



# Hawkesbury City Council

## ordinary meeting business paper

date of meeting: 05 February 2013

location: council chambers

time: 6:30 p.m.



# mission statement

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

## **How Council Operates**

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

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

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

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

### **Meeting Procedure**

The Mayor is Chairperson of the meeting.

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

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

### **Public Participation**

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

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

### **Voting**

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

### **Planning Decision**

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

### **Business Papers**

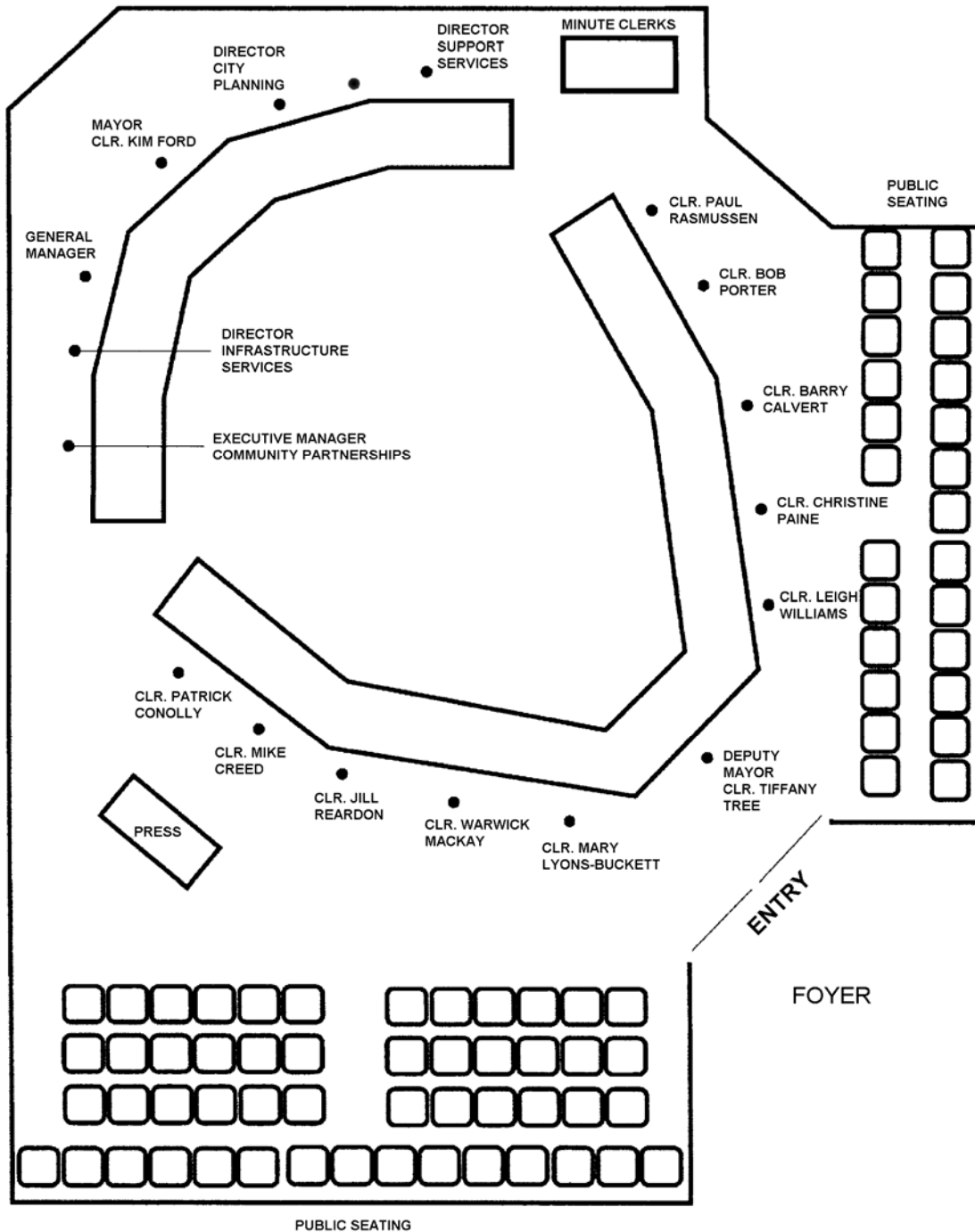
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

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

### **Further Information**

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

# Hawkesbury City Council





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**SECTION 3 - Notices of Motion**

**RM1 -                    Rescission Motion - Possible Rating Strategy for the 2013/2014 Financial Year - (79351)**

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**Submitted by:**        Councillor C Paine  
                              Councillor L Williams  
                              Councillor M Lyons-Buckett

**RESCISSION MOTION:**

We the undersigned wish to rescind the resolution on Item 230 from Council's meeting held on 11 December 2012.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF RESCISSION MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

**RM2 -                    Rescission Motion - Hawkesbury Mobility Plan Implementation Committee -  
(79351, 80105, 125612, 80106)**

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**Submitted by:**        Councillor L Williams  
                              Councillor M Lyons-Buckett  
                              Councillor P Rasmussen

#### **RESCISSION MOTION:**

That Council's resolution of 27 November 2012, in respect of that part of Minute 343 (Item 205) in relation to the abolition of the Hawkesbury Mobility Plan Implementation Committee, be and is hereby rescinded.

#### **SUBSTANTIVE MOTION:**

Subject to the above rescission motion being carried it is proposed to move the following substantive motion:

That a report be prepared for Council's consideration regarding the restructure of the Hawkesbury Mobility Plan Implementation Committee into two separate committees, with one committee dealing with mobility matters and the second being a bicycle committee.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF RESCISSION MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

#### **NM1 - Development of Master Plans - (79351, 125612)**

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**Submitted by:** Councillor M Lyons-Buckett

#### **NOTICE OF MOTION:**

That a report be prepared for Council's consideration that provides an overview of the process for the preparation of Master Plans for the main Town and Village Centres of the Hawkesbury. That report is to address at least the following:

1. The function of Master Plans and their status in Council's statutory Planning Instruments,
2. The process involved in the preparation and finalisation of Master Plans including the outline of the likely community consultation requirements,
3. The likely costs for the preparation of Master Plans for centres such as Windsor, Richmond, North Richmond, Kurrajong and other village centres,
4. The timeframe for the preparation of the above Master Plans and the mechanism for programming that work into Council's budgets.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

**ORDINARY MEETING**

**Notices of Motion**

**NM2 - Review of Councils Code of Meeting Practice - (79351, 125611)**

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**Submitted by:** Councillor M Creed

**NOTICE OF MOTION:**

That following discussion at a Councillor Briefing Session a report be submitted to Council reviewing the Council's Code of Meeting Practice with a view to improving the efficient and effective functioning of Council meetings.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**



## ORDINARY MEETING

### Notices of Motion

#### **NM3 - Community Engagement Strategy on Proposed Planning System White Paper - (79351, 80106)**

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**Submitted by:** Councillor P Rasmussen

#### **NOTICE OF MOTION:**

That:

1. Community engagement workshops be conducted on the Planning System White Paper following its release in early February 2013.
2. The workshops be conducted during evenings in late February-early March 2013 in the main town centres of Windsor, Richmond and North Richmond.

#### **BACKGROUND:**

1. The State Government is scheduled to release its Planning System White Paper in Mid-February.
2. Indications from the State Government's Green Paper, the Planning Minister himself and the expert Committee which conducted a lengthy Review of the current Planning System are that the proposed new Planning Law, to be introduced in March/April 2013, will be a dramatic change to the current planning system with considerable emphasis on the Community getting its Strategic Planning done thoroughly and early in the planning process and then letting the expert planners and technical expert panels such as the IHAPs deal with the detailed assessments of DAs and land use changes.
3. Under the proposed Planning System current LEPs and DCPs will be abolished and absorbed into the Land Use Plans and that will represent a significant change to the processes the Community have been familiar with for the last 20 years.
4. The proposed changes to the Planning System increase the importance of achieving from the current Community Strategic Plan review a high quality and specific Strategic Plan clearly and precisely defining community aspirations for our area.
5. In the interest of better informing the Community about significant changes to the laws which impact the Community significantly, workshops on this topic in major towns and villages are an important key measure in meeting Council's key strategic objectives and goals.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

#### **NM4 - Cost of Provision of Infrastructure - (79351, 125610)**

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**Submitted by:** Councillor P Conolly

#### **NOTICE OF MOTION:**

That a report be submitted to Council providing details of the proportion of total rates collected and the proportion of Council's total cost of providing services such as garbage collection, road construction including maintenance and rehabilitation, construction and maintenance of kerb and gutter and park maintenance and improvements for:

- a) Bligh Park, McGraths Hill and Richmond
- b) Ebenezer, Tennyson and Blaxlands Ridge.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

**ORDINARY MEETING**

**Notices of Motion**

**NM5 - RAAF Base Richmond - Community Engagement - (79351, 80106)**

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**Submitted by:** Councillor P Rasmussen

**NOTICE OF MOTION:**

That Council resolves as follows:

1. In view of the reply from the Federal Government on representations by Council on the possible future use of RAAF base Richmond for commercial aviation purposes, that Council now hold public meetings in at least Windsor, Richmond and North Richmond to further inform the community of these proposals and to ascertain the communities views in this regard.
2. Further, Council prepare a flyer for wide distribution on the six major reasons for supporting or opposing the possible future use of Richmond RAAF base Richmond for commercial aviation purposes.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

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## SECTION 4 - Reports for Determination

### GENERAL MANAGER

**Item: 1                    GM - Local Government Managers Australia 2013 National Congress & Business Expo (79351, 80532)**

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#### **REPORT:**

##### **Executive Summary**

The 2013 Local Government Managers Australia (LGMA) National Congress & Business Expo will be held in Hobart, Tasmania from 19 - 22 May, 2013. This is a significant annual conference and due to the relevance of its various programs to Council's business, it is recommended that the 2013 LGMA National Congress & Business Expo be attended by Councillors and appropriate staff.

##### **Consultation**

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

##### **Background**

The 2013 LGMA National Congress & Business Expo will be held in Hobart, Tasmania from 19 - 22 May, 2013. The Theme of the 2013 congress is Great Society - What Is Local Government's Role? The Congress will take the high road in 2013 and challenge delegates to think about what makes a society great, and what they do in their own communities to enable this.

Cost of attendance at the 2013 LGMA National Congress & Business Expo will be approximately \$3,725.00 per delegate.

Budget for Delegate Expenses - Payments made:

- |   |          |
|---|----------|
| • Total Budget for Financial Year 2012/2013 | \$44,000 |
| • Expenditure to date                       | \$21,424 |
| • Budget Balance as at 25/1/13              | \$22,576 |

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

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

- Implement and monitor Council's sustainability principles.
- Engage the community to help determine affordable levels of service.

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

**Financial Implications**

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

**RECOMMENDATION:**

That attendance of nominated Councillors, and staff members as considered appropriate by the General Manager, at the 2013 LGMA National Congress & Business Expo at an approximate cost of \$3,725.00 per delegate be approved.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**



**Item: 2**                    **GM - National Broadband Network and Digital Economy Funding Update - (79351)**

**Previous Item:**        24, Ordinary (14 February, 2012)

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**REPORT:**

**Executive Summary**

Council at its meeting on 14 February, 2012 considered a report regarding the establishment of the National Broadband Company (NBN Co.); the commencement of installation the NBN in parts of the Hawkesbury; and information regarding Council's eligibility to apply for digital economy funding from the Department of Broadband, Communications and the Digital Economy (Department), as an early release area for the NBN.

The Department's advice indicated that the available funding was part of the suite of Digital Economy funding programs concurrently underway by the Department (and other Australian Government Departments), including:

- Digital Local Government
- Digital Hubs
- Digital Enterprises

Submissions were subsequently made for funding under those areas under which Council was eligible.

Council has since been advised that:

- The NBN Co will be installing the NBN in more parts of the Hawkesbury, extending the Richmond Release Area and the Riverstone Release Area, and
- Council was successful in applying for funding for the Digital Local Government Program, and
- TAFE NSW Western Sydney Institute (TAFE) was successful in applying for funding for the Digital Enterprises Program and The Salvation Army (Australian Eastern Territory) was successful in applying for funding for the Digital Hubs Program.

Council staff will be undertaking the Digital Local Government Program during 2013 and 2014; and will support TAFE and The Salvation Army in the delivery of their programs.

**Consultation**

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

**Background**

In late 2011, the NBN Co advised Council that an area it knows as the Richmond Release Area was an early release area in the overall NBN build; and construction of the NBN would take place in 2012 (with connection availability at the end of the year). The locations within the Richmond Release Area, at that time, were Richmond CBD, Richmond east, Windsor, South Windsor and Bligh Park.

The Richmond Release area has now been extended and includes Richmond west, Hobartville, part of Agnes Banks (and some areas in the Penrith LGA). It is also noted that the Riverstone Release Area, mainly in Blacktown LGA, has been extended and includes part of Oakville and part of Riverstone in the Hawkesbury.

In terms of NBN availability, the NBN Co now advises their will be service connection availability from April 2013.

Copies of the NBN Richmond Release Area map and Riverstone Release Area map are included in Attachment 1 to this report.

Council was eligible to apply for digital economy funding from the Department as an early release area for the NBN for three programs, being:

- Digital Local Government Program (up to \$375,000)
- Digital Hubs Program (up to \$360,000)
- Digital Enterprises Program (up to \$270,000)

Council applied for funding for the Digital Local Government Program and the Digital Enterprise Program.

The Digital Local Government Program is to help councils improve their delivery of services online over the internet to provide a better service to its customers, residents and businesses. Council's funding bid was for an Online Learning Service, to migrate the learning components of its activities to online delivery eg. Food Handling Seminars, and was successful.

The Digital Hubs Program is to establish digital hubs to help inform and educate the community in the benefits of the digital economy, the NBN and NBN platforms that can change daily life at home and in the work place. The Salvation Army was successful with its submission under this Program and will set up a hub.

The Digital Enterprises Program is to establish training for small and medium size enterprises and not-for-profit organisations in making the transfer to the digital economy. TAFE was successful with its submission under this Program and will conduct training for businesses.

All digital economy funding that was available has been allocated to organisations in the Hawkesbury, including Council. This provides an opportunity for Council to partner with other program providers to promote and assist the community (residents and businesses) to better understand, be ready and use the online/internet environment for daily activities and transactions.

Council staff will be undertaking the Digital Local Government Program during 2013 and 2014; and will support TAFE and The Salvation Army in the delivery of their programs.

#### **Conformance to Community Strategic Plan**

The proposal is consistent with the Looking After People and Place, Linking the Hawkesbury, and Supporting Business and Local Jobs statements:

- Have friendly neighbourhoods, connected communities, and supported households and families.
- Plan for, maintain and renew our physical infrastructure and community services, facilities and communications connections for the benefit of residents, visitors and business.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times. .

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.
- Lobby and work with providers to ensure Hawkesbury residents and business continue to enjoy competitive telecommunications services.
- Encourage stronger relationships between the business and community sectors, education and training providers to increase local career options.

**Financial Implications**

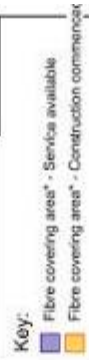
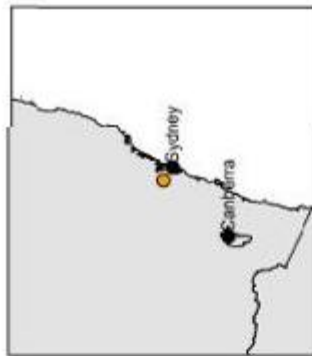
There are no funding implications for the Digital Local Government Program, as the funding is an allocation for Council. However, in undertaking the project and supporting the other program providers some promotional activities may arise and would be addressed within operational budgets.

**RECOMMENDATION:**

That the information regarding the National Broadband Network and Digital Economy Funding Update and the success of Council's submission under the Digital Local Government Program be received and noted and that Council be updated on the progress of the Digital Local Government Program as appropriate.

**ATTACHMENTS:**

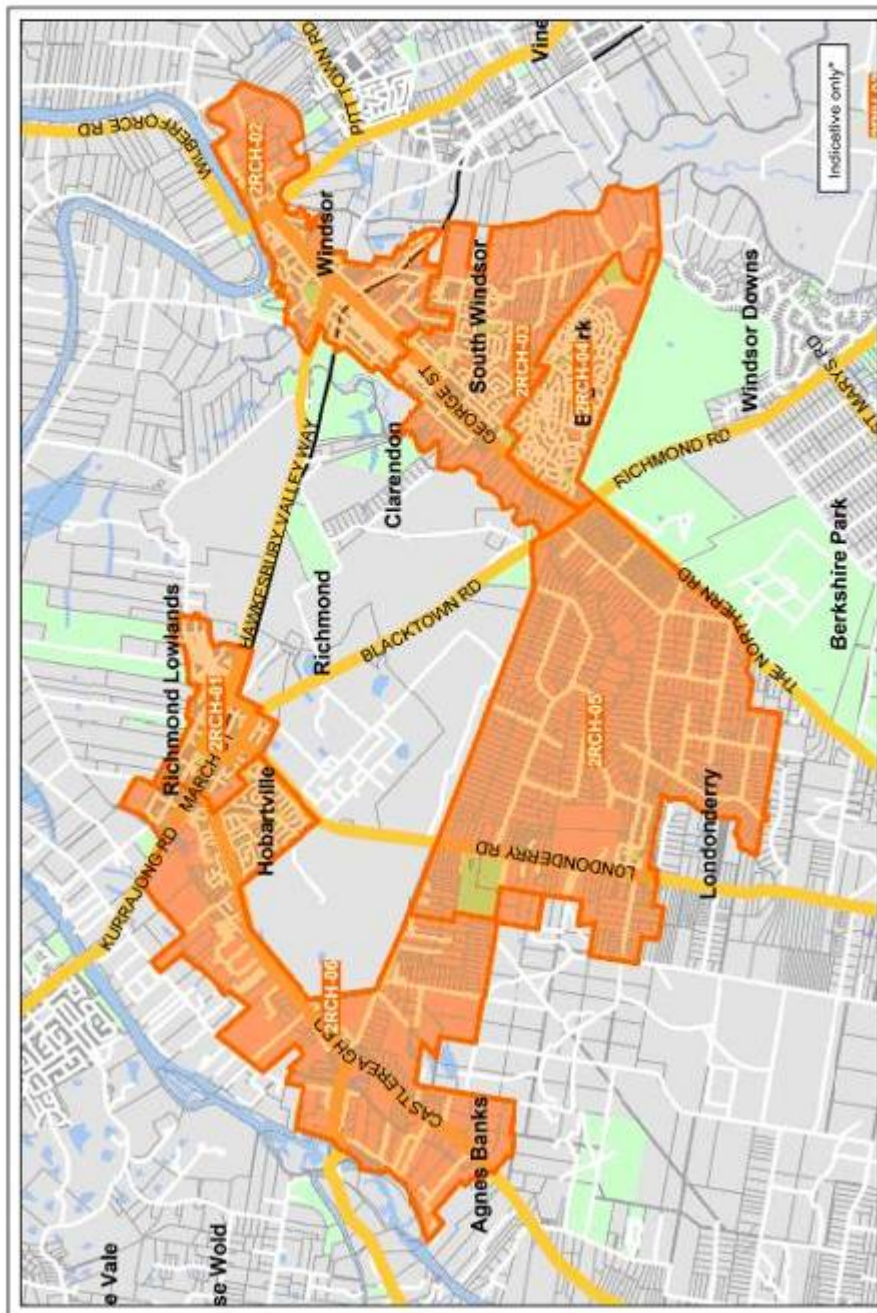
**AT - 1** NBN Co. – Richmond Release Area and Riverstone Release Area.

**AT - 1 NBN Co. – Richmond Release Area and Riverstone Release Area.**

\* This map identifies one or more construction areas where NBN Co has commenced building or intends to build its fibre optic network. From the commencement of construction through to when services 'go live' for a area, NBN Co undertakes a series of construction steps that may result in changes to the design of the network in the respective area, possibly involving the movement of the boundaries. NBN Co may update this map in the future in the event of boundary changes during construction. This map is for illustrative purposes only. It is not suitable for legal, engineering, or surveying purposes.

# Richmond Fibre Serving Area

NEW SOUTH WALES



Issue date 04/10/2012

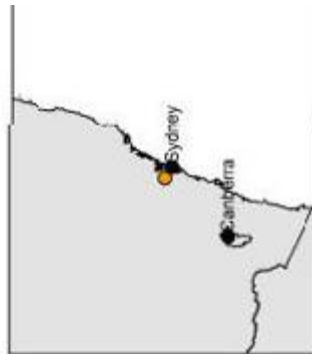
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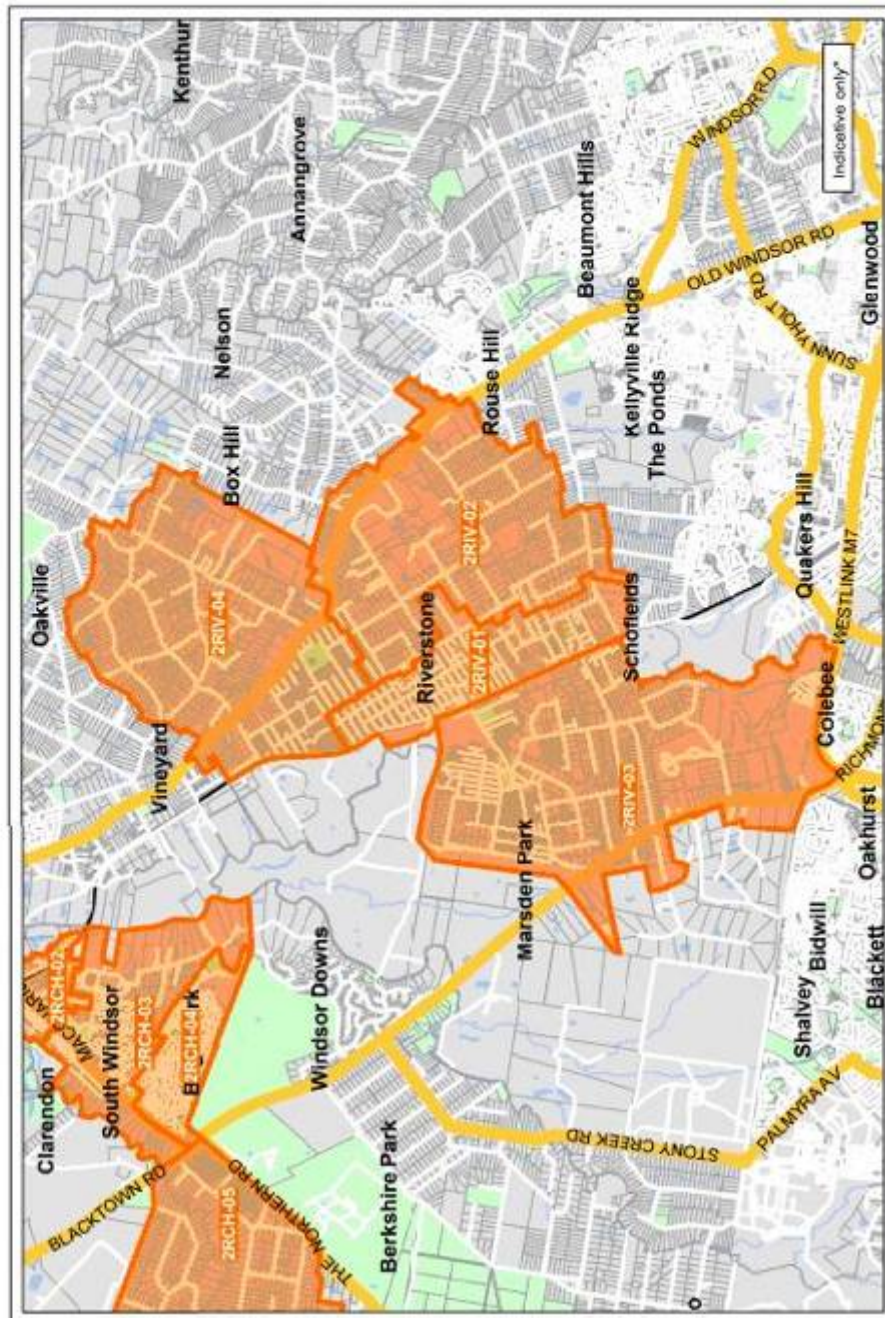


# Riverstone Fibre Serving Area

## NEW SOUTH WALES



\* This map identifies one or more construction areas where NBN Co has commenced building or intends to build its fibre optic network. From the commencement of construction through to when services 'go live' for a area, NBN Co undertakes a series of construction steps that may result in changes to the design of the network in the respective area, possibly involving the movement of the boundaries. NBN Co may update this map in the future in the event of boundary changes during construction. This map is for illustrative purposes only. It is not suitable for legal, engineering, or surveying purposes.



Issue date: 12/11/2012

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oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 5 February 2013

### **Item: 3                    GM - Hawkesbury City Council's Code of Conduct - Review and Release of New Model Code by Division of Local Government - (79351)**

**Previous Item:**        67, Ordinary (29 May 2012)  
                             258, Ordinary (29 November 2011)  
                             180, Ordinary (8 September 2009)

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#### **REPORT:**

##### **Executive Summary**

The Local Government Act 1993 (the Act) requires every council to adopt a Code of Conduct (Code) that incorporates the Model Code of Conduct for Local Councils in NSW (Model Code). The Code provides for the standards of behaviour expected of Councillors and Council Officials. A council's adopted Code is required to be consistent with the Model Code, could enhance or introduce additional requirements to the Model Code, but could not eliminate or reduce any of the requirements of the Model Code. Any provisions of a council's Code that were inconsistent with the Model Code would have no effect.

Council's current Code was adopted by Council at its meeting held on 8 September 2009. Council's Code was, in effect, the Model Code with a number of additional matters inserted to make reference to specific Council policies on a number of matters.

The Act also provides that a council must review its Code within 12 months after each ordinary election. Therefore, Council is required to review its current Code prior to mid September 2013, however, this timeframe is effected by a change to the current Model Code and additional requirements recently inserted into the Act.

During 2011 the Division of Local Government (DLG) within the NSW Department of Premier and Cabinet commenced a process to review the Model Code for local councils. During this process a Position Paper was released in October 2011 in association with this review and Consultation Drafts were subsequently released in May 2012. Council made submissions in relation to both the Position Paper and the Consultation Drafts.

Circular No. 12-45 dated 19 December 2012 has now been issued by the DLG regarding the prescription of a new Model Code for local councils in NSW, together with associated Procedures for the Administration of the Model Code (Model Procedures) and associated documentation. The DLG also refers to related amendments to the Act in association of the introduction of the new Model Code and new Model Procedures.

The commencement date for the new Model Code framework is 1 March 2013. Therefore, Council is required to adopt a new Code, based upon the new Model Code (effectively the review within 12 months of the election previously referred to), adopt Procedures, again based upon the Model Procedures issued by the DLG, and address a number of other issues related to the implementation of the new framework.

The new Model Code has been reviewed and a number of additional matters incorporated, as is the case with the Council's existing Code, and it is proposed to recommend that this be adopted as the Council's Code and that the Model Procedures issued by the DLG also be adopted as Council's Procedures. Council is also required to establish a panel of conduct reviewers and as WSROC has already undertaken a process, that it advises complies with DLG requirements, to establish a panel for member councils, it is proposed to report this aspect to the next Council meeting.

##### **Consultation**

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

## **Background**

Section 440 of the Act in respect of requirements for councils to adopt a Code provides:

### ***“440 Codes of conduct***

- (1) The regulations may prescribe a model code of conduct (the model code) applicable to councillors, members of staff of councils and delegates of councils.*
- (2) Without limiting what may be included in the model code, the model code may:*
  - (a) relate to any conduct (whether by way of act or omission) of a councillor, member of staff or delegate in carrying out his or her functions that is likely to bring the council or holders of civic office into disrepute, and*
  - (b) in particular, contain provisions for or with respect to conduct specified in Schedule 6A.*
- (3) A council must adopt a code of conduct (the adopted code) that incorporates the provisions of the model code. The adopted code may include provisions that supplement the model code.*
- (4) A council's adopted code has no effect to the extent that it is inconsistent with the model code as in force for the time being.*
- (5) Councillors, members of staff and delegates of a council must comply with the applicable provisions of:*
  - (a) the council's adopted code, except to the extent of any inconsistency with the model code as in force for the time being, and*
  - (b) the model code as in force for the time being, to the extent that:*
    - (i) the council has not adopted a code of conduct, or*
    - (ii) the adopted code is inconsistent with the model code, or*
    - (iii) the model code contains provisions or requirements not included in the adopted code.*
- (6) A provision of a council's adopted code is not inconsistent with the model code merely because the provision makes a requirement of the model code more onerous for persons required to observe the requirement.*
- (7) A council must, within 12 months after each ordinary election, review its adopted code and make such adjustments as it considers appropriate and as are consistent with this section.*
- (8) Nothing in this section or such a code gives rise to, or can be taken into account in, any civil cause of action, but nothing in this section affects rights or liabilities arising apart from this section.”*

As can be seen from the above, the Code provides for the standards of behaviour expected of councillors, staff and delegates of Council. A council's adopted Code is required to be consistent with the Model Code, could enhance or introduce additional requirements to the Model Code, but could not eliminate or reduce any of the requirements of the Model Code. Any provisions of a council's Code that were inconsistent with the Model Code would have no effect.

Council's current Code was adopted by Council at its meeting held on 8 September 2009. Council's Code was, in effect, the Model Code, as prescribed at the time, with a number of additional matters inserted to make reference to specific Council policies on a number of matters. A copy of Council's current Code is included as attachment 1 to this report.

The Act also provides that a council must review its Code within 12 months after each ordinary election. Therefore, Council is required to review its current Code prior to mid September 2013, however, this timeframe is effected by a change to the current Model Code and additional requirements recently inserted into the Act.

During 2011 the DLG commenced a process to review the Model Code for local councils. During this process a Position Paper was released in October 2011 in association with this review and Consultation Drafts were subsequently released in May 2012. Reports in relation to these documents were considered at the meetings of Council held on 29 November 2011 and 29 May 2012, respectively. Council resolved to make submissions in relation to both the Position Paper and the Consultation Drafts.

Circular No. 12-45 dated 19 December 2012 has now been issued by the DLG regarding the prescription of a new "Model Code of Conduct for Local Councils in NSW" (Model Code), together with associated "Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW" (Model Procedures) and associated documentation. The DLG also refers to related amendments to the Act in association of the introduction of the new Model Code and new Model Procedures. A copy of this Circular is included as attachment 2 to this report.

Also included as attachment 3 to this report are the following documents referred to in the abovementioned Circular and headed as indicated:

1. Premier & Cabinet – Division of Local Government – The Model Code of Conduct for Local Councils in NSW – March 2013
2. Premier & Cabinet – Division of Local Government – Procedures for the Administration of The Model Code of Conduct for Local Councils in NSW – March 2013
3. The Model Code of Conduct for Local Councils in NSW – March 2013 – Standards of conduct for council officials - Summary

With regard to the Model Procedures referred to in the DLG Circular the adoption of these by councils is a new requirement as part of the new Code framework and have been introduced by the enactment of a new section 440AA. This section relates to the administration of the Code and comes into effect on 1 March 2013. The new section 440AA of the Act provides as follows:

***"440AA Administration of code of conduct***

- (1) *The regulations may prescribe a procedure (the model procedure) for administering the model code referred to in section 440.*
- (2) *The model procedure is to set out the procedures for dealing with alleged contraventions of the model code.*
- (3) *A council must adopt a procedure (the adopted procedure) that incorporates the provisions of the model procedure. The adopted procedure may include provisions that supplement the model procedure.*
- (4) *A council's adopted procedure has no effect to the extent that it is inconsistent with the model procedure as in force for the time being.*
- (5) *Councillors, members of staff and delegates of a council must comply with the applicable provisions of:*
  - (a) *the council's adopted procedure, except to the extent of any inconsistency with the model procedure as in force for the time being, and*
  - (b) *the model procedure as in force for the time being, to the extent that:*
    - (i) *the council has not adopted the model procedure, or*



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- (ii) *the adopted procedure is inconsistent with the model procedure, or*
- (iii) *the model procedure contains provisions or requirements not included in the adopted procedure.*

- (6) *This section applies to an administrator of a council (other than an administrator appointed by the Minister for Primary Industries under section 66) in the same way as it applies to a councillor."*

As can be seen, and as is the case in respect of a Code that may be adopted by a council, any provisions of a council's adopted Procedures that are inconsistent with the Model Procedures would have no effect.

In summary, the following appear to be some of the significant variations in the change from the former Model Code to the new Code framework:

- Part 1, Context and Part 3, Procedures of the former Model Code have been removed and now appear to be covered by other documents, including the Model Procedures.
- The new Model Code basically consists of an enhanced and modified version of Part 2, Standards of Conduct, of the former Model Code. The following, while not intended to be a complete summary of the new Model Code, provides some comment in relation to relevant and/or significant matters incorporated into the new Model Code:
  - Provisions have been incorporated by way of Clauses 3.9 to 3.12 in relation to "Binding caucus votes" whereby these should not occur except in relation to a decision for the election of Mayor or Deputy Mayor or a committee membership nomination. These clauses define a "binding caucus vote" and indicate that they do *"not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting or from voluntarily holding a shared view with other councillors on the merits of a matter."*
  - Previously, reports by conduct reviewers in respect of Code of Conduct complaints were generally considered in open council and a councillor or the General Manager the subject of a code of conduct report before the council was not considered to have a conflict of interest in the matter (Old Clause 7.11).

This has now been removed from the Model Code with the new Model Procedures providing that an investigation report (from a conduct reviewer) where required to be submitted to council is to be considered in confidential session if possible. The person the subject of a complaint must have an opportunity to make an oral submission (only in relation to the investigators recommendation/s) to the council and then must absent themselves from the meeting and if a councillor take no part in voting or discussion on the matter. If the complainant is also a councillor they must also absent themselves from the meeting and take no part in voting or discussion on the matter.

- Provisions regarding "Reportable political donations" have been refined (new Clauses 4.20 to 4.24).
- Actions to be taken in the event of a "Loss of quorum as a result of compliance with this Part" (Conflict of Interests) have been enhanced. (new Clauses 4.25 to 4.29).
- Provisions regarding use of council resources for election and non-official purposes have been refined (new Clauses 7.16 and 7.17)
- A new "Part 8 Maintaining the Integrity of the Code" has been introduced. The Model Procedures also provide that any complaints alleging a breach of this part are to be referred to the DLG.

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- The new Model Procedures replace and enhance upon the procedures included within the former Model Code and the associated Guidelines issued by the DLG. The following, while not intended to be a complete summary of the new Model Procedures, provides some comment in relation to relevant and/or significant matters incorporated into the new Model Procedures:
  - Details concerning the establishment of a panel of conduct reviewers have been expanded. This aspect will also be referred to later in this report.
  - The general manager must appoint an appropriate member of staff to act as a complaints coordinator and may appoint other members of staff to act as alternates to the complaints coordinator.
  - A Code of Conduct complaint (complaint/s) must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct. A complaint made after three months may only be accepted if the person receiving the complaint is satisfied that there are compelling grounds for the matter to be dealt with under the Code.
  - A person lodging a complaint may nominate whether they want the complaint to be resolved by mediation or by other alternate means and these preferences must be considered when deciding how to deal with a complaint.
  - The general manager is responsible for dealing with and determining the outcome of complaints made concerning staff, delegates of council and committee members.
  - Complaints against councillors and the general manager relating to a breach of the pecuniary interest provisions, reportable political donations (councillors only) or alleging a breach of Part 8 of the Code are to be referred directly to the DLG.
  - In respect of complaints about councillors where the general manager considers it to be practicable, the general manager may seek to resolve the complaint by alternate means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation or apology.
  - All complaints about councillors not referred to the DLG or dealt in the manner referred to in the preceding point must be referred to the complaints coordinator.
  - Complaints about the general manager are dealt with by the Mayor generally in the same manner as complaint about councillors.
  - The identity of complainants is not to be disclosed (i.e. is confidential) unless specified requirements are met.
  - The above (confidentially) does not apply to complaints made by councillors about other councillors or the general manager. In this situation if a complainant councillor considers that compelling grounds exist that would warrant confidentially they can request in writing that their identity not be disclosed. However, this request must be made at the time of the complaint and the general manager, or Mayor in respect of a complaint about the general manager, or conduct reviewer/committee must consider the request but is not obliged to comply with the request.
  - The general manager may request that the DLG enter into a special complaints management arrangement in relation to complaints made by or about a person or persons and these types of complaints would then be managed by the DLG.
  - When complaints are referred to the complaints coordinator (CC) by the general manager, or Mayor in respect of complaints about the general manager, the CC must refer them to a conduct reviewer.

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- The conduct reviewer undertakes a preliminary assessment of the complaint and may determine to do one or more of a number of specified actions (Procedures Clause 6.10) and in making this determination must have regard to specified complaint assessment criteria (Procedures Clause 6.27) with other related actions being defined.
- Part 7 of the Procedures deal with the operations of conduct review committees where a complaint is referred to a committee.
- Where a conduct reviewer or committee may determine to “investigate” a complaint (they are then referred to as an “investigator”) Part 8 of the Procedures detail how these “investigations” are to be undertaken.
- Where the investigator's report determines that there has not been a breach of the Code, or there has been a breach and certain types of recommendations are made, the CC must provide a copy of the investigator's report to the general manager, or the Mayor in the case of a complaint about the general manager, who is then responsible for finalising the matter where there has not been a breach or implementing the investigator's recommendations where there has been a breach.
- Where the investigator's report makes certain types of defined recommendations (apology, findings of inappropriate conduct being made public, action under the general manager's contract, formal censure of a councillor, censure of a councillor and referral to the DLG) the CC must arrange for the investigator's report to be reported to the next meeting of council.
- Clauses 8.44 to 8.59 detail the process for consideration of the final investigation report by council.
- Parts 9, 10, 11, 12 and 13 of the Procedures deal with Rights of Review, Procedural irregularities, Practice Directions, reporting on Complaints Statistics (requiring the CC to submit an annual report concerning complaints to council and forward a copy to the DLG) and Confidentiality, respectively.

The commencement date for the new Model Code framework is 1 March 2013. Therefore, Council is required to adopt a new Code, based upon the new Model Code (effectively the review within 12 months of the election previously referred to), adopt Procedures, again based upon the Model Procedures issued by the DLG, and address a number of other issues related to the implementation of the new framework.

The Council's current adopted Code is, in effect, the former Model Code with a number of additions relating to matters, policies and/or procedures specific to this Council. The current additions to the Model Code relate to the following (clause numbers refer to current Code):

- An addition to the part “Purpose of the Code of Conduct” to refer to the inclusion of additional provision by Council to the Model Code (3 of Part 1);
- Relations with the Media (Clauses 6.12 to 6.14 and note);
- Health, wellbeing and safety (Clause 6.15 and note);
- Appointment to other organisations (Clause 6.16);
- Child Protection Obligations (Clause 6.17);
- Reporting of a bribe or improper inducement (Clause 8.7);
- Reference to Council's Gifts and Benefits Policy (Clause 8.10);
- A note referencing Council's Policy for the Provision of Information and Interaction between Councillors and Staff (following Clause 9.2 and 10.5);
- A note relating to use and security of confidential information (following Clause 10.10);
- Record Keeping requirements (Clause 10.11)
- Rights of access to Council buildings and premises (Clause 10.23).

## ORDINARY MEETING

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In addition, a recent Internal Audit report following a review of Council's Governance activities recommended that reference to a number of internal Operational Management Standards (OMSs), which relate specifically to staff, be included in the Code when next reviewed by Council. This recommendation was adopted by Council's Audit Committee. These OMSs relate to the following:

- Drugs and Alcohol in the Workplace;
- Harassment Prevention;
- Outside Employment;
- Email and Internet Usage;
- Mobile Phone Usage.

Accordingly, it is proposed that Council's Code again be based on the new Model Code released by the DLG with additions to reflect those matters referred to in the preceding two paragraphs. As such, included as attachment 4 to this report is a draft of the proposed Council Code with the additions to the Model Code as released by the DLG shown in bold type. It is also proposed that the Model Procedures issued by the DLG also be adopted in their issued format as Council's Procedures. If adopted by Council these new documents would become effective on and from 1 March 2013.

Training for staff and councillors in respect of the Council's new Code of Conduct will be arranged at an appropriate time.

Council is also required to establish a panel of conduct reviewers and as Council has a current Panel this, as indicated in the DLG Circular, needs to be finalised prior to 30 September 2013. In this regard, WSROC has recently undertaken a process, that it advises complies with DLG requirements, to establish a panel of conduct reviewers for member councils and it is proposed to report this aspect to the next Council meeting.

As also required under the Procedures, once actually adopted by Council, the General Manager will appoint an appropriate member of staff as the Complaints Coordinator and consider the appointment of an alternate Complaints Coordinator.

### **Conformance to Community Strategic Plan**

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

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

### **Financial Implications**

No financial implications applicable to this report.

### **RECOMMENDATION:**

That:

1. The information concerning the release by the Division of Local Government of "The New Model Code of Conduct Framework" be received and noted.
2. The Draft Code of Conduct included as Attachment 4 to the report be adopted as Council's Code of Conduct with such becoming effective on and from 1 March 2013.
3. The "Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW" issued by the Division of Local Government be adopted as Council's "Procedures for the Administration of the Code of Conduct" with such becoming effective on and from 1 March 2013.
4. A copy of Council's new Code of Conduct be provided to all Councillors, staff, delegates, members of Council committees and, when appointed, independent conduct reviewers.

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**ATTACHMENTS:**

- AT - 1** Council's current Code of Conduct – Adopted by Council at the Ordinary Meeting held on 8 September 2009. (Distributed Under Separate Cover)
- AT – 2** Circular No. 12-45 dated 19 December 2012 from Division of Local Government, Department of Premier and Cabinet.
- AT – 3** Documents by Division of Local Government headed as indicated:  
(Distributed Under Separate Cover)
1. Premier & Cabinet – Division of Local Government – The Model Code of Conduct for Local Councils in NSW – March 2013
  2. Premier & Cabinet – Division of Local Government – Procedures for the Administration of The Model Code of Conduct for Local Councils in NSW – March 2013
  3. The Model Code of Conduct for Local Councils in NSW – March 2013 – Standards of conduct for council officials – Summary
- AT – 4** Draft Code of Conduct for Hawkesbury City Council (Distributed Under Separate Cover)

## ORDINARY MEETING

Meeting Date: 5 February 2013

### AT – 2 Circular No. 12-45 dated 19 December 2012 from Division of Local Government, Department of Premier and Cabinet.



**Premier & Cabinet**  
Division of Local Government

## Circular to Councils

Circular No. 12-45  
Date 19 December 2012  
Doc ID. A296794

Contact Council Governance  
02 4428 4100

### THE NEW MODEL CODE OF CONDUCT FRAMEWORK

#### Purpose

To advise councils of the new Model Code of Conduct framework and implementation arrangements.

#### Issue

- The new Model Code of Conduct for Local Councils in NSW, Procedures for the Administration of the Model Code and Summary of the Model Code are now available on the Division of Local Government (the Division) website at [www.dlg.nsw.gov.au](http://www.dlg.nsw.gov.au).
- The code and procedures are supported by new provisions in the *Local Government Act 1993* to more effectively deal with serious or repeated breaches of the Code through expanded and strengthened penalties. Key changes to the code are summarised at Appendix A.
- The key features of the new code framework include:
  - Greater flexibility to resolve non-serious complaints, minimising costs to councils
  - Improved complaints management, with complaints about councillors and the general manager managed from start to finish by qualified and independent conduct reviewers
  - Greater fairness and rigour in the investigation process through clearer procedures
  - Stronger penalties for ongoing disruptive behaviour and serious misconduct to more effectively deter and address such behaviour, allowing councils to get on with the business of serving their communities.
- The proposed commencement date for the new model code framework is 1 March 2013.
- The following transitional arrangements will apply:
  - Complaints made or yet to be finalised before 1 March 2013 are to be dealt with under the current Model Code of Conduct and Procedures.
  - Complaints received after 1 March 2013 but where the alleged conduct occurred prior to this date are to be assessed against the standards

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prescribed under the current Model Code but dealt with under the new Procedures.

- Complaints relating to alleged conduct that occurred after 1 March 2013 are to be assessed against the new Code and Procedures.
- The Division will provide further information in early 2013 to assist councils implement the new code and procedures.

#### **Actions**

Councils should make the following administrative arrangements in preparation for commencement of the Code:

- Adopt the new Model Code and Procedures by 1 March 2013
- Appoint members of staff other than the General Manager to act as a complaints coordinator and alternate complaints coordinator before 1 March 2013
- Ensure panels of conduct reviewers, appointed using the selection process prescribed under the new procedures, are in place by 30 September 2013. Councils without existing panels should establish a panel by 1 March 2013.



**Ross Woodward**  
**Chief Executive, Local Government**  
**A Division of the Department of Premier and Cabinet**

**APPENDIX A****NEW MODEL CODE OF CONDUCT AND PROCEDURES - KEY CHANGES**

- In the interests of clarity and simplicity, standards of conduct and procedures for dealing with breaches will be separately prescribed.
- Minor changes have been made to the standards prescribed under the code in relation to binding caucus votes, the disclosure of political donations, loss of quorum, the management of significant non-pecuniary conflicts of interests in relation to principal planning instruments, gifts, relationships between councillors and staff and use of council resources for re-election purposes.
- New standards have been included to address misuse of the code and other conduct intended to undermine its implementation.
- New provisions have been included to improve all councils' access to suitably skilled conduct reviewers.
- Under the new procedures, complaints will be managed from start to finish by an independent conduct reviewer at arms length from the council if they are not informally resolved at outset.
- There will be an increased focus on informal resolution of less serious matters.
- Code of conduct matters will be dealt with confidentially. However, where a conduct reviewer determines that a councillor has breached the code and a sanction is imposed by the council, this will be made public via the minutes of the meeting.
- There will be limited rights of review to the Division where a person is subject to an adverse outcome.
- The Division will have more options for dealing with matters directly under the misconduct provisions. This will enable it to directly police the administration of the code and address issues such as misuse or failure to cooperate.
- Penalties for misconduct will be expanded and increased to improve deterrence.
- Both the Division and the Pecuniary Interest and Disciplinary Tribunal will be able impose stronger penalties for repeated misconduct. This will enable the more effective management of ongoing disruptive behaviour by individual councillors to enable councils to get on with the core business of serving their communities.

These changes have been made as a result of extensive consultation with councils and other key stakeholders, and based on feedback, have broad support.

**oooO END OF REPORT Oooo**



**Item: 4                    GM - Complaint Under Council's Code of Conduct against Councillor B Porter - (79351, 94598, 90477)**

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**REPORT:**

On 31 August 2012, a complaint was received from Council's Director City Planning under the Council's Code of Conduct (the Code) against Councillor B Porter in respect of, and related to, comments he made in a letter to the Editor of the Hawkesbury Gazette which was published in the edition of the paper issued on 22 August 2012.

Initially, the General Manager endeavoured to *"resolve the complaint by use of alternate and appropriate strategies"* as provided for under Clause 12.9 (b) of the Code. As this attempt did not appear to be likely to resolve the complaint in accordance with Clause 12.9(d) of the Code, the General Manager decided to refer the matter to an independent Conduct Reviewer. Mr J Kleem of John Kleem Consulting, a member of Council's panel of Independent Reviewers under the Code, was subsequently appointed for this purpose with the matter being referred to Mr Kleem on 9 October 2012.

On 14 December 2012 Mr Kleem confirmed that after referral to the parties concerned his report dated 30 November 2012 would not be changed and was, therefore, finalised. A copy of Mr Kleem's report is included as Attachment 1 to this report. This report is now submitted to Council for its consideration in accordance with Clause 14.9 of the Code.

In respect of reports from conduct review committees/sole conduct reviewers, the guidelines issued by the then Department of Local Government (now Division of Local Government) then provide "advice" on a number of aspects of a reports submission to Council and some of these issues, together with comments, are as follows:

- *"The conduct review committee/sole conduct reviewer should be mindful that there may be a need to protect the identity of the person making the complaint when preparing the report to Council".*

The report from Mr Kleem identifies the complainant and in view of the nature and subject of the complaint it is considered that it would not be possible to report on or consider the matter without doing this. Subsequently, the complainant has also indicated that he has no objection to his identity being generally revealed.

- *"The report will generally be dealt with in open session of Council. Council can only close a meeting to the public if the matter is one that meets the requirements of Section 10A (2) of the Act. In most cases, a report from the conduct review committee/sole conduct reviewer will not meet those requirements".*

It is not considered that this particular matter meets any of the requirements of Section 10A (2) of the Act.

- *"The Primary role of the conduct review committee/reviewer is to establish the facts of the allegation. The conduct review committee/reviewer will make findings of fact and may make recommendations that Council takes action.*

*The Council is the appropriate body to determine whether or not a breach of the Code has occurred and has the discretion as to whether or not a sanction is applied.*

***Councillors need to ensure that there is no re-hearing of the evidence when debating the report from the conduct review committee/reviewer. The debate should focus on the outcome of the reviewer's enquiries and the appropriateness of any sanctions to be applied where there is a finding or a breach of the code of conduct"* (Emphasis added).**

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**Meeting Date: 5 February 2013**

- With regard to reports from conduct reviewers and possible related conflict of interests, Clause 7.11 of the current Code provides as follows:

*"The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for councillors or the general manager to disclose a conflict of interests in such a matter."*

The issues and facts surrounding the allegations have been addressed in the attached report and Mr Kleem has made a finding that the Code of Conduct has been breached in respect of a specific aspect. Mr Kleem has made a number of recommendations at the conclusion of his report as a result of this finding.

As previously requested by Council it is advised that the Conduct Reviewers account in respect of conducting this review was \$8,780, excluding GST.

Accordingly, the following recommendation is submitted for Council's consideration in connection with this matter.

**RECOMMENDATION:**

That the Report by the Sole Conduct Reviewer, Mr J Kleem of John Kleem Consulting dated 30 November 2012 (advised as being finalised on 14 December 2012) in respect of a complaint under the Council's Code of Conduct regarding Councillor B Porter in respect of, and related to, comments made in a letter to the Editor of the Hawkesbury Gazette which was published in the edition of the paper issued on 22 August 2012 be received and the recommendations contained therein be adopted by Council.

**ATTACHMENTS:**

**AT - 1** Review Report by Mr J Kleem of John Kleem Consulting.

**AT - 1    Review Report by Mr J Kleem of John Kleem Consulting.**

**HAWKESBURY CITY COUNCIL**  
**REPORT OF**  
**CODE OF CONDUCT COMPLAINT**  
**AGAINST COUNCILLOR BOB PORTER**  
**BY MATT OWENS**

**30<sup>th</sup> November 2012**

**John Kleem Consulting**  
**PO Box 344**  
**CREMORNE NSW 2090**  
**Mobile: 0427 206051**

**HAWKESBURY CITY COUNCIL**  
**REPORT OF**  
**CODE OF CONDUCT COMPLAINT**  
**AGAINST COUNCILLOR BOB PORTER**  
**BY MATT OWENS**

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#### **COMPLAINT CONTEXT**

By formal advice dated 9 October 2012 to John Kleem, the General Manager referred a complaint received from the Director of City Planning, Matt Owens.

The complaint was dated 28 August 2012 but action was delayed due to pending local government elections and subsequent Mayoral election for Hawkesbury City Council. The appointment of John Kleem Consulting from Council's Panel as a Sole Conduct Reviewer complied with the provisions of Clause 12. 9(c) of Council's Code of Conduct. As principal of that consultancy, I have undertaken all steps of the investigation as well as the responsibility for this Report.

The complaint against Councillor Bob Porter had its origins in a letter published in the Hawkesbury Gazette on 22 August 2012. That letter was in relation to Council's Draft Hawkesbury Flood Risk Management Study and Plan (FRMS&P).

#### **LETTER GENERATING COMPLAINT**

The letter resulting in the complaint to the General Manager by the City Planner Matt Owens was as follows:

##### ***Flood Building Heights***

***Re: Flood plan controversy (Gazette, August 15, p1): The Hawkesbury Flood Plain Risk Management Study and Plan fails to adequately consider the social and economic impacts that will surely occur should the plan be adopted.***

***For the director of city planning Mr Matt Owens to state that adopting the plan would not mean the change in flood building heights is misleading.***

*While I acknowledge that changes would need to be made to Council's Local Environmental Plan and the Development Control Plan under a different process for my concerns to be realized, the fact that \$340,000 has already been spent thus far in producing the study and plan is surely the sentinel that these changes are imminent.*

*Mr Owens as a member of the Flood Plain Committee is an architect of the study and plan and is well aware of the processes that will follow should the plan be adopted.*

*I, in my role of Councillor will continue to alert the community to the shortcomings in this study and plan and highlight the effects that this ill-conceived document will bring upon them.*

*Bob Porter*  
*Hawkesbury Councillor*

**LETTER OF COMPLAINT TO GENERAL MANAGER**

The complaint to the General Manager from the Director City Planning was in the following terms:

*'This memo is to formally submit a complaint regarding a (as I see it) breach of the Code of Conduct by Councillor Porter. It is regretted that there is a need to formally lodge this complaint. However, I feel that the letter to the Editor by Councillor Porter that was printed on Wednesday 22 August 2012 titled "Flood Building Heights" is a clear breach of Section 9.7(f) of the Code of Conduct.*

*Section 9.7 "Inappropriate interactions" subsection (f) states the following:*

*"You must not engage in any of the following inappropriate interactions:*

*(f) Councillors and administrators making personal attacks on Council staff in a public forum.”*

*The letter to the Editor states, in part:*

*“For the Director of city planning Mr Matt Owens to state that adopting the plan would not mean the change in flood building heights is misleading... Mr Owens as a member of the Flood Plain Committee is an architect of the study and plan and is well aware of the processes that will follow should the plan be adopted.”*

*The above extract directly attacks my credibility and honesty by stating that my comments are “misleading”. The comments in the letter also dishonestly state that I was an “architect” of the study and plan and that I am a member of the Committee”. Whilst the individual comments may seem trivial, when viewed in context, the entire letter is attacking my credibility in undertaking the tasks of my employment and implies that I have manipulated the study and plan to mislead the community.*

*The above comments are also incorrect in relation to me being a member of the Committee. Councillor Porter was, prior to not being selected for the Committee in 2011, deputy chair of the Committee for a number of years. (At least since 2007 when I commenced employment with Council). In this regard, it is a reasonable assumption that Councillor Porter should be aware of Section 5 of the Committee Constitution that outlines the structure of the Committee. This Section states that there are 5 Councillors and 6 Community members that have voting rights. Section 5 also states that representatives from 6 Government Departments and the Director City Planning (or his/her delegate) are to attend Committee meetings. However, the government Department representatives and staff, including the Director, do not have voting rights in this Committee.*

*Whilst the above breach of Section 9.7 of the Code of Conduct is my principle (sic.) concern, I also consider that Councillor Porter has breached the following Sections of the Code of Conduct:*

*Section 3 – Purpose of the Code of Conduct*

*“Act in a way that enhances public confidence in the integrity of Local Government”.*

*I believe that attacks on me and my credibility and the members of the Floodplain Risk Management Advisory Committee in regards to the draft Floodplain Risk Management Study and Plan (FRMS&P) would contribute to erosion in confidence in the integrity of Local Government.*

*Section 4 – Key Principles*

**4.7 – Honesty**

*Councillor Porter’s comments in relation to the contents of the draft FRMS&P that have been printed in the Gazette have been dishonest in relation to the introduction of a “flood level freeboard”. I do not use the term “dishonest” lightly.*

*In this case the draft FRMS&P has clearly stated in the sections discussing “Exceptional Circumstances” applications and provisions and also specifically in Volumes 1 & 2 (Executive Summary, p.xx, and Vol 2, pp.54, 59, 61) that there is no intention to introduce a Freeboard. Similarly this matter was mentioned in the debate at the Council meeting on 31 July 2012 when the draft was considered by Council. Given that there have been clear statements; both in the draft documents and in the Council meeting, regarding the intent to not introduce a freeboard, the statements by Councillor Porter in the media have been made dishonestly.*

**4.8 – Respect**

*I do not believe that Councillor Porter has complied with the requirements in this section particularly in relation to his comments about the members of the Floodplain Risk Management Advisory Committee and technical attendees and the draft FRMS&P made in Council meetings and as quoted in the media.*



*Section 6.1 b) & e)*

*Many of the comments that have been made in relation to the draft FRMS&P have been detrimental to the charter of a Council, i.e., stating that the draft plan would be “a disaster for the local economy” is not “exercising community leadership” or condescending comments about the need to consider climate change in the draft FRMS&P does not promote the principles of ecologically sustainable development. Similarly the comments made against the Committee members in general and the comments about me in the letter to the editor are considered to be an attempt to harass or intimidate.*

*Sections 6.2, 6.3, 6.8 and 6.9*

*The above comments are also relevant to these sections of the Code of Conduct and I consider that these sections have also been breached.*

*As mentioned previously I regret that I need to lodge this complaint against Councillor Porter as I do not consider these types of actions to be conducive to good working relationships. However, I also do not consider Councillor Porter’s comments made in the public arena in relation to the draft FRMS&P and the comments made about me in the letter to the editor on 22 August 2012 are conducive to good working relationships either.*

*I would be satisfied if the comments made by Councillor Porter, particularly in relation to the letter to the editor, were withdrawn publically and Councillor Porter make a public apology. In this regard I would be satisfied if the following comments, or the like, were made in a follow up letter to the editor by Councillor Porter:*

*Re: "Flood Building Heights" (Letter to Editor, Gazette, August 22). I would like to clarify some of the statements made in my letter titled "flood building heights". In this letter I stated that the comments made by the Director City Planning, Mr Matt Owens were misleading. I withdraw and apologise for this comment as his statements are correct in relation to the draft Floodplain Risk Management Study and Plan (FRMS&P).*

*Similarly the comments I made stating that Mr Owens was a member of the flood plain committee and is an architect of the study and plan were incorrect. Mr Owens, being Director City Planning, attends the Committee meetings as the executive officer servicing the Committee and is not a voting member of the Committee. As a non-voting attendee of the Committee he is not an architect of the draft FRMS&P as it is his job to provide specialist input and undertake the work as instructed by the Committee and Council.*

*The draft FRMS&P that is on public exhibition is an important document for the future planning of the Hawkesbury. Although the documents are detailed, I urge all residents to read the documents and make enquiries with the relevant Council staff and write your submission if needed. Your comments can then be considered rationally by the Council and amendments made if required before the draft FRMS&P is adopted and implemented.*

*I am happy to discuss the details of this complaint should the need arise.*

*Matthew Owens*  
*Director City Planning*

#### **OTHER INFORMATION**

The request to myself for investigation as a Sole Reviewer was accompanied by background material as hereunder:

- **Letter to Editor Hawkesbury Gazette by Councillor Porter published 22 August 2012.**
- **Code of Conduct Complaint by Director City Planning**
- **Policy – Code of Conduct adopted 8 September 2009.**
- **Floodplain Risk Management Committee Constitution.**
- **Hawkesbury Gazette Article 20/6/2012**
- **Hawkesbury Gazette Article 1/8/2012**
- **Hawkesbury Gazette Article 8/8/2012**
- **Hawkesbury Gazette Article 14/8/2012**
- **Advice of the appointment of John Kleem Consulting as Sole Reviewer to Councillor Porter and Mr Owens.**

The complaint was discussed with Councillor Porter by the General Manager with a view to resolution under Clause 12.9(b) of the Code of Conduct.

Councillor Porter was made aware of the complainant's identity with the knowledge of Mr Owens. It was considered that further attempts to resolve the matter were unlikely to succeed, leading to the decision to refer the matter to a Sole Reviewer. Both parties were informed of the appointment of John Kleem Consulting as Sole Reviewer.

#### **PROCESSES AND PROCEDURES**

Separate meetings were held with the complainant and Councillor Porter. Clause 14.8 of the Code of Conduct allows a person to act in **“in an advisory and support role for the person that is the subject of the complaint.”** The Code does not allow that person to speak on behalf of the subject person and that provision was made known to both Councillor Porter and Mr Trevor Devine. On this occasion, I allowed both persons to participate in discussion.

Apart from referral of the actual complaint to Councillor Porter, relevant extracts from Part 3 of the Code were provided to the Councillor by email communication from John Kleem Consulting on 8 November 2012. These related to complaint handling procedures and were conveyed in the following terms to highlight particular aspects of process:

- 12.8 The General Manager is responsible for assessing complaints, ..... alleging breaches of the Code of Conduct by Councillors, in accordance with the assessment criteria provided at Section 13 of the Code, in order to determine whether to refer the matter to the Conduct Review Committee/Reviewer.**
- 12.9 The General Manager must determine either to:**
- a) take no further action and give the complainant the reason/s in writing as provided in Clause 13.1 of this Code and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or;**
  - b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing or;**
  - c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person and review the matter to that body or person as well as advising the complainant in writing or;**
  - d) refer the matter to the Conduct Review Committee/Reviewer.**

- 12.13 ..... the persons acting as Sole Conduct Reviewers should be appropriately qualified persons of high standing in the community. These persons do not need to be residents of the local government area of the Council that has appointed them.**
- 12.16 Where a matter is to be considered by the Conduct Review Committee/Reviewer then in each case, the General Manager ..... , acting in the capacity of advisor will either convene a Conduct Review Committee and select its members from those appointed by Council or alternatively select a Sole Conduct Reviewer from those appointed by Council.**
- 12.17 ..... the Reviewer will operate in accordance with the Operating Guidelines of Section 14 of this Code.**

#### **ADVISORY COMMITTEE CONSTITUTION**

##### **Extract**

#### **5. Structure and Membership**

- (a) The structure and membership of the Advisory Committee shall be as follows, and all the appointments in (i) and (ii) will have voting rights:

- (i) Five (5) Councillors of the Hawkesbury City Council; and**
- (ii) Six (6) community appointments, appointed by Council following the calling of applications as detailed in clause 6(b) of this Constitution;**
- (iii) Six (6) government departments – State Emergency Services, Department of Environment and Climate Change, Department of Primary Industries, RTA, Department of Planning and Department of Defence;**

One of the authorities of the Advisory Committee is to have delegated to it :  
**“to recommend to Council policies drawn up by professional staff” for:**

Clause 5 (b) of the Constitution provides that the Director City Planning **will be required to attend meetings of the Advisory Committee**. He is **NOT** an appointed member of the Committee as described in Clause 5(a) comprising only Councillors community appointments and representatives of nominated “government departments”

Points from the Constitution to be appreciated and understood are the following:

- **Voting rights governing decisions are restricted to the (5) Council and (6) Community members of the Advisory Committee (the Committee).**
- **The Committee is obliged to apply its decisions as advice, recommendations or assistance to the Council through Clause 2 of the Constitution. This includes flood risk strategies and the development and implementation of a Flood Risk Management Plan.**
- **The Director City Planning shall be the Executive Officer to the Advisory Committee and will be responsible for preparation of specialist reports and any and all correspondence associated with the Advisory Committee.**
- **Any recommendations of the Advisory Committee shall as far as adopted by the Council, be resolutions of the Council, provided that recommendations or reports of the Advisory Committee shall not have effect unless adopted by the Council.**
- **The Director City Planning shall prepare an Annual Report of the Hawkesbury Floodplain Risk Management Advisory Committee’s activities for submission to the Advisory Committee who will, in turn, present such report to the Council.**

#### **MEDIA COMMENT REQUESTS AND RESPONSES**

Details of two (2) requests from the Hawkesbury Gazette for comment about the Floodplain Risk Management Study and Plan (FRMS&P) have particular importance. The first request was received on 15 June 2012 with responses from the Director City Planning the same day. Questions asked were the following:

- 1. The Flood Study was supposed to be released in September last year. Why hasn't the study been released and what is holding it up?**
- 2. Another \$90,000 was recently spent on the study. How much has the study cost to date, and how much of that has Council contributed?**
- 3. Other studies that affect the Hawkesbury such as the LEP and DCP have not been made a confidential matter when discussed at Council. Why does this flood study remain confidential?**
- 4. Is there anything within the study that would suggest changes to the flood levels and building height standards that would inevitably affect Hawkesbury Residents and their properties? If so, what are the changes to those levels?**
- 5. And lastly, when can residents of the Hawkesbury expect this study to be released?**

Council's responses attributed to Matt Owens were in the following terms:

Firstly, Council is not undertaking a "Flood Study". A Flood Study determines flood depths and behaviour and this work was undertaken by Sydney Water in 1995 as part of the EIS for the spillway additional to Warragamba Dam. Council is undertaking a Floodplain Risk Management Study and Plan that utilizes the 1995 Flood Study levels and assesses the flood risk at a local level and will recommend actions for dealing with those risks.

1. The Floodplain Risk Management Study and Plan (FRMS&P) first draft was completed late last year and has been the subject of several amendments based on comments from Council's Floodplain Risk Management Advisory Committee (the Committee) as well as the Office of Environment and Heritage (OEH) and the State Emergency Service (SES). The final amending comments have been sent to the consultant and the final draft is expected to be reported to the Committee and then to Council when those amendments are completed.
2. The Tender cost for this work is approximately \$340,000 and payments to date, which have been consistent with the contract milestones, total approximately \$270,000. The funding for this work is grant funded on the ratio of two parts State Government and one part Council. In this regard Council is responsible for one third of the cost of the work.
3. The FRMS&P has not been the subject of any confidential reports to Council. The only confidential reports on this matter have been related to Tenders which, like all other Tenders with Council, are dealt with as confidential matters. The FRMS&P is only in draft form at the moment and, like all draft documents, will not be recommended for exhibition until the draft document has satisfactorily addressed the details of the brief for the project.
4. As mentioned previously, the FRMS&P is not a Flood Study and as such does not change the predicted flood levels from the currently adopted 1995 Study. The FRMS&P will consider a range of predicted floods (based on the existing data) and make recommendations for dealing with the risks that those floods create.
5. See response to (1) above.

This second media request was received on 14 August 2012:



**Could you please send me the actual physical details of how people can see the flood study plan? Is it up on boards in Council's foyer? Is it online? Can people get physical copies of it?**

The response from the Director City Planning was in the following terms:

"The formal public exhibition period for the draft Hawkesbury Floodplain Risk Management Study and Plan has not yet commenced and it is expected to commence later this month. Display boards and other display information are still being prepared.

However, the documents are available for viewing at Council's customer services counter in Council's administration office in Windsor during normal business hours. CD copies of the documents are also available. The draft documents will be available on Council's website later this week.

**There is some incorrect information being circulated throughout the community that is suggesting that the flood building heights are being raised significantly and a freeboard (an addition of 0.5m to the building height controls) is proposed. The draft Hawkesbury Floodplain Risk Management Study and Plan uses the same flood levels that have been utilized by Council for more than 10 years. It does not propose the introduction of a freeboard and any property that is currently at or about the current 1 in 100 year flood level can still build a house with the habitable floor level at the 1 in 100 year flood level, as is currently the case".**

#### **THE PUBLIC INTEREST**

As part of the assessment to be made about this complaint, I have taken into account those extracts from the Hawkesbury Gazette provided as background material.

While the letter from Councillor Porter was verified at interview, there are other reports and statements attributed to both Councillor Porter and the complainant Matt Owens. In the issue of the Gazette on 20 June 2012, Councillor Porter is reported as questioning the time and cost of the Study and Plan (FRMS&P). The Councillor also expressed concern about the **effects the findings would have on residents in the Hawkesbury, especially in relation to building regulations and flood levels.**

Councillor Porter is also reported as saying **“if the building regulations change as suggested in the study to a higher flood level, it is going to have a massive impact on the Hawkesbury as a whole.”** The Councillor nominated affected areas where residents “are going to see the value of their property go through the floor, while other non-affected property prices rise and guess who makes up the difference – the ratepayers”.

The Gazette included the comments offered by Matt Owens submitted on 15 June in response to the Media Comments requested on 15 June 2012. These were indicated in this Report.

The issue of the Gazette dated 8 August 2012 made reference to the decision by Council to release for public exhibition the final draft of the Study and Plan.

It was reported that Councillor Porter considered the document to be “the Doomsday Report” with reference to recommendations about building height levels.

**It is noted that the period of exhibition has been concluded last week. There will be proper opportunity for the Committee to consider its position prior to determination by Council itself. The history and complexity of the issues suggests that a final position by Council on the Study may not be imminent.**

The issue of the Gazette dated 8 August also reported Councillor Porter’s assertion that there would be a **“devastating”** impact on the Hawkesbury’s economy in terms of flood building height levels.

It could be expected that any Councillor will have every chance to express and weigh opinion prior to any final position being taken by Council. It is noted that Councillor Porter is again a member of the Advisory Committee following recent elections.

Further comment by Councillor Porter in the 14 August issue of the Gazette was supported by colleague and election candidate Trevor Devine who accompanied the Councillor during my interview. The study was described as having **“no plan and very oblique recommendations”**. Council’s Director of Planning, in addition to the indicated response to the Gazette on 14 August 2012 was quoted as having told the Gazette that adopting the flood plan would not mean the flood building heights would change.

#### **SUMMATION**

A brief summation of matters to be assessed pending the adoption with or without changes of the Study and Plan must have regard for the following:

- **The accuracy or otherwise of all reported comments.**
- **Consideration by Council and the community of inputs received from the public exhibition period.**
- **Decisions taken by the Committee from collective views, independent advice, available expertise and agreed strategies.**
- **Recognition and respect for minority views.**
- **An ability to understand the Study and minimise misinterpretation.**

In terms of the complaint handling function of a Sole Reviewer, I am limited to the provisions of Clause 14.1 in making consideration of, making enquiries into and reporting on complaints made under Clause 11.1 about Councillors.

#### **ASSESSMENT PRINCIPLES**

I have limited my investigation to examining the reason for the complaint being lodged by the Director City Planning. This is the letter submitted to the Gazette appearing in the 22 August issue by Councillor Porter.

I have not been in a position to assess any views held by Councillor Porter as those justifying the letter that encouraged the complaint from Matt Owens.

Similarly, the history and complexity of flood risk initiatives over many years for the Hawkesbury cannot be identified as the reason for my separation of the facts incorporated in the letter from other opinions.

The need to distinguish between arguments seen as behaviours contrary to the Code of Conduct and any other background is a vital consideration.

**I cannot therefore align or form any association between prior events that may have been seen by one party as requiring action. Any finding about a breach can only be made in terms of the letter in question.**

In terms of Clause 14.7 of the Code of Conduct, the rules of **procedural fairness** have been followed and as Sole Reviewer, I have provided Councillor Porter with the opportunity to respond to the substance of the allegation and to address the Sole Reviewer. I have acted fairly and without prejudice or bias and have made enquiries before making any recommendations.

As a briefing about the FRMS&P, I did secure Volumes 1, 2 and 3, the documents prepared by Bewsher Consulting Pty Ltd. These have been on public exhibition.

#### **COMPLAINT ANALYSIS**

The complaint raised by Matt Owens expresses the view that there have been breaches of the Code of Conduct in a number of Sections in the Code of Conduct. These can be summarized as hereunder:-

##### **Section 9.7 – Inappropriate Interactions**

In particular, the complaint highlights 9.7(f) or **“Councillors and administrators making personal attacks on Council staff in a public forum”**.

It is considered that the words, facts and definitions arising from Councillor Porter’s letter published in the Gazette on 22 August are the central themes to be determined.

The complainant nominates other breaches in other Sections of the Code as hereunder:

**Section 3 – Purpose of the Code of Conduct**

**“Act in a way that enhances public confidence in the integrity of Local Government”**

**Section 4 – Key Principles**

The complainant raised questions of **“honesty”** 4.7 and **“respect”** 4.8. Neither of these complaints are believed to have sufficient weight or evidence to classify them as breaches of the Code.

**Section 6.1(b) and (e)**

Any comments by Councillor Porter about the Draft Plan being **“a disaster to the local economy”** or not **“exercising community leadership”** cannot be verified as being accurate beyond personal opinion in terms of General Conduct Obligations in the Code. Further, possible doubts about the assertions and the absence of proof do not point to a breach of the Code.

It is not considered that any actions or statements by Councillor Porter have amounted to any level of harassment or intimidation.

As such, the prospect of developing and sustaining any argument that a breach of the Code exists under Sections 6.2, 6.3, 6.8 and 6.9 is seen as remote.

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#### **FINDINGS**

Section 9 of Council's Code of Conduct deals with the relationship between Council officers. Section 9.7 describes **"inappropriate interactions"** and in particular 9.7(f) sets down the following as an **"inappropriate interaction"**. **"Councillors and Administrators making personal attacks on Council staff in a public Forum"**.

It is concluded that the comments made by the Director City Planning in regard to the Floodplain Risk Management Study and Plan were **NOT "misleading"**. That record has not been sufficiently defined by example in the 22 August letter in the Gazette or by investigations. Reasons for the claim are not seen as having been made clear to the community, a position of appropriate authority and status does not sit with the City Planner in terms of the Committee structure and the FRMS&P decisions are determined by a vote outside the role of the complainant.

The claim that Matt Owens (City Planner) was a member of the Committee is **NOT** correct. The role is advisory and there is provision in the Constitution to be the Executive Officer. Attendance at Committee meetings gives neither membership responsibility or entitlement to membership to Mr Owens.

Further, the description by Councillor Porter of the Director City Planning as **"an architect"** of the Study and Plan is considered to be **NOT** correct.

Beyond the Advisory Committee structure of Councillors and community members, representatives of Government Departments and the external consultancy responsible for producing the FRMS&P, I believe that the term **"architect"** for the City Planner could be misinterpreted by a reading community seeking knowledge and information.

**It is my overall finding that the use in the 22 August Hawkesbury Gazette letter from Councillor Porter of the terms "misleading" "member of the Flood Plain Committee" and "an architect" are breaches of the Code of Conduct of Hawkesbury City Council.**

I find however that other complaints nominated through Section 3, Section 4, Section 6.1(b) and (e), Sections 6.2, 6.3, 6.8 and 6.9 of the Code do not represent breaches of Council's Code of Conduct.

**RECOMMENDATIONS**

1. That the Report of the Code of Conduct Complaint against Councillor Bob Porter be received and noted.
2. That the letter from Councillor Bob Porter published in the Hawkesbury Gazette of 22 August 2012 be assessed as a breach of the Hawkesbury Council Code of Conduct in respect of the following references:
  - (a) "For the Director of City Planning Mr Matt Owens to state that adopting the plan would not mean the change in flood building heights is misleading".
  - (b) "Mr Owens as a member of the Flood Plain Committee is an architect of the study and plan and is well aware of the processes that will follow should the plan be adopted."
3. That Councillor Porter make a public apology to Mr Owens by a letter to the Editor of the Hawkesbury Gazette in the terms, or the like, suggested by Mr Owens in his complaint to the General Manager dated 28 August 2012.

**Item: 5                      GM - Complaint Under Council's Code of Conduct against Councillor C Paine - (79351, 80104)**

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**REPORT:**

On 29 November 2012, a complaint was received under the Council's Code of Conduct (the Code) against Councillor C Paine in respect of her participation at the Council meeting held on 27 November 2012 when Council considered a report in relation to the proposed International Sand Sculpturing Event and Festival. The complaint alleged that Councillor Paine failed to disclose a non-pecuniary conflict of interest.

The General Manager subsequently decided to refer the matter to an independent Conduct Reviewer. Ms K Thane of Train Reaction, a member of Council's panel of Independent Reviewers under the Code, was subsequently appointed for this purpose with the matter being discussed with Ms Thane on 6 December 2012 and referred to her on 10 December 2012.

On 17 January 2013 Ms Thane forwarded her completed report to the General Manager and on 20 January 2013 advised that a copy had also been forwarded to Councillor Paine and the complainant. A copy of Ms Thane's report is included as Attachment 1 to this report. This report is now submitted to Council for its consideration in accordance with Clause 14.9 of the Code.

In respect of reports from conduct review committees/sole conduct reviewers, the guidelines issued by the then Department of Local Government (now Division of Local Government) provide "advice" on a number of aspects of a reports submission to Council and some of these issues, together with comments, are as follows:

- *"The conduct review committee/sole conduct reviewer should be mindful that there may be a need to protect the identity of the person making the complaint when preparing the report to Council".*

The report from Ms Thane does not refer to the complainant except for one instance. This reference has been redacted and therefore for the purposes of referral to Council the report does not reveal the complainant's identity.

Also, a footnote within the report refers to potentially confidential information of Councillor Paine and, as it does not affect the contents of the report, it has been redacted also.

- *"The report will generally be dealt with in open session of Council. Council can only close a meeting to the public if the matter is one that meets the requirements of Section 10A (2) of the Act. In most cases, a report from the conduct review committee/sole conduct reviewer will not meet those requirements".*

It is not considered that this particular matter meets any of the requirements of Section 10A (2) of the Act.

- *"The Primary role of the conduct review committee/reviewer is to establish the facts of the allegation. The conduct review committee/reviewer will make findings of fact and may make recommendations that Council takes action.*

*The Council is the appropriate body to determine whether or not a breach of the Code has occurred and has the discretion as to whether or not a sanction is applied. **Councillors need to ensure that there is no re-hearing of the evidence when debating the report from the conduct review committee/reviewer. The debate should focus on the outcome of the reviewer's enquiries and the appropriateness of any sanctions to be applied where there is a finding or a breach of the code of conduct**" (Emphasis added).*



## ORDINARY MEETING

Meeting Date: 5 February 2013

- With regard to reports from conduct reviewers and possible related conflict of interests, Clause 7.11 of the current Code provides as follows:

*“The matter of a report to council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore, there is no requirement for councillors or the general manager to disclose a conflict of interests in such a matter.”*

The issues and facts surrounding the allegation have been addressed in the attached report and Ms Thane has made a finding that the Code of Conduct has not been breached and has made a recommendation as a result of this finding.

As previously requested by Council it is advised that the Conduct Reviewer's account in respect of conducting this review was \$2,800, excluding GST.

Accordingly, the following recommendation is submitted for Council's consideration in connection with this matter.

### **RECOMMENDATION:**

That the Report by the Sole Conduct Reviewer, Ms K Thane of Train Reaction dated 17 January 2013 concerning a complaint under the Council's Code of Conduct regarding Councillor C Paine in respect of an alleged failure to disclose a non-pecuniary conflict of interest at the meeting of Council held on 27 November 2012 be received and the recommendation contained therein be adopted by Council.

### **ATTACHMENTS:**

**AT - 1** Review Report by Ms K Thane of Train Reaction.

**AT - 1    Review Report by Ms K Thane of Train Reaction.**



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**R E P O R T**

<b>Client:</b>	Hawkesbury City Council
<b>Job Type:</b>	Code of Conduct Complaint
<b>Allegations:</b>	Alleged breach of non-pecuniary conflict of interest (clause 7)
<b>Complainant:</b>	Not disclosed
<b>Respondent:</b>	Councillor Ms Christine Paine
<b>Date of Report:</b>	17 January 2013

**1.    Introduction:**

- 1.1** The author of this report ("the Reviewer") is a Sole Code of Conduct Reviewer and Member of the Hawkesbury City Council Conduct Review Committee Panel appointed on 31 March 2009 pursuant to clause 12.12 of Council's code of Conduct for Councillors.
- 1.2** Council's General Manager, Mr Peter Jackson initially discussed the matter with the Reviewer, during a telephone conversation on or around 6 December 2012. The various documents pertaining to the complaint were later forwarded to the Reviewer on 10 December 2012.
- 1.3** After the Reviewer had perused the complaint material she advised Mr Jackson that her intended approach was to first examine whether there was a prima facie evidence of a breach (perhaps involving an interview with the Complainant) before deciding whether to advise the Respondent that a complaint had been made against her and to proceed with an enquiry into the matter.
- 1.4** Mr Jackson agreed to such an approach on 12 December 2012.



## **2. The Brief:**

**2.1** The General Manager referred a complaint against Councillor Christine Paine pursuant to clause 12.9 (d) of the Code of Conduct and requested that the complaint be dealt with pursuant to the provisions of the Hawkesbury Code of Conduct for Councillors.

## **3. Particulars of the Complaint:**

### ***Background:***

**3.1** Following an appropriate approval process, an International Sand Sculpturing Competition and Festival (ISSCF) was held over a 3 week period in January 2012 at Howe Park, Windsor (opposite the Hawkesbury River between Kable Street and far end of Hollands Paddock).

**3.2** The event attracted approximately 44 000 people to the Windsor area.

**3.3** In October 2012 the organisers of ISSCF again sought approval to conduct the event at Howe Park over a 3 week period in January 2013, with 50 000 expected to attend.

**3.4** On 27 November 2012 a report was submitted to Council recommending approval of the event in the location requested by the organisers.

**3.5** At the meeting, Council resolved to support the event subject to its location being moved within Howe Park (towards Luke's Bridge) and delegated authority being given to the General Manager to approve the event after discussions with the organisers regarding relocation.

**3.6** Councillor Paine, (who resides in close proximity to the proposed event site<sup>1</sup>) participated in the debate and voted for the event to be relocated.

**3.7** A Rescission Motion was subsequently submitted in respect of Council's resolution.

**3.8** An extraordinary meeting was held on 3 December 2012 to consider the rescission motion. This was carried with the substantive motion for the event to be approved as initially recommended in the requested location in Howe Park.

<sup>1</sup> Council records show that three properties in the block bounded by The Terrace, Kable Street, Union Land and Fitzgerald Street are in the ownership of either [REDACTED]

Note also that Councillor Paine's address on the Hawkesbury Council website is shown as "Sunnybrae" 12 Fitzgerald Street Windsor.



***The Allegations:***

**3.9** On 29 November, 2012 a complaint was made to the General Manager concerning the conduct of Councillor Christine Paine at the meeting on 27 November 2012.

**3.10** The Complainant alleges that Councillor Paine was in breach of the Code of Conduct for failing to declare a significant non-pecuniary conflict of interest (in view of the location of her home to the ISSCF event and the effect it would have on her).

**3.11** The Complainant said that in the circumstances Councillor Paine should not have been an active member in both the debate and the vote and claims that her participation was an attempt to influence an outcome to move the event away from her home.

**4. Disclaimer:**

**4.1** This report is made in good faith and to the best of the Reviewer's ability.

**4.2** The report is not intended to serve as legal advice nor should the Reviewer's comments herein be relied on as a substitution for legal advice.

**5. Written and Other Material:**

**5.1** The bundle of complaint documents provided to the Conduct Reviewer on 12 December 2012 are summarised as follows:

- Brief Summary of Events;
- Map of Howe Park, Windsor and surrounding streets;
- Letter of complaint dated 29 November 2012 (summarised at paragraph 7.1 of this report);
- General Manager's acknowledgement of complaint dated 2 December 2012;
- Further advice from General Manager to [REDACTED] that matter has been referred to the Reviewer dated 6 December, 2012;
- Advice to Reviewer from General Manager dated 10 December 2012 that matter has been referred to her;
- Hawkesbury City Council Code of Conduct for Councillors.

**5.2** The Reviewer obtained the following additional documents from Council's website on 11 December 2012:

- Minutes of Ordinary Council Meeting 27 November 2012;



**ORDINARY MEETING**  
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- Extraordinary Meeting Business Paper (rescission motion) 3 December 2012;
- Minutes of Extraordinary Council Meeting (rescission motion) 3 December 2012.

5.3 The Reviewer requested and was provided with the following additional material from the General Manager on 17 December 2012:

- Audio recordings of Council Meetings held on 27 November, 2012 and 3 December 2012.

5.4 The Reviewer received a further written submission from the Complainant on 17 December, 2012 (summarised at paragraph 7.2 of this report).

## **6. The Review Process:**

6.1 The Reviewer had an initial telephone discussion with Peter Jackson, General Manager on or around 6 December 2012. The documents outlined in paragraph 5.1 were later forwarded by email on 10 December 2012.

6.2 On 11 December 2012 the Reviewer read through the material provided and then advised the General Manager by email of her suggested approach to the enquiry. On 12 December 2012 the General Manager confirmed his acceptance of such an approach.

6.3 On 11 December 2012 the Reviewer downloaded the minutes of relevant Council meetings from the Council website.

6.4 On 14 December 2012 the Reviewer contacted the Complainant via email and asked if they wished to be interviewed or to provide a further submission in respect of the matter.

6.5 On 17 December, the Complainant indicated via email that no interview was required but provided a further short submission to the Reviewer.

6.6 Later the Reviewer asked the General Manager to provide an audio recording of the subject meetings. These were provided on 17 December 2012.

6.7 The Reviewer listened to the audio recordings on 2 January 2013 and took notes.

6.8 The Reviewer then contacted Councillor Paine via email to advise her of the allegations and to ask whether she wished to respond to the complaint in writing or by face to face interview. There were emails back and forth on 2 and 3 January 2013.



- 6.9** On 4 January 2013 the Reviewer conducted a telephone interview with Councillor Paine. The interview, which was of 40 minutes duration, was not recorded but the Reviewer took notes. Councillor Paine had no objection to such a process.
- 6.10** On 7 January 2013 Councillor Paine's summary statement prepared by the Reviewer was forwarded to her via email for clarification and approval.
- 6.11** On 11 January 2013 Councillor Paine made some minor amendments and approved her summary statement. This is the version which appears at paragraph 9.
- 6.12** The Reviewer then proceeded to determine the matter based on the material gathered during the course of the enquiry.

## **7. Complainant's Submission:**

### Written Submissions:

- 7.1** The letter of complaint to the General Manager dated 27 November 2012 is summarised below:
- 7.1.1** The Complainant expressed "sadness" at having to lodge the present Code of Conduct complaint because they "hated" the cost to Council and the waste of its valuable resources.
- 7.1.2** However the Complainant said that people should be able to report serious unacceptable and/or potentially corrupt conduct and that is the real reason the code exists.
- 7.1.3** The Complainant alleged that at the Council meeting on 27 November 2012 Councillor Paine "not only voted to move the Sand Sculpting event in Windsor to a location further away from her family home in Fitzgerald Street but she actually spoke during the debate about the parking difficulties in Fitzgerald Street which she has to drive up and down to enter her house therefore trying to convince other Councillors why they should vote to move the event".
- 7.1.4** The Complainant said that Councillor Paine had a clear understanding of the conflict of interest provisions in the Code of Conduct.
- 7.1.5** The Complainant said that to ensure the continued transparency of Council and the integrity of councillors and elected officials, the matter should be fully investigated.





**7.1.6** In particular, the Complainant contended that “Councillor Paine's involvement in the debate on the Sand Sculpting Event and her conflict of Interest under the code that she has a significant non pecuniary conflict of interest and failed to declare that interest and then also took part as an active member in both the debate and the vote in an attempt to influence an outcome to move the event away from the precinct near her home” required independent review.

**7.2** The Complainant added the following comments in an email to the Reviewer on 17 December 2012 summarised as follows:

**7.2.1** The Complainant said that “you can't have some Councillors thinking they can do what they like because *they care about the community so it's OK* and the same councillor and their public supporters attack other councillors for less”.

**7.2.2** The Complainant expressed the view that “no matter what the issue, if your private home is impacted either positively or negatively you declare, it is about public perception and you can't *cover off* your involvement in the vote by saying you put advertising on your fence for the event last time so therefore you are a supporter and therefore can be involved in the vote”.

## **8. Other Relevant Material:**

**8.1** The written Minutes of the Ordinary Meeting of Council held on 27 November 2012 record as follows:

- The motion (supporting the sand sculpturing competition event in principle subject it being relocated within Howe Park), moved by Councillor Conolly and seconded by Councillor Paine;
- A rescission motion was subsequently lodged in respect of the motion.

**8.2** The following is noted from the audio recording of the 27 November meeting:

- Councillor Paine was present at the meeting, contributed to the debate and voted on the motion;
- Of the proposed location of the event, Councillor Paine said “I think that's the wrong site for it” and “I won't support it in Howe Park.” She also commented that she “was around last year and saw what happened.”
- Councillor Paine said that she was “a great supporter” of the event and “would be more than happy to be a volunteer” but “last year it was causing a bottle neck in Fitzgerald Street.”



- She said that “Howe Park was left in a terrible state” and “every time I walked out my gate” people commented to me about the state of the park. She said that the park had recently been closed and substantial monies had been spent upgrading and beautifying it. Holding the event in the same location would mean that the work and expense in Howe Park were wasted (as sand would be poured over it).
- Councillor Paine talked about the more suitable area within the Park towards Luke’s Bridge which was a wider section of land. She also said that there were more parking facilities there. She said that moving the traffic along “would be ideal for me.”
- Most Councillors who objected to the motion (moving the event) appeared to only do so because it did not give the organisers enough time to plan for a new location. The majority argued that the issue could be examined in more detail prior to the event the following year.

8.3 The written Minutes of the Extraordinary Meeting of Council held on 3 December 2012 record as follows:

- Councillor Mackay declared a significant non-pecuniary conflict of interest (as a former objector is his son-in-law) and he withdrew from the meeting;
- Councillor Paine did not attend the meeting;
- The rescission motion (rescinding Council’s resolution made on 27 November 2012 relocating the sand sculpturing competition), moved by Councillor Porter and seconded by Councillor Rasmussen was carried;
- The substantive motion was carried (which allowed for the event to be conducted in the same area of Howe Park as previously subject to 46 conditions).

8.4 The audio recording of 3 December meeting confirms the written record that Councillor Paine did not attend.

## 9. Respondent’s Submission / Interview:

9.1 The Reviewer conducted a 40 minute telephone interview with Councillor Paine on 4 January 2013, which is summarised below<sup>2</sup>:

9.1.1 Councillor Paine said that she had been a Councillor with Hawkesbury Council for 21 years and was passionate about her local area. She said that she had a particular interest in aged care, people with disabilities and appropriate planning having a background in nursing.

<sup>2</sup> Note that Councillor Paine approved this version of the summary on 11 January 2012.





- 9.1.2** She said that she had lived in the area for many years and the home she resided in on Fitzgerald Street had been in her family since about 1875. She said that she also owned two properties on Kable Street which were rented to elderly tenants.
- 9.1.3** Councillor Paine said that all three properties are located in close proximity to Howe Park, where the sand sculpture event was held in January 2012. She said that her tenants loved the event and particularly liked sitting out the front of their houses to see what was happening.
- 9.1.4** She said that her family was not adversely affected by the event and in fact it had “no impact on her personally whatsoever.” She said that she felt that the event was good for Windsor and the Hawkesbury area.
- 9.1.5** Councillor Paine commented that she tended to travel up the hill away from the park when leaving her place (as both she and her husband preferred to use the traffic lights when driving), so the additional traffic from the sand event over January was not really an issue for her.
- 9.1.6** Councillor Paine said that she thought that the complaint was politically motivated and said that it was not uncommon for complaints to be made “just to have a go at her” as an Independent Councillor; she sometimes wondered whether she would be better off joining one of the political parties!
- 9.1.7** She said that a few years ago she had objected to a development planned for the Coles Building in town and a complaint was made on a similar basis. She said that there was an attempt to make her appear bias or putting her personal views before the public interest. She said that on that occasion it was established that her objections had been made on public interest grounds.
- 9.1.8** Councillor Paine said that she was surprised that anyone would think that there was any substance to the present complaint. She said that it was well known that she lived near Howe Park and was supportive of the sand sculpturing event. She said that she had even volunteered to help at the 2013 event. She



said that her motivation for being a Councillor was to be able to support her local community.

**9.1.9** Councillor Paine said that prior to the meeting on 27 November 2012 she considered whether the fact she lived near Howe Park could be construed as being a conflict of interest. She said that she spoke to both the General Manager and the Mayor about it immediately prior to the meeting.

**9.1.10** She said that they told her that they did not think it was an issue, although the matter was for her own consideration. Councillor Paine said that she did not think that there was an issue, which is why she chose not to raise the matter publicly.

**9.1.11** She said that she was surprised that no one had any issues with other Councillor's involvement in the matter. She said that one Councillor withdrew from the meeting to discuss the rescission motion on 3 December 2012, (on the basis that he had a conflict of interest because his son-in-law had objected to the event) yet he debated and voted at the original meeting on 27 November 2012.

**9.1.12** Councillor Paine said that she thought it was surprising that a complaint was made against her, yet no one lodged a Code of Conduct complaint against that other Councillor for their conduct on 27 November 2012.

**9.1.13** She said that she was conscious of how she could be perceived by others during the meeting (because of the close proximity of her home to the event location) and was careful in her approach to discussions on this basis.

**9.1.14** Councillor Paine said that she stated at the meeting that she would not support the 2013 event in the same Howe Street location as it was held in 2012 and had wanted the event moved within the park to further towards Luke's Bridge.

**9.1.15** She said that her views were based on the public interest. In particular she said that Council had recently spent a considerable sum of money upgrading Howe Park. If the event were to go ahead in the same location it would mean





that it would destroy those works. She also said that the particular area of the Park is a very narrow strip and not the most appropriate area for an event such as this.

**9.1.16** Councillor Paine said that her reasons for wanting it moved had nothing to do with the impact the event had on her personally (and as previously stated she felt that it had not affected her amenity at all). She said that the area of Howe Park further towards Luke's Bridge was a much wider area and more suitable for a large event such as this. She said that there was also a lot of parking available there; as this was the same area used by the rugby club in the football season.

**9.1.17** Councillor Paine said that it was no secret that she lived on Fitzgerald Street and as far as she was aware she was the only Councillor who lived in such close proximity to the park. But she said that this did not mean that she had any conflict of interest and explained that it meant that she literally had the "ear of the town" literally at her doorstep; people were always talking to her about what they thought about things.

**9.1.18** She said that some nearby shopkeepers and residents had commented on the bottleneck in traffic in Fitzgerald Street caused by the event last year. Councillor Paine said these issues would be largely overcome if people were moved towards Luke's Bridge and the parking that was available there. She felt that visitors could then walk along beside the River in Howe Park and perhaps have some lunch and enjoy the amenity. This, she felt was better for the area and was in the public interest.

**9.1.19** She said that she thought it would be ridiculous if she could not comment on anything to do with the park (such as upgrading works or other matters) because she lived nearby and she felt that her own interests were no more or less than other residents, business owners and ratepayers.

**9.1.20** Councillor Paine said that she felt that this complaint was an attempt to intimidate or silence her and if she allowed herself to be bullied by others, there was no point to being a Councillor and being able to be the voice for local



residents. She said that she was and had always been a Councillor so she could support her local community.

- 9.1.21** Councillor Paine said that she did not attend the Extraordinary Meeting held on 3 December 2012 (the rescission motion) as she had to attend another more important event with her daughter that evening. She said that she did not feel so strongly about the matter that she felt the need to attend.

## **10. The Code of Conduct:**

The relevant clauses of the Hawkesbury City Council Code of Conduct are reproduced below:

### **7. CONFLICT OF INTERESTS**

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

#### **What is a non-pecuniary conflict of interests?**

- 7.10 Non-pecuniary interests are private or personal interests a Council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 7.11 The matter of a report to Council from the conduct review committee/reviewer relates to the public duty of a councillor or the general manager. Therefore there is no requirement for councillors or the general manager to disclose a conflict of interests in such a matter.
- 7.12 The political views of a councillor do not constitute a private interest.





**Managing non-pecuniary conflict of interests**

- 7.13 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 7.14 If a disclosure is made at a Council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of this Section.
- 7.15 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.
- 7.16 As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
- (a) a relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
  - (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
  - (c) an affiliation between a Council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- 7.17 If you are a council official, other than a member of staff of council and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:
- (a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official
  - (b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply.
- 7.18 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 7.19 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.
- 7.20 Despite clause 7.17(b), a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate



Council's decision-making role to Council staff, or appoint another person or body to make the decision in accordance with the law. This applies whether or not Council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 7.17(b) above.

**11. REPORTING BREACHES**

- 11.1 Any person, whether or not a Council official, may make a complaint alleging a breach of this Code.

**12 COMPLAINT HANDLING PROCEDURES AND SANCTIONS**

- 12.8 The general manager is responsible for assessing complaints, made under Section 11, alleging breaches of this Code by councillors, in accordance with the assessment criteria provided in Section 13, in order to determine whether to refer the matter to the conduct review committee/reviewer.

- 12.9 The general manager must determine either to:

- (a) take no further action and give the complainant the reason/s in writing as provided in Section 13 of this Code, and those reasons may include, but are not limited to, the fact that the complaint is trivial, frivolous, vexatious or not made in good faith, or
- (b) resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation and give the complainant advice on the resolution of the matter in writing, or
- (c) discontinue the assessment in the circumstances where it becomes evident that the matter should be referred to another body or person, and refer the matter to that body or person as well as advising the complainant in writing, or
- (d) refer the matter to the conduct review committee/reviewer.

**13 COMPLAINT ASSESSMENT CRITERIA**

- 13.1 The general manager or Mayor, in the case of a complaint about the general manager, will assess a complaint alleging a breach of this Code to determine if the matter should be referred to the conduct review committee/reviewer. In assessing the complaint, the general manager and Mayor will have regard to the following grounds:
- (a) whether there is any prima facie evidence of a breach of this Code
  - (b) whether the subject matter of the complaint relates to conduct that is associated with the carrying out of the functions of civic office or duties as general manager
  - (c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
  - (d) whether the conduct the subject of the complaint could reasonably constitute a breach of this Code
  - (e) whether the complaint raises issues that require investigation by another



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person or body, such as referring the matter to the Department of Local Government, the NSW Ombudsman, the Independent Commission Against Corruption or the NSW Police

- (f) whether there is an alternative and satisfactory means of redress
- (g) how much time has elapsed since the events the subject of the complaint took place
- (h) how serious the complaint is and the significance it has for Council
- (i) whether the complaint is one of a series indicating a pattern of conduct.

13.2 Complaints that are assessed as not having sufficient grounds to warrant referral to the conduct review committee/reviewer or that are to be referred to a more appropriate person or body can be finalised by the general manager or the Mayor, in the case of complaints about the general manager.

13.3 If a matter is referred to the conduct review committee/reviewer, then the conduct review committee/reviewer should use the above criteria for its initial assessment of the complaint and determination of the course to follow in dealing with the complaint.

### 11. Discussion:

11.1 The present complaint was referred to the Reviewer by the General Manager pursuant to clause 12.9 of the Hawkesbury City Council Code of Conduct for Councillors.

11.2 The complaint concerns allegations concerning the conduct of Councillor Christine Paine at a Council meeting held on 27 November 2012 during the debate on a sand sculpting competition proposed in Howe Park, Windsor for a 3 week period in January 2013.

11.3 It is alleged by the Complainant that Councillor Paine had a substantial non-pecuniary conflict of interest in the matter that was under debate because she lives in close proximity to Howe Park.

11.4 The Complainant maintains that Councillor Paine should have declared the interest and then not taken part in the debate or vote in the matter. It is claimed that her failure to do so was an attempt to influence an outcome to move the event away from the precinct near her home.

11.5 The Complainant said that there is a reasonable perception that Councillor Paine's home and amenity would be impacted (either positively or negatively) by the



sand sculpturing competition in nearby Howe Park and on this basis she has a conflict of interest and should not have involved herself in Council decisions pertaining to the matter.

**11.6** Council records comprised of meeting minutes and an audio recording support the Complainant's claims that Councillor Paine debated and voted on the issue. It is apparent from the recording that Councillor Paine was supportive of the proposal in principle, although she did not support the event being located in the same section of Howe Park as it had operated previously.

**11.7** During discussions Councillor Paine made no secret of the fact that she lived close to Howe Park<sup>3</sup> and at times she spoke in terms of her personal experiences of the event during the previous year. Councillor Paine stated many local residents had approached her about the matter, literally at her front gate.

**11.8** She made it clear that she felt that section of Howe Park where the 2013 event was proposed was too narrow, in her opinion and she felt that further towards Luke Worsley Bridge was more appropriate as it was wider. She also said that there was more parking in the alternate location suggested by her and relocation was likely to prevent the bottleneck in traffic that had been created in nearby streets.

**11.9** Councillor Paine also objected to the existing site being used for the event on the basis that it was an area of the park which had just been substantially upgraded at a not insignificant cost to the community. She said that holding the event there would mean that much of the work would be a wasted expense, which she felt was not in the public best interest.

**11.10** When interviewed by the Reviewer, Councillor Paine denied any conflict of interest and said that her involvement in the matter was based on public interest grounds. She said that it was her responsibility to represent the local community's views on the matter and as Howe Park was located in her precinct she was the best person to put forward views on the matter.

## 12. Findings:

**12.1** The conflict of interest provisions in the Code of Conduct are about transparency in Council decision making. As a Councillor it must be clear that private interests do not affect public duties and/or that their position as Councillor is not used for personal benefit.

<sup>3</sup> It is noted also that Councillor Paine's home address is clearly displayed on the Hawkesbury Council web-site and is apparently a well-known fact in the local Hawkesbury community.





- 12.2 As Councillors are elected persons who reside in the local area that they represent and are members of the governing body of Council, there is a significant potential for conflict of interests.<sup>4</sup>
- 12.3 A conflict will exist before a Councillor does anything; meaning that it is not necessary for a Councillor to act on the private interest to give rise to any conflict; either there is a perception of a conflict or there is not.
- 12.4 The appearance of a conflict is just as important as an actual conflict. The question therefore is whether there is a perception by a reasonable and informed person that a Councillor could be influenced by a private interest when carrying out their duty in particular circumstances.
- 12.5 Unfortunately in relation to non-pecuniary conflicts of interest there are few guidelines in the Code itself or the relevant case law and whilst some instances may appear to be a matter of common sense, others are not straight forward. Therefore each instance must be determined on its merits.
- 12.6 It should also be noted that even if a Councillor has a personal interest in a particular matter, it does not automatically follow that there must be a conflict between that interest and the Councillor's public duty. Therefore, there will not be a conflict (or reasonable perception of a conflict) if the Councillor's interest is remote or no greater than the private interest held by the majority of other residents, ratepayers or voters.
- 12.7 The present matter involves the determination of a proposal to host a major sand sculpturing event in Howe Park, Windsor. It is common ground that Councillor Paine resides in Fitzgerald Street, which is in close proximity to the park. One would reasonably expect the three week event, with its estimated 50 000 visitors to the area, to have some impact on Councillor Paine's residential amenity (whether positive or negative).
- 12.8 Arguably the event could also have some impact on her husband's legal practice in nearby George Street, Windsor and the amenity of her tenants' who reside in properties Councillor Paine owns in Kable Street.
- 12.9 The question is whether these factors constitute a private interest which could be reasonably perceived as a conflict with her public duty as a Councillor. After due consideration of the material gathered in the course of this enquiry, the Reviewer considers on balance that they do not.

<sup>4</sup> See page 36 of Councillor Guide: A joint publication of the NSW Department of Local Government, Local Government Association of NSW and the Shires Association of NSW.



- 12.10** The Reviewer has reached this conclusion because whilst Councillor Paine has a personal interest that is more than remote, it is not considered that her interest is any more or less than other residents, ratepayers and voters of the local Windsor community.
- 12.11** It is estimated that the 2013 event will attract over 50 000 people to the Hawkesbury area. This will be expected to have an enormous impact on the small town of Windsor and its community over the three week event period and it is envisaged that all residents and businesses will be affected to some degree (both negatively and positively).
- 12.12** One would expect there to be a positive flow-on economic effect for many local businesses with the large influx of people coming to the area and purchasing goods and services. Although the crowds coming to the town, the additional wear and tear on local facilities and increased traffic congestion could keep the local residents away from businesses in town and be detrimental to their residential amenity.
- 12.13** It is considered that the impact on residential amenity will be the greatest in areas that are closest to the Howe Park site, with those residents living along The Terrace, directly opposite perhaps experiencing the greatest impact. Residents in Kable, Fitzgerald and Johnston Street will also be affected to a degree.
- 12.14** It is noted that whilst the northern boundary of Councillor Paine's property is on The Terrace, her residence and entrance is located in the south western corner on Fitzgerald Street near Union Lane. This is quite a distance away from Howe Park and on this basis it is not considered that the event will have any more or less impact on Councillor Paine than other residents and businesses.
- 12.15** It is also worth stating that the reasons put forward at the 27 November meeting by Councillor Paine for relocating the event, whilst couched in personal language and debated in terms of her own experiences of the 2012 event, had little to do with any personal impact on her.
- 12.16** Based on the sound recording of the meeting, her main concern appeared to be the narrowness of the existing site, the lack of parking and the potential for damage that could be caused to an area of Howe Park that had recently been upgraded by Council at some expense to the community. All of these issues are considered to be public interest matters.
- 12.17** Accordingly, on the balance of probabilities and based on the evidence, the Review does not consider that Councillor Paine has breached her obligations in respect non-pecuniary conflict of interests under the Hawkesbury Council Code of Conduct.





### 13. Recommendations:

**13.1** For the reasons as outlined in this report the Reviewer makes the following recommendations:

**13.1.1** *It is recommended that* that no further action further action be taken in respect of the matter being the subject of this enquiry and that the Reviewer advise both the Complainant and Councillor Paine in writing of the reasons for such a decision.

**13.2** Should there be any further enquiries please do not hesitate to contact the writer directly.



K Thane  
Sole Conduct Reviewer

**CITY PLANNING**

**Item: 6**                      **CP - Development Report - DA0480/12 - Lot 2 DP 884356 - 67 Brown Road, Kurrajong - Three Lot Community Title Subdivision - (94598, 73916, 125590)**

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**Development Information**

**File Number:** DA0480/12  
**Property Address:** 67 Browns Road, Kurrajong  
**Applicant:** McKinlay Morgan & Associates Pty Ltd  
**Owner:** Croft Manor Farm Pty Ltd  
**Proposal Details:** Three Lot Community Title Subdivision  
**Estimated Cost:** N/A  
**Zone:** RU4 Primary Production Small Lots  
**Date Received:** 5 October 2012  
**Advertising:** 12 to 26 October 2012

**Recommendation:** Approval

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**REPORT:**

**Executive summary**

The application seeks approval for a three Lot Community Title Subdivision of Lot 2 in DP 884356, 67 Browns Road, Kurrajong.

It is proposed that the lots would be subdivided in accordance with the lot averaging requirements of Hawkesbury Local Environmental Plan 2012. Four submissions raising objection to the proposal have been received in response to the application.

Following a detailed assessment of the application it is recommended that the proposal be supported as the development is compliant with Council's subdivision requirements and the proposal is consistent with the general public interest.

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

**Issues Relevant to the Decision**

- Lot averaging requirements
- Flora and fauna preservation

**Description of Proposal**

The application proposes a three Lot Community Title Subdivision of Lot 2 in DP 884356, 67 Browns Road, Kurrajong. It is proposed that the existing lot would be subdivided as follows:

Proposed Lot 1    to be known as Pt 1 and be a community allotment shared by proposed Lot 2 and 3. The lot would total approximately 11.9 ha in area and contain a private accessway and the native vegetation communities located on the subject site.

Proposed Lot 2    will total 2 ha and contain the existing dwelling and dam located on the subject site.

Proposed Lot 3 will total 1.5 ha and contain two existing sheds. It is proposed that this lot would be subdivided to allow for the construction of a new dwelling on the land.

The application is supported by the following documents:

- Statement of Environmental Effects, dated October 2012, prepared by McKinlay Morgan & Associates;
- Bushfire Threat Evaluation report, dated October 2012, prepared by McKinlay Morgan & Associates;
- Feasibility of on-site wastewater treatment and disposal systems and concrete driveway widening, dated August 2012, prepared by Toby Fiander & Associates; and
- Flora and fauna assessment report, dated September 2012, prepared by T.J. Hawkeswood Scientific Consulting.

### **Description of the Land and its Surroundings**

The land has a total area of 15.41ha and contains a single storey dwelling, garage, two sheds and a dam.

Approximately 11.8ha of the site is occupied by native vegetation which is located at the rear of the property. A number of natural drainage lines run through the property and drain towards Little Wheeney Creek which runs along the western property boundary.

The surrounding area is predominantly occupied by rural residential properties on lots ranging in size from 5000m<sup>2</sup> to 8ha.

Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 44 - Koala Habitat Protection (SEPP 44)
- Sydney Regional Environmental Plan No 20 (No.2 - 1997) - Hawkesbury Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan 2012
- Hawkesbury Development Control Plan 2002

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

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

**a. The provisions of any:**

**i Environmental Planning Instrument:**

#### **State Environmental Planning Policy No. 44 - Koala Habitat Protection**

This plan applies to land within the Hawkesbury Local Government Area for which development consent is sought having a total land area in excess of 1 hectare. The application does not propose the removal of any vegetation which is considered to be core koala habitat or potential koala habitat. Council is not prevented from granting consent to the proposal under this plan.

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

An assessment of the proposal against this plan has been undertaken and it is considered that the proposed development is consistent with the general and specific matters for consideration, specific planning policies and recommended strategies and development controls of this plan.

### **Hawkesbury Local Environmental Plan 2012**

The proposal is consistent with the requirements of Hawkesbury Local Environmental Plan 2012. The subject property is zoned RU4 Primary Production Small Lots. The minimum lot size map shows a minimum allotment size of 4ha for the land.

The application has been submitted pursuant to Clause 4.1C which provides an exemption to the minimum allotment size requirement within the RU4 Primary Production Small Lots zone where it can be demonstrated that at least 20% of the lot being subdivided is occupied by an endangered ecological community and that an averaging subdivision would result in a better environmental outcome for the development of the land.

The application is supported by a flora and fauna assessment report which has identified that the land contains approximately 3.2ha (21%) of endangered ecological communities, being made up of Shale Sandstone Transition Forest and Western Sydney Dry Rainforest.

The application has nominated that the proposed building envelope of lot 3 would be located close to the existing dwelling on site in order to minimise the potential disturbance of any native vegetation for the purposes of the erection of a dwelling, establishment of effluent disposal or bushfire asset protection zones.

The proposed subdivision would not result in the creation of any more lots than what would have been permitted under the general minimum lot size rules and the proposed lots are greater than the 1ha minimum lot size requirement for lot averaging.

The proposal is consistent with the requirements for subdivision under Clause 4.1C of this plan and the overall objectives of the zone in that the proposed averaging subdivision would allow for both the rural residential development of the land and preservation of existing endangered ecological communities identified on the subject land.

In addition to the above, the proposal is consistent having regard to following clauses of Hawkesbury Local Environmental Plan 2012:

Clause 1.2 of Part 1 – Aims of Plan  
Clause 1.4 of Part 1 - Definitions  
Clause 4.1AA of Part 4 – Principal development Standards  
Clause 4.2 of Part 4 – Rural Subdivision  
Clause 5.9 of Part 5 – Preservation of trees or vegetation  
Clause 6.1 of Part 6 - Acid sulfate soils

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

There are no draft environmental planning instruments that directly relate to the land or the specified development.

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

### **Hawkesbury Development Control Plan (HDCP) 2002**

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

#### Part A Chapter 2 - General Information

The subject application 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 2002. Four (4) submissions raising objection to the proposal were received in response to the application and are discussed under the public submission section of this report.

Part D Chapter 2 – Subdivision

The proposal is considered to be generally in accordance with the requirements of this chapter. The location of the building envelopes for proposed lots 2 and 3 is acceptable as their location would not result in any significant impacts on the visual quality of the area. Any future dwelling on proposed Lot 3 would not require the removal of any native vegetation or development of any significant ridge top or visually prominent location.

The proposal complies with the rural lot size requirements of HLEP 2012 and an effluent disposal report has been submitted in accordance with the requirements of this plan to demonstrate that adequate sewer would be able to be provided to proposed lot 2 and 3.

The subdivision does not strictly comply with the set rules in relation to width to depth ratios and driveway access. In this respect the prescribed width to depth ratio of new allotments is set at 1:5 and the minimum driveway access requirement width is 4.5m.

The applicant has requested Council consider a variation to the width to depth ratio rules on the basis that the lots are generally regular in shape and the proposed 1:6 ratio provided does not prevent the land from being used for rural residential purposes. It is also acknowledged that the existing lot is irregular in size and does not comply with the width to depth ratio rules.

In respect to driveway access the applicant proposes that the existing 2.9m concrete sealed driveway would be widened in parts to allow for adequate onsite vehicle passing.

It is considered that the variations requested in relation to width to depth ratio and access be supported as the applicant has been able to demonstrate that non compliance with the rules would not result in any significant issues in terms of use of the land or traffic generation.

Furthermore it is noted that the NSW Rural Fire Service (RFS) have reviewed the width of the driveway and supported the proposal subject to conditions.

- 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 Environmental Planning and Assessment Regulation 2000 requires that the proposal be levied against Council's Section 94A Development Contributions Plan.

As the estimated cost of development is below \$100,000 the development is not required to be levied against Hawkesbury City Council's Section 94A Development Contributions Plan 2006.

- 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 would have any adverse environmental or social impacts on the locality. The subdivision would aid in preserving existing vegetation communities located on the site and allow for the suitable rural residential development of the land without fragmenting any existing bushland.

The subdivision is not located within close proximity to any listed heritage items and the application is supported by sufficient information to demonstrate that the proposed lots would be able to be appropriately serviced.

**c. Suitability of the site for the development:**

A summary of the suitability of the site for the development has been undertaken in the report above and it is considered that the proposal is consistent with the planning controls which relate to the land.

The land is not affected by landslip or flooding and the information provided suggests that the land has not been used for any purposes that would raise any issues in terms of land contamination.

The application has been referred to Council's Subdivision and Development Engineer who has reviewed the proposal. No objections were raised subject to the proposal complying with Council's standard subdivision conditions and the recommendations of the RFS.

The application has been referred to Council's Environmental Health Officer who reviewed the proposal. They noted that the existing sewer system would have to be re-inspected and issued with a current "licence to operate" by Council prior to the creation of a new lot. Appropriate conditions have been recommended in this regard.

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

**NSW Rural Fire Service**

The application was referred to the RFS as the development requires approval under section 100B of the 'Rural Fires Act 1997.

On 17 January 2012 the RFS issued their General Terms of Approval subject to conditions. The conditions attached to the General Terms of Approval have been included as part of the recommended conditions of consent.

**Public Submissions**

Four submissions (including a petition signed by 21 people) were received in respect to the notification of the development raising the following issues:

**Traffic**

- Increased traffic from new lot
- Increased noise and headlight impacts from cars using driveway
- Access to the community title block has not been shown
- Privacy of dwellings located beside the driveway
- Drainage from driveway works would change water flows

*Comment:* The proposal intends to utilise an existing battleaxe handle used to service the existing dwelling. It is considered that the traffic generation associated with the creation of an additional development lot (proposed lot 3) would be low and not of a nature that would significantly impact the amenity of the surrounding area.

It is considered that the access proposed would suitably service the proposed development. Additionally it is noted that the community title lot known as lot 1 is not required to have direct access to the road as the allotment will not have a dwelling entitlement and would be for the passive use of the other two allotments. Access to this lot would be gained through lots 2 and 3.

Appropriate conditions have been recommended in this report to require that any driveway works be conducted in a manner that would not impact the water flows of the area.

**Amenity of the locality**

- Increased number of dwellings within close proximity to each other
- Future dwelling would be visible from adjoining properties.
- The character of the area would change as a consequence of approving lots smaller than 4ha
- Impacts on existing dwellings views
- Increase in density of housing



*Comment:* The application has been submitted pursuant to Clause 4.1C of HLEP 2012. The very nature of this clause encourages smaller lots to be created in areas which are free of any native vegetation areas and aims to preserve contiguous parcels of bushland. Consequently the lot averaging subdivision rules essentially promote dwellings to be located closer to each other than what would be done if the lots were to be subdivided into 4ha allotments in accordance with the minimum allotment size map. It should be noted that the both properties surrounding the site have been already subdivided via lot averaging subdivision and it would be unlikely that the support of this subdivision would change the context of the locality.

It is considered that there is sufficient area available on proposed lot 3 for the development of a new dwelling that would not have a significant impact on the views of adjoining properties. A site inspection has revealed that the proposed development lots are of an adequate size and shape to provide for rural residential living appropriately setback from adjoining developments as there is sufficient separation between existing dwellings and the proposed building envelope.

**Flora and fauna**

- Discrepancy between the flora and fauna report submitted and other reports prepared for adjoining properties
- Validity of flora and fauna report
- Impacts on frog species on dam in adjoining property

*Comment:* Whilst the flora and fauna assessment report submitted does not identify the flora and fauna communities described in the flora and fauna assessment reports submitted for the neighbouring properties, it should be acknowledged that those reports did not undertake a specific survey of the subject site.

Council's vegetation mapping shows that Shale Sandstone Transition Woodland is located on the land which is identified as an endangered ecological community under the Threatened Species Act 1995.

The flora and fauna assessment report submitted has been prepared by a suitably qualified person who has been able to identify vegetation located on the site in accordance with the Threatened Species Survey and Assessment Guidelines 2004.

The flora and fauna report has specifically identified that approximately 3.2ha of the 11.8ha native vegetation located on the site is occupied by endangered ecological communities.

The application has identified that both the proposed and existing wastewater disposal areas are located within an area that would ensure that there would be no impact on nearby property boundaries or watercourses.

Sufficient information has been submitted to determine that the proposal would preserve endangered ecological communities located on the site and the development of the land would be unlikely to have any adverse impacts on any nearby flora and fauna communities on the site or adjoining properties.

**Non- compliance with Council's subdivision requirements**

- The proposal does not comply with Council's requirements and other subdivisions approved within the area (specifically DA0416/05)
- The application proposes irregular shaped allotments

*Comment:* It is noted that there are a number of differences in relation to the current proposal and previously approved subdivisions, however the applicant has requested variations to Council's general requirements.

As detailed in the assessment report above it is considered that suitable justification has been provided in relation to why the proposal does not strictly comply with Council's DCP rules.

Furthermore it is considered that the shape of the allotments is appropriate given that the applicant has submitted a proposal that has taken into consideration the sites environmental constraints and location of existing buildings.

### **Conclusion**

It is considered that the issues raised in the submissions received do not warrant refusal of the application. Suitable conditions have been included in the recommended consent to ensure that the development can be carried out in a manner that would not have any adverse impacts on the locality.

#### **e. The Public Interest:**

Support of the subdivision is consistent with Council's subdivision rules and the general public interest as the proposal would encourage the use of the land for rural residential purposes while allowing for the preservation of existing endangered ecological communities.

It is considered that the matters raised as a result of the neighbour notification process have been adequately addressed as part of the assessment of this proposal.

### **Conclusion**

The environmental impacts anticipated with the proposal are those relating to flora and fauna, effluent disposal, access and amenity. The management of these impacts has been addressed in the information submitted with the application and in the report above.

### **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:**

It is recommended that development application DA0480/12 at Lot 2 in DP 884356, 67 Browns Road, Kurrajong for a three Lot Community Title Subdivision be approved subject to the following conditions:

#### **New South Wales Rural Fire Service Conditions**

##### **Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the issue of subdivision certificate and in perpetuity the entire property of proposed Lots 2 and 3 shall continue to be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

##### **Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

2. The existing property access road shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006' except where modified below:

The vegetation within the battle axe handle of the driveway shall be maintained at a minimum width of 3.5m and widened to 6m for the length of the passing bay; The passing bay shall have a minimum trafficable width of 5m and 20m long; A suitable turning area for a medium rigid vehicle shall be provided for in the vicinity of the existing dwelling.

#### **Landscaping**

3. Landscaping surrounding the existing dwelling shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

#### **Hawkesbury City Council General Conditions**

4. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
5. No excavation, site works or building works shall be commenced prior to the issue of an appropriate construction certificate.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.

#### **Prior to Issue of Construction Certificate**

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

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

8. Construction of the access is not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director of City Planning or an Accredited Certifier.
9. Payment of a Construction certificate checking fee of \$305.30 and a Compliance Certificate inspection fee of \$620.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2013. Fees required if an accredited certifier is used will be provided on request.

#### **Prior to Commencement of Works**

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. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
12. 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.
13. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
14. 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.

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

15. 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**

16. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
17. During the construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
18. 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. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
22. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
23. The existing pavement along the access strip shall comply with the conditions recommended by the New South Wales Rural Fire Services, with the widening constructed appropriate to the gradient of the land in accordance with the following table ( as a minimum requirement):

Gradient	Surface Construction
0-16%	Compacted crushed rock
17-20%	Bitumen seal
21-25%	Reinforced concrete

Driveway gradient shall not exceed 25% in any section.

24. A bitumen sealed or concrete rural footway crossing minimum 5m wide shall be constructed to the subdivision in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification.
25. The natural vegetation within proposed Lot 1 shall be fenced off to prevent domestic animals and live stock from entering these areas.
26. The large shed to be located on proposed Lot 3 shall be modified so that the roller-doors are located on the Southern side of the building.
27. It is required that the existing on-site sewage management system be inspected by Council and be issued with a current licence to operate.

Documentation shall be submitted to Council showing that the on-site sewage management system (tank and disposal area) is located wholly on proposed Lot 2.

**Prior to Issue of Subdivision Certificate**

28. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
29. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
30. Written clearance from the electricity provider shall be submitted to the Principal Certifying Authority.
31. A plan of subdivision prepared to the requirements of the Land Titles Office, shall be submitted to Council, with four copies.
32. A survey plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal shall be submitted to Council. The plan shall demonstrate that there are no encroachments over remaining or proposed boundaries.
33. A Management Statement complying with Schedule III of the Community Land Development Act, 1989 shall be lodged with and approved by Council. This statement is to include a provision that Lot 1 is not to be used for the purpose of erecting a dwelling or any other building.
34. Payment of a Subdivision Certificate Release Fee in accordance with Council's Fees and Charges at the time of lodgement of the linen plan.
35. Creation of a restriction on use of land pursuant to the Conveyancing Act as follows:
  - a) Requiring that any future dwelling on Lot 3 be restricted to the building envelope shown on the Plan of Proposed Community Title Subdivision, Dwg 89914:DA:18, dated 27.9.2012, prepared by McKinlay Morgan & Associates.
  - b) Requiring that any future dwelling on Lot 3 be restricted to a maximum cut or fill depth of 2m.
  - c) Requiring that all development on the lots be confined to Lots 2 and 3.
  - d) Prohibiting clearing of native vegetation located on Lot 1.
  - e) Prohibiting domestic animals and stock from entering the native vegetation areas on Lot 1.
  - f) Prohibiting the development of a structure, including a dwelling, on Lot 1.

**Advisory Notes**

- The applicant is advised to consult with the relevant:
  - a) Water and sewer provider
  - b) Electricity provider
  - c) Natural gas provider
  - d) Telecommunications carrier
  - e) Road authority

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

- The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

**ATTACHMENTS:**

**AT - 1** Locality Plan,

**AT - 2** Aerial Photograph,

**AT - 3** Subdivision Plan

**Meeting Date: 5 February 2013**

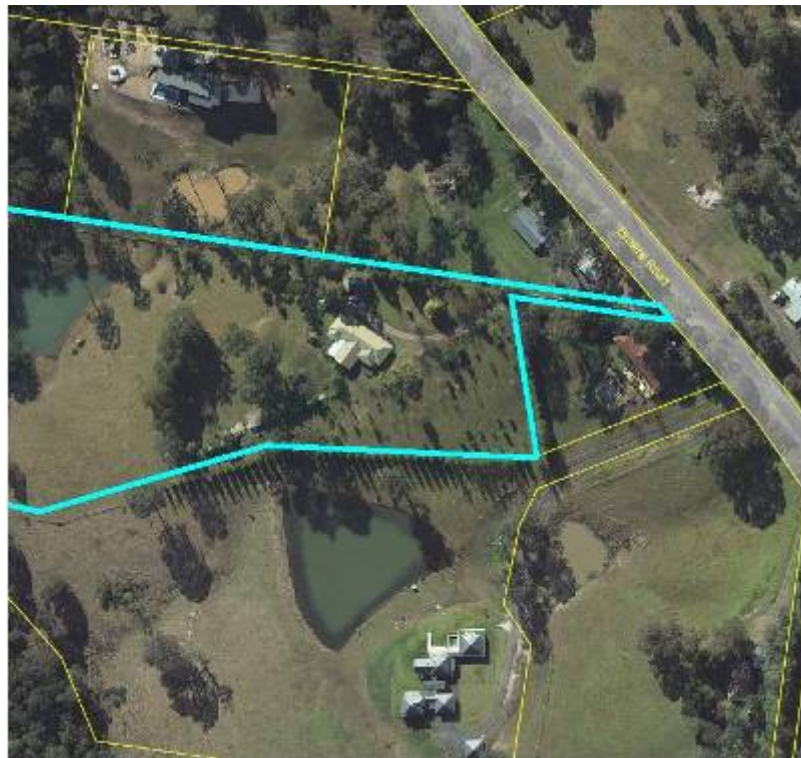
[illegible]



AT - 2 Aerial Photograph.



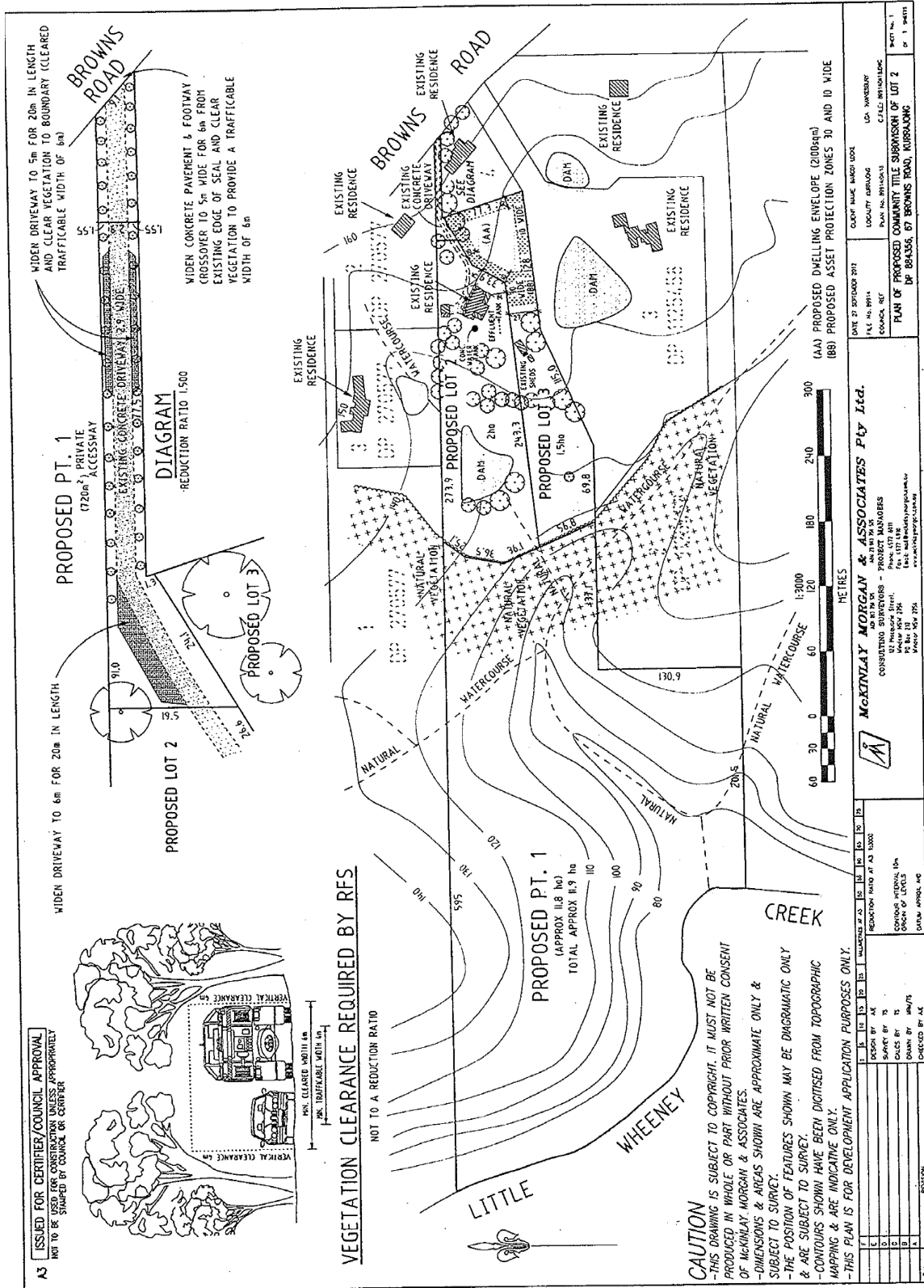
Subject Site



Enlarged aerial view of existing dwelling and proposed dwelling area



AT - 3 Subdivision Plan



**Item: 7 CP - Planning Proposal - 278 Hermitage Road, Kurrajong Hills - (95498)**

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**REPORT:**

**Executive Summary**

Council has received a planning proposal from Barker Ryan Stewart Pty Ltd on behalf of Mountain Island Pty Ltd to rezone part of the subject land at 278 Heritage Road, Kurrajong Hills known as "Middle Island" from E4 Environmental Living to R5 Large Lot Residential under Hawkesbury Local Environmental Plan 2012 (HLEP 2012) and amend the Minimum Lot Size Map Sheet - LSZ\_008A of HLEP 2012 to allow subdivision of the land into 450 Large Lot Residential allotments having a minimum area of 2,000m<sup>2</sup>.

The purpose of this report is to provide an assessment of the Planning Proposal and to recommend that the Planning Proposal not proceed.

**Consultation**

Consultation with the public and the relevant government authorities on the Planning Proposal would be undertaken in accordance with Section 56(2) of the *Environmental Planning and Assessment Act, 1979* (the Act) should the proposal be progressed and obtain a "Gateway Determination" from the Department of Planning & Infrastructure (DP & I).

**Background**

The subject land known as 'The Islands,' consists of three areas of land identified as "Little Island", "Middle Island" and "Big Island". On 4 August 1989 Council granted consent for a development application (DA0448/88) for the following development on the land:

- 59 rural residential lots on part of the subject site known as "Little Island".
- 140 rural residential lots, 200 room hotel, health management centre, country club, equestrian centre, 9 hole golf course, tennis courts, swimming pool and parking for 300 cars on part of the land known as "Middle Island".
- 18 hole golf course and club house on another area of land within the site known as "Big Island".

According to Council's records the above approved development has not been physically commenced. The applicant states that the current land owner has received legal advice confirming substantial commencement of the development within the consent period and asserts that the approved development can be carried out on the land. The application also states that the land owner's preference is to develop the site under a new planning proposal rather than under the previous development consent. However, the above stated legal advice has not been included as part of this application. Council has previously received legal advice that the development has not been physically commenced within the consent period and therefore it is considered that the consent is no longer valid for the land.

The landowner has signalled their intent to pursue the matter of the validity of the existing development consent but that would be addressed as a separate matter to the current planning proposal.

**The Site and Surrounds**

As shown in the following table the subject site is divided into three areas of land identified as "Big Island", "Middle Island" and "Little Island" by Little Island Creek, Middle Island Creek and Big Island Creek (see Attachment 1 to this report). These creeks run eastward into Little Wheeney Creek which flows north from the property.

## ORDINARY MEETING

Meeting Date: 5 February 2013

Area	Property Description	Street Address	Area
Big Island	Lot 1 DP 184741	278A Hermitage Road	452.2ha
Middle Island	Lot 181 DP 701978	278 Heritage Road	278.8ha
Part of Little island	Lot 200 DP 1012480	276A Hermitage Road	52.73ha

Part of Little Island has been previously approved and developed for 32 residential allotments under *Community Land Development Act 1989* (see Attachment 1 to this report).

Currently the Middle Island on Lot 181 DP 701978 is zoned E4 Environmental Living and the rest of the land is zoned E3 Environmental Management under HLEP 2012. Lot 1 DP 184741 known as Big Island is also zoned part E4 Environmental Living and E3 Environmental Management and Lot 200 DP 1012480 which is the residue part of Little Island is zoned E3 Environmental Management (see Attachment 2 to this report).

The land is located approximately 2.5km north of Kurrajong Hills and 5km north-west of Kurrajong, and has been previously used for logging, cattle grazing and vegetable growing, farming and more recently as an Arabian Horse Stud. Pine trees also have been planted in mid to late 60's. The site contains a weatherboard homestead, swimming pool, sheds, fenced paddocks, dams, sandstone quarry, horse stables, irrigation infrastructure and associated farm infrastructure.

All of the site is "bushfire prone land" (primarily vegetation category 1) according to NSW Rural Fire Service's Bushfire Prone Land Map and the site is "Class 5" land as shown on Council's Acid Sulfate Soils Planning Map.

The surrounding land to the north is currently zoned E1 National Parks and Nature Reserves, land to the east is zoned E1 National Parks and Nature Reserves and RU4 Primary Production Small Lots, land to the south is zoned RU4 Primary Production Small Lots and E4 Environmental Living and land to the west is zoned E1 National Parks and Nature Reserves and E4 Environmental Living (see Attachment 2 to this report).

The predominant surrounding land uses are Wollemi National Park, Newnes State Forest, Blue Mountain National Park and rural residential development (see Attachment 3 to this report)

### Planning Proposal

The Planning Proposal seeks to rezone part of Lot 181 DP 701978, 278 Hermitage Road, Kurrajong Hills known as the 'Middle Island' (as shown in Attachment 2) to R5 Large Lot Residential under HLEP 2012 and amend the Minimum Lot Size Map Sheet - LSZ\_008A of HLEP 2012 to enable future subdivision of the 'Middle Island' into 450 residential allotments in varying sizes ranging from 2,000m<sup>2</sup> - 1ha (see Attachment 4 to this report). The Planning Proposal seeks to retain the current E3 Environmental Management zoning of the residue land of the Middle Island and preserve Lot 200 DP 101240 which is part of Little Island for conservation purposes.

The application for the Planning Proposal indicates that the future residential subdivision development will be restricted to the plateaus on Middle Island, previously cleared areas and the areas previously approved under DA 0448/88 (*as mentioned previously in this report it is considered that this DA has lapsed and the applicant's statement that the clearing occurred as part of this DA has not been verified*). Attachment A - to the Planning Proposal referred to as a Master Plan shows these areas in a very basic sketch form with no details of the proposed subdivision.

## **Assessment**

### ***Applicant's Justification of the Proposal***

The Planning Proposal is almost entirely based on the land owner's formal request to rezone the land to enable future subdivision of the 'Middle Island into 450 residential allotments and is not the result of any strategic study or report. The Planning Proposal does not provide a rationale or a sound justification for the need of the proposal. With no sound justification it would not be possible to set out a case for making the proposed plan according to the DP & I's 'A guide to preparing planning proposals'.

### ***Metropolitan Plan for Sydney 2036***

The strategic plan prepared by the NSW Government entitled the *Metropolitan Plan for Sydney 2036* (Metro Plan) updates and replaces the Sydney Metropolitan Strategy. The aim of this strategic plan is to integrate land use and transport planning to provide a framework for the growth and development of the Sydney region to 2036.

The Metro Plan aims to achieve the 770,000 additional dwellings by 2036. In order to achieve this target it aims to focus residential development within centres and corridors with access to public transport and local services and provide 80% of the targeted housing within walking catchments of existing and planned centres of all sizes with good access to public transport and infrastructure. The other remaining 20% of new housing is targeted within Greenfield areas and it does not aim to achieve this target using rural areas that are away from existing or planned centres.

### ***Assessment Comments***

Kurrajong Hills is not identified as a centre in the Metro Plan and the closest centre to the proposed development is Kurrajong neighbourhood centre which is located approximately 5km south-west of the site. Also the subject site is not located within an identified corridor with access to public transport and local services in the Hawkesbury Local Government Area. The location of the subject site does not satisfy the abovementioned locational criteria specified for the targeted new housing in the Metro Plan. Therefore it is not considered that the site is consistent with the strategic directions identified in the Metropolitan Plan.

### ***Draft North West Subregional Strategy***

The draft North West Subregional Strategy (dNWSS) requires the provision of new housing in existing urban areas, focused around centres and corridors. This is to take advantage of existing services such as shops and public transport. The dNWSS acknowledges the North West subregion's valuable rural resource lands in the Sydney Region and encourages development of those rural resource lands for agri-based tourism and other related land uses to contribute to the local economy.

### ***Assessment Comments***

Given the location of the site far from a centre or an urban corridor, lack of environmental capability to support the proposed 450 residential lot subdivision, physical features and its agricultural, farming and ecological values the site is considered as valuable rural land which has some potential for development other than residential subdivision. In this regard the Planning Proposal is not considered consistent with the dNWSS.

### ***Section 117 Directions***

Section 117 directions are issued by the Minister for Planning and Infrastructure and apply to planning proposals. Typically, the 117 directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal. The following directions are relevant the planning proposal:

### *1.5 Rural Lands*

The objectives of this direction are to:

- *Protect the agricultural production value of rural land.*
- *Facilitate the orderly and economic development of rural lands for rural and related purposes.*

This direction requires a planning proposal that changes the existing minimum lot size on land within a rural or environmental protection zone to comply with the Rural Subdivision Principles listed in *State Environmental Plan (Rural Lands) 2008*. These principles include:

- the minimisation of rural land fragmentation,
- the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,
- the consideration of the natural and physical constraints and opportunities of land.

#### **Assessment Comments**

The Planning Proposal seeks to amend Map Sheet No. –LSZ\_008A of HLEP2012 to allow 2000m<sup>2</sup> minimum lots on the Middle Island. The current minimum lot size applying to this island is 40ha. As the subject site has a significant land area (278ha) with some agricultural production value and has previously been used for agricultural and farming purposes the proposal to change minimum lot size from 40ha to 2000m<sup>2</sup> would result in significant fragmentation of the land and reduced agricultural production value. Therefore the proposed amendment to Map Sheet No –LSZ\_008A of HLEP2012 is not considered consistent with this direction.

### *2.1 Environmental Protection Zones*

The objective of this direction is to protect and conserve environmentally sensitive areas. This direction requires a planning proposal to include provisions that facilitate the protection and conservation of environmentally sensitive areas and not to reduce environmental protection standards that apply to the land

#### **Assessment Comments**

As commented under Direction 1.5 Rural Lands above, the Planning proposal seeking to amend the current lot size map to reduce the minimum lot size on the land would not help achieve the objective of this direction

### *3.1 Residential Zones*

The objectives of this direction are to:

- *Encourage a variety and choice of housing types to provide for existing and future housing needs.*
- *Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services.*
- *Minimise the impact of residential development on the environment and resource land.*

This direction requires a planning proposal to include a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to Council, or other appropriate authority, have been made it service it).

**Assessment Comments**

According to this requirement and the above objectives appropriate access to and efficient use of existing infrastructure and services are vital but the subject site does not have good access to the required public infrastructure, facilities and services to support the future residential development. Nor are there any concept arrangements for the servicing of such a development. Therefore, the Planning Proposal is not considered consistent with this direction.

**3.4 Integrated Land Use and Transport**

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport,
- (b) increasing the choice of available transport and reducing dependence on cars,
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car,
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

**Assessment Comments**

The Department of Planning's guidelines '*Integrated Landuse and Transport*' seeks to improve the integration of land use and transport planning. As the subject site does not have good access to public infrastructure, facilities and services including a public transport system within a reasonable walking distance it is considered that the Planning Proposal would not be able to achieve the objectives of this direction and is inconsistent with this Direction.

**4.1 Acid Sulfate Soils**

This direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&I. The subject site is identified as Class 5 on the Acid Sulfate Soils Map held by Council. As HLEP 2012 includes provisions to deal with acid sulphate soils it is considered that a detailed consideration of the DPI's Acid Sulfate Soils Planning Guidelines is not required at this stage.

**4.4 Planning for Bushfire Protection**

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

**Assessment Comments**

The whole site is "bushfire prone land" (primarily vegetation category 1) according to NSW Rural Fire Service's Bushfire Prone Land Map. Accordingly, the Planning Proposal is to be consulted with the Commissioner of the NSW Rural Fire Service.

**6.1 Approval and Referral Requirements**

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

**Assessment Comments**

This planning proposal is consistent with this direction as it does not require the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

### 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessary restrictive site specific planning controls, such as those that currently apply to the land under the provisions of Schedule 1 of the Hawkesbury LEP 2012.

#### **Assessment Comments**

The proposal is consistent with this direction as it does not specify any restrictive provisions for future development on the land other than those already specified in the HLEP 2012.

### 7.1 Implementation of the Metropolitan Plan for Sydney 2036

#### **Assessment Comments**

As previously mentioned the subject site is not strategically located with good access to infrastructure and services to provide new housing as targeted in the Metro Plan. Therefore the Planning Proposal is not considered as an effective tool to implement the Metro Plan.

### **Hawkesbury Residential Land Strategy 2011**

In response to the dNWSS Council adopted the Hawkesbury Residential Land Strategy (HRLS) in May 2011. The HRLS guides future residential development within the LGA, with the aim of accommodating between 5,000 and 6,000 new dwellings by 2031. The HRLS seeks to locate much of the future growth within existing areas to minimise fragmentation of agricultural land, demand on public infrastructure and impacts on environmental sensitive and scenic landscape areas accordance with the Metro Plan. Therefore the Hawkesbury Residential Development Model focuses on future residential development in urban areas and key centres.

However, the HRLS recognises the importance of maintaining the viability of existing rural villages. As such, the HRLS has developed strategic criteria for large lot residential or rural residential development to focus around existing rural villages. This strategy recommends large lot residential dwellings:

To focus proximity to villages and services and facilities.

- *To minimise impacts on agricultural land, protect scenic landscape and natural areas.*
- *To occur within servicing limits or constraints.*

Additionally development within and adjacent to rural villages must cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within a 1km radius) and only occur within the capacity of the rural village.

#### **Assessment Comments**

Given the Metro Plan does not identify Kurrajong Hills as a centre, the closest centre, Kurrajong neighbourhood centre, is located 5km away from the site. The subject site has a lack of good access to infrastructure and services and there are no indications in the application as to how these shortfalls are to be overcome. The likely impact of the proposed development on agricultural, ecological and scenic values is also likely to be significant. The Planning Proposal seeking rezoning of the land to allow subdivision is not considered to be consistent with that strategy and is not an appropriate tool to achieve the established aims and objectives of HRLS.

### **Hawkesbury Local Environmental Plan 2012**

The subject land is currently zoned E4 Environmental Living under HLEP 2012. This zone identifies a number of objectives. These include:

- *To provide for low-impact residential development with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

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- *To ensure that land uses are compatible with existing infrastructure, services and facilities and with the environmental capabilities of the land.*
- *To restrict development on land that is inappropriate for development because of its physical characteristics or bushfire risk.*
- *To promote the conservation and enhancement of local native vegetation, including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To encourage existing sustainable agricultural activities.*

Given the site's current ecological, aesthetic and agricultural values, presence of threatened species and remnant vegetation, lack of access to the required level of infrastructure, services and facilities, environmental incapability due to significant development constraints including poor site access arrangement and steep slopes and the predominant land uses in the immediate vicinity being national parks and reserves, the current E4 zoning allowing low-impact residential development such as dwelling houses and attached dual occupancies and retaining ecological, aesthetic and agricultural values is considered the best zoning for the land.

According to Map Sheet No- LSZ\_008A of HLEP 2012 the minimum lot size applying to the land is 40ha. Given the site's agricultural, ecological and aesthetic values, location, physical characteristics and development constraints the current minimum lot is considered appropriate for the land. The proposed amendment to the zoning map to allow 2000m<sup>2</sup> minimum lots on the land would contribute to significant fragmentation of the land and thereby significantly affect those values of the land.

Although the repealed HLEP 1989 made site specific provisions for development of 'The Islands', HLEP 2012 makes no site specific provisions for development of the land. This is because the specific clauses dealing with the land were acted upon in April 1992 and, as such, had no further work to perform as they had already been enacted. The redundant clauses had been replaced with the strategic provisions of the HRLS and, as such, were no longer needed in the HLEP.

### **Services**

The site has no access to a reticulated water system, and the Planning Proposal states that the future 450 residential lot development on the land will rely upon other means of water supplies such as a combination of pumping from Middle Island Creek under licence, bore water, rainwater tanks, communal dams, grey water reuse and existing spring water supplies. None of these sources are considered a reliable, regular and adequate source of supply to support a major residential development. With no access to a reliable and adequate source of water supply the Planning Proposal seeking rezoning of the land to enable a major subdivision containing 450 residential allotments on the land is considered inappropriate and unjustifiable.

The site also has no access to a reticulated sewerage system, and the Planning Proposal does not provide any information for an on-site sewage management system. A geotechnical assessment demonstrating that the land is capable to have on-site sewerage management is not included in the Planning Proposal.

### **Traffic**

According to State Environmental Planning Policy (Infrastructure) 2007, a subdivision of land containing 200 or more allotments is a traffic generating development which requires the consultation with NSW Transport - Roads and Maritime Services (RMS) as part of the plan making process. The Planning Proposal does not include a traffic study/report to explain the likely traffic generation and impacts on the local road network and how the increased traffic volume of the proposed development would be accommodated within the existing or the future upgraded local and regional traffic network.



The site has no direct access to a public road and currently it is accessed via a private road which also provides access to 32 residential allotments on the Little Island. The Planning Proposal indicates that a secondary access to the site via Browns Road off Comleroy Road will be investigated but given the topography and the significant vegetation, this arrangement is unlikely to be viable.

In the event of a major fire in the locality the lack of a secondary access road as a fire evacuation route for such major development with 450 allotments is a significant issue. The Planning Proposal states that according to historic documents and maps other vehicle egress and ingress arrangements may be available and this matter will need to be consulted with the NSW Rural Fire Service at a more detailed stage of the proposal.

Given the current site access arrangement, the likely increase in traffic volume, capacity of the local road network, topographical constraints and no imminent proposals to upgrade the existing local road network in the vicinity to accommodate major developments such as proposed residential subdivision, it is considered that the Planning Proposal seeking rezoning of the land to allow future subdivision of the land into 450 residential allotments is not appropriate.

### **Vegetation**

In accordance with the Biodiversity Protection Map accompanying HLEP 2012, the site contains areas of endangered ecological communities and remnant vegetation. The Planning Proposal states that Hawkesbury Sandstone Dry Sclerophyll is the dominant vegetation type within the site, and this community is present on ridge tops, plateau surfaces and side slopes. Vegetation on ridge tops and plateau surfaces is generally characterised by an open forest structure with low tree density, where as slopes and in gullies a higher tree density open forest variant is prevalent. Well developed riparian areas containing Temperate Rainforest vegetation with a closed forest structure occur in deep gullies. The Planning Proposal indicates that threatened species may be present at the site and a detailed vegetation survey will be needed to determine the endangered species present at the site. The application also states that the flora and fauna assessment in support of the 1988 development application satisfactorily addressed these species.

Given the presence of significant endangered species and remnant vegetation on the land, any future development would require the preparation of a detailed, up to date flora and fauna report in accordance with Section 5A of the Act to determine the likely impact of the future development of the site on the existing vegetation. The flora and fauna assessment submitted in support the 1988 development application is 23 years old, outdated and cannot be taken into consideration.

### **Site Contamination**

Clause 6 of *State Environmental Planning Policy No 55 - Remediation of Land* requires consideration of contamination issues when assessing Planning proposals.

The site has been previously used for various uses including logging, cattle grazing, vegetable growing, farming and more recently as an Arabian Horse Stud. Table 1 - 'Some Activities that may Cause Contamination' of the Managing Land Contamination: Planning Guidelines identifies certain activities that may cause contamination and agricultural use is one of them. As the land has previously been used for agricultural purposes the land may be contaminated. However, the Planning Proposal does not provide adequate information on land contamination other than simply stating that the land contamination would be minimal given the use of the land for club related activities over 35 years.

### **Conclusion**

The assessment of the Planning Proposal seeking rezoning of the Middle Island to R5 Large Lot Residential with regard to the matters considered in this report reveals that:

1. *The Planning Proposal does not provide a rationale or a sound strategic (or otherwise) justification for the need of the proposal. With no sound justification it would not be possible to set out a case for making the proposed plan.*

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2. *The land has no appropriate physical characteristics or environmental capability to support large lot residential subdivision development as proposed in the Planning Proposal.*
3. *The land has no good access to public infrastructure, facilities and services to accommodate such a large residential subdivision seeking 450 residential allotments on the land.*
4. *Additional infrastructure including a major upgrade to local transport road network is required to support the proposed development.*
5. *The proposed residential subdivision containing 450 allotments having a minimum area of 2,000m<sup>2</sup> would contribute to the fragmentation of the land with significant ecological and agricultural values.*
6. *The Planning Proposal is not strategically recognised or important and does not meet the locational, or other, criteria identified in the Metropolitan, dNWSS and HRLS.*
7. *The Planning Proposal is inconsistent with certain relevant Section 117 Directions and these inconsistencies have not been justified in the Planning Proposal.*

Given the above matters raised and discussed in this report the Planning Proposal has no merit and is not worthy of support.

It is therefore recommended that Council not proceed with the Planning Proposal.

### Conformance to Community Strategic Plan

The proposal is related to the Shaping our future together Directions statement;

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

Consideration of the proposed Planning Proposal against the Community Strategic Plan, and the above Direction in particular, indicates that the planning proposal is not consistent with the Community Strategic Plan.

### Financial Implications

The applicant has paid the planning application fees required by Council's Revenue Pricing Policy for the preparation of a local environmental plan. Should the planning proposal not be supported, Council's fees and charges make provision for a partial refund of the fees paid.

### 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 the Planning Proposal not be supported nor forwarded to the Department of Planning and Infrastructure for a "Gateway Determination".

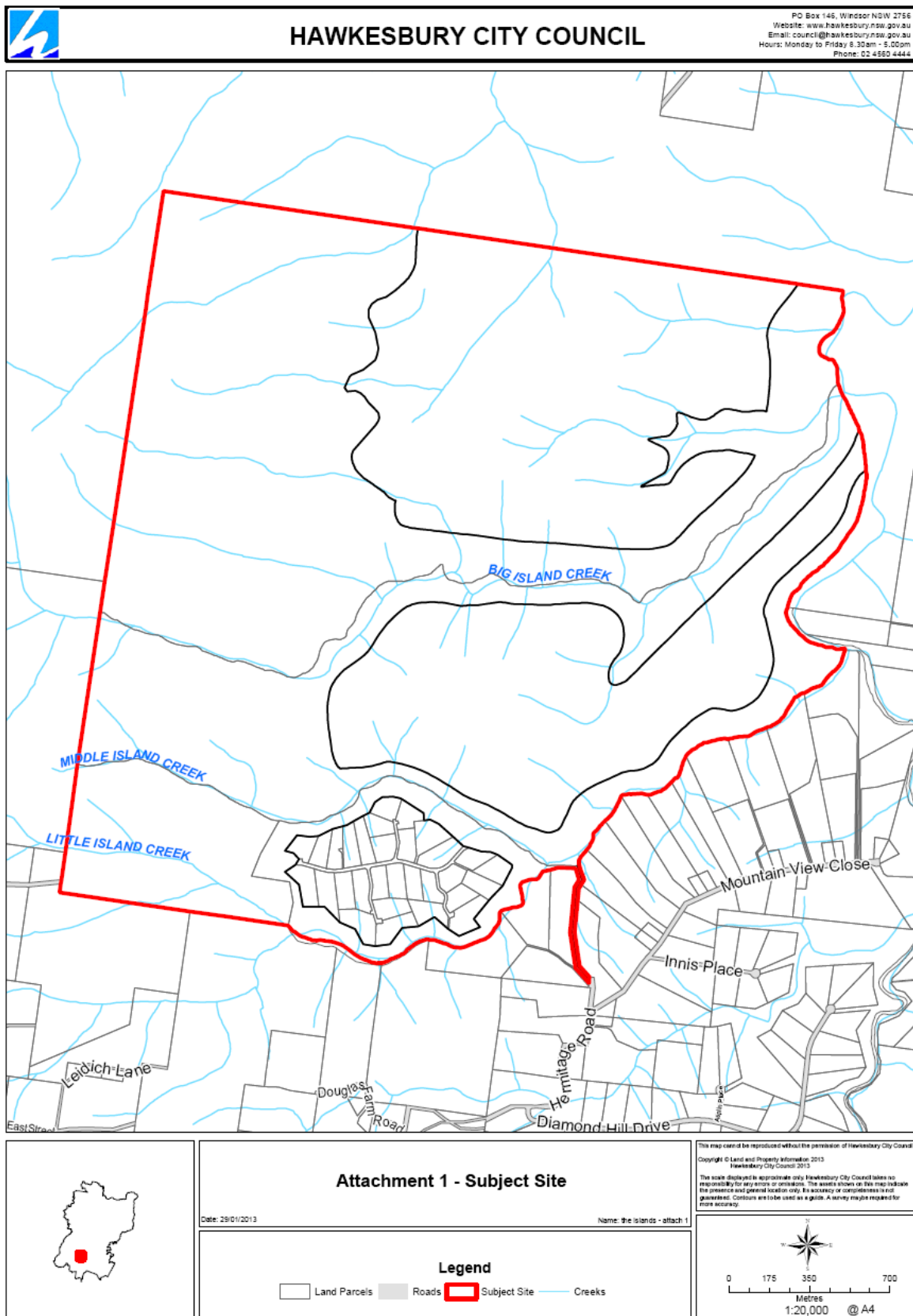
**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**ATTACHMENTS:**

- AT - 1**    Subject Site
- AT - 2**    Current Zoning of the Site and the Surrounds
- AT - 3**    Aerial View of the Site and the Surrounds
- AT - 4**    Planning Proposal - (*Distributed Under Separate Cover*)

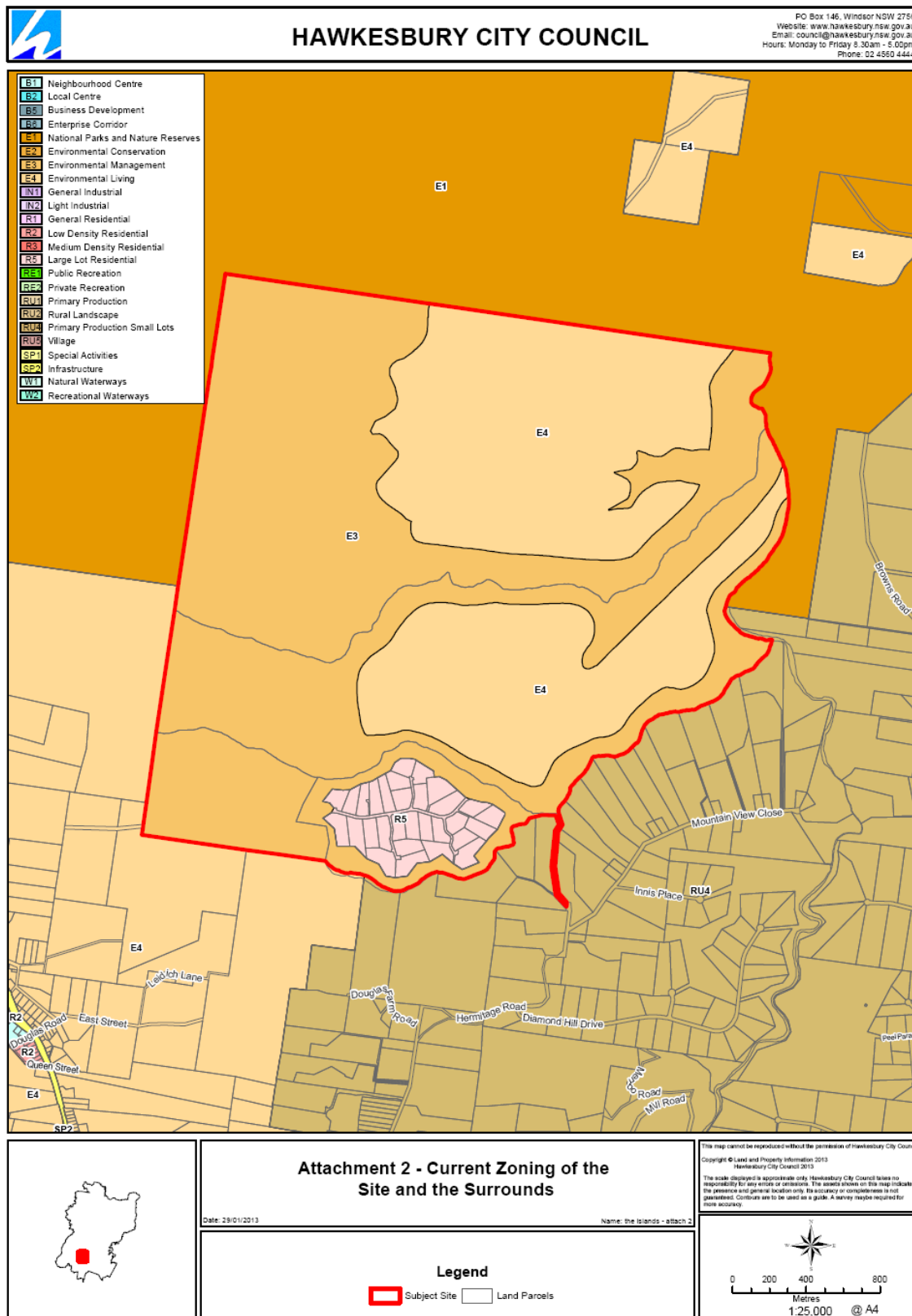
ORDINARY MEETING  
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AT - 1 Subject Site



**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

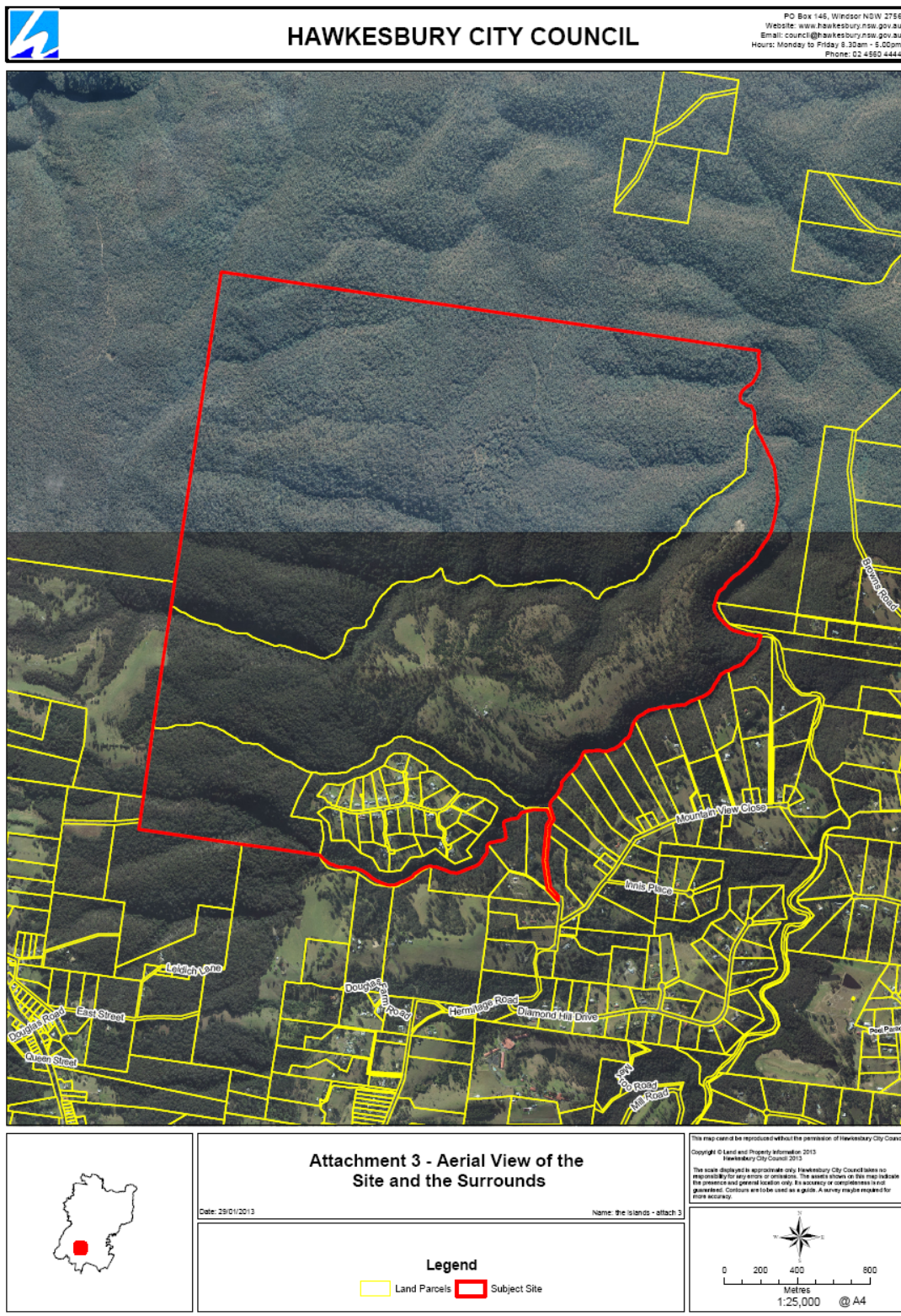
**AT - 2 Current Zoning of the Site and the Surrounds**





ORDINARY MEETING  
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AT - 3 Aerial View of the Site and the Surrounds



oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 5 February 2013

**Item: 8**                    **CP - Planning Proposal - 541, 545 and 547 Windsor Road and 389 Old Hawkesbury Road, Vineyard - (95498)**

**Previous Item:**        147, Ordinary (12 July 2011)  
                              41, Ordinary (27 March 2012)

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### REPORT:

#### Executive Summary

The purpose of this report is to advise Council of the outcome of the public exhibition and the public authority consultation on the Planning Proposal seeking the inclusion of certain land uses as additional permitted land uses in Schedule 1 Additional Permitted Uses (Schedule 1) of Hawkesbury Local Environmental Plan 2012 (HLEP 2012) to allow a range of small scale light industrial, ancillary retail, repair and service business activities on the subject land.

The submissions received by Council do not warrant any amendments to the exhibited Planning Proposal or the abandonment of the proposal. It is recommended that the Planning Proposal be forwarded to the Department of Planning & Infrastructure (DP & I) for the making of the plan.

#### Consultation

The consultation with the relevant public authorities and the public on the Planning Proposal has been completed in accordance with the "gateway determination" received from DP & I.

#### Background

On 12 July 2011 Council considered a planning proposal seeking rezoning of the subject land to part B1 Neighbourhood Centre and part IN2 Light Industrial under the then draft HLEP 2011 (now HLEP 2012) to allow certain retail/business and light industrial activities on the land. The resolution of that meeting was as follows:

*"That the matter be deferred to allow the applicant to confer with adjoining property owners and the Department of Planning with a view to considering a planning proposal for a larger area in the location".*

Given the Council's resolution advice on the matter was sought from the DP & I.

On 18 August 2011 Council received advice from the DP & I that the Vineyard Precinct has not been declared a release precinct under the *Environmental Planning and Assessment Regulation 2000* and currently there is no time schedule for the release of the precinct. The DP & I also advised that it does not support any rezoning of land in a precinct ahead of precinct planning and until the Vineyard Precinct is released and rezoned.

On 7 October 2011 Council Officers met with the applicant and the owner of the land to explain the DP & I's view on the Planning Proposal and discuss possible alternatives to address the current land use issues on the land. The inclusion of certain non-confirming land uses as additional permitted uses in Schedule 1 of the then draft HLEP 2011 was considered to be the only mechanism available for Council to receive and assess development applications and facilitate orderly development with no adverse impacts on the surrounding development.

As a result, on 13 October 2011 Council sought advice on this alternative approach from the DP & I. On 14 November 2011 advice was received from the DP & I advising that the proposed mechanism, with no negative impacts or impediments on the future precinct planning, is considered to be appropriate.

### Revised Planning Proposal

Following receipt of the advice from the DP & I Council prepared a revised Planning Proposal seeking utilisation of Schedule 1 in conjunction with Clause 2.5 Additional Permitted Uses for particular land of the then draft HLEP 2012 to list certain land uses as additional permitted uses on the land with Council's consent (see Attachment 1 to this report).

Council at its meeting of 27 March 2012 considered the revised Planning Proposal and resolved, in part, as follows:

*"That:*

1. *The Planning Proposal as outlined in this report be prepared and forwarded to the Minister for Planning and Infrastructure seeking a "gateway determination".*
2. *Upon receipt of notification of the "gateway determination" to proceed, Council exhibit the Planning Proposal in accordance with the requirements in the "gateway determination" and Environmental Planning and Assessment Act, 1979."*

The revised Planning Proposal was forwarded to the DP & I on 26 July 2012. A "gateway determination" advising Council to proceed to consultation with certain public authorities and the community was received on 12 September 2012 (see Attachment 2 to this report).

### Relevant Public Authority Consultation

According to the "gateway determination" and the provisions of Section 56(2)(d) of the *Environmental Planning and Assessment Act, 1979* (the Act) the Planning Proposal was referred to the following public authorities:

- Department of Environment & Heritage (National Parks and Wildlife Service)
- Department of Transport (Roads and Maritime Services)
- NSW Rural Fire Service

None of the submissions raised objections to the making of the plan other than some comments on the Planning Proposal (see Attachment 3). The NSW Rural Fire Service (RFS) advised that future development on bushfire prone properties identified within the subject land will need to be comply with either Section 79BA of the Act or Section 100B of the *Rural Fires Act 1997* depending upon the nature of the proposed development and will be assessed against *Planning for Bushfire Protection 2006*. This issue will need to be addressed at development application stage and therefore the RFS submission does not affect the progression of the Planning Proposal.

The NSW Transport - Roads and Maritime Services (RMS) submission advised that it will not support access to the site from Windsor Road and access to the site shall be from Old Hawkesbury Road or Chapman Road. Any future access points to the site from Chapman Road intersection shall be positioned at an adequate distance from the Windsor and Chapman Road intersection so as not to impact on the operation of the signalised intersection of Windsor Road/Chapman Road. It also advised that there are no acquisition plans affecting the land as the Windsor Road/Chapman Road intersection has previously been widened. Given the site has been accessed from both Old Hawkesbury Road and Chapman Road for many years and the applicant's planning proposal states that the current access arrangements to and from the site will remain unchanged the RMS submission does not warrant any changes to the Planning Proposal or the abandonment of the proposal.

The Department of Environment & Heritage submission advised that it has no interest in the Planning Proposal and provided no comments.



### **Community Consultation**

The Planning Proposal and supporting documentation was placed on public exhibition at the Council offices, 366 George Street, Windsor for the period 9 November 2012 - 26 November 2012, and it was also made available on Council's website for public viewing. A notice was placed in the Hawkesbury Courier newspaper on 8 November 2012 and letters advising of the planning proposal were sent to the adjoining and nearby land owners and occupiers.

No submissions were received from the community.

### **Conformance to Community Strategic Plan**

The Planning Proposal is consistent with the Supporting Business and Local Jobs Directions statement:

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of Hawkesbury residents and to reduce their travel times.

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

- Implement Employment Lands Strategy.

The Planning Proposal will enable increased business, retail and light industrial activities on the land and is considered to be an appropriate tool in the implementation of the Directions and Strategies contained in the Community Strategic Plan.

### **Conclusion**

Consultation with the community and the relevant public authorities do not warrant any changes to the exhibited Planning Proposal or the abandonment of the proposal and therefore it is recommended that the Planning Proposal be forwarded to DP & I for the making of the plan.

### **Financial Implications**

There are no financial implications arising from this report.

### **Planning Decision**

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

### **RECOMMENDATION:**

The planning proposal seeking the following amendments to Schedule 1 Additional Permitted Uses of Hawkesbury Local Environmental Plan 2012 be forwarded to the Department of Planning and Infrastructure for the making of the plan:

- *Include saw mill, timber yard and associated parking as additional permitted uses with a maximum total land area of 10,000m<sup>2</sup> at Lot 53 DP 593354, 389 Old Hawkesbury Road, Vineyard;*

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- *Include saw manufacturing, repairs and sales, industrial retail premises, other compatible light industrial uses and associated parking as additional permitted uses with a maximum total land area of 3,000m<sup>2</sup> and maximum gross floor area for the industrial retail premises of 150m<sup>2</sup> at Lot 5 DP 536674, 541 Windsor Road, Vineyard;*
- *Include hardware and building supplies, trailer hire business and associated parking as additional permitted uses with a maximum total floor area of 5,000m<sup>2</sup> and maximum gross floor area for the trailer hire premises of 325m<sup>2</sup> and maximum gross floor area for the building hardware store of 250m<sup>2</sup> at Lot 5 DP 536674 and Lots 10 & 11 DP 1080426, 541 – 547 Windsor Road, Vineyard; and*
- *Apply a limit of 2 years for development applications for the specified uses to be submitted with consent for new development lapsing upon completion of the Vineyard Precinct planning.*

### ATTACHMENTS:

- AT - 1 Planning Proposal - *(Distributed Under Separate Cover)*
- AT - 2 Gateway Determination
- AT - 3 Submissions from Public Authorities

AT - 2 Gateway Determination

Page 1



Planning &  
Infrastructure

Contact: Derryn John  
Phone: (02) 9860 1560  
Email: Derryn.John@planning.nsw.gov.au  
Postal: GPO Box 39, Sydney NSW 2001

Our ref: PP\_2012\_HAWKE\_004\_00 (12/12589-1)  
Your ref: LEP11001/11

Mr Peter Jackson  
General Manager  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

Hawkesbury City Council

12 SEP 2012

Dear Mr Jackson,

**Planning proposal to amend draft Hawkesbury Local Environmental Plan (LEP) 2012**

I am writing in response to your Council's letter dated 26 July 2012 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the draft Hawkesbury Local Environmental Plan (LEP) 2012 to allow additional permitted uses on land at Hawkesbury Road and Windsor Road, Vineyard.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

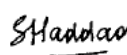
I have also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 4.1 Acid Sulphate Soils, 4.3 Flood Prone Land and 6.3 Site Specific Provisions are of minor significance. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal within four (4) weeks from the week following this determination. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Derryn John of the regional office of the department on 02 9860 1560.

Yours sincerely,

  
7/9/12  
Sam Haddad  
Director-General



**SCANNED**



## Gateway Determination

**Planning proposal (Department Ref: PP\_2012\_HAWKE\_004\_00):** to amend draft Hawkesbury Local Environmental Plan (LEP) 2012 to allow additional permitted uses on the subject land.

I, the Director-General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the draft Hawkesbury Local Environmental Plan (LEP) 2012 to:

- o include saw mill, timber yard and associated parking as additional permitted uses with a maximum total land area of 10,000m<sup>2</sup> at Lot 53 DP 593354, 389 Old Hawkesbury Road, Vineyard;
- o include saw manufacturing, repairs and sales, industrial retail premises, other compatible light industrial uses and associated parking as additional permitted uses with a maximum total land area of 3,000m<sup>2</sup> and maximum gross floor area for the industrial retail premises of 150m<sup>2</sup> at Lot 5 DP 536674, 541 Windsor Road, Vineyard;
- o include hardware and building supplies, trailer hire business and associated parking as additional permitted uses with a maximum total floor area of 5,000m<sup>2</sup> and maximum gross floor area for the trailer hire premises of 325m<sup>2</sup> and maximum gross floor area for the building hardware store of 250m<sup>2</sup> at Lot 5 DP 536674 and Lots 10 & 11 DP 1080426, 541 – 547 Windsor Road, Vineyard; and
- o apply a limit of 2 years for development applications for the specified uses to be submitted with consent for new development lapsing upon completion of Vineyard precinct.

should proceed subject to the following conditions:

1. Council is to consult with the Commissioner of the NSW Rural Fire Service in accordance with Section 117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary, to take into consideration any comments prior to the commencement of public exhibition.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
  - Department of Environment and Heritage (National Parks and Wildlife Service)
  - Department of Transport (Roads and Maritime Services)
  - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment

HAWKESBURY PP\_2012\_HAWKE\_004\_00 (12/12589-1)

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### Planning & Infrastructure

on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated        7        day of September        2012.


A handwritten signature in black ink, appearing to read "SHaddad".

**Sam Haddad**  
**Director-General**  
**Delegate of the Minister for Planning and Infrastructure**

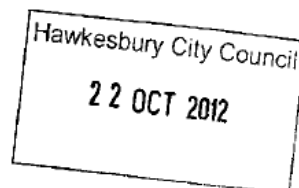
HAWKESBURY PP\_2012\_HAWKE\_004\_00 (12/12589-1)

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**AT - 3 Submissions from Public Authorities**

Our Reference: Your Reference: Contact: Telephone:	SYD12/00103/04 LEP11001/11 Pahee Sellathurai 8849 2219	 <b>Transport Roads &amp; Maritime Services</b>

The General Manager  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756



Attention: Karu Wijayasinghe

**ADDITIONAL PERMITTED USES IN SCHEDULE 1 OF DRAFT HAWKESBURY  
LOCAL ENVIRONMENTAL PLAN 2012  
389 OLD HAWKESBURY ROAD AND 541-547 WINDSOR ROAD, VINEYARD**

Dear Sir / Madam

I refer to your letter dated 19 September 2012 regarding the abovementioned planning proposal seeking to amend the Draft Hawkesbury Local Environmental Plan 2012. The proposal was submitted to Roads and Maritime Services (RMS) for comments in accordance with Section 56(2)(d) of the *Environmental Planning and Assessment Act* 1979.

RMS has reviewed the proposed additional permitted uses in Schedule 1 and provides the following comments:

**1. Access to Windsor Road**

RMS will not support access to the site from Windsor Road and all access to the site shall be from Old Hawkesbury Road or Chapman Road. Any future access points for the site from Chapman Road shall be positioned at an adequate distance from the Windsor Road and Chapman Road intersection so as not to impact on the operation of the traffic control signals at that intersection.

**2. Property Affection**

RMS has previously acquired and vested land for road along Windsor Road frontage of the subject property as shown by grey colour on the attached plan. A strip of land has also been dedicated as public road by private subdivision (DP593354) along Windsor Road frontage of the subject property as shown by yellow colour on the attached plan. RMS has no other approved proposal that requires any part of the subject property for road purposes.



**SCANNED**

Roads and Maritime Services

LEVEL 11, 27-31 ARGYLE STREET PARRAMATTA NSW 2150  
PO BOX 973 PARRAMATTA CBD NSW 2124 DX 28555  
[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au) | 13 22 13

**ORDINARY MEETING**

**Meeting Date: 5 February 2013**

Any inquiries in relation to this application can be directed to Pahee Sellathurai on telephone 8849 2219.

Yours sincerely

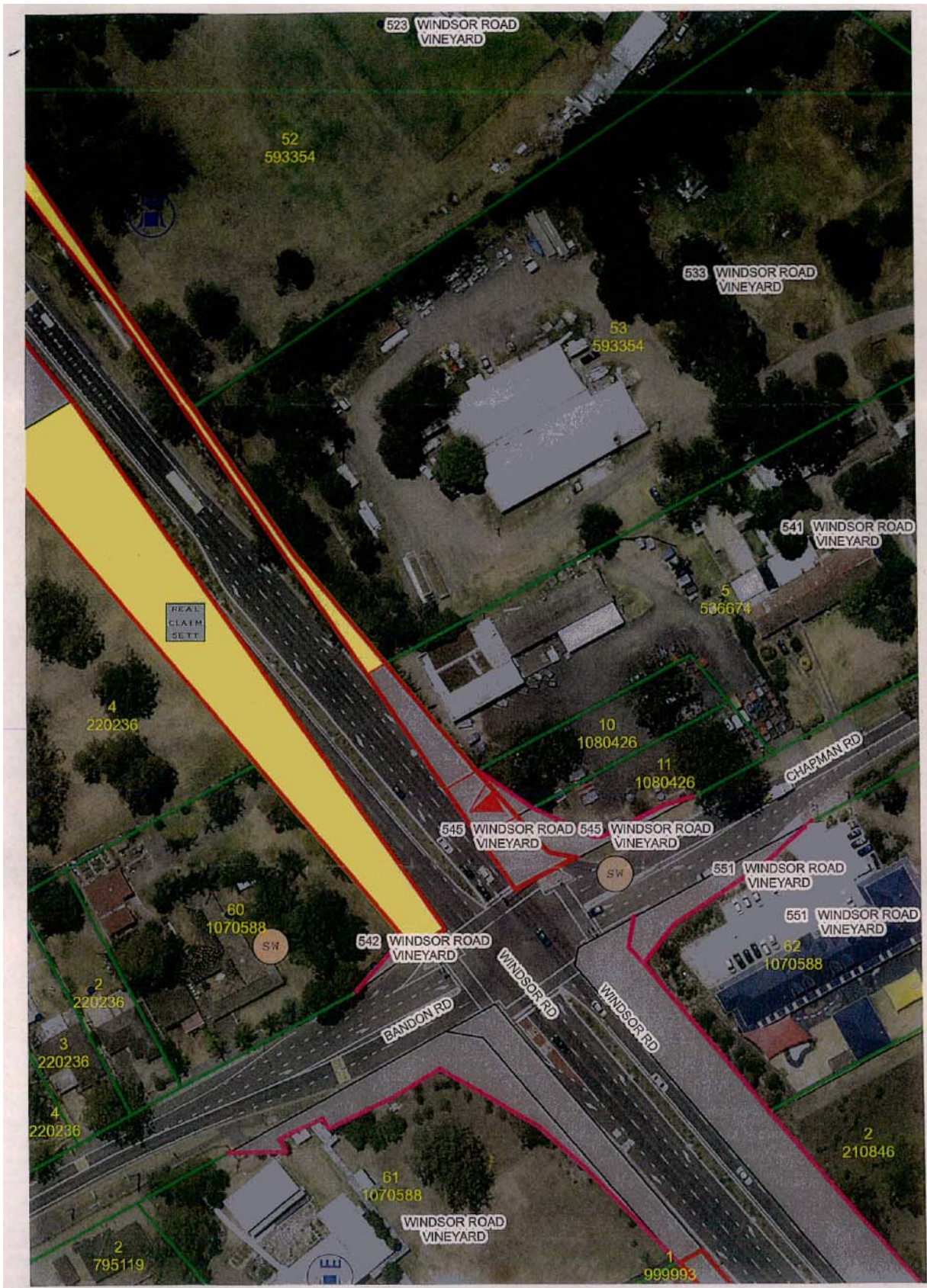
A handwritten signature in black ink, appearing to read 'O. Hodgson', written in a cursive style.

Owen Hodgson  
**Senior Land Use Planner**  
**Transport Planning, Sydney Region**

17 October 2012



ORDINARY MEETING  
Meeting Date: 5 February 2013





**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

*All communications to be addressed to:*

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 679 737  
e-mail: [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au)

Facsimile: 8867 7983



The General Manager  
Hawkesbury City Council  
PO Box 146  
Windsor NSW 2756

Your Ref: LEP11001/11

Our Ref: L12/0038

Hawkesbury City Council

05 OCT 2012

04 October 2012

**Attention: Karu Wijayasinghe**

Dear Sir/Madam,

**Additional Permitted Uses in Schedule 1 of Draft Hawkesbury Local Environmental Plan 2012**  
**Lot 53 DP 593354, Lot 5 DP 536674 and Lots 10 and 11 DP 1080426 at 389 Old Hawkesbury Road and 541-547 Windsor Road, Vineyard**

I refer to your letter dated 19 September 2012 seeking advice for the above planning proposal in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*.

The NSW Rural Fire Service (RFS) notes that the proposal is to amend Schedule 1 of the yet to be gazetted Hawkesbury Local Environmental Plan 2012 (HLEP 2012) to include certain land uses as additional permitted uses that may be permitted with development consent on the subject land.

Based on a preliminary assessment of the plans and documentation received for the proposal, please be advised that the RFS raises no concerns to the proposed amendment with respect to bush fire matters.

Development applications for all future development on bush fire prone lands identified within the subject land will be required to comply with either Section 79BA of the *Environmental Planning and Assessment Act 1979* or Section 100B of the *Rural Fires Act 1997* depending upon the nature of the proposed development and will be assessed against *Planning for Bush fire Protection 2006*.

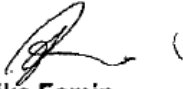
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**SCANNED**

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Should you have any further enquiries regarding this matter please contact Ms Kalpana Varghese on 8867 7968.

Yours sincerely



**Nika Fomin**  
**Team Leader, Development Assessment**

**ORDINARY MEETING**  
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**Office of  
Environment  
& Heritage**

Hawkesbury City Council

**09 OCT 2012**

Our reference: DOC12/39864  
Your reference: LEP11001/11  
Contact: Rachel Lonie 9995 6837

Mr Peter Jackson  
General Manager  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

Attention: Karu Wijayasinghe, Senior Strategic Land Use Planner

Dear Mr Jackson

I refer to your letter received by the Office of Environment and Heritage (OEH) dated 19<sup>th</sup> September 2012 inviting comment on a planning proposal to amend Schedule 1 of the Hawkesbury Local Environmental Plan 2012 to include certain land uses as permitted with consent at 389 Old Hawkesbury Road and 541 – 547 Windsor Road Vineyard.

OEH has reviewed the relevant information provided by Council. It is noted that these are existing uses on the site and that a condition requiring cessation of the operation of the proposed additional uses is to be included to ensure that they do not impede the future Vineyard precinct planning process. OEH advises that it has no comment to provide and no further interest in this matter.

It is also noted that the Department of Planning and Infrastructure in its Gateway Determination has required consultation with the "Department of Environment and Heritage (National Parks and Wildlife Service)" but not the Environment Protection Authority (EPA). Please be aware that the OEH is now a separate entity from the EPA and that each entity has different and separate areas of responsibility. Consultation with the EPA may be advisable if there are matters under the EPA areas of responsibility (i.e. air, noise, waste, contamination) that require consideration.

If you have any queries please don't hesitate to contact Rachel Lonie, Conservation Planning Officer on 9995 6837 (Monday and Wednesday only) or by email at [rachel.lonie@environment.nsw.gov.au](mailto:rachel.lonie@environment.nsw.gov.au).

Yours sincerely

*S. Harrison 04/10/2012*

**SUSAN HARRISON**  
Manager Planning  
Planning and Aboriginal Heritage Section  
Conservation and Regulation, Metropolitan  
Office of Environment and Heritage



**SCANNED**

PO Box 668 Parramatta NSW 2124  
Level 7, 79 George St Parramatta NSW 2150  
Tel: (02) 9995 5000 Fax: (02) 9995 6900  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

oooO END OF REPORT Oooo

**Item: 9**                      **CP - Councillor Representation - Human Services Advisory Committee - (95498, 123486)**

**Previous Item:**        168, Extraordinary (25 September 2012)  
                              205, Ordinary (27 November 2012)

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**REPORT:**

**Executive Summary**

Council, at its Extraordinary Meeting on 25 September 2012 appointed Councillors to various Committees for the 2012/2013 Mayoral Term, including the Human Services Advisory Committee (HSAC).

As the Councillors appointed to the HSAC, namely Councillor Lyons-Buckett and Councillor Calvert, are unable to accept their appointments, consideration is now required to appoint other Councillors to the Committee.

**Consultation**

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

**Background**

Council, at its Extraordinary Meeting on 25 September 2012 appointed Councillors to various Committees for the 2012/2013 Mayoral Term, including the Human Services Advisory Committee (HSAC).

At that meeting Councillor Lyons-Buckett and Councillor Calvert were appointed to the HSAC. As Councillor Lyons-Buckett had subsequently advised she was unable to accept her appointment, and Councillor Calvert has resigned from the Committee, the HSAC is devoid of Councillor representation. Hence, consideration is now required to appoint other Councillors to the Committee.

**Conformance to Community Strategic Plan**

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

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

**Financial Implications**

There are no financial implications to this report.

**RECOMMENDATION:**

That Council nominate two Councillors to be appointed to the Human Services Advisory Committee in accordance with its Constitution.

**ATTACHMENTS:**

There are no supporting documents for this report.

oooO END OF REPORT Oooo

**Item: 10                    CP - Hawkesbury Residential Land Strategy - Proposed Investigation Area for Large Lot Residential/Rural Residential Development within the Vicinity of Kurmond - (95498)**

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**REPORT:**

**Executive Summary**

The purpose of this report is to advise Council of large lot residential / rural residential development related planning proposals and enquiries that Council staff have received in response to the Hawkesbury Residential Land Strategy and recommend that Council adopt an investigation area within the vicinity of the Kurmond village for the purposes of large lot residential / rural - residential development.

**Consultation**

At present the issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. Should the area be further investigated there will be a number of separate opportunities for community consultation.

**Hawkesbury Residential Land Strategy**

On 10 May 2011 Council adopted the Hawkesbury Residential Land Strategy (HRLS). The aim of the HRLS is to:

- Accommodate between 5,000 to 6,000 additional dwellings by 2031, primarily within the existing urban areas as prescribed in the Department of Planning and Infrastructure's (DP&I) North West Subregional Strategy
- preserve the unique and high quality natural environment of the LGA
- accommodate changing population, which presents new demands in terms of housing, services and access
- identify on-going development pressures to expand into natural and rural areas, as well as new development both in and around existing centres
- identify physical constraints of flood, native vegetation and bushfire risk
- ensure that the appropriate infrastructure is planned and provided to cater for future development

The HRLS does not rezone land or approve development of areas or localities. Rather it establishes a planning framework to assist in the implementation of the above aims and is to be used to guide the preparation and assessment of rezoning proposals (Planning Proposals).

**Planning Proposals and Enquiries Received in Response to the HRLS**

In response to the HRLS Council has received three planning proposals, generally consistent with the Strategy, requesting the Hawkesbury Local Environmental Plan be amended to allow for large lot residential / rural residential development within the vicinity of Kurmond.

The planning proposals are briefly described below.

**1411 Kurmond Road, Kurmond**

Proposal received from Montgomery Planning Solutions in December 2010 (whilst the HRLS was in draft form and prior to commencement of Hawkesbury Local Environmental Plan 2012). The objective of the planning proposal is to amend the Hawkesbury Local Environmental Plan to rezone and subdivide the land into four large residential lots with a proposed minimum lot size of 4000-4500m<sup>2</sup> and one larger rural residential lot. A concept plan of subdivision is attached to this report.

The matter was reported to Council on 31 January 2012 whereby Council resolved as follows:

*That:*

1. *Council support in principle a planning proposal to permit not more than five large residential lots on Lot 1 DP 880684, 1411 Kurmond Road, Kurmond, generally consistent with the layout in plan prepared by McKinlay Morgan & Associates Pty Ltd., titled "Plan Showing Gradients Over Part of Lot 1 DP 880684 Kurmond Road, Kurmond", dated 1/11/2011.*
2. *The "in principle" support for this Planning Proposal must be subject to the proposal being responsible, jointly with the Roads and Maritime Services, for some upgrade to the intersection of Kurmond Road and Bells Line of Road to improve right turn movements into Kurmond Road for traffic travelling west along Bells Line of Road,*
3. *Montgomery Planning Solutions be requested to provide Council with a planning proposal consistent with resolution 1 and Department of Planning and Infrastructure's "A guide to preparing planning proposals".*
4. *As a result of parts 1, 2 and 3 of the resolution, the planning proposal be forwarded to the Department of Planning and Infrastructure for a "gateway" determination.*
5. *The Roads and Maritime Services be reminded of the concerns of the community and Council in relation to the significant existing traffic problems along Bells Line of Road through North Richmond and Richmond and request that this issue be addressed as soon as possible.*

Following receipt of an amended planning proposal, the matter was forwarded to the DP&I for a "gateway determination" (i.e. seeking DP&I permission for Council to proceed with the proposal) on 16 October 2012. A "gateway determination" was received on 17 November 2012. The "gateway determination" is discussed later in this report.

Public authority consultation occurred 10 December 2012 to 11 January 2013 and the public exhibition period was 18 January 2013 to 4 February 2013.

Whilst the proponent has attempted to address resolution 2 with the RMS, at present the planning proposal does not deal with resolution 2. Furthermore, the RMS has not responded to the public authority notification. This matter is to be pursued by Council staff.

**1442 and 1442A Kurmond Road, Kurmond**

Proposal received from Falson and Associates Pty Ltd on 1 August 2012 with application fees being received on 12 September 2012. The objective of the proposal is to rezone the land to R5 Large Lot Residential and RU5 Village and permit a 15 lot subdivision of the land with lots ranging from 4000m<sup>2</sup> to 2.25ha. A concept plan of subdivision is attached to this report.

After an initial assessment of the proposal Council staff wrote to the proponent on 15 November 2012 requesting additional information. At the time of preparing this report the additional information had not been received.

### **396 Bells Line of Road, Kurmond**

Proposal received from Montgomery Planning Solutions on 25 October 2012 with additional information being received on 30 November 2012. The objective of the proposal is to permit a 27 lot subdivision of the land with a minimum lot size of 4000m<sup>2</sup>. A concept plan of subdivision is attached to this report. This site is immediately to the south-east of 1411 Kurmond Road, Kurmond.

The proposal is supported by a traffic impact statement, preliminary bushfire hazard assessment report, and preliminary onsite wastewater treatment advice. The traffic impact assessment also includes a concept plan incorporating the proposed subdivision of 396 Bells Line of Road and a further subdivision of 1411 Kurmond Road, Kurmond to make a total of 45 lots.

An initial assessment of the proposal has been undertaken. Further consideration of the proposal is pending the outcome of this report.

In addition to these planning proposals Council staff have also received a number of enquiries from consultants and land owners regarding large lot residential / rural residential development surrounding Kurmond, Kurrajong and Freemans Reach.

### **Large lot residential / rural residential criteria of the HRLS**

All of the above mentioned planning proposals rely on the following provisions of the HRLS to justify the proposals.

#### **2.10 Strategy for Rural Village Development**

*The Hawkesbury Residential Development Model focuses on future residential development in urban areas and key centres. However, the importance of maintaining the viability of existing rural villages is recognised. As such, the Hawkesbury Residential Strategy has developed a strategy for rural residential development.*

*Future development in rural villages should be of low density and large lot dwellings, which focus on proximity to centres and services and facilities. Rural village development should also minimise impacts on agricultural land, protect scenic landscape and natural areas, and occur within servicing limits or constraints.*

#### **3.3.8 Role of Rural Residential Development**

*Rural residential developments have historically been a popular lifestyle choice within Hawkesbury LGA. However, rural residential development has a number of issues associated with it including:*

- *Impact on road networks;*
- *Servicing and infrastructure;*
- *Access to facilities and services;*
- *Access to transport and services;*
- *Maintaining the rural landscape; and*
- *Impacts on existing agricultural operations.*

*Whilst this Strategy acknowledges rural residential dwellings are a part of the Hawkesbury residential fabric, rural residential dwellings will play a lesser role in accommodating the future population. As such, future rural development should be low density and large lot residential dwellings.*

*Future rural residential development, that is large lot residential dwellings, will be required to:*

- *Be able to have onsite sewerage disposal;*
- *Cluster around or on the periphery of villages;*

- *Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within a 1km radius); and*
- *Address environmental constraints and have minimal impact on the environment.*

### **6.5 Rural Village Development Criteria**

*While the majority of future residential development will occur within existing residential areas or on the periphery of existing urban areas and corridors, it is recognised that there is a need to maintain the ongoing viability of rural villages. Future development within rural villages should be primarily low density and large lot residential dwellings.*

*Additionally all future low density and large lot residential development in rural villages must:*

- *Be able to have onsite sewerage disposal;*
- *Cluster around or on the periphery of villages;*
- *Cluster around villages with services that meet existing neighbourhood criteria services as a minimum (within 1km radius);*
- *Address environmental constraints and with minimal environmental impacts; and*
- *Within the capacity of the rural village.*

For the purposes of the HRLS, it is considered that Kurmond is a village in two parts. The primary part being the commercial and residential zoned land generally bounded by Bells Line of Road, Longleat Road, Erica Street and Elizabeth Avenue, the secondary part being the cluster of large lot residential lots on the north-east side of Bells Line of Road between Kurmond Road and the former Kurmond Bar and Grill (406 Bells Line of Road).

As Kurmond does not have services that meet the neighbourhood centre criteria, the third dot point of the above criteria (i.e. land up to 1km radius of a village) is not relevant. Therefore the relevant locational criteria for planning proposals is the second dot point being *cluster around or on the periphery of villages*.

The HRLS does not define the terms “cluster around” or “on the periphery” hence it is open to Council to consider these terms on a case by case basis given the particular village’s spatial distribution, zoning and characteristics. However, this consideration must also take into account the proximity to services and transport infrastructure and not simply a cluster of dwellings with no other services.

It is considered that all three sites the subject of the above mentioned planning proposals are, at least in part, clustered around or on the periphery of the Kurmond village and hence worthy of consideration for large lot residential / rural-residential development.

### **“Gateway Determination” for 1411 Kurmond Road, Kurmond**

On 17 November 2012 Council received the DP&I’s “gateway determination” enabling the public authority and community consultation of the planning proposal for 1411 Kurmond Road, Kurmond.

Accordingly, relevant public authorities have been advised of the planning proposal and the community consultation period concluded on the 4 February 2013.

Importantly the gateway determination also stated:

*It is noted that the subject rezoning is for the purposes of rural residential development on rural zoned land with a minimum lot size of 4000sq.m. The surrounding land is also zoned rural and used for the purposes of low intensity grazing, rural residential and large lot residential lots of approximately 4000sq.m. **To this end, Council is to look at rural-residential development in a strategic manner and consider the appropriateness of current zones in this locality, particularly adjoining the subject site.***



Hence it is clear that the DP&I is directing Council to consider the zoning of the land in a broader holistic strategic manner rather than assess and process this planning proposal, and presumably other planning proposals in the Kurmond area, on an individual case by case basis.

### **Suggested Investigation Area for Land within the Vicinity of the Kurmond Village**

The above mentioned planning proposals claim, to varying degrees, to be consistent with relevant State and council strategies, policies and plans as well as having community benefits and acceptable environmental impacts.

However the planning proposals give very limited assessment of the cumulative impact, in relation to traffic, on-site effluent disposal, etc, of possible similar rezonings within the vicinity of Kurmond. Furthermore, it would not be possible for the proponents to carry out such as an assessment in the absence of Council defining an area where such rezonings may be considered, determining acceptable lot size(s)/lot yield(s), and identifying the corresponding impacts on and required improvements to public services and infrastructure.

Therefore, in response to the above mentioned DP&I direction and the locational criteria of the HRLS for large lot residential / rural residential development a proposed investigation area map has been prepared and is attached to this report. This map has been derived by considering the term *cluster around or on the periphery* as it may apply to the two parts of the Kurmond villages and undertaking a desk top survey of matters such as slope, existing vegetation, existing road layout and accesses, and property boundaries. In general, however not exclusively, the following criteria has been applied:

- following existing property boundaries
- utilising existing road layout / road accesses
- avoiding heavily vegetation areas
- avoiding areas in excess of 15% slope
- creating a boundary that was generally equidistant from the external edge of the two parts of Kurmond village

Note, as a result of the above criteria the rear of 396 Bells Line of Road and 1442 Kurmond Road would not be included in the investigation area. Given the problems that defining an investigation area that does not correspond with cadastral boundaries would create, the entire property has been included in the investigation area.

It is recommended that Council adopt this map to enable further investigation of large lot residential / rural residential development within this area. However, it must be noted that being within this investigation area does not guarantee that the land can be further developed.

The primary outcome of the investigation would be to define an area (with corresponding minimum lot size(s) and understanding of development yield, impacts and benefits, and community needs) suitable for large lot residential / rural residential development and then for Council to use this as the basis of a single planning proposal for the rezoning of the area so defined.

In undertaking this investigation it is expected that matters likely to be investigated would include, but not necessarily be limited to:

- consistency with State and local strategies, plans and policies,
- road and lot layout (access plan for the investigation area instead of multiple cul-de-sacs or driveways),
- suitability for on site effluent disposal and the cumulative impacts of that disposal on the catchment,
- provision of asset protection zones,
- land use conflict with adjoining agricultural activities,
- removal of vegetation and impact on flora and fauna,
- impact on waterways,
- retention of or change to existing landscape, views and character,

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- landform changes and stability,
- vehicle accesses to Bells Line of Road,
- minimum lot size(s) and overall development yield(s),
- traffic generation and impact on local and regional road network,
- adequacy of public transport,
- demand for public services and infrastructure,
- review of Council's Our City Our Future – Rural Rezoning Policy (16 May 1998). This policy contains a number of matters that given the passage of time, subsequent amendments to Hawkesbury Local Environmental Plan 1989/2012 and Council adoption of the HRLS, are no longer appropriate or necessary,
- the need for other planning instrument/mechanisms such as a specific chapter in the Hawkesbury Development Control Plan and developer contributions / voluntary planning agreements.

It would be unreasonable to require either of the current proponents to undertake these investigations for the whole investigation area at the expense of either client. However, at the same time it would be inappropriate to proceed with the planning proposals in the absence of the above investigations being undertaken. It is therefore recommended that Council undertake these investigations and the matter be reported back to Council for further consideration.

In the meantime it is recommended that Council advise the proponents that whilst Council will investigate the potential for part of the lands to be developed for large lot residential / rural residential development, Council will not be proceeding with the individual planning proposals at present. Upon completion of that work the planning proposals will be further considered.

### Interim Approach to Future Applications

As previously mentioned in this report Council staff have received a number of enquiries from consultants and land owners regarding large lot residential / rural residential development surrounding Kurmond, Kurrajong and Freemans Reach.

It is considered that the proposed investigations for land surrounding Kurmond will have the potential to act as a blueprint for future investigations of land surrounding other rural villages within the LGA. Accordingly, it is recommended that Council advise prospective applicants that Council will not consider planning proposals for large lot residential / rural residential development until the investigations for Kurmond or other relevant villages have been completed and reported to Council.

Should the recommendation of this report be supported and funded by Council it is intended that the required work be undertaken as a priority to enable the current and future applications to be processed in a timely manner.

### 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.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

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

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

**Financial Implications**

Whilst much of the suggested work in the investigation area, as set out above, can be undertaken by Council staff there will be a need to obtain specialist advice for some aspects of the investigation where Council does not have the in-house capability. This relates particularly to the cumulative impacts of on-site effluent disposal systems and some of the road and traffic implications in relation to the RMS controlled roads.

It is estimated that the cost for specialist advice on effluent disposal and cumulative impacts in the investigation area would be in the vicinity of \$20,000 - \$30,000 (no quotations have been obtained at the time of writing this report). Similarly, additional staff resources may be required to speed up the proposed process should Council desire this process to be undertaken as quickly as possible. In this regard an additional \$15,000 - \$25,000 (dependant on existing work priorities) may be required. It is recommended that, following Council's endorsement of the proposed investigation area, formal quotations be obtained for this work and the necessary funds be identified in the next budget quarterly review as required.

The Environmental Planning and Assessment Regulations 2000, Clause 11, makes provision for Council to, by arrangement with the applicant, contribute to the costs of necessary studies to prepare a planning instrument. In this regard, Council has the ability to apportion the costs of any necessary studies in the investigation area to the benefiting landowners. (This apportioning would be based on the potential yield of the site or as a flat levy in the form of additional application fees). The payment of these apportioned costs would be payable by landowners/applicants upon application to Council to change the zoning of the land (Planning Proposal).

**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:

1. Council carry out appropriate investigations, in consultation with the relevant landowners and applicants (including those listed in part 2 of this resolution), to determine the suitability of, and requirements for, large lot residential / rural residential development within the area shown on the map titled "Kurmond Village large lot residential / rural - residential development Investigation Area".
2. Consideration of current planning proposals for large lot residential / rural residential development at 1411 Kurmond Road, Kurmond, 396 Bells Line of Road, Kurmond and 1442 & 1442A Kurmond Road, Kurmond be deferred pending the reporting of above mentioned investigations to Council.
3. Prospective applicants be advised that Council will not consider planning proposals for large lot residential / rural residential development until the investigations for Kurmond or other relevant villages have been completed and report to Council.

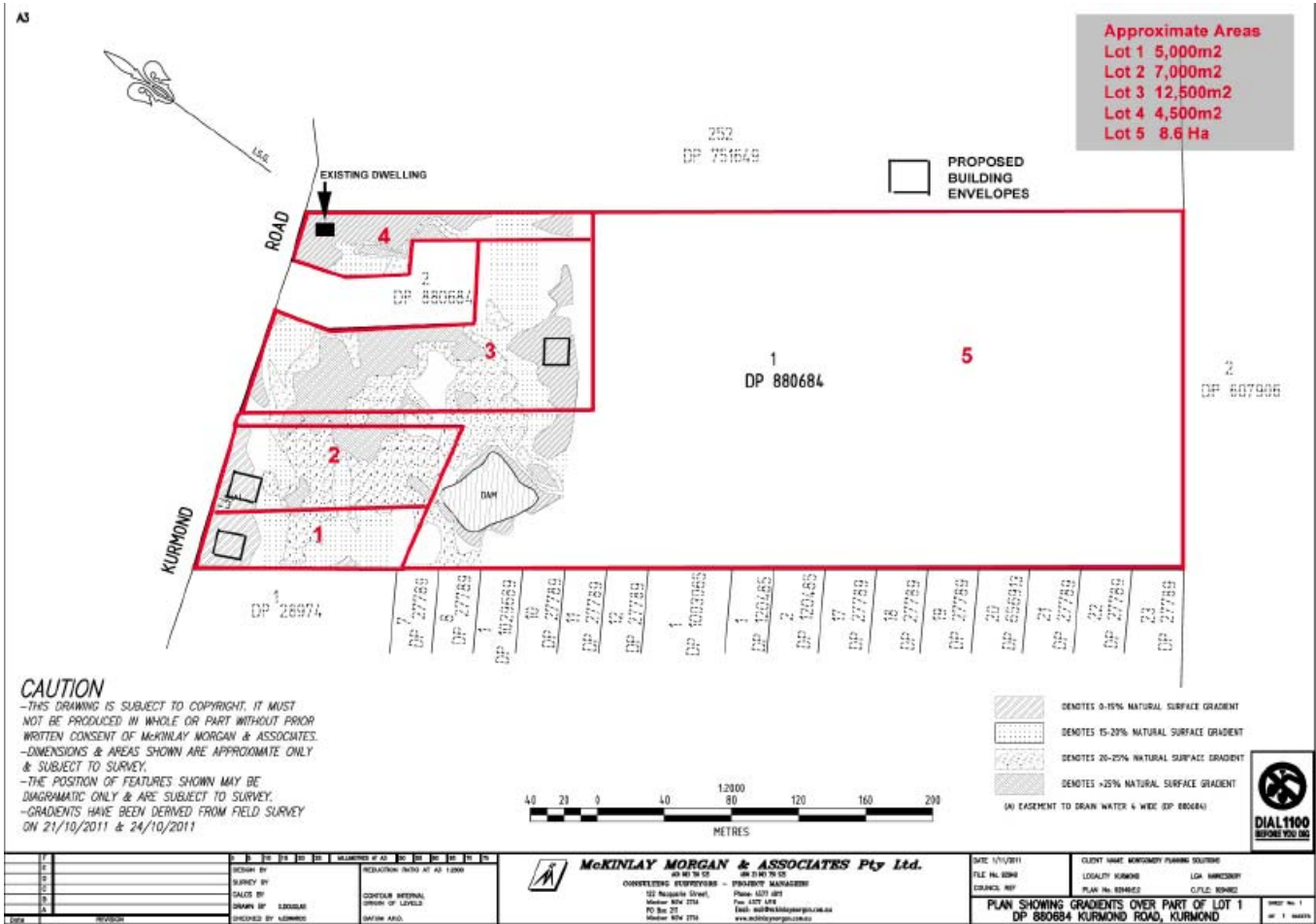
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**ATTACHMENTS:**

- AT - 1**    1411 Kurmond Road, Kurmond
- AT - 2**    Kurmond Investigation Area
- AT - 3**    1442 Kurmond Road Concept Plan
- AT - 4**    396 Bells Line of Road Concept Plan

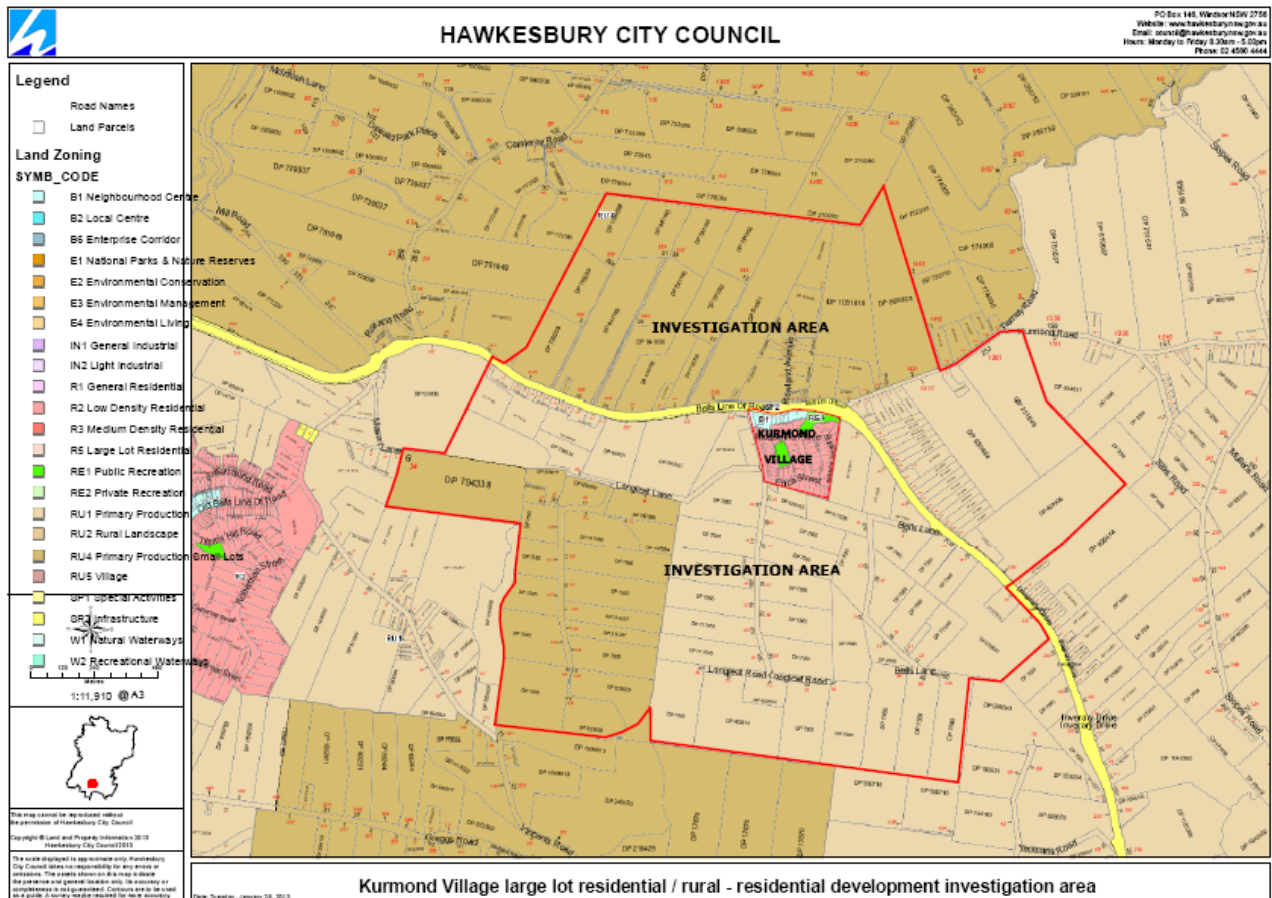
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**AT -1 1411 Kurmond Road, Kurmond**



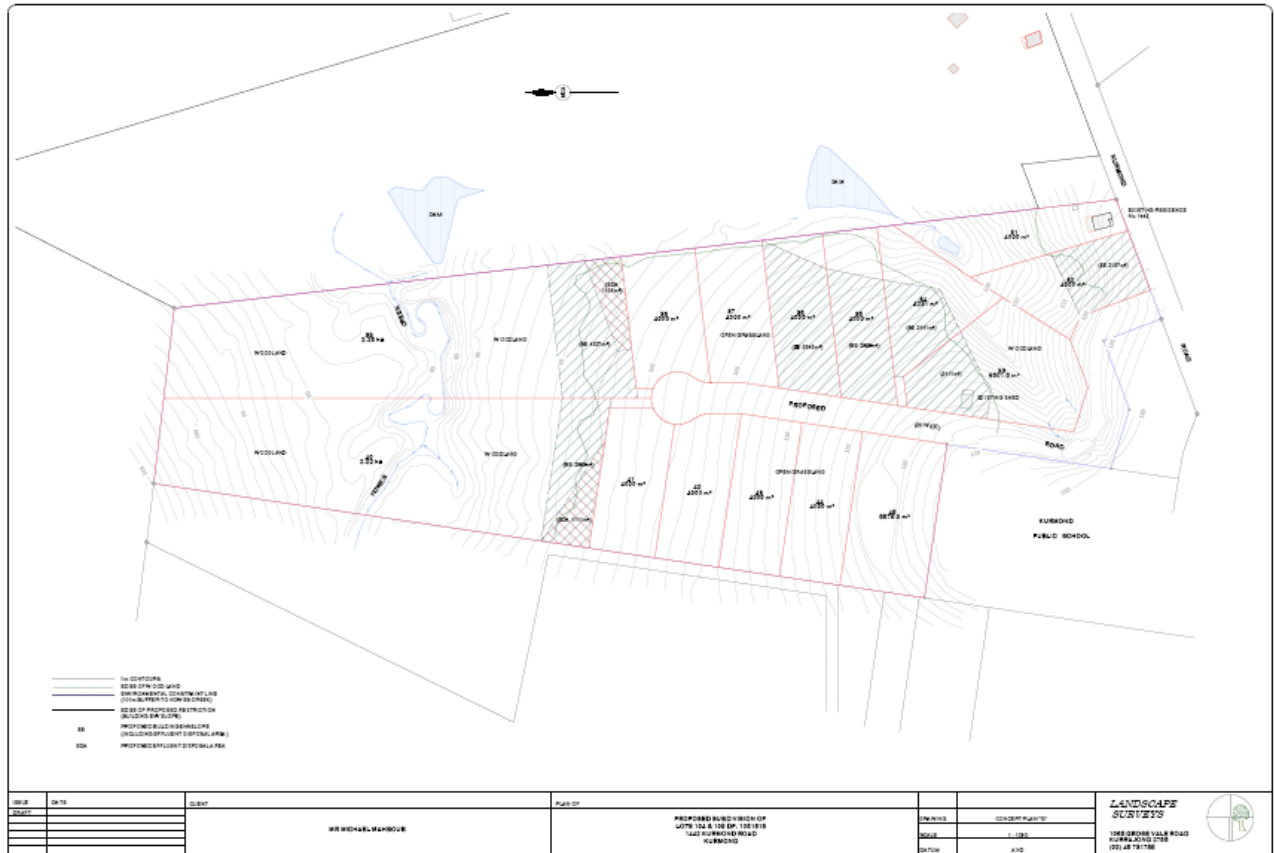
**ORDINARY MEETING**  
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**AT - 2 Kurmond Investigation Area**



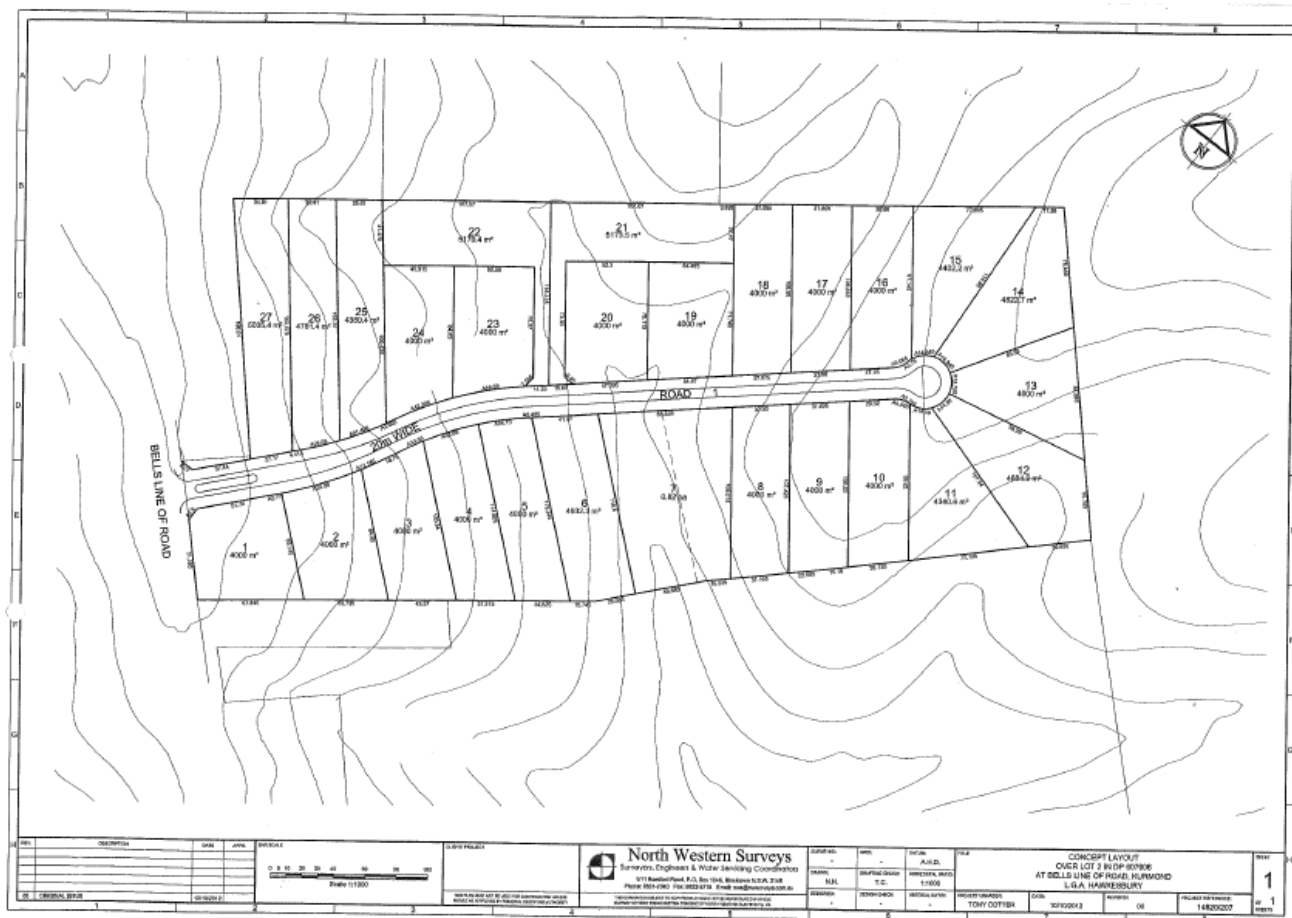
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**AT - 3    1442 Kurmond Road Concept Plan**



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**Meeting Date: 5 February 2013**

**AT - 4    396 Bells Line of Road Concept Plan**



oooO END OF REPORT Oooo



**Item: 11**                    **CP - Formation of a Sustainability Advisory Committee and Membership of Waste Management Advisory Committee - (95498, 95249)**

**Previous Item:**        NM5, Ordinary (13 November 2012)  
                              205 & 216, Ordinary (27 November 2012)  
                              221, Ordinary (11 December 2012)

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## **REPORT:**

### **Executive Summary**

On 11 December 2012 Council considered a report regarding the feasibility of expanding Council's existing Waste Management Advisory Committee (WMAC) to incorporate and promote sustainability principles as an alternative to forming an additional, separate Committee. That report was prepared in response to a Notice of Motion considered at Council's Ordinary Meeting on 13 November 2012 regarding the possible establishment of a Sustainability Advisory Committee. It was subsequently resolved at the Ordinary Meeting on 11 December that the WMAC and the Sustainability Advisory Committee would operate as two separate Committees.

### **Consultation**

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. There will however, be a requirement to advertise for expressions of interest for community representation on the proposed new Sustainability Advisory Committee.

### **Background**

On 11 December 2012 Council considered a report regarding the feasibility of expanding Council's existing Waste Management Advisory Committee (WMAC) to incorporate and promote sustainability principles as an alternative to forming an additional, separate Committee. It was subsequently resolved:

*"That:*

- 1. The Waste Management Advisory Committee and Sustainability Advisory Committee operate as two separate Committees.*
- 2. The objectives of the Sustainability Advisory Committee be as follows:*
  - a) To assist in the achievement of the key environmental goals contained in Council's Community Strategic Plan.*
  - b) To facilitate information sharing, education and support necessary for informed action on sustainability throughout the community.*
  - c) To maximise resource reduction, reuse and recycling.*
  - d) To establish and maintain natural resource management (NRM) networks.*
  - e) To support and progress an active volunteer network for NRM and sustainable activities.*
  - f) To engage the community in the development and implementation of sustainability initiatives and activities.*
- 3. The following objectives be included in the Committees as listed as well as retained in the objectives of the Sustainability Advisory Committee.*
  - a) To assist in the application of Council's sustainability principles and objectives contained in Council's Community Strategic Plan.*

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- b) *To support and progress an active volunteer network for natural resource management and other sustainable activities.*
- 4. *A report be submitted to the next Council meeting regarding the structure and membership of the two Committees."*

### Formation of the Hawkesbury Sustainability Advisory Committee

In accordance with Part 1 of the above resolution, it is proposed the Hawkesbury Sustainability Advisory Committee (hereinafter referred to as the SAC), be established as a Committee of Council under Section 377 of the *Local Government Act 1993*.

The rationale for the formation of a SAC is to provide a forum for community representatives, Councillors and Council officers to focus on sustainability issues and to ensure a coordinated approach to the development, implementation and evaluation of Council's grant funded sustainability projects and other Council approved sustainability initiatives. It is anticipated the functions of the Committee will be instrumental in fulfilling the intent contained within Council's Community Strategic Plan ('*Caring for our Environment*'), whilst assisting Council to integrate Council's adopted Sustainability Principles and Objectives contained in the Community Strategic Plan into other relevant Council policies, plans and operations.

### Structure and Membership of the Committee

It is proposed membership of the SAC is to comprise two Councillors and four community members. In relation to community representation on the Committee, expressions of interest are to be sought by way of advertisement in the Courier newspaper and on Council's website. The advertisement will call for nominations from community members who hold an interest and have expertise in environmental matters.

This Committee has been established under the provisions of Section 377 of the *Local Government Act 1993*, hence its functions are performed as identified in its Constitution, a component of which includes the provision for Councillor representation. Accordingly, consideration is required for the appointment of two Councillors to the Committee.

The objectives of the Committee will align with Council's resolution from the Ordinary Meeting on 11 December 2012:

- a) *To assist in the achievement of the key environmental goals contained in Council's Community Strategic Plan.*
- b) *To facilitate information sharing, education and support necessary for informed action on sustainability throughout the community.*
- c) *To maximise resource reduction, reuse and recycling.*
- d) *To establish and maintain natural resource management (NRM) networks.*
- e) *To support and progress an active volunteer network for NRM and sustainable activities.*
- f) *To engage the community in the development and implementation of sustainability initiatives and activities.*

Further details relating to the structure, membership and frequency of meetings of the SAC are included in the Committee's Draft Constitution (see attachment). The attached draft constitution is based on Council's standard constitution for Committees.

### Waste Management Advisory Committee

In accordance with Council's resolution at the Ordinary Meeting on 11 December which determined the WMAC and SAC would operate as two separate Committees, it is proposed the WMAC will continue functioning in its current form, with its primary role being to advise Council on waste management initiatives, including waste reduction, reuse and recycling, waste disposal and participation in the review of new waste management technologies.

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In regard to the WMAC, there are outstanding matters which have been held in abeyance pending the submission of this report, namely the vacant positions relating to community and Councillor representation.

It is noted Councillor representation on all Committees was considered at Council's Extraordinary Meeting held on 25 September 2012. However, the matter was further addressed, following a Notice of Motion on 13 November 2012, at Council's Ordinary Meeting on 27 November 2012 wherein it was resolved (in part):

- "2. *In respect of Waste Management Advisory Committee, all currently vacant positions on the Committee, including community representatives, remain unfilled until the report requested by Council at its meeting on 13 November 2013 regarding the possible establishment of a Sustainability Advisory Committee or expansion of the functions of the Waste Management Advisory Committee for this purpose is submitted to Council for determination.*"

In accordance with the above resolution, consideration is now required for the appointment of four Councillors to the WMAC (in accordance with its Constitution) in order to fill the currently vacant positions on the Committee.

Similarly, the matter of community representation on the Committee had also been held in abeyance pending the submission of this report, therefore consideration is required for the appointment of two community representatives to the Committee in accordance with its Constitution. In this regard it is noted details of expressions of interest for community representation on the WMAC had previously been included in a confidential report at Council's Ordinary Meeting on 27 November, and therefore the details of the expressions of interest for community representation on the WMAC is to be reconsidered in a separate confidential report in this business paper.

### Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together and Caring for our Environment Directions statements;

- Have transparent, accountable and respected leadership and an engaged community
- Take active steps to encourage lifestyle choices that minimise our ecological footprint

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

- Facilitate ecologically sustainable development through the retention and long term management of natural assets
- Encourage and educate the community to care for their environment

### Financial Implications

There are no financial implications resulting from this report.

**RECOMMENDATION:**

That:

1. Council establish the Hawkesbury Sustainability Advisory Committee as a new Committee of Council under Section 377 of the *Local Government Act 1993*.
2. Council adopt the Draft Hawkesbury Sustainability Advisory Committee Constitution.
3. Two Councillors be appointed to the Sustainability Advisory Committee in accordance with its Constitution.
4. Expressions of interest be sought for community representation on the Sustainability Advisory Committee by way of advertising in the local newspaper and on Council's website.
5. Four Councillors be appointed to the Waste Management Advisory Committee in accordance with its Constitution.

**ATTACHMENTS:**

**AT - 1** Draft Sustainability Advisory Committee Constitution

**AT - 1    Draft Sustainability Advisory Committee Constitution**

**Hawkesbury City Council  
Hawkesbury Sustainability Advisory Committee  
Constitution**

**1.    Name**

The Advisory Committee, as appointed under the provisions of section 377 of the *Local Government Act 1993*, shall be known as the Hawkesbury Sustainability Advisory Committee, and is hereinafter referred to as the 'Advisory Committee'.

**2.    Objectives**

- (a)    To assist in the achievement of the key environmental goals contained in Council's Community Strategic Plan;
- (b)    To facilitate information-sharing, education and support necessary for informed action on sustainability throughout the community;
- (c)    To maximise resource reduction, reuse and recycling;
- (d)    To establish and maintain natural resource management (NRM) networks;
- (e)    To support and progress an active volunteer network for NRM and other sustainable activities;
- (f)    To engage the community in the development and implementation of sustainability initiatives and activities;

**3.    Role and Authorities**

- (a)    Whereas the Advisory Committee is appointed by the Hawkesbury City Council under the terms of the *Local Government Act 1993*, the Advisory Committee is to abide at all times with the terms of reference of this clause, and with the authorities delegated under this clause whilst remaining in force (unless otherwise cancelled or varied by resolution of Council).
- (b)    The Advisory Committee shall have the following authorities delegated to it in accordance with the provisions of section 377 of the *Local Government Act 1993*:
  - (i)    to recommend to Council policies drawn up by professional staff for:
    - Natural Resource Management and volunteer networks,
    - Energy efficiency and water use and recycling,
    - Sustainability education and integration of Council's adopted Sustainability Principles and Objectives into Council and community activities,
    - Environmental, water quality and Biodiversity matters within the Hawkesbury.
  - (ii)   to bring to Council's attention, by way of recommendation, any item requiring a policy decision outside the authority granted to the Advisory Committee under section 377;
- (c)    The Council retains the responsibility for all budgetary considerations;
- (d)    The General Manager (or his/her delegate) retains, and shall be entirely responsible for the appointment and dismissal of staff (either permanent or temporary) within the Hawkesbury Sustainability Advisory Committee in accordance with the *Local Government Act 1993*;

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- (e) The General Manager (or his/her delegate) retains all responsibility for the direction of any staff member, including any disciplinary action, be it for permanent, temporary or part time staff. The Advisory Committee will, however, have the right to bring to the attention of the Director of the Department within Council responsible for the Hawkesbury Sustainability Advisory Committee, any issues which, in its opinion, require disciplinary action; and
- (f) Any authorities conferred upon the Advisory Committee under this Constitution may be varied by Council.

### 4. Term

The Advisory Committee members' term shall be for four years to coincide with Council's term of office. Advisory Committee members shall cease to hold office at the expiration of three months after the Ordinary election of the Council, but be eligible for re-appointment, subject to the condition that the Advisory Committee may be dissolved by Council at any time.

### 5. Structure and Membership

- (a) The structure and membership of the Advisory Committee shall be as follows, and all the appointments in (i) and (ii) will have voting rights:
  - (i) Two Councillors of the Hawkesbury City Council; and
  - (ii) Four community appointments, appointed by Council following the calling of applications as detailed in clause 6(b) of this Constitution;
  - (iii) One representative from each of the following: the Department Environment and Heritage, Department of Primary Industries and University of Western Sydney.
- (b) Whereas the appointments detailed in clause 5(a) will form the Advisory Committee, the Director City Planning, will be required to attend meetings of the Advisory Committee;
- (c) The Director of the Department charged with the responsibility for the Hawkesbury Sustainability Advisory Committee within the Hawkesbury City Council shall attend meetings and may delegate the Strategic Planner - Environment, as his/her delegate when deemed necessary;
- (d) The Advisory Committee shall, at its first meeting following appointment, and each twelve (12) month period thereafter, elect one of its members from those appointed under clause 5 to be the Chairperson of the Advisory Committee, and one of its members appointed under the same clause to be Deputy Chairperson, who shall act in the absence of the Chairperson;
- (e) The position of Chairperson shall not be held by the same person for any longer than four (4) consecutive years;
- (f) The position of Deputy-Chairperson shall not be held by the same person for any longer than four (4) consecutive years;
- (g) No staff member of Hawkesbury City Council shall be elected as Chairperson or Deputy Chairperson of the Advisory Committee;
- (h) Each member of the Advisory Committee entitled to vote shall only have one vote except that of the casting vote of the Chairperson in the case of equality of votes;
- (i) The Advisory Committee may co-opt additional members from time to time, at its discretion, to provide specialist advice or assistance, but such co-opted members shall only serve on the Advisory Committee for the period of time required, and will not, whilst serving in the position of co-opted member, have any voting rights; and

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- (j) The Advisory Committee may invite as observers citizens or other representatives for the purpose of clarifying certain matters as decided by the Advisory Committee. Such observers will not be permitted to vote.

### 6. Appointment and Election of Members

- (a) Two Councillors will be appointed to the Advisory Committee in accordance with practices and procedures of the Council;
- (b) The Council shall, in the month of October following the quadrennial election place advertisements in appropriate newspapers inviting nominations from members of the community for membership to the Advisory Committee;
- (c) The Council shall select and appoint the community representatives to the Advisory Committee;
- (d) The Advisory Committee shall have the power to fill casual vacancies at its discretion;
- (e) Members of the Advisory Committee shall cease to hold office:
  - (i) if the Advisory Committee is dissolved by Council;
  - (ii) upon written resignation or death;
  - (iii) if absent without prior approval of the Advisory Committee for three consecutive meetings; or
  - (iv) if the Council by resolution determines that the member has breached Hawkesbury City Council's Code of Conduct (as it is in force from time to time).
- (f) For the purposes of sub-clause 6(e)(iv), the Code of Conduct is to be taken to apply to community and representative members as referred to in clause 5(a) in the same way as the Code of Conduct applies to Councillors.

### 7. Procedures and General

- (a) Ordinary meetings of the Advisory Committee shall be held no less than two times per year. Special meetings may be convened at the discretion of the Chairperson, or, in his/her absence, the Deputy Chairperson;
- (b) The Director City Planning shall be the Executive Officer to the Advisory Committee, and will be responsible for preparation of specialist reports, and any and all correspondence associated with the Advisory Committee;
- (c) The Council will provide a Minute Clerk for the purpose of recording the Minutes of the Advisory Committee meetings and for the distribution of Minutes followings meetings of the Advisory Committee;
- (d) No meeting of the Advisory Committee shall be held unless three (3) clear days notice thereof has been given to all members;
- (e) The Minute Clerk shall forward a copy of the Minutes of each Advisory Committee meeting to all Advisory Committee members, as well as to Council, for submission to the appropriate Standing Committee, as soon as possible following such Advisory Committee meeting;
- (f) At any meeting of the Advisory Committee, the Chairperson, or the person acting in the position of Chairperson, shall, in addition to his or her ordinary vote, have a casting vote where such a situation occurs where there is an equality of votes;
- (g) The rules governing meetings and the procedures of the Advisory Committee shall, so far as they apply, be those covered by the Hawkesbury City Council's Code of Meeting Practice, as may be altered from time to time by resolution of the Council;

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- (h) A quorum of the Advisory Committee shall be constituted by three (3) members, including one (1) Councillor, being present at meetings;
- (i) Any members having a pecuniary interest in any matters being discussed by the Advisory Committee shall declare such interest at the meeting of the Advisory Committee and refrain from voting or discussion thereon.
- (j) The requirements applying to pecuniary interests for members as detailed in clause 7(i) above shall apply equally to any other appointed or invited observers or co-opted members, and also to the Executive Officer/Secretary;
- (k) Any recommendations of the Advisory Committee shall, as far as adopted by the Council, be resolutions of the Council, provided that recommendations or reports of the Advisory Committee shall not have effect unless adopted by the Council;
- (l) It shall be competent for the Advisory Committee to appoint a sub-committee or specific work groups comprised of members or non-members to exercise and carry out specific investigations for the Advisory Committee, and then to report back to the Advisory Committee. These appointed sub-committees or work groups may be dissolved by the Advisory Committee at any time;
- (m) Any appointed sub-committees or work groups have no power to make any decisions whatsoever on behalf of the Advisory Committee, and any recommendations of any sub-committee or work group will only have effect once adopted by the Advisory Committee, or by the Council, as the case may be;
- (n) The Director City Planning shall prepare an Annual Report of the Hawkesbury Sustainability Advisory Committee's activities for submission to the Advisory Committee, who will, in turn, present such report to the Council.

### LAST CLAUSE

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oooO END OF REPORT Oooo



**Item: 12 CP - Revocation of Dangerous Dog Order - (95498, 96330)**

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**REPORT:**

**Executive Summary**

An application to revoke a dangerous dog order under Section 39(1) of the *Companion Animals Act* that was previously issued by The Hills Shire Council (HSC) has been received in respect of a dog now located in Spinks Road Glossodia.

Under the provisions of the *Companion Animals Act*, the owner of a dog that has been declared dangerous can apply to the Council of the area in which the dog is ordinarily kept (whether or not it is the Council that made the declaration) for the declaration to be revoked. The application cannot be made until 12 months after the dog was declared dangerous.

It is proposed that the subject dangerous dog declaration be revoked.

**Consultation**

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy, however, discussions with Council's companion animal officers has confirmed that there have been no other issues with the offending dog since the order was declared, and the dog's owner had put all legislative requirements of owning dangerous dogs in place whilst the dog was housed at Pitt Town Road Kenthurst.

The dog has been relocated to Glossodia in the past several months.

**Background**

The HSC placed a dangerous dog order on the dog, a Staffordshire Bull Terrier Cross called Lexi in September 2011.

The order was placed in response to a report of two dogs attacking another dog. Whilst the subject dog was not attributed with the injuries caused to the dog attacked, because it was with another dog owned by the applicant at the time of the attack, a Red Cattle Dog which has since been euthanized, the order was placed on both dogs as a precaution by the HSC.

The owner of the dogs has relocated from his address in Kenthurst to an address within Hawkesbury City Council's local government area.

The dog was recently temperament assessed by Dr Robert Zammit, (qualified and registered Temperament Assessor with the Department of Local Government) and his assessment report which has been supplied to Council as part of this appeal to revoke the existing Dangerous Dog Declaration, indicates that the dog, in his professional opinion "*does not show signs of overt aggression and would not enter into an unprovoked attack*". He also stated in his report that "*Lexi was calm, laid back in attitude during the entire examination process. Always friendly towards humans, Lexi allowed a full physical examination without any protest. Lexi walked past three cats on a loose lead and did not attempt to attack or disrupt them. She was introduced to four separate dogs and allowed to interact. Lexi never displayed aggression*".

Council's animal control officers have attended the property where the subject dog is housed and have conducted an assessment of the dog, and have reported that the dog does not show any signs of aggression, and are satisfied that the dangerous dog orders should be revoked.

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Section 9.7.2. of the 2010 Guideline on the Exercise of Functions under the *Companion Animals Act*, stipulates that a dangerous dog order can only be revoked by a resolution of Council.

**Conformance to Community Strategic Plan**

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

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

**Financial Implications**

No financial implications associated with this report.

**RECOMMENDATION:**

That:

1. The dangerous dog order placed on the dog (a Staffordshire Bull Terrier Cross) owned by Mr G Hudswell be revoked,
2. In accordance with the requirements of the *Companion Animals Act*, Council will notify the Director General of the revocation within seven days of its decision.
3. The applicant (Mr G Hudswell) be notified in writing of the revocation of the dangerous dog orders.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**INFRASTRUCTURE SERVICES**

**Item: 13**                      **IS - Draft Hawkesbury Regional Open Space Strategy - (95495, 79354)**

**Previous Item:**            163, Ordinary (26 July 2011)

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**REPORT:**

**Executive Summary**

The purpose of this report is to seek Council's endorsement to publicly exhibit the draft Hawkesbury Regional Open Space Strategy. The draft plan deals with long term strategic management of Council's open space and recreation provision and to provide a 10 year implementation plan.

**Consultation**

The issues raised in this report concern matters which constitute a trigger for Community Engagement under the Council's Community Engagement Policy. It is proposed that Council undertake the following community engagement process in compliance with Council's Policy:

- Consultation – by placing the draft strategy on public exhibition for a period of 28 days with an additional 14 days for receipt of submissions.

Consultation with key stakeholders has occurred through the drafting of this strategy with feedback being incorporated into relevant areas of the draft strategy. Further consultation will comprise:

- Public advertisements in newspapers.
- Draft strategy being made available at Council's Main Office, libraries and on the Council's website.

**Background**

In the financial period of 2010/2011 Council made funding available, in addition to grant funding received from Metropolitan Greenspace Program, to develop the Hawkesbury Regional Open Space Strategy (ROSS).

The aim of the ROSS is to provide Council and the community with a clear understanding of issues to enable provision of a range of recreational facilities, including passive and active recreation spaces, and to provide a direction for future development and ongoing management of Hawkesbury's open space. Development of the ROSS was undertaken by Council staff and Clouston Associates.

The ROSS seeks to provide an open space strategic plan for the future development of open space facilities at a regional level and to manage the demands for recreational amenities. In addition, development of the Strategy allows Council to seek grant funding that would be otherwise not available without a strategic plan.

**Summary of Key Elements of the Draft ROSS**

Significant actions and issues identified within the Draft ROSS include:

- incorporation of council open space with non-council recreational facilities;
- identification of areas lacking in facility provision;
- identification of opportunities for future improvement;

- provision of strategic linkages between community facilities;
- linking open space with other Local Government Areas;
- linking with non-council regional recreational facilities; and
- alignment of State and Regional Open Space planning outcomes;

and these are further expanded in the Executive Summary attachment to this report.

As part of the process for the development of the plan, significant consultation has already been undertaken with both Council staff and key stakeholders, including the Sports Council and YMCA.

It is proposed to place the ROSS on public exhibition for the required 28 day period and to provide a further period of 14 days to enable submissions to be prepared and received. Following the community consultation, results will be reviewed and any significant changes implemented into the Plan prior to consideration and adoption by Council.

It should be noted that the ROSS, while identifying gaps and opportunities, is not a site specific document. Detailed site management and development is guided and controlled through site specific Plans of Management.

#### **Conformance to Community Strategic Plan**

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

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

and is also consistent with (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 direct impacts arising from this report or the public exhibition process.

#### **RECOMMENDATION:**

That the Hawkesbury Regional Open Space Strategy be placed on public exhibition for a 28 day notification period, with a further 14 day period for the receipt of written submissions.

#### **ATTACHMENTS:**

- AT - 1** Executive Summary - Draft Hawkesbury Regional Open Space Strategy.
- AT - 2** Draft Hawkesbury Regional Open Space Strategy including map inserts - *(to be distributed under separate cover)*.

**AT - 1 Executive Summary - Draft Hawkesbury Regional Open Space Strategy.**

CLOUSTON associates

## EXECUTIVE SUMMARY

### PROJECT SCOPE AND OBJECTIVES

The Regional Open Space Strategy (ROSS) is the guiding strategic document by which Council can plan and manage their recreational open space within the Hawkesbury Local Government Area (LGA). The document addresses the supply of and demand for the Hawkesbury's public open spaces and identifies ways of planning, managing and enhancing these places sustainably over the next 10 years.

The Objectives of the ROSS as defined by the project brief are to:

- improve open space provision in terms of quality, quantity, accessibility and safety
- improve linkages within and between the open space networks
- ensure open spaces meet the needs of the Hawkesbury community and promotes greater social inclusion
- ensure open spaces enhance the quality of the local environment
- provide a clear framework for investment priorities and action.

The project analyses the quantity and quality of existing open spaces, their function and whether they can meet the future needs of the community. It considers Council's wider corporate objectives to ensure that the ROSS can achieve Council's initiatives and programs.

### THE PLANNING CONTEXT OF THE ROSS

The urban and physical geography of the Hawkesbury region shows significant variation, with large areas of National Park and rural towns in the north, while in the south the greater part of the City's population resides in only 25% of the LGA area, in the towns bordering or close to the Hawkesbury River.

The Hawkesbury River is the dominant geographic feature in the City, being both the focus of Aboriginal life pre European settlement and influencing European settlement both from its capacity to generate food for the early days of the colony and in responding to the river's frequent flood cycling.

The river and its floodplain therefore set much of the pattern of urban fabric and public open space that we see in the City today, with the towns placed on ridges and many of the larger public reserves lying within the floodplain.

Transport is likewise influenced by the river geography and both Richmond and Windsor act as transport gateways to and from the Blue Mountains and the City, while many of the roads, particularly in the northern parts of the LGA are of a rural nature. Cycling and walking facilities are mostly confined to major roads in the south of the LGA.

**CLOUSTON** associates

## EXECUTIVE SUMMARY

The growth rate of the Hawkesbury population slowed from 2001 – 2006. The key factors in this change include:

- Australia's ageing population
- slowing birth rates with families having fewer children and later in life
- migration of people from some localities in the Hawkesbury LGA.

Future growth is also likely to be limited with the forecast for growth up to 2031 population projects at total population of 72,995 (1.1% increase). According to Council's document 'Hawkesbury... A Social Atlas' the Hawkesbury population has the following characteristics:

- relatively young with 20% aged 14 years or younger
- almost 90% of all residents were Australian citizens and 81% of residents were born in Australia
- 16% of the total population were considered as having a disability
- gender division was roughly half (50.2% female) across all age groups
- the largest number of overseas born residents in descending order were from the United Kingdom, New Zealand, Malta, Netherlands and Germany
- the average weekly income of Hawkesbury residents (\$1,146) was slightly higher than the national average (\$1,027)
- unemployment of Hawkesbury residents (4.1%) was lower than the national average (5.2%).

The key implications of the foregoing demographic analysis includes:

- projected population growth is minimal and thus funds generated for open space provision through sources such as Section 94 will be limited
- there is a need to address opportunities for a significant proportion of school-aged children
- mobility is highly car dependent both between and within towns
- the southern part of the LGA, especially Richmond and Windsor being the most populated, call for a more integrated approach to open space provision
- there is a need to address the recreational needs of Hawkesbury's ageing population, both rural and urban, as well the significant numbers of those with disabilities.

### **ANALYSIS OF OPEN SPACE TODAY**

In summarising the findings in the investigation stage of the ROSS the following SWOT Analysis provides insights into the directions that the Strategy has subsequently taken:

#### **Strengths**

- Strong cultural heritage values in towns of Windsor, Richmond and Wilberforce
- Close proximity to major National Parks and World Heritage Area ie Blue Mountains National Park, Scheyville National Park, Colo Wilderness

## EXECUTIVE SUMMARY

- Major road links giving access west to the Blue Mountains and north to the Hunter Valley
- The Hawkesbury River is of national significance
- High scenic values, especially from ridgelines and river foreshores
- Extensive water foreshores that can cater for more natural adventures and sports ie power boat leisure and racing activities, camping, orienteering, walking and cycling
- Strong tourism draw provided by extensive natural and cultural heritage, farmgate businesses and sporting and events on the river
- High natural values outside of designated National Parks also
- Strong community involvement in management of open space (eg Sport Council) and strategic organisations developing new directions (Heart of Hawkesbury)

### Weaknesses

- Annual open space budget is limited due to Hawkesbury's large LGA area and small population with limited projected growth
- Uneven distribution of reserves within 400-500 metres of all residents
- Significant barriers to walking/cycling are created by major transport corridors
- Many small parks are of limited size ie house block size, poorly located and little used
- Topography in LGA creates challenges for universal access
- Absence of classification and categorisation of reserve types leading to inadequate strategic decision making and priorities
- Absence of policies and strategies to guide management and development of recreation within the City
- Flooding has significant implications for open space planning, design and use, especially for sport facilities
- Funding base through Section 94 reducing due to limited population growth
- Limited liaison with adjoining Councils or development of partnerships that might be embraced

### Opportunities

- The Hawkesbury River remains a largely unrealised recreational asset with great potential to enhance the local economy
- Enhanced connectivity of reserves can be achieved within environmental corridors and roads with links to public transport
- Regional connections can be greatly enhanced by improving links to cycleways, trails, pathways, and creek/river corridors
- Creation of sport hubs especially within centres will assist functionality, planning and management

**CLOUSTON** associates

## **EXECUTIVE SUMMARY**

- Opportunity to focus on improved passive recreation in centres of towns and villages that meet basic needs well
- Enhancement of environmental corridor links tied to improved access and connections
- Development of recreation strategy will create clearer focus for priorities and funding
- Stronger partnerships with other land managers (eg NSW National Parks and Wildlife Service, Schools, YMCA etc ) will create future recreation opportunities whilst managing impacts on the natural environment
- Liaison with adjoining Councils to ensure co-ordination of facility provision in the sub region will extend budget and achieve strategic connections

### **Threats**

- Increased development may place more pressure on existing open space with limited opportunities and resources to acquire land for future open space
- Funding base for maintenance is not matching upgrades
- Climate change may impact on river based reserves and microclimate of all open spaces
- Minimal population growth limits funding source such as through Section 94 contribution

### **CONCLUSIONS FROM ANALYSIS BY TOWN**

The ROSS contains a detailed analysis of the public open space within all of the major towns within the LGA. The general conclusions drawn from that analysis are as follows:

- while there are many high quality well-used parks in the City, open space provision across the LGA is highly random and in many cases bears little relationship to the quantum and density of population, to accessibility, to recreation need based on current projected demographics or to long term sustainability
- many reserves classified in the Open Space Inventory as Community Land and zoned for open space have minimal existing or potential recreational value (eg. road reserves, remote open space at significant distance from any current or potential population)
- open space provision and recreation opportunity is particularly inconsistent in the rural townships of the City, with a notable lack of public open space close to amenities such as shops and a dearth of even small level kickabout space or higher amenity passive space
- where there are clear deficits in open space, especially in the more rural towns, partnerships with other agencies such as schools and NPWS become particularly important in closing the local day-to-day recreation provision gap



## EXECUTIVE SUMMARY

- the remarkable and striking scenic qualities of the Hawkesbury River landscape are major assets for the local community and visitors alike, they are however not well integrated into the open space network and tourism planning
- with some local notable exceptions (eg. Ham Common) walking and cycling are not well provided for in the City, with many residential communities having no dedicated footpaths on streets nor dedicated cycle paths on or off street
- topography and flooding are significant if not insurmountable constraints on enhancement and use of open space across the City.

In the future development of a detailed work plan for each township arising from the ROSS and the conclusions drawn above, would benefit from consultation with each community as the plan is developed.

### NEEDS AND DEMANDS

Council holds relatively little historical information on the community's expressed needs and demands for open space and recreation. Indeed the surveys prepared in 2009 and 2011 by Micromex Research for the Community Research reports suggested that roads, services and river health were of highest priority with the community placing open space and recreation as a much lower consideration.

In practice this is not uncommon in areas of larger rural populations where lifestyle priorities differ from inner city Council areas and where in many cases sports based recreation is of higher priority and is often well provided for as here in the Hawkesbury LGA.

There is however a rapidly shifting focus within such communities that recognises health and wellbeing benefits of regular exercise. In this regard a supply led rather than demand led approach is likely to promote and encourage such activity.

In summary from the data available and in consultation with stakeholders during the development of the ROSS, the following conclusions may be drawn on demand, needs and opportunities:

#### Demands

- broader community places greater emphasis on environmental conservation than on recreation as a priority for Council action
- high priorities are the health of the river, a rural lifestyle and the regions heritage and history
- low priorities are parks and reserves and sporting facilities and probably due to the perceived abundance of available open space
- the river and foreshores not immediately viewed as a major asset to the region.

CLOUSTON associates

## EXECUTIVE SUMMARY



Figure ES.01 Open Space Structure Plan Concept

## EXECUTIVE SUMMARY

### NEEDS AND OPPORTUNITIES

- greater level of linkages and accessibility (local and district)
- river and foreshore access and links to open up use of a major asset
- foster partnership with the NSW NPWS to open opportunity for the major towns to become the doorway into the National Parks
- review of sports strategy to open up new opportunities for future changes in sports trends
- increase of multi-functional recreation and open space in the smaller towns
- pursue regional sports/events/recreation to improve local tourism economy.

In general, with a community that does not consider open space to be a major issue, initial emphasis would be an approach based on 'making more of what we've got'.

A longer term strategic approach that addresses bigger picture moves may assist the community in elevating the importance of open space and recreation opportunities as drivers of an enhanced and local and regional economy.

### OPEN SPACE STRUCTURE PLAN

To provide a strategic framework for the ROSS, a simple Structure Plan is illustrated (see Fig ES.01) that encompasses the major moves for the future of open space and recreation in the City. The key elements of this Structure Plan, centred on a series of expanding recreational loops and connections, are focused on three key experiences:

#### The River Experience

The Hawkesbury River will lie at the heart of the LGA's recreational focus drawing in its significant environmental, cultural and social values. This approach entails riverside access and connections on both banks that are regional (The Great River Walk), as well as local (the Windsor/North Richmond Loop). Enhancements to the river corridor would include:

- improved visual connections between the town and the river
- improved access to and onto the water (kayaks, fishing etc)
- enhanced opportunities for river focused cultural and recreational events (Sand Sculpture Competition, Bridge to Bridge etc)
- enhancements to riparian native vegetation and river health as key part of improved access
- creating stronger recreational linkages and connections between the river and its creeks
- appropriate commercial activities and opportunities on and beside the water (boat hire, tours, eating places etc)

CLOUSTON associates

## EXECUTIVE SUMMARY

It is recognised that much of the riverside land in this area is in private property ownership and that these strategies are necessarily predicated on mutually beneficial partnerships between public and private interests that may take some years to complete.

### **The Macquarie Town Loop**

This experience is focused on enhanced recreational linkages between the historic Macquarie towns that appeal at a local level (cycleways, walkways) at a tourist level (tourist drives, heritage and genealogy interests, farmgate experiences etc) and for sports (triathlon routes, orienteering, district sports facilities etc).

### **The National Park Experience**

This wider loop that also links to the two previous experiences provides for recreational connections by car, by cycle and walking from the more urban south to the extensive and highly scenic bushland in the north of the LGA. Importantly there also sport tourism opportunities here as the NPWS places a strong focus on opportunities for sports like Mountain Biking in this part of the Sydney network.

This experience also promotes the roles of Richmond and Windsor as the recreational gateways to the Blue Mountains National Park.

### **Parks and Open Spaces**

Core to this Structure Plan and forming pivotal elements in the experiences outlined above are the City's parks and open spaces. The major initiatives to be adopted here are as follows:

*Local and Neighbourhood Parks:* through a longer term strategic process (see Consolidation, Acquisition and Rationalisation below) all residences in the City would have access to a park or parkland network within a maximum of 400 metres of home (research varies on preferred distances between 400-500m, although most guidelines recommend 400m). However in more rural areas local parks are by their nature also often district parks given the travel distances within and between townships; for this purpose distances of up to 1 kilometre to local open space would seem more realistic.

Newly acquired or consolidated parks would generally be of no less than 0.3 Ha, preferably of compound shape and relatively level topography to provide maximum recreation opportunity and flexibility for a diversity of user types and needs over time, as well as to accommodate significant canopy vegetation.

*Sports Parks:* As part of the development of a Sports Plan proposed to be developed by Council and the Sports Council, a review of the hierarchy of sports facilities would be implemented. Flooding is a key issue with respect to location of sports fields and investment in sport infrastructure. As part of the Sports Plan, a review of long term options for relocation of sports facilities away from the most flood affected areas where it can be demonstrated, so that long term sports provision will benefit and the associated costs of flood damage repair can be amortised.

## EXECUTIVE SUMMARY

All sports related parks would accommodate unstructured recreation needs such as play, seating, shade, BBQ, picnics, walking circuits. Note that while Local Parks may be suitable for informal kickabout, they would not generally form any part of a structured sports network.

*Urban Spaces:* allied to a green streets program would be street corner meeting places at key locations and crossings where neighbours are most likely to pass each other. Designed to encourage social interaction, or for seniors or parents with children to stop and rest or simply as a small incidental meeting space, these street corners would provide shade in the form of a significant tree or trees (that can also be a local wayfinding landmark) and seating that may simply be formed by a low wall or bench.

In town centres and in some larger neighbourhood centres at least one space is identified and designed to meet local leisure needs. This may range from a space that suits early morning Tai chi to local cultural events. Seating, shade, planting and public artwork would be typical elements. In larger centres spaces would be adaptable to local events and designed to accommodate temporary or permanent stages and built in infrastructure (eg. power, water, etc).

### IMPLEMENTATION PLAN

The ROSS contains a detailed Implementation Plan which provides recommended actions to enhance the City's recreation and open space qualities and opportunities, classifying these in priority, identifying roles and responsibilities for their realisation and identifying where they integrate with the Community Strategic Plan. In brief summary the core threads of this Implementation Plan encompass:

#### Focusing on the Basics First

- Providing more shade, seating, paths, planting and play
- Providing for basic kickabout in local parks
- Ensuring that sports parks also provide for passive recreation and spectator amenity
- Meeting changing trends in sport by greater facility flexibility and adaptability
- Addressing flood and climate change impacts through design and planning
- Focusing on enhanced natural environment health

#### Improving Access and Connectivity

- Better connecting residential areas to the park system by cycle and walking routes
- Improving access to and onto the rivers and creeks
- Improving universal access for all ages
- Promoting more walking and cycling through enhanced off road facilities



CLOUSTON associates

## EXECUTIVE SUMMARY

### **Making More of What's There**

- Reviewing all open space for opportunities to consolidate, acquire and rationalise all with the focus on improved recreation access, quality and diversity
- Integrating urban spaces into the open space network
- Develop the Great River Walk concept through the LGA in concert with adjoining LGAs
- Extending data on actual open space use and community aspirations through ongoing surveys

### **Drawing on the City's Unique Character, Identity and Heritage**

- Placing the river at the heart of the city's open space and recreation network
- Enhancing natural health of the landscape as part of recreational upgrades (creeks, foreshores, bushland)
- Identify and protect significant views (to the river, to the mountains etc)
- Link the historic towns and cemeteries through the recreational network
- Conserving and interpreting the City's rich Aboriginal and Non-Aboriginal heritage
- Enhancing tourism opportunities through the open space system (sports, heritage, food, events, natural environment, river etc).

### **Developing Partnerships**

- Working with schools in rural towns to increase community access for active and passive recreation
- Working closely with the Sports Council to develop a Sports Plan for the City
- Continuing and extending the partnerships with not for profit providers (eg YMCA)
- Liaising with adjoining LGAs and NPWS on mutually beneficial open space and recreation opportunities
- Supporting community interests, programs and volunteering

The ROSS provides a strong foundation for delivering on these actions by incorporating a comprehensive and integrated open space inventory (tabulated and mapped).

## EXECUTIVE SUMMARY

### FUNDING THE PLAN

Inherent in each of the major moves within the Implementation Plan outlined above is a strategic and creative approach to funding the plan in the short and longer; an essential consideration for Council in light of a relatively small rate base and limited projected growth.

This requires a multi-pronged approach that goes well beyond sourcing funds to an holistic financial plan for the City's public domain that integrates the cost/revenue equation through considerations such as:

- extending recreation capacity of existing reserves through multi-using, shared uses etc
- reduced maintenance by optimising Service Levels with planning and design (enhanced native vegetation, reduced mowing, recycling materials, lifecycle considerations etc)
- revenue opportunities through integrated planning (tourism links, events, commercial facilities, employment etc)
- grants applications across related and integrated themes (arts, culture, environment, tourism etc)
- partnerships that extend funding base (adjoining LGAs, business, community, private recreation providers, other government agencies).

oooO END OF REPORT Oooo

**Item: 14                    IS - Lower Portland Ferry - (95495)**

**Previous Item:**        Item 156, Ordinary (28 August 2012)  
                              Item 102, Ordinary (26 June 2012)

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**REPORT:**

**Executive Summary**

Following the annual Roads and Maritime Services (RMS) survey inspection of the Lower Portland Ferry, the vessel was withdrawn from service due to significant unanticipated structural deterioration.

Council was offered the use of a spare RMS ferry on a short term basis to enable continuity of service for the local community.

Subsequently, a proposal was made by RMS offering Council a recently retired ferry, subject to Council meeting the overhaul and transport cost. Acceptance of this offer would enable Council to continue use of the spare ferry until the retired vessel was overhauled. Council could then determine which vessel was the most suitable for its needs from an operational and financial perspective.

The report recommends that Council formally endorse the acceptance of this offer and make financial provision in the current budget for its share of the cost, estimated at \$200,000, with The Hills Shire Council to provide an equal contribution.

**Consultation**

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. Council has however discussed the matter through a meeting of the Lower Portland Ferry Working Party, which includes community representatives.

**Background**

As previously reported to Council, the vessel previously used on the vehicular ferry crossing at Lower Portland was required to be retired from service by RMS (Maritime) due to significant, unanticipated structural deterioration. The vessel had been the subject of ongoing monitoring and although it was anticipated that the vessel could remain in service for up to another two years (subject to satisfactory condition), the annual inspection revealed an unacceptable deterioration of the vessel had occurred, and the vessel was withdrawn from service.

RMS (Fleet Services) was able to assist Council with the loan of a ferry and the ferry service was reinstated the following day. As this was only an interim arrangement, urgent discussions were held with RMS to identify any longer term options.

A meeting of the Lower Portland Ferry Working Party was subsequently held. At this meeting, a tentative offer was made by RMS (Fleet Services) to provide a recently retired ferry for Council's use.

The detail of this offer was for:

- RMS to arrange transport and overhaul of the vessel (known as Ferry 7) with costs being met by Hawkesbury City Council and The Hills Shire Council (estimated at \$350,000 - \$400,000)
- Continue operation of the current loan vessel (known as Ferry 55) until overhaul of Ferry 7 is completed.



- Council to then obtain independent expert assessment of both Ferry 7 and Ferry 55 and nominate which ferry it would accept on a permanent basis.

There was agreement by the Working Party that this was a satisfactory arrangement, and RMS sought confirmation of both Councils interest and preparedness to meet the cost of overhaul of the spare vessel. This was agreed to by both Hawkesbury and The Hills Shire Council's General Managers. Although formal advice/acceptance of the arrangement by RMS has not been confirmed, RMS have advised that arrangements have been made for overhaul of Ferry 7 and the use of the loan ferry is continuing.

#### Consideration of Options

A financial analysis was prepared for a range of scenarios including purchase and contract arrangements for new and used vessels. This modelling considered operational, maintenance and long term ownership costs.

Whilst there were some variations between cost elements for operational and maintenance costs, the major cost of the three yearly overhaul is similar for both a new and used vessel. Accordingly, the major difference is the initial capital outlay required (or its long term finance cost). As a result, the RMS offer is the most cost effective solution.

Whilst the vessel is used, RMS officers indicated that subject to ongoing maintenance and overhaul, both Ferry 55 and Ferry 7 would have an indefinite life. Nevertheless, discussion at the Working Party meeting concluded that a sinking fund should be established to provide for replacement in 15 years, if required.

#### Operating Hours

The annual cost of operation of the ferry is approximately \$425,000, based on 19 hours of operation daily (5am - midnight).

An option was canvassed at the Working Party meeting of reducing these hours, to generate savings that could be applied to meeting the long term replacement/sinking fund cost.

Whilst no decision was made, there was a general agreement that this should be considered further, in consultation with the local community. It was also noted that the current operating costs are based on a single person operation. (RMS currently operate a two person operation on their Sydney fleet). Should regulations change to require a two man operation this would almost double the annual operational cost.

#### **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:

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

#### **Financial Implications**

The cost of the overhaul and transport of RMS Ferry 7 is estimated at \$350,000 - \$400,000 with this cost to be met on an equal basis by Hawkesbury and The Hills Shire Councils.

As no provision has been made in the current year's budget, this amount is proposed to be funded from the Contingency Reserve. Whilst the Contingency Reserve was not established for this particular purpose it is effectively the only source of funding for this unbudgeted expenditure at this stage.

In addition, provision will be made in future budgets for an allocation of funding to a sinking fund reserve to enable long term replacement of the vessel. This amount is estimated at \$31,500 per annum.

**RECOMMENDATION:**

That Council:

1. Note the report on the Lower Portland Ferry.
2. Make financial provision of \$200,000 in its current budget, by way of an adjustment as part of the March 2013 Quarterly Review from the Contingency Reserve, to overhaul and transport RMS Ferry 7.
3. Investigate and consult with the local community, regarding the potential for reduced operating hours to enable a reduction in operating costs.
4. Incorporate a financial provision in future budgets for the replacement of the vessel.
5. Following the overhaul of Ferry 7, engage an independent expert to assess both Ferry 7 and Ferry 55 to determine the most suitable vessel for Council's long term operational and financial requirements and the General Manager be delegated authority to select the appropriate ferry following this assessment.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**Item: 15**                      **IS - Wilberforce Cemetery - Development of the Wesleyan Section - (95495, 79354)**

**Previous Item:**            152, Ordinary (19 June 2012)

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**REPORT:**

**Executive Summary**

As part of the public exhibition for the Draft 2012/2013 Operational Plan, Council received a submission from the Friends of Wilberforce Cemetery, seeking funds to implement the recommendations highlighted in the Wilberforce Cemetery Conservation Management Plan in relation to the Wesleyan Section.

Consideration has been given to the various points in the submission and an assessment of the costs carried out, however due to competing demands for limited funding, these projects are not considered high priority at this time.

With the exception of building a new Columbarium wall, it is recommended that the development of the Wesleyan section be deferred until funding becomes available.

**Consultation**

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. It is proposed that consultation be undertaken as part of the Draft 2013/2014 Operational Plan in conformance with Council's policy.

**Background**

Following the receipt of correspondence from the Friends of Wilberforce Cemetery in regard to the draft 2012/2013 Operational Plan, Council at its Extraordinary Meeting held on the 19 June 2012, resolved that:

*"A report be submitted to a future Council meeting providing details of costs involved as referred to in the submission from the Friends of Wilberforce Cemetery with the view to funding for such works being considered in conjunction with the Draft Budget for 2013/2014"*

The submission sought funding to implement the recommended works within the Wilberforce Cemetery Conservation Management Plan. The area of the Wilberforce Cemetery referred to in the submission is the Wesleyan Section, which is located in the north eastern part of the cemetery. The points raised were:

- Identifying unmarked graves
- Formalising Clergy Road on the south eastern boundary
- Building of a new Columbarium wall
- Development of a memorial garden, and
- Fencing

The costs and issues associated with these elements are detailed as follows.

Identifying Unmarked Graves

The implementation Strategy of the Wilberforce Cemetery Conservation Plan recommends that Council:

*"Undertake a ground penetrating radar investigation of the former Wesleyan area of the cemetery to determine where unmarked burials are located"*

To undertake ground penetrating radar, the understorey vegetation would need to be cleared. This vegetation has been identified as Cumberland Plain Woodland, which is a threatened ecological community. Therefore prior to any clearing/development of the site, an Environment Impact Assessment would need to be carried out to determine the condition and significance of the vegetation, and what impact the proposed development will have on it. The cost to undertake an Environment Impact Assessment is estimated at \$10,000. Given the lack of documentary evidence relating to burials in this area, it is a possible outcome of such an assessment that clearance of the native vegetation is not justified.

#### Formalising Clergy Road on the South Eastern Boundary

The implementation strategy of the Wilberforce Cemetery Conservation Plan recommends that Council:

*"Formalise Clergy Road on the South Eastern boundary of this area to provide vehicular access to properties in Church Road and Old Sackville Road who currently reach their garages via the track through the former Wesleyan area of the cemetery."*

The Conservation Plan refers to two properties adjoining the former Wesleyan section. Both properties have access via Church and Old Sackville Roads and therefore the development of this road is a low priority for funding.

The access issues through the Wesleyan section have however been resolved by the placement of concrete blocks on the formed tracks.

#### Building of a New Columbarium Wall

The Conservation Plan calls for a new Columbarium in the western end of the cemetery. It should be noted that this is not within the Wesleyan section as requested in the submission. Funding to build a new Columbarium wall can be considered in the draft 2013/2014 Operational Plan. The estimated cost is \$10,000.

#### Development of a Memorial Garden

The implementation strategy of the Wilberforce Conservation Plan recommends that Council:

*"Develop a plan for a memorial garden in the former Wesleyan area of Wilberforce cemetery. The plan should be developed with consultation with the local community and should include:*

- 1. Location of previous burials (if any) located by ground penetrating radar investigation.*
- 2. Pedestrian paths through the area*
- 3. Areas for placement of memorials*
- 4. Appropriate plant lists for sections within the area*
- 5. Retention of mature trees at the edges of the area to screen adjacent residential development."*

Whilst investigating the costs to undertake the work requested, the vegetation located in the Wesleyan section was identified as Cumberland Plain Woodland, which is a threatened ecological community. The Conservation Plan has failed to identify the vegetation community and therefore its recommendations in clearing the vegetation in order to undertake the ground penetrating radar and development of pathways and gardens requires further investigation. As indicated previously, an 'Environmental Impact Assessment' would need to be undertaken to establish the condition and significance of the vegetation, and determine what impact the proposed development would have on the site.

#### Fencing

The purpose of fencing the area is to restrict the access of vehicles into the site. Currently the placement of concrete blocks on the formed tracks is being used to restrict vehicular access. Fencing around the Wesleyan section is not considered to be warranted and the cost to install fencing of a similar style to that already existing is approximately \$37,000. Alternatively, it is possible to formalise the site using sandstone boulders as an alternate option, and an estimate of cost to provide and install sandstone boulders is

\$20,000. These costs are significant, and are not considered a high priority given the current restrictions on traffic are effective.

#### Conclusion

The Wilberforce Cemetery Conservation Plan is one of many conservation and management plans for Council's parks and reserves that identifies and recommends further works. Implementation is limited by available funding, and capital works are undertaken on a prioritised basis.

In the 2009/2010 financial year, \$183,000 was spent on implementing the priorities of the conservation management plan. These works included the ground penetrating radar to identify existing graves in the southern part of the cemetery, drainage works and road works. The cemetery was then reopened for burials in July 2011 and over the past 18 months there has been two burials and five plots reserved.

Due to the current low demand, the development of the Wesleyan section is not seen as a high priority. With the exception of building a new Columbarium wall, it is recommended that the development of the Wesleyan section be deferred, with funding opportunities such as grants to be explored.

#### **Conformance to Community Strategic Plan**

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

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

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

- Develop and implement a plan to conserve and promote heritage

#### **Financial Implications**

Costs for implementing the Wilberforce Cemetery Conservation Management Plan, as identified in the Friends of Wilberforce Cemetery's submission include:

1. Environmental Impact Statement – \$10,000
2. Identification of unmarked burials (using ground penetrating radar) – \$6,000-\$10,000
3. Building of a new Columbarium wall – \$10,000
4. Formalising a barrier around the area using sandstone boulders – \$20,000

Should the area be able to be cleared, additional costs would include: vegetation removal, path establishment, development of memorial gardens as well as ongoing maintenance and replacement costs. These are estimated at over \$60,000.

#### **RECOMMENDATION:**

That:

1. Funding for a new Columbarium wall for the western end of the Wilberforce Cemetery be considered in the 2013/2014 Operational Plan;
2. Further development of the Wesleyan section be deferred and be reconsidered in future budgets subject to priority and funding.

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**Item: 16**                    **IS - Naming of McMahon Park - (95495, 79354)**

**Previous Item:**            174, Ordinary (9 August 2011)

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**REPORT:**

**Executive Summary**

In accordance with Council's Resolution of 9 August 2011, the names McMahon Park and Singleton's Reserve were forwarded to the Geographical Names Board (GNB) for formal gazettal. The GNB publicly advertised the names for four weeks, seeking public submissions.

Following closure of the submission period, the GNB have advised that no correspondence was received in relation to Singleton's Reserve and as such it has been assigned as a geographical name as of 14 September 2012.

In relation to the naming of McMahon Park, two submissions were received, one objection and one in support. The submissions have been forwarded to Council for consideration and further advice to the GNB.

The objection received has been identified as relating to a different parcel of land, and it is therefore recommended that the name McMahon Park be retained and the GNB be advised of this for their consideration and formal gazettal.

**Consultation**

Consultation was undertaken by the Geographical Names Board. One objection to and one in favour of the naming were received.

**Background**

Council at its Ordinary meeting on 9 August 2011 resolved

*That:*

1.     *The name of Singleton's Reserve for the Reserve located on Mill Road Kurrajong (Lot 285 & 286 DP 751649) be supported, and placed on public exhibition for 28 days, with comments being reported to Council.*
2.     *The name of McMahon Park, for the Park located on McMahons Park Road, Kurrajong (Lot 7015 DP 751649) be supported and application be made to the Geographical Names Board for formal gazettal.*

Council staff subsequently advertised and reported back to Council the naming of Lot 285 & 286 DP 751649, as Singleton's Reserve, and both proposed names were forwarded to the GNB.

Both the names McMahon Park (Lot 7015 DP 751649) and Singleton's Reserve (Lot 285 & 286 DP 751649) were advertised by the GNB in both the NSW Gazette and the Hawkesbury Courier, with a submission period of four weeks.

Following closure of the submission period, the GNB advised that no correspondence was received in relation to Singleton's Reserve and as such it has been assigned as a geographical name as of 14 September 2012.

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

In relation to the naming of McMahon Park, two submissions were received, one objection and one in support. The submissions have been forwarded to Council for its consideration and further advice to the GNB.

The objecting submission recommended an alternate name "Diggers Reserve", in memory of the Diggers who farmed the land following World War 1.

In an effort to obtain further background information in relation to the alternate suggestion, Council staff met the author of the submission, and during this meeting it was determined that the reserve that the submission was actually referring to was Singleton's Reserve (Lot 285 & 286 DP 751649), not McMahon Park (Lot 7015 DP 751649).

The GNB were contacted regarding the discrepancy, however advised that due to Singleton's Reserve having been assigned as a geographical name as of 14 September 2012, no further correspondence would be considered. The person who raised the objection has been contacted and advised of this outcome.

Due to the objection relating to a different parcel of land, it is recommended that the name McMahon Park continue to be supported and this advice be forwarded to the GNB for their consideration and formal gazettal of the name.

#### **Conformance to Community Strategic Plan**

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

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

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

- Work with the community to define the Hawkesbury character to identify what is important to preserve and promote.

#### **Financial Implications**

No financial implications are applicable to this report.

#### **RECOMMENDATION:**

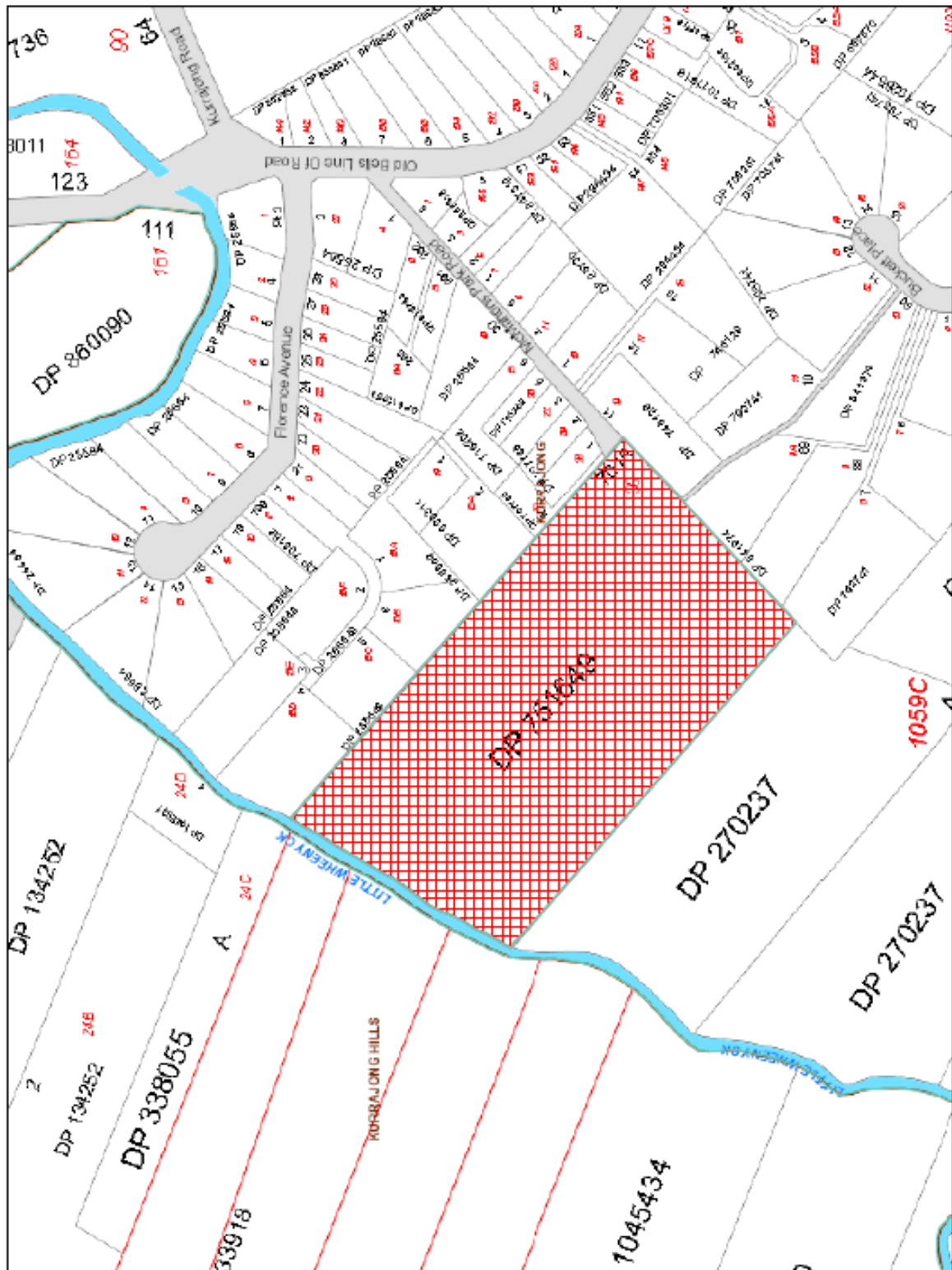
That the name of McMahon Park for the Reserve located on McMahon Road, Kurrajong (Lot 7015 DP 751649) be reaffirmed and forwarded to the Geographical Names Board for consideration and formal gazettal.

#### **ATTACHMENTS:**

- AT - 1** Map of Park located at McMahon Road (Lot 7015 DP 751649), Kurrajong, proposed to be formally gazetted as "McMahon Park".



**AT - 1 Map of Park located at McMahon Road (Lot 7015 DP 751649), Kurrajong, proposed to be formally gazetted as "McMahon Park".**



oooO END OF REPORT

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**SUPPORT SERVICES**

**Item: 17                      SS - Monthly Investments Report - November 2012 - (96332, 95496)**

**REPORT:**

**Executive Summary**

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

This report indicates that Council held \$38.55 million in investments at 30 November 2012.

It is recommended that this report be received and noted.

**Consultation**

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

**Background**

The following table indicates that Council held \$38.55 million in investments as at 30 November 2012. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term, and the percentage of the total portfolio, are provided below:

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
<b>On Call</b>								
ANZ	A1+	AA-	30-Nov-12		4.75%	3,650,000	9.48%	
CBA	A1+	AA-	30-Nov-12		3.75%	1,650,000	4.29%	
<b>Total On-call Investments</b>								<b>5,300,000</b>
<b>Term Investments</b>								
ANZ	A1+	AA-	24-Oct-12	23-Oct-13	4.62%	1,000,000	2.59%	
ANZ	A1+	AA-	20-Nov-12	17-Apr-13	4.65%	1,000,000	2.59%	
ANZ	A1+	AA-	07-Nov-12	24-Apr-13	4.70%	1,000,000	2.59%	
ANZ	A1+	AA-	07-Nov-12	24-Apr-13	4.70%	1,000,000	2.59%	
ANZ	A1+	AA-	07-Nov-12	22-May-13	4.70%	2,000,000	5.19%	
Bankwest	A1+	AA-	21-Mar-12	20-Mar-13	5.90%	500,000	1.30%	
Bankwest	A1+	AA-	31-July-12	30-Jan-13	5.10%	1,000,000	2.59%	

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
Bankwest	A1+	AA-	01-Aug-12	30-Jan-13	5.10%	500,000	1.30%	
Bankwest	A1+	AA-	08-Aug-12	06-Feb-13	5.10%	3,000,000	7.78%	
CUA	A-2	BBB	07-Mar-12	06-Feb-13	6.05%	250,000	0.65%	
NAB	A1+	AA-	06-Jun-12	05-Dec-12	5.15%	2,500,000	6.49%	
NAB	A1+	AA-	13-Jun-12	16-Jan-13	5.12%	1,000,000	2.59%	
NAB	A1+	AA-	25-Jul-12	30-Jan-13	5.04%	2,000,000	5.19%	
NAB	A1+	AA-	25-Jul-12	24-Jul-13	4.92%	1,000,000	2.59%	
NAB	A1+	AA-	20-Nov-12	08-May-13	4.65%	2,000,000	5.19%	
NAB	A1+	AA-	20-Nov-12	15-May-13	4.65%	1,000,000	2.59%	
St George	A1+	AA-	15-Aug-12	21-Aug-13	5.15%	2,000,000	5.19%	
St George	A1+	AA-	22-Aug-12	18-Sept-13	5.16%	2,000,000	5.19%	
St George	A1+	AA-	22-Aug-12	16-Oct-13	5.16%	1,500,000	3.89%	
Westpac	A1+	AA-	06-Jun-12	05-Dec-12	5.10%	1,000,000	2.59%	
Westpac	A1+	AA-	05-Sep-12	20-Feb-13	5.05%	1,500,000	3.89%	
Westpac	A1+	AA-	05-Sep-12	04-Mar-13	5.05%	2,500,000	6.49%	
Westpac	A1+	AA-	26-Sep-12	20-Mar-13	5.00%	1,000,000	2.59%	
Westpac	A1+	AA-	10-Oct-12	08-Apr-13	4.80%	1,000,000	2.59%	
<b>Total Term Investments</b>								<b>33,250,000</b>
<b>TOTAL INVESTMENT AS AT 30 NOVEMBER 2012</b>								<b>38,550,000</b>

**Performance by Type**

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	5,300,000	4.44%	Reserve Bank Cash Reference Rate	3.25%	1.19%
Term Deposit	33,250,000	4.99%	UBS 90 Day Bank Bill Rate	3.26%	1.73%
<b>Total</b>	<b>38,550,000</b>	<b>4.91%</b>			

**Restricted/Unrestricted Funds**

Restriction Type	Amount \$
External Restrictions -S94	7,273,605
External Restrictions - Other	5,013,607
Internal Restrictions	18,422,615
Unrestricted	7,840,173
<b>Total</b>	<b>38,550,000</b>

## ORDINARY MEETING

Meeting Date: 5 February 2013

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 Section 94 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 \$0.85 million for the month of November 2012. During November 2012, income was received totalling \$8.48 million, including rate payments amounting to \$4.35 million, while payments to suppliers and staff costs amounted to \$6.45 million.

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

As at 30 November 2012, Council has invested \$10.50 million with second tier financial institutions, that are wholly owned subsidiaries of major trading banks, and \$0.25 million invested with a second tier institution that is not a wholly owned subsidiary of a major Australian trading bank, with the remaining funds being invested with first tier institutions. Council's adopted Investment Policy allows Council to invest funds with second tier Authorised Deposit-taking Institutions that are wholly owned subsidiaries of major Australian trading banks, subject to conditions stipulated in the Policy. Investments in second tier financial institutions, that are not wholly owned subsidiaries of major trading banks, are limited to the amount guaranteed under the Financial Claims Scheme (FCS) for Authorised Deposit-taking Institutions (ADIs), in line with Council's Investment Policy.

The FCS protects depositors by guaranteeing deposits (up to the cap) held in ADIs incorporated in Australia, and allows quick access to deposits if an ADI becomes insolvent. A permanent guarantee cap, per account holder, per ADI, of \$250,000, has been in place since 1 February 2012.

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

Council's investment portfolio complies with Council's Investment Policy, adopted on 26 June 2012.

### ***Investment Certification***

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

### **Conformance to Community Strategic Plan**

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

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

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

- Maintain and review a sustainable long term financial framework.

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**Financial Implications**

Funds have been invested with the aim of achieving budgeted income in 2012/2013.

**RECOMMENDATION:**

The report regarding the monthly investments for November 2012 be received and noted.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**Item: 18                      SS - Monthly Investments Report - December 2012 - (96332, 95496)**

**REPORT:**

**Executive Summary**

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

This report indicates that Council held \$38.08 million in investments at 31 December 2012.

It is recommended that this report be received and noted.

**Consultation**

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

**Background**

The following table indicates that Council held \$38.08 million in investments as at 31 December 2012. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term, and the percentage of the total portfolio, are provided below:

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
<b>On Call</b>								
ANZ	A1+	AA-	31-Dec-12		4.35%	4,200,000	11.03%	
CBA	A1+	AA-	31-Dec-12		3.50%	630,000	1.63%	
<b>Total On-call Investments</b>								<b>4,830,000</b>
<b>Term Investments</b>								
ANZ	A1+	AA-	24-Oct-12	23-Oct-13	4.62%	1,000,000	2.63%	
ANZ	A1+	AA-	20-Nov-12	17-Apr-13	4.65%	1,000,000	2.63%	
ANZ	A1+	AA-	07-Nov-12	24-Apr-13	4.70%	1,000,000	2.63%	
ANZ	A1+	AA-	07-Nov-12	24-Apr-13	4.70%	1,000,000	2.63%	
ANZ	A1+	AA-	07-Nov-12	22-May-13	4.70%	2,000,000	5.25%	
ANZ	A1+	AA-	05-Dec-12	04-Jun-13	4.65%	1,000,000	2.63%	
Bankwest	A1+	AA-	21-Mar-12	20-Mar-13	5.90%	500,000	1.31%	
Bankwest	A1+	AA-	31-July-12	30-Jan-13	5.10%	1,000,000	2.63%	

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
Bankwest	A1+	AA-	01-Aug-12	30-Jan-13	5.10%	500,000	1.31%	
Bankwest	A1+	AA-	08-Aug-12	06-Feb-13	5.10%	3,000,000	7.88%	
CUA	A-2	BBB	07-Mar-12	06-Feb-13	6.05%	250,000	0.66%	
NAB	A1+	AA-	13-Jun-12	16-Jan-13	5.12%	1,000,000	2.63%	
NAB	A1+	AA-	25-Jul-12	30-Jan-13	5.04%	2,000,000	5.25%	
NAB	A1+	AA-	25-Jul-12	24-Jul-13	4.92%	1,000,000	2.63%	
NAB	A1+	AA-	20-Nov-12	08-May-13	4.65%	2,000,000	5.25%	
NAB	A1+	AA-	20-Nov-12	15-May-13	4.65%	1,000,000	2.63%	
NAB	A1+	AA-	05-Dec-12	04-Jun-13	4.65%	2,500,000	6.56%	
St George	A1+	AA-	15-Aug-12	21-Aug-13	5.15%	2,000,000	5.25%	
St George	A1+	AA-	22-Aug-12	18-Sept-13	5.16%	2,000,000	5.25%	
St George	A1+	AA-	22-Aug-12	16-Oct-13	5.16%	1,500,000	3.94%	
Westpac	A1+	AA-	05-Sep-12	20-Feb-13	5.05%	1,500,000	3.94%	
Westpac	A1+	AA-	05-Sep-12	04-Mar-13	5.05%	2,500,000	6.56%	
Westpac	A1+	AA-	26-Sep-12	20-Mar-13	5.00%	1,000,000	2.63%	
Westpac	A1+	AA-	10-Oct-12	08-Apr-13	4.80%	1,000,000	2.63%	
<b>Total Term Investments</b>								<b>33,250,000</b>
<b>TOTAL INVESTMENT AS AT 31 DECEMBER 2012</b>								<b>38,080,000</b>

**Performance by Type**

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	4,830,000	4.24%	Reserve Bank Cash Reference Rate	3.00%	1.24%
Term Deposit	33,250,000	4.94%	UBS 90 Day Bank Bill Rate	3.11%	1.83%
<b>Total</b>	<b>38,080,000</b>	<b>4.85%</b>			

**Restricted/Unrestricted Funds**

Restriction Type	Amount \$
External Restrictions -S94	7,412,602
External Restrictions - Other	4,950,740
Internal Restrictions	17,013,048
Unrestricted	8,703,610
<b>Total</b>	<b>38,080,000</b>

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 Section 94 Contributions, Domestic Waste Management, Stormwater Management and Grants.

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

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

### ***Investment Commentary***

The investment portfolio decreased by \$0.47 million for the month of December 2012. During December 2012, income was received totalling \$5.26 million, including rate payments amounting to \$2.44 million, while payments to suppliers and staff costs amounted to \$6.49 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 December 2012, Council has invested \$10.50 million with second tier financial institutions, that are wholly owned subsidiaries of major trading banks, and \$0.25 million invested with a second tier institution that is not a wholly owned subsidiary of a major Australian trading bank, with the remaining funds being invested with first tier institutions. Council's adopted Investment Policy allows Council to invest funds with second tier Authorised Deposit-Taking Institutions that are wholly owned subsidiaries of major Australian trading banks, subject to conditions stipulated in the Policy. Investments in second tier financial institutions, that are not wholly owned subsidiaries of major trading banks, are limited to the amount guaranteed under the Financial Claims Scheme (FCS) for Authorised Deposit-taking Institutions (ADIs), in line with Council's Investment Policy.

The FCS protects depositors by guaranteeing deposits (up to the cap) held in ADIs incorporated in Australia, and allows quick access to deposits if an ADI becomes insolvent. A permanent guarantee cap, per account holder, per ADI, of \$250,000, has been in place since 1 February 2012.

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

Council's investment portfolio complies with Council's Investment Policy, adopted on 26 June 2012.

### ***Investment Certification***

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

### **Conformance to Community Strategic Plan**

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

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

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

- Maintain and review a sustainable long term financial framework.

### **Financial Implications**

Funds have been invested with the aim of achieving budgeted income in 2012/2013.



**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**RECOMMENDATION:**

The report regarding the monthly investments for December 2012 be received and noted.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**Item: 19**                      **SS - Pecuniary Interest Returns - Councillors and Designated Persons - (95496, 79337)**

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**REPORT:**

**Executive Summary**

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

**Consultation**

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

**Background**

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

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

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

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

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

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

<b>Councillor</b>	<b>Return Date</b>	<b>Date Lodged</b>
Clr Patrick Conolly	17/09/2012	11/12/2012
Clr Mike Creed	17/09/2012	17/12/2012
Clr Mary Lyons-Buckett	17/09/2012	09/12/2012

<b>Position</b>	<b>Return Date</b>	<b>Date Lodged</b>
Parks Officer Land Management	24/09/2012	19/12/2012
Compliance Officer	15/10/2012	15/01/2013
Asset Management Systems Engineer	15/10/2012	04/01/2013

All the above Councillors and Designated Persons have lodged their Section 449(1) Returns prior to the due dates for the receipt of the Returns, being three months after the return dates.

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

#### **Conformance to Community Strategic Plan**

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

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

#### **Financial Implications**

No financial implications applicable to this report.

#### **RECOMMENDATION:**

That the information be received and noted.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**CONFIDENTIAL REPORTS**

**Item: 20**                    **CP - Community Representation on Waste Management Advisory Committee - (95498, 79356) CONFIDENTIAL**

**Previous Item:**        216, Ordinary (27 November 2012)

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**Reason for Confidentiality**

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

*Specifically, the matter is to be dealt with pursuant to Section 10A(2)(a) of the Act as it relates to personal matters concerning particular individuals (other than councillors).*

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

ORDINARY MEETING

Meeting Date: 5 February 2013

Item: 21 CP - Request from Council's Recycling Contractor for an Increase in Service Fee as a Result of Carbon Pricing Legislation - (95498, 96330) **CONFIDENTIAL**

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**Reason for Confidentiality**

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

*Specifically, the matter is to be dealt with pursuant to Section 10A(2)(d) of the Act as it relates to a request to increase service charges and amend conditions of a current contract with Hawkesbury City Council and the information is regarded as being commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.*

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

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**Item: 22**                    **IS - Acquisition for Easements for Batter and Support - Bridge No.3 Upper Colo Road - (95495) CONFIDENTIAL**

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**Reason for Confidentiality**

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

*Specifically, the matter is to be dealt with pursuant to Section 10A(2)(d) of the Act as it relates to property values and the information is regarded as being commercial information of a confidential nature that 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 and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.*

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

**ORDINARY MEETING**  
**Meeting Date: 5 February 2013**

**Item :23                    IS - Tender No. 00920 - Tender for the Supply and Lay of Asphaltic Concrete within the City of Hawkesbury - (95495, 79344) CONFIDENTIAL**

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**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.*

ORDINARY MEETING

Meeting Date: 5 February 2013

Item: 24                      SS - Property Matter - Lease to Mr Hui Liang Chen - Shop 1 McGraths Hill Shopping Centre - (89525, 119085, 9587) **CONFIDENTIAL**

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

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



ordinary

section 5

reports  
of committees

**ORDINARY MEETING**  
Reports of Committees

**ORDINARY MEETING**  
Reports of Committees

**SECTION 5 - Reports of Committees**

**ROC - AC                      Audit Committee Minutes - 5 December 2012 - (95496, 91369)**

The meeting commenced at 4:10pm.

**Present:** Harry Khouri  
Nisha Maheshwari (Chair)  
Ellen Hegarty  
Councillor Paul Rasmussen  
Councillor Bob Porter

**Apologies:** David Gregory (Resigned)

**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  
John Watt - External presenter IAB Services  
Natasha Martin - Minute Secretary

**REPORT:**

Nil apologies were required to be accepted.

**Attendance Register of Audit Committee**

Member	30.11.2011	14.3.2012	30.5.2012	3.10.2012 [Postponed from 22.8.2012]	5.12.2012 [Postponed from 14.11.2012]
Clr Bob Porter	A	A	A	A	✓
Clr Paul Rasmussen	✓	✓	✓	✓	✓
Clr Kevin Conolly (Alternate)	✓	N/A	N/A	N/A	N/A
Clr Jill Reardon (Alternate)	N/A	✓	✓	N/A	N/A
Mr David Gregory	✓	✓	✓	A	A
Mr Harry Khouri	A	✓	A	✓	✓
Ms Nisha Maheshwari (Chair)	✓	✓	✓	✓	✓
Ms Ellen Hegarty	N/A	N/A	N/A	N/A	✓

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

## **CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Councillor Paul Rasmussen and seconded by Mr Harry Khouri that the Minutes of the Audit Committee held on the 3 October 2012, be confirmed.

## **SECTION 3 - Reports for Determination**

**Item: 1      AC - Status Report - Management Responses to Audit Recommendations - October 2012 - (91369, 79351, 121470)**

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### **DISCUSSION:**

- Ms Galea noted that the items marked December 2012 are still in progress.

### **RECOMMENDATION TO COMMITTEE:**

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

### **COMMITTEE RECOMMENDATION:**

**RESOLVED** on the motion of Councillor Paul Rasmussen, seconded by Councillor Bob Porter.

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

**Item: 2      AC - Fraud and Corruption Prevention Plan - (91369, 79351, 121470, 104746)**

**Previous Item:**          6, Audit Committee (14 March 2012)

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### **DISCUSSION:**

- Mr John Watt of IAB presented the report as outlined in Attachment 2: Fraud and Corruption Control Plan by IAB Services. The following issues were covered in Mr Watt's presentation:
  - Affective management reputation;
  - maintaining a culture of high ethical standards;
  - need for a fraud and corruption prevention plan
  - fraud risk assessment to assess potential risks and subsequent action plans; and
  - Council has a framework for considering and managing fraud.
- Mr Watt recommended a Health Check which included ten best practice principles, advising current customers were providing positive feedback regarding this system which allowed the organisation to demonstrate improvement over time. Mr Watt advised staff would be required to sign an annual acknowledgment of understanding.
- Ms Maheshwari enquired how Council was placed in comparison to other councils. Mr Watt responded Council had a robust regime, advising a smaller council finds it easier to maintain and/or monitor potential/actual risks. Mr Watt advised that Council viewed this issue seriously, which was determined during the Council staff workshops.
- Councillor Rasmussen asked who conducts the Health Checks. Mr Watt responded the Staff Survey assesses the organisation as a whole and business units within the organisation.

Mr Watt explained the area of concern would be identified, however, not the individual as the surveys were anonymous, advising anonymity promoted response. Mr Watt further reported the survey would be customised to suit circumstances and would be conducted either online (with the aid of a system such as Survey Monkey) or as a hardcopy. It was advised due to the nature of Council staff, a mixed approach of hard/soft copy was recommended.

Mr Watt further reported the organisation was responsible for running the program, whilst the Managers were responsible for identifying areas of concern and making the appropriate reports to the executive management team.

- Mr Banicevic asked if the Act required Council to have a policy in place. Mr Jackson responded whilst it was not a requirement to have a policy, it was considered to be best practice.
- Ms Maheshwari referred to the following points and enquired as to how many items were dropped off the list:
  - *The IAB's Fraud and Corruption Risk Assessment Checklist was reviewed (contains - approximately 160 items)*
  - *The list was reduced to those assessed as being most relevant and likely in local government*

Mr Kelly responded due to the irrelevancy to Council, about 10-12 items were removed from the list, however, an additional 10 specifically for development areas were included. Mr Kelly reported these were considered as robust and are used across NSW.

- Ms Maheshwari referred to the table on page 38 and asked if specific procedures had been developed. Mr Kelly responded day to day risk assessment procedures should identify areas to be developed.

#### **RECOMMENDATION TO COMMITTEE:**

That the attached Fraud and Corruption Control Plan prepared by IAB Services be noted, and the actions recommended be included in the Internal Audit Plan for 2013.

#### **COMMITTEE RECOMMENDATION**

RESOLVED on the motion of Councillor Bob Porter, seconded by Councillor Paul Rasmussen.

That the attached Fraud and Corruption Control Plan prepared by IAB Services be noted, and the actions recommended be included in the Internal Audit Plan for 2013.

#### **Item: 3 AC - ICAC Report - Operation Jarek - (91369, 79351, 121470)**

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#### **DISCUSSION**

- Mr Kelly presented the ICAC report, noting 15 recommendations were made.
- Mr Kelly advised he was working with Procurements to ensure new procedures were created where Council policies were not in line with ICAC recommendations. Mr Kelly reported he expected to be compliant by the end of the review.
- Mr Banicevic noted that standards for ethical behaviour ought to be consistent for both private and public sectors.

**ORDINARY MEETING**  
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- Ms Galea noted that in relation to stores, ten new OMS have been approved as of 4 December, which would address many of the recommendations made in the ICAC report.
- Councillor Rasmussen asked if there were any current issues for Council and Mr Jackson reported there were none specifically relevant to this report.
- Councillor Porter asked if there was a policy in place to ensure Council would be informed of any issues. Mr Jackson responded the current practice was for minor matters to be dealt with by management, whilst matters of significance were brought to Council's attention.
- Ms Maheshwari enquired if staff were required to sign the Code of Conduct. Mr Jackson responded the Code of Conduct is currently signed as part of the appointment/induction. Mr Mifsud added that training attendance sign-in sheets at regular update/training sessions acknowledged the maintenance of staff awareness.

**RECOMMENDATION TO COMMITTEE:**

That the information be noted.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Councillor Bob Porter, seconded by Councillor Paul Rasmussen.

That the information be noted.

**Item: 4      AC - Meeting Dates for 2013 - (91369, 79351, 121470)**

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**RECOMMENDATION TO COMMITTEE:**

That the meeting dates for 2013 for the Audit Committee, as outlined in the report, be approved.

**COMMITTEE RECOMMENDATION:**

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

That the meeting dates for 2013 for the Audit Committee, as outlined in the report, be approved.

**SECTION 4 - General Business**

The Committee relayed their appreciation and thanks to the Chair for 2012.

The meeting closed at 5:05pm.

Submitted to and confirmed at the meeting of the Audit Committee held on 20 February 2013.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Reports of Committees**

**ROC - LTC          Local Traffic Committee - 14 January 2013 - (80245)**

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Minutes of the Meeting of the Local Traffic Committee held in the Large Committee Room, Windsor, on Monday, 14 January 2013 commencing at 3.00pm.

**ATTENDANCE**

<b>Present:</b>	Councillor Kim Ford (Chairman) Snr Constable Debbie Byrne, NSW Police Force Snr Constable Romelda McInerny, NSW Police Force
<b>Apologies:</b>	Mr Bart Bassett, MP (Londonderry) Mr Kevin Conolly, MP (Riverstone) Mr Ray Williams, MP (Hawkesbury) Mr Richard McHenery, Roads and Maritime Services Mr Peter Ramshaw, NSW Taxi Council Ms Jodie Edmunds, Westbus Mr Carlos DeSousa, Hawkesbury Valley Bus Service Ms J Wong, Community Safety Coordinator
<b>In Attendance:</b>	Mr C Amit, Manager, Design & Mapping Services Ms L. Tweedie, Administrative Officer, Infrastructure Services

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The Chairman tendered an apology on the behalf of Mr Kevin Conolly, MP, (Riverstone), and Mr Richard McHenery, Roads and Maritime Services, advising that Mr Kevin Conolly, MP, (Riverstone), and Mr Richard McHenery, Roads and Maritime Services concurred with recommendations as contained in the formal agenda.

**SECTION 1 - Minutes**

**Item 1.1          Confirmation of Minutes**

The Committee resolved on the motion of Senior Constable Debbie Byrne, seconded by Mr Chris Amit, that the minutes from the previous meeting held 12 November 2012 be confirmed.

**Item 1.2          Business Arising**

There was no business arising from the previous minutes.

**SECTION 2 - Reports for Determination**

**Item 2.1      LTC - 14 January 2013 - Item 2.1 Bicycle Racing Events for 2013 - Oakville  
(Hawkesbury) - (80245, 82935)**

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**REPORT:**

**Introduction:**

An application has been received from the Parramatta Cycling Club seeking approval (in traffic management terms) to conduct Amateur Bicycle Racing Events in Oakville during 2013.

The event organiser has advised;

- The event has been held over the past 18 years.
- The cycling events will be held on fifteen (15) separate Saturdays, during the period of 13 April 2013 to 26 October 2013,
- Each event will be conducted between 2.00pm and 4.30pm,
- The event is a Race,
- There will be approximately 70 to 90 participants.
- Graded club racing with 5 grades (each grade not to exceed 30 to 35 riders).
- Approximately 30 to 35 spectators are expected,
- The proposed dates are;
  - 13 April 2013
  - 27 April 2013
  - 11 May 2013
  - 25 May 2013
  - 08 June 2013
  - 22 June 2013
  - 06 July 2013
  - 20 July 2013
  - 03 August 2013
  - 17 August 2013
  - 31 August 2013
  - 14 September 2013
  - 28 September 2013
  - 12 October 2013
  - 26 October 2013
- The event starts and finishes at Oakville Public School,
- Utilising the School's parking facilities will eliminate traffic congestion in the start/finish area.



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- Traffic control arrangements will be in place with no road closures required,
- The course follows an anti-clockwise direction which utilises left turns only at intersections to ensure the safety of participants and motorists.
- Event Route;
  - Commencing at Oakville Public School, Oakville, and entering Ogden Road,
  - Travel a short distance along Ogden Road and then into Hanckel Road,
  - Travel along Hanckel Road and turn left into Old Pitt Town Road,
  - Travel along Old Pitt Town Road and turn left into Saunders Road,
  - Travel along Saunders Road and turn left into Smith Road,
  - Travel along Smith Road and turn left into Ogden Road,
  - Travel along Ogden Road finishing at Oakville Public School.
  - The route distance is approximately 7.1 kilometres

Refer to Attachment 1: Event Route Plan - Bicycle Racing Event 2013 – Oakville.

**Discussion:**

It would be appropriate to classify the event as a “**Class 2**” special event under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may disrupt minor traffic and transport systems along the specified route. Traffic volume and road width details are as provided in the following table:

<b>Route - Oakville</b>		
Road Name	ADT (Year)	Sealed Carriageway Width (m)
Hanckel Road	1498 (2002)	5.7
Old Pitt Town Road	1264 (2002)	6.0
Saunders Road	718 (2000)	5.4 – 5.8
Smith Road	342 (1999)	6.1
Ogden Road	190 (1999)	7.5

The event organiser should assess the risk and address the suitability of the route as part of the risk assessment considering the road width, number of bicycles, traffic volume and bicycles travelling close to the edge of the sealed travelling lane.

The event organiser has submitted the following items in relation to the event: Attachment 2 (ECM Document No: 4218742):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Transport Management Plan – referred to in the application as Traffic Management Plan (TMP) and Traffic Control Plans (TCP),
5. Event Route Plan,
6. Risk Assessment for the 2012 event,
7. Copy of the Advertisement to be placed in the Hawkesbury Gazette.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Senior Constable D Byrne, seconded by Councillor K Ford.

Support for Recommendation: Unanimous

That

1. The Bicycle Racing Events planned for:

- 13 April 2013
- 27 April 2013
- 11 May 2013
- 25 May 2013
- 08 June 2013
- 22 June 2013
- 06 July 2013
- 20 July 2013
- 03 August 2013
- 17 August 2013
- 31 August 2013
- 14 September 2013
- 28 September 2013
- 12 October 2013
- 26 October 2013

by the Parramatta Cycling Club along the Oakville Route be classified as a "Class 2" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).

2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.
4. It is strongly recommended that the event organiser visits Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/organising-an-event>, and refers to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they are familiar with the contents and requirements of this information. The approval conditions listed below relate only to matters relating to the traffic management of the event.
5. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

**Prior to the event:**

- 5a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);

- 5b. the event organiser is to assess the risk and address the suitability of the entire route as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route by the event organiser prior to the event;
- 5c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 5d. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 5e. As the event will traverse public roads, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with the associated fee, to occupy the road;
- 5f. the event organiser is to obtain approval from the respective Land Owners for the use of their land for the event; **a copy of this approval to be submitted to Council;**
- 5g. the event organiser is to advertise the event in the local press stating the entire route/extent of the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement has been submitted to Council;**
- 5h. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5i. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5j. the event organiser is to directly notify all the residences and businesses which may be affected by the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council;**
- 5k. the event organiser is to **submit** the completed " Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" **to Council;**

**During the event:**

- 5l. access is to be maintained for businesses, residents and their visitors;
- 5m. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 5n. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5o. the cyclist are to be made aware of and are to follow all the general road user rules whilst cycling on public roads;

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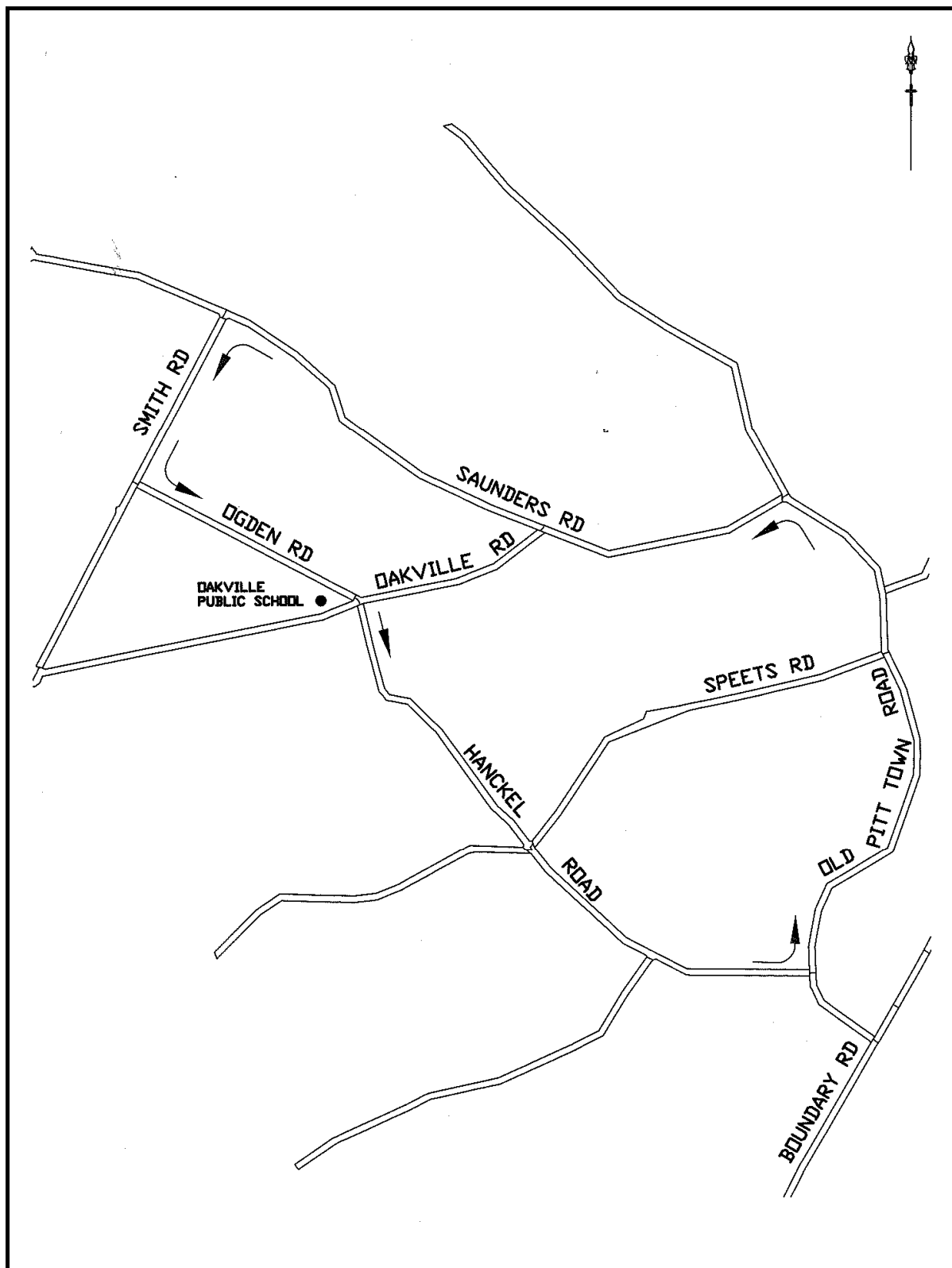
- 5p. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5q. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- 5r. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity.

**APPENDICES:**

**AT - 1** Event Route Plan - Bicycle Racing Event 2013 – Oakville

**AT - 2** Special Event Application - (ECM Document No.4218742) - *see attached.*

AT - 1 Event Route Plan - Bicycle Racing Event 2013 – Oakville.



**Item 2.2      LTC - 14 January 2013 - Item 2.2 - Zone One Training Horse Ride - February 2013 - Upper Colo Reserve (Hawkesbury) - (80245, 85005)**

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**REPORT:**

**Introduction:**

An application has been received from Zone One of The NSW Endurance Riders' Association seeking approval (in traffic management terms) to conduct the Zone One Training Horse Ride on Saturday 16 and Sunday 17, February 2013, utilising Upper Colo Reserve as a base area.

The event organiser has advised:

- The event has been held in previous years.
- The Training Horse Ride is non-competitive and is a time trial.
- Each day is a stand alone event between 8.00am and 4.00pm.
- The distance for the Training Horse Ride is 40 kilometres.
- Route for the Ride:

Training Ride - 40 Kilometres:

- Start Upper Colo Reserve (Ride Base) turn right out of the Reserve into Hulbert Road,
- Travel along Hulbert Road and turn right into Colo Heights Road,
- Travel along Colo Heights Road, crossing the timber bridge over the Colo River, and turn right into Upper Colo Road,
- Travel along Upper Colo Road, and turn left into Comleroy Road,
- Travel along Comleroy Road and turn right into Mountain Lagoon Road,
- Travel along Mountain Lagoon Road, and turn right into Sams Way,
- Travel along Sams Way to Gaspers Ridge Trail and through the Wollemi National Park (joining Wards Track),
- Travel back along the Wollemi National Park down to Upper Colo Road and turn right into Upper Colo Road,
- Travel back along Upper Colo Road, Colo Heights Road and Hulbert Road into the Upper Colo Reserve (Ride Base).
- Approximately 60 Participants are expected each day for the event.
- Where the course covers trafficable roads, the following will be in place:
  - A Marshall is to be in place to stop horses crossing whilst vehicles pass,
  - At any junction where horses cross or access roads that are main access gates, the Marshall is to notify Traffic of the conditions ahead,
  - Signage shall be in place stating the following: Horses on Road, Horses crossing. In areas where the road narrows or is windy; Drive Slowly Horses on Road is to be provided.
- Road Inventory:
  - Hulbert Road – Unsealed
  - Colo Heights Road - Unsealed

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- Upper Colo Road – Unsealed
- Comleroy Road - Unsealed
- Mountain Lagoon Road - Unsealed
- Sams Way - Unsealed
- Roads on private property and within the National Park.
- The Colo River will not be crossed as part of the route and instead, riders will use the Timber Bridge along Colo Heights Road to cross the Colo River.

Refer to Attachment 1: "Event Route Plan - Zone One Training Horse Ride 2013".

**Discussion**

It would be appropriate to classify the event as a "Class 2" special event under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may impact minor traffic and transport systems and there is a low scale disruption to the non-event community.

The event organiser has submitted the following items in relation to the event: Attachment 2 (ECM Document Nos. 4246134 & 4257494):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Traffic Management Plan (TMP) which has the incorrect event date, Risk Management Plan - Version Date 5-1-07 and a Traffic Control Plan (TCP) for the Bridge across the Colo River from the 2012 Event,
5. Event Route Plan,
6. Copy of Insurance Policy which is valid to 01 January 2013.
7. Copies of correspondence forwarded to the NSW Ambulance Service, NSW Rural Fire Service, NPWS and SES – which includes the incorrect event date.

**Reserve Matters:**

The event organiser has made application with Councils Parks and Recreation Section to utilise Upper Colo Reserve as the Base Area as well as for Camping purposes.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Councillor K Ford, seconded by Senior Constable D. Byrne.

Support for Recommendation: Unanimous

That:

1. The Zone One Training Horse Ride event based at Upper Colo Reserve, planned for Saturday 16 and Sunday 17, February 2013 be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport

Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.

4. It is strongly recommended that the event organiser visits Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/organising-an-event>, and refers to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they are familiar with the contents and requirements of this information. The approval conditions listed below relate only to matters relating to the traffic management of the event.
5. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

**Prior to the event:**

- 5a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 5b. the event organiser is to assess the risk and address the suitability of the entire route as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route / site by the event organiser prior to preparing the TMP and prior to the event;
- 5c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 5d. the event organiser **is to submit a Transport Management Plan (TMP) for the entire route/event incorporating a Traffic Control Plan (TCP) to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 5e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 5f. As the event will traverse public roads, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with the associated fee, to occupy the road.
- 5g. the Event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be addressed and outlined in the TMP;



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- 5h. should the Colo River be utilised as the crossing point instead of the Timber Bridge along Colo Heights Road, the event organiser is to obtain the relevant approval to conduct the event from the Roads and Maritime Services - RMS (formerly NSW Maritime); **a copy of this approval to be submitted to Council;**
- 5i. should the Colo River be utilised as the crossing point instead of the Timber Bridge along Colo Heights Road, the event organiser is to obtain the relevant approval from the Office of Environment and Heritage to cross the Colo River; **a copy of this approval to be submitted to Council;**
- 5j. the event organiser is to obtain approval from the National Parks and Wildlife Service (Office of Environment and Heritage) for the use of Wollemi National Park; **a copy of this approval to be submitted to Council;**
- 5k. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of a Council Park/Reserve;
- 5l. the event organiser is to obtain approval from the NSW Department of Primary Industries for the use of any Crown Road or Crown Land; **a copy of this approval to be submitted to Council;**
- 5m. the event organiser is to obtain approval from the respective Land Owners for the use of their land as part of the route for the event; **a copy of this approval to be submitted to Council;**
- 5n. the event organiser is to advertise the event in the local press stating the entire route/extent of the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 5o. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5p. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5q. the event organiser is to directly notify all the residences and businesses which may be affected by the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council;**
- 5r. the event organiser is to **submit** the completed " Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" **to Council;**

**During the event:**

- 5s. access is to be maintained for businesses, residents and their visitors;
- 5t. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 5u. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);

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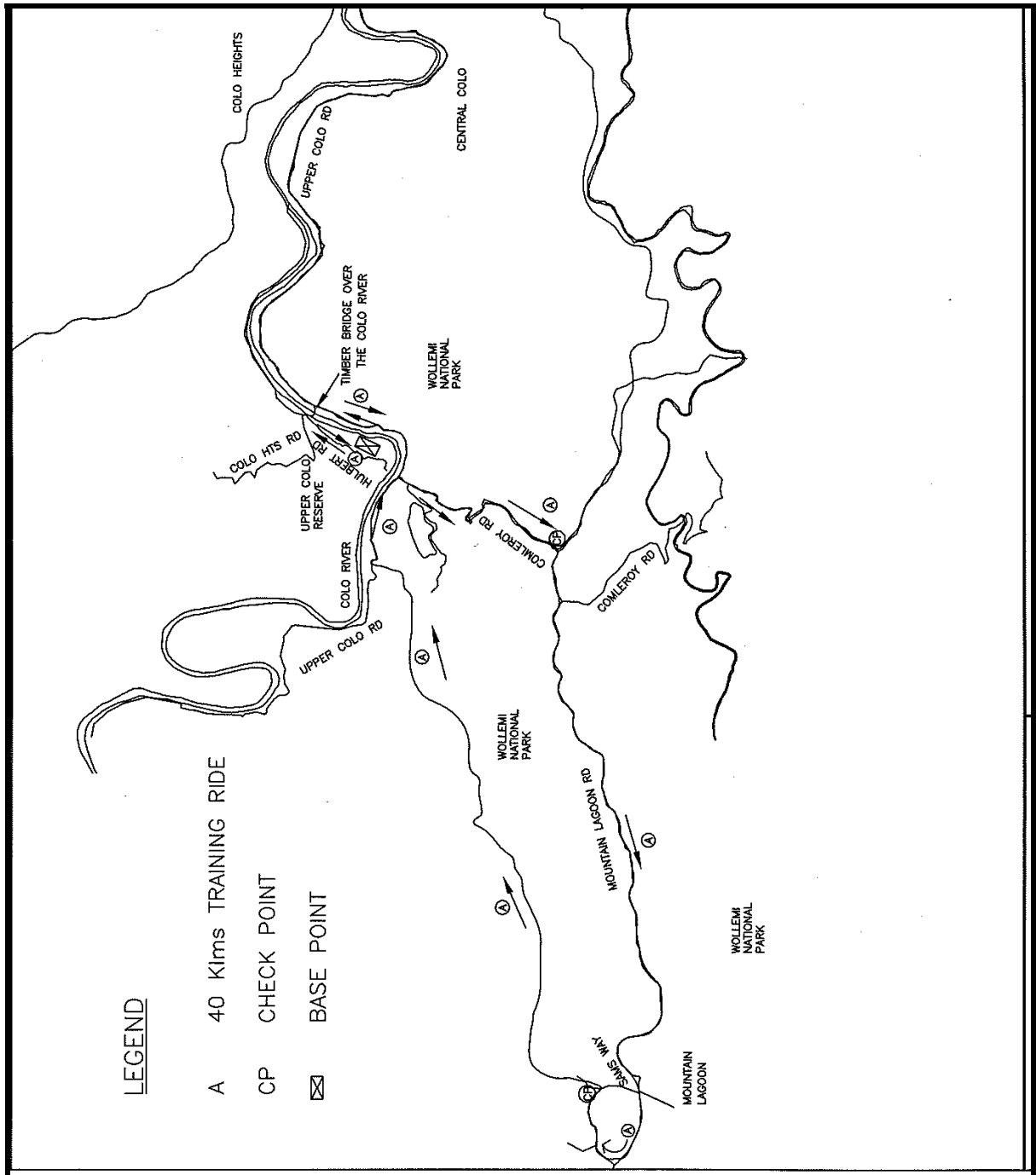
- 5v. the riders are to be made aware of and are to follow all the general road user rules whilst riding on public roads;
- 5w. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5x. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event;
- 5y. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity, and,
- 5z. the Event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be undertaken as outlined in the TMP.

**APPENDICES:**

**AT - 1** Event Route Plan - Zone One Training Horse Ride 2013.

**AT - 2** Special Event Application - (ECM Document Nos. 4246134 & 4257494) - *see attached*

**AT - 1 Event Route Plan - Zone One Training Horse Ride 2013**



**Item 2.3      LTC - 14 January 2013 - Item 2.3 - Zone One Q60 Endurance Horse Ride - April 2013 - Upper Colo Reserve (Hawkesbury) - (80245, 85005)**

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**REPORT:**

**Introduction**

An application has been received from Zone One of The NSW Endurance Riders' Association seeking approval (in traffic management terms) to conduct the Zone One Q60 Endurance Horse Ride on Sunday, 14 April 2013, utilising Upper Colo Reserve as a base area.

The event organiser has advised:

- The event has been held in previous years.
- The Endurance Horse Ride is a timed event and not a race.
- As part of the event a Training Horse Ride which is non-competitive will also be undertaken.
- The event will be undertaken between 4.00am and 5.00pm.

**Event Schedule – Sunday 14, April 2013:**

- The Endurance Horse Ride is 80 kilometres over 2 legs of 40 kilometres (Leg 1).
- The Training Horse Ride is 40 kilometres (Leg 2).
- Social Ride is 20 kilometres (Leg 3).
- Approximately 60 Participants and 40 support people are expected for the event,

**Route for the Rides:**

Endurance Ride - Leg 1 - 40 Kilometres:

- Start Upper Colo Reserve (Ride Base) turn right out of the Reserve into Hulbert Road,
- Travel along Hulbert Road and turn right into Colo Heights Road,
- Travel along Colo Heights Road, crossing the timber bridge over the Colo River, and turn left into Upper Colo Road,
- Travel along Upper Colo Road, crossing Wheeny Creek Bridge, Under Putty Road and into Lower Colo Road,
- Travel along Lower Colo Road and turn around before West Portland Road,
- Travel back along Lower Colo Road, under Putty Road and into Upper Colo Road,
- Travel along Upper Colo Road, crossing Wheeny Creek Bridge,
- Turn left and travel through private property, and into the Wollemi National Park (Gees Arm Trail)
- Travel along the Wollemi National Park (Gees Arm Trail) and turn right into Comleroy Road,
- Travel along Comleroy Road down to the Upper Colo Road junction and turn right into Upper Colo Road,
- Travel back along Upper Colo Road, Colo Heights Road and Hulbert Road into the Upper Colo Reserve (Ride Base).

Training Ride - Leg 2 - 40 Kilometres:

- Start Upper Colo Reserve (Ride Base) turn right out of the Reserve into Hulbert Road,

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- Travel along Hulbert Road and turn right into Colo Heights Road,
- Travel along Colo Heights Road, crossing the timber bridge over the Colo River, and turn right into Upper Colo Road,
- Travel along Upper Colo Road, and turn left into Comleroy Road,
- Travel along Comleroy Road and turn right into Mountain Lagoon Road,
- Travel along Mountain Lagoon Road, and turn right into Sams Way,
- Travel along Sams Way to Gosper Ridge Trail and through the Wollemi National Park (joining Wards Track),
- Travel back along the Wollemi National Park down to Upper Colo Road and turn right into Upper Colo Road,
- Travel back along Upper Colo Road, Colo Heights Road and Hulbert Road into the Upper Colo Reserve (Ride Base).

Social Ride - Leg 3 - 20 Kilometres:

- Start Upper Colo Reserve (Ride Base) turn right out of the Reserve into Hulbert Road,
- Travel along Hulbert Road and turn right into Colo Heights Road,
- Travel along Colo Heights Road, crossing the timber bridge over the Colo River, and turn right into Upper Colo Road,
- Travel along Upper Colo Road to the end of Upper Colo Road and turn around at the public gate,
- Travel back along Upper Colo Road, Colo Heights Road and Hulbert Road into the Upper Colo Reserve (Ride Base).

Where the course covers trafficable roads, the following will be in place:

- A Marshall is to be in place to stop horses crossing whilst vehicles pass,
- At any junction where horses cross or access roads that are main access gates, the Marshall is to notify Traffic of the conditions ahead,
- Signage shall be in place stating the following: Horses on Road, Horses crossing. In areas where the road narrows or is windy; Drive Slowly Horses on Road is to be provided.

#### Road Inventory

- Hulbert Road – Unsealed
- Colo Heights Road - Unsealed
- Upper Colo Road – Sealed/Unsealed
- Lower Colo Road - Unsealed
- Comleroy Road - Unsealed
- Mountain Lagoon Road - Unsealed
- Sams Way - Unsealed
- Roads on private property and within the National Park
- The Colo River will not be crossed as part of the route and instead, riders will use the Timber Bridge along Colo Heights Road to cross the Colo River.

Refer to Attached 1: "Event Route Plan - Zone One Q60 Endurance Horse Ride 2013".

#### Discussion

It would be appropriate to classify the event as a "Class 2" special event under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may impact minor traffic and transport systems and there is a low scale disruption to the non-event community.

The event organiser has submitted the following items in relation to the event: Attachment 2 (ECM Document Nos. 4246133 & 4257494):

**ORDINARY MEETING**  
**Reports of Committees**

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Traffic Management Plan (TMP) which has the inconsistent information with the application, Risk Management Plan - Version Date 5-1-07 and a Traffic Control Plan (TCP) for the Bridge across the Colo River from the 2012 Event,
5. Event Route Plan,
6. Copy of Insurance Policy which is valid to 01 January 2013.
7. Copies of correspondence forwarded to the NSW Ambulance Service, NSW Rural Fire Service, NPWS and SES.

**Reserve Matters:**

The event organiser has made application with Councils Parks and Recreation Section to utilise Upper Colo Reserve as the Base Area as well as for Camping purposes

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Senior Constable D. Byrne, seconded by Councillor K Ford.

Support for Recommendation: Unanimous

That:

1. The Zone One Q60 Endurance Horse Ride event based at Upper Colo Reserve, planned for Sunday, 14 April 2013 be classified as a “**Class 2**” special event, in terms of traffic management, under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the Roads and Maritime Services - RMS (formerly RTA) publication “Guide to Traffic and Transport Management for Special Events” (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.
4. It is strongly recommended that the event organiser visits Council’s web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/organising-an-event>, and refers to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they are familiar with the contents and requirements of this information. The approval conditions listed below relate only to matters relating to the traffic management of the event.
5. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted and the following conditions:

**Prior to the event:**

## ORDINARY MEETING

### Reports of Committees

- 5a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);
- 5b. the event organiser is to assess the risk and address the suitability of the entire route as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the route / site by the event organiser prior to preparing the TMP and prior to the event;
- 5c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 5d. the event organiser **is to submit a Transport Management Plan (TMP) for the entire route/event incorporating a Traffic Control Plan (TCP) to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 5e. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 5f. As the event will traverse public roads, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with the associated fee, to occupy the road.
- 5g. the Event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be addressed and outlined in the TMP;
- 5h. should the Colo River be utilised as the crossing point instead of the Timber Bridge along Colo Heights Road, the event organiser is to obtain the relevant approval to conduct the event from the Roads and Maritime Services - RMS (formerly NSW Maritime); **a copy of this approval to be submitted to Council;**
- 5i. should the Colo River be utilised as the crossing point instead of the Timber Bridge along Colo Heights Road, the event organiser is to obtain the relevant approval from the Office of Environment and Heritage to cross the Colo River; **a copy of this approval to be submitted to Council;**
- 5j. the event organiser is to obtain approval from the National Parks and Wildlife Service (Office of Environment and Heritage) for the use of Wollemi National Park; **a copy of this approval to be submitted to Council;**

**ORDINARY MEETING**  
**Reports of Committees**

- 5k. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of a Council Park/Reserve;
- 5l. the event organiser is to obtain approval from the NSW Department of Primary Industries for the use of any Crown Road or Crown Land; **a copy of this approval to be submitted to Council;**
- 5m. the event organiser is to obtain approval from the respective Land Owners for the use of their land as part of the route for the event; **a copy of this approval to be submitted to Council;**
- 5n. the event organiser is to advertise the event in the local press stating the entire route/extent of the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 5o. the event organiser is to notify the details of the event to Fire and Rescue NSW at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5p. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5q. the event organiser is to directly notify all the residences and businesses which may be affected by the event - including the proposed traffic control measures - and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council;**
- 5r. the event organiser is to **submit** the completed " Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" **to Council;**

**During the event:**

- 5s. access is to be maintained for businesses, residents and their visitors;
- 5t. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 5u. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5v. the riders are to be made aware of and are to follow all the general road user rules whilst riding on public roads;
- 5w. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5x. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event;
- 5y. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity, and,



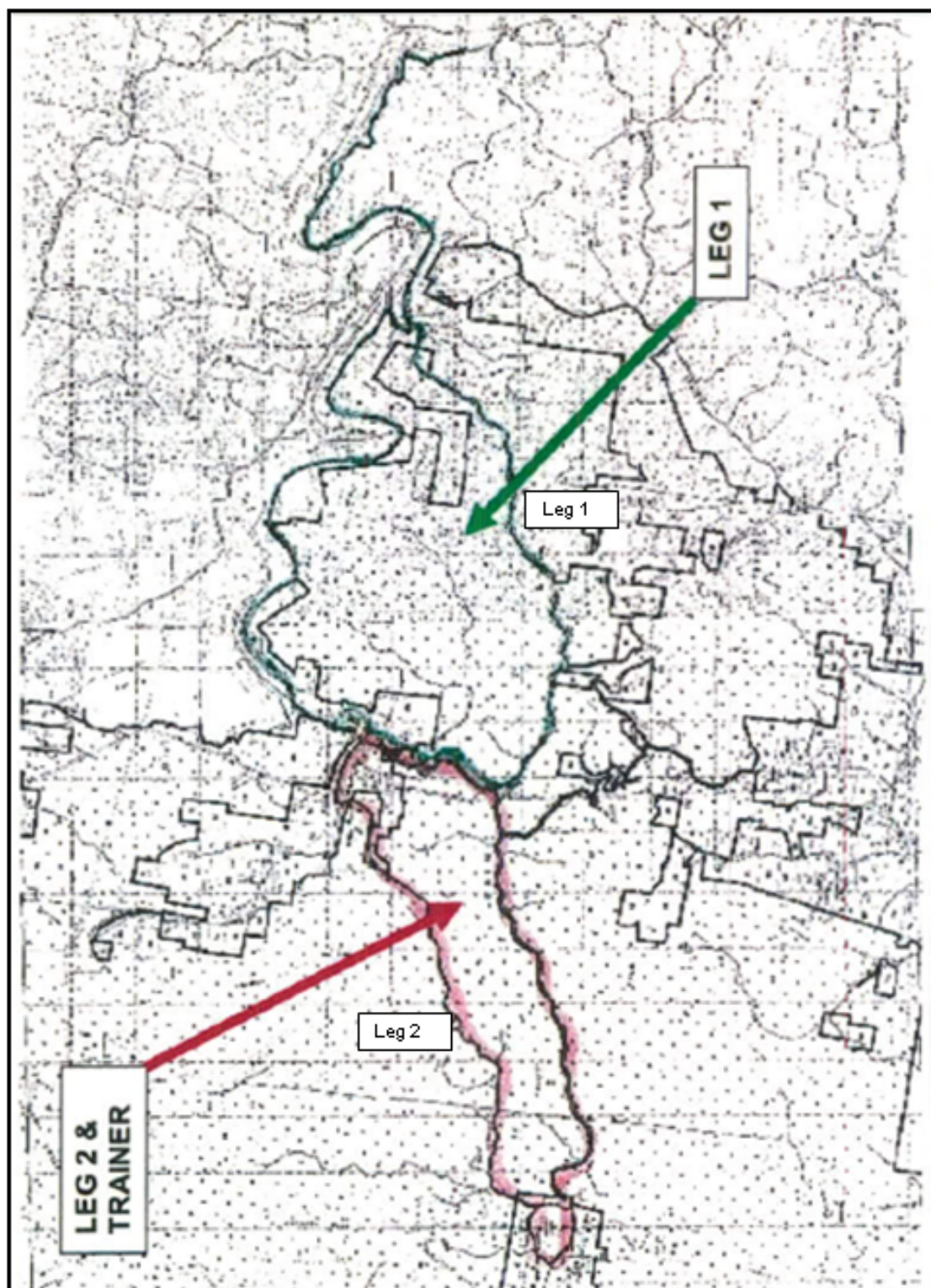
- 5z. the Event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a water cart for the duration of the event. The method and frequency of watering is to be undertaken as outlined in the TMP.

**APPENDICES:**

**AT - 1** Event Route Plan - Zone One Q60 Endurance Horse Ride 2013.

**AT - 2** Special Event Application - (ECM Document Nos. 4246133 & 4257494) - *see attached*.

AT - 1 Event Route Plan - Zone One Q60 Endurance Horse Ride 2013



**ORDINARY MEETING**  
Reports of Committees

**SECTION 3 - Reports for Information**

There were no Reports for Information.

**SECTION 4 - General Business**

There was no General Business.

**SECTION 5 - Next Meeting**

The next Local Traffic Committee meeting will be held on 11 February 2013 at 3.00pm in the Large Committee Room, Council Chambers.

The meeting terminated at 4.40pm.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
Questions for Next Meeting

**QUESTIONS FOR NEXT MEETING**

**Councillors Questions from Previous Meetings and Responses - (79351)**

**REPORT:**

**Questions – 11 December 2012**

#	Councillor	Question	Response
1	Creed	Requested a site inspection with Council staff to discuss the current issues relating to 64 Grandview Lane, Bowen Mountain and in particular the trenches being dug on the road boundary.	Director City Planning advised this development has been the subject of ongoing complaints by adjoining owners. The development process has been reviewed on two separate occasions and the results of those reviews have been forwarded to all Councillors. To date all construction work has been consistent with the approvals and the issue of occupation of the premises is currently being discussed with the applicant.
2	Mackay	Asked for information regarding DA0116/11 for 64 Grandview Lane, Bowen Mountain and in particular if the current building works are compliant with the Construction Certificate? If the works are not in line with the conditions then should a Section 96 application have been applied for.	Director City Planning advised this development has been the subject of ongoing complaints by adjoining owners. The development process has been reviewed on two separate occasions and the results of those reviews have been forwarded to all Councillors. To date all construction work has been consistent with the approvals and the issue of occupation of the premises is currently being discussed with the applicant.
3	Paine	Asked if a seat could be placed in Friendship Park in honour of Jean Peare.	Director Infrastructure Services advised that arrangements have been made for an appropriate seat to be installed in consultation with the Sister City Association.
4	Rasmussen	Requested a report on street furniture in Kurrajong as some of the seating is in need of repair and/ or replacement.	The Director Infrastructure advised that all seats have been repaired and repainted.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**



ordinary  
meeting

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