



# Hawkesbury City Council

## ordinary meeting business paper

date of meeting: 08 September 2009

location: council chambers

time: 5:00 p.m.



**ORDINARY MEETING****Table of Contents****Meeting Date:** 8 September 2009**TABLE OF CONTENTS**

<b>Item</b>	<b>Subject</b>	<b>Page</b>
<b>SECTION 4 - Reports for Determination</b>		<b>3</b>
<b>CITY PLANNING</b>		<b>5</b>
Item: 181	CP - Application for Rezoning - Part Lot B DP 411701, 130 Windsor Road, McGraths Hill - (85712, 95498)	5
Item: 182	CP - Modification of Development Consent 77/86 - Extension of Operating Hours - Richmond Star Kebab, Lot 3 SP 37397, 148 Windsor Street RICHMOND NSW 2753 - (D0027/86A, 95498, 74563, 30015, 30016, 30014, 75729)	15
<b>INFRASTRUCTURE SERVICES</b>		<b>31</b>
Item: 184	IS - Co-Generation Plant - (95495)	31
<b>SECTION 5 - Reports of Committees</b>		<b>51</b>
ROC - Floodplain Risk Management Advisory Committee Minutes - 3 August 2009 - (86589, 95498)		53
ROC - Local Traffic Committee - 19 August 2009 - (90245)		63

**ORDINARY MEETING**

**Table of Contents**

**Meeting Date:** 8 September 2009

ordinary

section 4

reports  
for determination

**ORDINARY MEETING**

**Meeting Date:** 8 September 2009

**SECTION 4 - Reports for Determination**

**CITY PLANNING**

**Item: 181**            **CP - Application for Rezoning - Part Lot B DP 411701, 130 Windsor Road, McGraths Hill - (85712, 95498)**

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**REPORT:**

**Introduction**

Council has received a request from Montgomery Planning Solutions, acting on behalf of the landowner, Mr S Bastian, to rezone land at part Lot B DP 411701, No. 130 Windsor Road, McGraths Hill, from Rural Living to 4(b) Light Industrial (or the equivalent zone IN2 Light Industrial in the Standard Instrument). A site specific extension to the current Rural Living zoning of the site was made to the Hawkesbury Local Environmental Plan 1989 in 1995 to permit a "Motor Showroom".

**Proposed Development**

The application seeks to rezone the land from Rural Living to 4(b) Light Industrial, or the equivalent IN2 Light Industrial zone under the NSW Standard LEP Template. Due to the site specific amendment in 1995 extending the zoning provisions, the land is currently occupied by a boat sales showroom, caravan showroom and truck showroom in accordance with existing approvals for the site.

**Description of Site and Surrounds**

The subject land is located on the north western corner of Windsor Road and Mulgrave Road, at a distance of 1.5 kilometres from the Windsor Town Centre. The site has a total area of 1.49 Hectares. Access to the site is restricted from Windsor Road and the current vehicular access is via Mulgrave Road.

The land is generally flat with a gentle slope in a northerly direction from Mulgrave Road. The site is currently developed with a number of buildings and display yards. Boats, trucks and caravans are displayed for sale both within buildings and outdoors. The buildings are also used for ancillary offices, accessories showrooms and service workshops associated with the motor showrooms.

A number of land uses surround the subject land. Adjoining to the west and north is the Hawkesbury City Council's McGraths Hill Sewage Treatment Plant. Immediately adjoining the northeast corner of the site is a Service Station, opposite the intersection of Pitt Town Road and Windsor Road. Adjoining to the south is Mulgrave Road with another service station and Windsor High School located on the southern side of Mulgrave Road. On the eastern side of Windsor Road, opposite the subject land, is residential housing on the eastern side of Pitt Town Road and a Hotel on the western side of Pitt Town Road.

The subject site is zoned Rural Living under the provisions of the Hawkesbury Local Environmental Plan 1989. The adjoining land to the west and south, being the Treatment Plant and the School, is zoned 5(a) Special Uses and the Service Station to the east is also zoned Rural Living. The land to the east of Windsor Road is zoned Housing. The land to the south of Windsor High School fronting Windsor Road is zoned 4(b) Light Industrial.

A strip of road widening, approximately 19 metres and variable, exists along the Windsor Road frontage of the site. This area is currently zoned 9(b) Proposed Road, and proposed to be converted to SP2 Infrastructure in the Standard LEP conversion. It is not proposed to change the zoning of the area shown for road widening.

**Applicant's Justification of the Proposal**

The applicant has provided a submission in support of the proposal. In summary the applicant's justification for the rezoning is:

1. *The Rural Living Zone is clearly no longer appropriate for the site, considering the current use of the land, the surrounding land uses and the 1995 site-specific LEP amendment.*
2. *The land has the appropriate physical characteristics to support light industrial development.*
3. *The proposed rezoning will make use of existing infrastructure.*
4. *The proposal will provide opportunities for a better urban design outcome than in the present zoning.*
5. *There will be no adverse environmental or visual impact as a consequence of development of the land.*
6. *The proposal will assist in achieving the gateway strategies contained within the Hawkesbury Employment Lands Study by facilitating "some higher amenity highway activities such as showrooms and larger format retailing".*

**Assessment***Draft North West Subregional Strategy*

The Draft North West Subregional Strategy was released in December 2007 by the NSW Department of Planning and was exhibited for comment until March 2008. The Strategy is expected to be finalised by the State Government by the end of 2009.

As previously reported to Council, the Strategy acts as a broad framework for the long-term development of the region, guiding government investment and linking local and state planning issues. The key directions for the subregion are as follows:

- Plan to meet employment and housing capacity targets
- Develop Penrith as a regional city
- Strengthen the role of centres
- Improved access to, from and within the subregion
- Protect rural and resource lands
- Promote the environmental and scenic qualities of the region
- Improve access to open space and recreation opportunities

The Strategy acts as a framework for local councils in preparing new Local Environmental Plans (LEP) and therefore LEP's will need to be consistent the Strategy. It is clear that Council must operate within the framework of a Metropolitan Strategy and Subregional plan and therefore must work to ensure that LEP's are consistent with the actions of the Subregional strategy. These are essentially "tests" that must be applied by Councils in preparing new strategies and subsequent LEP's.

The draft Subregional Strategy contains employment targets for the city and the subregion as a whole. For the Hawkesbury the draft figure is 3,000 jobs over the next 23 years. Councils are required to plan for sufficient land and infrastructure to achieve employment capacity targets. In relation to the current rezoning proposal, an assessment of this matter is made later in this report.

*Hawkesbury Employment Lands Strategy 2008*

In December 2008 Council adopted the Hawkesbury Employment Lands Strategy. The purpose of the strategy is to provide a planning framework for employment precincts (industrial, commercial, retail) and locations for a range of employment types to support and enhance the economic competitiveness of the Hawkesbury region.

The Strategy provides:

- analysis of the existing supply of employment (industrial, commercial, retail) land;
- identification of the drivers of employment land development;
- identification of competitive opportunities for employment land development;
- projections of future employment land requirements by type over 25 years;
- criteria for the spatial distribution of employment lands;
- strategic planning approach for future employment land provision;
- identification of future investigation areas for industrial and commercial uses;
- an implementation strategy for the investigation areas;
- consideration of infrastructure capacity, identifying limitations/augmentations.

The Employment Lands Strategy has recommended a number of strategies for Council to pursue to address the economic prosperity of the LGA. One of these is to “*Identify appropriate development treatments for gateway areas*” which includes, whilst not specifically any particular site, land along Windsor Road as the entry to Windsor.

Strategy 8 in the Employment Lands Strategy identifies “*Windsor Road, Mulgrave (boulevard treatment with higher amenity showrooms and larger format retailing)*”. The proposed change to the zoning from Rural Living to 4(b) Light Industrial is consistent with the Hawkesbury Employment Lands Strategy.

It is recognised that significant retail development in this location is not consistent with the government's centres policy, or with supporting the Windsor Town Centre. In this sense, a number of uses may be appropriate for the site, but, retail uses, ie, shops, should be discouraged at the site. It should be noted that the 4(b) Light Industrial zone, and the IN2 Light Industrial zone, do not permit retail premises (except for service shops, such as food and drink).

Future development of the site would require a higher standard of urban design to ensure an appropriate treatment of the frontage of Windsor Road. This is a requirement of the Employment Lands Strategy and may be controlled via specific amendments to the Development Control Plan when that document is reviewed.

#### *Department of Planning Circulars & Sustainability Criteria*

Two Department of Planning Circulars are of particular relevance in considering the current rezoning proposal. They are *Spot rezoning*, dated 15 June 2006 and *Local environmental plan review panel*, dated 16 February 2006.

In the *Spot rezoning* circular the Department's objective to reduce the number of spot rezoning is outlined. The main reasons being:

- *Firstly, the aim is to encourage a planning approach which is fair and transparent, deals with all like cases consistently, and provides for planning decisions with a clear strategic basis.*
- *Secondly, reducing the number of amending LEPs in the planning process reduces the administrative load for councils, the Department and the Parliamentary Counsel.*

The Circular does state that spot rezonings will continue to be considered by the Department. However justification for the rezoning should take into account the public interest and explain the implications of not proceeding with the spot rezoning.

The *Local Environmental Plan Review Panel* circular explains the role of the Department of Planning's LEP Review Panel and identifies the information required to be submitted to the Department.

## ORDINARY MEETING

Meeting Date: 8 September 2009

With respect to Spot rezonings the Circular states:

*In particular, the proposed plan must be considered in the context of State and regional policy direction, as well as the site context in terms of compatibility with neighbouring uses and the potential to create an undesirable precedent in terms of other rezoning requests.*

Further the Circular states that rezonings unlikely to be supported include:

- *a land rezoning or change in development controls in isolation and in the absence of a context and where such a rezoning would be more appropriately included in the preparation of a comprehensive LEP.*
- *the introduction of additional uses to specific zones or to specific sites with no broader economic /employment imperative.*

The current proposal seeks to amend the LEP provisions on the subject land to provide for a more appropriate zone to be placed on the land that is more consistent with the current approved uses on the site. The existing Rural Living zone is no longer appropriate for the site due to the surrounding land uses, being the sewer treatment plant, service station and Windsor Road, and when the existing approved uses for motor showrooms are considered.

The site may be considered as part of the "gateway" into the Hawkesbury as identified in the Employment Lands Strategy. Given the unique situation of this site and the fact that the proposed change is consistent with the adopted Employment Lands Strategy, it is considered appropriate that the zone be changed.

The Local Environmental Plan review panel circular also provides pro-forma evaluation criteria for the consideration of spot rezonings. The applicant has provided a response to these criteria and this is reproduced in the table below along with a comment in reply.

	DOP Evaluation Criteria	Applicant's Response	Comment in Reply
1.	Will the LEP be compatible with agreed State and regional strategic direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?	<i>The LEP will be compatible with the draft North West Subregional Strategy). The land will fall within Category 2 Employment Land.</i>	It is agreed that the proposed zone change will correct an anomaly in the zoning that will assist in protecting and enhancing the current employment capacity of the site. The draft Hawkesbury Employment Lands Strategy has identified this and other sites for limited, non-retail development.
2.	Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	<i>The LEP will be consistent with State and Regional Policies. In regional terms the proposal is relatively minor and should be considered on merit.</i>	Compliance with S117 directions are discussed later in this report.
3.	Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?	No	Agreed.
4.	Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	<i>Yes. The LEP will facilitate permanent employment generating activity.</i>	The site already provides for employment activity by virtue of the existing

## ORDINARY MEETING

Meeting Date: 8 September 2009

	DOP Evaluation Criteria	Applicant's Response	Comment in Reply
			approvals and uses on the site. The proposed zoning change will better provide for the protection and enhancement of this employment activity.
5.	Will the LEP be compatible/complementary with surrounding land uses?	<i>The LEP will be compatible and complementary with the surrounding land uses. The surrounding uses are a mix of special uses, service stations and light industrial uses.</i>	Agreed. The zone change will correct an anomaly that will provide for a more appropriate zone that is compatible with the existing and surrounding land uses.
6.	Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	<i>The land already has a site specific zone to allow motor showrooms. A reasonable expectation for light industry zoning could be created for the owners of the adjoining service station sites. This would be appropriate, however is a matter for Council.</i>	This matter is discussed below.
7.	Will the LEP deal with a deferred matter in an existing LEP?	No.	Agreed
8.	Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	<i>There have been no other spot rezonings in recent years in the locality.</i>	Agreed

### Comments in relation to point 6 above.

This LEP is not likely to create a precedent. The site already enjoys an extension to the zoning provisions to permit motor showrooms. This extension has, in itself, created an expectation for the property owner that light industrial uses may be acceptable on the site. The change in zoning from Rural Living to 4(b) Industrial will be more in keeping with the current uses and the expectations of the owner and the community for the site.

The property immediately adjoining the site to the north-east is currently occupied by a service station that has recently received approval for the addition of a car wash facility. Given the proximity of this service station to the subject site and the fact that the adjoining land to the west falls steeply, is flood prone and occupied by the sewer treatment plant, it is considered appropriate that this adjoining parcel (known as Lot A DP 411701) be included in the current rezoning amendment.

It is considered that the proposed rezoning generally complies with the current Department of Planning guidelines or Circulars. Further, the draft Employment Lands Strategy supports consideration of limited development of this site.

### Section 117 Directions

As Council is aware the section 117 Directions under the provisions of the Environmental Planning and Assessment Act 1979 direct Council to consider various matters when preparing a draft local environmental plan.

The following information lists the Section 117 Directions that are considered of relevance to the proposed rezoning.

Direction 1.1 Business and Industrial Zones

The objectives of this direction are to:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified strategic centres.

The applicant states that the proposal is consistent with this Direction as:

*"The draft LEP will give effect to the objectives of the Direction by encouraging employment growth in a suitable location. The draft LEP will be in accordance with the Hawkesbury Employment Lands Strategy".*

**Comment**

As this Direction applies there are several matters relevant to Council, including giving effect to the objectives of this Direction and to ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director General of the Department of Planning.

As noted above, the Hawkesbury Employment Lands Strategy supports consideration of limited development of this site. It is considered that the proposed LEP is consistent with this Direction.

Direction 1.2 Rural Zones

The objective of this direction is to:

To protect the agricultural production value of existing rural land

The applicant states the following:

*"The draft LEP will be inconsistent with paragraph 4(a) in that the land will be rezoned from a rural zone to an industrial zone.*

*The draft LEP is not inconsistent with the objective of this Direction as the land has no agricultural production value.*

*The inconsistent is justified as the draft LEP is of minor significance."*

It is clear that this proposed LEP is inconsistent with part of this Direction. However, the Direction does permit an inconsistency under certain circumstances. Given that the land currently has no agricultural value (and is most unlikely that it will ever be used for agricultural purposes given the existing land uses) and the proposal is consistent with the Hawkesbury Employment Lands Strategy, it is considered that the inconsistency with the Direction is acceptable.

Direction 3.4 Integrated Land Use and Transport

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances traveled, especially by car, and

## ORDINARY MEETING

Meeting Date: 8 September 2009

- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

The applicant comments as follows:

*"The draft LEP will provide employment opportunities in a locality which is well serviced by public transport. The draft LEP is consistent with the relevant guidelines and policy."*

### Comment

The Department of Planning's guidelines *Integrated Landuse and Transport* seeks to improve the integration of landuse and transport planning. The proposed LEP will cater for the protection of the existing development and may provide additional employment opportunities should the site be redeveloped. It is considered that the proposed LEP is consistent with this Direction.

### Direction 4.3 Flood Prone Land

The objectives of this direction are:

- a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the ***Floodplain Development Manual 2005***, and
- b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The applicant states that the proposal is not consistent with the Directions and comments as follows:

*"The provisions of the draft LEP that are inconsistent are of minor significance."*

*The hazard is acceptable in terms of industrial use in this location."*

*It is considered that the inconsistency is justified."*

### Comment

The proposal is inconsistent with this objective and this inconsistency is of minor significance. The impact that the proposed LEP will have in relation to flooding will be virtually nil when compared to the approved existing uses on the site. Given that there is not likely to be significant increase in the flood risks for the site as a result of this proposed LEP it is considered that the inconsistency is justified.

### ***Standard LEP Template Conversion***

As Council is aware the provisions of Hawkesbury LEP 1989 are currently being converted to the associated NSW Standard Template LEP zone. In this regard the new zone for the subject site will be IN2 Light Industrial which is a direct conversion of the existing 4(b) Light Industrial zone contained in the Hawkesbury LEP 1989.

The applicant has proposed either of the zones as the uses permitted in those zones are the same. The option to use an enabling clause to allow certain development on the subject land was used in 1995. That option has raised expectations for the site that additional Light Industrial uses may be suitable. The option of site specific zone extension is no longer recommended as best practice by the Department of Planning as it is contrary to the principle of "simplifying the planning system", and therefore a suitable template zone should be applied should the rezoning proceed.

It is considered that the most appropriate zone for the subject site is the IN2 Light Industrial. It is recommended that Council resolve to amend the zoning for the subject site to 4(b) Light Industrial (under

## ORDINARY MEETING

Meeting Date: 8 September 2009

the provisions of the current Hawkesbury LEP 1989) or, should the Standard Instrument conversion be suitably progressed, this application for site specific rezoning be joined with the Template conversion and the zone be IN2 Light Industrial.

### **Hawkesbury Local Environmental Plan 1989**

The relevant aims and objectives of Clause 2 of HLEP 1989 are:

- To provide a mechanism for the management, orderly and economic development and conservation of land with the City of Hawkesbury;
- To provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production;

In order to satisfy these objectives it is recommended that support for any change to zones, as proposed in this particular case, be considered in a wider strategic context such as a Strategy. The draft Hawkesbury Employment Lands Strategy has considered this and other sites as suitable for consideration of limited, generally non-retail, development.

### **Traffic and Access**

Access to Windsor Road is currently restricted for the site and access is obtained via Mulgrave Road. Any rezoning of the subject site would retain these access arrangements.

### **Services**

The site is currently occupied by motor showrooms that are connected to all relevant services.

### **Conclusions**

The draft Hawkesbury Employment Lands Strategy should form the basis of any decision making for rezoning and development of employment lands. The Department of Planning is also clear in its advice to Council about undertaking strategic studies to ensure that there is a proper framework for decision making. The draft Hawkesbury Employment Lands Strategy has considered this and a number of sites as suitable for "gateway" style development.

Therefore it is considered that the proposal has been justified in the strategic context.

When the surrounding land uses have been assessed it is considered that the site adjoining the subject land to the north east, containing the service station, should also be included in any rezoning.

Council is currently undertaking a conversion of the current LEP 1989 into the Standard Instrument. Whilst it is recommended that the current proposed LEP for 103 Windsor Road be progressed separately, if it is deemed timely, and appropriate to do so, it is to 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:

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

### **Funding**

The processing of a rezoning can have significant impacts on staff time in the processing of the relevant matters. The rezoning fees payable in this regard should cover these expenses.

## **ORDINARY MEETING**

**Meeting Date:** 8 September 2009

### **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 prepare a Planning Proposal, under the provisions of Section 55 of the Environmental Planning and Assessment Act 1979, to rezone land at part Lots A and B DP 411701 (excluding the areas identified for road widening), 126 and 130 Windsor Road, McGraths Hill, from Rural Living to 4(b) Light Industrial zone.
2. The Planning Proposal be forwarded to the Minister requesting that the matter proceed
3. This draft amendment 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.

### **ATTACHMENTS:**

**AT - 1** Site Plan.

**Meeting Date:** 8 September 2009

130 Windsor Road, McGraths Hill

Date: 2 September 2009

oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 8 September 2009

**Item: 182** CP - Modification of Development Consent 77/86 - Extension of Operating Hours - Richmond Star Kebab, Lot 3 SP 37397, 148 Windsor Street RICHMOND NSW 2753 - (D0027/86A, 95498, 74563, 30015, 30016, 30014, 75729)

**Previous Item:** 147, Ordinary (11 August 2009)

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### Development Information

**Applicant:** Falson and Associates P/L  
**Applicants Rep:** Glenn Falson  
**Owner:** Mrs M S C Low, Mr N L G King, Mr L H Pellew  
**Stat. Provisions:** Hawkesbury Local Environmental Plan 1989  
State Environmental Planning Policy No. 4  
**Area:** 1483m<sup>2</sup>  
**Zone:** 3(a) Business General Under Hawkesbury Local Environmental Plan 1989  
**Advertising:** 30 April 2009 to 14 May 2009  
**Date Received:** 16 April 2009

**Key Issues:**

- ◆ Owners Consent
- ◆ Social Impact
- ◆ Amenity
- ◆ Operating Hours

**Recommendation:** Refusal

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### REPORT:

#### Introduction

At its meeting of 11 August 2009, Council considered an application to modify Development Consent 77/86 to extend the operating hours for the existing kebab shop at Shop 3, 148 Windsor Street, Richmond. It was resolved:

*"That this matter be deferred for a further report to Council regarding additional information from the New South Wales Police and the matters raised by Mr Falson at the Council meeting."* A copy of the report to the Council meeting of 11 August 2009 is attached as Attachment 1.

#### Additional Information

At the meeting, Mr Falson (the applicant) spoke in support of the application. The matters raised by Mr Falson are addressed below:

#### 1 The time taken to assess the application

The application was received by Council on 16 April 2008, and no response was given to the applicant until 25 May 2009, when Council officers wrote to advise that the proposed extended hours were not supported.

**Comment:** This matter has been investigated, and it appears that the delays in responding to the application are a consequence of the absence of procedures in relation to the tracking of modification requests. It is most unfortunate that these delays have occurred in this matter. However, since July 2009 the status of these requests have been more closely monitored and this should prevent other requests being overlooked.

## 2 The Council Report is not balanced

A petition was submitted in support of the application. The applicant claimed that there was no mention of this petition within the Council Report of 11 August 2009, and therefore the report is not balanced.

**Comment:** Council's report of 11 August 2009 did advise that the petition had been received supporting the extended trading hours and that it was signed by approximately 1,762 shop patrons.

## 3 Police submission

The applicant advised that the owners declare that no incidents have occurred, and that they are not aware of the details of the incidents that the Police have been involved with. The applicant had contacted the Police on a number of occasions with the view of gaining the details of these incidents, with no success. The applicant also stated that there was no need for a management plan because no incidents have occurred.

**Comment:** The previous report referred to the Police submission but did not provide specific details of the incidents. In their submission, the Police provided details in respect to seven (7) incidents that occurred within or outside the Kebab Shop between February 2007 and September 2008. Six (6) of these incidents happened between 12.00am and 4:00am; four (4) of which involved the congregation of a significant number of people (eg. approximately 60 in one incident; 30 in another) outside the Kebab shop on the footpath and roadway, sitting in the gutters and blocking both pedestrian and vehicular traffic. One of these incidents was as a result of a noise complaint. A copy of the Police Event List is attached as Attachment 2.

The Police have advised that no further incidents have occurred since those reported above.

## 4 Suitability of the site

The applicant states that the shop is located within the Business General 3(a) zone, and therefore should not be restricted with respect to hours of operation. The applicant stated that the shop is not nearby any residential area and is located along a main road which provides constant surveillance.

**Comment:** The premise is located within 40m of a residential precinct. There is a potential for disturbance to the amenity of the nearby residential location due to noise, as demonstrated in the incident report provided by the Police.

The local planning provisions (e.g. Hawkesbury Local Environmental Plan and Development Control Plan) do not permit 24-hour business operation as-of-right within business zones. Trading hours of any premises (licensed or not) are subject to Council approval and are subject to a merit assessment by consideration of matters listed under Section 79C of the Environmental Planning and Assessment Act 1979.

In the absence of planning guidelines for late night trading within the Hawkesbury a review of examples in other Council areas was undertaken. Those councils that have developed a policy are mainly in more densely populated areas. However, the principles underlying the amenity controls still remain relevant to the Hawkesbury. The Council areas of Sydney, Wollongong and Manly have developed, or are in the process of developing, Development Control Plans in respect to late night trading premises, which include takeaway food shops. The key principles within these Plans for determining the suitability of a business for late night trading are:

- Suitable locations that provide clear and safe linkages to streets that are active at night
- Public transport is frequent and accessible at night
- Proximity to residential areas
- The development and implementation of a Management Plan

## ORDINARY MEETING

**Meeting Date:** 8 September 2009

The table below summarises the key determining factors for late night trading within these Council areas, and compares the proposed development against these factors:

Comparison of Development Control Plan Provisions in other Council areas for Late Night Trading Policy Provisions to the current Kebab Shop Proposal

Council	Year DCP Introduced	Area where policy is applied	Is 24 hour Public Transport Available?	Time Limit (within a similar zoning/precinct)	Management Plans	Trial Period/ Time Limited consent permitted
Sydney	2007	All land within the City of Sydney LGA	Yes	Within a 'local centre'  11:00pm OR  Midnight if have a management plan	Required	Yes
Wollongong	2008 (Draft)	City Centre (mapped)	Yes	12.00am OR  2:00am if have a management Plan	Required	No
Manly	2005	Entertainment precinct (mapped)	Yes	1:00am	Not required  Arrangements with Council for provision of late night security of premises and adjacent footpath	No
Kebab Shop (Hawkesbury)	No Policy developed	No Policy developed	No	No Policy developed  <b>Comment:</b> 4am proposed	No Policy developed  <b>Comment:</b> No Management Plan prepared or proposed	No Policy developed  <b>Comment:</b> Trial Limit suggested by applicant

### 5 Suitability of the business

The applicant outlined that entertainment hours in society generally have changed, and that businesses such as the kebab shop provide a service, not only to people out at the pubs and clubs, but also to shift workers and the like. Other late night trading premises were also cited, including service stations, pubs, clubs and McDonalds (Richmond) that have 24 hour trading.

**Comment:** Within the Richmond area there are two known non-liquor businesses that operate 24 hours a day being McDonalds Restaurant and the Caltex Service Station.

McDonalds has in place management practices to minimise safety and security concerns, including minimising the impacts of their late night trading with respect to anti social

behaviour. McDonalds operate through their drive through counter after 11pm and provide a security guard on late trading nights.

Both the McDonalds and Caltex are located on comparatively larger parcels of land than the Kebab shop premises. Should an incident arise at these larger sites, it is likely that it would be contained within the site, whereas, due to the limited area of the kebab shop, any incident there would end up on public land (footpaths, roadways).

## 6 Owners consent

Clause 115 of the Environmental Planning and Assessment Regulation 2000 specifies the requirements for applications to modify development consent. Subclause (1)(h) requires a signed statement from the owners consenting to the making of the application.

**Comment:** The applicant was advised 29 July 2009 that the modification application which included a letter from the managing agent stating that *"the owners have not imposed any restriction as to the hours of operation"*, did not provide the consent of the owners as required.

This consent has not been provided to date. Should Council wish to determine the application by way of approval, the consent of all owners in writing must be provided to satisfy the requirements of the Regulations.

## Conclusion

The planning provisions (including the zoning) do not prevent 24 hour trade occurring for food (or other) premises. Consideration however does need to be undertaken on a merits basis taking into account the specific characteristics of the site, the proposed management practices and any other circumstances of the case.

A trial period based on the other Council policies has been considered in conjunction with the other amenity considerations and management controls. (Further consideration of a trial period would need to be confirmed in writing from the applicant). Whilst there is no objection to the extension of trading hours of the shop to allow some night time trade, it is considered that permitting Friday and Saturday night trading until 4:00am the next morning is highly likely to result in unreasonable impacts on the amenity of the locality with respect to noise and anti social behaviour for the following reasons:

1. The premise is located in close proximity to a residential area;
2. Public transport is restricted after midnight within the Richmond locality;
3. There is limited night time activity within Richmond and therefore reduced safety;
4. The applicant has not proposed any measures to minimise anti social behaviour such as the development of a management plan, or the provision of security guards.

It remains that the owner's consent for the lodgement of the modification application, in accordance with the provisions of the Regulations, has not been provided.

## Planning Decision

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

## ORDINARY MEETING

Meeting Date: 8 September 2009

### RECOMMENDATION:

That:

1. The information be received.
2. The S.96 modification application be refused for the following reasons:
  - (a) Owner's consent has not been provided.
  - (b) The proposed modified development is likely to have an adverse impact on the amenity of residents in the locality with respect to noise and anti social behaviour.
  - (c) In the circumstances, approval of the development would not be in the public interest.
3. Compliance action be undertaken to ensure the operating hours of the kebab shop comply with Development Consent 77/86 ie 9:00am to 6:00pm, 7 days per week.

### ATTACHMENTS:

- AT - 1** Council report from Ordinary Meeting of 11 August 2009  
**AT - 2** Policy Event List

## ORDINARY MEETING

Meeting Date: 8 September 2009

### AT - 1 Council report from Ordinary Meeting of 11 August 2009

#### ITEM: 147 Business Paper - Ordinary Meeting Agenda - 8 September 2009

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##### Development Information

**Applicant:** Falson and Associates P/L  
**Applicants Rep:** Glenn Falson  
**Owner:** Mrs M S C Low, Mr N L G King, Mr L H Pellew  
**Stat. Provisions:** Hawkesbury Local Environmental Plan 1989  
State Environmental Planning Policy No. 4  
**Area:** 1483m<sup>2</sup>  
**Zone:** 3(a) Business General Under Hawkesbury Local Environmental Plan 1989  
**Advertising:** 30 April 2009 to 14 May 2009  
**Date Received:** 16 April 2009

**Key Issues:**

- ◆ Owners Consent
- ◆ Social Impact
- ◆ Amenity
- ◆ Operating Hours

**Recommendation:** Refusal

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##### REPORT:

###### Introduction

The application seeks to modify Development Consent 77/86 to extend the operating hours for the existing kebab shop. The original approval enabled the first use of Shop No. 3, 148 Windsor Street, Richmond for a 'shop' (Pavlova Production).

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

###### Background

Development approval was sought for the first use of Shop 3, 148 Windsor Street, Richmond for the production and sale of pavlovas with hours of operation for the shop approved as 9:00am to 6:00pm, 7 days a week. The application was approved on 10 February 1986 under delegated authority.

The change of use of the shop from the production of pavlovas to the sale of kebabs and associated take away food was done under the provisions of State Environmental Planning Policy No. 4 - Development Without Consent and Miscellaneous Exempt and Complying Development (SEPP No.4).

SEPP No. 4 allowed a shop used for one purpose to change to a shop used for another kind of purpose without the need for development consent. This Policy required that sufficient written notice be given to Council before the new use commenced. Notice of the intent to change the use of the shop from the production of pavlovas to the sale of kebabs and Lebanese food was received 10 October 1990. The notification under this Policy did not and could not alter the hours of operation approved under Development Consent No. 77/1986. The provisions of SEPP No. 4 required that the hours of operation of a shop permitted by this Policy not extend outside the hours previously approved.

###### Current Situation

The applicant advises that the Kebab shop has been operating outside the approved hours since about 2006. Enquiries were made by NSW Police as to the approved hours of operation of the shop due to incidents of anti social behaviour associated with the premises. In October 2007 Council became aware of

## ORDINARY MEETING

Meeting Date: 8 September 2009

the unauthorised operating hours via the Police. The application to change the hours of operation was submitted in response to Council's request to comply with the original development consent. The application was received on 16 April 2008. The modification application is supported by a petition signed by approximately 1,762 shop patrons.

On 25 May 2009 Council wrote to the applicant advising that the proposed trading hours for Friday and Saturday nights to 4:00am is not supported and requested that the application be amended to alter the trading hours of up to 12 midnight on Friday and Saturday nights. This advice was on the basis that it was considered that the extended trading hours on these nights would result in unacceptable social impacts and, as a result, a reduction in the amenity of the locality, as well as in response to police concerns in respect to public safety. The applicant has chosen to pursue the hours originally proposed within the application.

### The Proposal

The proposed modification seeks to amend the approved operating hours (9:00am to 6:00pm, 7 days) to the following:

- Monday to Wednesday 11:00am to 10:00pm
- Thursday 11:00am to 11:00pm
- Friday and Saturday 11:00am to 4:00am (the following day)
- Sunday 11:00am to 8:00pm

### Statutory Situation

#### *Environmental Planning and Assessment Act, 1979*

##### *Assessment of Section 96(1A)*

This application is to be determined under the provisions of s.96(1A) - *Other Modifications* - of the Environmental Planning and Assessment Act, 1979.

#### **S.96(1A)**

*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 proposed modification is of minimal environmental impact, and*

**Comment:** The proposed modification will not result in any physical changes to the development and therefore it is considered that the proposed modification is of minimal environmental impact.

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

**Comment:** It is considered that the development as modified is substantially the same as the approved development.

- (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 that requires the notification or advertising of applications for modification of a development consent, and*

## ORDINARY MEETING

Meeting Date: 8 September 2009

**Comment:** The application was notified as the subject premise is located within a short distance (approximately 40m) of a residential area, and to give an opportunity to business and residential owners/occupiers in the area to raise any concerns that may have resulted from current late night trading of the shop. The extent of notification encompassed both commercial and residential properties within the general vicinity.

The application was notified for the period 30 April 2009 to 14 May 2009

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

**Comment:** One (1) submission was received as a result of notification. This submission is discussed further in the report.

Submitted with the application was a petition supporting the kebab shops operating hours.

*Subsections (1), (2) and (5) do not apply to such a modification.*

### 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:** Council has previously obtained legal advice (2001) in respect to s.96(2) of the EP & A Act, 1979, which advised that "Council may only approve or refuse a section 96 application in total and not approve one part and refuse another."

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

a) the provisions of:

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

The relevant environmental planning instruments are:

#### Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

**Comment:** It is considered that the proposed modified development is consistent with the relevant provisions of Hawkesbury Local Environmental Plan 1989.

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

**Comment:** It is considered that the proposed modified development will not result in the development significantly impacting 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 and specific aims, planning considerations, planning policies and recommended strategies.

## ORDINARY MEETING

Meeting Date: 8 September 2009

- 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**

**Comment:** There are no relevant draft environmental planning instruments that apply to the proposed development as modified.

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

**Comment:** There are no specific controls for this type of development within the Hawkesbury Development Control Plan, however an acoustic report is relevant where noise impacts are of concern.

- iv) **any matters prescribed by the regulations**

**Comment:** No relevant matters are prescribed by the regulations

- 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 considerations under s79C (1)(b) of the EP&A Act are assessed below:

### Context and Setting

The kebab shop is located within the eastern end of Richmond commercial centre. Surrounding development is predominantly commercial in nature. However, to the north east, bounded by Toxana and Paget Streets and within a distance of approximately 40m is a residential area. The properties that front this section of Windsor Road are used for both residential purposes and commercial (professional) purposes.

The Richmond CBD in general, is predominantly along a main street, closely surrounded by residential properties. Therefore, any late night activities, including the operation of the kebab shop, have the potential to impact on the amenity of a locality as a result of noise and anti social behaviour.

### Social impact on the locality

Please refer to NSW Police submission and comments below.

As a consequence of trading up until 4:00am, the kebab shop potentially attracts patrons from other late night venues in the area, including licensed premises. At this time of the night, the shop not only provides food, but by default, becomes a social destination/meeting place, especially when all other venues have closed for the night. It has been recognised within Alcohol & Licensed Premises: Best Practice Guidelines in Policing (Doherty & Roche, 2003) that fast food outlets have the potential for becoming a congregating place for intoxicated people. Measures used in other Council areas to prevent loitering include limiting the hours of operation of food outlets.

The original approval for the shop did not provide an area for seating. Seating has since been provided within the shop however, this is limited to two small tables and three chairs due to the small public space available (approximately 15m<sup>2</sup>) to accommodate customers. It is predicted that this space would comfortably cater for approximately 8 patrons at a time. Hence if there are larger numbers of customers they would be forced to wait on the public footpath.

- c) **the suitability of the site for the development**

Given the proximity of the shop to a residential area, it is considered that the extension of trading hours has the potential to have an unreasonable impact on the amenity of nearby residences in terms of noise and anti social behaviour.

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

## ORDINARY MEETING

Meeting Date: 8 September 2009

Following notification of the proposal, one (1) submission was received from New South Wales Police. The matters raised in this submission are as follows:

*"A check of police records between 1 January 2007 and 29 April 2009 indicates a number of issues relating to criminal activity involving anti social behaviour, assaults and offensive conduct which can be directly linked to the Kebab Shop.*

*Although statistically this does not indicate a significant problem, however this situation adds to a high level of similar behaviour within the Richmond CBD, especially in the early hours on weekends.*

*The Richmond CBD is considered this commands' "hot spot" for this type of behaviour. The offenders are generally teenagers or young adults, who are loitering in the area, or who have attended licensed premises or other venues in Richmond.*

*I am not implying that the applicants or the employees of the Kebab Shop are in any way involved in criminal activity or are directly contributing to the actions of their patrons. Similarly police are not suggesting that all patrons of the shop behave badly. However it appears that the nature of the business and the extended trading hours attracts some people who wish to behave in a disorderly manner. This has an adverse effect on the community and increases the risk to local businesses and residents.*

*Police will support businesses that operate lawfully and within the confines of the proper consent. However, it is a fact that these offences have occurred at the location and they have all occurred whilst the premises was operating without proper consent. If the business was not open at those times, the incidents would not have occurred. All businesses must have, and should have not only a legal responsibility but a moral responsibility to ensure the community is safe and protected from violence and anti social behaviour.*

*Other premises in the immediate vicinity, such as licensed venues, are governed by strict legislation to maintain the quite and good order of the neighbourhood. Although this application does not relate to the Liquor Regulations, perhaps if granted, specific conditions are imposed as to ensure the protection of the local amenities, and the prevention of anti social behaviour. I would suggest permanent security guards employed to deter incidents and maintain order or conditions that would restrict persons from congregating outside.*

*From a crime prevention point of view I find it difficult to support the extension of trading hours until 4am on Friday and Saturday nights. I would suggest that the majority of the patrons at that time of the night would be patrons leaving or attending licensed premises, or those who wish to loiter in and around Richmond CBD. Without proper security provisions, I believe there would be a continuance of similar incidents. I would have no objection to the extension of trading until 12 midnight on Friday and Saturday nights and those times stated in the application for the rest of the week.*

*Police and the Council are currently working together through the Community Safety Precinct Committee. This Committee involves Local, State and Federal members, Councillors, the Mayor, Council General Manager, Police other key community stakeholders. The purpose of the committee is to work, on a strategic level, to make Hawkesbury a safer place. It has already established key issues such as malicious damage, graffiti and theft from vehicles.*

*In conclusion, it is the responsibility Police and the Council, combined with a cooperative approach from business owners to ensure the community is a safe place. If consent is granted than (then) I recommend appropriate conditions should be placed on the operations of the business to prevent the incidents of crime."*

**Comment:** The applicant has denied knowledge of any incidents associated with its operation and subsequently has not proposed any measures to manage patron behaviour at any time, such as a management plan or the provision of security guards.

## ORDINARY MEETING

Meeting Date: 8 September 2009

The proposal of restricting the hours on Friday and Saturday nights to 12 midnight was suggested by Council officers to the applicant. The applicant has chosen to pursue the hours originally proposed within the application. As stated earlier, "*Council may only approve or refuse a section 96 application in total and not approve one part and refuse another.*" Hence, the application must be considered as submitted for the requested hours in full unless the applicant changes their modification request.

### e) the public interest

The Richmond CBD has a range of commercial activities that operate at night time and that are permitted uses under Hawkesbury Local Environmental Plan 1989. However the character of a thriving town centre needs to be balanced by the community safety principles, as well as the likely impacts such activities will have on the amenity of the locality.

There is no objection to the shop in general and the benefit of providing food to people attending or having attended licensed premises is recognised. However it has been identified by the police submission that the late night operation of the kebab shop has the potential of impacting on the amenity of the area through noise and anti social behaviour of patrons. There has been no plan of management provided for the proposal to seek to mitigate the potentially antisocial behaviour or to open communication with Council, the Police or others about community safety issues for this site. It is therefore considered that the proposed modification is not in the public interest overall and cannot be supported.

### Environmental Planning and Assessment Regulations 2000

Clause 115 of the Environmental Planning and Assessment Regulation 2000 specifies the requirements for applications to modify a development consent. Subclause (1)(h) requires a signed statement from the owners consenting to the making of the application. This has not been provided. Currently only a letter from an agent has been submitted but this does not constitute owners consent under the Regulation.

### Conclusion

Whilst there is no objection to the extension of trading hours of the shop to allow some night time trade, it is considered that permitting Friday and Saturday night trading until 4:00am the next morning will result in unreasonable impacts on the amenity of the locality with respect to noise and anti social behaviour. The applicant has not proposed any measures to minimise anti social behaviour. It is further considered that trading hours up to 12 midnight for these nights would minimise any adverse impacts on the amenity of the area while providing reasonable hours of operation to support the business. Such requirements have been adopted in other areas of the Hawkesbury as a means of reducing such impacts.

The applicant has been given the opportunity to amend the application in respect to the trading hours for Friday and Saturday nights, however has chosen not to do so. Whilst some trading times are acceptable Council is unable to approve one component of a s.96 modification application and refuse another.

It remains, despite written requests from Council officers, that the owners consent for the lodgement of the modification application has not been provided.

### Planning Decision

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

## **ORDINARY MEETING**

**Meeting Date:** 8 September 2009

### **RECOMMENDATION:**

That:

1. The S.96 modification application be refused for the following reasons:
  - (a) Owners consent has not been provided.
  - (b) The proposed modified development is likely to have an adverse impact on the amenity of residents in the locality with respect to noise and anti social behaviour.
  - (c) In the circumstances, approval of the development would not be in the public interest.
2. Compliance action be undertaken to ensure the operating hours of the kebab shop comply with Development Consent 77/86 ie 9:00am to 6:00pm, 7 days per week.

### **ATTACHMENTS:**

**AT - 1** Locality Plan

**AT - 2** Aerial Photo

**Meeting Date:** 8 September 2009

The map displays a residential neighborhood in Richmond, Virginia. The streets shown include East Market Street, Tolana Street, Windsor Street, and others. The lots are labeled with their respective addresses and parcel numbers. A specific lot, SP37397, is highlighted with a red border. The map also shows the locations of various schools and parks, such as Richmond High School and Richmond Park.

ORDINARY MEETING

Meeting Date: 8 September 2009

AT - 2 Aerial Photo



oooO END OF REPORT Oooo

**ORDINARY MEETING****Meeting Date:** 8 September 2009**AT - 2 Policy Event List**

<b>EVENT NUMBER</b>	<b>TIME</b>	<b>DATE</b>	<b>INCIDENT</b>	<b>DESCRIPTION</b>
E.188699292	1.00AM	26/10/2007	ASSAULT POLICE RESIST ARREST	Over 60 people congregating outside Kebab Shop, on roadway and footpath, blocking vehicle and pedestrian traffic. Police identified that there was a number of customers inside the shop. Police attempted to disperse the crowd due to their behaviour. Approached the offender who abused police and failed to comply with a direction to move from the area. He became abusive using offensive language. he was arrested and became violent towards police. During the arrest he assaulted police
E.29925928	1.40AM	25/02/2007	NOISE COMPLAINT	Police received a noise complaint. Attended a large group of persons congregating outside the Kebab Shop. Persons aged between 16 and 21 sitting in the gutters and on the footpath and standing on the roadway. Some observed to be drinking alcohol. There was an amount of rubbish and broken glass on the road and footpath. Due to behaviour police issued a "move on" direction.
E.30866465	3.00AM	21/04/2007	ASSAULT	Patrolling police were stopped by a vehicle, and the victim stated he had been assaulted inside the kebab Shop. The assault commenced outside the store, and the victim and offenders went inside. Staff inside the shops told the group to leave. No offenders identified no further action
E.31449838	4.00AM	2/09/2007	MOVE ON DIRECTION	Police observed a large group of persons congregating outside the Kebab Shop, about 30 persons in their early 20's. Obviously well intoxicated, yelling and screaming. About 10 of the group were standing on the roadway blocking traffic. Police stopped and due to the behaviour of the crowd issued an official move on direction. The crowd eventually dispersed.
E.31050611	12.30AM	5/08/2007	OFFENSIVE LANGUAGE	Police observed a number of people standing outside the Kebab Shop. Police approached the crowd and one male began to use offensive language towards police. He was warned a number of times and issued a "move on" direction. He physically confronted police and had to be pushed away from Police. He then began to leave the area however, continued to yell offensive language. he was warned again. He would not leave the area and continued to use offensive language. he was placed under arrested and later charged.
E.37123981	5PM/10PM	1/09/2008	STEALING	An employee of the Kebab Shop left his pushbike chained to the rear of the premises. Unknown offender stole the bike from the rear of the store.

**ORDINARY MEETING****Meeting Date:** 8 September 2009

EVENT NUMBER	TIME	DATE	INCIDENT	DESCRIPTION
E.33113803	12.00AM	15/02/2008	ASSAULT	The victim was walking along Windsor Street, Richmond when he was attacked by 3 unknown males. The victim entered the Kebab Shop for safety and was set upon by the offenders who allegedly produced a baseball bat and continued to attack the victim. Witnesses verified this account. The victim would not provide a statement and support the investigation as a result no further action was taken.

**oooO END OF REPORT Oooo**

**INFRASTRUCTURE SERVICES****Item: 184            IS - Co-Generation Plant - (95495)****Previous Item:**        32, Ordinary (26 February 2008)**REPORT:**

Council has requested a number of reports in relation to the installation, operation and maintenance of the Co-generation (tri-generation) Plant located at the Deerubbin Centre. The reports included installation and maintenance from Caterpillar, investigation by Council's Auditor regarding the installation costs and cost of operation and a report on the future of the Plant and its operation. Whilst the Plant has previously been referred to as a Co-Generation Plant, it should be correctly known as a Tri-Generation Plant due to its capability to produce electricity as well as hot and cold water.

The Tri-Generation Plant consists of a gas fuelled generator which produces electricity when required. When the generator is operating the heat from the generator radiator water and exhaust gas produces both heat (directly) and chilled water through an absorption chiller to provide both heating and cooling to those buildings connected to the system. There is also a separate gas fuelled boiler for heating and an electric chiller for cooling. The heating and cooling system is currently connected to the Deerubbin Centre (Gallery, Curves, Dept. of Community Services, Cafe, and Library) and the Old Hospital Building. Electricity generated from the plant services the Deerubbin Centre, Old Hospital Building, Peppercorn Place and the Old Johnson Wing (Action Insurance Brokers).

In terms of the reports requested, a work report is attached from Westrac (Caterpillar subsidiary) in relation to the investigation into the engine turbo failure and subsequent reconditioning of the engine due to water damage. As indicated to Council at its Briefing Session in relation to this matter, Westrac were requested on numerous occasions to provide a report on the installation and maintenance of the Plant and they ultimately advised that the cost to carry out an audit on the installation of the generator set would be \$14,361 (GST Inclusive). As it was indicated at the Briefing that Council did not wish to incur the additional cost, the report was not requested.

Council's Auditors, PricewaterhouseCoopers have undertaken a review of the Tri-Generation Plant and their report is attached (A copy of this report was previously provided to Councillors). The conclusions outlined from the report cover financial information relating to the original proposal and financial modeling, actual capital and operating costs of the plant and problems encountered in the operation of the plant and recommendations in relation to all of these matters.

In relation to the financial modeling originally carried out, the report recommends that the financial modeling should be updated to reflect current information available to establish the actual financial position of the project. The report acknowledges that the Plant is complex to operate, monitor and maintain and suggests independent expert advice be sought on how to best overcome these problems and also consider options for external management of the Plant. The report also identifies that an agreement for the sale of excess electricity back to the grid needs to be finalised and also an examination as to whether other Council buildings could be connected to the Plant to increase its utilisation.

A further report was commissioned to assess the viability of the Plant from Gridx Power, a licensed electricity utility business experienced in tri-generation and distribution assets. A copy of this is attached to this report. Gridx has identified that the current usage of the Plant is such that the cost of gas utilised to produce power does not make it competitive in relation to power purchased from the grid. The company identified that increased running time of the Plant would be required to reach a threshold where the price to supply gas would reduce thus making the Plant more viable. There would however be an increase in the maintenance of the Plant due to the extended operating hours.

## ORDINARY MEETING

Meeting Date: 8 September 2009

Gridx has identified some benefits of a power purchase agreement with a utility including the fact that the Plant currently removes 350 kW of electrical peak requirements (off the grid) from generation and a further 90kW from utilising absorption chilling, instead of electrical chilling, and compensation for this embedded generation should be provided from the incumbent energy provider. This matter has been pursued and Council is currently receiving an amount of \$30,000 pa, for a three year period at this stage, to ensure that electricity is being generated at identified peak periods when temperatures exceed 35 degrees.

Gridx also identified that energy generated through a gas fired reciprocating engine produces approximately 30% less greenhouse gas emissions compared to conventional power supplied to the grid. The company did give an indication that they could operate and maintain the gas fired generation system and facilities to supply a portion of the electrical needs and the total thermal energy needs on the Cultural Precinct based on agreed tariffs and an upfront contribution of \$100,000 pa.

The obvious questions that need to be addressed are firstly, if the Plant is not operating in an economically viable manner, what would be the implications of removing the gas fuelled generator. As indicated previously, a gas fuelled boiler and electrical chiller currently exists within the plant room which have sufficient capacity when operated integrally with the generator to provide heating and cooling for the buildings currently connected to the system including periods of extreme temperatures. It would appear that the capacity to heat and cool during extremes would be marginal if the generator motor was not in operation.

Mr Banicevic, from PricewaterhouseCoopers, at Council's Briefing Session indicated that the Sydney City Council is currently calling tenders for the construction of tri-generation plants to be strategically located throughout the Sydney CBD to reduce the city's reliance on coal generated electricity, and that it may be appropriate to discuss the management of Council's Plant with the successful tenderer in that process to determine a way forward. The PricewaterhouseCoopers report also indicated that connection to other Council buildings should be investigated to take up the additional capacity within the total Plant with a view to reducing the unit rate to produce energy and thus increase the Plant's viability. Council may be aware that the air-conditioning within the Administration Building is currently being upgraded and in accordance with the previously mentioned recommendation it is felt that the cost and benefits of connection of the Administration Building to the Plant should be further investigated as part of the process.

There was also an issue in relation to the cause of the failure of the generator motor and whether some action could be taken to recoup any of the costs incurred in the major overhaul that was subsequently required. It does appear from the report commissioned by Council's Insurers that the cooling system should have been a closed system rather than being connected to the cooling tower of the building. It is suggested that advice from Council's Solicitors should be sought in this regard.

### Conformance to Strategic Plan

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

*"Strategic Direction: Establish a framework to define and equitably manage the infrastructure demands of the City."*

### Funding

Nil impact as a result of the report.

### RECOMMENDATION:

That:

1. Financial modeling in respect of the Tri-Generation Plant be updated as recommended by Council's Auditors and further reported to Council.

## ORDINARY MEETING

Meeting Date: 8 September 2009

2. Advice be sought in relation to the cost to assist in the management of the Tri-Generation Plant from appropriately skilled external sources.
3. Investigation be undertaken to connect other Council buildings and specifically the Administration Building to the Plant, and the cost/benefit of any proposal be reported as part of the review of the financial model for the Plant.
4. Council's Solicitors be requested to advise on any action which may be taken to recoup costs in relation to the rebuilding of the generator motor.

### ATTACHMENTS:

- AT - 1** Report from WesTrac (Caterpillar Subdivision), dated 11 August 2007, in relation to engine turbo failure.
- AT - 2** Report from Council's Auditors, PricewaterhouseCoopers, dated 23 June 2009, reviewing the Tri-Generation Plant.
- AT - 3** Report from Gridx Power, dated 8 July 2008, regarding the viability of the Plant.

## ORDINARY MEETING

Meeting Date: 8 September 2009

### AT - 1 Report from WesTrac (Caterpillar Subdivision), dated 11 August 2007, in relation to engine turbo failure



## Work Report

Marine / Industrial

WesTrac NSW / ACT  
Head Office:  
26 - 28 Frank Street  
Wetherill Park  
2154  
(02) 9609 8979 tel  
(02) 9732 8979 fax  
Central mailing address: Locked Bag 91, Wetherill Park BC, NSW 1851  
1300 88 10 54 tel for your nearest branch

**DATE** : 11<sup>th</sup> August, 2007  
**WORK ORDER** : SC09302 on site investigation / SA18763 overhauling & dyno test / SC10360 on site test / delivery after repair  
**CUSTOMER** : Hawkesbury City Council  
**LOCATION** : Windsor  
**MODEL** : G3412 Genset  
**SERIAL NO** : KAP00238 Genset  
**SMU** : 1788 hrs.

#### **WHAT WAS THE CUSTOMERS REQUEST:**

Investigation into engine turbocharger failure (engine serial number CTP02333)

#### **ADDITIONAL COMMENTS ON CAUSE OF FAILURE:**

Inspection on site revealed turbocharger (part no 201-4237) failure caused by failure of after-cooler core (part no 100-5552) leaking coolant through the crack. Further diagnostic tests / trouble shootings clearly verified the extent of the damage: cylinder liners (part no 197-9322) were full of water marks indicating presence of water all around the internal parts of engine, recommend complete reconditioning of engine.

#### **WHAT WAS THE RESULTANT DAMAGE:**

Excessive damage on internal parts caused by presence of water.

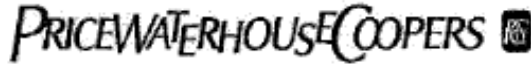
#### **DISCRIPTION OF WORK CARRIED OUT:**

Onsite investigation, complete disassembly, assembly and dyno test of engine as per Caterpillar specification in WesTrac workshop, (onsite after repair test yet to be completed).

ORDINARY MEETING

Meeting Date: 8 September 2009

**AT - 2 Report from Council's Auditors, PriceWaterhouseCoopers, dated 23 June 2009, reviewing the Tri-Generation Plant**



Private and Confidential  
The General Manager  
Hawkesbury City Council  
DX 8601  
WINDSOR

PricewaterhouseCoopers  
ABN 52 780 433 737

Darling Park Tower 2  
201 Sussex Street  
GPO BOX 2650  
SYDNEY NSW 1171  
DX 77 Sydney  
Australia  
Telephone +61 2 8266 0000  
Facsimile +61 2 8266 0000  
www.pwc.com/au

23 June 2009

Dear Sir

**Review of Co-Generation Plant**

In accordance with your request we have undertaken a review of financial aspects of Council's Co-Generation Plant (the Plant). Specifically we have examined:

- The financial information presented to Council before it made its decision to construct the Plant.
- Whether that financial information was complete and accurate.
- How that financial information compares to the actual results experienced by Council.
- The reasons for any significant differences.

Our Review is based on documentation made available to us and discussions held with Council officers and other parties associated with the Plant. We have not attempted to substantiate the content of this information except to the extent of investigating apparent inconsistencies or errors.

Our findings are summarised below.

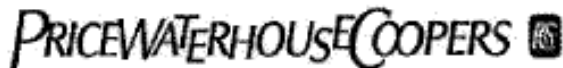
***Finding 1***

The purpose of the Plant is to provide certain energy needs of buildings on the old Hospital site. These include the Café, Deerubbin, Peppercom, Old Hospital and Johnson Buildings. The Plant uses gas to produce electricity for these buildings and the heat generated from this process is converted into hot and chilled water for air-conditioning of the Deerubbin, Old Hospital and Café buildings.

***Finding 2***

The logic for using Co-generation is that energy is cheaper to produce and carbon dioxide emissions lower than other energy alternatives. These benefits are considered to outweigh the higher capital costs associated with establishing a Co-Generation Plant.

Liability limited by a scheme approved under Professional Standards Legislation



The General Manager  
Hawkesbury City Council  
23 June 2009

### *Finding 3*

Council's architects for the old Hospital site – Pont, Williams and Leroy (PWL) – engaged MPI Consultants (MPI) to examine energy options for the library and gallery that were to be constructed on the site. MPI produced a Report in May 2002 which explored 5 options:

Option	Name	Capital cost \$	Lifecycle costs (NPV 25) \$
1	Electric Chillers – Instantaneous	410,000	1,338,815
2	Gas Chillers – Instantaneous	472,000	1,261,715
3	Electric Co-generation/Electric Chillers – Instantaneous	817,500	3,457,925
4	Electric Co-generation/Gas Chillers – Instantaneous	1,017,000	3,540,845
5	Geothermal Heat Pumps	1,295,000	2,726,000

The Co-generation options (3 and 4) were calculated to be more expensive than the more traditional options (1 and 2) in both capital cost and life cycle costs. However, MPI stated that Options 3 and 4 provided the opportunity to generate electricity for use on the site or export to the grid and, when this was factored in, the life cycle costs of Options 3 and 4 fell to \$1.6 million and \$1.9 million respectively – making Co-Generation more financially viable.

### *Finding 4*

In June and July 2002, MPI revised their financial modelling on the basis that they had not been aware that energy could be provided to other buildings on the old Hospital site in addition to the library and gallery. They suggested that an expanded Co-Generation Plant (based on Option 3 above) to include the Old Hospital building could improve the financial outcome for Council as follows:

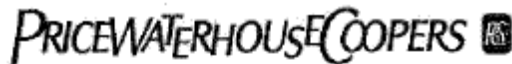
- Revised Capital cost \$1.95 million
- Cost savings over 25 years \$7.1 million
- Pay-back period 6 years
- Internal Rate of Return 17-18%

### *Finding 5*

Council were briefed on these issues in August 2002. At this point it appears that the notion of a third party owning, operating and maintaining the Co-Generation Plant was the preferred solution. MPI correspondence refers to meetings held with Council and PWL where the following advantages of third party ownership were put forward:

- Project delivered at zero net cost to Council.
- Council's capital expenditure in the old Hospital site is reduced.

(2)



The General Manager  
Hawkesbury City Council  
23 June 2009

- Delivers the lowest recurrent cost.
- Delivers substantial environmental benefits.
- Provides substantial life cycle energy cost savings over the life at the Plant.

#### Finding 6

A Report to Council's Ordinary Meeting of 8 April 2003 stated:

*"Co-generation as an alternative was originally suggested with an expected capital cost of \$2.4 million and risks returns over a 15-17 year period. Subsequent market testing and financial appraisal has led to an expectation that energy can be provided with a construct, own and operate arrangement that generates environmental benefits without capital exposure and market risk.*

*Through Council's architects, Pont, Williams & Leroy, MPI Consultants Pty Ltd have been engaged to initiate market availability and have indicated a positive feedback for this method of providing energy. The diagram in Attachment 1 illustrates the process and relationship of the co-generation proposal.*

*To advance the gas to electricity trade-off through co-generation, it is recommended that MPI be engaged by Council to undertake an expression of interest or tendering procedure.*

At this meeting Council resolved that:

*"MPI Consultants Pty Ltd be engaged to proceed with Expression of Interest on Council's behalf for a Construct, Own and Operate co-generation facility."*

#### Finding 7

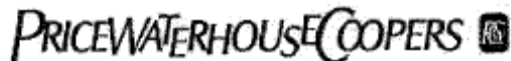
MPI reported on the outcomes of the Expression of Interest process on 14 July 2003. Their letter to architects PWL advises the following:

- Four EOIs were invited and two responses were received.
- The responses received were from CIT Group and Energex.
- The annual costs to Council under each offer were:

	\$
CIT	557,378
Energex	732,090

- When the CIT offer is compared to a 'Base Case' – a conventional technical solution funded by Council – the following financial outcomes are projected:
  - Cost savings of \$6.3 million over 25 years where Council funds the Plant Room

(3)



The General Manager  
Hawkesbury City Council  
23 June 2009

- Cost savings of \$5.7 million over 25 years where CIT funds the Plant Room
- Greenhouse Gas Savings of 16,000 tonnes of CO<sub>2</sub> over 25 years.
- Council should enter into negotiations with CIT with a view to executing a contract in accordance with the proposed Project Program.

However, Council did not pursue the offer in CIT's Expression of Interest.

#### ***Finding 8***

After a briefing to councillors on 5 August 2003, a Report to Council's Ordinary Meeting of 9 September 2003 advised the following:

*"As previously outlined to Council, generation of power to the precinct utilising a Co-Generation Plant can provide environmental benefits of around 1,000 tonnes of CO<sub>2</sub> per annum and also a financial saving to Council.*

*Three options in relation to the provision of this plant were outlined:*

#### ***Option 1***

##### ***100% Third Party Ownership***

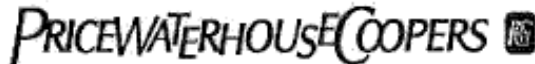
- *This option is cashflow neutral to Council.*
- *Environmental benefits are achieved.*
- *Energy payments are required 12 (twelve) months in advance.*
- *Return on investment to developer is 19% per annum over 20 (twenty) years.*
- *Savings to Council is \$4.2m (four million, two hundred thousand dollars) over 25 (twenty five) years.*

#### ***Option 2***

##### ***100% Ownership by Council***

- *\$2.9m (two million, nine hundred thousand dollars) Capital Investment which includes the construction of the Plant Room.*
- *Council's cost of funding the project is 6% per annum.*
- *Environmental benefits are achieved.*
- *Energy payments are one month in arrears.*
- *Savings to Council is \$12.5m (twelve million, five hundred thousand dollars) over 25 (twenty five) years.*

(4)



The General Manager  
Hawkesbury City Council  
23 June 2009

#### Option 3

##### Joint ownership by Council and a developer

- \$600,000.00 (six hundred thousand dollars) investment by Council (based on 20% participation).
- Council's cost of funds is 6% per annum.
- Environmental benefits are achieved.
- Energy payments required 12 (twelve) months in advance.
- Savings to Council is \$5.9m (five million, nine hundred thousand dollars) over 25 (twenty five) years.

*The preferred option is Option 2 where Council has 100% ownership of the Plant, providing the best financial results all out though requires an initial capital investment. This option will be recommended for adoption by Council."*

At this meeting Council resolved that:

*"The principal of a Council owned Co-Generation Plant be adopted and tenders be called for the supply and installation of the necessary components of the Plant."*

We have been unable to obtain financial details supporting the Options reported to Council. The 'Savings' reported are against a 'Base Case' – presumably a conventional technical solution funded by Council as in Finding 7. The 'Savings' appear to be undiscounted numbers which do not take into account the time value of money.

In our view Council should have been provided with the net present value of the 'Savings' under each Option. It is probable the 'Savings' reported would have been significantly lower on a net present value basis and this may have influenced the decision Council took.

#### Finding 9

A Report to Council's Ordinary Meeting of 14 October 2003 recommended that MPI be engaged to design, construction manage and commission the Co-Generation Plant for a fee of \$135,000. Council adopted this recommendation.

MPI advised Council on 29 November 2003 of the tenders received for construction of the Plant. The value of the recommended tenders amounted to \$2.734 million. This did not include the Plant Room and some components for which tenders had not been responded to.

A Report to Council's Ordinary Meeting of 9 December 2003 provided details of the tenders received and recommended that the preferred tenders advised by MPI be accepted. Also, that funding for the Project be provided by internal loans. The Report identified the total Construction Cost at this time as \$3.438 million. This was the MPI advised value above of \$2.734 million plus:

(5)

# ORDINARY MEETING

Meeting Date: 8 September 2009



The General Manager  
Hawkesbury City Council  
23 June 2009

	\$'000
Plant Room	498
Contingency	30
MPI fees	135
Tender not responded to	41

Council resolved to fund the Project by means of internal loans and accepted the preferred tenders for construction of the Project recommended by MPI.

## *Finding 10*

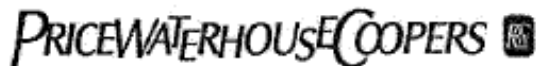
Construction of the Co-Generation Plant commenced in early 2004 and was completed in mid 2005. A Briefing Session to councillors on 5 April 2005 included the following financial analysis of the Project from MPI. This appears to be the last analysis that MPI did of the Project.

<b>Costs without COGEN (Base Case)</b>	
Capital investment	\$500,000
Annual gas costs	\$15,241
Annual electricity costs	\$350,589
Total annual energy costs	\$365,830
Annual maintenance costs	\$19,072
Total annual running costs	\$384,902
Total life cycle cost (20 years)	\$6,014,974
<b>COGEN Case</b>	
Capital investment	\$2,734,339
Annual gas costs	\$83,524
Annual electricity costs	\$13,332
Total annual energy costs	\$96,857
Annual maintenance costs	\$54,845
Total annual running costs	\$151,701
Total life cycle cost (20 years)	\$4,907,947
<b>Cost comparison (COGEN vs Base Case)</b>	
Additional capital cost	\$2,234,339
Annual savings in running costs	\$233,201
Total life cycle savings (20 years)	\$5,081,534
Internal Rate of Return (based on additional capital cost of \$2,234,339)	14.55%
<b>COGEN business for Council</b>	
Annual income from chilled water	\$214,193
Annual income from heating hot water	\$26,414
Annual income from electricity generated during peak	\$44,459
Annual income from electricity generated during shoulder	\$99,837
Total annual income	\$384,903

(6)

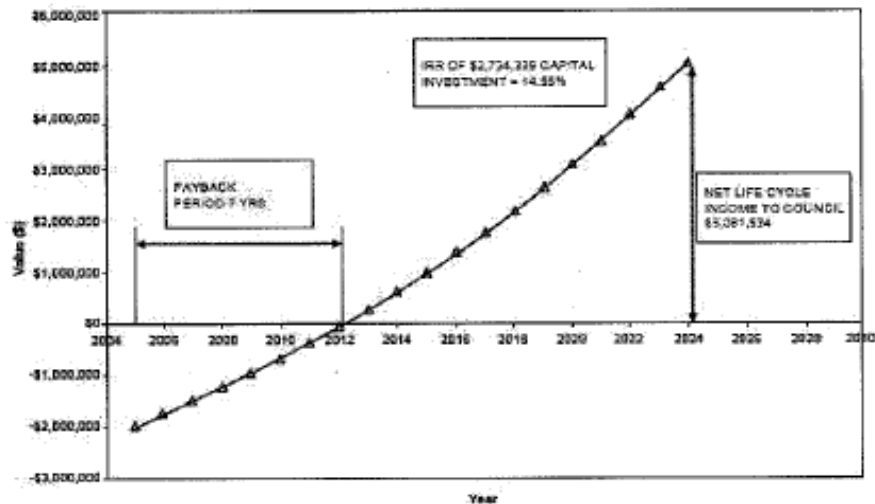
## ORDINARY MEETING

Meeting Date: 8 September 2009



The General Manager  
Hawkesbury City Council  
23 June 2009

### COGEN Option – Council Income Cashflow



MPI Consultants (NSW) Pty Ltd 2006

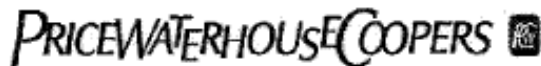
Council Income Chart

operating costs

The critical points derived from this analysis are:

- The net present value of savings from the Co-Generation Plant against the 'Base Case' are \$1.1 million over the life of the Plant.
- The undiscounted cash flow savings from Co-Generation against the 'Base Case' are \$5.1 million.
- The Internal Rate of Return is 14.55%. MPI have advised that this is the effective interest rate which discounts the cash flow savings of \$5.1 million back to the additional capital investment required for Co-Generation (\$2.234 million). Effectively, Council achieves savings equivalent to a 14.55% return on the Co-Generation investment.
- The annual operating costs for Co-Generation are estimated at \$152,000 compared to \$385,000 for the Base Case – a saving of \$233,000 per annum.
- The Pay-back Period – being the period after which the cumulative cash flow savings from Co-Generation are positive – was 7 years.
- CO<sub>2</sub> savings of 570 tonnes per annum were predicted.

(7)



The General Manager  
Hawkesbury City Council  
23 June 2009

We are of the view that these are the most reliable projections put forward for the Project and use these in later comparisons against actual costs. At this point the project was expected to deliver a favourable financial outcome for Council.

#### *Finding 11*

The following are the Actual Capital and Operating Costs of the Co-Generation Plant as extracted from Council's financial systems:

#### Capital Costs \$'000

Projected Base Case (Finding 10)	Projected Co-Gen (Finding 10)	Actual Co-Generation
500	2,734	3,682

Actual capital costs are around \$450,000 higher than the MPI projections in Finding 10 after the Plant Room costs (\$498,000) are factored in. MPI exclude the Plant room for the purpose of their analysis as it is common to both the options they consider. The Actual capital costs do not include any internal charges such as staff hours devoted to the Project and so are likely to be even higher.

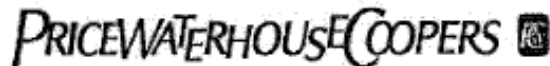
#### Operating Costs \$'000

	Projected Base Case (Finding 10)	Projected Co-Gen (Finding 10)	Actual 05/06	Actual 06/07	Actual 07/08	Actual (YTD) 08/09
Gas	15	84	76	26	132	41
Electricity	351	13	125	183	157	99
Maintenance	19	55	10	48	133	59
Other	-	-	4	5	5	5
Total	385	152	216	262	427	204

1. Include rebuilding of the generator \$120,000.

Actual operating costs above are significantly higher than the MPI projections in Finding 10. In 2007/08, they also exceed the 'Base Case'. The actual operating costs do not include any internal charges, costs of funds or depreciation (estimated at \$100,000 per annum) and so are likely to be even higher than shown here.

The combined effect of higher capital costs and higher operating costs reduces the potential financial benefits Council can derive from Co-Generation. It would be prudent for Council to update its financial modelling to reflect the most current financial information available. This will assist in any future decisions that may need to be made about the Plant.



The General Manager  
Hawkesbury City Council  
23 June 2009

### *Finding 12*

There are a number of issues we have identified which impact on the higher operating costs being experienced in the Co-Generation process:

- The plant appears to be significantly larger than the energy needs of the site demand. MPI make the following comment in a letter to Council in May 2006:

*"As the building is now fully tenanted and has been for a number of months, MPI has undertaken a preliminary analysis of the actual thermal load requirement and these loads are significantly lower than estimates provided to us by the mechanical consultant engaged by Council and subsequently used in all our financial models. As such, these lower than expected thermal loads are having a detrimental effect on the financial outcomes predicted for the project".*

This appears to be supported in a report on the plant undertaken by GRIDX Power P/L (GRIDX) in July 2008. That report identified that the cost of producing electricity through Council's Co-Generation plant in the 2007 calendar year was actually higher than what it could be purchased for from the grid – even before maintenance and depreciation were factored in.

To make the plant more financially viable they suggested:

- Increasing utilisation from the 1,200 hours recorded in 2007 to 2,800 hours.
- That higher utilisation will increase the consumption of gas to a level where a more favourable tariff can be negotiated (10 TS).
- That additional power generated from this strategy (263 Mwh) can be exported to the grid at a negotiated price.

It is clear from these comments that the Co-Generation Plant will not produce financial benefits unless the utilisation is significantly increased. As an alternative to exporting power to the grid, Council could consider connecting additional sites to the Co-Generation Plant.

- The Co-Generation system is a complex system that requires a high degree of skill and experience to run. Council officers, GRIDX and MPI have all indicated that Council would benefit from an expert either running, or assisting Council to run the System more effectively and efficiently. It is possible that the significant costs of repairing the generator (\$120,000) may have been avoided, for example, if an expert had been monitoring the water treatment. As a minimum, Council staff need to be better trained and advised in the proper operation, monitoring and maintenance of the system. Both GRIDX and MPI have offered services along these lines. However, in the case of MPI, Council officers appear to have lost confidence in their ability to deliver solutions to these problems.

# ORDINARY MEETING

Meeting Date: 8 September 2009



The General Manager  
Hawkesbury City Council  
23 June 2009

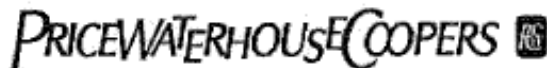
Examples of problems experienced in running the system were listed in an Internal Council memorandum and included:

- Co-Generation unit not running full working week.
- Unable to charge tenants for energy used that can be justified and is acceptable by the tenants.
- Unable to calculate electrical energy used or produced by co-generation unit (meter still not commissioned correctly).
- No metering on Gas used by co-generation unit.
- Unable to cost the running of the plant.
- Unable to obtain gas contract prices that were used in consultant's figures.
- Unable to sell excess energy to energy companies that is excess to requirements (free energy to energy authorities).
- Problems with the installation of actuators. Some of the units had to be removed and refitted so that locking screws could be fitted.
- No alarms outside plant when equipment fails or stops.
- Due to the co-generation system not running every day there are problems with the cooling tower health.
- Council has not been effective in recouping the cost of energy created by Co-Generation. Meters to measure the electricity and hot/chilled water consumption by the users have not been reliable. In some cases they have had to be replaced. This has meant that Council has not always been able to charge the users for the energy they have consumed – resulting in a loss of income. It is clear that Council will need to accurately measure the energy consumed as a sound basis for charging the internal and external users.

## Income from Co-Generation \$'000

	MPI Projected Co-Gen Finding 10	Actual (YTD) 05/06	Actual (YTD) 06/07	Actual (YTD) 07/08	Actual (YTD) 08/09
Chilled Water	214	-	-	-	} 27
Heating Water	26	-	-	-	
Peak Electricity	45	} 159	} 25	} 166	} 103
Shoulder Electricity	100				
	385	159	25	166	130

(10)



The General Manager  
Hawkesbury City Council  
23 June 2009

- Electricity produced by the system is generally consumed by the users but at times it can exceed demand. The electricity cannot be stored and is transferred to the electricity grid. Council has not been given credit for this electricity or been paid for it in any way. An agreement for the sale of this electricity should be negotiated.

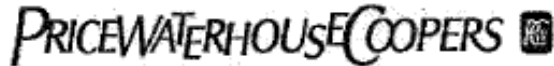
#### Conclusions

- The financial information presented to Council at the time it made its decision to construct the Co-Generation Plant was not, in our opinion, entirely reliable. The Report to Council discussed in Finding 8 described substantial savings from Co-Generation under different ownership options. These 'savings' were undiscounted numbers which do not take into account the time value of money and therefore presented an exaggerated level of savings. As a minimum the net present value of these 'savings' should have been calculated and presented. It is possible that Council may have made a different decision if this information had been presented.
- The latest financial modelling for the Project was done by MPI in early 2005 and projects a favourable financial outcome for Council over the life of the Plant. These projections are set out in Finding 10 and present far more modest savings than those advised to Council at the time it made its decision to construct the Plant. Even these more modest savings are questionable because the thermal loads they have been based on are significantly overstated.
- The actual capital and operating costs of the Plant have been higher than envisaged in the MPI modelling above. The substantially higher operating costs, in particular, raise some doubt as to whether the additional capital cost of Co-Generation is justified. There is some evidence to suggest that Co-generation has produced no savings for Council up to the present time. Council should update its financial modelling to reflect current information available and establish the actual financial position of this Project.
- Council has experienced some significant problems in running the Plant which have contributed to the higher than anticipated operating costs. The Plant appears to be over-sized for the energy needs of the site and its consequent under-utilisation has a detrimental financial impact – MPI's modelling was apparently based on more than double the current utilisation. It is also complex to operate, monitor and maintain. Council should seek independent expert advice on how to best overcome these problems and also consider options for external management of the Plant.
- Council has also experienced problems in recouping the cost of energy produced for the site from both the internal and external users. Metering of the energy produced and consumed has been poor or non-existent resulting in further losses to Council. An agreement for the sale of surplus electricity back to the grid also needs to be negotiated. Council has made some progress in resolving these issues but they need to be finalised.

(11)

## ORDINARY MEETING

Meeting Date: 8 September 2009



The General Manager  
Hawkesbury City Council  
23 June 2009

- The Co-Generation Plant appears to be meeting the energy needs of the buildings it services. The Plant also appears to run best and most efficiently when fully utilised. It is therefore in Council's best interests to examine whether other Council buildings could be connected to the Plant to increase that utilisation.
- The actual amount of CO<sub>2</sub> savings from Co-Generation is difficult to determine. Projections in Finding 7 (640 tonnes per annum), Finding 8 (1,000 tonnes) and Finding 10 (570 tonnes) appear to be over-stated. GRIDX estimates based on 2007 data calculated savings of around 160 tonnes per annum from electricity generation with possible increases to 350 tonnes with higher utilisation of the Plant. The GRIDX figures appear to be the most reliable.

General

Please contact Dennis Banicevic on 8266 5213 if you require further information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'D. B.', followed by a horizontal line.

Dennis Banicevic  
Director

(12)

AT - 3 Report from Gridx Power, dated 8 July 2008, regarding the viability of the Plant

## Exporting to the Grid.

July 8  
2008

The impact of exportation of power  
from the Hawkesbury City Council  
Cultural Precinct Tri-generation plant  
into the National Electrical Network

[www.GridXPower.com](http://www.GridXPower.com)

## Introduction

This article is used to describe the issues and benefits that would result from the increase of exported power from the Hawkesbury Councils Tri-generation plant. The council is investigating ways of increasing the viability of the continued operation of its installation. Two opportunities have been proposed. Increase the operating hours of the plant and the amount of gas consumed, allowing the council to negotiate a better gas tariff. Additionally, negotiate the sale of the power that is being exported to the local distribution network.

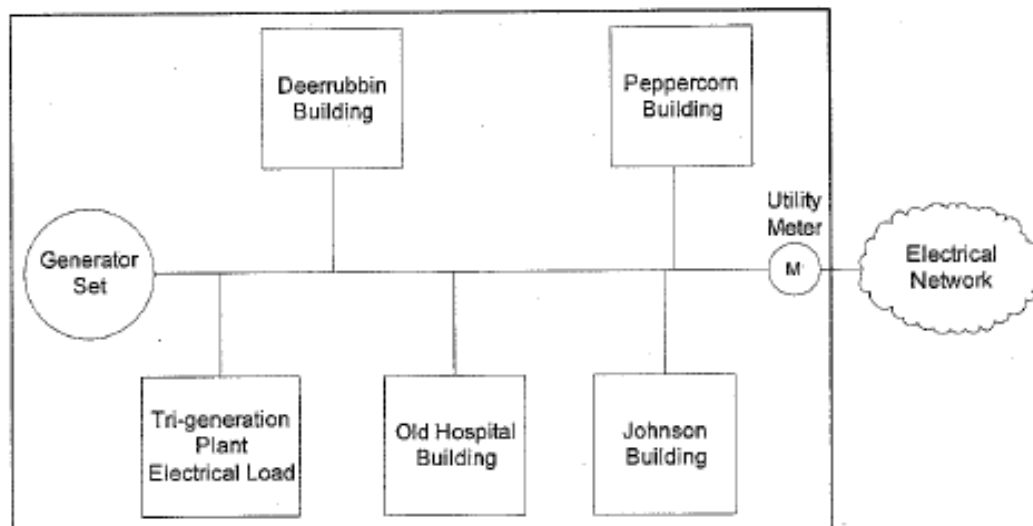
## Installation

Hawkesbury Council has installed a Tri-generation plant at its Windsor campus. The major equipment used is;

- Caterpillar G3412 360 kW gas fired engine
- Thermax LT10S 348 kW Hot water single stage absorption chiller
- Power pax PPW760-3 760 kW turbo core chiller
- Hunt TN-AR930 870 kW hot water boiler

This facility services the site by providing electrical power and thermal energy in the form of chilled and hot water. The plant has been operated successfully for 3 years and has had no adverse affect of the surrounding electrical distribution network.

The plants electrical augmentation can be abbreviated into the following.



Hawkesbury City Council  
Cultural Precinct

GridX Power Pty Ltd

### Present operation

The electrical chiller and the gas boiler operate to meet the sites thermal load. Once a predetermined thermal load (160 kW<sub>th</sub>) is reached the generator set becomes active. The engine's heat output is used to "fire" the absorption chiller which in turn provides chilled water to the centralised thermal energy network. The engines heat output is also used to service the sites space heating requirement.

The engine's controls synchronise the generators output with the grid supply and the site is serviced from both sources. When the generator set produces more power than required on site the excess is exported to the grid.

In 2007 the plant operated for approximately 1200 hours, producing 420 MWh. Of this amount approximately 12% or 51 MWh was exported to the grid. At the present there is no revenue generated from this exported amount.

### Gas

The gas consumption for the year of 2007 was measured at 6.3 TJ. This quantity of gas means that the price paid was set at 1.3 c/MJ. Based on the engines electrical efficiency of 35% the cost of the power generated is

$$\frac{\text{Gas Price} \times 3.6 \frac{\text{MJ}}{\text{kWh}}}{\text{Electrical efficiency}} = 13.37 \frac{\text{c}}{\text{kWh}}$$

This cost is higher than the price that is available from power that is purchased from the utility. Cost such as maintenance and plant depreciation can not be recuperated from generating electricity.

A proposal to increase gas consumption above 10 TJ has been presented. This would allow Hawkesbury Council to go out to a gas wholesales and negotiate a competitive gas contract. After reviewing several quotations it is estimated that the delivered cost of gas would be approximately 0.85c/MJ. So the generated cost of electricity would be 8.7 ¢/kWh. This would allow a levy of 3.4 ¢/kWh for maintenance and depreciation giving a total price of 12.1 ¢/kWh for the supply of power.

### Exported power

The exported power from the site for 2007 was 51 MWh. To increase the gas consumption above 10TJ it is estimated that the plant should run for 2,778 hour p.a. generating 972.3 MWh of which 263 MWh will be exported to the grid.

With the reduced cost per MJ the total cost of gas per annum will increase due to the increase in consumption. There will also be an increase in maintenance of the plant due to the extended operating hours. It is proposed that the electrical utility be approached to determine level of interest in purchasing the electricity that is exported to the grid.

**Benefits of an Power Purchase Agreement (PPA)**

There are several opportunities that can be realised through a PPA that would benefit Hawkesbury council, the electrical utility and the greater public. Some are listed below.

1. The saving that are generated by utilising the waste heat from the engine in the Tri-generation process do not cover the cost of generating electricity at 13.37 c/kWh and the maintenance cost of the plant. A more viable O&M plan must be found or the plant will be decommissioned. The plant's operation removes 350kW of electrical peak requirements (of the grid) from generation and a further 90kW from utilising absorption chilling instead of electrical. The Ministerial Council on Energy (MCE) has presented embedded generation as an option to reduce peak electrical requirements. Hawkesbury Council should be able to secure compensation for this from the incumbent energy provider. Additionally, the continued successful operation of this plant in the Sydney Basin will act as a catalyst for more installations that will provide relief for constrained networks.
2. The electrical energy that is generated through a gas fired reciprocating engine produces approximately 30% less green house gas emissions as power supplied from the grid. The utilisation of the waste heat for heating and chilling can also make significant reductions in associated green house gas emissions. These benefits were the driving force behind the council's endeavours to install a Tri-generation plant. The plant's present operation offsets approximately 161<sup>1</sup> tonnes p.a. of carbon emissions from its electrical generation alone. With the increase in generation this will lift to 350 tonnes p.a.
3. The electricity that is exported from the site is a real product that services the surrounding distribution network. Therefore the power has a genuine value. Also the locality of the installation means that transmission losses are negligible. Hawkesbury council is requesting a return on the power that reflects its worth.

**Conclusion**

To sustain the Hawkesbury Councils Tri-generation installation changes will need to be made to return the plant to a fiscally viable operation. This can be achieved through competitive purchasing of gas and generating a return from the exported power from the site. The co-operation of an environmentally aware and community focused power utility will make this possible through the negotiation of a PPA with the Council. Such an arrangement will benefit both parties through the continued carbon emissions reduction and the operation of a peak load shaving installation.

<sup>1</sup> Based on IPART's 2007 pool coefficient and the AGO Emission Factors and Methods Workbook 2006 (direct / point source EF for combustion emissions)

oooO END OF REPORT Oooo

ordinary

section 5

reports  
of committees

**ORDINARY MEETING**  
Reports of Committees

**SECTION 5 - Reports of Committees**

**ROC - Floodplain Risk Management Advisory Committee Minutes - 3 August 2009 - (86589, 95498)**

The meeting commenced at 4.33pm in Council Chambers.

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<b>Present:</b>	Councillor Kevin Conolly - Chair Councillor Jill Reardon Councillor Paul Rasmussen Mr John Miller Mr Alexander (Phil) Windebank Mr Ian Johnston Mr David Scott Mr Peter Cinque OAM Mr Les Sheather Mr Andrew Docking Mr Kevin Jones Mr David Avery
<b>Apologies:</b>	Councillor Bob Porter - Deputy Chair Mr Geoffrey Bessell Mr Bill McMahon Mr John Aquilina MP - Member for Riverstone
<b>In Attendance:</b>	Mr Matthew Owens Mr Philip Pleffer Mr Chris Amit Mr Robert Tolson - Observer Ms Robyn Kozjak Mr Ray Williams MP - Member for Hawkesbury Ms Chris Bourne (representative for Ms Louise Markus MP)

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**REPORT:**

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

The Chair acknowledged Mr Rob Tolson's attendance at the meeting as an observer.

**CONFIRMATION OF MINUTES**

**RESOLVED** on the motion of Mr Phil Windebank and seconded by Councillor Reardon that the Minutes of the Floodplain Risk Management Advisory Committee held on the 20 April 2009, be confirmed.

**ORDINARY MEETING**  
Reports of Committees

**ATTENDANCE:**

**Attendance Register of Floodplain Risk Management Advisory Committee - 2009**

Member	09/02/09	20/04/09	03/08/09		
Councillor Kevin Conolly - (Chair)	✓	✓	✓		
Councillor Bob Porter - (Deputy Chair)	✓	✓	A		
Councillor Paul Rasmussen	A	✓	✓		
Councillor Jill Reardon	A	✓	✓		
Mr Peter Cinque OAM - (SES Sydney Western Division)	✓	Greg Murphy in lieu	✓		
Mr David Avery - (Dept. of Environment and Climate Change)	✓	A	✓		
Mr David Scott - (Dept of Defence)	✓	✓	✓		
Snr Inspector Robert Bowman (Department of Primary Industries)	X	✓	Andrew Docking in lieu		
Mr Les Sheather - (Community Member)	✓	✓	✓		
Mr Kevin Jones - (SES Headquarters)	✓	✓	✓		
Mr Geoffrey Bessell - (Community Member)	✓	A	A		
Mr John Miller - (Community Member)	✓	✓	✓		
Mr Bill McMahon - (Community Member)	✓	✓	A		
Mr Alexander (Phil) Windebank	✓	✓	✓		
Mr Ian Johnston	✓	✓	✓		
<b>Key. A = Formal Apology</b>	<b>✓ = Present</b>			<b>X = Absent - no apology</b>	

**BUSINESS ARISING**

- Reference was made to a proposal previously discussed relating to Mr Dooley (DECC) undertaking a tour of the river. Mr Owens advised the proposal posed significant risk and liability issues and advised he would further investigate the viability of progressing this proposal. Mr Sheather addressed this concern and acknowledged certain reaches of the river were particularly shallow and in this regard he could provide Mr Owens with navigational maps and a list of commercial vessels available for hire suited to this purpose.
- In response to a minute item discussed at the FRMAC meeting of 20 April, 2009 relating to road management in emergency situations, Mr Peter Cinque, Regional Controller SES tabled correspondence (authored by him) dated 3 August 2009 (attached). The correspondence confirmed the SES holds authority for the overall management of emergency situations.

**ORDINARY MEETING**  
Reports of Committees

Correspondence from Mr Peter Cinque, Regional Controller SES dated 3 August, 2009



Sydney Western Region  
3/7 St. James Place  
SEVEN HILLS NSW 2147

Phone: (02) 8811 7700  
Fax: (02) 9674 7131  
admin@swd.ses.nsw.gov.au

3 August 2009

Chair  
Hawkesbury Floodplain Risk Management Advisory Committee  
Hawkesbury City Council  
PO Box 146  
WINDSOR NSW 2756

Dear Councillor Conolly,

In the minutes for the 20 April 2009 meeting of the Hawkesbury Floodplain Risk Management Advisory Committee the following was noted under General Business:

*Mr Sheather asked which organisation held the authority to manage roads in an emergency situation in the event of a serious accident occurring whilst in the process of a flood evacuation. Debate subsequently arose regarding this issue. Mr Murphy and Mr Jones from the SES advised the SES had the power to open and close roads and could instruct the police and/or RTA to close a road in a flood situation, if necessary. Councillor Porter advised he had been informed (by the police) that only the police and the RTA held such authority. Mr Murphy advised he would clarify this issue with a written response from the SES and would report back to the Committee.*

The State Disaster Plan (DISPLAN) lists the organisations which have authority to close roads during emergencies. A copy of the relevant pages is attached to this letter.

A copy of the State DISPLAN is also available in PDF format at the following location:

<http://emergency.nsw.gov.au/media/309.pdf>

SES **emergency officers** can close roads using the authority granted under Section 22(1)(c) of the State Emergency Service Act 1989 (as amended). Section 22 states:

*22 Power to evacuate or to take other steps concerning persons*

**ORDINARY MEETING**  
**Reports of Committees**

*(1) The Commissioner may, if satisfied that it is necessary or convenient to do so for the purpose of responding to an emergency to which this Part applies, direct, or authorise an emergency officer to direct, a person to do any or all of the following:*

*(a) to leave any particular premises and to move out of an emergency area or any part of an emergency area,*

*(b) to take any children or adults present in any particular premises who are in the person's care and to move them outside the emergency area or any part of the emergency area,*

*(c) not to enter the emergency area or any part of the emergency area.*

*(2) If the person does not comply with the direction, an emergency officer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.*

*(3) The regulations may limit the circumstances, and regulate the manner, in which the powers conferred by this section may be exercised.*

Note that this power applies to flood and storm operations by virtue of Section 19 of the SES Act (as amended):

*19 Emergencies to which Part applies*

*This Part applies to:*

- (a) an emergency referred to in section 8 (1) (a) or (b) relating to a flood or storm, or*
- (b) an emergency referred to in section 8 (1) (d) which the State Emergency Operations Controller has directed the Commissioner to deal with.*

**Emergency officers** are appointed under Section 15 of the SES Act:

*15 Emergency officers*

*(1) The Commissioner is an emergency officer for the purposes of this Act.*

*(2) The Commissioner may appoint any person, or a person belonging to a class of persons, as an emergency officer for the purposes of this Act.*

*(3) A person may be appointed as an emergency officer whether or not the person is a member of the State Emergency Service.*

*(4) The Commissioner may revoke an appointment under this section at any time.*

*(5) The Commissioner is to arrange for suitable training to be provided to emergency officers.*

The Commissioner appoints the following (amongst others) as emergency officers under Section 15 of the SES Act 1989:

**ORDINARY MEETING**  
Reports of Committees

Region Controllers  
Deputy Region Controllers  
Local Controllers  
Deputy Local Controllers

Note that under Public Sector Employment and Management (Departmental Amalgamations) Order 2009 issued by the Governor on 27 July 2009 (in regarding the formation of the new 13 “super” departments):

*Division 11 Miscellaneous*

*38 Construction of references to Director-General and Deputy Director-General of State Emergency Service*

*A reference in any document to the Director-General, or the Deputy Director-General, of the State Emergency Service (including in the definitions of Director-General and Deputy Director-General in section 3 (1) of the State Emergency Service Act 1989) is to be construed as a reference to the Commissioner of the State Emergency Service or the Deputy Commissioner of the State Emergency Service, respectively.*

Pursuant to the Order, I have replaced Director General with Commissioner in the above extracts from the SES Act 1989 (as amended).

I hope the above clarifies the issue of SES authority to close roads during floods.

Yours sincerely



**Peter Cinque OAM**  
**Region Controller**

# ORDINARY MEETING

## Reports of Committees

*New South Wales State Disaster Plan – Displan*

### Return

530. The Agency/Authority which initiated the evacuation determines, in consultation with the Recovery Coordinating Committee (if established), and the Coordinators of Welfare Services, Engineering Services and Health Services Functional Areas, when it is safe for evacuees to return to their homes and arranges for the evacuees to be advised accordingly.

531. Transport is to be arranged by the Transport Services Functional Area Coordinator.

### ROAD CLOSURES

532. A number of Organisations have the authority to close roads. The following table indicates the Organisations which have the authority to close roads and the circumstances when that authority can be exercised.

ACT	SECTION	SITUATION	AUTHORISED PERSON	PROVISO
Traffic Act 1909	23	Close any public street to traffic during any temporary obstruction or danger	Police	Non emergency situations
State Emergency and Rescue Management Act 1989	37	Persons not to enter the emergency area	Minister or authorised Emergency Services Officer	A State of Emergency must be declared
Fire Brigades Act 1989	13	Close any street in the vicinity of a fire or HAZMAT incident	OIC at a fire or HAZMAT incident	
Rural Fires Act 1997	24	Close any street or public place in the vicinity of a fire, incident or other emergency	OIC at a Fire Incident or other emergency	
State Emergency Service Act 1989	22(1)(c)	Persons not to enter the Emergency Area	Director General or authorised Emergency Officer	
Ambulance Services Act 1990	12	Close a road for the protection of persons from injury or death		
Stock Diseases Act 1923	12 & 15	Restriction of entry to and exit from a quarantined area and closure of roads which pass through a restricted area to vehicles and stock	Minister for Primary Industries	Notification in Gazette and newspaper
Exotic Diseases of Animals Act 1991	13	Declaration of entry and exit points during an exotic disease outbreak	Department of Primary Industries Inspector	
Roads Act 1993	115	Close roads to protect the public from any hazards on the public road	Roads Authority	This power is rarely used in emergencies as the powers of Emergency Services Officers generally suffice. Relates only to those roads for which Council is deemed to be the "Roads Authority"

Amendment 7 – Complete Reprint  
As at December 2005

40

**ORDINARY MEETING**  
Reports of Committees

*New South Wales State Disaster Plan – Displan*

ACT	SECTION	SITUATION	AUTHORISED PERSON	PROVISO
Roads Act 1993	116	Roads Authority applies to RTA for consent to regulate traffic	Roads Authority	
Roads Act 1993	120	Minister may direct Roads Authority to exercise traffic regulation powers	Minister	
Roads Act 1993	121	Minister may regulate traffic in certain circumstances	Minister	
Roads Act 1993	122	Roads Authority may temporarily regulate traffic including prohibiting vehicles to pass	Roads Authority	
Roads (General) Regulation 1994	Clause 56	Roads Authority may temporarily close ferries	Roads Authority	

533. In addition the RTA Traffic Management Centre will:-

- a. deploy RTA Traffic Commanders to major unplanned incidents.
- b. accept responsibility for traffic management from the incident perimeter into the rest of the road network
- c. take the lead role in communicating traffic management arrangements/issues to the Media
- d. provide close support to the Police Incident Commander for traffic control within an incident perimeter.
- e. develop and deploy Maintenance and Traffic Emergency Services (MATES) teams for specific routes.
- f. provide a comprehensive and timely response of specialised resources to support traffic management.

### SECTION 3 - Reports for Determination

#### 1. Draft Consultant's Brief for a Flood Risk Management Study and Plan

##### DISCUSSION:

*Mr David Avery gave an overview of the Brief to the Committee.*

- Query was raised if the study had identified refuge areas where stock could be taken in times of flood. Mr Avery advised this issue had not been addressed in the study. The Committee agreed on the importance of identifying higher grounds for this purpose and subsequently determined an addition should be made to the study addressing this issue. Mr Owens reported (from time to time) development applications were received for the building of mounds for this purpose.
- It was noted the fifth dot point page 30 reads “Macquarie Park” - this should read “McQuade Park”.

**ORDINARY MEETING**  
**Reports of Committees**

- Query was raised re the wording on page 3, second paragraph wherein it reads “1 in 40 chance per year flood since 1867.” Concern was raised re the accuracy of “1 in 40” and staff advised this would be investigated and reported back to the Committee.
- Mr Ray Williams MP put a question to Mr David Avery of DECC, asking if the Department would ever support construction of any dam in NSW. Mr Avery stated he was not in a position to answer this question. Mr Williams further stated it was his belief the raising of the (Warragamba) Dam wall would never be supported by DECC and advised he believed this would be the solution for a myriad of flooding issues.
- Concern was raised once a flood had resided there did not appear to be a co-ordinated or consistent approach to the recovery (clean up) process. Mr Cinque (SES) advised it was recognised the recovery process was as important as the response operation and in this regard, provision had (recently) been made for the appointment of a new State Emergency Recovery Controller as part of streamlined Government arrangements to assist communities to recover from major emergencies.

*Andrew Docking left the meeting @ 5.50pm.*

**MOTION:**

RESOLVED on the motion of Mr John Miller, seconded by Councillor Reardon.

***Refer to COMMITTEE RECOMMENDATION***

**COMMITTEE RECOMMENDATION:**

That the Committee endorse the amended brief as a recommendation to Hawkesbury City Council, as a matter of urgency, subject to the following amendments:

- a) Page 3, *No. 2 Study Area*

“The study area comprises all of the Hawkesbury River and its immediate surrounds that falls within the Hawkesbury Local Government Area. The area extends from Agnes Banks/**Yarramundi** in the south to Wisemans Ferry in the north.”

- b) Page 8, *No. 6 Stage 1 - Existing Data - 6.1- Key References*. The consultants list of documents to be made available for reference.

- c) Page 10, first dot point

“Use of the above to determine potential flooding risk including property damage (residential, commercial, industrial, **public infrastructure, utility infrastructure**) risks to life, evacuation problems, etc.”

- d) Page 10, third paragraph, and elsewhere throughout the brief:

Include **50y** flood event in the range of flood events to be assessed.

- e) Page 12, first paragraph, final sentence

“As mentioned earlier in this brief, this study will not re-investigate **those** large-scale regional flood modification measures **which have previously been the subject of detailed study, but may investigate identify new mitigation options.**”

**ORDINARY MEETING**  
**Reports of Committees**

- f) Page 14, third last dot point under “*For Existing Flood Problem*”  
“Benefits of the project components for all the design floods in terms of reduction in flood damage costs, **including costs relating to public infrastructure and utility infrastructure.**”
- g) Page 15 second dot point after *For Continuing Flood Risks*  
“The existing capability within the community to provide immediate assistance for flood clean-up and post flood recovery for individuals, **businesses** and institutions.”
- h) Page 19, *Appendix A*. Include the report entitled “Proposed Warragamba Flood Mitigation Dam EIS” prepared for Sydney Water by Australia Water Technologies Pty Ltd and ERM Mitchell, McCotter, July 1995 (to be used for the extraction of useful existing research data).

**SECTION 5 - General Business**

- Mr Owens referred to an invitation received last year from Penrith City Council wherein representation from Hawkesbury City Council was requested to attend its Floodplain Committee meetings. Mr Owens reported the Chairperson of HCC’s previous FRMAC (2008) had been elected at the time as HCC’s representative and was to attend PCC meetings on an ‘as-needs’ basis. It was further reported it was understood, to date, the Committee meeting dates of both Councils had coincided with one another and it was subsequently agreed HCC would continue its present arrangement of forwarding FRMAC agendas to Penrith Council in the event it was deemed an item may be of relevance to that Council.
- Mr Miller referred to Lismore Council’s website, ([www.lismore.com.au](http://www.lismore.com.au)) and commented on the comprehensive flood information available to the community on this site. It was further reported Lismore Council participated in a “Flood Safe Week” program each year, and it was asked if HCC would consider doing something similar in an effort to increase the community’s flood education and awareness. Mr Owens agreed this would be something to work towards in the future, however, advised such a project would require a significant amount of work and resources, to which Council could not commit at this time.

*The Chair recommended this issue be discussed as an agenda item at the next meeting.*

- Mr Sheather referred to an article in the Gazette regarding concerns re the possibility of debris piling up on the new (low level) bridge across South Creek during times of flood. Mr Sheather raised concern the proposed new bridge across the Hawkesbury may also have the potential to impede flow on to South Creek, and it was suggested this concern be taken up with the RTA as part of the consultation process.
- Mr Johnston raised concern regarding the encroachment of sand onto Bens Point, opposite The Terrace in Windsor and asked for this issue to be added as an agenda item at the next meeting. The Chair suggested Mr Johnston speak with him in the first instance (in conjunction with Mr Owens) to establish if the Committee is the appropriate forum to address that issue.

The meeting closed at 6.22pm.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Reports of Committees**

**ROC - Local Traffic Committee - 19 August 2009 - (90245)**

Minutes of the Meeting of the Local Traffic Committee held in the Large Committee Room, Windsor, on Wednesday, 19 August 2009, commencing at 3.00pm.

**ATTENDANCE**

**Present:** Councillor B Bassett (Chairman)  
Mr J Christie, Officers of Messrs A Shearan, MP, (Londonderry) and J Aquilina, MP, (Riverstone)  
Mr R Williams, MP, (Hawkesbury)  
Sgt T Costello, NSW Police Service  
Snr Constable M Simmons, NSW Police Service

**Apologies:** Mr J Suprain, Roads and Traffic Authority

**In Attendance:** Mr C Amit, Manager, Design & Mapping Services  
Ms D Oakes, Community Transport Officer  
Ms B James, Administrative Officer, Infrastructure Services

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The Chairman tendered an apology on behalf of Mr J Suprain, advising that he concurred with recommendations as contained in the formal agenda and had granted proxy to himself to cast vote(s) on his behalf.

**SECTION 1 – Minutes**

**Item 1.1       Minutes of Previous Meeting**

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Councillor B Bassett, seconded by Snr Constable M Simmons, that the Minutes from the previous meeting held 15 July 2009 were confirmed.

**Item 1.2       Business Arising**

Nil

**SECTION 2 - Reports for Determination**

**Item 2.1      LTC - 19 August 2009 - Item 2.1 - Sunset Jazz Festival, Windsor 2009 - (Riverstone) - (80245, 110632)**

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**REPORT:**

**Introduction:**

An application has been received from the Greater Western Sydney Jazz Bands Incorporated seeking approval to conduct the Sunset Jazz Festival (part of the Jazz a Vienne festival) in Thompson Square - Parkland, Windsor on Saturday, 17 October 2009 between 5.00pm and 10.00pm.

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

- i) The event is a free family friendly Jazz concert for the Hawkesbury, featuring winners of the youth Jazz Band competition.,
- ii) The concert features both young musicians from western Sydney and professional Aria award winning musicians which includes the internationally recognised youth band; Zooo Superbande and one of Australia's leading jazz ensembles; The Catholics.,
- iii) The purpose of the concert is to promote jazz music in the Hawkesbury and to showcase the young musicians of the Hawkesbury and surrounding areas.,
- iv) number of spectators is difficult to estimate due to the low profile of Jazz in the area, however hoping for at least 100 spectators depending on the weather.,
- v) There will be 30-40 people involved with the event which includes jazz musicians, volunteer staff and production crew, 2 hired Police Officers and 3 to 4 Jazz bands participating.,
- vi) Road closures are not required.,
- vii) Impact on the community is not expected to be greater than any Sunday Market –possibly less, and it is anticipated that the event will have a positive impact on local businesses and shops with the influx of additional people to the area.,
- viii) Spectators will be advised via the website to utilise the free parking areas in Kable Street and the surrounding area.,
- ix) The festival has run for the last 2 years in venues such as hotels and clubs, and this will be the first time an open air outdoor free jazz concert is to be held.,
- x) In consultation with the Macquarie Arms hotel, toilets in the hotel will be freely available to the public attending the event.,
- xi) Approval for the use of Thompsons Square Parkland has been granted by Council's Parks & Recreation Section.

**Discussion**

It would be appropriate to classify this event as a "Class 3" special event under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads & Traffic Authority (RTA) as the event may not impact on minor traffic and transport systems, however there may be low scale disruption to the non-event community.

The event organiser has submitted the following items in relation to the event: Appendix 1 (Dataworks Document No: 3147382):

- i) Details of Special Event – Traffic Template
- ii) Details of the Special Event Transport Management Plan Template - RTA,

**ORDINARY MEETING**  
**Reports of Committees**

- iii) Public Liability Insurance Policy to the value of \$10,000,000, however Council has not been noted as an interested party, and
- iii) Copy of the Application to the NSW Police Service

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Mr J Christie, seconded by Sgt T Costello.

That:

1. The Sunset Jazz Festival (part of the Jazz a Vienne festival) event planned for Saturday, 17 October 2009 between 5.00pm and 10.00pm, in Thompson Square - Parkland, Windsor be classified as a "**Class 3**" 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 submit a Transport Management Plan (TMP) for the entire event incorporating a Traffic Control Plan (TCP), if identified in the TMP, to Council** 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;
- 4c. 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 as an interested party on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 4d. the event organiser is to advertise the event in the local press stating the entire 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);
- 4e. 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;**
- 4f. 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;**

**ORDINARY MEETING**  
**Reports of Committees**

- 4g. 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>);
- 4h. the event organiser is to submit the completed "Special Event - Traffic Final Approval" form to Council;

**During the event:**

- 4i. access is to be maintained for businesses, residents and their visitors;
- 4j. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 4k. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the RTA; and
- 4l. all areas are to be kept clean and tidy.

**APPENDICES:**

**AT - 1** Special Event Application - (Dataworks Document No. 3147382) - *see attached*.

**SECTION 3 - Reports for Information**

**Item 3.1 LTC - 19 August 2009 - Item 3.1 - RTA Advice on 2009-2010 Auslink Black Spot Programme - Various sites - (Londonderry, Riverstone & Hawkesbury) - (80245, 73625)**

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**REPORT:**

Advice has been received from the Roads and Traffic Authority (Dataworks Document Nos. 3058220 and 3085075) indicating that the following projects have been approved for construction under the Auslink Black Spot Programme for 2009-2010.

Site Description	Proposed Treatment	Estimated Cost
George Street – Drummond Street, South Windsor	Install Roundabout	\$439,500
Saunders Road – Old Stock Route Road, Oakville	Install Extended lengths of Raised Median on approaches to the Intersection	\$50,000
Freemans Reach Road – Gorricks Lane, Freemans Reach	Install Roundabout	\$442,300

All 3 projects are expected to be completed by June 2010.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Mr R Williams, MP, seconded by Mr J Christie.

That the information be received.

**APPENDICES:**

There are no supporting documents for this report.

**Item 3.2      LTC - 19 August 2009 - Item 3.2 - Proposed Roundabout in George Street to access Windsor Railway Station - (Riverstone) - (80245, 99132)**

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**REPORT:**

Advice has been received from Railcorp in relation to the proposed upgrade to the Windsor Railway Station Transport Interchange and Commuter Car Park. It is anticipated the works will be completed by the end of 2009 at a cost of around \$8.2 million.

The Upgrade will include;

- The construction of a roundabout in George Street to manage the priority and circulation of vehicle movements entering and exiting the railway station bus interchange and small car park area,
- Commuter parking for around 209 vehicles which includes 10 disabled parking spaces – (George Street access to car park No.1 – small car-park and Cox Street access to car park No.2 – large car park); an increase of approximately 130 parking spaces,
- Expansion and redesign of the existing bus interchange which will accommodate 8 buses,
- Dedicated taxi rank to accommodate 5 taxis,
- Formalised kiss-and-ride with a capacity for 7 vehicles.
- New lighting and CCTV coverage
- Improved operational layout
- New canopies
- Landscaping
- Improved station amenity
- New signage

Details of the upgrade are outlined in the attached drawing "Windsor Station Bus Interchange – Site Plan" – DWG No. 13041 A02 H: Appendix 1.

**COMMITTEE RECOMMENDATION:**

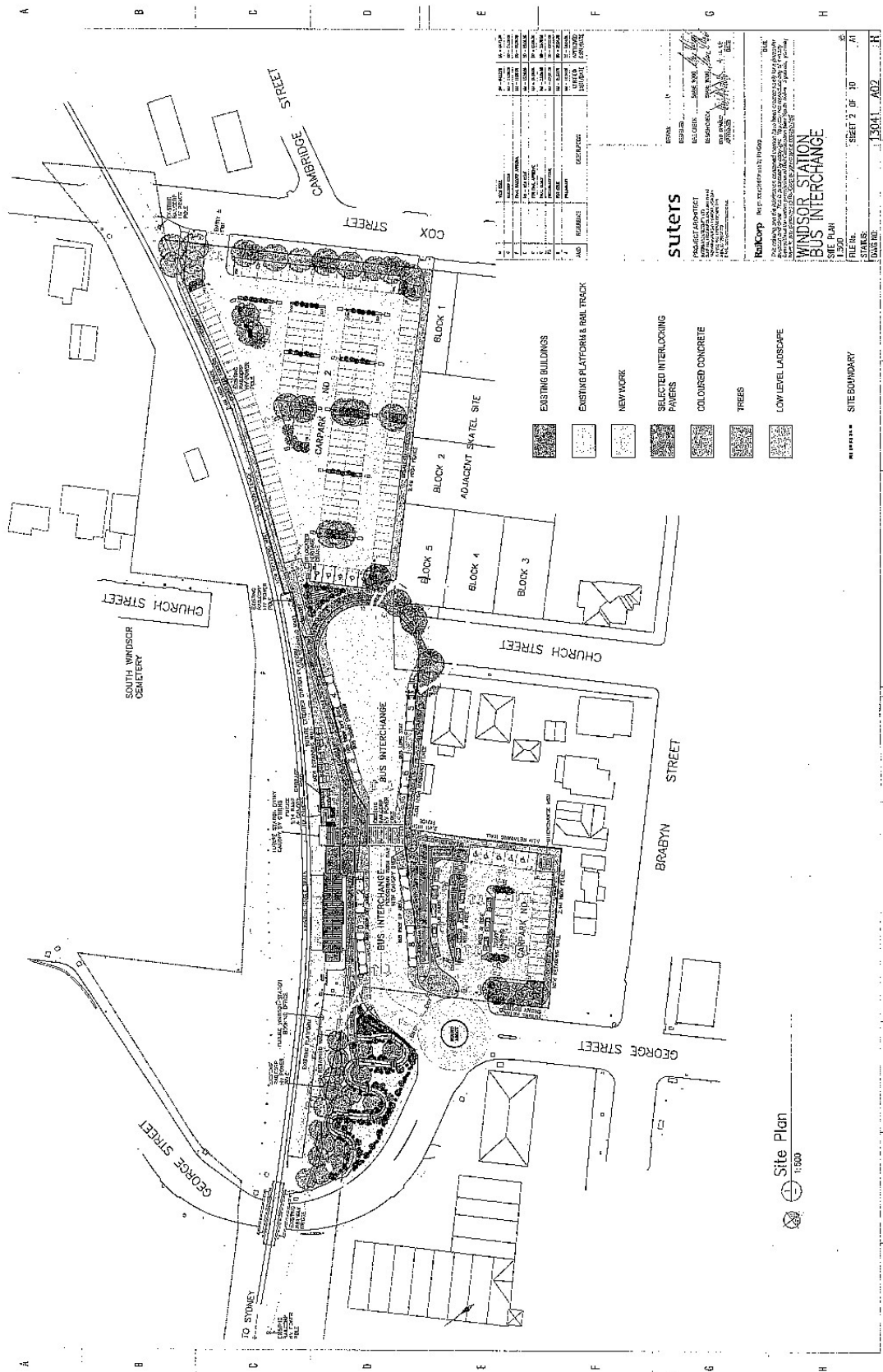
RESOLVED on the motion of Mr J Christie, seconded by Snr Constable M Simmons.

That the information be received.

**APPENDICES:**

**AT - 1**    "Windsor Station Bus Interchange – Site Plan" – DWG No. 13041 A02 H

AT - 1 Windsor Station Bus Interchange – Site Plan” – DWG No. 13041 A02 H



**SECTION 4 - General Business**

**Item 4.1      LTC - 19 August 2009 - QWN 4.1 - Update on proposed development in Teale Road and improvement to its intersection with Putty Road**

Previous Item - 4.2 - 18 February 2009.

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Mr R Williams MP

**REPORT:**

Mr R Williams MP asked if determination has been made between the Roads and Traffic Authority and Hawkesbury City Council with regards to any improvements required at the intersection of Teale Road and Putty Road, East Kurrajong due to a proposed development in Teale Road, East Kurrajong.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Mr R Williams, MP, seconded by Councillor B Bassett.

That the matter be referred to the City Planning Department to respond to Mr R Williams MP with the outcomes of the Development Application and its impact on the intersection of Teale and Putty Roads.

**APPENDICES:**

There are no supporting documents for this report.

**Item 4.2      LTC - 19 August 2009 - QWN 4.2 - Traffic - Light phasing – Travelling North along Macquarie Street between Argyle Street and Hawkesbury Valley Way**

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Mr R Williams MP

**REPORT:**

Mr R Williams MP tabled an email (*Dataworks Number: 3177658*) from Mr Chris Ottaway in relation to problems with the phasing of lights for vehicles travelling North along Macquarie Street between Argyle Street and Hawkesbury Valley Way.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Mr R Williams, MP, seconded by Mr J Christie.

That the matter be referred to the Roads and Traffic Authority to review the phasing of traffic lights in Macquarie Street between Argyle Street and Hawkesbury Valley Way.

**APPENDICES:**

There are no supporting documents for this report.

**Item 4.3      LTC - 19 August 2009 - QWN 4.3 - Position of Give Way sign at Baileys Bridge – West Portland Road**

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Snr Constable M Simmons

**REPORT:**

Snr Constable M Simmons enquired to the current position of the Give Way sign at Baileys Bridge, West Portland Road and if this could be relocated.

Mr C Amit advised that this matter had been previously investigated and reported to the Local Traffic Committee on 19 May 2004, and following recommendation by the Local Traffic Committee, Council, at its meeting held on 8 June 2004 resolved that:

*“a “Give Way” sign and a “Give Way” line on the north western side of the bridge at a point (Ch 4380), 20m from the existing “Bridge Width Marker” sign and a “Give Way Ahead” sign at a point (Ch 4500), 120m from this proposed “Give Way” sign be installed in West Portland Road.”*

The position of the existing give way sign is to allow for vehicles to manoeuvre off the bridge. This is a one-lane bridge on West Portland Road located at approximately 4.3 kilometres from Sackville Road spanning over Roberts Creek. Both points of entry to the bridge are not visible from each approach. Therefore, it was appropriate to install a “Give Way” sign and a “Give Way” line on the north western side of the bridge at a point, 20m from the existing “Bridge Width Marker” sign. Priority is given for the vehicles on the south eastern approach as this approach has the lesser sight distance.

**COMMITTEE RECOMMENDATION:**

RESOLVED on the motion of Snr Constable M Simmons, seconded by Mr R Williams, MP.

That a copy of the report to Local Traffic Committee on 19 May 2004 be forwarded to NSW Police

**APPENDICES:**

There are no supporting documents for this report.

**SECTION 5 - Next Meeting**

The next Local Traffic Committee meeting will be held on Wednesday 21 September 2009 at 3.00pm in the Large Committee Room.

The meeting terminated at 3.55pm.

**oooO END OF REPORT Oooo**



ordinary  
meeting

end of  
business  
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