



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 13 October 2020

location: by audio-visual link

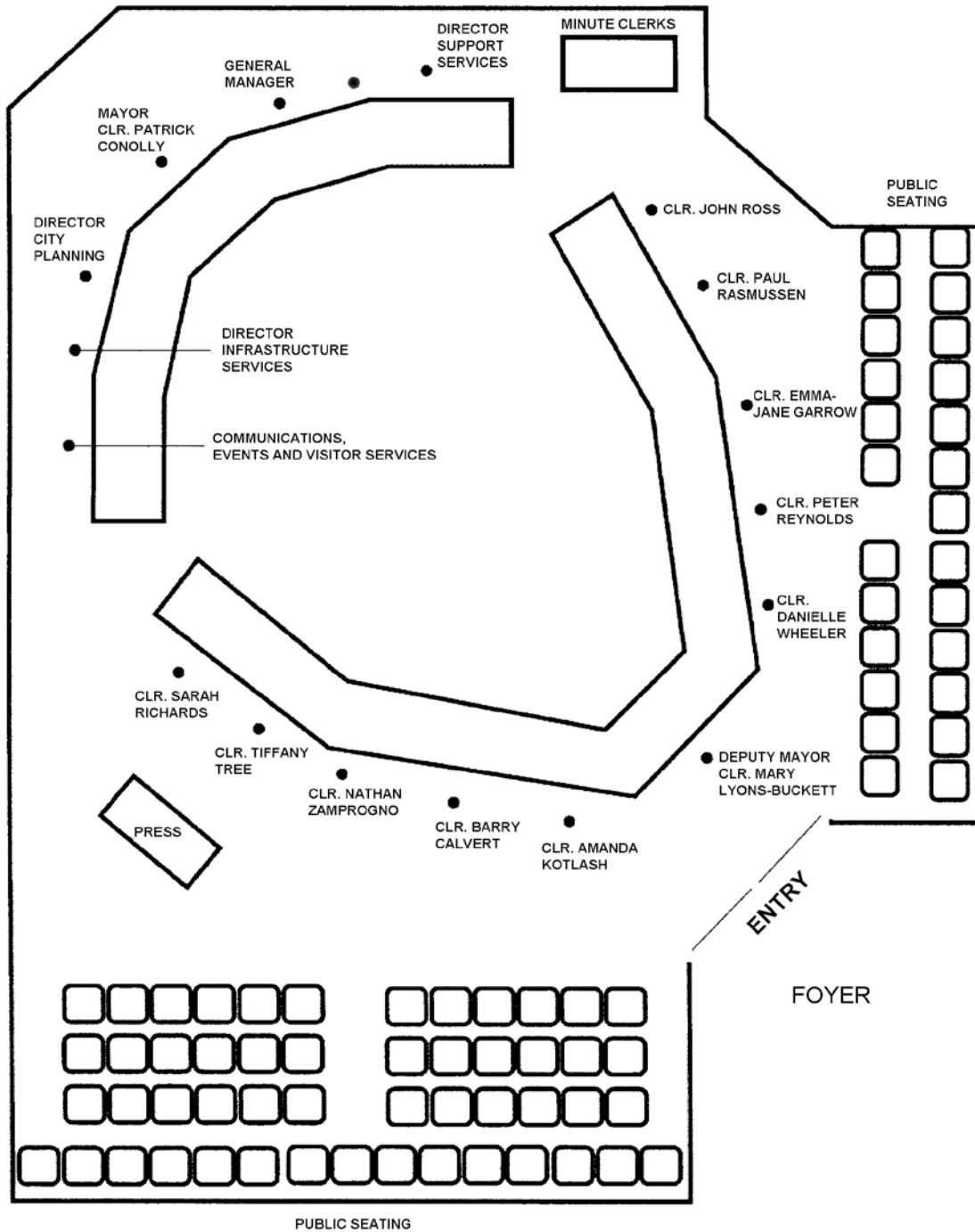
time: 6:30 p.m.



mission statement

***Hawkesbury City Council
leading and working
with our community
to create a healthy
and resilient future.***

Hawkesbury City Council



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ORDINARY MEETING
Procedural Matters
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PROCEDURAL MATTERS

Welcome

The Mayor, Councillor Patrick Conolly will acknowledge the Indigenous Heritage.

The General Manager will address the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

Attendance

Attending Councillors and Council staff members will be noted for the purposes of the Minutes.

Apologies and Leave of Absence

The Mayor will ask for any Apologies or Leave of Absence Requests to be noted.

Declaration of Interest

The Mayor will ask for any Declaration of Interests from the attending Councillors. These will then be addressed at the relevant item.

Acknowledgement of Official Visitors to the Council

The Mayor will acknowledge and welcome official visitors to the Council and make any relevant presentations as required.

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Procedural Matters

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confirmation of minutes

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SECTION 1 - Confirmation of Minutes

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section 2

mayoral minutes

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SECTION 2 – Mayoral Minutes

Item: 192 **MM - Rate Restructure 2021/2022 - (125610, 79351)**

RECOMMENDATION:

That Council implement the current rating structure commencing from the 2021/2022 financial year, with the exception of increasing the Base Rate applied to the Residential Rating Category from 30% to 50%, commencing from the 2021/2022 financial year.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF MAYORAL MINUTE Oooo

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SECTION 3 – Reports for Determination

CITY PLANNING

Item: 193 **CP - Exhibition of Draft Voluntary Planning Agreement Policy - Post Exhibition Report - (95498, 124414)**

Previous Item: 233, Ordinary (10 December 2019)
 137, Ordinary (28 July 2020)
 185, Ordinary (29 September 2020)

Directorate: City Planning

PURPOSE OF THE REPORT:

The purpose of this report is to advise Council of the outcome of public exhibition of the Draft Voluntary Planning Agreement Policy.

EXECUTIVE SUMMARY:

The implementation of a Voluntary Planning Agreement Policy is a management action arising from the Developer Contributions Audit.

Council at its Ordinary Meeting on 10 December 2019 resolved to place on exhibition a Draft Voluntary Planning Agreement Policy.

The purpose of the Draft Voluntary Planning Agreement Policy is to provide a framework for Hawkesbury City Council to guide the preparation of Voluntary Planning Agreements. The Draft Voluntary Planning Agreement Policy has been prepared in accordance with Subdivision 2 of Division 7.1 of Part 7 of the Environmental Planning and Assessment Act 1979, and the relevant sections of the Environmental Planning and Assessment Regulation 2000.

The Draft Voluntary Planning Agreement Policy was publicly exhibited between Friday, 10 January 2020 and Friday, 28 February 2020, and received one submission which is detailed in the report. Having considered the submission, it is considered appropriate to amend the Draft Voluntary Planning Agreement Policy as detailed in the report, including:

- Correction of anomalies/administrative matters
- Provision of greater certainty for various clauses.

Council considered a Post Exhibition report on this matter at its Ordinary Meeting on 28 July 2020. Following consideration of the matter, Council resolved that:

- "1. *Council note the outcome of public exhibition of the Draft Voluntary Planning Agreement Policy.*
2. *The Policy be tabled for further consideration by the Internal Audit Committee in September 2020 and it be referred to the next Council Meeting."*

The Policy was considered by the Internal Audit Committee as an item on 26 August 2020 where the Committee resolved:

"That the Audit Committee receive and note the draft Voluntary Planning Agreement Policy."

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It is noted that the Minutes of the Audit Committee Meeting on 26 August 2020 were endorsed by Council at its Ordinary Meeting on 29 September 2020.

The matter was included on the Business Papers for the 29 September 2020, but was deferred due to an issue with the attached Amended Voluntary Planning Agreement. The matter has been brought back for Council's consideration with the Amended Voluntary Planning Agreement having considered the submission received.

As such the matter has now been brought back for Council's consideration.

RECOMMENDATION:

That Council:

1. Note the outcome of public exhibition of the Draft Voluntary Planning Agreement Policy.
2. Adopt the Voluntary Planning Agreement Policy, attached as Attachment 1 to this report.

BACKGROUND

A Voluntary Planning Agreement may be used for a variety of reasons in order to achieve public benefits which are not ordinarily available through the planning and development system or are available in a restricted manner.

Voluntary Planning Agreements:

- Provide a means for allowing the local community to share in the financial benefit obtained by a developer due to a change in planning controls or a consent to a development application;
- Provide a way for the local community to secure public benefits in addition to measures which are required to address the impact of development on private and public lands;
- Allow for a flexible means for achieving good development outcomes and targeted public benefit;
- Provide opportunities for the local community to participate in the quality and delivery of public benefits; and
- Allow developers to have an input to the type, quality, timing and location of public benefits.

A Voluntary Planning Agreement is defined in section 7.4 (1) of the *Environmental Planning and Assessment Act 1979* as:

"A planning agreement is a voluntary agreement or other arrangement under this Division between a planning authority (or 2 or more planning authorities) and a person (the developer):

- a) who has sought a change to an environmental planning instrument (such as a planning proposal), or*
- b) who has made, or proposes to make, a development application or application for a complying development certificate, or*
- c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,*

under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose."

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The key types of applications for which Council may, at its discretion, enter into a planning agreement are:

- a) A planning proposal; and
- b) A development application (or an application to modify a development consent).

Relevant Legislation

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000.

DISCUSSION

Council may consider entering into a Voluntary Planning Agreement where there will be an opportunity or likely requirement for a development contribution:

- a) When a developer:
 - i. proposes to, or has made a request for a planning proposal seeking a change to Hawkesbury Local Environmental Plan 2012 to facilitate the carrying out of development or State Significant Development; or
 - ii. proposes to, or has made, a development application under Part 4 of the Environmental Planning and Assessment Act 1979; or
 - iii. an application under s 4.55 of the *Environmental Planning & Assessment Act 1979* to modify a development consent; or
 - iv. has entered into an agreement with, or is otherwise associated with, a person to whom (i), (ii) or (iii) applies; or
- b) In the circumstances of an offer by a developer as set out in section 7.7(3) of the *Environment Planning and Assessment Act 1979*, s 7.7 (3) states in part: a consent authority can require a planning agreement to be entered into as a condition of a development consent, but only if it requires a planning agreement that is in the terms of an offer made by the developer in connection with:
 - i. the development application or application for a complying development certificate, or
 - ii. a change to an environmental planning instrument sought by the developer for the purposes of making the development application or application for a complying development certificate, or that is in the terms of a commitment made by the proponent in a statement of commitments made under Part 3A.

Notwithstanding the above, Council in its absolute discretion is not obliged to enter into a voluntary planning agreement with a developer.

The Council's use of planning agreements will be governed by the following principles:

- a) Planning decisions may not be bought or sold through planning agreements,
- b) Development that is unacceptable on planning grounds will not be permitted because of planning benefits offered by developers that do not make the development acceptable in planning terms,
- c) Council will not allow planning agreements to improperly fetter the exercise of its functions under the Environmental Planning and Assessment Act 1979, Regulation or any other Act or law,
- d) Council will not use planning agreements for any purpose other than a proper planning purpose,
- e) Council will not allow the interests of individuals or interest groups to outweigh the public interest when considering a proposed planning agreement,

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- f) Council will not improperly rely on its statutory position in order to extract unreasonable public benefits from developers under planning agreements,
- g) If the Council has a commercial interest in development the subject of a planning agreement, it will take appropriate steps to ensure that it avoids a conflict of interest between its role as a planning authority and its interest in the development,
- h) When considering a planning proposal or development application, Council will not give undue weight to a planning agreement.

Should Council resolve to approve the draft Voluntary Planning Agreement Policy, any previous policies/guidelines/procedures are to be rescinded.

COMMUNITY ENGAGEMENT

The Draft Voluntary Planning Agreement Policy was publicly exhibited between Friday 10 January 2020 to Friday 28 February 2020.

Details of the public exhibition were advertised in The Courier, Council's website and promoted through Council's Facebook page and 'Your Hawkesbury - Your Say' online engagement site. Hard copies of the exhibition were also placed at Council's Administration Centre.

A single written submission was received during the public exhibition of the Draft Voluntary Planning Agreement Policy. The details of the submission and Council's responses are as follows:

Submission	Council's Response
1. It is our understanding that Local Council adopted policies are legally binding and already supported by legal precedence whereas Local Council Development Control Plans can be discretionary.	A Voluntary Planning Agreement when entered into is legally binding on all parties subject to the Agreement. Preparation of Voluntary Planning Agreements will be directed by the Policy. To an extent, a Development Control Plan is discretionary, and is considered as part of the merit assessment of development applications.
2. The inclusion of a draft planning agreement template exhibited in combination with the draft policy would be useful in the assessment of the information provided in the documents. A draft template has not been exhibited. To view an actual completed draft planning policy agreement template document incorporating standard clauses would improve process efficiency and better illustrate how the information included in the exhibited draft policy is applied to an agreement.	It is considered that the provision of a template was not required to be exhibited with the Draft Voluntary Planning Agreement Policy given that it is a document that is subject to change periodically based on identified improvements.
3. There are additional terms noted within the exhibited policy documents that should be included in Clause 1.6 to provide greater clarity, explanation and avoid ambiguity.	No specific details have been provided in terms of the additional items, and it is considered that the terms included within Clause 1.6 are appropriate.
4. Clause 2.2 involves cross boundary voluntary planning agreements. If Council is affected by a development application or planning proposal from an adjoining council area, which local Government Area Policy is required to be used?	Such a situation is subject to negotiation between the respective parties depending on the particular circumstances.

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Submission	Council's Response
5. Clause 2.3 should not be limited to just the three listed actions but to all dealings with planning agreements.	It is considered appropriate to amend Clause 2.3 to refer to implementation and modification of Voluntary Planning Agreements
6. Clause 2.4 should provide an explanation of the situation when a development or planning proposal is outside but close to the boundary of the HLGA.	Whilst Clause 2.2 addresses Cross Boundary Voluntary Planning Agreements, it is considered appropriate to amend Clause 2.4 to refer to matters outside or close to the boundary of the Hawkesbury Local Government Area.
7. Clause 2.5 includes the term 'intended', which implies an uncertainty or doubt that the policy would be periodically reviewed. Council Policies should be compulsorily reviewed within a definite time period.	It is considered appropriate to amend Clause 2.5 to provide greater certainty that the Policy will be reviewed at the following trigger points: <ul style="list-style-type: none"> • Changes in legislation; • Changes to Guidelines issued by the NSW State Government; • Otherwise every 5 years.
8. The circumstances at Part (g) of Clause 3.1 describe the situation where Council has a commercial interest in a development which is subject of a planning agreement. This situation must trigger the involvement of an independent third party in negotiation procedures so as to avoid any risk of impropriety.	It is considered that the Clause provides clear direction. Implementation of this clause is an operational matter.
9. Clause 3.2 outlines that ' <i>an initial written offer</i> ' is made and that offer is then ' <i>finalised once negotiations about the exact terms of the planning agreement have been agreed</i> ' following discussions with Council staff. When probity issues arise an independent third party must be involved. Council must also facilitate community consultation/meetings are undertaken at this stage in order to provide all details of the development proposal and offer by a developer to enter into a planning agreement. The developer must provide for these additional consultation costs. Community consultation must occur at this early stage before the exhibition period so that Council and Councillors have the benefit of understanding the concerns of the community by the time the proposal first comes to a Council meeting. Councillors need to be fully informed before they decide whether or not to endorse a development proposal and an offer by a developer to enter into a VPA.	The <i>Environmental Planning and Assessment Act 1979</i> requires all Voluntary Planning Agreements to be publicly exhibited. It is considered that public exhibition is a key step in the Voluntary Planning Agreement process. Council formally considers all Draft Voluntary Planning Agreements prior to public exhibition, and also the outcome of public exhibition prior to resolving to enter into a Voluntary Planning Agreement. As such no change is proposed to this Clause.

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Submission	Council's Response
<p>10. Clause 3.3 notes that <i>'the typical process involved in negotiating a VPA is outlined in Appendix A'</i>.</p> <p>There is no Appendix A listed in the Table of Contents or noted in the exhibited documents but there is an un-named 'process flow chart' included at Clause 7.10 Notations on Certificates under Section 10.7 of the Act On page 19.</p>	<p>The Draft Voluntary Planning Agreement Policy has been amended to include the diagram referred to as Appendix A.</p>
<p>11. Clause 3.4 part (c) has been mislabelled and would appear to be the end of part (b) preceding it.</p>	<p>The Draft Voluntary Planning Agreement Policy has been amended to correct this administrative error.</p>
<p>12. Clause 3.4 part (f) has also been mislabelled and would appear to be the end of part (e) preceding it.</p>	<p>The Draft Voluntary Planning Agreement Policy has been amended to correct this administrative error.</p>
<p>13. Clause 3.6 indicates the optional use of a separate contractual arrangement relating to the delivery of a material public benefit. We consider the use of a separate contractual arrangement in the situations listed at Clause 3.6 should be mandatory.</p>	<p>Application of this clause is dependent on the circumstances of each matter.</p>
<p>14. Clause 4.3 again indicates a discretionary requirement of a developer to provide Council with information that will assist in the determination of a planning agreement offer. This again should be a compulsory requirement of a developer to provide all supporting documentation. The terms included at Clause 4.3 are all too flexible.</p>	<p>The Draft Voluntary Planning Agreement Policy has been amended to require the provision of supporting documentation.</p>
<p>15. We do not support the pooling of monies collected from different planning agreements across the Local Government Area. The needs of one community should not be rated any more important above the needs of another community and money collected through a particular development should stay with that community just as in site specific Contribution Plans.</p>	<p>The practice of pooling monies collected through Voluntary Planning Agreements is consistent across local government areas.</p> <p>The onus still remains on a Council when sufficient funds have been collected to provide the identified item.</p>
<p>16. Clause 4.5 refers to <i>'works in kind'</i>. An explanation of this arrangement should be included in the exhibited documents and in what circumstances its use would be negotiated.</p>	<p>A Draft Works in Kind Policy was considered by Council at it's Ordinary Meeting on 11 August 2020 and publicly exhibited between 31 August 2020 and 28 September 2020. A post exhibition report is being prepared for Council's consideration in the near future.</p>

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Submission	Council's Response
17. Clause 4.6 again illustrates more flexibility in regard to the obligations of a developer.	It is standard practice across all local government areas that Voluntary Planning Agreements take effect with development consent ie. The need for the Voluntary Planning Agreement is a consequence of the particular development. As such no change is proposed to this Clause.
18. Clause 4.7 states that <i>'Council's Solicitor will ordinarily prepare a VPA'</i> . In this situation where Council's Solicitor is not involved in the preparation of a draft VPA then independent Legal advice or opinion must be sought in relation to the draft VPA.	It is considered appropriate to amend the Draft Voluntary Planning Agreement Policy to reflect such a circumstance.
19. Part (f) of Clause 4.8 should not be included. What are the circumstances where <i>'Council and the developer otherwise agree'</i> ?	Agreed – this part has been deleted from the Draft Policy.
20. The Clause 4.11 Implementation agreement. This is again too flexible with the inclusion of the terms, <i>'in appropriate cases'</i> and <i>'may require'</i> . To provide an assurance that the provision of community infrastructure does actually occur in an acceptable timeframe, all VPA must provide for an implementation agreement to be entered into, in addition to any consent conditions that also exist.	This depends on the nature of the Voluntary Planning Agreement being negotiated. For complex matters these will likely require an Implementation Agreement. For other simple matters that are relatively straightforward, an Implementation Agreement is not required. As such it is considered appropriate to retain the flexibility contained within the existing Clause.
21. Clause 5.1 indicates Council's Developer Contributions Committee will review the VPA and may set up a negotiation team. We understand this committee would be reviewing and negotiating a draft version of the VPA. The draft policy should indicate the Developer Contributions Committee will in fact review the draft version of the VPA and if needed carry out additional negotiations before exhibition.	The Draft Voluntary Planning Agreement Policy has been amended to specify that Council's Developer Contributions Committee will review the Draft Voluntary Planning Agreement and set up a negotiation team.
22. Clause 5.2 mentions the use of a Probity Plan. A copy of Council's Probity Plan should be exhibited along with the policy documents.	The exhibition of a Probity Plan as part of the Policy was not considered necessary.

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Submission	Council's Response
23. Clause 5.3 again indicates flexibility in the appointment of an independent person in situations we consider the appointment should be mandatory.	It is considered appropriate to amend Clause 5.3 to require an independent person in the identified circumstances.
<p>24. Clause 5.4 indicates the landowner <i>'should be an additional party to the agreement'</i>.</p> <p>We consider this must be a compulsory requirement of a planning agreement considering Clause 7.2 requires the developer to agree to registration of the VPA on title of the land. A developer is not always the landowner at the early stage of a planning proposal.</p> <p>The landowner must be a party to the VPA considering registration on the title of the land is compulsory under the provisions of the VPA. It is our understanding that the Act requires the landowner to be a party to the VPA until all the obligations under the VPA are carried out.</p>	Clause 5.4 specifies that if the developer is not the owner of the relevant land, the landowner should be an additional party to the agreement. As such no change is recommended to this Clause.
<p>25. Clause 7.5 Provision of security under a voluntary planning agreement.</p> <p>This clause should be exempt from any amendment, modification or revocation that would result in any reduction of security or withdrawal of community infrastructure.</p>	This Clause does not provide an exemption from amending, modifying or revoking the amount of security provided. As such, no change is proposed to the Draft Voluntary Planning Agreement Policy in this respect.
<p>26. Clause 7.6 Dispute resolution.</p> <p>This clause must provide for the involvement of an independent person qualified in dispute resolution and the developer accepts the cost.</p>	It is considered appropriate to amend this Clause to specify an independent person qualified in dispute resolution and the developer accepts the cost.
27. Clause 7.7 mentions a <i>'defects liability period'</i> . The calculation and agreement of a liability period should be decided before the VPA is adopted.	It is considered more appropriate to consider matters associated with the defects liability period at the development application stage.
<p>28. Clause 7.8 also lists the presence of a separate implementation agreement.</p> <p>The comments made at Point 20. Are repeated.</p> <p>A proper explanation and exhibition of the relevant draft implementation agreements should accompany exhibition of the VPA documents.</p>	This depends on the nature of the Voluntary Planning Agreement being negotiated. For complex matters these will likely require an Implementation Agreement. For other simple matters that are relatively straightforward, an Implementation Agreement is not required. As such it is considered appropriate to retain the flexibility contained within the existing Clause.
29. Clause 7.9 again mentions a separate implementation agreement and the above comments are repeated.	This depends on the nature of the Voluntary Planning Agreement being negotiated. For complex matters these will likely require an Implementation Agreement. For other simple matters that are relatively straightforward, an Implementation Agreement is not required. As such it is considered appropriate to retain the flexibility contained within the existing Clause.

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Submission	Council's Response
30. The listing of the VPA registration on the title of the land must be noted on certificates under section 10.7 of the Act. A potential property purchaser must be made aware of any planning agreement registered on a land title where planning agreement obligations are still outstanding.	Requirements for certificates are contained in Section 10.7 of the Environmental Planning and Assessment Act 1979. As such no change to this Clause is proposed.
31. The flow chart on page 19 needs to be more legible and indicate where involvement of the Development Contributions Committee and other Planning Authorities takes place and that consultation with the community occurs well before notification and exhibition under the Act.	It is considered that the flow chart has sufficient detail, and as such no change is proposed.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Areas, Directions and Strategies within the CSP.

Our Leadership

- 1.2 Communication and engagement - Encourage an informed community and enable meaningful engagement.
 - 1.2.1 Provide open and clear lines of communication with the community that use the most current forms of digital technology.
 - 1.2.2 Council's communication will be enhanced to ensure community awareness and understanding of the role Council plays in everyday life in the Hawkesbury.

Our Future

- 5.1 Strategic Planning Governance - Encourage informed planning, balanced growth and community engagement
 - 5.1.1 Council's planning is integrated and long term.
 - 5.1.2 Council's decision making on all matters is transparent, accessible and accountable.
 - 5.1.3 Council will continually review its service provision to ensure best possible outcomes for the community.
 - 5.1.4 Encourage increased community participation in planning and policy development.

FINANCIAL IMPACT

There are no financial implications of this proposed Voluntary Planning Agreement Policy.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future benchmarks.

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ATTACHMENTS:

AT - 1 Voluntary Planning Agreement Policy – *(Distributed under separate cover)*.

oooO END OF REPORT Oooo

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Item: 194 **CP - Submission to Issues Paper: NSW Agricultural Land Use Planning - (95498, 124414)**

Directorate: City Planning

PURPOSE OF THE REPORT:

The purpose of this report is to:

- Summarise the matters discussed in the Issues Paper: NSW Agricultural Land Use Planning prepared by the NSW Agriculture Commissioner, Department of Primary Industries;
- Discuss the relevant issues; and
- Recommend that a submission be provided to the NSW Agriculture Commissioner, Department of Primary Industries.

EXECUTIVE SUMMARY:

The NSW Agriculture Commissioner, Department of Primary Industries is developing a new agricultural land use planning strategy for NSW. The Strategy is to investigate ways in which to promote the growth of the agriculture industry, and to manage land use conflicts between farming and other land uses.

The Issues Paper: NSW Agricultural Land Use Planning has been released for comment in respect to the following matters:

1. The long term availability of productive agricultural land;
2. Making it easier to set-up and conduct business; and
3. Reducing land use conflict and supporting dispute resolution.

This report discusses matters that affect the use of agricultural land for farming purposes within the Hawkesbury Local Government Area. The report also makes a recommendation that Council provide a submission to the NSW Agriculture Commissioner in relation to:

- Increased urbanisation
- Fragmentation of agricultural land
- Lack of effective planning controls
- Regeneration of historically cleared and farmed land
- Mining of agricultural resources lands
- Identification of state significant agricultural land
- Development assessment complexities
- Land use conflicts and dispute resolution.

RECOMMENDATION:

That Council:

1. Receive and note the Issues Paper: NSW Agricultural Land Use Planning.
2. Note the key points in the Draft Submission, included as Attachment 2 to this report in relation to:
 - Increased urbanisation
 - Fragmentation of agricultural land
 - Lack of effective planning controls

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- Regeneration of historically cleared and farmed land
 - Mining of agricultural resources lands
 - Identification of state significant agricultural land
 - Development assessment complexities
 - Land use conflicts and dispute resolution.
3. Endorse the Draft Submission on the Issues Paper: NSW Agricultural Land Use Planning included as Attachment 2 to this report.

BACKGROUND

The Sydney Region Plan and Western City District Plan released by the NSW State Government in March 2018 introduced the Metropolitan Rural Area. Included in both Plans are references and Objectives with respect to:

- Protecting and enhancing environmental, social and economic values in rural areas
- Recognising that rural areas of the Western City District contribute to habitat and biodiversity, and support productive agriculture
- Recognising that farmland in the Western City District has supplied Greater Sydney's fresh food for over two centuries
- Highlighting that the Western City District rural areas include poultry, egg production, dairy activities, irrigated horticulture such as leaf vegetables and mushrooms and nurseries for cut flowers and turf.

In response, planning for agricultural land uses has to be considered in light of the NSW State Government planning framework. Council is currently developing a Rural Lands Strategy in order to inform planning for rural areas in the context of the Sydney Region and Western City District Plans.

The NSW Agriculture Commissioner was appointed by the NSW Government on 3 August 2020 to review the NSW Right to Farm Policy, which focused on land use planning and developing a new agricultural land use planning strategy for NSW. A priority for the Commissioner is to investigate ways of managing land use conflict with farmers and driving growth of the agriculture sector. The Commissioner has considered numerous reports which have identified land use conflict and land use planning as issues for agriculture.

The focus of the new Strategy is aimed at reducing barriers in the planning framework and minimising land use conflict. As a starting point for discussion, the Commissioner is testing the following potential components of the Strategy:

1. Long term availability of productive agricultural land;
2. Making it easier to set-up and conduct business; and
3. Reducing land use conflict and supporting dispute resolution.

The Issues Paper: NSW Agricultural Land Use Planning is provided within Attachment 1 to this Report. The Issues Paper provides information on each of these topics. In doing so the Issues Paper also advises that:

- Feedback on agricultural land use planning that goes beyond the scope of this paper will certainly be considered; and
- Some issues which do not fall in the planning framework - such as forestry, private native forestry, biodiversity, drought and water - are being excluded from the scope of the Strategy.

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The Issues Paper raises the following matters to be considered in the development of the new Strategy:

1. *Whether the loss of agricultural land is detrimental the future of agriculture in NSW;*
2. *What impacts of urban encroachment, fragmentation, and land use change on productive rural land you have seen;*
3. *Whether state significant agricultural land in NSW should be identified and protected;*
4. *Whether the level of protection for agricultural land should be proportionate to the quality of the land and the scarcity of that land in the region.*
5. *How the planning framework restricts agricultural development;*
6. *Whether change is needed to improve consistency across councils in how planning requirements are decided;*
7. *What opportunities exist to support industry growth through the planning framework;*
8. *What aspects of agricultural land use planning you consider would benefit from further research? Examples may include the economic viability of small lots for agricultural use; incentives to encourage rural landholders to actively farm rural land; or impacts of detached dual occupancy on land use conflict with agricultural land uses.*
9. *Whether land use conflict is a barrier to agricultural production;*
10. *Whether improving community awareness of acceptable farm practices would reduce land use conflict;*
11. *Whether alternative dispute resolution is needed to manage land use conflict with farmers;*
12. *What the NSW Government can do to manage agricultural land use conflict.*

Submissions were due by 28 September 2020, however an extension was sought and granted in order to allow Council to formally consider the matter at its Ordinary Meeting on 13 October 2020.

DISCUSSION

The Issues Paper: *NSW Agricultural Land Use Planning* identifies the following three issues, which are discussed in detail below:

1. *Long term availability of productive agricultural land;*
2. *Making it easier to set-up and conduct business; and*
3. *Reducing land use conflict and supporting dispute resolution.*

As part of Council's draft submission, the Hawkesbury Local Government Area context has been highlighted in order to demonstrate the significance of agriculture not only to the Hawkesbury, but also Greater Sydney and wider. Council's Draft Rural Lands Strategy has been used in order to highlight the Hawkesbury context as detailed below, before leading on to discussion regarding the three issues identified above.

The Hawkesbury Local Government Area Context

The Hawkesbury Local Government Area is located in the outer north west of the Sydney metropolitan area approximately 50 kilometres from the Sydney CBD. It is part of the Sydney Peri-Urban area, having an area of 2,793 square kilometres and a population estimated to be 67,083 in 2018.

The Hawkesbury Local Government Area has significant agricultural land as well as riverine and mountainous rural landscapes. The Hawkesbury River provides a wide floodplain of rich alluvial soils which grow significant volumes of vegetables and turf. The river and the mountainous vegetated landscapes also support a significant tourism sector that is also linked to agriculture and agricultural products. The Hawkesbury also accommodates a significant horse industry, including both thoroughbred and recreational horses.

The land within the Local Government Area provides an important resource, both for the Hawkesbury Local Government Area and the wider Sydney region, particularly for agricultural produce. It is a significant area for agricultural production in close proximity to markets in Sydney predominantly in industries including perishable vegetables, turf, nurseries, cut flowers, poultry meat and eggs.

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There are a variety of land uses within the rural parts of the Hawkesbury Local Government Area. Of note, 8.3% of uses within the rural area are agricultural in nature, and 86.1% of uses are for a rural residential purpose, which highlights the pressure on agricultural land to produce more from less.

The rural land in the Hawkesbury Local Government Area is highly fragmented with the average land holding size being 6.2 ha and the median size being 2.0 ha. Land holding sizes below 3 ha (62.3% of all land ownership) have the highest proportion of rural residential and public uses as opposed to agriculture-based activities. Irrigated plants and intensive animal uses are predominant in the 8.01-18.0 ha range, with holding sizes above 8 ha being dominated by irrigated plants, intensive animal uses and extensive agricultural uses. However, it should also be noted that there are a number of rural residential uses on holdings of 8 ha and above, which is 13.5% or approximately 1,200 holdings. These are scattered between productive agricultural uses, which can lead to some instances of rural land use conflict. It is also an indicator of the desire for rural lifestyle living within the Hawkesbury Local Government Area.

The Hawkesbury economy has a total value added estimated to be \$4.130 billion (REMPLAN, 2019), with the agriculture sector estimated to have a value added of \$266.6 million. The Hawkesbury value added estimate is 28.0% of the Western City District and 20.8% of the Greater Western Sydney figure which makes it the number one in Greater Western Sydney. In addition, the agriculture sector has an export value of \$409.6m which is 11.2% of the total. This demonstrates that the agriculture sector is a very significant component of the local economy, as well as the metropolitan area in total.

Agriculture is a significant land use in the Hawkesbury Local Government Area. In 2016 the Hawkesbury Local Government Area had a total value of agricultural production of \$158,670,281 (ABS, 2018a). This is equivalent to 19.7% of Peri-Urban Sydney, 1.2% of the NSW value of production and 0.3% of Australia's total value of agricultural production. It has the second highest value of agricultural production in the Sydney Peri-Urban Area. The main commodity in Hawkesbury is vegetable production.

Crops have a value of \$118,853,279 which makes up 74.9% of the total value of agricultural production within the Hawkesbury. Vegetable production has a production value of \$63,686,875 (40.1%), while turf has a value of \$48,534,440 (30.6%). The top five commodities are vegetables, turf, poultry meat, eggs and nurseries.

It is significant to note that the Hawkesbury Local Government Area contributes to the State and National production of the following commodities:

- Crops: 33.6% of the Sydney Peri-Urban Area
- Turf: 82.5% of the Sydney Peri-Urban Area, 59.3% of NSW and 19.8% of Australia's total area which makes it the number one Local Government Area in Australia for the production of turf;
- Perishable Vegetables: 32.6% of the Sydney Peri-Urban Area, 16.3% of NSW and 1.9% of Australia's total production which makes it number one in Sydney and NSW as well as the 13th highest producer of perishable vegetables in Australia;
- Nurseries: 3.7% of Sydney, 1.5% of NSW and 0.3% of Australia's total area;
- Flowers: 9.3% of the Sydney Peri-Urban Area, 5.1% of NSW and 0.3% of Australia's total area;
- Meat Chickens: 2.4% of the Sydney Peri-Urban Area, 0.9% of NSW and 0.3% of Australia's total number of birds;
- Other Poultry: 12.5% of the Sydney Peri-Urban area, 8.1% of NSW and 4.3% of Australia's total number of birds, which is number four in Sydney and NSW and number five in Australia;
- Egg production: 19.7% of the Sydney Peri-Urban Area, 7.3% of NSW and 2.3% of Australia's egg production, which makes it number two in Sydney, number four in NSW and number eight in Australia.

Given the above, it is evident that the Hawkesbury Local Government Area is a highly significant contributor to agriculture, not only in the Sydney area, but for NSW and Australia as well. In addition agriculture is important in the region in term of economic growth, and along with the River is significant to

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the sustainability and viability of the Hawkesbury. As a result, it is considered that agricultural land in the Hawkesbury Local Government Area warrants appropriate protection.

Issue 1: Long-term availability of productive land for agriculture

The Issues Paper states:

“Reports reviewed by the Commissioner indicate that urban encroachment, fragmentation, land use change and the impacts of climate change have each contributed to the reduction in the amount of available productive agricultural land. These forces have also pushed farmers away from population bases in Sydney as well as regional towns.

Certain land has a higher strategic value for agricultural production than other land. This may be due to the biophysical characteristics of the land, its location, and access to infrastructure or established production hubs.

During the 2019 Fresh Food Pricing Inquiry, participants called on the NSW Government to protect agricultural land close to urban and regional centres. This land is ideal for production due to quality soil and low transport and production costs.”

Proposed Council Response

It is agreed that over time agricultural land and agricultural uses have moved away from denser urban centres, and that for the reasons of soil quality, proximity and production costs, such land close to these centres is important to this industry. It is considered that the loss of agricultural land in these locations will be detrimental to agriculture in NSW when considering the quality of food produced and the costs of obtaining that food.

However, the retention of agricultural land in close proximity to cities and regional centres is being challenged by:

- Increased urbanisation

Within the Sydney Metropolitan Area increased housing is being provided through the creation of new residential suburbs (growth centres) on former agricultural land due to the expansion of urban areas rather than through the densification of urban centres to cater for future housing needs. As a consequence valuable agricultural land is being lost, and what remains is constrained in its agricultural use due to land use conflicts with residential uses.

- Fragmentation of agricultural land

Within the peri-urban areas such as the Hawkesbury Local Government Area where land zoned for primary production has relatively small minimum lot sizes (2ha, 4ha, 10ha) there is an attitude that these lots are too small for viable agriculture. This attitude has also been successfully used by developers to argue rezonings to permit the intensification of rural residential development, along with the land use conflicts argument.

This attitude also stems from the public perception of what traditional agriculture entails such as grazing, broad acre cropping and turf farms, and the scenic and amenity values provided by this traditional agriculture. There is a lack of understanding of more intensive agricultural activities and the development of different contemporary practices.

There is also a community/public perception that these areas, given the smaller lot sizes, are there for residential purposes.

At present once the majority of agricultural land within a locality is being used for residential purposes it is hard to introduce an agricultural use and it is rare that the use of a property will be changed to an agriculture use.

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- Lack of effective planning controls for protection, especially in the peri-urban areas

It is considered that there is a need for stronger regulation in relation to:

- a) Preventing the development of land for residential purposes from precluding agricultural uses in the future, such as requiring all structures to be clustered on the property, dwellings located at front of lots to minimise conflicts should agriculture be established on adjoining lots.
- b) Protecting existing agricultural zoned land from increasing urbanisation and make clear that in these areas agriculture is the preferred land use and other land uses such as residential is subservient, and therefore will be limited so that agricultural uses are not prevented now or in the future.
 - i. In this regard, additional agriculture zones to cater for different types of agriculture may be of use to give certainty to both farmers and the public as to the likely activities that will be carried out in a locality, and to ensure that a locality can support particular agricultural activities based on soil types and conditions, climate and other constraints.
 - ii. In addition, it is also considered that a review RU4 Primary Production Small Lots zone, and associated objectives and controls, needs to be undertaken and changes made to make it clearer that this is an agricultural zone. Given the small lots sizes (2ha or 4ha) associated with the RU4 Primary Production Small Lots zone in the Hawkesbury, there is an attitude/perception that this zone is for rural residential development.

- Regeneration of historically cleared and farmed land

A study of historic aerial photos shows that much of the agricultural land within the Hawkesbury Local Government Area has been cleared in the past. It is therefore considered that there is a need to recognise areas where remnant vegetation has regenerated over time due to a land not being managed or farmed over time.

Council has received applications for intensive agriculture on land which has revegetated/regenerated over time and the applicant proposes to remove vegetation, and or use old dams that have naturalised over time.

Current practices are to encourage the protection of vegetation especially on riparian areas and to not utilise dams located on natural watercourses for sediment control (NSW Office of Water).

It is therefore considered that more information for farmers is required in regard to current practices and expectations for farming land that has regenerated over time and or is occupied by watercourses. This will avoid having to require applications to be modified as part of the assessment process and will reduce the costs associated with the studies/assessments required to remove vegetation in order to farm.

- Mining of Agricultural resource lands

It should be noted that at its Ordinary Meeting on 14 February 2020, Council resolved:

"That Council takes a policy position on sand and gravel mining, that;

1. *Reaffirms Resolution 259 of 2013 which states that Council:-*

- (i) *Is completely opposed to sand or gravel mining on the Richmond Lowlands, and*
- (ii) *Calls on the State Government to remove Item 2 of Schedule 5 of the Sydney Regional Environmental Plan No. 9 Extractive Industries, and any other references to Richmond Lowlands;*

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2. *Opposes sand and gravel mining across the Hawkesbury River Floodplain, particularly on agricultural and environmentally sensitive lands, land close to residential development and land with high heritage and tourism significance, and that*
 - (i) *Council staff ensure this position is included when undertaking strategic planning and any review of strategic and statutory planning instruments, including the DCP and LEP.*
 - (ii) *Council's position on sand and gravel mining is presented when such a matter is being considered by the relevant planning panel.*
 - (iii) *Council develop a policy on sand and gravel mining across the Hawkesbury Local Government Area."*

Hawkesbury Local Environmental Plan 2012 is consistent with Council's position and does not permit mining in agricultural zones, however clause 7 (3) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 permits extractive industries on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent). This is one example of where decisions are taken away from Council through State implemented provisions that have no relationship to the circumstances of a locality.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 introduces a permissibility that has the potential to reduce the amount of prime agricultural land, particularly on the Hawkesbury floodplain. Introducing mining into flood affected areas has the potential to impact nearby agricultural uses, particularly during and after a flood event.

A more place-based strategic approach needs to be implemented than a broad approach allowing mining within land that permits agricultural uses. In this regard there is a need to differentiate between prime agricultural land to be protected for agriculture and areas which can be mined, and this decision needs to be made at a local level.

The Issues Paper further advises:

"In NSW however there is no clear policy on how to ensure the long-term availability of land for agriculture..."

A vacant schedule in the Primary Production and Rural Development State Environmental Planning Policy was created to identify State Significant Agricultural Land, or other land of strategic value, in the planning framework. The Commissioner sees an opportunity to identify land in this schedule and supplement it with a policy to guide planning decision makers about the suitable uses of this land in the future."

Proposed Council Response

The recognition of state significant agricultural land in NSW through State Environmental Planning Policy (Primary Production and Rural Development) 2019 is supported, however the criteria for being of state significance should be carefully considered, and not just be based on the size of holdings or the production value of that land. In the context of peri-urban area, including the Hawkesbury Local Government Area, the value of the agricultural land is in its proximity to Sydney which has significance in relation to availability, quality and costs of produce, and is declining in area. In this regard it is considered that all agricultural land within the Sydney Basin should be protected.

Bearing in mind the need for urban expansion and the availability of agricultural land in regional areas, it is further considered that the level of protection for agricultural land in regional areas should be based on the quality of the land and the scarcity of that land in the region.

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Issue 2: Making it easier to set-up and conduct business

It is identified within the Issues Paper that:

- Planning decisions made without regard to the needs of the agricultural industry can impede growth and productivity in primary production;
- The development application processes can be complex, time consuming and require farmers to complete multiple applications to obtain approval for a single development. The process can increase the financial burden on farmers to the point of making the proposed development unviable;
- The complexity of the planning system is increasing the need for external consultants, which come at a considerable cost. This disproportionately affects smaller farming businesses who are disincentivised from pursuing development or investment opportunities;
- Inconsistencies in interpretations of planning requirements between local councils in NSW;
- Councils are not required to consider agricultural buffer needs when approving neighbouring developments and there are currently no mandated separation requirements from agricultural operations in the planning framework.

Proposed Council Response

It is agreed that the complexities of the development application process may pose a barrier to the establishment of agricultural activities however it is the necessity of obtaining consultant reports that is costly and time consuming. This is further exacerbated as often these reports are substandard as they do not cover all matters, do not follow best practice methodology, and are not consistent with associated legislation.

In the Hawkesbury Local Government Area where lot sizes are smaller, and much of the existing vegetation is endangered ecological communities, including wetlands, consultant reports are a necessity to address impacts in relation to flora and fauna, water quality, noise impacts or odour. They are required to meet other State imposed legislation and to ensure best practice is applied to the activity. Without this process the industry will not be regulated and adverse environmental and amenity impacts will result.

It is considered that the inconsistencies in interpretation of planning requirements are a consequence of a 'one size fits all' attitude to the making of planning controls in general. This does not work. For example agriculture in the Hawkesbury will be completely different to agriculture in the western area of the State, involving different type of activities, different practices and different expectations and tolerances from the community. Interpretation of planning definitions and development controls are influenced by the context in which they are considered. In this regard, there is merit in councils deciding what controls are relevant/needed.

It is further considered that, within a peri-urban area, more intensive, contemporary forms of agriculture such as protected cropping could result in fewer impacts compared to more traditional forms of agriculture and that opportunities for growth in the industry may need to focus on this type of activity. In addition, there may be a benefit for further research and technological development in advancing protected cropping where most impacts are contained within a closed system, as well as community education and awareness. This would benefit peri-urban areas where land sizes are smaller and agricultural activities are within close proximity to residential uses.

Issue 3: Reducing land use conflict and supporting dispute resolution

Proposed Council Response

It is agreed that *land use conflict involving farmers tends to relate to nuisance complaints made by neighbours in relation to normal or acceptable farming practices, and that improved community awareness*

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of acceptable farming practices and alternative dispute resolution can help mitigate and resolve land use conflict.

It is evident within the Hawkesbury Local Government Area that land use conflicts between farming and residential uses in particular is a barrier to existing and future agricultural production due to community attitudes and lot sizes as discussed previously in this report under the heading for Issue 1. It is acknowledged that improving community awareness of acceptable farm practices is seen as a positive tool in assisting in reducing land use conflicts, however it is considered that for this to have far reaching and sustained effect, legislated direction in this regard needs to be NSW Government mandated. Dispute resolution, whilst having its place, is not effective in situations where most residents have a 'not in my backyard' attitude. Rather a position of 'residential development is the interloper in agricultural areas' should be promoted as the norm.

It should also be noted that decisions relating to agricultural land uses are often taken out of Council's hands through Planning Panels or through Land and Environment Court appeals, with long term impacts in terms of these decisions.

The matters discussed above have been included in the draft Submission to the NSW Agriculture Commissioner provided in Attachment 2 to this Report.

COMMUNITY ENGAGEMENT

The issues raised in this Report concern matters which do not require community consultation under Council's Community Engagement Policy given they are matters about which the NSW State Government is undertaking community consultation.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Direction and Strategies within the CSP.

Our Leadership

- 1.5 Regulation and Compliance – Encourage a shared responsibility for effective local compliance.
 - 1.5.1 Undertake Council initiatives within a clear and fair framework of strategic planning, policies, procedures and service standards as required under all regulatory frameworks.
 - 1.5.2 Best practice, sustainability principles, accountability and good governance are incorporated in all activities undertaken by Council.

FINANCIAL IMPACT

There are no financial implications applicable to this Report.

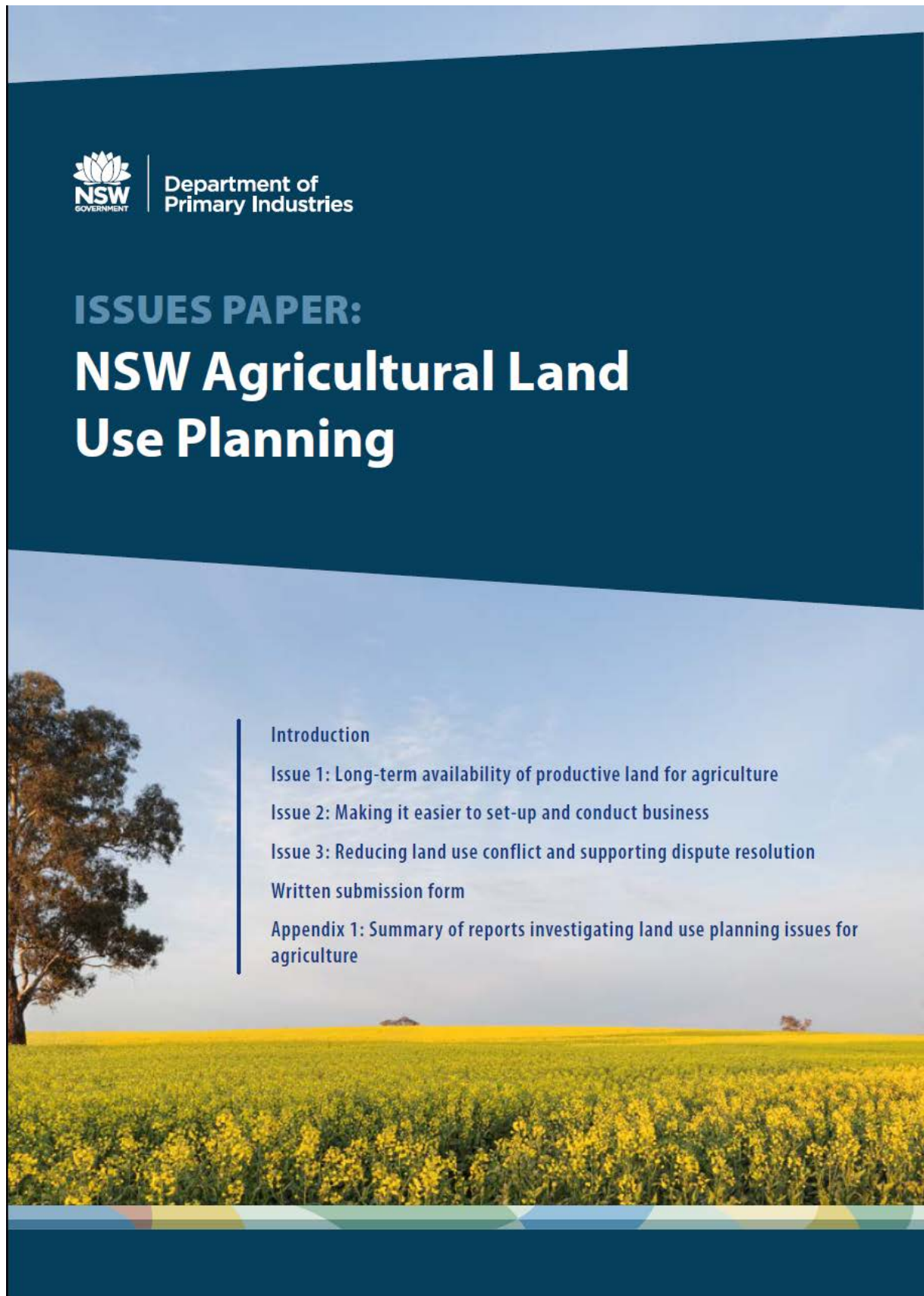
FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The matter is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications outside of Council's adopted 2019/20 Operational Plan, which will adversely impact on Council's financial sustainability.

ATTACHMENTS:

- AT - 1** Issues Paper: NSW Agricultural Land Use Planning.
- AT - 2** Draft Submission to the NSW Agriculture Commissioner, Department of Primary Industries.

AT - 1 Issues Paper: NSW Agricultural Land Use Planning



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Introduction

The NSW Agriculture Commissioner (Commissioner) is taking the lead on the development of a new agricultural land use planning strategy (Strategy) for NSW. This paper provides background on the issues to be addressed by the Strategy and informs consultation with relevant stakeholders on its drafting.

The NSW Government appointed the Commissioner on 3 August 2020. The Commissioner was tasked with reviewing the NSW Right to Farm Policy which focused on land use planning. A priority for the Commissioner is to investigate ways of managing land use conflict with farmers and driving growth of the sector.

The Commissioner has considered numerous reports which have identified land use conflict and land use planning as issues for agriculture (see Appendix 1). These reports along with anecdotal evidence from producers and councils have informed the draft content of the strategy and consultation objectives.

How to have your say

The Commissioner is seeking your input to the Strategy in the following ways:

1. by sharing your views during webinars facilitated by the Australian Farm Institute; and
2. by making a written submission in the form below.

This paper provides context and evidence to inform the discussion.

Scope of consultation

The focus of the Strategy is reducing barriers in the planning framework and minimising land use conflict. As a starting point for discussion, the Commissioner will test the following potential components of the Strategy:

1. Long term availability of productive agricultural land;
2. Making it easier to set-up and conduct business; and
3. Reducing land use conflict and supporting dispute resolution.

This paper provides information on each of these topics, however, feedback on agricultural land use planning that goes beyond the scope of this paper will certainly be considered.

Some issues which do not fall in the planning framework - such as forestry, private native forestry, biodiversity, drought and water - are being excluded from the scope of the Strategy.

Issue 1: Long-term availability of productive land for agriculture

Agriculture is Australia's major land use, but its share of total land use is in decline. Between 1973 and 2017, there was a 14 per cent decline in land used for food and fibre production (from 500 million hectares to 394 million).

Reports reviewed by the Commissioner indicate that urban encroachment, fragmentation, land use change and the impacts of climate change have each contributed to the reduction in the amount of available productive agricultural land. These forces have also pushed farmers away from population bases in Sydney as well as regional towns.

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With Australia's population predicted to reach 48 million in the next 50 years, it is imperative that land for food and fibre production remains viable, productive and at a scale needed to sustain Australia's growing population.

Certain land has a higher strategic value for agricultural production than other land. This may be due to the biophysical characteristics of the land, its location, and access to infrastructure or established production hubs.

During the 2019 Fresh Food Pricing Inquiry, participants called on the NSW Government to protect agricultural land close to urban and regional centres. This land is ideal for production due to quality soil and low transport and production costs.

Other states and jurisdictions have implemented measures to identify important agricultural land and have policies that ensure long-term availability for agricultural production. For example, Western Australia has a policy that identifies the state's best and most productive agricultural land so it can be recognised by regional and local planners when developing planning strategies. Tasmania recognises prime agricultural land and has a policy that seeks to conserve and protect it for agriculture.

In NSW however there is no clear policy on how to ensure the long-term availability of land for agriculture. Nine of the ten Regional Plans currently under review recognise the importance of mapping important agricultural land to support councils in their strategic planning and decision making. Mapping such land is currently being progressed by the Department of Primary Industries (DPI).

A vacant schedule in the Primary Production and Rural Development State Environmental Planning Policy was created to identify State Significant Agricultural Land, or other land of strategic value, in the planning framework. The Commissioner sees an opportunity to identify land in this schedule and supplement it with a policy to guide planning decision makers about the suitable uses of this land in the future.

Before the webinar, consider:

1. *whether the loss of agricultural land is detrimental the future of agriculture in NSW;*
2. *what impacts of urban encroachment, fragmentation, and land use change on productive rural land you have seen;*
3. *whether state significant agricultural land in NSW should be identified and protected;*
4. *whether the level of protection for agricultural land should be proportionate to the quality of the land and the scarcity of that land in the region.*

Issue 2: Making it easier to set-up and conduct business

The NSW planning framework plays an important role in balancing the social, environmental and economic impacts of development. Since 2014, a range of reports and parliamentary inquiries have uncovered opportunities to better support agricultural industries (see Appendix 1). The reports detail how planning decisions made without regard to the needs of the agricultural industry can impede growth and productivity in primary production.

Development application processes can be complex, time consuming and require farmers to complete multiple applications to obtain approval for a single development. The process can

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increase the financial burden on farmers to the point of making the proposed development unviable. The main costs involved in obtaining a development approval include preparing, submitting and providing supporting material for the application as well as fees, charges and holding costs associated with the time taken to obtain planning approval (capital holding costs arise where businesses must pay interest on borrowed funds).

Further, the complexity of the planning system is increasing the need for external consultants, which come at a considerable cost. This disproportionately affects smaller farming businesses who are disincentivised from pursuing development or investment opportunities.

There can also be inconsistencies in interpretations of planning requirements between the 128 local councils in NSW. While there are benefits of administering planning and zoning regulations at the local level, some state-level standardisation of land use regulation may assist in reassuring producers to establish and invest in NSW.

Inconsistencies in the consideration of agricultural needs can facilitate land use conflict. Councils are not required to consider agricultural buffer needs when approving neighbouring developments and there are currently no mandated separation requirements from agricultural operations in the planning framework. While DPI provides guidance on separation distances to manage biosecurity and nuisance impacts, having no requirement to consider agricultural buffer needs means separation distances can be overlooked. This leads to land use conflict or forces the farmer to sterilise parts of their land to be used as a buffer.

The DPI has supported research into agricultural land use planning such as the 2018 UTS Report. Continued research and evidence gathering on barriers to production in the planning framework will be essential to informing future reform and decision making in this area.

Before the webinar, consider:

1. *how the planning framework restricts agricultural development;*
2. *whether change is needed to improve consistency across councils in how planning requirements are decided;*
3. *what opportunities exist to support industry growth through the planning framework;*
4. *what aspects of agricultural land use planning you consider would benefit from further research?*

Issue 3: Reducing land use conflict and supporting dispute resolution

Land use conflict involving farmers tends to relate to nuisance complaints made by neighbours in relation to normal or acceptable farming practices. The 2018 UTS Report found that 30-50 per cent of participating councils experienced agricultural land use complaints about compliant agricultural activities.

Some examples of normal farm practices that become the target of complaints include the use of white nets to protect crops, which (compared to the visually preferred black or green nets) can help prevent birds from becoming entangled; and noise from the transport of poultry during the night or early morning (which is best practice for the welfare of the birds).

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Land use conflict can cause farmers to suffer significant economic consequences. Research shows that land use conflict can be damaging to mental health, social and physical amenity, industry growth and erosion of trust. Improved community awareness of acceptable farming practices and alternative dispute resolution can help mitigate and resolve land use conflict.

In Ontario, Canada a Normal Farm Practices Protection Board has a legislative mandate to determine what amounts to acceptable farming practices. In NSW, the Wollondilly Shire Council has taken a non-legislative approach where local producers and stakeholders have an opportunity to discuss issues directly with Council. Both approaches have been successful in building mutual education and understanding between farmers and community representatives on what constitutes an acceptable farm practice.

In NSW there is no state-wide acceptable farming practices guidelines. Although alternative dispute resolution services are available for various other types of disputes, there is no state-level forum to manage land use conflict involving farmers.

Before the webinar, consider:

1. *whether land use conflict is a barrier to agricultural production;*
2. *whether improving community awareness of acceptable farm practices would reduce land use conflict;*
3. *whether alternative dispute resolution is needed to manage land use conflict with farmers;*
4. *what the NSW Government can do to manage agricultural land use conflict.*

Written submission form

Please email your feedback to agcommissioner@dpi.nsw.gov.au by 28 September 2020.

Issue 1: Long-term availability of productive land for agriculture

Consider:

1. *whether the loss of agricultural land is detrimental the future of agriculture in NSW;*
2. *what impacts of urban encroachment, fragmentation, and land use change on productive rural land you have seen;*
3. *whether state significant agricultural land in NSW should be identified and protected;*
4. *whether the level of protection for agricultural land should be proportionate to the quality of the land and the scarcity of that land in the region.*

Issue 2: Making it easier to set-up and conduct business

Consider:

1. *how the planning framework restricts agricultural development;*
2. *whether change is needed to improve consistency across councils in how planning requirements are decided;*
3. *what opportunities exist to support industry growth through the planning framework;*
4. *what aspects of agricultural land use planning you consider would benefit from further research? Examples may include the economic viability of small lots for agricultural use; incentives to encourage rural landholders to actively farm rural land; or impacts of detached dual occupancy on land use conflict with agricultural land uses.*

Issue 3: Reducing land use conflict and supporting dispute resolution

Consider:

1. *whether land use conflict is a barrier to agricultural production;*
2. *whether improving community awareness of acceptable farm practices would reduce land use conflict;*
3. *whether alternative dispute resolution is needed to manage land use conflict with farmers;*
4. *what the NSW Government can do to manage agricultural land use conflict.*

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Have your say

Are there any other issues in the planning framework that should be considered in the Agricultural Land Use Planning Strategy?

Appendix 1: Summary of reports investigating land use planning issues for agriculture

Date	Report
2016	Regulation of Australian Agriculture, Productivity Commission Inquiry Report (Productivity Commission Report).
2018	Right to Farm Agricultural Land Use Survey, Final Report, University of Technology Sydney (UTS Report);
2018	Fresh Food Pricing Report, Portfolio Committee No. 1 – Premier and Finance (Fresh Food Pricing Report)
2019	Best Practice Land Use Planning, AgriFutures Australia (AgriFutures Report)
2019	Land Use in Rural Zones: Tweed and Cabonne Shires, Final Report, Askland et al. (Askland Report)

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AT - 2 Draft Submission to the NSW Agriculture Commissioner,
Department of Primary Industries



Your Ref:
Our Ref:

The Commissioner
Department of Primary Industry

agcommissioner@dpi.nsw.gov.au

Dear Sir/Madam

Issues Paper: NSW Agricultural Land Use Planning

I refer to the abovementioned Issues Paper: NSW Agricultural Land Use Planning. Following consideration of this matter at Council's Ordinary Meeting of 13 October, 2020 Council resolved to provide the following comments for your consideration.

It is understood that the Issues Paper provides a background on the issues to be addressed by the new Agricultural Land Use Planning Strategy being developed by the NSW Agriculture Commissioner. The purpose of the Strategy is to reduce the barriers in the planning framework to agricultural uses and minimising land use conflict.

As part of Council's submission, the Hawkesbury Local Government Area context has been highlighted in order to demonstrate the significance of agriculture not only to the Hawkesbury, but also Greater Sydney and wider. Council's Draft Rural Lands Strategy has been used in order to highlight the Hawkesbury context as detailed below, before leading on to discussion regarding the issues raised within the Issues Paper:

The Hawkesbury Local Government Area Context

The Hawkesbury Local Government Area is located in the outer north west of the Sydney metropolitan area approximately 50 kilometres from the Sydney CBD. It is part of the Sydney Peri-Urban area, having an area of 2,793 square kilometres and a population estimated to be 67,083 in 2018.

The Hawkesbury Local Government Area has significant agricultural land as well as riverine and mountainous rural landscapes. The Hawkesbury River provides a wide floodplain of rich alluvial soils which grow significant volumes of vegetables and turf. The river and the mountainous vegetated landscapes also support a significant tourism sector that is also linked to agriculture and agricultural products. The Hawkesbury also accommodates a significant horse industry, including both thoroughbred and recreational horses.

The land within the Local Government Area provides an important resource, both for the Hawkesbury Local Government Area and the wider Sydney region, particularly for agricultural produce. It is a significant area for agricultural production in close proximity to markets in Sydney predominantly in industries including perishable vegetables, turf, nurseries, cut flowers, poultry meat and eggs.

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Hours: Monday to Friday 8:30am - 5pm | Email: council@hawkesbury.nsw.gov.au | Website: www.hawkesbury.nsw.gov.au



Interpreter Service available, call 131 450 | 131 450 تلفن خدمة الترجمة، اتصل بـ | 可提供口譯服務，請撥 131 450 | Hemm servizz tal-interpretu, cempel 131 450

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There are a variety of land uses within the rural parts of the Hawkesbury Local Government Area. Of note, 8.3% of uses within the rural area are agricultural in nature, and 86.1% of uses are for a rural residential purpose, which highlights the pressure on agricultural land to produce more from less.

The rural land in the Hawkesbury Local Government Area is highly fragmented with the average land holding size being 6.2 ha and the median size being 2.0 ha. Land holding sizes below 3 ha (62.3% of all land ownership) have the highest proportion of rural residential and public uses as opposed to agriculture-based activities. Irrigated plants and intensive animal uses are predominant in the 8.01-18.0 ha range, with holding sizes above 8 ha being dominated by irrigated plants, intensive animal uses and extensive agricultural uses. However, it should also be noted that there are a number of rural residential uses on holdings of 8 ha and above, which is 13.5% or approximately 1,200 holdings. These are scattered between productive agricultural uses, which can lead to some instances of rural land use conflict. It is also an indicator of the desire for rural lifestyle living within the Hawkesbury Local Government Area.

The Hawkesbury economy has a total value added estimated to be \$4.130 billion (REMPAN, 2019), with the agriculture sector estimated to have a value added of \$266.6 million. The Hawkesbury value added estimate is 28.0% of the Western City District and 20.8% of the Greater Western Sydney figure which makes it the number one in Greater Western Sydney. In addition, the agriculture sector has an export value of \$409.6m which is 11.2% of the total. This demonstrates that the agriculture sector is a very significant component of the local economy, as well as the metropolitan area in total.

Agriculture is a significant land use in the Hawkesbury Local Government Area. In 2016 the Hawkesbury Local Government Area had a total value of agricultural production of \$158,670,281 (ABS, 2018a). This is equivalent to 19.7% of Peri-Urban Sydney, 1.2% of the NSW value of production and 0.3% of Australia's total value of agricultural production. It has the second highest value of agricultural production in the Sydney Peri-Urban Area. The main commodity in Hawkesbury is vegetable production.

Crops have a value of \$118,853,279 which makes up 74.9% of the total value of agricultural production within the Hawkesbury. Vegetable production has a production value of \$63,686,875 (40.1%), while turf has a value of \$48,534,440 (30.6%). The top five commodities are vegetables, turf, poultry meat, eggs and nurseries.

It is significant to note that the Hawkesbury Local Government Area contributes to the State and National production of the following commodities:

- Crops: 33.6% of the Sydney Peri-Urban Area
- Turf: 82.5% of the Sydney Peri-Urban Area, 59.3% of NSW and 19.8% of Australia's total area which makes it the number one Local Government Area in Australia for the production of turf;
- Perishable Vegetables: 32.6% of the Sydney Peri-Urban Area, 16.3% of NSW and 1.9% of Australia's total production which makes it number one in Sydney and NSW as well as the 13th highest producer of perishable vegetables in Australia;
- Nurseries: 3.7% of Sydney, 1.5% of NSW and 0.3% of Australia's total area;
- Flowers: 9.3% of the Sydney Peri-Urban Area, 5.1% of NSW and 0.3% of Australia's total area;
- Meat Chickens: 2.4% of the Sydney Peri-Urban Area, 0.9% of NSW and 0.3% of Australia's total number of birds;
- Other Poultry: 12.5% of the Sydney Peri-Urban area, 8.1% of NSW and 4.3% of Australia's total number of birds, which is number four in Sydney and NSW and number five in Australia;
- Egg production: 19.7% of the Sydney Peri-Urban Area, 7.3% of NSW and 2.3% of Australia's egg production, which makes it number two in Sydney, number four in NSW and number eight in Australia.

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Given the above, it is evident that the Hawkesbury Local Government Area is a highly significant contributor to agriculture, not only in the Sydney area, but for NSW and Australia as well. In addition agriculture is important in the region in term of economic growth, and along with the River is significant to the sustainability and viability of the Hawkesbury. As a result, it is considered that agricultural land in the Hawkesbury Local Government Area warrants appropriate protection.

Issue 1: Long-term availability of productive land for agriculture

The Issues Paper states:

“Reports reviewed by the Commissioner indicate that urban encroachment, fragmentation, land use change and the impacts of climate change have each contributed to the reduction in the amount of available productive agricultural land. These forces have also pushed farmers away from population bases in Sydney as well as regional towns.

Certain land has a higher strategic value for agricultural production than other land. This may be due to the biophysical characteristics of the land, its location, and access to infrastructure or established production hubs.

During the 2019 Fresh Food Pricing Inquiry, participants called on the NSW Government to protect agricultural land close to urban and regional centres. This land is ideal for production due to quality soil and low transport and production costs.”

It is agreed that over time agricultural land and agricultural uses have moved away from denser urban centres, and that for the reasons of soil quality, proximity and production costs, such land close to these centres is important to this industry. It is considered that the loss of agricultural land in these locations will be detrimental to agriculture in NSW when considering the quality of food produced and the costs of obtaining that food.

However, the retention of agricultural land in close proximity to the cities and regional centres is being challenged by:

- Increased urbanisation;

Within the Sydney Metropolitan Area increased housing is being provided through the creation of new residential suburbs (growth centres) on former agricultural land due to the expansion of urban areas rather than through the densification of urban centres to cater for future housing needs. As a consequence valuable agricultural land is being lost, and what remains is constrained in its agricultural use due to land use conflicts with residential uses.

- Fragmentation of agricultural land;

Within the Hawkesbury Local Government Area where land zoned for primary production has relatively small minimum lot sizes (2ha, 4ha, 10ha) there is an attitude that these lots are too small for viable agriculture. This attitude has also been successfully used by developers to argue rezonings to permit the intensification of rural residential development, along with the land use conflicts argument.

This attitude also stems from the public perception of what traditional agriculture entails such as grazing, broad acre cropping and turf farms, and the scenic and amenity values provided by this traditional agriculture. There is a lack of understanding of more intensive agricultural activities and the development of different contemporary practices.

There is also a community/public perception that these areas, given the smaller lot sizes, are there for residential purposes.

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At present once the majority of agricultural land within a locality is being used for residential purposes it is hard to introduce an agricultural use and it is rare that the use of a property will be changed to an agriculture use.

- Lack of effective planning controls for protection, especially in the peri-urban areas;

It is considered that there is a need for stronger regulation in relation to:

- a. Preventing the development of land for residential purposes from precluding agricultural uses in the future, such as requiring all structures to be clustered on the property, dwellings located at front of lots to minimise conflicts should agriculture be established on adjoining lots.
- b. Protecting existing agricultural zoned land from increasing urbanisation and make clear that in these areas agriculture is the preferred land use and other land uses such as residential is subservient, and therefore will be limited so that agricultural uses are not prevented now or in the future.

In this regard, additional agriculture zones to cater for different types of agriculture may be of use to give certainty to both farmers and the public as to the likely activities that will be carried out in a locality, and to ensure that a locality can support particular agricultural activities based on soil types and conditions, climate and other constraints.

In addition, it is also considered that a review of RU4 Primary Production Small Lots zone, and associated objectives and controls, needs to be undertaken and changes made to make it clearer that this is an agricultural zone. Given the small lots sizes (2ha or 4ha) associated with the RU4 Primary Production Small Lots zone in the Hawkesbury, there is an attitude/perception that this zone is for rural residential development.

The mixture of rural residential development and intensive agriculture leads to land use conflict which has a major impact on the sustainability of farming. The pollution legislation benefits the complainant because of the noise and odours associated with intensive agricultural development lead to a loss of amenity to the rural residential use, despite the fact that the farmer might have been farming the land for many years.

- Regeneration of historically cleared and farmed land;

A study of historic aerial photos shows that much of the agricultural land within the Hawkesbury Local Government Area has been cleared in the past. It is therefore considered that there is a need to recognise areas where remnant vegetation has regenerated over time due to a land not being managed or farmed over time.

Council has received applications for intensive agriculture on land which has revegetated/regenerated over time and the applicant proposes to remove vegetation, and or use old dams that have naturalised over time.

Current practices are to encourage the protection of vegetation especially on riparian areas and to not utilise dams located on natural watercourses for sediment control (NSW Office of Water).

It is therefore considered that more information for farmers is required in regards to current practices and expectations for farming land that has regenerated over time and or is occupied by watercourses. This will avoid having to require applications to be modified as part of the assessment process and will reduce the costs associated with the studies/assessments required to remove vegetation in order to farm.

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- Mining of Agricultural resource lands.

At its Ordinary Meeting on 14 February 2020, Council resolved:

That Council takes a policy position on sand and gravel mining, that;

1. *Reaffirms Resolution 259 of 2013 which states that Council:-*
 - (i) *Is completely opposed to sand or gravel mining on the Richmond Lowlands, and*
 - (ii) *Calls on the State Government to remove Item 2 of Schedule 5 of the Sydney Regional Environmental Plan No. 9 Extractive Industries, and any other references to Richmond Lowlands;*
2. *Opposes sand and gravel mining across the Hawkesbury River Floodplain, particularly on agricultural and environmentally sensitive lands, land close to residential development and land with high heritage and tourism significance, and that*
 - (i) *Council staff ensure this position is included when undertaking strategic planning and any review of strategic and statutory planning instruments, including the DCP and LEP.*
 - (ii) *Council's position on sand and gravel mining is presented when such a matter is being considered by the relevant planning panel.*
 - (iii) *Council develop a policy on sand and gravel mining across the Hawkesbury Local Government Area.*

Hawkesbury Local Environmental Plan 2012 is consistent with Council's position and does not permit mining in agricultural zones, however clause 7 (3) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 permits extractive industries on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent). This is one example of where decisions are taken away from Council through State implemented provisions that have no relationship to the circumstances of a locality.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 introduces a permissibility that has the potential to reduce the amount of prime agricultural land, particularly on the Hawkesbury floodplain. Introducing mining into flood affected areas has the potential to impact nearby agricultural uses, particularly during and after a flood event.

A more place-based strategic approach needs to be implemented than a broad approach allowing mining within land that permits agricultural uses. In this regard there is a need to differentiate between prime agricultural land to be protected for agriculture and areas which can be mined, and this decision needs to be made at a local level.

The Issues Paper advises:

"In NSW however there is no clear policy on how to ensure the long-term availability of land for agriculture..."

A vacant schedule in the Primary Production and Rural Development State Environmental Planning Policy was created to identify State Significant Agricultural Land, or other land of strategic value, in the planning framework. The Commissioner sees an opportunity to identify land in this schedule and supplement it with a policy to guide planning decision makers about the suitable uses of this land in the future."

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The recognition of state significant agricultural land in NSW through *State Environmental Planning Policy (Primary Production and Rural Development) 2019* is supported, however the criteria for being of state significance should be carefully considered, and not just be based on the size of holdings or the production value of that land. In the context of peri-urban areas, including the Hawkesbury Local Government Area, the value of the agricultural land is in its proximity to Sydney which has significance in relation to availability, quality and costs of produce, and is declining in area. In this regard it is considered that all agricultural land within the Sydney Basin should be protected.

Bearing in mind the need for urban expansion and the availability of agricultural land in regional areas, it is further considered that the level of protection for agricultural land in regional areas should be based on the quality of the land and the scarcity of that land in the region.

Issue 2: Making it easier to set-up and conduct business

It is identified within the Issues Paper that:

- planning decisions made without regard to the needs of the agricultural industry can impede growth and productivity in primary production;
- the development application processes can be complex, time consuming and require farmers to complete multiple applications to obtain approval for a single development. The process can increase the financial burden on farmers to the point of making the proposed development unviable;
- the complexity of the planning system is increasing the need for external consultants, which come at a considerable cost. This disproportionately effects smaller farming businesses who are disincentivised from pursuing development or investment opportunities;
- inconsistencies in interpretations of planning requirements between local councils in NSW;
- Councils are not required to consider agricultural buffer needs when approving neighbouring developments and there are currently no mandated separation requirements from agricultural operations in the planning framework.

It is agreed that the complexities of the development application process may pose a barrier to the establishment of agricultural activities however it is the necessity of obtaining consultant reports that is costly and time consuming. This is further exacerbated as often these reports are substandard as they do not cover all matters, do not follow best practice methodology, and are not consistent with associated legislation.

In the Hawkesbury Local Government Area where lot sizes are smaller, and much of the existing vegetation is endangered ecological communities, including wetlands, consultant reports are a necessity to address impacts in relation to flora and fauna, water quality, noise impacts or odour. They are required to meet other State imposed legislation and to ensure best practice is applied to the activity. Without this process the industry will not be regulated and adverse environmental and amenity impacts will result.

It is considered that the inconsistencies in interpretation of planning requirements are a consequence of a 'one size fits all' attitude to the making of planning controls in general. This does not work. For example agriculture in the Hawkesbury will be completely different to agriculture in the western area of the State, involving different type of activities, different practices and different expectations and tolerances from the community. Interpretation of planning definitions and development controls are influenced by the context in which they are considered. In this regard, there is merit in councils deciding what controls are relevant/needed.

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It is further considered that, within a peri-urban area, more intensive, contemporary forms of agriculture such as protected cropping could result in fewer impacts compared to more traditional forms of agriculture and that opportunities for growth in the industry may need to focus on this type of activity. In addition, there may be a benefit for further research and technological development in advancing protected cropping where most impacts are contained within a closed system, as well as community education and awareness. This would benefit peri-urban areas where land sizes are smaller and agricultural activities are within close proximity to residential uses.

Issue 3: Reducing land use conflict and supporting dispute resolution

It is agreed that *land use conflict involving farmers tends to relate to nuisance complaints made by neighbours in relation to normal or acceptable farming practices*, and that *improved community awareness of acceptable farming practices and alternative dispute resolution can help mitigate and resolve land use conflict*.

It is evident within the Hawkesbury Local Government Area that land use conflicts between farming and residential uses in particular is a barrier to existing and future agricultural production due to community attitudes and lot sizes as discussed previously in this letter under the heading for Issue 1. It is acknowledged that improving community awareness of acceptable farm practices is seen as a positive tool in assisting in reducing land use conflicts, however it is considered that for this to have far reaching and sustained effect, legislated direction in this regard needs to be NSW Government mandated. Dispute resolution, whilst having its place, is not effective in situations where most residents have a 'not in my backyard' attitude. Rather a position of 'residential development is the interloper in agricultural areas' should be promoted as the norm.

It should also be noted that decisions relating to agricultural land uses are often taken out of Council's hands through Planning Panels or through Land and Environment Court appeals, with long term impacts in terms of these decisions.

Thank you for the opportunity to provide comments.

Should you have any enquiries in relation to this matter please contact Colleen Haron, Senior Strategic Land Use Planner on (02) 4560 4564.

Yours faithfully

Andrew Kearns
Manager Strategic Planning

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INFRASTRUCTURE SERVICES

Item: 195 **IS - Road Naming Proposal Associated with S960003/19 (16 Dight Street) Richmond - (95495, 79346, 73916)**

Directorate: Infrastructure Services

PURPOSE OF THE REPORT:

The purpose of this report is to advise Council of a road naming proposal for one new public road associated with subdivision S960003/19.

EXECUTIVE SUMMARY:

An application has been received requesting that the road naming process be commenced for an approved subdivision in Richmond that involves the creation of one new public road. The name of Hillside Court, which is based on the current property's topographical locality, has been provided.

This report recommends that Council support public advertising for naming associated with subdivision S960003/19 for a period of 28 days, to seek comments on the proposal.

RECOMMENDATION:

That Council:

1. In accordance with the requirements of the NSW Roads Act 1993, in respect of the road naming proposal connected to subdivision S960003/19, the proposed name Hillside Court in the suburb of Richmond, be publicly advertised for a period of 28 days, seeking comment on the proposed name.
 2. The matter be reported back to Council following the public exhibition process.
-

BACKGROUND

The subdivision at Lot X DP 419316, 16 Dight Street, Richmond was approved with a modified development consent on 2 July 2020 (subdivision S960003/19). The original application SA0065/97 was approved 11 November 1997 and was operational.

The subdivision creates 23 lots and one new public road which is a cul-de-sac road.

The applicant has provided the name Hillside Court, as the proposed road is on elevated land which slopes away giving the feeling that the developed land is on a hill side. The developed land also looks over the Lowlands area with a view to the Hawkesbury River to the North.

The name suggested conforms to the guidelines and principles as set out in the NSW Address Policy and User Manual (October 2019).

Pre-approval for the use of Hillside Court has been sought and provided by the Geographical Names Board of New South Wales (GNB) as the proposed road name was duplicated in surrounding Local

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Government Areas as well as the Hawkesbury having existing road names of a similar nature such as Hill, Hillcrest and Hilltop.

DISCUSSION

The NSW Address Policy and User Manual (October 2019) applies to all roads in NSW regardless of custodianship and maintenance agreements. Under this Policy and User Manual, all roads shall be authoritatively named in accordance with the principles of road naming. Road naming is legislated under the New South Wales Roads Act 1993.

COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy.

It is proposed that Council undertake the following community engagement process in compliance with Council's Community Engagement Policy, the New South Wales Roads Act 1993, the New South Wales Roads Regulation 2008 and the NSW Address Policy and User Manual. The consultation required is for a period of 28 days and involves the following:

- Advertisement in the local press
- Advertisement on Council's web page and social media site
- Notice created on the Geographical Names Board of New South Wales road naming portal.

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Direction and Strategy within the CSP.

Our Assets

4.2 Utilities - Facilitate the delivery of infrastructure through relevant agencies and Council's own works

4.2.2 New development and infrastructure provision is aligned and meets community needs.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

This matter is not specifically aligned with any Fit For The Future Strategies.

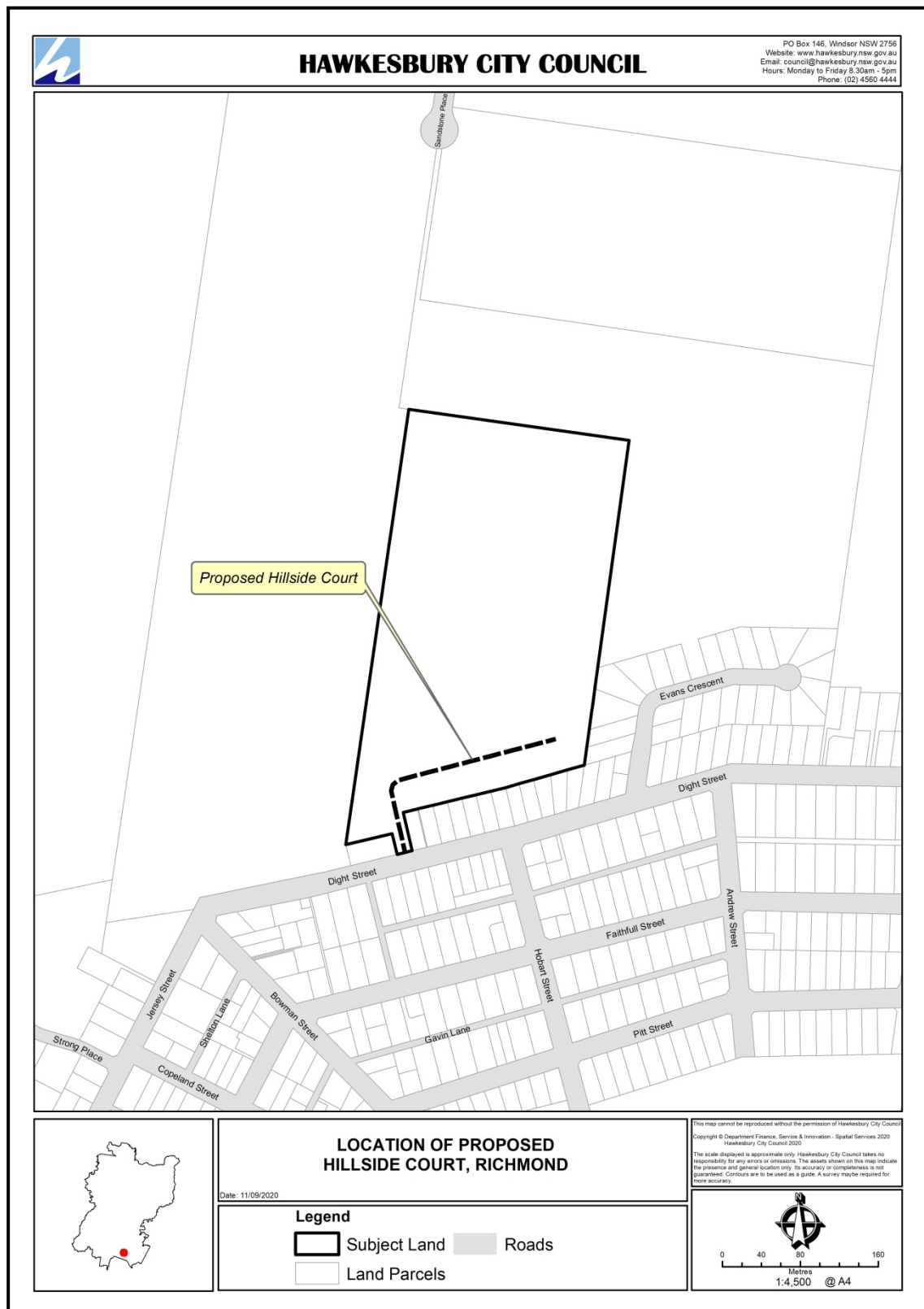
ATTACHMENTS:

AT - 1 Locality Plan.

AT – 2 Subdivision Lot Layout Plan.

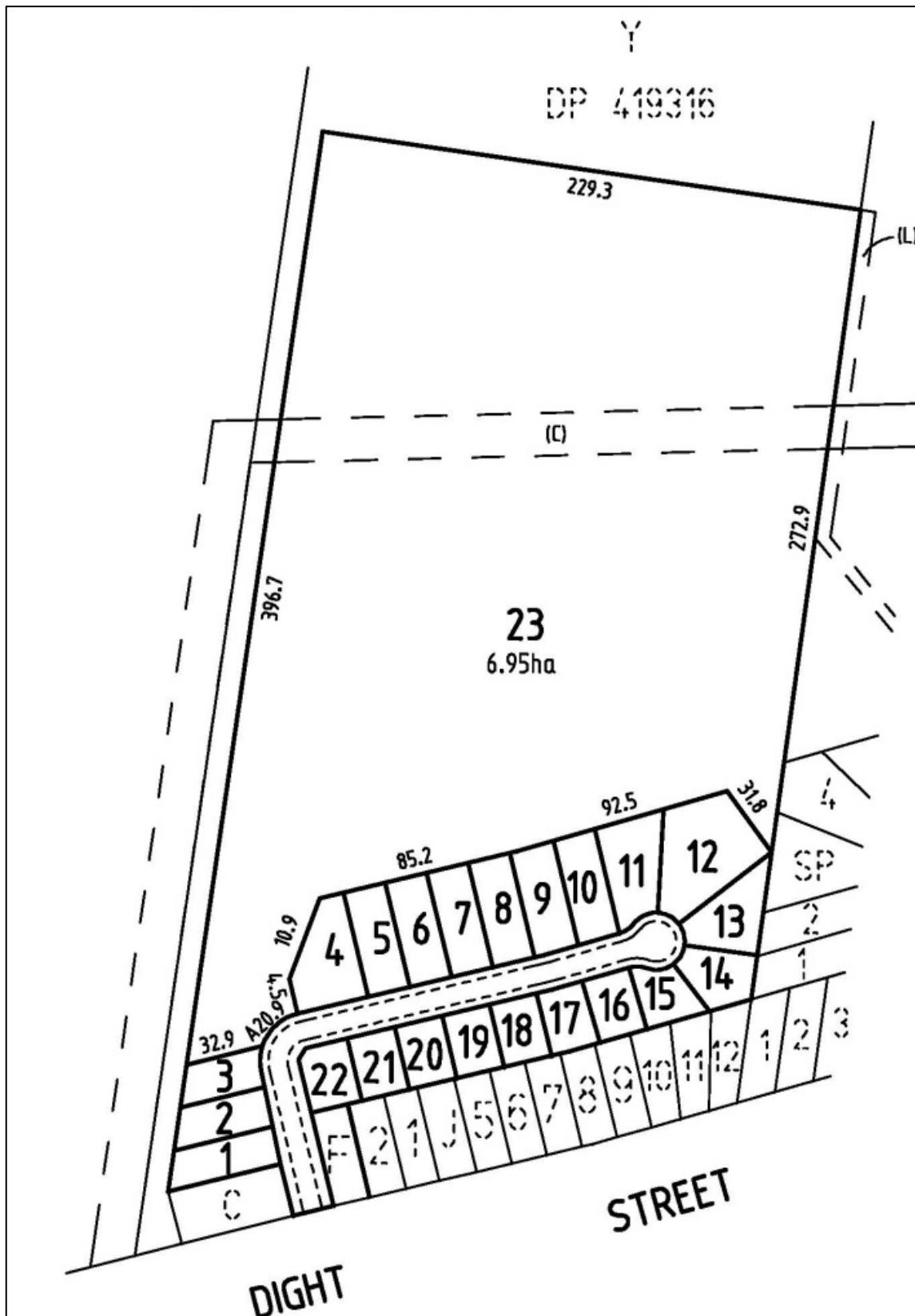
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AT - 1 Locality Plan



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AT – 2 Subdivision Lot Layout Plan



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SUPPORT SERVICES

Item: 196 **SS - Pecuniary Interest Returns - Councillors and Designated Persons - (95496, 96333)**

Directorate: Support Services

PURPOSE OF THE REPORT:

The purpose of this report is to table the required Pecuniary Interest Returns lodged by Councillors and Designated Persons.

EXECUTIVE SUMMARY:

Council's Code of Conduct details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Returns by Councillors and Designated Persons. This report provides information regarding Returns recently lodged with the General Manager by Councillors and Designated Persons.

RECOMMENDATION:

That Council note that the Disclosures of Pecuniary Interests and Other Matters Returns, lodged with the General Manager, have been tabled.

BACKGROUND

Sections 4.21 to 4.27 of Council's Code of Conduct (the Code) relate to the register of Pecuniary Interest Returns and the tabling of these Returns, which have been lodged by Councillors and Designated Persons. Section 4.21 of the Code is as follows:

"4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in Schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in Schedule 1 to this code within 3 months after:

- (a) becoming a councillor or designated person, and*
- (b) 30 June of each year, and*
- (c) the councillor or designated person becoming aware of an interest they are required to disclose under Schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b)."*

As required by Section 4.24 of the Code, a register of all Returns to be completed under Section 4.21 is kept by Council.

In accordance with Section 4.25 of the Code, all Returns lodged by Councillors and Designated Persons under Section 4.21(b) must be tabled at the first meeting of the Council after the last day the return is required to be lodged.

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With regard to Section 4.25 of the Code, the following Returns have been lodged under Section 4.21(b) of the Code:

Councillor	Return Period	Date Lodged
Councillor Barry Calvert	1 July 2019 – 30 June 2020	25 September 2020
Councillor Patrick Connolly	1 July 2019 – 30 June 2020	22 September 2020
Councillor Emma-Jane Garrow	1 July 2019 – 30 June 2020	22 September 2020
Councillor Amanda Kotlash	1 July 2019 – 30 June 2020	17 August 2020
Councillor Mary Lyons-Buckett	1 July 2019 – 30 June 2020	31 August 2020
Councillor Paul Rasmussen	1 July 2019 – 30 June 2020	21 September 2020
Councillor Peter Reynolds	1 July 2019 – 30 June 2020	29 September 2020
Councillor Sarah Richards	1 July 2019 – 30 June 2020	30 September 2020
Councillor John Ross	1 July 2019 – 30 June 2020	12 August 2020
Councillor Tiffany Tree	1 July 2019 – 30 June 2020	23 September 2020
Councillor Danielle Wheeler	1 July 2019 – 30 June 2020	3 September 2020
Councillor Nathan Zamprogno	1 July 2019 – 30 June 2020	19 August 2020

Position	Return Period	Date Lodged
General Manager	1 July 2019 – 30 June 2020	24 August 2020
Manager People and Development	1 July 2019 – 30 June 2020	28 September 2020
Manager Corporate Communications	1 July 2019 – 30 June 2020	13 August 2020
Visitor Information Coordinator	1 July 2019 - 30 June 2020	18 August 2020
Director City Planning	1 July 2020 - 30 June 2020	14 August 2020
Manager Development Services	1 July 2019 – 30 June 2020	24 September 2020
Manager City Design and Economic Development	22 August 2019 – 30 June 2020	25 August 2020
Manager Strategic Planning	1 July 2019 – 30 June 2020	29 September 2020
Executive Planning Consultant	1 July 2019 – 30 June 2020	12 August 2020
Senior Strategic Asset Planner	1 July 2019 – 30 June 2020	29 September 2020
Senior Strategic Land Use Planner	1 July 2019 – 30 June 2020	21 August 2020
Senior Strategic Planner	1 July 2019 – 30 June 2020	24 September 2020
Senior Subdivision and Development Engineer	6 September 2019 – 30 June 2020	20 August 2020
Subdivision and Development Engineer	1 July 2019 – 30 June 2020	28 September 2020
Development Engineering Coordinator	1 July 2019 – 30 June 2020	24 August 2020
Town Planning Coordinator	1 July 2019 – 30 June 2020	28 September 2020
Development Services Support Officer	1 July 2019 – 30 June 2020	21 August 2020
Development Services Support Officer	12 February 2020 – 30 June 2020	25 August 2020

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Position	Return Period	Date Lodged
Senior Town Planner	1 July 2019 – 30 June 2020	24 September 2020
Senior Town Planner	1 July 2019 – 30 June 2020	13 August 2020
Senior Town Planner	1 July 2019 – 30 June 2020	29 September 2020
Senior Town Planner	1 July 2019 – 30 June 2020	30 September 2020
Town Planner	1 July 2019 – 30 June 2020	17 August 2020
Town Planner	1 July 2019 – 30 June 2020	23 September 2020
Duty Officer	1 July 2019 – 30 June 2020	17 August 2020
Building Coordinator	1 July 2019 – 30 June 2020	11 September 2020
Senior Building and Development Engineer	1 July 2019 – 30 June 2020	24 September 2020
Senior Building and Development Engineer	1 July 2019 – 30 June 2020	12 August 2020
Building and Development Officer	1 July 2019 – 30 June 2020	26 August 2020
Building and Development Officer	1 July 2019 – 30 June 2020	13 August 2020
Manager Environment and Regulatory Services	1 July 2019 – 30 June 2020	29 September 2020
Environmental Health Coordinator	1 July 2019 – 30 June 2020	2 September 2020
Environmental Health Officer	1 July 2019 – 30 June 2020	3 September 2020
Environmental Health Officer	1 July 2019 – 30 June 2020	12 August 2020
Environmental Health Officer	1 July 2019 – 30 June 2020	19 August 2020
Sewerage Management Facility Coordinator	1 July 2019 – 30 June 2020	31 August 2020
Technical Officer SMF	1 July 2019 – 30 June 2020	27 August 2020
Technical Officer SMF	6 August 2019 – 30 June 2020	1 September 2020
Companion Animals Controller	1 July 2019 – 30 June 2020	12 August 2020
Companion Animals Controller	1 July 2019 – 30 June 2020	14 September 2020
Compliance Enforcement Coordinator	1 July 2019 – 30 June 2020	21 September 2020
Compliance Investigation Specialist	1 July 2019 – 30 June 2020	12 August 2020
Compliance Enforcement Officer	1 July 2019 – 30 June 2020	14 August 2020
Community Enforcement Coordinator	1 July 2019 – 30 June 2020	12 August 2020
Parking Patrol Officer	1 July 2019 – 30 June 2020	19 August 2020
Parking Patrol Officer	1 July 2019 – 30 June 2020	14 August 2020
Parking Patrol Officer	1 July 2019 – 30 June 2020	21 August 2020
Director Infrastructure Services	1 July 2019 – 30 June 2020	24 September 2020
Executive Manager Operations	1 July 2019 – 30 June 2020	24 August 2020
Manager Building and Associated Services	1 July 2019 – 30 June 2020	30 September 2020
Building Services Coordinator	1 July 2019 – 30 June 2020	30 September 2020
Building Services Officer	1 July 2019 – 30 June 2020	29 September 2020

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Position	Return Period	Date Lodged
Building Services Officer	1 July 2019 – 30 June 2020	24 September 2020
Building Services Officer	1 July 2019 - 30 June 2020	30 September 2020
Building Services Controls Officer	1 July 2019 – 30 June 2020	25 August 2020
Manager Construction and Maintenance	1 July 2019 – 30 June 2020	28 September 2020
Construction and Maintenance Engineer	1 July 2019 – 30 June 2020	25 September 2020
Construction and Maintenance Engineer	1 July 2019 – 30 June 2020	12 August 2020
Asset Management Systems Engineer	1 July 2019 – 30 June 2020	3 September 2020
Manager Parks and Recreation	1 July 2019 – 30 June 2020	24 September 2020
Land Management Officer	1 July 2019 – 30 June 2020	19 August 2020
Parks Project Officer	1 July 2019 – 30 June 2020	12 August 2020
Richmond Swimming Pool Superintendent	1 July 2019 – 30 June 2020	28 September 2020
Manager Waste Management	1 July 2019 – 30 June 2020	29 September 2020
Project Engineer	1 July 2019 – 30 June 2020	13 August 2020
Wastewater Maintenance and Project Engineer	1 July 2019 – 30 June 2020	13 August 2020
Manager Design and Mapping Services	1 July 2019 – 30 June 2020	13 August 2020
Design and Investigation Coordinator	1 July 2019 – 30 June 2020	13 August 2020
Design and Investigation Engineer	1 July 2019 – 30 June 2020	1 September 2020
Director Support Services	1 July 2019 – 30 June 2020	21 September 2020
Customer Service Manager	1 July 2019 – 30 June 2020	13 August 2020
Customer Services Team Leader	1 July 2019 – 30 June 2020	12 August 2020
Community Program Coordinator	1 July 2019 – 30 June 2020	29 September 2020
Manager Corporate Services and Governance	1 July 2019 – 30 June 2020	18 September 2020
Property Services Coordinator	1 July 2019 – 30 June 2020	12 August 2020
Property Officer	10 June 2020 – 30 June 2020	7 September 2020
Publishing Manager	1 July 2019 – 30 June 2020	24 August 2020
Chief Financial Officer	1 July 2019 – 30 June 2020	30 September 2020
Deputy Chief Financial Officer	1 July 2019 – 30 June 2020	13 August 2020
Financial Accountant	1 July 2019 – 30 June 2020	20 August 2020
Rates and Revenue Coordinator	1 July 2019 – 30 June 2020	25 September 2020
Tendering and Contracts Officer	1 July 2019 – 30 June 2020	12 August 2020
Procurement Officer	1 July 2019 – 30 June 2020	27 August 2020
Information Services Manager	1 July 2019 – 30 June 2020	25 August 2020
Corporate Systems and Database Administrator	1 July 2019 – 30 June 2020	19 August 2020
Senior Network Administrator	1 July 2019 – 30 June 2020	12 August 2020

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Position	Return Period	Date Lodged
Library Coordinator	1 July 2019 – 30 June 2020	24 August 2020
Community History Librarian	1 July 2019 – 30 June 2020	29 September 2020
Customer Service Librarian	1 July 2019 – 30 June 2020	13 August 2020
Gallery and Museum Director	1 July 2019 – 30 June 2020	14 September 2020

The above Councillors and Designated Persons have lodged their Section 4.21(b) Returns prior to the due date of 30 September 2020, as required by the Code for the receipt of the Returns.

The above details are now tabled in accordance with Section 4.25 of the Code, and the abovementioned Returns are available for inspection, if requested.

COMMUNITY ENGAGEMENT

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

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Direction and Strategy within the CSP.

Our Leadership

1.5 Regulation and Compliance - Encourage a shared responsibility for effective local compliance.

1.5.2 Best practice, sustainability principles, accountability and good governance are incorporated in all activities undertaken by Council.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

There are no Fit For The Future Strategy Considerations applicable to this report.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 197 **SS - Extension of Pensioner Rebates to Self-Funded Retirees - (95496)**

Previous Item: 172, Ordinary (31 July 2018)

Directorate: Support Services

PURPOSE OF THE REPORT:

The purpose of this report is to provide Council with an overview of options regarding the extension of pensioner concessions to self-funded retirees within the existing legislative framework, and taking into consider other relevant considerations.

EXECUTIVE SUMMARY:

At its Meeting on 31 July 2018 Council resolved as follows:

“That Council Officers prepare a report to Council providing details regarding options that could be investigated to extend the Pensioner Rebates for rates and charges to self - funded retirees.”

In accordance with Council's resolution, options in regard to extending pensioner concessions to self-funded retirees, within the existing legislative framework, have been investigated.

Legislative provisions limit Council's ability to bring self-funded retirees under the definition of an “eligible pensioner”. The Act is silent on self-funded retirees and in regard to selecting categories of ratepayers for the purpose of granting specific concessions.

There are significant practical challenges in identifying and assessing self-funded retirees, and monitoring ongoing eligibility. In considering the provision of concessions to self-funded retirees, Council would also need to consider equity and fairness issues, as well as financial implications.

Based on surveys of other councils, there are is no evidence of other councils extending pensioner rebates to self-funded retirees.

Self-funded retirees experiencing financial hardship can access assistance under Council's Hardship Policy.

RECOMMENDATION:

That Council:

1. Receive and note the information contained within this report regarding the extension of pensioner rebates to self-funded retirees, and
 2. Specifically notes the legislative limitations applicable to the granting of pensioner concessions.
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BACKGROUND

At its Meeting on 31 July 2018 Council resolved as follows:

“That Council Officers prepare a report to Council providing details regarding options that could be investigated to extend the Pensioner Rebates for rates and charges to self - funded retirees.”

Taxation, financial support and social services arrangements for pensioners are generally established by the Commonwealth and State Governments.

Based on Council's Profile ID, in 2016 there were 12,739 residents over the age 60 years. As at 30 June 2020, there were 3,659 Pensioners receiving pensioner rebates in regard to 3,104 properties. These statistics suggest that there are a significant number of self-funded retirees in the Hawkesbury local government area.

The Local Government Act 1993 (the Act) specifies who is an “eligible pensioner” and the mandatory concessions available to those falling within the definition of an eligible pensioner. The Act is silent on self-funded retirees or any other categories of ratepayers that could be identified for the purpose of a rebate or other forms of financial assistance.

This report provides guidance in regard to a suitable approach in providing assistance to self-funded retirees within legislative parameters, and in the context of fairness and equity to all the ratepayers in the Hawkesbury local government area.

Relevant Legislation

Division 1 of Part 8 of Chapter 15 of the Act provides for concessions for eligible pensioners. The Local Government (General) Regulation 2005 and the Act Dictionary prescribes that, in relation to a rate or charge levied on land on which a dwelling is situated **“eligible pensioners”** are:

- a) persons who receive a pension, benefit or allowance under Chapter 2 of the Social Security Act 1991 of the Commonwealth, or a service pension under Part III of the Veterans' Entitlements Act 1986 of the commonwealth, and who are entitled to a pensioner concession card issued by or on behalf of the commonwealth government; or
- b) persons who receive a pension from the commonwealth Department of Veterans' Affairs as the:
 - the widow or widower of a member of the Australian Defence or Peacekeeping Forces,
 - the unmarried mother of a deceased unmarried member of either of those Forces, or
 - the widowed mother of a deceased unmarried member of either of those Forces, and who does not have income and assets that would prevent them from being granted a pensioner concession card (assuming they were eligible for such a card), or
- c) persons who receive a general rate of pension adjusted for extreme disablement under section 22 (4) of the Veterans' Entitlements Act 1986 of the Commonwealth, or a special rate of pension under section 24 of that Act.

and, who occupy that dwelling as their sole or principal place of living.

By virtue of Section 575, an eligible pensioner may apply to council for a concession on a rate or charge. This application must be on the form approved by the Director-General, which is available on the Department of Local Government's website. The amount of the concession depends upon whether the:

- person is solely liable, or jointly liable, with one or more jointly eligible occupiers, but with no other person, for the rate or charge (full concession allowable); or

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- person is jointly liable with one other person who is not a jointly eligible occupier or with 2 or more other persons any of whom is not a jointly eligible occupier (pro rata concession).
- "jointly eligible occupier"**, in Division 1 of Part 8 of Chapter 15, in relation to a rate or charge in respect of which an eligible pensioner is jointly liable, means a person who-
- a) is the spouse or de facto partner of that eligible pensioner, or
 - b) is another eligible pensioner, or
 - c) if another eligible pensioner and his or her spouse or de facto partner have the same sole or principal place of dwelling, is the spouse or de facto partner of that other eligible pensioner, and whose sole or principal place of living is the same as that of that first mentioned eligible pensioner.

The Act then specifies the concessions available to eligible pensioners:

- A maximum reduction of **\$250** (in respect of the aggregate of **ordinary** rates and charges for domestic waste management services).
- Where councils are involved in the provision of water supply or sewerage services maximum reductions of **\$87.50** (in respect of water supply special rates or charges) and **\$87.50** (in respect of sewerage special rates or charges) apply.

DISCUSSION

1. *Current Pensioner Concessions offered by Council*

Concessions on rates and charges levied are available to eligible pensioners. Council offers a number of concessions over and above the mandatory concessions. No State Government subsidy is received against these additional concessions.

Ordinary Rates and Domestic Waste Management Services Charge

The Act provides for pension rebates of up to 50% of the aggregated ordinary rates and domestic waste management service charges up to a maximum of \$250.

Under the State's mandatory Pensioner Concession Scheme, the State Government reimburses Council 55% (up to \$137.50 per property) of the rates and charges written off under the provisions of the Act. Council funds the remaining 45% (up to \$112.50).

Sewerage Service Charge

A concession is available to eligible pensioners who are subject to the residential connected charge under the Windsor Sewerage Scheme. The mandatory concession in respect to Sewerage charges is \$87.50 of which the State Government provides a reimbursement to Council of 55% (\$48.13). This amount has remained unchanged since 1989. The total concession provided by Council has traditionally been in excess of this, being based on 50% of the applicable charge. The additional concession is fully funded by Council. For 2020/2021 the total rebate in regard to the sewerage charge is \$443.35.

Sullage Service Charge

Council provides eligible pensioners receiving a sullage pump out service with a pensioner concession based on 50% of the applicable charge. The rebate is fully funded by Council. There is no State Government assistance towards pensioners on the sullage service. This subsidy is not available to pensioners who have non-eligible adults living at their property. For 2020/2021 the total rebate in regard to sullage is \$1,252.58 for fortnightly services.

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Other Assistance

In addition to the pensioner concessions detailed above, Council assist pensioners further by not taking legal action for outstanding rates and charges. Any property debts that are unpaid remain against the property until such time as the property is sold. Upon sale to a new owner, rates and charges become due and payable, and are generally addressed as part of the property settlement.

2. *Extension of Pensioner Concessions to self-funded retirees - Challenges*

A Financial Review article in June 2019 stated that most new retirees have enough savings to be self-funded rather than being reliant on the age pension, based on new research. More than half of 66 year-olds were not accessing the age pension at December 2018 because their assets and income were too high, while 20 per cent were on a part pension.

A self-funded retiree supports their own retirement without the assistance of the Australian government pension. Some benefits of managing own self-funded superannuation include:

- Tax bonuses and relief from new laws
- More control over your investments
- Greater security

The Australian government looks favourably upon a self-funded retiree because it relieves pressure on the pension system. That does not mean there are not benefits that a self-funded retiree can partake from the government. In fact, many times there are additional benefits to support the self-funded retiree. For example, self-funded retirees may be eligible for a Commonwealth Seniors Health Card and related payments and services.

The Age Pension is administered by the Department of Social Services, Australian Government.

Eligibility to, or the extent of, Age Pension that can be claimed by a retiree is impacted by:

- The income test
- The assets test
- Relationship status
- Income and assets from outside Australia

In regard to the asset test, asset hardship provisions apply if the person is suffering severe financial hardship and the person either:

- Cannot get a pension payment due to assets owned being over the asset test limit or
- Have had their payment reduced under the asset test.

The Department of Social Services may consider a retiree to be in severe financial hardship if all of the following apply:

- Because of the assets test they are on a reduced pension or it's not payable
- They own an asset which they cannot sell or be reasonably expected to sell
- They cannot borrow against the asset or be reasonably expected to borrow against it
- They would otherwise qualify for a payment under the income test
- The gifting rules don't apply or they can disregard them
- They are unable to qualify for any other Australian Government help.

The Department of Social Services have processes in place, and access to information, to be able to adequately assess the outcome of the various tests, and to assess whether there is severe financial hardship and consequently determine whether a pension claim can be accepted.

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The existence of the various tests applied by the Department of Social Services ensures that there is a consistent and reliable assessment of a need for government support, thereby ensuring that taxpayers' funds are appropriately and fairly applied through the welfare system.

Fairness and Equity considerations

In selecting parts of its community to receive financial assistance, at the expense of those not receiving the assistance needs to be approached with caution. If Council were to determine it specifically wants to assist self-funded retirees it would need to demonstrate that it is doing so on financial hardship grounds. It would be neither logical nor fair to assist self-funded retirees simply because they are self-funded retirees without any regard to their financial situation. Accordingly Council would need to have an assessment process similar to that utilised by the Australian Government to assess Age Pension Claims.

Legislative Challenges

As detailed above, the Act specifically defines who is eligible as a pensioner, and consequently who is entitled to the mandatory concessions available. Any ratepayer that does not meet the definition cannot be entitled to a mandatory concession. By default this means that if Council were to extend any concessions to anyone else other than a pensioner meeting the criteria in the Act, this concession would need to be fully funded by Council.

Whilst the Act specifies who is an "eligible pensioner", it is silent on whether Council can identify any other categories within its ratepayers and apply specific concessions to those falling in those categories. There is therefore no guidance in the Act as to how a council would approach identifying a specific category such as self-funded retirees for the purposes of providing any form of assistance.

If Council were to proceed with identifying self-funded retirees as a separate category for the purpose of applying specific concessions, it would be advisable that legal advice is sought in the first instance.

Practical Challenges – Determining and monitoring Eligibility

Notwithstanding the legislative limitation, in respect to identifying self-funded retirees for the purpose of providing specific concessions, there are significant 'practical' challenges including:

- Council would need to determine who would be eligible as a self - funded retiree. Would it be based on age?
- Council would need to determine criteria such as the income and asset tests and associated thresholds. These criteria would be necessary to ensure that only those self-funded retirees that require financial assistance are considered, thereby ensuring a fair use of the overall ratepayers' funds.
- How would Council confirm the information provided as part of those tests?
- How would Council do on going checks to confirm eligibility?
- These tests would result in not all self-funded retirees in the Hawkesbury Local Government Area being eligible for the same level of assistance. This would have the same consequence as the current perceived inequity between pensioners and self-funded retirees.
- Council would need to determine rules regarding spouses and ownership.

Financial Considerations

If Council were to extend pensioner rebates to anyone else that does not meet the definition of eligible pensioner in the Act, Council would need to fully fund any concessions provided. This will result in a reduction in funds available to deliver works and services.

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3. Other Councils

In addition to investigating options available under the Act, Council Officers have also surveyed a number of other councils in regard to any concessions they offer to self-funded retirees within their local government area.

The following councils were contacted:

- Blacktown
- Wollondilly
- Camden
- Blue Mountains
- Fairfield
- Liverpool
- The Hills
- Penrith
- Willoughby

All Councils except Willoughby responded that they do not provide any form of relief to self-funded retirees. Willoughby offers a reduced cost domestic waste service for self-funded retirees that is \$130.00 cheaper than a regular service. Willoughby Residents must meet all of the following conditions to be eligible:

- Own the property
- Have lived within the Willoughby Council area for the past 15 years
- Reside in the property as the sole or principal place of abode
- Be aged 70 years or older
- Hold a current Commonwealth Seniors Health Card as at 1st July of the current rating year.

Residents must apply each year as there is no annual confirmation process like there is with pensioners.

Council Officers have also reviewed revenue policies of the following councils:

- Ku-ring-gai
- Hornsby
- Randwick
- Central Coast
- Port Macquarie-Hastings

None of these councils offered any concessions to self-funded retirees.

4. Assistance available to self-funded retirees experiencing hardship

Legislation and challenges detailed in this report significantly limit the ability to treat self-funded retirees as pensioners and to extend the same concessions. However self-funded retirees experiencing financial difficulties can access assistance under Council's Hardship Policy.

Council recognises that there are cases of genuine financial hardship requiring respect and compassion in certain circumstances. The Policy established guidelines for the assessment of hardship applications by applying the principles of fairness, integrity, confidentiality and compliance with statutory requirements. The Policy does not specifically identify categories of ratepayers to be eligible for assistance, but is aimed at ratepayers experiencing financial hardship, regardless of age or working status.

It is to be noted that to date Council has not received any applications for assistance under Council's Hardship provisions, excluding applications associated with COVID-19, and the 2020 Natural Disasters (104 in total).

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Council can also assist any self-funded retiree, experiencing financial hardship through:

- Payment arrangements
- Write off of accrued interest and costs
- Assistance under Section 601 of the Act regarding financial hardship arising from a General Revaluation of the local government area

It is also worth noting that the financial assistance that could be provided under Council's Hardship Policy to those experiencing financial hardship, is likely to exceed the financial benefit likely to be applicable if pensioner concessions were applied.

5. Conclusion

- Legislative provisions limit Council's ability to bring self-funded retirees under the definition of an "eligible pensioner"
- The Act is silent on self-funded retirees
- The Act is silent on selecting categories of ratepayers for the purpose of granting specific concessions
- There are significant practical challenges in identifying and assessing self-funded retirees, and monitoring ongoing eligibility
- There are financial implications that would need to be considered if pensioner rebates were extended to self-funded retirees
- There are significant equity and fairness issues that would need to be considered
- Based on surveys of other councils, there is no evidence of other councils extending pensioner rebates to self-funded retirees
- There are various forms of assistance available to those experiencing financial hardship, including self-funded retirees, under Council's Hardship Policy.

COMMUNITY ENGAGEMENT

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

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Direction and Strategy within the CSP.

Our Leadership

1.3 Financial Sustainability - Build strong financial sustainability for now and future generations.

1.3.1 In all of Council's strategies, plans and decision making there will be a strong focus on financial sustainability.

FINANCIAL IMPACT

There are no financial implications arising from this report. However, if Council were to extend pensioner rebates to anyone else that does not meet the definition of eligible pensioner in the Act, Council would need to fully fund any concessions provided. This will result in a reduction in funds available to deliver works and services.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications, outside of Council's adopted Long Term Financial Plan. However if Council were to extend pensioner rebates to anyone else that does not meet the definition of eligible pensioner in the Act, Council would need to fully

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fund any concessions provided. This funding is not currently in Council's Long Term Financial Plan, and would consequently have an impact on Council's Fit for the future ratios.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 198 **SS - Submission to IPART's Review of Domestic Waste Charges in Local Government - (95496)**

Directorate: Support Services

PURPOSE OF THE REPORT:

The purpose of this report is to submit a proposed submission to the Independent Pricing and Regulatory Tribunal's (IPART) Discussion Paper regarding Domestic Waste Management charges in local councils, for Council's endorsement.

EXECUTIVE SUMMARY:

In August 2020 the Independent Pricing and Regulatory Tribunal (IPART) released a Discussion Paper regarding Local Council Domestic Waste Charges. A proposed submission to the Discussion Paper has been prepared and is attached as Attachment 1 to this report for consideration and endorsement by Council.

The main issues raised in the Discussion Paper and addressed in the proposed submission are:

- Commonwealth and State Government strategic position in regard to waste management is yet to be determined.
- Domestic Waste Management costs and charges were previously subject to audits by external audits as part of the annual financial audit. Council welcomed these audits as the process enabled Council to provide assurance to ratepayers that charges were based on reasonable costs. Overall Council would welcome the reinstatement of Domestic Waste Management costs and charges audits as part of the annual financial audits.
- It is not appropriate to compare costs and charges between different councils as many factors driving services, costs and consequently charges reflect the specific circumstances of each respective council.
- The retention of a Domestic Waste Management Reserve is well justified and is a good practice to prevent sharp changes to charges in response to changing factors outside Council's control.
- Council market tests its outsourced Domestic Waste Management services and evaluates the costs of services provided in-houses to ensure cost effectiveness and efficiencies are maintained.
- Council's allocation of overheads to the Domestic Waste Management service is appropriate.
- IPART should not be regulating Domestic Management charges or trying to compare costs and charges between different councils.
- Any pricing principles should be determine with caution so as not to limit any council's ability to recover the reasonable costs incurred in providing Domestic Waste Management services.
- Submissions to the Discussion Paper are due by Tuesday, 20 October 2020.

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RECOMMENDATION:

That Council endorse the proposed submission to the IPART's Discussion paper regarding Domestic Waste Management charges in local councils, attached as Attachment 1 to this report.

BACKGROUND

In August 2020 the Independent Pricing and Regulatory Tribunal (IPART) released a Discussion Paper regarding Local Council Domestic Waste Charges. A proposed submission to the Discussion Paper has been prepared and is attached as Attachment 1 to this report for consideration and endorsement by Council.

Local councils fund Domestic Waste Management services through levying separate charges in accordance with Sections 504(1) and (2) of the Local Government Act. Councils are required to set charges that do not exceed the reasonable cost of providing the Domestic Waste Management services and revenue collected through these charges may only be used for Domestic Waste Management purposes. It is to be noted that Domestic Waste Management does not include sullage and other waste water service.

Historically, Domestic Waste Management costs were audited annually as part of the external audit. However, with the changes to audits transitioning to the NSW Audit Office, this element of the historical audit process was not included in the scope. In June 2019, the Office of Local Government informed IPART that it had ceased conducting audits of the reasonable cost basis of Domestic Waste Management charges in 2016/2017. The Office of Local Government intends to enter into a wider audit arrangement with the Auditor General, and Domestic Waste Management charges may be included, but there is no definite plan or timeframe for this.

It appears that IPART were engaged to review various matters regarding Domestic Waste Management Charges in local government such as:

- The wide variation in the number and type of Domestic Waste Management services provided across councils and associated charges
- The reason for councils appearing to be in surplus for Domestic Waste Management services
- Whether there are barriers to effective procurement
- The allocation of 'overhead expenses' to the Domestic Waste Management service

IPART's preliminary analysis indicates that Domestic Waste Management charges may not be delivering good value for ratepayers and there may be challenges for local councils in purchasing and pricing these services.

In the past IPART have not regulated changes in Domestic Waste Management charges but going forward, they need to consider whether this approach remains appropriate. IPART consider that caution is needed and prescriptive regulation may not be appropriate. But, there may be other ways to improve transparency and share best practice guidance to help local councils and ratepayers get good quality services at cost-reflective prices.

Relevant Legislation

Local councils fund Domestic Waste Management services through levying separate charges in accordance with Sections 504(1) and (2) of the Local Government Act. Councils are required to set charges that do not exceed the reasonable cost of providing the Domestic Waste Management services and revenue collected through these charges may only be used for Domestic Waste Management purposes.

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DISCUSSION

1. *IPART's Discussion Paper*

In August 2020 IPART released a Discussion Paper regarding Local Council Domestic Waste Charges. Submissions are due by 20 October 2020. The Discussion Paper can be accessed at:

<https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/local-government-tribunal-briefings-domestic-waste-management-charges-review/publications/discussion-paper-local-council-domestic-waste-management-charges-august-2020.pdf>

The Discussion Paper explains IPART's preliminary views and asks for feedback on whether stakeholders consider that there are issues with the prices charged for Domestic Waste Management services, and, if so, how IPART should respond. The proposed submission will address the specific questions asked in the Discussion Paper.

IPART identified several potential issues with Domestic Waste Management charges levied by local councils, and notes that councils are usually monopoly providers of Domestic Waste Management services. In this regard it is to be noted that whilst councils are monopoly providers in their respective local government areas, charges are based on costs that have been the subject of a competitive tendering process. These issues suggest that, in some cases, Domestic Waste Management charges may not reflect the reasonable and efficient costs of providing Domestic Waste Management services.

They observed that:

- There is wide variation in the number and type of Domestic Waste Management services provided across councils
- There is wide variation in Domestic Waste Management charges across councils
- Some councils appear to be in surplus for Domestic Waste Management services, as annual revenue from the Domestic Waste Management charge exceeds expenditure on providing the services
- Many councils either fully or partially outsource the provision of Domestic Waste Management services, though it is not clear that there is effective competition in the market for procuring such services, and there may be barriers to effective procurement
- Some councils appear to be allocating 'overhead expenses' that contribute more than half of total Domestic Waste Management costs.

As is outlined throughout this report, the main underlying theme is that each Council is different in many ways, and consequently Domestic Waste Management services and associated charges will also be different.

Hawkesbury City Council has many aspects that differentiate it from other councils including:

- It covers an area of 2,775 km², an area equivalent to the remainder of the metropolitan area.
- It has a population of approximately 67,000
- It has a population density of 24.2 residents per square km
- Domestic Waste service is provided to remote rural properties
- It is a peri-urban area with a mix of urban and rural areas
- It has a mix of early and recent urban developments (different configuration and width of roads)

The above characteristics are among the factors that contribute to the complexity of the Domestic Waste service and consequently the costs associated with providing the Domestic Waste Management service in the Hawkesbury Local Government Area.

Council has currently has 25,915 waste services across its residential properties.

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IPART's observations above have been put in the context of this Council and comments are provided accordingly, including, where applicable, how the respective issues have been addressed in the proposed submission.

2. *Commonwealth and State Legislation*

Whilst IPART's Discussion Paper and the submission are focused on charges and costs associated with Domestic Waste Management services, it is important to look at this matter within the overall strategic and policy framework within which Domestic Waste Management services are provided by councils.

Council supports the Environment Minister and the NSW Environment Protection Authority's position that resource recovery and waste management should achieve sustainability, reliability and affordability for the community. However, this can only be achieved by Councils when there is fair and equitable funding, when there is the critical infrastructure available, and when there is a reasonable and consistent legislative and policy framework.

In recent years, Councils have faced waste policy and planning uncertainty in a number of areas, including the decision on Mixed Waste Organics Outputs, mandating Food Organics and Garden Organics, and clear guidance and position on Energy from Waste. Councils are waiting for the State Government to finalise the 20 Year Waste Strategy to address these issues but the Strategy has been delayed. This increases uncertainty for Councils and for the Waste Industry which results in increased costs, for example, it prevents companies investing in new waste infrastructure and there is already a shortfall of waste infrastructure within Metropolitan Sydney and NSW.

3. *Council's Status and proposed submission*

- **Variation in services provided across councils**

Discussion

Council currently offers the following Domestic Waste Management services:

- Weekly Red Bin
- Fortnightly Yellow Bin (Recycling)
- Fortnightly Green Bin (Garden Organics)
- One bulk kerbside collection per year

Frequency and services vary for some areas.

Council packages the Domestic Waste Management service in one annual fee. The services offered reflect Council's approach to waste management, service level expectations and demand. Charges reflect the cost of delivering against these expectations. The annual charges are exhibited as part of the Operational Plan, and there has generally been minimal or no feedback on the charges. This suggests that Hawkesbury residents are satisfied with the Domestic Waste Management service they receive for what they pay.

There are significant differences in services between councils, and consequently associated charges. Generally, it is considered that Council's charges are generally "comparable" to neighbouring councils as far as practical to compare.

Proposed Submission

Throughout IPART's Discussion Paper reference is made to enhancing the ability for ratepayers to compare charges between councils, thereby driving charges down. In the proposed submission:

- The point is made that services, costs and charges in each council area will vary depending on the council's approach to waste management and service level expectations, therefore comparisons with other councils may not be relevant.

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- It is noted that the Domestic Waste Management charges and services are exhibited annually as part of the Operational Plan, thereby providing an avenue for feedback from ratepayers.
- **Wide variation in Domestic Waste Management charges across councils**

Discussion

Domestic Waste Management charges reflect the cost of delivering the Domestic Waste Management services in line with Council's approach to waste management, service level expectations and demand. The costs are comprised of:

- The cost of collection – Staff, plant, transport costs, contract costs
- The cost of disposal at landfill - Gate fees including Section 88 Levy
- Direct Costs associated with Domestic Waste Management services (this includes servicing of vehicles, plant replacement and plant hire costs)
- Corporate Overheads (including distributed Depot and other costs)

Council has the following mix of resourcing for the Domestic Waste Management services:

- Red Bin -In-house staff and associated resources (Council owned plant)
- Yellow Bin - Outsourced Contract
- Green Bin - Outsourced Contract
- Bulk Kerbside collection - Outsourced Contract

As part of the work that the consultant, Arcadis, is undertaking in regard to the waste strategy, a comparison was undertaken in regard to the red bin collection/transport cost (done through in-house resources). The comparison indicated that the current collection/transport cost is cheaper than what the contractor charges for the contracted services. This could be attributed to a number of matters including the location of the contractor's drop off facilities. This is relevant as the Discussion Paper raises whether Councils "market test" their in-house service.

In regard to the contracted yellow and green bin, the Arcadis report notes that the lift rates charged to Council by the contractor are higher than what other councils with higher density pay.

Council operates its own waste management facility and currently pays a 12% rate of return on assets, in line with a commercial rate of return that would be likely to apply to commercially operated waste management facilities. The gate fees are at the higher end when compared to other councils, mainly due to a lower diversion rate and lack of economies of scale. Compared to other councils, Council incurs additional legacy costs associated with managing a former closed landfill at East Kurrajong. In addition, council is also incurring a relatively higher cost in managing its current landfill site which is nearing the end of its useful life, and will generate a further legacy cost.

Council's cost to provide Domestic Waste Management services have and will continue to be affected by the exposure to natural disasters such as floods and fires. Additional costs are incurred through additional waste generation and costs associated with delays in service delivery.

Proposed Submission

Throughout IPART's Discussion Paper reference is made to benchmarking. In the proposed submission:

- The point is made that costs, and consequently the charges, for each council will vary depending on the council's approach to waste management and service level expectations, the size and nature of the area, population density, urban and rural composition and proximity to waste infrastructure. Therefore comparisons with other councils are not relevant.
- In regard to outsourced services, cost will depend on the context and situation at the time of tendering. Factors include the number of waste companies active in the market at the time, State

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and National Government Policy setting and legislation, the availability and location of waste infrastructure, and international market forces.

It is noted that benchmarking will result in additional costs, in terms of staff time, for councils consistently having to justify why their costs differ from other councils. It is suggested that there would be more merit in councils explaining any significant changes in charges from one year to another rather than compared to other councils.

- **Some councils appear to be in surplus for Domestic Waste Management services, as annual revenue from the Domestic Waste Management charge exceeds expenditure on providing the services**

Discussion

Council keeps an externally restricted Reserve for Domestic Waste Management services. All income raised through Domestic Waste Management charges is restricted for use to deliver Domestic Waste Management services. As with any service, income and expenditure will not align perfectly on an annual basis. To ensure there are contingency funds available to meet necessary expenditures as they arise, address any unforeseen events, as well as to smooth out the impact of spikes in expenditure in any one year, the Reserve is managed so as to ensure the balance is approximately \$0.5M in year 10.

It is considered that the Reserve is being managed appropriately and funds held in the Reserve can be justified.

Proposed Submission

In the Submission, the purpose of the Reserve is explained. It is also noted that State Government Policy and Strategy are still being developed and this may change the expectations of Council, and consequently associated costs and charges to ratepayers. In addition changing community expectations (e.g. Food Organics and Garden Organics or bins to collect glass only) also impact on costs. All these matters further support the existence of a Domestic Waste management Reserve to enable councils to respond without significant changes in charges to ratepayers.

- **Many councils either fully or partially outsource the provision of Domestic Waste Management services, though it is not clear that there is effective competition in the market for procuring such services, and there may be barriers to effective procurement**

Discussion

As outlined above Council delivers its Domestic Waste Management services through a mix of in-house resources and outsourced contracts. In regard to the contracted out services, Council tests the market when it calls tenders.

Proposed Submission

The Discussion Paper refers to the potential of relaxing some processes around joint procurement activities and the ACCC. The Discussion Paper also raises the issue of potential barriers to effective procurement including the length of contracts and the limited number of active players. In the Draft Submission, it is agreed that high entry costs and the length of contracts are potential barriers to effective procurement as tenderers build risks into their pricing.

There are potential opportunities for Council to review its current resourcing mix, and this could potentially be considered for inclusion within the scope of Arcadis's work.

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- **Some councils appear to be allocating ‘overhead expenses’ that contribute more than half of total Domestic Waste Management costs.**

Discussion

One of the factors prompting IPART’s review was the apparent level of overheads being charged by councils. In the Discussion Paper overheads allocations of 65% of the total Domestic Waste Management costs were referred to.

Council applies a consisted methodology to allocate the cost of corporate overheads across all services in the organisation. This allocation results in overheads being allocated to Domestic Waste Management being approximately 14.4% of the total Domestic Waste Management costs. This percentage is considered reasonable.

The Discussion Paper proposes an “incremental” approach to overhead allocation. This approach means that only those costs that would disappear if the Domestic Waste Management service did not exist, should be treated as overheads.

IPART’s review should wait until Commonwealth and State Government's determine their strategic positions in relation to waste management.

Reinstatement of the annual audits would address the concern about overhead allocation.

Proposed Submission

In the Draft submission it is pointed out that this approach is neither sound nor practical as the very nature of overheads is such that these types of costs cannot readily be identifiable in exact amounts with particular services or activities.

The above discussion has highlighted the overall major issues raised in the Discussion Paper. The full proposed Submission is attached as Attachment 1 to this report.

4. Conclusion

- Commonwealth and State Government strategic position in regard to waste management is yet to be determined.
- Domestic Waste Management costs and charges were previously subject to audits by external audits as part of the annual financial audit. Council welcomed these audits as the process enabled Council to provide assurance to ratepayers that charges were based on reasonable costs. Overall Council would welcome the reinstatement of Domestic Waste Management costs and charges audits as part of the annual financial audits.
- It is not appropriate to compare costs and charges between different councils as many factors driving services, costs and consequently charges reflect the specific circumstances of each respective council.
- The retention of a Domestic Waste Management Reserve is well justified and is a good practice to prevent sharp changes to charges in response to changing factors outside Council’s control.
- Council market tests its outsourced Domestic Waste Management services and evaluates the costs of services provided in-houses to ensure cost effectiveness and efficiencies are maintained.
- Council’s allocation of overheads to the Domestic Waste Management service is appropriate.

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- IPART should not be regulating Domestic Management charges or trying to compare costs and charges between different councils.
- Any pricing principles should be determined with caution so as not to limit any council's ability to recover the reasonable costs incurred in providing Domestic Waste Management services.

COMMUNITY ENGAGEMENT

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

CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Directions and Strategies within the CSP.

Our Leadership

- 1.3 Financial Sustainability - Build strong financial sustainability for now and future generations.
 - 1.3.1 In all of Council's strategies, plans and decision making there will be a strong focus on financial sustainability.
- 1.4 Reinforcing and establishing effective strategic partnerships - Build strong relationships and shared responsibilities.
 - 1.4.1 Foster positive relationships with all tiers of government and peak bodies to ensure a thorough understanding of the challenges and local requirements of the Hawkesbury.

FINANCIAL IMPACT

There are no financial implications arising from this report.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications, outside of Council's adopted Long Term Financial Plan.

ATTACHMENTS:

- AT - 1** Proposed Submission to IPART's Review of Domestic Waste Management Charges in Local Councils.

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AT - 1 Proposed Submission to IPART's Review of Domestic Waste Management Charges in Local Councils

• **DWM may not reflect reasonable Cost**

1. Is it a concern that DWM charges appear to be rising faster than the rate peg? Are there particular cost-drivers that may be contributing to this?

The rate peg increase is not relevant to the main cost drivers contributing to the DWM Charge. Main contributors to the DWM Charge are:

- *Section 88 Waste Levy – Determined by the NSW State Government, and until recently was being increased faster than inflation*
- *Contractors Charges – Increases in contract charges when renewing contracts are not necessarily aligned with inflation. Due to high entry costs and the length of waste contracts new contracts include allowances for risks such as changes in legislation*
- *Changes in the Waste Industry - there has been major changes in the waste and recycling industry which have resulted in much higher processing costs, for example the impact on recycling costs following the China National Sword Policy*
- *Changes in the environmental regulations – as an example of this there are increasing costs for rehabilitation and monitoring of both existing and legacy landfills, management of landfill gas migration and management of generated methane, for environmental protection purposes.*

2. To what extent does the variation in services and charges reflect differing service levels, and community expectations and preferences across different councils?

Councils across NSW offer different services to their communities. There are wide variations in regard to the number and types of bins and other services such as the kerbside bulk collection service. Just taking the latter as an example, some Councils offer one service a year, others offer up to twelve services a year.

Services offered reflect the particular council's:

- *approach to waste management*
- *the size and nature of the area*
- *the population of the area*
- *the population density*
- *the urban and rural composition*
- *proximity to waste infrastructure*
- *the residents' demand and expected service level*
- *exposure to natural disasters*

As the cost to deliver the DWM service is driven by all these factors, so is the charge to the residents. Accordingly it would not be appropriate to compare charges across councils without having regard to the differences in the services being provided. As a specific example relevant to Hawkesbury Council, the impact of natural disasters such as floods and fires has a

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particular and increasing effect on services and associated costs. Another issue having a significant impact on Hawkesbury Council is the size of the area, being of the same scale as the rest of the metropolitan council areas combined, and the need and desire for provision of equivalent service levels to remote areas within this area.

It is further to be noted that services and associated charges are exhibited each year as part of each council's Operational Plan. This is an opportunity for residents to provide feedback on services, service levels and associated charges.

3. Is there effective competition in the market for outsourced DWM services? Are there barriers to effective procurement?

There are only very few players in the market, partly due to the cost of establishing this type of business. Whilst councils call Tenders for their outsourced DWM services, generally always the same few Tenderers respond. However, as the value of these contracts are high, there is an incentive for the respective Tenderers to submit their best offer. The lengthy term of these contracts, again due to high entry and establishment costs, is another contributing factor to high charges. Due to the evolving nature of the waste industry Tenderers build in risk in their charges to mitigate their business's exposure to adverse changes.

4. Are overhead expenses for DWM services appropriately ring-fenced from general residential rates overhead expenses?

As each council would have their own methods of calculating overheads we restrict our comments to the allocation of overheads at Hawkesbury City Council.

Council applies a consistent overheads allocation methodology across Council. The drivers of the allocation are employee costs, materials and contract values, other expenses and capital expenditure. Costs charged out through overheads are information services, records, financial services, risk management, human resources, corporate governance costs, plant management, legal costs, executive management, customer service, internal audit and strategic planning.

The nature of costs generally allocated through overheads is such that it would not be practical or efficient, to be specifically identified to a particular activity, like a direct cost would be. A specific activity would generally consume only a portion of corporate resources and costs, and the costs of calculating the exact usage would outweigh any benefit. In the case of council services the net impact on the end ratepayer is nil as regardless how the overheads are allocated they are still a cost ultimately paid through rates or annual charges.

In the case of DWM, there would not be one or more human resources staff, or financial services staff, solely dedicated to this activity, but rather a portion of one or more specific staff time would be consumed. For example, Financial Services process invoices and payroll, and carryout a variety of financial accounting and financial management tasks related to DWM. However if DWM did not exist, there would be no reduction in overall resources required, as it is only a portion of individual's staff time that would be "released". This is especially the case in councils, such as Hawkesbury, where teams are very small.

Accordingly overheads associated with DWM are not ring fenced from general residential rates overhead expenses because it is neither practical or cost-effective to do so.

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- Options for oversight

5. If IPART was to regulate or provide greater oversight of DWM charges, what approach is the most appropriate? Why?

It is suggested that IPART does not regulate DWM charges but rather provide oversight to ensure councils are only recovering cost applicable to their specific DWM service, including overheads. The audit of “reasonable cost” previously undertaken by external auditors provided a level of oversight.

As referred to in the response to Question 2 above, services offered by each council vary in line with their community’s desired standards. Whilst comparisons with other councils’ costs and charges would be interesting, they should not be used as a tool to achieve consistency.

Services offered and charges are already subject to the specific community’s feedback through the Operational Plan mechanism.

In regard to costs, it should be up to each council to determine the most cost effective way to provide the service. Cost effectiveness for each council will be dependent on various factors including but not limited to, the nature of the area and waste management infrastructure available.

IPART could issue a set of basic principles as guidance (not prescriptive) for setting DWM charges, however such principles should not such so as to restrict specific circumstances / costs applicable to specific councils to be reflected in the DWM charge.

In regard to the issue of Overheads allocation, rather than prescribing a method, IPART could suggest a reasonable range of percentages of the total DWM costs that may be attributed to Overheads.

In regard to outlier councils, consideration could be given to an initial audit so as to understand what is driving the anomalies. If anomalies are justified there would be no scope to regulate and they could just be brought under the oversight regime applied to all other councils.

6. Are there any other approaches that IPART should consider?

The discussion paper focuses on the DWM charge set by councils, and the costs that councils have some level of control on. There does not appear to be any suggestions to improve transparency around the setting of the Section 88 Waste Levy set by the NSW State Government and matters such as a council’s classification for the purposes of the Levy.

The paper also fails to acknowledge the challenges of the waste industry including legislation changes and actions of major stakeholders in the industry.

The paper also does not consider the net impact on ratepayers, going as far as suggesting that any shortfall in cost recoupment regarding the DWM charge could be made up through a Special Rate Variation.

The remit that has been given to IPART, whilst it may be aimed at improving transparency, is too narrow in scope. It excludes the major factors driving DWM costs, and therefore the factors driving changes in DWM charges.

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7. **If a reporting and benchmarking approach was adopted, how could differences in services and service levels, as well as drivers of different levels of efficient cost, be accounted for?**

If reporting was introduced for comparative purposes, this reporting should not come at a cost to councils, and ultimately its ratepayers. The information regarding waste services and charges is already contained within councils' Operational Plans and can therefore be easily accessed and collated by the agency seeking the information.

As referred to in the response to Question 5, the focus should be on ensuring that each council is only recouping DWM costs as specific to them, rather than as compared to others. Accordingly benchmarking could result in councils charging more due to their specific higher costs, being under fire for being more expensive and having to continually justify the difference. Again, this process would simply add costs to councils, and ultimately its ratepayers.

Rather than trying to account for differences in services and service levels and specific cost drivers, it would be more appropriate not to try and compare between councils in the first instance.

Rather than a comparison between councils what would be more useful is perhaps additional information in a council's Revenue Pricing Policy each year to explain any significant changes in the charges compared to the previous financial year.

- **Preference for a less prescriptive, more targeted approach if regulation is required**

8. **Is there merit in IPART's proposed approach to developing a reporting, monitoring and benchmarking approach and pricing principles for setting DWM charges? Is it likely to be an effective approach? Why/why not?**

Comments regarding reporting and benchmarking are as per Question 7 above.

In regard to monitoring, a similar process to what previously was in place with annual audits would be sufficient. This should not come at an extra cost as the NSW Audit Office is already charging more than what previously was being charged by external auditors. Monitoring approaches such as annual audits would be effective in ensuring councils are only recouping costs that can be recouped. A check on the percentage of overheads to overall DWM costs would also highlight any issues in this regard.

There is merit to establish broad pricing principles that do not limit a council's ability to recoup all costs specific to its services, and including overheads. Broad pricing principles would be effective in ensuring cost recoupment is being done in a consistent manner across councils.

9. **Would IPART's proposed approach be preferable to audits of local councils' DWM charges by OLG?**

Broad pricing principles could be used in conjunction with annual audits. As commented in response to Question 7, reporting could be useful, and benchmarking would be interesting but should not be used as a tool to achieve consistency.

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10. **Are there any issues that should be considered with regards to developing an online centralised database for all NSW councils' DWM charges to allow councils and ratepayers to benchmark council performance against their peers?**

We do not see issue with a central database, as long as the collation of the database does not require any additional reporting by councils.

It is further noted that generally councils would compare themselves with neighbouring and / or similar councils. Comparisons with very different council is generally not useful. Accordingly, potentially there is not much benefit in collating all councils' information, given the same information is available in each council's Operational Plan.

• **Proposed Pricing Principles**

Box 3.1 IPART's proposed key pricing principles for DWM charges set by councils

- 1. DWM charges should reflect a 'user pays' approach**
 - ▼ DWM charges should recover the costs of providing DWM services, not the councils' other functions and services
 - ▼ Incremental cost allocation should be applied
 - ▼ Social programs should be funded from general rates revenue
- 2. Only reasonable cost categories should be reflected in DWM charges**
- 3. DWM charges should reflect efficient costs**
- 4. DWM charges should be transparent**
 - ▼ To assist local councils
 - ▼ To assist customers
- 5. DWM charges should seek to ensure price stability**

11. **Do you agree with IPART's proposed pricing principles? Why/why not?**

Comments are provided for each pricing principle as in Box 3.1 above:

DWM charges should reflect a 'user pays' approach

It is agreed that customers should pay for the full reasonable costs of the DWM services they receive. It is agreed that this is important for ensuring that Councils' recover their costs, and hence are able to continue to provide appropriate levels of service. It could also result in customers face appropriate price signals, which means they are more likely to efficiently use DWM services over time (although this also largely depends on how DWM charges are structured).

It is agreed that the 'full cost' represents the value of all the resources used in the provision of a service – including the costs of preventing, collecting and disposing waste, complying with any environmental or other regulatory requirements in the supply of the service. In addition to the costs directly associated with the service, the full cost includes an appropriate allocation of indirect costs. Capital costs associated with the DWM service should also be recouped.

Costs of providing the various waste services should be able to be separately identified; however the annual waste charge should be able to be "packaged" in one fee to reflect the full cost of providing DWM services.

We agree with applying an incremental approach for the inclusion of direct costs.

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We strongly oppose the proposed incremental cost allocation of corporate overheads. The very nature of costs generally allocated as overheads is such that these costs cannot be directly and specifically attributed to a service. In practice there is no identifiable single resource reduction that would occur if a service did not exist. In the case of Hawkesbury council for example we have a People and Development team consisting of a team of 3.5 full time equivalents. Should the DWM service not exist there will not be a reduction of resources in this team, rather a proportion of the team's team that would be freed up. Calculating the exact proportion would also be problematic as time consumed dealing with a particular service will vary depending on what is occurring within the team. In one month there could be an industrial matter relating to the service, or in another month there could be a disciplinary issue being dealt with, and then there could be time where there is no specific activity, outside of the usual processes relating to the service.

Capital Costs associated with DWM services should be recouped in full, as should depreciation.

In regard to the rate of return on assets such as a landfill, we do not support the application of the discount rate published by IPART (currently 3.6%). The rate of return on an asset such as a landfill should be reflective of a commercial rate of return that a council would be required to pay if it disposed of its waste at a commercial waste facility other than its own. The rate of return should reflect the opportunity costs and risks associated with the investment, same as a commercial rate of return would.

*Any social program associated with domestic waste management, that is funded by Council should **not** be funded by general rates. We do not support this component of the proposed pricing principles.*

Only reasonable cost categories should be reflected in DWM charges - service costs that are not included in reasonable costs

It is agreed that any waste management program funded by government initiatives such as Waste Less, Recycle More initiative is not included in the costs recovered to provide the DWM service.

DWM charges should reflect efficient costs

Same as for any other service being provided, a council should be seeking the most cost effective way to provide the DWM service. For each council the manner by which cost effectiveness is maximised is different. As stated earlier in this submission benchmarking should not be used as a tool to achieve consistency. Differences in costs are not necessarily an indication of efficiency, but rather a reflection of the specific circumstances of each council and service levels provided. For example, in the case of Hawkesbury City Council, it costs more to collect and transport waste simply because of the dispersed population in some of its areas.

It should be left to each individual council to determine the most cost effective way to provide the service. For some council services outsourced through competitive tender using best practice procurement approaches and processes may be the most efficient cost of providing the service, whilst an in-house model may be more efficient for another council.

It is agreed that the length of contracts and contract provisions may in some cases prevent councils from achieving efficient costs. Councils could consider different models in regard to what is outsourced and what is done / purchased in-house, but these decisions should be left to councils to make.

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DWM charges should be transparent

It is agreed that there should be transparency for ratepayers however we do not support displaying a separate charge for each of the bins. In addition to this process being practically difficult to implement due to limited room on the Rates Notice, it is also difficult and impractical to allocate direct and indirect costs to each type of bin or service.

Again, as outlined in earlier responses the ability for ratepayers to be able to compare charges between different council, may have a detrimental impact on councils being required to justify why their costs are different.

DWM charges should seek to ensure price stability

It is agreed that price stability should be aimed for. The appropriate management of the Domestic Waste Reserve, legislatively restricted for that purpose, underpins the ability for councils to be able to “smooth out” significant cost spikes in any year.

12. Are there any other pricing principles or issues that should be considered?

No further comments

13. Could a centralised database and display of key elements of all successful DWM service contracts (eg, name of tenderer, service provided and contract amount) assist councils in procuring efficient services? If not, why not?

Councils already procure outsourced DWM services through a competitive tender process. Each tender would reflect the specific council's circumstances, approach to waste management and service level expectations.

It is further to be noted that the context and situation at the time of tendering also has an impact on the end contract price. Factors having an impact include:

- The number of waste companies active in the market*
- State and National Government Policy Setting and Legislation:(e.g. National Waste Export Bans, Introduction of the Container Deposit Scheme, Energy from Waste, Mixed Waste Organics Output, Mandating Food Organics and Garden Organics)*
- The availability and location of waste infrastructure*
- International Market Forces e.g. China National Sword*

As the details within each contract would be subject to commercial confidentiality, there appears to be little point in comparing contract amounts only.

It is further noted that contracts awarded are publicised on councils' website in the GIPAA register.

oooO END OF REPORT Oooo

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Item: 199 **SS - Third Party Review - Hawkesbury River County Council - (95496, 12212)**

Previous Item:

Directorate: Support Services

PURPOSE OF THE REPORT:

The purpose of this report is to present the InConsult Pty Ltd consultant report of the review of Hawkesbury River County Council.

EXECUTIVE SUMMARY:

In June 2018 Council engaged InConsult Pty Ltd to conduct a review of Council's Corporate Risk Register, which was developed in August 2010. The project aimed to achieve a greater understanding of Council's risk exposure and the controls relied upon to reduce these risks to an acceptable level.

At its Meeting on 12 September 2018 the Audit Committee received a report on the preliminary findings of the review of the Risk Register. Those preliminary findings included the identification of specific risks including inadequate governance arrangements in relation to third party organisations, who provide services on behalf of or funded by Council.

In December 2018 the Audit Committee resolved to endorse a methodology for engaging InConsult Pty Ltd to work with Council to develop and implement a program to address potential risks across Council's operations, including governance in relation to Council's relationships with third party organisations.

This included engaging InConsult to undertake reviews of Council's third party relationships. Council subsequently endorsed the Audit Committee Minutes on 12 February 2019.

The first third party organisation reviewed was Peppercorn Services Inc which operates Council's externally funded community services. A report of the Peppercorn Services Inc review was presented to:

- The Audit Committee at its Meeting on 3 June 2020
- A Councillor Briefing Session on 18 August 2020
- Council at its Meeting on 25 August 2020.

InConsult has now carried out the review of Hawkesbury River County Council.

InConsult's review report makes 20 recommendations and uses a rating criteria of low, medium or high priority to guide Council in their implementation, the details of which can be summarised as follows:

- Two recommendations relate to Hawkesbury River County Council's Business Activity Strategic Plan and development of a service agreement.
- Three recommendations relate to the need to have a robust governance framework with supporting policies and procedures.
- Three recommendations relate to risk management.
- Three recommendations relate to business continuity planning.
- Eight recommendations relate to the Independent Planning and Reporting Framework, and transparency and engagement with constituent councils.
- One recommendation relates to environmental compliance.

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The report was:

- Presented to the Audit Committee at its meeting on 16 September 2020.
- Provided to the General Manager and the Chair of Hawkesbury River County Council

RECOMMENDATION:

That:

1. The InConsult Pty Ltd report of the third party review of Hawkesbury River County Council be received and noted.
2. The following recommendations contained in the InConsult Pty Ltd report be implemented:
 - a) Hawkesbury River County Council should consider developing a risk management policy/plan which includes a structured approach to assessing risks and controls and then ensure they are documented in a risk register.
 - b) Hawkesbury River County Council should ensure that an Audit, Risk and Improvement Committee is implemented prior to March 2021 and implement requirements in accordance with the new risk management and internal audit framework.
 - c) Hawkesbury River County Council should consider seeking support from constituent councils to assist in addressing the above recommendations
3. Council receive a report on how the remaining recommendations in the report will be implemented and appropriate time frames.
4. Council consider meeting to discuss the learnings from the reviews to date and how they might be applied to future reviews.

BACKGROUND

Council initially adopted its Risk Register in August 2010. In 2018 Council engaged InConsult Pty Ltd to undertake a review of Council's Risk Register. The purpose of the review was to better understand Council's risk exposure and controls relied upon to reduce risks to an acceptable level. The results of the review were also intended to provide assurance to management and the Audit Committee and be used to:

- Prioritise control monitoring by management
- Assist internal audit in risk-based planning
- Enable treatment plans to be monitored until implemented.

In August 2018 InConsult provided Council with preliminary findings of the Risk Register Review.

At its meeting on 12 September 2018, the Audit Committee considered the preliminary findings and resolved, in part, that the General Manager prepare a report outlining how Council might begin the process of addressing potential risks identified in the preliminary findings. These risks included governance in relation to third party organisations.

This action was endorsed by Council on 18 October 2018 (Refer Item 262, Resolution 334). At that same meeting the Audit Committee Charter was adopted. The process of addressing potential risk relates to risk management within the Audit Committee Charter, in particular Clause 7.1 which reads as follows:

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7.1 Risk Management

- *Review whether management has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of business and financial risks, including fraud.*

A report was provided to the Audit Committee at its meeting on 5 December 2018 and the Audit Committee resolved, in part, to:

- "2. *Specifically endorse the methodology outlined in the report in relation to third party relationships, in particular:*
- a. *The engagement of InConsult Pty Limited to work with Council staff to develop and implement a program to address this issue*
 - b. *Key features of the program are likely to include:*
 - i *Confirming all third party relationships that are currently in place across the organisation*
 - ii *Identifying "Best Practice" examples of third party relationships, the attributes of which can be used to evaluate the arrangements that currently exist within Council*
 - iii *Engaging with each organisation/entity to:*
 - *Explain the purpose of the project i.e. to identify and manage Council Risks in relation to the activities that the third party undertake on behalf of Council*
 - *Evaluate the third party against "Best Practice"*
 - *Identify any third party activities that have the potential to impact on Council in terms of Health and Safety, Environmental, Financial, Legal and Reputational etc.*
 - *Identify any opportunities to better manage the third party relationship and thereby mitigate potential risks going forward*
 - c. *The progression of this initiative be reported back to the Audit Committee."*

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History and Status of Third Part Audits



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Reporting of review of Hawkesbury River County Council

At its meeting on 16 September 2020 the Audit Committee considered a report on the review of Hawkesbury River County Council and resolved:

"That:

- 1. The report regarding the progress of the review of third party organisations be received and noted.*
- 2. The InConsult Pty Ltd report of the third party review of the Hawkesbury River County Council be received and noted.*
- 3. The Audit Committee note that the InConsult Pty Ltd report will be presented to a Councillor Briefing and then reported to Council."*

DISCUSSION

In carrying out the review of the Hawkesbury River County Council, InConsult undertook activities including:

- identifying and reviewing relevant Council governance and oversight standards
- reviewing applicable governance instruments, legal structure and service standards
- meeting with key Council staff, the General Manager of Hawkesbury River County Council, Council representatives on Hawkesbury River County Council - Councillors Zamprogno and Kotlash to discuss governance, risk management, challenges and risks to Council
- identifying key elements of better practice relevant to Hawkesbury River County Council and evaluating the application of Council's governance and oversight
- conducting a compliance audit of Hawkesbury River County Council's compliance to relevant governance instruments and financial requirements

The InConsult Pty Ltd report of the review of Hawkesbury River County Council is attached as Attachment 1 to this report.

The findings from the review include:

- Although Hawkesbury River County Council has most of the same legal and regulatory obligations as a general purpose council, it does not have the resources to develop or maintain a robust governance framework
- Hawkesbury River County Council does not have a number of policies, procedures and plans which should be in place for the purpose of good governance
- Hawkesbury River County Council does not have a structured approach to risk management
- There is limited reporting on the operation of Hawkesbury River County Council to constituent councils apart from the annual report.

The recommendations from the review include:

- Hawkesbury River County Council should consider developing a risk management policy/plan which includes a structured approach to assessing risks and controls and then ensure they are documented in a risk register
- Hawkesbury River County Council should ensure that an Audit, Risk and Improvement Committee is implemented prior to March 2021 and implement requirements in accordance with the new risk management and internal audit framework
- Hawkesbury River County Council should consider seeking support from constituent councils to assist in addressing the above recommendations
- Hawkesbury River County Council should consult separately and more regularly with its constituent councils as part of both the development of the annual budget, operational plan and

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associated programs of actions together with the related reporting regarding progress against these documents

- Hawkesbury River County Council should obtain legal advice as to the requirements in relation to their management of terrestrial and aquatic weeds and handling and storage of chemicals. This should include whether an Environment Protection Licence is required.

Of the 20 recommendations made by InConsult Pty Ltd the following three are categorised as high priority:

- Hawkesbury River County Council should consider developing a risk management policy/plan which includes a structured approach to assessing risks and controls and then ensure they are documented in a risk register
- Hawkesbury River County Council should ensure that an Audit, Risk and Improvement Committee is implemented prior to March 2021 and implement requirements in accordance with the new risk management and internal audit framework
- Hawkesbury River County Council should consider seeking support from constituent councils to assist in addressing the above recommendations

Council management is considering the findings, and will develop an action plan for the implementation of the recommendations.

The InConsult report has been provided to the General Manager and Chair of Hawkesbury River County Council.

Council met with the Hawkesbury River County Council General Manager, on 1 September 2020, to discuss the report, and Council anticipates that the Hawkesbury River County Council will provide a response to the report.

The Hawkesbury River County Council review was discussed at a Councillor Briefing Session on 18 August 2020. It is the second in a program of reviews and Council has the benefit of learnings from the reviews conducted so far including:

- The need to recognise the differences in the legal status and structure of organisations, for example the difference between an incorporated association and a statutory body such as a county council.
- The importance of tailoring the scope of each review, within the framework of the methodology endorsed by Council through the Audit Committee.

Councillors have also made observations about the reviews. It is not unreasonable to review the process and make any necessary adjustments.

Councillors may also wish to consider meeting to discuss the learnings from the reviews to date and how they might be applied to future reviews.

COMMUNITY ENGAGEMENT

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

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CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036

The proposal is consistent with the following Focus Area, Directions and Strategies within the CSP.

Our Community

- 2.3 Community partnerships continue to evolve - Increase the range of local partnerships and plan for the future
 - 2.3.1 Encourage and facilitate community partnerships.
 - 2.3.2 Support and expand active volunteering.
 - 2.3.3 Advocate and facilitate constructive and productive partnerships with residents, community groups and institutions.
 - 2.3.4 Develop opportunities for active involvement of residents in the management of parks and public spaces in the Hawkesbury.
- 2.4 Community wellbeing and local services - Build on a sense of community and wellbeing
 - 2.4.1 Work in partnership with government and community organisations to improve services and facilities for disadvantaged and vulnerable groups, and to build stronger and more cohesive communities.
 - 2.4.2 Provide flexible services that can adapt to changing community needs and service demands.

FINANCIAL IMPACT

There are no financial implications applicable to this report.

FIT FOR THE FUTURE STRATEGY CONSIDERATIONS

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications, outside of Council's adopted Long Term Financial Plan.

ATTACHMENTS:

- AT - 1** InConsult Pty Ltd Report on the Review of Council's Third Party Relationship with Hawkesbury River County Council - (*Distributed under separate cover*).

oooO END OF REPORT Oooo

ordinary

section 4

reports
of committees

ORDINARY MEETING

SECTION 4 – Reports of Committees

Meeting Date: 13 October 2020

ORDINARY MEETING
SECTION 4 – Reports of Committees
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SECTION 4 – Reports of Committees

Item: 200 **ROC - Environmental Sustainability Advisory Committee - 21 September 2020 - (12363, 124414, 95498)**

Directorate: City Planning

PURPOSE OF THE REPORT:

The purpose of this report is to present the Minutes of the Environmental Sustainability Advisory Committee Meeting, held on 21 September 2020.

EXECUTIVE SUMMARY:

Two matters – Items 1 and 2, contained within the minutes of the Environmental Sustainability Advisory Committee have policy or financial implications to Council. They therefore require specific consideration by Council, the details of which are discussed in the report below.

In relation to the items in General Business, as they have no policy or financial implications for Council, they are presented for information only.

RECOMMENDATION:

That in relation to the Minutes of the Environmental Sustainability Advisory Committee Meeting held on the 21 September 2020:

1. Council receive and note the minutes of the Environmental Sustainability Advisory Committee in respect to the items in General Business.
 2. Council note that the Committee Recommendations in respect to Item 1 were included as part of Council's Submission to the Draft Cumberland Plain Conservation Plan.
 3. Council endorse the Committee Recommendations in respect of Item 2, namely:
 - a) That Council consider the use of material prepared by the Renew organisation as part of Council's educational resources.
 - b) That Council investigate installing an Electric Vehicle charging station at a Hawkesbury Town Centre, as part of the Town Centres Revitalisation Liveability Project.
-

DISCUSSION

The Committee considered staff reports on a range of matters as shown in the attached minutes (Attachment 1). The following items require specific consideration by Council.

Item 1 – Draft Cumberland Plain Conservation Plan

Officers provided an overview of the Draft Cumberland Plain Conservation Plan.

Committee members discussed the reasons why this matter was referred to the Environmental Sustainability Advisory Committee.

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Concerns were raised by the Committee that there was insufficient time to review the Draft Cumberland Plain Conservation Plan, and that Committee members may not be qualified to endorse a document of this context.

Committee members were uncomfortable endorsing compulsory land acquisition and placing caveats on property, which was noted in the Committee Recommendation.

Following consideration of the matter, the Environmental Sustainability Advisory Committee resolved:

"That the Environmental Sustainability Advisory Committee:

- 1. Receive and note the Draft Cumberland Plain Conservation Plan.*
- 2. Recommend that Council endorse the submission contained in Attachment 3 to the Department of Planning, Industry and Environment for consideration in relation to the implementation of the Cumberland Plain Conservation Plan, but notes that the Environmental Sustainability Advisory Committee does not endorse compulsory land acquisition and putting caveats on property.*
- 3. Refers Council to the Nature Conservation Council for further information on biodiversity offsets, specifically:*
 - Clear objectives for protecting biodiversity are lacking*
 - There is no consideration of impacts on water quality, salinity and soil quality*
 - It does not provide absolute protection (red flags or 'no-go zones') for areas of high conservation value*
 - The like-for-like principle is undermined*
 - Supplementary measures are allowed in lieu of genuine offsets*
 - Mine site rehabilitation can be used as an offset credit*
 - Developers can pay money into a fund rather than find an appropriate offset site*
 - Offset obligations can be 'discounted' under the discretion of the Minister*
 - Offset areas are not guaranteed protection in perpetuity."*

Officer Comment

It should be noted that Council was able to consider the advice from the Environmental Sustainability Advisory Committee at its Ordinary Meeting on 29 September 2020, and incorporate the advice into Council's draft submission. The position of the Committee in this respect was endorsed by Council at the Ordinary Meeting on 29 September 2020.

Item 2 - Consulting the Community - Net Zero Emissions and Water Efficiency Strategy

Council Officers provided an overview of the outcome of initial consultation associated with preparing the Draft Net Zero Emissions and Water Efficiency Strategy.

Committee members enquired whether Council was proceeding with installing an electric vehicle charging station at the Visitor Information Centre, as had been discussed at a previous Environmental Sustainability Advisory Committee Meeting. Officers advised that at this stage, Council had not resolved to install electric vehicle charging stations within the Hawkesbury. It should also be noted that appropriate sites are being investigated that can utilise a renewable power, and thereby ensure that such charging stations are delivered in a net zero emissions manner.

A suggestion was made to consider incorporating the installation of electric vehicle charging stations as part of the Town Centres Masterplan Revitalisation Project, and a recommendation was made in that respect.

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A further suggestion was made for Council to make available on Council's website, educational material produced by Renew, a national not for profit organisation that advocates for people to live sustainably. A recommendation was made by the Committee in relation to this.

Following consideration of the matter, the Environmental Sustainability Advisory Committee resolved:

"That the Environmental Sustainability Advisory Committee:

- 1. Receive and note the information contained in this report.*
- 2. Recommend that Council consider the use of material prepared by the Renew organisation as part of Council's educational resources.*
- 3. Recommend that Council investigate installing an Electric Vehicle charging station at a Hawkesbury Town Centre, as part of the Town Centres Revitalisation Liveability Project."*

Officer Comment

Renew are a national not for profit organisation that advocates for people to live sustainably. Council has previously partnered with Renew to promote solar energy including through Council's engagement with the community at the Hawkesbury Show.

The outcomes of the initial consultation associated with the Draft Net Zero Emissions and Water Efficiency Strategy highlighted that the community has expressed a desire to have more educational material available. Use of materials provided by organisations such as Renew will assist Council in providing that further educational material.

There are ongoing discussions at officer level in terms of the incorporation of Electric Vehicle Charging Stations as part of the Town Centres Masterplans Project. As this project proceeds, further consideration and updates can be provided to Council and the Committee.

ATTACHMENTS:

AT - 1 Minutes of the Environmental Sustainability Advisory Committee Meeting - 21 September 2020.

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**AT - 1 Minutes of the Environmental Sustainability Advisory Committee Meeting -
21 September 2020**

Minutes of the Meeting of the Environmental Sustainability Advisory Committee held by Audio-Visual link, on 21 September 2020, commencing at 5:01pm.

ATTENDANCE

Present: Ms Olivia Leal-Walker, Community Representative, Chairperson
 Councillor Danielle Wheeler, Hawkesbury City Council
 Councillor John Ross, Hawkesbury City Council
 Mr David Gregory, Community Representative
 Ms Jennifer Moses, Community Representative
 Mr Eric Brocken, Community Representative

Apologies: Councillor Amanda Kotlash, Hawkesbury City Council, Deputy Chairperson

In Attendance: Mr Andrew Kearns, Hawkesbury City Council
 Mr Justin Murphy, Hawkesbury City Council
 Ms Megan Berrell, Hawkesbury City Council

RESOLVED on the motion of Mr Gregory and seconded by Ms Leal-Walker that the apology be accepted.

Member	16/09/2019	09/12/2019	17/02/2020	11/05/2020	21/09/2020
Ms Olivia Leal-Walker	✓	A	✓	✓	✓
Councillor Amanda Kotlash	A	✓	✓	✓	A
Councillor Danielle Wheeler	✓	✓	✓	A	✓
Councillor John Ross	✓	✓	X	✓	✓
Mr David Gregory	✓	✓	A	✓	✓
Ms Jennifer Moses	✓	✓	A	✓	✓
Dr Jane De Gabriel	Maternity Leave	Maternity Leave	Maternity Leave	Maternity Leave	Maternity Leave
Mr Eric Brocken	X	✓	✓	✓	✓
Ms Danielle Wolf	X	✓	A	<i>Resigned</i>	-

Key: A = Formal Apology ✓ = Present X = Absent - No Apology

The Chairperson opened the meeting with an Acknowledgement of Country.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Mr Gregory and seconded by Ms Leal-Walker that the Minutes of the Environmental Sustainability Advisory Committee held on the 11 May 2020, be confirmed with an amendment to the date listed in the last column of the Table of Attendance, to be 11/05/2020.

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SECTION 3 - Reports for Determination

Item: 1 **ESAC - Draft Cumberland Plain Conservation Plan - (126363, 124414, 95498)**

Directorate: City Planning

OFFICER'S RECOMMENDATION:

It is recommended that the Environmental Sustainability Advisory Committee recommend that Council endorse the submission contained in Attachment 3 to the Department of Planning, Industry and Environment for consideration in relation to the implementation of the Cumberland Plain Conservation Plan.

DISCUSSION:

- Officers provided an overview of the Draft Cumberland Plain Conservation Plan, sharing an image of the areas which have been nominated as a Strategic Conservation Area within the Hawkesbury Local Government Area.
- Committee members discussed the reasons why this matter was referred to the Environmental Sustainability Advisory Committee.
- Committee members raised concerns that there was insufficient time to review the Draft Cumberland Plain Conservation Plan, and that Committee members may not be appropriately qualified to comment on such a document of this context.
- Committee members did not endorse the compulsory land acquisition identified in the Draft Cumberland Plain Conservation Plan and placing of caveats on property, which was included in the Committee Recommendation below.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Ms Leal-Walker and seconded by Mr Brocken.

That the Environmental Sustainability Advisory Committee:

1. Receive and note the Draft Cumberland Plain Conservation Plan.
2. Recommend that Council endorse the submission contained in Attachment 3 to the Department of Planning, Industry and Environment for consideration in relation to the implementation of the Cumberland Plain Conservation Plan, but notes that the Environmental Sustainability Advisory Committee does not endorse compulsory land acquisition and placing caveats on property.
3. Refers Council to the Nature Conservation Council's paper on the issues with biodiversity offsets, specifically:
 - *Clear objectives for protecting biodiversity are lacking*
 - *There is no consideration of impacts on water quality, salinity and soil quality*
 - *It does not provide absolute protection (red flags or 'no-go zones') for areas of high conservation value*
 - *The like-for-like principle is undermined*
 - *Supplementary measures are allowed in lieu of genuine offsets*
 - *Mine site rehabilitation can be used as an offset credit*
 - *Developers can pay money into a fund rather than find an appropriate offset site*
 - *Offset obligations can be 'discounted' under the discretion of the Minister*

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- *Offset areas are not guaranteed protection in perpetuity*

Mr Gregory abstained from voting for or against the Recommendation.

SECTION 4 - Reports for Information

Item: 2 **ESAC - Consulting the Community - Net Zero Emissions and Water Efficiency Strategy - (126363, 124414, 95498)**

Directorate: City Planning

OFFICER'S RECOMMENDATION:

That the information in this report be received and noted.

DISCUSSION:

- Officers provided an overview of the outcome of initial consultation associated with preparing the Net Zero Emissions and Water Efficiency Strategy.
- Committee members enquired about whether Council was proceeding with installing an electric vehicle charging station at the Visitor Information Centre, as discussed at a previous Environmental Sustainability Advisory Committee Meeting. Officers advised that at this stage, Council has not resolved to install electric vehicle charging stations within the Hawkesbury.
- A suggestion was made to consider incorporating the installation of electric vehicle charger stations, as part of the Town Centres Masterplan Revitalisation Project, and a recommendation was made by the Committee in relation to this.
- A further suggestion was made for Council to make available on Council's website, educational material produced by the Renew Organisation, a national not for profit organisation that advocates for people to live sustainably. A recommendation was made by the Committee in relation to this.
- Committee members highlighted potential opportunities associated with the Better Buildings Partnership - Stripout Waste resource as follows:

<https://www.betterbuildingspartnership.com.au/projects/stripout-waste/>

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Ms Leal-Walker and seconded by Mr Brocken.

That the Environmental Sustainability Advisory Committee:

1. Receive and note the information contained in this report.
2. Recommend that Council consider the use of material prepared by the Renew organisation as part of Council's educational resources.
3. Recommend that Council investigate installing an Electric Vehicle charging station at a Hawkesbury Town Centre, as part of the Town Centres Revitalisation Liveability Project.

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SECTION 5 - General Business

A. "The Hawkesbury Resilience Project"

- Officers provided an overview of the Hawkesbury Resilience Project, noting that this project has been impacted by circumstances surrounding COVID-19, and that investigations are underway to determine appropriate methods for conducting community engagement in a safe manner.

B. Western Sydney Regional Organisation of Councils - Heat Smart Project

- Officers provided an overview of the Heat Smart Project, highlighting that Council is part of the successful grant funded project through the Western Sydney Regional Organisation of Councils.
- Officers advised that the number one risk in Metropolitan Sydney is heatwaves and extreme heat. The Heat Smart Project will provide information to assist vulnerable areas during heat related events.
- Committee members highlighted that the Regional Landcare Group is seeking interest for a hydration project using organic methods, as well as the Waste Management Advisory Committee's composting working group. There was also reference made to a temperature monitoring program being conducted by the Western Sydney University, which involves the installation of temperature sensors across the Campbelltown Local Government Area.

C. Update on the Western Sydney Regional Organisation of Councils - Urban Heat and Land Use Planning Project

- Officers provided an update on the Urban Heat and Land Use Planning Project, highlighting that the Committee will be informed of the key outcomes once available.
- Committee members highlighted the importance of the interconnections of the Hawkesbury Resilience Project, the Heat Smart Project and the Urban Heat and Land Use Project. Officers clarified that these projects are all through the Western Sydney Organisation of Councils and essentially the same Council Officers have been attending all three projects.

D. The Climate Reality Project Presentation

- Officers advised that Council's Environmental Sustainability Coordinator was recently accepted into the online Global Climate Reality Leadership Corps training offered through the Climate Reality Project.
- Council's Environmental Sustainability Coordinator will provide a Climate Reality Project presentation at a future Environmental Sustainability Advisory Committee Meeting.
- Committee members passed on their congratulations for the achievement of being accepted into the Global Climate Reality Leadership Corps. It was suggested to also share this presentation with all Councillors at a Councillor Briefing Session, or by extending an invitation to all Councillors to attend the next Environmental Sustainability Advisory Committee Meeting.

ADDITIONAL GENERAL BUSINESS

- The following projects were highlighted by the Committee:
 - NAIDOC Week - In My Blood It Runs.
 - Endeavour Energy - Power Saver App.
 - Western Sydney University - Waterkeepers Project. Officers noted that Council's Environmental Sustainability Coordinator is attending the workshop for this.

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- Lyttleton Gardens - Farm it Forward Project, to encourage new farmers.

The meeting terminated at 6:21pm.

oooO END OF REPORT Oooo

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SECTION 4 – Reports of Committees
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Item: 201 **ROC - Floodplain Risk Management Advisory Committee - 24 September 2020**
 - (86589, 124414, 95498)

Directorate: City Planning

PURPOSE OF THE REPORT:

The purpose of this report is to present the Minutes of the Floodplain Risk Management Advisory Committee Meeting, held on 24 September 2020.

EXECUTIVE SUMMARY:

Three matters – Items 1 and 2, and the additional item in General Business (Issues with Utilities West of the River in Flood Events) contained within the minutes of the Floodplain Management Advisory Committee have policy or financial implications to Council. They therefore require specific consideration by Council, the details of which are discussed in the report below.

In relation to Items 3, 4 and the remaining items in General Business, as they have no policy or financial implications for Council, they are presented for information only.

RECOMMENDATION:

That in relation to the Minutes of the Floodplain Risk Management Advisory Committee Meeting held on the 24 September 2020:

1. Council receive and note the minutes of the Floodplain Risk Management Advisory Committee in respect to Items 3, 4 and the remaining items in General Business.
 2. Council note that the Committee Recommendation in respect to Item 1 will be considered by Council as part of a Post Exhibition Report on the Draft Flood Policy 2020.
 3. Council endorse the Committee Recommendations in respect of Item 2, namely:
 - a) That Council seek an update from relevant organisations with respect to the previous request to place a river height gauge in South Creek, within the Hawkesbury Local Government Area.
 - b) That Council request the data from the river height gauge located at Yarramundi (#2122001) be made available.
 4. Council endorse the Committee Recommendations in respect of the additional item raised in General Business (Issues with Utilities West of the River in Flood Events), namely:
 - That the Mayor invite the Deputy Mayor as Chair of the Floodplain Risk Management Advisory Committee to participate in the next meeting with the local member, Robyn Preston, with the purpose of briefing her on the power, water, sewerage and communication issues faced by those West of the Hawkesbury River in the event of a moderate or major flood with the intention of eliciting her support in prosecuting the argument for the State Government to take steps to ameliorate those issues.
-

ORDINARY MEETING
SECTION 4 – Reports of Committees
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DISCUSSION

The Committee considered staff reports on a range of matters as shown in the attached minutes (Attachment 1). The following items require specific consideration by Council.

Item 1 – Draft Flood Policy 2020

Officers provided an overview of the Draft Flood Policy 2020, noting that it was a consolidation of the two existing flood related policies of Council that had been reviewed, and that previous input provided by the Committee had been included.

The SES provided the Committee with an update on the process associated with the FEM2 project (flood evacuation modelling), which includes evaluating climate change models to 2040 and running various scenarios across a high number of different floods. It was noted that the outcomes of this exercise will feed into the Strategic Land Use Framework and Regional Flood Evacuation Strategies, and that both were dependent on the outcomes of the FEM2 project.

It was noted that FEM2 is a risk based approach that identifies the highest risks and identifies sites and locations where the greatest controls are needed.

Following consideration of the matter, the Floodplain Risk Management Advisory Committee resolved:

That the Floodplain Risk Management Advisory Committee endorse the Draft Flood Policy 2020.

Officer Comment

It should be noted that Council will consider a Post Exhibition Report on the Draft Flood Policy 2020, and that the recommendation of the Floodplain Risk Management Advisory Committee will be considered as part of that report.

Item 2 - Updated Hawkesbury-Nepean Flood Emergency Sub Plan

Officers provided an overview of the updated Hawkesbury-Nepean Flood Emergency Sub Plan, noting that this is a publically available document on the Resilience NSW website. The Plan also sets the emergency risk context, and includes the following themed approach:

- Prevention (Floodplain Management, Regional Land Use Planning, Evacuation Routes)
- Preparedness (Emergency planning, operational readiness, community resilience)
- Response (Operations, coordination, information and warnings)
- Recovery Arrangements

The series of relevant documents in this respect include:

- Hawkesbury-Nepean Flood Emergency Sub Plan
- Annex A – Hazard and Risk in the Hawkesbury-Nepean Valley
- Annex B – Flood Warning Gauges
- Annex C – Sectors, Sub Sectors and Strategy selection considerations
- Annex D – Evacuation Management Arrangements
- Annex E – Flood Rescue Arrangements
- Annex F – Resupply Arrangements
- Annex G – Dam Emergency Arrangements
- Annex H – Managing Transport Impacts

It was noted that the Sub Plan was released in June 2020, and that the updated version has consolidated evacuation management to show the sequence and managing road networks.

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It was highlighted that Annex C (Sectors) and Annex D (Evacuation Management Arrangements) will be amended, with a fairly extensive revision to the sub-sectors expected. It was also outlined that as new information becomes available amendments will be made on a more regular basis rather than every 5 years as has previously been the case.

Committee members raised the matter of the need for a river height gauge in South Creek, within the Hawkesbury Local Government Area, noting that following a Committee recommendation an approach had been made to the Bureau of Meteorology in this respect. The Committee made a recommendation in terms of following this matter up with relevant organisations.

Discussion also took place regarding the timing of closure of bridges in the Hawkesbury during flood events, noting that Annex H (Managing Transport Impacts) provides further details in respect. A representative from the SES explained that the timing for closure of bridges is highly dependent on the conditions at the time, noting that each flood is different, and factoring in a number of considerations including debris in the river.

It was noted that Annex H (Managing Transport Impacts) currently reflects the old Windsor Bridge, but will be updated given that the new Windsor Bridge is operational.

Committee members highlighted that access to information from the river height gauge at Yarramundi (#2122001) on the Bureau of Meteorology site wasn't currently available. It was determined that the information for this gauge was still available on the Water NSW website under real time data, but unless the actual Gauge Number was known it was difficult to locate this information. A recommendation was made in relation to this by the Committee.

Following consideration of the matter, the Floodplain Risk Management Advisory Committee resolved:

"That the Floodplain Risk Management Advisory Committee:

- 1. Receive and note the information contained within this report.*
- 2. Recommend that Council seek an update from relevant organisations with respect to the previous request to place a river height gauge in South Creek, within the Hawkesbury Local Government Area.*
- 3. Recommend that Council request the data from the river height gauge located at Yarramundi (#2122001) be made available."*

Officer Comment

Based on a previous recommendation from the Floodplain Risk Management Advisory Committee, Council had requested that the Bureau of Meteorology include a river height gauge in South Creek within the Hawkesbury Local Government Area. No response to that request has been received to date, and follow up correspondence can be sent to relevant organisations. Such correspondence can also highlight the issues associated with the Yarramundi gauge.

Additional General Business - Issues with Utilities West of the River in Flood Events

The issue of the impacts on utilities during times of flood was raised by a Committee Member, with a potential Notice of Motion for Councillors on the Floodplain Risk Management Advisory Committee to bring forward at an upcoming Council Meeting. The Committee made a recommendation in this respect:

"That the Floodplain Risk Management Advisory Committee recommend to Council:

That the Mayor invite the Deputy Mayor as Chair of the Floodplain Risk Management Advisory Committee to participate in the next meeting with the local member, Robyn Preston, with the purpose of briefing her on the power, water, sewerage and communication issues faced by those West of the Hawkesbury River in the event of a moderate or major flood with the intention of eliciting

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her support in prosecuting the argument for the State Government to take steps to ameliorate those issues."

Officer Comment

The issue of the impact on utilities (power, water, sewerage and communications) west of the river during flood events has been raised by the Floodplain Risk Management Advisory Committee on a number of occasions. Representations have been made to a number of state agencies and organisations in this respect. Raising the matter with the Local Member in order to highlight the impact of these issues could assist in providing action in this respect.

ATTACHMENTS:

AT - 1 Minutes of the Floodplain Risk Management Advisory Committee Meeting 24 September 2020.

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AT - 1 Minutes of the Floodplain Risk Management Advisory Committee Meeting
24 September 2020

Minutes of the Meeting of the Floodplain Risk Management Advisory Committee held by Audio-Visual link, on 24 September 2020, commencing at 4:02pm.

ATTENDANCE

Present: Councillor Mary Lyons-Buckett, Chairperson
Councillor Paul Rasmussen, Deputy Chairperson
Councillor Danielle Wheeler, Hawkesbury City Council
Councillor Peter Reynolds, Hawkesbury City Council
Ms Margaret Mackisack, Community Representative
Mr Maurice Smith, Community Representative
Mr Harry Terry, Community Representative
Mr Kim Ford, Community Representative
Mr Sadeq Zaman, Department of Planning, Industry and Environment
Mr Peter Cinque (OAM), SES
Mr Kevin Jones, SES

Apologies: Councillor Amanda Kotlash, Hawkesbury City Council
Ms Carol Edds, Community Representative

In Attendance: Mr Andrew Kearns, Hawkesbury City Council
Mr Christopher Amit, Hawkesbury City Council
Ms Jackie Carr, Hawkesbury City Council
Ms Megan Berrell, Hawkesbury City Council
Mr Stephen Yeo, Infrastructure NSW
Mr Mark Rusev, Representative of Member for Hawkesbury

RESOLVED on the motion of Councillor Rasmussen and seconded by Councillor Wheeler that the apologies be accepted.

Member	26/09/2019	05/12/2019	27/02/2020	16/04/2020	25/06/2020	24/09/2020
Councillor Mary Lyons-Buckett	✓	✓	✓	✓	✓	✓
Councillor Amanda Kotlash	A	✓	✓	A	✓	A
Councillor Paul Rasmussen	A	✓	X	✓	✓	✓
Councillor Danielle Wheeler	A	✓	✓	✓	✓	✓
Councillor Peter Reynolds	✓	✓	✓	✓	A	✓
Ms Carol Edds	✓	✓	✓	✓	✓	A
Mr Harry Terry	✓	✓	✓	✓	✓	✓
Ms Margaret Mackisack	✓	✓	✓	✓	X	✓
Mr Kim Ford	✓	✓	✓	✓	✓	✓
Mr Maurice Smith	✓	✓	✓	✓	✓	✓
Mr Kevin Jones – (SES Headquarters)	✓	X	✓	A	✓	✓
Mr Peter Cinque OAM – (SES Sydney Western Division)	X	X	✓	✓	✓	✓
Ms Robyn Preston, Member for Hawkesbury (or Representative)	✓	✓	✓	✓	A	✓
Mr Sadeq Zaman – (Department of Planning, Industry and Environment)	✓	X	✓	✓	✓	✓

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

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CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Rasmussen and seconded by Mr Terry that the Minutes of the Floodplain Risk Management Advisory Committee held on the 25 June 2020, be confirmed.

SECTION 3 - Reports for Determination

ITEM: 1 **FRMAC - Draft Flood Policy 2020 - (86589, 124414, 95498)**

Previous Item: 4, FRMAC (31 August 2017)
 3, FRMAC (19 April 2018)
 3, FRMAC (25 October 2018)
 1, FRMAC (18 April 2019)
 3, FRMAC (27 February 2020)
 1, FRMAC (16 April 2020)
 2, FRMAC (25 June 2020)

Directorate: City Planning

OFFICER'S RECOMMENDATION:

That the Floodplain Risk Management Advisory Committee endorse the Draft Flood Policy 2020.

DISCUSSION:

- Officers provided an overview of the Draft Flood Policy 2020, noting that it was a consolidation of the two existing flood related policies of Council that had been reviewed, and that previous input provided by the Committee had been included.
- The SES provided the Committee with an update on the process associated with the FEM2 project (flood evacuation modelling), which includes evaluating climate change models to 2040 and running various scenarios across a high number of different floods. It was noted that the outcomes of this exercise will feed into the Strategic Land Use Framework and Regional Flood Evacuation Strategies, and that both were dependent on the outcomes of the FEM2 project.
- It was noted that FEM2 is a risk based approach that identifies the highest risks and identifies sites and locations where the greatest controls are needed.
- It was also noted that the existing Hawkesbury- Nepean Regional Flood Study is a 1D Model and that new Hawkesbury-Nepean Flood Study is 2D.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Reynolds.

That the Floodplain Risk Management Advisory Committee endorse the Draft Flood Policy 2020.

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SECTION 4 - Reports for Information

ITEM: 2 **FRMAC - Updated Hawkesbury-Nepean Flood Emergency Sub Plan - (86589, 124414, 95498)**

Directorate: City Planning

OFFICER'S RECOMMENDATION:

That the Floodplain Risk Management Advisory Committee receive and note the information contained within this report.

DISCUSSION:

- Officers provided an overview of the updated Hawkesbury-Nepean Flood Emergency Sub Plan, noting that this is a publically available document on the Resilience NSW website. The Plan also sets the emergency risk context, and includes the following themed approach:
 - Prevention (Floodplain Management, Regional Land Use Planning, Evacuation Routes)
 - Preparedness (Emergency planning, operational readiness, community resilience)
 - Response (Operations, coordination, information and warnings)
 - Recovery Arrangements

The series of relevant documents in this respect include:

- Hawkesbury-Nepean Flood Emergency Sub Plan
 - Annex A – Hazard and Risk in the Hawkesbury-Nepean Valley
 - Annex B – Flood Warning Gauges
 - Annex C – Sectors, Sub Sectors and Strategy selection considerations
 - Annex D – Evacuation Management Arrangements
 - Annex E – Flood Rescue Arrangements
 - Annex F – Resupply Arrangements
 - Annex G – Dam Emergency Arrangements
 - Annex H – Managing Transport Impacts
- It was noted that the Sub Plan was released in June 2020, and that the updated version has consolidated evacuation management to show the sequence and managing road networks.
 - It was highlighted that Annex C (Sectors) and Annex D (Evacuation Management Arrangements) will be amended, with a fairly extensive revision to the sub-sectors expected. It was also outlined that as new information becomes available amendments will be made on a more regular basis rather than every 5 years as has previously been the case.
 - Committee members raised the matter of the need for a river height gauge in South Creek, within the Hawkesbury Local Government Area, noting that following a Committee recommendation an approach had been made to the Bureau of Meteorology in this respect. The Committee made a recommendation in terms of following this matter up with relevant organisations.
 - Discussion also took place regarding the timing of closure of bridges in the Hawkesbury during flood events, noting that Annex H (Managing Transport Impacts) provides further details in respect. A representative from the SES explained that the timing for closure of bridges is highly dependent on the conditions at the time, noting that each flood is different, and factoring in a number of considerations including debris in the river.

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- It was noted that Annex H (Managing Transport Impacts) currently reflects the old Windsor Bridge, but will be updated given that the new Windsor Bridge is operational.
- Committee members highlighted that access to information from the river height gauge at Yarramundi (#2122001) on the Bureau of Meteorology site wasn't currently available. It was determined that the information for this gauge was still available on the Water NSW website under real time data, but unless the actual Gauge Number was known it was difficult to locate this information. A recommendation was made in relation to this by the Committee.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Ford, seconded by Councillor Rasmussen.

That the Floodplain Risk Management Advisory Committee:

1. Receive and note the information contained within this report.
2. That Council seek an update from relevant organisations with respect to the previous request to place a river height gauge in South Creek, within the Hawkesbury Local Government Area.
3. That Council request the data from the river height gauge located at Yarramundi (#2122001) be made available.

ITEM: 3 **FRMAC - Floods The Risk is Real Awareness Campaign - (86589, 124414, 95498)**

Directorate: City Planning

OFFICER'S RECOMMENDATION:

That the Floodplain Risk Management Advisory Committee receive and note the information contained within this report.

DISCUSSION:

- Officers provided an overview of the SES – Floods. The Risk is Real Awareness Campaign.
- There were no further comments raised by the Committee.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Terry, seconded by Councillor Reynolds.

That the Floodplain Risk Management Advisory Committee receive and note the information contained within this report.

ORDINARY MEETING
SECTION 4 – Reports of Committees
Meeting Date: 13 October 2020

ITEM: 4 **FRMAC - FMA Quarterly Meeting 20 August 2020 - (86589, 124414, 95498)**

Directorate: City Planning

OFFICER'S RECOMMENDATION:

That the information be received and noted.

DISCUSSION:

- Officers provided an overview of the Minutes from the FMA Quarterly Meeting held 20 August 2020, noting the matters of interest to Committee Members, including agency updates from the Department of Planning, Industry and Environment, Bureau of Meteorology (La Nina alert) and presentation from the Insurance Council of Australia regarding flood insurance in Australia.
- There were no further comments raised by the Committee.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Reynolds, seconded by Mr Terry.

That the information be received and noted.

SECTION 5 - General Business

A. Update on Disaster and Emergency Dashboard

- Officers provided an update on and a live demonstration of the Hawkesbury Disaster and Emergency Dashboard.
- There were no further comments raised by the Committee.

B. Transport for NSW Regional Flood Evacuation

- Officers provided an overview of the Transport for NSW Regional Flood Evacuation.
- There were no further comments raised by the Committee.

ADDITIONAL GENERAL BUSINESS

Issues with Utilities West of the River in Flood Events

- The issue of the impacts on utilities during times of flood was raised by a Committee Member, with a potential Notice of Motion for Councillors on the Floodplain Risk Management Advisory Committee to bring forward at an upcoming Council Meeting. The Committee made a recommendation in this respect.

ORDINARY MEETING
SECTION 4 – Reports of Committees
Meeting Date: 13 October 2020

COMMITTEE RECOMMENDATION:

MOVED by Mr Terry and seconded by Ms Mackisack.

That the Floodplain Risk Management Advisory Committee recommend to Council:

That the Mayor invite the Deputy Mayor as Chair of the Floodplain Risk Management Advisory Committee to participate in the next meeting with the local member, Robyn Preston, with the purpose of briefing her on the power, water, sewerage and communication issues faced by those West of the Hawkesbury River in the event of a moderate or major flood with the intention of eliciting her support in prosecuting the argument for the State Government to take steps to ameliorate those issues.

Unanimously in favour.

The meeting terminated at 5:07pm.

oooO END OF REPORT Oooo

ordinary

section 5

notices of motion

ORDINARY MEETING
SECTION 5 – Notices of Motion
Meeting Date: 13 October 2020

ORDINARY MEETING
SECTION 5 – Notices of Motion
Meeting Date: 13 October 2020

SECTION 5 – Notices of Motion

Item: 202 **NM1 - Management of Council Reserves - (79351, 125612)**

Submitted by: Councillor Lyons-Buckett

NOTICE OF MOTION:

That Council prepare a report regarding the possibility of including funds in the Operational Plan for additional resources to be put towards management of our reserves on weekends and public holidays. This would include, but not be limited to, traffic and parking management and increased frequency of waste collection.

BACKGROUND

There is a significant increase in visitors to our local government area, particularly to popular reserves. This increase gives rise to the need for more frequent collection of onsite bins at reserves, as well as the need for management of parking and traffic hazards in popular recreation and tourist areas.

To ensure the safety of our residents and our visitors, and to minimise the impact on our natural environment, it would be advantageous to allocate more resources to enable this to occur.

FINANCIAL IMPACT

The matters raised in this report have direct financial implications. The expenditure applicable is not provided for in the 2020/2021 Adopted Operational Plan and will need to be addressed as part of the next Quarterly Budget Review.

NOTE BY MANAGEMENT

A report can be brought back for with information in relation to costs and funding options, potential implementation, staffing and if there are additional approvals required in terms of traffic management and parking. In addition staff can undertake preliminary assessment to see if this is an ongoing issue or intermittent.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

ORDINARY MEETING
Confidential Reports
Meeting Date: 13 October 2020

CONFIDENTIAL REPORTS

Item: 203 **NM2 - Possible Acquisition of Property - (79351, 138883)**

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 potential purchase of property by the 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
Confidential Reports
Meeting Date: 13 October 2020

Item: 204 **CP - Hawkesbury Local Environmental Plan and Development Control Plan Review Reference Group - (95498, 124414)**

Previous Item: 146, Ordinary (11 August 2020)

Directorate: City Planning

REASON FOR CONFIDENTIALITY

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

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(a) of the Act as it relates to personnel matters concerning particular individuals (other than Councillors).

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



ordinary
meeting

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