



Hawkesbury City Council

ordinary  
meeting  
business  
paper

date of meeting: 11 October 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>

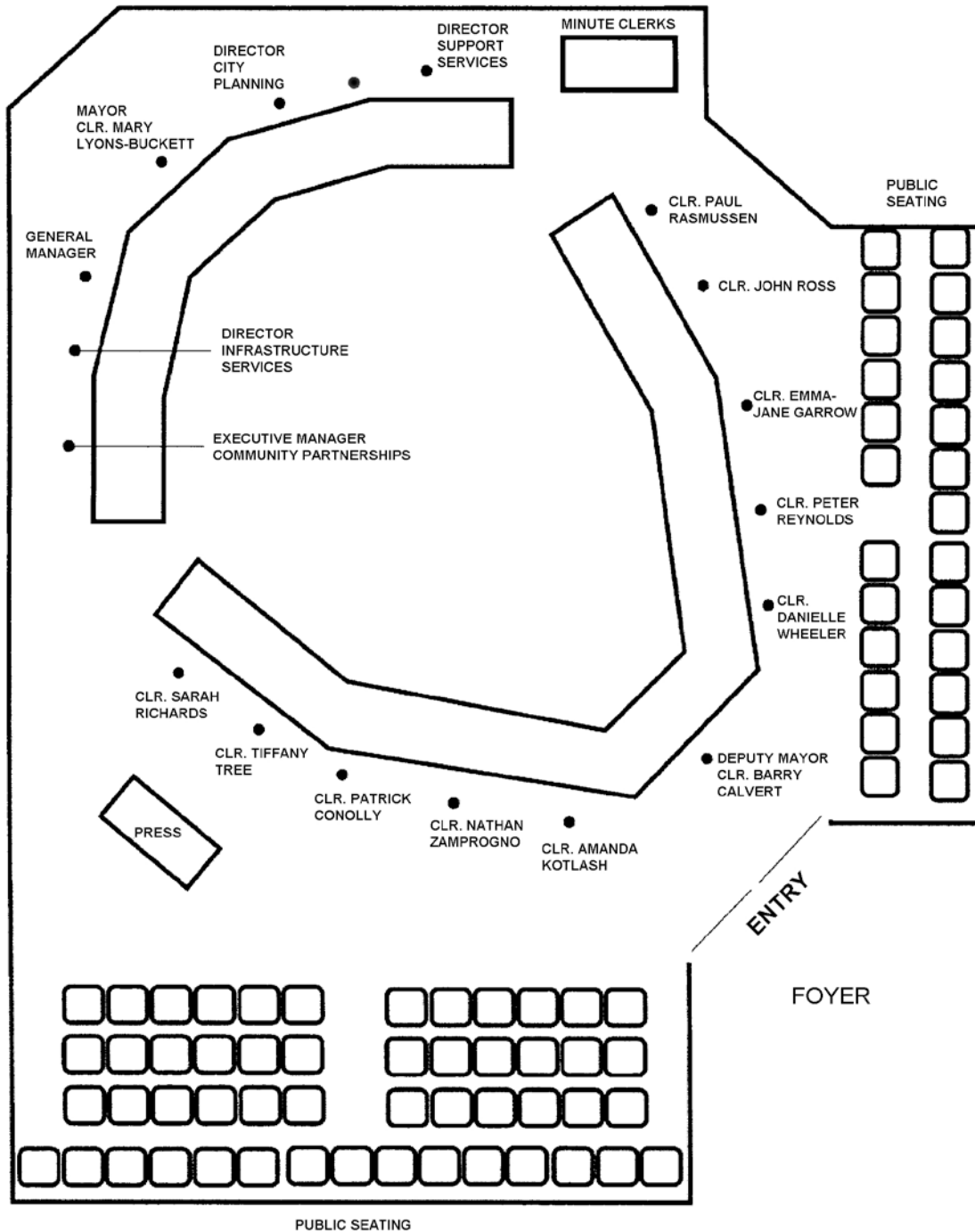
Hard copies of the business paper can be viewed at Council's Administration Building and Libraries after 12 noon on the Friday before the meeting, and electronic copies are available on CD to the public after 12 noon from Council's Customer Service Unit. The business paper can also be viewed on the public 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 2 - Mayoral Minutes

**MM1**

**Position of General Manager - (79351, 79353, 125612)**

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#### **REPORT:**

##### **Executive Summary**

Following the resignation of Council's General Manager on 6 May 2016, Council at its meeting on 31 May 2016 resolved to defer the recruitment and appointment of a General Manager of Council until after the Hawkesbury City Council Election is held on Saturday, 10 September 2016, and that a further Mayoral Minute regarding the recruitment and appointment of a General Manager be submitted to the Council meeting on 11 October 2016.

This Mayoral Minute outlines the recruitment and appointment process of a General Manager of Council.

##### **Background**

Council's previous General Manager resigned from Council effective from Friday, 6 May 2016.

Subsequently, Council at its meeting on 31 May 2016 considered a Mayoral Minute regarding the recruitment and appointment of a General Manager of Council and resolved, as follows:

*"That:*

1. *Council delay the recruitment and appointment of a General Manager of Council until after the Hawkesbury City Council Election is held on Saturday, 10 September 2016.*
2. *A further Mayoral Minute regarding the recruitment and appointment of a General Manager of Council be submitted to the first Ordinary Meeting of Council following the Council Election on Saturday, 10 September 2016.*
3. *Council confirm the appointment of Mr Laurie Mifsud as Council's Acting General Manager until a General Manager is appointed by Council."*

In accordance with part 2 of the above resolution, this Mayoral Minute regarding the recruitment and appointment of a General Manager of Council is submitted to this Council meeting.

The Division of Local Government, Department of Premier and Cabinet (now Office of Local Government) in July 2011 issued Guidelines for the Appointment and Oversight of General Managers. The Guidelines provide a summary of the essential matters that must be addressed by councils when engaging in these processes.

These Guidelines are issued under Section 23A of the Local Government Act 1993, and must be taken into consideration by Council when exercising Council functions related to recruitment, oversight and performance management of general managers.

Section B of the Guidelines relates to the recruitment and selection of a General Manager and is as follows:

**"B. Recruitment and Selection**

**1. Requirements of the Local Government Act 1993**

*As with the appointment of all council staff, the council must ensure that the appointment of the general manager is made using merit selection principles (section 349).*

*Recruitment using merit selection is a competitive process where the applicant who demonstrates that they have the best qualifications and experience relevant to the position is appointed.*

*Equal Employment Opportunity principles also apply to the recruitment of general managers (sections 349 and 344).*

*The recruitment process must be open and transparent, but the confidentiality of individual applicants must be maintained. A failure to maintain appropriate confidentiality may constitute a breach of the Act and/or Privacy legislation.*

**2. The pre-interview phase**

*The council's governing body is responsible for recruiting the general manager.*

*The governing body of council should delegate the task of recruitment to a selection panel and approve the recruitment process. The panel will report back to the governing body of council on the process and recommend the most meritorious applicant for appointment by the council.*

*The selection panel should consist of at least the mayor, the deputy mayor, another councillor and, ideally, a suitably qualified person independent of the council. The selection panel membership should remain the same throughout the entire recruitment process.*

*Selection panels must have at least one male and one female member (other than in exceptional circumstances).*

*The council's governing body should delegate to one person (generally the mayor) the task of ensuring:*

- *the selection panel is established*
- *the general manager position description is current and evaluated in terms of salary to reflect the responsibilities of the position*
- *the proposed salary range reflects the responsibilities and duties of the position*
- *the position is advertised according to the requirements of the Act*
- *information packages are prepared*
- *applicants selected for interview are notified.*

*The Mayor, or another person independent of Council staff, should be the contact person for the position and should maintain confidentiality with respect to contact by potential applicants.*

**3. Interview Phase**

*Interviews should be held as soon as possible after candidates are short listed.*

*Questions should be designed to reflect the selection criteria of the position and elicit the suitability of the candidate for the position.*



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*Interviews should be kept confidential.*

*All written references must be checked.*

*A selection panel must delegate the task of contacting referees to one panel member. Other panel members should not contact referees.*

*If contact with someone other than a nominated referee is required, the applicant's permission is to be sought.*

*At least 2 referees must be contacted and asked questions about the candidate relevant to the selection criteria.*

*Where tertiary qualifications are relied on they should be produced for inspection and if necessary for verification.*

*Appropriate background checks must be undertaken, for example bankruptcy checks. For more guidance on better practice recruitment background checks, councils are referred to the Australian Standard AS 4811-2006 Employment Screening and ICAC publications, which can be found on the ICAC website at <http://www.icac.nsw.gov.au>.*

#### **4. Selection Panel Report**

*The selection panel is responsible for preparing a report to the council's governing body that:*

- outlines the selection process*
- recommends the most meritorious applicant with reasons*
- recommends an eligibility list if appropriate*
- recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants.*

*This report should be confidential and reported to a closed meeting of council.*

*The council's governing body must by resolution approve the position of the general manager being offered to the successful candidate before that position is actually offered to that candidate.*

#### **5. Finalising the appointment**

*The mayor makes the offer of employment after the governing body of council has resolved to appoint the successful candidate. The initial offer can be made by telephone.*

*Conditions such as term of the contract (1-5 years) and remuneration package (within the range approved by the governing body of council) can be discussed by phone, but must be confirmed in writing.*

*The Standard Contract for the Employment of General Managers as approved by the Chief Executive of the Division of Local Government must be used. The Standard Contract (Annexure 3 of these Guidelines) is available in the 'Information for Councils', 'Directory of Policy Advice for Councils' section of the Division's website at <http://www.dlg.nsw.gov.au>.*

*The terms of the Standard Contract must not be varied. Only the term and the schedules to the Standard Contract can be individualised.*

*General managers must be employed for 1 – 5 years.*

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*The contract governs:*

- *the duties and functions of general managers*
- *performance agreements*
- *the process for renewal of employment contracts*
- *termination of employment and termination payments*
- *salary increases*
- *leave entitlements.*

*It should be noted that the Chief Executive of the Division of Local Government cannot approve individual variations to the standard terms of the contract.*

*Those candidates who are placed on the eligibility list and unsuccessful applicants should be advised of the outcome of the recruitment process before the successful applicant's details are made public.*

#### **6. Record keeping**

*Councils should keep and store all records created as part of the recruitment process including the advertisement, position description, selection criteria, questions asked at interview, interview panel notes, selection panel reports and notes of any discussions with the selected candidate. These records are required to be stored and disposed of in accordance with the State Records Act 1998."*

Based on the Guidelines regarding the recruitment and selection of a General Manager, it is considered that the following actions should be taken:

- Establish a selection panel to carry out the task of the recruitment of a General Manager.
- The selection panel is to consist of the following members:
  - The Mayor, Councillor Mary Lyons-Buckett
  - The Deputy Mayor, Councillor Barry Calvert
  - One other Councillor
  - One independent recruitment consultant.
- Council select the other Councillor to be a member of the selection panel.
- Council seek quotations from three reputable recruitment agencies having the qualifications and experience relevant to the appointment of a General Manager of a Council to:
  - Engage a suitably qualified person independent of Council to be a member of the selection panel.
  - Assist the Mayor with the recruitment of a General Manager including developing an appropriate position description, developing the proposed salary range, advertising the position, preparing information packages, notifying applicants, contacting referees and developing interview questions.
- The quotation process for the engagement of a recruitment agency be reported back to Council for a decision on the appointment of an agency.

To ensure that the recruitment process for a General Manager is open and transparent, the engagement of an independent recruitment agency/consultant is imperative and would be considered within the local government industry as best practice when recruiting a General Manager.

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It is noted that in accordance with the Guidelines, the selection panel is responsible for preparing a report to Council outlining the selection process and recommending the most meritorious applicant. Council must then by resolution approve the position of the General Manager being offered to the successful candidate before the position is actually offered to that candidate.

#### **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**

The cost of engaging a recruitment agency would depend on the extent of their involvement in the recruitment process. Ideally engagement of a recruitment agency on the basis of a full end to end recruitment process would be recommended to ensure a consistent approach. Agency fees are generally in the vicinity of 8% of the Total Remuneration Package (TRP), which would equate to in the vicinity of \$20,000 to \$25,000 depending on the annual TRP. There would also be standard advertising costs.

The cost of the recruitment process for a General Manager for Council would be funded from Service 165 - Human Resources. This expense is currently not budgeted within the 2016/2017 Adopted Operational Plan and would need to be included as a variation in the September 2016 Quarterly Budget Review.

#### **RECOMMENDATION:**

That Council:

1. Establish a selection panel to carry out the task of the recruitment of a General Manager of Council with the selection panel having the following members:
  - a) The Mayor, Councillor Lyons Buckett
  - b) The Deputy Mayor, Councillor Calvert
  - c) One other Councillor
  - d) One independent recruitment consultant.
2. Select the other Councillor to be a member of the selection panel.
3. The Mayor, Councillor Lyons-Buckett ensure that:
  - a) The selection panel is established.
  - b) The General Manager position description is current and evaluated in terms of salary to reflect the responsibilities of the position.
  - c) The proposed salary range reflects the responsibilities and duties of the position.
  - d) The position is advertised according to the requirements of the Local Government Act 1993.
  - e) Information packages are prepared.
  - f) Applicants selected for interview are notified.
4. Seek quotations from three recruitment agencies to:
  - a) Engage a suitably qualified person independent of Council to be a member of the selection panel.
  - b) Assist the Mayor, Councillor Lyons-Buckett in the facilitation of the recruitment of a General Manager as outlined in the Mayoral Minute.
5. The quotation process for the engagement of a recruitment agency be reported back to Council for a decision on the appointment of an agency.

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**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF MAYORAL MINUTE Oooo**

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**MM2**

**Rope Barrier and Security Guard Presence - (79351, 79353, 125612)**

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#### **REPORT:**

On 25 June 2013, Council resolved to implement a security guard presence and rope barrier in the Council Chambers at Council meetings. The annual cost for the security guard is approximately \$3,000.

The presence of a barrier rope is widely perceived by the community to symbolise denial of full participation by constituents and interested parties in the democratic processes of local government. It has compounded the discontent associated with reduction of opportunities to address the Council and the perception of disregard for community input.

In the spirit of conciliation adopted by the new Council to collaboratively work to achieve the best outcomes for the Hawkesbury, ten Councillors wished to submit a similar motion so it is therefore presented as a mayoral minute on behalf of the following Councillors: Calvert, Kotlash, Wheeler, Garrow, Reynolds, Rasmussen, Ross, Richards and Zamprognio and myself. The resounding message conveyed to the community is that this term of Council will be one of openness and transparency, community involvement and exchange of ideas, in a respectful and positive setting where we all focus on obtaining the best outcomes now and into the future.

It is envisaged this resolution will be the first step in contributing to a renewed confidence and trust in Council.

#### **RECOMMENDATION:**

That:

1. Council remove the rope barrier and security guard presence from Council meetings.
2. Security be employed at the discretion of the General Manager, in consultation with the Mayor, for any Council meetings where it is deemed probable that such a presence may be required.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF MAYORAL MINUTE Oooo**

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### SECTION 3 - Reports for Determination

#### PLANNING DECISIONS

**Item: 197**                      **CP - DA0059/16 - 163 Glenidol Road, Oakville - Lot10 DP 239937 - Tourist and Visitor Accommodation - (94598, 4891, 4892)**

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#### Development Information

**File Number:** DA0059/16  
**Property Address:** 163 Glenidol Road, Oakville  
**Applicant:** Mr Eucharist Vella and Mrs Mary Carmen M'Jourdes Vella  
**Owner:** Mr Eucharist Vella and Mrs Mary Carmen M'Jourdes Vella  
**Proposal Details:** Tourist and Visitor Accommodation - Use of 2 existing buildings  
**Estimated Cost:** \$20,000  
**Zone:** RU4 Primary Production Small Lots  
**Date Received:** 9 February 2016  
**Advertising:** 22 February 2016 to 7 March 2016

**Key Issues:**

- ◆ Unlawful building works
- ◆ Consistency with Hawkesbury Tourism Strategy
- ◆ Legitimacy of tourist development

**Recommendation:** Refusal

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#### REPORT:

##### Description of Proposal

The application seeks consent for the use of two existing buildings on Lot 10 DP 239937, 163 Glenidol Road, Oakville as Tourist and Visitor Accommodation.

The two relocatable cabins have been installed on the land without any formal approval.

Cabin 1 is 30 m<sup>2</sup> in area and contains one bedroom, kitchen/meals area, laundry/bathroom, an enclosed hall area and an attached carport (approximately 20 m<sup>2</sup> in area).

Cabin 2 is 45m<sup>2</sup> in area and contains one bedroom, kitchen/meals area, laundry/bathroom, an open verandah area (approximately 25m<sup>2</sup> in area) and an attached carport (approximately 17.5m<sup>2</sup> in area).

The application is accompanied by a bushfire hazard assessment report, a Structural Engineers report, a BASIX Certificate, a Statement of Environmental Effects, a report regarding compliance with the Building Code of Australia (BCA) and an operational Management Plan describing how the buildings are proposed to be used.

The application was called to Council at the request of former Councillor Paine.

##### Site and Locality Description

The subject land has a site area of approximately two hectares and has direct access to Glenidol Road, Oakville. The site also contains a dwelling house, swimming pool, landscape structures, several outbuildings, a dam as well as the two buildings the subject of this application. The site is used for rural residential purposes.

The area is largely characterised by rural residential land uses with a few small scale agricultural and animal establishment activities that are consistent with the RU4 Primary Production Small Lots zoning of the land.

The locality adjoins the Vineyard and Box Hill Precincts of the North West Growth Centre.

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

- State Environmental Planning Policy No. 44 - Koala Habitat Protection (SEPP 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 Local Environmental Plan 2012 (HLEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

**Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1989**

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:

**(1)(a)(i) The provisions of any:**

**Environmental Planning Instrument:**

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

The proposal does not involve the removal of any native vegetation and would not disrupt any 'potential koala habitat' or 'core koala habitat' as defined by SEPP 44. Therefore the proposal is consistent with this Policy.

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

A review into the history of the property has revealed that the land has been predominately used for rural residential purposes. There is no evidence to suggest that the land is contaminated to such an extent that would prevent the land from being suitable for the purposes of tourist accommodation. On this basis the land is considered acceptable having regard to the matters for consideration of this Policy.

***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 subject land is zoned RU4 Primary Production Small Lots. The applicant submits that the proposed use of the buildings is 'tourist and visitor accommodation' which is permitted in the zone with consent.

The proposal is considered acceptable having regards to:

- Clause 4.3 – 'Height of Buildings'
- Clause 6.1 – 'Acid Sulfate Soils'
- Clause 6.4 – 'Terrestrial biodiversity'
- Clause 6.7 – 'Essential services'.

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However, there is doubt as to the suitability and legitimacy of the claim for use of the buildings for the purpose of tourist and visitor accommodation. The reasons for this are as follows:

- a) There are no services, places of interest or tourist attractions in the immediate local area which would create demand for such a use. The location is poor in terms of access to the River, local markets (Windsor and Bilpin), bushwalking and National Parks and various music festivals. In addition, the locality is adjacent to the North-West Growth Sector. The growth sector is an area of land that has been identified by the NSW State Government as of high priority for higher density urban development. In this regard the Box Hill Precinct has commenced construction of development and the Vineyard Precinct is currently being master planned by the Department of Planning and Environment with the assistance of Council.
- b) Documentation submitted with the application by consultants engaged to assist in the preparation of the application have indicated in their various reports (such as the Structural Engineers Certificate and the Building Code of Australia report) that the use of the buildings are as secondary dwellings (granny flats). Such a use is currently prohibited in the RU4 zone.
- c) The owner has previously indicated to Council staff verbally during the early stages of assessment that the buildings were installed on site for their children to live in.
- d) It is considered that such a use will lead to potential conflict between other existing land-uses and land-owners and this use and conflict would be inconsistent with the objectives of the RU4 zone.
- e) As the structures have already been placed on the land, there is doubt that the use now being sought through this application, aligns with the original intent of the buildings (mentioned above).

In addition to the above, it is considered the design of the buildings (being pre-fabricated relocatable structures) is not the desirable standard for tourist accommodation that Council, via the direction outlined in the Hawkesbury Tourism Strategy, should be encouraging (see further comments later in this report).

Further, the location of the tourist accommodation on the site (whilst behind the main dwelling) is in fact adjacent to the land-owners large scale rural shed. This location lacks any suitable amenity that the travelling or holidaying public would expect. It is considered this form of development is not the desirable tourism brand that Council is aiming for when considering tourist and visitor accommodation and the high quality of development Council wishes to encourage in this area.

**(1)(a)(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.

**(1)(a)(iii) Development Control Plan applying to the land:**

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

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

***Part A Chapter 3 - Notification***

The application was notified between 22 February 2016 and 7 March 2016. One submission was received on the 8 March 2016 raising concerns with potential for stormwater and effluent runoff from the site.

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Council also received an anonymous submission suggesting that the development was poor and not genuine raising the question 'can anyone simply erected such structures without approval in their back yard and then call them a Tourist Facility'.

### *Part C Chapter 1 - Landscaping*

No landscaping exists on the site in the vicinity of the buildings and the plans accompanying the application do not depict any proposed landscaping. The proposal if supported would benefit from suitable landscaping so as not to have any adverse impact on the scenic quality of the area and to provide an acceptable amenity to the guests.

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

The application states that the development would be connected to a new on-site waste management system. It would be a requirement that the applicant obtain approval for the installation of the system prior to that work being carried out if the application was to be supported.

The site is relatively cleared and it is considered there would be sufficient area on-site for the disposal of effluent for the proposed tourist and visitor accommodation buildings.

### *Part C Chapter 2 – Car parking and Access*

Sufficient parking is available on site for the proposed tourist facility under the carport/verandah adjacent to the subject buildings. The proposal does not reduce the number of parking spaces available to the existing dwelling.

Council's Development Engineer requires a bitumen sealed rural footway crossing to be constructed in the event the proposal is supported.

### **(1)(a)(iia) Planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F:**

Not applicable.

### **1(a)(iv) Matters prescribed by the Regulations:**

Having regard to the Environmental Planning and Assessment Regulation 2000 the following comments are made:

- The development is not subject to development contributions under Council's Section 94A Development Contributions Plan 2015 as the cost of development is below the minimum levy threshold.
- The development would be required to comply with the requirements of the BCA/National Construction Code. Suitable conditions have been recommended in this regard.

### **(1)(a)(v) Any Coastal Zone Management Plan:**

There is no Coastal Management Plan in place.

### **(1)(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:**

As mentioned previously, there is doubt as to the legitimacy of the claim of tourist and visitor accommodation. Council staff, based on verbal comments by the owners and various comments made in the application documentation, suspect the buildings will be used for permanent accommodation. Such a use is prohibited in the current zone.

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The intensification of residential accommodation (three dwellings in this case), in a rural setting would likely cause conflicts with adjoining land-owners particularly with respect to increased noise, increased vehicle movements and increased impacts of effluent disposal on the land (i.e. water-saturation of the ground, nutrient build-up in the soil and increased runoff).

Notwithstanding the above, the current proposal, for Tourist and Visitor Accommodation, should be considered in the context of Council's adopted Tourism Strategy (the Strategy), adopted 25 August 2015, and the directions, actions and standards that the Strategy is demanding.

The Strategy proposes actions and directions relating to branding of the locality, positioning for tourism nodes/hubs, tourist experiences, packaging of product and visitor servicing. The following comments are made in relation to the current proposal and the Strategy actions:

- Branding. Whilst Council is yet to undertake appropriate branding for the locality there has been some discussion via the Tourism Working Group (TWG). Although the branding is not defined, the proposed development (relocatable structures located in the rear of an existing rural residential area that is not proximate to any particular activity or scenic area) is not considered to be consistent with the likely ultimate branding of the locality.
- Positioning of Tourist nodes/hub. These hubs are likely to be located in close proximity to areas of high activity or of scenic amenity. The current proposal is located in Oakville with the closest activity centres being approximately 7km to Windsor and 11km to Rouse Hill Town Centre. Similarly, the property is relatively remote from other recreational activity areas such as the river (min 7km) or bush or other open space areas. The property is also in a (current) rural area that has no footpaths or walking tracks from the site and is also on the fringe of the North West Growth Centre.

Tourist accommodation on the subject site would have limited ability to provide tourists with the type of experience, product or servicing that the Strategy is recommending should be available to the tourist market in the Hawkesbury. In this regard, and for the reasons outlined above, it is considered that the proposal for Tourist and Visitor Accommodation on the subject site is not consistent with the desired future tourist product that is suggested in the Tourism Strategy and, on merit, the proposal should not be supported.

### **(1)(c) Suitability of the site for the development:**

The site is considered to be physically able to support the proposed development as tourist and visitor accommodation. The site has sufficient area and dimensions, is relatively free from environmental constraint and would not impact upon critical habitats and threatened species, populations, ecological communities and habitats.

However, as mentioned above, there are doubts as to the bona-fides of the proposal for a Tourist and Visitor Accommodation use of the site. It is considered that if the structures were to be occupied as permanent accommodation, the site would not be able to support the development.

Regardless of the permissibility of the use, on merit the proposal is inconsistent with the future direction of the desired tourism product that is outlined in the adopted Hawkesbury Tourism Strategy.

As the cabins are already on-site, should the proposal be worthy of Council support, a Building Certificate (issued under Section 149A of the Environmental Planning and Assessment Act) would be required (to resolve the unlawful nature of the works) as well as an Occupation Certificate which would authorise the change of use of the buildings. There are other matters that would require attention in order to address the necessary requirements of the Building Code of Australia.

**(1)(d) Any submissions made in accordance with the Act or the Regulations:**

***New South Wales Rural Fire Service***

Tourist accommodation is defined as a 'special fire protection purpose' under the Rural Fires Act 1997 and therefore the proposal constitutes an Integrated Development. The application was referred to the Rural Fire Service (RFS) for assessment. On 13 May 2016, a Bushfire Safety Authority was issued for the development.

***Stormwater and Effluent Run-off***

A submission was received raising concerns with the proposed development causing issues with stormwater and effluent run-off from the site. As mentioned in this report given the size of the land and the layout of the proposed development, the issues of stormwater and effluent run-off from the site, if operated as short term tourist accommodation, can be addressed. Despite this, longer term tourist and visitor accommodation could have the potential to create effluent disposal problems on the site, particularly in times of prolonged wet weather and/or high occupancy rates of the structures.

However, should the structures be used for more permanent accommodation there is some potential for problems to arise from on-site effluent disposal that could create conflicts with adjoining properties.

***Legitimacy of Retrospective Tourist Accommodation***

Council received an anonymous submission suggesting that the development was poor and not genuine raising the question 'can anyone simply erected such structures without approval in their back yard and then call them a Tourist Facility'.

As mentioned previously in this report, there is a question as to the legitimacy of the proposal when considering the application in full. Similarly, the adequacy of the proposed development, when considered in relation to the Hawkesbury Tourism Strategy, raises the question of whether the proposed development is consistent with the directions outlined in that Strategy. For these reasons the concern raised in this submission is supported.

**(1)(e) The Public Interest:**

The proposal as tourist accommodation is permissible and consistent with the various planning controls affecting the site.

The site would be able to cater for the development with no demonstrable adverse impacts.

However, for the reasons mentioned earlier in the report, it is suspected that the landowner may have different intentions for the use of the buildings than what is suggested in the application based on the documentation and comments made during the assessment of the application. These suspected intentions would result in a prohibited land use occurring with associated adverse impacts upon adjoining landowners.

Similarly, as discussed previously in this report, the proposal is inconsistent with the Council adopted Hawkesbury Tourism Strategy in relation to location, proximity to attractions, services and standard of the amenity of the proposal.

Approval of the development may create a precedent for similar inappropriate development which would not be in the public interest.

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### Conclusion

An assessment of the proposal against Section 79C of the Act has been undertaken and the suspected land-use is inconsistent with the relevant environmental planning instruments and regulations which apply to the development. Other concerns relate to the consistency with the Hawkesbury Tourism Strategy, the design and amenity of the proposal, effluent disposal and Building Code of Australia requirements. It is considered that the proposal cannot be supported.

### Development Contributions

The development is exempt from contributions under Section 94E of the Environmental Planning and Assessment Act 1979 or Council's Section 94A Contributions Plan.

### Planning Decision

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

### RECOMMENDATION:

That Development Application No. DA0059/16 at Lot 10 DP 239937, 163 Glenidol Road, Oakville for Tourist and Visitors Accommodation - Use of 2 existing buildings be refused for the following reasons:

1. The proposed development is inconsistent with the aims of Hawkesbury Local Environmental Plan 2012. In particular, the proposed development, and/or the likely use of the buildings for permanent accommodation, has potential to lead to significant environmental harm due to the increased on-site disposal of effluent.
2. The proposed development is inconsistent with the objectives of the RU4 zone. In this regard, Tourist and Visitor Accommodation development, and/or the likely use of the buildings for permanent accommodation, will lead to conflict with surrounding land uses.
3. The proposal for Tourist and Visitor Accommodation, as proposed, is inconsistent with the Hawkesbury Tourism Strategy.
4. Approval of the development would create an undesirable precedent for similar inappropriate development which would not be in the public interest.

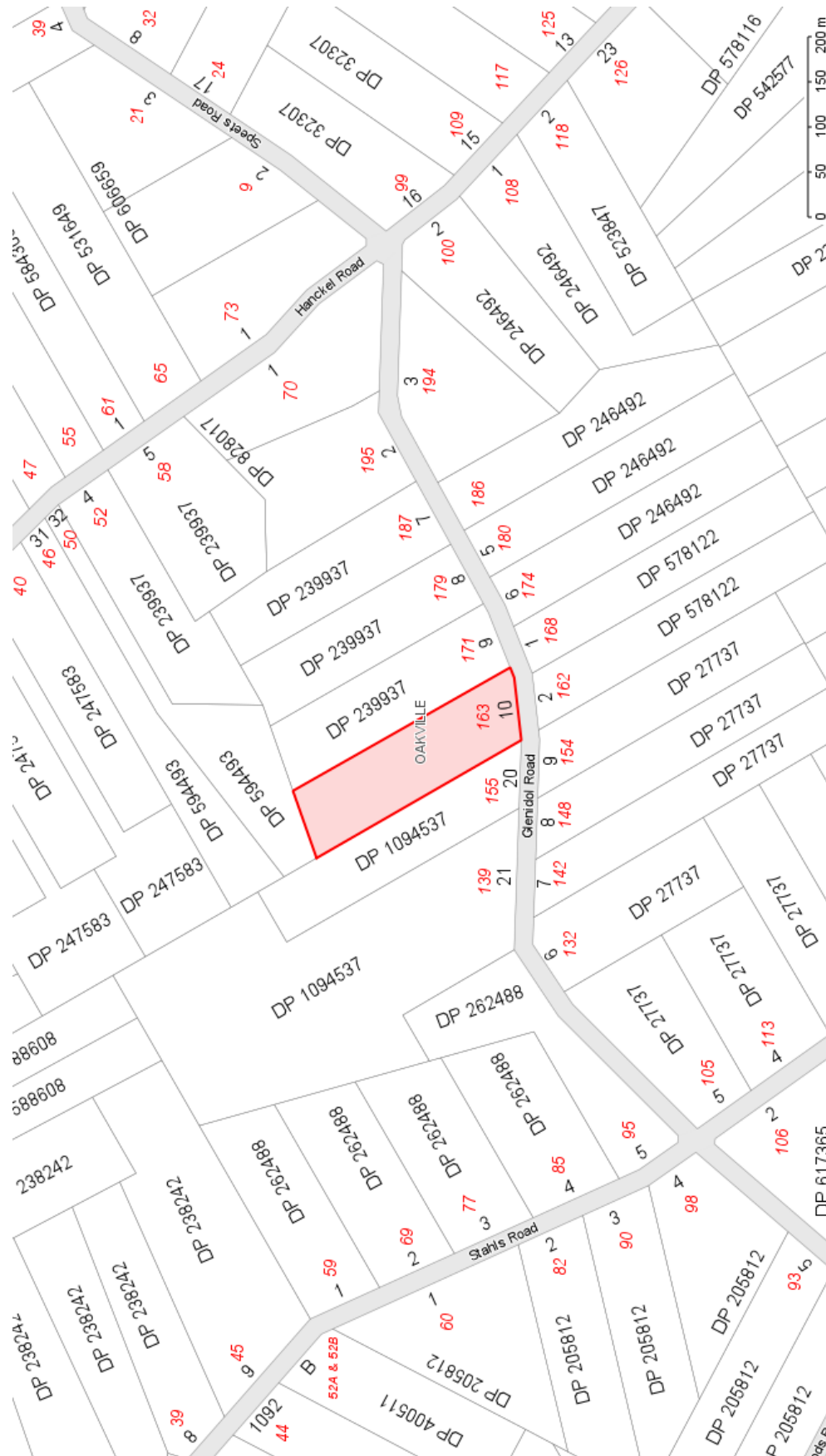
### ATTACHMENTS:

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

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### AT - 1 Locality Plan

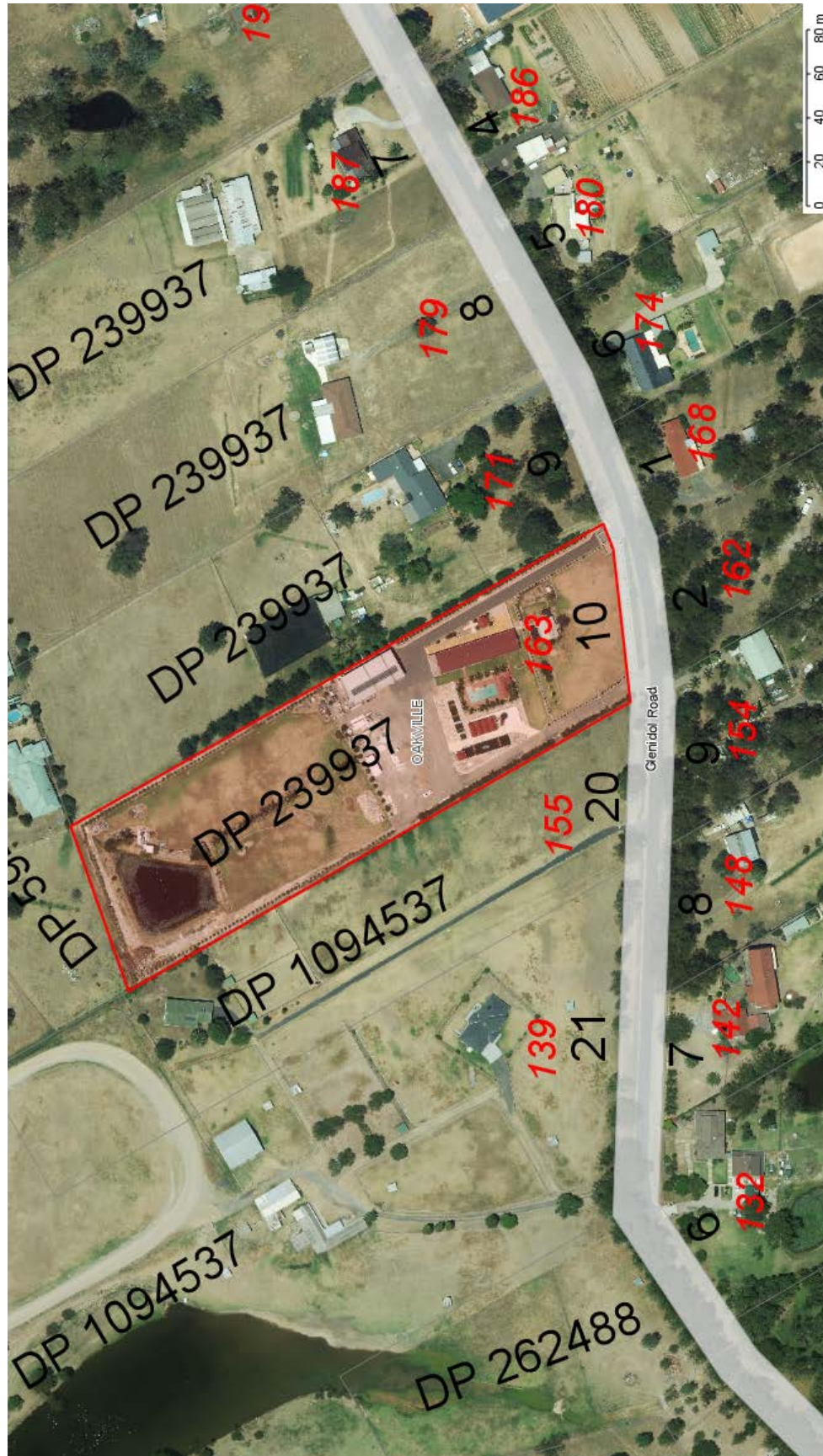




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AT - 2 Aerial Photograph



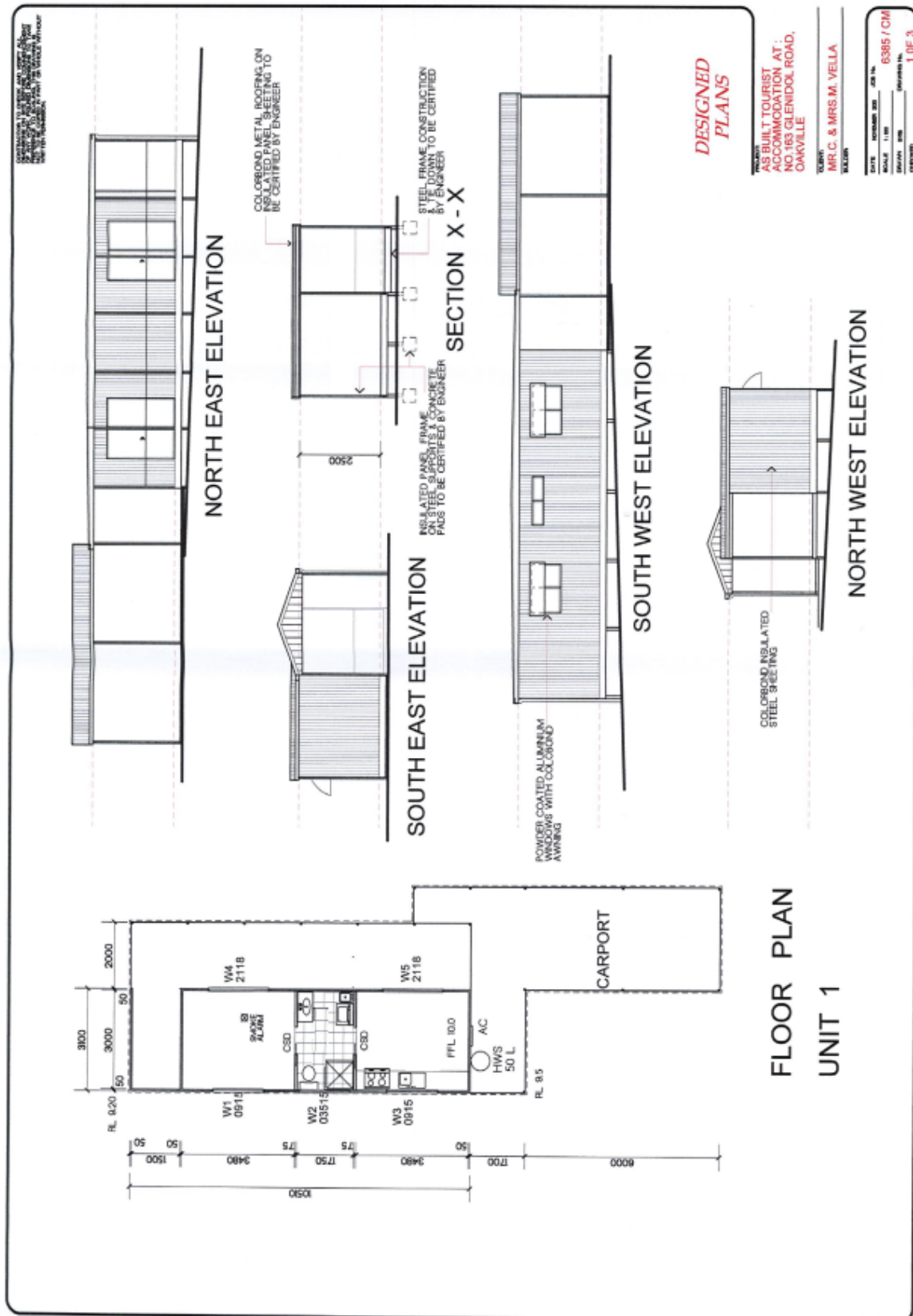
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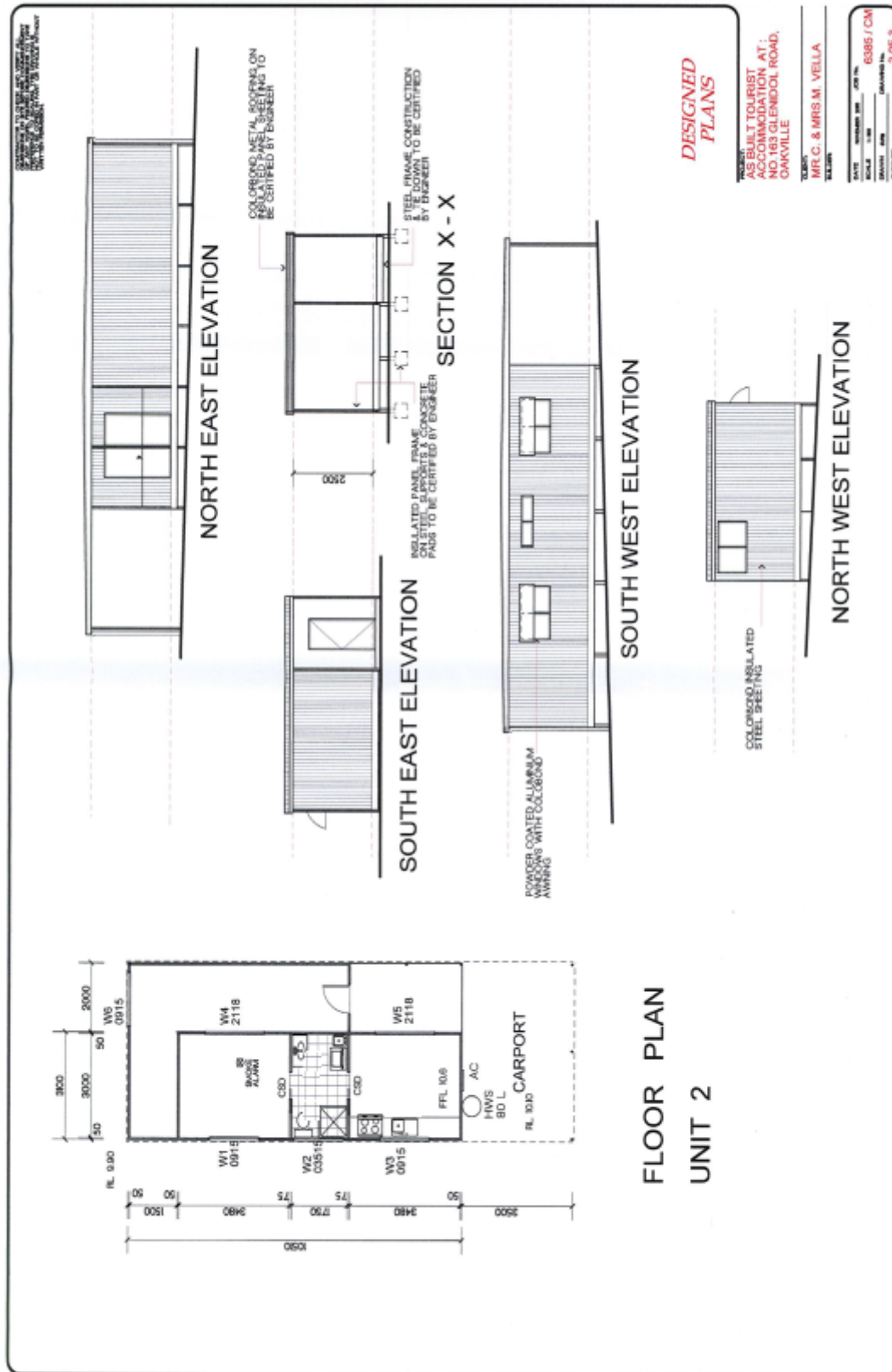
## AT - 4 Floor Plans and Elevations





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## ORDINARY MEETING

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**Item: 198** CP - DA0095/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 104 - (94598, 109615)

**Previous Item:** 156, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0095/16  
**Property Address:** 86 Arthur Phillip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on proposed lot 104  
**Estimated Cost:** \$377,200  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 104 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 104, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

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At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.

### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 5m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.



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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".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

### ***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

### ***Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

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

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

##### ***Part C Chapter 2: Car Parking and Access***

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

##### ***Part C Chapter 6: Energy Efficiency***

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

##### ***Part D Chapter 1: Residential Development***

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

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### *Part E Chapter 8 – Redbank at North Richmond*

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below:

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	2.9m	Yes
• Top of Ridge	• 10 metres max	5m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	975mm and 1500mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min.	• 31%	Yes
• Forward of the building line	• 25% min.	• Min 25% available	Yes
Private Open Space	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

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The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

<u>Submission</u>	<i>We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.</i>
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<u>Comment</u>	The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.
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Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission      *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment        The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

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As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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 Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0095/16 for a dwelling house on Proposed Lot 104 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions:

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0095/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

#### Schedule 2 – Recommended Conditions

##### General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704721S_03	EcoMode Design	19 February 2016
Drawing No. L – 01 Rev 'C' – Landscape Plan	EcoDesign	22 February 2016
Drawing No. L – 02 Rev 'C' – Landscape Details	EcoDesign	22 February 2016
Drawing No. L – 03 Rev 'C' – Fence Details	EcoDesign	22 February 2016
Drawing No. L – 04 Rev 'C' – Fence Details	EcoDesign	22 February 2016

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

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### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

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### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.



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- b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 105. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

AT - 1 Location Plan

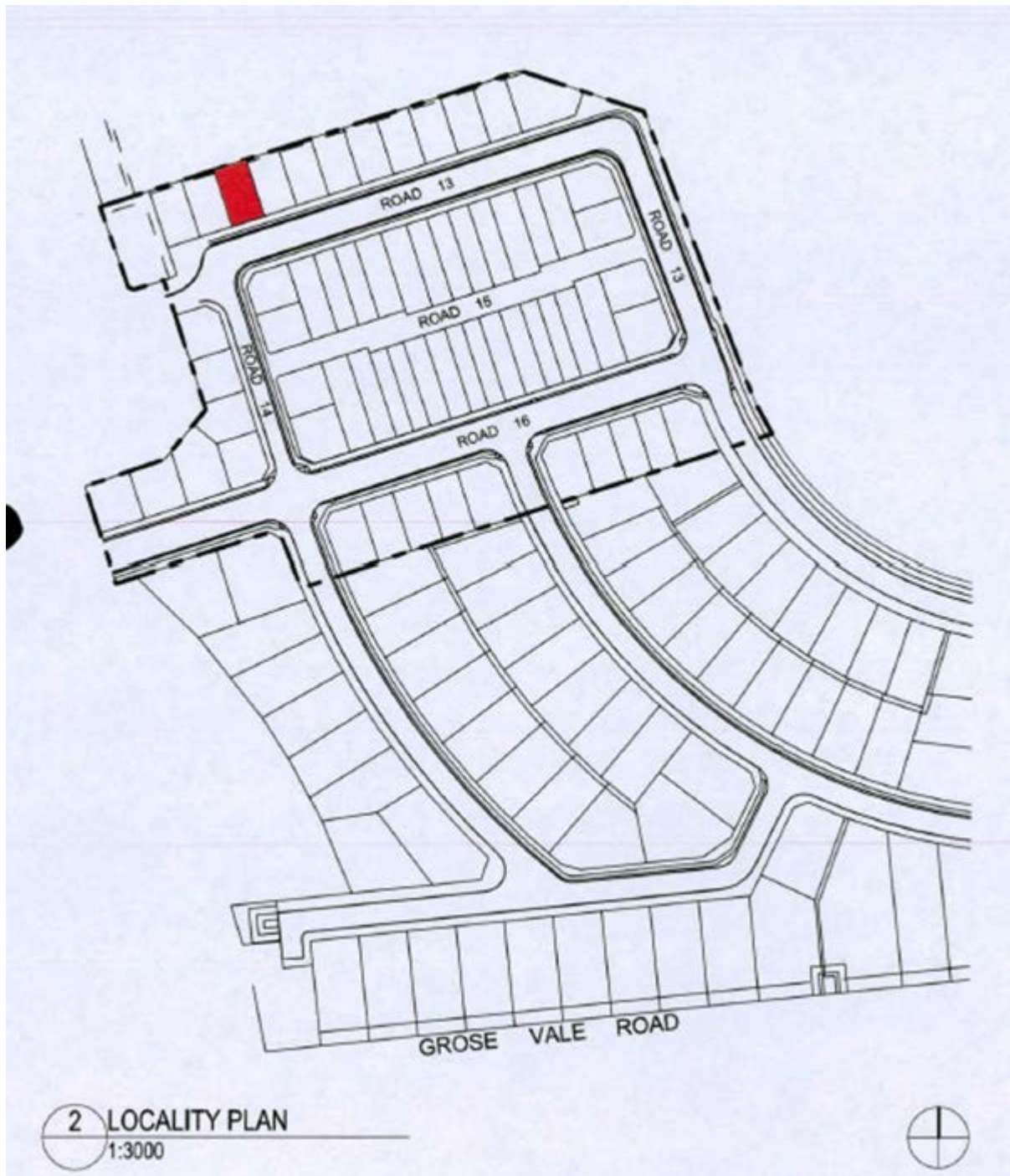
AT - 2 Site Plan

AT - 3 Elevations

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AT - 1 Location Plan



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LOT 520

LOT 521

12.500

RL 40.180

LANDSCAPED BATTER

RL 41.355

LOT 104

LOT 103

22.000

LOT 105

APPROX. LOCATION OF TV AERIAL

RL 41.320

DRIVEWAY

PLANTING

FOOTPATH

ROAD 13

3 SITE PLAN 1:200

**Meeting Date:** 11 October 2016

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 199** CP - DA0096/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 105 - (94598, 109615)

**Previous Item:** 157, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0096/16  
**Property Address:** 86 Arthur Phillip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling House with Attached Garage on proposed Lot 105  
**Estimated Cost:** \$289,400  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 105 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 105, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

## ORDINARY MEETING

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At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.



### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 5m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.



**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".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

**Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

**Hawkesbury Development Control Plan 2002**

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

*Part C Chapter 2: Car Parking and Access*

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

*Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

*Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

# ORDINARY MEETING

Meeting Date: 11 October 2016

## Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	2.9m	Yes
• Top of Ridge	• 10 metres max	5m	Yes
Setbacks			
• Front	• 3m minimum	3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	Built to boundary (right) / 900mm (left)	No
Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	3m	Yes
Retaining walls	1.5m max	900mm and 1500mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min	• 32%	Yes
• Forward of the building line	• 25% min	• Min 25% available	Yes
Private Open Space	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

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The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

<u>Submission</u>	<i>We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.</i>
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<u>Comment</u>	The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.
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Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission      *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment      The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

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As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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 Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0096/16 for a dwelling house on Proposed Lot 105 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0096/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

#### Schedule 2 – Recommended Conditions

##### General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704722S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'A' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'A' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'A' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

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### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

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### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.



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- b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 106. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

AT - 1 Location Plan

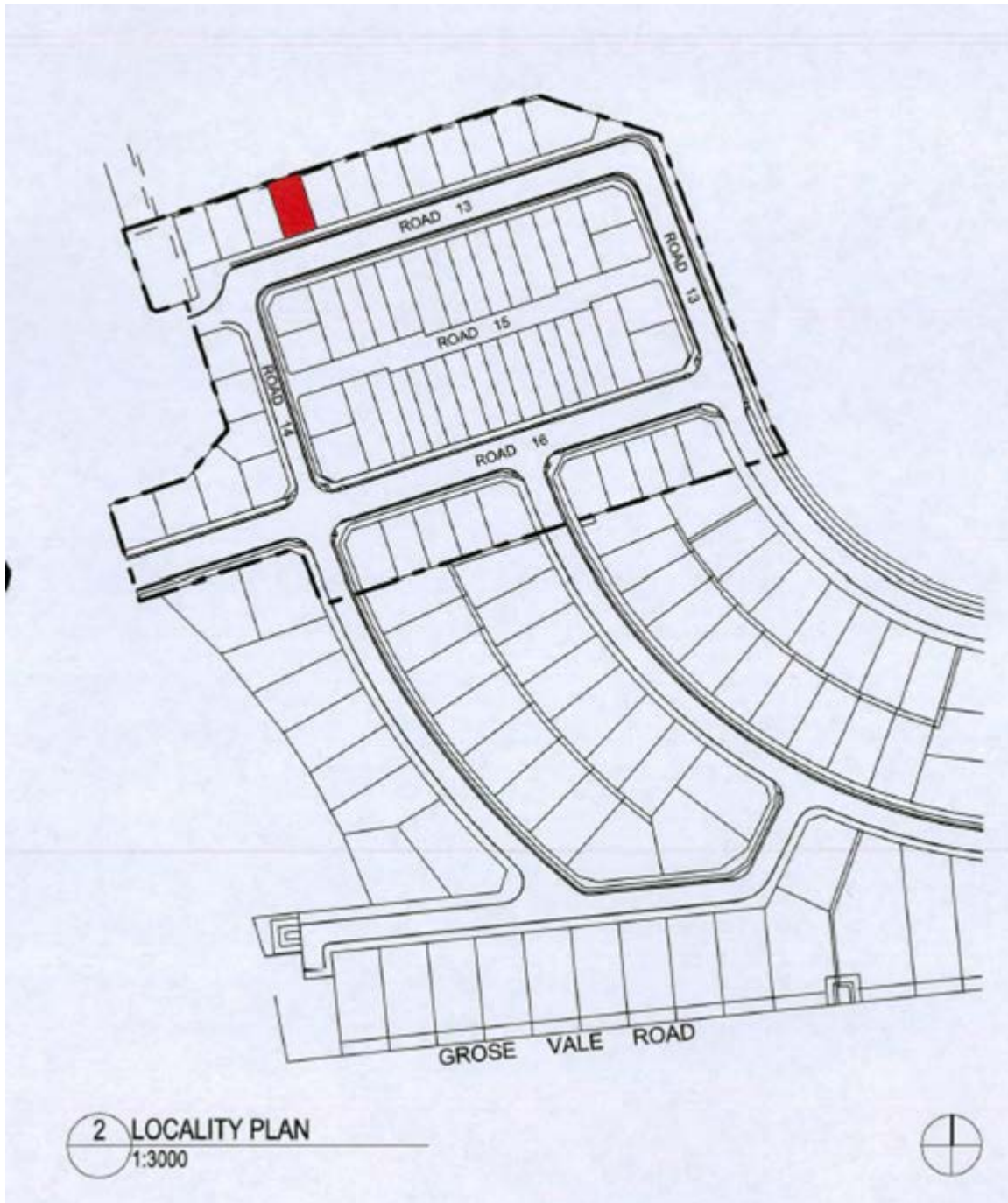
AT - 2 Site Plan

AT - 3 Elevations

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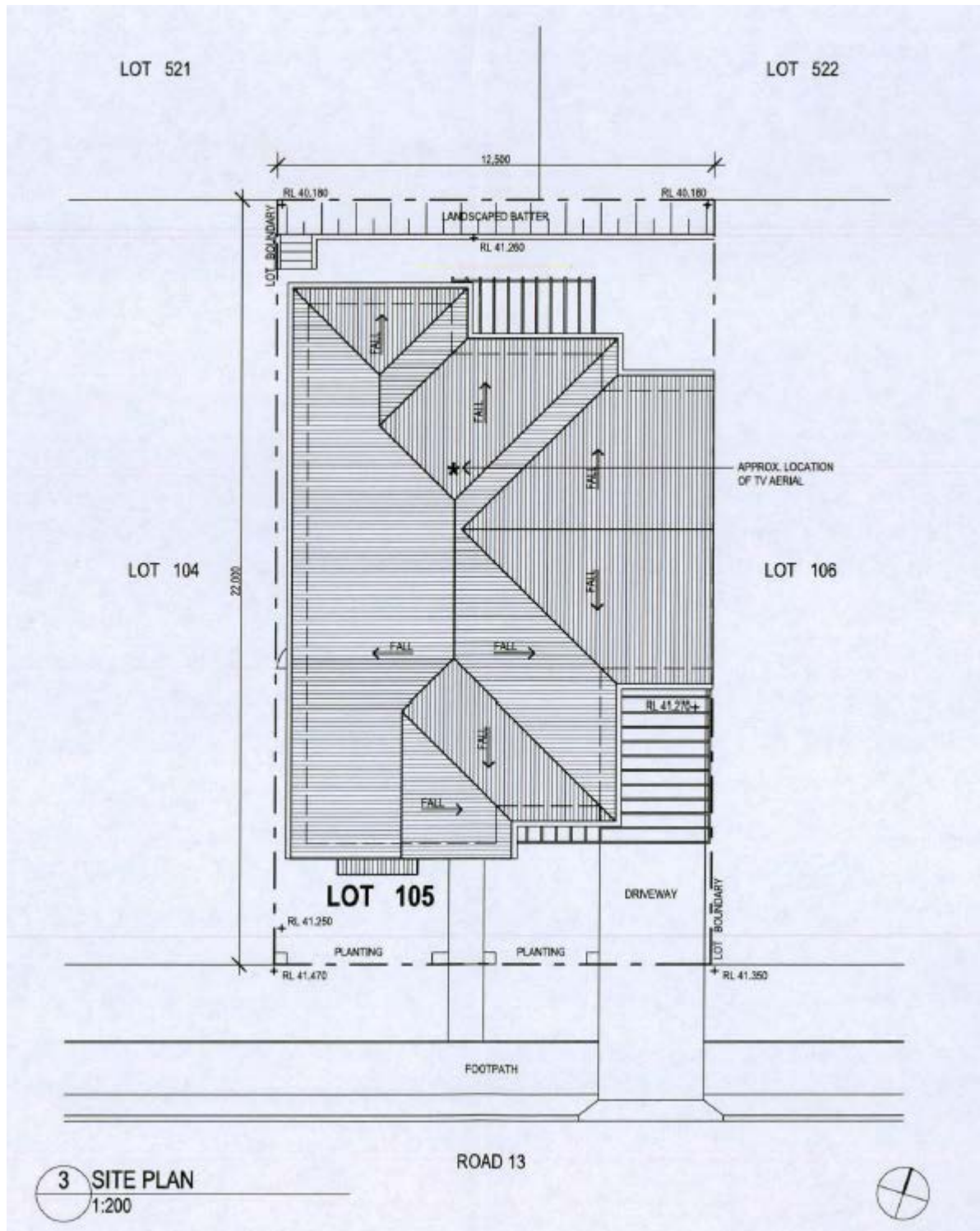
AT - 1 Location Plan



ORDINARY MEETING

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AT - 2 Site Plan



**Meeting Date:** 11 October 2016

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## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 200** CP - DA0097/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 106 - (94598, 109615)

**Previous Item:** 158, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0097/16  
**Property Address:** 86 Arthur Philip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on proposed lot 106  
**Estimated Cost:** \$291,000  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 106 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 106, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

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At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.

### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:



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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 4.9m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.



**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".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

**Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

Hawkesbury Development Control Plan 2002

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

*Part C Chapter 2: Car Parking and Access*

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

*Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

*Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

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### Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
<b>Garage Door Width</b>	3.2m max (one spot)	2.3m (one spot)	Yes
<b>Floor Area</b>	85% max	41%	Yes
<b>Site Coverage</b>	60% max	54%	Yes
<b>Building Height</b>			
• Ceiling	• 7 metres max	• 2.9m	Yes
• Top of Ridge	• 10 metres max	• 4.9m	Yes
<b>Setbacks</b>			
<b>Front</b>	• 3m minimum	• 3.5m	Yes
<b>Side</b>	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
<b>Rear</b>	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
<b>Retaining walls</b>	1.5m max	835mm and 1400mm at boundary	Yes
<b>Side and rear fencing</b>	1.8m max	1.8m	Yes
<b>Landscaping</b>			
• Total site	• 10% min.	• 33%	Yes
• Forward of the building line	• 25% min	• Min 25% available	Yes
<b>Private Open Space</b>	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
<b>Eaves</b>	450mm min.	450mm	Yes
<b>Solar Access</b>	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

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The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the senior's housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

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Submission      *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment          The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Clr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission      *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment          The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

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The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment        The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition, to this evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

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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 Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0097/16 for a dwelling house on Proposed Lot 106 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0097/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

#### Schedule 2 – Recommended Conditions

##### General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704723S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.

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4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.

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16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.



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28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
  - b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 107. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

**AT - 1** Location Plan

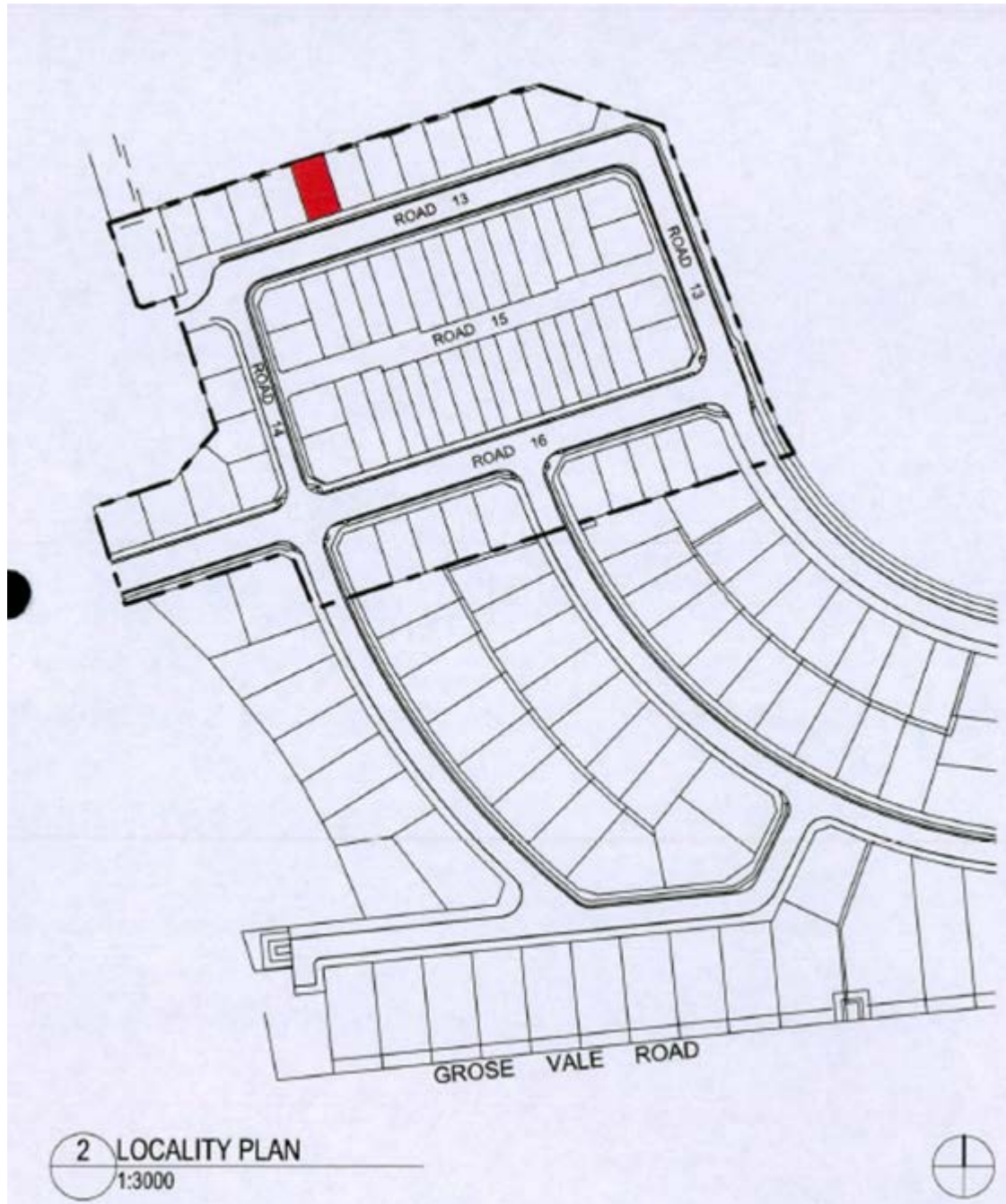
**AT - 2** Site Plan

**AT - 3** Elevations

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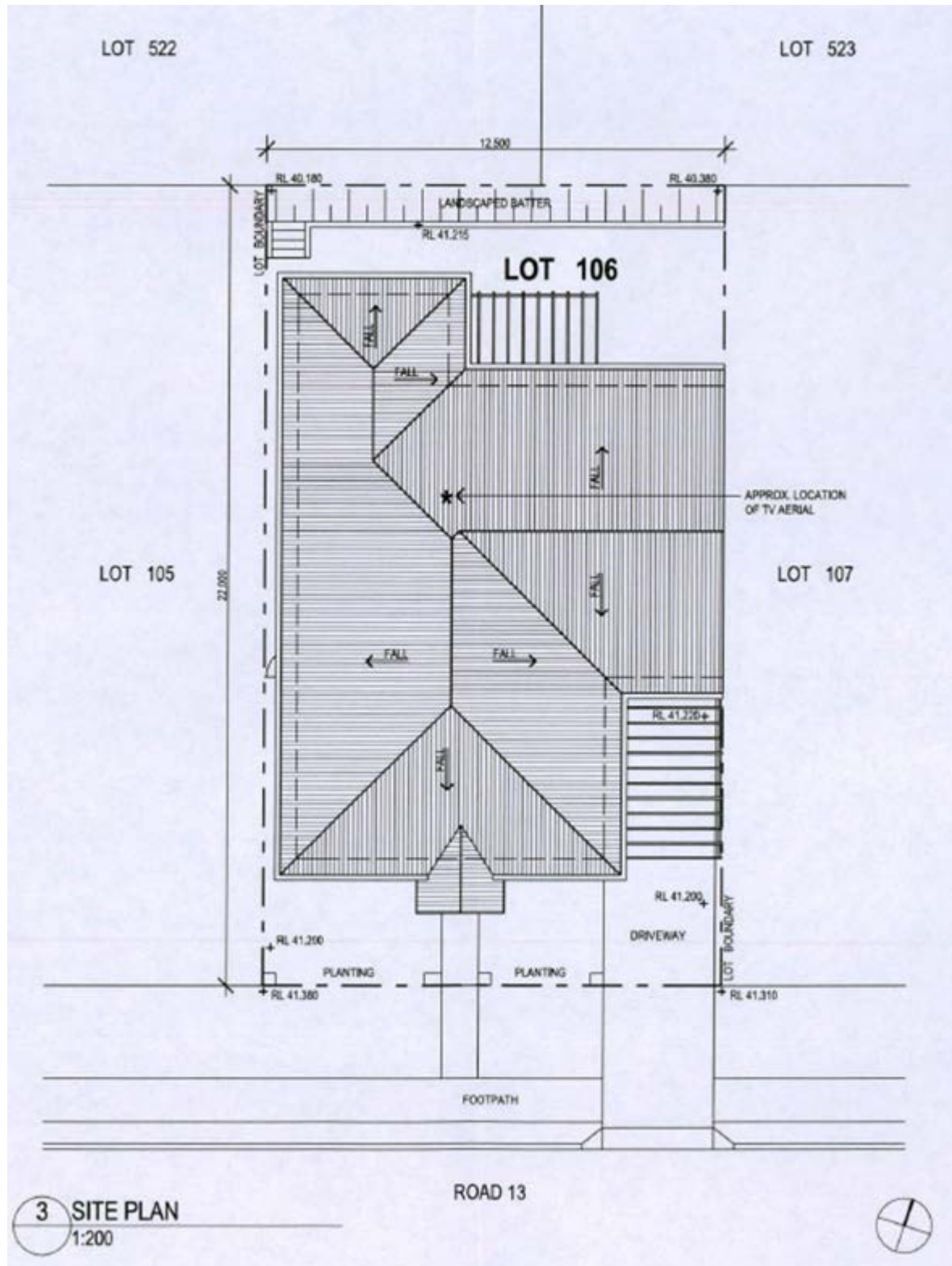
AT - 1 Location Plan



ORDINARY MEETING

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AT - 2 Site Plan



**Meeting Date:** 11 October 2016

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## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 201** CP - DA0098/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 107 - (94598, 109615)

**Previous Item:** 159, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0098/16  
**Property Address:** 86 Arthur Phillip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on Proposed Lot 107  
**Estimated Cost:** \$291,900  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not Required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 107 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 107, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

## ORDINARY MEETING

Meeting Date: 11 October 2016

At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.

### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:



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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 5m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.



**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".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

**Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

**Hawkesbury Development Control Plan 2002**

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

*Part C Chapter 2: Car Parking and Access*

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

*Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

*Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

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### *Part E Chapter 8 – Redbank at North Richmond*

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	40.8%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	• 2.9m	Yes
• Top of Ridge	• 10 metres max	• 5m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	535mm and 1500mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min.	• 31%	Yes
• Forward of the building line	• 25% min.	• Min 25% available	Yes
Private Open Space	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

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The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

<u>Submission</u>	<i>We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.</i>
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<u>Comment</u>	The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.
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## ORDINARY MEETING

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Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission      *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment      The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

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As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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.

## ORDINARY MEETING

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### RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0098/16 for a dwelling house on Proposed Lot 107 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0098/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

#### Schedule 2 – Recommended Conditions

##### General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704726S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

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### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

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### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.



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- b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 108. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

AT - 1 Location Plan

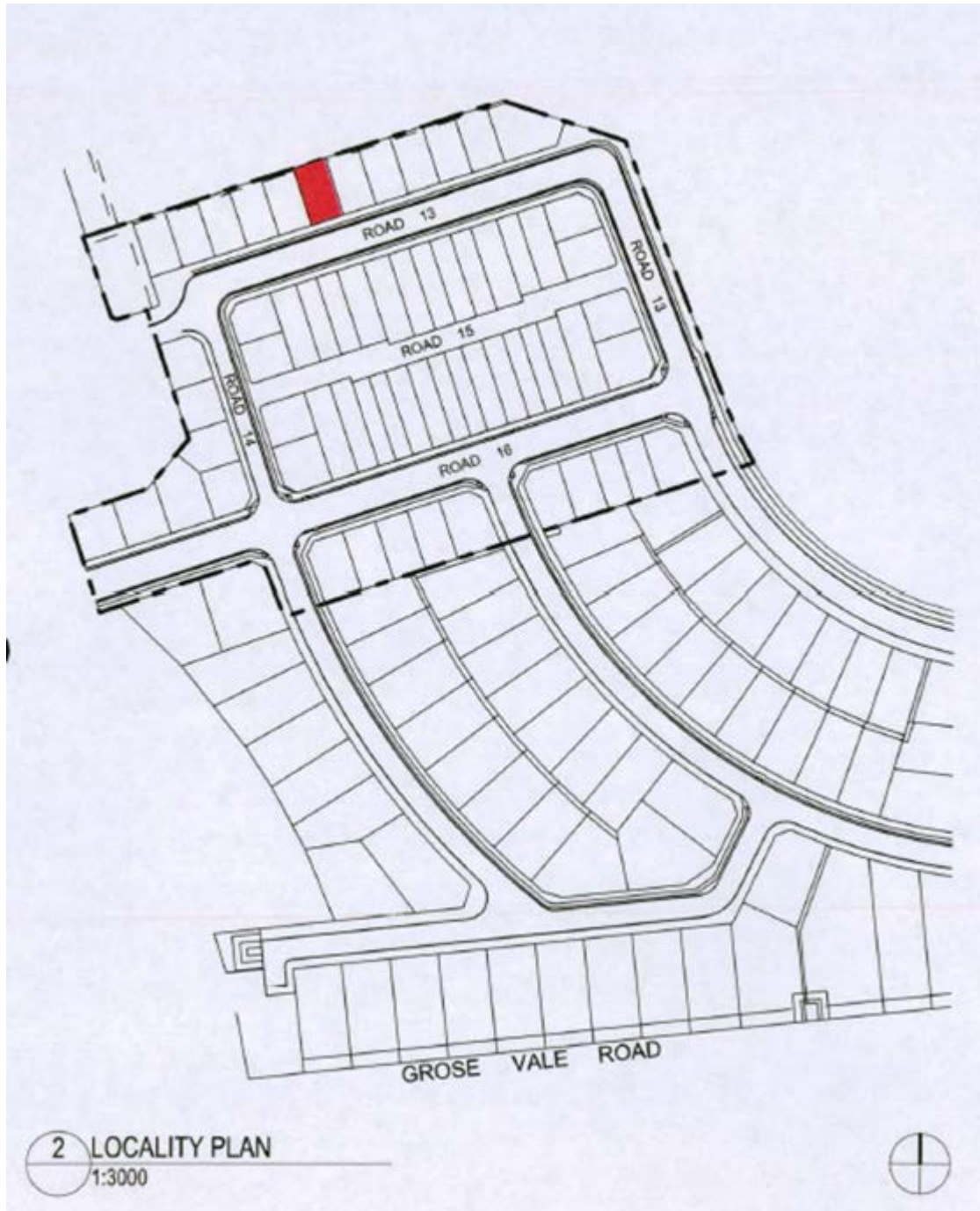
AT - 2 Site Plan

AT - 3 Elevations

ORDINARY MEETING

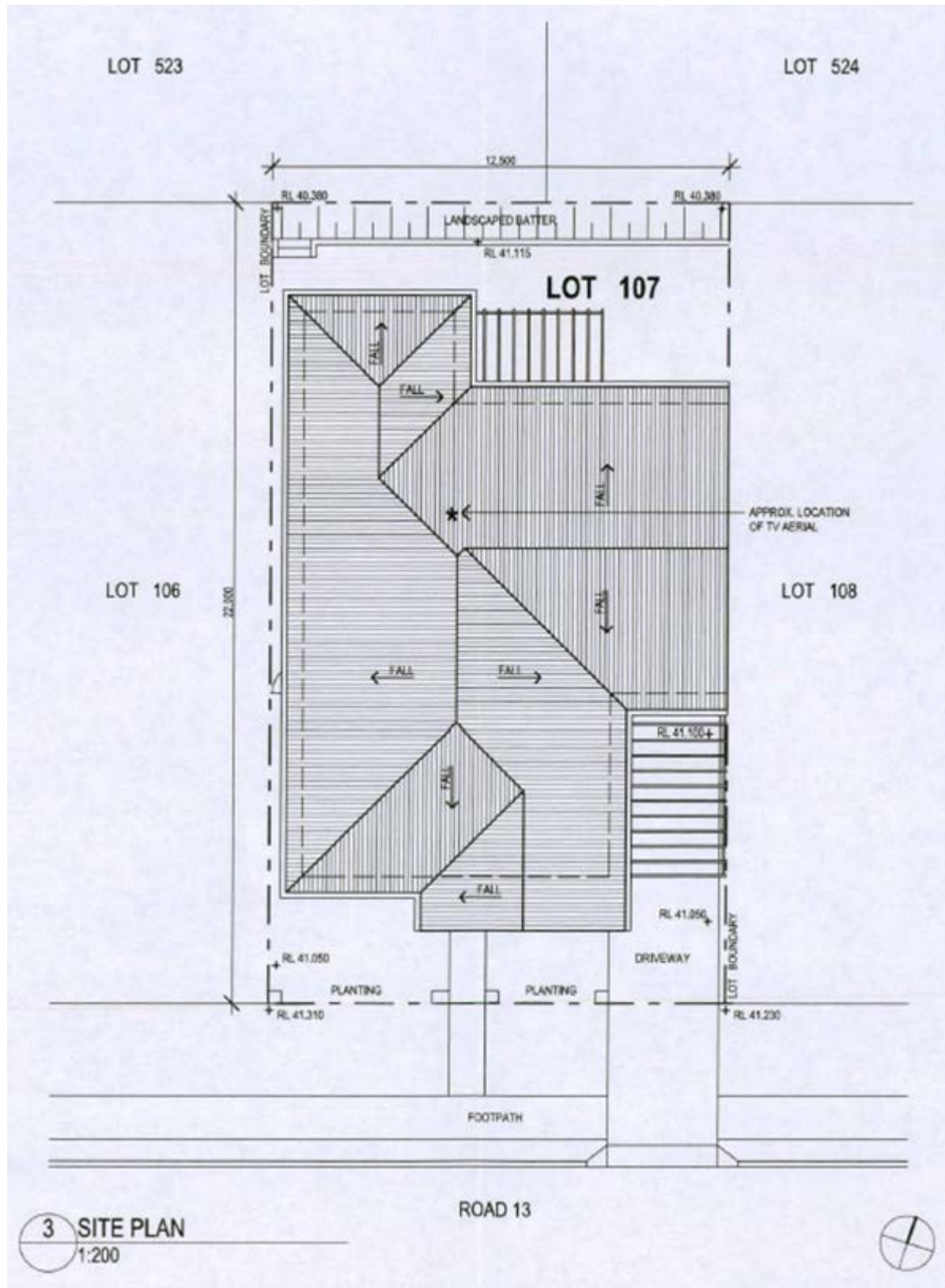
Meeting Date: 11 October 2016

AT - 1 Location Plan



**Meeting Date:** 11 October 2016

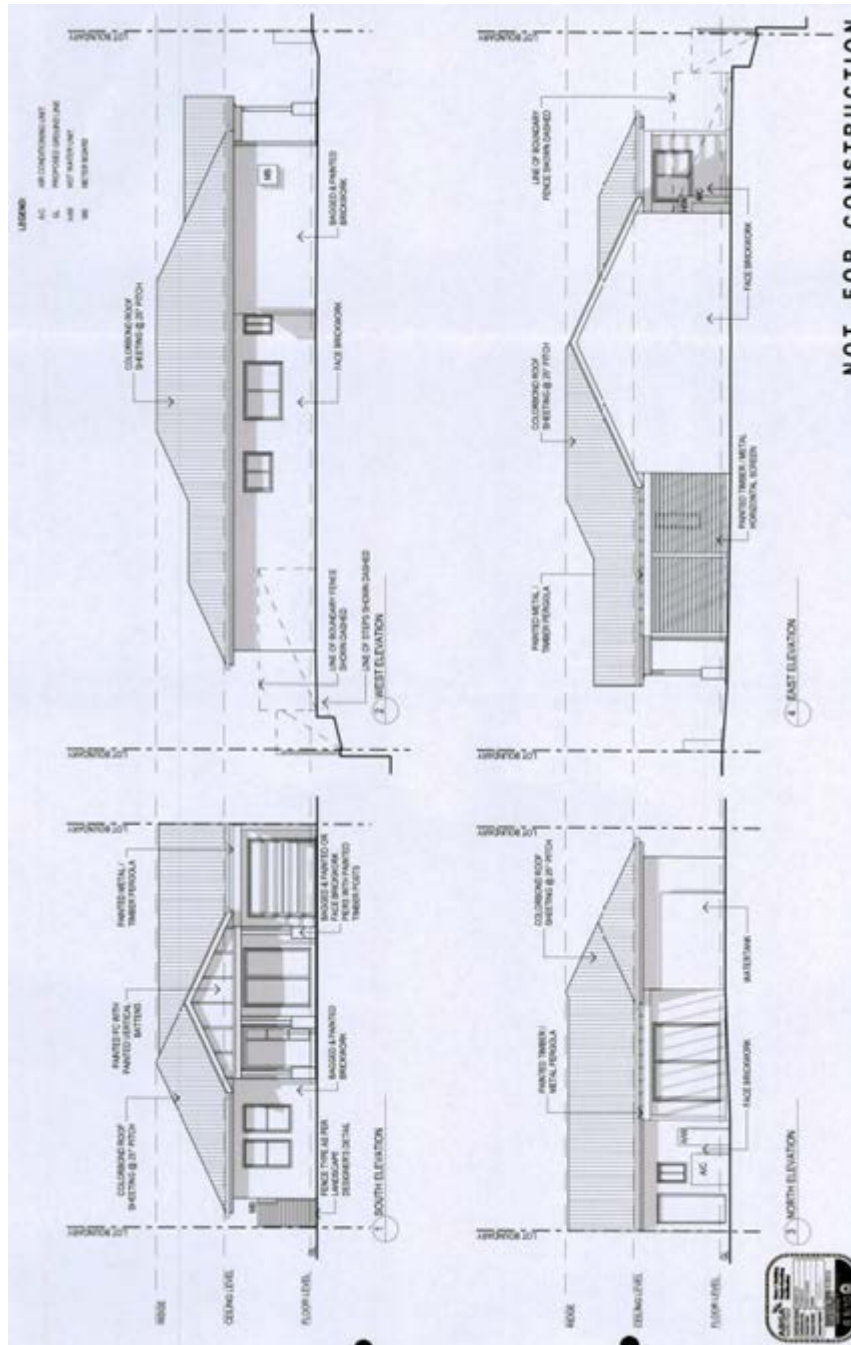
**AT - 2    Site Plan**



## ORDINARY MEETING

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### AT - 3 Elevations



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## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 202** CP - DA0099/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 108 - (94598, 109615)

**Previous Item:** 160, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0099/16  
**Property Address:** 86 Arthur Phillip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on proposed lot 108  
**Estimated Cost:** \$377,200  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 108 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 108, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

## ORDINARY MEETING

Meeting Date: 11 October 2016

At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.



### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.9m and a maximum ridge height of 4.8m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.



***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".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

***Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

***Hawkesbury Development Control Plan 2002***

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

***Part C Chapter 2: Car Parking and Access***

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

***Part C Chapter 6: Energy Efficiency***

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

***Part D Chapter 1: Residential Development***

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

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### *Part E Chapter 8 – Redbank at North Richmond*

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
<b>Garage Door Width</b>	3.2m max (one spot)	2.3m (one spot)	Yes
<b>Floor Area</b>	85% max	40.7%	Yes
<b>Site Coverage</b>	60% max	53.23%	Yes
<b>Building Height</b>			
• Ceiling	• 7 metres max	• 2.9m	Yes
• Top of Ridge	• 10 metres max	• 4.8m	Yes
<b>Setbacks</b>			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
<b>Retaining walls</b>	1.5m max	900mm and 1200mm at boundary	Yes
<b>Side and rear fencing</b>	1.8m max	1.8m	Yes
<b>Landscaping</b>			
• Total site	• 10% min	• 31%	Yes
• Forward of the building line	• 25% min	• Min 25% available	Yes
<b>Private Open Space</b>	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
<b>Eaves</b>	450mm min	450mm	Yes
<b>Solar Access</b>	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

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The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

<u>Submission</u>	<i>We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.</i>
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<u>Comment</u>	The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.
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Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission     *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment     The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

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As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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.

## ORDINARY MEETING

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### RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0099/16 for a dwelling house on Proposed Lot 108 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0099/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

#### Schedule 2 – Recommended Conditions

##### General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 705598S	EcoMode Design	19 February 2016
Drawing No. L – 01 Rev 'C' – Landscape Plan	EcoDesign	22 February 2016
Drawing No. L – 02 Rev 'C' – Landscape Details	EcoDesign	22 February 2016
Drawing No. L – 03 Rev 'C' – Fence Details	EcoDesign	22 February 2016
Drawing No. L – 04 Rev 'C' – Fence Details	EcoDesign	22 February 2016

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

## ORDINARY MEETING

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### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

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### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.



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- b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 109. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

AT - 1 Location Plan

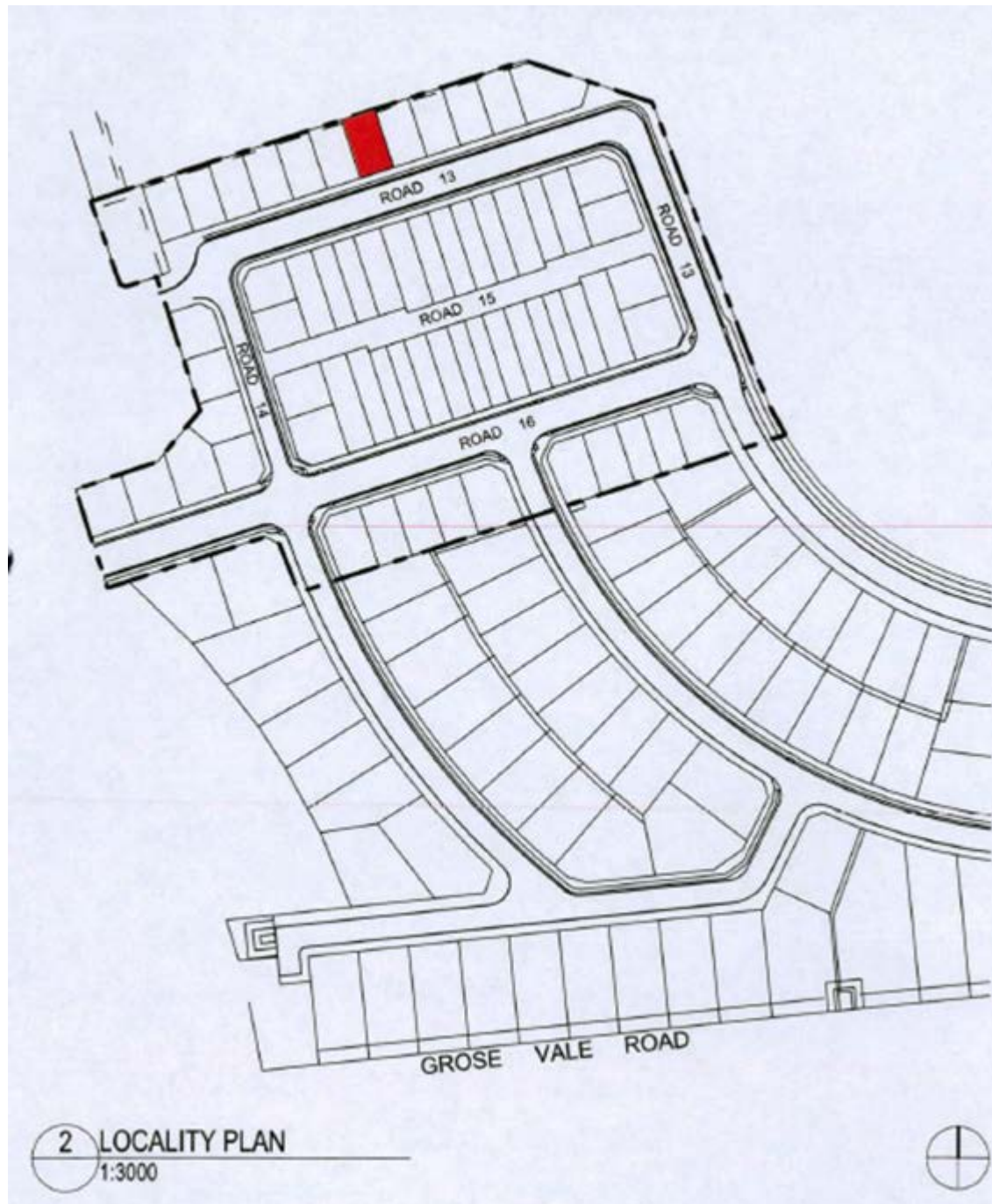
AT - 2 Site Plan

AT - 3 Elevations

ORDINARY MEETING

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AT - 1 Location Plan



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LOT 524

LOT 525

12,500

RL 40.380

RL 41.035

LANDSCAPED BATTER

LOT BOUNDARY

LOT 107

22,000

LOT 109

APPROX. LOCATION OF TV AERIAL

RL 41.250

LOT 108

RL 41.020

PLANTING

DRIVEWAY

LOT BOUNDARY

RL 41.160

FOOTPATH

ROAD 13

3 SITE PLAN  
1:200

**Meeting Date:** 11 October 2016

[illegible]

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## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 203** CP - DA0100/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 109 - (94598, 109615)

**Previous Item:** 161, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0100/16  
**Property Address:** 86 Arthur Philip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on proposed Lot 109  
**Estimated Cost:** \$381,500  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 109 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 109, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

## ORDINARY MEETING

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At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.



### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.8m and a maximum ridge height of 4.8m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.



**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".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

**Sydney Regional Environmental Plan 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*".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

**Hawkesbury Development Control Plan 2002**

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

*Part C Chapter 2: Car Parking and Access*

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

*Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

*Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

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### *Part E Chapter 8 – Redbank at North Richmond*

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
<b>Garage Door Width</b>	3.2m max (one spot)	2.3m (one spot)	Yes
<b>Floor Area</b>	85% max	40.8%	Yes
<b>Site Coverage</b>	60% max	53.7%	Yes
<b>Building Height</b>			
• Ceiling	• 7 metres max	2.8m	Yes
• Top of Ridge	• 10 metres max	4.8m	Yes
<b>Setbacks</b>			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
<b>Retaining walls</b>	1.5m max	1200mm and 1300mm at boundary	Yes
<b>Side and rear fencing</b>	1.8m max	1.8m	Yes
<b>Landscaping</b>			
• Total site	• 10% min	• 32%	Yes
• Forward of the building line	• 25% min	• Min 25% available	Yes
<b>Private Open Space</b>	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3 metres	Yes
<b>Eaves</b>	450mm min.	450mm	Yes
<b>Solar Access</b>	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

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The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission      *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment        The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

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Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission      *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment        The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

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As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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 Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0100/16 for a dwelling house on Proposed Lot 109 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0100/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

#### Schedule 2 – Recommended Conditions

##### General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 705601S	EcoMode Design	19 February 2016
Drawing No. L – 01 Rev 'C' – Landscape Plan	EcoDesign	22 February 2016
Drawing No. L – 02 Rev 'C' – Landscape Details	EcoDesign	22 February 2016
Drawing No. L – 03 Rev 'C' – Fence Details	EcoDesign	22 February 2016
Drawing No. L – 04 Rev 'C' – Fence Details	EcoDesign	22 February 2016

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

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### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

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### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.



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- b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 110. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

AT - 1 Location Plan

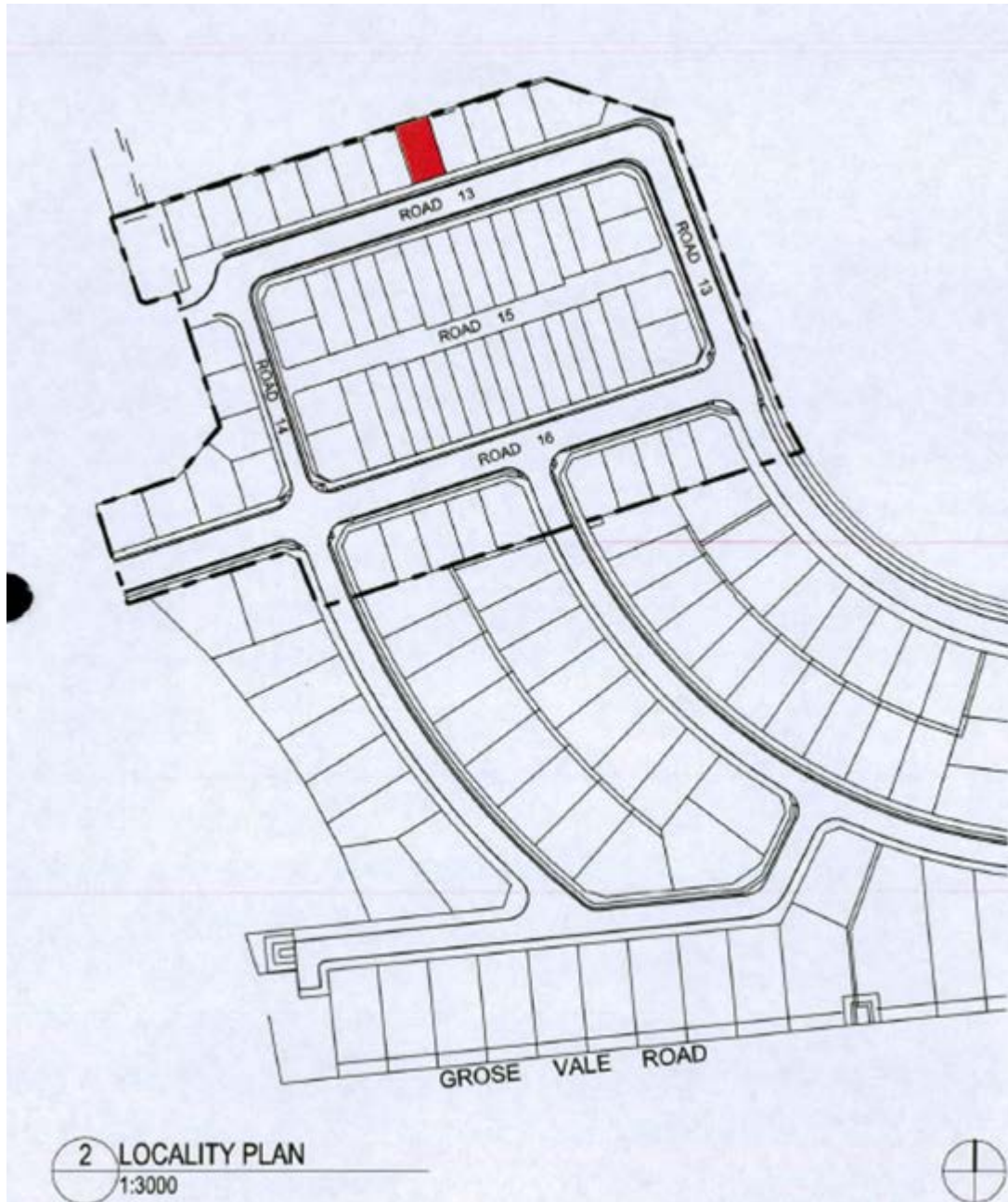
AT - 2 Site Plan

AT - 3 Elevations

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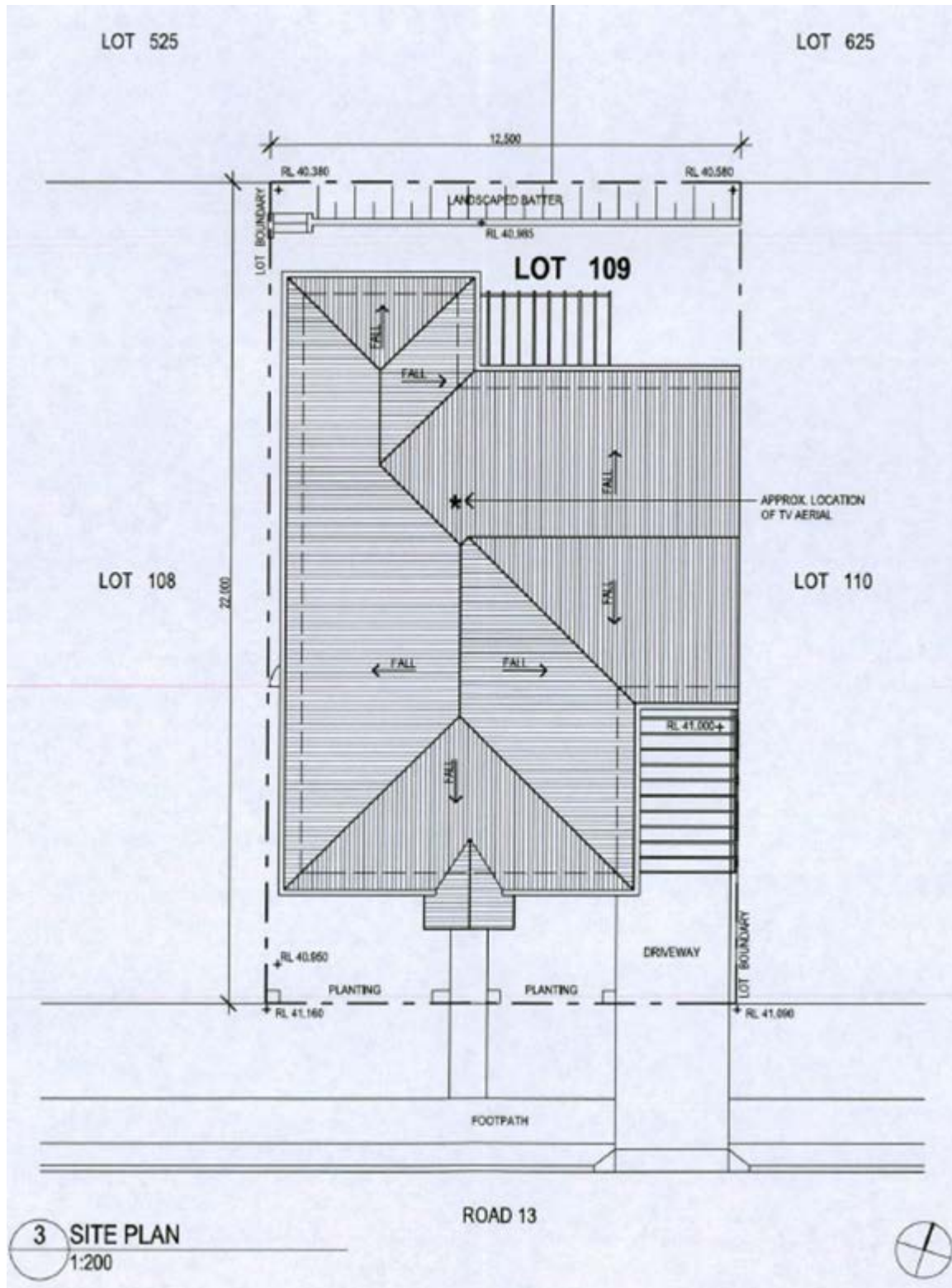
AT - 1 Location Plan



ORDINARY MEETING

Meeting Date: 11 October 2016

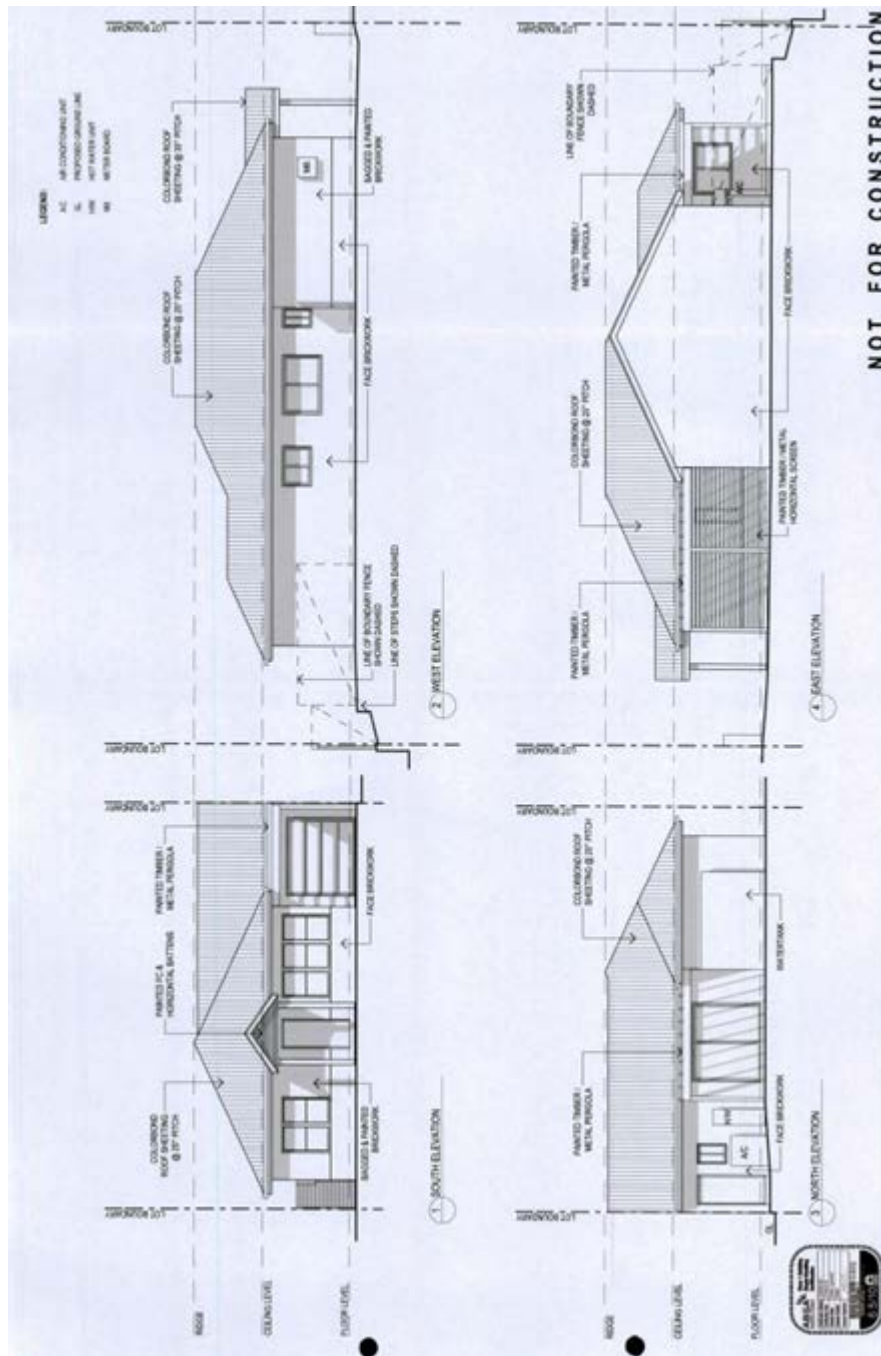
AT - 2 Site Plan



## ORDINARY MEETING

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### AT - 3 Elevations



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**Item: 204** CP - DA0101/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 110 - (94598, 109615)

**Previous Item:** 162, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0101/16  
**Property Address:** 86 Arthur Philip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on Proposed Lot 110  
**Estimated Cost:** \$286,700  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 110 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 110, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

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At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.



### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.8m and a maximum ridge height of 4.8m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.



**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".

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

**Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

**Hawkesbury Development Control Plan 2002**

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

*Part C Chapter 2: Car Parking and Access*

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

*Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

*Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

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## Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	53%	Yes
Building Height			
• Ceiling	• 7 metres max	• 2.8 m	Yes
• Top of Ridge	• 10 metres max	• 4.8m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	900mm and 1200mm at boundary	Yes
Side and rear fencing			
• Landscaping	• 1.8m max	• 1.8m	Yes
• Total site	• 10% min	• 32%	Yes
Forward of the building line	25% min.	Min 25% available	Yes
Private Open Space	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

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The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

<u>Submission</u>	<i>We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.</i>
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<u>Comment</u>	The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.
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Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

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As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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.

**ORDINARY MEETING****Meeting Date:** 11 October 2016**RECOMMENDATION:**

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0101/16 for a dwelling house on Proposed Lot 110 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

**Schedule 1 – Deferred Commencement Consent**

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0110/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

**Schedule 2 – Recommended Conditions****General**

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

<b>Architectural Drawing Number</b>	<b>Prepared by</b>	<b>Dated</b>
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704730S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

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### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

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### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.



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- b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 111. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

AT - 1 Location Plan

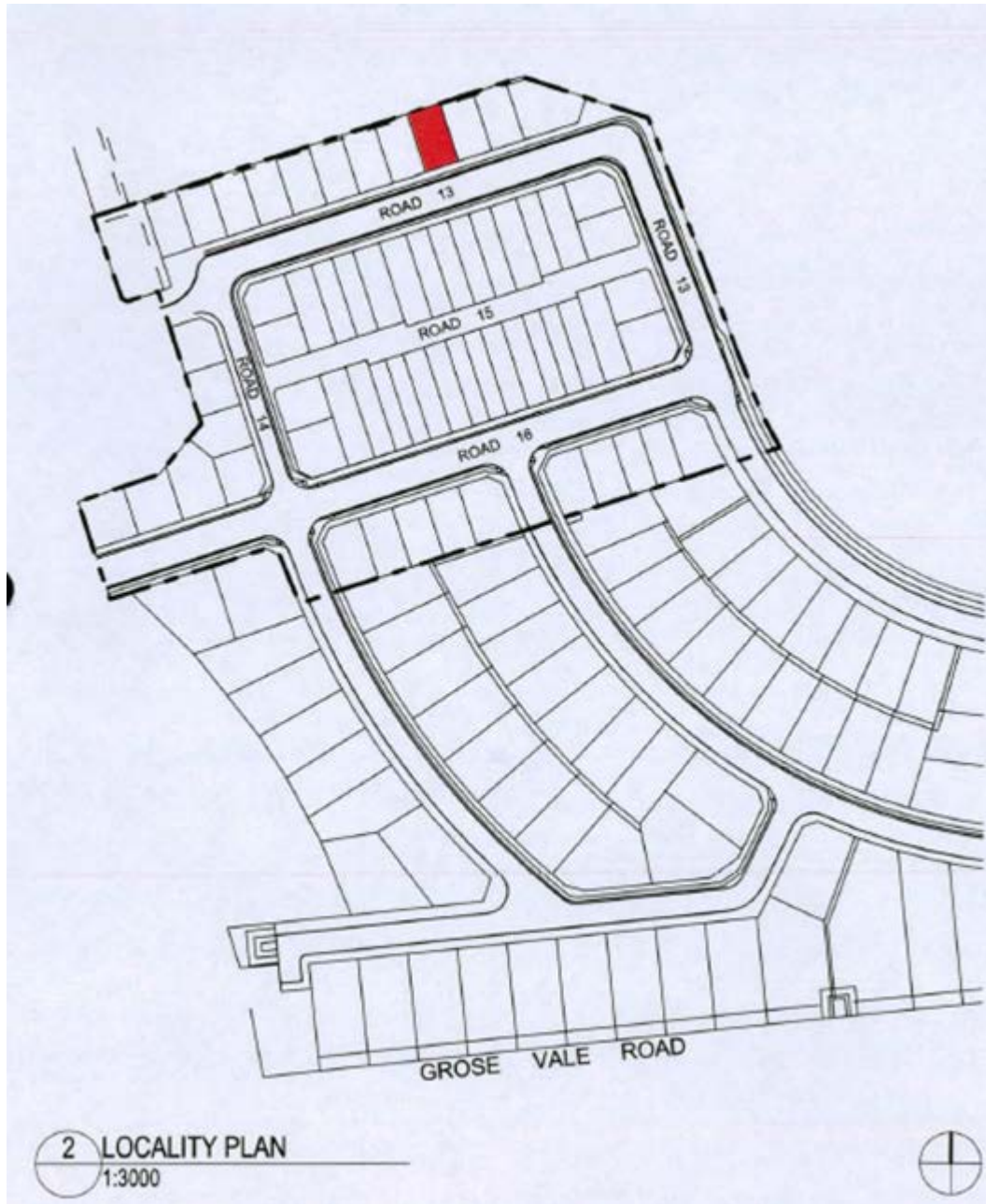
AT - 2 Site Plan

AT - 3 Elevations

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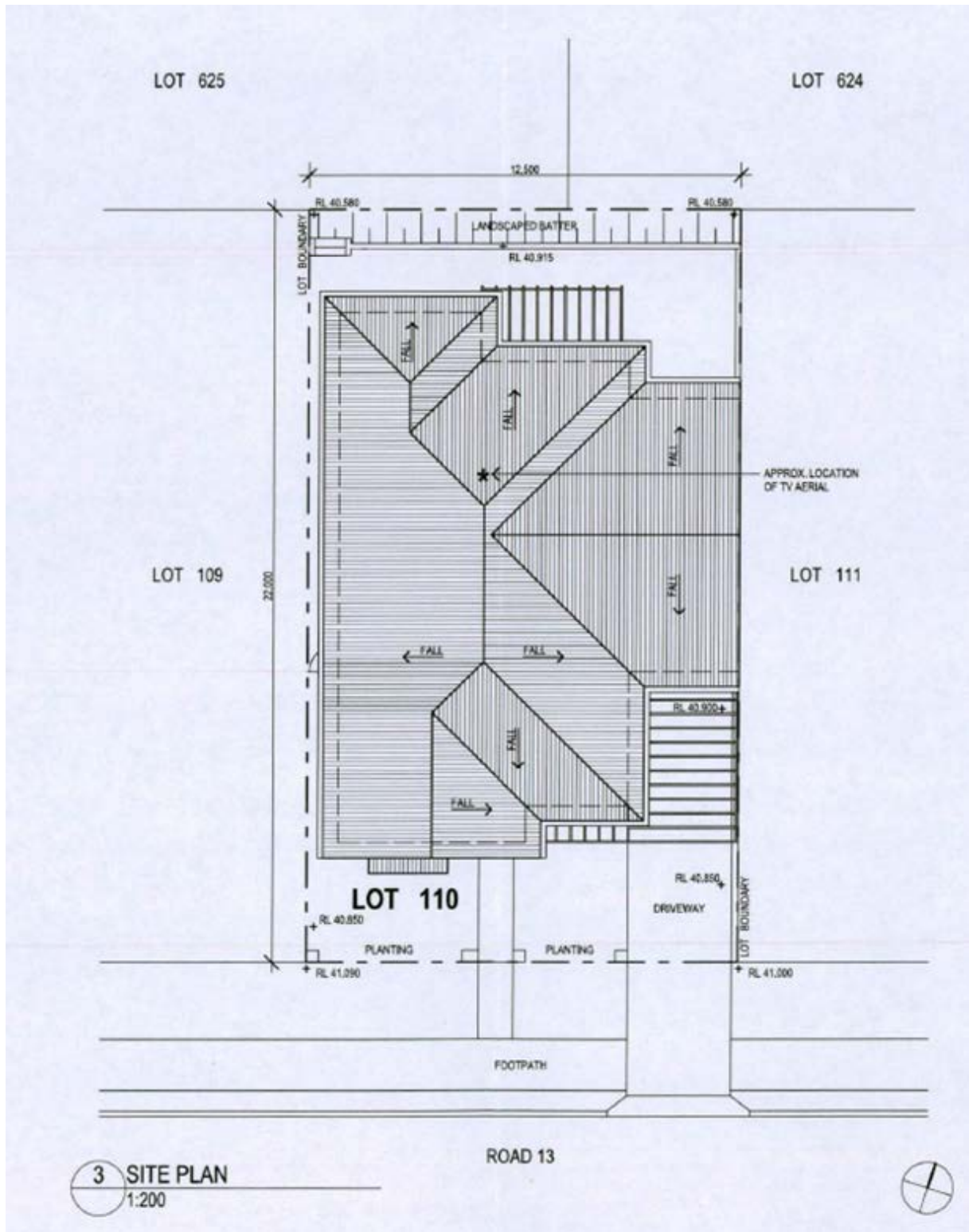
AT - 1 Location Plan



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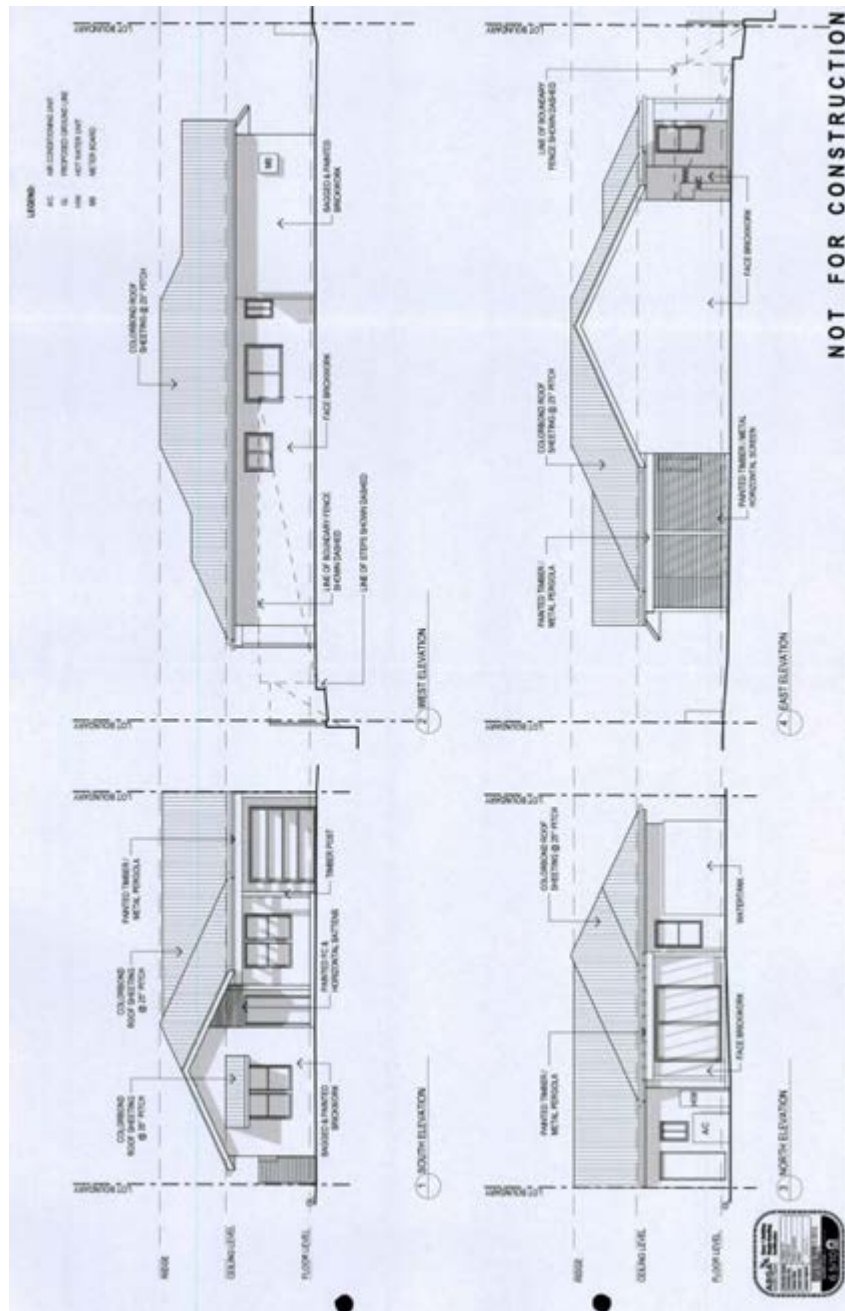
AT - 2 Site Plan



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### AT - 3 Elevations



oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 205** CP - DA0102/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 111 - (94598, 109615)

**Previous Item:** 163, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0102/16  
**Property Address:** 86 Arthur Philip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling House with attached garage on proposed Lot 111  
**Estimated Cost:** \$286,400  
**Zone:** B1 Neighbourhood Centre  
R2 Low Density Residential  
R3 Medium Density Residential  
R5 Large Lot Residential  
RE1 Public Recreation  
**Date Received:** 24 February 2016  
**Advertising:** Not Required  
  
**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

  
**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a single storey dwelling house with an attached garage on Proposed Lot 111 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 111, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

## ORDINARY MEETING

Meeting Date: 11 October 2016

### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

#### **1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.

**3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

**Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

**Development Description**

The proposal involves the construction of a single storey dwelling house, attached single garage, fencing and a driveway. Three bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)



## Section 79C Matters for Consideration

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:

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

#### *Hawkesbury Local Environmental Plan 2012*

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

##### *Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

##### *Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

##### *Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 2.8m and a maximum ridge height of 4.7m.

##### *Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

##### *Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

##### *Clause 6.7 – Essential Services*

This clause states that "development consent must not be granted unless the following services are made available when required:

- (a) Supply of water,
- (b) Supply of electricity,
- (c) Disposal and management of sewage,
- (d) Storm water drainage or on-site conservation,
- (e) Suitable road access".

The above services are currently under construction and will be available with the registration of the subdivision.



**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".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

**Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

**Hawkesbury Development Control Plan 2002**

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

*Part C Chapter 2: Car Parking and Access*

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a single garage and carport for additional parking satisfies the requirements of the Plan.

*Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

*Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

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### Part E Chapter 8 – Redbank at North Richmond

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

Compliance Table – Part E Chapter 8 – Redbank at North Richmond			
Development Control	Requirement	Proposal	Compliance
Garage Door Width	3.2m max (one spot)	2.3m (one spot)	Yes
Floor Area	85% max	41%	Yes
Site Coverage	60% max	55%	Yes
Building Height			
• Ceiling	• 7 metres max	• 2.8m	Yes
• Top of Ridge	• 10 metres max	• 4.7m	Yes
Setbacks			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to 4.5m Building Height = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 3m	Yes
Retaining walls	1.5m max	1300mm at boundary	Yes
Side and rear fencing	1.8m max	1.8m	Yes
Landscaping			
• Total site	• 10% min	• 32%	Yes
• Forward of the building line	• 25% min.	• Min 25% available	Yes
Private Open Space	24m <sup>2</sup> and minimum width of 3m	Minimum 16 square metres achieved with no side less than 3m	Yes
Eaves	450mm min.	450mm	Yes
Solar Access	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes

The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's side setback controls.

The proposal fails to comply with the side setback controls of Tables 8.3 and 8.4. In this regard the dwelling's eastern wall is to be built on the boundary whilst the western wall encroaches on the setback limit.

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The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The single story dwelling will not be expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the seniors housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

### **(a)(iii) Planning Agreements:**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

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

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

### **(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### **(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

<u>Submission</u>	<i>We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.</i>
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<u>Comment</u>	The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.
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## ORDINARY MEETING

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Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission      *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment        The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

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As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

### **(e) The Public Interest**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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.

## ORDINARY MEETING

Meeting Date: 11 October 2016

### RECOMMENDATION:

That Council as the consent authority pursuant to Clause 80(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0102/16 for a dwelling house on Proposed Lot 111 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0102/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

#### Schedule 2 – Recommended Conditions

##### General

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

Architectural Drawing Number	Prepared by	Dated
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA05 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704732S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	07 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	07 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	07 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

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### ***Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

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### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.



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- b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 112. This easement shall be created to allow the dwelling's eastern wall located in close proximity to the boundary to be accessed for maintenance.
- Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

### ATTACHMENTS:

AT - 1 Location Plan

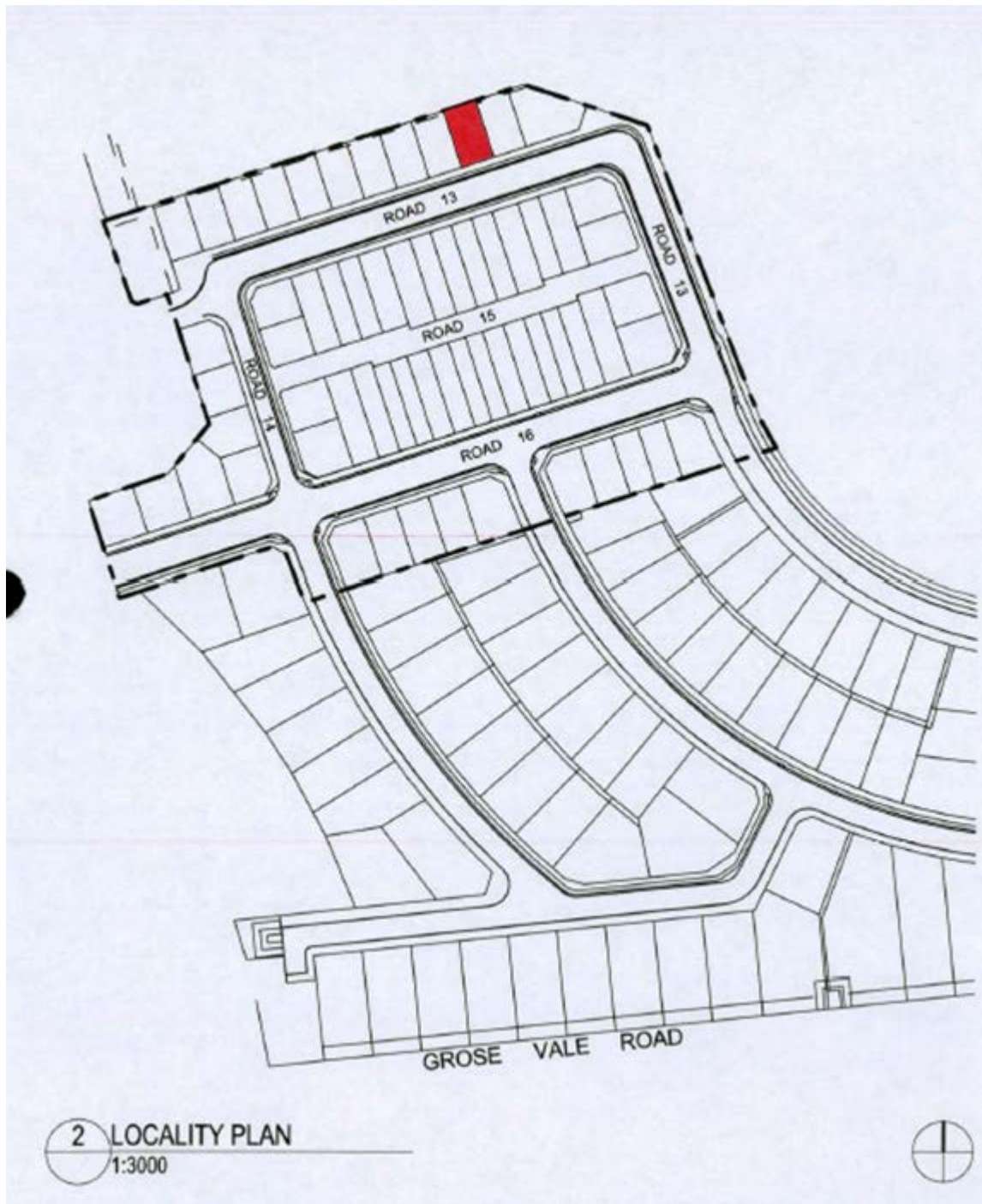
AT - 2 Site Plan

AT - 3 Elevations

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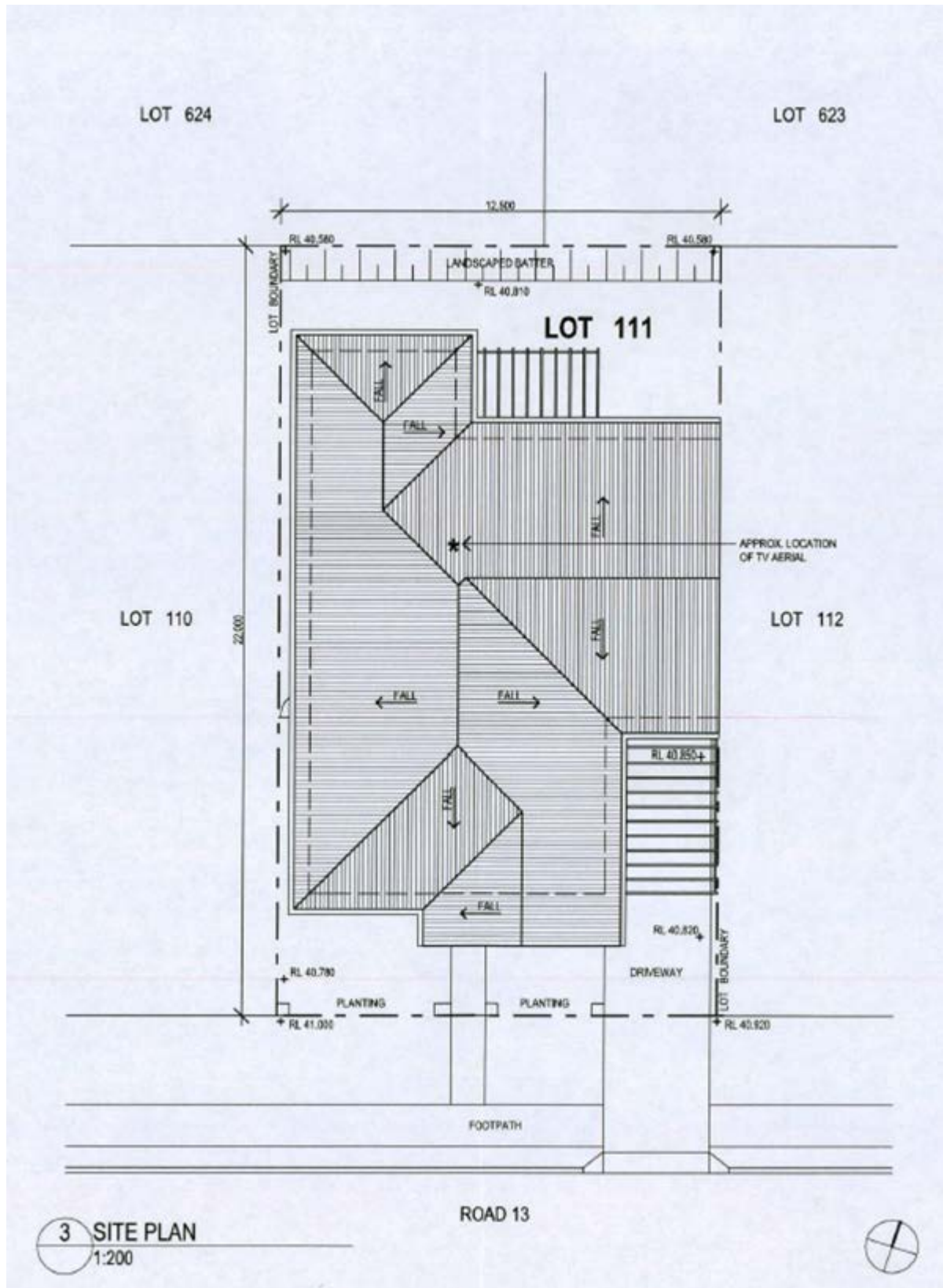
AT - 1 Location Plan



ORDINARY MEETING

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AT - 2 Site Plan



**Meeting Date:** 11 October 2016

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## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 206** CP - DA0103/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 112 - (94598, 109615)

**Previous Item:** 164, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0103/16  
**Property Address:** 86 Arthur Philip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on Proposed Lot 112  
**Estimated Cost:** \$372,800  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a two-storey dwelling house with an attached garage on Proposed Lot 112 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 112, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 275m<sup>2</sup>. This future lot is to have a frontage of 12.5m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

## ORDINARY MEETING

Meeting Date: 11 October 2016

At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.

### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a two-storey dwelling house, attached double garage, fencing and a driveway. Four bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan 2012 (Hawkesbury LEP 2012)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:



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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 5.4m and a maximum ridge height of 7.5m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.



**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".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

**Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

**Hawkesbury Development Control Plan 2002**

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

*Part A Chapter 3: Notification*

The provisions of this Chapter require the notification of two story dwellings to adjoining owners via a letter. At the time of receipt of this application all adjoining properties, according to Council's records, were owned by the same entity who was also the applicant for the development. As such letters were not sent. However, a letter was forwarded to the owner/applicant advising that at the time of sale they should advise purchasers/future owners of these properties of the existence of relevant development approvals

*Part C Chapter 2: Car Parking and Access*

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a double garage satisfies the requirements of the Plan.

**ORDINARY MEETING****Meeting Date:** 11 October 2016*Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

*Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

*Part E Chapter 8 – Redbank at North Richmond*

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

<b>Compliance Table – Part E Chapter 8 – Redbank at North Richmond</b>			
<b>Development Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Garage Door Width</b>	3.2m max (two spots)	4.8m (two spots)	No
<b>Floor Area</b>	85% max	65.6%	Yes
<b>Site Coverage</b>	60% max	54%	Yes
<b>Building Height</b>			
• Ceiling	• 7 metres max	• 5.4m	Yes
• Top of Ridge	• 10 metres max	• 7.5m	Yes
<b>Setbacks</b>			
• Front	• 3m minimum	• 3.5m	Yes
• Side	• 900mm plus ¼ of additional building height above 5.5m	• Built to boundary (right) / 900mm (left)	No
• Rear	• Up to Building Height 4.5m = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 4.2m	No (first floor Only)
<b>Retaining walls</b>	• 1.5m max	• 900mm	Yes
<b>Side and rear fencing</b>	• 1.8m max	• 1.8m	Yes
<b>Landscaping</b>			
• Total site	• 10% min	• 39%	Yes
• Forward of the building line	• 25% min	• 30%	Yes
<b>Private Open Space</b>	24m <sup>2</sup> and minimum width of 3m	52.5m <sup>2</sup> and no widths of less than 3m	Yes
<b>Eaves</b>	450mm min	450mm	Yes

**ORDINARY MEETING****Meeting Date:** 11 October 2016**Compliance Table – Part E Chapter 8 – Redbank at North Richmond**

<b>Solar Access</b>	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes
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The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's garage door width and setback controls.

Due to the dimensions of the future allotment, the maximum permissible garage door width under Table 8.4 of the Plan is 3.2m. The proposed width is 4.8 m however the building is appropriately articulated so that this non-compliance is not expected to negatively impact on the streetscape.

The proposal also fails to comply with the side and rear setback controls of Tables 8.3 and 8.4. In this regard the dwelling's western wall is to be built on the boundary whilst the first floor level will encroach within the side and rear setbacks.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The rear first floor rooms are to be used as bedrooms, which are not 'active' living rooms and are therefore not expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the senior's housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

**(a)(iii) Planning Agreements**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

**(a)(iv) Regulations**

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

**(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. A wall of the dwelling is to be constructed in close proximity to the future side boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

## ORDINARY MEETING

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

### (d) Any Submissions

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission     *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment        The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

## ORDINARY MEETING

Meeting Date: 11 October 2016

As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission     *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment     The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission     *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment     The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

## ORDINARY MEETING

Meeting Date: 11 October 2016

### (e) The Public Interest

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### Financial Implications

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### Conclusion

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### 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(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0103/16 for a dwelling house on Proposed Lot 112 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### Schedule 1 – Deferred Commencement Consent

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0103/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

**ORDINARY MEETING****Meeting Date:** 11 October 2016**Schedule 2 – Recommended Conditions****General**

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

<b>Architectural Drawing Number</b>	<b>Prepared by</b>	<b>Dated</b>
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – First Floor Plan	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA04 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA06 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 704733S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	7 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	7 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	7 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

**Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.

## ORDINARY MEETING

Meeting Date: 11 October 2016

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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8.:30am to 5:30pm.

### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.



## ORDINARY MEETING

Meeting Date: 11 October 2016

21. 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal rear retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
  - a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
  - b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.

**ORDINARY MEETING**

**Meeting Date:** 11 October 2016

- e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.
- 29. A 900mm wide easement for maintenance and access benefiting the subject allotment shall be obtained and registered over Lot 113. This easement shall be created to allow the dwelling's western wall located in close proximity to the boundary to be accessed for maintenance.  
  
Evidence of the obtainment and registration of this easement shall be provided to the Principal Certifying Authority prior to the release of the Occupation Certificate.
- 30. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

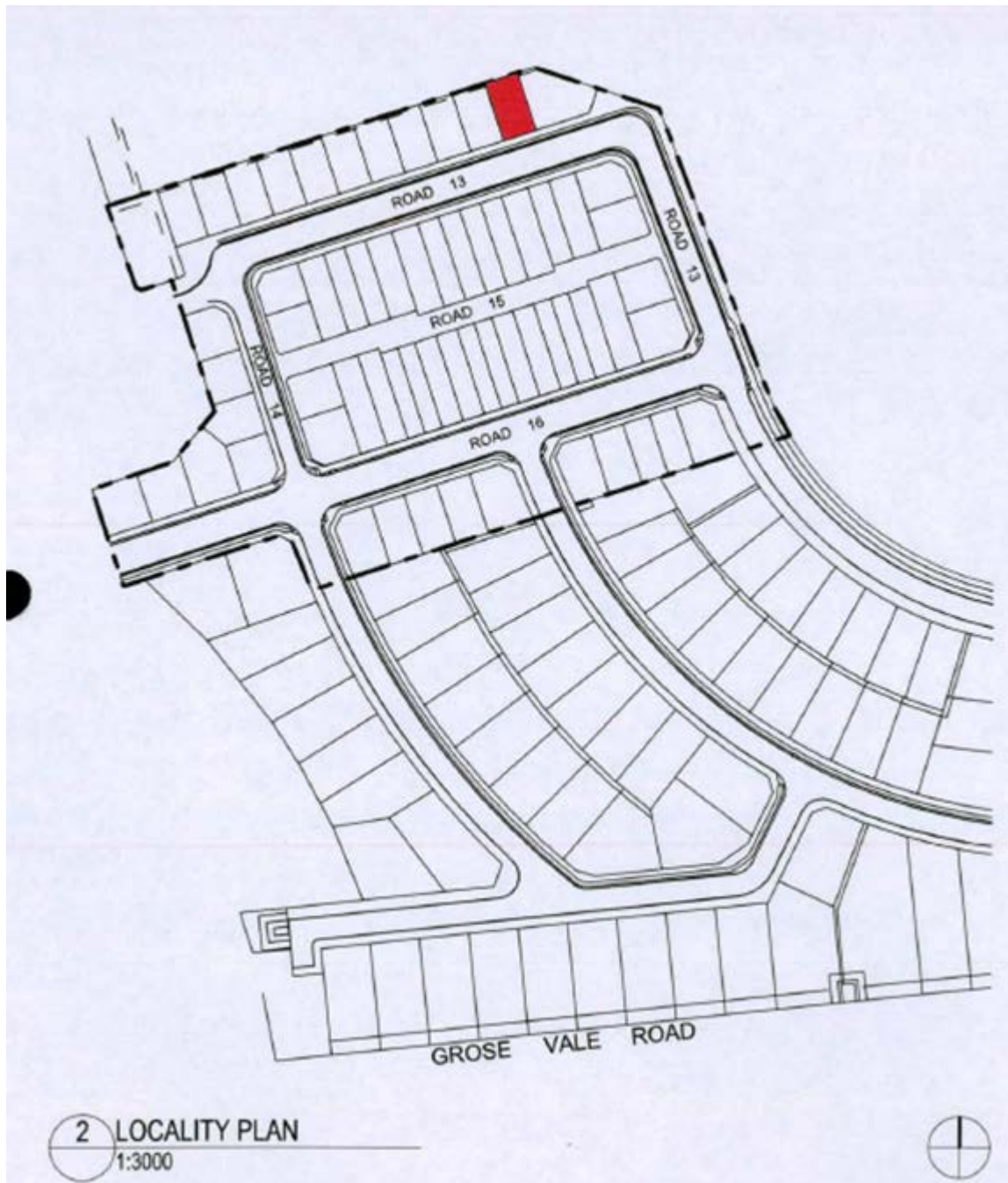
**ATTACHMENTS:**

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

ORDINARY MEETING

Meeting Date: 11 October 2016

AT - 1 Location Plan



**Meeting Date:** 11 October 2016

The site plan for Lot 112 shows a rectangular lot with a building footprint. The building has a central section with a gabled roof and two side sections with flat roofs. A driveway is located on the right side of the lot, and a footpath is located on the left side. The plan includes dimensions, elevations, and a north arrow.

**Lot Dimensions and Boundaries:**

- Lot 112: 12,300 (width) x 22,600 (depth)
- Lot 623: 12,300 (width)
- Lot 622: 12,300 (width)
- Lot 111: 22,600 (depth)
- Lot 113: 22,600 (depth)

**Key Features and Elevation Data:**

- Landscaped Batter:** Located at the top of the lot, with elevations RL 40,580 and RL 40,430.
- Driveway:** Located on the right side of the lot, with elevations RL 40,770 and RL 41,860.
- Footpath:** Located on the left side of the lot, with elevations RL 40,720 and RL 41,920.
- Planting:** Located at the bottom of the lot, with elevations RL 40,720 and RL 41,920.
- Approx. Location of TV Aerial:** Located on the right side of the lot, near the driveway.
- Fall Arrows:** Indicate the direction of slope across the lot.

**North Arrow:** Located in the bottom right corner of the plan.

**Scale:** 1:200

**Site Plan:** 3

**Road 13:** Located at the bottom of the lot.

**Meeting Date:** 11 October 2016

**LEGEND**

- HP CONSTRUCTION LAMP
- AC
- PC PROPOSED BUILDING (A)
- NS NOT PARTIAL UNIT
- WB WOOD BOARD

**1. NORTH ELEVATION**

**2. SOUTH ELEVATION**

**3. EAST ELEVATION**

**4. WEST ELEVATION**

**NOT FOR CONSTRUCTION**

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 207** CP - DA0104/16 - 86 Arthur Phillip Drive, North Richmond - Lot 342 DP 1199663  
- Dwelling house with attached garage on proposed lot 113 - (94598, 109615)

**Previous Item:** 165, Ordinary (9 August 2016)

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### Development Information

**File Number:** DA0104/16  
**Property Address:** 86 Arthur Philip Drive, North Richmond  
**Applicant:** BD NSW (MR) Project 0007 Pty Limited  
**Owner:** BD NSW (MR) Project 0007 Pty Limited  
**Proposal Details:** Dwelling house with attached garage on proposed Lot 113  
**Estimated Cost:** \$353,600  
**Zone:** R3 Medium Density Residential  
**Date Received:** 24 February 2016  
**Advertising:** Not required

**Key Issues:**

- ◆ Privacy of adjoining property
- ◆ Registration of allotment

**Recommendation:** Deferred Commencement

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### REPORT:

#### Executive Summary

This application proposes the construction of a two-storey dwelling house with an attached garage on Proposed Lot 113 within the 'The Gallery Precinct' of the Redbank Estate, North Richmond.

The creation of 'The Gallery Precinct' was approved with Development Consent No. DA0471/14 on 30 March 2015. Council was not the Consent Authority for this development due to the Capital Investment Value (CIV) and, as such, the Joint Regional Planning Panel was the Consent Authority. The subdivision is yet to be registered. The existing parent lot is therefore known as Lot 342 in DP 1199663.

The approved future lot, Proposed Lot 113, that is to accommodate the proposed dwelling is to be of a regular shape and to have an area of approximately 408m<sup>2</sup>. This future lot is to have a frontage of 15.325m.

The proposal is currently permissible as multi dwelling housing, however with the registration of the future subdivision the development may be categorised as a dwelling house.

As the application involves the development of a residential allotment which is yet to be registered by Land and Property Information (LPI), the approval of a 'Deferred Commencement' consent is recommended. This will allow the consent to become operational upon the registration of the subdivision and the creation of the new allotment.

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

#### Background

This application was reported to Council with a recommendation for approval on 9 August 2016. Council deferred the application and resolved, in part, the following:

*"to enable Council to facilitate a meeting between the concerned parties, being RSL Life Care, the developers and the residents."*

## ORDINARY MEETING

Meeting Date: 11 October 2016

At the Council meeting of 9 August 2016, the debate focused on the need for a meeting between the residents of the Kingsford Smith Retirement Village (the Village), RSL Lifecare and the North Richmond Joint Venture (the Developer) regarding this subject development and the adjoining nine dwellings proposed that back on to the Village. It was asserted at the meeting by some residents of the Village that despite several requests there had been no meetings between the residents, the developer and RSL representatives.

However, despite that assertion a meeting had been facilitated by Council on Thursday, 14 July 2016. That meeting was held in the Council Chambers and was attended by 16 residents from the Village, a representative from RSL Lifecare and a representative from the Developer. Councillor Rasmussen and the Director City Planning were also in attendance.

Further to Council's resolution of 9 August 2016, another meeting was arranged between RSL Lifecare, the Developer and Village residents at the North Richmond Community Hall on Tuesday, 30 August 2016. This meeting date was arranged by Council as there was little flexibility with dates for the meeting due to the availability of RSL and Developer representatives and also due to the pending Land and Environment Court Appeal against the Deemed Refusal of the application.

The meeting of 30 August 2016 was attended by RSL Lifecare, Developer and Council representatives and four residents from the Village. Council staff were advised by those residents present that residents may have been erroneously advised that the meeting had been cancelled and, as such, only four residents attended. Despite this the relevant issues were discussed and the majority of the resident's concerns were satisfactorily addressed.

The resident concerns compiled from these two meetings are as follows:

**1. Belief that the area backing on to the Village (proposed lots 102 to 113) were to be open space**

The residents from the Village advise that this belief came from the plans, and advice, that were presented at the time they purchased into the Village. Investigation from Council staff has not found evidence that sales person's advice had made this claim and from the investigations it seem that the residents had not checked with Council as to the likely future development plans for the site. At no time during the rezoning nor in the various development applications that relate to the site have there been any plans for open space in this locality. In this regard, it seems that this belief may have arisen from the sales plan that was used during the sale of the properties.

Whilst this is unfortunate for the Village residents, the issue seems to be a Fair Trading matter rather than a development matter. This development application is for a dwelling on an allotment that was approved in 2015 by the Joint Regional Planning Panel (JRPP). The refusal or delay of this application will not result in the dedication of the area as open space. The only way for this to occur would be for Council to arrange for the 2015 development approval for the subdivision to be revoked (this would be difficult, if not impossible, as this was a JRPP approval and Council was not the Consent Authority) and then pay compensation to all relevant parties. This compensation would be in excess of \$10M to Council and is not a recommended course of action.

**2. Privacy from proposed dwellings**

The resident concerns about privacy from the adjoining proposed dwellings have been addressed in recommended conditions of consent (see proposed conditions relating to landscaping and fencing on retaining walls). These proposed conditions were discussed with the residents at the meeting of 30 August 2016 and those present were satisfied with that proposal.



### **3. Stormwater drainage from proposed development**

The residents of the Village were concerned about stormwater runoff from the development as there had been problems from the development during the construction of the subdivision. The construction drainage system was an interim system and the final drainage system is significantly different to that used during the construction phase of the development. This was discussed and explained at the 30 August 2016 meeting with the residents that were present and they stated that they had a better understanding of the issue and they were satisfied with the explanation and the additional actions (additional landscaping and drainage) proposed by the developer for those residents present.

### **Land and Environment Court Appeal**

The subject application and the adjoining nine development applications are now the subject of a Class 1 Appeal to the Land and Environment Court for a Deemed Refusal of those applications. As such Council is no longer the Consent Authority for these applications. Whilst the application recommendation is to approve the proposal, this will still need to be agreed to by the Court as Consent Authority.

These applications are being reported to Council in order to obtain Council's intent of whether to approve or refuse the applications. Should Council agree with the recommendation at the end of this report, Council staff can then appear before the Court and outline Council's position and potentially shorten the proceedings via a Section 34 Conciliation Conference (a Court imposed conference to enable parties to reduce contentions or to agree on an outcome prior to a formal Hearing of the Court).

Should Council not support the attached recommendation for approval and wish to refuse the application, staff cannot represent Council at the Court (due to the Council resolution being the opposite to the recommendation, as such the staff defence of the resolution would not be accepted by the Court) and Council's solicitors will need to find a third party expert planner (at Council's expense) to represent Council. In this case there would be no opportunity for Council to have a Section 34 Conciliation Conference and the matter would go straight to a formal Hearing. The costs of this action would be significant to Council.

As the matter is now with the Court, should Council defer the application further there would be no further opportunity for Council in those proceedings and the Court will proceed to a formal Hearing and determine the applications.

### **Development Description**

The proposal involves the construction of a two-storey dwelling house, attached double garage, fencing and a driveway. Four bedrooms are proposed within the dwelling. The dwelling is to consist of face and rendered brickwork and a Colorbond roof.

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

- State Environmental Planning Policy No. 55 – Contamination of Land (SEPP No. 55)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)
- Hawkesbury Local Environmental Plan 2012 (Hawkesbury LEP 2012)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Development Control Plan 2002 (Hawkesbury DCP 2002)

### **Section 79C Matters for Consideration**

The proposal has been considered against the heads of consideration listed under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979:



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

***Hawkesbury Local Environmental Plan 2012***

The proposal is permissible and satisfies the provisions of the Hawkesbury LEP 2012. An assessment of the proposed development against the relevant provisions of this Plan follows:

*Clause 2.2 – Zoning*

The site is zoned R3 Medium Density Residential under the Hawkesbury LEP 2012.

*Clause 2.3 – Zone Objectives and Land Use Table*

Applications for a number of dwellings have been lodged for The Gallery Precinct and these dwellings are permissible within the R3 Medium Density Residential zone as 'multi dwelling housing'. However, with the registration of the future subdivision the development may be categorised as a 'dwelling house'.

The garage and fencing are permissible on the basis that these structures are ancillary to the residential use of the land. The proposal is consistent with the objectives of the zone. The development provides for the housing needs of the community, provides housing variety and choice, is of an appropriate residential character and will not create unreasonable demands on public amenities and infrastructure.

*Clause 4.3 – Height of Buildings*

The development satisfies the Hawkesbury LEP 2012's height limits of 7m for ceilings and 10m for roofs. The proposed dwelling is to have a ceiling height of 5.5m and a maximum ridge height of 7.4m.

*Clause 5.10 – Heritage Conservation*

Not applicable. Whilst part of the parent allotment is listed as a State heritage item under the Heritage Act 1977, The Gallery Precinct is not included in this listing.

*Clause 6.1 – Acid Sulphate Soils*

The development is located on land categorised as containing Class 5 Acid Sulfate Soils. Based on the nature of the works it is considered unlikely that the proposal will impact on the water table.

*Clause 6.7 – Essential Services*

This clause states that "*development consent must not be granted unless the following services are made available when required:*

- (a) *Supply of water,*
- (b) *Supply of electricity,*
- (c) *Disposal and management of sewage,*
- (d) *Storm water drainage or on-site conservation,*
- (e) *Suitable road access".*

The above services are currently under construction and will be available with the registration of the subdivision.

***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".*

Documentation supplied in support of Development Consent No. DA0471/14 for the creation of the allotment indicates that the land is suitable for residential purposes.

***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

A BASIX Certificate has been submitted for the development, thereby satisfying the requirements of the BASIX SEPP.

***Sydney Regional Environmental Plan 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".

It is considered that the development satisfies the objectives of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

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

Not applicable. There are no draft environmental planning instruments that apply to the land.

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

***Hawkesbury Development Control Plan 2002***

An assessment of the development against the relevant provisions of the Hawkesbury DCP 2002 follows:

***Part A Chapter 3: Notification***

The provisions of this Chapter require the notification of two story dwellings to adjoining owners via a letter. At the time of receipt of this application all adjoining properties, according to Council's records, were owned by the same entity who was also the applicant for the development. As such letters were not sent. However, a letter was forwarded to the owner/applicant advising that at the time of sale they should advise purchasers/future owners of these properties of the existence of relevant development approvals

***Part C Chapter 2: Car Parking and Access***

The proposal satisfies the numerical parking controls of Part D Chapter 2 of the Hawkesbury DCP 2002. Based on the area of the dwelling the provision of a double garage satisfies the requirements of the Plan.

## ORDINARY MEETING

**Meeting Date:** 11 October 2016

### *Part C Chapter 6: Energy Efficiency*

The development's private open space is to be provided with adequate solar access in accordance with Clause 6.4(c) of Part C Chapter 6 of the Hawkesbury DCP 2002. A BASIX Certificate has been supplied for the development.

### *Part D Chapter 1: Residential Development*

The proposal generally satisfies Part D Chapter 1 of the Hawkesbury DCP 2002, except where the site specific Redbank provisions of Part E Chapter 8 apply.

### *Part E Chapter 8 – Redbank at North Richmond*

The proposal has been considered as a single dwelling as an approval for the creation of the allotment has been issued on 30 March 2015. An assessment against the relevant provisions of Part E Chapter 8 of the Hawkesbury DCP 2002 is included below.

<b>Compliance Table – Part E Chapter 8 – Redbank at North Richmond</b>			
<b>Development Control</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Compliance</b>
<b>Garage Door Width</b>	3.2m max (two spots)	4.8m (two spots)	No
<b>Floor Area</b>	85% max	34.4%	Yes
<b>Site Coverage</b>	60% max	30.2%	Yes
<b>Building Height</b>			
• Ceiling	• 7 metres max	• 5.5m	Yes
• Top of Ridge	• 10 metres max	• 7.4 m	Yes
<b>Setbacks</b>			
• Front	• 3m minimum	• 3.4m	Yes
• Side	• 900mm plus ¼ of additional building height above 5.5m	• 1.5m (left) / 7m min (right)	Yes
• Rear	• Up to Building Height 4.5m = 3m. 4.5m and higher = average of neighbours or 10m (whichever is lesser)	• 2.5m minimum opening to 9m maximum	No (One side only)
<b>Retaining walls</b>	1.5m max	1300mm	Yes
<b>Side and rear fencing</b>	1.8m max	1.8m	Yes
<b>Landscaping</b>			
• Total site	• 10% min	• 70% min	Yes
• Forward of the building line	• 25% min	• 65% min	Yes
<b>Private Open Space</b>	24m <sup>2</sup> and minimum width of 3m	100m <sup>2</sup> min and no widths of less than 3m	Yes
<b>Eaves</b>	450mm min.	450mm	Yes

**ORDINARY MEETING****Meeting Date:** 11 October 2016**Compliance Table – Part E Chapter 8 – Redbank at North Richmond**

<b>Solar Access</b>	Solar access is to be provided to 50% or more of the private open space between 9am and 3pm on the 21 June	Solar access will be provided to a minimum 50% of the private open space between 9am and 3pm on the 21 June	Yes
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The proposed development generally complies with the controls of Part E Chapter 8 of the Hawkesbury DCP 2002, with the exception of the Plan's garage door width and setback controls.

Due to the dimensions of the future allotment, the maximum permissible garage door width under Table 8.4 of the Plan is 3.2m. The proposed width is 4.8 m however the building is appropriately articulated so that this non-compliance is not expected to negatively impact on the streetscape.

The proposal also fails to comply with the rear setback controls of Tables 8.3 and 8.4. In this regard the dwelling's Northern wall is only encroaching into the rear setback on the right side. Due to the nature of the Lot, the rear setback opens to a maximum of 9 metres which is considered acceptable.

The proposed dwelling is consistent with the desired character of the precinct and future neighbouring buildings as it forms part of an integrated plan that has considered the proposed surrounding dwellings. The rear first floor rooms are to be used as bedrooms, which are not 'active' living rooms and are therefore not expected to generate unreasonable privacy impacts for neighbours. Shadows cast by the building will not significantly impact upon neighbouring properties. On these grounds the non-compliances with the Plan's setback controls are considered reasonable.

The sloping nature of the land results in the property being elevated above the senior's housing development to the rear. However, the installation of a secondary 1.2m high pool style fence on the internal retaining wall, the provision of landscaping to achieve a height of approximately 500mm above the existing boundary fence and that resulting separation will minimise privacy impacts associated with the rear private open space.

**(a)(iii) Planning Agreements**

The payment of Section 94 and 94A Development Contributions are not required under the Voluntary Planning Agreement (VPA) for Redbank.

**(a)(iv) Regulations**

These matters have been considered in the previous Strategic Planning approvals relating to the land and in the assessment of this application.

Compliance with the Building Code of Australia (BCA)/National Construction Code will need to be demonstrated with the Construction Certificate.

**(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. A wall of the dwelling is to be constructed in close proximity to the future boundary. The developer has advised that an easement for maintenance and access may be created over the adjoining future lot and the imposition of a condition is recommended to address this matter.

It is considered that the proposed development will not generate significant environmental, economic or social impacts for the locality. The development is compatible with the desired character of the precinct.

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

These matters have been considered in the assessment of this application. There are no significant constraints that may prevent the development of the land. The proposal will not impact upon critical habitat, threatened species, populations, ecological communities or habitats. The land is bushfire prone however the risk is low. The future allotment will be managed as an Inner Protection Area.

The land is considered suitable for residential development.

**(d) Any Submissions**

A single submission accompanied by a petition signed by 54 residents of the Kingsford Smith Retirement Village (The Village) has been received regarding this subject application and eleven other development applications which adjoin the Village residences in Catalina Way (an internal, private road of the Village). The issues raised in the submission with assessment comments are as follows:

Submission      *We have been told not only by the Village Operator staff, but by Redbank Sales staff, that the land directly behind Catalina Way would remain as a breezeway.*

Comment        The area referred to in the submission includes the subject site and the adjoining allotments, being proposed lots 101 to 113 of 'The Gallery' development.

Council staff have investigated this claim through checking Council's records of the strategic planning and development planning for the site which commenced in 2008, discussion with the developer (North Richmond Joint Venture) and the plans utilised for the lease of the Village properties issued by the Village operator. Council staff (Director City Planning) also met with Cllr Rasmussen and approximately 16 of the resident objectors on 14 July 2016.

The Council records indicate that at no time were there any proposals to have a separate "breezeway" separating the Village from the remainder of the development. This part of the site was subject to detailed strategic planning at the time of introducing the zone to the site following the preparation of the Conservation Management Plan as part of the heritage listing for the property. None of those plans indicate a proposed breezeway.

The developer has advised that the sales staff for the property are advised what information to use in their discussions with residents and the public and that advice did not contain any information regarding a proposed breezeway. Whilst this advice to Council staff has been verbal only, a check of the sales plans for the property would seem to support this advice as those plans did not have any breezeways shown.

Staff have not spoken directly with the Village operator staff that the Village resident objectors had spoken to due to staff turnover. However, Council staff have viewed sales plans issued by the Village at the time of leasing the dwellings. These plans showed the layout of the Village development with no details shown on the adjoining (Redbank development) property, or any other property, with the exception of a roundabout on Grose Vale Road with the commencement of a lead-in road onto the site. The remainder of the plan had the area coloured green with some "artists impression" existing/proposed trees also included.

It appears that the Village resident confusion regarding the development of the subject and adjoining sites has occurred from reliance solely on plans included in the sales/marketing brochures and not from the review of development approvals issued by Council or the Joint Regional Planning Panel.

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As mentioned previously, approvals issued for the adjoining seniors housing development and The Gallery Precinct do not indicate that this area is to be reserved as open space or a breezeway. The creation of residential allotments is consistent with the zoning of the land and has been approved by the Joint Regional Planning Panel on 30 March 2015 with Development Consent No. DA0471/14.

Submission *Why do they need these 13 homes when the plan is for 1 400!! Are they really going to miss them? ... Our recommendation is that you reserve your decision on this approval and not allow the building of these 13 homes to go ahead and instead instruct the developer to build the breezeway.*

Comment The overall Redbank development has been planned and costed on the basis of an overall development yield. These costings have also included consideration of all necessary infrastructure that the development must provide as part of the development consents issued for the site and also the additional infrastructure to be provided as part of the Voluntary Planning Agreement (VPA). In this regard, the removal of 13 allotments would likely have a significant adverse impact on the economic viability of the overall development.

The Redbank development that adjoins the Village development (which includes the subject 13 allotments) was approved by the Joint Regional Planning Panel as Council was not the appropriate Consent Authority for the development due to the Capital Investment Value.

As Council was not the consent authority Council does not have the power to amend or revoke that consent. As such, Council cannot move these allotments or require them to be turned into a "breezeway" or open space. Similarly, the deferral or further delay of the development applications for dwellings on these lots will not change this situation as these applications do not create those allotments, but simply propose construction of dwellings on those allotments that were created for such development.

Submission *The proposal will generate privacy impacts for the existing senior's housing development.*

Comment The initial plan for the 13 allotments was for the construction of two story dwellings. When the privacy concerns were raised with the applicant/developer these plans were changed to single story dwellings with the exception of four dwellings (two at each end of the row) as those dwellings has already been reserved for sale.

The privacy issues were discussed at the resident and staff meeting on 14 July 2016. The issues related to safety concerns due to the height of the retaining walls in the rear yards of the proposed dwellings and to the potential overlooking from the proposed dwellings into the Village residences.

These matters were discussed with the applicant and it was agreed that pool style fencing is to be erected on the retaining walls to improve safety without contributing to the overall height of a solid boundary wall between the properties. In addition to this, evergreen landscaping that will have a dense growth habit and will grow to a height no less than 500mm above the existing boundary fencing, is to be installed. These measures are included as recommended conditions of consent.

It is considered that this landscaping and additional fencing will overcome the potential privacy impacts between the properties as it will interrupt the direct line of sight between the open space areas of the adjoining dwellings. In this regard, the proposal is not expected to unreasonably impact on the privacy of residents within the senior's housing development.

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### **(e) The Public Interest:**

The matter of public interest has been taken into consideration in the assessment of this application. The development is permissible within the zone and the design is generally consistent with the desired character of this residential area. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

Not applicable. The payment of Section 94 and 94A Development Contributions are not required under the VPA.

### **Conclusion**

The proposal is permissible and generally satisfies Council's planning controls. The application is acceptable and is recommended for conditional approval.

### **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(3) of the Environmental Planning and Assessment Act 1979 issue a "Deferred Commencement" consent for Development Application No. DA0104/16 for a dwelling house on Proposed Lot 113 in Lot 342 DP1199663, known as 86 Arthur Philip Drive, North Richmond, subject to the following conditions.

#### **Schedule 1 – Deferred Commencement Consent**

Hawkesbury City Council as the consent authority pursuant to Clause 80(3) of the EPA Act 1979 grants "Deferred Commencement" consent to Development Application No. DA0104/16 subject to following Schedule 1 matter being satisfied:

- A. The proposed allotment shall be registered and created with Land and Property Information (LPI). Written evidence of this registration and creation shall be provided to Council.

The information to satisfy this requirement must be submitted to Hawkesbury City Council within two years of the date of this consent. Upon Council's written approval of satisfactory compliance with the "Deferred Commencement" matter listed above, the development consent will become operative subject to the following operational conditions:

**ORDINARY MEETING****Meeting Date:** 11 October 2016**Schedule 2 – Recommended Conditions****General**

1. The development is to be carried out in compliance with the following plans and documentation endorsed with Council's stamp, except where amended by other conditions of consent:

<b>Architectural Drawing Number</b>	<b>Prepared by</b>	<b>Dated</b>
Drawing No. DA00 Rev 'A' – Cover Sheet	PAA Design	16 February 2016
Drawing No. DA01 Rev 'A' – Ground Floor Plan	PAA Design	16 February 2016
Drawing No. DA02 Rev 'A' – First Floor Plan	PAA Design	16 February 2016
Drawing No. DA03 Rev 'A' – Elevations	PAA Design	16 February 2016
Drawing No. DA04 Rev 'A' – Section	PAA Design	16 February 2016
Drawing No. DA06 Rev 'A' – Stormwater and Erosion and Sediment Control Plan	PAA Design	16 February 2016
BASIX Certificate No. 703878S	EcoMode Design	18 February 2016
Drawing No. L – 01 Rev 'B' – Landscape Plan	EcoDesign	7 October 2015
Drawing No. L – 02 Rev 'B' – Landscape Details	EcoDesign	7 October 2015
Drawing No. L – 03 Rev 'B' – Fence Details	EcoDesign	7 October 2015

2. No excavation, site works or building works shall be commenced prior to the issue of a Construction Certificate.
3. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. The commitments listed in the BASIX Certificate for this development must be fulfilled.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.

**Prior to Issue of the 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 building works.

7. The payment of a long service levy is required under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect to this building work. Proof that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. All building works in excess of \$25,000 are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Corporation offices or at most Councils.
8. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to release of the Construction Certificate.



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

9. 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.
10. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
11. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
  - a) unauthorised access to the site is prohibited
  - b) the owner of the site
  - c) the person/company carrying out the site works and telephone number (including 24 hour seven day emergency numbers)
  - d) the name and contact number of the Principal Certifying Authority.

The sign is to be maintained for the duration of the works.

12. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the Principal Certifying Authority prior to the commencement of works.
13. The building shall be set out by a Registered Surveyor. A Survey Certificate showing the position of the building's external walls and fencing under construction and in compliance with the approved plans shall be lodged with the Principal Certifying Authority at an early stage of construction. Any easements must be shown on the Survey Certificate.
14. Toilet facilities (to the satisfaction of Council) shall be provided for workers throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
15. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
16. The approved plans must be submitted to Sydney Water for approval. Following this assessment, the approved plans are to be appropriately stamped. The approved stamped plans must be provided to the Principal Certifying Authority prior to the commencement of works.

Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> or telephone 1300 082 746 Monday to Friday 8:30am to 5:30pm.

### ***During Construction***

17. 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 and 6pm and on Saturdays between 8am and 4pm.
18. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
19. 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.
20. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
21. 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:

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- 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
  - d) all waste must be contained and removed to a Waste Disposal Depot.
22. Compliance certificates (known as Part 4A Certificates) as are to be issued by the nominated Principal Certifying Authority for critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 and as required by Section 109E(3)(d) of the Environmental Planning and Assessment Act 1979.
23. The footings shall be pierced or shall penetrate through any fill or unstable foundation material to bear upon a structurally adequate foundation material of a uniform load-bearing value. Roof water (including overflow from water storage vessels) shall be drained to the street gutter or benefitted drainage easement. All drainage lines across the footpath shall be 100mm sewer grade pipe with a suitable kerb adaptor.
24. All necessary works shall be undertaken to ensure that any natural water flow from adjoining properties is not impeded or diverted.

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

25. A 1.2m high pool style fence shall be constructed on the internal rear retaining wall to address safety impacts.
26. The landscaping to the rear of the property (between the internal retaining wall and rear boundary fence) shall be selected to address privacy impacts to the senior's housing development. In this regard, landscaping is to consist of an evergreen species with a dense growth habit to a mature height that will be approximately 500mm above the top of the existing rear boundary fence. These plants are to consist of advanced specimens with a minimum pot size of 45L.
27. The front fencing shall be designed to ensure that any gates will not intrude on Council land.
28. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
- a) The type and method of termite treatment (complying with AS3660) provided to walls and floors, pipe penetrations and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
  - b) A certificate for glazing used in the development:
    - (i) Glazing materials, e.g. windows, doors, footlights, balustrades and shower screens, are installed in the building in accordance with AS1288 'Glass in Buildings – Selection and Installation' and AS2047 'Windows and external glazed doors in buildings'.
    - (ii) Engineering certification must be provided to the Principal Certifying Authority for glass balustrading used in the development. The balustrade must be designed and installed in accordance with AS/NZS1170.1.
  - c) A certificate for waterproofing detailing compliance with AS3740.
  - d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS3786 and be connected to the consumer mains power where supplied to the building.
  - e) A statement or other suitable evidence shall be submitted to the Principal Certifying Authority certifying that all commitments made on the BASIX Certificate have been implemented and installed as approved.

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29. A Restriction as to User is to be created on the Title which states that the fence and landscaping required in conditions 25 and 26 of this consent are to be maintained in accordance with those conditions by the property owner at their expense.

**ATTACHMENTS:**

**AT - 1** Location Plan

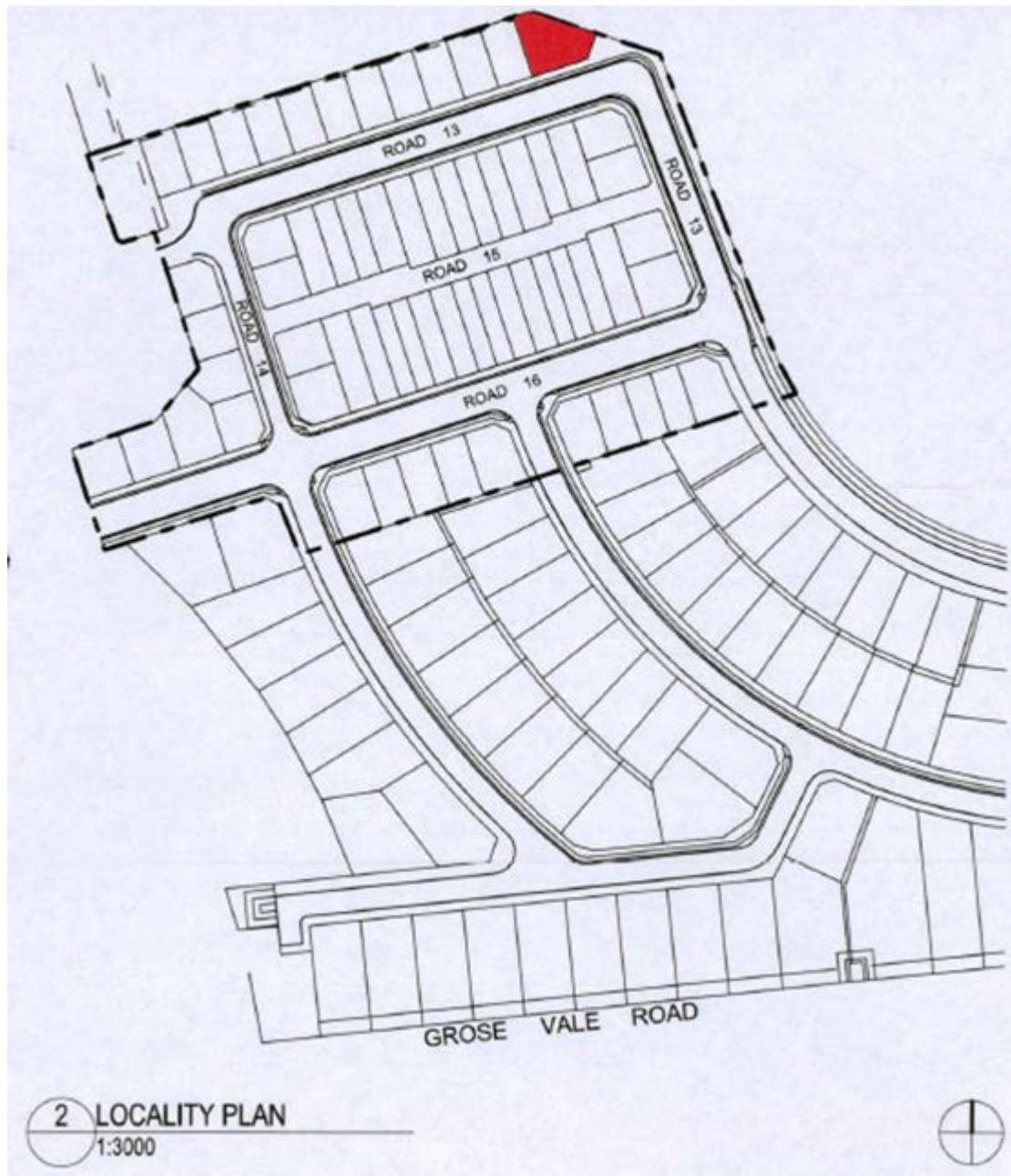
**AT - 2** Site Plan

**AT - 3** Elevations

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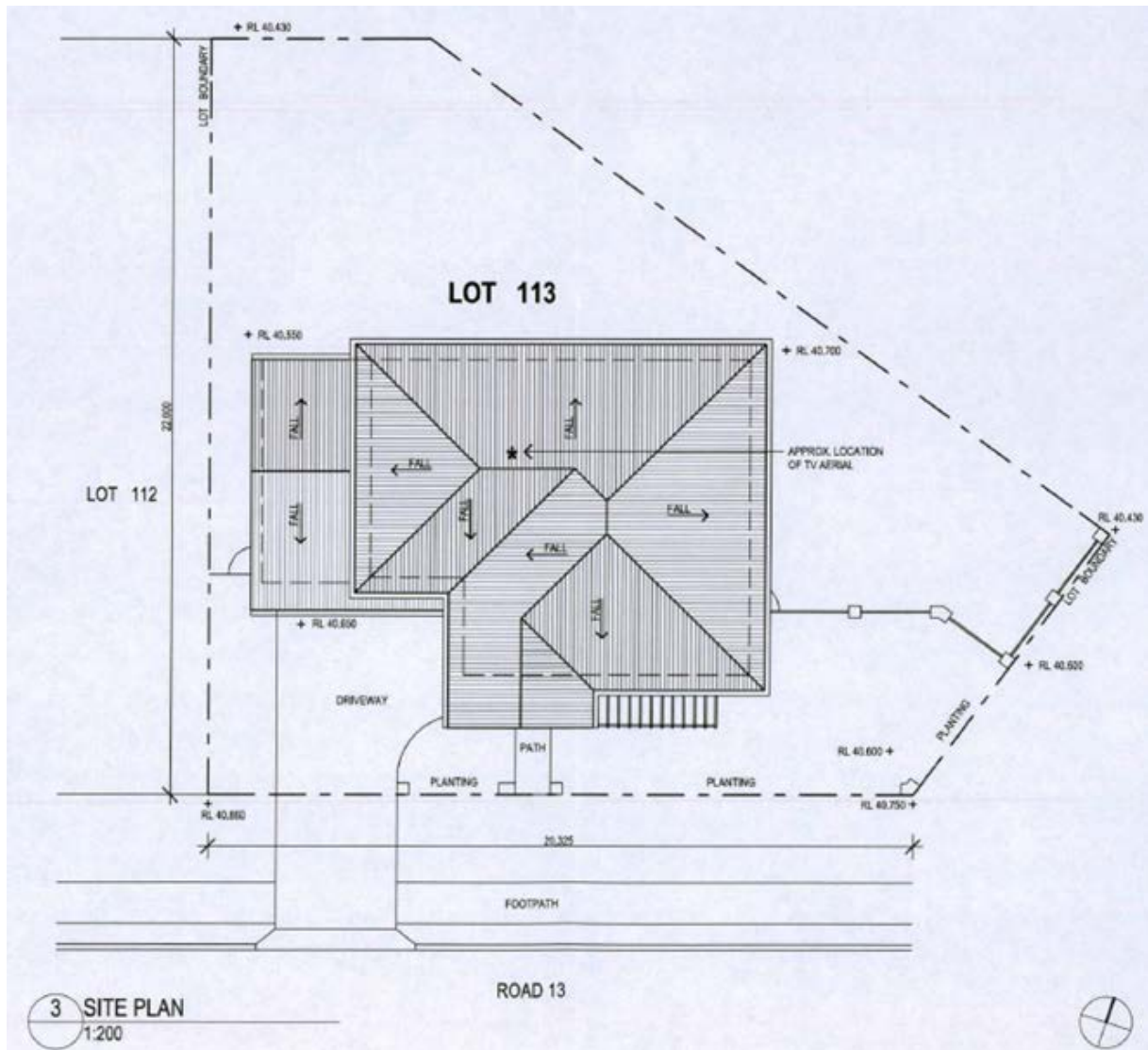
AT - 1 Location Plan



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AT - 2 Site Plan



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**LEGEND**

- AC AIR CONDITIONING UNIT
- BL PROPOSED BUILDING LINE
- DR DRIVE
- HW HWY
- ST STREET

**1. SOUTH ELEVATION**

**2. WEST ELEVATION**

**3. EAST ELEVATION**

**4. NORTH ELEVATION**

**NOT FOR CONSTRUCTION**

oooO END OF REPORT Oooo



## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 208**                      **CP - DA0308/16 - 221 Hawkesbury Valley Way, Clarendon - Lot 1 DP1017298 - Secondary Dwelling - (95498, 124073, 124074)**

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### Development Information

**File Number:** DA0308/16  
**Property Address:** 221 Hawkesbury Valley Way, Clarendon  
**Applicant:** Mr TJ Antonioli and Mrs KA Antonioli  
**Owner:** Mr TJ Antonioli and Mrs KA Antonioli  
**Proposal Details:** Secondary Dwelling  
**Estimated Cost:** \$180,000  
**Zone:** R2 Low Density Residential  
**Date Received:** 11 May 2016  
**Advertising:** 20 May 2016 to 3 June 2016

**Key Issues:**

- ◆ Flood Risk
- ◆ Noise Exposure from the Richmond RAAF Base
- ◆ Adverse Heritage Impacts

**Recommendation:** Refusal

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### REPORT:

#### Executive Summary

This Development Application seeks consent for the construction of a secondary dwelling at 221 Hawkesbury Valley Way, Clarendon.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP Affordable Rental Housing) permits secondary dwellings in all residential zones in the Hawkesbury subject to an assessment of the proposal against Councils requirements, including Hawkesbury Local Environmental Plan 2012 and Hawkesbury Development Control Plan 2002.

The subject site contains a locally listed heritage item and is subject to flood risk and significant aircraft noise.

An assessment of the development controls applying to the land has been undertaken and it is considered that the proposal is unable to adequately address matters having regard to heritage, aircraft noise and flooding.

It is recommended that the application not be supported as the proposal is inconsistent with the relevant planning controls, policies and Australian Standard applying to the development of the land and is not supported by the Department of Defence.

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

#### Description of Proposal

Pursuant to Section 78A(1) of the Environmental Planning and Assessment Act (EP&A) Act 1979 this application seeks Council's consent for the construction of a secondary dwelling under State Environmental Planning Policy (Affordable Rental Housing) 2009 at Lot 1 DP 1017298, 221 Hawkesbury Valley Way, Clarendon.

The application proposes the construction of a new dwelling containing two bedrooms, kitchen, living room, bathroom and associated verandahs.

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The proposed secondary dwelling would be located in the north eastern corner of the site, have dimensions of 10.3m x 9.05m, a height of 4.3m and constructed out of masonry walls and colorbond roof.

### History of the application

- 7 June 2016      Applicant advised that the proposal to increase the number of dwellings on land affected by aircraft noise and flood risk was not supported as the proposal is inconsistent with development controls applying to the land. It was recommended that any accommodation for family members should be considered as additions or alterations to the existing dwelling as opposed to the construction of an additional dwelling on land affected by aircraft noise and flood risk.
- 16 August 2016      Applicant responded to Council's previous correspondence stating that the acoustic report submitted seeks to reduce noise impacts; Council has previously considered secondary dwellings in aircraft noise affected areas and the building has been designed to be above the flood level for the locality.

### Issues Relevant to the Decision

- Flood risk
- Noise Exposure from the Richmond RAAF Base
- Adverse Heritage Impacts

### 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 (Affordable Rental Housing) 2009 (SEPP Affordable Rental Housing)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- 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***

The subject land has historically been used for residential purposes and there is no evidence to suggest that the site is contaminated to the extent that would prevent the land to be continued to be used for residential purposes. With respect to the provisions of SEPP No. 55 the site is considered suitable for the proposed development.

#### ***State Environmental Planning Policy (Affordable Rental Housing) 2009***

The application has been submitted pursuant to this policy which permits secondary dwellings in the R2 Low Density Residential zone provided the secondary dwelling is not greater than 60sqm in floor area and that the development application does not result in the subdivision of a lot. The proposed dwelling complies with the maximum floor area (minus the open verandah areas) and would not result in the subdivision of the land.



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This policy also allows for secondary dwellings to be carried out as complying development if the proposal is consistent with the specific requirements of this policy and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The current proposal cannot be considered as complying development as the land is subject to flooding and subject to an Australian Noise Exposure Forecast (ANEF) contour higher than 25.

Consequently a development application is required to be lodged with Council and be considered against Council's requirements, in particular LEP 2012.

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

The proposal is not contrary to the aims, objectives and recommended strategies of SREP No. 20 and considered acceptable having regard to this plan.

### ***State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004***

A BASIX Certificate has been issued for the proposed development.

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

Hawkesbury Valley Way is identified as a 'Classified' road. The proposal relies on the use of an existing driveway and is considered acceptable having regard to Clause 101 of this policy.

The proposal is not expected to affect the safety, efficiency and ongoing operation of Hawkesbury Valley Way.

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

The subject property is zoned R2 Low Density Residential. The proposed development is best defined as a 'secondary dwelling' and is not permitted under LEP 2012, however is permitted pursuant to SEPP Affordable Rental Housing.

An assessment of the proposal against the following specific clauses of the LEP is included below.

#### ***Clause 2.3 Zone objectives and Land Use Table***

The application proposes to increase the density of residential development on land subject to aircraft noise and flood risk which does not provide appropriate housing for the community within a low density residential environment. Council's Residential Land Strategy focuses on locating higher residential densities (more than one dwelling) on land that is not subject to aircraft noise and flood risk.

#### ***Clause 5.10 Heritage conservation***

The land contains a locally listed heritage item No. I320 (Former Inn). A heritage impact statement has been submitted with the application and concludes that the secondary dwelling will not result in any material change to the significance of the heritage item and the new building will sit at the rear of the site without visually dominating the heritage item.

Council's heritage advisor has advised that the proposed building is not sympathetic to the architecture of the heritage item onsite and recommends that the proposal be redesigned to appear as a freestanding pavilion with pitched roofs to match the main building and landscaping between the two structures to make the new building appear more as a garden element as opposed to a separate development.

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The applicant has not been requested to amend the design of the structure as it is not considered appropriate to make that request of the applicant given more fundamental issues concerning aircraft noise and flood risk. Should the proposed development be supported in its current form or as part of additions to the dwelling it would be recommended that the building design be modified to minimise any potential impacts on the heritage item.

### *Clause 6.3 Flood planning*

This clause applies to the development as the land is below the flood planning level for the locality which is predicted at 17.3m above Australian Height Datum (AHD).

The proposed dwelling is located on land at approximately 16.5m AHD with habitable areas of the building proposed 800mm above the natural ground level, i.e., floor level at 17.3m AHD.

The application seeks to justify that the proposal is acceptable having regard to flooding on the basis that the development can achieve the habitable floor height requirements of Council's Development of Flood Liable Land Policy.

Whilst the building could achieve the habitable floor height rules it is noted that these requirements typically apply to land which is vacant or where an existing dwelling is proposed to be replaced or altered.

The site contains an existing dwelling and provides low density housing consistent with the objectives and land use permitted in the zone under the LEP. The proposal to erect an additional dwelling on flood prone land is contrary to the overall objectives of this clause and matters for consideration under Council's Development of Flood Liable Land Policy.

The applicant has been advised to consider additions or alterations to the existing dwelling on the site in order to provide accommodation for family members so that the proposal does not result in an increase in additional dwellings on flood liable land.

By proposing an additional dwelling on flood prone land, the proposal does not seek to minimise the flood risk to life and property, (i.e., one household has a greater chance of evacuating in a flood situation than two, potentially unrelated (due to being separate dwellings), households). The proposal is incompatible with the flood hazard of the land having regard to flood access and risk to life and property.

Council's Development of Flood Liable Land Policy requires access to, and egress from, the land not resulting in a travel path through areas of higher flood hazard risk and the development should not result in the occupants/users of the development being isolated and requiring rescue.

Consideration of additional dwellings on flood liable land will have impacts on the evacuation of existing dwellings within the locality and support of the proposal based on the applicant's justification provided would set an undesirable precedent when considering additional dwellings on flood prone land.

Whilst SEPP Exempt and Complying Development Codes 2008 does not strictly apply to the proposal as the application is not for complying development, this policy specifies that flood control lots must provide '*reliable access for pedestrians and vehicles from the development, at a minimum level equal to the lowest habitable floor level of the development, to a safe refuge*'. Support of a proposal contrary to standard state wide complying development rules puts Council in a position where it would be responsible (potentially liable) for issues concerning flood risk and impacts on life and property.

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Clause 6.3(3) (e) specifies that development consent must not be granted to development on land to which this clause applies unless Council is satisfied that it *'is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding'*. Supporting secondary dwellings on flood affected land which only permits single dwellings under the LEP is not considered to be socially or economically sustainable as it will ultimately result in additional costs to the community as a consequence of flooding.

### *Clause 6.6 Development in areas subject to aircraft noise*

This clause relates to development in areas subject to aircraft noise. The Noise Exposure Forecast Contour Map for the RAAF Base Richmond shows that the land is situated within an ANEF Contour of 30-35. Table 2.1 of AS2021-2000 classifies dwellings as 'unacceptable' development on land within an ANEF Contour of 25 and above. Table 2.1 to AS 2021 also states:

*"This standard does not recommend development in unacceptable areas. However, where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable, it is recommended that such development should achieve the required ANR determined according to Clause 3.2. For residences, schools, etc., the effect of aircraft noise on outdoor areas associated with the buildings should be considered."*

The application states that the additional dwelling on the land should be considered as the proposal is supported by an Aircraft Noise Intrusion report prepared by an acoustic consultant and Council has previously approved dwellings in ANEF affected areas and. The report recommends insulation, glazing and baffle vents to be installed to reduce potential noise intrusion to the building.

Whilst it is acknowledged the proposed dwelling could be engineered and constructed to take into consideration aircraft noise intrusion into the building, outdoor areas would still be subject to significant aircraft noise. The proposed development is not deemed to be infill development as the land contains an existing dwelling.

Justifying the development based on previous (potentially flawed) decisions made by Council should not be used as justification for why this application should be supported. Whilst Council has previously approved applications (in isolated cases) within noise sensitive areas, these generally applied to areas where changes were proposed to existing dwellings and the land is subject to lower ANEF contours than the current proposal. The positioning of this proposed development is directly adjacent to the Richmond RAAF runway (approximately 150m). This is not supported by the Department of Defence.

The proposal would result in an increase in the number of dwellings and people living within an aircraft noise affected area contrary to the overall objectives of Clause 6.6 of the LEP 2012. Support of the proposal based on the justification provided by the applicant could potentially result in setting an undesirable precedent for increasing the "dwelling" density in residential areas in the 30-35 ANEF affected contours.

Council's adoption of the Hawkesbury Residential Land Strategy in May 2011 further reinforces Council's existing position with respect to development within the ANEF Contours, and in particular identified that the intensification of residential development in ANEF Contours of 25 and above as inappropriate. This strategy recommended that:

*"Urban development should occur in areas with noise exposure contour less than 20.*

*The Australian Standard criteria should be adopted as a measure of appropriate noise zones for future development.*

*Development in areas with noise exposure contour between 20-25 will require special noise assessment and mitigation measures.*

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*Residential development in areas above 25 ANEF is considered unsuitable except in the vicinity of Richmond where up to 30 ANEF may be considered, conditional on appropriate noise mitigation measures being consistently applied. However, in areas where ANEF levels are above 25 the land should be more appropriately considered for non-residential uses."*

The importance of limiting residential development in aircraft noise affected areas has been previously tested in the Land and Environment Court where Council refused an application for three townhouses at No. 5 Chapel Street, Richmond. *Edwards v Hawkesbury City Council* [2004] NSWLEC 647 (30 November 2004).

The court upheld Council's decision to refuse additional housing in an aircraft noise affected area and noted that significant weight should be given to Australian Standard 2021—2000 when identifying what constitutes acceptable development on land affected by aircraft noise. This view has also previously been enforced by Council due to legal advice.

It is considered that the applicant has not adequately justified why Council should consider increasing housing densities within an aircraft noise affected area.

In addition to the above, the proposal has been considered as being generally consistent with the following clauses of Hawkesbury Local Environmental Plan 2012:

- Clause 4.3 Height of Buildings
- Clause 6.1 Acid sulfate soils
- Clause 6.4 Terrestrial biodiversity
- Clause 6.7 Essential 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 (DCP) 2002***

The proposal is inconsistent having regard to the heritage and residential chapters of the DCP. An assessment of the proposal against the relevant chapters of this DCP follows:

***Part A Chapter 3 - Notification***

The application was notified between 20 May 2016 to 3 June 2016 in accordance with the DCP no submissions were received from the public following notification.

***Part C Chapter 10 – Heritage Conservation***

An assessment of the proposal in respect to heritage impact has been made by Council's heritage advisor who has identified that the proposed building design does not adequately consider the relationship between proposed building and heritage item on the land.

Consequently the proposal is considered contrary to the performance requirements for:

- built form and character
- finishes materials and colours
- new development within the curtilage of a heritage item
- development in the vicinity of a heritage item or conservation area
- landscaping.

*Part D Chapter 1 - Residential Development*

The proposal can achieve the necessary setback, parking, height and landscaping rules of this chapter.

The proposal is considered contrary to the objectives of Clause 1.13 which outlines that noise attenuation measures are not to be an unreasonable interference to the activities of the household.

The proposed development is inconsistent with the overall aims and objectives of this clause as the noise attenuation measures recommended in the acoustic assessment report rely on all openings within the building being kept closed and the dwelling to be wholly reliant on mechanical ventilation. It is considered unreasonable to expect the residents to have all openings closed in order to prevent noise intrusion. This proposition would result in unsatisfactory amenity for the residents of the proposed dwelling.

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

N/A

- v. **Matters prescribed by the Regulations:**

Should the proposal be supported the development would be subject to being completed in accordance with the requirements of the Building Code of Australia (BCA)/National Construction Code and be levied against Council's Section 94A Contributions Plan 2015.

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

It is unlikely that the development would have any adverse impacts on the natural and built environments of the surrounding locality.

The unsatisfactory impacts envisaged with the proposal relate to the development of the land that contains a listed heritage item and is subject to flooding and aircraft noise impacts.

Support of the proposal has the potential to set an undesirable social and economic impact in the locality by locating affordable rental housing with unsatisfactory amenity due to being located in areas that are significantly impacted by aircraft noise and flood risk.

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

The property is considered unsuitable for increased residential development given that the land is subject to significant aircraft noise and flooding. This has been discussed in the report previously.

The applicant has been previously advised to consider additions or alterations to the existing dwelling so as to not increase the number of separate households that would be subject to aircraft noise or be required to be evacuated in the event of a flood. Any alterations or additions to the existing dwelling would be subject to a new application.

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

***Public Submissions***

The application was notified to nearby and adjoining residents in accordance with the DCP. No submissions were received from adjoining residential landowners.

## ORDINARY MEETING

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### **Department of Defence**

The application was referred to the Department of Defence as the subject site neighbors the Richmond RAAF base and the proposal involves construction of a new dwelling on aircraft noise affected land.

Correspondence from the Department of Defence, dated 23 May 2016, was received by Council. The correspondence acknowledged that the application was for a "secondary residence (granny flat) on an existing residential block. The response also stated the following:

*"The subject site is located within the 25-35 Australia Noise Exposure Forecast (ANEF) contours of RAAF Base Richmond. Under Australian Standard 2021:2015 a house is considered to be unacceptable development within a noise contour greater than 25. Defence understands that an existing dwelling is already located within these ANEF contours however the proposed additional residential dwelling will intensify a noise sensitive land use in an area subject to high levels of aircraft noise. On this basis, Defence does not support the proposal.*

*Defence requests that a notation be placed on any 149 (5) Certificate that may be issued by Council for the property advising that the property is subject to high levels of aircraft noise generated by activities at RAAF Base Richmond."*

It is clear from the above that Defence does not support the proposal.

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

The proposed development is considered to be contrary to the general public interest in that the proposal is inconsistent with the aims and objectives of Hawkesbury LEP 2012 and Hawkesbury DCP 2002. The application proposes to increase residential development on land significantly affected by aircraft noise and flooding. Impacts in respect to heritage have also been observed,

### **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. The proposal is inconsistent with the overall aims and objectives relating to heritage, aircraft noise and flooding contained under Hawkesbury LEP 2012 and Hawkesbury DCP 2002.

Given the potential impacts on heritage, aircraft noise and flooding, it is recommended that the application be refused.

### **Planning Decision**

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

## ORDINARY MEETING

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### RECOMMENDATION:

That development application DA0308/16 at Lot 1 DP 1017298, 221 Hawkesbury Valley Way, Clarendon for Secondary Dwelling be refused for the following reasons:

1. The proposal is considered unacceptable having regard to Hawkesbury Local Environmental Plan 2012:
  - a) the application is inconsistent with the overall aims and objectives of the plan and the R2 Low Density Residential zone
  - b) the proposal would have an adverse impact in respect to the heritage item identified on the land contrary to the objectives of Clause 5.10 - Heritage Conservation
  - c) the proposal is situated on land subject to flooding and considered unacceptable in respect to flood risk and matters for consideration under Clause 6.3 Flood planning
  - d) the proposal is situated on land subject to significant adverse impact from aircraft noise and considered unacceptable in respect to Clause 6.6 Development in areas subject to aircraft noise.
2. The proposal is contrary to the building site acceptability classification based on ANEF Zones contained in Australian Standard AS2021-2000 - Acoustics—Aircraft Noise Intrusion—Building Siting and Construction in that the proposed use is classified as unacceptable in the noise contour of the site.
3. The proposal is inconsistent having regard to Councils Development of Flood Liable land policy in respect to the flood liability of access to the land.
4. The development is considered unacceptable having regard to Hawkesbury Development Control Plan 2002.
  - a) The proposal is inconsistent with the objectives and matters for consideration contained in Part C: Chapter 10 – Heritage Conservation
  - b) The proposal is inconsistent with the objectives of Part D: Chapter 1 Residential Development, Clause 1.13 External noise and Vibration.
5. The development is not supported by the Department of Defence and, in the circumstances, approval of the development would not be in the public interest.

### ATTACHMENTS:

AT - 1 Locality Map

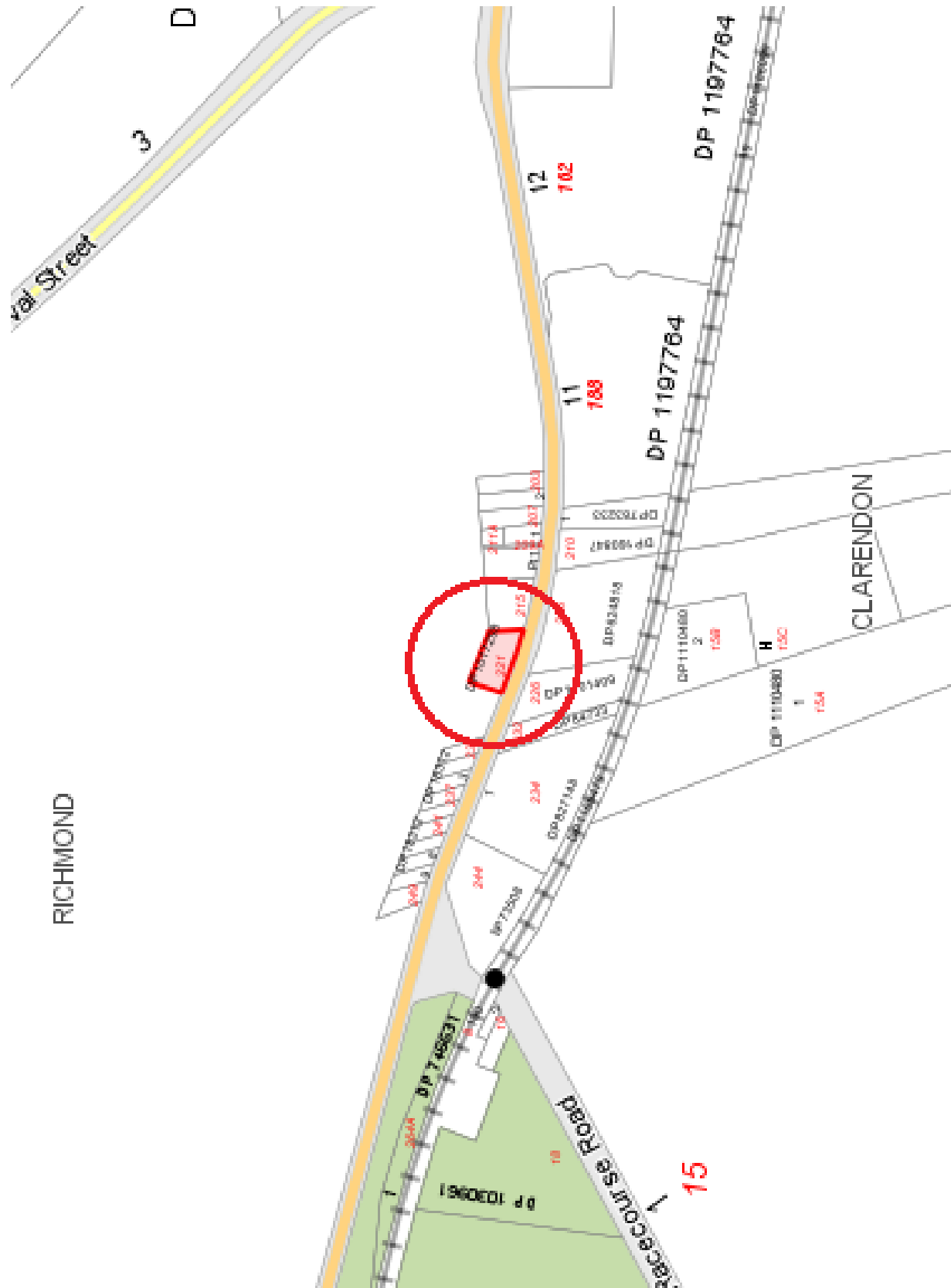
AT – 2 Aerial Map

AT – 3 Plans

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### AT - 1 Locality Map





ORDINARY MEETING

Meeting Date: 11 October 2016

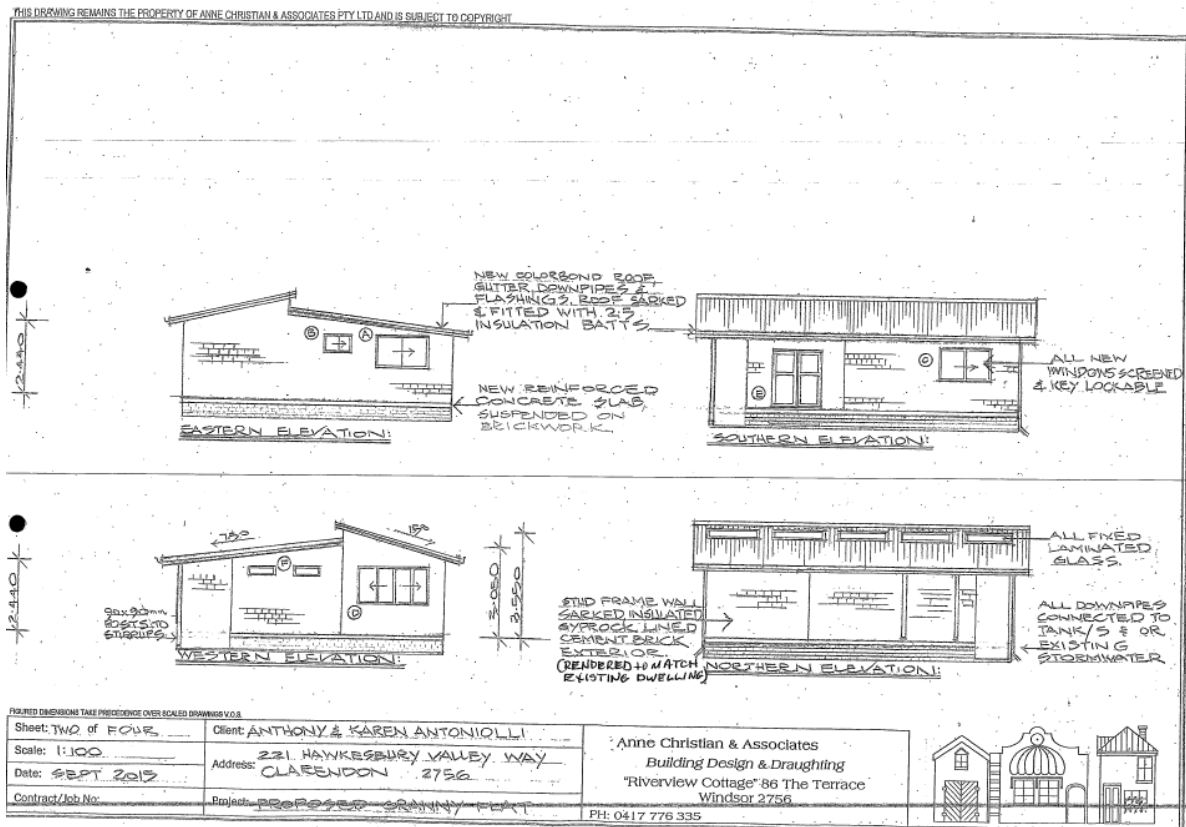
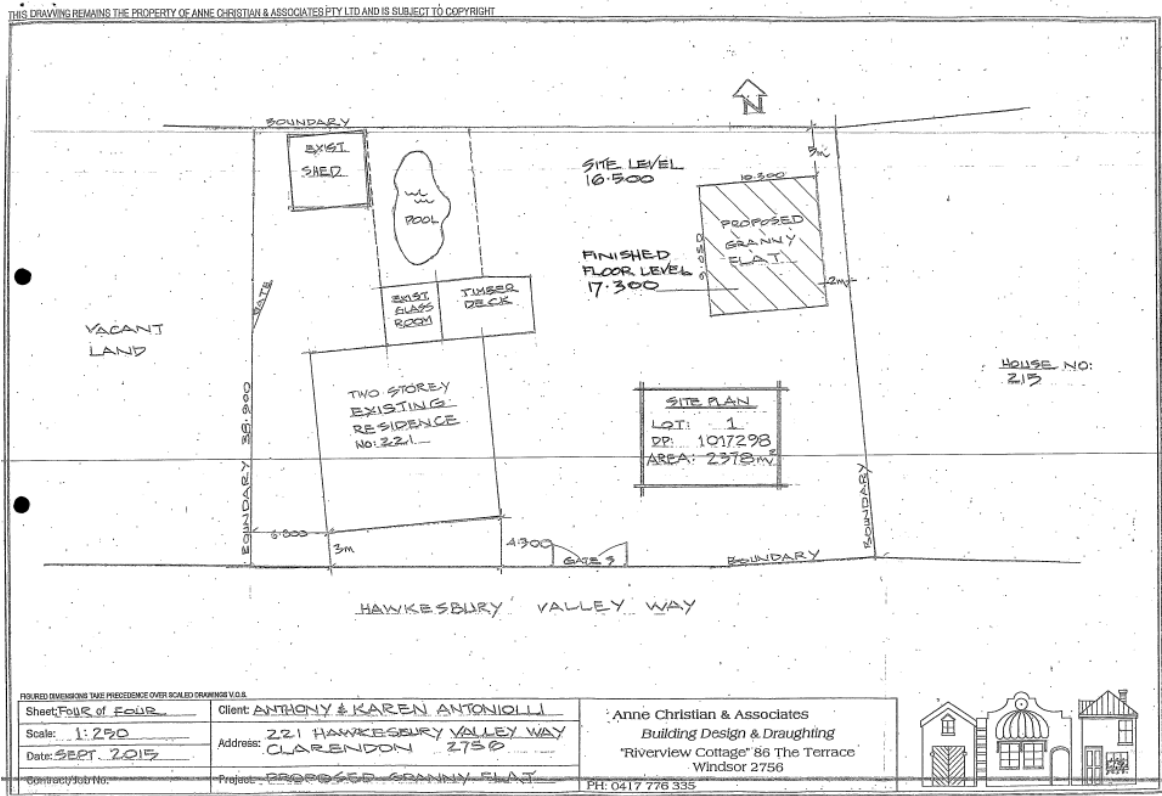
AT – 2 Aerial Map



# ORDINARY MEETING

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## AT - 3 Plans



oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 11 October 2016

### GENERAL MANAGER

**Item: 209**                      **GM - 16th International Cities, Town Centres and Communities Conference - (79351)**

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#### **REPORT:**

##### **Executive Summary**

The 16<sup>th</sup> International Cities, Town Centres and Communities Conference will be held from 9 to 11 November, 2016 in Launceston, Tasmania. Consistent with previous practice, this report recommends attendance by nominated Councillors and staff at the Conference.

##### **Consultation**

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

##### **Background**

The 16<sup>th</sup> International Cities, Town Centres and Communities Conference will be held from 9 to 11 November, 2016 in Launceston, Tasmania. The International Cities, Town Centres and Communities (ICTC) Society's aims to encourage world's best practice in the planning, development and management of public spaces and infrastructure. The theme of this conference is *Future Places: Conflict in Harmony*.

Cost of attendance at the 16<sup>th</sup> International Cities, Town Centres and Communities Conference will be approximately \$3,050 per delegate.

##### **Budget for Delegate Expenses - Payments made**

Total Budget for Financial Year 2016/2017	\$48,000
Expenditure to date	\$4,030
Outstanding Commitments as at 30 September 2016 (approx.)	\$9,350
Budget balance as at 30 September 2016 (approx. including outstanding commitments)	\$33,680

##### **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:

- Revitalise and enhance town centres and villages.

##### **Financial Implications**

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

**ORDINARY MEETING**

**Meeting Date:** 11 October 2016

**RECOMMENDATION:**

Attendance of nominated Councillors, and staff as considered appropriate by the Acting General Manager, at the 16<sup>th</sup> International Cities, Town Centres and Communities Conference, at an approximate cost of \$3,050, per delegate, be approved.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**Item: 210****GM - Election of Council Representatives on the Hawkesbury River County Council - (79351, 95496, 12212)**

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**REPORT:****Executive Summary**

At its Extraordinary Meeting on 27 September 2016, Council considered a report in regard to the Appointment of Committees, Delegates and Representatives (Item 194). The item included the appointment of two Council representatives as Members on the Hawkesbury River County Council (HRCC).

Subsequent to the Meeting referred to above, reference to the legislation in regard to matters associated with the appointment of Members to a County Council, has highlighted some legislative compliance inconsistencies, which need to be addressed.

The purpose of this report is to provide an overview of the legislative provisions applicable to the appointment of Council representatives as Members on the HRCC, the relevance of these provisions as they apply to the process undertaken at the Meeting referred to above, and recommends that Council takes steps to rectify the legislative compliance inconsistencies as detailed in this report.

**Consultation**

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

**Background**

At its Extraordinary Meeting on 27 September 2016, Council considered a report in regard to the Appointment of Committees, Delegates and Representatives (Item 194). The item included the appointment of two Council representatives as Members on the HRCC.

The appointment of Members to the HRCC was carried out in accordance with the process undertaken in past years and in line with other councils' practices to date.

However, reference to the legislation in regard to matters associated with the appointment of Members to a County Council, has highlighted an inconsistency between the applicable legislative requirements and the process followed.

In summary, the legislation requires the General Manager of a constituent council to be the returning officer and to run a preferential ballot election process to appoint council representatives as Members on the HRCC. The other constituent councils elect their members to the HRCC for the term of Council and the legislation infers that Members of County Councils should be elected for the term of Council. Accordingly, it is recommended that the appointments to the HRCC be made for the term of Council, being from September 2016 to September 2020.

In light of Council's appointment of two Councillors as Council representatives on the HRCC, at the Extraordinary Meeting on 27 September 2016, advice has been sought from Council's solicitors in regard to resolving the current inconsistency with legislative requirements. Council's solicitors advised that an election process in accordance with the process outlined in the relevant legislation should be undertaken.

The Local Government (General) Regulation 2005 (Schedule 9 as specified by Clause 396) and Section 390 of the Local Government Act 1993 (the Act) relate to the process of election of Members to a County Council. This process applies to the election of Council's representatives as Members on the HRCC.

The applicable provisions are as follows:

**Local Government Act 1993**

**"390 Who comprise the governing body?"**

- (1) *A county council must have a governing body elected by its constituent councils.*
- (2) *Provisions concerning the membership of a county council's governing body are to be as prescribed by the proclamation establishing the county council.*
- (3) *A member of a county council is to be elected from among the councillors of the constituent councils in accordance with the regulations.*
- (4) *The governing body of a county council is responsible for managing the affairs of the county council."*

**Local Government (General) Regulation 2005**

**"396 Election of members of county councils**

*Schedule 9 applies in relation to the election of the members of a county council.*

**Schedule 9 – Election of members of county councils**

*(Clause 396)*

**Part 1 - General**

**1 When elections to be held**

- (1) *The first ordinary election of members of a county council is to be held within 2 months of its establishment.*
- (2) *Subsequent ordinary elections are to be held within 2 months after each ordinary election of councillors under Part 4 of Chapter 10 of the Act.*
- (3) *A by-election to fill an office vacated by a member is to be held within 2 months after the occurrence of the vacancy.*
- (4) *No such by-election is to be held if the vacancy occurs after an ordinary election of councillors under Chapter 10 of the Act and before an ordinary election of members of a county council.*

**2 Notification of vacancy**

- (1) *The general manager of a county council must give notice of the occurrence of a vacancy in the office of a member of the county council to the Director-General and to the general managers of the councils of the areas part or all of which constitute the county council electorate in which the vacancy has occurred.*
- (2) *The general manager is to do that within 7 days of the occurrence of the vacancy.*

**Part 2 - Single area electorate**

**3 Application of Part**

*This Part applies to the election of one or more members of a county council by the councillors of one constituent council, where the electorate comprises the whole or part of the area of that council only.*

**4 Returning officer**

*The general manager of the constituent council (or a person appointed by that general manager) is the returning officer.*

## ORDINARY MEETING

Meeting Date: 11 October 2016

### **5 Nomination**

- (1) *A councillor of the constituent council may be nominated for election as a member of the county council.*
- (2) *The nomination:*
  - (a) *may be made without notice by any councillor of the council, and*
  - (b) *is to be in writing delivered or sent to the returning officer, and*
  - (c) *is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) *The returning officer is to announce the names of the nominees at a council meeting.*

### **6 Election**

- (1) *If the number of candidates nominated is not more than the number of vacancies to be filled, those candidates are to be declared elected.*
- (2) *If there are more candidates nominated than the number to be elected, an election is to be determined by preferential ballot. The ballot is to be conducted by the preparation, marking and counting of ballot-papers in the presence of the council.*

### **7 Ballot-papers and voting**

- (1) *The ballot-papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the figures 1, 2 and so on against the various names so as to indicate the order of their preference for at least the number of candidates to be elected.*
- (2) *The formality of a ballot-paper under this Part is to be determined in accordance with clause 345 of this Regulation as if it were a ballot-paper referred to in that clause.*
- (3) *An informal ballot-paper is to be rejected at the scrutiny of votes.*

### **8 Count**

*The votes are to be counted in accordance with Schedule 4 of this Regulation.*

### **9 Result**

*The result of the election (including the names of the candidates elected as members) is:*

- (a) *to be declared to the councillors by the returning officer at the council meeting where the election is held, and*
- (b) *to be delivered or sent to the general manager of the county council and the Director-General.*

In light of the events detailed in this report, the election of the Council representatives as Members of the HRCC must be carried out in accordance with the process stipulated by the legislation and as detailed in this report. It is recommended that Council's representatives be appointed for the four year Council term, commencing in September 2016 and concluding in September 2020.

Appropriate nomination forms for this purpose have been distributed to Councillors under separate cover.

### **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

**ORDINARY MEETING**

**Meeting Date:** 11 October 2016

**Financial Implications**

There are no financial implications applicable to this report.

**RECOMMENDATION:**

That the Acting General Manager, as the Returning Officer, undertake the process for the election of two Council representatives for the four year term of Council, as Members on the Hawkesbury River County Council, in accordance with the relevant provisions of the Local Government Act 1993 and the Local Government (General) Regulation 2005, as detailed in this report.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**



## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 211**                      **GM - Fit for the Future - Outcome of Service Level Review and Proposed Resourcing Options for Stage 2 of the Fit for the Future Community Engagement Strategy - (79351, 95496)**

**Previous Item:**            4, Ordinary (2 February 2016)  
                                 146, Ordinary (26 July 2016)  
                                 138, Ordinary (12 July 2016)  
                                 MM, Ordinary (27 October 2015)  
                                 RM, Ordinary (30 June 2015)  
                                 85, Extraordinary (23 June 2015)

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### REPORT:

#### Executive Summary

This report has been prepared to advise Council of the outcomes of the Service Level Review consultations undertaken during August 2016 as part of the Fit for the Future (FFTF) Community Engagement Strategy adopted by Council at its Ordinary Meeting of 26 July 2016. The report details the findings of Stage 1 of the Community Engagement Strategy '*Listening to the Community*'. On the basis of the Stage 1 outcomes, the Report proposes three resourcing options to be presented to residents under Stage 2 of the Community Engagement Strategy '*Investing in Your Future*', which is scheduled to be implemented in October and November 2016.

#### Consultation

The issues raised in this report concern matters which require community consultation under Council's Community Engagement Policy. As Council has been previously advised, Council's revised FFTF Proposal included provision for a comprehensive three-stage community engagement strategy to be conducted between July 2016 and February 2017. This report outlines the outcomes of Stage 1 of the CE Strategy and the proposed options for further discussion with residents to be undertaken during Stage 2 of the CE Strategy during October and November 2016.

#### Background

The development and implementation of Council's revised FFTF Strategy has been part of an ongoing process of review. Since 2007, Council has been implementing measures to improve its long-term financial sustainability with a particular focus on addressing the legacy of past decades of under-investment in assets renewal. The release of the NSW Government's Local Government Reform Program in September 2014 has required Council to accelerate its progress in achieving this task.

There have been a number of key background documents which have highlighted the financial sustainability challenges faced by local government and informed the direction of the FFTF reform framework. These include:

- *Financial Sustainability of the New South Wales Local Government Sector* released by NSW Treasury Corporation (TCorp) in April 2013. The report found that based on current trajectories, the financial sustainability of local government was deteriorating due to a structural funding shortfall associated with asset maintenance and renewal. TCorp recommended that councils consult with their community on the most appropriate mix of revenue increases, expenditure reductions and service level reviews to address this shortfall.
- *Local Government Infrastructure Audit* released by the NSW Division of Local Government. The Audit Report identified the management of assets as an important component of council functions and noted that the majority of councils in NSW were under-spending in the area of asset management. The Report also advocated community service level negotiations including a consideration of loan borrowing and revenue measures to address asset renewal backlogs.

## ORDINARY MEETING

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- *Revitalising Local Government: The Final Report of the NSW Independent Local Government Review Panel (ILGRP)* released in October 2013. The ILGRP Report also highlighted the threat posed by declining financial sustainability of local government and that the future of many councils were 'at risk' due to weak revenues and infrastructure backlogs.
- *Fit for the Future: A Blueprint for Local Government* released by the Office of Local Government in September 2014 which outlined the process for local government reform. Under this reform framework all councils were required to submit proposals demonstrating plans to achieve long term financial sustainability when measured against seven asset and financial benchmarks.

As part of the FFTF process Council reviewed the condition of assets and undertook detailed long term financial modelling. This work demonstrated that Council only met three of the seven benchmarks and that while Council had been taking steps since 2007 to substantially reduce its annual funding the financial modelling indicated that it would still require an additional annual investment of \$9.1M to meet the asset related FFTF benchmarks.

This situation is not unique to the Hawkesbury Local Government Area. Councils across NSW are facing similar challenges to find long term solutions for managing infrastructure. This has largely been driven through an improved understanding of the condition of existing assets and a greater focus on long term financial stability.

### **Achieving Financial Sustainability**

Since 2007, Council has been implementing a rolling program of expenditure reductions, operational efficiencies and revenue measures to generate the additional investment required to progressively address its structural asset renewal shortfall and infrastructure backlogs. Council has not gone down the path of closing services or reducing service levels as successive community surveys have clearly indicated that this option is not supported by the community. As a result of this efficiency program, Council has been able to preserve and improve service levels while directing substantial additional investment towards maintaining and renewing the assets that Council manages on behalf of the community.

In summary, the following outcomes were achieved:

- a reduction in annual operating costs by \$2.1M a year in real terms
- the realisation of \$1.3M from the sale of properties that were surplus to requirements (and in the previous six years an additional amount of \$7.9M was realised)
- the implementation of fairer service charging, to increase our annual revenue by \$800,000 so that people not using fee paying Council service were not subsidising the people who were
- the generation of an additional \$1.4M on average a year in rating revenue through an infrastructure renewal program funded through a special rate;

These measures enabled Council to reduce its annual operating costs while at the same time increasing investment in community assets by an average of \$7.7M a year, and finding the additional \$803,000 a year that was required to establish new services in response to community requests and Council resolutions. In total Council was able to achieve \$10.6M in annual savings and revenue measures which enabled it to increase investment in assets by just over 75% and establish new services and increase service levels while at the same time reducing its overall operating costs in real terms.

## ORDINARY MEETING

Meeting Date: 11 October 2016

In July 2016, Council adopted a revised FFTF Plan, containing a mix of 20 revenue, expenditure, and business improvement strategies which will build on the progress achieved since 2007 in addressing the asset renewal shortfall and infrastructure backlogs (an abridged version of the Plan is appended to this report in Attachment 1). These measures will enable Council to achieve the FFTF benchmarks by which Council's future sustainability will be measured. The FFTF Plan will achieve the following outcomes by 2021:

- generate further operational savings of \$2.4M a year
- raise a further \$1.5M from the sale of properties
- achieve a further \$386,000 a year from the continued application of fairer service charging
- generate an additional \$1.7M a year in revenue from a combination of dividend payments, stormwater charges, and a special levy on large scale residential developments
- direct an additional \$9.1M to asset renewal works in accordance with work plans contained in revised S94/94A Plans and Voluntary Planning Agreements.

In summary, since Council commenced its strategy to achieve the goal of financial sustainability, by 2021 it will have:

- reduced its operating costs by \$4.5M a year
- generated \$10.7M from property sales
- raised \$1.2M a year through fairer service charging
- generated \$3.1M a year from other revenue sources
- increased investment in asset maintenance and renewal by \$ 14.4M a year.

These outcomes have enabled Council to make substantial progress in funding its asset renewal shortfall and infrastructure backlogs. In particular, the recent revision of Council's original FFTF Plan has reduced the balance of annual revenue required to completely address Council's infrastructure renewal and backlog requirements. In turn, this has enabled Council to decrease the size of the notional Special Rate Variation (SRV) from 29.7% in the original FFTF Plan to 19.9% in the revised FFTF Plan, which was adopted by Council on 26 July 2016. The SRV in the revised plan is intended to raise the balance of \$4.6M required to complete Council's transition to a sustainable council by 2021.

### Current Situation

Central to Council's revised proposal to achieve the FFTF benchmarks (in particular the Operating Performance Ratio) is a community engagement strategy to canvass with residents their level of satisfaction with current service levels, their priorities for future investment and their preferred resourcing options for funding the asset renewal shortfall. At its Ordinary Meeting of 12 July Council endorsed the commencement of this strategy. The strategy is consistent with the key findings of the reports which have informed the FFTF reform framework.

Stage 1 of the FFTF Community Engagement Strategy '*Listening to the Community*' was conducted in August 2016. This service level review first stage was implemented via seven public meetings, a statistically valid telephone survey, an on-line survey and information kiosks set up at six different shopping venues. These activities were supported by published fact sheets and postcards, advertisements in local newspapers and through Council's online engagement portal.

### Outcomes of Service Level Review

In broad terms, the service level review indicated that residents were dissatisfied with the condition of the assets that Council manages on their behalf, and that residents wanted Council to improve service levels by increasing investment in assets. The priorities for this investment, as identified by residents were roads, both sealed and unsealed, stormwater drains, town centres and public spaces, public toilets, footpaths and parks. The outcomes of the consultations are summarised below.

**ORDINARY MEETING****Meeting Date:** 11 October 2016*Public Meetings*

Seven public meetings were held in Pitt Town, Kurrajong, Windsor, North Richmond, Richmond, Colo Heights and St Albans. At these meetings information was provided to residents about the different assets that Council manages on their behalf and the challenges faced by Council in maintaining and renewing these assets (a copy of the PowerPoint presentation presented to residents is appended to this report in Attachment 2). A Q&A session was then held before residents were asked to participate in a simple exercise to identify their priorities for future investment including the option of no further investment (residents were issued with tokens to allocate according to their preferences).

A summary of the outcomes of the public meeting, including written responses to the questions raised by residents, was subsequently emailed to residents who attended the meetings. Table 1 summarises the investment priorities identified by the 200+ people who attended the public meetings; the three top ranked preferences were roads and drainage, community buildings, and parks and public spaces.

**Table 1: Priorities for Future Investment: Public Meeting Attendees**

<b>Asset Class</b>	<b>Pitt Town</b>	<b>Kurrajong</b>	<b>Windsor</b>	<b>North Richmond</b>	<b>Richmond</b>	<b>Colo Heights</b>	<b>St Albans</b>	<b>Total</b>	<b>%</b>
Footpaths and Cycleways	10	17	8	5	11	1	4	56	10%
Roads and Drainage	58	43	10	26	16	18	91	262	46%
Cultural Facilities	2	11	12	3	3	0	15	46	8%
Sport and Recreation Facilities	20	10	4	4	4	2	7	51	9%
Community Buildings	8	8	10	9	13	10	16	74	13%
Parks and Public Spaces	10	8	12	5	6	13	20	74	13%
No Investment Required	0	1	1	0	0	1	0	3	1%
	<b>108</b>	<b>98</b>	<b>57</b>	<b>52</b>	<b>53</b>	<b>45</b>	<b>153</b>	<b>566</b>	<b>100%</b>

*Telephone Survey*

Council engaged Micromex Research to conduct a telephone survey. The 405 respondents who made up the statistically valid sample for the survey identified some clear priorities in terms of their preferred investment. In analysing the survey results, Micromex Research advised Council that there was no indication that residents were willing to see any investment reductions across any of the asset classes (a copy of the Micromex report is appended in Attachment 3). Table 2 summarises the priority rating, satisfaction and investment priorities identified by the survey respondents. The outcomes are ranked by order of investment priority (the last column).

**ORDINARY MEETING****Meeting Date:** 11 October 2016**Table 2: Priorities for Future Investment: Micromex Telephone Survey**

<b>Asset</b>	<b>Priority</b>	<b>Satisfaction</b>	<b>Investment</b>
Condition of sealed roads	93%	2.31	0.89
Condition of public toilets	75%	2.58	0.69
Condition of unsealed roads	60%	2.46	0.68
Condition of stormwater drains	81%	2.81	0.67
Condition of town centres and public places	80%	3.16	0.63
Condition of parks	83%	3.41	0.57
Condition of footpaths	70%	2.9	0.56
Condition of playgrounds	60%	3.36	0.45
Condition of playing fields and courts	54%	3.32	0.37
Condition of swimming pools	46%	3.4	0.34
Condition of community centres and halls	45%	3.26	0.34
Condition of the visitor information centre	47%	3.32	0.29
Condition of libraries	52%	3.78	0.18
Condition of cycle paths	33%	2.91	0.16
Condition of the museum	35%	3.32	0.06
Condition of the gallery	27%	3.39	-0.06

The investment score (the third column) ranged from 0.89 for sealed roads, meaning that on balance 89% of residents would like to see increased investment in sealed roads to – 0.06 % which indicated that on balance 6% of residents would like to see investment in the regional gallery decreased (this particular figure represents the difference between the 14% of residents who wanted to see more investment in the gallery, and the 20% of residents who wanted to see less investment). The Micromex report concluded that the first seven asset classes (as identified in Table 2) with an investment priority of 0.56 or above represented an above average preference for increased investment.

*On-line survey*

The 87 people who completed the online survey generally identified the same investment priorities as those identified in the telephone survey: roads, shared pathways, stormwater drains, public toilets, town centres and public spaces.

*Shopping Centre Information Kiosks*

Most of the 685 residents who spoke with staff at the information kiosks set up at six different shopping centre venues took the opportunity to share their concerns and focused on roads and traffic in particular.

**Resourcing Options**

The information collected from Stage 1 of the Fit for the Future Community Engagement Strategy has been used to refine the resourcing strategy options proposed to be presented to residents under Stage 2 of the CE Strategy.

Council's revised FFTF Plan amended 12 of the 20 strategies in the original proposal. These amendments were aimed at achieving more substantial expenditure reductions and revenue targets to reduce the size of the notional SRV that was included the original proposal.

## ORDINARY MEETING

Meeting Date: 11 October 2016

The revised FFTF Plan, excluding the notional SRV and taking into account updated financial modelling will improve Council's operating position but will still leave a shortfall which was intended to be funded through the notional SRV of \$14.49% above the projected rate peg amount. Council's revised FFTF Plan proposed that up to three resourcing options should be presented to the community with each option achieving (at least) the same FFTF outcome as would notionally be delivered by the notional 14.49% rating increase.

One of these options was to include a no SRV option with identified service level reductions and the second option the notional SRV option outlined in the revised FFTF Plan. A third option has been developed which proposes a larger SRV increase of 22.5% above the rate peg with the additional revenue directed to an ongoing program of road and town centre improvements. This option has been included as the outcome of the August 2016 service level review consultations indicated that residents wanted Council to undertake a program of works beyond those works which could be funded under the notional SRV in the revised Fit for the Future Plan.

Table 3 summarises the three resourcing strategy options, their impacts on rates, their capacity to fund the cost of maintaining and renewing assets, and their performance against the FFTF benchmarks.

**Table 3: Summary of Strategy Options**

Rate option (impact on service levels)	Rating increase	Funding impact	Asset condition	New assets	FFTF benchmarks
<b>1</b> Deteriorate	Increase of 7.5% over three years in line with rate peg amount. Cumulative increase of 7.69% over three years	Generate \$7.6M over 10 years which will not be sufficient to fund the increasing cost of Council operations.	Decline in condition of assets with a focus on managing risk, including the possible closure and removal of unsafe assets.	No capacity for new capital works apart from those funded by grants and developer contributions	Will not meet benchmarks unless substantial service reductions are implemented
<b>2</b> Stabilise	Increase of 14% over the rate peg amount. Cumulative increase of 22.9% over three years (including the rate peg amount)	Generate \$41.8M over 10 years which together with a borrowings program would allow an additional spend of: <ul style="list-style-type: none"> <li>\$44.3M on roads</li> <li>\$2.6M on public domain</li> <li>\$1.4M on buildings</li> </ul>	Condition of assets would stabilise and increase capacity to fund preventative maintenance and renewal	Limited program of asset upgrades to augment works funded from by grants and developer contributions	Will meet Fit for the Future benchmarks
<b>3</b> Improve	Increase of 21% over the rate peg amount. Cumulative increase of 31.29% over three years (including the rate peg amount)	Generate \$61.2M over 10 years which together with a borrowings program would allow an additional spend of: <ul style="list-style-type: none"> <li>\$57.6M on roads and footpaths</li> <li>\$13.3M on public domain</li> <li>\$7M on buildings</li> </ul>	Condition of assets would stabilise and improve over time	Able to fund new infrastructure and increase gravel road sealing, road rehabilitation and public domain programs	Will meet Fit for the Future benchmarks

In addition to the Options presented in the table above consideration has been given to a 'hybrid' approach comprised of a combination of service cuts and rating increases.

## ORDINARY MEETING

Meeting Date: 11 October 2016

So as to assess whether this would be a viable variation, financial modelling was undertaken to gauge whether this approach would have a significant impact on the size of the rating increase as compared to the Options proposed in the above table.

Financial modelling based on a notional amount of \$1.5M achieved through service cuts was undertaken. The financial modelling was based on the assumption that \$0.5M in service cuts would occur in the first year (2017/2018) with the remaining \$1M in service cuts assumed to occur in the second year (2018/2019).

Whilst a notional amount of \$1.5M was modelled, the actual amount that would be saved over the two years would be significantly less when taking into account matters such as the cost of staff redundancies, any notice periods applicable to contractual arrangements and asset holding implications. The erosion of the \$1.5M assumed gross savings due these costs results in a corresponding increase in the extent of the rating increase required.

It is further to be noted that Council's FFTF Plan already includes savings to be achieved through service level reviews, such as reduction in opening hours of relevant services across Council. Also included in this proposal are target savings to be achieved through reviewing the fee structure for some of the services that could, if Council wishes to, be cut completely. Due to these existing inclusions in the FFTF, the assumed notional service cuts savings of \$1.5M, would be further eroded.

The inclusion of service cuts totalling \$1.5M would result in a cumulative rating increase of 18% including rate-pegging over the three years compared to a 22.9% as per Option 2.

From a residential ratepayer's perspective this would be equivalent to a \$1 per week saving, or \$52 per year, cumulative over three years, when compared to Option 2.

Council would need to determine whether it would be preferable to present the community with an option of an 18% increase with a rolling program of significant service cuts or a 22% option with service levels maintained.

As outlined earlier in this report, the community does not appear to have an appetite for service closures. Council's previous experience in going down this path generated considerable controversy which impacted on Council's reputation.

On this basis, it is proposed that these three resourcing options outlined in Table 3 should form the basis of Stage 2 of the FFTF Community Engagement Strategy.

### **Stage Two Consultation – 'Investing in Your Future'**

It is proposed that Stage 2 of the FFTF Community Engagement Strategy '*Investing in Your Future*' should be conducted over six weeks in October and November 2016. As for the Stage 1 consultations, it is proposed to hold public meetings, telephone and online surveys, and information kiosks supported by printed fact sheets, advertisements in local newspapers and through Council's online engagement portal.

It is also proposed that an information brochure be mailed out to all residents and non-resident ratepayers, which will outline in detail the three options and their impacts on rates, assets and service quality. The brochure will also provide background information, including the positive actions taken to date by Council to improve its financial position and the management of community assets. The brochure will include a reply paid postcard to provide the opportunity for residents to tick their preferred resourcing option and provide feedback to Council.

## ORDINARY MEETING

Meeting Date: 11 October 2016

The following key messages have been proposed for the Stage 2 community engagement strategy and will be used in the published materials and presentations be conducted as part of this phase of the strategy:

1. Council's vision is to build a strong and successful future for the Hawkesbury. Council is committed to improving the wellbeing of our community and environment.
2. Council aims to provide the best possible value for money service for the community while actively working to strengthen financial sustainability.
3. Council has assessed the community's desired levels of service and expectations, and with current funding, cannot adequately resource this service level expectation.
4. Like many councils, Council is experiencing significant challenges in being financially sustainable while continuing to provide current level of service into the future.
5. Over the past nine years Council has worked hard to identify savings and operating efficiencies to maintain service levels. Council has put in place an improvement plan to generate further savings and efficiencies to increase our investment in community assets so that we can meet the community's service level expectations.
6. Part of Council's strategy for increasing income is to engage with the community on options for achieving affordable and acceptable levels of service including a possible special variation on rates.
7. Taking into consideration the outcomes of the community engagement on options for resourcing our future, Council will decide whether or not to proceed with a SRV application.
8. The results of this community engagement will be used in the review of the Community Strategic Plan and will help ensure that we are working together with our community to build a successful future for the Hawkesbury.

### Next Steps

The merger proposal public inquiry process together with the recent Council election have impacted on the time frame available to undertake and complete meaningful consultations with residents under the FFTF Community Engagement Strategy that Council endorsed in July 2016.

The Office of Local Government and IPART require notification of an intention to apply for a Special Rate Variation for 2017/2018 to be submitted by 9 December 2016. As a notional rate increase is a key component of Council's revised FFTF Plan to transition to a sustainable council by 2021 and to ensure that Hawkesbury City Council can remain stand alone, the proposed time frame for Stage 2 of the Community Engagement strategy has been scheduled so that Council can be briefed on the outcomes of the Stage 2 consultations on 22 November 2016, prior to the outcomes being formally reported to Council on 29 November 2016. At this point Council can determine if it wishes to notify IPART of its intention to apply for a Special Rate Variation.

Should Council resolve to notify IPART of its intention to apply for an SRV, Council's adopted Delivery Program, Long Term Financial Plan and Strategic Asset Management Plan will be revised and placed on public exhibition between December 2016 and January 2017 for a period of 50 days; the legislative requirement is a 28 day exhibition period and this is extended to account for the Christmas/New Year Break. The SRV process requires Council to revise its Integrated Planning and Reporting (IPR) documents to outline need and purpose of a SRV and to seek community submissions on the three resourcing scenarios so that these submissions can be considered by Council prior to its decision regarding an SRV.

It is proposed that Council would be briefed on the outcomes of the public exhibition of the IPR documents prior to the outcomes being formally reported to Council on 31 January 2017. This time frame will enable Council to determine if it wishes to proceed with an SRV application which will be required to be lodged with IPART by 13 February 2017.



**Other Options**

It should be noted that giving notification of an intention to apply for an SRV is not binding and does not commit Council to proceeding with an SRV. However, Council should be aware that the NSW State Government has made it clear that it will monitor and hold councils accountable for the implementation of their FFTF Plans. Given Council's recent experience with the proposed merger, there is a clear imperative for Council to satisfy the FFTF requirements and reinforce its commitment to working towards becoming financially sustainable. The implications of not satisfying the FFTF requirements and not proceeding with the actions within Councils revised FFTF Plan may be significant.

If Council were not to proceed with the proposal to consult with residents on the proposed resourcing scenarios, including the SRV options, there would be a need to reconsider its commitment to current levels of service across a broad range of community programs including the rationalisation of its asset holdings. The proposed resourcing scenarios which incorporate an SRV are intended to generate sufficient long term revenue to allow Council to increase its level of expenditure on the maintenance and renewal of infrastructure without compromising the range and standard of services currently provided to the community.

The option of a possible merger has been comprehensively evaluated as part of a public inquiry process which concluded that the merged entity would not be financially sustainable and would not address the asset renewal funding shortfall.

**Service Level Reductions**

At the Councillor Briefing session held on Tuesday, 4 October 2016, there was some discussion of possible additional service level reductions which could be applied to further reduce the size of the notional SRV within Council's adopted Fit for the Future Plan. In this respect it should be noted that the \$2.4M in annual savings within the adopted Plan includes proposed reductions in operating hours for some Council facilities to bring them in line with current industry benchmarks, a review of service delivery models, the adoption of new technologies and economies of scale to achieve further operational and staff savings.

To assist Council in considering these matters, Table 4 below outlines a list of discretionary services which Council is not obliged to provide but which it currently provides because of historical precedents, or to meet a community service obligation, or more generally to respond to community need or gaps in service coverage by other levels of government. The list excludes those services which Council is required to provide by legislation and also excludes infrastructure related services on the basis that it would not be appropriate to reduce these services given that the goal of Council's adopted FFTF Plan is to increase investment in assets.

The table lists services, programs and activities by functional areas and documents the net operating costs of these services, programs and activities as at 2016/2017. The table also translates these operating costs into a percentage rating equivalent to highlight the scope of a possible reduction in rating increase which could be achieved should the service, program or activity be discontinued. The third column in the Table then translates the percentage rating increase into the average annual saving that would be achieved by the rate reduction for each ratepayer (per rateable property). It should be noted that staffing costs represent the major expenditure item for most of the services, programs or activities listed in Table 4. The discontinuation of a particular service, program or activity may trigger redundancy and industrial provisions which would have the effect of reducing potential savings and increase the time frame by which the discontinuation of a service, program or activity could be finalised.

The table should assist Councillors to identify potential savings should they wish to pursue further service level reductions.

# ORDINARY MEETING

Meeting Date: 11 October 2016

**Table 4: Net operating cost of discretionary services and their notional rating equivalents**

Service, Program or Activity	2016/2017 net OPEX	% rate equivalent	Indicative annualised rate savings per property
<b>Community Programs</b>			
Contribution to Peppercorn Services	98,496	0.32%	\$3.85
Community Sponsorship Program	71,866	0.23%	\$2.81
Youth Programs + Youth Summit	31,041	0.10%	\$1.21
Access and Inclusion Programs	95,763	0.31%	\$3.74
Community Buildings Management	77,194	0.25%	\$3.02
Community Safety Programs	63,620	0.21%	\$2.49
Community Partnerships & Engagement	179,953	0.59%	\$7.03
<b>Total Community Programs</b>	<b>617,933</b>	<b>2.02%</b>	<b>\$24.14</b>
<b>Cultural Programs</b>			
Windsor Central Library	1,216,948	3.98%	\$47.55
Richmond Branch Library	267,135	0.87%	\$10.44
Library Resources plus Materials	297,091	0.97%	\$11.61
Regional Gallery	393,060	1.28%	\$15.36
Regional Museum	335,703	1.10%	\$13.12
<b>Total Cultural Programs</b>	<b>2,509,937</b>	<b>8.20%</b>	<b>\$98.07</b>
<b>Heritage Programs</b>	<b>30,721</b>	<b>0.10%</b>	<b>\$1.20</b>
<b>Economic Development Programs</b>			
Visitor Information Centre	246,446	0.81%	\$9.63
Local Economic Development Program	225,482	0.74%	\$8.81
University Scholarships	15,100	0.05%	\$0.59
<b>Total Economic Development Program</b>	<b>487,028</b>	<b>1.59%</b>	<b>\$19.03</b>
<b>Citizenship and Civic Programs</b>			
Rural Alliance	1,500	0.00%	\$0.06
Sister Cities	25,850	0.08%	\$1.01
Hawkesbury Show	17,584	0.06%	\$0.69
Australia Day + Citizenship Activities	20,790	0.07%	\$0.81
Major Events Sponsorship	109,858	0.36%	\$4.29
Christmas Celebrations	15,000	0.05%	\$0.59
Communications & Public Relations	410,842	1.34%	\$16.05
<b>Total Citizenship &amp; Civic Programs</b>	<b>601,424</b>	<b>1.97%</b>	<b>\$23.50</b>
<b>Recreation Programs</b>			
Richmond Pool	131,390	0.43%	\$5.13
Hawkesbury Leisure Centres	208,298	0.68%	\$8.14
Community Nursery	57,503	0.19%	\$2.25
Academy of Sport	11,600	0.04%	\$0.45
<b>Total Recreation Programs</b>	<b>408,791</b>	<b>1.34%</b>	<b>\$15.97</b>
<b>Lower Portland Ferry</b>	<b>345,315</b>	<b>1.13%</b>	<b>\$13.49</b>
<b>Notional back office overhead reduction</b>	<b>1,771,784</b>	<b>5.79%</b>	<b>\$69.23</b>
<b>Total Discretionary Services</b>	<b>6,772,933</b>	<b>22.1%</b>	<b>\$264.64</b>

## ORDINARY MEETING

Meeting Date: 11 October 2016

As previously indicated, the outcomes of consultations to date have indicated that the community do not wish to see the closure of services or the reduction of service levels. For this reason, the notional resourcing option within Council's adopted FFTF Plan has been developed to provide a mechanism by which Council can best respond to the demand for improved service levels with a particular focus on roads. This option will enable Council to deliver an affordable program of sealed road rehabilitation and gravel road sealing and provide a positive response to community concerns expressed during the merger inquiry process about current service levels.

This option will also facilitate a more constructive dialogue with residents about the resourcing requirements to achieve the proposed works. The experience of other councils suggests that it would be more difficult to prosecute a resourcing scenario which would see both service level reduction and increased special rates.

### Conformance to the Hawkesbury Community Strategic Plan

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

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

- Improve financial sustainability
- Work with the community to determine affordable levels of service and facilities

### Financial Implications

The budget implications of the three resourcing scenarios have been outlined in this report.

### RECOMMENDATION:


That;

1. Council receive and note the outcomes of Stage 1 of the Fit for the Future Community Engagement Strategy and the Micromex Research Asset Management Report (Attachment 3).
2. Council approve the implementation of the Stage 2 Fit for the Future Community Engagement Strategy including the three resourcing strategy scenarios as outlined in this report.

### ATTACHMENTS:

- AT - 1** Fit for the Future Revised Council Improvement Proposal: Abridged Version (*Distributed Under Separate Cover*)
- AT- 2** 'Listening to Our Community' PowerPoint presentation, August 2016
- At - 3** Hawkesbury City Council Asset Management Report prepared by Micromex Research August 2016 (*Distributed Under Separate Cover*)

AT - 1 'Listening to Our Community' PowerPoint presentation, August 2016



# Listening to our Community

Your Services - Your Say  
*.... join the discussion*



## what does Council do?



[What Has The Council Ever Done For Us?](#)







## keeping on top of infrastructure renewal



poor condition

Kable Street  
Amenities  
Windsor



excellent condition



poor condition

Memorial Park  
Kurrajong



excellent condition



## keeping on top of infrastructure renewal



poor condition

King Road  
Wilberforce



excellent condition



poor condition

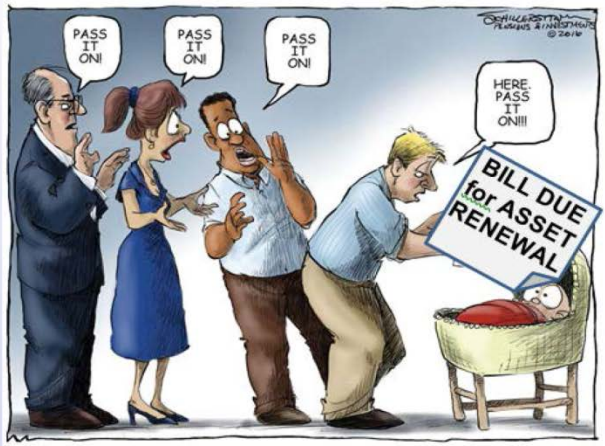
St. Albans Park  
St Albans



excellent condition

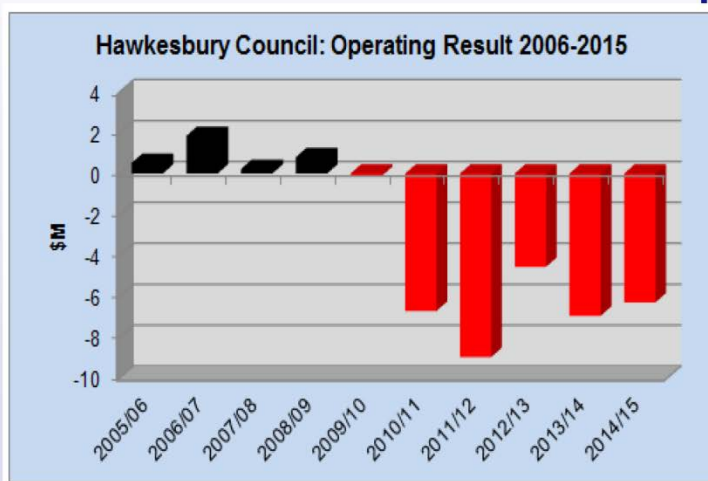


## intergenerational equity



- we have been using assets paid for by our parents & grandparents but not paying for the true cost of this use
- we are passing on this unfunded asset renewal cost to next generation

## calculating the true cost of asset consumption

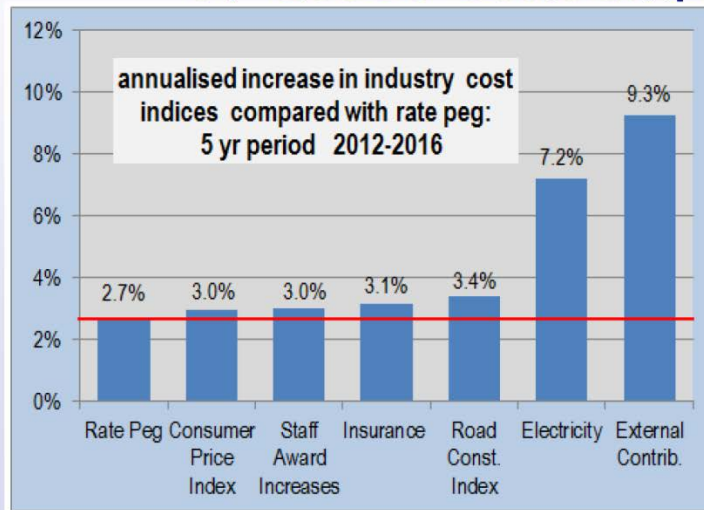


- recognising the true cost of asset consumption
- a growing infrastructure renewal requirement





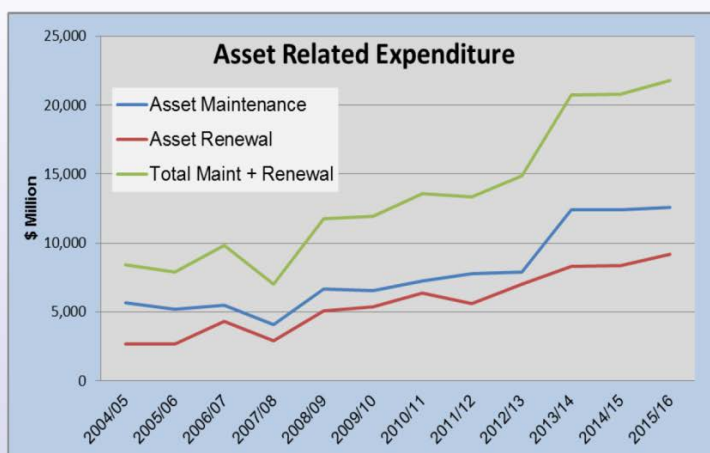
## funding the true cost of asset consumption



- revenue vs expenditure



## getting on with the job



- increased spending on asset renewal & maintenance
- more needs to be done





## service level review



- feedback on condition of assets
- is more investment required?
- a resourcing strategy



## priorities for future investment

average residential rate 2013/14	
Wingecarribee*	\$1,010
Hawkesbury	\$1,018
Penrith*	\$1,028
The Hills	\$1,081
Camden	\$1,151
Wollondilly*	\$1,183
Blue Mountains*	\$1,249

- all councils face asset renewal challenge

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 11 October 2016

Item: 212                      GM - National Local Roads and Transport Congress - (79351, 82046)

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### REPORT:

#### Executive Summary

The Australian Local Government Association (ALGA) 2016 National Local Roads and Transport Congress will be held in Toowoomba from 9 to 11 November 2016. Due to its relevance to Council's business, it is recommended that the ALGA 2016 National Local Roads and Transport Congress be attended by Councillors and appropriate staff.

#### Consultation

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

#### Background

The ALGA 2016 National Local Roads and Transport Congress will be held in Toowoomba from 9 to 11 November 2016. The theme for the 2016 Congress is '*Local Infrastructure - Developing Regions*' and will focus on the value and importance of strong regional and local collaboration and how those connections contribute to Australia's economic competitiveness.

Cost of attendance at the ALGA 2016 National Local Roads and Transport Congress is approximately \$3,340 per delegate.

The 2016/2017 Operational Plan contains a provision of \$48,000 for Delegate Expenses.

Budget for Delegate Expenses - Payments made:

#### Budget for Delegate Expenses - Payments made

Total Budget for Financial Year 2016/2017	\$48,000
Expenditure to date	\$4,030
Outstanding Commitments as at 30 September 2016 (approx.)	\$9,350
Budget balance as at 21 September 2016 (approx. including outstanding commitments)	\$33,680

#### Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Linking the Hawkesbury Directions Statement;

- Have a comprehensive system of transport connections which link people and products across the Hawkesbury and with surrounding regions.
- Have a comprehensive system of well maintained local and regional roads to serve the needs of the community.

and is also consistent with strategy in the CSP being:

- Provide and maintain roads that are financially and environmentally sustainable and responds to community safety, priorities and expectations.

## **ORDINARY MEETING**

**Meeting Date:** 11 October 2016

### **Financial Implications**

Funding of the cost of attendance at this Congress will be provided from the Delegates Expenses within the 2016/2017 Operational Plan.

### **RECOMMENDATION:**

That attendance of nominated Councillors and staff as considered appropriate by the Acting General Manager, at the ALGA 2016 National Local Roads and Transport Congress at an approximate cost of \$3,340 per delegate be approved.

### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 213**                      **GM - Review of the Hawkesbury Community Strategic Plan 2013-2032 - (79351, 95498)**

**Previous Item:**            280, Ordinary (11 December 2007)  
76, Ordinary (29 April 2008)  
56, Ordinary (31 March 2009)  
220, Ordinary (13 October 2009)  
255, Ordinary (24 November 2009)  
188, Ordinary (9 October 2012)  
225, Ordinary (11 December 2012)

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### REPORT:

#### Executive Summary

The Hawkesbury Community Strategic Plan sits above all other Council plans and policies. Its purpose is to identify the Hawkesbury communities priorities and aspirations for the future, and the strategies within it should take into consideration the issues and pressures that affect the community, and the level of resources realistically available. Given this, the significance of the Community Strategic Plan to the community, and to Council is of the highest order, and ensuring that it is fully reflective of the Hawkesbury communities aspirations is viewed as critical.

The Integrated Planning and Reporting Framework requires all local authorities in NSW to produce a Community Strategic Plan (CSP) with a minimum timeframe of 10 years and is more directional than an actioning type document. All subsequent plans and policies that outline Council's actions stem from the CSP including the Resourcing Strategy, Delivery Program with a timeframe of four years (term of the Council), an annual Operational Plan and an Annual Report. In short, if actions in these subsequent plans and policies do not match the directions of the CSP then Council should not be undertaking those actions.

Legislation strictly requires that each newly elected Council must review their respective CSP and develop a new Delivery Program by 30 June in the year following the local government elections (i.e. 30 June 2017). The review of the CSP also needs to be supported by a Community Engagement Strategy. As the CSP informs the development of the Delivery Program, subsequent Operational Plan and annual budget, it is essential for Council to commence its review of the CSP as soon as possible in order to enable it to inform the development of subsequent plans and policies and meet legislative timeframes.

The purpose of this report is to outline the requirements in this regard and a proposed program to enable Council to review the CSP and concurrently develop a new Delivery Program, Operational Plan and budget informed by the reviewed CSP. Importantly, it has to be noted that all of these processes need to be finalised by 30 June 2017.

It is considered that this review of the CSP provides a unique opportunity to review the overarching vision and strategy for the Hawkesbury to ensure it reflects the community's aspirations and that the strategies arrived at are measurable, at the same time as being mindful of the process to arrive at the current set of community indicators previously reported to Council through its Mid Term and End of Term report. The process also provides an opportunity to ensure a better understanding of and integration between the Community Strategic Plan and Council's Delivery Program.

#### Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. Legislation requires Council to prepare a Community Engagement Strategy for use when developing/reviewing its Community Strategic Plan. A draft Community Engagement Strategy has been included as an attachment to this report for consideration, and is discussed in further detail in subsequent sections of this report.

## Background

Council's CSP was originally adopted by Council on 13 October 2009 following a process that commenced in 2008 in anticipation of the introduction of an Integrated Planning and Reporting Framework for local authorities in NSW being proposed by the State Government at the time.

The subsequent legislation to introduce the Integrated Planning and Reporting Framework was introduced into the Parliament in mid-2009 and commenced in October 2009. Councils are required to address all essential elements of the legislation in their plans and prepare a compliance report in accordance with the Local Government Act (the Act). Guidelines and a Manual to assist local authorities in this process have been prepared and issued by the then Division of Local Government (DLG).

As required by legislation, Council was required to review its CSP when the previous Council commenced its term in September 2012. That review process concluded with Council adopting the revised CSP on 9 April 2013, hence becoming the CSP 2013-2032.

The following diagram, sourced from the OLG Integrated Planning and Reporting Manual for local government in NSW shows the basic structure and interrelated nature of the Integrated Planning and Reporting Framework:



Figure 1: Local Government Integrated Planning and Reporting Framework

## ORDINARY MEETING

Meeting Date: 11 October 2016

In summary, all local authorities are required to have in place the following integrated planning and reporting processes:

- a Community Engagement Strategy that sets out how each council will engage its community when developing or reviewing its CSP
- a CSP (minimum timeframe of 10 years - it should be noted that the current CSP has a timeframe of 20 years)
- a Resourcing Strategy that includes a long term financial plan, a workforce management strategy and an asset management policy, strategy and plans
- a Delivery Program covering the four year term of Council
- an Operational Plan, including a statement of revenue policy, and a detailed annual budget.

To comply with legislative requirements and the Planning and Reporting Guidelines for local government in NSW, local authorities also need to have in place the following reporting processes:

- an Annual Report outlining achievements against the Delivery Program
- a State of the Environment Report as part of the Annual Report, which outlines achievements in relation to the environmental objectives in the CSP
- audited financial statements as part of the Annual Report
- an End of Term Report by each outgoing council outlining the achievements in implementing the CSP which is presented to the final meeting of that council (End of Term Report presented to Council Meeting on 30 August 2016).

Preparation of the Annual Report, State of the Environment and audited statements is currently underway, with these matters proposed to be reported to Council at its Meeting on 8 November 2016, in order to meet the statutory requirements to submit these reports to the Minister for Local Government by 30 November 2016.

The CSP must contain:

- a community vision statement
- strategic objectives addressing social, environmental, economic and civic leadership (quadruple bottom line) issues identified by the community
- strategies for achieving each objective.

The CSP is considered to be the highest level plan the Council will prepare given that it sits above all other Council plans and policies in the planning hierarchy. The purpose of the CSP is to identify the community's main priorities and aspirations for the future, and plan strategies to achieve them. These strategies need to take into consideration the issues and pressures that may affect the community and the level of resources that will realistically be available. While Council has a custodial role in initiating, preparing and maintaining the CSP on behalf of the local government area, it is not wholly responsible for its implementation. Other partners, such as state agencies and community groups may also be engaged in delivering the long term objectives of the CSP in a collaborative fashion.

A review of the CSP needs to be considered at a high level given that other plans will address more detailed aspects flowing from the CSP. All corporate planning documents and reporting needs to be consistent with the Community Strategic Plan and demonstrate strong, consistent links between the hierarchy of plans. Council's current Hawkesbury Community Strategic Plan, Delivery Program, Operational Plan, Resourcing Strategy and other related documents and reports have been prepared on this basis.

The relevant legislation requires each newly elected council to review its CSP by 30 June in the year following the local government elections (i.e. 30 June 2017) and in doing so it can either endorse the existing plan, review and amend the existing plan or develop a new plan. Prior to adoption the reviewed plan must be placed on public exhibition for at least 28 days, and any submissions considered by Council before endorsement.

Given the period of time that has elapsed since the original preparation of the CSP eight years ago, and its subsequent review four years ago it is expected that there could be a considerable degree of change that occurs as part of a review process. The potential for significant change is also highlighted by Council's end of term reporting processes (End of Term Report and State of the Environment Report in particular) which highlights a number of areas that should be considered as part of the CSP review process.

Given the above it is proposed that Council undertake a significant review of the existing Hawkesbury CSP supported by a Community Engagement Strategy that is reflective of the need to engage with the Hawkesbury community and all stakeholders in a transparent and collaborative manner as outlined in subsequent sections of this report.

A new Delivery Program, is also required to be developed by the Council by 30 June in the year following the local government elections. As the CSP informs the development of the Delivery Program and subsequent Operational Plan and annual budget it is essential for Council to commence its review of the CSP as soon as possible to enable the development of this document to inform these subsequent documents and meet the required timeframes.

The Delivery Program is the point where the community's strategic goals are systematically translated into actions. These are the principal activities to be undertaken by Council to implement the strategies established by the CSP within the resources available under the Resourcing Strategy. The Delivery Program is designed to be the single point of reference for all principal activities undertaken by the Council during its term of office.

### **Proposed Review Process**

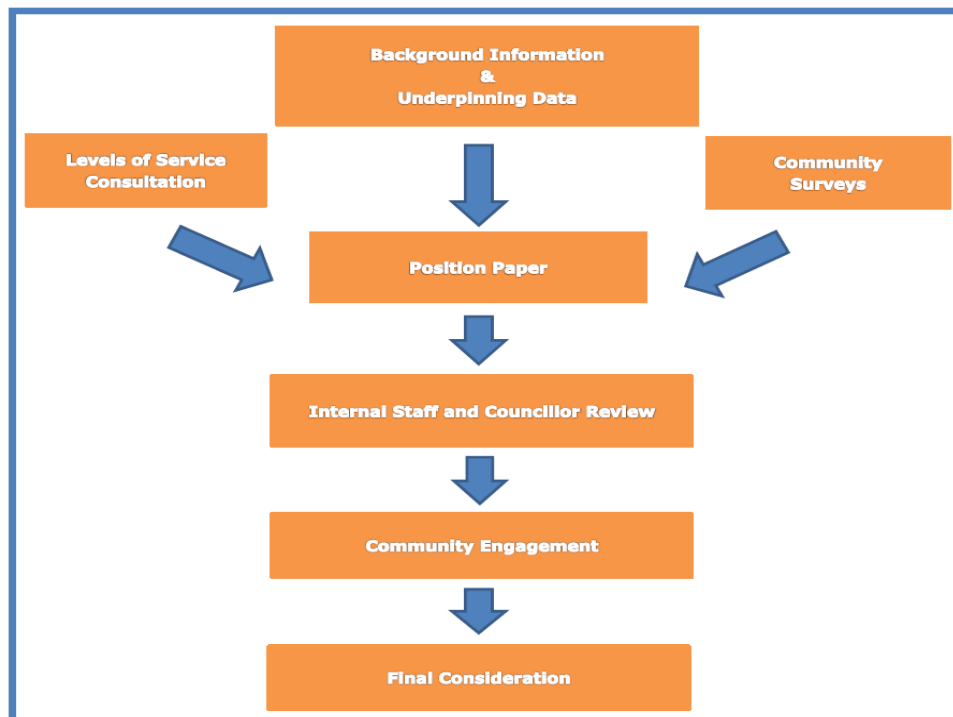
Given the discussion above, it is proposed that Council undertake a significant review of the existing CSP, and devise a Community Engagement Strategy that is reflective of the need to engage with the Hawkesbury community and all stakeholders in a transparent and collaborative manner. It is also considered that there would be considerable benefits to the review process if Councillors were directly involved in various components of the Community Engagement Strategy, in addition to the actual review process. This would provide Councillors an opportunity to hear directly from the community on matters in a structured manner.

It is considered that this review of the CSP provides a unique opportunity to review the overarching vision and strategy for the Hawkesbury to ensure it reflects the community's aspirations, and that the strategies arrived at are measurable, at the same time as being mindful of the process to arrive at the current set of community indicators previously reported to Council through its Mid Term, and End of Term report. The process also provides an opportunity to ensure a better understanding of and integration between the CSP and Council's Delivery Plan.

An outline of the proposed process for reviewing the CSP in a simplistic form is provided in Figure 2 below, which builds from Background Information and Underpinning Data sourced from a number of reports and strategies. The outcomes of both the Community Surveys, and the recent extensive Levels of Service consultation that was undertaken in August 2016 will also be utilised in the preparation of what has been termed a 'Position Paper' which is essentially a working document that will be used to inform the Community Strategic Plan review process. From there the review of the CSP will be undertaken by Councillors and staff ahead of the implementation of the Community Engagement Strategy and consideration of the outcomes.

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**Figure 2: Outline of Community Strategic Plan review process**

It is also considered essential to obtain feedback from staff members as part of the CSP review process, to both obtain relevant views and ideas about the CSP review given the eight years since its initial development and four years since the last review, but also as an educational aspect in terms of providing the opportunity for greater awareness of the role of the CSP. Whilst, as per the proposed process outlined in Figure 2, such discussion with staff is indicated as occurring at the same time as the Councillor review process, it is considered that such discussions should commence as soon as possible, both in terms of logistics, but also to assist in the preparation of the 'Position Paper' ahead of the Councillor review component.

Accordingly, a suggested series of key dates to facilitate the review of the Hawkesbury CSP is as follows:

- report to this meeting seeking approval to commence review process
- preparation of Background Information and Underpinning Data combined with results of previous community engagement/consultation including Community Surveys and Levels of Service into Position Paper (October to November)
- overview of review process proposed for subsequent Workshop and presentation of Position Paper at Councillors Briefing Session on 1 November 2016
- individual sessions with each Councillor prior to workshop (November 2016)
- Councillor and senior staff workshop to be held on weekend of 19 and 20 November 2016:
  - the Workshop is to be attended by Councillors and appropriate senior staff, and assisted by directional documents prepared by Council including the Position Paper
  - the Workshop is to be guided by an independent facilitator who is experienced in this field able to facilitate and propose ideas for consideration to assist the review process
  - the Workshop is to be held off-site.
- draft of reviewed Community Strategic Plan prepared and developed following workshop



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- draft document presented and discussed at Councillor Briefing Session on 6 December 2016
- draft document presented to Council Meeting on 13 December 2016 for endorsement prior to the implementation of the Community Engagement Strategy
- draft document prepared for implementation of Community Engagement Strategy (December 2016 to mid-January 2017)
- implement Community Engagement Strategy over a seven week period (mid-January to mid-March 2017)
- consider submissions and ongoing outcomes of the implementation of the Community Engagement Strategy to commence report to Council (mid-January to early April 2017)
- report on results of public exhibition and implementation of Community Engagement Strategy submitted to Council Meeting of 11 April 2017 with a view to its adoption.

From late October/early November 2016, Council staff, with Councillor assistance, will commence the preparation of the Delivery Program, Operational Plan and Resourcing Strategy, including the 2017/2018 draft budget. However, it is important that this work and documents/plans are able to be informed by the draft of the reviewed CSP, which highlights the importance of the review process and the timetable suggested above.

### Community Engagement Strategy

As indicated previously in this report, as part of the Integrated Planning and Reporting Framework, Councils are required to develop a Community Engagement Strategy that sets out how each council will engage its community when developing or reviewing its CSP. When Council developed the current Hawkesbury CSP in 2008/2009, and then undertook a review in 2012/2013, the Community Engagement Strategy that was utilised at the time was a structured consultation process that was implemented in conjunction with Council's Community Engagement Policy.

The Act requires that a council's CSP is based, amongst other criteria, on social justice principles of equity, access, participation and rights and that the Community Engagement Strategy for engagement with the local community when developing/reviewing the CSP is also based upon these principles. As such, both the review of the Hawkesbury CSP and the implementation of the Community Engagement Strategy will have regard to these principles.

Under Council's Community Engagement Policy the review of the Hawkesbury CSP represents a Level 1 trigger for community engagement. In order to meet the recommended level of community engagement under the Community Engagement Policy for a Level 1 trigger event and devise a Community Engagement Strategy that is reflective of the need to engage with the Hawkesbury community and all stakeholders in a transparent and collaborative manner, it is proposed that the Draft Community Engagement Strategy included as Attachment 1 be adopted.

It is also considered that there would be considerable benefits to the CSP review process if Councillors were directly involved in the implementation of various components of the Community Engagement Strategy, in addition to the actual review process. This would provide Councillors an opportunity to hear directly from the community on matters in a structured manner.

A Draft Community Engagement Strategy has been prepared and is included as an attachment to this report. The Community Engagement Strategy outlines the communication tools that will be used to implement a range of engagement methods that inform, consult, involve and collaborate with the community on the review of the CSP, and what the Hawkesbury should aspire to be in 20 years. It is proposed to have an engagement process that spans a seven week period from mid-January which is longer than the statutory 28 day period prescribed by legislation and is reflective of the nature and importance of the reason for engagement.

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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.

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

- Achieve community respect through good corporate governance and community leadership and engagement; and
- Make decisions in ways that are transparent, fair, balanced and equitable supported by appropriate resource allocations

### **Financial Implications**

Funding to enable the review of the Hawkesbury Community Strategic Plan as required by legislation has already been included within the 2016/2017 Adopted Operational Plan.

### **RECOMMENDATION:**

That as required under the Local Government Act 1993, Council commence the process to review the Hawkesbury Community Strategic Plan 2013-2032 on the basis of the process, and timeframe outlined in this report, and the Draft Community Engagement Strategy attached to this report.

### **ATTACHMENTS:**

**AT - 1** Draft Community Engagement Strategy - Hawkesbury Community Strategic Plan

**AT - 1 Draft Community Engagement Strategy - Hawkesbury Community Strategic Plan**

**Draft Community Engagement Strategy**

**Informing the Review of the Hawkesbury Community Strategic Plan and  
Delivery Program**

**October 2016**

**Introduction**

This Community Engagement Strategy outlines how the Hawkesbury City Council (Council) will engage with the Hawkesbury community and key stakeholders in the review and update of the Hawkesbury Community Strategic Plan 2013-2032 and development of its Delivery Program.

The Community Strategic Plan (CSP) is considered to be the highest level plan the Council will prepare given that it sits above all other Council plans and policies in the planning hierarchy. The purpose of the CSP is to identify the community's main priorities and aspirations for the future, and plan strategies to achieve them. These strategies need to take into consideration the issues and pressures that may affect the community and the level of resources that will realistically be available. While Council has a custodial role in initiating, preparing and maintaining the CSP on behalf of the local government area, it is not wholly responsible for its implementation. Other partners, such as state agencies and community groups may also be engaged in delivering the long term objectives of the Community Strategic Plan in a collaborative fashion.

The Delivery Program is the point where the community's strategic goals are systematically translated into actions. These are the principal activities to be undertaken by Council to implement the strategies established by the Community Strategic Plan within the resources available under the Resourcing Strategy. The Delivery Program is designed to be the single point of reference for all principal activities undertaken by the Council during its term of office.

This engagement strategy is focused towards ensuring that a revised Hawkesbury CSP fully reflects the current and future aspirations of its community over the next 20 years, and that the key overarching vision and strategy for the Hawkesbury local government area, reflects the relevant social, environmental, economic and civic leadership issues in an integrated manner. Further, the engagement strategy is also aimed at ensuring better understanding of and integration with the Delivery Program.

**Background**

Following a decision by the NSW State Government to not proceed with a merger proposal in May 2016, Council has entered a new term of Council following the local government elections on 10 September 2016. As part of the Integrated Planning and Reporting system in NSW, Council is required to review and endorse the new CSP by June 2017. In order to achieve this and other Integrated Planning and Reporting requirements, Council needs to commence the CSP review process as soon as possible following the local government election process.

Whilst the Integrated Planning and Reporting requirements in New South Wales are for a CSP of at least a 10 year horizon, Council's current CSP has a 20 year horizon (2013-2032).

An essential part of this plan is to listen to our community and to gauge their views in terms of Council's current CSP and whether or not the Directions, Strategies, Goals and Measures are a true reflection of where the Hawkesbury community is currently at and where it aspires to be in 20 years.

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In August 2016, Council initiated a Community consultation program – '*Listening to our Community – Your Services – Your Say*' to engage with the community to hear their views regarding the level of service provided by Council and to understand if Council's services are meeting community expectations. Council also used this as an opportunity to outline the variety of services provided by Council and engage with the community in a manner that has not occurred for some time.

The results from the community consultation have shown that there is some dissatisfaction from our community with the level of services provided by Council and many residents believe Council should be spending more on services and infrastructure, particularly on assets such as, roads, stormwater drainage, parks, town centres and public places.

While Council is committed to building a successful future for the Hawkesbury, for many years the City's ageing built infrastructure and assets (roads, storm water drainage, bridges, footpaths, community and recreational facilities) have not been getting the funding they need to be adequately renewed and maintained, due to costs rising faster than income. Furthermore, available funding over the next 10 years is projected to be insufficient to maintain, let alone improve, existing service levels.

Therefore, Council will continue to engage with the community to assess how best it can achieve levels of service that are both acceptable and affordable for our community.

In addition, every two years Council conducts a community satisfaction survey. This biennial survey assists council to make improvements to around 50 services and facilities that Council provides to its residents, businesses and visitors. Through the Community Surveys, Council assesses community attitudes and perceptions towards current and future services and facilities provided by Council. Key objectives of the surveys include:

- assessing and establishing the community's priorities and satisfaction in relation to Council activities, services, and facilities
- identifying the community's overall level of satisfaction with Council's performance
- identifying the community's level of satisfaction with regards to contact they have had with Council staff
- identifying trends and benchmark results against the research conducted previously.

The outcomes of these engagement/consultation processes will be included as part of the underpinning data and background information associated with Council's review of the CSP.

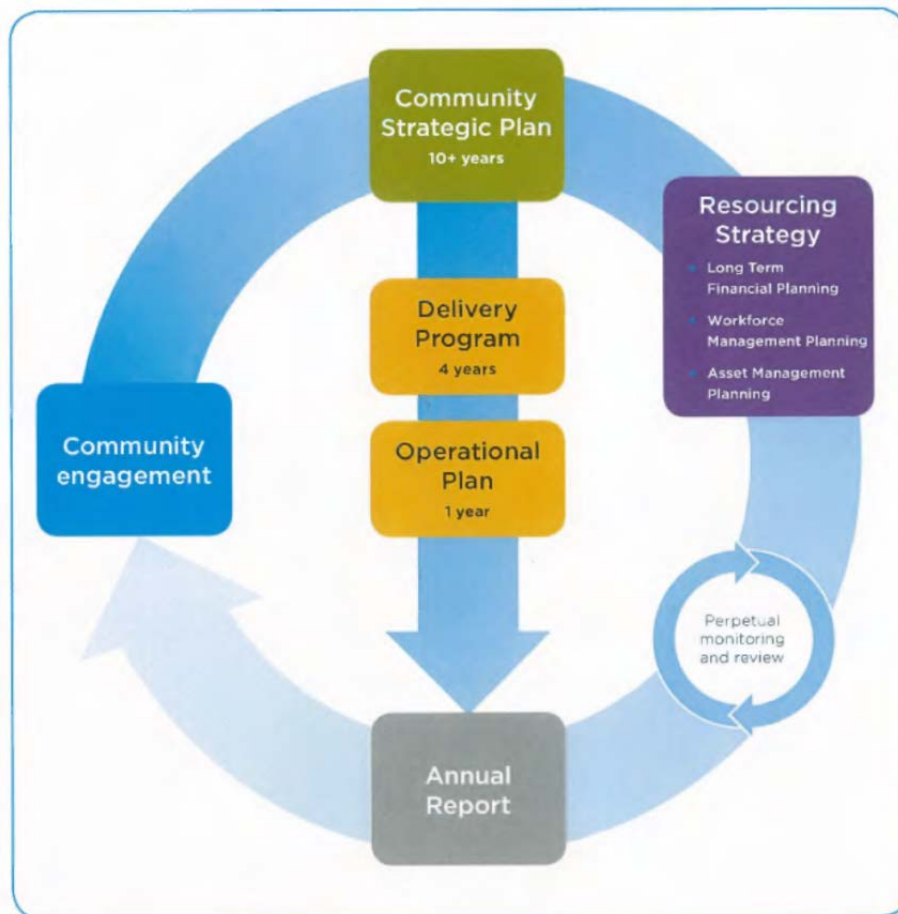
### **Integrated Planning and Reporting Framework**

Council's current Hawkesbury CSP was originally adopted by Council on 13 October 2009 following a process that commenced in 2008 in anticipation of the introduction of an Integrated Planning and Reporting Framework for local councils in NSW being proposed by the State Government at the time.

The subsequent legislation to introduce the Integrated Planning and Reporting Framework was introduced into the Parliament in mid-2009 and commenced in October 2009. Councils are required to address all essential elements of the legislation in their plans and prepare a compliance report in accordance with the Local Government Act (the Act). Guidelines and a Manual to assist local authorities in this process have been prepared and issued by the Office of Local Government (OLG).

As required by legislation, Council was required to review its CSP when the previous Council commenced its term in September 2012. That review process concluded with Council adopting the revised CSP on 9 April 2013, hence becoming the Hawkesbury Community Strategic Plan 2013-2032.

The following diagram, sourced from the OLG Integrated Planning and Reporting Manual for local government in NSW shows the basic structure and interrelated nature of the Integrated Planning and Reporting Framework:



**Figure 1: Local Government Integrated Planning and Reporting Framework**

In summary, all local authorities are required to have in place the following integrated planning and reporting processes:

- a Community Engagement Strategy that sets out how each council will engage its community when developing or reviewing its CSP
- a Community Strategic Plan (minimum timeframe of 10 years - it should be noted that the current Hawkesbury CSP has a timeframe of 20 years)
- a Resourcing Strategy that includes a long term financial plan, a workforce management strategy and an asset management policy, strategy and plans
- a Delivery Program covering the four year term of Council
- an Operational Plan, including a statement of revenue policy, and a detailed annual budget.

To comply with legislative requirements and the Planning and Reporting Guidelines for local government in NSW, local authorities also need to have in place the following reporting processes:

- an Annual Report outlining achievements against the Delivery Program
- a State of the Environment Report as part of the Annual Report, which outlines achievements in relation to the environmental objectives in the CSP
- audited financial statements as part of the Annual Report
- an End of Term Report by each outgoing council outlining the achievements in implementing the CSP which is presented to the final meeting of that council (End of Term Report presented to Council Meeting on 30 August 2016).

The CSP must contain:

- a community vision statement
- strategic objectives addressing social, environmental, economic and civic leadership (quadruple bottom line) issues identified by the community
- strategies for achieving each objective.

The CSP is considered to be the highest level plan the Council will prepare given that it sits above all other Council plans and policies in the planning hierarchy. The purpose of the CSP is to identify the community's main priorities and aspirations for the future, and plan strategies to achieve them. These strategies need to take into consideration the issues and pressures that may affect the community and the level of resources that will realistically be available. While Council has a custodial role in initiating, preparing and maintaining the CSP on behalf of the local government area, it is not wholly responsible for its implementation. Other partners, such as state agencies and community groups may also be engaged in delivering the long term objectives of the CSP in a collaborative fashion.

A review of the CSP needs to be considered at a high level given that other plans will address more detailed aspects flowing from the CSP. All corporate planning documents and reporting needs to be consistent with the Community Strategic Plan and demonstrate strong, consistent links between the hierarchy of plans. Council's current Hawkesbury CSP, Delivery Program, Operational Plan, Resourcing Strategy and other related documents and reports have been prepared on this basis.

The relevant legislation requires each newly elected council to review its CSP by 30 June in the year following the local government elections (i.e. 30 June 2017) and in doing so it can either endorse the existing plan, review and amend the existing plan or develop a new plan. Prior to adoption the reviewed plan must be placed on public exhibition for at least 28 days and any submissions considered by Council before endorsement.

Given the period of time that has elapsed since the original preparation of the CSP eight years ago, and its subsequent review four years ago it is expected that there could be a considerable degree of change that occurs as part of a review process. The potential for significant change is also highlighted by Council's end of term reporting processes (End of Term Report and State of the Environment Report in particular) which highlights a number of areas that should be considered as part of the CSP review process.

Given the above it is proposed that Council undertake a significant review of the existing Hawkesbury CSP supported by a Community Engagement Strategy that is reflective of the need to engage with the Hawkesbury community and all stakeholders in a transparent and collaborative manner as outlined in subsequent sections of this report.

A new Delivery Program is also required to be developed by the Council by 30 June in the year following the local government elections. As the Community Strategic Plan informs the development of the Delivery Program and subsequent Operational Plan and annual budget it is essential for Council to commence its review of the CSP as soon as possible to enable the development of this document to inform these subsequent documents and meet the required timeframes.

### **Engagement Objectives**

The primary purpose of this CSP associated with the review of the Hawkesbury CSP and the development of Council's Delivery Program is to provide the framework for consultation and engagement processes to ensure the CSP review has provided sufficient opportunity for input from the whole Hawkesbury community and relevant stakeholders based on the social justice principles of access, equity, participation and rights.

This Community Engagement Strategy, and indeed the process associated with the review of the CSP and development of the Delivery Program is focused on achieving the following outcomes:

- provision of a CSP that is reflective of the Hawkesbury community's aspirations over the next 20 years and recognises the opportunities available as part of the review process
- improved outcomes for the Hawkesbury through the community, Council, State and Federal agencies and relevant stakeholders working towards achieving a shared vision
- more effective partnerships and collaboration supporting the achievement of the CSP vision
- provision of better understanding of, and integration between, the CSP and the Delivery Program.

**Key Target Groups**

- General Community (including children and young people, older people, people with disabilities and those from culturally and linguistically diverse backgrounds)
- Ratepayers and residents- residential, business
- Federal and State Members
- Local community groups and organisations
- Business community
- Council staff
- Local Media
- State Government Agencies
- Adjoining and surrounding local authorities

**Branding and Visual Identity**

The tag line "Listening to Our Community" will be selectively continued in order to build upon the community engagement that has already taken place during the service level consultation.

However, in order to provide a point of difference between the service level consultation, the taglines of "Your Services Your Say" and "Investing in Your Future" will be replaced with another tag line such as "Shaping Our Future".

**Communications tools**

This Community Engagement Strategy associated with the review of the CSP and Delivery Program has been prepared in accordance with Council's Community Engagement Policy adopted in June 2007, which is based on the following core principles:

*Inclusiveness*

Council will strive to ensure that all affected parties are provided the same opportunity to participate in community engagement activities and recognises the benefit of achieving balanced representation in its community partnerships. In designing community engagement activities, Council will take into account the access needs of the diverse communities within the City to maximise the ability of these groups to participate in decision making processes.

*Clarity*

Council will provide a clear statement to participants as to the purpose of a community engagement activity, what is required from participants, the decision making process, and the degree to which participants can influence this process.

**ORDINARY MEETING****Meeting Date:** 11 October 2016*Effective Communication*

Council will communicate information in a simple and clear format. Council recognises that it may be necessary to tailor its community engagement processes to enable some communities or individuals to participate. Where possible, Council will provide information in alternate formats and will have regard to the preferred methods of receiving and communicating information of different community groups.

The following communication tools will be used to implement a range of engagement methods that inform, consult, involve and collaborate with the community on informing the review of the Hawkesbury CSP and development of the Delivery Program.

<b>Communication Tools</b>	<b>Details</b>	<b>Stakeholders</b>	<b>Level of Engagement</b>
Public Exhibition	To exhibit the draft reviewed CSP through seeking formal submissions from the community. To inform the community that Council is considering amendments to the Hawkesbury CSP – with the decision being informed by results of the exhibition and engagement.	General Community	Inform Consult
Mail out to ratepayers as part of Rates Notices during engagement stage in February	To promote the public consultation and invite feedback on the draft CSP. An information postcard could be developed and mailed to all rate payers. The postcard will also prompt people to the Your Hawkesbury Your Say website for further information including details of public engagement opportunities and online survey	Rate payers	Inform
Online Survey & Feedback	To provide the community an opportunity to complete an online survey and provide feedback on the current CSP and possible amendments.	Rate payers	Inform Consult Involve
Shopping Centre displays/Listening Posts	Information displays in various locations across the Hawkesbury to promote the engagement process and encourage input plus provide the opportunity for elected member involvement Static displays in various locations.	General Community	Inform Consult



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Communication Tools	Details	Stakeholders	Level of Engagement
Community Forums/workshops	<p>Call for interest from community members and also invite based on involvement in previous engagement processes to participate in facilitated sessions – three overall sessions or targeted groups based on CSP themes.</p> <p>Can call for interested people/groups ahead of the seven week formal engagement period.</p> <p>Targeted groups could include Sport, Environment, Business, Social Services, Education providers, etc.</p> <p>A facilitated workshop to work through CSP Review.</p> <p>This will give Council and residents an opportunity to engage in two-way communication designed to obtain feedback, and gather opinions and ideas from the community.</p>	General Community	<p>Inform</p> <p>Consult</p> <p>Involve</p> <p>Collaborate</p>
Presentations to Targeted business & community groups	<p>Presentations and ideas sharing with a range of community based groups such as progress associations, Rotary and business groups.</p> <p>This will give Council and residents an opportunity to engage in two-way communication designed to obtain feedback, and gather opinions and ideas from the community.</p>	Targeted Business and Community groups	<p>Inform</p> <p>Consult</p> <p>Involve</p> <p>Collaborate</p>
Council Advisory Committees	<p>Facilitated presentation and ideas sharing process with all Advisory Committees during the exhibition period N.B Depending on meeting cycle may have to be an overall workshop with all committee members.</p>	<p>Committee Membership covers a wide range of groups/issues, including:</p> <ul style="list-style-type: none"> <li>• Social Services including Disability Services</li> <li>• Waste</li> <li>• Sustainability</li> <li>• Heritage</li> <li>• Floodplain Management</li> </ul>	<p>Inform</p> <p>Consult</p> <p>Involve</p> <p>Collaborate</p>

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Communication Tools	Details	Stakeholders	Level of Engagement
Workshop with Government Agencies	Workshop to provide opportunities to engage with relevant government agencies including education providers to increase two way understanding of strategic directions.	State Agencies	Inform Consult Involve Collaborate
Meeting with State & Federal Members	Meeting to inform and engage state and federal members early in the engagement process.	State and Federal Members	Inform Involve Collaborate
Youth Engagement	Opportunities to have sessions with students as part of curriculum or youth in another format, Art competition, or Vox pop (Vines).	Youth	Inform Consult Involve
Development Industry	Presentations and ideas sharing with a range of development industry representatives. This will give Council and the development industry an opportunity to engage in two-way communication designed to obtain feedback, and gather opinions and ideas from the development community. Could potentially be the start of an ongoing developers forum.	Developers Consultants Real Estate	Inform Consult Collaborate
Events	Opportunities to utilise various events during the engagement process e.g. Pool party, Australia Day.	Youth General Community	Inform Consult
Fact Sheets	Clearly explain the role of a CSP, what they are designed to achieve and the proposed amendments so that the community can understand and make an informed decision on the direction of the CSP.	General Community	Inform
Advertisement	General Ads to appear in Gazette and Courier which prompts people to council's website and encourages them to have their say on the CSP.	General Community	Inform
Media Campaign	Provide media release, fact sheets and one on one briefing session to outline Council's plans for the future. Include in Mayoral Column and From the Mayor's desk. General news article promoting the community consultation.	General community	Inform

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<b>Communication Tools</b>	<b>Details</b>	<b>Stakeholders</b>	<b>Level of Engagement</b>
Website presence (External)	Providing an opportunity for online discussion via 'Your Hawkesbury-Your Say' link. Online survey opportunities. This site can be promoted via Councils home page as well as the Hawkesbury Events page	General Community	Inform Involve
Website (Internal)	To engage with staff and clearly communicate the CSP review process. Link from HawkEye to Engagement HQ.	Staff	Inform Consult Involve
Guide for Customer Service	Prepare information toolkit for customer service to ensure that they are able to respond to incoming community questions.	General	Inform

**Evaluation**

The outcomes of the Community Engagement Strategy will be considered by Council as part of the CSP review process that is to be completed in April 2017 and in the development of the Delivery Program.

Council will evaluate the outcomes of this Community Engagement Strategy through a number of quantitative and qualitative measures that reflect the direct involvement and input by the community and key stakeholders in the review process and development of the Delivery Program.

Council will consider the outcomes of the Community Engagement Strategy in respect of the CSP, Council's Resourcing Strategy and Delivery Program in order to ensure consistency of outcomes.

**Supporting Background Information**

A range of end of term reports will be used to inform the Community Strategic Plan review process, including (but not limited to):

- End of Term Report (Presented to Council at its Meeting on 30 August 2016)
- Annual Report including State of the Environment Report (to be presented to Council in November 2016).

In addition, underpinning data and background issues will be combined with the outcomes of previous engagement/consultation processes (Community Surveys and Levels of Service) and collated into a Position Paper being a working document to assist Council in the review process along with the outcomes of this Community Engagement Strategy.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 11 October 2016

### CITY PLANNING

**Item: 214**                      **CP - Extension of Contract No. 01611 - Kerbside Bulk Waste Collection and Processing Service - (95498, 96330)**

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#### **REPORT:**

##### **Executive Summary**

Council commenced a kerbside bulk waste collection service under contract with Transpacific Cleanaway Pty Ltd on 1 July 2011.

The contract term was for a period of five years, with an option to extend the contract for up to three years by notice in writing to the contractor not less than three months prior to the expiry date.

The current five year contract expired on 1 July 2016, and the Contractor has agreed to continue the service until 1 November 2016 whilst Council consider the option of extending the contract for a period of three years.

Once Council has made its decision, the Contractor will be advised accordingly.

##### **Consultation**

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

##### **Background**

Advice was sought regarding the possibility of extending the contract. It appears that the terms of contract are still active, as long as Cleanaway were still performing a service, however, Cleanaway were not compelled to continue the service. It was advised that Council could negotiate terms in which a new agreement could be formed.

A letter was sent to Cleanaway on 8 July 2016, explaining that the terms of contract had expired and that Council sought an extension of this contract under the same terms and conditions of the original contract.

On 18 August 2016, Council met with representatives from Cleanaway to discuss a proposal to extend the contract for a further three years.

Cleanaway accepted the proposal for an extension to the contract for a period of three years under the same terms and conditions which would extend the current service provided to 2019.

In the interim, Council requested that Cleanaway accept an interim contract for a period of three months until November 2016, until such time as the new Council was elected.

The Contractor has agreed to continue the service until 1 November 2016, whilst Council consider the option of extending the contract for a period of three years. The Contractor has also signed a draft contract for a three year extension on the same terms as the original contract.

Transpacific Cleanaway Pty Ltd has performed satisfactorily, under Contract 01611, the kerbside waste collection service on behalf of Council for the past five years without any interruptions to the service during this period.

It is recommended that Council extend the current contract under the same terms and conditions as currently apply, for the maximum period of three years from 1 July 2016.

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### Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Direction 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 the nominated strategy in the CSP being:

- Reduce our environmental footprint through resource and waste management

### Financial Implications

The cost of providing the service has been budgeted for in current and future budget allocations.

### RECOMMENDATION:

1. That Transpacific Cleanaway Pty Ltd be notified in writing of Council's intention to extend the current contract for a period of three years from 1 July 2016 under the same terms and conditions as currently exist in the Contract.
2. Extension documents be prepared and authority be given to any documents in connection with the service to be executed under the Seal of Council.

### ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 215**                      **CP - Fire Safety Complaint - Windsor Metal Recyclers, 20/124 Ham Street, South Windsor - (95498)**

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### REPORT:

#### Executive Summary

Council has received a letter from Fire and Rescue NSW (FRNSW) advising of fire safety concerns with a factory unit within a complex of industrial units in South Windsor. The premises are known as Windsor Metal Recyclers. The issues relate to general untidiness and a lack of Fire Safety Measures in particular.

The premises came to the attention of FRNSW as a result of a recent fire within the subject unit. The recycling operation also collects waste oil.

Concern is also raised that the use of a nearby unit involves the shredding of tyres and that there is a risk of fire spreading to this unit.

The Commissioner of FRNSW has requested Council investigate the matter and inspect the building for any other fire safety related issues. The request also involves the tabling of the report at a meeting of the Council and then reporting back to the Commissioner of any determination made with respect to the request.

The matter has been investigated and substantiated by Council staff and there are additional fire safety concerns that were discovered. Minor matters were resolved with the proprietors at the time of the inspection. Other issues identified will require the building owner to take certain action in order to rectify the deficiencies.

It is recommended (as the most appropriate and effective means to ensure this matter is resolved as quickly as possible) that Council issue a Fire Safety Order requiring the owner to carry out certain work as specified in the order.

It is also recommended that Council write to the Commissioner of FRNSW and advise of Council's findings and intended course of action.

#### Consultation

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

#### Background

Council received correspondence from Fire and Rescue NSW (FRNSW) dated 4 July 2016, advising that there is inadequate provision for fire safety at the subject premises known as Windsor Metal Recyclers. FRNSW was formerly known as the NSW Fire Brigades.

The subject premises are one of 20 units within an industrial unit complex at 124 Ham Street, South Windsor.

The issues of concern relate to the following:

1. The premises are being used for metal recycling and waste oil recovery. The premises are in an untidy state and there is limited room to move within or external to the unit. There is a lack of fire safety measures within the unit and egress from the unit is obstructed due to the location of stored items.

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2. It was observed (by members of FRNSW) that a large amount of oil had spilled within the unit. It is evident this has been occurring over a number of years as there is residue of oil (mixed with sawdust) that is now caked onto the floor of the unit which is between 5 -15mm thick.
3. Several Intermediate Bulk Containers (IBC's) containing waste oil were located on common property without adequate containment. Numerous used smaller oil containers were also present.
4. The business opposite the recycler operates as a tyre shredder. FRNSW estimated that 50 cubic metres of baled shredded rubber was present outside that unit and exposed to the elements and poses a threat of fire due to the location in which they are stored.

FRNSW recommended to Council that Council staff address the items identified by FRNSW and to inspect the premises for any other deficiencies that may be identified.

Council is the regulatory authority in relation to building fire safety. Section 119T(6) of the Environmental Planning and Assessment Act 1979 requires a council at the request of the Commissioner to inspect any building specified in the request for the purpose of determining if adequate provision for fire safety has been made in connection with the building. Further, a council must send a report of the inspection to the Commissioner.

Pursuant to the provisions of Section 121ZD(2) of the Environmental Planning and Assessment Act, a council must table any report and recommendations it receives from the Commissioner of FRNSW at the next meeting of council. The council must (either at the same meeting or the next meeting) determine whether it will exercise its powers to give an order to require upgrading work. The Council is required to notify the Commissioner of its determination.

Section 121ZD commenced on 21 March 2016.

### **Investigation of Complaint and Inspection of Property**

The property was inspected on Tuesday 12 July at 11.30am. The following issues were observed:

1. Materials (metal waiting sorting and removal) were stored outside the unit within the designated parking and vehicle manoeuvring areas. The amount of material was considered excessive. Waste oil drums were also stored in the same area.

The materials stored externally were observed to be blocking the only required exit door from the unit.

The condition of the unit inside was generally untidy and cluttered with the storage of materials. The general housekeeping of the unit restricted safe movement and access generally and also restricted or prevented easy access to essential fire safety measures such as portable fire extinguishers and the Fire Hose Reel. The current condition of the unit is considered to pose a risk to the occupants of the building.

#### Action taken

The owner of the unit was spoken to and advised to clear the material away from the external parts of the unit as well as tidy-up the materials and clear as necessary the stored materials inside the unit. The owner acknowledged the general untidiness of the area and he indicated he would cooperate with Council. He advised that the oil (waste cooking oil) used to be accepted by him and was used on his farm as animal supplement for his stock. He indicated he no longer accepted the waste oil.

The evidence on-site did not support his assertion. Council staff were subsequently advised by occupants of nearby units that the owner appeared to be manufacturing biodiesel (which was the cause of the fire). This aspect is being addressed by the Environment and Regulatory Services Branch of Council.

## ORDINARY MEETING

Meeting Date: 11 October 2016

The owner was queried by staff as to when the unit would be tidied-up. He was reluctant to give an answer and suggested possibly a couple of months.

2. A timber framed mezzanine level has been constructed within the unit without approval from Council. The mezzanine level is poorly constructed and poses a risk to the occupants of the building as the work does not comply with the Building Code of Australia. In this regard, there was no handrail to the top of the mezzanine level, the stairs serving the mezzanine level were too steep and uneven and the framework and supports appeared undersized.

### Action taken

The owner was advised he may be required to demolish the mezzanine level.

3. The sewer gully had been removed. It was apparent that this had been done to facilitate forklift access to the side of the unit (for additional storage of items and oil).

### Action taken

The owner was advised the sewer gully surround would need to be re-instated and that the area to the side of the unit was not to be used for storage unless and approval was obtained and the area was roofed.

4. The required exit door was observed to have non-compliant door handles and additional non-compliant door hardware was added.

### Action taken

The owner was advised the door handles would be changed over to lever-type handles and the dead-locks would need to be removed to facilitate egress from the building in the event of an emergency.

## **Procedure for Follow-up Action**

It is recommended that Council write to the owner of the property and advise the issues identified above and request the deficiencies be addressed.

Council also has at its disposal powers under the *Environmental Planning and Assessment Act* to issue Orders to property owners to ensure building owners meet their obligations and provide buildings that are safe for the occupants and members of the public.

A Notice of Intention to serve an Order must first be given to the building owners as a matter of procedural fairness under the provisions of the *Environmental Planning and Assessment Act*. Depending on any representations received from the owner, Council may decide to issue the Order as proposed, or to amend the Order or to not issue the Order.

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

The proposal is consistent with the theme of Looking After People and Place.

Direction Statement:

- Have an effective system of flood mitigation, fire and natural disaster management and community safety which protects life, property and infrastructure.

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

- Provide for a safer community through planning, mitigation and response.



## ORDINARY MEETING

Meeting Date: 11 October 2016

### Financial Implications

No financial implications applicable to this report.

### RECOMMENDATION:

That:

1. Council receive and note the inspection report and recommendations from the Commissioner of Fire and Rescue NSW regarding Unit 20, 124 Ham Street, South Windsor.
2. Council write to the owner of Unit 20, 124 Ham Street, South Windsor and advise of the matters to be rectified.
3. A Fire Safety Notice and Order be issued to the owners of Unit 20, 124 Ham Street, South Windsor requiring the actions listed from items 1, 2, 3 and 4 in this report to be carried out. The period for compliance with the Order is recommended to be 30 days.
4. Delegation to amend the Order (if appropriate) and otherwise resolve the outstanding matter be given to the Acting General Manager.
5. Council write to the Commissioner of Fire and Rescue NSW advising of the inspection findings and action taken.

### ATTACHMENTS:

AT - 1 Inspection Report from FRNSW

## ORDINARY MEETING

Meeting Date: 11 October 2016

### AT - 1 Inspection Report from FRNSW



File Ref. No: BFS16/726 (10301)  
TRIM Ref. No: D16/40908  
Contact: Station Officer Paul Scott

4 July 2016

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

E-mail: [council@hawkesbury.nsw.gov.au](mailto:council@hawkesbury.nsw.gov.au)

Attn: Building Compliance Unit

Dear Sir/Madam

**Re: INSPECTION REPORT  
WINDSOR METAL RECYCLERS  
20/124 HAM STREET SOUTH WINDSOR ("the premises")**

Fire & Rescue NSW (FRNSW) received correspondence on 20 April 2015, in relation to the adequacy of the provision for fire safety in or in connection with 'the premises'.

The correspondence stated that:

- Commercial workshop has large amounts of assorted metal/items piled up with no organisation, there is no cleanliness and workshop is reflective of hoarding. Nil smoke alarms or fire safety equipment, stairs from upstairs is blocked by items. Machinery is very poorly maintained which resulted in an oil fire. Unit is not compartmentised and shares a roof void with adjoining units which resulted in smoke entering other units.*
- High amount of fuel load in unit with no maintenance that presents a risk to firefighters, the adjoining commercial units (who have contacted strata and council) firefighters and the public.*

Pursuant to the provisions of Section 119T (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), an inspection of 'the premises' on 29 April 2016 was conducted by Authorised Fire Officers from the Fire Safety Compliance Unit of FRNSW.

The inspection was limited to the following:

- A visual inspection of the essential Fire Safety Measures as identified in this report only.
- A conceptual overview of the building, where an inspection had been conducted without copies of the development consent or copies of the approved floor plans.

Fire & Rescue NSW

Unclassified  
ABN 12 593 473 110

[www.fire.nsw.gov.au](http://www.fire.nsw.gov.au)

Community Safety Directorate  
Fire Safety Compliance Unit

Locked Bag 12  
Greenacre NSW 2190

T (02) 9742 7434  
F (02) 9742 7483

[bfs@fire.nsw.gov.au](mailto:bfs@fire.nsw.gov.au)

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## ORDINARY MEETING

Meeting Date: 11 October 2016

On behalf of the Commissioner of FRNSW, the following comments are provided for your information in accordance with Section 119T (4) and Section 121ZD (1) of the EP&A Act. Please be advised that Section 121ZD (2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting.

### COMMENTS

The following items were identified as concerns during the inspection:

1. The premises was used as a metal recyclers and oil recovery facility, and appeared to recover motor oils and cooking oils. The owner of the premises was in the process of cleaning up the factory unit of both oils and metal parts.
2. It was seen that a large quantity of oil had been spilled within the unit. FRNSW were informed that the oil was cooking oil.
3. Multiple intermediate bulk containers, each of 1000 litre capacity, were located in the common property area without adequate bunding. Numerous used smaller oil containers were at the site both with lids and without.
4. The business opposite the metal recycler was operating as a tyre shredder. FRNSW estimated that approximately 50m<sup>3</sup> of baled shredded rubber was presenting the driveway of the premises.

FRNSW are of the opinion that these two elements may pose a threat of fire due to the location with which they are stored.

### RECOMMENDATIONS

FRNSW recommends that Council:

- a. Inspect and address any other deficiencies identified on 'the premises', and require item no. 1 through to item no. 4 of this report be addressed appropriately.

This matter is referred to Council as the appropriate regulatory authority. FRNSW therefore awaits Council's advice regarding its determination in accordance with Section 121ZD (4) of the EP&A Act.

Should you have any enquiries regarding any of the above matters, please do not hesitate to contact FRNSW's Fire Safety Compliance Unit on (02) 9742 7434. Please ensure that you refer to file reference BFS16/726 (10301) for any future correspondence in relation to this matter.

Yours faithfully

John Brusino  
Building Surveyor  
Fire Safety Compliance Unit

Fire & Rescue NSW

Community Safety Directorate  
Fire Safety Compliance Unit

bfs@fire.nsw.gov.au

Unclassified

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Locked Bag 12  
Greensacre NSW 2190

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www.fire.nsw.gov.au

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oooO END OF REPORT Oooo

**ORDINARY MEETING**

Meeting Date: 11 October 2016

**SUPPORT SERVICES**

Item: 216

**SS - Monthly Investments Report - August 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 the Council's Investment Policy.

This report indicates that Council held \$47.50 million in investments at 31 August 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 \$47.50 million in investments as at 31 August 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 \$	Percentage of Portfolio	Total \$
<b>On Call</b>								
CBA	A1+	AA-			1.25%	3,000,000	6.32%	
<b>Total On-call Investments</b>								<b>3,000,000</b>
<b>Term Investments</b>								
ANZ	A1+	AA-	02-Mar-16	07-Sep-16	3.05%	2,500,000	5.26%	
ANZ	A1+	AA-	24-Feb-16	14-Sep-16	3.05%	1,000,000	2.11%	
ANZ	A1+	AA-	24-Feb-16	14-Sep-16	3.05%	2,500,000	5.26%	
ANZ	A1+	AA-	02-Mar-16	21-Sep-16	3.05%	2,500,000	5.26%	
Bankwest	A1+	AA-	24-Aug-16	02-Nov-16	2.55%	700,000	1.47%	
NAB	A1+	AA-	31-May-16	23-Nov-16	2.95%	2,000,000	4.21%	
NAB	A1+	AA-	17-Aug-16	23-Nov-16	2.72%	1,000,000	2.11%	
NAB	A1+	AA-	18-May-16	14-Dec-16	2.95%	2,000,000	4.21%	
NAB	A1+	AA-	24-Aug-16	04-Jan-17	2.60%	2,000,000	4.21%	
NAB	A1+	AA-	16-Mar-16	08-Feb-17	3.09%	2,000,000	4.21%	
NAB	A1+	AA-	27-Apr-16	30-Mar-17	3.10%	1,000,000	2.11%	
NAB	A1+	AA-	27-Apr-16	27-Apr-17	3.10%	2,000,000	4.21%	
NAB	A1+	AA-	31-Aug-16	28-Jun-17	2.60%	2,000,000	4.21%	
NAB	A1+	AA-	05-Aug-16	03-Aug-17	2.78%	1,000,000	2.11%	
NAB	A1+	AA-	17-Aug-16	16-Aug-17	2.75%	1,500,000	3.16%	
Westpac	A1+	AA-	04-Feb-16	28-Sep-16	3.00%	1,000,000	2.11%	

# ORDINARY MEETING

Meeting Date: 11 October 2016

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
Westpac	A1+	AA-	02-Oct-15	05-Oct-16	3.00%	1,000,000	2.11%	
Westpac	A1+	AA-	02-Oct-15	05-Oct-16	3.00%	1,000,000	2.11%	
Westpac	A1+	AA-	07-Oct-15	19-Oct-16	3.00%	1,000,000	2.11%	
Westpac	A1+	AA-	07-Oct-15	19-Oct-16	3.00%	1,500,000	3.16%	
Westpac	A1+	AA-	10-Dec-15	14-Dec-16	3.00%	1,000,000	2.11%	
Westpac	A1+	AA-	20-Jul-16	18-Jan-17	3.05%	1,200,000	2.53%	
Westpac	A1+	AA-	06-Jul-16	01-Feb-17	3.05%	1,000,000	2.11%	
Westpac	A1+	AA-	06-Jul-16	08-Feb-17	3.05%	1,000,000	2.11%	
Westpac	A1+	AA-	03-Aug-16	22-Feb-17	3.00%	1,000,000	2.11%	
Westpac	A1+	AA-	30-Mar-16	30-Mar-17	3.10%	500,000	1.05%	
Westpac	A1+	AA-	06-Apr-16	14-Apr-17	3.10%	1,000,000	2.11%	
Westpac	A1+	AA-	04-May-16	04-May-17	3.05%	2,000,000	4.21%	
Westpac	A1+	AA-	17-Aug-16	12-Jul-17	3.00%	1,000,000	2.11%	
Westpac	A1+	AA-	03-Aug-16	03-Aug-17	2.90%	800,000	1.68%	
Westpac	A1+	AA-	05-Aug-16	03-Aug-17	3.00%	1,000,000	2.11%	
Westpac	A1+	AA-	24-Aug-16	24-Aug-17	3.00%	800,000	1.68%	
Westpac	A1+	AA-	31-Aug-16	06-Sep-17	3.00%	1,000,000	2.11%	
<b>Total Term Investments</b>								<b>44,500,000</b>
<b>TOTAL INVESTMENT AS AT 31 August 2016</b>								<b>47,500,000</b>

## Performance by Type

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	3,000,000	1.25%	Reserve Bank Cash Reference Rate	1.50%	-0.25%
Term Deposit	44,500,000	2.96%	UBS 90 Day Bank Bill Rate	1.73%	1.23%
Total	47,500,000	2.85%			

## Restricted/Unrestricted Funds

Restriction Type	Amount \$
External Restrictions - S94	6,663,222
External Restrictions - Other	6,397,130
Internal Restrictions	22,922,668
Unrestricted	11,516,980
Total	47,500,000

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.

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

## ORDINARY MEETING

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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 increased by \$9.10 million for the month of August 2016. During August 2016, income was received totalling \$17.30 million, including rate payments amounting to \$10.40 million, while payments to suppliers and staff costs amounted to \$7.20 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 August 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 31 May 2016.

### ***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 the Hawkesbury 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 2016/2017 Adopted Operational Plan.

**ORDINARY MEETING**

**Meeting Date:** 11 October 2016

**RECOMMENDATION:**

The report regarding the monthly investments for August 2016 be received and noted.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING****Meeting Date:** 11 October 2016**Item: 217****SS - Consultants Utilised by Council - 1 January 2016 to 30 June 2016 - (95496, 96332)****REPORT:****Executive Summary**

Council is provided with reports outlining consultants utilised by Council on a six monthly basis. The purpose of this report is to provide details of the various firms, or persons, the Council has utilised as consultants for the period from January to June 2016.

**Consultation**

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

**Background**

Council is provided with reports outlining consultants utilised by Council on a six monthly basis. The purpose of this report is to provide details of the various firms, or persons, the Council has utilised as consultants for the period from January to June 2016.

Consultants are engaged to provide professional advice of services, where the expertise required is not held by Council's staff.

The following table provides details of the various firms, or persons, the Council has utilised as consultants for the period from January to June 2016, detailing the purpose of the consultancies and the amount (excluding GST) paid in this period:

<b>Firm</b>	<b>Purpose</b>	<b>Branch</b>	<b>Authorising Officer</b>	<b>Funding Source</b>	<b>External Requirement</b>	<b>6 Months to 30/06/2016</b>
Altstadt	Heritage Advice	Strategic Planning	Director City Planning	General Funds/Grant Funds	No	\$2,256.25
AVMAP Aerial Mapping & Surveying	Topographical & volumetric survey HCWMF	Waste Management	Manager Waste Management	Internal Reserve	Environment Protection Authority	\$5,700.00
Civica Pty Ltd	IT Consultancy Services	Information Services	Manager Information Services	General Funds	No	\$1,010.00
Clouston Associates Australia Pty Ltd	Hawkesbury Sports Strategy	Parks & Recreation	Manager Parks & Recreation	General Funds	No	\$2,000.00
Computer Systems Australia	IT Consultancy Services	Information Services	Manager Information Services	General Funds	No	\$51,062.50
Environmental Earth Sciences NSW	HCWMF monthly and quarterly environmental monitoring	Waste Management	Manager Waste Management	Internal Reserve	Environment Protection Authority	\$31,293.00



**ORDINARY MEETING**

**Meeting Date: 11 October 2016**

<b>Firm</b>	<b>Purpose</b>	<b>Branch</b>	<b>Authorising Officer</b>	<b>Funding Source</b>	<b>External Requirement</b>	<b>6 Months to 30/06/2016</b>
KPMG	Sewerage Scheme Business Review	Waste Management	Manager Waste Management	External Reserve	No	\$14,463.75
Justin Long Design	Professional advice – Hawkesbury Oasis Refurbishment	Building Services	Manager Building Services	External Reserve	No	\$10,020.00
	McGraths Hill Long Day Care Centre Multifunction Room	Building Services	Manager Building Services	External Reserve	No	\$4,750.00
	Wilberforce Early Learning Centre	Building Services	Manager Building Services	External Reserve	No	\$4,500.00
	Windsor Pre-School	Building Services	Manager Building Services	External Reserve	No	\$5,750.00
	Pound Paddock Amenities Upgrade	Building Services	Manager Building Services	External Reserve	No	\$6,000.00
	Clarendon Public Toilet Facility Upgrade	Building Services	Manager Building Services	External Reserve	No	\$1,800.00
	Master Plan for the upgrade of the North Richmond Community Precinct	Building Services	Manager Building Services	General Funds	No	\$2,500.00
Lunney Watt & Associates Pty Ltd	Valuations for Ham Street property sales	Corporate Services & Governance	Manager Corporate Services & Governance	Internal Reserve	No	\$1,800.00
	Valuation for Colonial Drive property sale & Market Rental Valuation for 242 Windsor Road, Vineyard	Corporate Services & Governance	Manager Corporate Services & Governance	Internal Reserve / General Funds	No	\$11,000.00
McKinlay Morgan and Associates	Survey Consultancy Services – Tennyson Rural Fire Shed	Building Services	Manager Building Services	External Reserve	No	\$1,800.00
	Survey and Acquisition Plan – West Portland Road	Construction & Maintenance	Manager Construction and Maintenance	Grant Funds/External Reserve	No	\$8,485.00

# ORDINARY MEETING

Meeting Date: 11 October 2016

Firm	Purpose	Branch	Authorising Officer	Funding Source	External Requirement	6 Months to 30/06/2016
The Playground Doctor	Playground Inspections and safety surfacing January – June 2016	Parks & Recreation	Manager Parks & Recreation	General Funds	No	\$5,280.00
SESL Australia	Foreign material sampling- HCWMF	Waste Management	Manager Waste Management	Internal Reserve	No	\$2,430.00
Spectra Financial Services Pty Ltd	Investment Advisory Services January – June 2016	Financial Services	Chief Financial Officer	General Funds	Office of Local Government	\$9,000.00
Technology One Ltd	IT Consultancy services	Information Services	Manager Information Services	General Funds	No	\$8,475.00
UmbaCo Landscape Architects Pty Ltd	Governor Phillip Park Master Plan	Parks & Recreation	Manager Parks & Recreation	General Funds	No	\$6,360.00
KD Wood Valuations (Aust) Pty Ltd	Valuation Services for Council owned properties	Corporate Services & Governance	Manager Corporate Services & Governance	General Funds	No	\$1,100.00
Workplace Navigation Pty Ltd	Workers Compensation Management Services December 2015 – May 2016	Risk Management	Manager Risk Management	General Funds	No	\$13,625.00
<b>TOTAL</b>						<b>\$212,460.50</b>

## 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

This is an information report requested by Council and costs detailed have been met within existing budgets.

**ORDINARY MEETING**

**Meeting Date:** 11 October 2016

**RECOMMENDATION:**

That the information concerning consultancies utilised by Council during the period January to June 2016 be received.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 11 October 2016

Item: 218

### SS - General Purpose Financial Statements and Special Purpose Financial Statements for the year ended 30 June 2016 - (95496, 96332)

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#### REPORT:

##### Executive Summary

Section 413(1) of the Local Government Act, 1993 (the Act) requires that *"a council must prepare financial reports for each year, and must refer them for audit as soon as practicable."* The unaudited Annual Financial Statements for 2015/2016 have been completed and are ready for audit.

The purpose of this report is to refer the General Purpose Financial Statements and Special Purpose Financial Statements (Financial Statements) for the financial year 2015/2016, to audit.

##### Consultation

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

##### Background

Section 413(1) of the Act requires that *"a council must prepare financial reports for each year, and must refer them for audit as soon as practicable."* Section 416(1) of the Act requires a council's financial reports for a year to be prepared and audited within four months after the end of the year concerned.

The attached unaudited Financial Statements for the year ended 30 June 2016 (Attachment 1) have been completed and are ready for audit.

Statements by Councillors and Management on Council's Financial Statements in the prescribed format must be signed to refer the Financial Statements to audit.

Clause 215(1) of the Local Government (General) Regulation 2005 (Regulation) determines the format of the Statement by Councillors and Management. The Statement must:

- a) Be made by resolution of Council; and
- b) Be signed by:
  - (i) the Mayor, and
  - (ii) at least one other member of the Council, and
  - (iii) the Responsible Accounting Officer, and
  - (iv) the General Manager

Clause 215(2) of the Regulation also requires that the Statement must indicate:

- a) Whether or not Council's annual financial reports have been drawn up in accordance with:
  - The Local Government Act, 1993 and the Regulation made there under
  - The Australian Accounting Standards and Professional Pronouncements
  - The Local Government Code of Accounting Practice and Financial Reporting
- b) Whether or not those reports present fairly the Council's financial position and operating result for the year;
- c) Whether or not those reports are in accordance with the Council's accounting and other records; and

## ORDINARY MEETING

Meeting Date: 11 October 2016

- d) Whether or not the signatories know of anything that would make those reports false or misleading in any way.

Council's Financial Statements have been prepared in accordance with the requirements detailed in Clause 215(2) (a) to (c) of the Regulation, as outlined above. Council's Acting Director Support Services, as the Responsible Accounting Officer, considers that these Financial Statements fairly present Council's financial position.

The Financial Statements are prepared by Council staff and comply with Australian Accounting Standards and the Local Government Code of Accounting Practice and Financial Reporting. The Statements are required to be audited by an independent auditor, and lodged with the Office of Local Government before 31 October 2016.

The Financial Statements for the year ended 30 June 2016 will be presented to Council's Audit Committee meeting to be held on 12 October 2016. Whilst generally it is preferable that the Financial Statements are presented to the Audit Committee prior to the Council, this sequence was not achievable this year due to the timing of the Hawkesbury Local Government Election, and the subsequent appointment of Councillors to the Audit Committee.

The table below provides a summary of the key results. These figures are draft and are subject to audit adjustments.

Item	2015/2016	2014/2015
Income from continuing operations (including Capital Grants and Contributions)	\$86.0m	\$107.0m
Capital Grants and Contributions	\$18.3m	\$30.2m
Expenses from continuing operations	\$79.8m	\$68.8m
Net Operating result (before Capital Grants and Contributions)	(\$12.1m)	\$8.0m
Total Assets	\$1,060.7m	\$1,060.8m
Total Equity	\$1,035.9m	\$1,033.5m
Cash and Investments	\$44.0m	\$45.8m
Unrestricted Current ratio	4.92:1	3.56:1
Rates, Annual Charges, Interest and Extra Charges Outstanding Ratio	5.44%	5.52%

A copy of the audited Financial Statements for the year ended 30 June 2016 will be submitted for adoption at the Council Meeting on 8 November 2016. A detailed explanation on these key results will be included in the report presented at that meeting. At that meeting, a presentation relating to the Financial Statements will be given by Council's External Auditors, PricewaterhouseCoopers.

This report recommends that Council refer the unaudited Financial Statements for audit, by completing the attached Statements by Councillors and Management (Attachment 2).

### 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 applicable to this report.

## ORDINARY MEETING

Meeting Date: 11 October 2016

### RECOMMENDATION:

That:

1. Council note the following Statement in respect of Section 413(2)(c) of the Local Government Act 1993 as to its Annual Financial Statements:
  - a) Council's Annual Financial Statements for 2015/2016 have been drawn up in accordance with:
    - The Local Government Act 1993 (as amended) and the Regulation made there under;
    - The Australian Accounting Standards and Professional Pronouncements; and
    - The Local Government Code of Accounting Practice and Financial Reporting.
  - b) The Statements present fairly the Council's financial position and operating result for the year.
  - c) The Statements are in accordance with the Council's accounting and other records.
  - d) The signatories do not know of anything that would make these Statements false or misleading in any way.
2. Council sign the "Statements by Councillors and Management". The Statements are to be signed by the Mayor, Deputy Mayor, General Manager and the Responsible Accounting Officer.
3. Council seek a presentation from its External Auditors, PricewaterhouseCoopers, at a Council Meeting following the completion of the audit.

### ATTACHMENTS:

- AT - 1** General Purpose Financial Statements and Special Purpose Financial Statements for the year ended 30 June 2016 (*distributed under separate cover*)
- AT – 2** Statements by Councillors and Management on the General Purpose Financial Statements and Special Purpose Financial Statements for the year ended 30 June 2016

**ORDINARY MEETING**

**Meeting Date: 11 October 2016**

**Attachment 2: Statements by the Councillors and Management on the General Purpose Financial Statements and Special Purpose Financial Statements for the year ended 30 June 2016**

**General Purpose Financial Statements**

for the financial year ended 30 June 2016

**Statement by Councillors and Management**

made pursuant to Section 413(2)(c) of the Local Government Act 1993 (as amended)

**The attached General Purpose Financial Statements have been prepared in accordance with:**

- The Local Government Act 1993 (as amended) and the Regulation made thereunder,
- The Australian Accounting Standards and professional pronouncements, and
- The Local Government Code of Accounting Practice and Financial Reporting.

**To the best of our knowledge and belief, these Financial Statements:**

- present fairly the Council's operating result and financial position for the year, and
- accords with Council's accounting and other records.

**We are not aware of any matter that would render the Statements false or misleading in any way.**

**Signed in accordance with a resolution of Council made on 11 October 2016.**

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**Councillor Mary Lyons-Buckett, Mayor**

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**Councillor Barry Calvert, Deputy Mayor**

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**Laurie Mifsud, Acting General Manager**

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**Emma Galea, Responsible Accounting Officer**

**ORDINARY MEETING**

**Meeting Date:** 11 October 2016

**Special Purpose Financial Statements**  
for the financial year ended 30 June 2016

**Statement by Councillors and Management**

made pursuant to the Local Government Code of Accounting Practice and Financial Reporting

**The attached Special Purpose Financial Statements have been prepared in accordance with:**

- The NSW Government Policy Statement *"Application of National Competition Policy to Local Government"*.
- The Division of Local Government guidelines *"Pricing & Costing for Council Businesses - A Guide to Competitive Neutrality"*.
- The Local Government Code of Accounting Practice and Financial Reporting.
- The NSW Office of Water (Department of Environment, Climate Change and Water) Guidelines – *"Best Practice Management of Water and Sewerage"*.

**To the best of our knowledge and belief, these Financial Statements:**

- Present fairly the operating result and financial position for each of Council's declared Business Activities for the year, and
- Accord with Council's accounting and other records.

**We are not aware of any matter that would render the Statements false or misleading in any way.**

**Signed in accordance with a resolution of Council made on 11 October 2016.**

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**Councillor Mary Lyons-Buckett, Mayor**

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**Councillor Barry Calvert, Deputy Mayor**

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**Laurie Mifsud, Acting General Manager**

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**Emma Galea, Responsible Accounting Officer**

**oooO END OF REPORT Oooo**



## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 219**                      **SS - Pecuniary Interest Returns - Councillors and Designated Persons - (95496, 96333)**

### REPORT:

#### Executive Summary

The Local Government Act, 1993 (the Act) 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 Acting General Manager by Councillors and Designated Persons. It is recommended that Council note that the Disclosure of Pecuniary Interests and Other Matters Returns, lodged with the Acting 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)(b), the following Section 449(3) Returns have been lodged:

Councillor	Return Period	Date Lodged
Clr Barry Calvert	01/07/2015 – 30/06/2016	27/07/2016
Clr Michael Creed	01/07/2015 – 30/06/2016	10/08/2016
Clr Patrick Conolly	01/07/2015 – 30/06/2016	12/07/2016
Clr Kim Ford	01/07/2015 – 30/06/2016	25/07/2016
Clr Mary Lyons-Buckett	01/07/2015 – 30/06/2016	27/07/2016

**ORDINARY MEETING****Meeting Date:** 11 October 2016

<b>Councillor</b>	<b>Return Period</b>	<b>Date Lodged</b>
Clr Warwick Mackay	01/07/2015 – 30/06/2016	12/07/2016
Clr Christine Paine	01/07/2015 – 30/06/2016	26/08/2016
Clr Robert Porter	01/07/2015 – 30/06/2016	27/07/2016
Clr Paul Rasmussen	01/07/2015 – 30/06/2016	24/08/2016
Clr Jill Reardon	01/07/2015 – 30/06/2016	19/07/2016
Clr Tiffany Tree	01/07/2015 – 30/06/2016	08/09/2016
Clr Leigh Williams	01/07/2015 – 30/06/2016	30/08/2016

<b>Position</b>	<b>Return Period</b>	<b>Date Lodged</b>
Acting General Manager	01/07/2015 – 30/06/2016	10/08/2016
Manager Human Resources	01/07/2015 – 30/06/2016	30/08/2016
Human Resources Coordinator	08/12/2015 – 30/06/2016	01/09/2016
Manager Corporate Communications	01/07/2015 – 30/06/2016	15/09/2016
Manager Risk Management	01/07/2015 – 30/06/2016	26/07/2016
Senior Strategic Planner	01/07/2015 – 30/06/2016	03/08/2016
Internal Auditor	01/07/2015 – 30/06/2016	01/09/2016
Director City Planning	01/07/2015 – 30/06/2016	10/08/2016
Manager Strategic Planning	08/03/2016 – 30/06/2016	22/07/2016
Senior Strategic Planning Coordinator	01/07/2015 – 30/06/2016	22/07/2016
Senior Strategic Environmental Planner	01/07/2015 – 30/06/2016	17/08/2016
Senior Strategic Land Use Planner	01/07/2015 – 30/06/2016	19/08/2016
Senior Strategic City Planner	01/07/2015 – 30/06/2016	01/09/2016
Senior Strategic Asset Planner	01/07/2015 – 30/06/2016	05/08/2016
Development Services Manager	01/07/2015 – 30/06/2016	11/08/2016
Subdivision and Development Engineer	01/07/2015 – 30/06/2016	11/08/2016
Senior Subdivision Engineer	01/07/2015 – 30/06/2016	22/07/2016
Town Planning Coordinator	01/07/2015 – 30/06/2016	01/09/2016
Senior Town Planner	01/07/2015 – 30/06/2016	25/07/2016
Senior Town Planner	01/07/2015 – 30/06/2016	01/09/2016
Senior Town Planner	01/07/2015 – 30/06/2016	15/09/2016
Town Planner	08/03/2016 – 30/06/2016	05/09/2016
Town Planner	01/07/2015 – 30/06/2016	29/08/2016
Building Coordinator	01/07/2015 – 30/06/2016	07/09/2016
Senior Building and Development Officer	01/07/2015 – 30/06/2016	14/09/2016
Building and Development Officer	01/07/2015 – 30/06/2016	01/08/2016

**ORDINARY MEETING****Meeting Date:** 11 October 2016

<b>Position</b>	<b>Return Period</b>	<b>Date Lodged</b>
Building and Development Officer	01/07/2015 – 30/06/2016	19/08/2016
Building and Development Officer	01/07/2015 – 30/06/2016	09/08/2016
Acting Manager Environment and Regulatory Services	01/07/2015 – 30/06/2016	19/08/2016
Environmental Health Coordinator	01/07/2015 – 30/06/2016	29/07/2016
Environmental Health Officer	01/07/2015 – 30/06/2016	09/09/2016
Environmental Health Officer	01/07/2015 – 30/06/2016	26/08/2016
Environmental Health Officer	01/07/2015 – 30/06/2016	19/08/2016
SMF Program Coordinator	01/07/2015 – 30/06/2016	06/09/2016
Technical Officer SMF	01/07/2015 – 30/06/2016	07/09/2016
Technical Officer SMF	01/07/2015 – 30/06/2016	07/09/2016
Companion Animals Coordinator	01/07/2015 – 30/06/2016	18/08/2016
Companion Animals Controller	01/07/2015 – 30/06/2016	24/08/2016
Companion Animals Controller	01/07/2015 – 30/06/2016	31/08/2016
Administration Officer	01/07/2015 – 30/06/2016	18/08/2016
Compliance and Enforcement Coordinator	01/07/2015 – 30/06/2016	16/09/2016
Compliance and Enforcement Officer	01/07/2015 – 30/06/2016	01/08/2016
Compliance and Enforcement Officer	01/07/2015 – 30/06/2016	03/08/2016
Compliance and Enforcement Officer	08/04/2016 – 30/06/2016	02/09/2016
Parking Patrol Officer	01/07/2015 – 30/06/2016	16/08/2016
Parking Patrol Officer	01/07/2015 – 30/06/2016	25/08/2016
Parking Patrol Officer – Casual	01/07/2015 – 30/06/2016	16/09/2016
Director Infrastructure Services	01/07/2015 – 30/06/2016	27/07/2016
Manager Building and Associated Services	01/07/2015 – 30/06/2016	29/08/2016
Building Services Coordinator	01/07/2015 – 30/06/2016	29/08/2016
Building Services Officer	01/07/2015 – 30/06/2016	01/08/2016
Building Services Officer	01/07/2015 – 30/06/2016	30/08/2016
Manager Construction and Maintenance	01/07/2015 – 30/06/2016	23/08/2016
Construction and Maintenance Engineer	01/07/2015 – 30/06/2016	29/08/2016
Asset Management Systems Engineer	01/07/2015 – 30/06/2016	17/08/2016
Manager Parks and Recreation	01/07/2015 – 30/06/2016	26/08/2016
Land Management Officer	01/07/2015 – 30/06/2016	26/08/2016
Parks Project Officer	01/07/2015 – 30/06/2016	27/07/2016
Parks Supervisor	01/07/2015 – 30/06/2016	29/08/2016
Richmond Swimming Pool Superintendent	01/07/2015 – 30/06/2016	29/08/2016

**ORDINARY MEETING****Meeting Date: 11 October 2016**

<b>Position</b>	<b>Return Period</b>	<b>Date Lodged</b>
Manager Waste Management	01/07/2015 – 30/06/2016	21/07/2016
Technical Officer Trade Waste	01/07/2015 – 30/06/2016	01/08/2016
Wastewater Management Project Engineer	01/07/2015 – 30/06/2016	02/09/2016
Waste Management Coordinator	01/07/2015 – 30/06/2016	09/09/2016
Projects Engineer	02/12/2016 – 30/06/2016	12/08/2016
Manager Design and Mapping Services	01/07/2015 – 30/06/2016	22/07/2016
Design Investigation Coordinator	01/07/2015 – 30/06/2016	22/07/2016
Design Engineer	01/07/2015 – 30/06/2016	26/08/2016
Project Engineer	01/07/2015 – 30/06/2016	21/07/2016
Spatial Information Coordinator	01/07/2015 – 30/06/2016	27/07/2016
Acting Director Support Services	01/07/2015 – 30/06/2016	26/08/2016
Manager Corporate Services and Governance (Maternity Replacement)	01/07/2015 – 30/06/2016	26/07/2016
Manager Corporate Services and Governance	01/07/2015 – 30/06/2016	23/09/2016
Property Services Coordinator	01/07/2015 – 30/06/2016	26/07/2016
Property Officer	01/07/2015 – 30/06/2016	23/09/2016
Publishing Manager	01/07/2015 – 30/06/2016	23/08/2016
Acting Chief Financial Officer	01/07/2015 – 30/06/2016	21/08/2016
Financial Accountant	01/07/2015 – 30/06/2016	08/09/2016
Rates Team Leader	01/07/2015 – 30/06/2016	08/08/2016
Supply Coordinator	01/07/2015 – 30/06/2016	09/08/2016
Tendering & Contracts Officer	01/07/2015 – 30/06/2016	22/07/2016
Procurement Officer	01/07/2015 – 30/06/2016	26/07/2016
Procurement Officer	01/07/2015 – 30/06/2016	16/08/2016
Information Services Manager	01/07/2015 – 30/06/2016	24/08/2016
Senior Network Administrator	01/07/2015 – 30/06/2016	24/08/2016
Manager Cultural Services	01/07/2015 – 30/06/2016	25/08/2016
Library Coordinator	01/07/2015 – 30/06/2016	01/09/2016
Community History Librarian	01/07/2015 – 30/06/2016	21/09/2016
Museum and Gallery Director	01/07/2015 – 30/06/2016	26/08/2016
Museum and Gallery Director (Maternity Replacement)	01/07/2015 – 30/06/2016	24/08/2016
Visitor Information Centre Coordinator	01/07/2015 – 30/06/2016	30/08/2016
Executive Manager Community Partnerships	01/07/2015 – 30/06/2016	26/08/2016

**ORDINARY MEETING****Meeting Date:** 11 October 2016

<b>Position</b>	<b>Return Period</b>	<b>Date Lodged</b>
Community Program Coordinator	01/07/2015 – 30/06/2016	01/09/2016
Customer Service Manager	01/07/2015 – 30/06/2016	26/08/2016
Customer Service Team Leader	01/07/2015 – 30/06/2016	01/09/2016

The above Councillors and Designated Persons have lodged their Section 449(3) Returns prior to the due date of 30 September 2016, as required by the Act for the receipt of the Returns.

The above details are now tabled in accordance with Section 450A(2)(b) of the Act, and the abovementioned Returns are available for inspection if requested.

**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

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

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

**Financial Implications**

No financial implications applicable to this report.

**RECOMMENDATION:**

That the information be received and noted.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 220**                      **SS - Policy for Payment of Expenses and Provision of Facilities to Councillors - Review - (95496, 96333)**

**Previous Item:**            178, Ordinary (9 August 2016)

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### REPORT:

#### Executive Summary

The Local Government Act 1993 provides for councils to adopt a Policy on the Payment of Expenses and the Provision of Facilities to Councillors. The Act (as amended) requires that the Policy be reviewed within the first 12 months of each term of council and to be publicly exhibited prior to any changes to the Policy being adopted.

A review of the Policy was undertaken and there were several amendments proposed. These were considered by Council at its meeting on 9 August 2016, following which Council resolved to place its revised Policy on public exhibition. The period to lodge submissions closed at 5pm on Friday, 23 September 2016. No submissions have been received.

The report recommends adoption of the exhibited Policy.

#### Consultation

The public were provided with the opportunity to review and comment on the Policy, through a statutory public exhibition process from 25 August 2016 to 23 September 2016, with no submissions being received.

#### Background

Following amendments to the Local Government Act 1993 that were assented to on 30 August 2016, Section 252 of the Act now requires, within the first 12 months of each term of Council, the Council to adopt a policy for the payment of expenses and the provision of facilities to Councillors. Section 253 of the Act also details requirements to be complied with prior to such a policy being adopted or amended in the following terms:

- "(1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submission and make any appropriate changes to the draft policy or amendment.*
- (3) Despite subsection (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- (4) (deleted)*
- (5) A council must comply with this section when proposing to adopt a policy in accordance with section 252(1) even if the council proposes to adopt a policy that is the same as its existing policy."*

## ORDINARY MEETING

Meeting Date: 11 October 2016

At the meeting of Council held on 9 August 2016, Council considered a report regarding the Policy on the Payment of Expenses and the Provision of Facilities to Councillors, and resolved as follows:

*“That the Policy for Payment of Expenses and Provision of Facilities to Councillors, included as Attachment 1 to the report and with the following amendment to Part 3, Provision of Facilities, Clause 2(a)(ii), be placed on public exhibition for a period of at least 28 days, and that the matter be reported back to Council at the conclusion of the exhibition period, along with any submissions received.*

*“a fully maintained and fuelled motor vehicle, being up to the value of the applicable Australian Taxation Office’s Luxury Car Tax Thresholds, ...”*

In accordance with the above resolution, the amended Policy was placed on public exhibition. The period to lodge submissions closed on Friday 23 September 2016. No submissions have been received.

The proposed amendments included in the exhibited Policy are aimed at ensuring Councillors have a robust framework to support ethical, careful, effective and efficient use of council resources in carrying out their functions, while allowing for Councillors to receive contemporary, adequate and reasonable expense allowances and facilities, to enable them to effectively carry out their civic duties as elected representatives of the Hawkesbury community. In conducting the review of the Policy referred to above, consideration was given to relevant policies of other councils, as well as the Guidelines for the Payment of Expenses and Provision of Facilities issued by the then Division of Local Government in 2009 (Guidelines).

Some document layout amendments, including the addition of specific headings and realignment of some content were also included to facilitate referencing the document and identification of the applicable sections, when and as required.

The amendments included in the exhibited Policy, other than those relating to layout and content realignment, are summarised below:

### **Part 2 – Payment of Expenses**

- *Section 1(d)* regarding the claiming for reimbursement of travelling expenses incurred has been amended to include a basis for determining the applicable reimbursement amount and to clarify that travel should be undertaken by utilising the most cost-effective route and mode of travel.

### **Part 3 – Provision of Facilities**

- *Section 2 - During the Term of Council* – A number of amendments were made in regard to technology equipment and use thereof with the objective of ensuring Councillors are provided with contemporary equipment available to support their civic duties, in the most cost-effective manner for Council.

The technology equipment to be made available, the respective obligations and entitlements, support to be provided in regard to the set up and on-going management of the equipment and facilities, and the applicable Operational Management Standards (Council’s Internal Policies), have been amended to support the objective above.

In moving with technology change and upgrades, the following amendments were made:

- *Replacement of individual listed technology accessories with a general statement referring to accessories deemed necessary to conduct Council business. This amendment provides flexibility to adapt to technology changes, as required.*

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- *Standardisation of the type of computer to be a 'lap top' computer. This type of computer is more cost effective and supports the contemporary preference for mobile devices.*
- *The removal of specific reference to an electric diary, as such functionality is available through the type of phones provided and iPad.*
- *The removal of the provision for reimbursement of phone charges where a Councillor/Mayor's place of residence has poor phone reception. This provision is no longer relevant as Council has transferred its mobile phone services to a service provider that provides adequate coverage.*
- *Section 2 - During the Term of Council - the value of the vehicle provided to the Mayor has been specified as being limited to the value of the applicable Australian Taxation Office's Car Tax Thresholds.*
- *Section 3 – Private Use of Equipment and Facilities - The explanation of the requirement that Councillors should not obtain more than an incidental private benefit from the use of council facilities has been expanded to more accurately reflect the requirements stipulated within the Guidelines.*
- *Section 4 (as per current Policy) - Executive Support has been removed, with the contents therein being transferred to Section 2 – During the Term of Council under the headings of Mayor, Deputy Mayor and Councillors as applicable.*
- *Section 4 (in proposed Policy) – Use of Council Resources for Political Purposes – A new Section has been introduced to expand on the requirement that council resources must not be used for political purposes. This Section reflects the requirements stipulated in the Guidelines.*

As no submissions were received during the exhibition period, it is now appropriate for the Council to adopt the Policy which is attached to this report, as Attachment 1.

### **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

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

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

### **Financial Implications**

The cost of providing expenses and facilities in accordance with the Policy would be met from the 2016/2017 Adopted Operational Plan.



**ORDINARY MEETING**

**Meeting Date:** 11 October 2016

**RECOMMENDATION:**

That the Policy for Payment of Expenses and Provision of Facilities for Councillors, attached as Attachment 1 to the report, be adopted.

**ATTACHMENTS:**

**AT - 1** Policy for Payment of Expenses and Provision of Facilities to Councillors - (*Distributed Under Separate Cover*).

**oooO END OF REPORT Oooo**

## ORDINARY MEETING

Meeting Date: 11 October 2016

**Item: 221**                      **SS - Review of Local Government Rating System in NSW - (95496, 96332)**

**Previous Item:**            87, Ordinary (10 May 2016)

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### REPORT:

#### Executive Summary

At its Ordinary Meeting on 10 May 2016 Council considered a report regarding the review of the Local Government Rating System in NSW undertaken by The Independent Pricing and Regulatory Tribunal (IPART), pursuant to Section 9 of the Independent Pricing and Regulatory Tribunal Act 1992. A copy of the report submitted at that meeting, including the submission made to IPART in accordance with Council's resolution, is attached to this report as background information.

Following the closing period for submissions, in August 2016, IPART released a draft report on the Review of Local Government Rating System (Draft Report), and is seeking further written submissions.

The Draft Report details 34 draft recommendations with a final report expected to be provided to the Minister for Local Government in December 2016.

Council staff have reviewed the draft recommendations within the context of matters being raised in Council's submission made in May 2016, and the extent, if any, of those matters being addressed in IPART's draft recommendations. The review indicates that some significant matters raised in Council's submission remain unaddressed. It is therefore proposed that Council make a further submission to IPART, by the required deadline of Friday, 14 October 2016.

The purpose of this report is to outline the main recommendations included in IPART's Draft Report and the implications thereof, and to seek Council's endorsement to make a further submission. The Draft Submission is included as Attachment 1 to this report.

The report further recommends that following the enactment of applicable legislative changes arising from the release of IPART's final report, a comprehensive review of Council's rating structure is undertaken to investigate options becoming available through IPART's review for incorporation into Council's rating structure.

#### 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

##### ***Draft Recommendations included in the Review of the Local Government Rating System***

The Draft Report contains 34 draft recommendations, which were developed with the objective to increase efficiency and equity of the NSW rating system, in a manner that should not increase rates per household on average, in real terms.

The draft recommendations include:

- Providing councils with the option to use the market value of the property (CIV method) or the Unimproved Land Value (UIV) method when setting rates.
- Allowing council's total rates income to grow as the communities they service growth from new developments.

## ORDINARY MEETING

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- Providing more options for councils to set residential rates to better reflect local community preferences.
- Replacing the current pensioner concession scheme with a rate deferral scheme operated by the State Government.
- Modifying rate exemptions so eligibility is based on land use rather than ownership.
- Allowing councils to levy a new type of special rate, that would not require regulatory approval, to fund joint infrastructure projects with the State or Federal Government.
- Creating two new rating categories for environmental and vacant land.
- Giving councils better options to set rates within the business and farmland rating categories.
- Allowing councils to choose between purchasing valuation services directly from the market or from the NSW VG.

A full list of recommendations is available on pages 9-14 of the Draft Report, accessible via the link provided later in this report.

IPART's recommendations, if adopted by the NSW State Government and subsequently enacted, is likely to impact the distribution of rates across properties in a local government area. To ensure a fair and equitable rating distribution is maintained, it would be advisable that Council evaluates the impact of any enacted changes and reviews its rating structure accordingly, in due course.

### ***Draft Submission to IPART – Review of the Local Government Rating System***

At its Ordinary Meeting on 10 May 2016 Council considered a report regarding the review of the Local Government Rating System in NSW undertaken by The Independent Pricing and Regulatory Tribunal (IPART), pursuant to Section 9 of the Independent Pricing and Regulatory Tribunal Act 1992.

In accordance with Council's resolution dated 10 May 2016, a submission was made to IPART in regard to the issues paper released in April 2016. The submission covered the following issues:

- Taxation principles
- Assessing the current method of setting rates
- Assessing exemptions, concessions and rebates
- Freezing existing rates paths for newly merged councils
- Establishing new, equitable rates after the 4-year freeze

A copy of the report submitted at that meeting, including the submission made to IPART in accordance with Council's resolution, is attached to this report as background information.

Following the closing period for submissions, IPART released a draft report on the Review of Local Government Rating System (Draft Report), and is seeking further written submissions. The Draft Report 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/draft report - review of the local government rating system - august 2016.pdf](http://www.ipart.nsw.gov.au/files/sharedassets/website/shared_files/investigation_-_section_9_-_legislative_-_review_of_the_local_government_rating_system/draft_report_-_review_of_the_local_government_rating_system_-_august_2016.pdf)

The Draft Report details 34 draft recommendations with a final report expected to be provided to the Minister for Local Government in December 2016.

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The recommendations within the Draft Report issued by IPART in August 2016 have resolved many of the issues that Council included in the submission lodged in May 2016, but some issues remain outstanding.

The following issues included in Council's May 2016 submission, while not resolved, were either acknowledged in the Draft Report, or have been deemed to be out of the scope of the Terms of Reference. It is not deemed necessary to make further a submission in regard to these issues:

- Use of private valuation service. This was identified by Council as likely to result in inconsistencies. Council outlined that the preferred option would be to retain the Valuer-General (VG) as the sole provider of rating valuations, regardless of the valuation method selected by the Council. This issue was acknowledged in the Draft Report as a concern of both councils and the VG, but IPART determined that the benefits outweighed the issues that may arise.
- Mixed Development Apportionments Factors (MDAFs). Council identified that there is a need for the provision of MDAFs for properties being used for both farmland and business purposes. This was raised by Council as an issue outside the scope of the Terms of Reference for IPART's review.
- Conservation Agreements. Council outlined that there is inadequate rating income generated from residential properties under a Conservation Agreement. This was also raised by Council outside the scope of the Terms of Reference for IPART's review.

The issue of rate-pegging, addressed in Council's May 2016 submission, however, remains unresolved. In the original issues paper, IPART requested submissions in regard to the following question:

*"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?"*

Council's submission regarding this issue was a recommendation to remove the rate pegging system and to transfer the responsibility for the determination of required income from rates from IPART to councils. The required income would be determined based on funding needed to provide services demanded from the community, while ensuring the long term financial sustainability of the council. The determination of the required income would arise from the council's Integrated Planning and Reporting documents, in conjunction with consultation with the community.

Unfortunately, there are no changes recommended to the Special Variation (SV) process within IPART's Draft Report. IPART have recommended a process that will enable rates income to increase with growth in Capital Improved Value (CIV) arising from new residents or businesses. While this recommendation should result in fewer SV applications being lodged for councils with higher growth, it does not alleviate the regulatory and administrative burden for councils that require SV applications for other non-growth related shortfalls. The latter applies to this Council.

Hawkesbury is a local government area with low growth and requires additional income to cover costs that have escalated at a faster pace than rates pegging. This recommendation by IPART does not reduce the need, nor streamline the process involved in a SV application. It is therefore recommended that a further submission on this issue be made.

A copy of the proposed submission to IPART in this regard is attached as Attachment 2 to this report.

### **Review of Council's Rating Structure**

The recommendations included within IPART's Draft Report have the potential to significantly change the rating distribution across properties in the local government area, the collection of rates and pensioner rebates. In order to capitalise on some of the increased flexibility permitted and the potential to align rates with accessibility to services, or affordability to pay, it is recommended that Council consider all implications of any changes, makes appropriate decisions where options are available, and review the current rating structure, once the associated legislation is enacted.

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Any changes to the rating structure will require analysis, modelling and consideration of the potential impacts on ratepayers, which will require significant time and resources. It is recommended that workshops are held between Councillors and staff at the appropriate time, to provide information on the legislative changes, determine what changes should be implemented and to conduct a comprehensive review of Council's rating structure.

Once a review has been completed and a new rating structure developed, it is also important that the community is consulted and informed of the likely impacts of any changes made. The proposed changes to the rating structure would be communicated to ratepayers through the public exhibition process of the relevant Annual Operational Plan.

### **Conformance to the Hawkesbury 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

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

- Improve financial sustainability

### **Financial Implications**

There are no financial implications arising from this report.

### **RECOMMENDATION:**

That:

1. The information contained in the report regarding the Review of the Local Government Rating System Local Government Draft Report August 2016 be received and noted.
2. The Draft Submission to IPART – Review of the Local Government Rating System October 2016, attached as Attachment 2 to this report, be endorsed and submitted to IPART.
3. Council undertake a comprehensive review of its rating system upon enactment of legislative changes arising from IPART's final report.

### **ATTACHMENTS:**

**AT – 1** Item 87, Ordinary Meeting 10 May 2016- Review of Local Government Rating System in NSW

**AT - 2** Draft Submission to IPART – Review of the Local Government Rating System October 2016

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### AT – 1 Item 87, Ordinary Meeting 10 May 2016

#### Review of Local Government Rating System in NSW

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ITEM: 87

SS - Review of Local Government Rating System in NSW - (95496, 96332)

#### 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.



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### 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?

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**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

**AT - 2 Draft Submission to IPART**

**Review of the Local Government Rating System**

**Draft Submission to IPART – Review of the Local Government Rating System**

**4.5 The Special Variation Process**

Council recommended in its submission lodged on IPART's Issues Paper in May 2016, that rate pegging should be removed and councils should be responsible for the determination of the appropriate rates increase to be levied to ensure that the community's expectations are met in a financially sustainable manner, over the long term. Increases would be in line with the required amount as identified in the Integrated Planning and Reporting (IPR) documentation, in conjunction with community consultation.

The Draft Report of the Review of the Local Government Rating System outlines concerns raised from this, and other councils regarding the significant regulatory burden involved in the current Special Variation (SV) application process.

The Issues Paper outlined three options suggested by the Panel Report, none of which have been incorporated in the recommendations within the Draft Report. The reasoning outlined was that the proposed growth outside of the peg increases (via CIV) would reduce the number of SV applications required. This premise works for councils with significant levels of growth in terms of new residences or businesses, to cover future costs of this growth. Hawkesbury Council exhibits low growth, which is projected to continue into the 10 Year planning horizon.

Another assumption of this recommendation is that SV Applications are required due to increased costs associated with new development. While this assumption is correct and the proposal will address this issue, it ignores funding shortfalls that have arisen from previous rates pegs not meeting increased costs of providing services and renewing infrastructure to the community. Many of the SV applications submitted by councils since 2011/12 have been submitted to address shortfalls in asset maintenance and renewal, along with financial sustainability issues as a result of insufficient revenue to meet current demands – not future expenditure relating to new growth.

Many of the councils that have limited resources to dedicate to a SV application are those councils that most need these SVs, and further, do not exhibit sufficient growth to reduce the current need to increase revenue. The Draft Report does not provide any streamlining or increases in efficiency in relation to SV applications, outside of growth, which needs to be addressed.

Council reiterates its recommendation outlined in the May 2016 that rate pegging should be removed and that a council should be responsible for determining its own level of rates income in consultation with its community, similar to other states.

**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**                      **Audit Committee Minutes - 13 July 2016 - (91369, 79351, 95496)**

The meeting commenced at 4:05pm.

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**Present:**                      Harry Khouri  
Nisha Maheshwari (Chair)  
Ellen Hegarty (Deputy Chair)  
Councillor Patrick Conolly

**Apologies:**                      Councillor Paul Rasmussen

**In Attendance:**                      Laurie Mifsud - A/General Manager  
Steven Kelly - Internal Auditor  
Emma Galea - A/Director Support Services  
Vanessa Browning - A/Chief Financial Officer  
Dennis Banicevic - Council's External Auditor  
Jan Readford - Minute Secretary

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**REPORT:**

**RESOLVED** on the motion of Ms Ellen Hegarty and seconded by Mr Harry Khouri that the apology be accepted.

**Attendance Register of Audit Committee**

Member	23/9/2015	25/11/2015	9/3/2016 [not held and postponed to 20/4/2016]	11/5/2016	13/7/2016
Councillor Patrick Conolly	A	A	A	A	✓
Councillor Paul Rasmussen	A	✓	x	✓	A
Councillor Bob Porter (Alternate)	N/A	N/A	N/A	N/A	N/A
Ms Ellen Hegarty	A	A	✓	✓	✓
Mr Harry Khouri	✓	✓	✓	✓	✓
Ms Nisha Maheshwari (Chair)	✓	✓	A	A	✓

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

Ms Maheshwari referred to Item 1 on page 4 of the previous minutes and noted that in her absence from that meeting, and any other nominees, that she was declared to have been appointed to the position of Chairperson, pending her acceptance. Ms Maheshwari confirmed her acceptance of the position of Chairperson.

*Mr Banicevic arrived at the meeting at 4:35pm.*

**ORDINARY MEETING**  
**Reports of Committees**

**CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Ms Ellen Hegarty and seconded by Mr Harry Khouri that the Minutes of the Audit Committee held on the 11 May 2016, be confirmed.

**SECTION 3 - Reports for Determination**

**Item: 1                      AC - Status Report - Management Responses to Audit Recommendations - June 2016 - (91369, 79351, 95496)**

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**DISCUSSION:**

- Ms Maheshwari noted the significant reduction in the size of the list of Management Responses to Audit Recommendations over the last three years.
- Mr Kelly referred to Delegations and the evaluation of the software package and advised that the information has now been loaded into the database and will be finalised in the next week, before going live. This will then enable Council to put delegations for positions on the website. Public Access legislation dictates that the information needs to be available on the Web. Mr Kelly advised that the software requires the staff member to enter and accept their delegations.
- Mr Kelly referred to Procurement and Ms Galea advised that the last couple of procedures are going to MANEX next week. Once adopted, Council will conduct training of all staff with delegations, and the templates will be rolled out for the Council tendering process. Ms Browning advised that Council has developed an Intranet tool that will lead users through the process and make it clear and easy.

**RECOMMENDATION TO COMMITTEE:**

That the attached Status Report on Management Responses regarding Audit recommendations be noted.

**COMMITTEE RECOMMENDATION:**

**RESOLVED** on the motion of Mr Harry Khouri, seconded by Ms Ellen Hegarty.

That the attached Status Report on Management Responses regarding Audit recommendations be noted.

**Item: 2                      AC - Draft Internal Audit Operational Plan 2016/2017 - (91369, 79351, 95496)**

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**DISCUSSION:**

- Mr Kelly advised that this is the last year of a three year cycle.
- Mr Kelly advised that in the past, IAB Services, a State Government enterprise, developed a Risk Management Plan for Council, however the IAB Service has now shut down. Council had already secured their services for work in the Information Services area, so we will have to revisit the risk matrix and see how we will focus.
- Mr Khouri enquired if Council is looking for external people to supply this service. Mr Kelly advised that Council may require some external assistance, and may investigate this via the Auditor General.

**ORDINARY MEETING**  
**Reports of Committees**

- Ms Maheshwari referred to the Audit Plan and enquired if these areas have been inspected previously or have been identified to revisit. Mr Kelly advised that the audit areas are scheduled over the three year period of the Audit Plan.
- Ms Maheshwari queried if there were any areas that Council needs to focus on. Mr Kelly identified the areas of Procurement and Contract Management and advised that all councils have exposure in this area. A report will be prepared for the next Committee meeting in this regard.
  - Ms Browning advised that Council has tendering processes in place which ensure things are covered properly. Mr Khouri suggested looking at ways to speed up the process, however, Mr Kelly advised that tenders are difficult to speed up, and must go through an identified process including evaluation, advertising and reporting to Council. Mr Kelly advised that the Procurement process is being streamlined. Ms Browning advised that a number of templates have been developed.
- Mr Khouri enquired if there is software to evaluate tenders.
  - Ms Galea advised that software was considered, but was deemed not cost effective and added processes were in place to ensure appropriate evaluation is undertaken.
- Mr Khouri indicated that this is a key service to Council.
- Mr Mifsud advised that the process has been improved over the past few months and will continue to improve.

**RECOMMENDATION TO COMMITTEE:**

That the Committee adopt the Internal Audit Operational Plan 2016/2017 included as Attachment 1 to the report.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Councillor Patrick Conolly, seconded by Mr Harry Khouri.

That the Committee adopt the Internal Audit Operational Plan 2016/2017 included as Attachment 1 to the report.

**Item: 3                      AC - Draft Operational Plan 2016/2017 - (91369, 79351, 95496)**

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**DISCUSSION:**

- Councillor Conolly referred to the work done on content presentation in the Draft Operational Plan and advised that it has made it easier for Councillors to read.
- Mr Mifsud advised that Council is working to make it more community friendly each year.

**RECOMMENDATION TO COMMITTEE:**

That the Draft Operational Plan 2016-2017 be noted.

**ORDINARY MEETING**  
**Reports of Committees**

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Councillor Patrick Conolly, seconded by Ms Ellen Hegarty.

That the Draft Operational Plan 2016-2017 be noted.

**Item: 4                      AC - Investments - (91369, 79351, 95496)**

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**DISCUSSION:**

- Mr Kelly advised that audit of Council's investments area shows that it is working well under the established criteria, and with an annual average of 3% in interest rates achieved on deposits over the 12 month period with investments covering various periods. To achieve the annual average of 3% in today's climate is very good. The rates are fixed for the term of the deposit.
- Mr Mifsud advised there is a thorough process in place whereby Council receives quotes from around six to eight banks for each investment to achieve the best terms and rates for Council's investments.
- Mr Mifsud indicated that Council's Investment Advisor has informed Council that major banks are currently sourcing funds from within Australia.
- Ms Browning advised that Council can still access short term funds. Ms Maheshwari enquired if there were sufficient funds available and Mr Kelly advised that Council has 5% cash on call available.

**RECOMMENDATION TO COMMITTEE:**

That the Internal Audit Report – Investments be received and noted.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Ms Ellen Hegarty, seconded by Mr Harry Khouri.

That the Internal Audit Report – Investments be received and noted.

**Item: 5                      AC - Waste Management Facility - (91369, 79351, 95496)**

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**DISCUSSION:**

- Mr Kelly advised that an audit of the Waste Management Facility is a regular on the audit program. Internal controls are found to be working well, with funds successfully delivered to Council and to the bank by external security personnel for the past two years. The cost of using this service is minimal.
- Ms Browning advised that the cost of the security service is around \$4,000 per year for all sites.

**ORDINARY MEETING**  
**Reports of Committees**

**RECOMMENDATION TO COMMITTEE:**

That the Internal Audit Report - Waste Management Facility be received and noted.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Councillor Patrick Conolly, seconded by Ms Ellen Hegarty.

That the Internal Audit Report - Waste Management Facility be received and noted.

**Item: 6                      AC - Merger Proposal - Hawkesbury City Council and Part of The Hills Shire Council - (91369, 79351, 95496)**

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**DISCUSSION:**

- Ms Maheshwari indicated that given the outcome, we will note the report.
- Mr Kelly advised that the announcement was made on the day following the last Audit Committee meeting, and that the Delegates Report is provided for the information of the Committee.
- Mr Mifsud indicated that Council was originally deemed unfit under the NSW Government's Local Government Reform Program with its Fit For The Future Proposal, as it did not meet the benchmark for one of the seven criteria, the Operating Performance Ratio. Council will revise the original Proposal and submit it for reassessment to the Office of Local Government (OLG). A report will go to Council's next meeting on 26 July 2016 for endorsement, after which Council's revised Proposal will be submitted to the OLG.
- Ms Hegarty enquired if Council withdrew from its Court Action, and Mr Mifsud confirmed that Council did withdraw.
- Mr Banicevic indicated that Court Actions involving a number of other councils continue to drag on.

**RECOMMENDATION TO COMMITTEE:**

That the Committee notes the report of the Delegate in response to the merger proposal of Hawkesbury City Council and part of The Hills Shire Council.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Councillor Patrick Conolly, seconded by Ms Ellen Hegarty.

That the Committee notes the report of the Delegate in response to the merger proposal of Hawkesbury City Council and part of The Hills Shire Council.

**SECTION 4 - General Business**

1. Mr Kelly referred to the Local Government's Financial Management Regulation and Plan, whereby the Auditor General, or someone delegated by him, will conduct the audit of Council's financials. There is no mention of an internal audit focus, although the Audit Committee has now been mandated, which was not the case previously. The Committee has now not been given any responsibility for the financial statements.
  - Mr Banicevic anticipates that whilst this is the last external audit to be conducted by PricewaterhouseCoopers (PWC) of Council's financial statements, they do expect that the Auditor General may actually appoint PWC to conduct his audits. PWC until now, audited 20 council's financial statements.
  - Mr Kelly advised that a formal advice was expected by around September 2016.

The meeting terminated at 5:08pm.

Submitted to and confirmed at the meeting of the Audit Committee held on 12 October 2016.

**oooO END OF REPORT Oooo**



**ORDINARY MEETING**  
**Reports of Committees**

**ROC**                      **Hawkesbury Access and Inclusion Committee Minutes - 25 August 2016 - (124569, 96328)**

The meeting commenced at 4:08pm.

- 
- Present:**                      Ms Debbie Court, Community Representative  
                                      Mr Gary London, Community Representative  
                                      Ms Carolyn Lucas, Community Representative  
                                      Ms Alison Baidon, District Health Service Representative  
                                      Ms Melanie Oxenham, Community Representative  
                                      Ms Terri Mottram, Community Representative  
                                      Councillor Barry Calvert, Hawkesbury City Council
- Apologies:**                      Mr Alan Aldrich, Community Representative  
                                      Mr Desmond Crane, Community Representative  
                                      Mr Joseph Litwin - Executive Manager - Community Partnerships  
                                      Mr Robert Bosshard, Community Representative  
                                      Mr Ken Ferris, Community Representative  
                                      Councillor Leigh Williams, Hawkesbury City Council
- In Attendance:**                      Ms Meagan Ang - Community Programs Co-ordinator  
                                      Mr Craig Johnson - Hawkesbury City Council - Parks Project Officer  
                                      Ms Jan Readford - Minute Secretary
- 

**REPORT:**

**RESOLVED** on the motion of Ms Baidon and seconded by Mr London that the apologies be accepted.

**Attendance Register of Hawkesbury Access and Inclusion Advisory Committee**

Member	22/10/2015	26/11/2015	25/2/2016	12/5/2016	23/6/2016	25/08/16
Councillor Barry Calvert	A	✓	✓	A	A	✓
Councillor Leigh Williams	✓	A	A	✓	✓	A
Mr Alan Aldrich	A	✓	✓	✓	✓	A
Ms Alison Baidon	✓	A	✓	✓	✓	✓
Mr Robert Bosshard	✓	✓	✓	X	A	A
Ms Debbie Court	✓	✓	✓	✓	✓	✓
Mr Desmond Crane	✓	✓	✓	✓	✓	x
Mr Ken Ferris	A	A	A	A	A	A
Ms Carolyn Lucas	✓	✓	✓	A	✓	✓
Mr Gary London	✓	✓	✓	✓	✓	✓
Ms Melanie Oxenham	✓	A	✓	A	✓	✓
Ms Terri Mottram				✓	✓	✓

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

## **CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Ms Baidon and seconded by Mr London that the Minutes of the Hawkesbury Access and Inclusion Advisory Committee held on the 23 June 2016, be confirmed.

## **SECTION 2 - Presentations to the Committee**

### **Pound Paddock Upgrade**

Presenter: Mr Johnson, Parks Project Officer

- Ms Ang welcomed Mr Johnson to the meeting.
- Mr Johnson tabled a plan for the renovation of Pound Paddock.
- Mr Johnson advised that North West Disability Services are currently leasing half of Pound Paddock. Council has commenced renovations to the site. The site was historically used as a cricket field, however was closed due to safety concerns with traffic.
- Mr Johnson referred to the Plan for Pound Paddock and advised:
  - A leash free zone for dogs will be established in Zone 7.
  - Pathways will be constructed throughout the whole site, 1.5 metres wide using pavers set in concrete to ensure safe flat walking surface.
  - Shelters and table settings will be constructed.
  - A sensory area will be constructed with different surfaces and textures (touch and feel).
  - Fruit trees (lemon and limes) will be introduced and if they do well, will expand to introduce others.
  - Tricycles can be ridden through the park from the adjacent North West Disability Services via a gate in constructed fence.
  - Lions Club may also be involved in terms of funds for the site amenities such as BBQ's.
- Ms Lucas enquired about entry points and parking.
  - Mr Johnson advised entry is via Bourke Street (half way along) and will be wide enough to allow for vehicle entry.
  - Parking is not available on the site. Street parking is available on Bourke Street, and is also available in North West Disability Services with 12 spaces available. Public toilets are also available at this location, however entry is only available via the street entry off Bourke Street due to security provisions implemented for clients of North West Disability Services. Parking is also available at the Guide Hall. A car park was not installed as it would have taken too much of the site.
  - This is on train route for the University, so will also attract those people to the site.
- Mr Johnson advised that on finalisation of contractual arrangements, construction is expected to commence within four weeks with final completion anticipated by November/December 2016.

**ORDINARY MEETING**  
**Reports of Committees**

- Bollards will be constructed along Blacktown Road to improve safety to the site. However, there will not be fences constructed, but rather a natural barrier with suitable plantings.
- Councillor Calvert enquired if there would be BBQs installed. Meagan advised that the Lions Club may help with those.
- Ms Lucas advised there are public toilets next door in the Guide Hall as well.
- Ms Baildon enquired about available funding for shelters. Mr Johnson advised that \$90K was budgeted towards landscaping, which includes the sourcing of plants by Council. Shelters are costed at \$6K each and table sets are \$3K each. Council has material stored at the Depot, left over from other works, and will be used at this site.
- Ms Lucas asked if pathways will have a tactile marking. Mr Johnson advised that this has not been planned. Ms Mottram requested that Mr Johnson contact Vision Australia to discuss the pathways and their suitability for the site. Terri will provide contact details.
- Councillor Calvert enquired if an official opening of the site was planned.
- Ms Lucas indicated that it should be recognised that this is Council's project and not that of North West Disability Services. Mr Johnson indicated however that it would be expected they will have a sense of ownerships due to its proximity to their site, and the use by NWDS clients.
- Ms Oxenham noted the appeal of the Pound Paddock site and its proximity to the entrance to Richmond. Craig advised that this will also be addressed in the signage.
- Mr London advised that Bridges will definitely use the site.
- Mr Johnson suggested that a vegetable garden would be an excellent addition and could be tied into NWDS. Ms Ang agreed that it would be used regularly.
- Councillor Calvert enquired if the area was boggy. Mr Johnson advised that the site drains well. However, because the area is low and receives run-off from the adjacent golf course and NWDS, that Council will install absorption pits. Additional vegetation will also be placed along the golf course side of the site to assist with run-off.
- Councillor Calvert thanked Mr Johnson for his presentation and the tremendous work planned for Pound Paddock.

**MOTION:**

RESOLVED on the motion of Mr London, seconded by Ms Mottram.

That the presentation be received.

**SECTION 3 - Reports for Determination**

**Item: 1                    HAIAC - Committee Annual Report for 2015-2016 - (124569, 96328)**

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**DISCUSSION:**

- Ms Ang advised that today's attendance was not recorded in the report, but will be added to the report following this meeting.
- Councillor Calvert advised the report provides a positive look at the activities and functions of the Committee.

**RECOMMENDATION TO COMMITTEE:**

That the Hawkesbury Access and Inclusion Advisory Committee approve the Annual Report of the activities of the Committee for submission to Council.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Ms Court, seconded by Ms Baildon.

That the Hawkesbury Access and Inclusion Advisory Committee approve the Annual Report of the activities of the Committee for submission to Council.

**Item: 2                    HAIAC - Hawkesbury Access and Inclusion Advisory Committee Audits - (124569, 96328)**

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**DISCUSSION:**

- Ms Ang met with Council staff that are responsible for most of the works to be undertaken to get a timeline. Ms Ang advised that whilst the proposed works are locked into the budget, we need a system in place to report on its progression. Ms Ang has invited Mr Vaby to the next meeting to talk about the requirements for heritage and answer all the questions of the Committee. Mr Vaby is aware that the Committee also needs an update on the progression of the access audits.
- Ms Ang advised that she will also audit Pound Paddock in light of the works as outlined by Mr Johnson.
- Councillor Calvert referred to the footpath outside the Riverview Centre in Windsor and advised that the footpath slopes the wrong way. Mr Mottram advised that she had a near slip at the location and has reported it to Council. Councillor Calvert also referred to the slope of the footpath at the Macquarie Arms. Ms Ang advised that she was aware of the problem with the Macquarie Arms footpath, however, did not know about the Riverview Centre. Ms Ang will audit the site and raise a request for required works.
- Ms Baildon enquired if the proposals regarding the accessible parking and pedestrian crossing point were reported to Council following the last meeting. Ms Ang advised a report went to the Council meeting on 9 August 2016, recommending Option 1 and this was adopted. The works will be scheduled.

**ORDINARY MEETING**  
**Reports of Committees**

- Ms Baildon referred to the recommendations from the Committee regarding Accessible Parking in Schools from the last meeting. Ms Ang advised that a meeting has been scheduled with the schools group and that she intends to address the proposed access issues. Ms Ang will report back to the Committee.
- Councillor Calvert referred to the disability parking in the middle of the car park in Mullinger Lane and advised he has heard that a lot of people want access at the end of the car park. Ms Ang advised that Council received a complaint from a person needing GP access to the Medical Centre in Mullinger Lane however the centre's entry is not accessible.

Ms Court noted that on most occasions the carpark is not full and could support additional disability car spaces, although Ms Baildon advised that any visit to the carpark in the middle of the day she has found the carpark is always full. Mr Johnson advised that it was undesirable to place access points near entrances to access areas. Councillor Calvert reminded the Committee that this is the purpose of this Committee to address these issues and suggested that there be one disability car parking space placed at each end of the carpark. Ms Ang agreed that if an issue is brought to the Committee, then it should be investigated, however noted that Council has investigated the area on numerous occasions, as part of the investigation to gauge access requirements. Ms Ang will prepare a formal response to the individual concerned.

**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 Baildon, seconded by Ms Oxenham.

That matters raised by the Committee in relation to Access and Inclusion Advisory Committee audits, be noted.

**Item: 3                      HAIAC - Progress on Access and Inclusion Plan - (124569, 96328)**

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**DISCUSSION:**

- Ms Ang advised that all these activities align with what we are doing and highlighted the following:
  - Hawkesbury Disability Employment Expo will be held tomorrow afternoon (26 August 2016) with 23 exhibitors attending to include NDIA, Bridges and various social groups.
  - Hawkesbury Business Awards for the Access Inclusion Award - there was only one nomination - Alpha Carwash, and they will be automatic winners. The business will be informed. Precedent Productions advise that it is typical that one entry would be received, particularly in its first year. Ms Ang is not aware if they will attend at this stage. The Awards night will be held on 7 September 2016 at Windsor Function Centre at 7pm. Ms Court and Ms Ang will attend the Awards Presentation night.

## ORDINARY MEETING

### Reports of Committees

- Community assessment by NDIS, whilst it should take up to 28 days from when you put your application in, there appears to be a delay in moving people across. Ms Ang will clarify what is happening at the next Community Care Forum. Ms Baildon expressed concern that people are falling through the cracks as they are not aware about the assistance available. Ms Ang will invite a speaker from the Local Area Coordinator's office to the next meeting to brief the Committee.

#### 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 Lucas, seconded by Mr London.

That the matters raised by the Committee relating to the progress of the Access and Inclusion Plan, be noted.

#### SECTION 4 - General Business

- Mr Johnson advised that the toilets at the boat shed will continue to be maintained and are accessible. There will be additional toilets installed in the car park as well. The area in the boat shed is to be a community area. The area near the boat shed will be for emergency services access. The playground will be moved and come down further. There is space for markets. Ms Ang enquired if there will be footpath installed and Craig confirmed this will be the case once funding was available.
- Councillor Calvert expressed his appreciation on behalf of the Committee for the work undertaken with the Committee for a number of years by Councillor Williams.
- Councillor Calvert advised that Council will review its Committees to coincide with the Local Government Elections. Councillor Calvert will support the work of this Committee during discussions, and enquired if the Committee was satisfied with the way it works. Councillor Calvert advised that as part of this process, Councils will advertise calling for membership of the Committees. Members will have the opportunity to reapply for representation on the Committee. Ms Ang will check with Council staff regarding the nomination process and advise the Committee. Ms Ang advised that the next meeting currently scheduled for October may be impacted by this process and that it may be November before the Committee meets again. The Committee will be advised.
- Ms Ang noted the absence of Mr Aldrich at this meeting and advised that this would have been the last meeting for Mr Aldrich. Mr Ang will send a letter on behalf of the Committee to Mr Aldrich thanking him for his long-term commitment to the work of the Committee.

The meeting terminated at 5:10pm.

Submitted to and confirmed at the meeting of the Hawkesbury Access and Inclusion Advisory Committee held on 27 October 2016.

oooO END OF REPORT Oooo

**ORDINARY MEETING**  
**Reports of Committees**

**ROC**                      **Heritage Advisory Committee - 1 September 2016 - (80242)**

The meeting commenced at 5:55pm in Council Chambers.

**Present:**                      Professor Ian Jack, Chairperson  
                                     Ms Janice Hart, Community Member  
                                     Ms Judith Newland, Community Member  
                                     Ms Carol Roberts, Community Member

**Apologies:**                Mr Jonathan Auld, Deputy Chairperson  
                                     Ms Michelle Nichols, Community Member  
                                     Mr Glenn Falson, Community Member  
                                     Councillor Patrick Conolly, Hawkesbury City Council  
                                     Mr Matthew Owens, Hawkesbury City Council

**In Attendance:**            Mr Andrew Kearns, Hawkesbury City Council  
                                     Ms Robyn Kozjak - Minute Taker, Hawkesbury City Council

**REPORT:**

5:52pm - The Chair arrived and declared the meeting open.

**RESOLVED** on the motion of Ms Newland and seconded by Ms Roberts that the apologies be accepted.

**CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Ms Hart and seconded by Ms Newland that the Minutes of the Heritage Advisory Committee held on the 26 May 2016, be confirmed.

**Attendance Register of Heritage Advisory Committee**

Member	10/12/15	24/03/16	26/05/16	01/09/16
Professor Ian Jack - Chairperson	✓	✓	✓	✓
Mr Jonathan Auld - Deputy Chairperson	✓	✓	✓	A
Councillor Patrick Conolly	✓	A	A	A
Ms Carol Roberts	✓	A	✓	✓
Ms Michelle Nichols	✓	✓	✓	A
Ms Janice Hart	✓	✓	✓	✓
Mr Glenn Falson	✓	A	A	A
Ms Judith Newland	✓	✓	✓	✓

Key:    A = Formal Apology

         ✓ = Present

         X = Absent - no apology

**ORDINARY MEETING**  
**Reports of Committees**

**SECTION 3 - Reports for Determination**

**ITEM: 1                    HAC - Committee Annual Report for 2015/2016 - (95498, 80242, 124414)**

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**RECOMMENDATION TO COMMITTEE:**

That the Heritage Advisory Committee note the Annual Report of the activities of the Committee for submission to Council.

**MOTION:**

RESOLVED on the motion of Ms Roberts, seconded by Ms Newland.

***Refer to COMMITTEE RECOMMENDATION***

**COMMITTEE RECOMMENDATION:**

That the Heritage Advisory Committee note the Annual Report of the activities of the Committee for submission to Council.

**SECTION 5 - General Business**

**Update on Local Heritage Incentive Fund - Heritage Listed Commercial Buildings in Richmond and Windsor**

- Mr Kearns referred to an article published in the local newspapers in relation to heritage projects in the Hawkesbury and distributed copies of the Independent newspaper to members (some of whom had appeared in a photo in that article).
- Mr Kearns advised unfortunately to date there was little interest from the community for this year's program, with only three people attending the information evening in August. Mr Kearns advised the comments from those who attended indicated the funding of \$2,000 was not thought to be significant enough to participate in the program.

Suggestions from the Committee were invited as to how more interest might be generated for this year's and future programs. Ideas put forward included:

- potential to increase monetary amount for each applicant;
  - review themes - a more general, broader approach could be considered instead of just one theme (or overlap themes given the time constraints);
  - revert to private property instead of commercial buildings.
- 
- It was generally agreed the upper limits for funding should be reviewed for the next year's program, (regardless of whether a theme is used or not) and also explore opportunities with OEH to increase this year's funding limit.



**ORDINARY MEETING**  
**Reports of Committees**

**Update on Heritage Near Me Program**

- Mr Kearns advised the Committee of the Heritage Near Me Incentives Program which is part of a suite of Heritage Near Me initiatives. Funding opportunities include:
  - Heritage Activation Grants - physical works for public access
  - Local Heritage Grants - collaborative solutions through community based projects and activities
  - Heritage Green Energy Grants - energy efficiency measures into buildings
- Mr Kearns advised a number of possible projects in which the Committee may wish to seek funding included:
  - Heritage Festival/Event (which could link in with Council's Tourism Working Group)
  - Heritage Study
  - Heritage Inventory Sheets (existing listings and new listings)
  - Cemetery Management
  - Major Building Works (assistance for Council's building works programs - eg lodge application for Tollhouse site, quotes obtained for Slab Barn repairs near Tebbutt's and Energy efficiency measures for Council owned heritage buildings)
- Mr Kearns advised whilst no funding applications were currently open, it would be timely to develop these ideas into something that can be molded to fit application criteria (once released).
- The Chair noted the Heritage Study was incomplete and suggested the Program may be an opportunity to obtain funds to complete the Study.
- Ms Roberts advised she was uncertain about Council holding a Heritage Festival, and suggested it may be more beneficial for Council to approach community groups and societies such as Hawkesbury Historical Society and Hawkesbury Family Historical Group to ascertain if they would like to run a function in line with the National Trust Heritage Festival, with Council's assistance and support.

Mr Kearns responded Council would welcome that option, provided the community groups had the desire and capacity to hold a Heritage Festival.
- Ms Roberts and the Chair advised the Heritage Festival was usually held in April/May and ran for a month and the Committee would need to be planning now for the Heritage Festival 2018.
- Mr Kearns advised preparation for such an event was contingent upon future funding and that opportunities to link with Council's Tourism Working Group should also be explored.

**Update on Krupp - Field Cannon, McQuade Park**

- Mr Kearns advised Council was the custodian of the Krupp Field Gun which was recently removed from McQuade Park to the Depot ahead of restoration works. The Gun had suffered increased deterioration since previous minor restoration with extensive rusting in the trail and timber wheels rotted (sections missing).

**ORDINARY MEETING**  
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- Mr Kearns advised Council was seeking State and Federal funding for conservation and restoration works of the significant item.
- Following restoration of the gun, it would be returned to the park in approximately six months' time (should the grant be successful), with a plan to install a new display including interpretative signage. Guns from other campaigns will be included in the display.

Historical Facts and Figures - Krupp 75mm field gun - 1904 model

- One of 408 manufactured for the Romanian Government and includes crest of King Carol I of Romania.
- Rare model especially considering context of other surviving WWI trophy guns - of 408 made, six are known to have been imported into Australia following WWI.
- Originally built and used for Romanians - possibly captured in Balkan Wars prior to WWI and also possibly captured by Central Powers forces when Romania entered WWI in 1916.
- Turkish forces used the similar Krupp model 75mm gun, ammunitions interchangeable.
- Used against British and Australian forces by Turkey in Palestine and captured by Australian Light Horse as Allies advanced towards Damascus.
- One of two in NSW.

**Update on Launch of HOWS App**

- Mr Kearns advised testing of the App for functionality had commenced ahead of the soft launch which was imminent. Mr Kearns added the development of the App would be an ongoing process which could be amended to include other tours and information in the future.

**Placemaking & Tall Story Concepts**

- Mr Kearns asked for the Committee's input in relation to a concept which links the significance of heritage to placemaking and ideas centred around 'tall stories' that relates place to people/characters of the district.

Mr Kearns gave examples of popular 'tall story' concepts used by Gladstone Council based on folklore relative to specific sites, including tales told in interpretative panels and public art depicting 'yarns' and 'tall stories' relating to some of Gladstone's colourful history and characters.

Mr Kearns advised depending on the mechanisms utilised, there may be opportunities for the development industry to fund streetscaping and public art in return of bonus development rights which would have to be explored further before implementing.

The Committee agreed the concept was one it would like to pursue (possibly through the 'Heritage Near Me' funding) as there were many characters in the Hawkesbury district with interesting 'tall stories' to share.

- The Chair reported he had been approached by the National Trust which sought information on the condition of milestone markers in the Hawkesbury. The Chair noted the matter had been previously discussed at the HAC.

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Mr Kearns advised the matter was reported to the HAC on 28 August 2014 where he noted a consultant had been engaged to identify milestone markers in the area and also further information was to be sought from the RMS. Mr Kearns advised he would review the matter and provide the Committee with a further report at the next meeting.

- Ms Roberts asked if the enquiry regarding milestone markers could also extend to historic horse troughs as she was concerned some troughs were in disrepair and some which used to exist were no longer in situ.
- Ms Roberts raised concern at the number of homes (built 1890's - 1930's) being demolished and replaced with units. Ms Roberts advised many homes seemed to be 'slipping through the net of heritage' and made specific reference to an original Californian bungalow in New Street, Windsor (neighbouring a development site), which had recently been sold. Ms Roberts added she believed it was important to try to save those homes, which were often built by prominent community members instrumental in establishing the town.

The Chair made reference to the Terrace where the entire street was listed, however to date no listing sheets had been added.

Mr Kearns advised a number of items had been identified to be added to the LEP and the preparation of new inventory sheets and the refining of existing sheets was on ongoing process.

- The Chair raised an issue regarding St Matthews Anglican Church where it had been reported vibration created by work on the grandstand carpark had caused cracks in the Rectory building. The Chair advised a similar complaint had been raised several years ago in Little Church Street, Windsor, where heavy machinery working close to a heritage building had caused damage to the building. The Chair asked if there were any Council regulations or restrictions in place to protect heritage buildings from vibration from heavy machinery.

Mr Kearns responded he would investigate in terms of what regulations/restrictions were in place.

The meeting closed at 7pm.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Reports of Committees**

**ROC                      Local Traffic Committee Meeting Minutes - 12 September 2016 - (80245)**

Minutes of the Meeting of the Local Traffic Committee held in the Council Chambers, Windsor, on 12 September 2016, commencing at 3pm.

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<b>Present:</b>	Mr Christopher Amit (Acting Chairman) Inspector Ian Woodward, NSW Police Force Mr James Suprain, Roads and Maritime Services
<b>Apologies:</b>	Mr Steve Grady, Busways
<b>In Attendance:</b>	Ms Cathy Mills, Personal Assistant, Infrastructure Services Ms Sophie Barrett, Events Coordinator

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Mr Christopher Amit advised the Committee that due to the recent Council elections, the position of Chair is yet to be filled and as a result Mr Amit will be the Acting Chair. The Acting Chair position is to be undertaken in accordance with the RMS (formerly RTA) Guidelines "Delegation to Councils for the Regulation of Traffic" Section 5.3 which states that the meeting is to be convened by a Council representative, either voting or non-voting.

RESOLVED on the motion of Mr James Suprain seconded by Inspector Ian Woodward that the apologies be accepted.

**SECTION 1 - Minutes**

**Item 1.1              Confirmation of Minutes**

The Committee resolved on the motion of Mr James Suprain seconded by Mr Christopher Amit that the minutes from the previous meeting held on Monday, 08 August 2016 be confirmed.

**Item 1.2              Business Arising**

There was no Business Arising.

**SECTION 2 - Reports for Determination**

**Item: 2.1              LTC - Sydney Blues and Roots Festival - Windsor 2016 - (Hawkesbury) - (80245, 114164)**

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**REPORT:**

An application has been received from the promoters of the Sydney Blues and Roots Festival, seeking approval (in traffic management terms) to conduct the Sydney Blues and Roots Festival – Windsor 2016, from Friday, 28 October 2016 to Sunday, 30 October 2016.

The event organiser has advised:

- This is an annual event which has been held for the last seven years.
- The Sydney Blues and Roots Festival is a music festival.

**ORDINARY MEETING**  
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- The event will be in the vicinity of George Street, Tebbutt Street and Dight Street, Windsor and be held within the venues of the Windsor Bowling Club, Hawkesbury Hotel and Windsor Public School. Previously the event has been held in Holland's Paddock, Windsor and prior to that in Thompson Square Park and around the Windsor Town Centre.
- The Festival is being run between Friday evening and Sunday evening during the following times:
  - Friday, 28 October 2016 – 5pm to midnight
  - Saturday, 29 October 2016 – 1pm to midnight
  - Sunday, 30 October 2016 – 1pm to 11pm.
- Based on attendances at the previous Festivals, it is expected that approximately 5,000 patrons will attend the Festival over the three days.
- It is proposed to have camping in McQuade Park, Windsor, and an application has been lodged with Council. The camping site is in close proximity to the three venue sites.
- As the three venues are in close proximity to each other, it will make it safe for the public to move between venues and the camp site. Road closures and a pedestrian crossing point are required to ensure the safe passage of pedestrians.
- The following road closures are required:
  - Road Closure; Tebbutt Street, Windsor, between George Street and Little Church Street (allowing access to St Matthews Catholic Church) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;
  - Road Closure; Dight Street, Windsor, between George Street and Macquarie Street (allowing access for vehicles to exit from the Council car park to Macquarie Street) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;
- A Crossing Point is proposed for pedestrians in George Street, Windsor, opposite Dight Street in conjunction with the road closures at Tebbutt Street and Dight Street for Friday, 28 October 2016, between 5pm and midnight, Saturday, 29 October 2016, between 1pm and midnight, and Sunday, 30 October 2016, between 1pm and 11pm.
- Parking is available in and around the Venue sites utilising Council car parks and on-street parking.

Refer to Attachment 1 - Sydney Blues and Roots Festival - Windsor 2016 - Road Closure Plan.

### **Discussion**

It would be appropriate to classify the event as a “**Class 2**” special event under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may impact minor traffic and transport systems, which includes the proposed road closures and crossing point, and there may be a low scale disruption to the non-event community.

The following Road Closures and Crossing Point are proposed for the duration of the event from Friday, 28 October 2016 through to Sunday, 30 October 2016:

- Road Closure; Tebbutt Street, Windsor, between George Street and Little Church Street (allowing access to St Matthews Catholic Church) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;
- Road Closure; Dight Street, Windsor, between George Street and Macquarie Street (allowing access for vehicles to exit from the Council car park to Macquarie Street) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;

## ORDINARY MEETING

### Reports of Committees

- Crossing Point for pedestrians in George Street, Windsor, opposite Dight Street in conjunction with the road closures at Tebbutt Street and Dight Street for Friday, 28 October 2016, between 5pm and midnight, Saturday, 29 October 2016, between 1pm and midnight, and Sunday, 30 October 2016, between 1pm and 11pm

The traffic controlled crossing point and road closures will ensure the safe passage of pedestrians between the venue sites as well as the camp site in McQuade Park.

The event organiser has submitted the following items in relation to the event: Attachment 2 (ECM Document Set ID No 5497792)

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Traffic Management Strategy Plan (TMP) that only gives a brief outline of the movement of vehicular and pedestrian traffic for the event,
5. Copy of Consultation letters to Residents and Business Owners with their consent.
6. Road Closure Plan.

The Transport Management Plan (TMP) and the associated Traffic Control Plans (TCP) are to be submitted to the Transport Management Centre (TMC) for authorisation due to the proposed road closures.

#### RECOMMENDATION TO COMMITTEE:

That:

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Sydney Blues and Roots Festival - Windsor 2016 event, in the vicinity of George Street, Tebbutt Street and Dight Street, Windsor, from Friday, 28 October 2016 to Sunday, 30 October 2016 be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted, the following road closures, crossing point and traffic control measures:
  - Road Closure; Tebbutt Street, Windsor, between George Street and Little Church Street (allowing access to St Matthews Catholic Church) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;

## ORDINARY MEETING

### Reports of Committees

- Road Closure; Dight Street, Windsor, between George Street and Macquarie Street (allowing access for vehicles to exit from the Council car park to Macquarie Street) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;
- Crossing Point for pedestrians in George Street, Windsor, opposite Dight Street in conjunction with the road closures at Tebbutt Street and Dight Street for Friday, 28 October 2016, between 5pm and midnight, Saturday, 29 October 2016, between 1pm and midnight, and Sunday, 30 October 2016, between 1pm and 11pm;
- No other crossing point or road closures are permitted;

and the following conditions:

#### **Prior to the event:**

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally Council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the site by the event organiser prior to preparing the TMP and prior to the event;
- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 4d. the event organiser is to obtain approval from the Transport Management Centre – TMC as road closures are proposed; a copy of the Transport Management Centre – TMC approval to be **submitted to Council;**
- 4e. the event organiser is to submit a Transport Management Plan (TMP) for the entire event incorporating a Traffic Control Plan (TCP), which needs to include details such as the specific position of barriers, signs etc, required for the proposed crossing point, road closures and traffic diversions, to Council, the Roads and Maritime Services - RMS and the Transport Management Centre (TMC) for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 4f. the event organiser is to submit to Council a copy of its Public Liability Policy in an amount not less than \$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy and that Policy is to cover both on-road and off-road activities;

## ORDINARY MEETING

### Reports of Committees

- 4g. as the event involves the closure of public roads and the provision of a Crossing Point, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy and close the road;
- 4h. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of McQuade Park;
- 4i. the event organiser is to obtain written approval from Hawkesbury Sports Council Inc for the use of their section of McQuade Park; **a copy of the correspondence to be submitted to Council;**
- 4j. the event organiser is to obtain approval from respective Land Owners for the use of their premises and land for the event; **a copy of this approval to be submitted to Council;**
- 4k. the event organiser is to advertise the event in the local press stating the entire extent of the event, including the proposed traffic control measures, road closures, detour routes and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 4l. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 4m. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, including the proposed traffic control measures, road closures, detour routes and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 4n. the event organiser is to directly notify all the residences and businesses which may be affected by the event, including the proposed traffic control measures, road closures, detour routes and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council**
- 4o. the event organiser is to **submit** the completed "Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" to Council;

#### **During the event:**

- 4p. access is to be maintained for businesses, residents and their visitors;
- 4q. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;
- 4r. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4s. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed for the event (including the crossing point, road closure points and detour route), during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4t. the participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,



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- 4u. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity.

**APPENDICES:**

**AT - 1** Sydney Blues and Roots Festival - Windsor 2016 - Road Closure Plan

**AT - 2** Special Event Application - (ECM Document Set ID No 5497792) - *see attached.*



**ORDINARY MEETING**  
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**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Mr James Suprain, seconded by Inspector Ian Woodward.

Support for the Recommendation:        Unanimous support

That

1. The approval conditions listed below relate only to matters affecting the traffic management of the event. The event organiser must obtain all other relevant approvals for this event. The event organiser must visit Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/events/organising-an-event2>, and refer to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they comply with the contents and requirements of this information which includes the Roads and Maritime Services - RMS (formerly RTA) publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package.
2. The Sydney Blues and Roots Festival - Windsor 2016 event, in the vicinity of George Street, Tebbutt Street and Dight Street, Windsor, from Friday, 28 October 2016 to Sunday, 30 October 2016 be classified as a "**Class 2**" special event, in terms of traffic management, under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted, the following road closures, crossing point and traffic control measures:
  - Road Closure; Tebbutt Street, Windsor, between George Street and Little Church Street (allowing access to St Matthews Catholic Church) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;
  - Road Closure; Dight Street, Windsor, between George Street and Macquarie Street (allowing access for vehicles to exit from the Council car park to Macquarie Street) from 4pm Friday, 28 October 2016 through to midnight Sunday, 30 October 2016;
  - Crossing Point for pedestrians in George Street, Windsor, opposite Dight Street in conjunction with the road closures at Tebbutt Street and Dight Street for Friday, 28 October 2016, between 5pm and midnight, Saturday, 29 October 2016, between 1pm and midnight, and Sunday, 30 October 2016, between 1pm and 11pm;
  - No other crossing point or road closures are permitted;

and the following conditions:

**Prior to the event:**

- 4a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean-up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally Council has an events template which can be provided to assist in identifying and controlling risks);
- 4b. the event organiser is to assess the risk and address the suitability of the entire site as part of the risk assessment considering the possible risks for all participants. This assessment should be carried out by visual inspection of the site by the event organiser prior to preparing the TMP and prior to the event;
- 4c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 4d. the event organiser is to obtain approval from the Transport Management Centre – TMC as road closures are proposed; a copy of the Transport Management Centre – TMC approval to be **submitted to Council;**
- 4e. the event organiser is to submit a Transport Management Plan (TMP) for the entire event incorporating a Traffic Control Plan (TCP), which needs to include details such as the specific position of barriers, signs etc, required for the proposed crossing point, road closures and traffic diversions, to Council, the Roads and Maritime Services - RMS and the Transport Management Centre (TMC) for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation
- 4f. the event organiser is to submit to Council a copy of its Public Liability Policy in an amount not less than \$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy and that Policy is to cover both on-road and off-road activities;
- 4g. as the event involves the closure of public roads and the provision of a Crossing Point, the event organiser is required to submit a Road Occupancy Application (ROA) to Council, with any associated fee, to occupy and close the road;
- 4h. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of McQuade Park;
- 4i. the event organiser is to obtain written approval from Hawkesbury Sports Council Inc for the use of their section of McQuade Park; **a copy of the correspondence to be submitted to Council;**
- 4j. the event organiser is to obtain approval from respective Land Owners for the use of their premises and land for the event; **a copy of this approval to be submitted to Council;**

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- 4k. the event organiser is to advertise the event in the local press stating the entire extent of the event, including the proposed traffic control measures, road closures, detour routes and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 4l. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4m. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, including the proposed traffic control measures, road closures, detour routes and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council**;
- 4n. the event organiser is to directly notify all the residences and businesses which may be affected by the event, including the proposed traffic control measures, road closures, detour routes and the traffic impact/delays expected, due to the event, at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council**
- 4o. the event organiser is to **submit** the completed "Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)**" to Council;

**During the event:**

- 4p. access is to be maintained for businesses, residents and their visitors;
- 4q. a clear passageway of at least four metres in width is to be maintained at all times for emergency vehicles;
- 4r. all traffic controllers / marshals operating within the public road network or road related area, are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4s. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed for the event (including the crossing point, road closure points and detour route), during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 4t. the participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- 4u. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity.

**ORDINARY MEETING**  
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**SECTION 3 - Reports for Information**

There were no Reports for Information.

**SECTION 4 - General Business**

There was no General Business.

**SECTION 5 - Next Meeting**

The next Local Traffic Committee meeting will be held on Monday, 10 October 2016 at 3pm in the Large Committee Room.

The meeting terminated at 3:55pm.

**oooO END OF REPORT Oooo**

ordinary

section 5

notices of motion

**ORDINARY MEETING**

Notices of Motion



**ORDINARY MEETING**

**Notices of Motion**

**SECTION 5 - Notices of Motion**

**NM1**

**Pitt Town Development - (79351, 105109, 125610)**

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**Submitted by:** Councillor Conolly

**NOTICE OF MOTION:**

That a Councillor Briefing Session be held this year, to give a history and background to the development at Pitt Town, including the contributions and works required from the developer and their progress to date.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

**NM2**

**Detached Dual Occupancy - (79351, 105109, 138879, 111627)**

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**Submitted by:** Councillor Richards

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

That:

1. Council provide an update on the status of the previous Council's attempt to allow Detached Dual Occupancy in the Hawkesbury LGA.
2. The update include who is currently considering the application, what action they still require to be taken to approve it and a timeframe for when we should have a result.
3. If for whatever reasons this is not approved, begin the steps required to implement this policy in the Hawkesbury LGA, including methods available for Council to collect contributions from new applicants, to the cost of upgrading infrastructure.

#### **BACKGROUND:**

I would like a status update on this issue so that the new Council is aware of the process involved in seeking Detached Dual Occupancy in the Hawkesbury LGA to date. This policy would allow two detached dwellings of legal status to be constructed and occupied on the one title. Hawkesbury City Council already allows for Attached Dual Occupancy and expanding the policy to include a detached dwelling in addition to the primary residence brings us in line with adjoining councils who allow this to occur. It also provides for more affordable housing options, allows families flexibility with additional living arrangements and allows residents more options regarding the financial capacity of their land.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

**ORDINARY MEETING**

Notices of Motion

**NM3**

**Additional River Crossing Corridor Investigation - (79351, 105109, 138879, 111627)**

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**Submitted by:** Councillor Richards

**NOTICE OF MOTION:**

That Council:

1. Support an additional crossing of the Hawkesbury River, downstream of Windsor.
2. Commence investigations into a suitable corridor so that a project can be ready to be funded by the State Government in the future. Request consideration is given to allocating funding to complete the investigations in the 2017/2018 budget.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

**NM4**

**Briefing Concerning Windsor Bridge - (79351, 95495, 105109, 138884)**

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**Submitted by:** Councillor Zamprogno

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

That:

1. A Councillor Briefing, incorporating presentations from relevant RMS and Council staff be held to provide details on the current status of the Windsor Bridge project.
2. This Briefing should address project status, heritage, traffic performance, design and aesthetic issues (including open space) and maintenance responsibilities.
3. A further Briefing be held for RMS and Transport for NSW officers to outline options and planning for future river crossings including commentary on the impacts of proceeding with the current Windsor Bridge replacement.

#### **BACKGROUND:**

The state of the Windsor Bridge replacement project is the most contentious before the new Council. The expectation of some is that Council should quickly resolve to reverse its former support for Option 1 and now formally oppose the project. With seven new Councillors in the new term, there is clear merit in receiving a briefing on this issue before such a resolution comes before the Council, especially when it seems obvious there is sincere disagreement on some key issues related to this project.

To achieve the briefing's purpose, and to permit relevant officers to be adequately prepared, the matters to be discussed should include (but not be limited to):

1. the current status of the bridge replacement project (true cost and timeframe)
2. how the project is identifying and conserving the heritage of Thompson Square
3. the status of nearby heritage items, including number 10 Bridge St, the colonial era drainage works, the School of Arts steps, and the remnants of Greenway's wharf
4. the evidentiary basis for predictions relating to improved traffic flow
5. the adequacy of the project to deal with projected traffic flows on a multi- decade horizon
6. the proposed aesthetic qualities, form, fabric, scale and position of the new bridge
7. how the project will manage the slope between the upper part of Thompson square park and the water
8. what ongoing input Council can have in ensuring the renewed precinct will suit the communities' needs as regards amenity, aesthetic design (stone, ironwork, landscaping etc), tourism, mobility access, parking, historical interpretation and so on – including those elements which will be Council's responsibility to manage after State-managed works are complete
9. what the options are for a longer term plan for future river crossings, such as the suggestion that an additional crossing form part of the feasibility investigations for the M9 orbital

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10. what the cost of Option 8 from the 2011 RTA study would have been, which was for a downstream bridge near Pitt Town, and how it compares to the likely final cost of Option 1
11. whether the time-frame or funding of such a future crossing is in any way affected by the completion or cancellation of the current bridge replacement project.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

**NM5**

**Windsor Revitalisation Project Working Group - (79351, 105109, 138882)**

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**Submitted by:** Councillor Wheeler

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

That:

1. A report be provided to Council detailing the establishment of a Working Group to develop options to revitalise the Windsor CBD.
2. The report address the aims, membership, frequency of meetings, reporting requirements and potential models explored by the Working Group.

#### **BACKGROUND:**

Many members of the community are concerned about the current state of Windsor CBD with regard to economic activity, empty shops, general cleanliness and visitor numbers.

There are many stakeholders who would provide useful input into a Windsor Revitalisation Project, including the Chamber of Commerce, Windsor Business Group, the Windsor Beautification Group, and other community representatives and business owners from interested groups including local artists and artisans, musicians and performers.

Other Councils have engaged in similar projects and these should be investigated for their costs, outcomes, relevance and transferability to Windsor. These include Renew Newcastle and the Leichhardt implementation of the same.

There will be some overlap with the proposed Hawkesbury Tourism Committee.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

**ORDINARY MEETING**

**Notices of Motion**

**NM6**

**Mental Health Month and Mental Health Services - (79351, 105109, 138882)**

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**Submitted by:** Councillor Wheeler

**NOTICE OF MOTION:**

That Council:

1. Acknowledges that October is Mental Health Month in NSW and acknowledges the work of those organisations working to improve mental health for Hawkesbury residents.
2. Acknowledges that half of all Australians will experience some form of mental illness during their lifetime and that community organisations play a vital role in supporting those with mental illness.
3. Notes that the Hawkesbury LGA has poor access to mental health services and that residents must travel to Penrith to access publicly funded inpatient services.
4. Commits to assisting to break down the stigma attached to mental illness through education and support for community members and employees with mental illness
5. Request a report detailing how Council can support Mental Health Month activities in 2017.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

**NM7**

#### **Comprehensive Hawkesbury Traffic Study - (79351, 105109, 138880)**

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**Submitted by:** Councillor Reynolds

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

That Council:

1. Request an urgent meeting with the member for Hawkesbury, Hon Dominic Perrottet and the Member for Macquarie, Susan Templeman, to discuss the establishment of a comprehensive regional traffic study of river crossings and road links including options for funding such a study.
2. Establish a sub-committee with specific instructions to draw up a brief and seek submissions from a selected short list of companies. The proposed sub-committee is to consist of the Directors of City Planning and Infrastructure Services, two Councillors and one qualified community representative.

#### **BACKGROUND:**

The objective of the study is to develop a holistic traffic strategy for the Hawkesbury including recommendations regarding achievable short term outcomes, including bypasses, to mitigate the districts traffic crisis.

As delays crossing the river at North Richmond and Windsor increase, traffic is diverting from state roads onto local roads. The cost of local roads carrying regional traffic is being unfairly borne by Hawkesbury ratepayers.

The Redbank-Navua Bridge proposal, while at first glance appearing beneficial, is an example of cost shifting a state government responsibility, i.e. state road traffic, onto local roads and Hawkesbury ratepayers.

Independent traffic modelling shows the net traffic benefit of the Navua Bridge with the Redbank development will be zero. However the cost of upgrading and maintaining the local road system through Kurrajong, Grose Vale and Grose Wold to carry the extra traffic using the Navua Bridge will be borne by ratepayers.

A key task will be the collection of 'Origin-Destination' data.

In 2015 the RMS admitted it does not know where North Richmond traffic goes once it gets into Richmond. Does it go to Windsor Road, Blacktown Road, Londonderry Road, Castlereagh Road or stay in Richmond?

Instead of developing a long term strategy to solve the traffic crisis through Richmond and North Richmond, it proposes to eventually duplicate the North Richmond Bridge and funnel increasing traffic into the Grose Vale/Bells Line Road and March Street/Bosworth Street bottlenecks.

Meanwhile other regional traffic, including large heavy vehicles are diverting onto Kurmond Wilberforce Rd and heading to Windsor to bypass the North Richmond bottleneck, adding further costs to Hawkesbury ratepayers.

At Windsor, the proposed Option 1 bridge provides no benefit to traffic flow despite its cost to NSW taxpayers.

Traffic counts carried out by CFE Technologies show large articulated heavy vehicle traffic on Windsor Bridge is increasing at three times the rate calculated by the RMS.



## ORDINARY MEETING

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The NSW Department of Resources and Energy has identified sand resources along the Putty Road as one of the long term sources of construction materials for the Sydney market and in particular the Northwest Growth Sector. Production of Putty Road sand is expected to quadruple in the near future.

Quarry proponents state the quarries are well positioned to meet the shortfall in sand supply given their strategic location close to a major regional road (Putty/Windsor Road) and urban development areas of north-west Sydney.

This increases the urgency to build a second crossing at Windsor.

In May 2015, the RMS advised Council a Traffic Study should have been part of the Kurmond-Kurrajong Investigation Area. It also stated a willingness to work with Council in the development of developer funding mechanisms to fund local and state road improvements.

The comprehensive traffic study and subsequent report will enable the best solutions to be reached to solve the Hawkesbury's traffic crisis and allow strategic development and growth to occur in the LGA.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

## ORDINARY MEETING

### Notices of Motion

**NM8**

#### **Emergency listing of Thompson Square onto the National Heritage Register - (79351, 105109, 138880)**

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**Submitted by:** Councillor Reynolds

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

That:

1. Council request the Federal Minister for the Environment and Energy to emergency list Thompson Square, Windsor on the National Heritage Register.
2. The request to be made in consultation with the local Federal MP.

#### **BACKGROUND:**

It was in Thompson Square that Governor Lachlan Macquarie shattered the British class system. For the first time in the British Empire an important public place was named not for King or nobleman but after a transported convict who had redeemed himself, and risen by his own enterprise to become one of the wealthiest men in the Colony.

By naming the main street after King George but the Town Square which encompassed the King's road after an ex- convict, Macquarie placed both men on the same level of significance to the town and colony.

Thompson Square is now regarded as the birthplace of the highest of Australian ideals, 'The Fair Go' and is of outstanding significance to the Nation.

*"It has been My Invariable Opinion...that, once a Convict has become Free Man, either by Servitude, Free Pardon, or Emancipation, he should in All Respects be considered on a footing with every other Man in the Colony, according to his Rank in Life and Character. In Short, that no Retrospect should in any Case be had to his having been a Convict." - Lachlan Macquarie, 28 June, 1813.*

Macquarie did not gift to the people a set of buildings but rather an open civic space which buildings were to surround.

It is a Town Square and inherently the quality of a Town Square is it affords sight lines between the buildings across the open space which binds and unites it as a whole and give it meaning and function. The void is also a usable space as are the structures. Indeed the buildings would not be there if it was not for the space.

The area is degraded and ceases to be a Square if elevated, alien, 21st century structures cut through this historic space, dividing the area up into disconnected zones assaulted by traffic, noise and pollution.

*"SSI-4951 (Option 1) entails the destruction of one of the most significant townscapes in Australia, Thompson Square in Windsor." - Royal Australian Historical Society*

*"the Heritage Council advised that it is unequivocally opposed to the project for the 'irrevocable damage' it will do to Windsor and Thompson Square" - NSW Heritage Council*

*"The Minister ignored the advice of every heritage advocate who looked at it (the project)" - NSW Govt Barrister, Land and Environment Court*

*"This is going to be bad for heritage. No doubt about it." - NSW Govt Barrister, Land and Environment Court*

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*"So major impacts on cultural heritage, as identified by the (heritage conservation management) plan, will just be an irrelevance"* - Justice Brereton, NSW Land and Environment Court

*"evidence contained within it, above and below ground that can be determined to have a direct association with the Green Hills Settlement or the period of expansion under the direction of Governor Lachlan Macquarie would potentially be of National significance."* - Biosis Pty Ltd. RMS Consultants

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

**ORDINARY MEETING**  
Questions for Next Meeting

**QUESTIONS FOR NEXT MEETING**

**Councillor Questions from Previous Meetings and Responses - (79351)**

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**REPORT:**

**Questions - 30 August 2016**

#	Councillor	Question	Response
1	Williams	Requested that additional investigations be made into the waste bin collection service location at the intersection of Wheelbarrow Ridge Road and Greens Road, Lower Portland.	The Director City Planning advised that the road conditions and manoeuvring areas are being further investigated. This involves the relevant manager riding in the truck with the drivers and undertaking a risk and safety analysis of the route and locality. The results of this investigation will be advised to Councillors.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**CONFIDENTIAL REPORTS**

**CONFIDENTIAL REPORTS**

**Item: 222**                      **SS - Property Matter - Lease to Ahuja Enterprises Pty Ltd - 69 Windsor Road, Windsor - (95496, 107293, 112106) CONFIDENTIAL**

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**Reason for Confidentiality**

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

*Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the Council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on a balance, be contrary to the public interest.*

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



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