



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 28 July 2009
location: council chambers
time: 5:00 p.m.



mission
statement

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

How Council Operates

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

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

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

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

Meeting Procedure

The Mayor is Chairperson of the meeting.

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

Public Participation

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

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

A Point of Interest

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

Planning Decision

Under Section 375A of the Local Government Act 1993, details of those Councillors supporting or opposing a 'planning decision' 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.

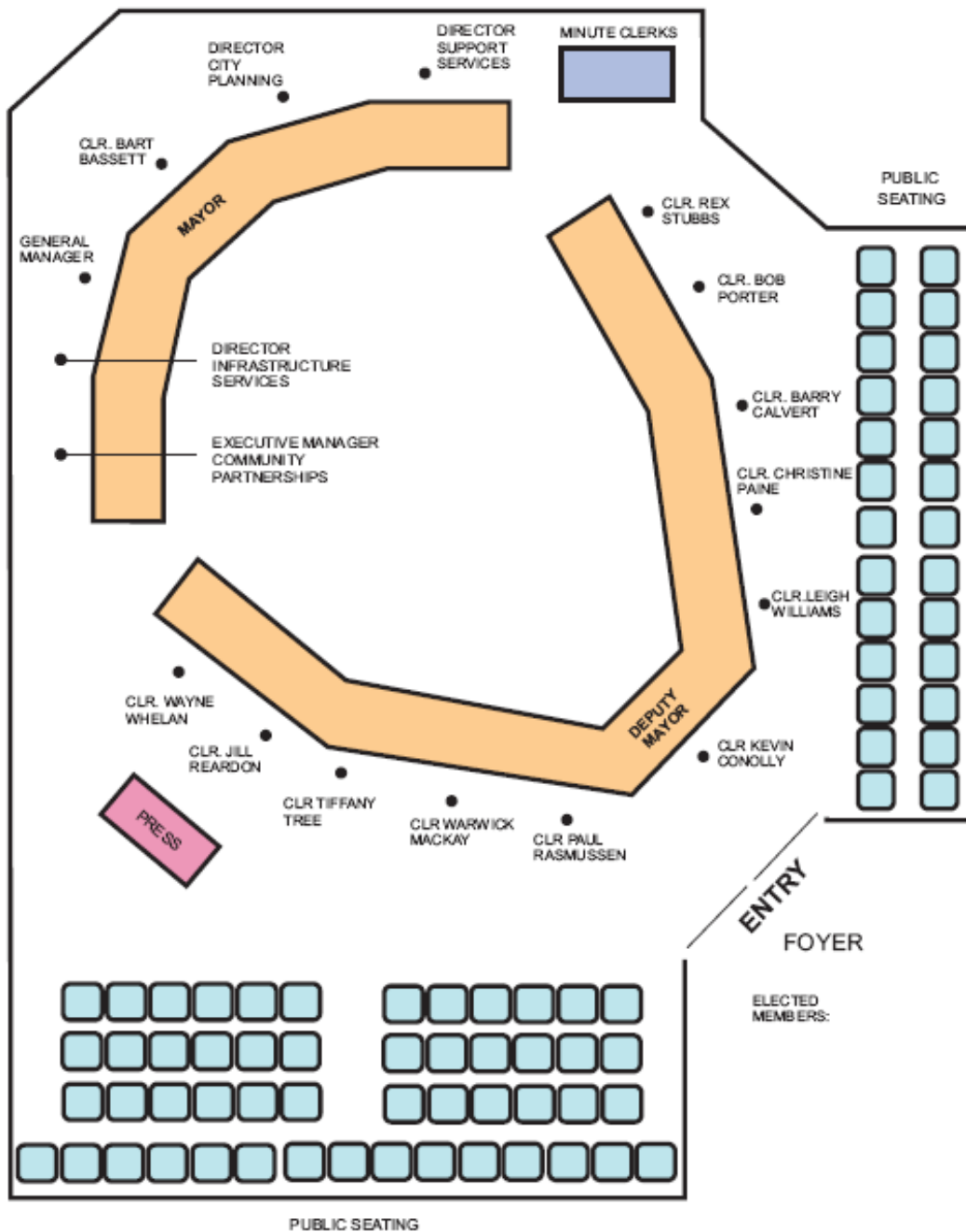
Website

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

Further Information

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

hawkesbury city council council chambers



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- **QUESTIONS WITH NOTICE**
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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item:135 GM - Attendance and Submission of Motions - Local Government Association of NSW Annual Conference 2009 - (79351, 79633, 95496)

REPORT:

The Local Government Association (LGA) of NSW Annual Conference 2009 will be held 24 - 28 October 2009 in Tamworth NSW. The theme for the 2009 Annual Conference is "Tough Times, Smart Solutions".

Cost of attendance at the 2009 Annual LGA Conference will be approximately \$1,990.00 plus travel expenses, per delegate.

Budget for Delegates Expenses - Payments made

- | | |
|---|-------------|
| • Total Budget for Financial Year 2009/2010 | \$41,000.00 |
| • Expenditure to date | \$0.00 |
| • Budget balance as at 15/7/09 | \$41,000.00 |

Council will also need to consider the "official" nomination of 4 voting delegates to attend the 2009 Local Government Association Conference.

In addition, the LGA has called for Motions to be considered at the Conference and any such proposed motions must be received by the LGA by Monday, 10 August 2009 to meet the LGA's business paper production deadlines. The LGA requires that all motions submitted must be adopted by Council before submission to the LGA.

The LGA has advised that motions may seek to alter existing policy, through the addition or deletion of elements, or to introduce new policy. Motions seeking to vary existing policy or to address new or emerging policy issues will be classified as Category One and scheduled for debate at the Conference. Motions reaffirming existing policy, or calling for actions to be taken within existing policy, will be classified as Category Two. Motions in Category Two will be included in the Business Paper and may be individually brought forward to be debated with the agreement of the Conference. Otherwise, they will be referred to the Executive of the Association for consideration.

An opportunity exists to submit late motions up to 12 October 2009 but these will not be included in the Conference business paper and will be dealt with after all other motions have been addressed at the Conference. Therefore, it is preferable for the Council to consider the submission of motions to the Association Conference at this meeting.

In this regard, the following Motion (in the format required by the LGA) is submitted for Council's consideration:

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Motion:

Subject: Statutory Fees Set By The NSW State Government

Motion Text:

That the Local Government Association request the NSW State Government to increase those statutory fees relevant to Local Government operations which have not been increased for three years or more to compensate for inflation.

Note From Council:

Hawkesbury City Council, like all councils in New South Wales, provides various services for which statutory fees can be charged. These statutory fees are set by the State Government, and Council has no authority to vary these fees above imposed limits. A number of these statutory fees have not increased for three years or more, including statutory fees associated with development applications, application fees for Planning and Building Certificates, Freedom of Information fees and charges and various fees relating to the Swimming Pools Act, 1992 and the Companion Animals Act, 1998.

Council continues to provide the services associated with these statutory fees, even though these fees have remained unchanged for a number of years, and Council's operational costs associated with these services, such as salaries and wages, continue to increase every year. As Council cannot vary these statutory fees to keep pace with increases in inflation and the associated operational costs, Council must absorb these costs, which then impacts on the funding available for the provision of other Council services.

Conformance to Strategic Plan

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

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

Funding

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

RECOMMENDATION:

That:

1. Attendance by nominated Councillors, and staff members as considered appropriate by the General Manager, at the 2009 Local Government Association of NSW Annual Conference to be held from 24 – 28 October 2009 in Tamworth, NSW, at a cost of approximately \$1,990.00 plus travel expenses per delegate, be approved.
2. Council nominate 4 voting delegates to attend the 2009 Local Government Association of NSW Annual Conference.
3. The Motion, as outlined in the report regarding statutory fees set by the NSW State Government, be submitted to the Local Government Association of NSW for inclusion in the agenda of the Association's 2009 Annual Conference.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item:136 GM - Mediation Training for Councillors - (79351)

REPORT:

Correspondence has been received from the Manager - Executive Services and Public Officer, The Hills Shire Council (The Hills) regarding mediation training for Councillors.

Several Councillors from The Hills have indicated that they wish to undertake mediation training to assist them in the role as Councillor. The Hills have made contact with the Australian Commercial Disputes Centre (ACDC) to ascertain training available and the costs associated with the training. As the programme requires a certain number of attendees, and to assist with reducing costs, The Hills are offering Hawkesbury City Council the opportunity to undertake the programme with them as a joint venture.

The Mediation Training involves an intensive 40 hour programme over five days from 9:00am to 5:00pm and attendees can attend a further one day course to receive National Accreditation.

The cost for the five day programme is \$2,750.00 (inclusive of GST) per person and the extra day for National Accreditation costs a further \$550.00 (inclusive of GST) per person. Mediation training is held in the City, but can also be arranged "In House". The cost for "In House" training can be reduced if The Hills Council provide a suitable venue and provide refreshments.

The Hills have made initial preparations to hold the programme "In House" and are looking to undertake the training, incorporating a two day weekend up front and then continuing on three future Saturdays. Those Councillors from The Hills who have expressed an interest in undertaking the programme have also indicated that they wish to complete the extra day to receive Accreditation.

To meet National Standards a Coach is required for each three persons undertaking the training. The ACDC have advised that nine is an ideal number to undertake the training, as well as 12 and 15 people. At this stage, The Hills have six Councillors who will be undertaking the programme as detailed above, with one additional Councillor undertaking the programme in the City over five consecutive days at an alternate time.

The Hills are offering Hawkesbury Councillors to join them in the training to enable the programme to be held "In House" and to assist with reducing costs for both Councils. This is also thought to be a good opportunity for Councillors from both Councils to network and share ideas.

At this stage ACDC are unable to confirm an exact price per person for the programme until the number of attendees is confirmed, but they have indicated that the price will be reduced as the programme will be held "In House".

The proposed dates for the five day "In House" training to be held at Castle Hill are as follows:

- Saturday, 12 & Sunday, 13 September 2009 (initial two day weekend)
- Saturday, 19 September
- Saturday, 10 October
- Saturday, 17 October

The final day for accreditation is to be convened as soon as possible following the final Saturday session, but it is planned that it will not conflict with the 2009 Annual Local Government Association (LGA) Conference in Tamworth.

Budget for Delegates Expenses - Payments made:

- Total Budget for Financial Year 2009/2010 \$41,000.00

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- Expenditure to date \$0.00
- Budget balance as at 15/7/09 \$41,000.00

Conformance to Strategic Plan

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

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

Funding

Funding would be provided from the Delegate Expenses Budget.

RECOMMENDATION:

That:

1. The offer from The Hills Shire Council for Hawkesbury Councillors to undertake mediation training "In House" in conjunction with that Council as outlined in the report be accepted.
2. Nominations be received from Councillors wishing to attend.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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CITY PLANNING

Item:137 **CP - Development Application - Rural Shed Greater Than 170m² - 439 Cattai Road, Cattai - (DA0857/08, 34081, 83812, 99322)**

Development Information

Applicant: David Jones
Owner: Mr HM & Mrs GA Parry-Okeden
Zone: Rural Living;
 Environmental Protection - Agriculture Protection (Scenic);
 7 (a) Environmental Protection (Wetlands);
 9 (b) Proposed Road
Advertising: 24 December 2008 to 21 January 2009
Date Received: 21 November 2008

Key Issues: ♦ Non-compliance with Hawkesbury Local Environmental Plan – regarding use of proposed structure.
 ♦ Non-compliance with Hawkesbury Development Control Plan – regarding size and height of proposal.
 ♦ Objections received from surrounding landowners.

Recommendation: Refusal

REPORT:

Description of Proposal

The proposed development involves the construction of a shed with a floor area of approximately 330 square metres. The shed is proposed to be located 191 metres from Cattai Road and 30 metres to the closest property boundary. The height is proposed to be 6.88 metres above natural ground level.

The shed is proposed to be constructed of hardwood timber slabs with a galvanised corrugated iron roof.

The application seeks approval for a "Rural Shed" to be used for the storage of equestrian equipment, farm machinery, agricultural chemicals and other personal property of the owner. The application makes reference to storage of machinery and materials that are related to a business operated off-site, when the machinery and materials are not in use. The Statement of Environmental Effects accompanying the application states:

"The proposed use of the shed is to store the property of the owner, including the storage of material and machinery when not in use by the owner, and related to a business operated elsewhere by the owner. The application does not seek approval for the operation of that business from the proposed shed."

It is apparent that the owners are requesting a shed of this size to accommodate their personal equipment storage needs and machinery used on the premises as well as the warehousing of materials used in association with a business that operates off-site.

History

The original plan submitted with this application, depicted a proposal with a floor area of 472 square metres and was proposed to be 23.2 metres from the side boundary. Council officers met with the

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applicant to discuss the proposal and subsequently an amended plan was submitted on 30 April 2009 for a reduced shed size, being 330 square metres.

Arising from that meeting a separate development application (DA0272/09) was lodged seeking retrospective approval for unauthorised work involving the construction of two vehicle crossings adjacent to the area zoned wetland.

On 15 July 2009, notification was received from the Land and Environment Court that the applicant has lodged an appeal against a 'deemed refusal' or actual refusal of the subject development application. The hearing date for the matter is yet to be set. A callover is listed for 10 August 2009.

Issues Relevant to the Decision - In Point Form

- Non-compliance with Hawkesbury Local Environmental Plan – regarding use of proposed structure.
- Non-compliance with Hawkesbury Development Control Plan – regarding size and height of proposal.
- Objections received from surrounding landowners.

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

National Parks and Wildlife Act 1974
Hawkesbury Local Environmental Plan 1989
Sydney Regional Environmental Plan No 20
Hawkesbury Development Control Plan

Section 79C Matters for Consideration

In determining the application, Council is required to take into consideration the following matters:

a. The provisions (where applicable) of any:

i. Environmental Planning Instrument:

Sydney Regional Environmental Plan No 20

Overall, the development would appear to have an acceptable impact upon the site in terms of environmentally sensitive areas, water quality, water quantity, and flora and fauna.

The assessment of Aboriginal Cultural Heritage under SREP 20 has not been adequately addressed. The applicant has submitted an AHIMS (Aboriginal Heritage Information Management System) certificate from the Department of Environment and Climate Change (DECC) indicating that there are no known sites recorded on or near the subject location. However, this is not considered acceptable as the AHIMS Certificate only provides information on land where known sites of significance or cultural heritage have been identified and reported to DECC.

This aspect of the assessment would need to be resolved prior to approval being granted. This would occur through a site assessment being undertaken by a suitably qualified consultant consulting with the Deerubbin Local Aboriginal Land Council or the Land Council undertaking a site assessment of the land.

The applicant advises that the development does not disturb prominent or significant vegetation nor disturb the character of the Hawkesbury River.

The proposed development is consistent with the landscape character as described in the Scenic Quality Study for SREP 20. The finish of the building will be muted natural colours and is considered to have little prominence in the landscape as the siting is not visible from the river and is not located on a ridge line or prominent slope. Additional landscape screening is

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proposed. The development as proposed would be visible from Cattai Road and from adjoining properties, however, this is not a consideration under SREP 20. This issue is discussed later in the report.

In view of the above, it is considered that either the original or amended proposal is acceptable under SREP 20 provided there are no items of significance associated with Aboriginal Cultural Heritage.

Hawkesbury Local Environmental Plan 1989

The land is zoned part 7(a) Environmental Protection (Wetlands), part 9(b) Proposed Road, part Environmental Protection – Agricultural Protection (Scenic) and part Rural Living. The location of the proposed shed is in an area zoned Rural Living as is the majority of the land (including the existing dwelling). A copy of the zone map will be displayed at the meeting.

The Wetland essentially divides the lot into two usable areas for development. There is substantial area for the proposal in either part of the site, but the applicant has a preference for a location remote from the dwelling.

The application seeks development consent for a “Rural Shed”.

A rural shed is defined as “a building or structure used for the storage of the property of the occupiers of the subject land or property associated with an agricultural use or other permissible land use conducted on the same parcel of land, but does not include a building or structure elsewhere specifically defined in this clause or a building or structure used for a purpose elsewhere specifically defined in this clause.”

The development as a ‘rural shed’ is permissible in the Rural Living zone under Hawkesbury Local Environmental Plan 1989.

However, the applicant has indicated that the shed will be partly used as a storage area for a business operated off-site. Such a use does not fall under the definition of a rural shed and therefore the proposed structure is not considered to be a permitted use. The use of the structure for the storage of machinery and materials associated with a business undertaken off-site, more accurately reflects a business or commercial use. In this regard, the development does not comply with Clause 9 of Hawkesbury Local Environmental Plan 1989 in that the application proposes a prohibited landuse.

The size of the proposal, being either the original or the amended proposal, does not alter the permissibility of the shed use. The business or commercial use of the structure is the same regardless of the size of the structure.

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

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

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) applies to the land.

The proposed shed building and landuse is inconsistent with the aims and objectives of the Rural Shed Chapter of Hawkesbury Development Control Plan. The DCP requires that rural sheds must compliment the rural character of the landscape and have minimal impact upon the scenic qualities of an area. It is considered the proposal by way of its scale, bulk and size would have a demonstrable impact upon the rural character and scenic quality of the area. The proposed shed, being approximately 330 square metres in area, has insufficient

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justification and is not being solely used for the agricultural or rural use of the subject land. The original proposal, being 472 square metres, would have an even greater adverse impact upon the rural character and scenic quality of the area.

The development does not comply with the provisions of the Rural Shed Chapter of Hawkesbury Development Control Plan. Specifically, the DCP seeks to limit the size of rural sheds to 170 square metres maximum and to 5 metres maximum height above natural ground level. The amended proposal is nearly double that size (330 square metres) at 160 square metres in excess of the maximum size permitted and, at 6.88m high, is 1.88 metres over the maximum height.

The applicant's justification for the increased size over and above the requirements of the DCP involve the large size of the property (approximately 36 hectares or 88 acres) and the need to store machinery and other equipment used on a working farm of this nature. The applicant states that the additional height is required in order to make the shed practical and useable. A lesser height would in the opinion of the applicant, result in an undesirable building form and would preclude the proposed activities within the shed from occurring.

Although the property is large in area, it is predominantly covered by a wetland of regional significance and it does not appear to be a working farm, as described by the applicant. The size and location of the shed with the separate access as proposed would appear to facilitate the use of the shed for business purposes. It is considered that there is insufficient justification for a shed of the size proposed and in the location proposed with separate access to the site.

The proposal does not comply with the aims and objectives of the Rural Shed Chapter of the DCP. It would be visually prominent and is not integrated into the landscape. The size and siting of rural sheds on rural properties are key design principles under section 8.1 of the DCP. Section 8.2.2 "Size" of the DCP specifically seeks to "*reduce the number of unnecessarily large sheds.*"

This proposal clearly seeks a larger shed size to accommodate a land use that is contrary to the DCP intention and the permitted land use. A smaller shed used solely for agricultural purposes would be appropriate but has not been proposed by the applicant despite lengthy discussions with the applicant.

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:

There is no planning agreement in place.

v. Matters prescribed by the Regulations:

There are no matters discernable that apply to the development or the land.

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:

Access, Transport & Traffic

The access driveway to the shed site is proposed via a separate driveway from the access to the dwelling. Whilst this driveway is acceptable from a traffic perspective, the additional access is considered likely to be commercial in nature (associated with a prohibited land use) and further implies that the use of the shed is for a more commercial, rather than agricultural, use. It is considered a shed could reasonably be positioned near to the existing dwelling if suitably designed.

Heritage

The land contains a heritage item of local significance – the dwelling “Ukumurra”. The application was referred to Council’s Heritage Advisor who has raised no concerns with the original or amended proposal. If a location closer to the dwelling was to be proposed, further heritage advice would be required.

c. Suitability of the site for the development:

The proposed development is not considered suitable for the site due to its size and scale as discussed elsewhere in this report.

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

Six submissions were received all objecting to the proposal. The points of concern were as follows:

- i. The size and height of the shed is excessive and unnecessary;

Comment: It is agreed that the size of the shed is excessive as discussed earlier in the report.

- ii. Potential for commercial activities or other non-approved uses to operate from or occur in the structure;

Comment: Agreed. Council has also raised this matter with the applicant as discussed earlier in the report.

- iii. The development is not in keeping with the rural character of the area due to the size and height of the proposal;

Comment: As discussed earlier, the size and height of the proposed development is inappropriate. However, the materials are not out of character with the rural landscape as the proposal is a shed constructed with natural materials. The size and commercial use of the shed are matters of concern as have been dealt with in the report above.

- iv. The proposal would have an unacceptable visual impact upon the scenic quality of the area;

Comment: Agreed. It is considered the proposal would have an unacceptable impact upon the scenic quality of the area due to its size. However, the design and choice of construction materials, gives the proposed shed some architectural merit and aesthetic benefit.

- v. The proposed access off Cattai Road is dangerous;

Comment: The proposed access to the shed has been altered. An existing access track to existing cattle yards in the same area of the site is proposed to be used. This is considered acceptable.

- vi. Noise of workers picking up materials, equipment and machinery and potential for operating a business from the shed;

Comment: The commercial use of the structure has been addressed earlier in the report.

- vii. Alternative locations for the siting of the shed exist on the land;

Comment: The applicant has amended slightly the proposed location of the shed to be 6.8 metres further away from the neighbours boundary. This minor relocation has not addressed the objectors concerns and does not reduce the impact of the large shed in that setting.

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- viii. Concern raised as to proposed storage and type of chemicals within the shed, particularly given close proximity to the wetland and potential for chemical leaks and spills;

Comment: The applicant advises that the intent of the shed is to provide safe and secure storage for any agricultural chemicals used on the land. It is best practice to have chemicals stored under cover. Should the application be approved, the storage of chemicals on the site can be controlled by the imposition of consent conditions.

- ix. Concern at environmental impact of washing of vehicles and animals upon the wetland;

Comment: See comments above.

- x. Concern at environmental impact upon land, flora and fauna as a result of the proposal.

Comment: The applicant has advised that one tree is proposed to be removed. Further, native trees are proposed to be planted. The existing farm use is proposed to continue. The environmental impacts from construction are limited.

e. The Public Interest:

Approval of the development may set an undesirable precedent for similar inappropriate commercial development which would not be in the public interest. There is a reasonable expectation of the residents in the locality that a rural shed would be used for rural/agricultural purposes and not a commercial activity.

Conclusion

It is considered that the proposal is not a landuse that can be wholly defined as a "rural shed". Additionally the shed is unjustified in terms of the building size and scale. The non-compliance with the LEP and DCP provisions is considered unacceptable given the proposed use, the size and height of the shed.

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 DA0857/08 for Part Lot 258 DP 752050, 439 Cattai Road, Cattai NSW 2756 for a Rural Shed be refused for the following reasons:

1. The proposed development, being used as a business/commercial use, is prohibited under Hawkesbury Local Environmental Plan 1989.
2. The proposed development is inconsistent with the requirements of the Hawkesbury Development Control Plan.
3. The proposed development will have an unacceptable impact upon the locality in terms of scale, bulk and size.
4. Approval of the development may set an undesirable precedent for similar inappropriate development which would not be in the public interest.

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ATTACHMENTS:

- AT - 1** Locality Plan
- AT - 2** Aerial Photograph
- AT - 3** Site Plan – Original Proposal
- AT - 4** Floor Plan and Elevations – Original Proposal
- AT - 5** Proposed Internal Floor Layout – Original Proposal
- AT - 6** Site Plan – Amended Proposal
- AT - 7** Floor Plan and Elevations – Amended Proposal
- AT - 8** Proposed Internal Floor Layout – Amended Proposal

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AT - 1 Locality Plan

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

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AT - 2 Aerial Photograph

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

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AT - 3 Site Plan – Original Proposal

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

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AT - 4 Floor Plan and Elevations – Original Proposal

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

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AT - 5 Proposed Internal Floor Layout – Original Proposal

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

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AT - 6 Site Plan – Amended Proposal

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

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AT - 7 Floor Plan and Elevations – Amended Proposal

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AT - 8 Proposed Internal Floor Layout – Amended Proposal

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oooO END OF REPORT Oooo

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Item:138 **CP - Amendment to Council Resolution 27 November 2007 - Modification to Development Consent - Shed greater than 170m2 - Lot 1 DP 733243, 457 East Kurrajong Road, East Kurrajong - (MA1305/01A, 17250, 75950, 95498)**

Previous Item: 256, Ordinary (27 November 2007)

REPORT:

Introduction

At Council's Ordinary Meeting of 12 November 2002 Council granted development consent (MA 1305/01) for the erection of a rural shed on Lot 1 DP 733243, No.457 East Kurrajong Road, East Kurrajong.

A Construction Certificate was issued on 15 May 2003 by a Private Certifier.

The shed was not constructed in accordance with the approved Development Consent plans.

In October 2006 an application to modify development consent under Section 96 of the Environmental Planning and Assessment Act, 1979 was received by Council. This application sought approval for some of the modified works in relation to the construction of the shed. The Section 96 application was refused by Council on 27 November 2007 (See Attachment 1 attached).

The Council resolution included the requirement that:

"A Demolition Order be issued on the parts of the existing development that do not comply with the development consent conditions issued for DA1035/01 (MA 1305/01), on 11 December 2002."

A Notice of Intent to Serve an Order under the Environmental Planning and Assessment Act, 1979, dated 24 January 2008 required the owners to:

"Remove all unapproved building works and reinstate the shed in accordance with the stamped approved plans dated 11.12.2002 and sheets 1 to 5 inclusive in accordance with development MA 1305/01."

In seeking to pursue compliance with the Order, Council received legal advice in respect to the terms of the Notice of Intent. The legal advice highlights that the final Order should provide itemised and specific terms to ensure it is able to be robustly defended in the Land and Environment Court (if necessary).

The matter is being reported to Council to seek an amendment to the section of the Motion relating to the demolition. This will enable a detailed final Order to be issued.

Background

The Council Resolution of the 27 November 2007 states:

- "1. *The application to amend the development consent for the erection of a shed at Lot 1 DP 733243, 457 East Kurrajong Road, East Kurrajong be refused for the following reasons:*
 - (a) *The proposed modification will have an adverse impact on the neighbouring property in terms of amenity and privacy.*
 - (b) *The proposed modification will have an unacceptable impact on the visual quality of the area.*

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- (c) *The proposed modification is inconsistent with the aims and objectives of the Hawkesbury Development Control Plan.*
 - (d) *The proposed modification does not comply with the requirements of the Hawkesbury Development Control Plan, in particular Part D Chapter 8 - Rural Sheds.*
 - (e) *Approval of the modified development would not be in the public interest.*
2. *A Demolition Order be issued on the parts of the existing development that do not comply with the development consent conditions issued for DA 1035/01, on 11 December 2002.*
 3. *Staff investigate whether there is a need to lodge a formal complaint about the Private Certifier with the Department of Planning."*

In accordance with the above resolution:

1. The refusal Notice was issued 6 December 2007.
2. A Notice of Intent to Serve an Order under the Environmental Planning and Assessment Act 1979, dated 24 January 2008, was duly served on the owners of 457 East Kurrajong Road, East Kurrajong, to remove all unapproved building works and reinstate the shed in accordance with the stamped approved plans dated 11 December 2002 and development consent MA1305/01.
3. With respect to the Private Certifier, a formal complaint was lodged with the Department of Infrastructure, Planning and Natural Resources (DIPNR) on 4 November 2003. Council is not privy to the outcome of the DIPNR (now called the Department of Planning) investigations and decisions.

Discussion

The development remains inconsistent with the conditions of the development consent in the following manner:

- The northern end of the shed is enclosed (not an awning area as approved)
- The colour of the shed is 'cream' and not the approved 'rivergum' colour
- An additional awning has been constructed on the front (eastern) elevation of the shed
- Landscaping has not been completed

Works can be easily carried out to the building to render the shed compliant with the Development Consent, except in relation to the cut and fill. Alterations to the cut and fill component of the development would require the removal of the shed in order to carry out works and this is not practicable.

Condition 6 of the consent required that the shed be moved further away from the boundary of the adjoining property and as close to the dam as possible. The shed has been located in accordance with the directive of Condition 6, thereby resulting in some uncertainty as to the approved finished floor level and the extent of the cut and fill permitted.

Whilst action in respect to the amount of cut and fill may not be advisable with respect to the issuing of an order, it remains that the amount of fill used (approximately 1.3m) is inconsistent with the requirements of Hawkesbury Development Control Plan, which only permits a maximum of 900mm fill. However, the imposition of Condition 6 effectively deemed the cut and fill to be a variation of the Development Control Plan.

The aim of issuing an Order is to make the shed compliant with the conditions of the Development Consent. This is achieved by issuing an Order No. 15 under Section 121B of the Environmental Planning and Assessment Act, 1979.

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The wording of the existing Notice of Intent does not clearly identify what works have been carried out without approval and what works are required to be undertaken in order to achieve compliance with the development consent.

It is therefore suggested that Point 2 of Council's Resolution of 27 November 2007 be amended in the following manner:

- "2. *An Order under Section 121B of the Environmental Planning and Assessment Act, 1979 be issued requiring the removal of all unauthorised building works, except in relation to the cut and fill, and the carrying out of works in accordance with the stamped approved plans dated 11.12.2002, Sheets 1 to 5 inclusive in accordance with Development Consent MA 1305/01.*"

Conclusion

It is considered prudent to modify the resolution and Order as suggested by Council's legal advisors. A minor amendment to the Council Resolution of 27 November 2007 will enable Council to issue the appropriate orders to ensure that the development for a rural shed on 457 East Kurrajong Road, East Kurrajong is compliant with its Development Consent MA1305/01.

Planning Decision

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

RECOMMENDATION:

That:

1. Part 2 only of the Council's Resolution of 27 November 2007 (Minute No. 431) regarding the erection of a shed at Lot 1, DP 733243, 457 East Kurrajong Road, East Kurrajong be amended by deleting that part and replacing it with the following:
 - "2. *An Order under Section 121B of the Environmental Planning and Assessment Act, 1979 be issued requiring the removal of all unauthorised building works, except in relation to the cut and fill, and the carrying out of works in accordance with the stamped approved plans dated 11.12.2002, Sheets 1 to 5 inclusive in accordance with Development Consent MA1305/01.*"
2. All other parts of the Council's Resolution of 27 November 2007 (Minute No. 431) in this regard to remain unchanged.

ATTACHMENTS:

- AT - 1 Council Report - Ordinary Meeting 27 November 2007
- AT - 2 Council Resolution - Ordinary Meeting 27 November 2007

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AT - 1 Council Report - Ordinary Meeting 27 November 2007

ITEM: 256 CP - Amendment to Council Resolution 27 November 2007 - Modification to Development Consent - Shed greater than 170m² - Lot 1 DP 733243, 457 East Kurrajong Road, East Kurrajong - (MA1305/01A, 17250, 75950, 95498)

Development Information

Applicant: Robert George Hromek
Melissa Maree Langham

Owner: Mr RG Hromek & Ms MM Langham

Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Hawkesbury Development Control Plan

Area: 4.100H

Zone: Rural Living under Hawkesbury Local Environmental Plan 1989

Advertising: 17 October 2006 to 2 November 2006
One submission received

Date Received: 18 September 2006

Key Issues:

- ◆ Non compliance with Development Consent
- ◆ Non compliance with Hawkesbury Development
- ◆ Visual impact
- ◆ Privacy

Recommendation: Approval

REPORT:

Introduction

This application seeks to modify Development Consent MA1305/01, which gave approval for the construction of a rural shed on the subject land.

The application is being reported to Council in accordance with the Council resolution regarding retrospective approvals.

Photographs of the existing shed will be displayed on the noticeboard at the Meeting.

Background

At the General Purpose Committee Meeting of 22 October 2002, Council considered an application seeking approval for a rural shed at 457 East Kurrajong Road, East Kurrajong. The proposed shed was to have an enclosed floor area of 216m² (18m by 12m), a 6m wide side awning and a 3m wide awning along the front elevation. Including the awnings, the shed would have a building footprint of 24m by 15m. The proposed shed was to have a maximum height of 5m. The report to Council recommended that the application be refused, as the proposed shed did not comply with the requirements of Hawkesbury Development Control Plan and would have an adverse impact on neighbouring properties. At this meeting Council resolved:

"that a meeting be arranged between the applicant and staff before the Ordinary meeting (12/11/02) to discuss a reduction in size and to explore options for location of the shed on the property."

A meeting between the applicants and Council Officers took place on 28 October 2002. Following this discussion, the applicants submitted amended plans which:

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- Reduced the size of the proposed shed to 144m² with a side awning 72m² in size. The dimensions of the shed and awning are 12m by 12m and 6m by 12m respectively;
- Relocated the shed to have a setback of 10m from the shared boundary with the Thompson property;
- Reduced the amount of cut to 1.3m, and included 300mm of fill.

These amended plans were approved at Councils Ordinary Meeting of 12 November 2002.

The owners engaged a Private Certifier in respect to the issue of a construction certificate and compliance certificates. During construction a number of complaints were received in respect to non compliance with conditions of consent and the approved plans. These non compliances included:

- Construction works were carried out outside of the approved hours
- Erosion and sedimentation control not in place;
- The cut and fill area larger than approved and the depth of fill approximately 1.3m;
- The northern end of the shed is enclosed (not an awning area as approved);
- The colour of the shed is 'cream', and not the approved 'rivergum' colour
- An additional awning has been constructed on the front (eastern) elevation of the shed.

Following correspondence between Council and the owners, a S.96 application (the subject application) was submitted in respect to the enclosed northern elevation of the shed and the inclusion of a 3m awning along the eastern elevation. This application does not seek approval for, and has not addressed, the other non compliances listed above.

Statutory Framework - Unlawful Structures

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

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

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

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

The Proposal

The Section 96 modification seeks approval for works which have already been carried out, and include:

1. Front awning, along the eastern elevation, 3m wide and 18m long;
2. Enclosure of awning on the northern side of the shed;

Statutory Situation

Assessment Of Section 96(2)

This application is to be determined under the provisions of s96(2) - *Other Modifications* - of the EPA & A Act, 1979.

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S.96(2)

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development for which consent was originally granted and before that consent as originally granted was modified (if at all) under this section, and*

Comment: It is considered that the development as modified is substantially the same as the approved development, albeit a modified enclosed size.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: No approvals are required by a Minister, public authority or approval body.

- (c) *it has notified the application in accordance with:*

- (i) *the regulations, if the regulations so require, or*
(ii) *a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The application was notified in accordance with Hawkesbury Development Control Plan.

- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: One submission was received. The matters raised in this submission are addressed further in this Report.

S.96(3)

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79c(1) as are of relevance to the development the subject of the application

Comment: The relevant matters for consideration under s.79C(1) of the EP&A Act are discussed below.

S.96(4)

Modification of a development consent in accordance with this section is not to be construed as the granting of development consent under this Part but a reference in this or any other Act to a development consent is a reference to the development consent so modified.

Comment: The application is for the modification of development consent MA 1305/01.

s.96(5)

Development consent of the kind referred to in section 79B(3) is not to be modified unless the requirements of section 79B(3)-(7) have been complied with in relation to the proposed modification as if the proposed modification were an application for development consent.

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Comment: The proposed modification is not located on land that is, or is a part of, critical habitat, or is likely to significantly affect a threatened species, population, or ecological community, or its habitat. Therefore section 79B(3) - (7) do not apply.

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

Environmental Planning and Assessment Act 1979 and Regulations 2000

a) the provisions of:

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

The relevant environmental planning instruments are:

**Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
General Provisions of HLEP 1989**

Clause 2 - Aims, objectives etc,

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

Clause 5 - Definitions

The proposed modified development is defined as 'rural shed', which means:

"a building or structure used for the storage of the property of the occupiers of the subject land or property associated with an agricultural use or other permissible land use conducted on the same parcel of land, but does not include a building or structure elsewhere specifically defined in this clause or a building or structure used for a purpose elsewhere specifically defined in this clause."

Clause 9 - Carrying out development

The subject land is zoned Rural Living under the provisions of Hawkesbury Local Environmental Plan 1989.

'Rural shed' is permissible within the Rural Living zone.

Clause 9A - Zone objectives

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

The objectives of the Rural Living zone are:

- (a) *to provide primarily for a rural residential lifestyle,*
- (b) *to enable identified agricultural land uses to continue in operation,*
- (c) *to minimise conflict with rural living land uses,*
- (d) *to ensure that agricultural activity is sustainable,*
- (e) *to provide for rural residential development on former agricultural land if the land has been remediated,*
- (f) *to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,*
- (g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflicts with other land uses in the locality,*
- (h) *to ensure that development occurs in a manner:*
 - i. *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*
 - ii. *that satisfies best practice guidelines and best management practices,*
- (i) *to prevent the establishment of traffic generating development along main and arterial roads,*

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

It is considered that the proposed modified development is not inconsistent with the above objectives.

Specific Provisions of HLEP 1989

Clause 18 - Provision of water, sewerage etc. services

Clause 18(1) states that development consent will not be granted unless satisfactory arrangements have been made for the provision of water, sewerage, drainage and electricity to the land.

Comment: Services to the property exist and are considered adequate for the proposal.

Conclusion

The proposed modified development is consistent with Hawkesbury Local Environmental Plan 1989 including the Rural Living zone objectives.

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

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

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

There are no relevant draft environmental planning instruments that affect the proposed modified development.

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

Hawkesbury Development Control Plan

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

General Information Chapter

This Chapter provides an explanation of the development application process and provides the requirements for lodging a development application for different landuses.

It is considered the subject application provides adequate information for the assessment of the proposal and therefore is consistent with this Chapter.

Notification Chapter

The aim of this Chapter is to identify under what circumstances development proposals will need to be advertised and the means by which it will be advertised to provide for public participation.

Comment: The application was notified as per the requirements of this Chapter. As a result, one (1) submission was received. The matters raised in this submission are discussed below.

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Rural Sheds Chapter

The aim of this Chapter is to enable the erection of sheds on rural properties in a manner, which compliments the rural character of the landscape and has minimal impact on the scenic qualities of an area and to provide design principles for the construction of these buildings.

The following is an assessment of the proposed modified shed against these design principles:

Design Principles	The Proposal	Compliance
Siting Cut and fill shall be limited to 2m of cut and 900mm of fill	Development Consent MA 1305/01 approved 1.3m cut and 300mm fill as per stamped approved plan sheet 2 of 5.	No The shed has been built on a level platform constructed using approximately 1.3m fill.
Sheds shall be located no closer to the road than the existing dwelling house.	The shed will be located further from the road than the proposed dwelling house	Yes
Sheds are not to be erected on land which has a slope in excess of 10%	The slope of the site is 10.9%	In the assessment of the original application, the variation to the slope requirement was supported for the following reasons: <ul style="list-style-type: none"> • the variation is of a minor nature; • the use of 1.3m of cut and 300mm of fill to created a level building platform is consistent with the requirements of the DCP; • the location of the proposed shed is considered appropriate as: <ul style="list-style-type: none"> – it provides a satisfactory setback from the boundary of 453 East Kurrajong Road to minimise any impacts in terms of privacy, overshadowing and loss of views; – minimal cut and fill and land disturbance is required; – the removal of native vegetation will not be required.
The erection of rural sheds should involve minimal disturbance to native vegetation.	The proposal will not involve disturbance to native vegetation.	Yes
Size The maximum size of sheds in	The proposed modified shed	No

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Design Principles	The Proposal	Compliance
<p>the 1(c) and 1(c1) areas (includes Rural Living Zone) shall not exceed 150m². The cumulative total of all outbuildings shall not exceed 150m² on any one property in these zones.</p> <p>In zones 1(a), 1(b), 7(d), 7(d1), 7(e), the applicant will need to justify the size of any shed exceeding 150m² in terms of the use of the shed and the land, as well as measures taken to minimise the impact on neighbours and the general area.</p>	<p>has an enclosed area of approximately 216m².</p> <p>The land is zoned Rural Living.</p>	<p>N/A</p>
<p>Height The total height of a rural shed erected in Rural 1(c) and 1(c1) zones (includes Rural Living Zone) shall be no more than 5m or no higher than the height of the ridgeline of the dwelling house on the same property, whichever is less.</p> <p>In other zones the total height of a rural shed exceeding 5m shall be justified in terms of the use of the shed and the visual impact of the development.</p> <p>The total height of 'barn style' sheds may exceed 5m based on individual merit.</p>	<p>The total height of the shed is 5m</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>
<p>Form Rural sheds with standard roof form will be limited to rectangular shapes.</p> <p>Sheds of other roof forms, for example barn style, will be encouraged.</p>	<p>The shed has dimensions of 12m by 18m.</p>	<p>Yes</p> <p>N/A</p>
<p>Colour The colour of a rural shed will match or blend in with those of existing buildings.</p> <p>On vacant land the colour for</p>	<p>Development Consent MA 1305/01 approved:</p> <p>Walls - 'rivergum'</p> <p>Doors - Beige</p>	<p>No</p>

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Design Principles	The Proposal	Compliance
rural sheds shall be taken from the natural environment.	Roof - Beige as per stamped approved plan sheet 3 of 5.	
<p>Type of Building Materials Building materials used in the construction of rural sheds are to be new, prepainted and non-reflective.</p> <p>The use of corrugated iron will be considered subject to the size, height, design and location of the rural shed.</p> <p>Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible materials.</p>	The building materials are new and are repainted.	<p>No The roof is zincalume</p> <p>N/A</p> <p>N/A</p>
<p>Landscaping Plantings are to be a mix of trees, shrubs and ground cover.</p> <p>Trees shall include species that at maturity have a height above the ridgeline of the shed.</p> <p>Shrub mass shall provide adequate screening.</p> <p>Plants endemic to the area are to be chosen.</p>	Landscaping plan approved with issue of the Construction Certificate. Landscaping has not been fully carried out.	No

Size

Enclosing of the 6m by 12m awning area on the northern side of the shed.

Applicants justification:

1. *Environmental impact on the rest of the shed. Natural elements like wind, rain and debris can enter the entire shed from these openings. The entire security of the shed is compromised from these openings. The structural stability of the shed is compromised by wind being able to pressurise the structure.*
2. *There is no impact on any surrounding properties as the changes to be made are on the backside of the structure. It would be visually no different to the neighbours.*
3. *By closing in these walls the shed would comply with the councils DCP in visual aspects. (The current DCP does not allow for sheds that are built like a square. This change would enhance the shed visual appearance from the premises.*
4. *There are several shed structures in close vicinity that are much larger.*
5. *The current DCP allows sheds up to 170 square metres.*

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6. *The current shed size is 144 square metres.*
7. *The changes would be more aligned with the current shed DCP in terms of rectangular appearance.*
8. *The shed has been cut into the ground to reduce any potential impact to neighbours.*
9. *Comprehensive landscaping has been approved to address screening of the entire structure.*
10. *The structure itself is set back from the road over 50 metres.*
11. *The original D.A. allowed for the back of the shed to closed and this was agreed by council before the original approval.*

Comment: The approved shed comprised of a 12m by 12m enclosed area with an adjoining 6m wide awning. If constructed to the approved plans, wind, rain and debris could not affect the enclosed area of the shed through this awning. Likewise, it is considered that the awning does not compromise the security of the enclosed shed area. As the approved shed included an awning area, the design should have incorporated measures to ensure structural stability.

The enclosing of the awning area has resulted in a shed 216m² in size, with dimensions of 18m by 12m.

It is considered that the enclosed awning area has no adverse impact on adjoining properties in terms of the existing scenic quality or overshadowing of the building, due to distance from the dwelling house on the property to the west and due to the orientation of the enclosed area in respect to the property to the south.

The proposed modified shed is not inconsistent with the aims and objectives of Clause 8.2.2. Size of the Erection of Rural Sheds Chapter of the Development Control Plan, as the structure is not considered to be visually dominating in the landscape and the size is appropriate in relation to its predominantly residential use, and the size of the property.

Additional 3m awning along front (eastern) elevation

Applicants Justification:

1. *In its original state the shed did not allow for any protection to the contents inside the shed while the roller doors are raised.*
2. *The 3 metre awning gives the contents of the shed protection from the elements.*
3. *There is no impact on any surrounding properties as the changes to be made are screened by native vegetation, heavily landscaped raised mound and a colour bond fence.*
4. *The addition does not compromise any visual aspect for the neighbours.*
5. *The change would make the shed structure more visually appealing from the front view and would add substantial character to the building.*
6. *The contents would be protected from the environmental elements.*
7. *The current DCP allows for awnings to be build under the conforming development scheme of up to 40 squares the awning proposed is 54 square metres.*

Comment: It is considered that the proposed awning along the eastern elevation of the shed has no adverse visual impact on the locality.

Additional Non Compliances

In respect to the construction of the existing shed, it is noted that:

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- The shed has been built on a level platform constructed using approximately 1.3m fill.
- The colour of the shed is 'cream', and the roof is 'zinclume'.
- The landscaping has not been fully carried out.

The major concern with the initial application was the location of the shed adjacent to the rear boundary of an adjoining property and the resulting loss of visual and acoustic privacy, and loss of scenic amenity. At this time, the applicant argued that the building platform would be constructed by 1.3m of cut and 300mm of fill, thereby resulting in the shed sitting lower in the landscape and allowing a view from the adjoining residence over the top of the shed. By using less cut and more fill, more of the shed is visible when viewed from the adjoining property.

The 'cream' colour of the shed is considered satisfactory, however, the roof is zincalume and therefore reflective. It is considered reasonable to require the roof to be painted to match the existing shed and reduce its reflectivity.

Only a small amount of landscaping has been carried out. It is considered that the completion of the landscaping would assist in reducing the existing impacts of the shed in respect privacy and visual amenity.

The applicant has provided no justification for these non compliances.

iv) any matters prescribed by the regulations

A Condition that the development is carried out in accordance with the Building Code of Australia was imposed on the original consent.

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

The relevant matters for consideration under Section 79C of the EP & A Act follow:

Context And Setting

Surrounding development consists predominantly of rural residential uses.

The scale and design of the proposed amended building is typical of rural sheds in the locality. Surrounding properties will not be further impacted upon in terms of sunlight access, overshadowing, loss of visual and acoustic privacy, loss of views and vistas as the result on the modification. The impacts of the existing shed on the adjoining property to the south, in terms of loss of privacy and views, could be mitigated, with the completion of the landscaping.

c) the suitability of the site for the development

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

The proposed development will not lead to unmanageable transport demands. Access to the site is satisfactory for the intended use.

Adequate services and utilities are available to the site.

There are no known hazardous landuses/activities nearby.

Ambient noise levels are suitable for the development.

The site is not critical to the water cycle of the catchment.

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

The land is flood free and the area has an extreme bushfire risk. These affectations are no prohibitive to the proposed modified development.

It is therefore concluded that the site is suitable for the proposed development as modified.

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

Following notification of the s.96 application, one submission was received. The matters raised in this submission are addressed as follows:

No Power to Consent

"It is our client's first submission that the council does not have the power to approve the modification application. The reasons for the council declining to approve the shed originally proposed by the applicants (at the meeting on 22 October 2002) were clearly set out in the report considered by the Council at that meeting. The reasons that led the Council to conclude (at the meeting on 12 November 2002) that an amended development should be approved are clearly set out in the report considered at that meeting.

The approval of the purported section 96 application would in fact amount to the approval by the Council of a development which is not substantially the same development as that which was approved. The reasons for that conclusion are as follows:

- *the modifications now proposed to the development consent will result in a shed which does not comply with the DCP;*
- *the Council's concerns in relation to the bulk and presentation of the original shed will not be satisfied by the proposed amended shed;*
- *the proposed amended shed will not incorporate the awning that the council specifically required (at the northern end of the structure) before the development consent was granted; and*
- *the council's concerns regarding the visual impact of the shed, which led it to decline to consent to the original proposal, will not be addressed by the proposed modified shed, specifically in relation to the colour of the structure and the amount of cut that has been used."*

Comment: The modified development can be assessed under s.96 of the Environmental Planning and Assessment Act 1979, and is considered to be substantially the same development. Whilst the modified shed will not comply with the requirements of the Shed Chapter of Hawkesbury Development Control Plan in respect to size, the variation is considered to be consistent with the aims and objectives of this Chapter as previously discussed and therefore can be supported.

Contrary to the Public Interest

"The Council gave the original development application very detailed consideration. Two reports were prepared, and lengthy discussions took place between the Council and the applicants.

The initial application was amended, and this first amended application was the subject of the report considered at the meeting on 22 October 2002. When the matter was deferred to allow for discussions, the application was amended for a second time. It was this second amended application that was the subject of the development consent.

In our client's submission it is contrary to the public interest to be permitted to construct a shed which does not comply with the development consent, where that consent was arrived at after detailed consideration by the Council, and to secure, via a section 96 application, the approval of that which the Council originally declined to approve. Such a course brings the planning process into disrepute, and leads to the conclusion by the public that the Council's planning processes cannot be relied upon."

Comment: Noted.

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Breach of the DCP

"The DCP has been adopted by the Council as a principal control in relation to development within its local government area. The proposed modified development does not comply with the DCP.

The applicants appear to have dealt with this matter by simply asserting that the shed does comply. We are not aware of any justification for the non-compliance in the material that has been submitted by the applicants to the Council.

In the absence of any justification for the proposed non-compliance, the Council should maintain its standard and decline to approve a shed which significantly exceeds the maximum area requirement of the DCP, both in relation to the shed itself and in relation to the entire property."

Comment:

The applicant has provided justification for the modification, and the variations from the Development Control Plan are supported as discussed above.

The Mistake in the Construction Certificate Documentation

"In the handwritten letter dated 18 September 2006, Mr Hromek contends that there was a mistake in the construction certificate documentation which "referred to the awning being open at both.....east and west elevation. On the D.A. approved plan the west elevation was not specified as being open."

It is difficult to understand this submission, given the clear differentiation in the Council report, considered at the meeting on 12 November 2002, between the 18 metre x 6 metre shed and the 12 metre x 6 metre awning. The Council was clearly informed that it was dealing with two distinct parts of the overall structure, one of which was enclosed and one of which was open. It is difficult to understand how Council's requirement for an awning at the northern end of the structure could be satisfied by enclosing the entire western elevation of the awning, and the entire northern elevation of the awning and by incorporating a doorway in the otherwise enclosed eastern elevation, with the latter being constructed with a doorway".

Comment: Noted.

Description of Development

"The SEE describes the modification application as relating to "Alterations to Existing Shed". The paragraph that follows the headings to the SEE describes the modifications sought as:

".... Seeking to get approval for the following changes to the existing building."

It is very difficult to understand the description of the modifications that then follows. However, we are instructed that all of the modification for which the applicants now seek approval have already been incorporated in the structure."

Comment: Noted

Conclusion

The proposed modification is consistent with the provisions of Hawkesbury Local Environmental Plan 1989 and the aims and objectives of the Rural Sheds Chapter of Hawkesbury Development Control Plan. It is considered that the modified shed will have no increased impacts on surrounding properties or the locality in general, subject to the completion of landscaping and the painting of the shed roof.

The action required should Council not support this S.96 application includes the issue of Orders to demolish the existing shed, remove additional fill deposited on the site and erect a shed of size and colour as approved in the original development approval. Should the unauthorised works be found to be the fault of the Private Certifier, Council would also be required to lodge a formal complaint to the Department of Planning.

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RECOMMENDATION:

That Development Consent DA 1305/01 be amended in the following manner:

Condition 1 be amended to read:

1. To confirm and clarify the terms of this approval, the development shall take place in accordance with the plans submitted with s.96 Modification Application MA 1305/01A excepting as modified by these further conditions.

Insert new condition:

- 18a. The approved landscaping shall be completed within two months of the approval date of this S.96 modification application.

Insert new condition:

- 18b. The external roof of the shed shall be painted to match the existing colour of the shed walls within two (2) months of the approval date of this s.96 modification application.

ATTACHMENTS:

AT-1 Locality Plan

AT-2 Site Plan

AT-3 Elevation Plan

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AT-1 Locality Plan

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ORDINARY MEETING

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AT-2 Site Plan

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AT-3 Elevation Plan

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oooO END OF REPORT Oooo

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AT - 2 Council Resolution - Ordinary Meeting 27 November 2007

ITEM: 256 CP - Amendment to Council Resolution 27 November 2007 - Modification to Development Consent - Shed greater than 170m2 - Lot 1 DP 733243, 457 East Kurrajong Road, East Kurrajong - (MA1305/01A, 17250, 75950, 95498)

Mr Robert Hromek, proponent, addressed Council.
Ms Tanya Clifton and Mr Colin Clifton, respondents, addressed Council.

MOTION:

RESOLVED on the motion of Councillor Devine, seconded by Councillor Porter.

Refer to RESOLUTION

An AMENDMENT was moved by Councillor Calvert, seconded by Councillor Rasmussen.

That Council encourage the applicant and the adjoining neighbours to engage in mediation talks within 21 days with a view to resolving this matter and if these talks are unsuccessful the following action be taken.

1. The application to amend the development consent for the erection of a shed at Lot 1 DP 733243, 457 East Kurrajong Road, East Kurrajong be refused for the following reasons:
 - (a) The proposed modification will have an adverse impact on the neighbouring property in terms of amenity and privacy.
 - (b) The proposed modification will have an unacceptable impact on the visual quality on the area.
 - (c) The proposed modification is inconsistent with the aims and objectives of the Hawkesbury Development Control Plan.
 - (d) The proposed modification does not comply with the requirements of the Hawkesbury Development Control Plan, in particular Part D Chapter 8 - Rural Sheds.
 - (e) Approval of the modified development would not be in the public interest.
2. A Demolition Order be issued on the parts of the existing development that do not comply with the development consent conditions issued for DA1035/01, on 11 December 2002.
3. Staff investigate whether there is a need to lodge a formal complaint about the Private Certifier with the Department of Planning.

The amendment was lost.

The motion was put and carried

431 RESOLUTION:

RESOLVED on the motion of Councillor Devine, seconded by Councillor Porter

That:

1. The application to amend the development consent for the erection of a shed at Lot 1 DP 733243, 457 East Kurrajong Road, East Kurrajong be refused for the following reasons:

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- (a) The proposed modification will have an adverse impact on the neighbouring property in terms of amenity and privacy.
 - (b) The proposed modification will have an unacceptable impact on the visual quality on the area.
 - (c) The proposed modification is inconsistent with the aims and objectives of the Hawkesbury Development Control Plan.
 - (d) The proposed modification does not comply with the requirements of the Hawkesbury Development Control Plan, in particular Part D Chapter 8 - Rural Sheds.
 - (e) Approval of the modified development would not be in the public interest.
2. A Demolition Order be issued on the parts of the existing development that do not comply with the development consent conditions issued for DA1035/01, on 11 December 2002.
 3. Staff investigate whether there is a need to lodge a formal complaint about the Private Certifier with the Department of Planning.

oooO END OF REPORT Oooo

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Item:139 CP - Draft Hawkesbury Local Environmental Plan 1989 (Amendment 156) - Lot 1 DP 129442 and Lot 1 DP 779913 - 739 George Street, South Windsor (Windsor Baptist Church) - (85593, 95498)

Previous Item: 240, Ordinary (25 November 2008)
104, Ordinary (27 May 2008)

REPORT:

Background

Council at its Ordinary Meeting held on 25 November 2008, resolved to prepare a draft Local Environmental Plan to rezone Lot 1 DP 129442 and Lot 1 DP 779913, 739 George Street, South Windsor to a SP3 Tourist zone. This resolution was in response to a rezoning application prepared on behalf of the Winten Property Group and the land owners, the Baptist Church of NSW Property Trust. The rezoning application contained a concept plan showing the potential for the following uses on the site:

- Service station
- Day Care Centre
- Motel
- Two Fast food restaurants
- Family restaurant
- Car Wash
- Garden Supplies
- Associated carpark and internal road

Council staff subsequently wrote to the Department of Planning advising of Council's intention to prepare the draft LEP (known as draft Amendment 156).

The Department of Planning responded on the 11 March 2009 stating that the draft LEP is not supported by the Department and that Council should take a strategic look at the SP3 zone and identify city wide opportunities for the implementation of this zone.

SP3 Tourist Zone

The Department of Planning has recently prepared a draft LEP Practice Note to guide Councils in regard to adopting Tourism zones in the Standard Instrument. It is clear from the draft Practice Note that Council would need to commission a tourism strategy to identify tourism sites and location of tourism facilities. (Council resolved on 10 March 2009 to prepare a Tourism Strategy for the Hawkesbury Local Government Area.) Part of this exercise would entail examination of the different land uses that would be suited for identified tourism sites and facilities. This strategic exercise has been identified in Council's recently released draft "Community Strategic Plan Shaping our Future" (refer to page 10 of the draft Community Strategic Plan). The strategic exercise will need to be funded and involve a large degree of consultation. It is estimated that the tourism strategy would be developed over a period of approximately 12 months and would incorporate the findings of the Hawkesbury Employment Lands Strategy which has identified some gateway sites.

This time frame is likely to be problematic for the owners of the subject land.

Alternative Approach

It should be remembered that the subject land has an existing zone of "Special Uses 5(a) - Church" under the provisions of HLEP 1989. Council will be aware that a new LEP is being prepared in accordance with the Department of Planning's Standard Instrument and that the new LEP is to be, as much as possible, a

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conversion of the existing LEPs provisions into the format required by the Standard Instrument. As part of this conversion process the subject land is proposed to be zoned as "SP2 - Church". A principal reason for adopting this SP2 zone was to preserve the owner's right to develop their land for Senior's Living purposes. Since the preparation of the draft Standard Instrument LEP the owners have indicated that they do not wish to proceed with their Seniors Living development.

The Department of Planning has also recently provided comments on Council's draft Standard Instrument LEP and one of the changes requested by the Department relates to the application of SP1 and SP2 zones. The LEP Practice Note (PN 08-002) that deals with infrastructure in LEPs recommends that where practicable the number of SP zones should be limited and in the conversion process Special Use zones should take on the same zoning as the adjoining or surrounding zone. In this particular case the current adjoining zone is Rural Living which will go to RU4 Rural Small Holdings.

Based on the latest advice from the Department of Planning the permitted land uses in the draft RU4 Rural Small Holdings zone are as follows:

"Animal Boarding and Training Establishments; Aquaculture; Boarding Houses; Business Identification Signs; Cemetery; Child Care Centres; Community Facilities; Dual Occupancies (Attached); Dwelling Houses; Educational Establishments; Entertainment Facilities; Environmental Facilities; Extensive Agriculture (within an area mapped as Environmental Constraint Area); Farm Buildings; Farm Stay Accommodation; Flood Mitigation Works; Food and Drink Premises; Health Consulting Rooms; Home Based Child Care; Home Industries; Horticulture; Hospitals; Intensive Livestock Agriculture; Intensive Plant Agriculture; Landscape and Garden Supplies; Places of Public Worship; Public Administration Buildings; Recreation Areas; Recreation Facilities (indoor); Recreation Facilities (outdoor); Registered Clubs; Roads; Roadside Stalls; Rural Supplies; Tourist and Visitor Accommodation; Veterinary Hospitals; Waterbodies (artificial)."

Apart from service stations all of the land uses listed in the rezoning application are permissible in the RU4 zone. The service station use on the subject land could be made permissible as an addition to Schedule 1 of the draft Standard Instrument. Schedule 1 allows additional uses that are otherwise prohibited in a zone.

It should be noted that the Department has previously advised Council that the inclusion of matters into Schedule 1 should be limited and therefore it is not known at this stage if the Department of Planning would allow this matter to be included in Schedule 1.

Conclusion

Based on recent advice from the Department of Planning regarding the proposed rezoning of the subject land and the more general advice regarding the draft Standard Instrument LEP it would appear the most expedient way to progress this rezoning would be to rezone the land Rural Living/RU4 Rural Small Holding (depending on further instruction from the Department of Planning regarding which zone to use) and include an enabling clause in the current HLEP 1989 to allow service stations on the land with this enabling clause then being included in Schedule 1 of the Standard Instrument LEP.

So as not to incur any further unnecessary delay it is recommended that draft Amendment 156 be progressed separately to the draft Standard Instrument. However, if it is deemed timely and appropriate to do so Amendment 156 would be incorporated into the draft Standard Instrument prior to gazettal.

Conformance to Strategic Plan

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

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

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Funding

There are no funding implications.

Planning Decision

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

RECOMMENDATION:

That:

1. Council's Resolution of 25 November 2008 (Minute No. 392) to rezone Lot 1 DP 129442 and Lot 1 DP 779913, 739 George Street, South Windsor, to SP3 Tourist Zone not proceed.
2. Hawkesbury Local Environmental Plan 1989 be amended (known as Amendment 156) by rezoning Lot 1 DP129442 and Lot 1 DP 779913, 739 George Street, South Windsor to Rural Living or RU4 Rural Small Holding (depending on further instruction from the Department of Planning regarding which zone to use) and that an enabling clause be inserted in the appropriate location of the LEP to allow service stations as a permissible use, with consent, on the subject land.
3. Draft Amendment 156 be progressed separately to the draft Standard Instrument. However, if it is deemed timely and appropriate to do so it is to be incorporated into the draft Standard Instrument prior to gazettal.
4. The applicant/owner of the subject land is to develop a draft site specific Development Control Plan for the site, at their own expense, in conjunction with Council staff and to the satisfaction of Council. The Development Control Plan is to be adopted by Council prior to the finalisation of the rezoning.
5. Safe pedestrian access across George Street, South Windsor, is also to be provided in the Development Control Plan.

ATTACHMENTS:

AT - 1 Letter from Department of Planning dated 11 March 2009.

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AT - 1 Letter from Department of Planning dated 11 March 2009

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oooO END OF REPORT Oooo

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Item:140 CP - Community Sponsorship Program - 2009/2010 - Round 1 - (96328)**REPORT:**

This report has been prepared to advise Council of applications for financial assistance to be determined under Round 1 of the Community Sponsorship Program for 2009/2010.

Background

On 13 March 2007 Council resolved to adopt a Sponsorship Policy, prepared in accordance with the guidelines issued by the Independent Commission Against Corruption. Criteria and administrative arrangements for the Community Sponsorship Program (CSP) were subsequently developed with implementation commencing in 2007/2008.

The adopted budget for 2009/2010 includes an allocation of \$60,770 for the CSP. Pursuant to Council's resolution of 29 April 2008, \$18,540 of this amount has been set aside as a contribution to the staging of the Hawkesbury City Eisteddfod.

Community Sponsorship Program (2009/2010)

In accordance with Council's Community Sponsorship Policy applications for community sponsorship under Round 1 of the Community Sponsorship Program 2009/2010 were called in late May and closed on June 26, 2009. 17 applications were received. In addition to these applications, a further 9 applications representing various years of approved three and five-year sponsorship events (approved in 2007/2008 and 2008/2009) have been included for Council's determination.

In total 26 applications have been presented for Council's consideration under Round 1 of the 2009/2010 CSP. Table 1 summarises the applications received and the proposed level of financial assistance.

Applicant	Type ⁽¹⁾	Proposal	Recom. Amount
1. Kurrajong Anglican Church	ES	Staging of Carols in the Park in Memorial Park, Kurrajong	500
2. Rotary club of Richmond	ES	Staging of Carols by Candlelight in Richmond Park	1,500
3. Hawkesbury City Eisteddfod Society	ES	Staging of Hawkesbury City Eisteddfod	18,540
4. St Albans Folk Festival	ES	Staging of Folk Festival	3,000
5. The Kurrajong Scarecrow Festival	ES	Staging of annual Scarecrow Festival	3,500
6. Henry Doubleday Research Assoc	ES	Staging of annual Earthcare Fair Festival	1,000
7. Greater Western Sydney Bands Inc	ES	Staging of annual Jazz aVienne Festival	2,000
8. Hawkesbury Community Hub	ES	Staging of annual Community Bush Dance	2,000
9. Cancer Council NSW	ES	Hawkesbury Relay for Life	3,000
10. Hawkesbury Valley Philatelic Society	CF	Hire of Richmond Literary Institute	83
11. Older Mens Network Inc	MA	Hire of Marquee for Hawkesbury Blokes Army	500
12. Kurrajong Public School P&C	MA	Sponsorship of Spring Fair	200
13. New Haven Farm Home	MA	Reimbursement of Waste Management Facility fees	500
14. New Haven Farm Home	MA	Reimbursement of SMF inspection fees	nil
15. Mark Ryan	MA	Representative Volleyball	100
16. Hawkesbury District Baseball Club	MA	Representative Baseball	100
17. Sydney Blues Festival	3Y	Sponsorship of festival	nil
18. Sydney Blues Festival	CF	Hire of Windsor Function centre for festival	nil
19. Hawkesbury Community Outreach Serv.	CF	Hire of halls for preschool	nil
20. Hawkesbury Untamed Musos	CF	Hire of Windsor Function Centre for debut concert	416
21. Hawkesbury Untamed Musos	MA	Expansion of Community Choir	500
22. Windsor Softball Club Inc	MA	Purchase of softball equipment	500
23. Tania Ham	MA	Dance troupe visit to Thailand	nil
24. Hawkesbury Community College	MA	Hire of North Richmond Community College	nil
25. Hawkesbury Mens Shed Inc.	MA	Equipment for Indian Myna traps and bird habitat boxes	500

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26. Rainforest Network + Bushcare Groups	MA	Reimbursement of Waste Management Facility Fees	500
		TOTAL	38,939

(1) MA = Minor Assistance ES = 3 Year Event Sponsorship SG = Seeding Grant CF = Access to Community Facilities ICF= Improvement to Community Facilities

Table 1 – Requests for financial assistance Round 1 of 2009/2010 Community Sponsorship Program

The applications received were assessed against the applicable criteria outlined in the CSP. This criteria reflects the provisions of Council's adopted Sponsorship Policy and the amounts recommended for approval are consistent with the policy. A more complete summary of the assessment of applications against the CSP appended to this report (Attachment 1).

There are sufficient funds to cover the total recommended amount of \$38,939 for Round 1 of the 2009/2010 Community Sponsorship Program leaving a balance of \$21,831 for allocation in further rounds. As reported elsewhere in the Business Paper, it is proposed that \$10,000 of the balance of remaining CSP funds be allocated to facilitate the establishment of an additional sponsorship category within the Community Sponsorship Program to facilitate the provision of financial assistance to community groups seeking to hold events and activities in conjunction with Hawkesbury Macquarie 2010 Celebrations. If approved by Council, the balance of CSP for the remainder of the 2009/2010 year would be reduced to \$11,831.

Financial Support for Bush Regeneration Groups and Indian Myna Trapping

The applications received under Round 1 of the CSP include provision for \$500 to be allocated to support Council approved bushcare and bush regeneration groups (including the Hawkesbury Rainforest Network). The purpose of these funds is to meet the costs associated with the disposal of green waste at Council's Waste Management Facility by these groups when they are undertaking authorised bush regeneration works on Council owned properties and reserves. This provision has been made in response to a Notice of Motion considered by Council at its Ordinary Meeting held on 14 July, 2009. It should be noted that Council's Sponsorship Program was developed to support such worthwhile community projects and Council staff have endeavoured to advise community groups of funding available under Council's Community Sponsorship Program.

If approved, \$500 funds will be transferred to the bushcare program within the Parks component of Council's budget. Administrative arrangements will then be made with Council's Waste Management Facility to enable approved bushcare and bush regeneration groups (including the Hawkesbury Rainforest Network) to dispose of green waste at no charge to these groups. An initial amount of \$500 has been allocated (as this is the maximum amount provided under the Minor Assistance Program). If required, additional sponsorship can be provided in subsequent rounds of the CSP.

In response to questions raised by Councillors regarding Council support for Indian Myna trapping programs, Council staff have liaised with the Hawkesbury Mens Shed Inc. to invite them to submit an application for sponsorship for this project. An application was subsequently received and has been included in this report.

Conformance to Strategic Plan

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

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

Funding

Funding allocations recommended in this report are available within current budget provisions.

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RECOMMENDATION:

That Council:

1. Approve payments of Section 356 Financial Assistance to the organisations and individuals listed, and at the level recommended in Table 1 of this report.
2. Note that the required Sponsorship Agreements for Applications 1 through 9 have been previously executed to provide for the continuation of funding for these proposals.

ATTACHMENTS:

AT - 1 Assessment of Applications under Round 1 Community Sponsorship Program 2009/2010

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AT - 1 Assessment of Applications under Round 1 Community Sponsorship Program 2009/2010 (cont'd
next page)

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Cont'd from previous page - Assessment of Applications under Round 1
Community Sponsorship Program 2009/2010

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Item:141 CP - Community Sponsorship Program - Establishment of Additional Sponsorship Category (Macquarie 2010 Seeding Grants) - (96328)

REPORT:

This report has been prepared to seek Council approval to establish an additional sponsorship category within the Community Sponsorship Program to facilitate the provision of financial assistance to community groups seeking to hold events and activities in conjunction with Hawkesbury Macquarie 2010 Celebrations.

Background

In November 2007, following a review of Council's community donations programs, Council established a Community Sponsorship to realign existing Section 356 financial assistance programs to conform with Council's adopted Sponsorship Policy.

The Community Sponsorship Program (CSP) provides the opportunity for community groups to seek financial assistance from Council. The CSP currently provides for five categories of assistance;

- Minor Assistance (up to \$500)
- Event Sponsorship (for up to 3 years)
- Seeding Grants (for community based programs)
- Access to Community Facilities (to subsidise the cost of hire of community facilities)
- Improvement to Council Facility (reimbursement of Development Application fees for renovations or additions to Council owned building or facilities).

Council's adopted budget for 2009/2010 included an allocation of \$60,770 for the Community Sponsorship Program.

Hawkesbury Macquarie 2010 Celebrations

Council's adopted budget for 2009/2010 included provision for funds to facilitate Macquarie 2010 Celebrations within the City of Hawkesbury. The allocated funds include a sum of \$15,000 to establish a short-term, additional sponsorship category within Council's Community Sponsorship Program to provide for funds to community groups to stage Macquarie 2010 events and activities. It is also proposed to quarantine an amount of up to \$10,000 from the existing Community Sponsorship Program allocation to create a total funding pool of \$25,000 for the proposed *Macquarie 2010 Seed Funding Program*.

In December 2008, Council established the Hawkesbury Macquarie 2010 Committee. The role of the Committee is to establish an overall program and brand for the 2010 celebrations and to develop a marketing and funding strategy to support community groups to plan and stage events, exhibitions and activities which are intended to showcase the achievements and legacy of Elizabeth and Lachlan Macquarie.

In February 2009, at its inaugural meeting, the Committee considered a report recommending the establishment of the Macquarie 2010 Seeding Grant Program (subject to Council approving funds for such a Program). The Committee endorsed the proposal and approved draft criteria for Council's consideration to facilitate the assessment and reporting to Council of applications received under the proposed *Macquarie 2010 Seed Funding Program*. The draft criteria largely mirrored the existing Community Sponsorship Program criteria.

Proposed Macquarie 2010 Seed Funding Program

The draft criteria endorsed by the Hawkesbury Macquarie 2010 Committee is outlined below and is presented for Council's consideration and approval:

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Macquarie 2010 Seed Funding Program will provide funds to community groups who:

- are located within, or which service, the City of Hawkesbury;
- are not-for-profit;
- are not already funded by a state or federal agency to conduct the project or activity for which an application for funding is being made;
- can provide evidence of a monetary or in-kind co-contribution;
- will use funds to deliver an event or activity which reflect the intent and goals of the Hawkesbury City Cultural Plan;
- can deliver a financially viable event or activity;
- are proposing to stage an event, activity or function;
 - which celebrate and/or raise awareness of the achievements and legacy of Lachlan and Elizabeth Macquarie; or
 - their association with the City of Hawkesbury and in particular the four Macquarie Towns of Richmond, Windsor, Wilberforce and Pitt Town which are located in the City of Hawkesbury;
- register with Council as an activity/event within the Hawkesbury Macquarie 2010 Bicentenary Program.

The procedural requirements for the existing Community Sponsorship Program would apply to the proposed Macquarie 2010 Seed Funding Program. These procedures would require community groups to submit (in addition to a standard application form) a proposed budget and evidence of public liability insurance. Applications would be assessed against the above criteria and reported to Council for determination. Successful applicants may also be required to submit an income and expenditure statement and short evaluation report when the funding activity or event is completed.

Should Council approve the establishment of the proposed Macquarie 2010 Seed Funding Program, applications from interested groups will be called for in August 2009.

Conformance to Strategic Plan

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

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

Funding

There are no funding implications arising from this report as funding has been allocated in the 2009/2010 Budget.

RECOMMENDATION:

That:

1. Council include the additional category of "Macquarie 2010 Seed Funding Program" to the Community Sponsorship Program in accordance with the criteria outlined in this report.

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2. The Macquarie 2010 Seed Funding Program be funded to an amount of \$25,000 comprising \$15,000 of Macquarie 2010 funding approved by Council in the 2009/2010 budget and an additional amount of \$10,000 from the approved 2009/2010 allocation for the existing Community Sponsorship Program.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 July 2009

Item:142 **CP - Request for Refund of Section 94A Contributions - (95498)**

Previous Item: 87, Ordinary (12 May 2009)

REPORT:

Introduction

Council has received a request for reimbursement of a Section 94A contribution levied on the Development Application (DA0658/08) for the demolition of existing classroom buildings and the construction of new classrooms, associated paving, drainage and landscape works at 1A Bourke Street, Richmond for St Monica's Catholic Primary School.

The Section 94A levy payment was the result of a development consent condition imposed on the development consent in accordance with the provisions of Council's Section 94A Development Contributions Plan 2006.

Council considered this request at the Ordinary meeting of 12 May 2009 where it resolved:

"That this matter be deferred and further discussed at the next appropriate Councillor Briefing Session"

The matter was presented to the Councillor Briefing Session on Tuesday, 7 July 2009.

The purpose of this report is to advise Council of the requirements of the adopted Contributions Plan and of the obligations that the Plan imposes.

Background

Council received a development application (DA0658/08) for the demolition of existing classroom buildings and the construction of new classrooms, associated paving, drainage and landscape works at 1A Bourke Street, Richmond for St Monica's Catholic Primary School, on 3 September 2008. The value of these works was nominated at \$3,000,000.

The application was notified to adjoining owners from 29 September to 13 October 2008 with Council receiving one submission. The submission raised issues regarding parking for the school that has been assessed as being satisfactory.

The application was granted development consent on 16 December 2008. Condition 9 of the development consent levied the Section 94A contribution as follows:

9. *Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$30 000.00 shall be paid to Hawkesbury City Council.*

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time). The contribution is to be paid prior to the issue of the construction certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the Principal Certifying Authority.

On 10 February 2009 the Section 94A Contribution of \$30,000 was paid by the applicant and the Construction Certificate for the building works was released.

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On 11 February 2009 Council received a letter, dated 9 February 2009, from the Catholic Education, Diocese of Parramatta, requesting reimbursement of the contribution amount of \$30,000.

Details of the Request

The letter of 9 February 2009 states the following reasons for a favourable consideration of reimbursement by Council:

1. *Our status as a not-for-profit education provider and a registered charity. We operate in strict accordance with our accountabilities to both the Commonwealth Government and the NSW Government for funding provided for educational purposes;*
2. *This is \$3,000,000 capital investment into the local community which we serve and will directly benefit the residents of Richmond and adjoining areas;*
3. *The redevelopment of St Monica's Catholic Primary is to cater for the existing enrolment level and is not placing any additional burden on local government resources. There will be no increase in vehicular or pedestrian traffic impacting on the local road infrastructure;*
4. *In other similar proposals for our system of 76 schools in the Diocese of Parramatta (which extends from the Hawkesbury on the Hills to Dundas and Granville in the east to the Blue Mountains in the west) no other Council has required a development contributions; and*
5. *We are advised there have been some recent legislation changes by the NSW Government on planning matters and although we have not explored the details we understand there may be some discretion on development contributions.*

In relation to point 5 above, whilst there have been some recent changes to planning legislation that relate to education facilities, those changes relate to certain types of structures and the spending of the Federal Government stimulus package grants. The changes do not introduce "some discretion on development contributions" in this case and the proposed development does not qualify for the application of the changes.

The matters raised in points 1 to 4 may be relevant when preparing a Development Contribution Plan and considering types of development that may be excluded from the Plan. In the current Hawkesbury Section 94A Development Contribution Plan there are no exemptions from payment of the levy. As such the levy was applied in the development consent. The implications of this are discussed in the following section.

Administration and Operation of the Section 94A Contributions Plan

The Hawkesbury Section 94A Development Contributions Plan 2006 commenced on 10 May 2006. The Plan applies to all land in the Hawkesbury City Local Government Area with the exemption of Pitt Town (Section 94 Plan applies) and development and complying development applications received by Council prior to 10 May 2006.

The Contribution Plan applies a levy on most development at the rate of 1% of the development cost. The Minister for Planning restricted this rate to 0.5% on certain types of residential development. However, in relation to commercial and non-residential development, with the exemption of development for the purposes of the Building Code of Australia Class 10 structures, the levy of 1% of development costs applies.

The operation of Contribution Plans, either Section 94 or 94A Plans, are guided by strict practices in the Environmental Planning and Assessment Act 1979 and Regulations 2000. The requirements are different for each of these plans and it is not intended to cover all these requirements in this report. The requirements generally relate to what Council can include in a contributions plan, what development can be exempted from the plan, the nexus of the contribution to the development (NB: more flexible in S94A), rates levied, accounting and payments. In Council's current Plan there is no provision for the exemption of certain types of development, such as affordable housing, community or educational facilities, from the levy.

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When a Contributions Plan is prepared the estimated income is stated and the Plan also includes a schedule of works where the monies collected are to be spent. The Practice Note issued by the Department of Infrastructure Planning and Natural Resources (Now the Department of Planning) in July 2005 made the following comments in relation to refunding contributions:

The EP&A Act does not refer to refunds, and a number of decisions in the NSW Land and Environment Court (e.g. Frevcourt Pty Ltd & Anor v Wingecarribee Shire Council, [2005] NSWCA 107) indicate that there is no express power for a council to refund s94 contributions even if there is an excess of funds"

In the case of DA0658/08, the S94A contribution is required to be, and was, levied under the provisions of the Section 94A Contributions Plan and Council cannot waive that requirement as the Plan is a Statutory Plan. The contribution amount was paid on 10 February 2009 and the monies have been placed in the S94A contribution account. As mentioned above, Council does not have any power to refund the contribution that has been levied under the provisions of the Contributions Plan. Any "refund" of the contributions would need to be reallocated from another source.

Conformance to Strategic Plan

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

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

Funding

As specified previously in this report, Council does not have the authority to waive or refund contributions levied in accordance with the adopted Development Contributions Plan.

Should Council have the desire to refund monies to Catholic Education then the refund would need to be via another avenue, such as the Community Sponsorship Program, as contributions collected under the provisions of the Development Contributions Plan must be spent on the works specified in the Plan.

Following the review of the Community Donations Program and the subsequent adoption of the Community Sponsorship Program, the provision of all financial assistance by Council under Section 356 of the *Local Government Act*, is transacted in accordance with the Community Sponsorship Program (CSP) policy and procedures (as recommended by ICAC guidelines for the granting provision of sponsorship by public sector agencies). Any proposed reimbursement would need to be assessed against these guidelines.

It is noted that the allocated funds in the CSP are currently spent for this year and Council would need to nominate the reallocation of funding from another source for this reimbursement of contributions.

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 a response be forwarded to the Catholic Education, Diocese of Parramatta, advising that their request for reimbursement of Section 94A Contributions cannot be supported.

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ATTACHMENTS:

There are no attachments to this report

oooO END OF REPORT Oooo

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SUPPORT SERVICES

Item:143 SS - Young Men's Christian Association of Sydney (YMCA) - Proposal to Extend the Hawkesbury Oasis Aquatic Centre - (95496, 93787, 34584)

REPORT:

The Young Men's Christian Association of Sydney (YMCA) is currently responsible for the management and operation of the Hawkesbury Leisure Centres, being the Oasis Aquatic Centre and the Hawkesbury Indoor Stadium.

In October 2008, the YMCA applied for a grant under the Area Assistance Scheme (AAS) 2009 for capital funding to extend the Hawkesbury Oasis Aquatic Centre.

The YMCA has recently received a letter dated 30 June 2009, from the NSW Department of Community Services advising that the abovementioned grant application has been approved subject to various conditions including the need to have an approved development application in place before the release of any funding.

The YMCA has advised that it will be accepting the grant of \$110,000 and will be returning the relevant documentation within the deadline stipulated in the letter dated 30 June 2009 from the NSW Department of Community Services, being 30 July 2009.

In the meantime, the YMCA has submitted to Council a business case for the feasibility of expanding the Health and Fitness facilities at the Hawkesbury Oasis Leisure Centre.

The YMCA's proposal involves the extension to the existing building immediately adjacent to the current gym floor area by providing additional floor space for gym activities.

The total capital cost of the proposal will depend on the size of the extension and the financial information to be provided in the YMCA's business case. However, as a guide, if a 200 square metre extension was proposed the capital cost could be in the vicinity of \$450,000 less the grant of \$110,000 received by the YMCA.

The business case submitted by the YMCA requires additional information and discussion prior to being properly assessed by Council staff. The YMCA has been requested to update its business case in this matter. When the revised business case has been received by Council it will then be assessed and a report will be submitted to Council for its consideration.

The purpose of this report is to inform the Council that the YMCA has been successful in receiving a grant of \$110,000 for the possible extension of the Oasis Leisure Centre and to note that the YMCA will be accepting the grant and that once a revised business case has been evaluated a further report will be submitted to Council to enable consideration to be given to this proposal.

Conformance to Strategic Plan

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

"Objective: A network of towns, villages and rural localities connected by well maintained public and private infrastructure, which supports the social and economic development of the City"

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Funding

This report does not identify any funding sources and does not affect the Budget at this stage. However, the further report to Council will identify funding sources, if applicable.

RECOMMENDATION:

That:

1. Council note that the YMCA will be accepting a grant of \$110,000 from the NSW Department of Community Services under the Area Assistance Scheme (AAS) 2009 for a proposed extension of the Hawkesbury Oasis Leisure Centre.
2. The YMCA's updated business case for the proposal to extend the existing building at the Hawkesbury Oasis Leisure Centre immediately adjacent to the current gym floor area be further evaluated when received, and that following this evaluation a report be submitted to Council to enable consideration of this proposal.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 July 2009

Item:144 SS - Pecuniary Interest Returns - (79337, 95496)

REPORT:

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:

"450A Register and tabling of returns:

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 Sections 450A(2)(a), (b) and (c) above.

With regard to Section 450A(2)(a), the following Section 449(1) Return has been lodged:

Position	Return Date	Date Lodged
Parks Officer - Land Management	22/04/2009	30/06/2009

The Return has been lodged prior to the due date for the receipt of the Return, being three months after the return date.

The above details are now tabled in accordance with Section 450A(2)(a) of the Act and the Return is available for inspection if requested.

Conformance to Strategic Plan

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

"Objective: An informed community working together through strong local and regional connections"

Funding

Not applicable.

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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: 28 July 2009

Item:145 SS - Monthly Investments Report - June 2009 - (96332, 95496)

Previous Item: 17, Ordinary (3 February 2009)

REPORT:

According to Clause 212 of the Local Government (General) Regulation 2005, the Responsible Accounting Officer must provide the Council with a written report setting out details of all money that the Council has invested under Section 625 of the Local Government Act 1993. The report must include a certificate as to whether or not investments have been made in accordance with the Act, the Regulation and the Council's Investment Policy.

June 2009

The following table indicates that Council held \$39.6 million in investments as at 30 June 2009. 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 investments, and the percentage of the total portfolio, are provided below.

Investment Type	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Rating	Total \$
On Call							
CBA	30-Jun-09		2.95%	6,150,000	15.51%	A1+	6,150,000
Term Investments							
AMP Banking	22-Apr-09	19-Aug-09	4.25%	1,000,000	2.52%	A-1	
ANZ	25-May-09	22-Sep-09	4.25%	3,000,000	7.57%	A1+	
ANZ	29-May-09	25-Nov-09	4.25%	1,000,000	2.52%	A1+	
ANZ	24-Jun-09	31-Dec-09	4.50%	3,000,000	7.57%	A1+	
Bank of Cyprus	04-May-09	02-Nov-09	4.50%	1,000,000	2.52%	Moody's P-1	
Bank of Queensland	20-Jan-09	20-Jul-09	5.05%	1,000,000	2.52%	A-2	
Bankwest	25-Mar-09	23-Jul-09	4.25%	1,000,000	2.52%	A1+	
Bendigo and Adelaide Bank	14-May-09	09-Oct-09	4.00%	1,000,000	2.52%	A-2	
Citibank	20-Jan-09	20-Jul-09	5.08%	1,000,000	2.52%	A-1	
Credit Union Australia	01-May-09	30-Jul-09	4.35%	1,000,000	2.52%	unrated	
Elders Rural Bank	15-Jun-09	15-Jun-10	4.64%	1,000,000	2.52%	A-2	
IMB	01-May-09	30-Jul-09	4.05%	1,000,000	2.52%	A-2	
Macquarie Bank	18-Jun-09	15-Jun-10	4.50%	1,000,000	2.52%	A-1	
Members Equity	04-May-09	03-Aug-09	4.30%	1,000,000	2.52%	A-2	
NAB	29-May-09	16-Dec-09	4.28%	3,500,000	8.83%	A1+	
NAB	25-May-09	23-Oct-09	4.30%	2,000,000	5.05%	A1+	

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Investment Type	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Rating	Total \$
NAB	05-Jun-09	16-Dec-09	4.40%	2,000,000	5.05%	A1+	
Newcastle Permanent	18-Jun-09	15-Jun-10	4.55%	1,000,000	2.52%	A-2	
Suncorp	12-Jun-09	14-Jun-10	4.60%	1,000,000	2.52%	A-1	
Westpac	24-Mar-09	20-Jul-09	4.20%	3,000,000	7.57%	A1+	
Westpac	24-Jun-09	24-Feb-10	4.41%	3,000,000	7.57%	A1+	33,500,000
TOTAL INVESTMENT AS AT 30 JUNE 2009							39,650,000

	Bench Mark	Actual
Bench Mark - UBSA 90 Day Bank Bill Index	3.19%	4.38%
Bench Mark - 11am Cash Rate	3.00%	2.95%

Performance by Type

Category	Balance	Average Interest	Difference to Benchmark
Cash at Call	6,150,000	2.95%	-0.05%
Term Deposit	33,500,000	4.38%	1.19%
	39,650,000	4.16%	0.97%

Investment Commentary

The investment portfolio increased by \$2.43 million for the month. During June, various income was received totalling \$6.56 million, including rate payments amounting to \$2.9 million, while payments to suppliers and staff costs amounted to \$4.6 million.

The investment portfolio currently involves a number of term deposits and on-call accounts.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Council's investment portfolio has been reviewed and rebalanced in favour of investments not subject to share market volatility. Comparisons are made between existing investments with available products that are not part of Council's portfolio. Independent advice is sought on new investment opportunities, and Council's investment portfolio is independently reviewed each calendar quarter.

Council, at its meeting on 3 February 2009, considered a report on the Federal Government's Guarantee Scheme on deposits and wholesale funding of eligible authorised deposit-taking institutions, and resolved as follows:-

"That:

1. *In respect of Council funds invested with acknowledged tier one major Australian trading banks (ANZ, CBA, NAB and Westpac), that Council accept the coverage available, without cost, from the Federal Government's "Guarantee Scheme", and not optionally guarantee additional funds.*
2. *Council's investments in other banking institutions, not referred to in 1 above, and authorised under the current Ministerial Investment Order and Council's Investment Policy, be limited to an amount equivalent to the level of funds that receive coverage*

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- under the Federal Government's "Guarantee Scheme" without additional cost to Council.*
3. *All investments be made in accordance with Council's investment policy.*
 4. *Council receive a further report updating Council's Investment Policy following the release of new investment guidelines by the Department of Local Government."*

Action was taken to comply with the above resolutions, by not optionally guaranteeing amounts invested with the tier one major Australian trading banks (ANZ, CBA, NAB and Westpac), over and above the amounts that are covered by the free Government Guarantee Scheme. Further, at its meeting on 28 April 2009, Council considered and resolved to adopt a revised Investment Policy. Council's revised Investment Policy fully complies with the Department of Local Government Investment Guidelines that were distributed on 25 May 2009.

As at 30 June 2009, Council has invested \$13 million with 2nd tier financial institutions, noting that two of these institutions are subsidiaries of major Australian trading banks. The investment of \$1 million with thirteen 2nd tier banks is entirely covered by the free Government Guarantee Scheme, and is in accordance with the revised Ministerial Investment Order, Council's Investment Policy, and Council's resolution at its meeting on 3 February 2009.

Effective from 8 April 2009, the Reserve Bank cut official interest rates by one quarter of one percent to a cash rate of 3.00%, taking interest rates to their lowest levels since 1960. The Reserve Bank has reduced official interest rates six times since September 2008, with the interest rate reducing overall by 4.25% in this time. This follows 12 consecutive official interest rate rises between May 2002 and March 2008. Despite the Reserve Bank possibly taking a more cautious approach to monetary policy in the coming months, the forecast is for further interest rate reductions later in 2009.

The Governor of the Reserve Bank of Australia released the following statement on monetary policy on 7 July 2009:

"At its meeting today, the Board decided to leave the cash rate unchanged at 3.0 per cent. The global economy is stabilising, after a sharp contraction in demand during the December and March quarters. Downside risks to the outlook have diminished, with conditions in global financial markets improving this year and action to strengthen balance sheets of key financial institutions under way. Growth in China has strengthened considerably, which is having an impact on other economies in the region, including Australia.

Nonetheless, credit conditions remain tight and the effects of economic weakness on asset quality present a challenge. There is tentative evidence that the US economy is approaching a turning point, but conditions in Europe are still weakening. While the considerable economic policy stimulus in train around the world should support recovery, it is likely to be slow at first. For it to be durable, continued progress in restoring balance sheets is essential.

Economic conditions in Australia have to date not been as weak as expected a few months ago. But output has been sluggish and capacity utilisation has fallen back to about average levels, with some further decline likely over the rest of the year. Weaker demand for labour is leading to lower growth in labour costs. These conditions should see inflation continue to abate over the period ahead.

A pick-up in housing credit demand suggests stronger dwelling activity is likely later in the year. House prices are tending to rise. Business borrowing, on the other hand, has been declining, as companies postpone investment plans and seek to reduce leverage in an environment of tighter lending standards. Large firms have had good access to equity capital, which is assisting in strengthening their financial structures.

Monetary policy has been eased significantly. Market and mortgage rates are at very low levels by historical standards, despite recent small increases. Business loan rates are below

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average. The effects of these changes will still be coming through for some time yet. Fiscal measures are also providing considerable support for demand.

The Board's current view is that the outlook for inflation allows some scope for further easing of monetary policy, if needed. In assessing how it might use that scope, the Board will continue to monitor how economic and financial conditions unfold and how they impinge on prospects for a sustainable recovery in economic activity."

Investment Certification

I, Rob Stalley (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 Strategic Plan

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

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

Funding

Funds have been invested with the aim of achieving budgeted income in 2008/2009.

RECOMMENDATION:

That the information be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

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CONFIDENTIAL REPORTS

Item:146 **SS - Sale of 155 Colonial Drive, Bligh Park (Lot 9164 in DP 843382) - (95496, 83144) CONFIDENTIAL**

Previous Item: 85, Ordinary (13 July 2004)

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 sale and/or purchase of property by the Council and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Community Planning Advisory Committee Minutes - 21 May 2009 - (96737)

The meeting commenced at 9.30am.

Present:	Councillor (Dr) Rex Stubbs OAM Ms Vickie Shackley Mr Chris McAlpine Mr Matt Thorp	Deputy Chair Community Representative Community Representative Nth Richmond Community Centre
Apologies:	Councillor Barry Calvert Mr Nick Sabel Ms Karen Carter Mr Matt Owens	Chair Wentworth Community Housing Merana Aboriginal Community Assn Hawkesbury City Council
In Attendance:	Mr Michael Laing Ms Robyn Kozjak (Minute Secretary)	Hawkesbury City Council Hawkesbury City Council
Non Attendance:	Ms Virginia Kruse Ms Vesna Kapetanovic Ms Sharon Payne	Community Member NSW Dept of Community Services Women's Cottage

REPORT:

RESOLVED on the motion of Ms Vickie Shackley and seconded by Mr Chris McAlpine that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Ms Vickie Shackley and seconded by Mr Chris McAlpine that the Minutes of the Community Planning Advisory Committee held on the 6 November 2008, be confirmed.

Attendance Register of Community Planning Advisory Committee

Member	21.05.09
Councillor Barry Calvert - Chair	A
Councillor (Dr) Rex Stubbs OAM	✓
Ms Vickie Shackley	✓
Mr Nick Sabel	A
Mr Chris McAlpine	✓
Ms Vesna Kapetanovic	X
Mr Matt Thorp	✓
Ms Karen Carter	A
Ms Sharon Payne	X
Ms Virginia Kruse	X

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

SECTION 3 - Reports for Determination

Item: 1 Election of Chairperson and Deputy Chairperson

DISCUSSION:

- It was agreed in the absence of Councillor Calvert, the election of Chairperson be deferred.

MOTION:

RESOLVED on the motion of Ms Vickie Shackley, seconded by Mr Chris McAlpine.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the election of Chairperson be deferred until such time as Councillor Calvert is in a position to attend.

SECTION 4 - Reports for Information

Item: 2 Concerns about the Future of the Western Sydney Area Assistance Scheme (WSAAS) - February 2009 Update

DISCUSSION:

- Mr Laing referred to his attendance at a recent meeting of Western Sydney regional managers and senior staff across the community services and advised although there would be no increase in the \$10 million funding allocated many years back (now worth less than half and no return to "pick up"), a recommendation for funding of no less than 3 years was strongly supported. Mr Laing advised it was envisaged rounds would commence in September 2009.
- It was further advised some discussion arose relating to the proposal to expand the WSAAS to Western NSW, however, no extra funding would be forthcoming.
- It was advised the WSAAS would turn 30 this year and the Western Sydney Community Forum had considered holding a function to celebrate the occasion.

MOTION:

RESOLVED on the motion of Mr Chris McAlpine, seconded by Mr Matt Thorp.

Refer to COMMITTEE RECOMMENDATION

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COMMITTEE RECOMMENDATION:

That:

1. The information be received.
2. The Committee supports the proposal to celebrate the 30 year history of the WSAAS by bringing together representatives of all organisations funded by WSAAS over the past 30 years.

SECTION 5 - General Business

Item 3: Community Strategic Plan

- Mr Laing distributed copies of the Community Strategic Plan to members of the Committee and advised the CSP was currently on exhibition. Mr Laing advised of the options in place for feedback and invited submissions from the Committee (to be brought back to Mr Laing by end of June).
- Details of proposed forums were provided to the Committee as follows:

Friday 26 June (day)	North Richmond Community Centre 33 William Street, North Richmond)
Saturday 27 June (afternoon)	Tiningi Community and Youth Centre 139 Colonial Drive, Bligh Park
Monday 29 June (evening)	Windsor Library - Tebbutt Room Deerubbin Centre, 300 George Street, Windsor

- Mr Laing reported on the release of the Department of Local Government's Exposure Draft Local Government Amendment (Planning and Reporting) Bill 2009 and the Local Government (General) Amendment (Planning and Reporting) Regulation 2009 for public consultation.

Mr Laing advised the Draft Bill and Regulations required Council to have a four-year delivery program detailing activities to be undertaken by the council to achieve the objectives established by its Community Strategic Plan. Mr Laing invited submissions from the Committee and provided details of the closing dates for submissions as follows:

- Draft Bill and Regulation - **5.00 pm, Friday, 12 June 2009**
- Draft Guidelines and Manual – **5.00 pm, Friday, 3 July 2009**

Mr Laing advised if the Committee had concerns about the Bill and Regulations, those concerns should be sent to him prior to Friday 5 June.

MOTION:

RESOLVED on the motion of Mr Chris McAlpine, seconded by Mr Matt Thorp.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The Committee submit their comments on the Community Strategic Plan to staff for collation.
2. The Committee submit their comments on the Department of Local Government's Exposure Draft Local Government Amendment (Planning and Reporting) Bill 2009 and the Local Government (General) Amendment (Planning and Reporting) Regulation 2009, to staff for collation.

Item 4: Comment/feedback on the report "Young People - Community participation and Civic Leadership"

DISCUSSION:

- Mr Laing confirmed the matter had been reported to Council and Council had endorsed the eight recommendations contained in the *Young People – Community Participation and Civic Leadership* Report.
- Reference was made to point 2.8 of the above document (referring to development of a user friendly guide) and query was raised if this is being followed through. Mr Laing advised he would ascertain how these recommendations would be picked up or actioned.

Item 5: Transport Issues (continuing discussion)

DISCUSSION:

Reference was made to:

- A submission previously made by Council to the Ministry of Transport concerning proposed changes to bus services in the region. It was acknowledged unfortunately the "changes" resulted in an overall reduction in bus services to the area.
- An issue raised previously relating to the proposed cycleway between Richmond and Windsor and it was confirmed construction of the cycleway was in progress.
- A proposal to upgrade Windsor bus interchange. Query was raised if bicycle lockers would be installed at Windsor station. The Committee raised further concern relating to bicycle lockers at Richmond and queried if they would be retained. Mr Laing suggested these matters be addressed in the Bicycle and Access Mobility Committee.

MOTION:

RESOLVED on the motion of Mr Chris McAlpine, seconded by Ms Vickie Shackley.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Committee ask Council to write to State Rail to investigate the possibility of installing bicycle lockers at Windsor Station and retain lockers at Richmond stations.

Item 6: Presentation on the Local Government Affordable Housing Kit

MOTION:

RESOLVED on the motion of Mr Matt Thorp, seconded by Mr Chris McAlpine.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The matter be deferred until Mr Sabel is in attendance.
2. The report entitled "Models of Sustainable and Affordable Housing for Local Government: Project Report" be included in the next CPAC meeting agenda for discussion.

Item 7: Code of Conduct

The Code of conduct was distributed and received by the Committee.

The meeting closed at 10.20am.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Hawkesbury Macquarie 2010 Committee Minutes - 9 July 2009 - (114013)

The meeting commenced at 9.05am in the Council Chambers, Hawkesbury City Council.

Present:	Councillor Rex Stubbs OAM Anthony Miller Carol Edds Dudley Mercer Esther Perry Frank Holland Gai Timmerman Judith Dimitrov Judy Newland Keri Whiteley Max Jarman	Chair, Councillor Representative Community Representative Community Representative Community Representative Hawkesbury City Council Community Representative Community Representative Community Representative Community Representative Hawkesbury City Council Community Representative
Apologies:	John Miller Sonia Porter Colin Mitchell Jan Barkley Jack	Community Representative Hawkesbury City Council Community Representative Community Representative
In Attendance:	Joseph Litwin Kaylene Kelland	Hawkesbury City Council Hawkesbury City Council

REPORT:

RESOLVED on the motion of Judy Newland and seconded by Frank Holland that the apologies be accepted.

SECTION 1 - CONFIRMATION OF MINUTES

1. Confirmation of Minutes

RESOLVED on the motion of Tony Miller seconded by Max Jarman that the Minutes of the Hawkesbury Macquarie 2010 Committee held on 11 June 2009 be confirmed

2. Matters arising from Previous Minutes

There were no matters arising.

SECTION 2 - REPORTS FOR DETERMINATION

Item 14 – Hawkesbury Macquarie 2010 Committee Membership

DISCUSSION:

- Mr. Litwin advised Committee members that the report had been prepared to clarify a process for the nomination and selection of casual vacancies for the Committee. There was some discussion as to the size of the committee and whether there was a requirement for a set number of committee

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members to be appointed. Mr. Litwin confirmed that the constitution provided for the Committee to fill vacant positions without reference to Council.

- It was agreed that nominations for committee members should be forwarded to the chair (through Mr. Litwin). Nominations would be reported to the Committee for determination and a Macquarie 2010 information package would be forwarded to nominees to ensure that prospective committee members were aware of the role and functions of the Committee.

RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.
2. The Committee ask Council to advertise vacant community representative positions in the relevant newspapers.
3. The Committee seek nominations for vacancies for community representation and endorse nominations at a Committee meeting. If the Committee is in agreement with the nomination, the representative can attend the next meeting of the Committee.
4. Newly elected community representatives to receive the following information prior to attending a Committee Meeting:
 - Hawkesbury Macquarie 2010 Committee Constitution
 - Code of Conduct for Council Committees
 - Previous minutes and reports of Hawkesbury Macquarie 2010 Committee

MOTION:

RESOLVED on the motion of Carol Edds and seconded by Gai Timmerman.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION.

1. That nominations for prospective community representatives to fill casual vacancies on the Committee be forwarded in writing to the Chair.
2. Information regarding the role and functions of the Hawkesbury Macquarie 2010 Committee be forwarded to nominees.
3. Nominations to be reported to the Committee at the next scheduled Committee meeting after a nomination had been received (provided that the nomination has been received prior to the deadline for the preparation of Committee Business Papers)
4. Nominees can be invited to Committee meeting (in an observer capacity) at which their nomination is to be considered.

Item 15 –The City of Hawkesbury Macquarie 2010 Bicentenary Program

DISCUSSION:

- Ms Whiteley provided an update to the Committee on the current program of events noting that there were 25 registered activities/events.

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- Clarification was sought as to whether there was a process for determining which events or activities the Governor should be invited to. It was agreed that while organisations and community groups were entitled to invite the Governor to individual events, that it would be appropriate to invite the Governor to key events and that where possible these events should be staged on the same day.

RECOMMENDATION TO COMMITTEE:

1. That the information be received

MOTION:

RESOLVED on the motion of Tony Miller and seconded by Judy Newland.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION.

1. The Information be received.
2. The Programming Working Party be requested to provide some clarification to the Committee on which functions the Governor has or should be invited.

Item 16 – Hawkesbury City Council Community Report

DISCUSSION:

- Ms. Perry advised the Committee that information regarding Macquarie 2010 Committee and Celebrations had been included in the 2009 Community report to be distributed to all ratepayers.

RECOMMENDATION TO COMMITTEE:

1. That the information be received

MOTION:

RESOLVED on the motion of Frank Holland and seconded by Judy Newland.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION.

That the Information be received.

Item 17 – Commercial Logo Usage and Corporate Sponsorship.

DISCUSSION:

- Mr Holland advised the Committee of discussion he had held with the Richmond Club in relation to that organisation willingness to provide 'benefactor sponsorship'. There was some discussion as to appropriate mechanisms by which such arrangements could best be pursued.
- In response to various questions, Mr. Litwin advised the Committee of the requirements of Council's Sponsorship Policy and the need for Council to ensure that any sponsorship arrangements involving Council were negotiated without the perception of a conflict of interest – particularly where Council

may be involved in determining development applications or other business with a prospective sponsor.

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Tony Miller and seconded by Frank Holland.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION.

1. The Committee provide in principle support for the Sponsorship and Grants Working Party to pursue 'benefactor sponsorship'.
2. The Sponsorship and Grants Working Party meet with Mr. Litwin to discuss appropriate mechanisms for securing benefactor sponsorship.
3. A report on options be presented to the next meeting.

SECTION 3 – REPORTS OF WORKING PARTY MEETINGS

ROWP – Hawkesbury Macquarie 2010 Programming Working Party.

Nil Report. Information provided in Item 15 within Business Paper.

ROWP – Hawkesbury Macquarie 2010 Branding and Marketing Working Party.

Nil Report. Committee advised that Working party awaiting confirmation of Macquarie 2010 logo being developed by state committee.

ROWP – Hawkesbury Macquarie 2010 Event Support Working Party.

Nil report. Ms Perry advised committee of options for approaching event support. It was agreed that the most appropriate approach would be to survey community groups staging events to identify their specific training and support needs. It was agreed that when applications were called for the proposed Hawkesbury Macquarie 2010 Seed Funding Program, that the application form to include questions on event support requirements.

ROWP – Hawkesbury Macquarie 2010 Sponsorship and Grants Working Party.

Nil Report. Information discussed in Item 17 within Business Paper.

GENERAL BUSINESS

- Ms. Perry advised the committee of discussions held with editors of local papers and specifically the Hawkesbury Way as to the most appropriate strategies for Macquarie 2010 publicity.

NEXT MEETING – to be held at 9.00 am on Thursday 13 August 2009, in the Council Chambers Hawkesbury City Council, 366 George St. WINDSOR.

The Meeting Closed at 10.17 am.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Local Traffic Committee - 15 July 2009 - (80245)

Minutes of the Meeting of the Local Traffic Committee held in the Large Committee Room, Windsor, on 15 July 2009, commencing at 3:00pm.

ATTENDANCE

- Present:** Councillor B Bassett (Chairman)
Mr J Suprain, Roads and Traffic Authority
Snr Constable M Simmons, NSW Police Service
A/Sgt T Costello, NSW Police Service
- Apologies:** Mr R Williams, MP, (Hawkesbury)
Mr J Christie, Officers of Messrs A Shearan, MP,(Londonderry) and J Aquilina, MP,
(Riverstone)
- In Attendance:** Mr C Amit, Manager, Design & Mapping Services
Ms D Oakes, Community Safety Coordinator
Ms B James, Administrative Officer, Infrastructure Services

SECTION 1 – Minutes

The Chairman tendered an apology on behalf of Mr R Williams MP and Mr J Christie, advising that they both concurred with the recommendations as contained in the formal agenda and had granted proxy to himself to cast vote(s) on their behalf.

Item 1.1 Minutes of Previous Meeting

The Minutes of the meeting held on 17 June 2009 were confirmed.

Item 1.2 Business Arising

SECTION 2 - Reports for Determination

Item 2.1 LTC - 15 July 2009 - Item 2.1 - The Windsor UHPBC Spectacular 2009 - (Hawkesbury, Londonderry & Riverstone) - (80245, 73829)

REPORT:

Introduction:

An application has been received from the Upper Hawkesbury Power Boat Club (UHPBC) seeking approval to conduct the Windsor UHPBC Spectacular 2009 on Saturday, 19 and Sunday, 20 September 2009.

The event is a circuit boat race on the Hawkesbury River, adjacent to Governor Phillip Reserve with various categories of boats. The circuit is generally along the straight section of the River between the Windsor Bridge and South Creek.

Event Details:

Start and Finish Times:

- 19 September 2009: 9.00 am - 5:00pm
- 20 September 2009: 9.00am - 5:00pm

Set Up and Pack Down Times:

- 19 September 2009: 7.00 am - 7:00pm
- 20 September 2009: 7.00am - 7:00pm

Council resolved to grant the exclusive use of Governor Phillip Reserve for this event on 10 March 2009.

Traffic Management Issues;

The event organiser has provided the following information regarding the event:

i) Affected Streets are:

George Street, Windsor: between Bridge Street and Palmer Street from around 7:00am on 19 September 2009, and 7:00am on 20 September 2009,

Arndell Street, Windsor: the full length from around 7:00am on 19 September 2009, and 7:00am on 20 September 2009,

Palmer Street, Windsor: the full length from around 7:00am on 19 September 2009, and 7:00am on 20 September 2009,

North Street/Court Street, Windsor: the full length from around 7:00am on 19 September 2009, and 7:00am on 20 September 2009,

- ii) The effect on traffic is not expected to be significant.
- iii) It is expected that the event will impact only marginally on traffic using Windsor Road, Bridge Street, Macquarie Street and Wilberforce Road compared to the normal traffic during weekends.
- iv) As no road closures will be in place, there will be little effect on traditional afternoon peak hour southeast bound traffic on Windsor Road.
- v) Expecting approximately 8000 to 10,000 spectators across the 2 days.
- vi) Parking will be at Governor Phillip Reserve with additional parking available off street utilising vacant land adjacent to Governor Phillip Reserve. Parking is available for approximately 4000 vehicles.
- vii) The number of competitors expected is approximately 120 for the event. There will be 6 boats per group competing, per race, in various categories, with up to 20 groups competing.

The event organiser has submitted the following items in relation to the event: Appendix 1 (Dataworks Document No: 3111652):

- i) Details of the Special Event - Traffic template,
- ii) RTA - Special Event Transport Management Plan Template,
- iii) Copies of correspondence forwarded to the NSW Ambulance Service, NSW Police Service, SES, Windsor Fire Brigade and Richmond Fire Brigade,
- iv) Course Map/Plan

Discussion

Traffic Issues

Even though the event will be held along the Hawkesbury River and within the Governor Phillip Reserve, this event and the spectators travelling to the event may impact heavily on the state road network on Windsor Road, Macquarie Street, Wilberforce Road and Bridge Street and in particular the local roads such as George Street and Court Street. It would be appropriate to classify the event as a **“Class 1”** special event under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads & Traffic Authority given that perceived impact.

RECOMMENDATION:

RESOLVED on the motion of Councillor B Bassett, seconded by Sgt T Costello.

That

1. The Windsor UHPBC Spectacular 2009 event planned for Saturday, 19 and Sunday, 20 September 2009, be classified as a **“Class 1”** special event under the “Traffic and Transport Management for Special Events” guidelines issued by the RTA.
2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the RTA publication “Guide to Traffic and Transport Management for Special Events” (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.
4. No objection be held to this event subject to compliance with the following conditions:

Prior to the event:

- 4a. the event organiser is to obtain approval to conduct the event, from the NSW Police Service; **a copy of the Police Service approval to be submitted to Council;**
- 4b. the event organiser is to obtain approval from the RTA as this is a **“Class 1” event; a copy of the RTA approval to be submitted to Council;**
- 4c. the event organiser **is to submit a Transport Management Plan (TMP) for the entire route incorporating a Traffic Control Plan (TCP) to Council and the RTA** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the RTA to satisfy the requirements of the relevant Work Cover legislation;
- 4d. 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 Traffic Authority as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 4e. the event organiser is to obtain the relevant approval to conduct the event from NSW Maritime; **A copy of this approval to be submitted to Council;**
- 4f. the event organiser is to advertise the event in the local press stating the entire route/extent of the event 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);

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- 4g. the event organiser is to notify the details of the event to the Rural Fire Service at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 4h. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area and all the residences and businesses which may be affected by the event for 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;**
- 4i. the event organiser is to assess the risk and address the suitability of the entire route as part of the risk assessment considering the possible risks for all; This assessment should be carried out by visual inspection of the route / site by the event organiser prior to preparing the TMP and prior to the event;
- 4j. the event organiser is to carry out an overall risk assessment for the whole event to identify and assess the potential risks to spectators, participants and road users during the event and design and implement a risk elimination or reduction plan in accordance with the Occupational Health and Safety Act 2000; (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>);
- 4k. the event organiser is to submit the completed "Special Event - Traffic Final Approval" form to Council;

During the event:

- 4l. access is to be maintained for businesses, residents and their visitors;
- 4m. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 4n. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the RTA;
- 4o. in accordance with the submitted TMP and associated TCP, appropriate advisory signs, and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the RTA;
- 4p. the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- 4q. all roads and marshalling points are to be kept clean and tidy, with all directional signs to be removed immediately upon completion of the activity.

APPENDICES:

- AT - 1** Special Event Application - (Dataworks Document No. 3111652) - *see attached.*

Item 2.2 LTC - 15 July 2009 - Item 2.2 - Application for Final Approval: Bicycle Racing Events for 2009 - East Kurrajong (Hawkesbury) - (80245, 82935)

Previous Item: 2.3, Local Traffic Committee (15 October 2008)

REPORT:

Introduction:

An application to undertake an Amateur Bicycle Racing Event in East Kurrajong on Sunday 2 August 2009 by the Parramatta Cycling Club was reported to the Local Traffic Committee on 15 October 2008. The recommendations of the Local Traffic Committee, as part of the Initial Approval, were adopted by Council on 11 November 2008 as follows:

"That:

1. *The Bicycle Racing Event planned for Sunday, 2 August 2009 by the Parramatta Cycling Club along the East Kurrajong Route, be classified as a "Class 1" special event under the "Traffic and Transport Management for Special Events" guidelines issued by the RTA.*
2. *The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.*
3. *It is strongly recommended that the event organiser become familiar with the contents of the RTA publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.*
4. *No objection be held to this event subject to compliance with the following conditions:*

Prior to the event:

- 4a. *the event organiser is to obtain approval to conduct this event, from the NSW Police Service; **a copy of the Police Service approval to be submitted to Council;***
- 4b. *The event organiser is to obtain approval from the RTA as this is a "Class 1" event which traverses along a classified road; **a copy of the RTA approval to be submitted to Council;***
- 4c. *the event organiser **is to submit a Transport Management Plan (TMP) for the entire route, incorporating the submitted Traffic Control Plan (TCP), to Council and the RTA for acknowledgement;***
- 4d. *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 RTA as interested parties on the Policy and that Policy is to cover both on-road and off-road activities;***
- 4e. *the event organiser is to advertise the event in the local press stating the entire route/extent of the event 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);***
- 4f. *the event organiser is to notify the details of the event to the NSW Ambulance Service, NSW Fire Brigade / Rural Fire Service and SES, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;***

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- 4g. *the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area and all the residences and businesses which may be affected by 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;***
- 4h. *the event organiser is to assess the risk, and address the suitability of the entire route as part of the risk assessment considering the possible risks for all participants; This assessment should be carried out by visual inspection of the route / site by the event organiser prior to preparing the TMP and prior to the event;*
- 4i. *the event organiser is to carry out an overall risk assessment for the whole event to identify and assess the potential risks to spectators, participants and road users during the event and design and implement a risk elimination or reduction plan in accordance with the Occupational Health and Safety Act 2000; (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>);*
- 4j. *the event organiser is to submit the completed "Special Event - Traffic Final Approval" form to Council;*

During the event:

- 4k. *access is to be maintained for businesses, residents and their visitors;*
- 4l. *all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the RTA;*
- 4m. *the cyclists are to be made aware of, and are to follow all the general road user rules whilst cycling on public roads;*
- 4n. *in accordance with the submitted TMP and associated TCP, appropriate advisory signs, and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the RTA;*
- 4o. *the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,*
- 4p. *all roads and marshalling points are to be kept clean and tidy, with all directional signs to be removed immediately upon completion of the activity."*

Discussion:

The event organiser has submitted information in order to obtain **Final Approval** for the event. Refer to Appendix 1.

- Condition 4 (a): Compliant,
Condition 4 (b): Not yet Compliant – Application with RTA,
Condition 4 (c): Compliant,
Condition 4 (d): Compliant.
Condition 4 (e): Compliant,
Condition 4 (f): Not yet Compliant, Copy of letter to Rural Fire Service and SES is required
Condition 4 (g): Not yet Compliant, Copy of letter to Taxi Council only has been provided,
Condition 4 (h): Compliant,
Condition 4 (i): Compliant,
Condition 4 (j): Compliant.

RECOMMENDATION:

RESOLVED on the motion of Councillor B Bassett, seconded by Mr J Suprain.

That no objection be held to the Bicycle Racing Event planned for Sunday, 2 August 2009 by the Parramatta Cycling Club along the East Kurrajong Route.

Final Approval be granted subject to compliance with the following conditions:

Prior to the event

- a) the event organiser is to obtain approval from the RTA as this is a "**Class 1**" event which traverses along a classified road; **a copy of the application to the RTA has been submitted to Council;**
- b) the event organiser is to advertise the event in the local press stating the entire route/extent of the event and the traffic impact / delays expected due to the event, two weeks prior to the event; **a copy of the proposed advertisement has been submitted to Council;**
- c) the event organiser is to notify the details of the event to the Rural Fire Service and SES, at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- d) the event organiser is to directly notify relevant bus companies and tourist bus operators operating in the area and all the residences and businesses which may be affected by 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;**

During the event:

- e) access is to be maintained for businesses, residents and their visitors;
- f) all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the RTA;
- g) the cyclists are to be made aware of, and are to follow all the general road user rules whilst cycling on public roads;
- h) in accordance with the submitted TMP and associated TCP, appropriate advisory signs, and traffic control devices are to be placed along the route, during the event, under the direction of a traffic controller holding appropriate certification as required by the RTA;
- i) the competitors and participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- j) all roads and marshalling points are to be kept clean and tidy, with all directional signs to be removed immediately upon completion of the activity.

APPENDICES:

There are no supporting documents for this report.

AT - 1 Special Event Application for Final Approval, (Dataworks Document. No. 3115457) - see *attached*.

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Item 2.3 LTC - 15 July 2009 - Item 2.3 - Proposed Timed No Stopping Zone in Valder Avenue, Hobartville - Hobartville Public School (Londonderry) - (80245, 1925)

Previous Item: Item 4.3 - Local Traffic Committee (19 March 1999)

REPORT:

Introduction

Representation has been received from the Principal of Hobartville Public School (Dataworks Document No. 3093440) requesting a review of the existing Children's Crossing in Valder Avenue and the potential options for improving the safety of children in the vicinity of the School. A site meeting was undertaken on 4 June 2009 between Council staff, and representatives from the School, P&C and Department of Education.

The School is bounded by Valder Avenue, Catchpole Avenue and Powell Street. The speed limit in this area is 50kph with a School Zone operating during the times of 8.00am to 9.30am and 2.30pm to 4.00pm on school days. A Children's Crossing is provided in Valder Avenue, with a Pedestrian Crossing (Wombat) in Powell Street. There are parking restriction in the vicinity of both crossing points.

It was agreed at the site meeting that the position of the Children's Crossing could not be relocated, which is in its current position as a result of the Crossing point being refurbished in 1999, and included the construction of pram ramps and the upgrading of the adjacent regulatory signage. Additional signage is required on the approaches to the Children's Crossing in Valder Avenue including 'Children' (W6-3) and 'Crossing Ahead' (W8-22). These signs are to be placed within 80 to 120 metres from the Children's Crossing, ensuring clear visibility of the new signs.

There are parking restrictions on both sides of Valder Avenue in the vicinity of the Children's Crossing and the School frontage with the exception of a 30 metre length of 'Unrestricted Parking' between the Children's Crossing and Catchpole Avenue, which allows for all day parking adjacent to the school frontage. It is proposed to provide a timed 'No Stopping' zone during the morning and afternoon school peak period to improve the visibility of the children crossing at the Children's Crossing to motorists and vice versa.

A draft plan was provide to the School Principal to present to the P&C meeting undertaken on 17 June 2009. Correspondence has been received from the School Principal (Dataworks Document No. 3133658) advising that the proposed timed 'No Stopping' zone has been supported by the P&C.

The proposed timed 'No Stopping' zone will be from "8.00am to 9.30am and 2.30pm to 3.30pm – School Days". - as per Drawing No. TR004/09. The existing parking zone caters for approximately 4-5 vehicles and will be available for vehicles to utilise outside of the restricted times.

It is also to provide 10.0 metre 'No Stopping' zones at the North-East and North-West corners of the Catchpole Avenue and Valder Avenue intersection, which will match the existing 'No Stopping' zones on the South-East and South-West corners to improve visibility at the intersection. - as per Drawing No. TR004/09

RECOMMENDATION:

RESOLVED on the motion of Councillor B Bassett, seconded by Sgt T Costello.

That

1. the existing 'Unrestricted Parking' Zone (approximately 30.0 metres in length) located on the eastern side of Valder Avenue, between the Children's Crossing and Catchpole Avenue be replaced with a timed 'No Stopping' zone to operate within the time frame of "8.00am – 9.30am and 2.30pm - 3.30pm - School Days", as per Drawing No. TR004/09.,
2. Additional signage be provided on each approach to the Children's Crossing in Valder Avenue which includes 'Children' (W6-3) and 'Crossing Ahead' (W8-22). These signs are to be placed within 80 to 120 metres from the Children's Crossing, ensuring clear visibility of the new signs.
3. 10.0 metre 'No Stopping' zones be provided at the North-East and North-West corners of the Catchpole Avenue and Valder Avenue intersection, as per Drawing No. TR004/09.

APPENDICES:

There are no supporting documents for this report.

- AT - 1** Drawing No: TR004/09 – Proposed No Stopping Zone in Valder Avenue, Hobartville – Hobartville Public School

**APPENDIX 1 - Drawing No: TR004/09 – Proposed No Stopping Zone in Valder Avenue, Hobartville
Hobartville Public School**

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

SECTION 3 - Reports for Information

- Item 3.1 LTC - 15 July 2009 - Item 3.1 - RTA Advice on Proposed Speed Limit Sign Posting of 50kph on side streets off Bells Line of Road, Kurrajong to LGA Boundary- (Londonderry & Hawkesbury) - (80245, 80761, 73625)**
-

REPORT:

Advice has been received from the Roads and Traffic Authority (Dataworks Document No. 3131407) indicating that 50kph Speed Limit signposting of side streets off Bells Line of Road between the Darling Causeway and Kurrajong will be undertaken to confirm the 50kph default urban speed limit. The sign posting will be undertaken along most of the local roads along this length

RECOMMENDATION:

RESOLVED on the motion of Councillor B Bassett, seconded by Sgt T Costello.

That the information be received

APPENDICES:

There are no supporting documents for this report.

- Item 3.2 LTC - 15 July 2009 - Item 3.2 - RTA Advice on Proposed changes to Traffic Flow at the intersection of Macquarie Street and Brabyn Street, Windsor - (Riverstone) - (80245, 80761, 73625)**

Previous Item: 4.1, Local Traffic Committee (17 January 2007)
4.2, Local Traffic Committee (21 March 2007)
4.2, Local Traffic Committee (18 July 2007)

REPORT:

Advice has been received from the Roads and Traffic Authority - Appendix 1 (Dataworks Document No. 3131953) indicating changes to the traffic flow at the intersection of Macquarie Street (RTA) and Brabyn Street (HCC), Windsor.

Details provided by the RTA are listed below;

"The RTA is changing the traffic flow at the intersection of Macquarie and Brabyn streets, Windsor.

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The changes, which will improve safety, form part of the flood evacuation route for Windsor. The flood evacuation route incorporates 2.6 kilometres of two lane road and a 1.5 kilometre bridge across South Creek. The changes to traffic flow maximise the effectiveness of the flood evacuation route.

From 10 August 2009, motorists will be unable to

- *Turn right from Macquarie Street (north) to Brabyn Street (west)*
- *Turn right from Brabyn Street (west) to Macquarie Street.*

Alternate routes for motorists are via Hawkesbury Valley Way and George Street.

The RTA considered a number of options for this intersection, following a traffic study. The other options included installing traffic lights, providing a roundabout, and banning other traffic movements.

The effectiveness of this option will be monitored for two years, with further safety measures considered if accidents are not reduced.

The RTA apologises for any inconvenience and appreciates the patience of motorists.

If you have any questions about these changes, please contact the RTA Project Manager, Thev Theivendran on 9352 9552 or visit the RTA website at www.rta.nsw.gov.au"

The following information was provided by the RTA in relation to its Schedule for notification:

- *Letter to residents, businesses, stakeholders; week commencing Monday 6 July*
- *Advertisement*
 - *Hawkesbury Gazette (weekly, Wednesday) Wednesday 8 July*
 - *Hawkesbury Courier (weekly, Thursday) Thursday 9 July*
- *Community notice boards - week commencing Monday 6 July*
 - *Library*
 - *Council*
 - *Community centre*
 - *Shopping centre*

Extent Map for notifications/ mail out:

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

Providing a treatment at this intersection has been an ongoing issue between various stakeholders, Council and the RTA as a result of the Windsor Flood Evacuation Route/Hawkesbury Valley Way (HVW) being constructed. With the closure of the Forbes/Mileham Street intersection, through traffic is precluded on Mileham Street by the installation of a median island at Forbes Street/HVW, with 'Left Turn Only' on each approach to Forbes Street/HVW.

Traffic from the industrial estate south of HVW along Mileham Street wanting to head North, have to turn right out of Brabyn Street into Macquarie Street. The right turn from HVW into Macquarie Street for vehicles heading North is banned. In the past this manoeuvre was undertaken at the signalised intersection of Day Street and Macquarie Street. Alternatively these vehicles follow the 'Rat-run' of Mileham Street, left into HVW, across Macquarie Street, turn right at George Street and then connecting to Macquarie Street via streets such as Dight and Christie.

The preferred option by Council is for Traffic Signals to be provided at this intersection. The signals would provide for better control at the intersection and potentially reduce the number of crashes between through movements along Macquarie Street and Brabyn Street (35 crashes; January 2001 – March 2007). The performance of this intersection would improve whilst reducing the delay of the vehicles exiting Brabyn Street. As outlined in the report prepared by the RTA consultant - Appendix 2 (Dataworks Document No. 3131238), the proposed changes to traffic flow by the RTA for Brabyn/Macquarie Street does not cater for the manoeuvre which lead to the fatal accident on 6 March 2003 - right turn out of Brabyn Street (East) and straight along Macquarie Street (South) as well as the delays for vehicles turning out of Brabyn Street (5-6 minutes).

The provision of Traffic Signals at the intersection of Brabyn Street and Macquarie Street has been discussed previously at Local Traffic Committee meetings with correspondence forwarded to the RTA outlining the recommendations of the Committee. The following information is provided as background;

1. Local Traffic Committee (17 January 2007):

Council is in receipt of representations received from businesses in Mileham Street, south of Forbes Street/HVW regarding the intersection of Mileham Street at Forbes Street/HVW.

Following recommendation by its Local Traffic Committee, Council, at its meeting held on 30 January 2007 «Salutation» resolved that;

“further discussions be undertaken with the RTA in support of traffic lights at the intersection of Brabyn Street and Macquarie Street, Windsor”

2. Local Traffic Committee (21 March 2007):

The RTA gave an oral report regarding permanent closure of Mileham Street, Windsor, to through traffic at its intersection with Forbes Street on 30 March 2007 as part of construction of the Windsor Flood Evacuation Route and tabled Plan No. CW Project No. 562C.15.CH Drawing No. SK146 Rev A dated 19 March 2007 (Dataworks Doc.No. 2458065) depicting altered parking restrictions at the intersection of Argyle/Macquarie Streets, South Windsor to facilitate movement of detoured vehicles resulting from that closure.

Salient Points:

- 1. With closure of the Forbes/Mileham Streets intersection, through traffic is precluded on Mileham Street by installation of a transverse median island at Forbes Street, with 'Left Turn Only' on each approach to Forbes Street;*
- 2. Traffic exiting the industrial area on Mileham Street between Forbes Street and Fairey Road would be detoured via Mileham Street, Fairey Road (utilising the railway crossing), Argyle Street, thence Macquarie Street;*
- 3. Dedication right turn phase governing Argyle/northbound Macquarie Street manoeuvre to be installed;*
- 4. Extension of "No Stopping" zones on Argyle and Macquarie Streets, timed/untimed, as indicated on attached copy of plan; and,*
- 5. Consultation to be undertaken by the Authority with affected property owners.*

Discussion Points:

- 1. Having regard to travelling distances/times envisaged under this proposal, heavy vehicles are more likely to present at the Brabyn/Macquarie Streets intersection;*
- 2. As distinct from existing traffic movements, whereby heavy vehicles servicing the industrial area undertake northbound movement via signalised intersection at Day/Macquarie Streets, and given the traffic volumes on Macquarie Street, the prospect of the majority of heavy vehicles attempting to traverse the uncontrolled intersection of Brabyn/Macquarie Streets was undesirable;*
- 3. Not all heavy/high vehicles are able to clear the railway bridge spanning Macquarie Street between Bell and Brabyn Streets; and,*
- 4. The issue of heavy vehicles exiting the industrial area proceeding northbound on Mileham Street, westbound on Forbes Street/Richmond Road, northbound on George Street, thence Dight Street was traversed*

Following recommendation by the local Traffic Committee, Council at its meeting held on 24 April, 2007 resolved:

ORDINARY MEETING
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"That this matter be referred to the Project Manager, Windsor Flood Evacuation Route for further investigation of alternate high vehicle detour with a view to installation of traffic signals at the intersection of Brabyn/Macquarie Streets, Windsor"

The RTA have advised that the traffic flow changes to be implemented from 10 August 2009 at the intersection of Brabyn Street and Macquarie Street will be monitored for two years, with further safety measures considered if accidents are not reduced. Notwithstanding this, further correspondence needs to be forwarded to the RTA, objecting to the proposed changes and requesting that the Authority re-consider providing traffic lights at the intersection of Brabyn Street and Macquarie Street, Windsor.

RECOMMENDATION:

RESOLVED on the motion of Councillor B Bassett, seconded by Sgt T Costello.

That

1. the information be received,
2. correspondence be forwarded to the RTA requesting that the Authority re-consider providing;
 - a) Traffic lights at the intersection of Brabyn Street and Macquarie Street, Windsor
 - b) The right turn from Hawkesbury Valley Way into Macquarie Street for vehicles heading North along Macquarie Street

APPENDICES:

AT - 1 RTA Public Consultation Documents - (Dataworks Document No. 3131953) - *see attached*

AT - 2 Final Draft Report: Macquarie Street and Brabyn Street Intersection, Post opening Traffic assessment, roads and Traffic Authority (3 June 2009, reference 652C, Revision 2); prepared by Aurecon Australia Pty Ltd: (Dataworks Document No. 3131238) - *see attached*

SECTION 4 - General Business

Item 4.1 LTC – 15 July 2009 - Item 4.1 QWN - Traffic Safety – Painted Island in Groves Avenue, Mulgrave opposite Industry Road on the approach to the Traffic Lights at Windsor Road

Snr Constable M Simmons

REPORT:

Advised that vehicles turning right into the McDonalds/ KFC driveway are in danger of a collision with vehicles travelling north along Groves Avenue towards the traffic lights. Vehicles approaching the traffic lights are travelling in the kerb side lane (western side) and over the painted traffic island to enable them to access the Kerb lane at the traffic lights.

ORDINARY MEETING
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This manoeuvre is dangerous for those vehicles turning across the on coming traffic to access the driveway, as vehicles are not expected to be travelling along the Kerb lane.

The existing line marking arrangements in Groves Avenue, between Windsor Road and Hannabus Place needs to be reviewed by the RTA.

RECOMMENDATION:

That the matter be referred to the RTA

SECTION 5 - Next Meeting

The next Local Traffic Committee meeting will be held on Wednesday 19 August 2009 at 3.00pm in the Large Committee Room.

The meeting terminated at 3:45pm.

oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

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