Australia. 10.5% were classified as large landfills (>100,000 tpa waste acceptance), 7% were classified as medium landfills (>50,000 - >100,000 tpa waste acceptance), and 82.5% were classified as small landfills (<50,000 tpa waste acceptance).

Against the Australian Greenhouse Gas Inventory, the size distinction as set out by the EPHC demonstrates that of the 1.95% of the emissions from landfills, large landfills make up 1.43% of the Australia's emissions profile, whilst medium landfills make up 0.25% and small landfills 0.27%.

The inclusion and application of a Prescribed Distance Rule has significant and wide ranging impacts on Local Government entities who own and operate small landfill sites.

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This concept is based on the possibility that waste may be diverted from larger landfills to smaller landfills with the application of a 25,000 CO₂-e threshold under the Clean Energy Bill.

Hawkesbury City Council on 11 April 1992 introduced a policy that only allows residents or ratepayers to utilise the facility. This was necessary due to the available landfill space becoming a critical issue. Council is constantly responding sustainably to waste generation issues by implementing procedures and schemes that will avoid, reduce, reuse and recycle the amount of waste prior to being disposed of in landfill.

Using the National Greenhouse and Energy Reporting (NGER) Solid Waste Calculator Version 1.6, it can be determined that 1 tonne of municipal solid waste received at a site will produce 1.19 tonnes of CO₂-e emissions over its period of degradation. Therefore a very small landfill accepting 8,500 tonnes or more waste per annum, which falls within the Prescribed Distance, will be caught by the differential threshold limit of 10,000 tonnes. The total number of facilities that may be captured within this legislation is 471, making up 0.12% of the Australian emissions.

The inclusion of this provision would place an immense burden on regional councils with little or no outcome.

The transportation of waste incorporates a multitude of factors including but not limited to

- Landfill gate rates
- Contractual obligations
- Transport cost
- Landfill availability
- Internal policies
- State laws example Queensland and NSW

The increase vehicle movements will increase emissions. It is obvious that the shortest distance between pick up and disposal of waste is more financially sustainable.

The financial assistance proposed for Local Government under this legislative package is limited to \$200M as outlined in the Low Carbon communities program. The aim of the funding is to support the retro fitting of current infrastructure with energy efficient products and technologies to assist in the off setting of added cost. However no financial assistance has been provided for direct cost impacts due to the Draft Clean Energy Legislative Package.

With the commencement of the carbon scheme set for 1 July 2012, the Federal Government has provided 11 months for Local Councils to become aware of their NGER reporting requirements, budget for the installation and ongoing costs of between \$500,000- \$1,000,000 for landfill gas flaring systems, which has not been planned nor budgeted for in the current financial year.

Recommendation

1. That the inclusion of landfills in the Clean Energy Legislative Package, only include large landfills receiving more than 100,000 tonnes per annum. (>100,000 tpa waste acceptance)
2. That Hawkesbury City Council and other Councils receiving less than 50,000 tpa receive an exemption under the Bill or subsequent Regulation within the Prescribed Distance Rule.

It is hoped these comments and recommendations are of assistance in your consideration of this matter.

Yours faithfully

Director City Planning

Direct Line: (02) 4560 4703

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 September 2011

Item: 226 **SS - Internal Reporting Policy (Public Interest Disclosures Act) - (79337, 95496, 107)**

Previous Item: 326, Ordinary (1 November 2005)

REPORT:

Executive Summary

Councils are required to adopt a Policy on Internal Reporting (Public Interest Disclosures Act) by 1 October 2011. The attached Policy has been drafted in line with the Model Policy and Guidelines issued by the NSW Ombudsman, and will replace Council's existing Internal Reporting Policy.

Consultation

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

Upon adoption, the Policy will be circulated to all staff. The NSW Ombudsman's Office has offered to provide training sessions on-site for designated positions within Council, and to the wider Management staff. Upon adoption of the Policy, such training will be arranged.

Background

Councils are required to adopt a Policy on Internal Reporting (Public Interest Disclosures Act) by 1 October 2011. The attached Policy has been drafted in line with the Model Policy and Guidelines issued by the NSW Ombudsman, and will replace Council's existing Internal Reporting Policy (adopted on 1 November 2005), which has governed protected disclosures until now.

In March 2011, various amendments were made to the Protected Disclosures Act 1994. These amendments included changing the name of the Act to the Public Interest Disclosures Act 1994 (PID Act). The PID Act outlines how people working in the NSW Public Sector can make complaints about corrupt conduct, maladministration, serious and substantial waste, a failure to properly fulfil functions under the Government Information (Public Access) Act 2009, and pecuniary interest contravention under the Local Government Act 1993. The PID Act applies to all public authorities in NSW including councils.

The amendments to the PID Act provide:

- for the NSW Ombudsman to have an oversight role for Public Interest Disclosures to audit, monitor and investigate the way public disclosures are handled, and have the power to require public authorities to provide information to the Ombudsman;
- a focus on raising awareness of the Policy, its endorsement by Council, and encouraging staff to make public interest disclosures;
- the threshold test for protection has changed, a public interest disclosure is protected if the person making the disclosure honestly believes, on reasonable grounds, shows or tends to show one of the types of conduct that disclosures can be made about;
- individuals who are engaged as contractors are now included as persons who can make a disclosure;
- new provisions regarding any retribution/reprisals towards the person making the disclosure, is a punishable offence (the maximum penalty has doubled to 100 penalty units or 2 years goal);

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- places quarterly reporting requirements on Council;
- public interest disclosures are now able to be made internally about a failure to properly fulfil functions under the Government Information (Public Access) Act 2009;
- a public authority can no longer decline to investigate a public interest disclosure on the grounds that the disclosure was made vexatiously or frivolously.

Given the focus on public interest disclosures at the moment there are still last minute changes being made. For example, on 7 September 2011, the NSW Parliament passed additional changes which are not in force yet. Councils are waiting for the Public Interest Disclosures Amendment Act 2011 (Amendment Act) to be proclaimed. The Amendment Act will change the quarterly reporting requirements to bi-annual requirements, and provides that evidence of any reprisals be referred to the Commissioner of Police or ICAC. These changes could be proclaimed at any moment or next year. Hence, in order to meet the 1 October 2011 deadline set by the NSW Ombudsman the Draft Policy should be adopted, and any amendments will be made to the Policy if required, on proclamation of the Amendment Act.

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;
- A balanced set of decisions that integrate jobs, housing, infrastructure, heritage, and environment that incorporates sustainability principles; and
- Have constructive and productive partnerships with residents, community groups and institutions.

Financial Implications

There are no financial implications arising from this report.

RECOMMENDATION:

That the Internal Reporting Policy (Public Interest Disclosures Act), attached as Attachment 1 to the report, be adopted.

ATTACHMENTS:

- AT - 1** Draft Internal Reporting Policy (Public Interest Disclosures Act) - *(Distributed Under Separate Cover)*.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 September 2011

CONFIDENTIAL REPORTS

Item: 227 CP - Tender No. 00611 - Asset Management Information System - (95498)

Previous Item: 153, Ordinary (12 July 2011)
62, Ordinary (29 March 2011)

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 tenders for the supply of goods and/or services to Council and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

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ordinary

section 5

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SECTION 5 - Reports of Committees

ROC - Audit Committee Minutes - 24 August 2011 - (95496, 91369)

The meeting commenced at 3.00pm

Present:	Mike Barry David Gregory (Chair) Nisha Maheshwari Councillor Bob Porter Councillor Kim Ford (Alternate)
Apologies:	Harry Khouri Councillor Paul Rasmussen
In Attendance:	Peter Jackson - General Manager Laurie Mifsud - Director Support Services Steven Kelly - Internal Auditor Emma Galea - Chief Financial Officer Dennis Banicevic - Council's External Auditor Jan Readford - Minute Secretary

REPORT:

RESOLVED on the motion of Councillor Bob Porter, seconded by Mr David Gregory that the apologies be accepted.

That:

Attendance Register of Audit Committee

Member	6.10.2010	9.2.2011	18.5.2011	24.8.2011
Councillor Bob Porter	A	✓	✓	✓
Councillor Paul Rasmussen	✓	✓	✓	A
Councillor Kim Ford (Alternate)	A	A	✓	✓
Mr Mike Barry	✓	✓	✓	✓
Mr David Gregory (Chair)	✓	A	✓	✓
Mr Harry Khouri	✓	✓	✓	A
Ms Nisha Maheshwari	✓	✓	✓	✓

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

CONFIRMATION OF MINUTES

RESOLVED on the motion of Mr David Gregory and seconded by Mr Mike Barry that the Minutes of the Audit Committee meeting held on the 24 August 2011, be confirmed.

SECTION 3 - Reports for Determination

Item: 1 AC - Workers Compensation Case Management Audit - (91369, 121470, 79351)

DISCUSSION:

- Mr Gregory noted the inclusion of the timetable for management responses in the IAB template. Mr Kelly advised that this can be included in Council's template.
- Mr Kelly indicated that the two main areas audited were the Return to Work Program and Injury Management Program which were required prior to Council's audit by WorkCover NSW, due in two weeks time, to ensure compliance with self insurer licensing requirements. WorkCover will audit Council over four days.
- Mr Kelly advised that Council is one of a group of sixteen councils with self insurer Workers Compensation Insurance, and has a 3-Year licence with WorkCover NSW. Council must achieve a score above 75% for each element or receive a non-conformance.
- Mr Kelly advised that issues were identified in the 2010 audit in the way Council handles the number of its claims and the structure of the Risk Management section. We now have a new staff member and this person works 3 days per week whose job it is to manage the claims. Since commencement of this staff member, there has been an improvement in the management of claims.
- In response to Mr Barry's enquiry, Mr Kelly advised that the Manager Risk Management will respond to the Internal Audit Report on Workers Compensation Case Management.
- Mr Gregory advised that the Audit Committee would like to receive a brief on the response to the Report by the Manager Risk Management at the next meeting.

RECOMMENDATION TO COMMITTEE:

That the Internal Audit Report – Workers Compensation Case Management be received and noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr David Gregory, seconded by Councillor Kim Ford.

That the Internal Audit Report – Workers Compensation Case Management be received and noted.

Item: 2 AC - Open Access of Information to the Public - (91369, 121470, 79351)

DISCUSSION:

- Mr Kelly gave a brief overview of the requirements of the Government Information (Public Access) Act 2009 and the Guidelines under which Council is required to provide access to public and non-public information. Council developed Policies and Procedures to ensure compliance with, and prior to, the commencement of the GIPA Act. However, the audit indicated a need for operating procedures to be developed and additional training for relevant staff.
- Mr Gregory asked if Council receives requests for building information, and Mr Jackson advised that under the GIPA Act, Council provides access to all building documentation. The number of applications received by Council has increased substantially with 700 received in the last 12 months.
- Mr Kelly advised that Council has introduced a dedicated Public Access to Information page on its website providing details on available access free of charge, and the process for Formal and Informal Access Requests.
- Mr Mifsud advised that a fulltime staff member and another working three days per week spend a considerable amount of their time processing applications.
- Mr Mifsud advised there is no application fee for Informal Access Requests, only a photocopying charge if copies are requested. However, there is a fee for Formal Access Requests. All fees are in accordance with Council's Fees and Charges.
- Mr Kelly advised that the audit looked at all 12 Formal Access Requests received and 5% of all Informal Access Requests, and found that all were processed within the specified timeframes in the Access to Information Guidelines.

RECOMMENDATION TO COMMITTEE:

That the Internal Audit Report – Open Access of Information to the Public be received and noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr David Gregory, seconded by Mr Mike Barry.

That the Internal Audit Report – Open Access of Information to the Public be received and noted.

Item: 3 AC - Accounts Payable - (96332, 91369, 121470, 79351)

DISCUSSION:

- Mr Kelly advised that the audit conducted by Mr George Guylas of IAB Services of Council's Finance Department's processes and procedures took longer than expected, with some areas requiring minor tidy up.
- Mr Kelly advised that Mr Guylas was concerned about the number of Purchase Cards used by staff and would prefer a lower maximum level of credit be imposed on the Purchase Cards to staff with purchase cards. Mr Jackson advised that this was not practical, particularly in the case of the

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Executive Assistant, who is booking conferences for Councillors, where registration and other associated costs, are required to be paid at the time of registration. The cost can be substantial when a number of Councillors are attending, and therefore the Executive Assistant has a credit level of \$10,000.

- Mr Kelly advised that Mr Guylas will now submit a final report to Council.
- Mr Gregory requested that in future relevant management structure details also be included in audit reporting. Mr Jackson advised that Account Payable Section is in the Finance Branch and reports to Ms Galea, who reports to Mr Mifsud, the Director Support Services. At the request of Mr Gregory, Mr Kelly will provide the members of the Audit Committee with Council's Organisational Chart.
- Mr Jackson advised that the Draft Accounts Payable Report provided by IAB Services was positive and does not show that Council has anything of major concern. The report shows Council's processes and identifies areas that can be reviewed for improvement, which will fall under the internal audit function.
- Mr Gregory noted the comments on Page 4 of the Draft report regarding irregularities in purchase card usage, and expressed concern that there may be a potential FBT exposure. However, Ms Galea advised that only one incidence had occurred and this was minimal. Mr Kelly advised there was no evidence of personal expenditure on the credit card.
- Ms Maheshwari noted on Page 3 of the Draft report, the potential for reimbursement of staff via the Payroll system. Mr Kelly advised that Mr Guylas has recommended that Council reimburse staff for expenditure outside the Purchase Card system, via Payroll. However, Mr Jackson advised that this would not be practical in all cases such as for sundry expenses where biscuits are acquired for a meeting, indicating that staff should not have to wait for reimbursement.
- Mr Banicevic referred to Attachment B - Analysis of Spend - YTD March 3, 2011 - Delegation Levels Options to the Draft report. Ms Galea advised that the table represents how the delegations have been set up, and is a guide as to how Council reviews the delegations. Mr Barry agreed that the delegations in bands were a good practice.
- In response to Mr Gregory, Mr Jackson advised that management responses and a timetable will be included in a report to the next meeting.

RECOMMENDATION TO COMMITTEE:

That the Draft Accounts Payable Audit Report from IAB be noted and received.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr David Gregory, seconded by Mr Mike Barry.

That the Draft Accounts Payable Audit Report from IAB be noted and received.

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Item: 4 AC - 2011 Interim Audit and Annual Financial Statements for the Year Ended 30 June 2011 - (96745, 91369, 121470, 79351)

DISCUSSION:

- Mr Banicevic advised that an Interim Audit had been conducted of Council's Annual Financial Statements for the year ended 30 June 2011 by PricewaterhouseCoopers, and reported that the systems audited were found to be sound. Mr Banicevic advised that PricewaterhouseCoopers will review the annual financial reports for the year ended 30 June 2011, and provide recommendations to Council, for review by the Audit Committee.
- Mr Barry asked if any non-conformances are expected with the annual financial reports, and Mr Banicevic advised that PricewaterhouseCoopers expect to have issues involving community land, noting that methodology has changed, in relation to the re-evaluation of community land values, and impacts on the Asset Value Register and applicable rates. However, these issues will be resolved before the detailed Annual Financial Statements are prepared for year ended 30 June 2011.
- Ms Galea advised that audit actions will also need to be discussed by the Audit Committee.
- Mr Kelly indicated that an additional Audit Committee meeting will need to be scheduled to discuss the Unaudited Annual Financial Statements for 2010/2011 prior to being reported to Council. Mr Jackson advised that the meeting will need to be held prior to the Council meeting on 11 October 2011. The Audit Committee will be advised once a date has been established.
- Mr Kelly advised that the meeting schedule for the Audit Committee for 2011 will include a date specifically for the review of the Unaudited Annual Financial Statements prior to reporting to Council.

RECOMMENDATION TO COMMITTEE:

That:

1. The information concerning the 2011 Interim Audit be received
2. The information concerning the General Purpose Financial Statements and Special Purpose Financial Statements for the year ended 30 June 2011 be received.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr David Gregory, seconded by Mr Mike Barry.

That:

1. The information concerning the 2011 Interim Audit be received
2. The information concerning the General Purpose Financial Statements and Special Purpose Financial Statements for the year ended 30 June 2011 be received.

Item: 5 AC - ICAC Investigation - Burwood Council - (90673, 80928, 91369, 121470, 79351)

DISCUSSION:

- Mr Kelly advised that the ICAC Investigation Report for Burwood Council had been provided for the interest of the Audit Committee. In the case of Burwood Council, there was no Internal Audit function. The ICAC Investigation Report includes a recommendation for state-wide legislation for all Councils which will provide additional authority to the NSW Division of Local Government.
- Mr Kelly advised that the Internal Audit Guidelines were developed a number of years ago and Council's have been issued details regarding the Internal Audit function. If Burwood Council had an Internal Audit function, the resultant issues may have been prevented. Without the audit function, there was no where for staff to go.
- Mr Jackson advised that ICAC provides information to Council on a continuous basis. Additionally, the Office of the NSW Ombudsman has investigative powers and also provides Council with circulars.
- Mr Kelly advised that the full ICAC report (100 pages) was available, and would be provided to the Audit Committee members if requested.
- Mr Barry asked what controls are in place to prevent what happened at Burwood Council from happening at this Council. Mr Kelly advised that the introduction of the Audit Committee, an Internal Audit function including the audit of Council's functions, will prevent any likelihood of occurrence.
- Mr Kelly advised that following the audit and recommendations by Mr Guylas, Council's Manager Planning introduced a peer review process preventing a planner from approving a Development Application until it has been reviewed by another Planner.
- Mr Gregory referred to the critical areas of Council's administration referred to on Page 48 of the report, in particular the first three dot points i.e. Absence of Policies; Weak Policies; and Absence of Audit; and asked what Council's approach is in reporting to these points. Mr Kelly advised that Council's policies will be reviewed in up-coming audits.
- Mr Jackson advised that the Department of Local Government has conducted training for Councillors, and Council has also run its own intensive induction training following the Local Government Elections.
- Mr Gregory asked what implications exist for Council staff. Mr Jackson advised that Council's processes are currently being reviewed to reveal any issues.

RECOMMENDATION TO COMMITTEE:

That the information be received and noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Bob Porter, seconded by Councillor Kim Ford.

That the information be received and noted.

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Item: 6 AC - ICAC Investigation - Willoughby Council - (82624, 80928, 91369, 121470, 79351)

RECOMMENDATION TO COMMITTEE:

That the information be received and noted.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Bob Porter, seconded by Councillor Kim Ford.

That the information be received and noted.

Item: 7 AC - Audit Committee Matters - (96745, 91369, 121470, 79351)

DISCUSSION:

- Mr Banicevic offered to email the PricewaterhouseCoopers publication, Audit Committee Matters, directly to the Audit Committee. However, Mr Gregory advised that it was preferable that the publication was received within the business paper.
- Mr Kelly noted that the content of the publication is not specific to Local Government.

RECOMMENDATION TO COMMITTEE:

That the information be noted and received.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr David Gregory, seconded by Councillor Kim Ford.

That the information be noted and received.

SECTION 4 - General Business

1. Strategic Internal Audit Plan

Mr Kelly advised that the scheduled audit of the Procurement System Controls, including supply, tendering, contracts and disposal of assets, has now been moved until later in the year as Council is in the middle of a Management System Tendering Review which includes the development of tendering procedures.

2. Election of Chairperson and Deputy Chairperson

Mr Gregory noted that the election of the Chairperson and the Deputy Chairperson will be conducted at the next Audit Committee meeting, and advised that he believes there would be value in rotating the position of Chairperson within the Audit Committee. Mr Gregory advised that he would re-stand if there was no other contender for the position.

3. Audit Committee Sitting Fees

Mr Gregory raised the matter of a sitting fee for the Audit Committee. Mr Jackson advised that the 2011/2012 Budget has already been adopted by Council. The next budget cycle for 2012/2013 will commence in November 2011 for approval in 2012.

Mr Gregory advised that there is a strong case for independent members to receive a sitting fee. The reason being that the Division of Local Government is taking an interest in the Audit Committee, and there is a high degree of expectation of the Audit Committee's performance. Mr Gregory indicated that the Audit Committee is different to Council's other Committees.

Mr Gregory noted that Council has a number of other Committees, however Mr Jackson advised that none of these Committees, some including external professionals, are paid a sitting fee.

Mr Jackson advised that if there were to be a sitting fee payable to the Audit Committee, there would need to be a recommendation from this Committee.

Mr Barry advised that Wyong Council paid \$7,000 per year; Mosman paid \$400 per meeting; and the cheapest Council canvassed paid \$250 per meeting, as sitting fees to their Audit Committees.

Mr Barry suggested that if Council did not want to pay the Audit Committee that Committee members be provided with a iPad. However, Mr Jackson advised that Councillors are not provided with iPads.

Mr Banicevic advised that there is more emphasis now on the work conducted by the Audit Committee, and that following recent intervention by ICAC, legislation may be introduced.

4. Division of Local Government Seminar - Dubbo 2030

Mr Jackson advised that the Division of Local Government held a seminar recently in Dubbo for General Managers and Mayors from all Councils across the State. The State Government is reviewing its relationship with Local Government and future direction.

Mr Banicevic asked if there was any discussion on future amalgamations, particularly for Hawkesbury Council. Mr Jackson advised that on the contrary discussions were about increasing the role of councils with discussion on structural reform rather than specifically relating to amalgamations.

The meeting terminated at 4.25pm.

Submitted to and confirmed at the meeting of the Audit Committee held on Wednesday, 16 November 2011.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Waste Management Advisory Committee Minutes - 7 September 2011 - (95249)

The meeting commenced at 4:05pm in Council Chambers.

Present:	Councillor Bob Porter	Chair
	Councillor Christine Paine	Deputy Chair
	Councillor Jill Reardon	Hawkesbury City Council
	Ass Prof. Basant Maheshwari	University of Western Sydney
	Mr William Sneddon	Community Member
Apologies:	Mr Geoff Bessell	Community Member
	Councillor Leigh Williams	Hawkesbury City Council
	Mr Peter Jackson	Hawkesbury City Council
	Mr Chris Daley	Hawkesbury City Council
	Ms Amanda Monaco	Hawkesbury City Council
In Attendance:	Mr Matthew Owens	Hawkesbury City Council
	Mr Ramiz Younan	Hawkesbury City Council
	Ms Dianne Tierney	Hawkesbury City Council
	Mr Matthew Collins	Hawkesbury City Council
	Ms Robyn Kozjak - Minute taker	Hawkesbury City Council

REPORT:

RESOLVED on the motion of Councillor Reardon and seconded by Mr Basant Maheshwari that the apologies be accepted.

BUSINESS ARISING FROM PREVIOUS MINUTES

- Councillor Reardon referred to discussion at the last WMAC meeting regarding a proposition to change the name of the Committee and suggested the Committee be called the 'Waste Resource Advisory Committee'.

Discussion arose and it was generally agreed the current name of the Committee does conform with all constitutional requirements and it was resolved to maintain the status quo.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Reardon and seconded by Mr William Sneddon that the Minutes of the Waste Management Advisory Committee held on 29 June 2011, be confirmed.

SECTION 4 - Reports for Information

Item: 1 Reusable Alternative Landfill Daily Cover System

Previous Item: 2, WMAC (29 June 2011)

DISCUSSION:

- Mr Younan advised once the System was in place he would email Committee members inviting them to view the System.

RECOMMENDATION:

That the information be received.

MOTION:

RESOLVED on the motion of Councillor Reardon, seconded by Councillor Paine.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the information be received.

Item: 2 Litter and Illegal Dumping Strategy

DISCUSSION:

- Councillor Porter referred to the 'cover your load' campaign and enquired if fines would be imposed on residents with uncovered loads and if so, how policing of the issue would be managed. Mr Owens responded the focus of the campaign was principally to educate the community on the potential damage which can be caused by uncovered loads. Mr Owens further reported evidence-based accounts of witnesses observing uncovered / unsecured loads would potentially result in infringements being issued to the owner of the vehicle.
- Query was raised as to how illegal dumping would be monitored. It was advised over the last 12 months compliance staff have investigated and mapped "hot spot" sites used for illegal dumping. It was further advised statistics as to the quantity of waste being dumped would be recorded.
- Councillor Paine praised staff on the informative report and Ms Tierney advised she would relay the commendation to the author of the report, Ms Monaco.

RECOMMENDATION:

It is recommended that the Waste Management Advisory Committee receive this information.

MOTION:

RESOLVED on the motion of Councillor Paine, seconded by Councillor Porter.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

It is recommended that the Waste Management Advisory Committee receive this information.

Item: 3 Waste Education

DISCUSSION:

- Ms Tierney advised the annual Chemical CleanOut in the Hawkesbury for 2011, held by the Office of Heritage and Environment, was well patronised. Ms Tierney reported 68% of attendees at the CleanOut were first time users of the service.
- Ms Tierney advised Ms Monaco proposed to consult with paint manufacturers to discuss a paint recycling scheme wherein customers would be encouraged to return excess paint back to the manufacturer. Ms Tierney advised paint manufacturers willing to participate in the scheme would be invited to promote their business on Council's A - Z recycle guide on Council's website.
- Ms Tierney reported Council's website now included a garbage service directory wherein residents can search on their street address to find the dates for their fortnightly garbage service.

RECOMMENDATION:

It is recommended that Waste Management Advisory Committee receive this information.

MOTION:

RESOLVED on the motion of Councillor Porter, seconded by Councillor Paine.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That due to the success of the annual Chemical CleanOut in the Hawkesbury, the Office of Environment and Heritage consider holding the Chemical CleanOut on a bi-annual basis.

Item: 4 Public Place Recycling

DISCUSSION:

- Query was raised as to cost effectiveness to Council of the recycling in public places trial. It was advised the principal expense would be in the purchase and installation of bins, with some ongoing maintenance costs as required.
- Ms Tierney advised she proposed to obtain statistical information and perform a cost analysis of the trial.

RECOMMENDATION TO COMMITTEE:

It is recommended that Waste Management Advisory Committee receive this information.

MOTION:

RESOLVED on the motion of Councillor Paine, seconded by Mr Basant Maheshwari.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

It is recommended that Waste Management Advisory Committee receive this information.

SECTION 5 - General Business

- Councillor Paine referred to landfill mounds on a property near the entrance to Bligh Park and enquired if staff knew what was taking place on that property. Mr Collins advised the property was an EPA licensed premise and it was understood it was used for depositing demolition waste and the reclamation of timber from the waste. It was suggested the EPA be contacted to seek information re the status of the works.
- Councillor Porter enquired as to the status of the drop off centre. Mr Younan responded unfortunately the matter had not progressed due to more pressing commitments, however, would be reported back to the Committee once the project recommenced.
- Mr Sneddon made enquiry re the progress of the cooking oil recycling scheme. Ms Tierney advised there had been few collections to date, further reporting regulatory services staff continually work towards educating food shop owners of the importance of utilising the service.
- It was noted the next WMAC meeting was scheduled for 26 October, however, due to the close proximity of the current meeting, the Committee resolved to put the meeting back to 9 November, 2011.
- Councillor Porter referred to waste contributions and asked what percentage of tipping fees goes to the State government. Mr Younan advised the levy rate paid to the State government had increased to \$78.60 for every tonne of waste received at the WMF. Mr Younan reported he would discuss with the contractors the feasibility of adding that figure to the weigh bridge tickets.

Councillor Porter asked for waste levy information to be included in the education program as many residents are asking why tipping fees are going up. Ms Tierney noted the request.

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Reports of Committees

- Councillor Paine advised she noted what appeared to be vast quantities of mulch stored at the Waste Management Facility. Mr Collins advised the process takes about 6-8 weeks for the product to compost down from windrows.

Mr Younan reported the quality of the mulch was an issue, advising it had been suggested the processing of the mulch be put out to tender. It was noted the cost of mulch was currently \$15.00 per tonne and it was generally agreed as there was an over-abundance of mulch at the WMF, the price per tonne should be reduced in an effort to encourage residents to acquire the mulch. It was determined Mr Younan would prepare a report to Council recommending the cost of mulch be reduced to \$5.00 per tonne.

The Meeting closed at 5.05pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillor Questions From Previous Meetings and Responses - (105109)

REPORT:

Questions - 13 September 2011

#	Councillor	Question	Response
1	Calvert	Enquired about the progress of the report requested regarding the cost and possibility of shifting the Council's Administration Building to solar electricity.	Director Infrastructure Services advised that a presentation will be made to the next Councillors Briefing.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

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