



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 30 October 2007
location: council chambers
time: 5:00 p.m.



mission statement

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

How Council Operates

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

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

Ordinary Meetings of Council are held on the second Tuesday of each month, except January, and the last Tuesday of each month, except December. The meetings start at 5:00pm with a break from 7:00pm to 7:30pm and are scheduled to conclude by 11:00pm. These meetings are open to the public.

When a Special Meeting of Council is held it will usually start at 7:00pm. These meetings are also open to the public.

Meeting Procedure

The Mayor is Chairperson of the meeting.

The business paper contains the agenda and information on the issues to be dealt with at the meeting. Matters before the Council will be dealt with by an exception process. This involves Councillors advising the General Manager at least two hours before the meeting of those matters they wish to discuss. A list will then be prepared of all matters to be discussed and this will be publicly displayed in the Chambers. At the appropriate stage of the meeting, the Chairperson will move for all those matters not listed for discussion to be adopted. The meeting then will proceed to deal with each item listed for discussion and decision.

Public Participation

Members of the public can request to speak about a matter raised in the business paper for the Council meeting. You must register to speak prior to 3:00pm on the day of the meeting by contacting Council. You will need to complete an application form and lodge it with the General Manager by this time, where possible. The application form is available on the Council's website, from reception, at the meeting, by contacting the Manager Corporate Services and Governance on 4560 4426 or by email at lmifsud@hawkesbury.nsw.gov.au.

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

A Point of Interest

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

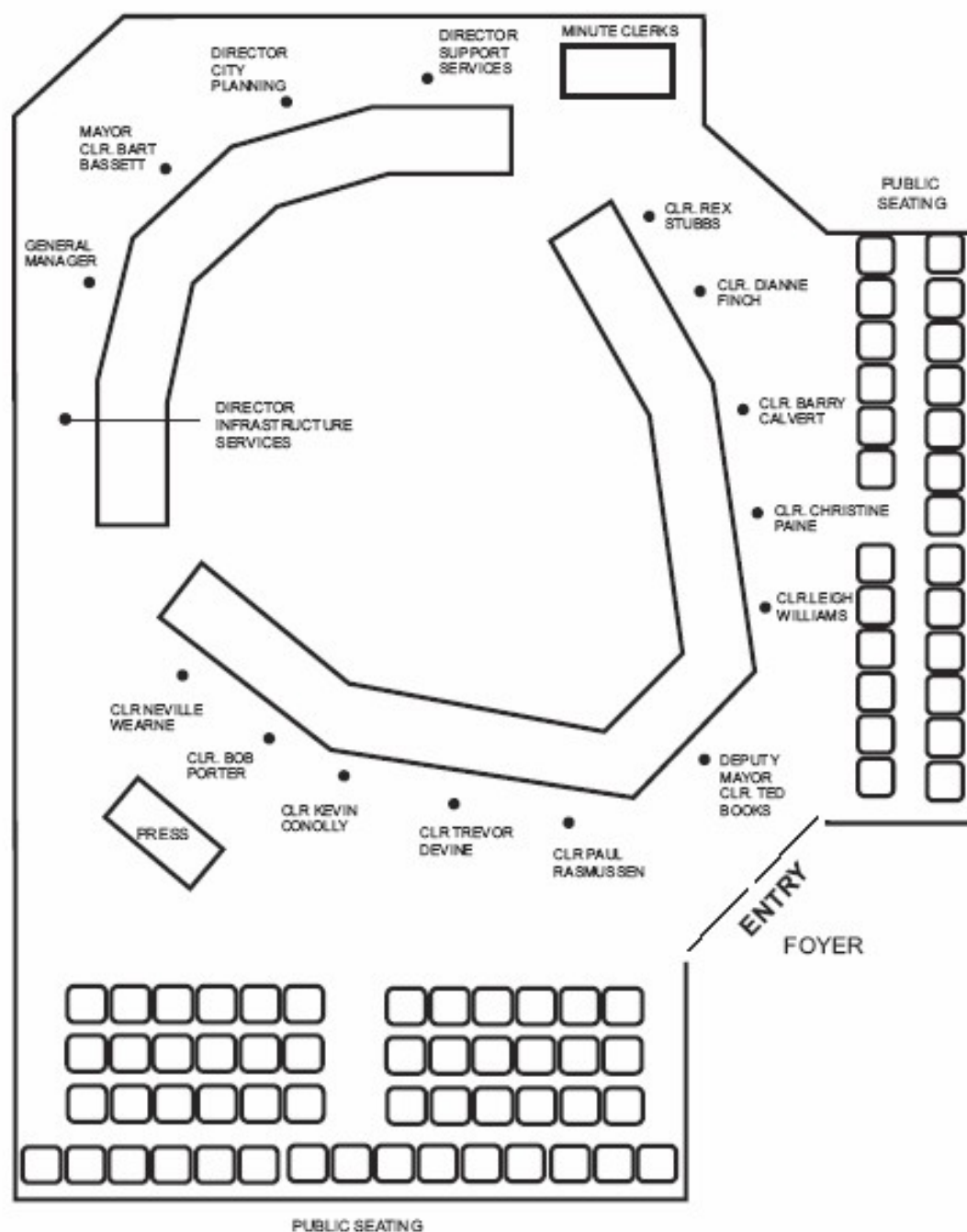
Website

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

Further Information

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

council chambers



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SECTION 2 - Mayoral Minutes

MM1 - Availability of Banners for use by Community Groups - (79353, 79351)

REPORT:

Many voluntary groups within our community undertake various events that would benefit by the availability of a suitable banner that could be erected at Council's nominated banner pole sites at Clarendon, North Richmond and McGraths Hill. However, they do not necessarily have the resources to acquire a banner or the total cost could not necessarily be justified due to the nature of the event.

Council could possibly assist in this regard if it were able to make "blank" banners available whereby the group could have an appropriate message placed on the banner by Council, at cost. The group would then be able to erect the banner at one of Council's sites in order to advertise their event.

I have been advised that Council has two banners, one blank and one with the words "Hawkesbury Community Event", that could be made available to community groups on the above basis, i.e. a message could be placed on the banner at cost and the group would then be responsible for the erection of the banner at one of the Council's nominated sites.

As Council already has two suitable banners available for this purpose no additional cost should be involved and I propose that Council advertise, via its website and other appropriate avenues, the availability of these banners and the basis on which they would be made available. However, it should be noted that there is a nominal booking fee and refundable key deposit, the cost of which would need to be borne by the community groups.

In addition, on many occasions when groups visit other areas (intra & interstate as well as internationally) representing the Hawkesbury community for purposes such as sporting competitions, cultural exchanges, etc., it would be beneficial if a banner was available for them to signify their representation of our community.

For this purpose I would suggest that Council acquire a banner that could be made available to groups representing our community in other locations with appropriate wording such as "Representing the Community of Hawkesbury City Council". The cost of a banner for this purpose could be acquired at a reasonable cost and I understand that funds would be available in the Public Relations budget if Council wished to make this type of facility available.

RECOMMENDATION:

That Council take appropriate action to make banners available for use by community groups on the basis and for the purposed outlined in this Mayoral Minute and that publicity, via Council's website and other appropriate avenues, be given to the availability of these facilities.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF MAYORAL MINUTE Oooo

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MM2 - Rural Fire Service, Australian Cadet Championships held 5 & 6 October 2007 - (79353, 79016)

REPORT:

On the weekend of 5 and 6 October 2007, the Hawkesbury Rural Fire Service (RFS) took part in the Australian Cadet Championships held at St Pauls College, Cranebrook.

The Hawkesbury RFS Cadets joined other teams from New South Wales, Western Australia, South Australia and Victoria to take part in this National event.

As part of the Australian Cadet Championships, teams were required to take part in 13 events over the weekend. The Cadets from Oakville achieved the following results as well as being placed 3rd overall in the Nation.

- 2nd - Portable Pump relay
- 2nd - Hose and Hydrant Drill
- 2nd - Two Lines, Two Lengths
- 1st - Bucket Brigade
- 1st - Light Tanker Drill
- 1st - Tanker and Ladder
- 3rd - Team Challenge
- 1st - Interstate Challenge
- 2nd - NSW 2 Person Hose

It is recognised that this is a challenging competition and a great achievement, particularly as the representatives are the junior RFS members and they are all aged 14-16 years.

On behalf of all Councillors, I would like to formally acknowledge the wonderful achievement by the team members; Andrew Koomen, Tom Miller, Aaron Steele, Ian McKelvey, Justin Morgan and Williams Behan at the Australian Cadet Championships. Congratulations also go to the Team Manager, Laurie Morgan and Coach Mark Lieben who are obviously good mentors and provide excellent training to the Cadets.

RECOMMENDATION:

That the Mayoral Minute regarding the success of the Oakville RFS Team on behalf of the Hawkesbury District, at the Australian Cadet Championships be received and that a formal letter of congratulations be forwarded to the Hawkesbury RFS Headquarters on their behalf.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF MAYORAL MINUTE Oooo

ORDINARY MEETING

Questions With Notice

QUESTIONS WITH NOTICE

QWN - Tinda Creek Quarry - (107, 80105, 95498)

Previous Item: QWN, Ordinary (11 September 2007)

Submitted by: Councillor L Williams

INITIAL NOTE:

In submitting these Questions With Notice Councillor Williams has requested that it be indicated that Mr N Diamond has provided the questions to him.

It will be noted that the questions suggest a response of "YES/NO", however, it is proposed that a relevant response be provided.

These questions follow 10 previous questions from Councillor Williams regarding this matter.

QUESTIONS:

- 11. *Is it true that Birdon Contracting Pty Limited required a water license under the 1984 consent and that the Quarry failed to acquire that water license and that the SPCC fined the Quarry \$10,000 for polluting Tinda Creek? YES/NO***

In 1986 Council approved a development for the purpose of creating a dam and extraction of sand at Tinda Park - DA192/85 and development consent 565/86. Condition 1 of the development consent stated

"the applicant is to obtain separate approvals/licenses as may be required from the Water Resources Commission, Soil Conservation Service and State Pollution Control Commission prior to the commencement of any work on the site."

A search of file DA192/85 has found that a permit no. 10679 under Part 11 of the *Water Act 1912* was issued on 31/12/86 and a letter from the Water Resources Commission advising that a license under Part V of the *Water Act* will have to be obtained prior to using the water from the dam for irrigation purposes. A search of Council's records have not found any consent issued on the land in 1984.

Council's file has a letter from SPCC dated 7/9/88 being a notice under Regulation 21 to repair the walls of the sand extraction dams to prevent further discharges to Tinda Creek.

This notice was issued to Poyneed Pty Limited. Council has no records of any fines being issued for polluting Tinda Creek.

- 12. *Is it true the Tinda Creek Quarry was operating without a water license from 1984 to 2004 (as required by the annual reports of the 1996 consent and the consent from 1984)? YES/NO***

In respect to water license associated with development consent 565/86 the information is provided in question 11.

The water licenses for the current operation was previously identified in the Question with Notice provided at the Ordinary Meeting of 11 September 2007.

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Condition 33 of development consent 134/95 required:

“the applicant (extractor) is to lodge an annual report indicating compliance or otherwise with the conditions of approval of the consent and conformance with any other permits or licenses as issued by the EPA and the Department of Land and Water Conservation.”

The applicant has provided several reports on compliance with conditions of consent in December 1998, May 2002, April 2006 and May 2006.

Council is not the licensing authority for water licenses and no further enquiries were made to the relevant Government Departments.

- 13. Is it true that there was a water licensing embargo for new license applications under the DLWC (as stated in the Paul Bourne document 3/01/96) and that the Tinda Creek Birdon Quarry could not lawfully operate without the DLWC water license prior to commencement? YES/NO**

The issue of water licensing is not a matter that Council has control or is responsible.

The document from Paul Bourne, an officer from the DLWC, has been provided to Council by Mr Diamond and is an internal memorandum from the Department. The memorandum provides comments on the officer's assessment of the EIS. The Department (Water Licensing section) made no formal submission in respect to the EIS during the exhibition period of the DA.

The memorandum provides a comment that states:

“currently there is an embargo on the issue of new licenses under Part 2 of the Act. Note seek advice from legal branch and licensing on this.”

Condition 33 of the consent does not indicate the licenses or permits were to be obtained prior to commencement. The condition required the annual report to indicate conformance with other permits or licenses as issued by the EPA and Department of Land and Water Conservation.

- 14. Is it true that Council was aware that the Tinda Creek Birdon Quarry operated without a DLWC water license and an EPA license from 1996 – 2004? YES/NO**

This matter was discussed in the Council Report of 23 November 2003 and 30 November 2004. The response from 30 November 2004 report is reproduced below.

“The operator provided an annual report/statement on compliance with the conditions of consent in December 1998 and May 2002. The EPA has recently requested further information in respect to the activity and the extraction quantities per year. A meeting on site with the representatives of the EPA, Council officers and the operator was held to discuss the matter. The Protection of the Environment and Operations (POEO) Act 1997 requires a license if more than 30,000 cubic metres is extracted per year. Based on the figures from the operator the activity has only exceeded the 30,000 cubic metres per year limit during the 1999/2000 and the 2002/2003 financial years.

The operator has now applied for a license with the EPA. The EPA, now known as Department of Environment and Conservation, has written to Council advising that they are in the process of preparing the license. The application was referred to DLWC, now known as Department of Infrastructure, Planning and Natural Resources. No response has been received.

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The letter attached to the Consultant's report indicates that some of the ponds are required to be licensed under Part of the Water Act 1912 as the excavations intercept the ground water table. Under the Department's Farm Dams Policy, the excavations would be regarded as turkey nest dams and do not catch runoff, no license would be required.

Council officers have carried out regular annual inspections of the site to check for compliance with conditions of consent and that the suitable management practices are being undertaken to reduce potential for environmental impact.

The consultant's report dated April 2004 is an annual report on the compliance with the conditions of consent."

- 15. Is it true that Council was aware that the Tinda Creek Birdon Quarry was operating outside the specific areas (Stage 1, Stage 2 and Stage 3) granted by the 1996 consent as set out in the letter from Birdon Contracting Pty Ltd 2001, 2002 and the Port Stephens letters of 1998, 1999 amongst others? YES/NO**

This question was previously answered by question 5 of the Question with Notice reported to the Ordinary Meeting of 11 September 2007.

- 16. Question deleted by Councillor Williams**

- 17. Is it true that Council was aware that Birdon Contracting had promised in their EIS to install 6 monitoring bores and had agreed to a monitoring plan for the groundwater and Tinda Creek? YES/NO**

The EIS dated 1 November 1995 under the section Hydrology (C) groundwater stated that:

"in addition a series of bores will be installed to monitor groundwater behaviour".

The consultant provided additional comments on groundwater impacts in May 1996. The consultant stated:

"as gibba swamp is the only known local pondage which could be affected by a reduction in the groundwater, it is proposed to undertake a monitoring program to compare levels of the water table during various weather cycles and changes in the aerial extent of the dredge pond."

The EIS documents make no reference to the number of monitoring bores.

Condition 17(b) of the development consent states

"submission of details on a monitoring program for ground and creek water qualities and a contingency plan should the proposed water quality controls fail."

- 18. Is it true that Council was aware that the operator failed to install the required bores and failed to address condition 17b of the consent which required monitoring of those bores and was the operator required to carry out that program as required by consent condition 1 of the 1996 consent? YES/NO**

This matter was reported to Council on 27 November 2003 and 30 November 2004. The following comments were made in the report of 30 November 2004 in respect to condition 17 (a) and (b).

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"The applicant has provided several reports for the sampling of water. The first report was submitted on 21 July 1998 and further reports were submitted on 28 June 1999, 13 September 1999 and 18 January 2000. The reports have been examined by Council officers. The initial results raised some concerns with chemical levels found and further testing in September 1998 was undertaken. The other reports have been examined and the findings of the most recent report indicates that Tinda Creek is not at present affected by the extraction activities.

A report on water quality monitoring was submitted in June 2004. The report discusses the results of water samples taken from various sites at the sand mine on 9 December 2003 and 26 May 2004. The location of the sites are:

- *The settling pond*
- *Final holding pond*
- *Location upstream of the site in Tinda Creek.*

On both occasions there was no flow in Tinda Creek either side of the mine site. As a result, both times the sampling was conducted the mine operation was not contributing to the environmental flow of the Creek. The report has been referred to Council's Environmental Waste Branch to assess. The pH and Aluminium levels exceed the guidelines in both the settling pond and the final holding pond. It is noted that the Aluminium and iron levels in Tinda Creek above the mining site also exceed the guidelines.

The site is currently being licensed by the Department of Environmental and Conservation (EPA). A copy of this report has been provided to the Department of Environment and Conservation."

It is acknowledged that the operator has undertaken monitoring of water quality from various locations on the site. The operator has not undertaken any groundwater quality monitoring program.

- 19. *Is it true that numerous complaints were lodged relevant to the failure of Birdon Contracting to comply with the consent conditions and as a consequence of this the former General Manager Mr Gary McCully and the former Mayor Dr Rex Stubbs OAM (and confirmed in writing by the acting GM) promised an independent inquiry into the operations and failures at Tinda Creek? YES/NO***

In the past there may have been comments made regarding the conduct of an "independent inquiry" in relation to issues raised by Mr Diamond concerning Tinda Creek. However, there does not appear to be an actual Council resolution authorising this course of action. In view of the nature of such a suggestion, as well as the potential costs that would be involved in such a direction, it is considered that an authorising Council resolution would be required.

The immediate former General Manager did, on a number of occasions, indicate to Mr Diamond that he would, due to the cost involved, seek Council's endorsement for an independent investigation after he "received tangible evidence supporting" the allegations as outlined in previous correspondence to Mr Diamond. It would appear that the immediate former General Manager did not consider that this "tangible evidence" was provided by Mr Diamond, as he did not refer such action to Council.

Recently, the General Manager has requested the Director City Planning to conduct a review of the relevant files in relation to this matter. Further action, if necessary, will be taken when the results of this review are available. Mr Diamond is aware of this action and appeared to have indicated his support of the review.

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- 20. Is it true that the Mayor Bart Bassett promised an investigation or internal review in his letter dated 13/7/2006 into five identified areas of serious complaint including section 94 failure of Council to enforce consent and other allegations and the abovementioned independent inquiry and was this properly addressed under Council's code for complaint handling? YES/NO on both YES/NO**

The letter of 13 July 2006 from the Mayor to Mr Diamond appears, it is suggested, to be an acknowledgement letter. This letter is in the following terms:

"I refer to your letter of 27 June, 2006. Your concerns have been acknowledged and the matter will be reviewed. I will provide a response regarding the outcome as soon as possible."

It is suggested that the term "*the matter will be reviewed*" is used in the context of a general acknowledgement letter and could not be considered to be a "promise" of an investigation or internal review as suggested in this question.

There does not appear to be a further letter following this but it is suggested that this could have been overtaken by a number of subsequent submissions made by Mr Diamond.

- 21. Is it true that Council have been provided with two legal advices from the Environmental Defenders Office and will Council now seek legal advice to confirm Council's position relevant to the current Section 96 application and the outstanding breaches of consent? YES/NO**

Council has received two legal advices from the Environmental Defender's Office dated 27 September 2006 and 17 September 2007.

Council has received legal advice from Council solicitors Pike Pike & Fenwick on the legal advice dated 27 September 2006. The recent advice dated 17 September 2007 is currently being reviewed by Council officers to decide if Council should seek further advice from Pike Pike & Fenwick in association with the consideration of the current section 96 modification.

- 22. Is it true that if Mr Diamond takes action against the Council under the Freedom of Information Act through the Administrative Decisions Tribunal that Council may be forced to rectify ten years of Council files to comply with the Tribunal's ruling regarding allegations made by Mr Diamond and allegations made by Staff against Mr Diamond including but not limited to defamation and other assertions by Staff? YES/NO**

Mr Diamond has recently received a determination of an application submitted under the Freedom of Information Act (FOI Act). This determination excluded a number of requested documents. Following an Internal Review the initial determination was upheld. Mr Diamond has subsequently lodged a further extensive application under the FOI Act, which, at the time of writing this note, is currently being processed.

In respect of the application that has been determined and has been subject to an Internal Review, Mr Diamond does have a further right of appeal, under the FOI Act, to the Administrative Decisions Tribunal (ADT). The ADT also has powers to review a decision made in respect of a request to amend or annotate personal information under section 48 of the FOI Act.

This question suggests in the event that Mr Diamond made an appeal that it would be successful which may or may not be the case. Notwithstanding this, It is suggested that it would be inappropriate for Council to speculate on the result of an appeal and any decision that may be made by the ADT in advance of any proceedings. In the event that Mr Diamond lodges an appeal, advice and assistance will be sought from Council's solicitors.

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- 23. *Is it true that Birdon Contracting is currently in breach of its HCC Council consent conditions; its EPA/DECC license and is illegally using unlicensed water contrary to its DLWC/DWE license (license for 55 mg and currently using 100-150 mg) to the detriment of Tinda Creek and the downstream neighbours. YES/NO***

As previously advised the current operation is outside the approved area (refer to Question with Notice of 11 September 2007).

NB Mr Diamond has advised me that he would like a meeting with the new General Manager and the new Mayor to discuss all of the above with a view to agreeing to two separate orders by consent.

- 1. *In the Land and Environment Court under the current class 4 proceedings with the intention of possibly allowing the Quarry to continue under different arrangements to facilitate the restoration of environmental flows to Tinda Creek.***
- 2. *In the Administrative Decisions Tribunal so that the Council file may reflect the true position at Tinda Creek.***

A meeting between Mr Diamond and the Mayor and General Manager was held on 9 October 2007. Council's solicitors have indicated that they are not aware of any "current Class 4 proceedings" as referred to above as the last proceedings commenced by Mr Diamond were discontinued, however, Mr Diamond suggests that these proceeding have only been "deferred".

As indicated previously, Council is not aware of current proceedings in the ADT and it would not be appropriate to make any comment on such possible proceedings without even knowing the basis of the action that may be taken.

In addition, in either case appropriate advice would be sought from Council's solicitors based upon the circumstance of each or any case and the undertaking sought could not be given without knowledge of the circumstances at the time or advice that may be received from Council's solicitors.

In keeping with Council's policy on mediation, between developers and aggrieved parties, Mr Diamond has requested me to ask Council to organize a mediation conference prior to the Council's consideration of the current section 96 modification.

Mr T Bruce of Bridon Contracting has been contacted regarding this matter and he has indicated that in view of the history of this matter, from the company's viewpoint, and the results from previous mediation attempts, that he is not prepared to participate in a further mediation conference with Mr Diamond.

Further to this Mr Diamond has requested that the current internal review/inquiry should be completed prior to that mediation and prior to Council's deliberations relevant to the current section 96 modifications.

Whilst Mr Diamond utilizes the term "inquiry" it has been pointed out to Mr Diamond, both verbally and in writing, that the Director City Planning has been requested to review the files and that this is not an "inquiry" in the context that he utilizes this term.

The timing of the submission of the section 96 modification application to Council and the conduct of the file review will be left to the discretion of the Director City Planning as to the appropriate course of action to be taken.

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Is Council agreeable to this and could they respond in writing to Mr Diamond ASAP to avoid expedition to the Administrative Decisions Tribunal (ADT)? YES/NO

The responses provided to preceding components of these Questions with Notice effectively address this section and the information contained herein will be conveyed to Mr Diamond.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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ordinary

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notices of motion

ORDINARY MEETING

Notices of Motion

SECTION 3 - Notices of Motion

NM1 - Zoning - Hawkesbury Standard LEP Template - (79351, 90476)

Submitted by: Councillor T Devine

NOTICE OF MOTION:

Given the recent decision of the Land and Environment Court in relation to 50 Jordan Avenue, Glossodia, it is now clear that Council cannot rely on the zone objectives to prevent inappropriate development in our rural areas.

Accordingly the following motion is proposed:

1. That "animal boarding or training establishments" be prohibited in all rural zones (ie RU1, RU2, RU3, RU4, RU5 and RU6) in the new Hawkesbury standard template LEP.
2. That the Director General of Planning be requested to consider including the following definitions in the new Hawkesbury standard template LEP:

"livestock boarding or training establishment" means a building or place used for the breeding, boarding, training, keeping or caring of livestock for commercial purposes (other than for agistment of horses), and includes any associated riding school or ancillary veterinary clinic."

"livestock" means horses, cattle, asses, mules, sheep, swine, camels, goats, alpacas, ostriches, emus and the like, but does not include dogs and cats."

3. That "livestock boarding or training establishments" be permitted with consent in all rural zones in the new Hawkesbury standard template LEP.
4. That WSROC be requested to support Council in this matter.

NOTE BY MANAGEMENT:

The aim of the introduction of the Standard LEP and standard definitions is to introduce a more consistent language in Planning Instruments across the State. The standardisation of definitions in the Standard LEP will achieve a reduction in the number of definitions across the State from approximately 1700 to 250. This reduction has been achieved by combining similar definitions, where separate Councils had local definitions for the same landuse, into one.

The definition for Livestock Boarding or Training Establishment is almost identical to the existing definition of "Animal Boarding or Training Establishment" with the exception that the former restricts animals to a separate definition of Livestock. The proposal to introduce this definition would seem contrary to the intent of the Standard LEP and advice that all Councils have received from the Minister and the Department of Planning over the last two years. The introduction of specific definitions in many cases can inadvertently restrict uses that were not intended to be restricted. The proposed definition of Livestock by listing animals, in effect, restricts the term to those animals. Whilst listing a number of animals the listing does not mention some others, eg, deer, which by definition would be excluded. The proposed definition does include the term "and the like", however, this term introduces ambiguity that the Minister and the Department of Planning are seeking to avoid in the definitions.

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The advice from the Department of Planning regarding defined uses and definitions are stated in a number of planning Circulars, Practice Notes and advices issued by the Department since 2005. All these documents can be searched on the Department of Planning website. The principle Practice Note is PN-003 issued by the Department in April 2006 and revised in September 2006. In part this Practice Note states:

"To maintain consistency across the State, councils will not be able to directly add definitions to the Dictionary. If a council identifies a need for a new standard definition then the council should approach the Department of Planning at the earliest opportunity during LEP preparation".

Practice Note PN-003 also states *"Many terms used in the standard instrument are not specifically defined in the standard Dictionary. In these cases the ordinary meaning of the word is to be used, which can usually be ascertained by referring to a common dictionary such as The Macquarie Dictionary"*

The proposal to introduce another definition is a reaction to a single development proposal at 50 Jordan Ave where there is an obvious conflict between the landuses of rural residential and other rural activities (Animal boarding or training establishment). It seems that the proposal to change the definition may only be addressing a symptom rather than fully addressing the problem of conflicts between rural residential and more general rural landuses.

It is recommended that a more strategic approach to this issue be used. As part of the landuse strategy that Council resolved to prepare in May 2007 (background work currently underway) areas can be defined for rural residential use and the use of "Animal Boarding or Training Establishments" can be prohibited from the rural residential zone only, rather than all rural zones. This would eliminate the need to change the definitions in the Standard LEP. This approach will require some detailed investigations to identify the quantity of land needed and suitable locations for exclusively rural residential landuses.

If Council supports this Notice of Motion it is recommended that the matter be discussed with the Department of Planning prior to proceeding further.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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NM2 - Possible Acquisition of Property - 7 and 9 East Market Street, Richmond - (80106, 79351)

Submitted by: Councillor P Rasmussen

NOTICE OF MOTION:

That Council:

1. Write to the NSW Police Minister, David Campbell, seeking confirmation that the land, purchased some years ago by the NSW Police Department for the purpose of building a new Police Station in Richmond, has been *declared surplus* to Police operational requirements and expressing Council's interest in acquiring that land for community and other purposes;
2. Authorise the General Manager, on the receipt of such confirmation from the Minister, to commence negotiations with the State Government (NSW Police Department) for the *acquisition* of the Richmond Police Station land; and
3. Seek funding for such land acquisition, in the first instance, by way of a direct grant of the land from the State Government to Council or from grant funding from the Federal Government. In the event that such grant funding is not made available from either state or Federal Government then funding be obtained from Council's property reserve.

BACKGROUND:

I wrote some time ago to the Minister for Police regarding the use of the Police land for additional carparking for Richmond residents, visitors and shoppers. At that stage the land was being used by shoppers and others as an unauthorized carpark extension of the existing Richmond carpark. The then Minister replied that the matter would be investigated and I would be informed.

Recently I received a reply from Minister Campbell to the effect that the land had been declared surplus to Police operational requirements and options for the disposal of the land were being considered.

This land would be a valuable extension to the already heavily used Richmond carpark. At present the land is fenced off and shoppers are unable to use this space for over-flow parking in Richmond.

The land is a strategic asset from a town planning perspective and with innovative commercial approaches could not only be a valuable carparking addition, but also a revenue generator for Council thus reducing reliance on rate generated revenue and help mitigate the ever upward pressure on rate increases to ratepayers.

NOTE BY MANAGEMENT:

The properties in question, known as 7 and 9 East Market Street, Richmond (Lot 1 DP 998889 and Lot A DP 161234) have an area of 1486m² and 1271m², respectively, and are zoned 3(a) Business General.

As indicated, the properties adjoin Council's existing car park. The viability and suitability of the sites for other uses as suggested within the Motion, whilst possible, would need to be determined.

Should Council attempt to acquire these properties the suggested source of funding, in the event of grant or other funding not being available, is the property reserve. As previously indicated to Council, this reserve currently owes funds to other internally restricted reserves by way of internal loans associated with

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the development of the Cultural Precinct and strategies are currently in place to reimburse these funds as a result of property sales. Therefore, funds are not currently available in the Property Reserve and the level of funding that may be required for an acquisition such as this may not be available even after strategies currently in train are finalised.

Partial funding of an acquisition of a property for purposes including car parking may be available from Section 94 contributions for car parking purposes and if the proposal proceeds this aspect would need to be further considered.

In relation to the fencing of the site, Council, following representations regarding the condition of site and a recommendation by the Local Traffic Committee, resolved at its meeting of 8 October 2002 that the NSW Police Service be requested to have the area maintained to a suitable standard, or alternatively, fenced to prevent use as a car park.

The NSW Police Service in April 2003 advised that the property had been inspected and it had been established that the best solution was to fence off the site to prevent further unauthorised use. That action was subsequently taken.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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NM3 - Bilpin Oval Reserve - (74399, 79351)

Submitted by: Councillor Finch

NOTICE OF MOTION:

As part of ongoing Works Programmes consideration be given to the provision of funds for the upgrading and improvement of the Bilpin Oval Reserve.

NOTE BY MANAGEMENT:

Bilpin Oval Reserve consists of an oval, children's playground, a toilet block, old BBQ's and shelters. It was previously reported to Council that the parcel of land which includes the oval was gazetted to NSW National Parks and Wildlife Service in 1979 as part of the Wollemi National Park. Staff were unaware of this change and continued throughout this time to mow, clean the toilets, empty bins and undertake other minor maintenance throughout the reserve.

Action is being undertaken by NPWS to revoke that area of land from the Wollemi National Park, however, an Act of Parliament is required and will take some time to finalise. In the meantime, Council agreed to continue the interim management of the Bilpin Oval Reserve.

A meeting was held on Saturday, 20 October 2007, with community representatives in regards to the renewal of the playground at this location. At this meeting a number of requests were made to undertake improvements at the oval including top dressing/enlarging the oval, formalising the carpark and upgrading the picnic facilities and toilets. At this stage only minor maintenance works can be undertaken within the reserve, however, once the area has been removed from the Wollemi National Park improvements works can be considered.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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ordinary

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reports
for determination

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 211 **GM - Nature Conservation Council of NSW - 2007 Walk Against Warming - (79351, 101960)**

REPORT:

On 29 August 2006 Council considered a request and invitation from the Nature Conservation Council of NSW in relation to its involvement in the 2006 Walk Against Warming. Subsequently, Council resolved:

"That Council support the International Day of Action on Climate Change on 4 November 2006 by:

- 1. Displaying provided banners (if funded externally), posters and flyers about the event in Council community venues.*
- 2. Sending media releases about the event to local papers and place the event in a Mayoral column.*
- 3. Writing to the PM, Deputy PM, Federal Opposition leader, Minister for the Environment and Shadow Minister of the Environment urging them to commit to significant reductions in greenhouse gases and a clean energy future."*

The Nature Conservation Council of NSW (NCC) has recently sent a thank you to the Council for supporting the Walk Against Warming event in 2006 with an invitation to support the 2007 event.

The Walk Against Warming event in 2007 is to be held on the Sunday 2 weeks prior to the Federal Election with the NCC indicating that participation is expected to increase substantially from 2006 in Sydney and other capital cities, with double the number of regional walks taking place across the country. Now that the Federal Election will be held on 24 November 2007 it is assumed that the date of the event will be 11 November 2007.

The NCC are again seeking support for the event from each council to boost participation in Sydney and as a means to mobilise the community to take action on climate change. They are inviting all councils to support the event by:

1. Providing financial support for the coordination of Sydney's WAW event.
2. Promoting the Sydney event on Council's website and in correspondence with constituents.
3. Displaying posters and flyers promoting the Sydney event in community venues.
4. Erecting a banner across local main street detailing the Sydney event.
5. Walking at the Sydney event under the Council's banner.
6. Promoting the Sydney event through media avenues such as local papers and Council columns.
7. Writing to the PM, Federal Opposition leader, Minister for the Environment and Shadow Minister for the Environment urging them to commit to a legislated target to reduce greenhouse gas emissions by at least 30% by 2020, based on 1990 levels.

It is noted that last year Council displayed any externally provided materials and promoted the event, writing to the appropriate individuals in support of this event.

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As this is not a local event and current budget constraints limit discretionary funding, it is recommended Council consider again supporting the publication and distribution of any provided materials promoting the event and continue to lobby the appropriate Federal personnel regarding policy commitments.

Accordingly, based upon the above comments and Council's previous actions the following recommendation is submitted.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Promote environmental awareness and encourage community participation in management of natural, cultural and heritage assets."

Funding

All promotional material would have to be externally funded due to current budgetary constraints.

RECOMMENDATION:

That Council support the International Day of Action on Climate Change (2007 Walk Against Warming) to be held on the Sunday two weeks prior to the Federal Election by:

1. Displaying provided posters and flyers about the event in Council venues.
2. Sending media releases about the event to local papers and placing the event in a Mayoral column and on Council's website.
3. Writing to the PM, Federal Opposition Leader, Minister for the Environment and Shadow Minister for the Environment urging them to commit to significant reductions in greenhouse gases and a clean energy future.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 212**GM - ALGA Federal Election 10-point Plan for Local Communities - (82046, 79351)****REPORT:**

The Australian Local Government Association recently wrote to Council with their Federal Election Policy Platform - 'A 10-Point Plan to Reinvigorate Local Communities'. The plan outlines a number of initiatives to assist communities to receive reasonable standards of local infrastructure and local services which are important to sustain communities and the social, economic and environmental fabric of Australia.

As representatives of the community and the sphere of government which delivers local infrastructure and services, the Australian Local Government Association calls on all political parties to address the 10-Point Plan to assist local government in its challenge to sustain local and regional communities.

The thrust of the platform is the call for a fund to help councils maintain and improve their infrastructure which has been demonstrated by the compilation of a Local Community Infrastructure Renewals Fund (LCIRF) database. This currently contains over 1000 entries of projects that Councils around Australia have registered which could be funded under such an initiative and of which Hawkesbury City Council has registered many items. Over a quarter of the submissions were for recreational facilities and community centres and halls. A sizeable proportion of projects were for projects from \$35,000-\$70,000.

The LCIRF is recommended by the PricewaterhouseCoopers report into local government financing as one of local government's main priorities for 2007. Councils around Australia face an infrastructure backlog of \$14.5 billion and the establishment of a LCIRF would allow councils to meet local priorities and other upgrading work to be brought forward.

The ALGA have lobbied for this fund of \$250 million per annum over 4 years to be included in the election platforms of the Australian Government and the Opposition. Renewing community infrastructure which urgently needs upgrading such as swimming pools, playgrounds, sporting facilities, walking tracks, senior citizen centres and library facilities are an important component of this potential fund.

The ALGA is calling on all political parties to commit to the follow 10-Point plan and is calling on councils across Australia to write to local MPs, Senators and candidates to support the initiative. The Presidents of the Local Government Association and Shires Association have also recently requested Council support this initiative through the lobbying process.

The 10-Point Plan is outlined as:

Fair Funding

- Point 1* the principle of a fair share of total Commonwealth taxation revenue to local government in the form of untied financial transfers equal to a guaranteed percentage of total Commonwealth taxation revenue (net of GST) of at least 1 per cent.
- Point 2* invest at least \$250 million per year for four years (maintained in real terms) in a Community Infrastructure Renewal Program.
- Point 3* permanent funding of the Roads to Recovery program at announced levels in real dollar terms¹, and greater flexibility in the application of these funds for transport purposes.
- Point 4* invest \$12.87 million over three years for the establishment of a program that would improve national local roads data and extend and implement roads asset management plans across all councils.

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Fair Treatment

- Point 5* recognise local government as an equal partner in the delivery of important, mutually agreed outcomes for the Australian people and to commit to and continue to honour the IGA on cost-shifting.

Formal Recognition

- Point 6* continue to recognise local government's role in the Australian Federation, including its ongoing role in the Council of Australian Governments and associated Ministerial Councils and support constitutional recognition of local government.

Meeting Future Challenges

- Point 7* provide national assistance to local government in responding to the emerging impacts of climate change, engage local government as an integral partner in responding to climate change and ensure Australia shoulders its international responsibilities in meeting climate change challenges.
- Point 8* work with local government in protecting water resources, including ensuring that communities that are adversely affected by adjustment to changes in water entitlements, or major water trading resulting in reduced local and regional economic activity are compensated.
- Point 9* develop a sustainable urban regions program, drawing together the key urban issues of water, energy efficiency, affordable housing, sustainable urban transport, urban design and social cohesion.
- Point 10* develop an affordable high-speed broadband network for all communities across Australia, including commitment to capacity building in regional areas in the area of ICT skills development.

A copy of the 10-Point Plan document issued by the ALGA is included as Attachment 1 to this report.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Investigating and planning the City's future in consultation with our community, and coordinating human and financial resources to achieve this future."

Funding

Nil required to make representations as requested by ALGA.

RECOMMENDATION:

That Council:

1. Support the ALGA 10 - Point Plan for Local Communities including the call for a Federal Local Community Infrastructure Renewals Fund.
2. Write to the appropriate Government and Opposition representatives in the lead up to the Federal election to encourage them to commit to the 10-Point Plan including the creation of a Local Community Infrastructure Renewals Fund as requested by the ALGA.
3. Create an awareness of its position through promotion in the local media.

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ATTACHMENTS:

- AT - 1** Australian Local Government Association - A 10-Point Plan to Reinvigorate Local Communities
(*Distributed under separate cover*)

oooO END OF REPORT Oooo

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Meeting Date: 30 October 2007

Item: 213 GM - National General Assembly - Darwin 26 - 29 November 2007 - (79351)

REPORT:

The Australian Local Government Association, National General Assembly 2007, will be held 26 - 29 November 2007, in Darwin Northern Territory (NT).

The theme of this year's National General Assembly is, *A Climate of Change*, which is to reflect the rapidly changing environment faced by local government and the consequent emerging challenges and opportunities.

This year, the National General Assembly will provide an excellent opportunity to examine where local government is heading and what courses of action might best deliver a fair and sustainable future for local government and our communities, and to discuss and debate the impact of political, economic and climatic change of local government.

Cost of attendance at the National General Assembly of Local Government, to be held 26 - 29 November 2007 in Darwin, NT, will be approximately \$2,935.00 per delegate.

Budget for Delegates Expenses - Payments Made

• Total budget for Financial Year 2007/2008	\$46,961.00
• Expenditure to date	\$17,509.00
• Budget balance as at 8/10/07	\$29,452.00

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Investigating and planning the City's future in consultation with our community, and co-ordinating the human and financial resources to achieve this future"

Funding

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

RECOMMENDATION:

The attendance of nominated Councillors, and staff considered appropriate by the General Manager, at the National General Assembly of Local Government, to be held 26 - 29 November 2007 in Darwin NT at an approximate cost of \$2,935.00 be approved.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 30 October 2007

Item: 214 GM - Department of Local Government - Term of Appointment of Mayors Elected by Councillors & Term of Appointment of Temporary Staff - (79351)

REPORT:

Circular No. 07-46 dated 25 September 2007 has been received from the Department of Local Government inviting councils to make submissions/comments on two proposals, namely:

Proposal 1: Term of Appointment of Mayors Elected by Councillors

Proposal 2: Term of Appointment of Temporary Staff

A copy of the abovementioned circular is included as Attachment 1 to this report.

It will be noted that the Department's Circular indicates that the Ministerial Advisory Council, established to advise the Minister for Local Government, the Hon Paul Lynch MP, on current issues relating to Local Government, is considering proposals in relation to these matters and is seeking the views of councils in this regard.

Proposal 1:

Currently, Section 230 of the Local Government Act 1993 provides that a mayor can be elected by and from the councillors for a period of one year although mayors that are elected by the community are elected for four years.

The Department's Circular suggests that issues that may be canvassed by councils in relation to this include the consistency of leadership under a longer incumbency and that the role of the mayor is the same whether they are elected by the councillors or the electorate.

If a proposal such as this were to be implemented the question also arises as to when a council would determine the period for which a mayor is elected, i.e., at the time of each mayoral election, at the commencement of the term of the Council for the whole of that term or for a specified number of terms.

Proposal 2:

The issues surrounding this proposal, as suggested by the Ministerial Advisory Council, are outlined in the Department's Circular.

In addition, it is suggested that the availability of such an arrangement has the following benefits to councils:

- Allows greater flexibility for using existing staff to fill a maternity relief vacancy.
- Allows opportunities for the General Manager to allow a number of internal staff to fill in the maternity relief vacancy for a longer period eg. 4 different staff for a 6 month term each.
- The longer period makes it more attractive for the recruitment of a temporary or casual external person to fill a vacancy created by the transfer of an internal staff person to the maternity relief position.
- Allows additional time for internal staff to gain additional skills and experience.

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From an administrative point of view, it is considered that there would be advantages if councils were to be given the opportunity to make temporary appointments for up to 24 months in respect of parental leave replacements without the requirement to advertise the position and may also enhance the ability to provide staff development opportunities.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Establish processes and develop flexible plans that will enable the city to respond to change."

Funding

Any changes will not have an effect on Council's budget.

RECOMMENDATION:

That Council:

1. Determine if it wishes to make a submission in respect of Proposal 1 and, if so, the basis of that submission.
2. Indicate its support for Proposal 2 on the basis suggested by the Ministerial Advisory Council and the additional benefits referred to in the report in this regard.

ATTACHMENTS:

AT - 1 Circular No. 07-46 from Department of Local Government

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AT - 1 Circular No. 07-46 from Department of Local Government

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

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oooO END OF REPORT Oooo

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Item: 215

GM - Civics and Citizenship Advisory Committee - 377 Delegation - (79351, 96972)

REPORT:

Council's Civics and Citizenship Advisory Committee was established and had its constitution ratified at the Council meeting of 12 July 2005. As a reformed Advisory Committee with several broader objectives than its predecessor - the Hawkesbury Awards Committee, the primary objective of the committee is:

- (a) To facilitate the selection of award recipients for several awards including but not limited to; Australia Day Awards and the Sports Medal and Sports Certificate Awards.

The Committee's other objectives are:

- (b) To review the criteria for each of the award systems and make recommendations on changes as to future systems.
- (c) Actively encourage nominations from the community for the awards programs to further enhance the quality and quantity of submissions Council receives.
- (d) To assist when requested, with recommendations for special civic or community celebrations.
- (e) To provide advice and guidance on the administration of any Federal or State funding received for events and special celebrations.

Due to the confidential nature of the award nominations that the Committee deals with, and the need to send the Committee's business papers to the Council after the awards have been presented (so as not to alert the community and in some cases the recipients, to the winners' details prior to the awards ceremony), it is deemed necessary to expand the nature of the Council's delegations to this Committee under Section 377 of the *Local Government Act 1993*. This would enable the Committee to be formally delegated the authority to actually make the decisions as to the selection of the award recipients and not just facilitate the process. This is a practice with which they have, by default, been acting on in the past but this would correct the anomaly appropriately within the provisions of the Act.

As a result of this, it is recommended to amend the Committee's constitution to include a change in this primary objective by increasing the delegation to include the power to make the decision of the award winners.

As required under the Act, all delegations under the provisions of Section 377 must be reviewed within 12 months of a local government election.

Conformance to Strategic Plan

This issue is not of a strategic nature.

Funding

Nil required.

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RECOMMENDATION:

That:

1. Council delegate authority under the provisions of Section 377 of the *Local Government Act* 1993 to the Civics and Citizenship Advisory Committee to enable the Committee to determine the selection of award recipients for several awards including but not limited to; Australia Day Awards and the Sports Medal and Sports Certificate Awards.
2. The Civics and Citizenship Advisory Committee's constitution be updated to reflect this change.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Meeting Date: 30 October 2007

Item: 216 **GM - Tourism Program - Future Direction - Proposal - (79351, 95497, 96812, 105004)**

Previous Item: **89, Ordinary (29 May 2007)**

REPORT:

Council at its meeting on 29 May 2007 considered a report on a future direction for its overall Tourism Program, as a result of the termination of the Tourism Service Deed on 2 April 2007 with then contractor, Hawkesbury City Chamber of Commerce Inc. The ending of the contract was an appropriate time to review the program, which consisted (mainly) of the Visitor information Centre (contracted) and area-wide and strategic activities undertaken by Council Officers eg. government liaison, the Botanist's Way, Hawkesbury Regional Map, grant application alliances - Greater Blue Mountains Tourist Drive.

It was resolved, in part, that:

- 1 *Council hold a community/ stakeholders meeting.*
2. *Council defer this matter to a Workshop.*

In regard to resolution (1) above, a community/ stakeholders meeting was held on Wednesday 25 July, 2007 at the Deerubbin Centre. Approximately 90 people attended the meeting and included representatives from tourism industry associations; other groups (eg. NPWS, historical); tourism, cultural and other business operators (eg. accommodation and tour providers); the general community; Councillors and Council Officers. The meeting focused on providing attendees with a forum in which to:

- Discuss the role of tourism in the area, on economic and social/ community levels; and
- To provide feedback to Council on community/ stakeholder thoughts on what Council's role in tourism should be.

A range of views about Council's role and the "tourism industry's" role were discussed, along with how the industry could better work together and with Council's tourism activities. Feedback from the meeting included:

- There was support for Council to continue its tourism program, and for it to include more "bigger picture" activities (or strategic) like promotion/ marketing and stakeholder partnerships;
- There was support for a new approach or tourism model, that included:
 - Community and tourism industry stakeholders,
 - Key activities like the Visitor Information Centre, promotional and marketing involving a regional marketing group, tourism projects (including grants), industry networking, advocating a better profile with tourism/ government agencies (eg. Tourism NSW) and resource/ gap/ emerging trends analysis;
- There was a desire within the tourism industry and its associations for them to now work more collaboratively for the collective good;
- The tourism industry are seeking leadership from Council on a tourism vision or identity (eg. Hawkesbury River) and there needs to be a plan

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- There was recognition that there needs to be a greater focus on regional promotion and marketing activities to attract visitors to the area and to individual tourism business. This would need to involve other regional players eg. Council and other tourism industry associations;
- The Visitor Information Centre was valued and acknowledged as a key service for visitors (prior to arrival and while in the area), and for the community and tourism industry and business;
- There was recognition that there needs to be partnerships/ networks within the tourism industry so it works together better to help itself and with Council; and
- A new approach can learn from other tourism programs/ models in use (though one size does not fit all) that involve Councils and stakeholders eg. Blue Mountains Tourism, Central Coast Tourism, Southern Highlands Tourism, Coffs Coast Tourism.

An outcome of the meeting was an interest in Council leading additional tourism stakeholder meetings to progress the interest in a collaborative new approach, once Council had decided on the future direction of its tourism program.

In regard to resolution (2) above, a Councillor Workshop was held on Tuesday 4 September 2007 in Council's Chambers. The workshop considered the following listed points, which provided a basis for the main discussion on *"To what extent should Council be involved in (or invest in) its tourism program?"*. The discussion considered how involved Council should be or a best approach, including economic and social outcomes. Key activities discussed included the Visitor Information Centre, promotion/ marketing activities, strategic projects and industry involvement/ capacity/ development, partnerships and networking.

- The strategic context of tourism in Council's Management Plan/ Cultural Plan and as a local government activity generally;
- The changes in local government's approach to tourism over the last 30 years, i.e. visitor information centres, destination focus, experience focus, local and regional promotion/ marketing and organisations, Council and stakeholder involvement and partnerships;
- Council's tourism experiences and model to date, in that it has mainly centred on the Visitor Information Centre, and providing funds to the industry to operate it; and
- The results of the community/ stakeholder meeting on 25 July 2007.

Visitor Information Centre - Statistics

Councillors attending the Councillor Workshop requested Visitor Information Centre statistics. Details are outlined below. The data is generally for the period since Council has operated the Centre (3 April 2007).

- The Top 5 international countries of origin in 2007 are: Canada, England, Israel, New Zealand and USA.
- Domestic visitor and tourist enquires are generated from all locations outside the LGA, with no overt trend towards enquiries from the Sydney market.
- Daily walk-ins range from on average 35 to 45 customers per day (March 2007 - October 2007).
- Enquiries range from things to do, directions, accommodation/tour booking, retail and information about services in the area/ outside the area provided by Council and other agencies.

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Month	Visitors (to centre)	Enquiries
March 07	1,052	-
April 07	1,331	1,052
May 07	1,181	706
June 07	1,050	788
July 07	1,053	785
August 07	1,359	904
September 07	1,229	857
October 07 (to 18 th)	1,004	758
Total	9,259	5,850

VIC - Accommodation Bookings

Month	No. Nights	Total dollar Value (\$) (to local business, over and above direct bookings)
March 07	30	3,314
April 07	13	1,234
May 07	9	1,003
June 07	11	725
July 07	30	1,789
August 07	45	9,187
September 07	30	6,006
October 07 (to 18 th)	30	5,547
Total	198	\$28,805

Proposal

Having considered the results of the community/ stakeholder meeting and the Councillor Workshop, it is proposed that Council agree to the following approach for the tourism programs:

- (a) Operate the Visitor Information Centre at Clarendon to the end of 2008 and then review the situation;
- (b) Liaise with the relevant tourism industry associations and representatives, including Hawkesbury Regional Tourism Association, with a view to exploring opportunities for working together on projects, promotion and marketing activities and operating the Visitor Information Centre;
- (c) Liaise with relevant adjoining Councils, including Baulkham Hills, Blue Mountains, Lithgow and Hornsby, with a view to establishing any regional approaches on key tourism projects like promotion and marketing, projects and strategic activities that are mutually beneficial.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Strategic Objective:

A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people, to live, work and invest in the City.

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Service Statement:

Facilitate economic development and growth via strategies that build local workforce capabilities, support success through modern infrastructure and attract new investment. "

Funding

Funds for the Tourism Program have been allocated in the 2007-2008 Budget approximately \$172,000.

RECOMMENDATION:

That as part of its ongoing activities to promote tourism in the area, Council:

1. Continue to operate the Visitor Information Centre at Clarendon for the 2008 year and then review the situation.
2. Liaise with the relevant tourism industry associations and representatives, including Hawkesbury Regional Tourism Association, with a view to exploring opportunities for working together on projects, promotion and marketing activities and operating the Visitor Information Centre.
3. Liaise with relevant adjoining Councils, including Baulkham Hills, Blue Mountains, Lithgow, Hornsby, with a view to establishing any regional approaches on key tourism projects like promotion and marketing, projects and strategic activities that are mutually beneficial.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 30 October 2007**CITY PLANNING****Item: 217** **CP - Policy Register Review - Archiving of Policies - (95498)****Previous Item:** 224, Ordinary (26 July 2005)**REPORT:****Introduction**

On 24 April 2007 Council considered a report regarding the archiving of a number of policies from Council's Policy Register. After further consideration of Council's policies, an additional list of policies to be archived has been developed and is shown below.

Table of Policies Recommended for Archiving

Policy	Reason for Archiving
Advertising Signs on Motor Vehicles and Motor Vehicles for Sale on Public Places	Hawkesbury Local Environmental Plan 1989 has been amended in accordance with resolution. Policing of unauthorised parking of motor vehicles is an operational matter.
Alfresco Dining	Superseded by the Outdoor Dining and Footpath Trading Policy.
Annual Christmas Donation	Superseded by the Sponsorship Policy.
Bridle Paths	This policy is outdated. Superseded by road construction provisions of the Hawkesbury Development Control Plan.
Development on Unsewered Land	Policy no longer required. Incorporated into the Hawkesbury Development Control Plan.
Genetically Engineered or Modified Food	Position Statement of Council. A resolution which has now been enacted.
Grants and Donations Policy	This is substantially an descriptive/operational matter, not a policy. Superseded by the Sponsorship Policy.
Hawkesbury District Eisteddfod Society	Superseded by the Sponsorship Policy.
Hawkesbury Sports Council	This is not a Policy. The 377 delegations to this group are considered within 12 months of every local government election as per the NSW Local Government Act guidelines.
Heritage Items - Development	This is an operational matter with Development Applications considered on their merits. The committee mentioned no longer exists.
Heritage Items - Horse Troughs	This is a statement and not a Policy and unable to be achieved within current budget restraints
Information Signs	This is an operational matter which should be incorporated into standard practice for Capital works.
Legal Action	This is an operational matter based on circumstances of the case.
Penrith Lakes Scheme	This is a Position Statement which is now outdated.
Self Enforcing Infringement Notice System	This is not a Policy. Superseded by new Self Enforcing Infringement Notice Scheme policy.

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Policy	Reason for Archiving
Sydney's Second International Airport	This was a Position statement that was time specific and is now outdated.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Investigating and planning the City's future in consultation with our community, and co-ordinating human and financial resources to achieve this future."

Funding

No impact on budget.

RECOMMENDATION:

That the Policies in the table included in this report be archived for the reasons outlined.

ATTACHMENTS:

AT - 1 Individual Policy Details - (*Distributed under separate cover*)

oooO END OF REPORT Oooo

Item: 218 CP - Strategic Planning - Community Engagement Strategy - (96328, 95498)

REPORT:

This report has been prepared to present the key results of Council's Community Engagement Strategy (Community Survey 2007 and Community Engagement Strategy Workshops) for Council's information.

Background

- Council adopted the report to develop the proposed community engagement strategy on 13 March 2007.
- Micromex Research was engaged to undertake a random telephone survey of 400 people and workshop the results with a sample of local residents. The survey interviews were conducted from 16 to 25 July 2007. Two resident workshops were held on 21 August 2007 (day and evening) to qualitatively analyse the key research outcomes.

Results

The results represent a statistically valid sample of Hawkesbury residents - as detailed in the full report.

A presentation of the results were made by Micromex Research at the Councillor Briefing Session on 2 October 2007. The summary identified:

- Hawkesbury residents most valued the 'country atmosphere/lifestyle' of the area. They also valued 'access to services and facilities'.
- Residents were most concerned about: Lack of services/facilities; Council management/operations; increasing development issues; lack of public transport; concern with rates; and crime & vandalism.
- The ten key services/facilities (from a list of 37) requiring most attention, ranked in order, were:
 - Road condition
 - Storm water management
 - Reducing energy consumption
 - Generating local employment opportunities
 - Footpaths and cycleways
 - Improving water quality
 - Improving air quality
 - Maintaining agriculture as a viable industry
 - Hazard reduction burning
 - Provision of mains sewerage
- In response to "development models most suited to the Hawkesbury", residents identified most highly (from 5 models):
 - Protection of rural and agricultural land; and Rural lifestyle housing.
- On the questions of "satisfaction with the performance of Council" residents were:
 - 51% Satisfied to very satisfied
 - 23% Neutral
 - 26% Dissatisfied to very dissatisfied.The main issues of dissatisfaction were: rates; condition of the roads; economic management and lack of community consultation.

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- 46% of residents had face to face or telephone contact with Council staff over the last 12 months - of these:
66% were satisfied to very satisfied
10% were neutral
24% were dissatisfied to very dissatisfied.
- With 'satisfaction with the way Council consults with the community' :
39% of residents were satisfied to very satisfied
28% were neutral
34% were dissatisfied.
- The 10 key workshop outcomes were:
 - High level of pride in the local area
 - Strong sense of community
 - Attendees wish to be more knowledgeable with regards to the future directions of the area
 - Value identified in further developing a Hawkesbury brand
 - Perceived untapped potential of the region
 - Requirement for planning to reduce major congestion issues
 - High esteem for which agriculture is held within the community
 - Requirement for the community to be better educated about Council and its role
 - The significance to residents of the environment and good environmental practices
 - Requirement for detailed planning for the future of the Hawkesbury LGA and communication of this plan to residents.

It is intended that the results will be used to inform and guide all future strategic planning processes as a component of developing a 10 year Strategic Community Plan for the Hawkesbury area. (Any such plan or related documents will also be subject to separate public exhibition and comment prior to adoption by Council.)

It should be noted that the survey results will need to be considered in context (rather than literally) with a range of other information and Statutory requirements when undertaking any strategic planning. It is also proposed that the contextual results be incorporated into general decision making relating to Council activities and priorities.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Investigating and planning for the City's Future in consultation with our community, and coordinating human and financial resources to achieve this future."

Funding

The community survey and workshops were undertaken within the approved budget.

RECOMMENDATION:

That:

1. The information be received and noted.
2. Council display the full report results of the Community Survey 2007 and Workshop results on Council's website.

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ATTACHMENTS:

AT - 1 Community Survey - August 2007 (*Distributed under separate cover*)

AT - 2 Community Engagement Strategy Workshops - August 2007 (*Distributed under separate cover*)

oooO END OF REPORT Oooo

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Item: 219 **CP - Clarification of Development Consent Condition No.5 for DA0197/07 - Fence - 20 William Cox Drive, Richmond - (DA0197/07, 100500, 78735, 95498, 96329)**

Previous Item: 165, Ordinary (28 August 2007)

REPORT:

Council approved DA0197/07 on 28 August 2007. Council has received a request, from the applicant for the subject development approval, for the clarification of consent condition No.5 that states the following:

"Any part of the fence between the Grand Flaneur Drive property boundary and the alignment of the existing building is to be no higher than 1500 mm above the existing internal ground level or the top of the existing retaining wall, whichever is the lower, and is to be set back a minimum of 0.8m from the property boundary. This setback area is to be landscaped with appropriate native species."

There has been an interpretation that this condition refers to the fence located adjacent to the Grand Flaneur road boundary AND the common property boundary between the subject property and the adjoining property to the north. Whilst this seems to be the literal interpretation of this condition, the applicant and some of the attendees at the on-site inspection and Council meeting, did not understand this to be the intent of the condition.

The applicant has stated that their understanding of the intent of the condition was that this condition only related to the portion of the fence adjacent to the Grand Flaneur road boundary and not the common property boundary. As this matter was the subject of discussion at the site meeting of Councillors and finalised at the subsequent Council meeting, the formal request for clarification of this condition is being reported to Council for resolution.

Background

- | | |
|----------------|---|
| 13 April 2007 | Development application received at Council |
| 31 July 2007 | Following exhibition and submission of amended plans by the applicant the application was reported to Council where the application was approved. |
| 1 August 2007 | Notice of motion lodged to rescind Council's resolution to approve the application on 31 August 2007. |
| 14 August 2007 | Notice of Motion to rescind previous resolution supported. Additional resolution to undertake a site inspection by Council. |
| 28 August 2007 | Site inspection held, attended by applicants, Cllrs Wearne, Porter, Bassett, Calvert, Books and Stubbs and Council's Director City Planning. |
| 28 August 2007 | Matter reported to Council where application was approved. |

Council has considered the application on three separate occasions as well as a separate site visit. It is clear that there was much negotiation and discussion in the consideration of this application and it seems that this has resulted in confusion with the intent of the consent conditions.

At the site meeting of 28 August 2007 the issue of the location of the fence was discussed at length. These discussions ranged from locating the fence on both boundaries to locating the fence on the common (northern) boundary and setting the fence back between 0.5 –2.5 metres from the road boundary. These discussions resulted in Condition 5 being recommended to Council for approval.

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It is the applicant's understanding that the condition relating to the 0.8m setback (Condition 5) related to the portion of the fence adjacent to the road boundary only and NOT the portion of the fence adjacent to the common (northern) property boundary.

The applicant is requesting that Council clarify if that interpretation is correct.

Council has the ability to review, and change if required, development consent conditions under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION:

That Council review Condition 5 of the development consent for DA 0197/07 to clarify if the condition requires:

1. The proposed fence is to be setback 0.8 metres from the Grand Flaneur property boundary only,
OR
2. The proposed fence is to be setback 0.8 metres from the Grand Flaneur property boundary AND the common (northern) property boundary.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

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Item: 220 **CP - Change of Use - Storage of Manufactured Transportable Buildings and use of Existing Structure as Office - 3 Box Avenue, Wilberforce - (DA0288/07, 95498, 96329, 105580)**

Development Information

Applicant: Independent Portable Buildings
Owner: Messers Perriott & Nalder
Zone: Industrial 4(a) General
Advertising: Not Required
Date Received: 29 May 2007

Key Issues: ♦ BCA Compliance

Recommendation: Approval

REPORT:

Introduction

The applicant is seeking the approval for the use of the site and existing structure. The existing structure (office) has no Development or Construction approval.

In accordance with the Council's recent resolution, in respect to retrospective approvals, the application is being reported to Council.

Background

The site has been the subject of previous approvals for industrial and other uses.

Description of Proposal

The application seeks approval to change the use of the above property
The activities associated with the use involve:

- Storage of manufactured transportable buildings;
- Fit out and repair of transportable buildings on site, and;
- Hire of transportable buildings.
- Use of the existing building as an office.

Statutory Framework - Unlawful Structures

The Environmental Planning and Assessment Act 1979 does not make provisions for development consent to be granted retrospectively but under section 109A of the Act there is a distinction between the *unlawful erection of a structure* and the *unlawful use of land or a structure*. Section 109A reads:

1. *the use of a building, work or land which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except:*
 - (b) *the granting of development consent to that use.*

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Therefore, the development application is required to be considered on its merits and should the use of the structures be deemed consistent with relevant planning controls then an application for a Building Certificate is required to be submitted to Council.

As previously mentioned, the Act does not provide for retrospective approval for unlawful structures but a person may obtain a Section 149 Building Certificate from Council. The certificate differs from a development consent or building approval for a structure, in that it confers certain forms of legal immunity on the structure (Section 149E of the Act) rather than granting consent for the structure. It is important to note that the Section 149 certificate does not make an unlawful structure lawful but simply makes it immune from certain types of legal action for a period of seven years.

Matters for consideration under Section 79(c) of the Environmental Planning and Assessment Act 1979

a) the provisions of:

i) any environmental planning instrument (ie LEPs, REPs & SEPPs)

The subject property is zoned Industrial General 4(a)

The Planning Instruments which are considered to control development on the site are;

- Sydney regional Environmental Planning Policy 20.
- Hawkesbury City Council Local Environmental Plan 1989. (HLEP)

Comment: The proposal is not inconsistent with the Planning Instruments and relevant provisions.

ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

There are no relevant draft EPI's that affect the land or the proposal.

iii) any development control plan applying to the land

Hawkesbury Development Control Plan 2002

The relevant chapters are

- Industrial Development
- Car parking
- Landscaping

The use and structure complies with the requirements of the above chapters.

iv) any matters prescribed by the regulations

There are no matters that are prescribed by the Regulations that affect the development.

b) the likely impacts the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The development is not considered to be out of character with the surrounding landscape and it is unlikely that the development will have any adverse environmental impact on the locality.

c) the suitability of the site for the development

The site is suitable for the development.

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d) any submissions made in accordance with the EPA Act or Regulations

The application did not require notification under the provisions of the DCP.

e) the public interest.

The matter is not considered to be contrary to the general public interest.

Conclusion

The proposed development complies with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan and has no environmental Impact.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the City"; and

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City".

Funding

No impact on Budget.

RECOMMENDATION:

That Development Application DA0288/07 for Change of Use - Storage of Manufactured Transportable Buildings and use of the Existing Structure as an Office at Lot 4 DP 260028, 3 Box Avenue, Wilberforce, be approved subject to the following conditions:

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. The development shall comply with the provisions of the Building Code of Australia at all times.
3. Where Hawkesbury City Council is the sewer authority for this development, inspection for compliance certification for internal and external sewer drainage shall be requested and approved prior to covering any pipe. An inspection fee applies.
4. An application under S149 (d) Building Consent is to be submitted for the existing office building located on site within 30days from the date of the consent.
5. The proposed workshop and material store building is not approved as part of this Development Consent but will require the lodgement of a separate Development Application.

Prior To Issue Of Occupation Certificate

6. Compliance with all conditions of this development consent.

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7. The following Fire Safety Measures shall be provided and installed in the building/property by a suitably qualified person and a Certificate of Installation shall be provided to the owner/agent within 30 days from the date of this consent:

1. Fire Blanket

FSM1i Installation

Compliance with the following, as appropriate:

1. Manufactured in accordance with AS3504.
2. Installed near proximity of hazard (kitchen area, sleep area, etc)

FSM1m Maintenance

1. Visual, locality, acceptable standard of dispenser and fire blanket (not damaged)

2. Portable Fire Extinguishers

FSM2i Installation

Compliance with:

1. Performance requirements and deemed-to-satisfy provisions of Section E of the BCA.
2. AS 2444 "Portable Fire Extinguishers and Fire Blankets - Selections and Locations".
3. AS 1841 "Portable Fire Extinguishers".
4. AS 1850 "Portable Fire Extinguisher - Classification Rating and Performance Testing."
5. AS 4265 "Wheeled Fire Extinguishers".

FSM2m Maintenance

Compliance with the following, as appropriate:

1. AS 1851.1 "Maintenance of Fire Protection Equipment, Portable Fire Extinguishers and Fire Blankets".
2. AS/NZS 1851.13 "Maintenance of Fire Protection Equipment - Wheeled Fire Extinguishers".

3. 5. Exit Signs

FSM5i Installation

Compliance with the following, as appropriate:

1. Performance requirements and deemed-to-satisfy provisions including NSW State variations of Sections E and G of the BCA.
2. AS/NZS 2293.1 "Emergency Evacuation Lighting for Buildings - System Design, Installation and Operation".
3. AS/NZS 2293.3 "Emergency Evacuation Lighting for Buildings - Emergency Luminaries and Exit Signs".

FSM5m Maintenance

Compliance with:

1. AS/NZS 2293.2 "Emergency Evacuation Lighting for Buildings - Inspection and Maintenance.

6. Emergency Lighting

FSM6i Installation

Compliance with the following, as appropriate:

1. Performance requirements and deemed-to-satisfy provisions including NSW State variations of Sections E and G of the BCA.
2. AS/NZS 2293.1 "Emergency Evacuation Lighting for Buildings - System Design, Installation and Operation".
3. AS/NZS 2293.3 "Emergency Evacuation Lighting for Buildings - Emergency Luminaries and Exit Signs".

FSM6m Maintenance

Compliance with:

1. AS/NZS 2293.2 "Emergency Evacuation Lighting for Buildings - Inspection and Maintenance.

Prior to Occupation:

8. Prior to requesting an occupation certificate the owner/agent shall certify that each of the essential fire safety measures specified in this statement:

- (a) has been installed and assessed by a properly qualified person, and
- (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.

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

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

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

Annually:

The Fire Safety Measures are to be regularly serviced/maintained and the owner/agent (including subsequent owners) shall certify annually that each of the fire safety measures specified in this statement has:

- (a) Been assessed by a properly qualified person, and
- (b) Found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.

Use Of The Development

9. No internal or external alterations shall be carried out without prior approval of Council.
10. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - (a) been assessed by a properly qualified person, and
 - (b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
11. No advertising signs or structures shall be displayed on the footpaths, pedestrianways, roadways or on any land other than the approved development site.

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12. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.
13. The development shall be limited to the area shown on the submitted plans.
14. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
15. All transportable buildings being serviced, repaired, stored or displayed shall be contained within the subject property and not on adjacent footpaths or roadways.
16. All vehicles being loaded or unloaded shall stand entirely within the property;
17. All vehicles shall be driven in a forward direction at all times when entering and leaving the premises.
18. All waste materials shall be regularly removed from the property.
19. Landscaping shall be planted in the areas as shown on the approved stamped plans and amended in red.

Advisory Notes

- *** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.

ATTACHMENTS:

- AT - 1** Site Plan
AT - 2 Floor Plan
AT - 3 Elevations

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AT - 1 Site Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

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AT - 2 Floor Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

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AT - 3 Elevations

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 30 October 2007

Item: 221 **CP - Modification to Development Consent - Lot 7 DP 226968, 159 Pitt Town-Dural Road, Pitt Town - (DA0118/06A, 95498, 96329, 82278, 100026)**

Development Information

Applicant: Neville Lawrence Conway
Applicants Rep: G Zerk
Owner: Mr NL Conway & Ms EM Stuart
Area: 2.287 H
Zone: Rural Living under Hawkesbury Local Environmental Plan 1989
Advertising: Not Required Section 96 (1a)
Date Received: 30 November 2006

Key Issues: ♦ Retrospective approval of works

Recommendation: Approval

REPORT:

Introduction

The applicant seeks to modify Development Consent DA0118/06, details of the modification are set out in the "Description of Proposal" section in this report.

The works have already been carried out without consent and the applicant now seeks approval of this work.

In accordance with the Council's recent resolution, in respect of retrospective approvals, the application is being reported to Council.

Background

Development consent for the erection of a barn style shed was approved by Development Consent 118/06, on 24 February 2006.

A Section 96 application to modify the consent was received on 30 November 2006. The following inspection revealed works had been undertaken without consent.

This application seeks to obtain consent for these works.

Description of Proposal

The applicant seeks to modify the Development Consent in the following manner

- Install additional windows and sliding doors to all elevations .
- Provide double entrance doors to the south elevation.
- Provide roller door to the north elevation.
- Provide internal shower wc and basin, in internal room.
- Provide access to a central mezzanine.
- Line the shed internally.
- Install sewerage management facility.

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The application is also accompanied by a written submission stating the building will be used to store equipment to maintain the land and pursue their hobbies on the property which include;

- Artistic painting, restoration of horse drawn vehicles, maintenance to saddles, motorbikes and making leather vests to wear.

The applicants have also provided statutory declarations that they will not "live" in the shed

Photographs of the shed are available in the Council Chambers

Assessment of Section 96

The proposed amendments to the shed are considered to be substantially the same development as approved by Development Consent 118/06.

The amendments will have a minor environmental impact on the surrounding area.

The proposed amendments can be considered under S96[1a] of the Environmental Planning and Assessment Act

Matters for consideration under Section 79(c) of the Environmental Planning and Assessment Act 1979

a) the provisions of:

i) any environmental planning instrument (ie LEPs, REPs & SEPPs)

The subject property is zoned Rural Living under Hawkesbury Local Environmental Plan 1989

The Planning Instruments which are considered to control development on the site are;

- Sydney regional Environmental Planning Policy 20.
- Hawkesbury City Council Local Environmental Plan 1989. (HLEP)

Comment: The proposal is not inconsistent with the relevant Planning Instruments and relevant provisions. Whilst a dwelling cannot be approved on the site due to the existing natural surface level and the flood levels, a non-habitable shed has been approved by DA118/06.

ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

There are no relevant draft EPI's that affect the land or the proposal.

iii) any development control plan applying to the land

Hawkesbury Development Control Plan 2002

The relevant chapters are; Chapter 8 Erection of Rural Sheds

The amendments comply with the requirements set out in the DCP

iv) any matters prescribed by the regulations

There are no matters discernable that are prescribed by the Regulations that affect the development.

b) the likely impacts the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The development is not considered to be out of character with the surrounding landscape and it is unlikely that the development will have any adverse environmental impact on the locality.

c) the suitability of the site for the development

The site is suitable for the development as a non-habitable, Rural Shed.

d) any submissions made in accordance with the EPA Act or Regulations

The application did not require notification under the provisions of the DCP.

e) the public interest.

The matter is not considered to be contrary to the general public interest.

Conclusion

The proposed development complies with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan and has no environmental Impact.

The applicant has confirmed in writing and with a Statutory Declaration that the shed will not be used as a dwelling or for any habitable purposes

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the City"; and

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City".

Funding

No impact on Budget.

RECOMMENDATION:

That the modification application DA0118/06A for a Rural Shed be approved subject to the following additional conditions:

- 20a] The first floor door to the South Elevation to be permanently sealed closed.
- 20b] All materials used in the construction of walls and floors are to be capable of immersion in flood waters without effecting the structure of the building.
- 20c] All the existing plasterboard lining installed is to be removed and disposed at a licensed refuse collection area and replaced with water compatible materials.

Condition 22 to be amended to read:

- 22 The shed shall not be occupied for human habitation / residential, industrial or commercial purposes **and is not approved for overnight accommodation.**

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ATTACHMENTS:

- AT - 1** Locality Plan
- AT - 2** Site and Floor Plans
- AT - 3** Elevations Plan

ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 1 Locality Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 2 Site and Floor Plans

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 3 Elevations Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 30 October 2007

Item: 222 **CP - Modification to Development Consent - Riverview Shopping Centre, 5 Johnston Street, Windsor - (DA0098/04, 74987, 8736, 95498,96329)**

Development Information

Applicant: Leffler Simes Pty Ltd Architects
Owner: Pirasta Pty Limited
Zone: 3(a) Business General
Advertising: 16 July 2007 to 30 July 2007
Date Received: 17 November 2007

Key Issues: ♦ Noise

Recommendation: Approval

REPORT:

Introduction

This report relates to an application under Section 96 of the EPA Act, to modify the approved Riverview Shopping Centre (DA0098/04), which incorporates some changes and design refinements.

The application is being reported to Council due to the previous DA being determined by Council.

Background

At a Special Meeting on 4 May 2004, Council resolved to issue a deferred commencement consent for demolition of existing buildings, erection of a shopping centre and roadworks.

The deferred conditions were satisfied and the consent became operational on 19 November 2004. The Shopping centre was completed and occupied in December 2006.

Description of Proposal

A number of modifications are sought which comprise altered internal layout due to the new DA, design enhancements and general improvements. The modifications are detailed by the applicant as follows:

Car Park Level

- Relocation of the disabled parking closer to the vertical transporter.
- Relocation of store rooms
- Relocation of the taxi setdown/pickup area adjacent to the entry
- Dry clean setdown/pick up area
- Modification of vehicle crossing for the loading dock in Johnston Street
- Modify the substation/fire control room
- Provision of carparking spaces for parents with prams

Retail Level

- New pedestrian crossing and footpath area to main entry in George Street
- Revised mezzanine layout to shops facing George Street
- Internal changes to mall area, service passage, exit doors and speciality shops receiving dock
- Shop tenancy subdivision

No 17 Johnston St

- Amended acoustic design and facility to be installed.

Some of the proposed modifications have already been constructed.

A full set of the plans showing the proposed amendments are available in the Council Chambers.

Statutory Considerations

SEPP 11 - Traffic Generating Developments

The original DA0098/04 was referred to the RTA-Sydney Regional Development Advisory Committee. The Committee endorsed the development subject to a number of requirements, which were included in conditions of consent. The proposed modifications are minor changes, which will not alter the traffic impacts of the overall development.

SREP 20 - Hawkesbury - Nepean River

The site is within the SREP 20 but is not in a Scenic Corridor. The aim of the policy is to protect the environment of the Hawkesbury-Nepean River System by ensuring the impacts of future land use are considered in the regional context.

The relevant specific considerations for the site are water quantity, part 2(6)(2) and cultural heritage, part 2(6)(5). These matters have been previously assessed in DA0098/04. The current applications are only minor alterations. The objectives and specific matters are satisfied by the proposed modifications

Hawkesbury LEP 1989

The site is zoned Business General 3(a) and the proposed modifications are permissible with consent. Relevant clauses are clause 25 - Development of Flood Liable Land and clause 28 - Development in the Vicinity of Heritage Items. The requirements of the LEP are satisfied with the proposed modifications which are minor.

Hawkesbury DCP

The relevant chapters of the DCP are Notification and Car Parking. The development satisfies the DCP requirements.

Community Consultation

The application was placed on public exhibition from 16 to 30 July 2007.

Letters were sent to adjoining and surrounding landowners and occupants as well as persons who made submissions on the original application.

During the notification period no submissions were received.

Planning Assessment

The modifications are relatively minor, in terms of the overall proposal. The main matters for assessment are therefore minimised.

Section 96

The provisions of EPA Act allows Council to modify a development consent providing the development as modified is substantially the same development as approved.

The modified application has been notified in accordance with the provisions of the Councils DCP.

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The proposed modification are substantially the same development as approved.

The proposed modifications can be considered under S96 of the EPA Act.

Car Parking

The amendments propose a minor change to the car parking layout to improve functionality.

The centre generates a requirement for 312 spaces in accordance with the car parking chapter of the DCP the amended layout provides the required car parking numbers on site.

Building Design/Heritage Impact

The modifications involve internal changes that will have no impact on the surrounding or adjoining heritage items and streetscape.

Noise (17 Johnston St)

The application proposes to amend the acoustic treatment for No 17 Johnston St.

The applicant has held discussions with the property owner of No 17 Johnson St in respect to the acoustic treatment.

The original condition 81 required the provision on an acoustic fence constructed of clear polycarbonate or acrylic material along the north west and south west boundaries.

The wall height would be between 3.3 to 4.5m high.

The proposed modifications have maintained an acoustic fence which is modified by:

1. Enclosing of the small shops dock
2. Negotiation with the property owners of No.17 Johnston St for noise attenuation measures.

The acoustic fence is now proposed to be a concrete dwarf wall approximately 1metre high with a treated timber fence above.

Attached to the north west, south west and north east facing windows of No 17 are acoustic and security shutters for optional use by the occupants to further reduce any potential noise generated by the loading dock.

The south west acoustic fence is substituted by the enclosure of the car park with a blockwall to the extent of the originally proposed fence.

The applicant has indicated the benefits of the new concept are:

1. Enclosing of small shop dock activities to reduce noise transmission.
2. Enclosing of car park to reduce noise transmission
3. Reduce the enclosing nature of the DA designed acoustic fence
4. Provides a less commercial acoustic barrier solution.

The original application was accompanied by noise reports.

The reports concluded the impact of noise on the surrounding residential area is acceptable with the implementation of attenuation measures. Two (2) noise reports were submitted by the applicant, with the second one providing an update on the findings of the first report which concluded the development would have an adverse impact on No. 17 and No. 19 Johnston Street.

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Some comments from the second report are:

- (i) Loading Dock -noise levels from dock to be 51dB(A), with no noise wall. The noise wall submitted with application would further reduce noise levels to comply with EPA limits. Requirements for habitable areas of the rear yard of No.17 Johnston Street is a noise wall approximately 3 metres high which could compromise of transparent Perspex or polycarbonate panels on top of a masonry wall.

Loading dock use to be restricted to 7am to 10pm.

- (ii) Car park - noise from the car park can comply provided:

- A solid wall is provided to the boundaries of No. 17;
- A 3 (three) metre masonry screen wall is provided to No. 19 Johnston Street;
- Restricting use of Union Lane adjacent to No. 19 Johnston Street to eliminate sleep arousal. The driveway should not be used after 10.00pm at night or before 7.00am; and
- The floor of the car park slab to be finished using a rough grade concrete or asphalt, with no sealer to minimise tyre squeals and speed humps to be solid one-piece construction.

The report indicated that all the above measure should comply with set noise limits for this development.

The applicant has submitted a further noise report for the modification of the acoustic fence and noise measures.

The report concludes

- *The reduced height of the boundary fence between the loading dock and the residence at 17 Johnston Street and the addition of a small shops dock, have been offset by enclosing the dock and providing operable window shutters to bedroom and living area windows.*
- *A solid rear boundary fence at 19 Johnston Street and full height internal walls near the Union Lane entrance have been provided to mitigate car park noise to acceptable levels.*

Comment

The applicant's original and amended noise reports demonstrates that the impact of noise transmission for No. 17 and No. 19 Johnston Street is apparent and noise attenuation measures will have to be implemented to comply with noise limit requirements set by the EPA.

The original acoustic fence had the potential for adverse aesthetic impacts of a 4.5 metre high wall. The height of the wall which will be visible above the shopping centre trading floor would vary from 3.3 metres to 4.5 metres. It was proposed that the top of the wall will be constructed from clear polycarbonate. This would still allow views to be obtained to the north west while providing adequate acoustic screening. Given that the commercial zone allows the buildings to be constructed at the boundary, the proposed clear polycarbonate acoustic wall was considered an acceptable solution in the original DA.

The applicant has now negotiated the proposed solution (reduced acoustic wall height and window shutters for the dwelling) with the property owner of No 17 Johnson St and they have signed the submitted plans as owners of the property.

The amended noise mitigation measures provides a better visual outcome for the locality while still achieving the required noise reduction to comply with the requirements set by the EPA.

The noise report provided with the application to modify the Development Consent has used noise data before the operation of the shopping centre commenced.

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Council officers requested that more up to date noise data be provided for the centre as currently operating.

In response the applicant has argued the following

- *The noise consultant's report has been developed from their professional assessment of the manufacture's shutter specifications.*
- *The centre has been operating since early November 2006 with the loading dock area being used and during this period to date neither Council or the Centre Management has received a noise complaint from the residential occupants of No.17 Johnston St in respect to the operation of the shopping centre.*
 1. *The existing effective acoustic measures adopted and implemented such as*
 - a. *Enclosing of small shop loading bay*
 - b. *Enclosing of the carpark area*
 - c. *Enclosing timber perimeter fencing*
 - d. *Surfacing of the carpark in bituminous material to avoid tyre screech, and*
 - e. *The installation of the roller shutters will now exceed the original intent and further contribute to the noise abatement measures already adopted.*

The applicant has also agreed to undertake any further noise assessment in the event that Council receives further concerns in respect to noise related issues.

The centre has been operating since late November 2006 and during that time Council has not received any complaints concerning noise related matters which may suggest that the noise measures implemented are working and the implementation of the additional measures (roller screens) at 17 Johnson St will only further reduce any potential noise impact.

The response from the applicant is reasonable and the need to provide further noise testing data is not necessary at this stage.

A suitable additional condition will be imposed requiring the centre management to undertake further noise assessment if in the future Council receives a number of concerns in respect to noise related issues.

The applicant has advised that the roller shutters have been manufactured ready for installation once the S96 application has been approved.

Condition 81 currently reads:

"An acoustic screen wall is to be provided in accordance with the stamped approved plans. The sections of these screens which will be visible above the shopping centre trading floor level are to be constructed of clear polycarbonate or acrylic material with sufficient mass to prevent direct noise transmission to adjoining residential properties. Landscaping including mature trees and shrubs is to be incorporated with the screen wall. The acoustic wall shall extend from Johnston Street along the north and west boundaries of No. 17 Johnston Street and return to the building wall."

Proposed amended Condition 81 is to read:

"Implementation of the acoustic measures as identified in the report prepared by Renzo Tonin and Associates P/L Ref TA263-06F01 (Rev 2) Acoustic Report for S96 doc dated 19 September 2005."

Condition 90 be amended to read:

"The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) (LAeq) above background noise levels with respect to noise amenity of residential dwellings."

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In this regard if Council receives several written complaints from the occupants of No. 17 Johnson St concerning noise generated by the shopping centre the owner and or centre management will undertake the necessary noise assessment report to investigate the noise concerns raised by the occupants.

The noise assessment report is to be prepared in consultation with Council officers and any recommendations of the report are to be implemented."

Conclusion

The proposed modifications sought are relatively minor compared to the overall development. The modifications provide a better layout, a number of minor changes and a better acoustic solution that will have less of a visual impact.

A suitable condition has been imposed to protect the future noise amenity for the occupants of 17 Johnston Street which has been proposed by the applicant. Accordingly to application is recommended for approval.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the City", and

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City."

Funding

No impact on budget.

RECOMMENDATION:

That the Development Modification Application DA0098/04 for Lot 1 DP 586790, Lot 51 DP 1073306, 5 Johnston Street, Windsor be approved as follows:

1. Reimposition of the original development consent conditions with the following amendments:
2. Condition No.1 of schedule B is amended as follows:

"1. The development shall be carried out in accordance with the approved stamped plans as submitted with Development application No DA0098/04 and any supportive documentation, except as modified by plans GA96/1/01, GA96/1/02, GA96/1/03, GA96/1/04 and GA 12 GA96-2_S02 issue H, GA96-2_S02 issue C, GA 12 issue H, GA96/2/01 issue D and Noise report from Renzo Tonin and Associates ref TA263-06f01 (REV 2) dated 19 September 2005."

3. Condition 81 now to read

"81. Implementation of the acoustic measures as identified in the report prepared by Renzo Tonin and Associates P/L Ref TA263-06F01 (Rev2) Acoustic Report for S96 doc dated 19 September 2005"

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4. Condition 90 now to read

"90. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) (LAeq) above background noise levels with respect to noise amenity of residential dwellings.

In this regards if Council receives several written complaints from the occupants of No 17 Johnston St concerning noise generated by the shopping centre the owner and or centre management will undertake the necessary noise assessment report to investigate the noise concerns raised by the occupants.

The noise assessment report is to be prepared in consultation with Council officers and any recommendations of the report are to be implemented. "

ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Plans Lodged with Application

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AT - 1 Locality Plan

**To View This Image,
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AT - 2 Plans Lodge with Application

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oooO END OF REPORT Oooo

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Meeting Date: 30 October 2007

Item: 223 **CP - Approval Sought in Retrospect - Dwelling - Lot 490 DP 751665, 32 Argents Road, Wilberforce - (DA0427/07, 13551, 13552, 95498, 96329)**

Development Information

Applicant: Mr Victor & Mrs Carmen Tabone
Owner: Mr Victor & Mrs Carmen Tabone
Stat. Provisions: Environmental Planning and Assessment Act 1979
Local Government Act 1993
Hawkesbury Local Environmental Plan 1989
Area: 11.330 H
Zone: Mixed Agriculture under Hawkesbury Local Environmental Plan 1989
Advertising: Not required to be notified
Date Received: 25 July 2007

Key Issues: ♦ Development without prior consent

Recommendation: Approval

REPORT:

Introduction

Development consent is sought for the use of an existing structure as a dwelling. The structure that is the subject of this application is currently in existence and has not previously received development consent.

In accordance with Council's resolution in respect to retrospective approvals, the application is being reported to Council.

Description of Proposal

The application involves the use of an existing structure as a dwelling. The application also requires consent for an attached carport and the use of two other masonry outbuildings for non-habitable purposes.

The existing structure to be used as a dwelling consists of two prefabricated relocatable buildings joined together by a conventionally built infill structure. The application also provided certification of various elements of the construction and a report on compliance with the Building Code of Australia which is considered satisfactory.

The works, the subject of this application, have already been constructed.

Background

The applicant has advised that the structure was constructed and occupied in 1999.

Statutory Framework - Unlawful Structures

The Environmental Planning and Assessment Act 1979 does not make provisions for development consent to be granted retrospectively but under section 109A of the Act there is a distinction between the *unlawful erection of a structure* and the *unlawful use of land or a structure*. Section 109A reads:

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1. *the use of a building, work or land which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except:*
 - (b) *the granting of development consent to that use.*

Therefore, the development application is required to be considered on its merits and should the use of the structures be deemed consistent with relevant planning controls then an application for a Building Certificate is required to be submitted to Council.

As previously mentioned, the Act does not provide for retrospective approval for unlawful structures but a person may obtain a Section 149A Building Certificate from Council. The certificate differs from a development consent or building approval for a structure, in that it confers certain forms of legal immunity on the structure (Section 149E of the Act) rather than granting consent for the structure. It is important to note that the Section 149A certificate does not make an unlawful structure lawful, but simply makes it immune from certain types of legal action for a period of seven years from the date of issue.

Matters for consideration under Section 79(c) of the Environmental Planning and Assessment Act 1979

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are addressed as follows:

a) the provisions of:

- i) **any environmental planning instrument (i.e LEPs, REPs & SEPPs)**

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

Hawkesbury Local Environmental Plan 1989

It is considered that the proposal is consistent with the aims and objectives of the Planning Instruments.

- ii) **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority**

There are no draft environmental planning instruments that relate to the land or affect the proposal.

- iii) **any development control plan applying to the land**

Hawkesbury Development Control Plan 2002 applies to the land. The relevant chapters are:

- Residential

The application has been assessed under this chapter and the only matter of non-compliance relates to the provision of on-site water storage. The site is not serviced by reticulated water and relies upon on-site water storage. Hawkesbury Development Control Plan requires a minimum of 100,000 Litres be provided for all new dwellings. The applicant is only proposing 25,000 Litres be provided to serve the dwelling.

The applicant has stated that the 25,000 litre water storage vessel has been utilised for the past eight years whilst the structure has been in existence. The owner has been content with the level of storage provided and does not wish to increase the storage volume.

The owner has advised that he has plans for a new dwelling to be constructed in a different location on the site and will seek development consent for that work and provide the required

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amount of 100,000 Litres for that proposal. The owner does not wish to go to the expense of installing a compliant tank, for little benefit in the short term.

This request for a variation to the Development Control Plan is considered reasonable in the circumstances of the case.

However, the NSW Rural Fire Service requires a dedicated minimum 20,000 Litre water supply be provided for fire fighting purposes. This storage would be additional to the storage for domestic use. This will be required to be installed as a condition of consent.

iv) any matters prescribed by the regulations

There are no matters discernable that are prescribed by the regulations that apply to the development.

b) the likely impacts the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposal is located in a rural landscape and the development does not detract from the context and setting of the landscape or the rural character of the area. There is no increased impact in terms of access, traffic or transport. There are no heritage listed items in the vicinity of the proposal and there is no likely adverse impact upon water or soils resources.

The likely impacts of the development are considered to be minor and would not result in any demonstrable impact upon the natural or built environment.

c) the suitability of the site for the development

The site is considered to be bushfire prone land and the proposal does not meet the minimum requirements for Asset Protection Zones from the NSW Rural Fire Service document '*Planning for Bushfire Protection*'. Consequently, the application was referred to the NSW Rural Fire Service for comment. Suitable comments and conditions of approval were received from the Rural Fire Service.

The site is considered suitable for the development.

d) any submissions made in accordance with the EPA Act or Regulations

The application was not required to be notified under Hawkesbury Development Control Plan. No submissions were received.

e) the public interest

The proposal is not contrary the public interest.

Conclusion

The proposed development will have only a minor impact and is consistent with the relevant Council requirements.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City"; and

"A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the City."

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Funding

No impact on budget.

RECOMMENDATION:

That the structure at Lot 490 DP751665, 32 Argents Road, Wilberforce be approved for use as a dwelling subject to the following conditions of development consent:

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. A Section 149A Building Certificate Application is to be lodged with Council for the structure within 30 days from the date of this consent.

NSW Rural Fire Service

3. The development shall comply with AS 3959 - 1999 'Construction of Buildings in Bushfire Prone Areas'. Level 1 construction shall apply.
4. Unrestricted access shall be provided around the property for fire-fighting personnel.
5. The property around the dwelling to a distance of thirty (30) metres, or to the property boundary, whichever is lesser, shall be maintained as an Inner Protection Zone (IPA) in accordance with Chapter 4.1.3 and Appendix 2 of Planning for Bushfire Protection 2006 and RFS Standards for Asset Protection Zones (available electronically at www.rfs.nsw.gov.au).
6. Landscaping and maintenance of the property should follow the principles mentioned in Appendix 5 of Planning for Bushfire Protection 2006.
7. In recognition of no reticulated water supply, within 30 days from the date of this consent, the property shall have a dedicated minimum 20,000 Litre static water supply capacity for use during bushfires in accordance with chapter 4.1.3 of Planning for Bushfire Protection 2006. In addition, the water supply shall have a minimum of 3 kW (5hp) petrol, diesel or generator powered pump, hose (capable of reaching all aspects of the dwelling) and fittings.

Use

8. No internal or external alterations shall be carried out without prior approval of Council.
9. The development shall be limited to the area shown on the submitted plans.
10. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
11. The structure shall not be occupied for human habitation/residential, industrial or commercial purposes.

ATTACHMENTS:

- AT - 1** Locality Plans
AT - 2 Site Plan
AT - 3 Elevations

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AT - 1 Locality Plans

**To View This Image,
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AT - 2 Site Plan

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ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 3 Elevations

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Meeting Date: 30 October 2007

Item: 224 **CP - Approval Sought in Retrospect - Carport and Change of Garage to a Habitable Space - Lot 129 DP 255868, 21 Scarvell Avenue, McGraths Hill - (DA0407/07, 76842, 97933, 96329, 95498)**

Development Information

Applicant: Richard and Belinda Liston
Owner: Mr RI & Mrs BA Liston
Area: 550.00m²
Zone: Housing under Hawkesbury Local Environmental Plan 1989
Advertising: 14 September 2007 to 28 September 2007
Date Received: 17 July 2007

Key Issues: ♦ Alterations and additions without prior consent

Recommendation: Approval

REPORT:

Introduction

The Applicant is seeking the approval for the use of the existing garage for habitable purposes and the use of the structure as a carport. The applicant has stated that the alterations were required for an additional child. The applicant has claimed that they were "unaware that Council would need to be involved". An application for a building certificate has also been lodged.

In accordance with Council's resolution in respect of retrospective approvals the application is being reported to Council.

Description of Proposal

The conversion of the garage involved the wall between the garage and the living area being removed, opening up the living space. The area at the rear of the original garage has being converted into an office. This work only involved internal, non structural alterations. A new window was installed to the front of the residence and a new glass sliding door was installed to provide access to the rear yard. Photos of the alterations are available in the Council Chambers.

A structure, 3.6m x 5.7m was constructed to the front of the dwelling and located behind the building line. The roof has been cut into the existing roofline creating the appearance of one structure. The structure is used as a carport.

Statutory Framework - Unlawful Structures

The Environmental Planning and Assessment Act 1979 does not make provisions for development consent to be granted retrospectively but under section 109A of the Act there is a distinction between the *unlawful erection of a structure* and the *unlawful use of land or a structure*. Section 109A reads:

1. *the use of a building, work or land which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except:*

(b) the granting of development consent to that use.

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Therefore, the development application is required to be considered on its merits and should the use of the structures be deemed consistent with relevant planning controls then an application for a Building Certificate is required to be submitted to Council.

As previously mentioned, the Act does not provide for retrospective approval for unlawful structures but a person may obtain a Section 149 Building Certificate from Council. The certificate differs from a development consent or building approval for a structure, in that it confers certain forms of legal immunity on the structure (Section 149E of the Act) rather than granting consent for the structure. It is important to note that the Section 149 certificate does not make an unlawful structure lawful but simply makes it immune from certain types of legal action for a period of seven years.

Matters for consideration under Section 79(c) of the Environmental Planning and Assessment Act 1979

a) the provisions of:

i) any environmental planning instrument (ie LEPs, REPs & SEPPs)

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

The Planning Instruments which are considered to control development on the site are;

- Sydney regional Environmental Planning Policy 20.
- Hawkesbury City Council Local Environmental Plan 1989. (HLEP)

Comment: The proposal is not inconsistent with the relevant Planning Instruments.

ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

There are no relevant draft EPI's that affect the land or the proposal.

iii) any development control plan applying to the land

The proposed development is considered to be consistent with the provisions contained in the residential Chapter of the Hawkesbury Development Control Plan.

iv) any matters prescribed by the regulations

There are no matters discernable that are prescribed by the Regulations that affect the development.

b) the likely impacts the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The development is not considered to be out of character with the surrounding landscape and it is unlikely that the development will have any adverse environmental impact on the locality.

c) the suitability of the site for the development

The site is suitable for the development.

d) any submissions made in accordance with the EPA Act or Regulations

The application was notified to adjoining properties during the period from 14 September 2007 until 28 September 2007. During this time no submissions were received.

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e) the public interest

The matter is not considered to be contrary to the general public interest.

Conclusion

The proposed development demonstrates satisfactory compliance with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan and has no environmental impact.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the City"; and

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City".

Funding

No impact on Budget.

RECOMMENDATION:

That application DA0407/07 for Lot 129 DP 255868, 21 Scarvell Avenue, McGraths Hill, for the use of a garage as a habitable use and the use of a structure as a carport be approved subject to the conditions in the attached consent:

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. The approved use shall not commence until all conditions of this Development Consent have been complied with.
3. The development shall comply with the provisions of the Building Code of Australia at all times.
4. The development shall comply with the Environmental Planning and Assessment Act, 1979 at all times.

During Construction

5. Mandatory inspections shall be carried out and Compliance Certificates issued only by Council or an accredited certifier for the following components or construction:

Note: Structural Engineer's Certificates, Drainage Diagrams and Wet Area Installation Certificates are NOT acceptable unless they are from an accredited person.

- (a) prior to occupation of the building

Use of Development

6. No internal or external alterations shall be carried out without prior approval of Council.

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Advisory Notes

*** The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Integral Energy
- (c) Natural Gas Company
- (d) a local telecommunications carrier

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

ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Front Elevation
- AT - 3 Rear Elevation

ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 1 Locality Plan

**To View This Image,
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AT - 2 Front Elevation

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ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 3 Rear Elevation

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Attachments Document (Maps)**

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ORDINARY MEETING

Meeting Date: 30 October 2007

Item: 225 **CP - Approval Sought in Retrospect - Spa, Lower Deck, Chimney and Lower Floor Alterations - Lot 32 DP 39352, 559 Settlers Road, Lower Macdonald - (DA0445/07, 23769, 95498, 96329)**

Development Information

Applicant: Raymond John Doyle
Owner: Mr RJ Doyle
Stat. Provisions: Sydney Regional Environmental Planning Policy 20
Hawkesbury City Council Local Environmental Plan 1989 (HLEP)
Area: 809.000m²
Zone: Rural Village under Hawkesbury Local Environmental Plan 1989
Advertising: Not required
Date Received: 1 August 2007

Key Issues: ♦ Development without prior consent

Recommendation: Approval

REPORT:

Introduction

The applicant is seeking the approval for the use of a lower deck, chimney alteration and lower floor internal alterations and spa installation.

In accordance with Council's resolution in respect of retrospective approvals the application is being reported to Council.

Description of Proposal

The works as completed are:

- Chimney alteration, including the installation of a slow combustion fire and the structural supports for the installation.
- Creation of a lower floor storeroom and lockable store by the addition of an internal wall and door and the addition of a glass sliding door to the open area on the lower level.
- Rear timber deck 14.65m X 5.25m, located with minimum side boundary setback and 18m to the river. This deck is a maximum of 1.5m high.
- The Spa and fence on the lower floor, located in the corner of the existing open area does not require Council approval as it is exempt.

Background

The deck and the fireplace works were in place when the property was originally purchased in 1997. The occupants installed the Spa and safety fence. The spa does not require Council approval as it is a relocatable structure and exempt. The fence complies with the Pool Safety Act.

The deck is located adjacent to both boundaries. This has been done in order for access to be created in the form of stairs from the living level to the lower level. Along the eastern boundary is Council's reserve and the structure is screened from the reserve by the reserve trees. Under CI 3.7.1.9 of the BCA landings are permitted to encroach into the 900mm side boundary setback and under CI 3.7.1.3 the landing and stairs comply with the BCA as the side adjoins an open public space.

Statutory Framework - Unlawful Structures

The Environmental Planning and Assessment Act 1979 does not make provisions for development consent to be granted retrospectively but under section 109A of the Act there is a distinction between the *unlawful erection of a structure* and the *unlawful use of land or a structure*. Section 109A reads:

1. *the use of a building, work or land which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except:*
 - (b) *the granting of development consent to that use.*

Therefore, the development application is required to be considered on its merits and should the use of the structures be deemed consistent with relevant planning controls then an application for a Building Certificate is required to be submitted to Council.

As previously mentioned, the Act does not provide for retrospective approval for unlawful structures but a person may obtain a Section 149 Building Certificate from Council. The certificate differs from development consent or building approval for a structure, in that it confers certain forms of legal immunity on the structure (Section 149E of the Act) rather than granting consent for the structure. It is important to note that the Section 149 certificate does not make an unlawful structure lawful but simply makes it immune from certain types of legal action for a period of seven years.

Matters for consideration under Section 79(c) of the Environmental Planning and Assessment Act 1979

a) the provisions of:

i) any environmental planning instrument (ie LEPs, REPs & SEPPs)

The subject property is zoned Rural Village

The Planning Instruments, which are considered to control development on the site, are;

- Sydney regional Environmental Planning Policy 20.
- Hawkesbury City Council Local Environmental Plan 1989. (HLEP)

Comment: The proposal is not inconsistent with the relevant Planning Instruments and relevant provisions.

ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

There are no relevant draft EPI's that affect the land or the proposal.

iii) any development control plan applying to the land

Hawkesbury Development Control Plan 2002

The structure complies with the relevant requirements of the Hawkesbury Development Control Plan.

iv) any matters prescribed by the regulations

There are no matters discernable that are prescribed by the Regulations that affect the development.

b) the likely impacts the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The development is not considered to be out of character with the surrounding landscape and it is unlikely that the development will have any adverse environmental impact on the locality.

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c) the suitability of the site for the development

The site is suitable for the development.

d) any submissions made in accordance with the EPA Act or Regulations

The application did not require notification under the provisions of the Hawkesbury Development Control Plan. No submissions were received.

e) the public interest

The matter is not considered to be contrary to the general public interest.

Conclusion

The proposed development complies with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan and has no environmental Impact.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the City"; and

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City".

Funding

No impact on Budget.

RECOMMENDATION:

That development application DA0445/07 for Spa, Lower Deck, Chimney and Lower Floor Alterations at Lot 32 DP 39352, 559 Settlers Road, Lower Macdonald be approved subject to the following conditions:

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. The approved use shall not commence until all conditions of this Development Consent have been complied with.
3. The development shall comply with the provisions of the Building Code of Australia at all times.
4. The development shall comply with the Environmental Planning and Assessment Act, 1979 at all times.

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During Construction

5. Mandatory inspections shall be carried out and Compliance Certificates issued only by Council or an accredited certifier for the following components or construction:

Note: Structural Engineer's Certificates, Drainage Diagrams and Wet Area Installation Certificates are NOT acceptable unless they are from an accredited person.

- (a) prior to occupation of the building.
6. A boundary Survey Certificate, prepared by a Registered Surveyor, of the structure showing the position of the deck in relation to the boundary shall be submitted to Council within 30 days from the date of this consent. No work is permitted to be located over the boundary.

Use of the Development

7. No internal or external alterations shall be carried out without prior approval of Council.

Advisory Notes

*** Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.

*** The applicant is advised to consult, if relevant, with:

- (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) a local telecommunications carrier

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

ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Site Plan
- AT - 3 Floor Plans
- AT - 4 Elevations

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AT - 1 Locality Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

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AT - 2 Site Plan

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AT - 3 Floor Plans

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AT - 4 Elevations

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oooO END OF REPORT Oooo

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Item: 226 **CP - Approval Sought in Retrospect - 14 Tourist Cabins - Lot 1 DP 1099922, Lot 2 DP 1080830, Lot 77 DP 211935, Lot 70 DP 753828, Part Lot 61 DP 753828, Part Lot 51 DP 753828, Chaseling Road North, Webbs Creek - (DA0447/07, 27638, 106311, 27637, 95498)**

Development Information

Applicant: W McNamara
Applicants Rep: Robert Montgomery
Owner: Bebrovo Holdings Pty Limited
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Hawkesbury Development Control Plan
State Environmental Planning Policy No. 1
Area: 164.388 H
Zone: Environment Protection - Mixed Agriculture (Scenic) under Hawkesbury Local Environmental Plan 1989
Advertising: 22 August 2007 to 5 September 2007 - No submissions received
Date Received: 1 August 2007
Key Issues: ♦ Development without prior consent
Flood Prone Land

Recommendation: Approval

REPORT:

Introduction

An application has been received seeking retrospective consent for the construction of 14 cabins on Lot 1 DP 1099922, Lot 2 DP 1080830, Lot 77 DP 211935, Lot 70 DP 753828, Part Lot 61 DP 753828, Part Lot 51 DP 753828, Chaseling Road North, Webbs Creek.

In accordance with Council's resolution in respect to retrospective approvals, the application is being reported to Council.

Background

In June 1977, the then Colo Shire Council approved a resort known as the Del Rio Riverside Resort at Wisemans Ferry. The approved resort was proposed in 4 stages, with Stage 1 consisting of a 225 site caravan park, associated roads, supporting amenities, sewage treatment plant, caretaker's residence, swimming pool, tennis court, launching ramps and beaches, stables and dressage arena. The proposed development is located within the caravan park approved under Stage 1.

As a result of Council Officers becoming aware of the construction of cabins, without development consent, within the Del Rio Caravan Park, an Intention to Serve an Order was issued on 18 October 2006, followed by an Order being served on 27 February 2007 to

"Remove the manufactured homes and cabins from the flood liable land that are not capable of being registered under the Roads Transport (Vehicle Registration) Act 1997."

The owners of Del Rio Riverside Resort, Bebrovo Holdings Pty Ltd, lodged an appeal with the Land and Environment Court against the order. Subsequently, it was agreed that further court proceedings would be held in abeyance subject to the determination of a development application for retrospective approval for the cabins

The Proposal

The application seeks retrospective approval for the construction of 14 cabins within the Del Rio Riverside Resort located on the subject land.

The cabins are located within individual approved caravan sites. Each cabin has dimensions of 5.4m by 12.0m and contains two bedrooms, living/dining area and kitchen, as well as a deck. The cabins are imitation weatherboard in cladding and have steel roofs, constructed on steel bearers and joists, with galvanised steel frames and roof trusses. The windows are aluminium framed and the internal linings are painted villa board.

The application advises that "*the cabins are used for short term tourist accommodation only. They are owned and managed by Del Rio Resort and form part of the varied range of accommodation available.*"

The application is supported by a Statement of Environmental Effects, Assessment of Existing On-Site Wastewater Treatment & Disposal System, Report on Flooding, Structural Engineers Certificates and other documents relating to the construction of the cabins.

Statutory Situation

a) the provisions of:

i) any environmental planning instrument (ie LEPs, REPs & SEPPs)

Hawkesbury Local Environmental Plan 1989.

An assessment against the relevant clauses of Hawkesbury Local Environmental Plan 1989 follows:

General provisions of HLEP 1989.

Clause 2 - Aims, objectives etc,

The proposed development is considered to be consistent with the general aims and objectives as outlined in Clause 2 of the Hawkesbury LEP 1989.

Clause 5 - Definitions

The proposed development is defined as 'tourist facilities'. 'Tourist facilities' means "*a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidaying public.*"

Clause 8 - Zones indicated on the map

The subject land is within the Environmental Protection - Mixed Agriculture (Scenic) zone.

Clause 9 - Carrying out development

'Tourist facilities' are permissible with development consent within the Environmental Protection - Mixed Agriculture (Scenic) zone.

Clause 9A - Zone Objectives

Clause 9A states that consent shall not be granted for a development unless, in the opinion of Council, the carrying out of the development is consistent with the objectives of the zone.

The objectives of the Environmental Protection - Mixed Agriculture (Scenic) zone are:

- (a) *to encourage existing sustainable agricultural activities;*

Comment: The land is used as a tourist facility (Del Rio Riverside Resort). The proposal will have no adverse effect on agricultural land in the locality.

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- (b) *to ensure that development does not create or contribute to rural land use conflicts;*

Comment: It is considered that the proposed development will not create any unreasonable rural land use conflicts, given the nature and use of adjoining properties.

- (c) *to encourage agricultural activities that do not rely on highly fertile land;*

Comment: The proposed development is ancillary to the established use of the property as a caravan park.

- (d) *to prevent fragmentation of agricultural land;*

Comment: The fragmentation of agricultural land will not result from the proposed development.

- (e) *to ensure that agricultural activities occur in a manner:*

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

Comment: Whilst the proposed development is not an agricultural use, there will be no significant adverse impact on water catchments, significant ecosystems or the River, or surface and groundwater quality and flows, or surface conditions.

- (f) *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;*

Comment: The proposal will have no significant adverse impact on native vegetation, as it will be sited on land previously cleared and developed for the purpose. No clearing of native vegetation will be required.

- (g) *to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component;*

Comment: It is considered that there will be no negative impact on the existing landscape values of the locality.

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

Comment:
The proposed development is not considered to be traffic generating beyond the current approved use. Chaseling Road is not a main or arterial road.

- (i) *to control outdoor advertising so that it does not disfigure the rural landscape;*

Comment: The proposed development does not involve additional outdoor advertising.

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

Comment: The proposal will not create unreasonable economic demands for the provisions or extension of public amenities or services.

Specific Provisions of HLEP 1989

Clause 18(1) – Provision of water sewerage etc. services

This subclause states that development consent will not be granted unless satisfactory arrangements have been made for the provision of water, sewerage, drainage and electricity to the land.

Comment: The above services exist on the property and are considered satisfactory for the development. A Report prepared by Toby Fiander and Associates Pty Ltd was submitted in support of the application and confirms that the existing water supply and sewerage treatment plant is adequate for the proposed development.

Clause 20 - Development below high-water mark etc

This clause requires the consent of the Council for any development within 40 metres of the bank of a tidal or non-tidal river. The proposed development is situated a minimum of 52m from the top of the bank of the Hawkesbury River.

Clause 24 – Development in certain environmental and other zones

Subclause (3) states that *"the Council shall not grant consent to the erection of a building on land to which this clause applies unless it has made an assessment as to whether it should impose conditions relating to*

- (a) the height and siting of the building; and*
- (b) the colour of materials to be used in the erection of the building, so as to ensure that the building blends with the surrounding landscape and other development and preserves or enhances the scenic quality of the land."*

Comment: It is considered that the location, height, building materials and colour of the cabins are satisfactory in respect to the cabins visual impact, and are considered to be compatible with the scenic quality of the locality.

Clause 25 - Development of flood liable land

Clause 25 sets out the requirements for flood liable land. An assessment of the proposed development against the relevant subclauses is addressed below:

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

Comment: The 1-in-100 year flood level for the locality is approximately 7.2mAHD. In accordance with this subclause, the cabins are required to be sited on land having a level of 4.2mAHD or higher.

The cabins are located on land having a level ranging from approximately 2.3m AHD to 3.25mAHD. The applicant submits that this requirement is unreasonable in the circumstances and has therefore lodged an Objection under State Environmental Planning Policy No. 1. It is recommended that this Objection be supported based on the reasons discussed further in this Report.

- (3) Each habitable room in a building situated on any land to which this plan applies shall have a floor level no lower than the 1-in-100 year flood level for the area in which the land is located.*

Comment: Habitable room is defined by Hawkesbury Local Environmental Plan 1989 to mean *"a room used for normal domestic activities and:*

- (a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room and sunroom, but*

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- (b) *does not include a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.*

Each cabin comprises of two bedrooms, living, dining and kitchen areas, toilet and bathroom. Bedrooms and living, dining and kitchen area are considered to be habitable rooms as per the above stated definition. These rooms will be used for the normal domestic activities of a home, albeit on a temporary basis. Therefore, each cabin is required to have a floor level at the 1-in-100 year flood level of 7.2m AHD.

The finished floor level of the cabins will have a level ranging from 3.5m AHD to 4.45m AHD. The Objection made under State Environmental Planning Policy No. 1 also addresses this non-compliance.

- (5) *The Council shall, in the assessment of a development application, consider the flood liability of access to the land and, if the land is within a floodway, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this clause have been satisfied.*

Comment: Access to the subject property is via Chaseling Road and Bicentennial Road. Bicentennial Road is located above the 1 in 100 year flood level. However roads leading to the Webbs Creek Ferry, which gives access to Wisemans Ferry, are below the 1 in 100 year flood level. Access to and from the Del Rio property is predominantly via the Webbs Creek Ferry, which is cancelled prior to the inundation of the surrounding roads. Bicentennial Road provides flood free access to Colo Heights.

It is considered that the Del Rio property is not located within a floodway. Part of the subject property is located above the 1-in-100 year flood level.

- (7) *Any part of a building below this 1-in-100 year flood level is to be constructed of flood compatible materials.*

Comment: It is considered that the materials used in the construction of the cabins is flood compatible.

commencement day means the day on which Hawkesbury Local Environmental Plan 1989 (Amendment No 86) commenced. (22.1.99)

flood compatible materials means building materials and surface finishes capable of withstanding prolonged immersion in water.

floodway means the channel of a river or stream and those portions of the flood plain adjoining the channel which constitute the main flow path for floodwaters.

Clause 27 - Heritage items

The subject property is not identified as a heritage item.

Clause 28 - Development in the vicinity of heritage items

The subject property is not located within the vicinity of a heritage item.

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

The subject property falls within Classes 2 to 5 as identified on the Acid Sulfate Soils Planning Map. The proposed development does not include disturbance to the soil as no construction work is required. The proposed works will not result in the lowering of the water table.

ORDINARY MEETING**Meeting Date:** 30 October 2007**Conclusion**

The proposed development is generally consistent with the provisions of Hawkesbury Local Environmental Plan 1989 including the Environmental Protection - Mixed Agriculture (Scenic) zone objectives.

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

The subject land is situated within a scenic corridor of significance beyond the region identified by SREP No. 20. Specifically Clauses 6(1), 6(2), 6(3), 6(4), 6(6), 6(7), 6(11) and 11(3), 11(14), 11(15) & 11(16) of the Plan applies to the proposal and have been considered in the table below:

Specific Planning Policies and Recommended Strategies	Compliance	Comment
Total Catchment Management	Yes	It is considered that the proposed development will have, if any, a minor impact on the catchment of the River.
Environmentally Sensitive Areas	Yes	The proposed development is unlikely to significantly impact on water quality, aquatic habitats, riverine vegetation, bank stability or the water table.
Water Quality	Yes	It is considered that there will be no significant impact on the quality of water within the River or its tributaries.
Water Quantity	Yes	The proposal will not significantly increase water run-off from the site or the rate at which it leaves.
Flora and Fauna	Yes	There will be no significant adverse impact on flora and fauna species, populations or habitats.
Riverine Scenic Quality	Yes	The proposal is considered to be consistent with the landscape character as described in the Scenic Quality Study.
Recreation and Tourism	Yes	The proposed development is considered to be consistent with the recommended strategies and will have no adverse impact in respect to car parking, access, flora and fauna, and the provision of amenities and car parking.

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Development Controls	Compliance	Comments
Building, works or land uses within conservation area sub-catchments	Yes	Development consent required. The proposed development will not cause adverse impacts on the near pristine condition of the sub-catchment.
Recreational facilities	Yes	Development consent required.
Land uses in or near the River	Yes	Development consent required.
Land uses in Riverine Scenic Areas	Yes	Development consent required. The proposal is not considered to be large scale, high density or visually intrusive, will not cause damage to the river bank and will have no adverse impact on the scenic quality of the locality.

Conclusion

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

State Environmental Planning Policy No 1 - Development Standards

This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the Act.

A Development Standard is defined by the Environmental Planning and Assessment Act 1979 to mean:

"Provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b)"*

It is considered that Clause 25(2) and (3) of Hawkesbury Local Environmental Plan 1989 provides a requirement that a building be a certain distance from a specified point ie in the case of Clause 25(2), a building cannot be constructed on land more than 3 metres (distance) below the 1 in 100 year flood level (specified point), and in the case of Clause 25(3), the habitable floor level of a building is to be located at or above (distance) the 1 in 100 year flood level (specified point). It is therefore concluded that Clause 25(2) and (3) can be defined as 'development standards' and can be varied under the provisions of State Environmental Planning Policy No. 1.

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An objection, under State Environmental Planning Policy No. 1 (SEPP No. 1), was lodged by the applicant in respect to the variation from the requirements of Clause 25 (2) and (3) of Hawkesbury Local Environmental Plan 1989. The SEPP No. 1 objection from the applicant states:

"It is submitted that the compliance with the development standard in this instance is both unreasonable and unnecessary in the circumstances of the case. The following are the grounds for the Objection.

Grounds for Objection

1. *The NSW Government's Floodplain Development Manual, 2005 clearly advocates that a merit approach should be adopted for all development decisions on the floodplain to take into account, social, economic and ecological factors as well as flooding considerations.*
2. *The cabins are placed on existing approved caravan sites which until recently have been sites for permanent casual caravans with rigid annexes.*
3. *The cabins are used for short term tourist accommodation only. They are not for permanent occupation.*
4. *The cabins are not permanent dwellings and therefore the development controls relating to dwellings should not apply.*
5. *The cabins have been designed to withstand the 1-in-100 year flood event and are constructed of materials which can withstand prolonged immersion in water.*
6. *There is adequate warning of impending floods as the site is at the lower end of the catchment. Any person who may be occupying the cabins when a flood warning is issued will have sufficient time to leave the site prior to access roads being cut by floodwaters.*
7. *The 14 cabins represent a small proportion of the overall resort and therefore form part of a comprehensive evacuation plan for the site.*
8. *There is no potential for individual property loss as was the case with the casual permanent caravans previously located on this site.*
9. *The cabins are owned and managed by Bebrovo Holdings Pty Ltd. Therefore any property loss or damage in times of flood is factored in to the commercial decision to locate the cabins on the site.*
10. *The cabins represent a significant investment which improves the site and has economic benefits in terms of the local tourism industry.*
11. *The flooding hazard for cabins used for short term tourist accommodation is acceptable in this location. This view is confirmed by the Judgement of Pearlman, CJ in Denis Gelle Pty Ltd and Integrated Site Design Pty Ltd v Baulkham Hills Shire Council"*

Comment: Given the above, it is considered that the application has demonstrated that compliance with the requirements of Clause 25(2) and 25(3) is unreasonable and unnecessary in the circumstances.

It should be noted that the support of this Objection may set an undesirable precedent for similar development on flood liable land. It is emphasised that support of the variation, in this instance, is based on the merits of this particular situation, and does not mean that this merit assessment by Council Officers can be transferred or used as justification for approval of similar developments for tourist accommodation on flood liable land. Support of this development is given on the basis that:

1. the land is not within a floodway;
2. the cabins are replacing existing caravans and therefore no intensification of the use of the site for accommodation will result;
3. there is ample warning time prior to a 1 in 100 year flood event;
4. the cabins are in one ownership.

These matters are discussed further in this Report under the heading of 'Natural Hazards'.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The proposed development does not require the removal of native vegetation and will therefore not disturb habitat areas within the site. Consequently, an investigation into whether or not the land is a potential koala habitat is not required for the development in accordance with the requirements of the Guidelines for the implementation of the SEPP.

ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

There are no draft planning instruments that are relevant to the proposed development.

iii) any development control plan applying to the land

Hawkesbury Development Control Plan.

The Hawkesbury Development Control Plan applies to the proposal. An assessment of the proposal against the relevant provisions of this Plan follows:

General Information Chapter

It is considered that the subject application provides adequate information for the assessment of the proposal and generally complies with this Chapter.

Notification Chapter

The adjoining neighbours were notified as per the requirements of this DCP. No submissions were received.

Car Parking Chapter

Access to the property exists from Chaseling Road. This access is considered satisfactory. It is considered that the proposal will not have a significant impact on the local road network in terms of traffic generation.

The Statement of Environmental Effects advises that one car parking space is provided beside each cabin. During the site inspection it was observed that no formal spaces had been provided and that the adjacent grassed areas were being damaged by the parking of vehicles. It will be a condition of any consent that individual car parking spaces beside each cabin be provided, or alternatively a car parking area to cater for the cabin be constructed.

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s94 Contribution

In accordance with Direction under Section 94E of the Act, a contribution of \$11 200 is required. (1% of cost of development \$ 1,120,000)

Conclusion

The proposed development is generally consistent with the objectives and requirements of the Hawkesbury Development Control Plan.

iv) any matters prescribed by the regulations

Conditions can be imposed in any consent to ensure compliance with the Building Code of Australia.

b) the likely impacts the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Context And Setting

The locality consists of lots used for agriculture, tourist facilities and residential purposes. The proposed development is consistent with these surrounding land uses.

The proposal will have no unreasonable impacts on adjoining properties in terms of overshadowing, loss of privacy or views and vistas. Existing vegetation provides screening between the development and adjoining properties.

Flora and Fauna

The proposal does not involve the disturbance or removal of native vegetation. It is therefore considered that the requirements of Part 5A of the EP & A Act are satisfied in that the proposed development will have no significant impact on threatened species, populations, ecological communities or their habitats.

Waste

An Assessment of Existing On-Site Wastewater Treatment & Disposal System prepared by H.J. Fiander was submitted in support of the application. The Report concludes:

"It is considered that the additional wastewater load from the 14 Cabins is negligible and will be appropriately accommodated by the existing wastewater treatment and disposal system. It is considered that the site's property, its surrounds, including the River, will not be impacted by the addition of the 14 Cabins."

An addendum to this Report also advises that *"a routine annual soil monitoring program should also be put in place to document soil behaviour over time."*

Any consent can include a condition for the implementation of a monitoring program.

Natural Hazards

The subject land is located within an area of both major and minor bush fire risk. This affectation does not prevent the development. Approval for the proposal has been granted by NSW Rural Fire Services subject to conditions as included in the recommendation.

A Report on Flooding prepared by H.J. Fiander was submitted in support of the application. The Report concluded that:

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- *Using the Bathurst Reach Model developed in this study, at the one in 100 year flood event the velocity of flow at the Del Rio Riverside Resort is approximately 1.1m/s; the 14 cabins are anchored to the ground and are considered that they have been designed to withstand the force of flood water with a greater velocity.*
- *There is a long history of occupancy at the Del Rio Riverside Resort and evacuation of the site is possible and has occurred within the memory of some residents and visitors.*
- *As a tourist facility, it is unlikely that there will be any tourists present in the cabins or any other facility during flooding.*
- *Based on past experience there will be 24h notice or more of the requirement of evacuation of the site.*

The NSW Government Floodplain Development Manual April 2005 advises that it is not to be used in respect to individual developments and is guide for the development of Floodplain Risk Management Plans, which provides the framework in which proposed developments can be assessed. There is no Floodplain Risk Management Plan within the Hawkesbury Area. However, the Manual provides an insight into the issues associated with development on flood prone land.

In reference to the principles of the NSW Government Floodplain Development Manual April 2005, it is considered that part of the subject land is within a flood-prone land category of High Hazard - Flood Storage. In order to determine the risk, this category is considered in conjunction with the following factors;

- Size of flood
- Effective warning time
- Flood readiness
- Rate of rise of floodwaters
- Depth and velocity of floodwaters
- Duration of flooding
- Evacuation problems
- Effective flood access
- Type of development

In respect to a 1 in 100 year flood of 7.2m AHD, floodwaters would rise rapidly, to a depth of over 4m at the development site and with a velocity of approximately 1.1 m/s, and would be slow in receding, thus isolating the property for an extended period of time.

Whilst a significant portion of visitors to the site would be unfamiliar with the area, the nature of flooding and evacuation procedures, the effective warning time for an impending flood would be in excess of 24 hours for the locality and the Resort has emergency evacuation procedures in place. The subject land is located in close proximity to the Bicentennial Road, which is located above the 1 in 100 year flood level.

The cabins are located on existing approved caravan sites which until recently have been sites for permanent casual caravans with rigid annexes. The addition of the cabins is therefore not an intensification of the approved use of the property for the provision of tourist accommodation.

The cabins are owned and managed by Bebrovo Holdings Pty Ltd, and therefore the number of property owners which are impacted on as the result of a flood has been reduced, as compared to the previous use of the sites for individually owned caravans. In addition, there is a reduction in individual owners of caravans taking risks in times of flood to remove their property from the sites.

It is believed that the cabins have been designed to withstand a major flood event. It is also noted that they are constructed of materials which could withstand prolonged immersion in water.

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In view of the above considerations, it is concluded that the flood liability of the land is not prohibitive to the development in this case.

It should be emphasised that this assessment relates to the merits and flood characteristics of this site only and should not/cannot be translated or used as justification for development on another site, as flood characteristics, behaviour and evacuation circumstances vary from site to site.

c) the suitability of the site for the development

There are no constraints from surrounding landuses that would make this development prohibitive.

The proposed development will not lead to unmanageable transport demands or traffic generation.

Access to the site is satisfactory for the intended use.

Adequate services and utilities are available to the site.

There are no known hazardous landuses/activities nearby.

Ambient noise levels are suitable for the development.

The development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats.

The subject land is located in an area of major and minor bushfire risk.

d) any submissions made in accordance with the EPA Act or Regulations

Integrated Development

NSW Rural Fire Services

The application was referred to NSW Rural Fire Services for approval as 'integrated development'. In their letter of 4 September 2007, the NSW Rural Fire Services advised:

"This response is to be deemed a bush fire safety authority as required under section 100B of the Rural Fires Act 1997 and is issued subject to the following numbered conditions:

Asset Protection Zone

1. *Based on the identified forest classification of the vegetation to the north through to the west of the cabins, at the commencement of building works and in perpetuity the property (within the lot) around the cabins to a distance of 50 metres, shall be maintained as an 'Inner protection Area' (IPA) and 10 metres, shall be maintained as an 'Outer Protection Area' (OPA) as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.*

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

2. *In recognition that no reticulated water supply exists, a 10,000 litre dedicated water supply tank (non flammable or shielded from the threat) shall be provided within 70m of the cabins for fire fighting purposes.*

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3. *An RFS standard 65mm metal Storz outlet with a Gate or Ball valve shall be provided on the tank and all above ground water pipes external to the building shall be metal including and up to any taps. Pumps are to be shielded.*
4. *Access complying with section 4.1.3(3) shall be provided to within 6 metres of the tank.*

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 condition shall apply:

5. *Property Access Roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.*

Design and Construction

6. *New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 1.*
7. *New roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5."*

These conditions will be included in any consent

e) the public interest

The proposed development is considered to be consistent with the general public interest.

Community Consultation

The proposed development was notified as per the requirements of Hawkesbury Development Control Plan. No submissions were received.

Conclusion

The cabins are generally consistent with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan, with the exception of Clause 25 of the Local Environmental Plan. In this respect an objection, under the provisions of State Environmental Planning Policy No. 1 was lodged by the applicant, which demonstrates that, in this case, adherence to the requirements of Clause 25(2) and (3) are unreasonable and unnecessary. It is considered that the risks in respect to flooding of the land are acceptable for this development and that the flood liability of the land is not prohibitive to this particular development. It is emphasised that support of the SEPP No. 1 objection is based on the merits of this particular situation and cannot be readily transferred or translated to other developments or situations.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: A prosperous community sustained by a diverse local economy that encourages innovation and enterprise to attract people to live, work and invest in the city", and

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City".

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Funding

No impact on budget.

RECOMMENDATION:

That:

- (a) The objection under State Environmental Planning Policy No. 1 be supported,
- (b) That support for this SEPP No. 1 objection in relation to flood prone land not be considered as a precedent for other proposals in flood prone areas, and
- (c) The application for the use of 14 cabins as a tourist facility be approved subject to the following conditions:-

NSW Rural Fire Services Conditions

Asset Protection Zone

- (a) Based on the identified forest classification of the vegetation to the north through to the west of the cabins, at the commencement of building works and in perpetuity the property (within the lot) around the cabins to a distance of 50 metres, shall be maintained as an 'Inner protection Area' (IPA) and 10 metres, shall be maintained as an 'Outer Protection Area' (OPA) as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.

Water and Utilities

- (b) In recognition that no reticulated water supply exists, a 10,000 litre dedicated water supply tank (non flammable or shielded from the threat) shall be provided within 70m of the cabins for fire fighting purposes.
- (c) An RFS standard 65mm metal Storz outlet with a Gate or Ball valve shall be provided on the tank and all above ground water pipes external to the building shall be metal including and up to any taps. Pumps are to be shielded.
- (d) Access complying with section 4.1.3(3) shall be provided to within 6 metres of the tank.

Access

- (e) Property Access Roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

Design and Construction

- (f) New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 1.
- (g) New roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5."

Hawkesbury City Council Conditions

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.

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2. The development shall comply with the provisions of the Building Code of Australia at all times.
3. The development shall comply with the Environmental Planning and Assessment Act, 1979 at all times.
4. An automatic fire detection and alarm system shall be installed within the building in accordance with the Building Code of Australia for Class 1A and 1B Dwellings. Alarms and Detectors shall be installed by a licensed electrician and multiple alarms shall be interconnected, and a certificate of the installation shall be provided prior to occupation of the building.

Prior to Issue of Construction Certificate

5. 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.
6. Construction of the road, access, car park, drainage, dam, filling and retaining walls are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
7. Payment of a Construction Certificate checking fee of \$420.00 and a Compliance Certificate inspection fee of \$840.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2008. Fees required if an Accredited Certifier is used will be provided on request.
8. A Section 149A Building Certificate Application shall be lodged and approved by Council for each cabin.

Prior to Commencement of Works

9. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
10. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
11. 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.

During Construction

12. One parking space is to be provided for the use of each cabin. Parking spaces are to comply with the requirements of AS29890.1 2004 and have minimum dimensions of 2.6 x 5.5 metres. Where the boundary of the space adjacent to a wall or fence, an additional 300mm clearance is to be provided. Safe, unobstructed pedestrian access is to be provided alongside each of the cabins and is to be indicated on the construction certificate plans.

All parking spaces and the access to them are to be constructed with a minimum all weather surface.
13. A suitable method of dispersion of roofwater flows is to be provided.

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Use of the Development

14. A flood warning sign of durable material shall be permanently fixed in a prominent location within the site. The sign shall advise occupants that the site may subject to inundation during times of flood.
15. The applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures and emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed within each cabin in a prominent location and maintained at all times.
16. No internal or external alterations shall be carried out without prior approval of Council.
17. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
18. All waste materials shall be regularly removed from the property.
19. The cabins shall not be used for permanent occupation as a residence.
20. A soil monitoring program is to be developed and implemented in accordance with the recommendations of the Soil Suitability for Irrigation Assessment of Existing On-Site Wastewater Treatment & Disposal System Report No TFA 3073/05 prepared by H.J Fiander dated 31 August 2007.

Advisory

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- *** The applicant is advised to consult with:
- (a) Integral Energy
 - (b) a local telecommunications carrier
- 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 development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

ATTACHMENTS:

- AT - 1 Locality Plan
AT - 2 Site Plan
AT - 3 Elevation Plan & Floor Plan

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AT - 1 Locality Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

ORDINARY MEETING

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AT - 2 Site Plan

**To View This Image,
Please Refer to the Separate
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ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 3 Elevation Plan & Floor Plan

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Attachments Document (Maps)**

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ORDINARY MEETING

Meeting Date: 30 October 2007

INFRASTRUCTURE SERVICES

Item: 227 **IS - Rural Fire Service Estimates 2008/2009 - Hawkesbury District - (95495, 79016, 73835)**

REPORT:

The NSW Rural Fire Service has submitted their estimates for the 2008/2009 financial year for Council's consideration. The attached estimates consist of two components, the Rural Fire Fighting Fund (RFFF), which is submitted to the NSW Rural Fire Service, and a Council submission which is presented to Council for consideration. Council is obligated to contribute 13.3% of the RFFF budget. The Council submission is discretionary and is for Council to determine the appropriate funding commitment. There is an amount identified as "Provided by Council" which is the cost identified directly related to the Service Level Agreement between Council and the RFS which includes insurance of stations and vehicles, and Council rates in a total of \$61,000.

The RFFF estimates includes \$889,999 for the purchase and replacement of four fire fighting appliances, being three Category One Village vehicles and one Category Seven vehicle. Inherent within the tanker trade-in process (\$306,950) the amount Council contributes towards will be reduced to \$583,049.

In the current financial year, Council's budget for all fire services is proposed at \$1,044,243. Under Section 50 of the Fire Brigades Act, Local Government contributes 12.3% of the NSW Fire Brigades aggregate expenditure. Whilst formal advice of the 2007/2008 budget has not been received for the NSW Fire Brigades at this stage, based on the 2nd quarter invoice from that service (\$30,612) it is estimated that the expenditure for the Windsor Fire District will be \$995,512. Council's contribution (12.3%) for 2007/2008 is estimated at \$122,448.

Total fire funding is made up of the 13.3% RFFF contribution, 12.3% NSW Fire Brigade contribution, salaries for part time and casual workers, Council's own internal overheads and any additional funding provided by Council in response to Fire Control's Council submission.

The "other programs" charges, which is a proportion of RFS statewide programs and insurances has been estimated at an amount of \$1,000,000. Reimbursement of 13.3% of these program charge can be sought as part of the budget process and this has been included within the documentation. It will be noted that the reimbursement amount is included within the RFS bid for the district budget.

The submission seeks discretionary Council funding on a range of programs totalling \$313,000. Of concern is the fact that submissions for funding after 13 October 2006 will not be considered by the NSW RFS. (This means that any discretionary funding not supported by Council after that date will not be able to be included within the RFFF bid.)

Council has provided funding for part time and casual staff of \$44,582, land rates of \$11,219, building maintenance of \$22,500 and discretionary funding in an amount of \$258,750, totalling \$337,051 within the 2007/2008 Budget. It is suggested that while a commitment to discretionary funding for the 2008/2009 Budget should not be made prior to the budget process for that year, the RFS be advised that there will be no increase in discretionary funding above \$258,750 for the 2008/2009 financial year.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Work in partnership with community and government to implement community plans to meet the social, health, safety, leisure and cultural needs of the city."

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Funding

Consideration of funding will be required as part of the 2008/2009 Budget preparation.

RECOMMENDATION:

That:

1. The 2008/2009 Rural Fire Fighting Fund estimates as submitted by the NSW Rural Fire Service be endorsed in principle.
2. Consideration of the request for additional funding above the existing 2007/2008 Budget Allocation be deferred until Council's 2008/09 Budget estimates are determined.

ATTACHMENTS:

AT - 1 Rural Fire Service Estimates

ORDINARY MEETING

Meeting Date: 30 October 2007

AT - 1 Rural Fire Service Estimates

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

oooO END OF REPORT Oooo

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Meeting Date: 30 October 2007

Item: 228 **IS - Future of Richmond Pool and Hawkesbury Oasis Aquatic and Fitness Centre - (79354, 34584, 3343)**

Previous Item: 107, Special (25 June 2007)

REPORT:

The exhibition period for Council's 2007/2008 draft Management Plan concluded on 22 May 2007 and prior to, during and after closure of the public consultation period a total of 16 submissions concerning the Plan had been received. Of these 16 submissions, 12 related to issues associated with either the Hawkesbury Oasis Aquatic and Fitness Centre (Oasis Centre) and/or the Richmond Pool.

At Council's Special Meeting held on the 12 June 2007, it was resolved that:

'Two separate reports be submitted to Council regarding Richmond Pool and the Oasis Centre, following consultation with the users of these centres in respect of the issues discussed at the meeting.'

Following this resolution, meetings were held with all swim clubs and relevant user groups from both the Richmond Pool and Oasis Centre. The outcome of the meetings are identified below.

Richmond Pool

A range of issues were raised regarding this pool, a summary including comments is outlined below:

1. Undertake upgrade of Richmond Pool /Adjust to 50m and provide wetdecks

The grant through the NSW Governments Capital Assistance Program to upgrade the Richmond Pool has been accepted and the matching funding will be provided through the Infrastructure Renewal Program. Funding was allocated through the Section 94A program but due to reduced income through this process, funds have had to be provided from other sources.

Funding includes:

Capital Assistance Grant	\$200,000
2007/2008 Special Rate Variation	\$300,000
Works Program	\$ 95,000
Sub Total	<u>\$595,000</u>

2008/2009 Special Rate Variation	\$350,000 (proposed in 2008/09 budget)
Total	<u>\$945,000</u>

Works identified as essential to the pool include reducing the length of the main pool from 55yds to 50m, installing new gutter systems (wetdecks) on all pools, a new filtered waterline to separate the filtration system of the smaller pool from the 50m pool in order to meet the Department of Health guidelines on water turnover rates and construction of a building to house the associated plant. It is anticipated that works will commence at the end of the 2007/08 swimming season, subject to contractor availability.

2. Heating to enable the pool to be used year round, including an enclosure or pool covers to reduce heat loss)

All user groups agreed that the year round heating of **both** the Richmond Pool and Oasis Centre could not be justified, with the majority preferring that the outdoor pool at the Oasis Centre be heated should consideration ever be given to such a proposal.

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The estimated capital cost of heating Richmond Pool to enable year round use is \$350,000 approximately, to include \$320,000 for heat pumps and \$30,000 for a thermal blanket. One group thought it necessary to use pool covers year round but were strongly against the building of any enclosure over the pool

Additional operational costs in terms of electricity, water, chemicals and staffing would also be significant and, unless full cost recovery was applied, this would be an additional expenditure on Council's resources which could not be justified at this stage. An alternative option would be to put in solar heating to increase the temperature during the half year season that the pool is open. Quotes received for this indicate costing of approximately \$140,000 to the 3 pools. Due to the limited roof space on site, racks within a fenced off area would be required to be constructed to house the appropriate infrastructure.

It is recommended at this stage that Richmond Pool not be heated all year round as such action would incur ongoing unsustainable costs.

3. Increase the Pool Size to 8 lanes

The estimated cost to increase the pool by two lanes is approximately \$260,000. Whilst there would be some benefit for larger schools, swim clubs and learn to swim groups, entries to Richmond pool only reached approximately 38,000 people through its gates last season. With these numbers the pool is not being used to its capacity and it is believed that numbers would need to increase at least three fold to justify such an expansion.

Other considerations would be the turnover of the water in 50m pool. Even with the small pools coming off line, with the additional water in the 50m pool, it is unlikely that the turnover would meet the Department of Health Guidelines. The cost to upgrade the filtration plant is estimated at \$430,000 which could not be met within the current funding allocated to this project.

Increasing the lane space has not been budgeted for in this current upgrade, and therefore, it is not a recommended action.

4. Electronic Touch pads /Touchpad indent

Swimming Australia has recently determined that national qualifying times must be recorded on electronic equipment - manual times are now only accepted up to State level. Whilst groups did not feel this was essential for Richmond Pool, it was felt that if space for the pads were included, relevant groups could hire out the pads and use them in carnivals and other larger events if required. The groups acknowledged that the pads are too expensive to purchase and agreed that hiring them at their own cost would be appropriate.

Consideration will be given in the design of the upgrade to include a recess to allow touch pads.

5. Picnic Areas/User Pay BBQ

It was suggested that the pool could offer greater amenities such as picnic areas and user pay BBQs. The pool previously had an onsite BBQ but this was removed following vandalism, old age and safety issues with the gas cylinder attachments. BBQs that collect money can expose the site to vandalism where vandals attempt to retrieve the money from its enclosure. Richmond Pool does have regular break-ins. An electric BBQ can be purchased and installed for approximately \$20,000. Ongoing maintenance and electricity costs need to be considered if this option was looked into.

An electric BBQ could be considered as part of the upgrade at the end of the 2007/08 season

6. User Pay Showers

It was suggested that the toilets be upgraded to include user pay 'water saver' hot showers. The groups were happy with the open design and wanted to maintain the concrete floors for ease of cleanliness.

Construction and ongoing maintenance costs need to be explored regarding this suggestion.

7. External Management

One of the groups indicated that they wanted Council to continue the management of Richmond Pool rather than it being managed by an external organisation.

One of the groups believes that if the pool is heated all year round, and they are offered it as their home pool, their numbers would grow dramatically. They feel that a conservative income from their group alone would exceed \$100,000 per year. The additional income would not however offset the cost of the heating and staff costs needed to run the centre.

It is proposed at this stage the Richmond pool continue to be managed by council staff.

8. Shelters/ Mature tree planting for more shade

The existing shelters are old structures and tired looking. There is also a shortage of shade during busy periods such as carnivals when large school groups are having to spend extended time in the sun and elements. It is also recommended that both small pools and the shallow area of the 50m pool be shaded to reduce impact of the sun on young children and learn to swim groups.

It is proposed to identify suitable areas to provide additional shade planting.

9. Establish rehab/therapy for local elderly population

Heating of the pool would be required to offer this service and access would need to be improved. It is not considered to be a viable economic option.

10. Improve Kiosk, increase health food options etc

Richmond Pool's Kiosk is managed by Council staff and thus a change in the types of food available is possible.

This will be explored over the next season where a survey will be undertaken from users of the facility as to their requests . It must be noted that any introduction of fresh food preparation would increase operational costs due to the need for increased staff time to cater for this and any requirements needed to meet the Food Safety Standards, the Australian Standard 4674/2006 - Design, Construction and Fit out of Food Premises and Council's food premise fit out code .

11. Increase security, upgrade fencing

The entire Richmond pool site is fenced and all relevant doors strengthened. Vandals do cut through the current fencing and gain access the pool on a regular basis. To upgrade the fence however would incur a large cost.

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12. Retain both toddler and small children's pools

There is currently no proposal to remove either of these pools.

13. Promote through surrounding businesses (eg Richmond Club, McDonalds, RAAF) /Proper marketing and signage to advertise the pool and what it has to offer

These suggestions need to be investigated further. Whilst further advertising may increase numbers, it is doubtful that the increased patronage would recoup advertising costs.

14. Advertise selling of naming rights to gain sponsorship - eg Telstra Stadium

This suggestion would need to be investigated further however due to the small number of people attending this centre it is unlikely that a company would take on this proposition without there being some direct financial benefit to that organisation.

15. Increase seating and parking (90 degree in front of pool)

One of the requests was to consider angling the parking in front of Richmond Pool so that it can cater for more cars. Currently only during peak periods such as carnival season, in February, are there parking issues. This could be considered in a future Capital Works Program if the need becomes justified.

16. Request Dept of Education/Richmond Club to contribute financial support

Current allocated funding and proposed funding for 2008/2009 season would meet a majority of the works to be undertaken. The large remaining ticket items such as heating, widening of the pool and upgrading the filtration system are priced at approximately one million dollars (\$1,000,000). It is unlikely that these costs would be met by either, or a combination of these two groups.

17. Other

Other suggestions for improvements included upgrading the PA system, the lighting, purchase of anti wave lane ropes and to refurbish the change rooms. It was also suggested that Council look at other ways of attracting clientele with items such as a rock climbing wall where people fall back into the pool. Richmond Pools shallow depths may make this difficult.

Whilst these suggestions are not currently a high priority they will be investigated and considered in future programs.

18. Conclusion

Numbers of entries have declined over the years and this seems to be an industry standard. Issues such as exposure to sun, private pools, safety issues and computers are seen as the greatest influence on people attending outdoor pools. Whilst the centre offers a valuable opportunity for the public and numbers may be increased, the large Council pool does not have the prestige it once did. It is unlikely to bring in the numbers of 10 -20yrs ago. An example of this is Penrith Pool which 10 yrs ago had an attendance of 160,000 + entries for just the summer period whereas last year 130,751 attended for the entire year, even though last year was one of the better seasons in terms of weather.

Hawkesbury Oasis Aquatic and Fitness Centre

The issues raised regarding Hawkesbury Oasis Aquatic and Fitness Centre were:

1. Heating the outside 50m pool

One group indicated that heating the outdoor pool during winter was not required as winter is short course season 25m (1 Apr - 31 Aug). The number of swim clubs at the centre means however that space is at a premium and should the 50m pool be available during the winter period this problem would be eased. If the outdoor pool was to be heated it was suggested by one group to consider a half barrier down the pool. There were also concerns about heat loss and suggested a dome over the outdoor pool as well as a thermal blanket.

The outdoor pool at the Oasis Centre currently has nominal heating which enables the swimming season to be extended at both ends should it be required. To provide a heated facility over the winter period would require the purchase of additional heat pumps (approximately \$200,000) and a thermal blanket (\$30,000) which would need to be in place at night.

It is estimated that the additional electricity costs would be in the vicinity of \$40,000 per annum and there would also be the obvious additional costs in terms of supervision (lifeguards) water and chemical dosing.

The cost to implement and maintain this asset makes this proposition a difficult one. It is considered that if Council were to heat one of the Hawkesbury 50m pools that the Oasis Centre would be a higher priority.

2. Lane space should be allocation/reviewed frequently resources/ Coordinate flexibility in lane allocation

The management of the Hawkesbury Oasis Aquatic and Fitness Centre has been delegated to the YMCA under a management contract. Lane space issues generally only occur in winter when the outdoor 50m pool is closed. The groups have thus suggested to heat and open the outdoor 50m pool during winter to alleviate this problem.

The provision of lane space was recently reviewed by the YMCA which included a formal consultation process with stakeholders, a public forum and request for written submissions. The lane allocation has since been finalised based on squad numbers for each user and this will be changed on a monthly basis and in accordance with usage.

On a day to day basis, management will ensure that lane allocation is modified if needed to allow larger numbers more space as required. It is appropriate that these day to day operational issues be managed by the YMCA in accordance with the contract arrangements.

3. Electronic Touch pads /Touchpad indent

Ways to attach the pads to the indoor pool are currently being explored. It is believed that this can be provided very simply by attaching the pads to the pool. It is envisaged that these works could be completed by end of November 2007.

4. Increase efficiency with available resources

Some of the groups feel that the YMCA could achieve more with its resources. A YMCA representative did attend some of these meetings and was made aware of these suggestions.

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5. Add additional fans and clocks

These requests have been passed on to the YMCA Management for their consideration.

6. Increase kiosk operating hours

A number of the groups raised that the management of the Kiosk could be improved. The kiosk was found to be often closed when some of the groups are at the centre. The YMCA are addressing this as part of their management strategy.

7. Pool covers for indoor and outdoor pool

Groups have indicated that having covers on both pools would reduce costs and maintain water temperature, even without additional heating. The outdoor pool has covers which currently are not used but the indoor pool has no covers.

There is a cost to purchase the covers and ongoing staff time to install and remove them daily. It is proposed that the use of covers be further investigated and discussed with YMCA management.

8. Increase signage & advertising

This was a recommendation to make the community more aware of the pool and make the pool easier to locate. These proposals still need to be investigated.

9. Improve access into pool - possible portable ramp with handrail as it is difficult to negotiate through the lane ropes (losing members because of this)

The YMCA will work with this group to identify options to improve access for this group.

10. Anti slip on steps next to slide

This request has been passed on to the YMCA management for their consideration

11. Increase gym capacity

The request is to provide increased gym area. The issue was one of not enough room to do a warm up and stretches and the feel that the equipment was cramped into the space. There is space at the back of the gym to expand the room however costs would be substantial, the YMCA are developing a business case for Councils consideration.

12. Improve toilet facilities, especially the females toilets

New doors have been trialled in the female showers to ensure their suitability. It is proposed to have new doors and hinges installed by the end of October 2007. One of the showers will include space for changing. The lack of privacy was raised as an important issue with a number of users.

13. Wizard Swim Team requesting refund of cost for attending Richmond Swimming Centre from the Oasis Centre for winter (approximately \$1,000 per month).

The Wizard Swim Team were offered lane space at Richmond Pool over the 2006/2007 summer period following representation from the team that there was insufficient lane space available at the Oasis Centre.

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Due to the different charging structure between the two centres, Wizard's indicate that the fees at the Richmond pool were higher than the Oasis Centre and thus feel that they have been disadvantaged.

Fees charged at Richmond Pool were the adopted fees and charges. Richmond Pool was offered as an option for the club to help them out and they were made aware of the costs at that stage.

It must be noted that fees charged at the Oasis Centre for club members was incorrect over the last year and into this season, the swim clubs were charged at 2005/2006 fees and not at the adopted fees and charges. Whilst the YMCA have realised their error and are making changes now, the clubs have benefited from these lower fees. It is not proposed to provide a refund to the Wizards Swim Team.

14. Improved atmosphere/condition

Groups feel the general standard of the centre is run down. Photos of the Penrith Pool were provided by one group as a shining example of what could be achieved at the Oasis Centre.

Penrith Pool is an outdoor pool but is heated and runs all year round. It does not offer services such as a gym, spa or sauna and thus it is difficult to compare the centres against each other. The Penrith pool's 2006/2007 season attendance was 130,751 entries, its income \$648,901 and expenditure \$848,002. There was a deficit of approximately \$200,000 for that year.

In contrast the Oasis Centre income for the 2006/2007 was \$1,995,000 and Expenditure was \$2,431,000 (these figures include the Indoor stadium). There was a deficit of approximately \$436,000 for that year (for both centres).

By comparison Richmond Pools 2006/2007 season attendance was approximately 38,000 entries, its income \$123,057 and expenditure \$351,289 (this includes a \$70,300 overhead). There was a deficit of approximately \$228,000 for that year.

It is recommended that the YMCA review the condition of the centre with a view to undertaking improvements.

Conclusion

A number of the suggestions raised have been investigated and will be addressed. The major item of heating the outdoor pool year round is not considered to be sustainable and difficult to justify as a high priority in terms of the needs of the wider community.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: A network of towns, villages and rural localities connected by well-maintained public and private infrastructure, which supports the social and economic development of the City."

Funding

Funding will be provided from a combination of Capital Assistance Grant, Special Rate Variation and Council's Works Program as outlined in the report.

ORDINARY MEETING

Meeting Date: 30 October 2007

RECOMMENDATION:

That:

1. Due to the capital cost of providing heating to either Richmond Pool or the Oasis and the ongoing operating cost should this be undertaken, heating of either outdoor pools not proceed at this stage.
2. Those works outlined within the report that can be achieved within current budgets proceed.
3. Feasibility of the purchase and use of pool covers for all pools be further investigated.
4. The Wizard Swim Teams request for refund of fees for the period that they utilised Richmond Pool not be supported.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 30 October 2007

SUPPORT SERVICES

Item: 229 **SS - Policy for Payment of Expenses and Provision of Facilities to Councillors - Review - (95496)**

Previous Item: **172, Ordinary (28 August 2007)**

REPORT:

At the meeting of Council held on 28 August 2007 a report was considered regarding a review of the Council's current policy for the "Payment of Expenses and Provision of Facilities to Councillors".

In that report it was indicated that the Department of Local Government had recently issued guidelines for the preparation of the Policy, and that the Policy submitted to Council for its consideration had been reviewed and amended in line with the guidelines.

Subsequently the Council at its meeting on 28 August 2007 resolved as follows:

"That the minor amendments as outlined in the report to the Policy for Payment of Expenses and Provision of Facilities to Councillors be made and the updated Policy be placed on public exhibition for a period of 28 days".

The minor amendments referred to in the above resolution that were outlined in the report considered by Council were, as follows:

"Part 1 - Section 5 - Reporting Requirements

Additional point as follows:

- Additional information as required by the Local Government (General) Regulation 2005.

Part 3 - Section 7 - Insurance

Additional insurance provisions for Councillors to cover:

1. Public Liability (for matters arising out of Councillors' performance of their civic duties and for exercise of their council functions)
2. Professional indemnity (for matters arising out of Councillors' performance of their civic duties and for exercise of their council functions)
3. Travel for approved interstate and overseas travel on Council business."

The policy was amended as indicated above and was subsequently placed on exhibition, with the exhibition period closing on Friday, 19 October 2007. At the close of this period no submissions had been received in respect of the Policy. A copy of the amended Policy is included as Attachment 1.

In accordance with the provisions of the Local Government Act 1993 the Council is required to review the Policy annually, and to submit a copy of the Policy to the Department of Local Government by 30 November each year.

In view of the fact that no submissions were received to the Policy during the exhibition period, it would now be appropriate for the Council to adopt the revised Policy.

ORDINARY MEETING

Meeting Date: 30 October 2007

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Establish processes that build community capacity to identify and respond to diversity and difference."

Funding

No effect on the budget as provision has already been made to meet the expenses provided for within the Policy.

RECOMMENDATION:

That:

1. The revised Policy for "Payment of Expenses and Provision of Facilities for Councillors be adopted.
2. As required by Section 253(4) of the Local Government Act 1993, a copy of the adopted amended Policy be forwarded to the Director-General of the Department of Local Government, together with a copy of the public notice placing the draft Policy on public exhibition, and advice that during the required exhibition period the Council received no submissions in respect of the draft Policy.

ATTACHMENTS:

- AT - 1** Copy of Amended Policy for the " Payment of Expenses and Provision of Facilities for Councillors" - *(Distributed under separate cover)*.

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date: 30 October 2007****Item: 230 SS - General Purpose Financial Report and Special Purpose Financial Report for the period ended 30 June 2007 - (96332, 95496)****REPORT:**

Council's General Purpose Financial Report and Special Purpose Financial Report for the period ended 30 June 2007, have now been completed, audited and advertised in accordance with the provisions of the Local Government Act (LGA) 1993. The unqualified audit certificate from Council's Auditors, Price Waterhouse Coopers (PWC), has been received and is available for inspection by Councillors and the community.

The LGA 1993 requires that the meeting set for the presentation of the financial reports must be at least seven days after public notice is given and within five weeks after the auditors reports are given to Council. The auditors' reports were received on 19 October 2007 and public notice was first given in the Hawkesbury Independent dated 23 October 2007.

In accordance with Section 420(1) of the LGA 1993, any person may make a submission to Council regarding the financial reports or with respect to the auditor's reports. All submissions must be in writing and will be referred to our auditors, PWC, and Council can take such action as it considers appropriate.

This report recommends that Council note the completion of the financial reports for 2006/2007 and it also recommends that Council suspend standing orders to allow Council's auditor, Mr Dennis Banicevic, to make a presentation to Council.

Operating Performance

Given below is a summary of Council's financial result for the period ended 30 June 2007.

Statement of Financial Performance	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Income from continuing operations	55,933	51,973	3,960
Expenses from continuing operations	50,356	49,635	721
Operating Result from continuing operations	5,577	2,338	3,239
Capital Grants & Contributions	2,681	1,429	1,252
Net operating result before capital grants & contributions	2,896	909	1,987

ORDINARY MEETING

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The 2006/07 net operating result before capital grants & contributions has improved to \$2.896 million. Details of revenues and expenses that resulted in the surplus as compared to the previous year are as follows:

Income from continuing operations	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Rates and Annual Charges	32,345	31,040	1,305
User Charges and Fees	6,352	6,490	(138)
Interest	2,032	1,462	570
Grants & Contributions - Non-Capital	8,595	10,091	(1,496)
Grants & Contributions - Capital	2,681	1,429	1,252
Other Operating Revenues	2,726	1,461	1,265
Profit from Disposal of Assets & JV Equity	1,202	0	1,202
Total Income from continuing operations	55,933	51,973	3,960

Expenses from continuing operations	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Employee Costs	19,314	19,383	(69)
Materials and Contracts	15,896	14,367	1,529
Borrowing Costs	212	201	11
Depreciation and Amortisation	7,018	7,739	(721)
Loss on Disposal of Assets	0	262	(262)
Other Expenses	7,916	7,683	233
Total Expenses from continuing operations	50,356	49,635	721

Statement Of Financial Position

The Statement of Financial Position discloses the assets, liabilities and equity of Council. The table below displays Council's reported Statement of Financial Position for the period ended 30 June 2007 -

Statement of Financial Position	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Current Assets	38,438	30,140	8,298
Non Current Assets	349,829	349,458	371
Total Assets	388,267	379,598	8,669
Current Liabilities	10,603	7,970	2,633
Non Current Liabilities	4,833	4,790	43
Total Liabilities	15,436	12,760	2,676
Net Assets	372,831	366,838	5,993
Equity	372,831	366,838	5,993

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Performance Indicators

Council's financial reports disclose a number of financial indicators, which are detailed below:

Financial Performance Indicator	June 2007	June 2006	Industry Benchmark
Unrestricted Current Ratio	309	453	100
Debt Service Ratio	0.02%	0.02%	10%
Rate Coverage %	58%	60%	50%
Rates Outstanding %	5.3%	4.4%	5.0%

Interpretation Of Financial Results

Council's financial position for the period ended 30 June 2007 remains sound. However, projections based on current income and expenditure levels indicate future financial difficulties for Council, if not addressed. Increasing difficulties will be experienced to maintain a balanced budget position, with decreasing funds being available to maintain Council's infrastructure network. It is important to take into consideration Special Schedule 7 which provides estimates on the amount of funds required to bring the existing infrastructure back to a satisfactory condition. As tabled in Special Schedule 7 it is estimated that Council needs to spend over \$111 million to bring its assets back to a satisfactory standard, an annual maintenance requirement of \$14.3 million compared with the current funding of \$6.1 million.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Investigating and planning the city's future in consultation with our community and coordinating human and financial resources "

Funding

Not applicable.

RECOMMENDATION:

That Council:

1. Note the completion of the General Purpose, Special Purpose Financial Reports and Special Schedules for the period ended 30 June 2007.
2. Suspend standing orders to allow Council's auditor, Mr Dennis Banicevic of PricewaterhouseCoopers, to make a presentation in respect of Council's audited 2006/07 financial reports.

ATTACHMENTS:

AT - 1 General Purpose and Special Purpose Financial Reports and Special Schedules for the Period Ended 30 June 2007 - *(Distributed under separate cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING
Meeting Date: 30 October 2007

Item: 231 SS - Monthly Investments Report - September 2007 - (96332, 95496)

REPORT:

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 Regulations and the Council's Investment Policy.

The following table lists the investment portfolio held by Council at 30 September 2007 in a form compliant with legislative and policy requirements.

All investments 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.

September 2007

The following table indicates that Council held \$38.1 million in investments as at 30 September 2007. Details of the financial institutions or fund managers with which the investment was made, date investments were taken out, the period to maturity, the rate of return achieved and the credit rating of the investments are provided below.

Investment Type	Lodgement Date	Interest Rate %	Principal	Rating	Total
On Call					
CBA	30-Sep-07	6.45%	\$ 2,950,000.00	A1+	\$ 2,950,000.00
Cash Fund					
LGFS FOCF	30-Sep-07		\$ 2,001,677.15	AA	\$ 2,001,677.15
Term Investments					
CBA – Range Accrual Note	19-Jul-07	7.55%	\$ 500,000.00	A1+	
CBA – CPI Linked Note	4-Apr-07	9.00%	\$ 500,000.00	A1+	
LGFS	31-Aug-07	6.94%	\$ 2,000,000.00	A1+	\$ 3,000,000.00
Managed Funds					
ANZ Cash Plus Fund	30-Sep-07	7.11%	\$958,268.75	AA	
Blackrock Diversified Credit Fund	30-Sep-07	2.34%	\$3,024,099.26	A	
Macquarie Income Plus Fund No 1	30-Sep-07	5.40%	\$6,897,682.24	A	
Aberdeen Cash-Plus Fund	30-Sep-07	6.26%	\$7,470,141.19	A	
Perpetual Credit	30-Sep-07	6.56%	\$6,565,827.09	A	
ING Enhanced Cash	30-Sep-07	7.77%	\$5,308,969.71	A	\$30,224,988.24
TOTAL INVESTMENT AS AT 30 SEPTEMBER 2007					\$38,176,665.39

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Managed Funds

Bench Mark – September 2007	7.19%	Bench Mark - last 12 months	6.54%
Actual - September 2007	5.65%	Actual -last 12 months	5.55%

Performance by Type

Category	Balance	Average Interest	Difference to Benchmark	Restriction Type	Amount
Cash at Call	\$ 2,950,000.00	6.45%	-0.74%	External Restrictions -S94	\$ 4,805,849
Term Deposit	\$ 3,000,000.00	7.41%	0.22%	External Restrictions - Other	\$ 12,140,867
Managed Funds	\$ 30,224,988.24	5.65%	-1.54%	Internal Restrictions	\$ 12,271,835
Cash Fund	\$ 2,001,677.15	7.95%	0.76%	Unrestricted	\$ 8,958,114
	\$ 38,176,665.39	6.86%	-1.30%	Total	\$ 38,176,665

The various sources of the restricted funds referred to in the above table are as follows:

External Restrictions – Section 94 Contributions

External Restrictions – Other (reserve details below)

Waste Management Reserve
 Asset Replacement – Sewer
 Sewerage Operating Reserve
 Sewerage Treatment Reserve
 Unexpended Grants Reserve
 Stormwater Management
 Workers Compensation

Internal Restrictions (reserve details below)

Employees Leave Entitlements
 Election
 Extractive Industries
 FVMRU
 Information Technology
 Plant Replacement
 Property Development (currently negative balance)
 Risk Management
 Sullage
 Heritage
 Tip remediation
 Infrastructure

With regard to the above details those funds subject to external restrictions **can not** be utilised for any purpose other than that specified.

In respect of funds subject to internal restrictions whilst it would “technically” be possible for these funds to be utilised for other purposes such a course of action, unless of a temporary internal loan basis, would not be recommended nor would it be “good business practice” as these funds have been allocated for specific purposes (information technology, plant replacement, risk management, etc.) or to meet future know expenses that should be provided for on an ongoing basis (employee leave entitlements, election, etc.)

Funds referred to as “unrestricted” are, effectively, Council’s daily operational funding for purposes such as the payment of salaries and wages, various works proposed or in progress as adopted in Council’s budget, daily operational expenses, etc. These “unrestricted” funds could only be utilised for other purposes by the

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reduction of a corresponding amount from a service or provision already included within Council's adopted budget. The level of these funds also vary depending upon the business cycle in areas such as the payment of creditors, receipt of rate payments, capital works and/or purchases, etc.

Investment Commentary

The investment portfolio increased by \$2.2m for the month. During September, income received including rates payments amounted to \$4.8m, while payments to suppliers and staff costs amounted to \$3.3m.

Managed Fund performance was below the benchmark (UBS Australia) Bank Bill Index in September 2007 with an average return after fees of 5.65%, compared with the index of 7.19%. The managed funds portfolio has achieved a return after fees for the past 12 months of 5.55%, which under performed the (UBS Australia) Bank Bill Index of 6.54% for the corresponding 12-month period.

The investment portfolio is diversified across a number of investment types. This includes a number of managed funds, term deposits and on-call accounts. Hawkesbury City Council has no direct investments in Collateralised Debt Obligations (CDO's). Council's investment in the Perpetual Credit Managed Fund has a small exposure of 2 – 3% of the fund to CDO holdings that are invested in the US sub prime mortgage market. Council's other Managed Funds have been affected by recent volatility of the Australian share market.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Comparisons are made between existing investments with available products that are not part of Council's portfolio. Independent advice is sought on new investment opportunities.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: Maximise return on Council's investment portfolio"

Funding

Funds are invested with the aim of achieving budgeted income in 2007/2008.

RECOMMENDATION:

That the information be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 30 October 2007

CONFIDENTIAL REPORTS

Item: 232 IS - Tender for Telecommunications - Mobile Phone Carriers - (95495, 79340)

Previous Item: 202, Ordinary (25 September 2007)

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: 30 October 2007

Item: 233 **IS - Tender No. 08FY/07 - Airborne Laser Scanning Over the Hawkesbury Local Government Area - (79346)**

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: 30 October 2007

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Floodplain Risk Management Committee Minutes - 17 September 2007 - (96589)

The meeting commenced at 4.00pm.

Present: Councillor Kevin Connolly
Councillor Trevor Devine
Councillor Bob Porter
Mr Peter Cinque
Mr Kevin Jones
Mr Bill McMahon
Mr Geoffrey Bessell
Mr John Miller
Mr Greg Murphy

Apologies: Mr David Avery
Councillor Ted Books

In Attendance: Mr Chris Amit
Mr Philip Pleffer
Mr Matt Owens

Minutes: Ms Robyn Kozjak

REPORT:

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Devine and seconded by Councillor Porter that the Minutes of the Floodplain Risk Management Committee held on 16 July 2007, be confirmed.

DECLARATION OF INTEREST

Nil

Councillor Conolly moved that the Notice of Motion by Mr John Miller be altered to a Chairman's Minute and should be addressed towards the end of the meeting, during General Business.

FLOODPLAIN RISK MANAGEMENT COMMITTEE
Table of Contents
Meeting Date: 17 September 2007

**Attendance Register of Floodplain Risk Management
Advisory Committee**

Member	17/09/07	19/11/07		
Councillor Trevor Devine – (HCC)	✓			
Councillor Ted Books - (HCC)	A			
Councillor Kevin Conolly - (HCC)	✓			
Councillor Bob Porter - (HCC)	✓			
Mr Peter Cinque OAM - (SES Sydney Western Division)	✓			
Mr Greg Murphy (SES Sydney Western Division)	✓			
Mr David Avery - (Dept. of Environment and Climate Change)	A			
Mr David Scott – (Dept of Defence)				
Snr Inspector Robert Bowman - (NSW Agriculture)				
Mr Les Sheather - (DAMIT)				
Mr Kevin Jones - (SES Headquarters)	✓			
Mr Geoffrey Bessel - (Community Member)	✓			
Mr John Miller - (Community Member)	✓			
Mr Bill McMahon - (Community Member)	✓			

Key: A = Formal Apology
✓ = Present

SECTION 3 - Reports for Determination

Item: 1 Amendments to Committee Constitution

MOTION:

RESOLVED on the motion of Councillor Porter, seconded by Councillor Mr Geoffrey Bessell.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The following objective be added to the Committee's constitution:
"To assist the council in the development and implementation of a flood risk management plan."
2. Section 5(a) of the Committee's constitution be amended to read:
"The structure and membership of the Advisory Committee shall be as follows, and all the appointments in (i) and (ii) will having voting rights."

SECTION 4 - Reports for Information

Item: 2 Compliance of the Floodplain Risk Management Committee to their Constitution

MOTION:

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

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

The information be received.

SECTION 5 - General Business

1. CM – Financial Assistance re Flood Mitigation in the Hawkesbury-Nepean Valley

MOTION:

RESOLVED on the motion of Councillor Conolly, Chairperson, seconded by Mr John Miller.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Conolly, Chairperson, seconded by Mr John Miller.

MOTION:

That:

1. Hawkesbury City Council take the initiative to seek support in a joint project for flood mitigation in the Hawkesbury – Nepean Valley and its tributaries from the NSW Government and adjoining Councils of Penrith, Blacktown and Baulkham Hills to form a bipartisan coalition of flood affected Councils.
2. Financial assistance for flood mitigation works be sought from the NSW State and Commonwealth Governments, as a matter of urgency, to protect many thousands of lives, property, infrastructure and natural environment in the Hawkesbury – Nepean Valley and its tributaries, due to the predictions of increased flood risk.

2. Windsor Bridge

DISCUSSION:

- Concern was raised regarding the condition of Windsor Bridge.
- It was proposed funding should be sought from the Commonwealth Government under the Natural Disaster Mitigation Program - a national program aimed at identifying and addressing natural disaster risk priorities across the nation and where up to 50/50 funding can be provided to assist project costs.
- It was noted a Risk Management Plan for Windsor Bridge has not been undertaken and it was therefore suggested the proposal to seek funding may be ill-timed. It was advised it would be more appropriate to concentrate on risk management in the first instance as this would provide a more sound basis on which to claim funding.

ORDINARY MEETING
Reports of Committees

MOTION:

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

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. Council investigate funding for replacement of Windsor Bridge under the Natural Disaster Mitigation Program which provides up to 50/50 funding from the Commonwealth Government.
2. Council ask the RTA their intentions in relation to options available under the Natural Disaster Mitigation Program.

3. Request for Minutes to be included in Ordinary Meeting Business Paper

- Concern was raised Minutes of the Floodplain Risk Management Advisory Committee have appeared in the Council Ordinary Meeting Business Papers on an intermittent basis only. It was confirmed the Minutes of the two most recent FRMAC meetings have been included in the Ordinary Meeting Business Papers and every endeavour would be made for this pattern to continue.

4. Request for attendance details to be included in Minutes

- It was noted at the previous meeting it was resolved a detailed composition (inclusive of names, titles and attendance details) of the Committee be included in the minutes. It was confirmed this information would be available in the minutes of the current and future meetings by way of an attendance sheet (as displayed on overhead projector).

OTHER BUSINESS:

- Mr Pleffer advised copies of the Sydney Western Division SES Flood Plan were available for distribution and invited attendees to collect a copy of same.
- Discussion arose re future meeting dates for FRMAC. Various dates were put forth and it was resolved the matter would be brought back to the next FRMAC meeting to enable staff the opportunity to review schedules.
- Councillor Conolly advised this would be his final session with the FRMAC as Appointments for Committees would be taking place on 18 September 2007, wherein a new Chairperson would be elected.

The meeting terminated at 4.52pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees



ordinary
meeting

end of
business
paper

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