



# Hawkesbury City Council

## ordinary meeting business paper

date of meeting: 10 May 2016

location: council chambers

time: 6:30 p.m.



# mission statement

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

## **How Council Operates**

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

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

Ordinary Meetings of Council are generally held on the second Tuesday of each month (except January), and the last Tuesday of each month (except December), meeting dates are listed on Council's website. The meetings start at 6:30pm and are scheduled to conclude by 11pm. These meetings are open to the public.

When an Extraordinary Meeting of Council is held, it will usually also be held on a Tuesday and start at 6:30pm. These meetings are also open to the public.

### **Meeting Procedure**

The Mayor is Chairperson of the meeting.

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

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

### **Public Participation**

Members of the public can register to speak on any items in the business paper other than the Confirmation of Minutes; Mayoral Minutes; Responses to Questions from Previous Meeting; Notices of Motion (including Rescission Motions); Mayoral Elections; Deputy Mayoral Elections; Committee Elections and Annual Committee Reports. To register, you must lodge an application form with Council prior to 3pm on the day of the meeting. The application form is available on Council's website, from the Customer Service Unit or by contacting the Manager - Corporate Services and Governance on (02) 4560 4444 or by email at [council@hawkesbury.nsw.gov.au](mailto:council@hawkesbury.nsw.gov.au)

The Mayor will invite registered persons to address the Council when the relevant item is being considered. Speakers have a maximum of three minutes to present their views. The Code of Meeting Practice allows for three speakers 'For' a recommendation (i.e. in support), and three speakers 'Against' a recommendation (i.e. in opposition).

Speakers representing an organisation or group must provide written consent from the identified organisation or group (to speak on its behalf) when registering to speak, specifically by way of letter to the General Manager within the registration timeframe.

All speakers must state their name, organisation if applicable (after producing written authorisation from that organisation) and their interest in the matter before speaking.

## **Voting**

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

## **Planning Decision**

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

## **Business Papers**

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

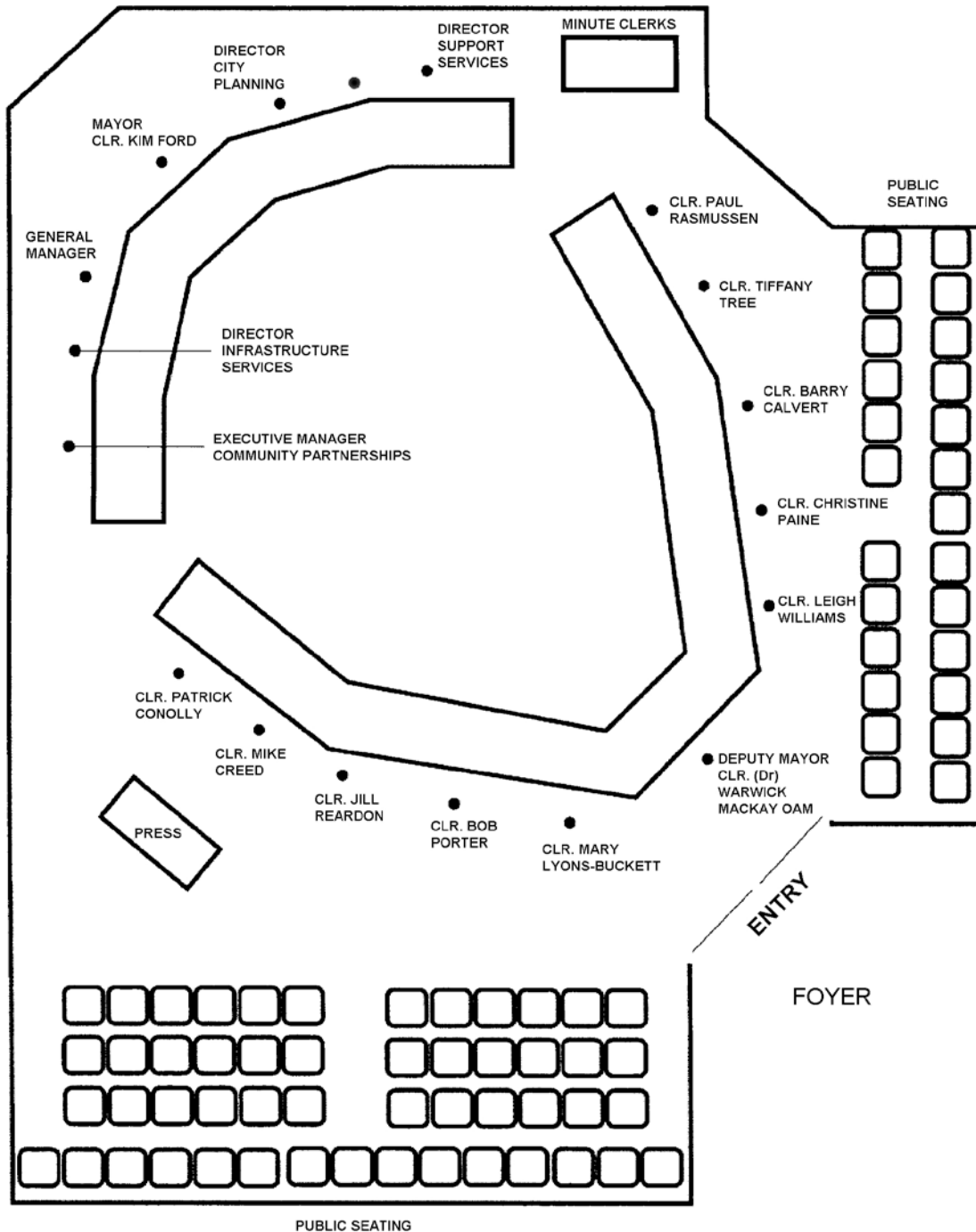
Hard copies of the business paper can be viewed at Council's Administration Building and Libraries after 12 noon on the Friday before the meeting, and electronic copies are available on CD to the public after 12 noon from Council's Customer Service Unit. The business paper can also be viewed on the public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

## **Further Information**

A guide to Council Meetings is available on the Council's website. If you require further information about meetings of Council, please contact the Manager, Corporate Services and Governance on, telephone (02) 4560 4444.



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### SECTION 3 - Reports for Determination

#### PLANNING DECISIONS

**ITEM: 74**                      **CP - Development Application - Subdivision - Torrens Title Subdivision to Create Two Lots - 85 London Place, Grose Wold - (DA0453/15, 95498, 28635)**

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#### Development Information

**File Number:** DA0453/15  
**Property Address:** 85 London Place, Grose Wold  
**Applicant:** Mrs J C and Dr D T Fraser  
**Owner:** Mrs J C Fraser  
**Proposal Details:** Subdivision – Torrens title subdivision to create two lots  
**Estimated Cost:** \$1,000  
**Zone:** RU4 Primary Production Small Lots  
**Date Received:** 22 July 2015  
**Advertising:** 7 to 21 August 2015

**Key Issues:**

- ◆ Environmental Constraint Area
- ◆ Flora and Fauna Impacts
- ◆ Bushfire

**Recommendation:** Conditional Approval (Deferred Commencement)

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#### REPORT:

##### Executive Summary

This application seeks Council approval for a two lot Torrens title subdivision at 85 London Place, Grose Wold.

The majority of the property is identified as an 'environmental constraint area' and the application has been submitted under the Grose Wold subdivision provisions of the Hawkesbury Local Environmental Plan 2012 (HLEP 2012).

The proposed western allotment, Proposed Lot 42, does not have a minimum 1ha area clear of the mapped environmental constraint area however the subdivision is seen to be acceptable on the basis that the affected area is generally clear of significant vegetation. With amendments to reduce the size of the proposed building envelope, the development is acceptable and the submitted objection to the relevant development standard is supported.

The application is being reported to Council as the variation to the minimum allotment size exceeds 10%. It is a requirement that all objections with a variation in excess of 10% are reported to Council for determination. Should the proposal be supported it will be forwarded to the Department of Planning and Environment for concurrence.

##### Development Description

Pursuant to Section 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 this application seeks Council's approval to undertake a Torrens title subdivision to create two allotments from the subject property.

The land subject to this application currently consists of a single allotment with an area of approximately 10ha. This property contains a dwelling house, a series of outbuildings, a swimming pool and two dams.

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The submitted proposal involves the subdivision of this property to create two Torrens title allotments:

- Proposed Lot 41 which is to have an area of approximately 6.30ha. This allotment is to accommodate the existing dwelling house, outbuildings, swimming pool and central dam; and
- Proposed Lot 42 which is to have an area of approximately 3.70ha. This new allotment is to accommodate a 1,270m<sup>2</sup> building envelope, an asset protection zone and the western dam.

The majority of the property is identified as an environmental constraint area and the application has been submitted under Council's Grose Wold subdivision provisions.

### Summary Recommendation

Whilst Proposed Lot 42 does not have a minimum 1ha area clear of mapped environmental constraint area, the south-eastern portion of the site is generally clear of significant vegetation. However, the building envelope and asset protection zones nominated for this allotment exceed the requirements of the Hawkesbury Development Control Plan 2002 (HDCP 2002). To reduce the extent of the native vegetation impacted by the proposal the imposition of a 'deferred commencement' consent condition is recommended to reduce the size and length of the building envelope.

With this amendment the proposal is seen to be acceptable and the submitted objection to the relevant development standard is supported.

### Site and Locality Description

The subject land is legally known as Lot 8 in DP 786325 and has an area of approximately 10ha. This property contains a dwelling house, outbuildings, a swimming pool and two dams. The majority of the western dam is located on the neighbouring property at 77 London Place.

The dwelling house and swimming pool are located centrally within the property, immediately north of the London Place cul-de-sac. The outbuilding and garage are located on the eastern side of the property.

The property is intersected by an ephemeral creek line running from the west to the east.

The property is used for rural residential purposes. A small number of deer are kept onsite more as a hobby than an agricultural activity.

Surrounding properties are generally used for rural residential and agricultural purposes.

### Development History

Council's records indicate that the existing parcel of land was not created under Clause 4.1E of the HLEP 2012 or Clause 41AA of the Hawkesbury Local Environmental Plan 1989 (HLEP 1989). The land was not previously subject to Council's lot averaging provisions for Grose Wold.

The property was created as part of a fifteen lot Torrens subdivision with Development Consent No. DA0211/88. At the time a 10Ha minimum lot size control applied, although ten undersized lots were allowed based on the existence of already undersized allotments. There were no restrictions on the consent to prevent the future subdivision of the land.

Development Consent No. M1514/99 approved the existing dwelling house, whilst Development Consent No. DA0554/04 approved the main outbuilding (shed).

**Council Policies, Legislation, Procedures and Codes to Which the Matter Relates**

- Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

**Section 79C Matters for Consideration**

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act:

**(a)(i) Environmental Planning Instruments:**

**Hawkesbury Local Environmental Plan 2012**

The land is zoned RU4 Primary Production Small Lots and the proposed subdivision is permissible with consent subject to Clause 2.6(1) of the HLEP 2012.

Clause 4.1(3) of the HLEP 2012 establishes a minimum lot size of 4ha for the RU4 Primary Production Small Lots zone.

With an area of 6.30ha, Proposed Lot 41 which is to contain the existing dwelling house satisfies the minimum lot size requirements of the HLEP 2012.

Proposed Lot 42, which is to be provided with a building envelope, is to have an area of 3.70ha and therefore fails to comply with the HLEP 2012's minimum lot size control. However, Clause 4.1E of the HLEP 2012 provides an exception for the minimum lot size controls of Clause 4.1(3).

Clauses 4.1E and 4.6 of the HLEP 2012 are discussed below.

The allotments are seen to be of a sufficient size and width to support the rural residential use of each of the proposed allotments. Furthermore, with amendments to the size of the building envelope on Proposed Lot 42, the removal of vegetation associated with this development would generally be restricted to the provision of asset protection zones and a new driveway for the western allotment. The submitted Flora and Fauna Report details that the development of the land will have a minimal impact on threatened species, populations and endangered ecological communities.

It is therefore considered that the subdivision will achieve the objectives of the RU4 Primary Production Small Lots zone and the provisions of the HLEP 2012.

**Clause 4.1E of the Hawkesbury Local Environmental Plan 2012**

This application seeks to rely on the Grose Wold subdivision controls of the HLEP 2012. The relevant provisions of Clause 4.1E of HLEP 2012 state:

- (1) The objective of this clause is to provide an alternative method to clause 4.1 for the subdivision of land to which this clause applies in a way that ensures the protection of the Cumberland Plain Woodland.*
- (2) This clause applies to land in the area known as "Grose Wold", being the land identified as "Area B" and edged heavy yellow on the Lot Size Map.*
- (3) Development consent may be granted for the subdivision of land to which this clause applies only if:*

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- (a) *the consent authority is satisfied that the pattern of lots to be created by the subdivision and the location of any buildings on those lots will minimise the impact on any Cumberland Plain Woodland, any land in an environmental constraint area and waterways and groundwater, and*
  - (b) *the consent authority has considered a geotechnical assessment demonstrating the land is adequate for the on-site disposal of effluent in accordance with best practice, and*
  - (c) *the Cumberland Plain Woodland and any land in an environmental constraint area is retained in one lot as much as possible, and*
  - (d) *the consent authority is satisfied there will be no significant adverse impacts on Cumberland Plain Woodland or land in any environmental constraint area located downstream or surrounding the development.*
- (4) *Despite clauses 4.1, 4.1AA, 4.1A and 4.1C, if land to which this clause applies contains an environmental constraint area, development consent must not be granted for the subdivision of that lot unless:*
- (a) *the number of lots to be created for a dwelling house by the subdivision will not exceed the area of the original lot for the land to be subdivided, in hectares, divided by 4, and*
  - (b) *any lot created for a dwelling house will contain at least one hectare of land that is not in an environmental constraint area.*
- (5) *When considering a development application to which this clause relates, the consent authority must have regard to the effect the development is likely to have on the following:*
- (a) *the water quality and water quantity in the Grose River and its tributaries,*
  - (b) *the scenic quality of the area,*
  - (c) *existing riparian vegetation, the rehabilitation of local native riparian vegetation located along the Grose River and along drainage lines and creeks.*

As detailed previously in this report, Proposed Lot 41 is to have an area of 6.30ha and Proposed Lot 42 is to have an area of 3.70ha. On the basis that the minimum lot size for the area is 4Ha, Proposed Lot 42 fails to comply with this control. However, Clause 4.1E of the HLEP 2012 provides an alternative to the provisions of Clause 4.1(3).

The subject property has an area of approximately 10.0ha and based on this area Clause 4.1E(4)(a) of the HLEP 2012 allows for a two lot subdivision. The existing parcel of land was not previously subject to Council's lot averaging provisions for Grose Wold.

The subdivision layout and modified building envelope are expected to have a minimal impact on significant vegetation, riparian corridors and the creek line running through the property. The supplied Effluent Disposal Report further demonstrates that there is adequate area on Proposed Lot 42 to accommodate a future septic system.

Shale Plains Woodland (Cumberland Plain Woodland) would not be restricted to a single parcel of land however the configuration of the allotments and the location of the proposed building envelope and existing dwelling house are unlikely to significantly disturb the more significant northern and eastern vegetation. A condition requiring the fencing of native vegetation to prevent access by livestock will be imposed to minimise further impacts.

Despite this, the majority of the property is shown to contain an environmental constraint area and Proposed Lot 42 does not contain a 1ha area that is free of environmental constraint area as required under Clause 4.1E(4)(b).

An objection to this development standard has been submitted under Clause 4.6 of the HLEP 2012 arguing that strict compliance with this clause is unreasonable and unnecessary in this instance. In particular the Applicant argues that the mapped area of environmental constraint does not correspond with the actual vegetation onsite. Furthermore, the Applicant argues that the proposal will achieve the underlying objectives of Clause 4.1E of the HLEP 2012.



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Clauses 4.6(3) and (4) of the HLEP 2012 allow variations to Council's development standards to be considered where appropriate. The relevant provisions of this clause state:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

The tests outlined in *Four2Five Pty Limited v Ashfield Council [2015] NSWLEC 90* and *Wehbe v Pittwater Council [2007] NSWLEC 827* have been used in the assessment of this objection:

### The Development Standard to be varied

The proposal seeks to vary Clause 4.1E(4)(b) of the HLEP 2012 which outlines that any lot created for a new dwelling house must contain at least 1ha of land that is not in an environmental constraint area.

### Extent of Variation to the Development Standard

The majority of Proposed Lot 42 is mapped as an environmental constraint area and the proposed building envelope and asset protection zone are wholly located within this constraint area. As a result the proposal does not achieve the numerical controls of Clause 4.1E(4)(b).

The building envelope and asset protection zone has a combined area of approximately 14,492.2m<sup>2</sup> (1.49ha) and this entire area is mapped as an environmental constraint area. As a result the area of Proposed Lot 42 that is to contain a future dwelling house seeks a 100% variation to the development standard.

### Objective of the Standard

The HLEP 2012 does not provide specific objectives for Clause 4.1E(4)(b). However, Clause 4.1E(1) outlines that the objective of the wider clause is to "*provide an alternative method to clause 4.1 for the subdivision of land to which this clause applies in a way that ensures the protection of the Cumberland Plain Woodland*".

The overall clause seeks to protect remnant vegetation, in particular Shale Plains Woodland (Cumberland Plain Woodland), and other natural features within the locality. At the same time, the clause recognises the subdivision potential of the area. As opposed to requiring strict compliance with the RU4 Primary Production zone's minimum 4ha allotment size, the clause allows lot averaging to be undertaken should it be demonstrated that a better environmental outcome is to be achieved.

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### Objectives of the Zone

The HLEP 2012 provides the following objectives for the RU4 Primary Production Small Lots zone:

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.*

### Assessment

- (a) *Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

The underlying objectives of the development standard and the RU4 Primary Production Small Lots zone are relevant to the proposed development.

In this instance it is accepted, based on the findings of the submitted Flora and Fauna Report and the advice of Council's Parks Officer, that the area of Proposed Lot 42 that is to contain a future dwelling house does not contain vegetation that is representative of Shale Plains Woodland.

Clause 4.1E(4)(b) of HLEP 2012 primarily seeks to protect Shale Plains Woodland and based on the findings of the Flora and Fauna Report the proposal will not impact upon this vegetation community.

The development achieves the subdivision yield requirements of the HLEP 2012 and it is felt that it would be unreasonable to prevent the subdivision on account of Council's mapping alone. Based on the significance of the vegetation and the subdivision layout, the proposed development is seen to be acceptable and strict compliance with Clause 4.1E(4)(b) of HLEP 2012 is seen to be unreasonable.

- (b) *(b) Clause 4.6(3)(b) – Are there are sufficient environmental planning grounds to justify contravening the development standard?*

The submitted Flora and Fauna Report and the advice of the Parks Officer demonstrate that the relevant area of Proposed Lot 42 does not contain vegetation that is representative of Shale Plains Woodland or what is intended to be protected as an environmental constraint area. Given that the land could otherwise be subdivided into two lots under Clauses 4.1 and 4.6(6)(b) of the HLEP 2012 it is considered that there are sufficient planning grounds to justify the non-compliance with the development standard.

- (c) *Clause 4.6(4)(a)(ii) – Is the proposed development in the public interest? Is it consistent with the objectives of the standard and zone as set out above?*

The non-compliance with the development standard does not raise any matter of significance for State or regional planning. The relevant planning control specifically relates to the Grose Wold area and is therefore a local planning matter.

Having considered the submitted objection it is considered that the non-compliance with Clause 4.1E(4)(b) of the HLEP 2012 will not conflict with Council's subdivision, zoning or environmental protection objectives. The proposed subdivision layout achieves an acceptable environmental outcome and it is considered that the approval of this application will not diminish the significance of the development standard.

The submitted objection is seen to be well-founded and in this instance a departure from the environmental constraint area controls contained within Clause 4.1E(4)(b) of the HLEP 2012 is considered acceptable. It is therefore recommended that the objection be supported in this instance.

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

SEPP No. 44, which aims to protect the habitat of Koalas (*Phascolarctos cinereus*), applies to land within the Hawkesbury Local Government Area to which a development application has been made and that has an area of more than 1ha. Based on the area of the land, the provisions of this Policy therefore apply to the subject proposal.

Whilst Council's mapping identifies the vegetation onsite as potential Koala habitat, the Flora and Fauna Report prepared in support of the application outlines that no Koalas were observed during the fauna survey and no evidence of Koala habitation, such as scats, claw or scratch marks, were located. On this basis the subject land is not considered to comprise core koala habitat as defined by SEPP No. 44.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

Clause 7(1) of SEPP No. 55 outlines a consent authority *"must not consent to the carrying out of any development on land unless:*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

The majority of the land is vegetated and an inspection indicates that the land has primarily been used for rural residential and grazing purposes. On this basis there is no evidence to suggest that the land is contaminated. Therefore, having considered the provisions of SEPP No. 55, the land is seen to be suitable for the proposed subdivision.

#### **Sydney Regional Environmental Planning Policy No. 20 – Hawkesbury-Nepean River**

The subject land falls within the boundary of SREP No. 20. This Policy aims *"to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context"*. SREP No. 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

The land is not identified as being located within a scenic corridor or to contain a wetland.

The proposed subdivision retains the significant vegetation located onsite and no significant flora and fauna or water quality impacts are expected to be generated. Having considered the relevant matters within this Policy it is felt that the development will not significantly impact upon the environment of the Hawkesbury-Nepean River in either a local or regional context.

#### **(a)(ii) Draft Environmental Planning Instruments**

There are no draft environmental planning instruments that apply to the subject land.

#### **(a)(iii) Development Control Plans**

##### **Hawkesbury Development Control Plan 2002**

The proposed development is considered to be generally consistent with the relevant provisions of the HDCP 2002.

### **Part A Chapter 3: Notification of Development Applications**

The application was notified from 7 to 21 August 2015. No submissions were received in response to the notification of the application.

### **Part C Chapter 7 Effluent Disposal**

An Effluent Disposal Report has been submitted to demonstrate that there is adequate area on Proposed Lot 42 to accommodate a future aerated septic system.

Council's Environmental Health Officer has raised no objection to the proposal subject to the imposition of conditions.

The supplied Effluent Disposal Report demonstrates that there is adequate area on Proposed Lot 42 to accommodate a future aerated septic system. The disposal area must be located a minimum of 40m from the ephemeral creek line running through this proposed lot.

### **Part D Chapter 3 Subdivision**

Clause 3.8.1(b) of Part D Chapter 3 of the HDCP 2002 outlines that rural "*lots should be able to accommodate a building envelope of 2,000m<sup>2</sup> with a minimum dimension of 20 metres. Building envelopes should be located a minimum of 30 metres from significant trees and other significant vegetation or landscape features. Building envelopes would contain the dwelling house, rural sheds, landscaping, and on-site effluent treatment and disposal areas, and bushfire mitigation*". The vacant allotment, proposed Lot 42, is to be provided with a building envelope of 1,270m<sup>2</sup> and dimensions from 22.6m to 43.7m. However, unlike the requirements of the HDCP 2002, the proposed building envelope does not include asset protection zones, the effluent disposal area and is located within 30m of vegetation.

With the inclusion of the asset protection zone (outer protection area) the building envelope has a combined area of approximately 14,492.2m<sup>2</sup> (1.49ha), which far exceeds the requirements of the HDCP 2002. This increased size for the building may result in the removal of more vegetation than would otherwise be required.

To address this concern, and produce a development that is more in keeping with the provisions of the HDCP 2002, a reduction in the size of the building envelope is recommended via a deferred commencement consent. A reduction in the size of the building envelope will allow for the accommodation of a future dwelling house whilst also providing for the retention of the majority of vegetation, in particular the riparian corridor around the ephemeral creek.

With this amendment the proposal generally satisfies the subdivision objectives of Part D Chapter 3 of the HDCP 2002.

Council's Development Engineer has raised no objection to the proposal subject to the imposition of conditions.

### **Part E Chapter 3: Grose Wold**

The subdivision generally satisfies Part E Chapter 3 of the HDCP 2002.

#### **(a)(iv) Regulations**

These matters have been considered in the assessment of this application.

The payment of 94A Development Contributions are not required.

**(b) Likely Impacts of the Development (Environmental Impacts on both the Natural and Built Environments, and Social and Economic Impacts in the Locality)**

These matters have been considered in the assessment of this application.

Council's mapping system indicates that the land contains Shale Sandstone Transition Forest (High Sandstone Influence), which is listed as an Endangered Ecological Community under the Threatened Species Conservation Act 1995. However, the Flora and Fauna Report prepared in support of the proposal instead indicates that the western portion of the site to be disturbed does not represent any significant vegetation community, in particular Shale Plains Woodland (also known as Cumberland Plain Woodland) which is listed as a Critically Endangered Ecological Community.

The Assessment of Significance ('seven part test') provided in the Flora and Fauna Report outlines that the proposal will not have a significant impact upon the local population of the critically endangered Shale Plains Woodland. The report concludes that the development is unlikely to result in a significant impact for any listed species or communities and therefore, in accordance with the Threatened Species Conservation Act 1995, a Species Impact Statement is not required.

Council's Parks Officer has reviewed the prepared Flora and Fauna Report and inspected the property. Whilst the Parks Officer is of the view that the Flora and Fauna Report is deficient in a number of areas, the report's conclusion that the area of Proposed Lot 42 does not contain significant native vegetation is generally supported. The Parks Officer recommends a reduction in the size of the building envelope to provide a greater setback to the ephemeral creek and minimise potential vegetation loss as a result of the '10/50' rule.

With an amendment to reduce the overall size of the building envelope it is considered that the proposed development will have no significant adverse impacts upon the natural or built environments or negative social or economic impacts upon the locality.

**(c) Suitability of the Site for Development**

These matters have been considered in the assessment of this application.

The subject property has levels ranging from approximately 41m to 52m AHD and is therefore located well above the adopted 1-in-100 year flood level.

A riparian corridor of 20m is to be maintained around the ephemeral creek

The proposed development is considered suitable within the context of the locality.

**(d) Any Submissions**

The application was notified from 7 to 21 August 2015 and no submissions were received.

Internal and external referral comments are discussed further in this report.

**(e) Public Interest**

The matter of public interest has been taken into consideration in the assessment of the application.

With amendments the proposed subdivision is generally consistent with Council's planning controls. It is therefore considered that the approval of this application would be in the public interest.

**External Referrals**

Rural Fire Services – The subdivision of rural land within bushfire prone land is defined as integrated development and requires approval under Section 100B of the Rural Fires Act. To obtain this approval the application was referred to the RFS pursuant to 91A(2) of the EP&A Act.

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In response the RFS has raised no objection to the proposal and have provided their General Terms of Approval. These requirements may be included as conditions of consent.

### Financial Implications

Section 94A Development Contributions are not payable based on the supplied estimated value of works.

### Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C(1) having been taken into consideration. Having considered the submitted objection to Council's environmental constraint standards it is felt that the non-compliance with Clause 4.1E(4)(b) will not conflict with Council's subdivision and environmental protection objectives. The proposed subdivision layout achieves an acceptable environmental outcome and it is considered that the approval of this application will not diminish the significance of the development standard.

With amendments to reduce the size of the building envelope within Proposed Lot 42, the development is seen to satisfy Council's planning controls and is recommended for conditional approval.

It is recommended that Council support the application and request that the Department of Planning and Environment grant concurrence for the application. Should concurrence be granted, the application can be approved. Should concurrence not be granted, then the application must be refused. Both of these determination options may be undertaken under the delegated authority of the General Manager.

### Planning Decision

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

### RECOMMENDATION:

That:

1. Council advise the Department of Planning and Environment that it supports the objection to Clause 4.1E(4)(b) of the Hawkesbury Development Control Plan 2012 and requests that the Department issue its concurrence; and
2. Upon receipt of the concurrence, or otherwise, of the Department of Planning and Environment that the determination of Development Application No. DA0745/11 for a Torrens Title subdivision on Lot 8 in DP 786325, known as 85 London Place, Grose Wold, be delegated to the General Manager.

### ATTACHMENTS:

- AT - 1 Locality Plan.  
AT - 2 Plan of Subdivision

**Meeting Date:** 10 May 2016

**Meeting Date:** 10 May 2016

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## ORDINARY MEETING

Meeting Date: 10 May 2016

**ITEM: 75**                      **CP - Development Report - Child Care Centre - Use of Premises and Alterations and Additions to Building - 691 George Street, South Windsor - (DA0673/15, 95498, 135891)**

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### Development Information

**File Number:** DA0673/15  
**Property Address:** 691 George Street, South Windsor  
**Applicant:** Early Learning on George Pty Ltd  
**Owner:** Mr A P Nightingale and Mrs K M Nightingale  
**Proposal Details:** Child Care Centre - Use of Premises and Alterations and Additions to Building  
**Estimated Cost:** \$480,000  
**Zone:** R2 Low Density Residential  
**Date Received:** 30 October 2015  
**Advertising:** 13-27 November 2015  
**Recommendation:** Approval

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### REPORT:

#### Executive Summary

This application seeks approval for the conversion of an existing dwelling into a child care centre at 691 George Street, South Windsor.

The application proposes alterations and additions to the existing building and construction of a car parking area in order to support a maximum of 49 children.

An assessment of the application has been undertaken and it is recommended that the proposal be supported as the proposal is considered acceptable having regard to the relevant planning instruments applying to the development, including Hawkesbury Local Environmental Plan 2012 and Hawkesbury Development Control Plan 2002.

One submission has been received raising issues relating to access, traffic, noise, security, health and incompatibility with surrounding land uses. Amended details have been submitted by the applicant to address a number of these matters and have been considered in this report. There is no objection to the proposal in principal provided that the activity is operated as per the recommended conditions of consent included in this report.

This application is being reported to Council at the request of Councillor Paine.

#### Description of Proposal

Pursuant to Section 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's approval for the conversion of the existing dwelling into a child care centre at Lot 1 in DP 746717, No. 691 George Street, South Windsor.

The child care centre would provide care services for a maximum of 49 Children between the ages of two to six years of age. It is proposed that the child care centre would employ between five - seven staff and operate between 7am to 6pm Monday to Friday.

Works proposed as part of this application are detailed as follows:

- Construction of a new left in left out access driveway,
- Construction of an on-site car parking area accommodating a total of 17 spaces,
- Removal of internal walls of existing building and external alterations to provide children amenities, storage areas, rear deck and play spaces,

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- Installation of a building identification sign.

The proposed building would total 459.2m<sup>2</sup> in floor area with 384.7m<sup>2</sup> being made available to the indoor child care centre and the remainder of the floor area being used for storage purposes associated with the child care centre. The child care centre would provide 399.2m<sup>2</sup> for outdoor play spaces.

The application is supported by the following documentation:

- Statement of Environmental Effects, December 2015, prepared by Urban City Planning,
- Environmental noise impact assessment, 5752-1.1R, 30 September 2015, prepared by Benbow Environmental,
- Traffic and Parking impact Assessment Report, reference #AY150120, August 2015, prepared by Barker Ryan Stewart,

### Site and Locality Description

The site is generally rectangular in shape, totals 1642m<sup>2</sup> in area and shares a right of way with a battle-axe handle servicing the adjoining property known as lot 2 in DP 746717, No. 691A George Street, South Windsor.

The property is located on a main arterial road and surrounded by a combination of different land uses such as veterinary clinic, dwellings, animal establishments, swimming centre and rugby league ground.

The site contains an existing dwelling, garage and outbuildings.

### History of the application

- |                  |  |
|------------------|--|
| 15 November 2015 | Application notified to adjoining neighbours between 13/11/2015 - 27/11/2015. One submission received.   |
| 5 January 2016   | Additional information letter sent to applicant advising that matters concerning bushfire, access, flooding, use of first floor and public submissions are required to be addressed. |
| 20 January 2016  | Applicant submitted amended plans relocating the driveway and response to Council letter dated 5 January 2016.   |
| January 2016     | Responses received from Roads and Maritime Services concerning access.   |

### Issues Relevant to the Decision

- Traffic, noise, access and flooding.

### Recommendation

Approval subject to conditions.

### Council Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP No. 64)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan 2012 (LEP 2012)
- Hawkesbury Development Control Plan 2002 (DCP 2002)

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

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

**a. The provisions of any**

**i. Environmental Planning Instrument**

***State Environmental Planning Policy No. 55 – Remediation of Land***

Clause 7(1) of SEPP No. 55 outlines that a consent authority "must not consent to the carrying out of any development on land unless:

- "(a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

The site has historically been used for residential purposes and there is no evidence to suggest that the land has been used for any purpose that would prevent the proposal occurring onsite on the basis of potential land contamination. The land is therefore considered suitable for the proposed commercial development with regard to the provisions of SEPP No. 55.

***State Environmental Planning Policy No. 64 – Advertising and Signage***

The proposed signage is best described as business identification signage under this plan. An assessment of the proposal against the overall aims, objectives of Hawkesbury DCP and the schedule 1 assessment criteria of this plan has identified that it would be more suitable that the proposed signage be modified to be more consistent with the DCP. This has been discussed under the DCP assessment section of this report. Furthermore it is recommended that the proposed signage not be illuminated to ensure it does not have any potential impacts on traffic along the main road.

***State Environmental Planning Policy (Infrastructure) 2007***

The proposal has been referred to the RMS for comment as the application proposes a new accessway along a main arterial road and the proposed land use is identified as traffic generating development under schedule 3 of this policy. The RMS has raised no objection to the proposal and their response has been discussed further under the submissions section of this report.

***Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River***

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

***Hawkesbury Local Environmental Plan 2012***

The proposal is generally consistent with LEP 2012. An assessment of the proposed development against the relevant provisions of this plan follows:

Clause 2.2 Zoning of land to which Plan applies

The subject site is zoned R2 Low Density Residential.

Clause 2.3 Zone objectives and Land Use Table

The proposal is permitted with consent being best defined as a *child care centre* under this plan.

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The proposed development is consistent with the overall aims and objectives of the R2 Low Density Residential zone as the proposal would provide additional child care service facilities to meet the day to day needs of nearby residents.

### Clause 4.3 Height of buildings

Proposed works are below the 10m in height requirement which applies to the land.

### Clause 6.1 – Acid Sulphate Soils

The land affected by the development falls within Class 5 as identified on the Acid Sulfate Soils Planning Map. The works proposed are unlikely to lower the water table and no further investigations in respect to acid sulphate soils are required under subclause (6). The proposal is consistent with the requirements of this Clause.

### Clause 6.3 – Flood Planning

The land is identified as being on flood prone land. The relevant flood heights and levels of proposed works are summarised in the following table.

Predicted flood event per annum	Adopted flood level Australian Height Datum (AHD)	Level of proposed works
1-in-100 (1%)	17.3m AHD	18.42m AHD - Height of first floor
1-in-50 (2%)	15.7m AHD	15.62m AHD – Proposed finished floor level 15m- 15.5m AHD - Ground level around existing dwelling
1-in-20 (5%)	13.7m AHD	15m AHD - Access route to and from site and car park approximately

The proposal has been considered against the objectives and requirements of Clause 6.3 of LEP 2012 and it is noted that:

- The proposal could be designed to be compatible with the flood hazard of the land,
- The proposal would not significantly affect flood behaviour resulting in detrimental increases in potential flood affectation of other development or properties,
- Appropriate measures could be implemented to ensure the proposal does not operate in the event of a flood warning,
- The proposal would not adversely affect the environment in respect to erosion, siltation or destruction of riparian vegetation, riverbanks or watercourses, and,
- Supporting a child care centre on this property would not be likely to cause unsustainable social and economic costs to the community as a consequence of flooding.

The proposal is generally consistent with regards to Council's Development of Flood Liable Land Policy, in that:

- The application proposes to extend an existing lawful building that is not more than 3m below the 1-in-100 year flood level of the locality,
- The building would be for non-habitable (non-residential) purposes, and
- The evacuation of the property would not result in the occupants/users of the development being isolated and requiring rescue as the proposed use would not operate in the event of a flood event.

As a result of the above it is considered that the proposal is satisfactory having regard to Clause 6.3 of LEP 2012.

Clause 6.7 – Essential Services

The land has suitable access to water, electricity and sewer and the proposal would not require any significant extension or modifications to existing services.

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

There are no Draft Environmental Planning Instruments relevant to the subject land or development.

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

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

The HDCP 2002 applies to the proposal. An assessment of the proposal against the relevant provisions of this Plan follows:

Part A Chapter 3 – Notification

The application was notified in accordance with Part A Chapter 3 of the HDCP 2002 between 13/11/2015 - 27/11/2015. One submission raising objection to the proposal was received and is discussed under the submissions section of this report below.

Part C Chapter 1 – Landscaping

A concept landscaping plan has been submitted and considered to be generally consistent with landscaping in the surrounding locality.

Part C Chapter 2 – Car parking and Access

This chapter does not specify parking rates for child care centres. The traffic and parking assessment report submitted with the application identifies that the proposal to provide 17 car parking spaces would adequately cater for the development based on the estimated number of staff, children and peak periods of traffic generation.

The RMS *Guide to Traffic Generating Developments* document specifies that one space should be provided for every four children associated with a child care centre. Based on a proposal to support 49 children it would be expected that a minimum of 13 spaces would be generated as a result of the proposal, four less than what is currently proposed.

Consequently it is considered that sufficient parking would be made available for the development and the proposal to provide customer parking stacked in front of staff parking is acceptable given that the staff hours would unlikely interfere with the peak pick up and drop off times of the children.

Furthermore, the application proposes that the development would be limited to a left in and left out driveway arrangement based on the current traffic conditions along George Street. The RMS have raised no objections to the proposal based on property grounds or matters concerning traffic entering and exiting the subject site. Suitable conditions relating to the construction of access have been recommended in the report below.

Part C Chapter 2 – Signage

The application proposes a 2.3m high sign with a panel area measuring 3m wide by 1.5m high and setback 900m from the George Street frontage. The sign is consistent with the height and number of sign requirements of the DCP for residential areas, however does not comply with the maximum area requirement of 0.75m<sup>2</sup>.

Whilst it is acknowledged that there is other signage in the surrounding locality that is larger than the DCP it is considered that this is not suitable justification to support a proposed signage area of 4.5m<sup>2</sup>.

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The size of the proposed sign is considered excessive for the purposes of business identification within a residential zone. It is recommended that the proposed signage panel area be reduced by half the width and length to have a maximum width of 1.5m and height of 750mm, resulting in a total area of 1.125m<sup>2</sup> which is more consistent with the DCP. Suitable conditions have been recommended in this regard.

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

N/A

**v. Matters prescribed by the Regulations**

The EP&A Regulation 2000 outlines that the development is to:

- comply with the National Construction Code / Building Code of Australia (BCA)
- be levied against Council's S94A Development Contributions Plan (where applicable).

Suitable conditions have been recommended requiring to the proposal to comply with the BCA. It is noted that part 2.7 of Council's S94A Development Contributions Plan 2015 exempts child care centres from being levied against developer contributions.

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

Surrounding land uses consist of a mixture of commercial and residential land uses. The proposed traffic and operating hours are considered compatible with the existing context of the locality.

The application is supported by a Statement of Environmental Effects, Noise Impact Assessment report and Traffic and Parking report that confirm the proposed land use can be operated in a manner that does not raise any significant adverse impact upon the natural or built environments or negative social or economic impacts on the locality.

The proposal has been modified since the application was lodged to ensure that access is clear of adjoining property's shared access way. It would further be expected that any construction works are coordinated in a manner that does not impact this access.

The site is located along a main arterial road which is the main source of background noise levels in the locality due to the high traffic volumes associated with the road during the proposed hours of operation. The noise impact assessment report submitted confirms that the proposed building would be acceptable having regard to intrusive noise from background noise levels from the main road and that the child care centre would be able to meet the acceptable noise level guidelines for child care centres.

On balance the proposal is considered satisfactory having regard to the development operating in accordance with the information submitted with the application and compliance with the development conditions listed under the recommendation section of this report.

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

Adequate services and utilities are available to the site.

The development would not impact upon critical habitats and threatened species, populations, ecological communities and habitats as no native vegetation areas would be disturbed as a result of the proposal.

The flooding affectation of the land is not prohibitive to the proposed development as previously discussed.

The application has been referred to Council's internal Building Certifiers, Waste Management Branch and Development Engineers for comment. No objection to the proposal was raised subject to the conditions recommended in their comments.

The site is considered to be suitable for the development subject to the implementation of the conditions attached to this Report.

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

**New South Wales Road and Maritime Services.**

The application was referred to the RMS as the proposal is located along a main arterial road and identified as traffic generating development under the Infrastructure SEPP.

In their letter dated 2 December 2015 the RMS advised that there are no objections to the proposal based on property grounds provided that all structures together with improvements are within the property boundaries.

Correspondence was sent to the RMS from Council on 7 December 2015 requesting comments in respect to traffic associated with the proposal.

In their correspondence dated 8 January 2016 the RMS advised that:

*"Roads and Maritime Services raises no issue with this proposal as it will be a left in/left out only access (with a painted median on George Street). The property's vicinity to the signalised intersection is not considered to be an issue as it has a single right turn and therefore will not introduce a 'weave movement' on George Street."*

Given that the painted median on George Street is in place no road works would be required, other for the formalisation of the proposed driveway entry/exit. Consequently the proposal is satisfactory having regard to traffic along a main road. It is recommended that any consent be conditioned to require the child care centre to be limited to a left in and left out driveway design.

**New South Wales Rural Fire Service (RFS)**

The development has been identified as a special fire protection purpose and requires a bushfire safety authority to be issued under section 100B of the Rural Fires Act 1997. The application was referred to the RFS as integrated development under section 91 of the Environmental Planning and Assessment Act 1979.

In their letter of 18 December 2015 the RFS issued a bushfire safety authority without any specific conditions.

**Public Submissions**

The proposal was notified in accordance with the HDCP 2002. One submission was received in response to this notification. The matters raised in this submission are listed below:

- Use of the common right of carriage way on the adjoining property,

Comment: Since the application was lodged the applicant has amended the proposal to ensure that the access to the site will be clear of the shared right of carriage way associated with the adjoining property at the rear of the site. This ensures that the proposal could be carried out without impacting the neighbouring property with respect to access, traffic and safety matters.

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- Impact of traffic on Rifle Range Road intersection.

Comment: The application specifies that access will be limited to left in and left out arrangement and should not have any adverse impact on the neighbouring properties or traffic flow of George Street. This has been assessed by the RMS as being acceptable when considering the Rifle Range Road and George Street intersection.

It is unlikely that the traffic associated with the proposal would have a significant impact on the traffic levels of George Street which is a main arterial road and designed to cater for high traffic volumes.

- Increase in activity of noise on surrounding locality.

Comment: The acoustic issues associated with the proposal are unlikely to have an adverse impact on the surrounding locality. The acoustic report submitted confirms that the main source of background noise is generated from the main road and the noise associated with the proposal will not impact background noise levels. It is noted that the activity would not operate during the periods where background noise levels are at their lowest as the activity would occur at the same time peak traffic noise is generated.

- Privacy issues.

Comment: It is unlikely that the proposed activity would have a significant impact on the privacy of adjoining properties. Existing fencing screens the play areas and children areas from neighbouring properties. Furthermore the child care activate areas are limited to the ground floor with the first floor being used for storage purposes.

- Incompatibility with neighbouring land uses, security risk and environmental and health issues.

Comment: Whilst it is acknowledged that the proposal is adjacent to an animal training establishment, residential uses and a veterinary clinic, it is considered that the proposal could be operated in a manner that does not specifically impact these uses.

Child care centres are a permitted land use within a residential area and the traffic and noise assessment report submitted confirm that the proposal could be appropriately run without adversely impacting the surrounding locality.

The adjoining land uses are subject to their own approvals and should be run in a manner that does not impact surrounding properties whether or not the subject property is being used for a residential purpose or a child care centre. Any potential impacts adjoining uses have on the subject site would have to be investigated and it would be expected that issues in terms of potential environmental or health issues would be the responsibility of the adjoining land owners to manage and control.

### e. The Public Interest

The proposed development is consistent with the relevant legislation and policies applying to the proposal and would not have any adverse impact on the amenity of the locality. The issues raised as a result of the notification of the application have been assessed and it is considered that these matters do not warrant refusal of the application.

On this basis it is the proposed development is not considered contrary to the public interest.



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### Conclusion

An assessment of the proposal against the matters of consideration of Section 79(c) of the Environmental Planning and Assessment Act has revealed that the proposal is consistent with the relevant planning instruments and development control plans that apply to the proposal. It is recommended that the application be supported subject to the development conditions which have been included in the recommendation section of this report.

### Planning Decision

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

### RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(1)(a) of the Environmental Planning and Assessment Act 1979 approve Development Application No. DA0673/15 at Lot 1 DP 746717, 691 George Street, South Windsor for Child Care Centre - Use of Premises and Alterations and Additions to Building subject to the following conditions:

#### *General Conditions*

1. The development shall take place generally in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. The signage proposed as part of the application is not supported and must be modified to one signage panel measuring not more than 1.125m<sup>2</sup> in area and an overall sign height of 2.3m. Signage shall be for business identification purposes only, shall not include any messages, advertising or be illuminated.
3. The development shall comply with the provisions of the Building Code of Australia (BCA)/ National Construction Code.
4. No building works shall be commenced prior to the issue of an appropriate Design Compliance Certificate or a Construction Certificate.
5. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act 1979 relevant to this development to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.
7. Hawkesbury City Council is the sewer authority for this development and the approving authority for all sewer works. The applicant should seek advice from Council's Waste Management Branch prior to Applying for a construction certificate as there may be works associated with Council's sewer.
8. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.

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### ***Prior to Issue of a Design Compliance certificate***

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Design Compliance Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Design Compliance Certificate. The Design Compliance Certificate shall be obtained for the driveway and car park.

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

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

10. Construction of the access/ car park/ drainage are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director of City Planning or an Accredited Certifier.
11. The applicant shall pay a Design Compliance Certificate and Construction Compliance Certificate fee in accordance with Council's fees and charges when submitting Civil Engineering Plans to Council for approval.
12. Under the Provisions of the Roads Act, all works within the road reserve are to be approved and inspected by the road authority. On State Roads Council can approve works within the pathway area but all works within the pavement area must be approved by the Roads and Maritime Services (RMS).
13. Details of any fill material removed from or imported to the site shall be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites.
14. A Traffic Guidance Scheme/ Traffic Control Plan prepared in accordance with AS1742-3 2002 by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Maritime Service controlled roads, the Traffic Control Plan is to be approved by the Roads and Maritime Services before submission to Council.

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

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. The Construction Certificate shall be obtained prior to the commencement of any earth works or building works.

15. A Section 73 "Notice of Requirements" under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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16. Hawkesbury City Council is the sewer authority for this development. As this development involves connection to the existing sewer system, payment of the prescribed inspection fee for both internal and external sewer drainage work is required to be made prior to the issue of a construction certificate.
17. The existing building is required to be upgraded in accordance with the Performance Provisions of Building Code of Australia with regard to Part C – Fire Resistance, Protection of Openings and Separation of Classes; Part D – Access and Egress and the Access to Premises Code; and Part E - Services and Equipment.
18. Those parts of the building to be used for food preparation shall comply with Council's Code for the Construction and Fitting out of Food Premises. A specification or detailed plans indicating compliance with Council's Code for the Construction and Fitting out of Food Premises shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.
19. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.
20. The applicant shall submit to Council or the Principal Certifying Authority a report from a suitably qualified Engineer which verifies the following:
  - (a) Any damage to the proposed structure sustained in a flood will not generate debris capable of causing damage to downstream buildings or property.
  - (b) Any part of the structure at or below the 1 in 100 year flood level will be able to withstand the force of floodwaters (including buoyancy forces) and the impact of debris.
  - (c) All finishes, plant fittings and equipment subject to inundation will be of materials and functional capability resistant to the effects of inundation by floodwaters.
21. Access to the development for people with disabilities shall be provided in accordance with the Disability (Access to Premises – Buildings) Standards 2010. Details shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate for building work.
22. Plans and documentation shall be submitted to the Principal Certifying Authority demonstrating that the proposed works can comply with the recommended acoustical treatment measures specified in the Environmental noise impact assessment report, 5752-1.1R, 30 September 2015, prepared by Benbow Environmental.

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

23. At least two days prior to commencement of works, notice is to be given to Council, in accordance with the Environmental Planning and Assessment Regulation.
24. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act 1979.
25. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
26. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
  - (a) Unauthorised access to the site is prohibited.
  - (b) The owner of the site.

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- (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
  - (d) The name and contact number of the Principal Certifying Authority.
27. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan/ Traffic Control Plan.
28. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
29. The building shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the external walls under construction and in compliance with the approved plans shall be lodged with the principal certifying authority. Any easements must be shown on the Survey Certificate.
30. Should any construction vehicles be required to access the rear of the site over adjoining properties or along common rights of carriage ways the developer shall obtain appropriate owners consent and enter into an agreement with adjoining property owners to ensure that any construction works do not impeded access or result in damage to existing accessways.
31. Any part of a building below the 1:100 ARI (average recurrent interval) flood event level is to be constructed of flood compatible materials. Details of which shall be submitted to the Principal Certifying Authority prior to commencement of works.

### ***During Construction***

32. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au), see Building Developing and Plumbing then Quick Check or telephone 13 20 92.
33. Dust control measures, e.g. vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
34. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
35. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
36. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
37. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
- (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
  - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
  - (c) Builders waste must not be burnt or buried on site.

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- (d) All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
38. At all times during demolition a competent person shall directly supervise work. It is the responsibility of the person to ensure that:
- (a) Adjoining owners are given twenty four (24) hours notice, in writing, prior to commencing demolition.
  - (b) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
  - (c) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
  - (d) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
  - (e) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
  - (f) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.
  - (g) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings
  - (h) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
  - (i) All work shall be carried out in accordance with AS2601 and the Work Plan submitted with the development application.
  - (j) Unless otherwise permitted by Council, the structure is to be demolished in reverse order of construction, being progressive and having regard to the type of construction, to enable the maximum separation and recycling of demolished materials to take place.
  - (k) No material is to be burnt on site.
39. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
40. Filling shall comprise only uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material shall be provided to the Principal Certifying Authority prior to placing any fill on site.
41. Traffic Control Plan must be implemented and all devices maintained for the duration of the proposed works in compliance with the approved Traffic Control Plan.
42. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
43. The public footway shall be formed in earth and stabilised with appropriate vegetation along the road frontage of the proposed development.
44. A surcharge path sufficient to carry the 1 in 100 year storm flow to be provided across the site and a drainage easement of adequate width to be created over the surcharge path.
45. Table drains and associated drainage shall be constructed along the road frontage of the proposed development. Existing rural driveway crossing culvert is to be extended to accommodate a wider vehicle swept path for ingress and egress to/from George Street.

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46. A sealed rural footway crossing along with all necessary drainage works shall be constructed along the access strip and across the footway as required. The crossing shall be constructed in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification.
47. Inter-allotment drainage shall be provided for all lots which do not drain directly to a public road. Easements are to be created at the applicant's cost.
48. Where required arrangements are to be made for the provision of common drainage and the disposal of storm water from the site.
49. Energy dissipaters shall be constructed at the point of discharge of stormwater from the site.
50. Any fencing across the overland flow path shall be constructed so as not to impede the 1 in 100 year storm water flow.
51. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix E Civil Works Specification, Part II, Table 1.1.
52. All services or suitable conduits shall be placed prior to concrete pouring.
53. Any damage to the public infrastructure along the property frontage will be repaired by the developer at no cost to Council.
54. Off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.
55. Signage shall be erected along the driveway entrance advising people that vehicle entry/exit to the site is limited to left in and left out traffic only.
56. Disabled parking shall be provided in accordance with AS2890.6. 2009.
57. Private Accredited Certifiers do not have any authority to issue Engineering Approvals or carry out inspections for works on Public Roads under the Roads Act 1993.
58. Compliance certificates (known as Part 4A Certificates) as are to be issued for Critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 as required by section 109E (3) (d) of the Environmental Planning and Assessment Act 1979 by the nominated Principal Certifying Authority.
59. A flood warning sign of durable material shall be permanently fixed in a prominent location within the site. The sign shall advise occupants that the site may be subject to inundation during times of flood.
60. Lighting shall be installed in a manner that would avoid intrusion onto adjacent residential properties or interfere with road traffic or aircraft movements.
61. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, including a public road or place, the person causing the excavation to be made:
  - (a) must preserve and protect the building from damage; and
  - (b) if necessary, must underpin and support the building in an approved manner; and
  - (c) must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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The person acting in accordance with this Consent is liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

62. Inspections and Compliance Certificates for **sanitary drainage works** can only be conducted and issued by Hawkesbury City Council. Inspections must be conducted on the exposed pipes prior to covering.

In the case of internal and external (house service connection) drainage, the inspection must be conducted by Hawkesbury City Council's Building and Development Branch. Please phone (02) 4560-4565 to arrange inspections.

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

63. Prior to the issue of a Construction Compliance Certificate all works must be completed in accordance with the approved Design Compliance Certificate Plans, approved supporting documentation and to the satisfaction of the Principal Certifying Authority.
64. A works as executed plan and contour depth of fill plan prepared by a registered surveyor or the design engineer shall be submitted.
65. Registration on the title of any easements required.

### ***Prior to issue of an Occupation Certificate***

66. A Construction Compliance Certificate for civil works associated with the proposal shall be submitted to the Principal Certifying Authority.
67. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
68. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
69. A written clearance from Hawkesbury City Council (as the local sewer authority) that the development is suitably connected to the reticulated sewerage system, is required to be submitted to the Principal Certifying Authority prior to the issue of an interim occupation certificate.

### ***Prior to Issue of Final Occupation Certificate***

70. The applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures, emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to a building in a prominent location and maintained at all times.

### ***Use of the Development***

71. No internal or external alterations shall be carried out without prior approval of Council.
72. Hours of operation for the child care centre shall be limited to 7:00am to 6:00pm Monday to Friday.
73. A maximum of forty nine (49) children aged between 2-6 years and seven (7) staff may be accommodated within the child care centre at any one time.
74. The first floor shall not be used for residential accommodation purposes and can only be used for the storage of items associated with the child care centre.

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75. The child care centre must not operate in the event of a flood warning being issued for the locality.
76. All vehicles shall be driven in a forward direction at all times when entering and leaving the premises and shall be restricted to a left in and left out movement from George Street.
77. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval. No advertising signs or structures shall be displayed on the footpaths, pedestrian paths, roadways or on any land other than the approved development site.
78. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
79. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), does not exceed five dB(A) (LAeq) above background noise levels at any property boundary in the day, evening and night (defined by the NSW EPA Industrial Noise Policy).
80. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
81. All Fire Safety Measures are to be regularly serviced/ maintained and the owner/agent (including subsequent owners) shall certify annually that each of the fire safety measures specified in this statement has:
  - (a) Been assessed by a properly qualified person, and
  - (b) Found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.

### Advisory Notes

- \*\*\* The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- \*\*\* The application involves the change of use of the building and the sewer rate will need to change to Business Category 2 with issue of Occupation Certificate. Please contact Council's Infrastructure Services department regarding this change.
- \*\*\* The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- \*\*\* The applicant is advised to consult with the relevant:
- a) water and sewer provider
  - b) electricity provider
  - c) natural gas provider
  - d) telecommunications carrier
  - e) road authority
- regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.
- \*\*\* The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.



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\*\*\* Any activity carried out in accordance with this approval shall not give rise to offensive noise, air pollution (including odour) or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.

**ATTACHMENTS:**

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

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AT - 1 Locality Map



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AT - 2 Aerial Map



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### ITEM: 76 CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 1041 Grose Vale Road, Kurrajong - (95498, 124414)

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<b>Applicant Name:</b>	Glenn Falson Urban and Rural Planning Consultant
<b>Planning Proposal No:</b>	LEP001/16
<b>Property Address:</b>	1041 Grose Vale Road, Kurrajong
<b>Owner/s:</b>	SA Van Der Donk and RE Want
<b>Date Received:</b>	19 January 2016
<b>Current Minimum Lot Size:</b>	4 Hectare
<b>Proposed Minimum Lot Size:</b>	4,000m <sup>2</sup>
<b>Current Zone:</b>	RU4 Primary Production Small Lots
<b>Site Area:</b>	4ha
<b>Recommendation:</b>	Council support the preparation of a planning proposal to enable the subdivision of the subject site into large residential lots with a minimum lot size of not less than 4,000m <sup>2</sup> .

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## REPORT:

### Executive Summary

Council has received a planning proposal from Glenn Falson Urban and Rural Planning Consultant (the applicant) which seeks to amend the *Hawkesbury Local Environmental Plan 2012* (the LEP) to enable potential subdivision of Lot 8 DP 1009152, 1041 Grose Vale Road, Kurrajong (the subject site) into seven large residential lots with a minimum lot size of not less than 4,000m<sup>2</sup>.

This report provides Council with an overview of the planning proposal and recommends that the preparation of a planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

### Consultation

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and associated Regulations, and as specified in the 'Gateway' determination.

### Planning Proposal

The planning proposal seeks an amendment to the LEP in order to permit the subdivision of the site into seven lots with minimum lot size of not less than 4,000m<sup>2</sup>.

The planning proposal aims to achieve the above proposed outcome by amending the Minimum Lot Size Map (Map Identification No. 3800\_COM\_LSZ\_008A\_040\_20150707) of the LEP. As an alternative, the applicant suggests Council insert an appropriate provision in the LEP to limit the maximum lot yield of the subdivision of the site consistent with the planning proposal to allow the site to be subdivided into seven large rural residential lots. The applicant indicates that it may be appropriate to amend the zoning of the site to reflect the future use of the site for large lot residential purpose.

A concept plan for the proposed seven lot subdivision is attached to this report, for discussion purposes only in relation to the potential yield of the site and does not form part of the planning proposal. This concept plan shows seven large lots between 4,000m<sup>2</sup> and 9,737m<sup>2</sup>.

### Subject Site and Surrounds

The subject site is legally described as Lot 8 DP 1009152 and known as 1041 Grose Vale Road, Kurrajong. It is located approximately 850m south-west of the Kurrajong Neighbourhood Centre and opposite the intersection of Grose Vale Road and Greggs Road as shown in Figure 1.



Figure 1: Site Location

The site is also located within the Kurmond Kurrajong Investigation Area (see Figure 2).

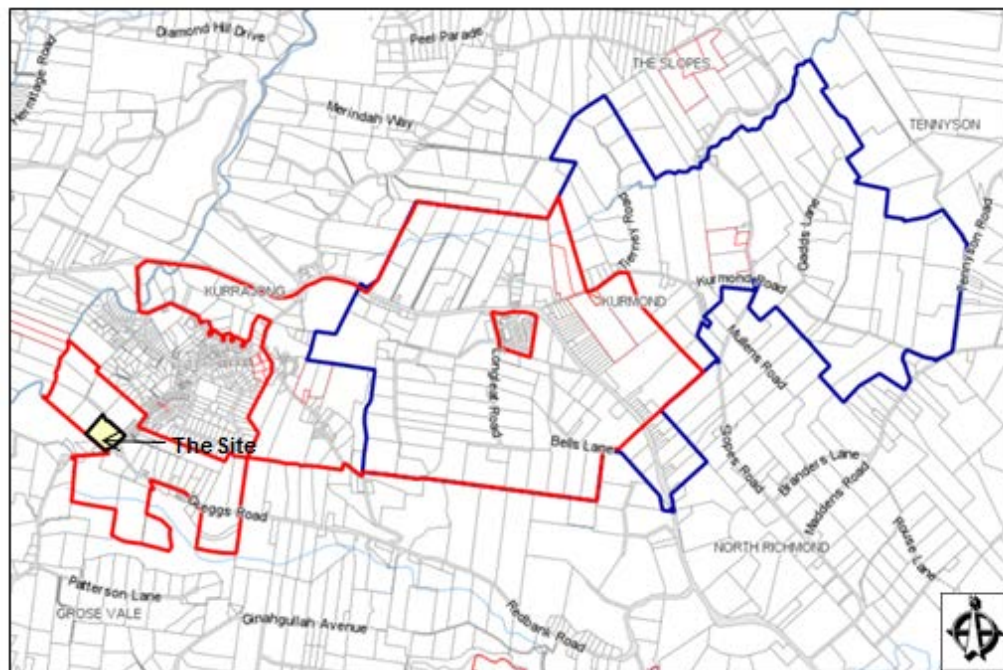


Figure 2: Site Location within Kurmond Kurrajong Investigation Area

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The site has been identified as having 'Significant Vegetation' and 'Connectivity between Significant Vegetation' on the Terrestrial Biodiversity Map. A majority of the site area fronting Grose Vale Road and a private access road forming the north-eastern boundary of the site is open grassland with a few clusters of trees near the north-western corner of the site, and a few scattered trees closer to the existing dwelling house. The site contains a large area of dense native vegetation mainly to the rear of the site and along most of the length of the natural watercourse as shown in Figure 4.





Figure 4 - Aerial View Showing Existing Vegetation

The site falls within the Colo River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997).

Based on Council's slope mapping, an area of land near the northern corner of the site, extending towards the middle of the site which contains unmanaged bushland vegetation has a slope greater than 25%, and approximately 60% of the open grass land area with some scattered trees has a slope generally less than 15%.

Properties immediately to the north, west and east of the subject site are zoned RU4 Primary Production Small Lots and properties immediately to the south are zoned RU1 Primary Production. The immediate locality is predominantly zoned RU4 Primary Production Small Lots. The current minimum lot sizes applicable for the subdivision of the immediate surrounding properties are generally in the range of 4ha to 10ha.

Land surrounding the site consists of a varied mix of lot sizes with smaller lots located immediately adjacent in Grose Vale Road and to the north in Buckett Place. Larger lots are generally located to the west and south. The immediate surrounding area of the site is predominantly characterised by rural residential development.

#### Applicant's Justification of Proposal

The applicant has provided the following justification for the planning proposal.

- *The proposed subdivision is consistent with the Hawkesbury Residential Land Strategy (HRLS).*
- *The proposed site's location and its attributes meet the future rural village development criteria identified in the HRLS.*
- *The subject site is located within the Kurmond/Kurrajong Investigation Area and is included in an investigation area map prepared by Council.*

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- *The preliminary site investigations reveal that the site is capable of subdivision into approximately seven lots that would be consistent with other lands in the vicinity, and would enable an appropriate expansion of Kurrajong Village.*
- *The proposed lot sizes are capable of containing on-site wastewater disposal system and meeting the bushfire control and vegetation management criteria.*
- *Water, electricity, telephone, garbage and recycling facilities are currently available to the site.*

### **'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy), Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy**

The NSW Government's 'A Plan for Growing Sydney' December 2014 (the Sydney Metropolitan Strategy) and Draft North West Subregional Strategy establish the broad planning directions for the Sydney metropolitan area and north-western sector of Sydney respectively. These documents identify a number of strategies, objectives and actions relating to the economy and employment, centres and corridors, housing, transport, environment and resources, parks and public places, implementation and governance.

These two documents have a high level metropolitan and regional focus and for the most part are not readily applicable to a singular rural residential planning proposal at Kurrajong. Notwithstanding this the applicant has provided an assessment of the planning proposal against these two documents and concludes that the proposal is consistent with these strategies. Taking into consideration the location of the proposed development, i.e. on the western side of Hawkesbury River and on the fringe of the Kurrajong Neighbourhood Centre, and the unsuitability of the site to provide for an increased density of housing development beyond what is proposed it is considered that the proposal demonstrates satisfactory compliance with these strategies.

The Hawkesbury Residential Land Strategy (HRLS) is in part a response to the above mentioned State strategies and seeks to identify residential investigation areas and sustainable development criteria which are consistent with the NSW Government's strategies.

The HRLS contains the following commentary and criteria regarding large lot residential / rural residential development:

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

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

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

The planning proposal can be considered as a rural residential development on the fringe of the Kurrajong Neighbourhood Centre.

The HRLS states that the future role of rural residential development is as follows:

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

- *Impacts on road networks;*
- *Servicing and infrastructure;*

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- Access to facilities and services;
- Access to transport and services;
- Maintaining the rural landscape; and
- Impacts on existing agricultural operations.

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

For the purposes of this planning proposal, the relevant criteria for rural residential development, as stated in Section 6.5 of the HRLS, are that it be large lot residential dwellings and:

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

The ability to dispose of effluent on site is discussed in later sections of this report.

The site is on the fringe of the Kurrajong Neighbourhood Centre, and is within the one kilometre radius specified in the HRLS.

As a result of perceived confusion with the HRLS criteria above, Council resolved on 24 June 2014, in part, the following:

*"That:*

- 1. The areas identified in the Hawkesbury Residential Land Strategy for large lot residential investigation be mapped to align with cadastral boundaries and form an addendum to that Strategy.*
- 2. The investigation area for Kurmond identified by Council on 5 February 2013 be reviewed and be the first area to have a development/structure plan (as described in the report) prepared."*

On the 31 March 2015 Council considered a report on the Kurrajong/Kurmond Investigation area that proposed the definition of that investigation area and resolved the following:

*"That Council adopt the investigation area as attached to this report to enable structure planning and development contributions planning for the purposes of large lot residential / rural - residential development within Kurmond and Kurrajong."*

The adopted investigation area from that resolution is shown in Figure 2 of this report. In this regard the subject land is included in this investigation area.

Relevant environmental constraints are discussed in later sections of this report.

### **Council Policy - Rezoning of Land for Residential Purposes - Infrastructure Issues**

On 30 August 2011, Council adopted the following Policy:

*"That as a matter of policy, Council indicates that it will consider applications to rezone land for residential purposes in the Hawkesbury LGA only if the application is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan, has adequately considered the existing infrastructure issues in the locality of the development (and the impacts of the proposed development on that infrastructure) and has made*

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*appropriate provision for the required infrastructure for the proposed development in accordance with the sustainability criteria contained in Council's adopted Hawkesbury Residential Land Strategy.*

*Note 1:*

*In relation to the term "adequately considered the existing infrastructure" above, this will be determined ultimately by Council resolution following full merit assessments, Council resolution to go to public exhibition and Council resolution to finally adopt the proposal, with or without amendment.*

*Note 2:*

*The requirements of the term "appropriate provision for the required infrastructure" are set out in the sustainability matrix and criteria for development/settlement types in chapter six and other relevant sections of the Hawkesbury Residential Land Strategy 2011."*

Compliance with the HRLS has been discussed previously in this report. Compliance with Council's Community Strategic Plan (CSP) will be discussed later in this report.

### **Council Policy - Our City Our Future Rural Rezoning Policy**

This Policy was adopted by Council on 16 May 1998 and had its origin in the Our City Our Future study of the early 1990s.

Since the time of adoption this Policy has essentially been superseded by subsequent amendments to *Hawkesbury Local Environmental Plan 1989*, NSW Draft North West Subregional Strategy, the *Hawkesbury Residential Land Strategy*, the *Hawkesbury Community Strategic Plan*, the commencement of LEP 2012, and the DP&E's "Gateway" system for dealing with planning proposals.

The Policy is repeated below with responses provided by the applicant and officer comments provided where relevant.

- a) Fragmentation of the land is to be minimised

#### *Applicants Response*

The land is within an area identified within the HRLS as having urban potential. Fragmentation of the land is envisaged by this subsequent strategy.

#### *Officer comment*

In this regard this part of the Policy has been superseded by the Residential Land Strategy.)

- b) Consolidation within and on land contiguous with existing towns and villages be preferred over smaller lot subdivision away from existing towns and villages.

#### *Applicants Response*

The proposal is consistent with this principle.

- c) No subdivision along main roads and any subdivision to be effectively screened from minor roads.

#### *Applicants Response*

The site does not front a main road.

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### *Officer comment*

Grose Vale Road is not a classified main road.

- d) No subdivision along ridgelines or escapements.

### *Applicants Response*

The site is not on a ridgeline or escapements.

### *Officer comment*

This part of the Policy has been superseded by the Residential Land Strategy.

- e) Where on site effluent disposal is proposed, lots are to have an area of at least one (1) hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.

### *Applicants Response*

The lots will vary in size down to a minimum of approximately 4,200m<sup>2</sup>. This is larger than the size of allotment (4,000m<sup>2</sup>) that is indicated generally by Council as being the minimum to contain on-site effluent disposal in later studies (e.g. Kurrajong Heights, Wilberforce and within the LEP generally).

### *Officer Comments*

The planning proposal is not accompanied by a wastewater feasibility assessment report demonstrating that the proposed lot sizes have the capacity to accommodate on-site sewerage management (OSSM) system.

The DP&E will consider this being one of the main constraints to overall development yield as part of their "Gateway" determination and if required can request further information/consideration of this matter.

- f) The existing proportion of tree coverage on any site is to be retained on enhanced.

### *Applicants Response*

The subdivision does not propose removal of substantial vegetation. Some under scrubbing may be required to create adequate bushfire asset protection zones, and this type of property maintenance, normally takes place irrespective of a subdivision proposal.

- g) Any rezoning proposals are to require the preparation of environmental studies and Section 94 Contributions Plans at the applicant's expense.

### *Applicants Response*

The rezoning process has altered since this policy was adopted by Council. The Gateway process dictates whether further studies are required. It is noted that Council has embarked on preparing a S94 plan which will apply to this planning proposal if finalised by the time of completion of the proposal. Alternatively a Voluntary Planning Agreement can be entered into so that an amount approximating to that which likely to be levied under a S94 plan can be provided for roads and other community infrastructure.

### *Officer Comments*

Taking into consideration the scale of the development it is considered that an environmental study is not required. However, this will be a matter for the DP&E to advise Council on as a result of their "Gateway" process.

The need for a Section 94 Contribution Plan or a Voluntary Planning Agreement can be further discussed with the applicant if this planning proposal is to proceed.

- h). Community title be encouraged for rural subdivision as a means of conserving environmental features, maintaining agricultural land and arranging for the maintenance of access roads and other capital improvements.

*Applicants Response*

The proposal is for a “normal” Torrens Title subdivision. Due to the size of the site and proposed lot layout there is no significant advantage to having a Community Title subdivision.

*Officer comments*

The Terrestrial Biodiversity Map of the LEP identifies approximately 45% of the site area as ‘connectivity between remnant vegetation’ and Endangered Ecological Communities with conservation significance and the remainder of the site area as ‘connectivity between remnant vegetation’. According to Council vegetation mapping, the site contains Blue Gum High Forest and Turpentine-Ironbark Margin Forest with conservation significance.

The planning proposal is not accompanied by a flora and fauna survey assessment report. A detailed flora and fauna assessment report along with Council’s slope mapping would help determine the area suitable for development and which title would be appropriate for the site to ensure environmental features are preserved and appropriate access arrangements to future allotments are provided. This could be determined during the post “Gateway” determination period and upon the receipt of a flora and fauna assessment report from the applicant only if it is nominated by the DP&E.

**Section 117 Directions**

The Minister for Planning, under section 117(2) of EP&A Act, issues directions that relevant planning authorities including councils must comply when preparing planning proposals. The directions cover the following broad range of categories:

- Employment and resources;
- Environment and heritage;
- Housing, infrastructure and urban development;
- Hazard and risk;
- Regional planning;
- Local plan making; and
- Implementation of a Plan for Growing Sydney.

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

However, all these Directions permit variations subject to meeting certain criteria (refer to the last part of this section of the report). The principal criterion for variation to a 117 Direction is consistency with an adopted Local or Regional Strategy. A summary of the key Section 117 Directions involves:

*Direction 1.2 Rural Zones*

Planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The applicant states that the planning proposal would either amend the Lot Size Map alone or both the Lot Size Map and the zoning of the site. Rezoning of the site to a different zone (other than RU1) is not considered appropriate. This issue is discussed in a subsequent section of the report. Therefore, the planning proposal seeks an amendment to Lot Size Map of the LEP only, and it does not contain provisions to increase the permissible density of land. It is therefore considered that the planning proposal is consistent with this Direction.

*Direction 1.3 Mining, Petroleum Production and Extractive Industries*

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the Department of Industry would be consulted seeking comments on this matter in accordance with the Direction 1.3(4).

*Direction 3.4 Integrating Land Use and Transport*

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for planning and development (DUAP 2001)

In summary this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 "Accessible Development" principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The document is very much centres based and not readily applicable to consideration of a rural residential planning proposal. The document also provides guidance regarding consultation to be undertaken as part of the planning proposal process and various investigations/plans to be undertaken. It is recommended that if this planning proposal is to proceed, Council seek guidance from the DP&E via the "Gateway" process, regarding the applicability of this document.

*Direction 4.1 Acid Sulfate Soils*

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&E.

The subject site is identified as containing "Class 5 Acid Sulfate Soils on the Acid Sulphate Soils Planning Maps contained within the LEP, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the LEP which has been prepared in accordance with the Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director General.

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soil study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act. An acid sulfate soil study has not been included in the planning proposal but the DP&E will consider this as part of their "Gateway" determination, and if required can request further information/consideration of this matter.

*Direction 4.4 Planning for Bushfire Protection*

The subject site is shown as being bushfire prone, containing Vegetation Category 1 on the NSW Rural Fire Service's Bushfire Prone Land Map. This Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

*Direction 6.1 Approval and Referral Requirements*

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This Direction requires that a planning proposal must:

- “(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
  - (i) the appropriate Minister or public authority, and*
  - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
- (c) not identify development as designated development unless the relevant planning authority:*
  - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
  - (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.”*

It is considered that the planning proposal is consistent with this Direction as it does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

*Direction 6.3 Site Specific Provisions*

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls. The planning proposal proposes an amendment to the Lot Size Map of the LEP only. It is therefore considered that the proposed amendment is consistent with this Direction.

*Direction 7.1 Implementation of ‘A Plan for Growing Sydney’*

This Direction requires planning proposals to be consistent with ‘A Plan for Growing Sydney’ (the Sydney Metropolitan Strategy) released in December 2014. ‘A Plan for Growing Sydney’ is the NSW Government’s 20-year plan for the Sydney Metropolitan Area. It provides directions for Sydney’s productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

‘A Plan for Growing Sydney’, which is one of the key issues taken into consideration in the early part of the assessment of the planning proposal which establishes that the planning proposal is consistent with this Plan.



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The Section 117 Directions do allow for planning proposals to be inconsistent with the Directions. In general terms a planning proposal may be inconsistent with a Direction only if the DP&I is satisfied that the proposal is:

- a) justified by a strategy which:
  - gives consideration to the objectives of the Direction, and
  - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
  - is approved by the Director-General of the DP&I, or
- b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this Direction, or
- c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this Direction, or
- d) is of minor significance.

The HRLS has been prepared with consideration given to the various policies and strategies of the NSW State Government and Section 117 Directions of the Minister. In this regard, a planning proposal that is consistent with the Hawkesbury Residential Land Strategy is more likely to be able to justify compliance or support for any such inconsistency.

### State Environmental Planning Policies

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land*, *Sydney Regional Environmental Plan (SREP) No. 9 - Extractive Industry (No 2- 1995)* and *(SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)*.

#### *State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)*

SEPP 55 requires consideration as to whether or not land is contaminated and, if so, is it suitable for future permitted uses in its current state or whether it require remediation. The SEPP may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The applicant states that:

*'The land has not been used for any intensive agricultural use or any other use that would suggest that remediation is required. There is no obvious evidence of surface or groundwater pollution. It is not believed that any geotechnical investigations need to be carried out at this stage for the planning proposal to proceed'. Investigations could take place if required at the time of the hydraulic assessment for effluent disposal.*

The applicant states that the site has been used for limited grazing activities for many years but does not mention whether it has been used for commercial grazing. The grazing of livestock for commercial purposes falls under the definition of 'extensive agriculture'. According to Table 1 - Some Activities that may cause contamination of Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land, agricultural activities may cause contamination.

If the planning proposal is to proceed, further consideration of potential contamination can be dealt with after the DP&E "Gateway" determination.

#### *Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) - (SREP 9)*

The primary aims of SREP 9 are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of

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regional significance and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The site is not within the vicinity of land described in Schedule 1, 2 and 5 of the SREP, nor will the proposed development restrict the obtaining of deposits of extractive material from such land.

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

The aim of SREP No 20 (No. 2 - 1997) is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the SREP encourages Council to consider the following:

- *rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna);*
- *develop in accordance with the land capability of the site and do not cause land degradation;*
- *the impact of the development and the cumulative environmental impact of other development proposals on the catchment;*
- *quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters;*
- *consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored;*
- *consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site;*
- *minimise or eliminate point source and diffuse source pollution by the use of best management practices;*
- *site and orientate development appropriately to ensure bank stability;*
- *protect the habitat of native aquatic plants;*
- *locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land;*
- *consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms;*
- *conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors;*
- *minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices;*
- *consider the impact on ecological processes, such as waste assimilation and nutrient cycling;*
- *consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas;*

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- *consider the need to control access to flora and fauna habitat areas;*
- *give priority to agricultural production in rural zones;*
- *protect agricultural sustainability from the adverse impacts of other forms of proposed development;*
- *consider the ability of the site to sustain over the long term the development concerned;*
- *maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development;*
- *consider any adverse environmental impacts of infrastructure associated with the development concerned.*

The site falls within the Colo River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997).

It is considered that future rural dwellings on the planned additional lots on an approved subdivision will comply with the relevant provisions of SREP No 20 or be able to appropriately minimise its impacts.

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

The site is zoned RU4 Primary Production Small Lots under the LEP. The current minimum lot size for subdivision of this land is 4ha.

The planning proposal seeks to amend Lot Size Map (Map Identification No. 3800\_COM\_LSZ\_008A\_040\_20150707) of the LEP to specify 4,000m<sup>2</sup> minimum lot size for the land (see Attachment 1 to this Report) which is to allow subdivision of the land into seven large lots. Given a mix of surrounding lot sizes ranging from approximately 800m<sup>2</sup> to 10ha and the proximity to the Kurrajong Neighbourhood Centre, the planning proposal seeking an amendment to the Lot Size Map of the LEP to enable the subdivision of the subject site into seven large residential lots with a minimum lot size of not less than 4,000m<sup>2</sup> is considered appropriate. However, this report does not propose to endorse any subdivision plan submitted in support of the planning proposal, hence it is not considered appropriate to support an amendment to the Lot Size Map of the LEP as proposed.

As an alternative, the applicant suggests Council insert an appropriate provision in the LEP to limit the maximum lot yield of the subdivision of the site consistent with the planning proposal to allow the site to be subdivided into 7 large rural residential lots. The DP&E will ultimately decide on the type of amendment to the LEP, however it is understood that at present the DP & E's preferred option is to amend the Lot Size Map of the LEP and not the inclusion of a clause or a provision in the LEP to limit the number of lots of subdivision of the land. It is therefore recommended that Council support the preparation of a planning proposal to amend the Lot Size Map of the LEP to allow development of the subject site for rural residential development with minimum lot size of not less than 4,000m<sup>2</sup>.

The applicant indicates that it may be appropriate to amend the zoning of the site to reflect the future use of the site for large lot residential purposes.

As shown in Figure 5, the properties to the immediate north, east and west of the site are zoned RU4 Primary Production Small Lots and the properties immediate to the south are zoned RU1 Primary Production under the LEP. Given the predominant zoning of the immediate vicinity is RU4 Primary Production Small Lots, it is not considered appropriate to amend the zoning of the site to a different zone such as R5 Large Lot Residential that will not only create a zoning anomaly in the locality, but is also inconsistent with Direction 1.2 Rural Zones. It is therefore recommended that the existing RU4 zoning of the site remains unchanged.

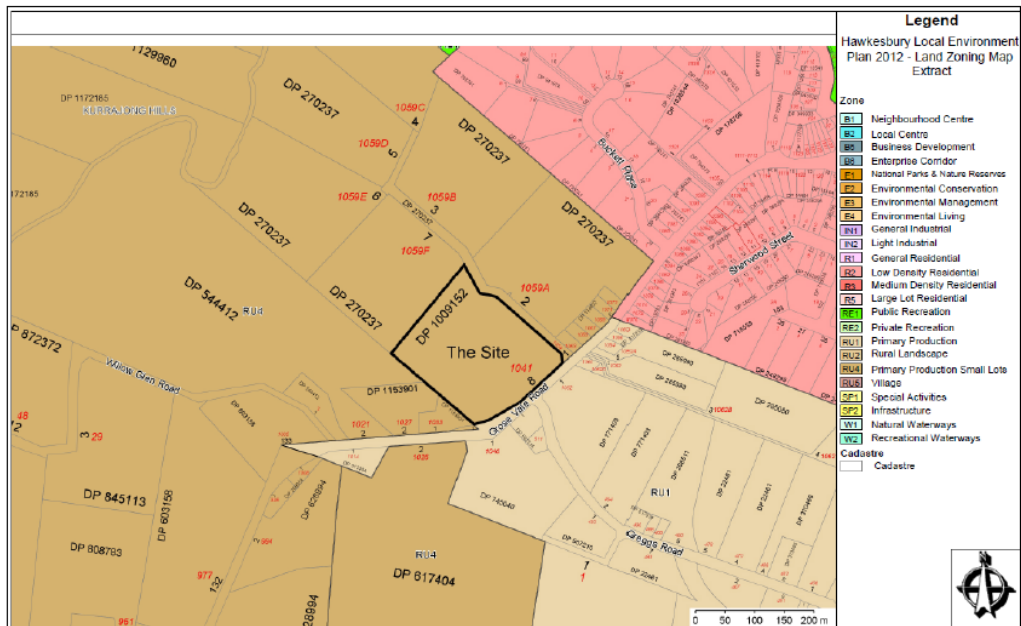


Figure 5 - Existing Zoning of the Subject Site and Surrounds

### Topography

The land has an elevation of approximately 175m AHD towards Grose Vale Road and then falls in a north-easterly direction for a distance of approximately 150m into the existing watercourse located at an elevation of approximately 150m.

Based on Council's slope mapping, an area of land near the northern corner of the site, extending towards the middle of the site which contains unmanaged bushland vegetation has a slope greater than 20%, and approximately 60% of the open grass land area with some scattered trees has a slope generally less than 15% as shown in Figure 6.

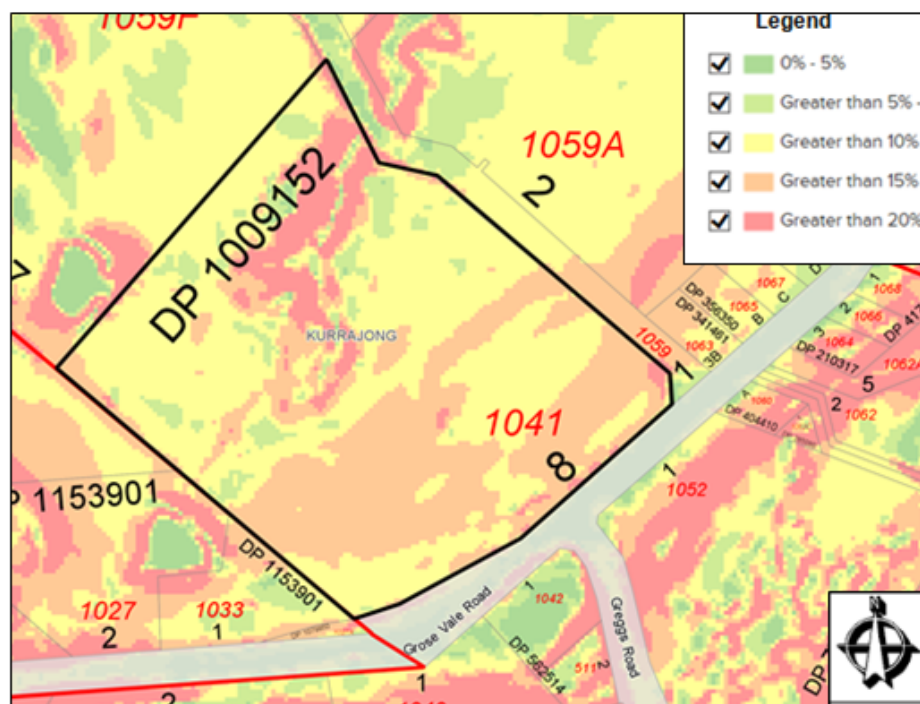


Figure 6 - Existing Slopes of the Subject Site

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The concept plan for the proposed seven lot subdivision attached to the planning proposal shows building footprints of future dwellings on the proposed seven lots. Five lots front Grose Vale Road, and the other two lots are having access handles off Grose Vale Road. Proposed Lot 65 fronting Grose Vale Road accommodates the existing house as shown in Figure 7.

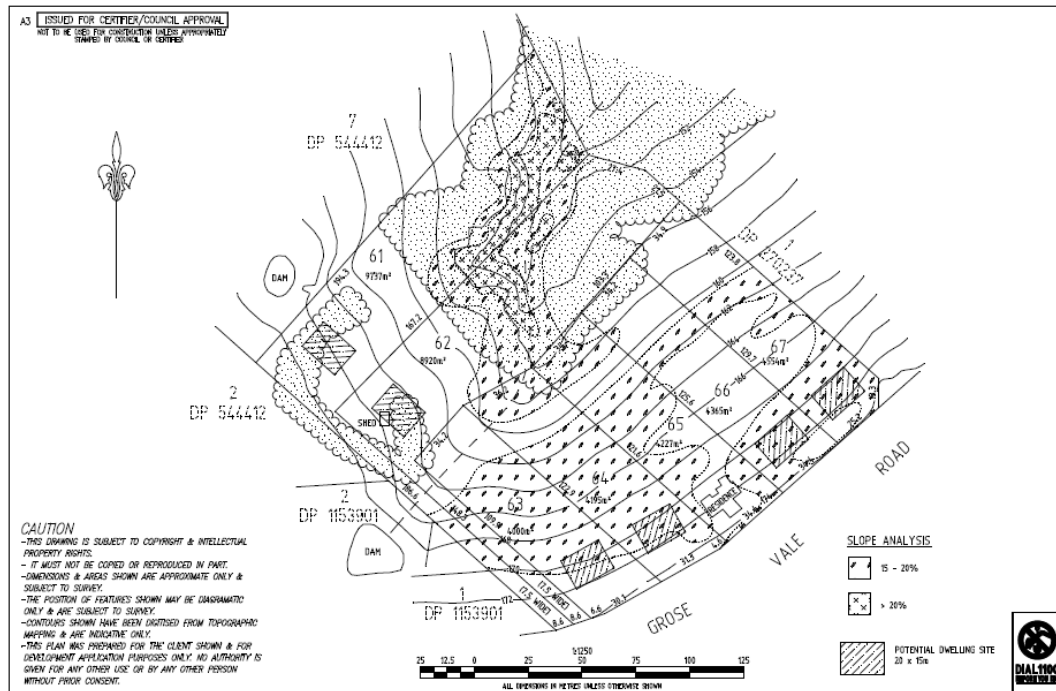


Figure 7 - Concept Subdivision Plan (Not for Determination)

The proposed lots fronting Grose Vale Road (other than Proposed Lot 65 containing the existing dwelling) has no sufficient developable areas less than 15% in slope towards Grose Vale Road, and the building footprints proposed on those lots are mainly within the slopes greater than 15% as shown in Figure 8 below.

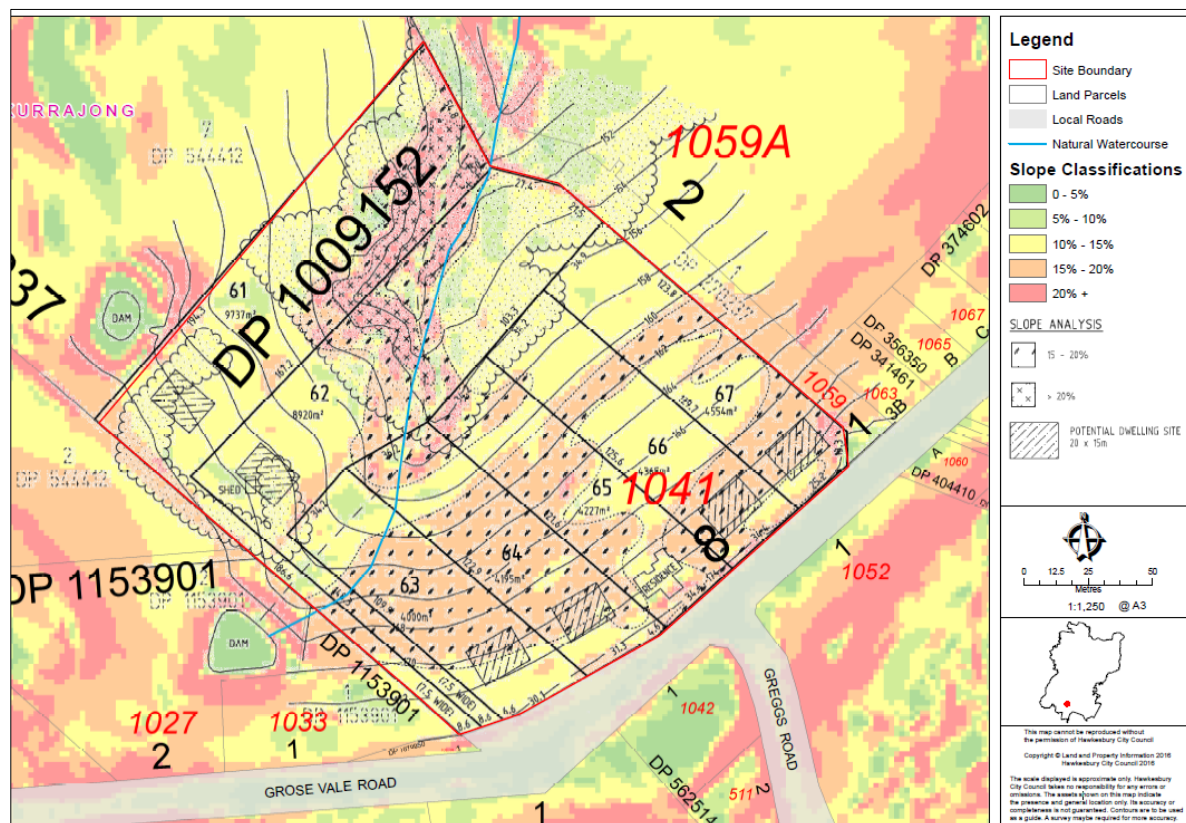


Figure 8 - Slope Analysis

The HRLS recognises slopes greater than 15% act as a constraint to development and future subdivision of the land for large lot residential, in particular, the proposed building foot prints would need to be limited to that area of land having a slope less than 15%.

Proposed Lots 61, 62, 63, 65, 66 and 67 have some areas of land less than 15% in slope to accommodate a suitable building footprint but not where indicated by the applicant. Given Proposed Lot 64 contains approximately 80% of its land area with a slope greater than 15% and the natural watercourse running through the rear of the lot, it is not considered that this lot has adequate land area less than 15% to accommodate a suitable building footprint. Given these existing constraints, it is considered that the subject site does not have a potential to yield seven lots on the land as shown in the subdivision concept.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the applicant needs to be advised to prepare a revised subdivision concept plan taking into account the existing slopes and other environmental constraints discussed in this report prior to commencement of the consultation with the relevant public authorities identified in the "Gateway" determination and the community.

Although the proposed lots (other than Proposed Lot 64) contain some areas of land less than 15% in slope to accommodate future dwellings, a wastewater feasibility assessment report demonstrating the environmental capability of these lots to accommodate a suitable onsite sewage system has not been submitted in support of the planning proposal. The DP&E will consider this as part of their "Gateway" determination, and if required can request further information/consideration of this matter.

## **Ecology**

The planning proposal is not accompanied by a flora and fauna survey and assessment report, and the applicant provides the following information on flora and fauna on the site.

*“The site is included in the Terrestrial Biodiversity Map within Council’s LEP2012. The map indicates that approximately 50% of the site is classified as ‘significant vegetation’ and approximately 50% of ‘connectivity between significant vegetation’. However, an inspection of the aerial photo of the site reveals that not all of the ‘significant vegetation’ has a continuous canopy and comprises areas of scattered shade trees, and that the ‘connectivity between significant vegetation’ contains significant areas of cleared pasture land”.*

Council vegetation mapping records the site as containing Blue Gum High Forest and Turpentine-Ironbark Margin Forest with conservation significance. Turpentine Iron Margin Forest is a component of the endangered ecological community Sydney Turpentine Ironbark Forest. Both Blue Gum High Forest and Turpentine-Ironbark Margin Forest are a critically endangered ecological community (CEEC).

Given the planning proposal does not seek to amend Clause 6.4 Terrestrial Biodiversity of the LEP or the associated map layer, a detailed consideration of any future development of the land can occur at development application stage.

However, given the presence of significant vegetation on the site, a flora and fauna assessment report needs to be prepared and submitted by a suitably qualified and experienced consultant. This can be undertaken at the post “Gateway” determination stage prior to the commencement of the government agency consultation. However, the DP&E will be able to consider this matter as part of their “Gateway” determination.

## **Access and Transport**

The subject site is accessed via Grose Vale Road which is connected to Old Bells Line of Road to the north-east. Public transport is limited to the Westbus Route 680 service between Richmond and Bowen Mountain and Route 682 service along Bells Line of Road between Richmond and Kurrajong. The Route 682 service operates every 30 minutes during peak periods. Given the limited frequency of services, future occupants of the proposed subdivision will most likely rely upon private vehicles for travel and transportation purposes.

The planning proposal is not supported by a traffic impact statement and the cumulative impact of similar proposals that may occur in the future has not been taken into consideration by the planning proposal. It is considered that this is a matter for Council and Roads and Maritime Services (RMS) to address with the outcome being incorporated into relevant planning proposals.

In recent reports to Council dealing with other planning proposals within the vicinity of Kurmond and Kurrajong it has been noted that Council has received petitions from residents west of the Hawkesbury River concerned about rezoning of land for residential purposes in the absence of required infrastructure upgrades. To address this it has been recommended that Council commence the preparation of a Section 94 Contributions Plan for the land within the vicinity of Kurmond and Kurrajong to ensure that all proposed developments in the locality contribute the required infrastructure, specially road upgrade and provision, in the locality. Alternatively, applicants and Council can commence Voluntary Planning Agreement negotiations to address this issue. It is considered that it is a fundamental matter to be dealt with by Council prior to the finalisation of any planning proposals in the locality as the cumulative impact of these types of development could be unacceptable if no traffic improvements are made.

## **Bushfire Hazard**

The subject site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service’s Bushfire Prone Land Map.



The planning proposal is not accompanied by a bushfire assessment report. Given the site is identified as bushfire prone, the planning proposal will be referred to the NSW Rural Fire Service (RFS), being the responsible authority of bushfire protection, for comments should Council resolve to proceed with the planning proposal and receive a "Gateway" determination advising to proceed with the planning proposal from DP&E.

### Agricultural Land Classification

The site is shown as being Agriculture Land Classification 4 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

- "4. Land suitable for grazing but not for cultivation. Agriculture is based on native pastures or improved pastures established using minimum tillage techniques. Production may be seasonally high but the overall production level is low as a result of major environmental constraints."

Given the proximity of the site to surrounding rural residential properties, and the size and slope of the site and its proximity to the Kurrajong Neighbourhood Centre, it is considered that it is unlikely the site could be used for a substantial or sustainable agricultural enterprise.

### Character

The immediate locality is characterised by a mix of lot sizes with varying frontages, shapes and areas. Smaller lots are located immediately adjacent in Grose Vale Road and to the north in Buckett Place. Larger lots are generally located to the west and south as indicated in Figure 9.

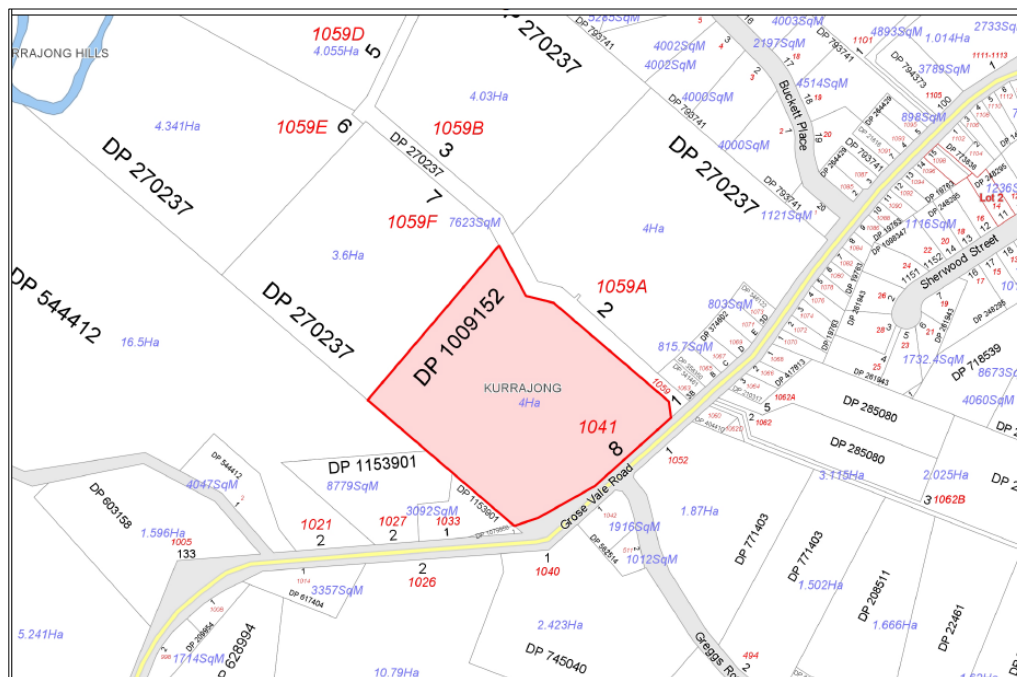


Figure 9: Current Lot Sizes in the Locality

The predominant character of the immediate locality is rural residential as demonstrated in Figure 10 below.

It is therefore considered that the planning proposal enabling subdivision of the site into proposed rural residential lots with minimum lot sizes of 4000m<sup>2</sup> as shown on the subdivision concept plan is not inconsistent with the existing character of the immediate vicinity.



## Services

The planning proposal is not accompanied by a wastewater feasibility assessment report or any other relevant statement or study. As the site does not have an access to a reticulated sewerage system future development of the site would be dependent upon an appropriate on-site sewerage management (OSSM) system. However a detailed soil assessment will need to be undertaken at the subdivision application stage to confirm the exact sizing and location of the effluent disposal areas. The applicant states that the actual method would be determined when a detailed hydraulic report is carried out later.

## Heritage

Appropriate development conditions ensuring no adverse impacts on these heritage items/properties could be imposed in future development approvals for the subject site.

Given these heritage listed properties are within the immediate vicinity of the site, the planning proposal will be referred to the NSW Office of Environment and Heritage for comments should Council resolve to proceed with the planning proposal and receive a “Gateway” determination advising to proceed with the planning proposal from DP&E.

#### **Section 94 Contributions or a Voluntary Planning Agreement**

The planning proposal will need to be covered by a Section 94 Developer Contributions Plan (S94 Plan) or a Voluntary Planning Agreement (VPA) prior to completion. The current Hawkesbury Section 94 Plan does not apply to residential development in Kurrajong area.

If the planning proposal is to proceed further, preparation of a Section 94 Developer Contributions Plan or a draft VPA to support the required infrastructure upgrade in the locality to support the development would be required. Given there is no timeframe for the completion of a S.94 Plan for Kurmond/Kurrajong Investigation Area, it is recommended that the applicant prepare a draft VPA in consultation with Council.

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

The proposal is considered to be consistent with the Looking after People and Place Directions theme statement, and specifically:

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

#### **Conclusion**

Based on assessment within this report, it is considered that some form of rural residential development on the subject site is appropriate and feasible. It is therefore recommended that Council support the preparation of a planning proposal to allow development of the site for rural residential development. More specific details and requirements in support of the planning proposal discussed in this report can be addressed after Gateway determination.

It is also recommended that if the DP&E determines that the planning proposal is to proceed, a S94 Plan or a draft VPA to support the required infrastructure upgrade in the locality to support the development should be prepared prior to the finalisation of the planning proposal.

#### **Financial Implications**

The applicant has paid the fees required by Council’s fees and charges for the preparation of a local environmental plan.

If the planning proposal is to proceed further, a draft VPA or S94 Plan to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the applicant in consultation with Council.

#### **Planning Decision**

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

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### RECOMMENDATION:

That:

1. Council support the preparation of a planning proposal for Lot 8 DP 1009152, 1041 Grose Vale Road, Kurrajong to allow development of the land for rural residential development with a minimum lot size of not less than 4,000m<sup>2</sup>.
2. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. The Department of Planning and Environment and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

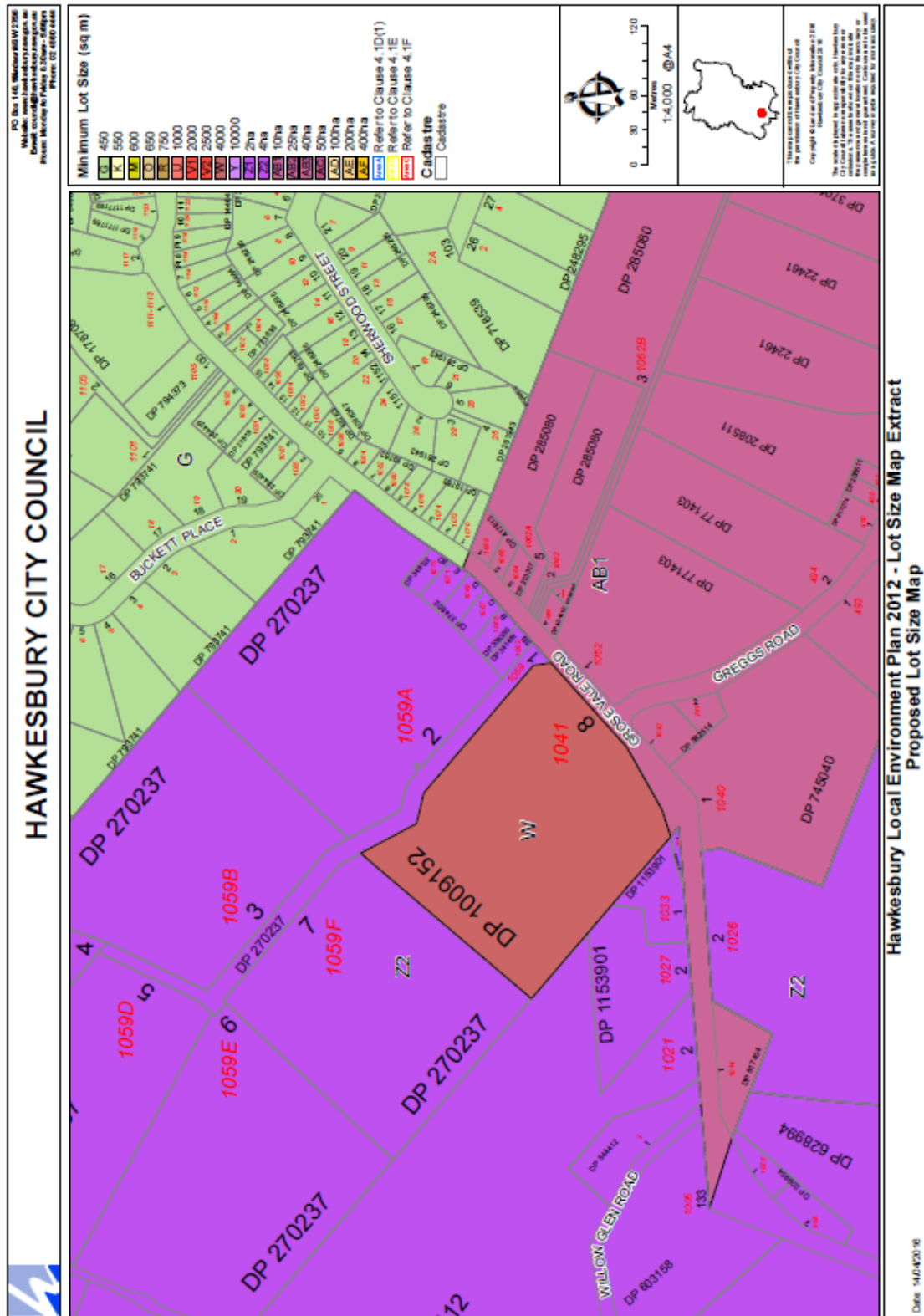
### ATTACHMENTS:

AT - 1 Proposed Minimum Lot Size Map

# ORDINARY MEETING

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## AT - 1 Proposed Minimum Lot Size Map



## ORDINARY MEETING

Meeting Date: 10 May 2016

### ITEM: 77 CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 280 Castlereagh Road, Agnes Banks - (95498, 124414)

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<b>Applicant Name:</b>	Glenn Falson Urban and Rural Planning Consultant
<b>Planning Proposal No:</b>	LEP007/15
<b>Property Address:</b>	280 Castlereagh Road, Agnes Banks
<b>Owner/s:</b>	DR and VJ Smith
<b>Date Received:</b>	1 December 2015
<b>Current Minimum Lot Size:</b>	2 Hectare
<b>Proposed Minimum Lot Size:</b>	4,000m <sup>2</sup>
<b>Current Zone:</b>	Part RU4 Primary Production Small Lots and part SP2 Infrastructure
<b>Site Area:</b>	2ha
<b>Recommendation:</b>	Council support the planning proposal and submit to the Department of Planning and Environment for a "Gateway" determination

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#### REPORT:

##### Executive Summary

Council has received a planning proposal from Glenn Falson Urban and Rural Planning Consultant (the applicant) which seeks to amend the *Hawkesbury Local Environmental Plan 2012* (the LEP) to enable potential subdivision of Lot 23 DP 778553, 280 Castlereagh Road Agnes Banks (the subject site) into four large residential lots with a minimum lot size of not less than 4,000m<sup>2</sup>.

This report provides Council with an overview of the planning proposal and recommends that the planning proposal be supported and submitted to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

##### Consultation

The planning proposal has not yet been exhibited as Council has not resolved to prepare the proposal. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) and associated Regulations and as specified in the 'Gateway' determination.

##### Planning Proposal

The planning proposal seeks an amendment to the LEP in order to permit the subdivision of the subject site into four lots with a minimum lot size of not less than 4,000m<sup>2</sup>.

The planning proposal aims to achieve the above proposed outcome by amending the Minimum Lot Size Map (Map Identification No. 3800\_COM\_LSZ\_008BA\_020\_20140131) of the LEP. As an alternative, the applicant proposes that Council insert an appropriate provision in the LEP to limit the maximum lot yield of the subdivision of the subject site consistent with the planning proposal to allow the site to be subdivided into 4 large rural residential lots.

A concept plan of the proposed four lot subdivision is attached to this report for discussion purposes only in relation to the potential yield of the subject site, and does not form part of the planning proposal. The concept plan shows the proposed four lots ranging in size from 4,000m<sup>2</sup> to 6,636m<sup>2</sup>. The concept plan is shown in Figure 1 below.



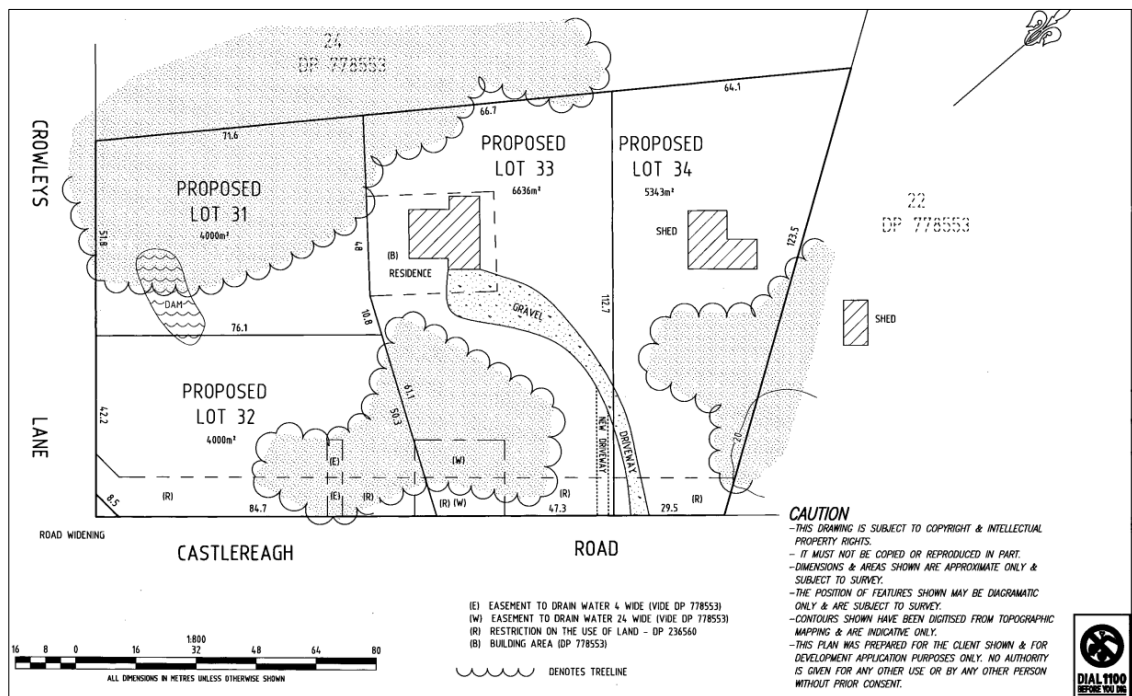


Figure 1: Subdivision Concept Plan (Not for Approval)

### Subject Site and Surrounds

The subject site is legally described as Lot 23 DP 778553, and has a street address of 280 Castlereagh Road Agnes Banks. The subject site is located on the northern fringe of the existing low density residential development as highlighted in Figure 2.

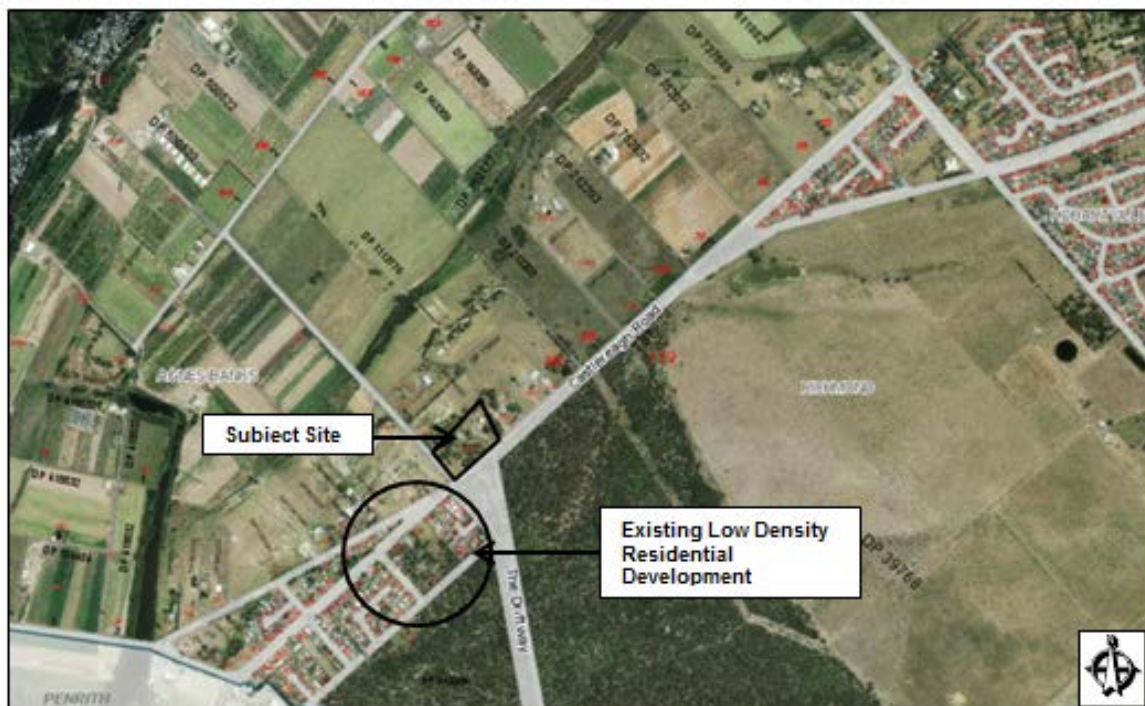


Figure 2: Site Location

The subject site has an area of 2ha and is almost a trapezium in shape. It is a corner allotment and has frontages to both Castlereagh Road, and Crowleys Lane. The site has approximately a 165m primary

frontage to Castlereagh Road which links Richmond and Penrith. As shown in Figure 3 below, the subject site is currently accessed via Castlereagh Road which is a classified road maintained by Roads and Maritime Services (RMS).



Figure 3: Subject Site

The subject site and several properties fronting Castlereagh Road in this location are affected by future widening of Castlereagh Road. Reservation Acquisition Map (Map Identification No. 3800\_COM\_LRA\_008BA\_020\_20120316) of the LEP identifies part of the subject site zoned SP2 Infrastructure, and marked "Classified Road" for acquisition for future widening of the Castlereagh Road as shown in Figure 4 below.

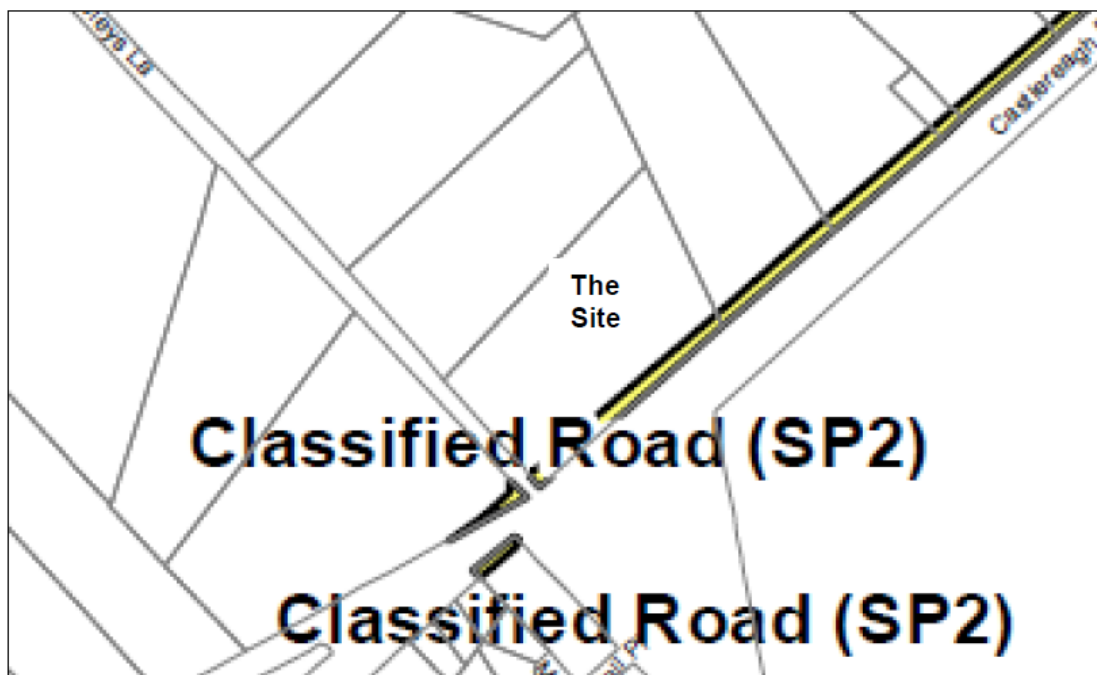


Figure 4: Extract of the Land Reservation Acquisition Map Highlighting Future Widening Requirements

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The site is zoned part RU4 Primary Production Small Lots, and part SP2 Infrastructure (Classified Road) under the LEP, with the current minimum lot size for subdivision of this land being 2ha.

The site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The whole site is shown as being within Acid Sulfate Soil Classification 5 which represents a relatively low chance of acid sulphate soils being present on the site.

The site is shown as being Agriculture Land Classification 4 on maps prepared by the former NSW Department of Agriculture.

The site is situated above the 1 in 100 year ARI flood level. The site is relatively flat, and according to Council's slope mapping, the entire site area has a slope less than 10%.

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997).

The site contains a dwelling house, a farm building, a dam and some existing vegetation. The existing dwelling house is located closer to the north-western boundary, and the outbuilding is located closer to the north-eastern boundary. A dam is located closer to the south-western boundary as shown in Figure 5.



Figure 5: Aerial view of the Subject Site

The properties immediately to the north, west and east are zoned RU4 Primary Production Small Lots and properties immediately to the south are zoned SP1 Education, Agriculture, Research Station. The immediate locality is predominantly zoned RU4 Primary Production Small Lots. The current minimum lot sizes apply for the subdivision of the immediate surrounding properties are generally in the range of 450m<sup>2</sup> to 10ha in size.

Land surrounding the subject site consists of a varied mix of lots sizes with small low density residential lots located immediately adjacent in Castlereagh Road. The immediate surrounding area of the site is characterised by rural residential and low density residential development.



### Applicant's Justification of Proposal

The applicant has provided the following justification for the planning proposal:

- *The site is within an area identified within Council's strategy for investigation and assessment for smaller lots commensurate with available services and infrastructure.*
- *Preliminary site investigations have been carried out which has demonstrated that the land is capable of being subdivided into four lots that would be in character with other lands in the vicinity and would form an appropriate component of the Agnes Banks township expansion.*
- *The land has reticulated water supply and sewerage past its frontage. It is not known at this stage if each proposed lot would be able to connect to these services however each lot is capable of containing on-site wastewater disposal and matters relating to vegetation management and bushfire control can be satisfied.*
- *Electricity, telephone, garbage and recycling facilities are available to the site.*
- *It has been identified that there is a need for an additional 5 - 6,000 dwelling sites in the Hawkesbury LGA by 2031. Existing zoned areas are mostly built out hence the need identified within Council's strategy to look for additional sites including those around the perimeter of existing towns and villages. The subject proposal will assist in satisfying, in some way, this identified demand and is consistent with strategies identified within Council's Residential Land Strategy.*

### **'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy), Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy**

The NSW Government's 'A Plan for Growing Sydney' December 2014 (the Sydney Metropolitan Strategy) and draft North West Subregional Strategy (dNWSS) establishes the broad planning directions for the Sydney metropolitan area and north-western sector of Sydney respectively. These documents identify a number of strategies, objectives and actions relating to the economy and employment, centres and corridors, housing, transport, environment and resources, parks and public places, implementation and governance.

Agnes Banks does not contain a retail/commercial precinct, and therefore is not classified as a "centre" (e.g. neighbourhood centre, village centre) in the above documents.

The Hawkesbury Residential Land Strategy (HRLS) is in part a response to the above mentioned State strategies and seeks to identify residential investigation areas and sustainable development criteria which are consistent with the NSW Government's strategies. The HRLS identifies the Richmond Future Investigation Area that is above the 1:100 flood level to enable possible expansion of the Richmond urban residential area to accommodate additional dwellings to achieve the Hawkesbury residential dwelling target of 6,000 dwelling units by 2031 identified in the dNWSS. The subject site is located within the Richmond Future Investigation Area as shown in Figure 6 below.

Given the subject site is located within the Richmond Future Investigation Area, the planning proposal seeking amendment to the Lot Size Map of the LEP to allow subdivision of the subject site into four large rural residential lots with a minimum lot size of not less than 4,000m<sup>2</sup> is considered to be consistent with the HRLS, and thereby generally consistent with both the Sydney Metropolitan Strategy and dNWSS.

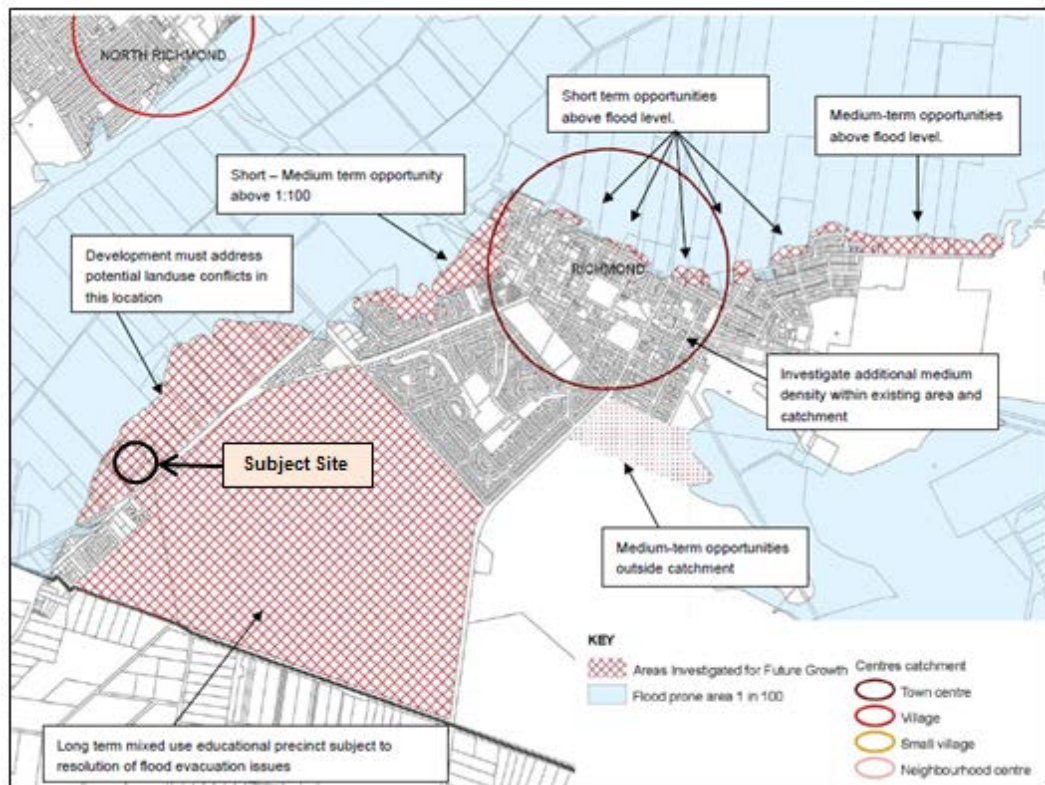


Figure 6: Extract of the Richmond Future Investigation Area Map of the HRLS

### Section 117 Directions

The Minister for Planning, under section 117(2) of the EP&A Act, issues directions that relevant planning authorities including councils must comply with when preparing planning proposals. The directions cover the following broad range of categories:

- Employment and resources
- Environment and heritage
- Housing, infrastructure and urban development
- Hazard and risk
- Regional planning
- Local plan making
- Implementation of a Plan for Growing Sydney

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

However all these Directions permit variations subject to meeting certain criteria (refer to the last part of this section of the report). The principal criterion for variation to a 117 Direction is consistency with an adopted Local or Regional Strategy. A summary of the key Section 117 Directions follows:

#### *Direction 1.2 Rural Zones*

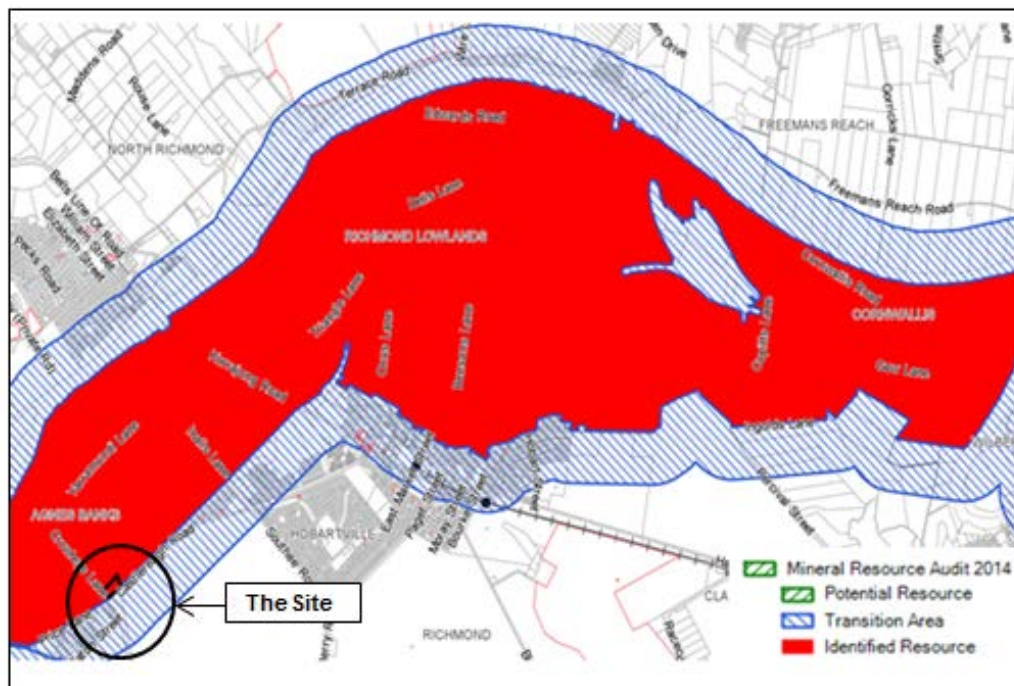
Planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The planning proposal seeks an amendment to the Lot Size Map of the LEP only, and it does not contain provisions to increase the permissible density of land. It is therefore considered that the planning proposal is consistent with this Direction.

#### *Direction 1.3 Mining, Petroleum Production and Extractive Industries*

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

Mineral Resources Audit of Hawkesbury Plan 2011 prepared by the (then) NSW Trade & Investment (now Department of Primary Industry) shows the site as 'Identified Resource', and it is located within the Richmond Lowlands Sand and Gravel Resource Area as shown in Figure 7 below.



**Figure 7: Extract of Mineral Resources Audit of Hawkesbury Plan**

According to the (then) NSW Trade & Investment, the Identified Resource Area contains active mineral, petroleum and/or extractive operations. Mineral Resources Branch of the (then) NSW Trade & Investment had updated this plan in 2014. Any proposed zoning changes or development within this area could adversely affect or be affected by current or future resource developments. Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the planning proposal will be referred to the Department of Industry for comments in accordance with the Direction 1.3(4).

#### *Direction 3.4 Integrating Land Use and Transport*

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for Planning and Development (DUAP 2001)

In summary, this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 "Accessible Development" principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The document is very much centres based and not readily applicable to Agnes Banks which does not contain a retail/commercial precinct other than a large residential precinct with different lots sizes ranging from 550m<sup>2</sup> to 1.3ha.

The document also provides guidance regarding consultation to be undertaken as part of the planning proposal process and various investigations/plans to be undertaken. It is recommended that if this planning proposal is to proceed Council seek guidance from the DP&E via the "Gateway" process, regarding the applicability of this document.

#### *Direction 4.1 Acid Sulfate Soils*

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the DP&E.

The subject site is identified as containing "Class 5 acid sulfate soils on the Acid Sulphate Soils Planning Maps contained in the LEP. As such any future development on the subject site will be subject to Clause 6.1 Acid Sulfate Soils of the LEP which has been prepared in accordance with the Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director General.

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soil study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such a study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the EP&A Act. An acid sulfate soil study has not been included in the planning proposal. The DP&E will consider this as part of their "Gateway" determination and if required can request further information or consideration of this matter.

#### *Direction 4.4 Planning for Bushfire Protection*

The land is identified as bushfire prone, containing Vegetation Category 1. This Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

#### *Direction 6.1 Approval and Referral Requirements*

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This Direction requires that a planning proposal must:

- "(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
  - (i) the appropriate Minister or public authority, and*
  - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
- (c) not identify development as designated development unless the relevant planning authority:*
  - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*

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- (ii) *has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act."*

It is considered that the planning proposal is consistent with this Direction as it does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

### *Direction 6.3 Site Specific Provisions*

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls. The planning proposal proposes an amendment to the Lot Size Map of the LEP only. It is therefore considered that the proposed amendment is consistent with this Direction.

### *Direction 7.1 Implementation of 'A Plan for Growing Sydney'*

This Direction requires planning proposals to be consistent with 'A Plan for Growing Sydney' (the Sydney Metropolitan Strategy) released in December 2014. 'A Plan for Growing Sydney' is the NSW Government's 20-year plan for the Sydney Metropolitan Area. It provides directions for Sydney's productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

'A Plan for Growing Sydney' is one of the issues taken into consideration in the early part of the assessment of the planning proposal. As mentioned previously in this report, the conformance with the Council's Hawkesbury Residential Land Strategy establishes that the planning proposal is generally consistent with the Plan for Growing Sydney.

## **State Environmental Planning Policies**

The State Environmental Planning Policies of most relevance include the *State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land*, *Sydney Regional Environmental Plan (SREP) No. 9 - Extractive Industry (No 2- 1995)* and *(SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)*.

### *State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)*

SEPP 55 requires consideration as to whether or not land is contaminated, and if so whether it is suitable for future permitted uses in its current state or it requires remediation. The SEPP may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The applicant states that:

*'The land has not been used for any intensive agricultural use or any other use that would suggest that remediation is required. There is no obvious evidence of surface or groundwater pollution. It is not believed that any geotechnical investigations need to be carried out for the planning proposal to proceed'.*

Council's records show that the site has not been used or approved for any agricultural uses or any other activities identified in Table 1 - 'Some Activities that may cause contamination of Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land' other than residential purpose. Therefore contamination of the land is very unlikely.

If the planning proposal is to proceed further, consideration of potential contamination can be dealt with after the DP&E "Gateway" determination.

### *Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) - (SREP 9)*

The primary aims of SREP 9 are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of

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regional significance, and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The site is within the Richmond Lowlands Sand and Gravel Resource Area.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the planning proposal will be referred to the Department of Industry for comments in accordance with Direction 1.3(4).

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

The aim of SREP No 20 (No. 2 - 1997) is to protect the environment of the Hawkesbury - Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the SREP encourages Council to consider the following:

- *rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna);*
- *develop in accordance with the land capability of the site and do not cause land degradation;*
- *the impact of the development and the cumulative environmental impact of other development proposals on the catchment;*
- *quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters;*
- *consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored;*
- *consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site;*
- *minimise or eliminate point source and diffuse source pollution by the use of best management practices;*
- *site and orientate development appropriately to ensure bank stability;*
- *protect the habitat of native aquatic plants;*
- *locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land;*
- *consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms;*
- *conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors;*
- *minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices;*

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- *consider the impact on ecological processes, such as waste assimilation and nutrient cycling;*
- *consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas;*
- *consider the need to control access to flora and fauna habitat areas;*
- *give priority to agricultural production in rural zones;*
- *protect agricultural sustainability from the adverse impacts of other forms of proposed development;*
- *consider the ability of the site to sustain over the long term the development concerned;*
- *maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development;*
- *consider any adverse environmental impacts of infrastructure associated with the development concerned.*

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of Sydney Regional Environmental Plan No.20 Hawkesbury - Nepean River (No.2 - 1997).

It is considered that future dwellings on the planned proposed lots have the potential to either satisfy the relevant provisions SREP No 20, or are able to appropriately minimise its impacts.

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

The site is zoned part RU4 Primary Production Small Lots and part SP2 Infrastructure (Classified Road) under the LEP. The current minimum lot size for subdivision of this land is 4ha.

The planning proposal seeks to amend Lot Size Map (Map Identification No. 3800\_COM\_LSZ\_008BA\_020\_20140131) of the LEP to specify 4,000m<sup>2</sup> minimum lot size for the subject site (refer to Attachment 1 of this Report) which will allow subdivision of the land into large residential lots. Given the predominant rural residential and low density residential character of the immediate vicinity, and a mix of surrounding lot sizes ranging from approximately 550m<sup>2</sup> to 3ha, the planning proposal seeking to amend the Lot Size Map of the LEP to enable four large residential lots with minimum lot sizes of 4,000m<sup>2</sup> is considered appropriate.

However, this report does not propose to endorse any subdivision plan submitted in support of the planning proposal, hence it is not considered appropriate to support an amendment to the Lot Size Map of the LEP as proposed.

As an alternative, the applicant has proposed that Council insert an appropriate provision in the LEP to limit the maximum lot yield of the subdivision of the site consistent with the planning proposal to allow the site to be subdivided into four large rural residential lots. The DP&E will ultimately decide on the type of amendment to the LEP, however it is understood that at present the DP & E's preferred option is to amend the Lot Size Map of the LEP and not the inclusion of a clause or a provision in the LEP to limit the number of lots of subdivision of the land.

### **Access and Transport**

The site is currently accessed via Castlereagh Road which is a Classified Road maintained by RMS. The site and several properties fronting Castlereagh Road are affected by future widening of Castlereagh Road by RMS. The Reservation Acquisition Map of the LEP identifies part of the subject site zoned SP2 Infrastructure and marked "Classified Road" for acquisition for future widening of the road. The relevant acquisition authority is the RMS. Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the RMS



needs to be consulted on this matter to consider the likely impact of the proposed development on the current traffic movement in the locality.

The planning proposal is not supported by a traffic impact statement and the cumulative impact of similar proposals that may occur in the future has not been taken into consideration by the planning proposal. It is considered that this is a matter for Council and Roads and Maritime Services (RMS) to address with the outcome being incorporated into affected planning proposals.

Public transport is limited to the Westbus Route 678 service between Richmond and Penrith. The bus service operates every 30-60 minutes during peak periods and just one trip per day during off peak period. On Saturdays, there are only two trips in the morning peak period. Given the very limited frequency of services, the future occupants of the proposed subdivision will most likely rely upon private vehicles for transportation.

### Topography

The subject site has an elevation of approximately 20.5m AHD towards Castlereagh Road, and is fairly flat. According to Council's slope mapping, the entire site area has a slope less than 10% as shown in Figure 8 below.



Figure 8: Slope Analysis

The HRLS recognises slopes greater than 15% act as a constraint to development and future subdivision of the site for large rural residential lots would need to be limited to that area of land having a slope less than 15%. Given this criterion there is not any slope constraint for subdivision of the land into four lots.

### Ecology

The planning proposal is not accompanied by a flora and fauna survey and assessment report, and the applicant provides the following information on flora and fauna on the site:

*'Despite that the site only has scattered vegetation shade trees the site is included in the Terrestrial Biodiversity Map within Council's LEP2012. The map indicates that approximately  $\frac{3}{4}$  of the site is classified as "significant vegetation".*

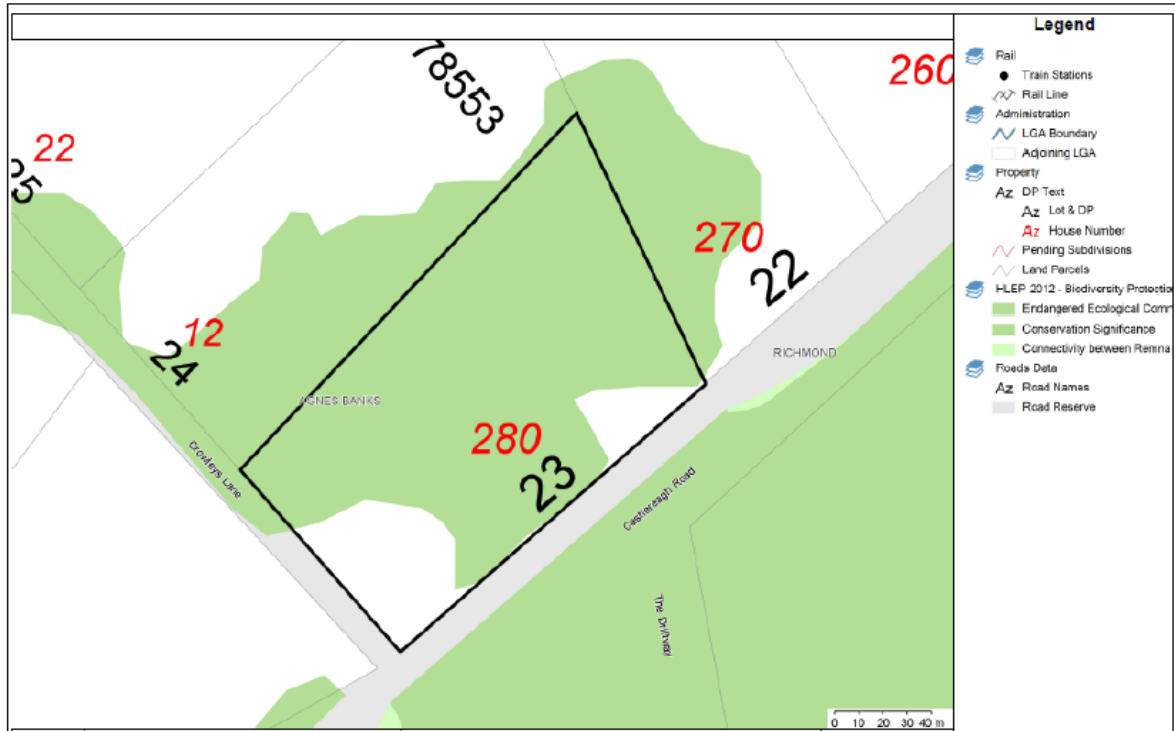


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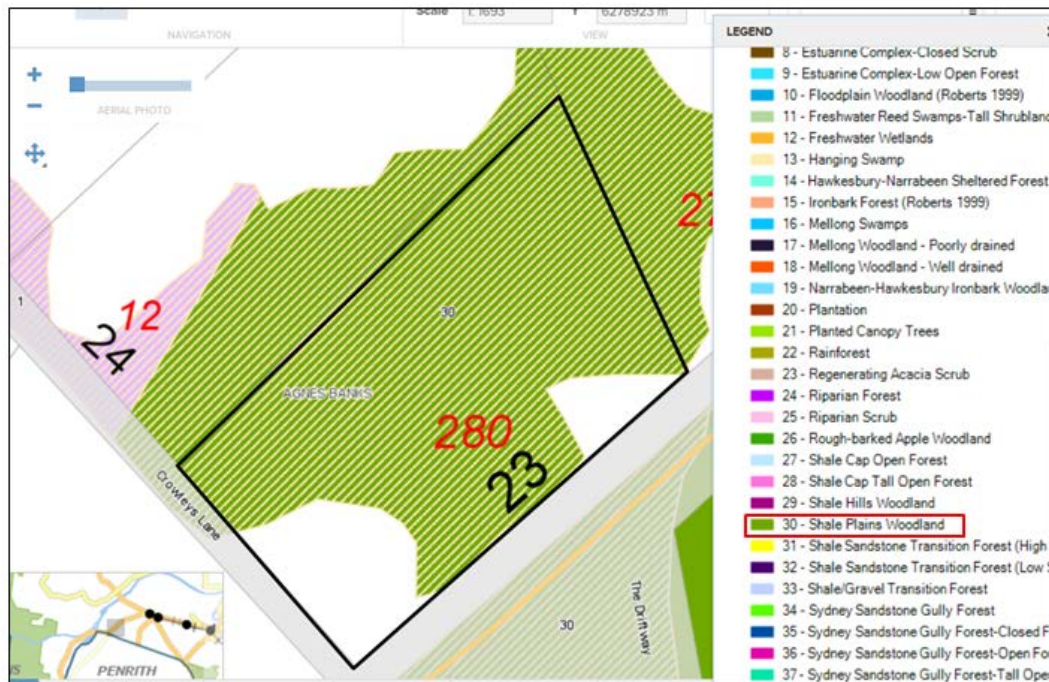
*Whilst a flora/fauna assessment of the site has not been carried out at this stage it can be seen from perusal of the aerial photograph of the site on the cover of this report that the subdivision and dwelling locations can take place without impact on vegetation. It is not considered that a formal report on flora/fauna of the site is required at this stage but would be more appropriate if identified through the Gateway process of the Department of Planning & Environment. In reality however vegetation will not be affected and a flora/fauna assessment is probably not required'.*

The Terrestrial Biodiversity Map of the LEP identifies approximately 80% of the site area as 'endangered ecological community' as shown in Figure 9 below.



**Figure 9: Extract of Terrestrial Biodiversity Map**

Council vegetation mapping records the site as containing Shale Plains Woodland, the most widely distributed form of Cumberland Plain Woodland which is listed as an endangered ecological community (EEC) under the *NSW Threatened Species Conservation Act 1995* as shown in Figure 10.



**Figure 10: Extract of Council's Vegetation Map**

An aerial view of the site which is superimposed onto the subdivision concept plan in Figure 11 indicates that the proposed lots have some areas of land free of any significant vegetation.



**Figure 11: Subdivision Concept Plan Overlaying on Existing Vegetation**

However, approximately 70% of the land area of proposed Lot 33 contains vegetation, in addition to the existing dam, and therefore it is not considered that this lot has adequate developable area to accommodate a suitable building footprint and on-site sewage system without affecting any asset protection zone required under *Planning for Bushfire Protection 2006*. If the subject site can access the existing reticulated water and sewage system that runs along the site frontage as indicated by the applicant it may be possible to accommodate a building footprint.

Given the planning proposal does not seek to amend Clause 6.4 Terrestrial Biodiversity of the LEP or the associated map layer, a detailed consideration of any future development of the land can occur at development application stage.

However, given the presence of significant vegetation on the site, a flora and fauna assessment report needs to be prepared and submitted by a suitably qualified and experienced consultant. This can be undertaken at the post "Gateway" determination stage prior to the commencement of the government agency consultation. However, the DP&E will be able to consider this matter as part of their "Gateway" determination.

### **Bushfire Hazard**

The site is shown as being bushfire prone (Bushfire Vegetation Category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The planning proposal is not accompanied by a bushfire assessment report. Given the site is identified as bushfire prone, the planning proposal will be referred to the NSW Rural Fire Service (RFS), being the responsible authority for bushfire protection, for comments should Council resolve to proceed with the planning proposal and receive a "Gateway" determination advising to proceed with the planning proposal from DP&E.

### **Agricultural Land Classification**

The site is shown as being Agriculture Land Classification 4 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

- "4. Land suitable for grazing but not for cultivation. Agriculture is based on native pastures or improved pastures established using minimum tillage techniques. Production may be seasonally high but the overall production level is low as a result of major environmental constraints."

Given the proximity of the subject site to surrounding low density and rural residential properties, and the size of the site it is considered that it is unlikely the site could be used for a substantial or sustainable agricultural enterprise.

### **Character**

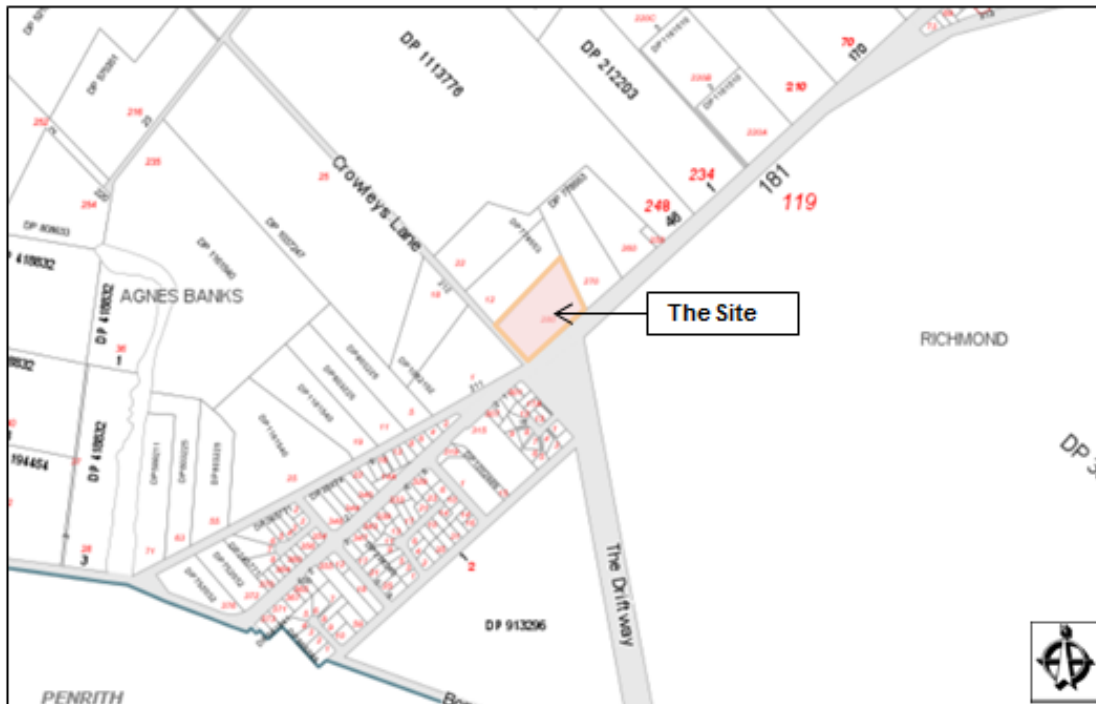
The applicant states that:

*'The site has some scattered vegetation. There would not be any substantive change to the landscape of the site or surroundings if the subdivision were to proceed. Additional dwellings are not beyond the capacity of the land and development of the land as proposed would be hardly distinguishable in the context of the site and its surrounds'.*

The immediate locality is characterised by a mix of lot sizes with varying frontages, shapes and sizes.

Smaller lots are located immediately adjacent in Castlereagh Road, whilst larger lots are generally located to the north and east as shown in Figure 12.





**Figure 12: Current Lot Sizes in the Immediate Locality**

The predominant land use character in the immediate vicinity is low density and rural residential as highlighted in Figure 13.



**Figure 13: Existing Character of the Locality**

Given the predominant rural residential and low density residential character of the immediate vicinity, and a mix of lot sizes ranging from approximately 550m<sup>2</sup> to 3ha in the immediate vicinity, the intended outcome of the planning proposal to subdivide the land into large residential lots with minimum lot sizes of 4,000m<sup>2</sup> is not inconsistent with the existing character of the locality.

**Services**

According to the applicant, the site has access to electricity, telecommunication, garbage and recycling services. The applicant also states that:

*'The land has a reticulated water supply and sewerage past its frontage. It is not known at this stage if each proposed lot would be able to connect to these services however the each lot is capable of containing on-site wastewater disposal and matters relating to vegetation management and bushfire control can be satisfied'.*

The planning proposal is not accompanied by a wastewater feasibility assessment report or any other relevant statement or study demonstrating that the proposed lots will be able to accommodate an on-site sewage system without affecting the existing vegetation and required asset protection zone. If the subject site was denied access to the reticulated sewerage system, the development of the subject site will need to rely upon on-site sewage systems. Therefore, a detailed soil assessment will need to be undertaken at the subdivision application stage to confirm the exact sizing and location of the effluent disposal areas.

Given a reticulated sewage system is running along the frontage of the site, the planning proposal would need to be referred to Sydney Water. However, the DP&E will consider this as part of their "Gateway" determination.

**Heritage**

The site is not identified as a heritage item/property in Schedule 5 Environmental Heritage of LEP 2012 or located within a conservation area and also not subject to any heritage order or identified as a heritage item. A few heritage properties with local significance are located in the vicinity. The likely impacts of the future subdivision of the subject site on these heritage properties can be determined at the subdivision application stage.

Given these heritage listed properties are within the vicinity of the subject site, the planning proposal will be referred to the NSW Office of Environment and Heritage for comments should Council resolve to proceed with the planning proposal and receive a "Gateway" determination advising to proceed with the planning proposal from DP&E.

**Section 94 Contributions or a Voluntary Planning Agreement**

The planning proposal should be covered by a Section 94 Developer Contributions Plan (S94 Plan) or a Voluntary Planning Agreement (VPA) prior to completion. The current Hawkesbury Section 94 Plan does not apply to residential development in Agnes Banks. If the planning proposal is to proceed further, a draft VPA or an addition to the current S94 Plan to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the applicant in consultation with Council.

**Conformance to the Hawkesbury Community Strategic Plan**

The proposal is considered to be consistent with the Looking after People and Place Directions statement, and specifically:

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

**Conclusion**

## ORDINARY MEETING

Meeting Date: 10 May 2016

It is considered that some form of residential development on the subject site is appropriate and feasible. It is therefore recommended that Council support and submit the planning proposal to the Department of Planning and Environment (DP&E) for a 'Gateway' determination.

### Financial Implications

The applicant has paid the fees required by Council's fees and charges for the preparation of a local environmental plan.

If the planning proposal is to proceed further, a draft VPA or S94 Plan to support the required infrastructure upgrade in the locality to support the development would need to be prepared by the applicant in consultation with Council.

### Planning Decision

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

### RECOMMENDATION:

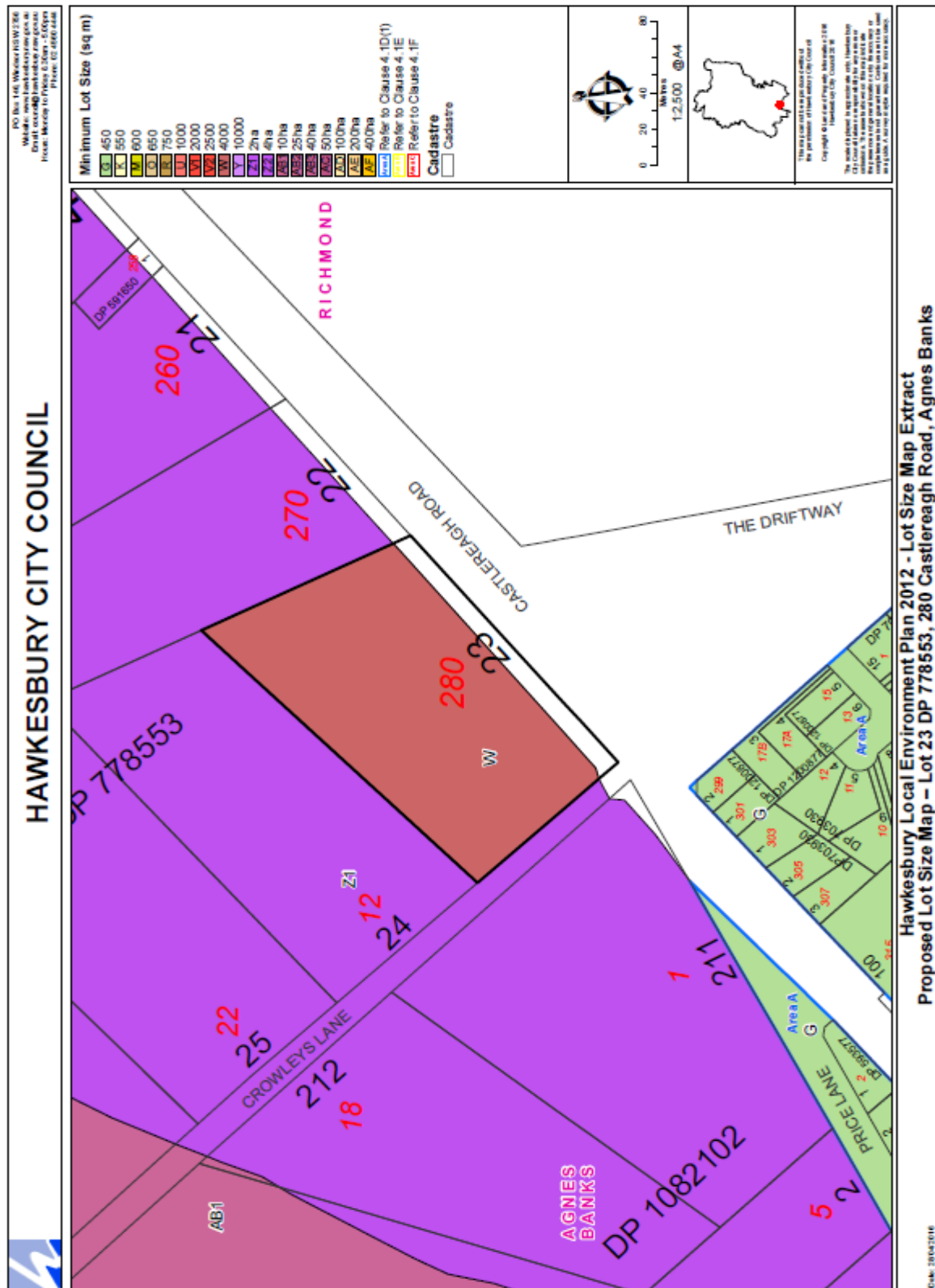
That:

1. Council support the planning proposal for Lot 23 DP 778553, 280 Castlereagh Road, Agnes Banks to allow development of the land for a large lot rural residential development with a minimum lot size of not less than 4,000m<sup>2</sup>.
2. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.
3. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
4. The Department of Planning and Environment and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

### ATTACHMENTS:

AT - 1 Proposed Minimum Lot Size Map

## AT - 1 Proposed Minimum Lot Size Map



oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 10 May 2016

**ITEM: 78**                      **CP - Draft Voluntary Planning Agreement for Lot 2 DP 607906, 396 Bells Line of Road, Kurmond - (95498, 124414)**

**Previous Item:**            196, Ordinary (24 November 2015)

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### REPORT:

#### Executive Summary

The purpose of this report is to advise Council of the completion of the public exhibition of a draft Voluntary Planning Agreement (draft VPA) for a proposed subdivision of Lot 2 DP 607906, 396 Bells Line of Road, Kurmond.

This report recommends executing the agreement under Council's Seal subject to certain amendments to the exhibited draft VPA.

#### Background

The draft VPA was reported to Council on 24 November 2015 as part of a report concerning a planning proposal for 396 Bells Line of Road, Kurmond. The planning proposal seeks to amend the minimum lot size provisions of Hawkesbury Local Environmental Plan 2012 to enable subdivision of the land. In terms of the draft VPA Council resolved (in part) as follows:

*"That:*

2. *Council publically exhibit the Draft Voluntary Planning Agreement attached to this report for a minimum of 28 days with the following amendment to Clause 9.3:*

*Clause 9.2 does not allow the Council or the Developer to retrospectively apply a section 94 contribution for allotments for which development contributions have been paid in accordance with this Agreement.*

3. *The Voluntary Planning Agreement be reported back to Council following public exhibition prior to finalisation."*

The two parties to the draft VPA are Hawkesbury City Council and 101 Group Pty Ltd (the Developer). The objective and effect of the draft VPA is for the Developer to provide Council with cash contributions towards the provision of public services and amenities. The priority and expenditure program for the public services and amenities will be the subject of a separate report to Council. The contribution per residential allotment is \$30,000 subject to adjustment in accordance with the Consumer Price Index released by the Australian Bureau of Statistics for "Sydney - All Groups" or such other consumer price index that might replace it.

The agreement will only operate if and when Council grants development approval(s) to the proposed subdivision of the site. The agreement excludes the application of section 94A and section 94 of the Act to the proposed subdivision of the site.



**Public Exhibition**

The draft VPA as amended in accordance with Council's resolution was placed on public exhibition for the period from 11 December 2015 to 20 January 2016. Notices relating to the exhibition of the draft VPA were placed in the Hawkesbury Courier on 10 December 2015 and 7 January 2016. The draft VPA, an Explanatory Note and other supporting documentation was available for inspection at the Council offices, on Council's website, and on Council's online community engagement site [www.yourhawkesbury-yoursay.com.au](http://www.yourhawkesbury-yoursay.com.au) throughout the exhibition period.

Council received no submissions as a result of the exhibition.

**Post Exhibition Amendments to the draft VPA and Explanatory Note**

Following the conclusion of the exhibition period the draft VPA was reviewed by Council's solicitors, the Developer's solicitors, and Council staff and as a result amendments have been made to the draft VPA. The amendments are considered to be minor in nature and do not affect the per lot contribution rate or the indicative list of works provided in Appendix 1 of the draft VPA. A "track changes" version of the amendments to the draft VPA is shown in Attachment 1 to this report.

Also within Attachment 1 is an updated Explanatory Note which is to accompany the VPA. The amendments to the Explanatory Note have been the deletion, where appearing in the document, of the word "draft" and an update of the document's date.

There is a need for some formatting changes to be made to the VPA in order to correct some clause numbering anomalies and to format the document into Council's standard style. It is recommended that, should Council agree with the recommendation, that these formatting changes be made.

**Conformance to the Hawkesbury Community Strategic Plan**

Council's consideration and approval of the Voluntary Planning Agreement would be consistent with the following CSP Themes and Direction statements:

*Looking after People and Place*

- Offer residents a choice of housing options that meets their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provision of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.
- Have future residential and commercial development designed and planned to minimise impacts on local transport systems allowing easy access to main metropolitan gateways.

and is also consistent with implementing the nominated strategy in the CSP being:

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

**Financial Implications**

The per residential lot contribution is to be provided by the Developer progressively via the future subdivision of the subject land. Schedule 1 of the draft VPA provides an indicative staging and payment schedule for the development.

## ORDINARY MEETING

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### Planning Decision

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

### RECOMMENDATION:

That the:

1. Voluntary Planning Agreement and Explanatory Note attached to this report be endorsed.
2. General Manager be given delegation to execute the Voluntary Planning Agreement under the Seal of Council including the making of any necessary wording and formatting changes to the Voluntary Planning Agreement prior to execution, provided that these changes do not alter the intent of the Voluntary Planning Agreement.

### ATTACHMENTS:

**AT - 1** Copy of amended Voluntary Planning Agreement and Explanatory Note

## ORDINARY MEETING

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### AT - 1 Copy of amended Voluntary Planning Agreement and Explanatory Note

#### Planning Agreement

*Section 93F of the Environmental Planning and Assessment Act 1979*

THIS PLANNING AGREEMENT is made on the .....day of .....2016~~5~~

#### BETWEEN:

Parties

HAWKESBURY CITY COUNCIL ("the Council")

AND:

101 GROUP PTY LTD (ACN 142 599 291) ("the Developer")

#### Background

- A. The Developer is the registered proprietor of the Development Land.
- B. On the 13th Day of ~~April 2016~~ ~~June 2014~~ ~~the Greater Sydney Commission NSW Planning and Environment issued an alteration to a previous Gateway Determination (Ref. PP 2013 HAWKE 002 00)~~ in response to a revised planning proposal to apply a new minimum lot size ~~and maximum lot yield~~ to the ~~Development Land~~. The ~~revised~~ planning proposal will facilitate the subdivision of the land into ~~approximately~~ 32 large residential lots.
- C. The Developer has been in negotiation with council for a number of years in regards to finalising the ~~planning proposal and resultant amendment to the Hawkesbury Local Environmental Plan 2012~~ ~~rezoning approval~~. The Council has not prepared or adopted a Section 94 Contributions Plan to date. The Hawkesbury Section 94A plan is considered to be inadequate for subdivision of land. The Developer is therefore of the belief that the offer contained in this document provides fair and equitable Public Benefit in lieu of Section 94 or Section 94A contributions.
- D. The Developer proposes to make Development Applications to Council for Development Approval to carry out the Proposed Development if the ~~Hawkesbury Local Environmental Plan 2012 is amended to enable the Proposed Development~~ ~~Development Land is rezoned in accordance with the Rezoning Application~~.
- E. The Developer has offered to provide the ~~Development~~ Contribution on the terms and conditions contained in this Agreement if Development Approval is granted to the Proposed Development.

## ORDINARY MEETING

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### And it is agreed as follows

#### 1. Planning Agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

#### 2. Application of this Agreement

##### 2.1 This Agreement

2.1.1 applies to the Development Land;

2.1.2 is a planning Agreement within the meaning set out in section 93F of the Act;

2.1.3 is to be registered on the title of the Development Land under section 93H of the Act;

2.1.4 is not a confidential document and may be exhibited without restriction by either party.

2.2 Subject to clause 2.3, this Agreement operates from the date it is executed.

2.3 Clause 3 of this Agreement will only operate if and when Council grants Development Approval to the Proposed Development on the Development Land.

#### 3. Developer's Contribution

3.1 Subject to the terms of this Agreement, including clause 2.3, the Developer agrees to provide the Developer's Contribution.

3.2 The Developer's Contribution comprises the Cash Contribution.

#### 4. Definitions

4.1 In this Agreement the following definitions apply:

4.2 Act means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended from time to time).

4.3 Approval means any approvals consents, modifications, certificates (of all types) permits, endorsements, licenses, conditions or requirements (and any variation to them) which may be required by Law for the Proposed Development.

4.4 Authority means a government, local government, semi-government, public, administrative, statutory, ministerial, civil, fiscal or judicial body, commission, agency, department, tribunal or other authority or body.

4.5 Base CPI means the CPI number for the quarter ending immediately before the commencement of this Agreement.

4.6 Business Day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.

4.7 Cash Contribution, means ~~subject to the amounts calculated pursuant to~~ Clauses 6, 7 and 8 ~~to an anticipated, the maximum amount of \$960,000 as outlined in schedule 1.~~

4.8 CPI means the Consumer Price Index released by the Australian Bureau of Statistics for

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"Sydney - All Groups" or such other consumer price index that might replace it.

- 4.9 CPI Review Date means each six month anniversary of the date of this agreement.
- 4.10 Costs include costs, charges, fees, disbursements and expenses, including those incurred in connection with advisors.
- 4.11 Current CPI means the CPI number for the quarter ending immediately before the relevant CPI Review Date.
- 4.12 Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.
- 4.13 Development Land means the land comprising Lot 2 DP 607906, 396 Bells Line of Road Kurmond.
- 4.14 Development Application has the same meaning as in the Act.
- 4.15 Development Approval means a development consent issued under the Act with respect to all or part of the Proposed Development.
- 4.16 Development Consent has the same meaning as in the Act.
- 4.17 Development Contribution means ~~a monetary contribution, or the provision of a material public benefit~~ the Cash Contribution.
- 4.18 Dispute in connection with this agreement means an argument, a controversy, a difference, a dispute including of opinion or interpretation.
- 4.19 Event of Insolvency means anyone or more of the following occurrences:
- (a) the Developer becomes bankrupt, is served with a bankruptcy notice or a bankruptcy petition, has committed an act of bankruptcy or has entered into an arrangement within and under the meaning of the Bankruptcy Act 1976 (Cth); or
  - (b) a resolution is passed for the winding up or liquidation of the company; or
  - (c) a liquidator, provisional liquidator, receiver, receiver manager, controller, controlling manager, administrator, voluntary administrator or official manager is appointed to the Developer or a resolution is passed for the purposes of placing that party in the control of an external administrator; or
  - (d) it suspends payment of its debts or is unable to pay its debts including of money payable under this agreement or is deemed insolvent; or
  - (e) it fails to or is taken as having failed to comply with a statutory demand under the Corporations Act 2001 (Cth).

~~4.20 Gazetteal means publication in the NSW Government Gazette of the rezoning of the Development Land from the Mixed Agricultural Zone to rural residential/residential housing zones to make the Proposed Development permissible subject to obtaining development consent.~~

~~4.24.20~~ GST has the same meaning as in the GST Law.

~~4.24.21~~ GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

~~4.234.22~~ Land means Lot 2 DP 607906, 396 Bells Line of Road Kurmond.

~~4.244.23~~ Law means:

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- (i) the common law and principles of equity;
- (ii) the requirements of legislation, regulations and by-laws; and
- (iii) a binding order made by an Authority.

~~4.254.24~~ LPI means Land and Property Information of New South Wales or any other government agency replacing it.

~~4.264.25~~ Mortgage means a mortgage charge, lien pledge, title retention, deposit arrangement, caveat or equitable interest.

~~4.274.26~~ Party means a party to this agreement, including their successors and assigns.

~~4.284.27~~ Proposed Development means the ~~rezoning and~~ subdivision of the Development Land into approximately 32 residential lots.

~~4.294.28~~ Public Facilities means public infrastructure, facilities, amenities and services.

~~4.304.29~~ Regulation means the *Environmental Planning and Assessment Regulation 2000*.

~~4.314.30~~ Residential Allotment means a lot comprising part of the Development Land to be created as part of the Proposed Development that is intended to be used for the purposes of a single dwelling house without being further sub-divided.

~~4.324.31~~ Residential Allotment Contribution means, subject to adjustment pursuant to clause 7, Clauses 6, 7 and 8, and Schedule 1, 7 cash to the value of \$30,000 per Residential Allotment.

~~4.33~~ Rezoning Application means ~~a Planning Proposal to rezone the Development Land in order to allow the Proposed Development to be carried out on that land.~~

~~4.344.32~~ Subdivision Certificate means a certificate issued under section 109C (d) of the Act with respect to the Proposed Development.

~~4.354.33~~ Transfer means to settle, assign, transfer, convey, alienate, otherwise dispose of or part with possession of.

### 5. Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or reenactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed

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or document as amended, novated, supplemented or replaced.

- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (k) References to the word, "include" or "including" are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.
- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (b) Any schedules and attachments form part of this Agreement.

### 6. Calculation of Development Contributions to be made under this Agreement

(a) The Developer and Council acknowledge and agree that:

- (i) ~~the Maximum~~ There shall be an Anticipated Total Cash Contribution of \$960,000 (nine hundred and sixty thousand dollars) has been which is calculated on the basis that approximately 32 Residential Allotments can be achieved on the Development Land and, subject to Schedule 1, the Developer will contribute cash to the ~~maximum value~~ amount of \$30,000 (as at the commencement of this Agreement ~~and as per~~ but to be adjusted hereafter) for each Residential Allotment (being the Residential Allotment Contribution);
- (ii) if more or less than 32 Residential Allotments can be achieved on the Development Land and where adjustments are made pursuant to clause 7 hereof, the ~~Maximum Anticipated~~ Total Contribution is to be revised such that the Developer's Contribution will have a maximum value of the Residential Allotment Contribution multiplied by the number of achievable Residential Allotments.

### 7 CPI Adjustment of Development Contributions

7.1 On each CPI Review Date the Residential Allotment Contribution will be calculated as follows:

$$RAC_c = RAC_b \times \frac{\text{Current CPI}}{\text{Base CPI}}$$

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Where:

RAC<sub>B</sub> = The Residential Allotment Contribution at the commencement of this Agreement (i.e. \$30,000)

RAC<sub>C</sub> = Adjusted Residential Allotment Contribution at CPI review date.

- 7.2 On each CPI Review Date the Cash Contribution must be adjusted on a proportionate basis in accordance with the adjustment to the ~~Maximum~~Anticipated Total Contribution.

### 8. Payment of Cash Contributions

- (a) The Developer must pay the Cash Contribution to Council as a contribution to the community facilities and works nominated as cash contributions in Schedule 1.
- (b) The Cash Contribution must be paid to Council, prior to the issue of the Subdivision Certificate, on a 'pro-rata' basis. The pro-rata payment calculation is to be based on the number of Residential Allotments included in the Subdivision Certificate for the relevant stage ~~as~~and outlined in Schedule 1.

### 9. Application of s94 and s94A of the Act to the Development

- 9.1 This Agreement excludes the application of section 94A and section 94 of the Act to the Proposed Development.
- 9.2 Notwithstanding Clause 9.1, should a section 94 Plan which applies to the land come into force prior to the issue of any development consent for subdivision of the land, this Agreement shall be terminated immediately and the adopted contribution rate within such section 94 Plan shall be applied in place of the Development Contribution cited within this Agreement.
- 9.3 Clause 9.2 does not allow the Council or the developer to retrospectively apply a section 94 contribution for allotments for which development contributions have been paid in accordance with this Agreement.
- 9.4 Subject to clause 10 should this Agreement be terminated in accordance with clause 22, section 94A or section 94 of the Act, whichever is applicable, will apply to the Proposed Development.

### 10. Registration of this Agreement

- (a) ~~Either:~~

~~(i) within 20 Business Days of the date of the Gazetteal; or~~

~~(ii) Within 420~~30 days from the commencement of this Agreement;

~~whichever is the latter,~~ the Developer must take all reasonable steps to procure the registration of the Agreement, in accordance with Section 93H of the Act on the relevant folios of the register held by the LPI pertaining to the Development Land.

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## ORDINARY MEETING

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(b) The Council agrees:

- (i) to provide a release and discharge of this Agreement with respect to the Development Land or any lot, ~~including a strata lot~~, created on subdivision of the Development Land on satisfaction by the Developer of the obligation to provide the Developer's Contribution; and
- (ii) to do all things reasonably necessary, including the execution of any documents, to enable the Developer to remove the notation of this Agreement on the relevant folios of the register, held by the LPI pertaining to the Land.

(c) The Council acknowledges that the registration of this Agreement on the relevant folios of the register held by the LPI pertaining to the Development Land, constitutes a ~~suitable~~ means of enforcement of this Agreement for the purposes of [Section 93F\(3\)\(g\) of the Act under the Environmental Planning and Assessment Act 1979](#).

### 10A. Review of this Agreement

The parties may agree to review this Agreement in circumstances and in a manner determined by the parties. Any amendment, modification, supplement or replacement document which results from a review must be in writing, signed by the parties and registered at LPI under Section 93H of the Act.

## 11. Dispute Resolution

### 11.1 Reference to Dispute

If a dispute arises between the Parties in relation to this Agreement, then the Parties must resolve that dispute in accordance with this clause.

### 11.2 Notice of Dispute

The Party wishing to commence the dispute resolution processes must notify the other Party in writing of:

- (a) the intent to invoke this clause;
- (b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this clause; and
- (c) the outcomes which the notifying Party wishes to achieve (if practicable).

### 11.3 Representatives of Parties to Meet

- (a) The representatives of the Parties must promptly (and in any event within 15 Business Days of the written notice provided in accordance with clause ~~19~~1.2) meet in good faith to attempt to resolve the notified dispute.
- (b) The Parties may, without limitation:
  - (i) resolve the dispute during the course of that meeting;
  - (ii) agree that further material, expert determination in accordance with clause ~~19~~1.5 or consideration is needed to effectively resolve the dispute (in which event the Parties will, in good faith, agree to a timetable for resolution); and

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## ORDINARY MEETING

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- (iii) agree that the Parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

### 11.4 No party may constrain

If:

- (a) at least one meeting has been held in accordance with clause 10.1.3; and
- (b) the Parties have been unable to reach an outcome identified in clause 10.1.3(b)(i) to (iii); and
- (c) any of the Parties, acting in good faith, forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 10.1.3, then, that Party may, by 15 Business Days written notice to the other Party, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause does not of itself amount to a breach of this Agreement.

### 11.5 Expert Determination

- (a) If a Dispute arises between Parties to this Agreement, the Parties may agree to refer the Dispute to expert determination in Sydney, New South Wales administered by the Australian Commercial Dispute Centre (ACDC).
- (b) The expert determination will be conducted in accordance with the ACDC Rules for Expert Determination (Rules) in force at the date of this Agreement. The Rules set out the procedures to be adopted, the process of selection of the expert and the costs involved, including the Parties' respective responsibilities for the payment of the expert's costs and other costs of the expert determination.
- (c) The expert determination will be final and binding on the Parties.
- (d) This clause 10.1.5 survives termination of this Agreement.

### 11.6 Urgent Relief

At any time, a Party may, without inconsistency with anything in this clause 11.6, seek urgent interlocutory relief in respect of a dispute under this Agreement from any Court having jurisdiction.

## 12 Enforcement

- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any court of competent jurisdiction.
- (b) Nothing in this Agreement prevents:
  - (i) a Party from bringing proceedings in a court of competent jurisdiction to enforce any aspect of this Agreement or any matter to which this Agreement relates, subject to compliance with clause 10.1; and
  - (ii) the Council from exercising any function under the Act or any other Act or Law

## 13 Notices

- (a) Any notice, consent, information, application or request that must or may be given or

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## ORDINARY MEETING

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made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- i. Delivered or posted to that Party at its address set out below.
- ii. Faxed to that Party at its fax number set out below.

### The Developer

Address:

Suite 138,  
2-18 Buchanan Street, BALMAIN NSW 2757  
PO Box 1176, ROZELLE NSW 2039  
Facsimile: 1300 101 100

### Council

Address:

Hawkesbury City Council:  
General Manager  
366 George Street,  
WINDSOR NSW 2571

Telephone: 4560 4444

Facsimile: 4587 7740

- (b) If a Party gives the other Party 3 business day's notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.
- (c) Any notice, consent, information, application or request is to be treated as given or made at the following time:
  - i. If it is delivered, when it is left at the relevant address.
  - ii. If it is sent by post, 2 business days after it is posted.
  - iii. If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- (d) If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

## 14 Approvals and consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in

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101 Group Pty Ltd Voluntary Planning Agreement DRAFT V3 November 2015

## ORDINARY MEETING

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that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

### 15 Assignment and dealings

~~None of the parties to this Agreement may assign or otherwise deal with their rights, powers, obligations and remedies under this Agreement or allow any interest in them to arise or be varied, save and except as provided in clause 10.~~

#### 15.1 The Developer is not to:

15.1.1 sell, transfer, mortgage or charge the Land, or

15.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,

to any person unless:

15.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold, transferred, mortgaged or charged or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council, and

15.1.4 the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, mortgagee, charge, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and

15.1.5 The Developer is not in breach of this Deed, and

15.1.6 the Council otherwise consents to the transfer, mortgage, charge, assignment or novation, such consent not to be unreasonably withheld.

15.2 Clause 15.1 does not apply in relation to any sale, transfer, mortgage or charge of the Land if this Deed is registered on the title to the Land at the time of the sale.

15.3.1 Upon the commencement of this Deed, the Council is deemed to have acquired, and the Developer is deemed to have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the Real Property Act 1900 (NSW) and consequently the Council has a sufficient interest in the Land to lodge and maintain with the Land and Property Management Authority a caveat notifying that interest.

15.3.2 The Developer consents to the Council lodging a caveat on the Land where this Deed is not registered on the title to the Land due to a breach by the Developer of its obligations.

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## ORDINARY MEETING

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### 16 Costs

Each party must bear and pay its own costs of and incidental to the preparation and execution of this Agreement.

### 17 Entire agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

### 18 Further acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

### 19 Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

### 20 Joint and individual liability and benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

### 21 No fetter

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

### 22 Release

When the Developer has satisfied all of the obligations imposed on it under this Agreement in respect of that part of the Development Land for which a Subdivision Certificate has been issued and for which the Developer's Contribution has been delivered then the Council must promptly at the request and at the reasonable expense of the Developer do all acts and things necessary to remove this Agreement from the title of that part of the Development Land.

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101 Group Pty Ltd Voluntary Planning Agreement DRAFT V3 November 2015



~~23 Termination~~

~~Subject to clause 11 this Agreement may be terminated by the Council by written notice to the Developer if:~~

~~(a) the Developer commits a breach of any of the terms and conditions of this Agreement and fails to remedy such a breach within fourteen (14) days of receipt of a written notice (which specifies the breach and requires the Developer to remedy the breach) whereupon the date of such termination will be effective on the 15th day from receipt of such written notice; or~~

~~(b) an Event of Insolvency occurs.~~

~~24~~23 Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

~~25~~24 Pooling of development contributions

The ~~parties agree that the~~ Developer's proposal provides a cash benefit to be utilised for public benefit under the terms of this VPA and ~~that~~ Pooling the cash contribution with other monies paid under other VPAs may be an appropriate, fair and equitable way to apportion monies progressively for the different purposes under those VPAs to provide public benefits, particularly essential infrastructure, and no objection will be taken to same.

~~26~~25 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

~~27~~26 Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

~~28~~27 Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written

## ORDINARY MEETING

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waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

### 2028 GST

- 29.1 Unless otherwise indicated, all amounts payable by one party to the other party in relation to a supply under this Agreement have been calculated exclusive of any GST which may be imposed on the supply.
- 29.2 If any supply made under this Agreement is, or becomes, subject to GST, the party to whom the supply is made ("Recipient") must pay to the party making the supply ("Supplier"), as consideration, in addition to any consideration payable or to be provided elsewhere in this Agreement, subject to issuing a Valid Tax Invoice, an additional amount on account of GST, such amount to be calculated by multiplying the consideration by the applicable rate of GST.
- 29.3 Any amount in respect of GST payable under clause 29.2 must be paid to the Supplier immediately on receipt of the Valid Tax Invoice.
- 29.4 If any party is required to reimburse or indemnify the other party for a cost or expense ("Cost") incurred by the other party, the amount of that Cost for the purpose of this Agreement is the amount of the Cost incurred, less the amount of any credit for, or refund of, GST, which the party incurring the Cost is entitled to claim in respect of the Cost.
- 29.5 ~~If GST is linked with the abolition or reduction of other taxes and charges, all amounts payable by the Recipient to the Supplier under this Agreement (excluding GST) must be reduced by the same proportion as the actual total costs of the Supplier (excluding GST) are reduced either directly as a result of the abolition or reduction of other taxes and charges payable by the Supplier or indirectly by way of any reduction in prices (excluding GST) charged to the Supplier. Both parties must also comply with Part VB of the Trade Practices Act 1974 (Cth).~~

**ORDINARY MEETING**

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Executed as an Agreement on

2015

Execution by Council

Signed by Hawkesbury City Council by  
its authorised officer in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Authorised Officer's Name:  
Signing on behalf of: Hawkesbury City Council  
Power of Attorney Book:  
No: \_\_\_\_\_

\_\_\_\_\_  
Address of witness

Execution by 101 GROUP PTY LTD

Signed by 101 GROUP PTY LTD  
by:

\_\_\_\_\_  
Signature of director/company secretary

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Print name



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### Schedule 1 –Proposed Contributions

#### Total Contributions

It is proposed to provide ~~a total~~ an anticipated cash contribution to Council of \$960,000, subject to Clauses 6, 7 and 8, at a rate of \$30,000 per lot. The amount is based on the indicative public works shown in Appendix 1. However, it is ultimately a matter for Council as to the location and type of facilities to be provided.

#### Staging of Payments

The estimated development yield is 32 lots. Given the size of the development, no works in kind are proposed by this VPA. Therefore cash payments will be made in stages prior to release of final plan of subdivision at an anticipated rate of \$30,000 per lot, subject to Clauses 6, 7 and 8.

The number of lots released in each stage may vary depending on market demand and pre-commitments. Payments will be made based on the number of lots to be created in each stage. The following is the indicative staging and payment schedule for the development:

##### STAGE 1

Payable on release of subdivision certificate for first 10 lots: \$300,000

##### STAGE 2

Payable on release of subdivision certificate for lots 11-20: \$300,000

##### STAGE 3

Payable on release of subdivision certificate for lots 21-32: \$360,000

**TOTAL CONTRIBUTIONS:** \$960,000

## Explanatory Note

### ~~Draft~~ Voluntary Planning Agreement

#### Lot 2 DP 607906, 396 Bells Line of Road, Kurmond

This Explanatory Note has been prepared in accordance with clause 25E of *Environmental Planning and Assessment Regulation 2000* (the Regulation).

The purpose of this Explanatory Note is to provide a plain English summary to support the notification in accordance with section 93G of the *Environmental Planning and Assessment Act 1979* (the Act) of a ~~draft~~ Voluntary Planning Agreement (draft VPA) under section 93F of the Act.

This Explanatory Note is not to be used to assist in construing the agreement.

#### The Parties

The Parties subject to this ~~draft~~ VPA are as follows:

Hawkesbury City Council (ABN 54 659 038 834) ("Council")  
101 Group Pty Ltd (ACN 142 599 291) ("the Developer")

#### Description of Subject Land

The ~~draft~~ VPA applies to development of Lot 2 DP 607906, 396 Bells Line of Road, Kurmond

#### Summary of objectives, nature and effect of the Planning Agreement

The ~~draft~~ VPA is complementary to a proposed amendment to Hawkesbury Local Environmental Plan 2012 which will enable the development of the site for approximately 32 large residential allotments.

The objective and effect of the ~~draft~~ VPA is for the Developer to provide Council with cash contributions towards the provision of public services and amenities, required as a result of the proposed development. The cash contribution amount is identified within the ~~draft~~ VPA.

The agreement will only operate if and when Council grants development approval(s) to the proposed development of the site. The agreement excludes the application of section 94A and section 94 of the Act to the proposed development of the site.

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### Assessment of the merits of the Planning Agreement

The merits of the ~~draft~~-VPA are that it will provide Council with cash contributions to provide for additional community facilities and public works in the locality and in the district. In the absence of an adopted Section 94 developer contributions plan for the area, this VPA will deliver a cash injection of \$960,000, at a rate of \$30,000 per lot.

The ~~draft~~-VPA will have positive merits as it will provide significant public benefits, and for the orderly and economic development of the subject land.

### How does the Planning Agreement promote the public interest and one or more of the objects of the Act?

The ~~draft~~-VPA promotes the public interest by ensuring that cash contributions are made for the provision of additional facilities and works which are required by the community as a consequence of the development.

The ~~draft~~-VPA promotes the following objects of the Act through the provision of cash contributions to be applied to community facilities and public works within the area:

- To encourage the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment, (Section 5(a)(i))
- To encourage the promotion and co-ordination of the orderly and economic use and development of land, (Section 5(a)(ii))
- To encourage the protection, provision and co-ordination of communication and utility services, (Section 5(a)(iii))
- To encourage the provision of land for public purposes, (Section 5(a)(iv))
- To encourage the provision and co-ordination of community services and facilities, (Section 5(a)(v))
- The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, (Section 5(a)(vi))

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### How does the Planning Agreement promote the objects of the Local Government Act 1993?

By requiring the provision of cash contributions the ~~draft~~-VPA provides Council with the ability to provide facilities appropriate to the needs of the incoming community and also provides Council with a role in the management, improvement and development of natural resources in its area

In this way, the ~~draft~~-VPA promotes the purposes set out in section 7(d) of the *Local Government Act 1993*.

### How does the Planning Agreement promote the elements of Council's Charter under Section 8 of the Local Government Act 1993?

The ~~draft~~-VPA makes provisions for cash contributions towards community infrastructure, hence the ~~draft~~-VPA promotes the following elements of Council's Charter under Section 8 of the Local Government Act 1993:

- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible
- to engage in long-term strategic planning on behalf of the local community
- to exercise its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights

### What are the planning purposes served by the Planning Agreement?

The planning purpose of the ~~draft~~-VPA is to achieve the delivery of various community facilities and public infrastructure required as a result of the proposed development. Thus, the VPA promotes the orderly planning and development of the land.

### Does the Planning Agreement conform with Council's Works Program?

The proposed works in the ~~draft~~-VPA are in addition to Council's current works program.

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Does the agreement specify certain requirements of the agreement must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued?

Yes. Paragraph 8 (b) of the ~~draft~~ VPA identifies that pro-rata payment based on the number of residential allotments is to be made prior to the issuing of subdivision certificates.

~~19 April 2016-2 December 2016~~

oooO END OF REPORT Oooo

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### GENERAL MANAGER

**ITEM: 79**                      **GM - Regional Strategic Alliance - (79351, 95496)**

**Previous Item:**            57, Ordinary (28 April 2015)  
                                 MM, Ordinary (16 September 2014)

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#### **REPORT:**

##### **Executive Summary**

Council, at its meeting on 28 April 2015, gave consideration to a report regarding the formation of a Regional Alliance – Co-operation and Management Agreement between Hawkesbury, Penrith and Blue Mountains Councils, and resolved to proceed with the steps necessary to form the Agreement and to establish the appropriate supporting management and governance frameworks.

Following the finalisation of the Agreement, a Management Committee, consisting of two Councillors and the General Manager, and a Working Group comprised of Senior Staff, from each respective member Council, were appointed.

The Working Group, with the endorsement of the Management Committee, has progressed the Agreement, to a stage, where a formal Regional Strategic Alliance can be formed between the three Councils. However, due to recent events, this Council's continued participation in the Alliance is uncertain. Since the commencement of the Agreement in December 2015, this Council was identified for a potential merger with part of The Hills Shire Council. Council's potential merger impacts on its continued participation in the Alliance with the other two Councils, and limits its ability to commit financially.

This report provides an overview of the progress of the Alliance initiative and outcomes to date, and recommends that Council endorses arrangements entered into with Penrith and Blue Mountains Councils, to allow Council's continued participation in the Alliance, in light of a potential merger with part of The Hills Shire Council.

The Working Group, with the endorsement of the Management Committee, has also progressed an initiative to consider the potential formation of a Regional Tourism Organisation between the three Councils, including seeking relevant funding from Destination NSW. This report provides an overview in regard to Council's participation, within the scope as detailed in this report, for Council's information.

##### **Consultation**

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

##### **Background**

##### ***Formalisation of the Regional Strategic Alliance with Penrith and Blue Mountains City Councils***

Council, at its meeting on 28 April 2015, gave consideration to a report regarding the formation of a Regional Alliance – Co-operation and Management Agreement between Hawkesbury, Penrith and Blue Mountains councils, and resolved, in part:

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*“That:*

- 1. The information contained in the report on Regional Strategic Alliance – Co-operation and Management Agreement be received.*
- 2. Council give authority to the General Manager to enter into a Regional Strategic Alliance Co-operation and Management Agreement (the “Agreement”) with Blue Mountains City Council and Penrith City Council....”*

In accordance with this resolution, an Agreement was entered into by the three Councils. The project while partially a response to the local government reforms, being instigated by the State Government, was also an initiative from each Council, attempting to capitalise on the good will and opportunities that already exist between each Council and their key communities.

In accordance with the Agreement, a Management Committee was established consisting of two Councillors and the General Manager from each Council. In addition to this, a Working Group to support the Management Committee was established consisting of Senior Staff from each Council.

Since the establishment of the Agreement, the Working Group has been meeting regularly to discuss a number of options and opportunities, and undertook a scoping exercise to engage a consultant to facilitate the investigation into a Regional Strategic Alliance.

The three Councils proceeded to engage a consultant to facilitate and generate discussion between each Council to draw out some of the synergies, differences, and critically, areas of opportunity between each Council that could be further investigated. The other objective of the consultant's engagement was to develop and propose to the Management Committee a structure for any potential Regional Strategic Alliance moving forward.

Subsequent to the scoping exercise, SGS Economics and Planning (SGS) were engaged to provide a number of facilitated workshops, with both the Senior Staff of each Council and the Management Committee.

These workshops identified a number of key issues, including:

- Identification of strengths and synergies that already exist
- Areas of opportunity
- What elements will be required to be successful
- What are the desired outcomes
- The governance around the structure of any future entity

As part of their brief, SGS were required to undertake a significant amount of research, looking at similar alliances, both domestically and internationally, to determine best practice cases around the world. This research was undertaken with the local knowledge and information gained over three workshops with the Management Committee and Working Group.

The culmination of a final report from SGS in October last year, resulted in a number of options being put forward for the Management Committee to consider, in regard to the governance structure of a future entity, to support activities of the Alliance. The preferred model suggested by SGS, and consequently endorsed by the Management Committee, is an Alliance Board with a Service Delivery Company. Having a company limited by guarantee, operating in conjunction with an Alliance Board, is considered to be an appropriate structure to bring projects to maturity. The justification of this model is that it has the advantages of a company structure to undertake the business of delivering services, and the Alliance Board can be quickly established through a Section 355 Committee.

The preferred model is considered to be fit for purpose and support the desired outcomes, being to achieve efficiencies and improved quality of services for the region, improve strategic capacity, and have a stronger seat at the table in terms of advocacy and promotion. It also allows dual representation from both elected representatives and senior Council staff.

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The consultant also identified a number of resourcing requirements and an indicative budget for the first year of the Alliance. The resourcing requires some in kind support from each Council, particularly relating to senior staff time, in respect of the Alliance Board and the Executive Group, as identified in the preferred governance model. The funding required relates to board member expenses and establishment costs, in addition to salaries for a part-time secretariat, administration support and a CEO for the Delivery Company. The estimated cost in the first year has been set at \$285,000 combined, for the participating Councils.

During the process of formalising the Regional Strategic Alliance and associated governance structure, by way of a formal agreement, the State Government announced a number of proposed amalgamations for councils in NSW. Both Blue Mountains and Penrith City Council are not subject to any of these proposals. However, this Council has been proposed for an amalgamation with part of The Hills Shire Council.

Due to these circumstances, Council cannot commit to being part of the Regional Strategic Alliance at this point in time. The Management Committee considered these circumstances and came to a view that the Regional Strategic Alliance should still proceed with both Penrith and Blue Mountains City Councils as members.

In view of the circumstances, a clause has been added to the Agreement to formalise the Alliance, which permits this Council to remain as an observer member, and should Council not be merged, allows for a new agreement to be developed to admit Council to the Regional Strategic Alliance, with Penrith and Blue Mountains Councils. The proposed clauses from the Agreement, involving this Council, are as follows:

*"L. The Agreement acknowledges that Hawkesbury City Council are currently proposed by the State Government for amalgamation with part of the Hills Shire Council. Hawkesbury City Council has indicated its intention to be a party to this Strategic Alliance, but the current proposals do not enable this to happen at this point. This Agreement notes that should the proposal outlined above not proceed that both Penrith City Council and Blue Mountains City Council will immediately terminate this Agreement and sign a new Agreement with similar terms admitting Hawkesbury City Council to the RSA."*

*"12.2 If representatives of HCC attend meetings of the Alliance Board and the Executive Group or both as observers, in accordance with clause 14A, then the Council shall arrange for HCC to sign a confidentiality agreement, in such terms as the Alliance Board determines, to the effect that all information provided to HCC in accordance with this Agreement will be retained by HCC in strict confidence and will not be disclosed to any other person except as provided in clause 12.1."*

### *"14A OBSERVERS*

*14A.1 BMCC and PCC agree that representatives of HCC may attend at meetings of each of the Alliance Board and Executive Group, during that part of the term in which the amalgamation between HCC and part of Hills Shire Council (HSC) remains under investigation through the Office of Local Government. The representatives of HCC who attend the meetings referred to in this clause will do so as observers only.*

*14A.2 Notwithstanding clause 14A.1, at the discretion of the Chairperson of the Alliance Board or of the Executive Group, representatives of HCC who attend any such meetings may be permitted to participate in discussions at the meeting concerned.*

*14A.3 This clause 14A shall be taken to be deleted from this Agreement if HCC does amalgamate with some or all of the HSC."*

*"15.3 This Agreement notes that should the proposed amalgamation between Hawkesbury City Council and part of the Hills Shire Council not proceed that both Penrith City Council and Blue Mountains City Council will immediately terminate this Agreement and sign a new agreement with similar terms admitting Hawkesbury City Council to the RSA."*



## ORDINARY MEETING

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The Management Committee subsequently resolved at its meeting on 26 February 2016, as follows:

*"That the Regional Strategic Alliance Management Committee:*

- 1. The information contained in the report on the Formalisation of the Regional Strategic Alliance between Penrith City Council and Blue Mountains City Council, including the provisions applicable to Hawkesbury City Council be accepted.*
- 2. The Management Committee provide "in principle" endorsement for the Regional Strategic Alliance Draft Agreement, subject to independent legal review not inconsistent with the Draft Agreement and that any subsequent changes are agreed by the respect General Manager's prior to submitting the report to each Council.*
- 3. Blue Mountains City Council and Penrith City Council split equally the annual contributions of \$285,000 required for the operation of the Regional Strategic Alliance."*

It is recommended that Council's participation in the Regional Strategic Alliance between Penrith and Blue Mountains City Councils, in accordance with the terms of the Agreement, as detailed above, is endorsed.

### **Regional Tourism Organisation**

At the Management Committee meeting on 26 February 2016, discussions were also held on the opportunities for a Regional Tourism Organisation for the Blue Mountains, Hawkesbury and Penrith City Council local government areas.

The Management Committee considered the business case developed by The Stafford Group, outlining how a Regional Tourism Entity could operate with the support of the NSW Government through Destination NSW. The business case envisaged formally requesting Destination NSW for funding support for an initial five year period to establish the Regional Tourism Entity.

The Management Committee subsequently resolved, as follows:

*"That the Regional Strategic Alliance Management Committee:*

- 1. Note that a technical 'tourism' working group has been established with staff representatives from Blue Mountains, Hawkesbury and Penrith Councils, coordinated by Blue Mountains City Council;*
- 2. Endorse the attached Regional Tourism Organisation (RTO) business case supporting the formation of a RTO for Blue Mountains, Hawkesbury and Penrith City LGAs;*
- 3. Endorse the preparation and lodgement of a written submission to Destination NSW (DNSW) seeking their support for the RTO business case involving Penrith, Hawkesbury and Blue Mountains City Councils and seeking DNSW financial contribution in accordance with the funding structure outlined within the business case (being a 43% contribution for the first 3 years and a 35% contribution for the fourth and fifth year);*
- 4. Note that, should a positive response to the funding request be received from Destination NSW (DNSW), the RSA will write to individual partner Councils asking to formally consider commitment of the matching funding contribution in accordance with the funding structure outlined within the business case;*
- 5. Write to partner Councils providing a copy of the business case, and the submission made to DNSW, for their information;*
- 6. Note that the funding allocated to the business case preparation by 'The Stafford Group' was \$15,600 (excl GST); and*

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7. *Note that the tourism working group will be commissioning legal advice regarding the establishment of the RTO as a business entity under the RSA, as well as a minor contract variation for 'The Stafford Group' to assist with preparation of the final submission to DNSW."*

It is to be noted that at this stage there is no financial commitment being made by any of the Councils, with the process to date having been predominantly focused on making the business case to support an application for funding.

Whilst subject to the proposed merger with part of The Hills Shire Council, this Council will not be able to commit financially. If Council continued to stand alone, Council approval would be sought, as and when a financial commitment is required. In the event of the merger proceeding, the new entity will need to consider its participation in the Regional Tourism Organisation, and if applicable, would be able to commit financially as and when required to progress the initiative.

It is recommended that Council's participation in the establishment of a Regional Tourism Organisation between Penrith, Blue Mountains and Hawkesbury City Councils, as detailed above, is noted.

### Summary

As detailed above, Council's participation in and financial commitment to the Regional Strategic Alliance and the Regional Tourism Organisation, with Penrith and Blue Mountains City Councils, is impacted by Council's current proposal to be merged with part of The Hills Shire Council, and thereby becoming a new entity.

In addition, Council has been able to retain participation in these initiatives until such time as the outcome of the merger proposal is known. Penrith and Blue Mountains City Councils' acknowledgement of Council's situation, and the consequent actions taken to enable Council to be still involved, in these regional initiatives, is appreciated.

Council's continued participation, as detailed in this report, will facilitate the continuation of these initiatives and a smooth transition should the proposed merger not proceed. In the event of the proposed merger proceeding, the new entity and Penrith and Blue Mountains Councils would need to reconsider the current arrangements, and if necessary, adjust the Agreement accordingly.

### Conformance to the Hawkesbury Community Strategic Plan

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

- Maintain its independent identity and voice through strong local government and community institutions;
- Have constructive and productive partnerships with residents, community groups and institutions;

and is also consistent with the nominated strategy in the CSP being:

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

### Financial Implications

Funding for Council's share of the costs identified for resourcing the Regional Strategic Alliance, as detailed in this report, and the Council's contribution that would be required to progress the Regional Tourism Organisation, is included in the 2016/2017 Draft Operational Plan currently on public exhibition.

**ORDINARY MEETING**

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**RECOMMENDATION:**

That:

1. The information contained in the report on the Regional Strategic Alliance and Regional Tourism Entity be received and noted.
2. Council endorse the arrangements established by the Regional Strategic Alliance with regard to Council's future participation in the Regional Strategic Alliance, as outlined in the report.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 10 May 2016

**ITEM: 80**                      **GM - Election of Board of Directors - Local Government and Shires Association of NSW - (79351, 79633)**

**Previous Item:**            93, Ordinary (30 June 2015)

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### REPORT:

#### Executive Summary

As a consequence of an error that resulted in an irregularity in the conduct of the election of the Board of Directors of the Local Government and Shires Association of New South Wales (Local Government NSW) at the 2015 Annual Conference, a fresh election is required with the Council needing to nominate voting delegates for that election.

#### Consultation

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

#### Background

At its meeting on 30 June 2015, Council nominated voting delegates for the 2015 Local Government NSW Annual Conference. The voting delegates were Councillors Creed, Calvert, Lyons-Buckett and Paine.

Advice was received from LGNSW indicating that there appeared to have been an error, which resulted in a voting irregularity in the conduct of the election of the LGNSW Board and, as a consequence, the Australian Electoral Commission (AEC) was requested to undertake an Inquiry.

Council has now received a letter from LGNSW dated 15 April 2016, which indicates that the matter was heard by the Federal Court of Australia on 29 March 2016. A copy of this letter is attached as Attachment 1 to this report.

The letter indicates that the Court made an order declaring that the election of 13 persons to the Board of Directors of LGNSW, which was declared on 16 October 2015, to be void, and each such person not to have been elected.

As a consequence, the AEC has been directed to conduct a fresh election of the affected positions, and in accordance with the Court's orders, the election will be by secret postal ballot. The vacant positions are:

- Vice President (Metropolitan/Urban council)
- Vice President (Regional/Rural council)
- Five Directors (Metropolitan/Urban council)
- Six Directors (Regional/Rural council)

As a fresh election will be conducted, Council must again nominate voting delegates for the postal ballot by 12 noon on Thursday, 2 June 2016. It should be noted that, Council is not obliged to nominate the same delegates, as were nominated for the Board election conducted in October 2015.

In this regard, Council is entitled to five voting delegates.

Accordingly, Council is now required to nominate its five voting delegates in regard to this matter.

## **ORDINARY MEETING**

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### **Conformance to the Hawkesbury Community Strategic Plan**

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

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

### **Financial Implications**

There are no financial implications arising from this report.

### **RECOMMENDATION:**

That Council determine its five voting delegates for the purpose of the forthcoming election of the Board of Directors of the Local Government and Shires Association of NSW.

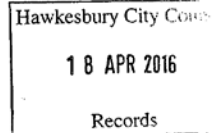
### **ATTACHMENTS:**

**AT - 1** Letter from Local Government NSW dated 15 April 2016.

## ORDINARY MEETING

Meeting Date: 10 May 2016

### AT - 1 Letter from Local Government NSW dated 15 April 2016



Our ref: R16/0006  
Further contact: Adam Dansie

15 April 2016

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

Dear Mr Jackson,

#### **Local Government and Shires Association of New South Wales – Election of Board of Directors**

The purpose of this letter is to provide members of the Local Government and Shires Association of New South Wales (the "Association") with important information about the election of persons to the Board of the Association.

You will recall that the Association asked the Australian Electoral Commission ("AEC") to seek an Election Inquiry immediately after the Board election held at our 2015 Annual Conference, because an error caused a voting irregularity.

On 29 March 2016 the Federal Court of Australia ("Court") made an order declaring that the election of 13 persons on the Board of Directors of Association declared on 16 October 2015 void and each such person not to have been elected. The offices of President and Treasurer were unaffected, and the Court determined that three other directors were not impacted by the irregularity because of the size of their respective primary votes. A copy of the Court's judgement is available at the following link: <http://www.lgnsw.org.au/files/imce-uploads/127/federal-court-judgement-2016.pdf>.

The Fair Work Commission has directed the AEC to conduct a fresh election for the affected positions, and in accordance with the Court's orders the election will be by secret postal ballot. The vacant positions are:

- Vice President (Metropolitan/Urban council)
- Vice President (Regional/Rural council)
- Five (5) Directors (Metropolitan/Urban council)
- Six (6) Directors (Regional/Rural council)

The only candidates eligible for these positions are those who stood for them in 2015. A nomination for election may be withdrawn by a candidate, provided that notice of withdrawal in writing is received by the Returning Officer no later than seven (7) days before the holding of the ballot.

LOCAL GOVERNMENT NSW  
GPO BOX 7003 SYDNEY NSW 2001  
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SCANNED

## ORDINARY MEETING

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The AEC's Notice of Election, issued on 15 April 2016, is available at the following link  
[http://www.lgnsw.org.au/files/imce-uploads/79/2016\\_Election\\_Notice.pdf](http://www.lgnsw.org.au/files/imce-uploads/79/2016_Election_Notice.pdf).

### **Allocation of voting delegates**

The formula for calculating the number of voting delegates is provided for in Rule 23 of the Association's Rules.

The number of voters that each Ordinary member is entitled to is set out in the table at Annexure A.

### **Eligibility requirements to be a voting delegate**

Voting delegates must be a Councillor of a Council which is an Ordinary Member of the Association, or, in the case of the NSW Aboriginal Land Council, a member of its Board – see rule 37(a) of the Association's rules.

An Administrator of a Council that is an Ordinary member, shall not be eligible for nomination or election as a member of the Board nor be entitled to vote in any such election – see rule 37(b) of the Association's rules.

### **How to nominate voting delegates**

Each Ordinary member must nominate its voting delegate(s) for the postal ballot by **12:00 noon on Thursday 2 June 2016**. No changes to voting delegates will be accepted after this time.

Nominations must include the full name and postal address (including street address or PO Box number, suburb, state and postcode) for each voting delegate and indicate whether the address for each voting delegate is a workplace address.

Nominations are to be made online using the nomination form at the following link:  
<https://lgsa.wufoo.com/forms/m1ro2ek01d8ed36/>

Important note: Only one nomination form may be completed for each Ordinary member. It is important that you have all of the required information (full names and postal addresses for each nominated voting delegate) before completing the form.

Questions on voting delegates should be directed to Adam Dansie, Senior Manager – Industrial Relations on (02) 9242 4142.

Yours sincerely

Cr Keith Rhoades AFSM  
President

## ORDINARY MEETING

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### Annexure A for 2016 Board Elections

Ordinary members' voting delegations for the 2016 election to vacant positions on the Board of Directors of the Association.

Ordinary member	Number of voters for voting in the election of Board of Directors
Aboriginal Land Council	9
Albury City Council (R/R)	4
Armidale Dumaresq Council (R/R)	3
The Council of the Municipality of Ashfield (M/U)	4
Auburn City Council (M/U)	5
Ballina Shire Council (R/R)	3
Balranald Shire Council (R/R)	1
Bankstown City Council (M/U)	10
Bathurst Regional Council (R/R)	3
Bega Valley Shire Council (R/R)	3
Bellingen Shire Council (R/R)	2
Berrigan Shire Council (R/R)	1
Blacktown City Council (M/U)	12
Bland Shire Council (R/R)	1
Blayney Shire Council (R/R)	1
Blue Mountains City Council (R/R)	4
Bogan Shire Council (R/R)	1
Bombala Council (R/R)	1
Boorowa Council (R/R)	1
The Council of the City of Botany Bay (M/U)	4
Bourke Shire Council (R/R)	1
Brewarrina Shire Council (R/R)	1
Broken Hill City Council (R/R)	2
Burwood Council (M/U)	4
Byron Shire Council (R/R)	3
Cabonne Shire Council (R/R)	2
Camden Council (M/U)	5
Campbelltown City Council (M/U)	9
City of Canada Bay Council (M/U)	5
Canterbury City Council (M/U)	7
Carrathool Shire Council (R/R)	1
Central Darling Shire Council (R/R)	1**
Cessnock City Council	4
Clarence Valley Council (R/R)	4
Cobar Shire Council (R/R)	1
Coffs Harbour City Council (R/R)	4
Conargo Shire Council (R/R)	1



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Ordinary member	Number of voters for voting in the election of Board of Directors
Coolamon Shire Council (R/R)	1
Cooma-Monaro Shire Council (R/R)	2
Coonamble Shire Council (R/R)	1
Cootamundra Shire Council (R/R)	1
Corowa Shire Council (R/R)	2
Cowra Shire Council (R/R)	2
Deniliquin Council (R/R)	1
Dubbo City Council (R/R)	3
Dungog Shire Council (R/R)	1
Eurobodalla Shire Council (R/R)	3
Fairfield City Council (M/U)	10
Forbes Shire Council (R/R)	1
Gilgandra Shire Council (R/R)	1
Glen Innes Severn Council (R/R)	1
Gloucester Shire Council (R/R)	1
Gosford City Council (R/R)	7
Goulburn Mulwaree Council (R/R)	3
Great Lakes Council (R/R)	3
Greater Hume Shire Council (R/R)	2
Greater Taree City Council (R/R)	3
Griffith City Council (R/R)	3
Gundagai Shire Council (R/R)	1
Gunnedah Shire Council (R/R)	2
Guyra Shire Council (R/R)	1
Gwydir Shire Council (R/R)	1
Harden Shire Council (R/R)	1
Hawkesbury City Council (M/U)	5
Hay Shire Council (R/R)	1
Holroyd City Council (M/U)	7
The Council of the Shire of Hornsby (M/U)	9
The Council of the Municipality of Hunters Hill (M/U)	2
Hurstville City Council (R/R)	5
Inverell Shire Council (R/R)	2
Jerilderie Shire Council (R/R)	1
Junee Shire Council (R/R)	1
Kempsey Shire Council (R/R)	3
The Council of the Municipality of Kiama (R/R)	3
Kogarah City Council (M/U)	5
Ku-ring-gai Council (M/U)	7
Kyogle Council (R/R)	1
Lachlan Shire Council (R/R)	1

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Ordinary member	Number of voters for voting in the election of Board of Directors
Lake Macquarie City Council (R/R)	7
Lane Cove Municipal Council (M/U)	3
Leeton Shire Council (R/R)	2
Leichhardt Municipal Council (M/U)	5
Lismore City Council (R/R)	3
City of Lithgow Council (R/R)	3
Liverpool City Council (M/U)	10
Liverpool Plains Shire Council (R/R)	1
Lockhart Shire Council (R/R)	1
Maitland City Council (R/R)	4
Manly Council (M/U)	4
Marrickville Council (M/U)	5
Mid-Western Regional Council (R/R)	3
Moree Plains Shire Council (R/R)	2
Mosman Municipal Council (M/U)	3
Murray Shire Council (R/R)	1
Murrumbidgee Shire Council (R/R)	1
Muswellbrook Shire Council (R/R)	2
Nambucca Shire Council (R/R)	2
Narrabri Shire Council (R/R)	2
Narrandera Shire Council (R/R)	1
Narromine Shire Council (R/R)	1
Newcastle City Council (R/R)	7
North Sydney Council (M/U)	5
Oberon Council (R/R)	1
Orange City Council (R/R)	3
Palerang Council (R/R)	2
Parkes Shire Council (R/R)	2
Parramatta City Council (M/U)	10
Penrith City Council (M/U)	10
Pittwater Council (M/U)	5
Port Macquarie-Hastings Council (R/R)	4
Port Stephens Council (R/R)	4
Queanbeyan City Council (R/R)	3
Randwick City Council (M/U)	7
Richmond Valley Council (R/R)	3
Rockdale City Council (M/U)	7
Ryde City Council (M/U)	7
Shellharbour City Council (R/R)	4
Shoalhaven City Council (R/R)	4
Singleton Council (R/R)	3

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Ordinary member	Number of voters for voting in the election of Board of Directors
Snowy River Shire Council (R/R)	1
Strathfield Municipal Council (M/U)	4
Sutherland Shire Council (M/U)	10
Council of the City of Sydney (M/U)	10
Tamworth Regional Council (R/R)	4
Temora Shire Council (R/R)	1
Tenterfield Shire Council (R/R)	1
The Hills Shire Council (M/U)	10
Tumbarumba Shire Council (R/R)	1
Tumut Shire Council	2
Tweed Shire Council (R/R)	4
Upper Hunter Shire Council (R/R)	2
Upper Lachlan Shire Council (R/R)	1
Uralla Shire Council (R/R)	1
Urana Shire Council (R/R)	1
Wagga Wagga City Council (R/R)	4
The Council of the Shire of Wakool (R/R)	1
Walcha Council (R/R)	1
Walgett Shire Council (R/R)	1
Warren Shire Council (R/R)	1
Warringah Council (M/U)	9
Warrumbungle Shire Council (R/R)	1
Waverley Council (M/U)	5
Weddin Shire Council (R/R)	1
Wellington Council (R/R)	1
Wentworth Shire Council (R/R)	1
Willoughby City Council (M/U)	5
Wingecarribee Shire Council (R/R)	3
Wollondilly Shire Council (R/R)	3
Wollongong City Council (R/R)	7
Woollahra Municipal Council (M/U)	5
Wyong Shire Council (R/R)	7
Yass Valley Council (R/R)	2
Young Shire Council (R/R)	2

Notes:

(R/R) – Rural / Regional

(M/U) – Metropolitan / Urban

\*\* – Council is under administration

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

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### CITY PLANNING

**ITEM: 81**                      **CP - Hawkesbury Horizon Project - Progress and Proposed Future Actions - (95498, 124414)**

**Previous Item:**            243, Ordinary (9 December 2014)  
                                 59, Ordinary (28 April 2015)  
                                 120, Ordinary (28 July 2015)  
                                 217, Ordinary (8 December 2015)

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#### **REPORT:**

##### **Executive Summary**

The purpose of this report is to update Council on the status of the Hawkesbury Horizon Initiative. Since the previous report to the Council meeting on 8 December 2016 the following progress has been made on the Initiative:

- The Hawkesbury Horizon Initiative (HHI) Concept Assessment Panel were briefed by the project team.
- The Concept Assessment Panel met to develop a set of criteria with weighting prior to undertaking a desk top audit of the four Regionally Significant Investible Project (RSIP) concepts.
- The Concept Assessment Panel assessed the four projects using weighted scoring.
- A combined score was developed for each of the concepts. A preferred concept was identified.
- The four concepts were displayed at the Hawkesbury Show (16 to 18 April 2016) and the local and wider community were asked to vote on their preferred concept.
- Council was briefed about the process and the preferred concept on 3 May 2016.
- The Hawkesbury Horizon Initiative Working Group will be invited to a fourth meeting to discuss the Concept Panel Assessment and the identification of the preferred concept.

This report recommends that the information be received and that Council support the next phase in the Initiative which would be to prepare a Business Case for the River Precinct. The Business Case would be a comprehensive report by suitably qualified consultants to assess the project costing, options, funding and financing opportunities, value for money, investment partners and governance.

##### **Consultation**

The issues raised in this report, including the public consultation at the Hawkesbury Show and the proposed fourth meeting with the HHI Working Group involve consultation and are matters which have required some preliminary engagement processes. Should Council determine to continue to work on this Initiative, the latter phases would include broader public community consultation under Council's Community Engagement Policy. However, prior to that consultation proceeding (in the latter phases), a further report to Council would be provided seeking approval to publicly exhibit.

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### Background

At the Council meeting on 8 December 2015 a progress report on the HHI was considered and the Council resolved as follows:

*"That:*

- 1. The information on the progress of the Hawkesbury Horizon Initiative be received.*
- 2. The proposed phases for the Hawkesbury Horizon Initiative as outlined in this report be supported.*
- 3. A further progress report be submitted to Council concerning the costs and timing of a prefeasibility assessment for each of Council's preferred or short list of RSIPs".*

This report relates to point 3 of the above resolution.

The following table outlines the phases for this Initiative as originally agreed by Council. These phases have been progressed and Council updated during that process with Council reinforcing agreement to the phasing, actions and progress.

### HHI Phases

Hawkesbury Horizon Initiative		Comment
<b>Phase 1</b>	Response to Hawkesbury Community Strategic Plan (CSP)	This project seeks to respond to the CSP's themes, directions and actions by creating thriving town centres by aiming for RSIPs.
<b>Phase 2</b>	Gathering Big Ideas	During 2014 and 2015, Big Ideas Workshop surveys and youth summit completed and 200 Big Ideas collected.
<b>Phase 3</b>	Preparing Business Plans (including Scoping Studies and aligning with other Council plans and projects including Revitalisation Action Plans, Beautification Planning, Economic Strategy and Tourism Strategy	Progressed from July - December 2015. Progress reports to Council after business plan preparation (see below).
<b>Phase 4</b>	Undertaking pre-feasibility, public consultation and project selection	Date to be determined in 2016, based on Phase 3 outcomes.

As reported to Council, the HHI was designed to be implemented over four phases (as outlined above and detailed below):

Phases 1 and 2 are complete.

Information that will assist in informing Phase 3 of HHI is continuing and will feed into the HHI when available.

The preparation of the Revitalisation Action Plan and Beautification Plan are still underway. The Draft Windsor Revitalisation Action Plan has been prepared and is awaiting Council approval. It is proposed to prepare similar Plans for the other major towns and smaller centres.

Information from the Draft Economic Development Strategy has informed the HHI. Membership of the Tourism Working Group is currently being confirmed. Feedback from the Group will also add value to the HHI process.

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As part of Phase 4, Council would select one or a number of the RSIPs, to proceed to a pre-feasibility financial assessment to determine which projects would be suitable for further progression for funding applications and/or tendering.

This report has been prepared to provide an update on Phase 4.

### ***The Four RSIPs***

The four potential RSIPs, which were nominated by the HHI Working Group, and agreed to by Council, and satisfy the HHI aspirations and the project criteria are:

1. North Richmond Hub and Emergency Service Centre
2. Clarendon Innovation, Technology and Recreation Precinct
3. River Precinct
4. Equine Precinct

A brief description of each is as follows:

#### **North Richmond Hub and Emergency Service Centre**

A flexible, multi-purpose community hub on the existing site of the community centre precinct which will be upgraded and expanded to include:

- a business hub – rooms with education and research facilities to improve skills and qualifications including business mentoring and free wi-fi;
- a wellbeing centre – health wellbeing services with recreational spaces in surrounding grounds;
- an emergency services hub - shared facilities for operation of ambulance, fire, police and emergency services.



#### **Clarendon Innovation, Technology and Recreation Precinct**

The recreation, innovation and technology precinct would be a new facility incorporating a multi-use 5,000 seat auditorium with removable roller skating rink, indoor skate park facilities, mess hall, commercial kitchen, art space, heritage research centre & outreach hub for community services. Outdoor facilities including skate park, outdoor movie screen, event area, innovative play park, bike/BMX track, community garden, outdoor learning areas. Supported by accommodation units and bunk house accommodation. To also incorporate a technology and business space to support start-ups and small and microbusiness resources. Provision for music industry rehearsal, recording and development using state of the art technology for streaming and promotion.





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### River Precinct

A project to activate the Hawkesbury River foreshore. The initial focus would be the development of a Holiday Park at Macquarie Park and marina facility/dry boat storage at Governor Phillip Park. Project would aim to improve facilities for water sports and other recreational assets, increase river-based exploration, visitation and tourism along the Hawkesbury River from Yarramundi to Wisemans Ferry.



### Equine Precinct

A project which drives growth and development at the existing equine precinct at Clarendon which currently includes the Hawkesbury Showground, Race Course and Equestrian Centre, Equine Veterinary Centre and the TAFE Racing and Equine Academy. The upgrade and expansion of equine facilities is intended to support the growth of the equine industry across the Hawkesbury which includes 9 polo clubs, 46 horse studs, 5 pony clubs, equestrian eventing and endurance riding, 17 riding schools and clubs, 10 farriers, two retail outlets, feed supplies and agistment.



## Phase 4

### Concept Assessment Panel

It was agreed in the previous Council report on 8 December 2015 that Council would establish an internal HHI RSIP concept assessment panel (the Panel) to complete a preliminary 'arms length' desk top audit of the four RSIP concepts. The Panel would consist of the Director Infrastructure Services, the Chief Financial Officer, and the Director Support Services. The results of the review would then be reported to Council for its further consideration.

The Panel met for a briefing on the four potential RSIPs with the HHI project team.

The Panel then separately met to establish the Assessment Criteria against which the four concepts would be evaluated and identified eight criteria as outlined below.

- 1a An assessment against the Federal Government's National Stronger Regions Fund (NSRF) 'Eligibility Requirements' (outlined in Attachment 1).
- 1b An assessment against the Federal Government's NSRF 'Assessment Criteria' (Attachment 1).
- 2 Alignment of the project with the Hawkesbury Community Strategic Plan and other adopted strategic plans.
- 3 Project's financial viability.
- 4 Staging opportunities.
- 5 Project's environmental and planning risks.

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6 Council control of land, building and associated assets.

7 Improvement to Business, Health, Education, Lifestyle (BHEL) 'place' values.

An outline of the elements considered against each criterion is summarised below

Criteria	Description	Summary of Factors Considered
1a	(NSRF) 'Eligibility Requirements'	<ul style="list-style-type: none"> <li>availability of funding contribution to match NSRF Grant</li> <li>capacity to complete NSRF funded component before 31/12/2019</li> <li>NSRF eligible organisation and NSRF eligible capital project</li> </ul>
1b	NSRF Assessment Criteria	<ul style="list-style-type: none"> <li>contributes to quantifiable regional economic growth</li> <li>addresses disadvantage in the region</li> <li>potential investment partnerships</li> </ul>
2	Alignment with CSP	<ul style="list-style-type: none"> <li>identified as specific project/element with CSP or adopted plan</li> <li>alignment with consumer demand and benchmark comparisons</li> </ul>
3	Financial Viability	<ul style="list-style-type: none"> <li>estimated capital cost and annual building costs</li> <li>estimated operational cost and potential revenue streams</li> </ul>
4	Staging Opportunities	<ul style="list-style-type: none"> <li>extent to which concept can be staged to minimise risks</li> </ul>
5	Planning Risk	<ul style="list-style-type: none"> <li>exposure to natural hazards and planning risks</li> </ul>
6	Asset Ownership	<ul style="list-style-type: none"> <li>ownership of assets for use as potential leverage</li> </ul>
7	BHEL place values	<ul style="list-style-type: none"> <li>extent to which concept can support BHEL opportunities</li> </ul>

The Panel members assessed and scored each of the potential RSIPs. The results were then taken and weighted to give a total combined score for each of the four concepts. The outcome of the assessment is summarised below.

Criteria		Weighting	North Richmond Hub & Emergency Services Centre		Clarendon Innovation Technology and Recreation Precinct		River Precinct		Equine Precinct	
			Score (out of 30)	Weighted Score	Score (out of 30)	Weighted Score	Score (out of 30)	Weighted Score	Score (out of 30)	Weighted Score
1a	NSRF Eligibility Requirements	15%	10	1.5	7	1.05	16	2.4	10	1.5
1b	NSRF Assessment Criteria	10%	11	1.1	13	1.3	15	1.5	10	1
2	CSP Alignment	15%	0	0	0	0	22	3.3	18	2.7
3	Financial Viability	20%	15	3	0	0	15	3	12	2.4
4	Staging Opportunities	10%	26	2.6	15	1.5	26	2.6	17	1.7
5	Environmental/Planning Risk	10%	25	2.5	10	1	14	1.4	18	1.8
6	Council assets as leverage	10%	19	1.9	7	0.7	21	2.1	14	1.4
7	BHEL values	10%	23	2.3	22	2.2	19	1.9	18	1.8
TOTALS		100%	129	14.9	74	7.75	148	18.2	117	14.3



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The outcome of the Panel's assessment of the HHI Concepts in order of weighted score was:

Weighted Score	Hawkesbury Horizon Concept
18.2	River Precinct
14.9	North Richmond Hub and Emergency Service Centre
14.3	Equine Precinct
7.75	Clarendon Innovation, Technology and Recreation Precinct

### Summary and Recommendations

A summary of the outcome of the assessment for each RSIP is outlined below. The outcome of the assessment points to the River Precinct as the concept which holds the most potential as a Hawkesbury Horizon Initiative and which should therefore be referred for an independent, due diligence assessment to assess the business case of the concept with the outcomes to be reported to Council.

As previously reported to Council, this will require the engagement of a reputable, professional services firm.

In 2014 Maddocks and Ernst and Young prepared *The Major Projects - A Local Government Guide* (The Guide) which establishes a framework for local government on the delivery of major infrastructure projects. The Guide identifies the key stages in project delivery and specifically addresses the requirement for a business case.

The aim of the business case is to inform Council and the involved stakeholders and allow them to make an informed decision about whether the project should proceed. The business case should address:

- The strategic reasoning supporting the project
- An investigation of the project options
- An analysis of the costs, benefits and risks of the project
- Whether Council can afford the project and that it is value for money
- A funding or financing strategy
- A preferred procurement strategy
- The identification of key project milestones and the governance model for the project

The preparation of a business case could take between two to six months. It is expected that the findings from the business case would be available to report back to Council by late 2016.

The summary also includes recommendations for the other three HHI concepts for Council's consideration should Council wish to progress or further explore the potential of these concepts. The assessment has suggested that these concepts have potential to contribute to the aims of the Hawkesbury Horizons project but may require further refinement and preliminary consultation with potential stakeholders to develop a clearer focus for the concept.

### River Precinct

The River Precinct concept has been assessed as the most viable and feasible in terms of short term deliverables while also providing a strong focus for potential growth and staged expansion across multiple locations covering key town centres and outlying villages. It delivers on specific elements within Council's adopted plans and strategic directions and strongly complements Council's long term capital works program.

Council has substantial existing assets at the primary and secondary locations for the initial stage of this concept which are available as a matching contribution to leverage external investment from government and potential private partners.

The commercial elements of this concept (Holiday Park, boat storage and marina facilities) will require further investigation to establish the feasibility, demand and investment appetite from potential partners. In this regard there is potential to widen the scope of a due diligence assessment on this concept to include other Council owned or managed parks and reserves along the Hawkesbury River and its tributaries to explore the possible creation of a network of commercially run Holiday Parks and boating facilities. This broader mandate would bolster the credentials of the concept as a regionally significant project and could strengthen regional partnerships with adjoining councils, through projects such as the Great River Walk.

Exposure to flood risks is an issue for this concept and may impact on commercial viability; however the concept could still be progressed without the commercial components given its inherent consistency with Council's economic, tourism, cultural, open space, environment and recreation strategies and plans of management.

Recommendation:

The River Precinct Concept be endorsed as the preferred HHI RSIP concept for further, detailed investigation in the form of a business case.

**North Richmond Hub and Emergency Service Centre**

The North Richmond Hub and Emergency Service Centre (NRHESC) has been assessed as having good potential for medium term delivery - specifically with regard to the upgrade and possible expansion of the existing North Richmond Community Precinct. To this end funding to be made available under the Redbank Voluntary Planning Agreement (VPA), together with Council's existing assets on the site are available as a matching contribution to leverage external investment from government to complement and potentially expand the scope of the proposed redevelopment of the precinct. The geographic scope of this project may not meet the criteria for regional significance which may limit (but not exclude) potential sources of external investment from government.

The proposed focus of the NRHESC as a business hub and well-being centre appears inconsistent with the specific elements within Council's adopted plans and the assessed needs of residents as outlined in Social Impact Assessment for Redbank prepared by Council which primarily identified a need for additional child care and open space recreational and sporting facilities (requirements which were subsequently included in the Redbank VPA). There is no available evidence or data which would appear to provide a sound justification for establishing a business hub in this location. There is however some potential for the adopted VPA works to complement the health and lifestyle elements of the NRHESC concept though the demand for additional health/wellbeing services would need to be established having regard to services operated by existing providers.

The proposed Emergency Services Centre component of the NRHESC would need to be referred to the NSW Government with Council assuming a lobbying and advocacy role.

Recommendation:

The NRHESC Concept be referred to Council officers responsible for planning for the redevelopment of the North Richmond Community Precinct to assess the potential for leveraging additional external investment from government to expand the scope of the proposed VPA funded works to incorporate the health and lifestyle elements of the NRHESC concept. In relation to the Emergency Services Centre it is proposed that in the first instance, Council write to and/or lobby the NSW Government and local elected representatives to determine the NSW Government's position and receptiveness to the proposal.

**Equine Precinct**

The Equine Precinct has been assessed as having good potential for short term delivery based on the current use of the Hawkesbury Showground and the assets held by the Hawkesbury District Agricultural Association (HDAA) which could be used as a matching contribution to leverage external investment from government for the upgrade of the Showground. In this respect the HDAA would be the most appropriate lead agency for this component of the Equine Precinct concept with Council providing political and planning support.

The relatively limited scope of this component of the concept may not meet the criteria for regional significance. It would therefore be advantageous to link this component to a broader regional project based on the expansion of the equine industry to service a larger geographic catchment. While the expansion of the local equine industry is consistent with Council's tourism and recreation strategies, there appears to be some lack of clarity as to how this broader aim could best be progressed and what investment and/or planning role Council could play in this process.

Recommendation:

The Equine Precinct concept requires further preliminary investigation. Council may wish to consider establishing and/or supporting a stakeholder working party with equine industry representatives to discuss a requirement to develop an equine industry strategy for the Hawkesbury.

**Clarendon Innovation, Technology and Recreation Precinct**

The Clarendon Innovation, Technology and Recreation Precinct is the most ambitious of the HHI Concepts. Its size would require it to have a large geographic catchment and would conceivably place it in direct competition with other innovation, recreation and technology precincts in closer proximity to 'global' Sydney and with better public transport links. The primary element of the concept, the construction of a 5,000 seat multi-use auditorium, would need to be in place to support the other components of this concept. As such the concept would have the longest delivery time frame of all the HHI concepts and has been assessed as carrying the largest investment risk of the four concepts.

Without the auditorium, the other components of the concept would potentially duplicate existing sporting and recreational facilities located at existing sites or which are already part of future plans for those sites. As Clarendon has not been identified within Council's strategic planning framework as a site for the development of sporting, cultural or recreational facilities, the concept also has the potential to reduce patronage at existing sites (unless the precinct was able to attract substantial number of 'new' visitors).

The absence of any assets or buildings at the proposed location (apart from the nominal value of the land) does not provide the concept with ready access to a matching financial contribution to leverage external investment from government and potential private partners. It is likely that the feasibility of this concept would be dependent on substantial monetary investment from a number of investment partners. As the proposed location is on land managed by Western Sydney University (WSU) the concept would require the initial endorsement and support of the WSU.

Recommendation:

The Clarendon Innovation, Technology and Recreation Precinct concept requires further preliminary investigation. In the first instance, Council may wish to consider initiating discussion with WSU to establish their potential interest in progressing this concept.

**Presentation of HHI Concepts at Hawkesbury Show**

The four HHI concepts were displayed at the Hawkesbury Show between the 16 to 18 April 2016. More than 4,700 people visited the Council tent over the three day period and were able to view the display information with 136 people voting on their preferred concept. The display material is shown in Attachment 2.

The preferred concept as voted by the local and wider community was the River Precinct followed by North Richmond Community Hub and Emergency Service Precinct, Clarendon Innovation and Technology and Equine Precinct.

It was interesting to note that the wider communities view about the preferred concept and their second preference reflected that of the Concept Assessment Panel.

**Further Community Engagement and HHI Working Group**

The Hawkesbury Horizon Initiative Working Group (HHI WG) has met three times to review the Big Ideas, critique the four Scoping Studies and contribute to the short list of RSIPs. After this Council report, the HHI WG members will be invited to a final meeting to discuss the four concepts, the preferred option and the preparation of a business case for this option. The Council report on this matter would also propose a wider community engagement strategy that includes consultation on all four concepts.

It is also proposed that an update of the Initiative will be developed for Council's online community engagement page 'Hawkesbury Horizon Initiative' on Your Hawkesbury - Your Say. A fourth newsletter will be prepared to update the community about the Initiative and will also be available Online.

**Conformance to the Hawkesbury Community Strategic Plan**

The Hawkesbury Horizon Initiative is consistent with a large number of the CSP, Directions and Strategies:

*Looking After People and Place Direction statements:*

- Be a place where we value, protect and enhance the historical, social, cultural and environmental character of Hawkesbury's towns, villages and rural landscapes.
- Have friendly neighbourhoods, connected communities and supported households and families.

and is also consistent with the nominated strategy in this Theme being:

- Revitalise and enhance town centres and villages.

*Linking the Hawkesbury Direction statements:*

- Be linked by accessible, viable public transport, cycleways and pathways to the major growth, administrative, commercial and service centres within and beyond the Hawkesbury.
- Plan for, maintain and renew our physical infrastructure and community services, facilities and communication connections for the benefit of the residents, visitors and businesses.

and is also consistent with the nominated Strategy in this Theme being:

- Facilitate an integrated transport network.

*Supporting Business and Local Jobs Direction statements:*

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment.
- Offer an increased choice and number of local jobs and training opportunities to meet the needs of the Hawkesbury residents and to reduce their travel times.
- Help create thriving town centres, each with its own character that attracts residents, visitors and businesses.

and is also consistent with the nominated strategies in this Theme being:

- Differentiate, brand and promote the Hawkesbury as a tourism destination.
- Increase the focus on high end jobs and innovation to build on our strengths and achieve a diverse industry base.

*Shaping Our Future Together Direction statements:*

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

and is also consistent with the nominated strategy in this Theme being:

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

The CSP is Council's key planning document. The ongoing revitalisation and the potential RSIPs would reflect the Themes, Directions and Strategies within the CSP. The documentation prepared would be a significant planning tool which would guide the future of the Hawkesbury.

**Financial Implications**

There is funding already set aside for the HHI in the adopted 2015/2016 Operational Plan. The cost of preparing a prefeasibility assessment under Phase 4 Stage 2 for each RSIP nominated by Council would be expected to be in the vicinity of \$80,000-\$100,000. The grant funding application required for a RSIP would need to be considered in future budget years and be subject to investment and grant funding sources.

**Conclusion**

This report has been prepared to update the status of the HHI. The HHI Concept Assessment Panel met to develop a set of criteria with weighting with which to assess the four RSIP concepts against. This allowed the Panel to identify the River Precinct as the preferred concept.

It is proposed that the Council endorse the River Precinct as the preferred HHI RSIP concept for further, detailed investigation in the form of a business case.

The business case would be a comprehensive report by suitably qualified consultant to assess project costing, options, funding and financing opportunities, value for money, investment partners and governance. The cost of the business case is expected to be in the vicinity of \$80,000 - \$100 000 with the information available by late 2016.

With regard to the three other RSIP concepts the North Richmond Hub and Emergency Service Centre should be assessed to understand whether there is potential for leveraging additional government investment. Council could also investigate the NSW Government's receptiveness to a proposal for an Emergency Service Centre. Additional investigation is also required for the Equine Precinct and Council could consider establishing and/or supporting a stakeholder working party to develop an equine industry strategy for the Hawkesbury. Council may also wish to look into initiating discussion with WSU to establish their potential interest in progressing the Clarendon Innovation, Technology and Recreation Precinct concept.

The Hawkesbury Horizon Initiative Working Group will be invited to a fourth meeting to discuss the Concept Panel Assessment and the identification of the preferred concept.

A further Councillor Briefing Session and report should be provided to Council in the second half of 2016 updating Council on the project status with regard to the progress of the four concepts.

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### RECOMMENDATION:

That:

1. The information on the progress of the Hawkesbury Horizon Initiative be received.
2. The River Precinct Concept be endorsed as the preferred HHI RSIP concept for further, detailed investigation in the form of a business case.
3. The findings of the business case be reported to Council in the latter part of 2016.
4. Further lobbying and discussion be held with NSW Government regarding the North Richmond Emergency Service Centre.
5. Council establish and/or support a stakeholder working party to develop an equine industry strategy for the Hawkesbury.
6. Discussions be held with the Western Sydney University regarding the Clarendon Innovation, Technology and Recreation Precinct concept.
7. A further progress report be submitted to Council on the project status in the second half of 2016.

### ATTACHMENTS:

- AT - 1** National Stronger Regions Fund Guidelines December 2015 - Eligibility Criteria and Assessment Criteria
- AT - 2** Hawkesbury Show 2016 Display Material

**AT - 1 National Stronger Regions Fund Guidelines December 2015 -****Eligibility Criteria (Section 4) and Assessment Criteria (Section 5)****4. Eligibility**

- Ineligible applications or eligible applications submitted by ineligible Applicants will not be appraised against the assessment criteria.

**4.1. Eligibility requirements**

Applicants must comply with all of the following requirements at the time of application for a project to be considered eligible for NSRF funding:

- be an eligible applicant (see 4.2 and 4.3);
- be for an eligible project (see 4.4 and 4.5);
- seek a grant of at least \$20,000 and up to a maximum of \$10 million;
- contribute partner funding to match the NSRF grant in cash on at least a dollar for dollar basis.

Applicants classified as remote and very remote must contribute at least one dollar for every three dollars of NSRF grant funding sought;

- provide evidence confirming all partner funding;
- complete the NSRF funded component of the project on or before 31 December 2019;
- deliver an economic benefit to the region beyond the period of construction; and
- submit a completed application.

**Notes:**

1. Cash partner funding can be provided by any organisation including, but not limited to, the Applicant, local government, state or territory governments, not-for-profit organisations and private sector companies.
2. Grants from other Australian Government initiatives cannot be included as part of the Applicant's cash partner funding. Northern Territory Applicants, however, can use funds accessed through the Aboriginal Benefits Accounts (ABA) towards their cash partner funding.
3. Applicants classified as remote and very remote for the purposes of NSRF are defined in Attachment B of these Guidelines. To be considered as remote and very remote both the applicant and the benefits of the project must be located entirely in a location deemed to be remote or very remote.
4. An NSRF grant can be one component of a larger package of Australian Government funding. Total funding for the project from the Australian Government, however, cannot exceed 50 per cent of the total cash project cost with the exception of those Applicants identified in Notes two and three above.

**4.2. Who is eligible to apply for funding?**

An Eligible Applicant for funding must be:

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1. a legal entity with an Australian Business Number (ABN); and
2. an organisation that is one of the following:
  - a Local Government body including the ACT Government, either in its own right or on behalf of a consortium; or
  - a not-for-profit organisation, either in its own right or on behalf of a consortium, that is not owned by a state or territory government.

Eligible Applicants are defined in Attachment A

### Notes:

- |  |
|--|
| <ol style="list-style-type: none"><li>1. A consortium must be supported by appropriate legal arrangements, and must be led by an Eligible Applicant, which has a financial or in-kind commitment to the project. A consortium may include ineligible organisations. Evidence of the legal arrangements should be submitted with the application.</li><li>2. Not-for-profit organisations must provide the following evidence of their not-for-profit status with their application:<ul style="list-style-type: none"><li>• Audited Financial Statements for two of the three most recent consecutive years signed by a qualified auditor; and one or more of the following:</li><li>• Current Australian Charities and Not-for-profits Commission's (ACNC) Registration; and/or</li><li>• Constitutional documents and/or Articles of Association that demonstrate the not-for-profit character of the organisation.</li></ul></li></ol> |
|--|

### 4.3. Who is not eligible to apply for funding?

The following organisations are not eligible for funding:

- New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania and Northern Territory governments;
- state and territory government-owned entities;
- state and territory government-owned not-for-profit organisations;
- universities, technical colleges, schools and hospitals or business entities owned by them;
- other organisations that are primarily funded by other Australian Government programmes or initiatives;
- Regional Development Australia committees; and
- for-profit organisations.

### 4.4. What is eligible for funding?

NSRF funding will be provided for capital projects which involve the construction of new infrastructure, or the upgrade or an extension of existing infrastructure. Note the replacement of existing infrastructure will only be eligible where there is a demonstrated significant increase in productivity.

### 4.5. What is not eligible for funding?

The NSRF will not fund projects that:



- do not have evidence that all partner funding is confirmed at the time of application;
- do not deliver sustainable economic benefits, including job creation;
- are eligible for funding under the National Disaster Relief and Recovery Arrangements;
- shift costs from state, territory or local governments to the Australian Government; and/or
- are integral elements of hospitals, as they are funded by other Government initiatives.

The purpose of NSRF is to fund capital projects which involve the construction of new infrastructure, or the upgrade or an extension of existing infrastructure. NSRF grant funding and partner funding must go towards capital works related to the project and cannot include:

- repair or replacement of existing infrastructure where there is no demonstrated significant increase in productivity;
- ongoing operating costs including utilities and/or staffing;
- soft infrastructure, including computer software or hardware that is not an integral part of the funded capital project;
- payment of salaries for the applicant's employees; and/or
- project overhead items, including office equipment, vehicles or mobile capital equipment, for example trucks and earthmoving equipment.

In addition, NSRF grant funding cannot be used for expenditure incurred prior to the announcement that the project has been successful in its application for NSRF grant funding.

## **5. Assessment Criteria**

Each application that meets the eligibility requirements will be appraised against the assessment criteria. Applicants are strongly advised to present a strong case against each of the assessment criteria, with all claims supported by evidence.

Evidence can be provided as part of the response to assessment criteria or in supporting documentation. Independent evidence is highly regarded.

Applicants seeking a grant of \$1 million or less may provide less detailed supporting documents. This reduces the compliance burden associated with small projects, whilst ensuring that the Department has sufficient information to conduct robust appraisals. The size and content of documents, and the level of evidence to support responses to the assessment criteria, should be commensurate with the size, scope and nature of the project.

Each application must meet a minimum benchmark against each of the assessment criteria to be recommended for funding to the Ministerial Panel.

Applications will be appraised against each of the following assessment criteria:

- Assessment Criterion 1: The extent to which the project contributes to economic growth in the region;

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- Assessment Criterion 2: The extent to which the project addresses disadvantage in the region;
- Assessment Criterion 3: The extent to which the project increases investment and builds partnerships in the region; and
- Assessment Criterion 4: The extent to which the project and proponent are viable and sustainable.

All projects must deliver an economic benefit to disadvantaged regions. Assessment Criteria will be weighted as follows:

- Assessment Criterion 1 will represent three parts of the seven part total assessment score;
- Assessment Criterion 2 will represent two parts of the seven part total assessment score;
- Assessment Criteria 3 and 4 will represent one part each of the seven part total assessment score.

### 5.1. Assessment Criterion 1: The extent to which the project contributes to economic growth in the region

Applicants must address the following points when responding to this criterion:

- define and quantify the economic benefits this project will bring to the region;
- demonstrate how the economic benefits will be sustained beyond the period of construction; and
- provide evidence to support these claims.

#### Notes:

1. The economic benefit identified should relate directly to the project being funded under NSRF.
2. Any broader economic benefits that may be achieved from a larger programme of works associated with the NSRF identified project can also be identified separately but are not essential.
3. Social and community benefits that will be achieved as a result of the economic growth identified may also be described.
4. Again, these benefits should be quantified and supported by evidence.

A competitive application will include the following documents to support its claim, noting that documentation should be commensurate with the size, scope and nature of the project:

- Business Case or similar document
- Project Management Plan or similar document

A Cost Benefit Analysis is strongly encouraged, particularly for those projects seeking funding of more than \$1 million.

### 5.2. Assessment Criterion 2: The extent to which the project addresses disadvantage in a region

This criterion will be assessed and scored in two equal parts.  
Applicants must address each of the following questions in their response to this criterion.

- What disadvantage does this project address?
- How does the project address the identified disadvantage?

Responses should:

- Clearly demonstrate the relationship between the project seeking funding and the disadvantage;
- Quantify and provide evidence to support the claim of disadvantage; and
- Ensure any data quoted in support of the claim of disadvantage is correctly referenced and comparisons explained as the Department will assess on the information provided. Applications will be strengthened if any data references quoted are supported by evidence.

Notes:

1. For the purposes of NSRF disadvantage may relate to a region which is disadvantaged or an area of disadvantage within a region.
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### 5.3. Assessment Criterion 3: The extent to which the project increases investment and builds partnerships in the region

Applicants must address the following point when responding to this criterion:

- The extent and nature of the partnerships, including those of a non-financial nature, formed to develop and deliver the project.

Under this criterion, the following will be considered:

- How much partner funding has been confirmed above the minimum requirement;
- How many partners are committed to the project; and
- Both cash and in-kind contributions will be taken into account, with a preference for cash.

To be eligible for funding written confirmation of all cash and in-kind contributions must be provided. For cash contributions this confirmation should be in the form of a letter of intent or similar from a senior member of the organisation providing funding which outlines the amount of funding committed, the NSRF project name, and any conditions attached to the funding commitment. The certification in the application form is sufficient confirmation for the Applicant's contribution.

### 5.4. Assessment Criterion 4: The extent to which the project and Applicant are viable and sustainable

Applicants should provide sufficient information under this response to provide assurance the project will be delivered and remain viable beyond the period of construction.

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The appraisal will consider all of the following:

- the Applicant's financial position, which determines whether the Applicant has sufficient funds to meet its obligations, fund any cost overruns and maintain the project;
- the quality of supporting documents which gives confidence the project will be delivered on time, on budget and to the required standard;
- whether all appropriate planning, construction, zoning, environmental, heritage and/or native title approvals have been identified, are in place or will be in place within six months of execution of the funding agreement, to help confirm that the project will commence and be completed on time and according to the agreed scope;
- whether the project is investment ready, that is construction will commence within 12 months of signing the funding agreement;
- the Applicant's history in managing grant funding (if any), which provides confidence that the grant will be expended according to the grant agreement; and
- risks associated with project delivery and ongoing management.

A competitive application will include the following documents to support its claim, noting that documentation should be commensurate with the size, scope and nature of the project:

Grant requests \$1 million or less	For Grant requests over \$1 million
Audited Financial Statements for two of the three most recent consecutive years signed by a qualified auditor	Audited Financial Statements for two of the three most recent consecutive years signed by a qualified auditor
Project Management Plan or similar document which includes scope, implementation methodology, timeframes and costings	Project Management Plan which includes scope, implementation methodology, timeframes and costings
A document identifying the risks associated with the project and proposed mitigation strategies	Risk Management Plan
Business Case or similar document	Business Case
A document describing arrangements to procure major items.	Procurement Plan
Evidence that the asset will be maintained in a viable and operational state for one year for projects with funding of less than \$250,000 and three years for projects with funding from \$250,000 to \$1 million	Asset Maintenance/Management Plan which includes evidence of how the asset will be maintained in a viable and operational state for at least five years
Evidence to demonstrate the Applicant's capacity to deliver the project (not-for-profit organisations only)	Evidence to demonstrate the Applicant's experience in or capacity to deliver projects of a similar size and scope or evidence that the applicant will engage the relevant skills and experience.



**AT - 2 Hawkesbury Show 2016 Display Material**

**VOTE**  
for your preferred  
Hawkesbury  
Horizon Initiative  
Concept

**CONCEPT 1**

**CONCEPT 2**

**CONCEPT 3**

**CONCEPT 4**

Which concept would be best to revitalise the Hawkesbury?  
Make your vote!

This is the third year that the Council have involved the community in the Hawkesbury Horizon Initiative at the Show.

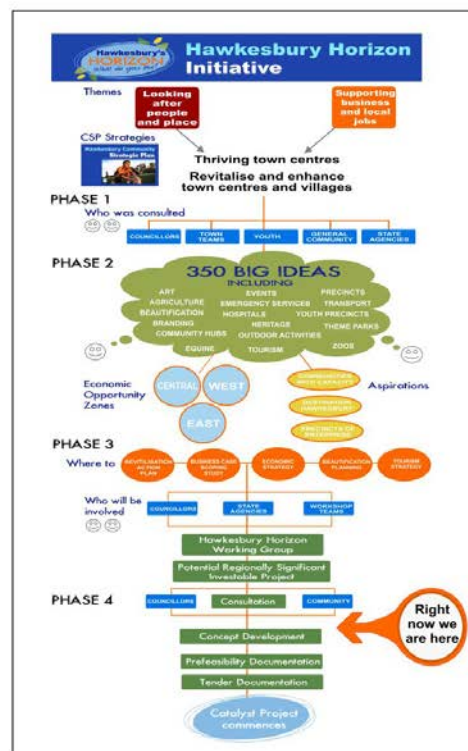
2014: Council surveyed the community about what they valued about the Hawkesbury.

2015: Council asked people about their Big Ideas for the future of the Hawkesbury. 200 Big Ideas were collected.

This year Council is coming back to the community with 4 project concepts that have evolved out of that process.

Council would like to invite the community to vote on their preferred Concept.

The Concept with the highest number of votes does not mean it will be built it is just an opportunity for Council to understand which Concept the community thinks would help the Hawkesbury be revitalised.



**North Richmond Hub and Emergency Service Centre**

**CONCEPT 1**

A community hub including:  
• a business hub  
• a wellbeing centre  
• an emergency services hub

Proposed location - The existing North Richmond Community Precinct

Estimated capital cost - \$5 million

Land ownership - Owned by Council

Responsibility - Council for community hub, NSW Government for Emergency Services Hub

**Clarendon Innovation, Technology and Recreation Precinct**

**CONCEPT 2**

Integrated precinct including sporting, entertainment and learning facilities

Proposed location - Land at Clarendon between Hawkesbury Showground and Richmond Golf Club

Estimated capital cost - \$70 million

Land ownership - Crown land managed by WSU

Responsibility - WSU would meet an investor and lead agency

**River Precinct**

**CONCEPT 3**

A holiday park at Macquarie Park, Manna and/or dry boat facility at Governor Philip

Proposed location - Macquarie Park and Governor Philip and locations along the Hawkesbury River

Estimated capital cost - \$10 million

Land ownership - Crown and Council owned land

Responsibility - Council provide in land funding but will need an investor for holiday park and motorhome holiday storage

**Equine Precinct**

**CONCEPT 4**

Upgrade and expansion of the existing equine facilities to support the growth of the equine industry in the Hawkesbury

Proposed location - Equine Precinct including Showground, Racecourse, LWS and TAFE premises

Estimated capital cost - \$14 million

Land ownership - Crown land managed by the Hawkesbury District Agriculture Association, WSU and private landowners

Responsibility - As a first step establish a stakeholder steering group with expert industry representatives

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 10 May 2016

### INFRASTRUCTURE SERVICES

**ITEM: 82**                      **IS - Proposed Rural Fire Brigade Station at West Portland Road Reserve - (95495, 79354, 79016, 73594)**

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#### **REPORT:**

##### **Executive Summary**

The Hawkesbury Rural Fire Service (HRFS) has previously sought Council support to construct a new Brigade Station for the Lower Portland Rural Fire Brigade at West Portland Road Reserve. This proposal requires a change to the controls applying to this Crown reserve, and was required to be publically advertised.

Consequently, the proposal was advertised for community comment with no submissions received.

It is recommended that a request be sent to the Department of Crown Land to amend the purpose of Lot 7006 DP 93492 to allow the building of a Fire Brigade Station, as the next step in the process. Subject to securing a site, funding submissions can then be made to the Rural Fire Service.

##### **Consultation**

The proposal was advertised for a period of 28 days from 18 February – 18 March 2016.

##### **Background**

The Hawkesbury Rural Fire Service (HRFS) has sought Council support to relocate their Lower Portland Rural Fire Brigade Station at Lower Portland (near the Lower Portland Ferry), to West Portland Road Reserve. The HRFS have indicated that the reason for the relocation is that their current site has no room for future expansion, the area is too small for members to safely train and the current station site is flood affected.

The proposal was reported to Council on 2 February 2016 and it was resolved:

*"That the proposed placement of a Rural Fire Station at West Portland Road Reserve be advertised for a period of 28 days and be subsequently reported to Council for consideration."*

The proposal was advertised for 28 days and no feedback was received.

West Portland Road Reserve is Crown Land under Council's care and control. The "purpose" of the land is Public Recreation and although the proposed development would not meet this purpose, the Crown does have the option to either excise the area of land from the park or alternatively add a "purpose" (bush fire brigade station) to the park description.

It is recommended that a request be sent to the Department of Crown Land (DPC) to amend the purpose of 7006 DP 93492 to allow the building of a Fire Brigade Station. Following approval by DPC, funding submissions and planning can be prepared.

##### **Conformance to the Hawkesbury Community Strategic Plan**

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

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

**ORDINARY MEETING**

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**Financial Implications**

There are no financial implications to Council arising from this report.

**RECOMMENDATION:**

That a request be sent to the Department of Crown Land to amend the purpose of Lot 7006 DP 93492 to allow the building of a Rural Fire Brigade Station.

**ATTACHMENTS:**

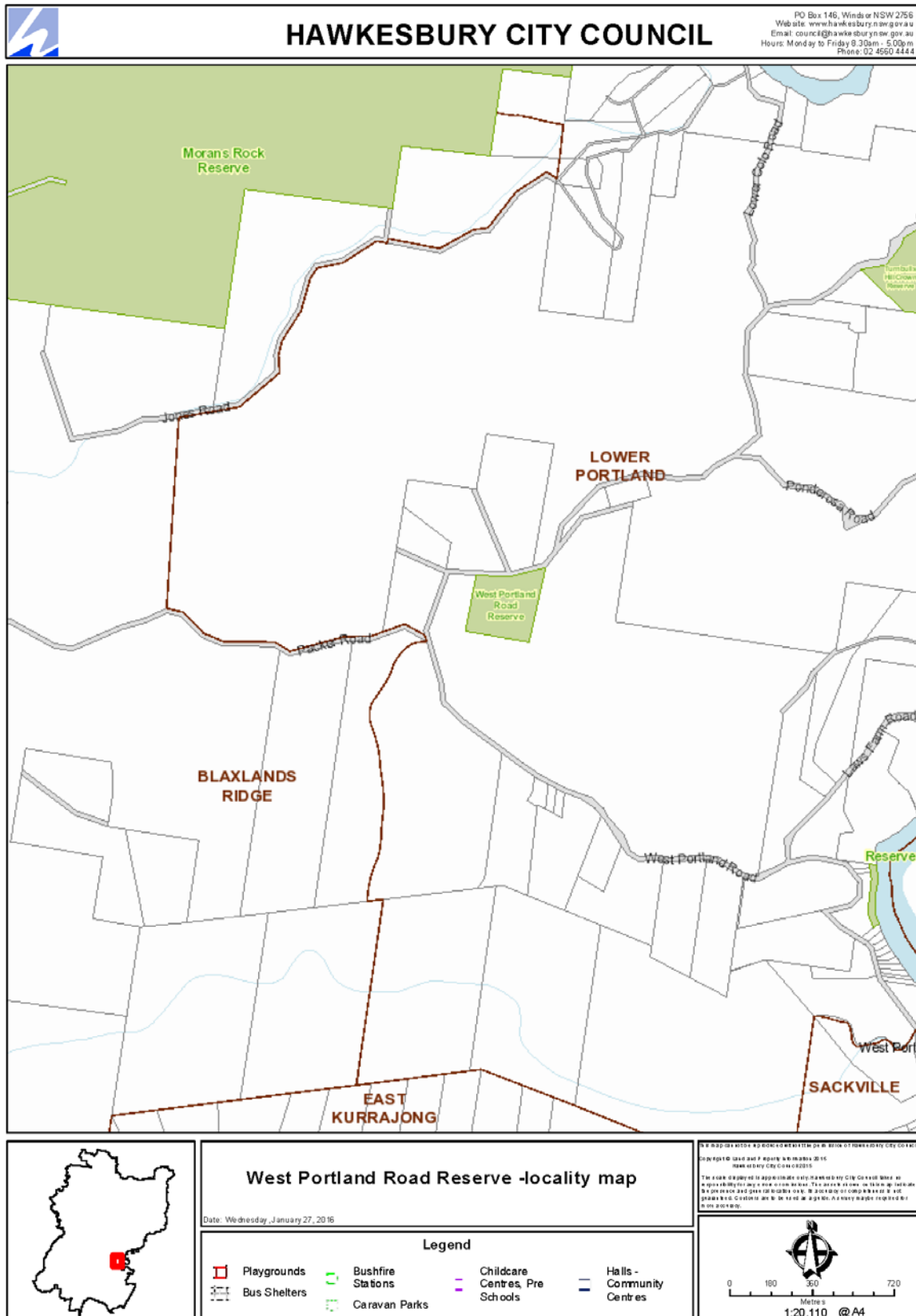
**AT - 1** Locality Map - West Portland Road Reserve

**AT - 2** Area Map of Proposed Lower Portland Rural Fire Brigade Station

# ORDINARY MEETING

Meeting Date: 10 May 2016

## AT - 1 Locality Map - West Portland Road Reserve

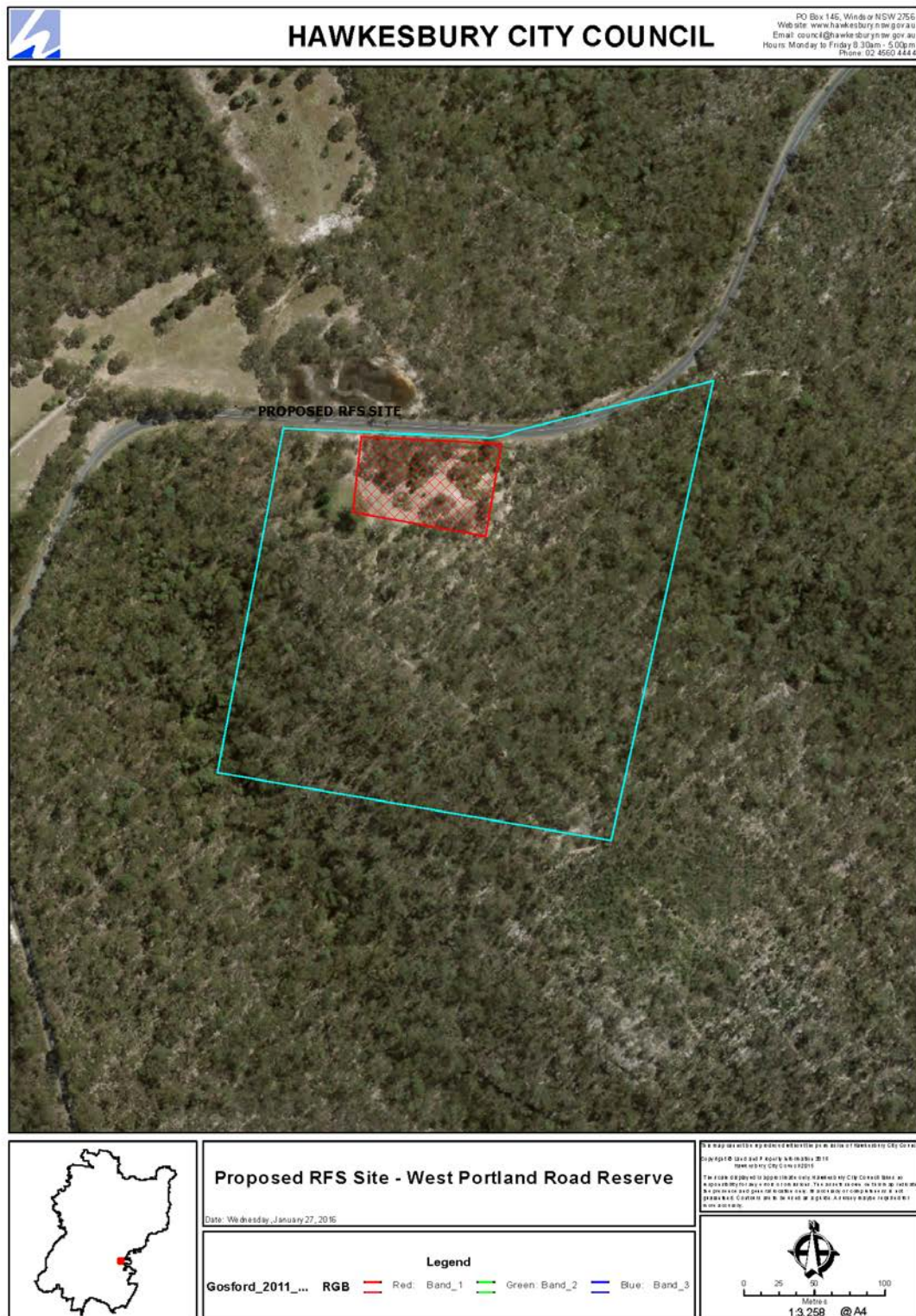




## ORDINARY MEETING

Meeting Date: 10 May 2016

### AT - 2 Area Map of Proposed Lower Portland Rural Fire Brigade Station



oooO END OF REPORT Oooo

**ITEM: 83                      IS - Review of Pesticide Notification Plan - (95495, 79354)**

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**REPORT:**

**Executive Summary**

In accordance with regulatory requirements, Hawkesbury City Councils' Pesticide Notification Plan (Plan) is required to be reviewed every three years.

This was reported to Council on the 2 February 2016 where it was resolved to place the Plan on public exhibition. No responses were received during the exhibition process.

It is recommended that the draft Pesticide Notification Plan be adopted.

**Consultation**

The Plan has been on exhibition for 28 days. No further exhibition is required.

**Background**

Council staff reviewed the Pesticide Notification Plan in accordance with regulatory requirements for the Plan to be reviewed every three years. A review of the existing Plan indicated that there were no significant issues and only minor changes were considered necessary.

Council at its Ordinary Meeting on the 2 February 2016 resolved:

*"That:*

- 1.     The draft Pesticide Notification Plan as attached as Attachment 1 to the report, be placed on public exhibition to seek feedback from the community for a period of 28 days.*
- 2.     The matter then be reported back to Council following this period."*

With no responses received during the exhibition process, it is recommended that the Pesticide Notification Plan be adopted.

**Conformance to the Hawkesbury Community Strategic Plan**

The proposal is consistent with the Caring for Our Environment Directions statement;

- Work with our communities and businesses to use our resources in a sustainable way and employ best practices and technologies that are in harmony with our natural environment.

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

- Encourage and educate the community to care for their environment

The Pesticide Notification Plan provides the community with a process as to how they would like chemicals used in the local government area as well as to give them an opportunity to avoid areas if they have been sprayed.

**Financial Implications**

There are no financial implications arising from this report.

**ORDINARY MEETING**

**Meeting Date:** 10 May 2016

**RECOMMENDATION:**

That:

1. Council adopt the Pesticide Notification Plan as attached to the report.
2. A notice be placed in the NSW Gazette and Council notices in accordance with the regulation and a copy of the Plan forwarded to the Department of Environment and Conservation for their notification.

**ATTACHMENTS:**

**AT - 1** Pesticide Notification Plan

AT - 1 Draft Pesticide Use Notification Plan



Hawkesbury City Council  
Plan

Hawkesbury City Council

**DRAFT**  
**Pesticide Use**  
**Notification Plan**

January 2016



## **Pesticide Use Notification Plan**

### **1. Introduction**

This pesticide use notification plan has been prepared in accordance with the requirements of the Pesticides Regulation 2009 (the Regulation). The plan sets out how Hawkesbury City Council will notify members of the community of pesticide applications it makes or allows to be made to public places that it owns or controls. (Pesticides include chemicals such as: herbicides, insecticides, fungicides, termiticides and rodenticides.)

The aim of this plan is to meet the community's general right to know about pesticide applications made to outdoor public places that are owned or controlled by public authorities. The plan allows members of the community to take action to avoid contact with pesticides, if they wish. Council ensures that pesticides are applied to public places in a safe, responsible manner, minimising harm to the community or the environment.

The plan describes:

- what public places are covered by the plan
- who regularly uses these public places and an estimate of the level of use
- how and when Council will provide the community with information about its pesticide applications in public places (i.e. what notification arrangements will be used)
- how the community can access this plan and get more information about Council's notification arrangements
- how future reviews of the plan will be conducted
- contact details for anyone wishing to discuss this plan with Council.

This policy states that Council only uses pesticides in public places when necessary to eliminate weeds, to protect public property from pest damage and to protect the users of public places from nuisance or danger.

The majority of pesticide use consists of applying herbicides for weed control (primarily glyphosate). Minor pesticide use includes applying insecticides to control certain insect pests, termiticides to protect buildings, rodenticides to control rats and fungicides to control bacteria.

Further information on Council's pesticide use can be obtained by calling the Manager, Land Management on telephone (02) 4560 4444 or by visiting the website [www.hawkesbury.nsw.gov.au](http://www.hawkesbury.nsw.gov.au).

### **2. Public Places Covered By This Plan**

Hawkesbury City Council proposes to use or allow the use of pesticides in the following categories of outdoor public places that it owns or controls in the Hawkesbury LGA, including:

- Parks/Reserves
- Playgrounds
- Sporting fields and ovals
- Other sporting facilities including swimming pools and leisure centres
- Council Depots
- Road verges and reserves
- Laneways and pathways
- Road, rail, utility or other easements accessible to the public
- Drains
- Golf courses
- Camping grounds
- Commons
- Other public places including bushland and riverbanks.
- Buildings and associated grounds, including neighbourhood centres, childcare centres, library and museum.

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Hawkesbury City Council

Although the Regulation only requires a notification plan for outdoor public areas, this notification plan includes information on how notice will be provided to the community of pesticide use in the interiors of the following Hawkesbury City Council buildings or facilities:

*Council Chambers, Neighbourhood centres, Childcare Centres, libraries, Gallery, Museum, Public Toilets, Shopping Centres.*

The main user groups of, and types of pesticide use in each of the categories of public place are summarised in the following table.

Table 1: Estimate of the level of community use, regular user groups and types of pesticide use in public places controlled or owned by Hawkesbury City Council

Public places	Regular user groups	Level of use of public place	Type of pesticide use
<b>Parks and Reserves</b>	<ul style="list-style-type: none"> <li>children and young families</li> <li>elderly people</li> <li>general recreational users (e.g. joggers, dog-walkers, picnickers).</li> </ul>	Very high (frequent use by multiple users, with short to medium length stays)	<ul style="list-style-type: none"> <li>spot herbicides</li> <li>spot insecticides</li> <li>broad scale selective herbicides</li> <li>broad scale non-selective herbicides</li> <li>broad scale insecticides</li> <li>fungicide (usually in garden beds)</li> <li>spray termiticides (ant control)</li> <li>bait termiticides (ant control)</li> </ul>
<b>Playgrounds</b>	<ul style="list-style-type: none"> <li>children</li> <li>young families</li> </ul>	High	<ul style="list-style-type: none"> <li>spot herbicides</li> <li>spot insecticides</li> <li>spray ant control</li> <li>bait ant control</li> </ul>
<b>Picnic areas</b>	<ul style="list-style-type: none"> <li>families</li> <li>other social groups (e.g. ethnic, religious, clubs)</li> </ul>	High (particularly on weekends, public holidays and school holidays)	<ul style="list-style-type: none"> <li>spot herbicides</li> <li>spot insecticides</li> <li>bait - rodenticides</li> <li>fungicide (usually on garden beds)</li> <li>spray - termiticides</li> <li>spray - ant control</li> <li>bait termiticides</li> <li>bait ant control</li> <li>bait - bird control</li> </ul>
<b>Sporting fields, ovals and related sporting facilities</b>	<ul style="list-style-type: none"> <li>sporting clubs and associations</li> <li>school sports groups</li> <li>general recreational users (e.g. joggers, dog-walkers)</li> </ul>	High	<ul style="list-style-type: none"> <li>spot herbicides</li> <li>spot insecticides</li> <li>broad scale selective herbicides</li> <li>broad scale non-selective herbicides</li> <li>broad scale insecticides</li> <li>spray or bait termiticides on facilities</li> <li>rodenticides near facilities</li> </ul>

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Public places	Regular user groups	Level of use of public place	Type of pesticide use
<b>Road verges and reserves</b>	<ul style="list-style-type: none"> <li>local residents or visitors walking or driving on the road</li> </ul>	Medium to high for urban roads Low for rural roads	<ul style="list-style-type: none"> <li>spot herbicides</li> <li>broad scale non-selective herbicides</li> <li>spray or bait termiticides on facilities</li> </ul>
<b>Laneways and pathways</b>	<ul style="list-style-type: none"> <li>local residents</li> <li>people who work in the area</li> <li>visitors to the area</li> </ul>	Medium to high	<ul style="list-style-type: none"> <li>spot herbicides</li> <li>broad scale non-selective herbicides</li> </ul>
<b>Easements accessible to the public (e.g. road, rail, water, sewer, electricity)</b>	<ul style="list-style-type: none"> <li>local residents</li> <li>people who work in the area</li> </ul>	Low to medium	<ul style="list-style-type: none"> <li>spot herbicides broad scale non-selective herbicides</li> <li>spray or bait termiticides on facilities</li> </ul>
<b>Drains</b>	<ul style="list-style-type: none"> <li>local residents living adjacent to a drain</li> <li>local residents or visitors who walk or drive past a drain</li> </ul>	Low to medium	<ul style="list-style-type: none"> <li>broad scale non-selective herbicides</li> <li>spot herbicides</li> </ul>
<b>Camping grounds</b>	<ul style="list-style-type: none"> <li>local residents</li> <li>visitors to the area</li> </ul>	High in summer low in winter	<ul style="list-style-type: none"> <li>spot herbicides</li> </ul>
<b>Certain Council buildings</b> (Council Chambers, Neighbourhood centres, Childcare centres, Libraries, Gallery, Museum, Public Toilets, Shopping Centres)	<ul style="list-style-type: none"> <li>users (including young children, school groups and the elderly)</li> <li>young children and their carers (childcare facilities)</li> <li>parents groups, playgroups</li> <li>community associations</li> <li>church groups</li> <li>general members of the public</li> <li>Council staff</li> </ul>	High	<ul style="list-style-type: none"> <li>spot insecticides</li> <li>bait rodenticides</li> <li>spray termiticides</li> <li>spray ant control</li> <li>bait - termiticides</li> <li>bait - ant control</li> <li>bait - bird control</li> </ul>
<b>Swimming pool buildings and grounds</b>	<ul style="list-style-type: none"> <li>local residents</li> <li>visitors</li> <li>school groups</li> <li>swimming clubs</li> </ul>	High in summer	<ul style="list-style-type: none"> <li>spot insecticides</li> <li>spot herbicides</li> </ul>
<b>Waste Management Facilities</b>	<ul style="list-style-type: none"> <li>residents</li> <li>contractors</li> <li>Council staff</li> </ul>	Low	<ul style="list-style-type: none"> <li>spot herbicides</li> </ul>
<b>Council Depots</b>	<ul style="list-style-type: none"> <li>residents</li> <li>contractors</li> <li>Council staff</li> </ul>	Medium	<ul style="list-style-type: none"> <li>spot herbicides</li> </ul>



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Public places	Regular user groups	Level of use of public place	Type of pesticide use
Showground	<ul style="list-style-type: none"><li>hirers of facility, their members and users</li></ul>	Medium to High	<ul style="list-style-type: none"><li>spot herbicides</li><li>spot insecticides</li><li>broad scale selective herbicides</li><li>broad scale non-selective herbicides</li><li>broad scale insecticides</li><li>spray or bait termiticides on facilities</li><li>rodenticides near facilities</li></ul>
Scout Hall	<ul style="list-style-type: none"><li>hirers of facility and their supporters</li></ul>	Medium to High	<ul style="list-style-type: none"><li>spot herbicides</li><li>spot insecticides</li><li>spray or bait termiticides on facilities</li><li>rodenticides near facilities</li></ul>
Pony Clubs	<ul style="list-style-type: none"><li>hirers of facility and their supporters</li></ul>	Medium to High	<ul style="list-style-type: none"><li>spot herbicides</li><li>spot insecticides</li><li>spray or bait termiticides on facilities</li><li>rodenticides near facilities</li></ul>

### 3. Notification Arrangements

This section of the plan describes how and when Hawkesbury City Council will provide notice of pesticide use in public places, including special measures for sensitive places that are adjacent to public places, arrangements for emergency pesticide applications and circumstances where notice will not be given.

These notification requirements are based on Hawkesbury City Council's assessment of:

- The level of usage of public places where pesticides may be used.
- The extent to which members of the public who are most likely to be sensitive to pesticides (e.g. young children, sick, pregnant and elderly people) are likely to use these areas regularly.
- The extent to which activities generally undertaken in these areas could lead to some direct contact with pesticides (such as picnic areas where food is consumed; sporting or other recreational activities that result in contact with the ground)
- type of pesticide used.

Notice of pesticide use will be provided by one or a combination of the following methods:

- Signs at entrances.
- Information on Council's website (which will describe programmed, reactive and emergency pesticide use in public places).
- Letters and letterbox drops.
- Fax and email.

***Council will also allow persons and organisations to nominate to have their details placed on a central register which would allow them to be notified of certain types of pesticide uses in particular places, as described in this section of the plan.***



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**a. How and when notice of pesticide use will be provided**

**(i) Outdoor Recreation Areas**

The notification arrangements described below will apply to the following public place categories controlled by Hawkesbury City Council:

- parks and reserves
- playgrounds
- picnic areas.

In these public places, signs will be placed near the application area or main entrance to the area at least two hours prior to application and remain whilst spraying, or for as long as described on the herbicide label for the following pesticide uses:

- high/low volume selective and non-selective herbicides.

*Where any of the above herbicide uses occur adjacent to sensitive places, the occupiers (and those people/organisations on the register to be notified) will be provided with 48 hours-notice by mail, email or letterbox drop (whichever is most practicable).*

**(ii) Controlled outdoor recreation areas**

The notification arrangements described below will apply to the following public place categories controlled by Hawkesbury City Council:

- camping grounds (Upper Colo Reserve)
- swimming pool buildings and grounds
- Hawkesbury Indoor Sports Stadium
- Hawkesbury Showground
- pony clubs
- tennis courts.

In these public places, signs will be placed near the application area or main entrance to the area at least 24 hours prior to application and remain whilst spraying, or as long as described on the herbicide label for the following pesticide uses:

- high/low volume selective and non-selective herbicides
- spot use of insecticides
- bait rodenticides.

Notification will also be placed on Councils website and staff will inform campers as they book into the Upper Colo Reserve.

*Where any of the above herbicide uses occur adjacent to sensitive places, the occupiers will be provided with 48 hours notice by mail, email or letterbox drop (whichever is most practicable).*

**(iii) Outdoor Public Thoroughfares and easements**

The notification arrangements described below will apply to the following public place categories controlled by Hawkesbury City Council:

- road verges and reserves
- laneways and pathways
- easements accessible to the public (e.g. road, water, sewer, electricity)
- drains.

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In these public places, information on use of high/low volume herbicide will be posted on Councils website every three months. In urban areas signs will be put up immediately prior to pesticide use and will remain in place at least until the operation is completed (where the pesticide label, permit or Pesticide Control Order requires a longer period of signage, this will be followed).

*Where any of the above herbicide uses occur adjacent to sensitive places, the occupiers ( and those people/organisations on the register to be notified) will be provided with 48 hours notice by mail, email or letterbox drop (whichever is most practicable).*

#### **(iv) Certain Council Buildings**

For pesticide use in facilities that are owned or controlled by Council, signs will be provided near the application area or in the main entrance at least 24 hours prior to application and remain for at least 48 hours afterwards for the following pesticide uses:

- spot use of insecticides
- bait rodenticides.

Council buildings include but are not limited to:

- Council Chambers, toilet blocks, libraries, museum, gallery, neighbourhood centres, Child Care Centres, Depots, Waste Management facilities, and other community buildings and shopping centres.

#### **(v) Sporting fields and ovals**

For sporting fields and ovals, signs will be placed near the application area or main entrance to the area at least 24 hours prior to application and remain whilst spraying, or for as long as described on the herbicide label for the following pesticide uses:

- High/low volume selective and non-selective herbicides

Sporting groups who have booked the particular field will also be notified by email or letter at least twenty four hours prior to application. Information will also be available on Councils website about the forward program for the above applications (updated every month).

*Where any of the above herbicide uses occur adjacent to sensitive places, the occupiers ( and those people/organisations on the register to be notified) will be provided with 48 hours-notice by mail, email or letterbox drop (whichever is most practicable).*

#### **b. Special measures for sensitive places**

Clause 11J(1) of the *Pesticides Regulation* defines a sensitive place to be any:

- school or pre-school
- kindergarten
- childcare centre
- hospital
- community health centre
- nursing home
- place declared to be a sensitive place by the Environment Protection Authority (now a part of the Department of Environment, Climate Change and Water).

Special notification measures for programmed pesticide use in outdoor public places adjacent to sensitive places for each category of public place have already been addressed.

For non-emergency reactive pesticide use in outdoor public places next to sensitive places, Council will provide concurrent notice shortly before use to the occupier by phone, door-knock or letterbox drop, depending upon what is practicable.

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If a pesticide must be used to deal with an emergency in an outdoor public place that is adjacent to a sensitive place, a door-knock will be organised in that sensitive place, preferably at least 30 minutes before, so people are aware that a pesticide is about to be used to deal with a dangerous pest infestation.

### **c. Notification of emergency pesticide applications**

In cases where emergency pesticide applications in public places are required to deal with biting or dangerous pests such as wasps, bees, venomous spiders, fleas, bird mites or rodents (that pose an immediate health hazard), notice will, where possible, be provided by posting signs nearby at the time of the application. If this is not possible, information will be provided via the Council information telephone line (02) 4560 4444, or by request to the person applying the pesticide.

### **d. Pesticide contractors and lessees of public places**

Where Hawkesbury City Council uses contractors to apply pesticides on its behalf, Council will ensure that notification is made in accordance with the notification requirements of this plan and of the Regulation.

Where persons or organisations hold an existing lease on Council land that remains a public place and if they use pesticides in this area, Council will still require notification in accordance with the requirements of this plan (see 3e.).

### **e. Instances where Hawkesbury City Council will not give notice of herbicides application**

Council uses small quantities of some pesticides that are widely available in retail outlets and ordinarily used for domestic purposes (including home gardening). Council does not intend to provide notice for such pesticide applications other than by way of this description in this plan (or general information on Council's website). This will apply to minor control of indoor and outdoor insect pests using baits or aerosol spray cans and spot weed control using a wand or hand-held spray bottle (eg. less than 20 litres of 'ready-to-use' spray mix).

### **f. Notification of Baiting Programs**

- Baiting program to be advertised for one month prior (for fox, dog, cat and rabbit).
- Letterbox drop to areas within 1km of baiting.
- Notices are to be placed at all main entries to the park and are to extend past residual points as per bait label.

In addition, Council will not provide notification in any of the following public places:

- Public places over which persons or organisations hold an existing lease on Council owned land or land under its care and control. For these places, Council will not provide notification of pesticide use, but it will request the lessee to carry out notification of the lessee's pesticide use in a manner consistent with this plan. Where possible, Council will require lessees, as a condition of their lease, to comply with this plan.
- Remote areas where there is little likelihood of pesticides/baits being encountered by the public e.g. areas where there is no vehicular access and low public visitation, including bushland areas.

**Notification will also not be given where occupiers of properties adjacent to Council public places use pesticides on parts of these public places near their properties.**

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#### 4. What Information Will Be Provided

In accordance with Regulation 20, clause 1(h) of the Pesticides Regulation, notice of pesticide uses will include the following information:

- the full product name of the pesticide to be used, and
- the purpose of the use, clearly setting out what pest or pests are being treated, and
- the proposed date/s or date range of the pesticide use, and
- the places where the pesticide is to be used, and
- contact telephone number and email address of the Council officer who people can contact to discuss the notice, and
- any warnings regarding re-entry to or use of the place, if specified on the pesticide product label.

Signs will be of a standardised design and will be easily recognisable by the public and workers. As already noted, Council's website will have a dedicated area that describes its programmed, reactive and, if practicable, emergency pesticide use in public places with a link to this notification plan.

#### 5. How The Community Will Be Informed Of This Plan

Hawkesbury City Council will advise residents of this plan and its contents by:

- making a copy of the plan available for viewing, free of charge, at its main office at 366 George Street, Windsor
- placing a copy of the plan on the its website at [www.hawkesbury.nsw.gov.au](http://www.hawkesbury.nsw.gov.au)
- placing a notice in the Council nominated weekly newspaper
- placing a notice in the NSW Government Gazette

#### 6. Future Reviews Of The Plan

The notification plan will be reviewed every 3 years or when circumstances require a review. The review will include:

- Reviewing and updating the plan and then placing it on public exhibition for comment if there are major changes.
- Subject to receiving public submissions, further recommendations for alterations will be made (if applicable). If major changes are made, the plan will once again be placed on public exhibition for public comment prior to adoption.

#### 7. Contact Details

Anyone wishing to discuss the notification plan or to obtain details of pesticide applications in public places should contact:

Manager - Parks and Recreation  
PO Box 146  
WINDSOR NSW 2756

Phone: (02) 4560 4444  
Fax: (02) 4560 4400  
Web: [www.hawkesbury.nsw.gov.au](http://www.hawkesbury.nsw.gov.au)

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**Appendix A: Sample Pesticide Notification Notice**

<b>Product:</b>	Bio-Active Round up
<b>The purpose of the use:</b>	To reduce weed growth in hard to mow areas
<b>Proposed dates of use:</b>	10 to 17 March 2016
<b>The Place of use:</b>	Governor Phillip Reserve, Windsor
<b>Contact telephone number:</b>	Manager - Land Management on (02) 4560 4444
<b>Warnings about limitations</b>	Public are advised to keep away from area until the application dries.

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**Appendix B: Active Playing Areas Administered by Hawkesbury Sports Council**

<b>Ground</b>	<b>Location</b>
Bensons Lane Complex	Bensons Lane, Richmond
Berger Road Reserve	Berger Road, South Windsor
Bounty Reserve	Wetherill Crescent, Bligh Park
Breakaway Ovals	Freemans Reach Road, Freemans Reach
Brinsley Park	Eldon Street, Pitt Town
Colbee Park	Bismarck Street, McGraths Hill
Colonial Reserve	Colonial Drive, Bligh Park
Deerubbin Park	Cornwallis Road, Lowlands
Don't Worry Oval	Moses Street, Windsor
Glossodia Park	Creek Ridge Road, Glossodia
Icely Park	Dight Street, Richmond
McQuade Oval	George Street, Windsor
Mileham Street Netball Courts	Mileham Street, South Windsor
North Richmond Complex	Beaumont Avenue, North Richmond
Oakville Oval	Oakville Road, Oakville
Peel Park	Pecks Road, North Richmond
Richmond Park	Windsor Street, Richmond
Tamplin Field	Laurence Street, Hobartville
Vineyard Oval	Park Road, Vineyard
Woodbury Estate	Spinks Road, Glossodia
Woodlands Park	Woodlands Road, Wilberforce

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 10 May 2016

**ITEM: 84**                      **IS - Road Naming Proposal Associated with DA0417/11 South Windsor - (95495, 79346)**

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### REPORT:

#### Executive Summary

An application has been received requesting that the road naming process be commenced for an approved subdivision in South Windsor that involves the creation of a new public road. The name Sawmill Place has been provided for consideration with the application.

The report recommends that public consultation be sought on the name Sawmill Place, South Windsor.

#### Consultation

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

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

- advertisement in local press
- advertisement on Council's web page
- notice created on the New South Wales Geographical Names Board road naming portal.

#### Background

The subdivision at Lot 1 DP 630616, 368 Macquarie Street, South Windsor was approved by Council on 1 February 2012 (DA0417/11).

The subdivision will include the creation of one new public road.

The applicant has provided a name for consideration in naming the new public road. The name provided is Sawmill Place and is in connection with the site being a local sawmill for many years.

The name Sawmill Place conforms to the guidelines and principles as set out in the New South Wales (NSW) Road Naming Policy.

Based on the information outlined above, it is recommended that public comment be sought, under the requirements of the NSW Roads Act, 1993, for the naming of the new public road in connection with DA0417/11 as Sawmill Place, South Windsor.

#### Conformance to the Hawkesbury Community Strategic Plan

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

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

## ORDINARY MEETING

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and is also consistent with the nominated strategy in the CSP being:

- Work with the community to define the Hawkesbury character to identify what is important to preserve and promote.

### Financial Implications

The advertising and administrative expenses associated with this matter have been paid by the applicant in accordance with Council's adopted Fees and Charges.

### RECOMMENDATION:

That:

1. In accordance with the requirements of the Roads Act, 1993, the name Sawmill Place, South Windsor, in connection with DA0417/11, be publically advertised for a period of 28 days, seeking comment and submissions.
2. The matter be reported back to Council following the public exhibition process, with a view to adopting the street name for use.

### ATTACHMENTS:

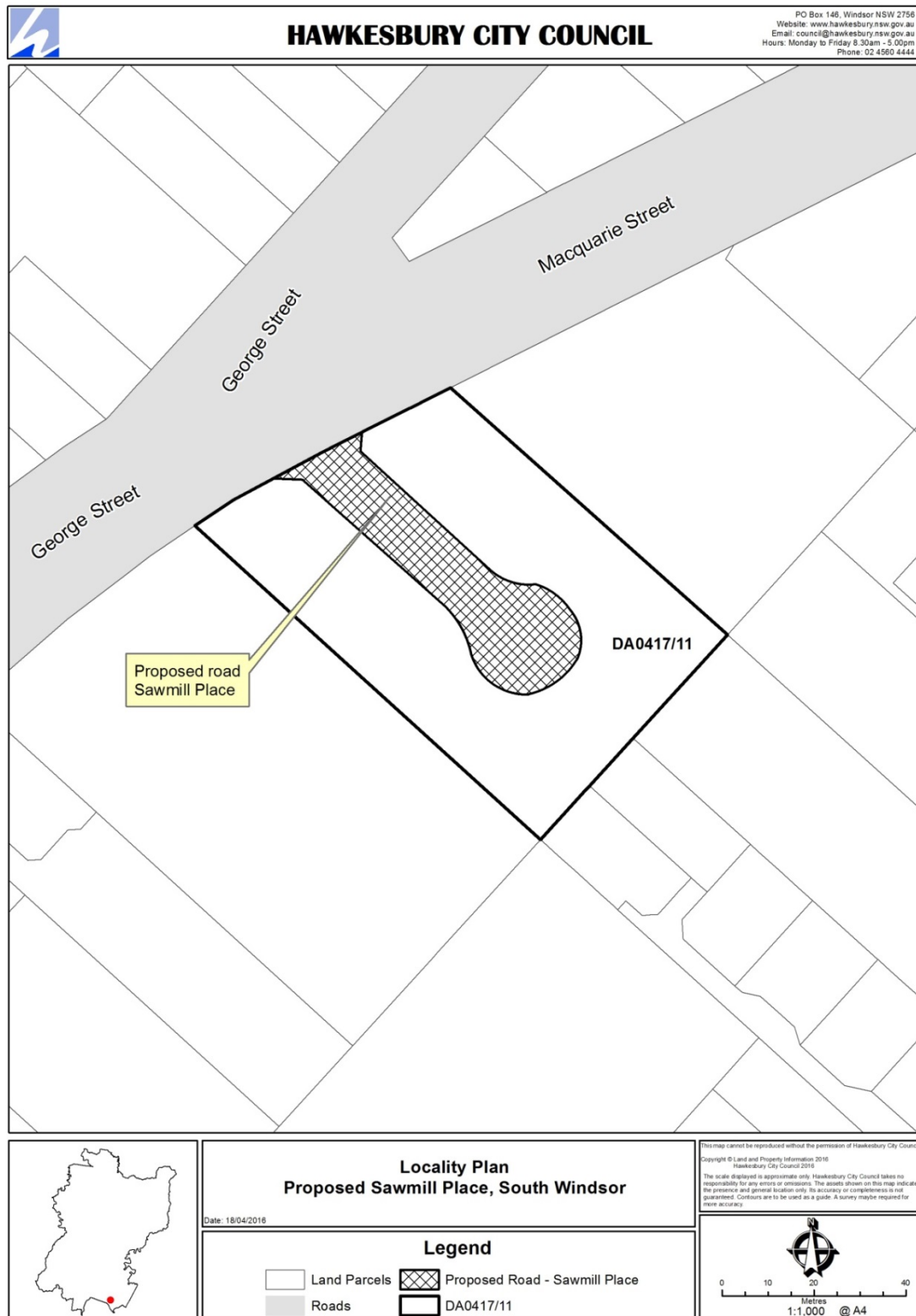
AT - 1 Locality Plan



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## AT - 1 Locality Plan



oooO END OF REPORT Oooo

## ORDINARY MEETING

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**ITEM: 85**                      **IS - Road Naming Proposal Associated with DA0205/12 Agnes Banks - (95495, 79346)**

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### REPORT:

#### Executive Summary

An application has been received requesting that the road naming process be commenced for an approved subdivision in Agnes Banks that involves the creation of a new public road. The applicant requested that Council nominate a name for the new road.

The report recommends that public consultation be sought on the name Mortimer Place, Agnes Banks.

#### Consultation

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

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

- advertisement in local press
- advertisement on Council's web page
- notice created on the New South Wales Geographical Names Board road naming portal.

#### Background

The subdivision at Lot 3 DP 1006932, Lot 1 DP 1025836 and Lot 4 DP 1106326 309 – 315 Castlereagh Road, Agnes Banks was approved by Council on 27 August 2014 (DA0205/12).

The subdivision will include the creation of one new public road.

The applicant has requested that Council nominate a suitable name for the new public road. Council's Local History Librarian has undertaken research to provide a suitable name that is relevant to the Agnes Banks area.

The name proposed by Local History Librarian is Mortimer Place. Detail relating to the proposed name is listed below:

*"Thomas Mortimer - It is believed that this is the Thomas Mortimer that was born in Parramatta in about 1801, his parents were convicts, Richard Mortimer and Mary Bryan. He was married twice, first to Mary Carver (1794-1839) in 1823 and in 1840 to Elizabeth Howell formerly Brown (1803-1866). Elizabeth's first husband was George Howell (1805-1838) a well-known pioneering family from Castlereagh/Yarramundi area. Thomas had one daughter, with Elizabeth, Jane born in 1841. Thomas Mortimer died in Richmond in 1875. His brother George Mortimer (1798-1860) and his family also lived in the district for many years and mentioned in district memoirs such as "Some Ups and downs of an Old Richmondite" by Alfred Smith and "Reminiscences of Richmond by Samuel Boughton. Thomas Mortimer is also listed as a land owner near to the subdivision location on an old Ham Common parish map (13.4.1838)."*

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The name Mortimer Place conforms with the guidelines and principles as set out in the New South Wales (NSW) Road Naming Policy.

Based on the information outlined above, it is recommended that public comment be sought, under the requirements of the NSW Roads Act, 1993, for the naming of the new public road in connection with DA0205/12 as Mortimer Place, Agnes Banks.

### **Conformance to the Hawkesbury Community Strategic Plan**

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

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

and is also consistent with the nominated strategy in the CSP being:

- Work with the community to define the Hawkesbury character to identify what is important to preserve and promote.

### **Financial Implications**

The advertising and administrative expenses associated with this matter have been paid by the applicant in accordance with Council's adopted Fees and Charges.

### **RECOMMENDATION:**

That:

1. In accordance with the requirements of the Roads Act, 1993, the name Mortimer Place, Agnes Banks, in connection with DA0205/12, be publically advertised for a period of 28 days, seeking comment and submissions.
2. The matter be reported back to Council following the public exhibition process, with a view to adopting the street name for use.

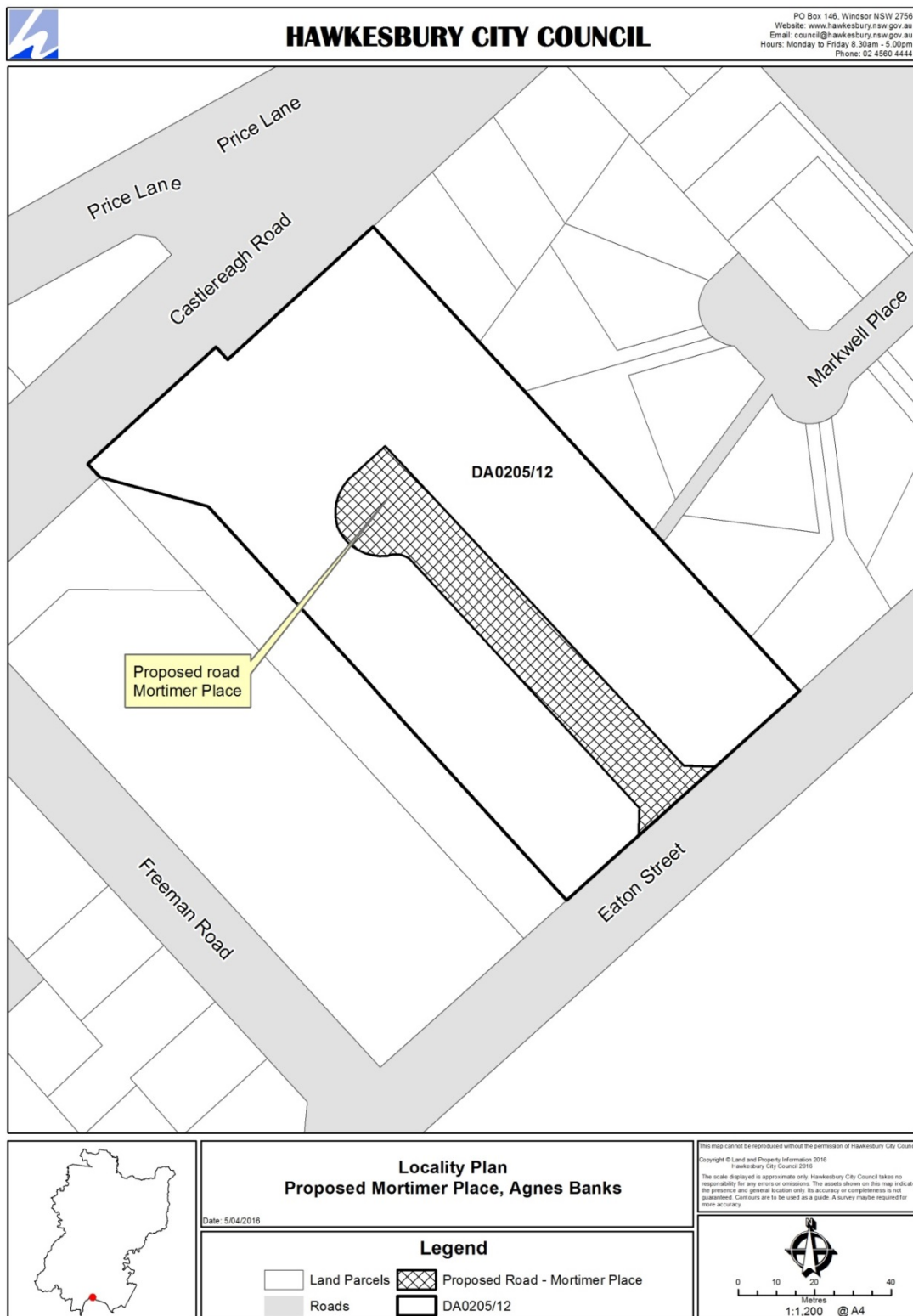
### **ATTACHMENTS:**

**AT - 1** Locality Plan

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### AT - 1 Locality Plan



oooO END OF REPORT Oooo

**ORDINARY MEETING**

Meeting Date: 10 May 2016

**SUPPORT SERVICES****ITEM: 86 SS - Monthly Investments Report - March 2016 - (95496, 96332)****REPORT:****Executive Summary**

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

This report indicates that Council held \$43.70 million in investments at 31 March 2016.

It is recommended that this report be received and noted.

**Consultation**

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

**Background**

The following table indicates that Council held \$43.70 million in investments as at 31 March 2016. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term, and the percentage of the total portfolio, are provided below:

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	% of Portfolio	Total \$
<b>On Call</b>								
CBA	A1+	AA-			1.75%	2,700,000	6.18%	
<b>Total On-call Investments</b>								<b>2,700,000</b>
<b>Term Investments</b>								
ANZ	A1+	AA-	02-Sep-15	27-Apr-16	2.90%	1,000,000	2.29%	
ANZ	A1+	AA-	02-Sep-15	27-Apr-16	2.90%	1,000,000	2.29%	
ANZ	A1+	AA-	18-Nov-15	18-May-16	3.00%	500,000	1.14%	
ANZ	A1+	AA-	18-Nov-15	18-May-16	3.00%	1,000,000	2.29%	
ANZ	A1+	AA-	18-Nov-15	08-Jun-16	3.00%	2,000,000	4.58%	
ANZ	A1+	AA-	19-Aug-15	15-Jun-16	2.95%	2,000,000	4.58%	
ANZ	A1+	AA-	19-Aug-15	17-Aug-16	2.95%	2,000,000	4.58%	
ANZ	A1+	AA-	02-Mar-16	07-Sep-16	2.95%	2,500,000	5.72%	
ANZ	A1+	AA-	24-Feb-16	14-Sep-16	3.05%	1,000,000	2.29%	
ANZ	A1+	AA-	24-Feb-16	14-Sep-16	3.05%	2,500,000	5.72%	
ANZ	A1+	AA-	02-Mar-16	21-Sep-16	2.95%	2,500,000	5.72%	
Bankwest	A1+	AA-	02-Dec-15	04-May-16	3.00%	2,500,000	5.72%	
NAB	A1+	AA-	06-May-15	04-May-16	2.93%	2,000,000	4.58%	
NAB	A1+	AA-	22-Dec-15	15-Jun-16	3.04%	1,000,000	2.29%	

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Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	% of Portfolio	Total \$
NAB	A1+	AA-	08-Jul-15	06-Jul-16	3.00%	2,000,000	4.58%	
NAB	A1+	AA-	13-Jan-16	20-Jul-16	3.10%	1,000,000	2.29%	
NAB	A1+	AA-	27-Jan-16	03-Aug-16	3.00%	1,500,000	3.43%	
NAB	A1+	AA-	17-Feb-16	17-Aug-16	3.00%	1,000,000	2.29%	
NAB	A1+	AA-	16-Mar-16	08-Feb-17	3.09%	2,000,000	4.58%	
Westpac	A1+	AA-	10-Jun-15	06-Apr-16	3.05%	2,000,000	4.58%	
Westpac	A1+	AA-	04-Nov-15	15-Jun-16	2.85%	1,000,000	2.29%	
Westpac	A1+	AA-	04-Feb-16	28-Sep-16	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	02-Oct-15	05-Oct-16	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	02-Oct-15	05-Oct-16	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	07-Oct-15	19-Oct-16	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	07-Oct-15	19-Oct-16	3.00%	1,500,000	3.43%	
Westpac	A1+	AA-	10-Dec-15	14-Dec-16	3.00%	1,000,000	2.29%	
Westpac	A1+	AA-	30-Mar-16	30-Mar-17	3.10%	500,000	1.14%	
<b>Total Term Investments</b>								<b>41,000,000</b>
<b>TOTAL INVESTMENT AS AT 31 March 2016</b>								<b>43,700,000</b>

## Performance by Type

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	2,700,000	1.75%	Reserve Bank Cash Reference Rate	2.00%	-0.25%
Term Deposit	41,000,000	2.99%	UBS 90 Day Bank Bill Rate	2.28%	0.71%
<b>Total</b>	<b>43,700,000</b>	<b>2.92%</b>			

## Restricted/Unrestricted Funds

Restriction Type	Amount \$
External Restrictions -S94	6,945,195
External Restrictions - Other	4,067,371
Internal Restrictions	21,221,457
Unrestricted	11,465,977
<b>Total</b>	<b>43,700,000</b>

Unrestricted funds, whilst not subject to a restriction for a specific purpose, are fully committed to fund operational and capital expenditure in line with Council's adopted Operational Plan. As there are timing differences between the accounting for income and expenditure in line with the Plan, and the corresponding impact on Council's cash funds, a sufficient level of funds is required to be kept at all times to ensure Council's commitments are met in a timely manner.

Council's cash management processes are based on maintaining sufficient cash levels to enable commitments to be met when due, while at the same time ensuring investment returns are maximised through term investments, where possible.

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In addition to funds being fully allocated to fund the Operational Plan activities, funds relating to closed self-funded programs, and that are subject to legislative restrictions, cannot be utilised for any purpose other than that specified. Externally restricted funds include funds relating to Section 94 Contributions, Domestic Waste Management, Sewerage Management, Stormwater Management and Grants.

Funds subject to an internal restriction refer to funds kept aside for specific purposes, or to meet future known expenses. This allows for significant expenditures to be met in the applicable year without having a significant impact on that year. Internally restricted funds include funds relating to Tip Remediation, Workers Compensation, and Elections.

### ***Investment Commentary***

The investment portfolio decreased by \$1.60 million for the month of March 2016. During March 2016, income was received totalling \$5.20 million, including rate payments amounting to \$2.60 million, while payments to suppliers and staff costs amounted to \$7.30 million.

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

Council has a loan agreement for an amount of \$5.26 million under the Local Government Infrastructure Renewal Scheme (LIRS). The full amount was drawn down upon signing the agreement in March 2013, with funds gradually being expended over the period during which the program of works is being delivered. The loan funds have been placed in term deposits, with interest earned on unexpended invested loan funds being restricted to be used for works relating to the LIRS Program projects.

As at 31 March 2016, Council's investment portfolio is all invested with major Australian trading banks or wholly owned subsidiaries of major Australian trading banks and in line with Council's Investment Policy.

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

Council's investment portfolio complies with Council's Investment Policy, adopted on 30 June 2015.

### ***Investment Certification***

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

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

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

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

### **Financial Implications**

Funds have been invested with the aim of achieving budgeted income in Service 121 – Investments within the 2015/2016 Adopted Operational Plan.

### **RECOMMENDATION:**

The report regarding the monthly investments for March 2016 be received and noted.

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**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**



**ITEM: 87                      SS - Review of Local Government Rating System in NSW - (95496, 96332)**

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**REPORT:****Executive Summary**

The Independent Pricing and Regulatory Tribunal (IPART), pursuant to Section 9 of the Independent Pricing and Regulatory Tribunal Act 1992, is conducting a review of the local government rating system in NSW, in accordance with the terms of reference (ToR) provided by the NSW Premier. The aim is to recommend reforms to improve the system's efficiency and equity, so as to ensure councils can implement sustainable fiscal policies over the longer term.

The review is part of an ongoing process of review and reform, aimed at improving local government strength and effectiveness. The process has included the Independent Local Government Review Panel's wide-ranging review and recommendations in 2013 (Revitalising Local Government), and the NSW Government's response to these recommendations, including its Fit for the Future reform package in 2014, and proposal to create new councils by merging existing councils.

For this review, IPART will be undertaking its own analysis and conducting public consultation. The first step in the consultation process is the release of an issues paper on 13 April 2016, inviting stakeholders and interested parties to make written submissions to the paper by 13 May 2016. The issues paper can be accessed via the following link:

[http://www.ipart.nsw.gov.au/files/sharedassets/website/shared\\_files/investigation - section 9 - legislative - review of the local government rating system/issues paper - review of local government rating system - april 2016.pdf](http://www.ipart.nsw.gov.au/files/sharedassets/website/shared_files/investigation_-_section_9_-_legislative_-_review_of_the_local_government_rating_system/issues_paper_-_review_of_local_government_rating_system_-_april_2016.pdf)

The document details IPART's ToR, its approach, the issues being reviewed, and options being considered.

An interim report will be provided to the Minister for Local Government in June 2016, outlining recommendations on the appropriate approach for implementing the Government's policy of freezing existing rate paths for four years for newly merged councils. A draft report, seeking further public comment will be issued in September 2016, and a final report will be provided to the Minister in December 2016.

The purpose of this report is to seek Council's endorsement of the Draft Submission proposed to be made to IPART in regard to its review of the local government rating system in NSW, as outlined above.

**Consultation**

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. However, the Draft Submission proposed to be made to IPART, is in response to IPART's public consultation process.

**Background**

IPART, pursuant to Section 9 of the Independent Pricing and Regulatory Tribunal Act 1992, is conducting a review of the local government rating system in NSW, in accordance with the ToR provided by the NSW Premier. The aim is to recommend reforms to improve the system's efficiency and equity, so as to ensure councils can implement sustainable fiscal policies over the longer term.

The ToR are summarised as follows:

- Review the current rating system and recommend reforms that aim to enhance councils' ability to implement sustainable and equitable fiscal policy; and

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- recommend a legislative or regulatory approach to achieve the Government's policy that there will "be no change to the existing rate paths for newly merged councils for four years".

These ToR set out the issues IPART must consider in making its recommendations, including:

- The rating burden across and within communities, including consideration of multi-unit dwellings;
- the appropriateness and impact of current rating categories and exemptions, and mandatory concessions;
- the land valuation methodology used as the basis for determining rates in comparison to other jurisdictions;
- the capacity of a merged council to establish a new equitable rating system and transition to it in a fair and timely manner; and
- the objectives and design of the rating system according to recognised principles of taxation.

The ToR also specify that IPART must take account of the Independent Local Government Review Panel's Final Report, the Government response to this report, and the 2013 NSW Treasury Corporation (TCorp) report 'Financial Sustainability of the NSW Local Government Sector; and to recognise the importance of the Integrated Planning and Reporting framework that allows NSW councils to draw various plans together and understand how they interact.

IPART is approaching the review in two separate tasks. The first is to review the current rating system and recommend changes to improve its efficiency, equity and sustainability. The second is to consider and recommend the appropriate approach for implementing the Government's policy of freezing existing rate paths for newly merged councils for four years. The approach is outlined below:

### ***Review the performance of the current rating system and potential improvements***

1. Define the current rating system in NSW.
2. Establish the recognised principles of taxation that should be employed in assessing and recommending changes to the current rating system.
3. Assess the current approach for calculating the level of rates applicable to a ratepayer against these principles.
4. Assess the current approach for determining who should pay rates against the principles of taxation.
5. Recommend reforms to improve the efficiency, equity and sustainability of the current rating system based on the findings of Steps 2 to 4.
6. Consider the issues that might arise for merged council areas after the expiry of the rate path freeze.

### ***Recommend appropriate approach to achieve the rate path freeze policy***

7. Outline IPART's interpretation of the Government's policy and consider how the rate path freeze might work in practice.
8. Identify alternative legislative and regulatory approaches for implementing the rate path freeze policy.
9. Make recommendations on the legislative and regulatory approach to achieve the Government's rate path freeze policy based on our findings in Steps 7 and 8.

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IPART have identified the issues on which to seek stakeholder comment during the first stage of the review. Stakeholders may address all or some of these issues, and may also raise and discuss any other issues that they feel are relevant to the terms of reference. IPART have requested responses to 23 specific questions, covering the following issues:

- Taxation principles
- Assessing the current method for setting rates
- Assessing exemptions, concessions and rebates
- Freezing existing rate paths for newly merged councils
- Establishing new, equitable rates after the 4-year freeze

The Draft Submission, including responses to these specific questions relating to these issues is attached as Attachment 1 to this report.

Further to IPART's identified issues, the submission proposed to be made to IPART also includes some other matters, including Postponed Rates, Mixed Developments, Conservation Agreements and Category Definitions, on which some comments are deemed appropriate.

In addition to any submissions made by individual councils, the NSW Revenue Professionals are also making a submission on behalf of all councils. Council may or may not share the same views on all matters. Council has also been advised that WSROC will be making a submission on behalf of its members.

It is recommended that Council endorses the attached submission to be forwarded to IPART before the closing date of 13 May 2016.

### Conformance to Strategic Plan

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

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

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

- Improve financial sustainability.

### Financial Implications

There are no financial implications arising from this report.

### RECOMMENDATION:

That the Draft Submission to IPART – Review of the Local Government Rating System, as attached to this report, be endorsed and submitted to IPART.

### ATTACHMENTS:

**AT - 1** Draft Submission to IPART – Review of the Local Government Rating System.

**AT - 1 Draft Submission to IPART – Review of the Local Government Rating System****Draft Submission to IPART – Review of the Local Government Rating System****Taxation principles**

1. Do you agree with our proposed tax principles? If not, why?

**Comment:** Council agrees with the key tax principles being Efficiency, Equity, Simplicity, Sustainability and Competitive Neutrality. Council strongly supports IPART's comments in regard to income from rates required to be sustainable. Whilst rates income is reliable and certain for a council, the growth in this income over time to support the future needs of government is currently limited by rate-pegging and the complex process involved in seeking additional revenue through a Special Rate Variation. The evaluation of the current Rating system in NSW against the tax principle of "Sustainability", is therefore critical.

**Assessing the current method for setting rates**

2. What valuation method should be used as the basis for determining the ad valorem amounts in council rates? Should councils be given more choice in selecting a valuation method, as occurs in other states, or should a valuation method continue to be mandated?

**Comment:** Council supports the option to allow councils to set a new rating category for multi-unit apartments, and mandating the use of a Capital Improved Value method (CIV) method for that Category. This would support a more equitable method to rate multi-unit dwellings. The legislation could potentially allow for a process whereby certain councils with specific characteristics relating to multi - unit dwellings could be subject to exemption from the relevant mandatory clauses. All other Categories would continue to be rated on the Unimproved Land Value (UV). Allowing councils to choose a valuation method could cause inequity across communities and increase the likelihood of challenges by ratepayers against councils.

3. Should councils be required to use the Valuer General's property valuation services, or should they also be able to use a private valuation firm (as occurs in Victoria and Tasmania)?

**Comment:** Council supports the continued use the Valuer General's property valuation services. This will ensure land valuations are undertaken in a consistent and transparent manner across all councils in NSW and reduces the likelihood of challenges by ratepayers against councils. The Valuer General has an established process to undertake valuations and to handle objections and other enquiries. It would be difficult for all different private valuation firms to establish and maintain a similarly consistent process.

4. What changes (if any) should be made to the Local Government Act to improve the use of base and minimum amounts as part of the overall rating structure?

**Comment:** Section 548 of the Local Government Act 1993, should be removed, discontinuing the use of a Minimum Rate. Whilst potentially costly to implement and administer, a Base Amount, calculated on the indicative cost of an estimated "minimum bundle of services" a ratepayer is likely to use or benefit from, and based on a framework issued by the relevant body, would represent a fairer distribution of the rating burden to fund the cost of public goods. Costs could be reduced, and consistency ensured, if the criteria and relevant costing guidelines were set by an external body, and mandated for all councils. Whilst the current limit of 50% of the total revenue from any particular category could be allowed some flexibility, it would still be preferable to have a limit. This would ensure the rates tax still reflects capability to pay based on asset ownership.

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5. What changes could be made to rating categories? Should further rating categories or subcategories be introduced? What benefits would this provide?

**Comment:** *Changes could be made to rating categories relating to Vacant Land, the Rural Residential Sub- Category and the Farmland Category. In relation to Vacant Land, it is suggested that a new Category for Vacant Land is introduced. This would allow flexibility to impose a lower rate for vacant land to reflect the lower impost this type of land has on council resources.*

*In relation to the Rural Residential Land sub-category, it is suggested that it is removed from the Act. The Rural Residential Sub- Category, as currently defined, fails to achieve a simple and fair way to levy rates by limiting the number of properties to be included, by the Area of the land and whether the land is Vacant or the Site of a Dwelling. Whilst this Sub-Category may have been intended to capture properties outside Town Centres, the use of land size and whether a dwelling exists, to categorise properties, may not reflect access to services. Properties that are less than 2 hectares in area, may have the same services, and the same access to services, as the property that is 2 hectares or over, may be subject to a different rate. The same principle applies for the use of "The Site of a Dwelling" in the current definition. Vacant land draws less on Council services, yet they may be subject to a different rate compared to the property with a dwelling on it that does not fall within the definition of Rural Residential Land. The current definition can also cause inequity in terms of potentially differentiating between properties where the owner's capacity to pay is similar, as reflected by the land values, but fall in a different rating category due to a marginal difference in land size and/or whether there is a dwelling on the site.*

*A way to achieve a much fairer method of implementing differential rates to reflect access to services already exists in the Act by allowing councils to create a Centre of Population for say a Town Centre and then create a sub - category for all land outside the defined Town Centre.*

*The definition of the "Farmland" Category requires tightening to minimise subjective assessments and room for discretion, and consequently the likelihood of challenges. The Act should clearly stipulate what constitutes "dominant use" for the various farming activities. The definition could include minimum land size and minimum stock or plantation levels required to qualify for a farmland category. A definition of what constitutes "significant and substantial commercial purpose or character" is also required. The determination of whether the farming activity is being undertaken for the purpose of a profit on a continuous or repetitive basis is difficult to assess, especially in light of the area of expertise of rating professionals not likely to be farming.*

6. Does the current rating system cause any equity and efficiency issues associated with the rating burden across communities?

**Comment:** *Yes. The current rating system causes equity issues across communities. The current distribution of the rating burden across a community is driven by that specific council's capacity to generate revenue; this capacity can be limited by factors outside of Council's control such as flood prone land, bush fire zones, and natural reserves. Other factors impacting on the distribution of the rates between the various categories within a community, and consequently across communities, is the type of development in that local government area, for example an area with a high proportion of business properties is in a better position to offer reduced rates to residential properties. These differences are not necessarily reflected in land values.*

7. What changes could be made to current rate pegging arrangements to improve the rating system, and, in particular, to better streamline the special variation process?

**Comment:** *Rate-pegging should be removed. A council should be responsible for determining its own level of rate income in consultation with its community like in other states. These councils are able to make informed decisions about both the short and long term needs of their communities together with what their ratepayers can afford to pay. The Integrated Planning and Reporting (IPR) Framework allows councils to establish an appropriate resourcing strategy, including a long-term financial plan, to deliver their Community Strategic Plan. To place a limit on the revenue that can be generated is contrary to the approach to sound and sustainable long-term planning fostered by the IPR Framework. The current rate-pegging and the level thereof is simply insufficient to sustain councils' services. The current framework is not conducive to councils raising sufficient revenue and therefore consuming their assets. A better outcome would be that ratepayers contribute a fair amount towards the cost of the consumption of assets.*

*Councils should be able to determine their own level of income, and as long as increases sought are well documented, justified and possibly audited, should not be required to seek approval from another body. If rate-pegging was abolished, there would be no requirement for a Special Rate Variation process and the costs associated with the process would be abolished.*

8. What changes could be made to the rating system to better encourage urban renewal?

**Comment:** *Special Rates support urban renewal. Council agrees that the current process for a Special Rate is appropriate to ensure the community benefiting from the specific project / initiative / characteristics pays for the benefit, and there is no undue additional burden on the remaining ratepayers. The process also provides councils with an avenue to generate the revenue required for the project.*

9. What changes could be made to the rating system to improve councils' management of overdue rates?

**Comment:** *No comment.*

#### **Assessing exemptions, concessions and rebates**

10. Are the land uses currently exempt from paying council rates appropriate? If a current exemption should be changed, how should it be changed? For example, should it be removed or more narrowly defined, should the level of government responsible for providing the exemption be changed, or should councils be given discretion over the level of exemption?

**Comment:** *A property should be rateable regardless of ownership as all such properties utilise a council's services – in some cases properties which are currently non-rateable provide a greater drain on a council's resources than rateable properties. Sections 555 and 556 of the Local Government Act 1993, covering the provision of rate exemptions are at times vague and difficult to understand. The current legislation has not kept pace with changes in society and the way that some organisations operate in today's society. This has resulted in councils having difficulty in interpreting and applying these Sections, which leaves councils open to legal challenges. These Sections should be modified to give greater clarity and certainty, particularly in regard to the accepted practices of today. Some of the areas of concern are:*

- *The growth in public benevolent institutions (PBI's) and the much looser interpretation being applied by the courts.*

*The definition needs to be more conclusive or similar to the public charity exclusion clause in Section 559 of the Local Government Act 1993. There have been a large number of what were Public Housing properties handed over to various Housing Groups. These groups are registered as PBI's and could make a claim for non-rateability under the Local Government Act 1993. If non-rateability*

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*is granted, then the rest of the community is required to pay additional rates in order that the council's revenue base does not decrease. It is understood that it was never intended that such properties were to be granted non-rateability and that the provisions of Section 560(4) were to continue to apply, however the Local Government Act 1993, has not kept pace with what is happening in the community and needs updating.*

- *The growth of private schools, particularly in established areas.*
- *Properties owned by various statutory authorities e.g. RAAF, Universities*
- *Religious Institutions and Minister's residences*

*These organisations use a council's services and should therefore contribute towards the council's revenue required to fund those services.*

11. To what extent should the exemptions from certain state taxes (such as payroll tax) that councils receive, be considered in a review of the exemptions for certain categories of ratepayers?

**Comment:** *Whilst it would be appropriate for certain taxes to become payable by councils, it is likely that these increased costs would ultimately be passed on to ratepayers. Whilst difficult to quantify, it could be argued that ratepayers are somewhat carrying an increased rate burden already, due to the current provisions of Section 555 and 556 of the Local Government Act 1993.*

12. What should the objectives of the pensioner concession scheme be? How could the current pensioner concession scheme be improved?

**Comment:** *Council agrees that the pensioner concession scheme meets current welfare objectives and is consistent with the NSW Government's commitment to providing rate concessions to pensioners. Taxpayers already contribute to the State's welfare system through various taxes. Rate concessions impose a further impost on non-pensioners who carry the additional rates burden to compensate for the concession to pensioners. The current concession should be retained, but fully funded by the State Government, like in all other states, and an increase in the amount potentially considered, reflecting the current cost of living.*

### Freezing existing rate paths for newly merged councils

13. We have interpreted the Rate Path Freeze Policy to mean that in the four years after a merger, the rating path in each pre-merger council's area will follow the same trajectory as if the merger had not occurred. Do you agree with this interpretation?

**Comment:** *Council's interpretation of the "Rate Freeze" is that the income from each respective pre-merged area can only be increased by rate-pegging or already approved Special Rate Variations and applicable growth. Council's interpretation is that the rating structure cannot be altered during the freeze period.*

14. Within the rate path freeze period, should merged councils be permitted to apply for new special variations:

- For Crown Land added to the rating base?
- To recover amounts that are 'above the cap' on development contributions set under the Environmental Planning and Assessment Act 1979?
- To fund new infrastructure projects by levying a special rate?

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**Comment:** *The existing Crown Land adjustments should continue to apply for merged councils. A Special Rate, applicable to ratepayers within the development area, may be appropriate to recover amounts that are 'above the cap' on development contributions set under the Environmental Planning and Assessment Act 1979.*

*A Special Rate to fund new infrastructure appears contrary to the commitment of maintaining existing rate paths. In addition, it would be more appropriate for most councils to invest in renewing existing infrastructure, rather than creating new infrastructure.*

15. Are there any other situations where merged councils should be able to apply for new special variations within the rate path freeze period?

**Comment:** *The ability to apply for special variations within the rate path freeze appears contrary to concept of a "freeze". However, if there was no freeze, the Special Rate Variation would increase councils' revenue generating capacity and consequently financial sustainability, as well as providing an avenue to equalise rates across the merged areas, in a more equitable manner without the delay that would result from the freeze.*

16. During the rate path freeze period, should merged councils only be able to increase base amounts and minimum amounts each year by the rate peg (adjusted for any permitted special variations)?

**Comment:** *Any adjustments over and above rate-pegging, or that results in altering what the base amount would have been should no merger have occurred, appears contrary to the "freeze" concept. However, if there was no freeze, it may be appropriate to adjust Minimum Rates and Base Amounts to equalise rates across the merged areas, in a more equitable manner without the delay that would result from the freeze.*

17. During the rate path freeze period, should merged councils be able to allocate changes to the rating burden across rating categories by either:

- relative changes in the total land value of a rating category against other categories within the pre-merger council area, or
- the rate peg (adjusted for any permitted special variations)?

**Comment:** *Any redistribution of the rating burden would be likely to cause movements to individual properties' rates, again appears contrary to the "freeze" concept. Should merged councils be allowed to reallocate the rating burden, the preferred option is to do it by way of the relative change method.*

18. Do you agree that the Rate Path Freeze Policy should act as a 'ceiling', so councils have the discretion to set their rates below this ceiling for any rating category?

**Comment:** *It is unlikely that any council would choose to set their rates below the current rates trajectory. The rate freeze could act as a ceiling for the first 12 months of a new entity to allow sufficient time for a comprehensive review of the merged entities' respective rating structure, so as to determine an appropriate strategy to introduce a new rating structure for the new entity.*

19. What other discretions should merged councils be given in setting rates during the rate freeze period?

**Comment:** *In the event the rate freeze applies for the proposed four year period, councils should be given discretion to review their respective rating structures, in preparation for a potential new structure. This would support a staged introduction of any rating changes, therefore minimising excessive rates movement for individual properties.*



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20. We considered several options for implementing the Rate Path Freeze Policy. Our preferred option is providing the Minister for Local Government with a new instrument-making power. What are your views on this option and any other options to implement the Rate Path Freeze Policy?

**Comment:** No comment.

### Establishing new, equitable rates after the 4-year freeze

21. Should changes be made to the Local Government Act 1993, to better enable a merged council to establish a new equitable system of rating and transition to it, in a fair and timely manner? If so, should the requirement to set the same residential rate within a centre of population be changed or removed?

**Comment:** During the transition period, it may be appropriate to phase in changes to reflect a more equitable rating structure. This could result in the centre of population requirement not being met for a certain time. The Local Government Act 1993, should be changed to support this situation.

22. Should approved special variations for pre-merger councils be included in the revenue base of the merged council following the 4-Year rate path freeze?

**Comment:** It would be more appropriate and equitable for any Special Rate Variations to cease after the 4-Year rate freeze. The new entity may then consider a fresh Special Rate Variation based on the merged entity's requirements.

23. What other rating issues might arise for merged councils after the 4-Year rate path freeze period expires?

**Comment:** A number of issues might arise, including but not limited:

- Widened gap between rating structures due to freeze period
- Alignment of structures
- Land valuation issues
- Rates Administration
- Rates Database and systems consolidation
- Alignment of Rates Policies
- Ratepayers complaints

### Other Issues not addressed within IPART's Review and Council's Comments:

#### Postponed Rates

**Comment:** Section 585 of the Local Government Act 1993, should be removed due to the difficulty councils have in administering the Section. If such a provision is to remain in the legislation, it should be treated in a similar way to a Section 14 VLA allowance and result in the rates being levied on a lower value, whilst ever the property meets the requirements. The current process of levying rates and having part of them suspended/postponed until the use of the property changes is old fashioned and causes confusion for ratepayers, council staff and solicitors.

#### Mixed Developments Apportionments

**Comment:** Section 518B of the Local Government Act 1993, should be amended to also allow councils to use "Mixed Use Apportionment Factors" (MUAF's) for rating purposes. With changes to the acceptance by society of property uses, the legislation has not kept pace with reality. There are now many properties which are part Farmland and part Business and a determination is required as to the dominant category for rating purposes, therefore not reflecting the different uses of part/s of the property.

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### Conservation Agreements

**Comment:** *The use of Conservation Agreements is against all rating ideology. If a property has a residence on it, and also has a conservation agreement, then the property should at least be liable for the minimum rate, not the situation as it applies today where they only pay a proportion of such a rate. There is no reduction in the levels of service provided to the ratepayer and this shows the system to be unfair and inequitable. If such a change is not possible then there should be provision for two (2) valuations to be made by the VG, one for the part of the property affected by the agreement and another for the part not affected.*

oooO END OF REPORT Oooo

## ORDINARY MEETING

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### ITEM: 88 SS - Pecuniary Interest Returns - Designated Persons - (95496, 96330)

#### REPORT:

##### Executive Summary

The Local Government Act, 1993 details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Returns by Councillors and Designated Persons. This report provides information regarding Returns recently lodged with the General Manager by Designated Persons. It is recommended that Council note that the Disclosure of Pecuniary Interests and Other Matters Returns, lodged with the General Manager, have been tabled.

##### Consultation

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

##### Background

Section 450A of the Local Government Act, 1993 relates to the register of Pecuniary Interest Returns and the tabling of these Returns, which have been lodged by Councillors and Designated Persons. Section 450A of the Act, is as follows:

- "1. *The General Manager must keep a register of returns required to be lodged with the General Manager under section 449.*
2. *Returns required to be lodged with the General Manager under section 449 must be tabled at a meeting of the council, being:*
  - (a) *In the case of a return lodged in accordance with section 449 (1)—the first meeting held after the last day for lodgement under that subsection, or*
  - (b) *In the case of a return lodged in accordance with section 449 (3)—the first meeting held after the last day for lodgement under that subsection, or*
  - (c) *In the case of a return otherwise lodged with the general manager—the first meeting after lodgement."*

With regard to Section 450A(1), a register of all Returns lodged by Councillors and Designated Persons, in accordance with Section 449 of the Act, is currently kept by Council, as required by this part of the Act.

With regard to Section 450A(2), all Returns lodged by Councillors and Designated Persons, under Section 449 of the Act, must be tabled at a Council Meeting, as outlined in subsections (a), (b) and (c).

With regard to Section 450(2)(a), the following Section 449(1) Returns have been lodged:

Position	Return Date	Date Lodged
Manager Environment and Regulatory Services	18 January 2016	27 January 2016
Project Engineer	1 February 2016	18 March 2016

The above Designated Persons have lodged their Section 449(1) Returns prior to the due dates (being three months after the Return Dates), as required by the Act for the receipt of the Returns.

The above details are now tabled in accordance with Section 450A(2)(a) of the Act, and the abovementioned Returns are available for inspection if requested.

## **ORDINARY MEETING**

**Meeting Date:** 10 May 2016

### **Conformance to the Hawkesbury Community Strategic Plan**

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

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

### **Financial Implications**

No financial implications applicable to this report.

### **RECOMMENDATION:**

That the information be received and noted.

### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

ordinary

section 4

reports  
of committees

**ORDINARY MEETING**  
**Reports of Committees**

**ORDINARY MEETING**  
**Reports of Committees**

**SECTION 4 - Reports of Committees**

**ROC - Hawkesbury Access and Inclusion Advisory Committee - 25 February 2016 - (124569, 96328)**

The meeting commenced at 4pm.

**Present:** Mr Alan Aldrich, Community Representative  
Mr Robert Bosshard, Community Representative  
Ms Debbie Court, Community Representative  
Mr Desmond Crane, Community Representative  
Mr Gary London, Community Representative  
Ms Carolyn Lucas, Community Representative  
Ms Melanie Oxenham, Community Representative (via Teleconference)  
Ms Alison Baidon, District Health Service Representative  
Councillor Barry Calvert, Hawkesbury City Council

**Apologies:** Mr Ken Ferris, Community Representative  
Ms Mary-Jo McDonnell, Community Representative  
Councillor Leigh Williams, Hawkesbury City Council

**In Attendance:** Joseph Litwin - Executive Manager - Community Partnerships  
Meagan Ang - Community Development Co-ordinator  
Jan Readford - Minute Secretary

**REPORT:**

**RESOLVED** on the motion of Mr Gary London and seconded by Mr Desmond Crane that the apology be accepted.

**Attendance Register of Hawkesbury Access and Inclusion Advisory Committee**

Member	22/10/2015	26/11/2015	25/2/2016
Councillor Barry Calvert	A	✓	✓
Councillor Leigh Williams	✓	A	A
Mr Alan Aldrich	A	✓	✓
Ms Alison Baidon	✓	A	✓
Mr Robert Bosshard	✓	✓	✓
Ms Debbie Court	✓	✓	✓
Mr Desmond Crane	✓	✓	✓
Mr Ken Ferris	A	A	A
Ms Carolyn Lucas	✓	✓	✓
Mr Gary London	✓	✓	✓
Ms Mary-Jo McDonnell	A	A	A
Ms Melanie Oxenham	✓	A	✓

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

Mr Litwin opened the meeting, pending the arrival of Councillor Calvert. Ms Oxenham joined the meeting via teleconference.

Ms Ang has been advised by Ms McDonnell that she is unable to attend any future meetings in 2016.

**ORDINARY MEETING**  
**Reports of Committees**

Mr Litwin referred to the report regarding the Master Locksmith Access Key System and the recommendation to prepare a report for Council, however, advised that he had not been able to prepare the report to date due to other commitments. Mr Litwin advised that Council's Manager Building and Associated Services, Mr McClure is attending this meeting, and will provide the opportunity for the Committee to ask questions and to understand how to proceed.

*Councillor Calvert joined the meeting at 4.10pm.*

**CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Mr Desmond Crane and seconded by Mr Gary London that the Minutes of the Hawkesbury Access and Inclusion Advisory Committee held on the 25 February 2016, be confirmed.

**SECTION 2 - Presentations to the Committee**

**1. MLAK System and Accessible Toilet**

Ms Ang welcomed Mr McClure, Council's Manager Building and Associated Services to the meeting to discuss the installation of the MLAK system and access toilets in the region.

- Mr McClure advised that Council had recently conducted an audit of its 188 accessible toilets to review compliance under current regulations. Council has allocated a budget to ensure eligible toilets are made compliant. Many of the toilets, built long ago, will be knocked down as it is not possible to make them compliant.

Vandalism is a huge issue and a timed locking system has been installed at three locations being: McCloud Park, South Windsor; Woodhill's car park at the rear of Richmond shops; and Richmond Park, due to the level of criminal activity. The facilities at sports fields are also locked to prevent vandalism, with some facilities also locked off to public access. All toilets are cleaned regularly, some twice a day in busy areas, and are kept open.

- Mr Aldrich advised that he is unable to access Oakfield Park as the fence restricts wheelchair access. Mr Crane also advised that Glossodia Park provides no access for wheelchairs. Mr McClure advised that he would pass these comments onto Council's Parks Manager for consideration.
- Mr McClure advised that Council does not want to discourage other users from using accessible toilets, noting that accessible toilets are also used for family access, which enables young children, accompanied by a grandparent or family member, to have safe access. Council has now redesigned its public toilets to enable this access, some with baby change facilities and tables installed.

The new toilet facilities at the Oasis Aquatic and Leisure Centre will have excellent accessible facilities, and will be completely compliant with the regulations under the Building Code of Australia. An accessible toilet is also being added to Richmond Pool. In addition, new toilet facilities have been added to the childcare centres located at McGraths Hill, Wilberforce and Windsor Pre-school.

There will be issues with locking toilets where there is currently an iron gate installed, as this causes a problem for wheelchair access. The toilets affected would be: Clarendon, Maraylya and Richmond. However, if a lock system were to be introduced, family use would be prevented.



**ORDINARY MEETING**  
**Reports of Committees**

- Mr Aldrich requested that where toilets are locked, a sign be erected advertising the location of other toilets available.
  - Mr McClure agreed this is a good suggestion and could be implemented.
- Mr Crane referred to the difficulty associated with sourcing a toilet in the evening.
  - Mr McClure advised there will be a toilet in Pound Paddock that can be utilised once construction is finalised, however, Cllr Calvert noted that its location is a long way away from the central activity area.
  - Mr McClure suggested that the facilities located at McDonalds or Coles be used. However, Mr Crane advised that McDonalds are not happy to provide public access, and Coles toilet facilities, located externally, present some access issues.
- Mr McClure referred to the recent installation of an accessible unisex toilet in Kable Street and advised it provides family access with plenty of space, and tactiles have been installed. This style of toilet is also located at Yarramundi and Smith Park, and is made of steel, is damage proof, and easy to clean.
- Mr Litwin indicated the MLAK system is not a complete solution for all issues relating to public toilets. Mr Litwin suggested the Committee identify which toilets should be prioritised for improvement.
- Mr McClure advised the facilities at Clarendon will be updated in the near future, including those at Richmond Pool, and intends to show the plans and designs to the Committee.
- Cllr Calvert requested the update of facilities at Richmond Park be prioritised due to its central location. Mr Litwin then suggested the Works Plan be reviewed in the first instance.
  - Mr McClure indicated there are excellent facilities available opposite to Richmond Park in the Seniors Leisure and Learning Centre. Mr Crane advised that the Centre closes at 5pm, which does not assist access during evenings, particularly after dark.
  - Mr McClure advised that substantial work has been done in Richmond Park, including the installation of improved lighting. A CCTV camera, located at the toilets, could have its hours extended to support evening access. Council will also review potential further improvements.
  - Cllr Calvert suggested that the opening hours of the toilets be extended to 9pm. Mr Crane agreed this would be suitable during the warmer months, and suggested that 8pm would be sufficient during the winter season.
- Mr McClure advised that Council has a limited number of staff to lock up public toilet facilities, and would require safety considerations including operational issues to be addressed as part of these changed arrangements.
- Mr McClure suggested that all lockable toilets in the Hawkesbury, which would include the sports fields, be re-keyed with the one style Master key, and that Council hold a register and issue the key to people requiring access. The cost of the key is expected to be approximately \$4.

**ORDINARY MEETING**  
**Reports of Committees**

- Mr Litwin will prepare the criteria for the issue of a master key and bring it to the next meeting, and will also prepare the list of toilets that are currently locked.
- Ms Oxenham suggested that at the outset, the keys be issued to service providers. Mr Crane requested that the key also be issued to groups, however, Mr Litwin indicated that in the first instance, interest to have a key be sought from service providers.
- Mr Litwin will discuss a trial for the changed closure to 9pm with the Manager of Parks.
- Mr Litwin will prepare a report to Council and include the suggestions raised in these minutes.

Councillor Calvert thanked Mr McClure for his time and for attending the meeting and the information provided.

*Mr McClure left the meeting at 4.40pm.*

## **2. Upgrades and Works - Accessible Parking**

Ms Ang welcomed Mr Amit, Council's Manager Design and Mapping to the meeting to discuss the upgrade and associated works for accessible parking.

- Mr Aldrich advised he has carried out a survey of car parks and found many to be problematic, including:
  - Windsor Function Centre - where tree roots are growing through the ground causing an uneven surface.
  - Hawkesbury Regional Museum, Council's Administration Building and some other car parks adjacent to shopping centres - where the angle of the space is too steep. Accessible parking at the Gallery is on a flat surface, and is excellent.
  - Moses Street - where the car park space is good, except for the hatched area where the individual can only go one way and not back.
- Mr London indicated the lack of signage for accessible parking makes it difficult to locate the space allocated and/or the disabled person awaiting pickup. Mr Amit indicated he was unaware of any car park with this type of signage, and noted that accessible parking is usually located at car park entry points.
- Mr Amit advised the majority of car parks in the Hawkesbury were constructed a number of years ago and were standard at that time. Mr Amit agreed to review the car parks, with the aim to rectify, where possible, any identified issues, however noted, that it may not be possible to improve all car parks.
- Mr Crane referred to the accessible parking located in Kable Street adjacent to the fence, and suggested that if there was availability in the car park located underneath the shopping centre, that would be more suitable for people with a disability.
  - Mr Amit advised that accessible parking spaces require a width of 3.2 metres x 5.4 metres, and this measurement would need to be considered when updating existing car parks. The introduction of double car spacing with a central shared space for accessibility (the new standard) is expected to present challenges.

## ORDINARY MEETING

### Reports of Committees

- Mr Crane referred to the Glossodia car park and advised that the designated accessible spaces are too narrow, necessitating reversal of the car into the driveway, where the passenger can then be assisted into or from the vehicle. The adjacent kerbing and footpath is run over by vehicles regularly for this same reason.
  - Mr Amit advised that the car park at Glossodia Shopping Centre was reviewed previously and will be hatched in future.
- Mr Amit requested that he be provided with the list of car parks surveyed, with those considered problematic identified, so that rectification can be arranged via Council's Maintenance Section, as a priority. Mr Amit indicated he may join Mr Ang and Mr Aldrich tomorrow morning when they meet to review the car parks.
  - Mr Litwin advised that the list will be prepared and provided to Mr Amit, and will be included in the minutes for the Committee's reference/ potential update. The list will also identify the Kable Street issues in relation to the location of the accessible car park spaces.

Councillor Calvert thanked Mr Amit for attending the meeting and the information provided.

*Mr Amit left the meeting at 5.10pm.*

### SECTION 3 - Reports for Determination

#### Item: 1      **HAIAC - Progress on Access and Inclusion Plan - (124569, 93328)**

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#### **DISCUSSION:**

- Ms Ang referred to the Australian Government's National Disability Coordination Officer (NDCO) Program. This Program works strategically to assist people with disability access and participate in tertiary education and subsequent employment, through a national network of regionally based NDCOs. The NDCOs work with stakeholders at the local level to reduce systemic barriers, facilitate smooth transitions, build links and coordinate services between the education, training and employment sectors. The NDCO Program adopts the Disability Discrimination Act, 1992 definition of disability.

The NDCO Program objectives are to:

- improve linkages between schools, tertiary education providers, employment service providers and providers of disability programs and assistance at all government levels;
  - improve transitions for people with disability between school / community and tertiary education, and then to subsequent employment; and
  - improve participation by people with disability in tertiary education and subsequent employment. Ms Ang is working with the Hawkesbury Region's NDCO to coordinate a Hawkesbury Disability Expo.
- Ms Ang advised that the Hawkesbury Disability Expo will be held on 18 April 2016 at Windsor RSL with a focus on education and the provision of accessible employment opportunities. All job service networks are expected to be invited, along with community coordinators, Ability Links, disability service providers and people with a disability.
- Ms Lucas advised she has three friends with a disability who are unemployed, and even though they are registered with agencies, they do not seem to be able to gain employment. They find it difficult sourcing a position and competing with the local community for

**ORDINARY MEETING**  
**Reports of Committees**

employment. It appears that the agencies are able to receive funding, however, this does not necessarily equate to employment for all individuals.

- Ms Ang advised that Nova Employment indicate they have more positions on their books than people to fill them, and are successful in placing people with a disability. Mr Crane advised he was contacted recently by a job service provider looking for a suitable person to fill a position. In contract, Mr London advised he is aware of a person who has now attended nine interviews without success.
- Ms Ang advised she will raise these concerns at her next committee meeting to be held next Thursday.
- Ms Oxenham referred to Ms Lucas' comments and suggested that social inclusion be promoted to community disability groups and the community, along with sourcing other opportunities for people with a disability.
- Mr Aldrich indicated he thinks there may be issues with the allocation of funding, noting that service providers appear to receive funding regardless of how long an individual has been in the system, and that funding received in one period, is allocated for another.

**RECOMMENDATION TO COMMITTEE:**

That the matters raised by the Committee relating to the progress of the Access and Inclusion Plan, be noted.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Ms Debbie Court, seconded by Mr Gary London.

That the matters raised by the Committee relating to the progress of the Access and Inclusion Plan, be noted.

**Item: 2      HAIAC - Access and Inclusion Advisory Committee Audits - (124569, 96328)**

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**DISCUSSION:**

- Ms Ang advised that an audit of various public toilets, car parks and wharfs will be conducted tomorrow morning (26 February 2016) by Mr Aldrich and Ms Ang.

**RECOMMENDATION TO COMMITTEE:**

That matters raised by the Committee in relation to Access and Inclusion Advisory Committee audits, be noted.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Ms Debbie Court, seconded by Mr Desmond Crane.

That the matters raised by the Committee in relation to Access and Inclusion Advisory Committee audits, be noted.

**SECTION 4 - General Business**

- Ms Ang referred to the instructional signage for the accessible fitness equipment installed at Ham Common and advised that the signage has now been installed. Ms Ang, however, has some concerns about the signage and will forward the plans to the Committee for review and comments. The signage has also been circulated to Allied Health Managers for review by their occupational therapist/ physiotherapist.
  - Ms Lucas enquired if the signage will be provided in Brail. Ms Ang advised there is insufficient funding available to cover the extra cost of providing tactiles.
  - Ms Lucas also enquired about the likelihood of providing audio and/or interpretative signage. Mr Bosshard noted the potential restriction associated with providing power for this purpose, however, Mr Aldrich suggested the potential use of solar power. These will be considered at a later date.

The meeting terminated at 5.27pm.

Submitted to and confirmed at the meeting of the Hawkesbury Access and Inclusion Advisory Committee held on 28 April 2016.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Reports of Committees**

**ROC - Waste Management Advisory Committee - 16 March 2016 - (95249)**

The meeting commenced at 4pm in Council Chambers.

<b>Present:</b>	Councillor Kim Ford, Chairperson Councillor Jill Reardon, Deputy Chairperson Councillor Bob Porter, Hawkesbury City Council Councillor Leigh Williams, Hawkesbury City Council Ms Robin Woods, Community Member
<b>Apologies:</b>	Mr Geoff Bessell, Community Member Professor Basant Maheshwari, University of Western Sydney Mr Jeff Organ, Hawkesbury City Council Ms Sophie Barrett, Hawkesbury City Council
<b>In Attendance:</b>	Mr Matthew Owens, Hawkesbury City Council Mr Andrew Kearns, Hawkesbury City Council Mr Ramiz Younan, Hawkesbury City Council Ms Suzanne Stuart, Hawkesbury City Council Mr Oliver Bradshaw, Hawkesbury City Council Ms Robyn Kozjak - Minute Taker, Hawkesbury City Council

**REPORT:**

**RESOLVED** on the motion of Councillor Reardon and seconded by Councillor Porter that the apologies be accepted.

**CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Councillor Reardon and seconded by Councillor Porter that the Minutes of the Waste Management Advisory Committee held on the 8 October 2015, be confirmed.

**Attendance Register of Waste Management Advisory Committee**

Member	08/10/15	16/03/16		
Councillor Kim Ford	✓	✓		
Councillor Bob Porter	✓	✓		
Councillor Jill Reardon	✓	✓		
Councillor Leigh Williams	A	✓		
Mr Geoffrey Bessell	A	A		
Ms Robin Woods	✓	✓		
Prof. Basant Maheshwari	A	A		

A = Formal Apology

✓ = Present

x := Absent - no apology

**SECTION 4 - Reports for Information**

**Item: 1**                      **WMAC - Landfill Gas Capture System Contract and Associated Emissions Reductions from Hawkesbury City Waste Management Facility - (95249)**

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**RECOMMENDATION TO COMMITTEE:**

That the information be received.

**MOTION:**

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

*Refer to COMMITTEE RECOMMENDATION*

**COMMITTEE RECOMMENDATION:**

That the information be received.

**Item: 2**                      **WMAC - NSW EPAs Householders Asbestos Disposal Scheme Trial Outcomes - (95249)**

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**DISCUSSION:**

- Councillor Williams expressed concern at the time taken for prosecuting offenders who dump asbestos and asked for feedback on a reported incident approximately eighteen months ago in Packer Road.

**RECOMMENDATION TO COMMITTEE:**

That the information be received.

**MOTION:**

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

*Refer to COMMITTEE RECOMMENDATION*

**COMMITTEE RECOMMENDATION:**

That the information be received.

**ORDINARY MEETING**  
**Reports of Committees**

**Item: 3**                      **WMAC - Progress Report - Waste Education Officer - Extra Christmas Recycling Collections 2015/16 - (95249)**

---

**RECOMMENDATION TO COMMITTEE:**

That the information be received.

**MOTION:**

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

***Refer to COMMITTEE RECOMMENDATION***

**COMMITTEE RECOMMENDATION:**

That the information be received.

**Item: 4**                      **WMAC - Progress Report - Clean Up Australia Day 2016 - (95249)**

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**DISCUSSION:**

- Mr Bradshaw advised final data regarding volunteer participation and waste collection was in the process of being collected from various sites (some people collected waste without registering so not all data had yet been received).
- Ms Woods suggested turning the event into a competition where areas compete against one another in collecting the most waste.
- Ms Woods raised concern regarding waste at the North Richmond shopping centre and advised specific attention was required to that precinct.

**RECOMMENDATION TO COMMITTEE:**

That the information be received.

**MOTION:**

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

***Refer to COMMITTEE RECOMMENDATION***

**COMMITTEE RECOMMENDATION:**

That the information be received.



**ORDINARY MEETING**  
**Reports of Committees**

**Item: 5**                      **WMAC - Progress Report - Waste Education Officer - National Recycling Week 2015 & Schools Waste 2 Art Competition - (95249)**

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**RECOMMENDATION TO COMMITTEE:**

That the information be received.

**MOTION:**

RESOLVED on the motion of Ms Woods, seconded by Councillor Williams.

***Refer to COMMITTEE RECOMMENDATION***

**COMMITTEE RECOMMENDATION:**

That the information be received.

**SECTION 5 - General Business**

- Discussion arose regarding various technologies to manage waste and Mr Younan advised staff had been working on a new Council Waste Strategy in line with the *Draft Western Sydney Regional Waste Avoidance and Resource Recovery Strategy (2014-2017)* adopted by Council last year. Mr Younan advised the Strategy would replace the current *Future Waste Strategies, 2005*, and would incorporate Hawkesbury's specific needs. Mr Younan advised once that Strategy was completed it would be put to the Committee for its information prior to being reported to Council.

The meeting closed at 4:44pm.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Reports of Committees**

**ROC - Heritage Advisory Committee - 24 March 2016 - (80242)**

The meeting commenced at 5.35pm in Council Chambers.

- Present:** Professor Ian Jack, Chairperson  
Mr Jonathan Auld, Deputy Chairperson  
Ms Janice Hart, Community Member  
Ms Judith Newland, Community Member  
Ms Michelle Nichols, Community Member
- Apologies:** Councillor Patrick Conolly, Hawkesbury City Council  
Mr Glenn Falson, Community Member  
Ms Carol Roberts, Community Member
- In Attendance:** Mr Matthew Owens, Hawkesbury City Council  
Mr Andrew Kearns, Hawkesbury City Council  
Mr Craig Johnson, Hawkesbury City Council  
Ms Robyn Kozjak - Minute Taker, Hawkesbury City Council

**REPORT:**

**RESOLVED** on the motion of Mr Auld and seconded by Ms Newland that the apologies be accepted.

**CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Ms Hart and seconded by Ms Nichols that the Minutes of the Heritage Advisory Committee held on 10 December 2015, be confirmed.

**Attendance Register of Heritage Advisory Committee**

Member	10/12/15	24/03/16		
Professor Ian Jack - Chairperson	✓	✓		
Mr Jonathan Auld - Deputy Chairperson	✓	✓		
Councillor Patrick Conolly	✓	A		
Ms Carol Roberts	✓	A		
Ms Michelle Nichols	✓	✓		
Ms Janice Hart	✓	✓		
Mr Glenn Falson	✓	A		
Ms Judith Newland	✓	✓		

Key: A = Formal Apology

✓ = Present

X = Absent - no apology

**SECTION 5 - General Business**

*Mr Owens introduced Mr Andrew Kearns, Manager Strategic Planning, to the Committee.*

**Update on HoWS Heritage app**

- Mr Johnson advised he had recently met with the HoWS working group to review the content of the app, including content pertaining to the Hawkesbury. Mr Johnson advised it was agreed at that meeting to re-scribe the Hawkesbury's content to make it more narrative and to incorporate the detailed comments previously provided by the Committee.

Mr Johnson also advised he was working with Keri Whiteley (Manager Cultural Services) to review information in relation to developing and installing heritage signage at various sites in the Hawkesbury, with a view to integrating that information into the app.

- Mr Johnson advised National Parks & Wildlife Service have available a (free to download) Convict Road app featuring walks, short films and interesting narrative about the history of the Old Great North Road.
- The Committee determined the app be promoted on Council's Facebook and Library web pages.

**Jolly Frog**

- Mr Owens gave an overview of the status of the 'Jolly Frog', advising Council had approved partial demolition of the building which comprised the additions on the Macquarie Street side which would leave the heritage listed part of the building intact. Mr Owens advised the owner had been contacted on numerous occasions in relation to the future of the building. Mr Owens added the property was zoned part commercial and part private recreation and as yet no future use for the building had been established.
- The Committee acknowledged and agreed there were various issues associated with the property including difficulty in accessing the property and flooding issues.

**Thematic History**

- Mr Auld made reference to previous discussions relating to an official launch of the Thematic History and asked, considering the time passed, if the Thematic History could be placed on Council's website by way of a simple introductory paragraph with a link to the Thematic History (pdf). Mr Auld noted the document was published in 1986 and revamped in 2009.

Mr Owens agreed and advised he would discuss with Manager Strategic Planning.

- Ms Nichols made reference to the past Heritage Festival and noted the Committee had not participated in that event. Ms Nichols suggested a media release be prepared to promote the Committee.

**MOTION:**

RESOLVED on the motion of Mr Auld, seconded by Ms Nichols

***Refer to COMMITTEE RECOMMENDATION***

**ORDINARY MEETING**  
**Reports of Committees**

**COMMITTEE RECOMMENDATION:**

That:

1. The Thematic History be added to Council's heritage webpage.
  2. A media release be prepared outlining heritage actions currently being undertaken by Council (including heritage app, grants etc), and that information also be included in the Mayoral Column.
- Mr Auld and Ms Nichols advised their history social media pages were gaining popularity with approximately 1,500 followers, at times achieving 4,000 views. Ms Nichols advised 1,000 people made positive responses to the slab barns material.
  - Ms Nichols made reference to a meeting she recently attended at Hornsby Shire Council (HSC) where the Local Studies Librarian showcased that Council's heritage webpage. Ms Nichols recommended the Committee view HSC's webpage (<http://www.hornsby.nsw.gov.au/property/common-enquiries/heritage>) which provides historical and environmental heritage information, as well as providing access to local Inventory Sheets and a Heritage Tree Register.

The meeting closed at 6:15pm.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
Questions for Next Meeting

**QUESTIONS FOR NEXT MEETING**

**Councillor Questions from Previous Meetings and Responses - (79351)**

**REPORT:**

**Questions - 12 April 2016**

#	Councillor	Question	Response
1	Rasmussen	Requested that the intersection at Triangle Lane and Old Kurrajong Road be reviewed for safety and rectified if required.	The Director Infrastructure Services advised that a review of the intersection had been conducted and installation of additional signage as well as sight distance improvements / vegetation clearing have been arranged.
2	Calvert	Requested a report regarding a meeting held between Council staff, the RMS and Transport NSW.	The Director Infrastructure Services advised that no further advice had been received from RMS and that a letter has been sent seeking advice on progress.
3	Williams	Requested an update on the proposed caravan park at Wattle Crescent, Glossodia.	The Director City Planning advised the Land & Environment Court Hearing for the appeal against Council's refusal of this development application was held on Thursday 28 and Friday 29 April 2016. The Commissioner presiding over the matter has reserved their judgement.
4	Lyons-Buckett	Requested that repairs to potholes in Beaumont Avenue, North Richmond be undertaken.	The Director Infrastructure Services advised that instructions had been issued to undertake repairs.
5	Porter	Requested that the Hawkesbury-Nepean Valley Flood Management Taskforce report be provided to Councillors.	The Director City Planning advised staff have been advised (verbally) that the report of the Hawkesbury-Nepean Valley Floodplain Management Review Taskforce has been submitted to the NSW Cabinet for consideration. As the report is "Cabinet in confidence" a copy of that report has not been made available. When the report is publically available a copy will be forwarded to each Councillor.

**ORDINARY MEETING****Questions for Next Meeting**

#	Councillor	Question	Response
6	Porter	Requested that a property on Grono Farm Road be inspected for meeting compliance requirements and that a report be provided to Council.	The Director City Planning advised the property on Grono Farm Road is being investigated and inspected to determine compliance with any relevant approvals on the site and to determine if any activities require additional consents or are deemed Exempt Development. When that investigation is completed the outcome of those investigations will be reported to Councillors.
7	Reardon	Enquired if speed limits could be painted on the roads throughout Kurrajong Village, as a safety issue.	The Director Infrastructure Services advised that this request had been previously referred to RMS and a follow up request would be forwarded.
8	Reardon	Enquired if Kurrajong Village could be known as 'The Garden Village' with signage to that effect.	The Director Infrastructure Services advised that consideration of this matter will form part of the city wide branding strategy and involve public consultation.
9	Reardon	Enquired if the Kurrajong Forum Volunteer Garden Group could cultivate the garden on the left of the traffic lights at the Bells Line of Road intersection, as a rose garden.	The Director Infrastructure Services advised that contact would be made with the Group to discuss this matter.
10	Calvert	Enquired if the RMS has reviewed and addressed the removal of the 'No Stopping' signs on Bells Line of Road, North Richmond and what the outcome of this is.	The Director Infrastructure Services advised that this matter, and associated marking issues was being investigated by Council's compliance staff.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**CONFIDENTIAL REPORTS**

**CONFIDENTIAL REPORTS**

**ITEM: 89**                      **GM - Establishment of a Tourism Working Group - Nominations and Councillor Positions - (79351, 111215)    CONFIDENTIAL**

**Previous Item:**            Item 67, Ordinary (12 April, 2016)  
                                 Item 200, Ordinary (24 November, 2015)  
                                 Item 36, Ordinary (26 August, 2015)

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**Reason for Confidentiality**

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

*Specifically, the matter is to be dealt with pursuant to Section 10A(2)(a) of the Act as it relates to 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**  
**CONFIDENTIAL REPORTS**





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