



# Hawkesbury City Council

## ordinary meeting business paper

date of meeting: 08 July 2008

location: council chambers

time: 5:00 p.m.



# mission statement

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

**How Council Operates**

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### SECTION 4 - Reports for Determination

#### CITY PLANNING

**Item: 141**      **CP - Development Application - Construction of a New Shed for Bulk Pasteurisation and Spawn Rooms - Lot 8 DP263911, 457 Pitt Town-Dural Road, Maraylya - (DA0200/07, 83102, 24525, 95498)**

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#### Development Information

**Applicant:** MT & JA Pty Ltd  
**Applicants Rep:** Graham Zerk  
**Owner:** MT & JA Pty Ltd  
**Stat. Provisions:** Hawkesbury Local Environmental Plan 1989  
Sydney Regional Environmental Plan No. 20 (No 2) - Hawkesbury Nepean River  
**Area:** 2.968H  
**Zone:** Rural Living under Hawkesbury Local Environmental Plan 1989  
**Advertising:** 8/5/07 to 22/5/07  
13/11/07 to 24/11/08 (additional information)  
2/6/08 to 16/6/08 (amended plans)  
**Date Received:** 18/4/07  
**Key Issues:** ♦ Character  
♦ Noise  
♦ Odour  
♦ Traffic  
**Recommendation:** Approval

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#### REPORT:

##### Introduction

The application seeks approval for the construction of an additional shed on the property to be used in conjunction with the existing mushroom growing business on site.

The matter is reported to Council at the request of Councillor Books. The purpose of this report is to detail the proposal, the current statutory situation and provide an assessment of the application in accordance with Section 79C(1) of the Environmental Planning and Assessment Act 1979.

##### The Proposal

The subject application seeks approval for the construction of a colorbond shed to be used in conjunction with the existing mushroom growing business. This shed is to provide an area for the installation of a new system for the peak heating and spawn running phases of the mushroom growing process.

As a result of concerns from the adjoining property owners relating to the location of the proposed shed, the applicant has relocated the shed to the Forrester Place frontage. The application as modified proposes to adopt new technology in order to achieve the following:

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- a) Comply with the Food Safety Act and regulatory requirements to ensure hazard analysis and critical control procedures are in place by providing adequate pasteurization temperatures and biological control;
- b) New technology without the use of wooden trays and pasteurization in mass; and
- c) To comply with EPA guidelines in regards to energy savings and greenhouse gas emissions in the following manner:
  - *Pasteurization temperatures achieved by natural respiration and not as currently achieved by using diesel fossil fuel.*
  - *Using computer control with an in-line oxygen monitoring system ensures the system is fully aerobic. This prevents sulphur producing organisms, responsible for offensive odour from incubating.*
  - *Wood would no longer be used which will reduce the cleaning of trays and a reduction in water use.*
  - *Better moisture conservation and cooling required in the process through a reduction in venting and precise computer control.*
  - *Decrease in electricity consumption proportionate to the same tonnage of substrate processed. Reducing this sites carbon footprint.*
  - *Incoming air needed in the process is filtered through "absolute Filters" to less than 1 Micron to eliminate airborne contaminants ie airborne dust, fungal spores and spoilage organisms.*
  - *The ability to pasteurize adequately a broader spectrum of substrate not currently achievable (length of straw, ability to substitute alternative raw ingredients due to availability, consistency and drought).*

The current operation involves importing of compost from Singleton and there is no change proposed to this phase of mushroom growing.

The proposed shed will be approximately 800m<sup>2</sup> in area with dimensions of 31.40m x 24.48m. The shed will have a wall height of 5m at the front, 6m to the rear and a total ridge height of approximately 7m. The shed will be constructed in green tones colorbond.

The existing access arrangements in the form of two separate driveways off Forrester Place will be maintained. The existing Entrance Gate 1 will continue to be used for vehicle movements for staff and mushroom pickups whereas the Entrance Gate No. 2 will continue to be used for deliveries to the site.

The current hours of operation are 7am to 3:30pm with ventilation fans operating up to 24 hours and occasional harvesting and mushroom pickup on weekends. The application proposes no change to the above hours of operation.

No signage is proposed.

The application does not propose to increase the processing capacity and staff numbers currently at a maximum of 70 employees.

### Background

Development Application No. DA0200/07 was submitted on 19 April 2007 proposing to construct a detached shed to be used for the existing mushroom growing business. The shed was to be located to the north of the allotment beyond the existing storage sheds. Following a public exhibition of the application a



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number of submissions were received raising concerns with the proposed location of the shed on several grounds including views, noise and the shed being too close to other properties on the adjoining lands.

On 13 May 2007, an on-site meeting was held at the subject property. This meeting was attended by the applicant and some of the residents of properties in Forrester Place. At the meeting the applicant agreed to consider an alternate location of the shed on vacant land between the existing building and the Forrester Place. A plan was also submitted to Council showing the alternate location.

On 2 August 2007 the applicant advised that the alternate site along the Forrester Place was not practical due to the area of land available requiring the proposed shed to be made narrower and longer, technology would then be non standard and therefore expensive to manufacture and not guaranteed to function properly. The applicant therefore requested the application be assessed based on the original plans.

On 18 April 2008 a meeting was held on-site which was attended by councillors, the applicant/owners, adjoining property owners, and Council staff. The location of the shed as currently proposed as well as the alternate location along the Forrester Place were discussed. The residents reiterated their concerns with the proposed location of the shed and requested that it be located along the Forrester Place frontage. At the conclusion of the meeting the applicant was requested to advise Council staff as to the location of the proposed new shed.

On 12 May 2008 the applicant submitted revised plans relocating the proposed shed on the vacant land between the existing building and the Forrester Place. This revised location of the shed is being considered in this assessment report.

### **Description of Site and Surrounds**

The site is irregular in shape with a frontage of 62.94m to Pitt Town Dural Road to the south, 378.86m to Forrester Place to the west and a further 64.55m to Forrester Place to the north with a total area of 2.96ha. The site is surrounded by rural residential properties.

Existing on the site are a number of sheds and structures used for growing and harvesting of mushrooms and a dwelling house used by the farm manager for residential accommodation.

Access to the site is from Forrester Place via two separate driveways. The Entrance Gate 1 which is located on the southern side is used for staff parking and loading of mushrooms. Deliveries to the site, which include phase 1 completed compost, is delivered through Entrance Gate 2.

### **Planning Assessment**

#### **Statutory Situation**

##### **(i) any Environmental Planning Instrument:**

The following planning instruments apply having regard to the subject application:

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

The land is zoned Rural Living under the provisions of HLEP 1989. The growing and harvesting of mushrooms is considered to be 'Intensive Agriculture' which is permissible in Rural living Zone with Council's consent.

#### Zone Objectives

The objectives of this zone are as follows:

##### *(a) to provide primarily for a rural residential lifestyle,*

The subject land is currently used for growing mushrooms and the proposal is to construct an additional shed to upgrade the current operations without increasing the production capacity of the farm. The

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existing dwelling on site will continue to be used for habitable purposes. No change is proposed to the current uses of the site. The proposed new shed will have a relatively minor impact on the subject property and surrounding properties. It will not compromise the current rural residential uses of the subject property or surrounding properties;

(b) *to enable identified agricultural land uses to continue in operation,*

The existing mushroom growing business will continue to operate from the site.

(c) *to minimise conflict with rural living land uses,*

The proposed new shed is aimed at improving the technology without intensifying the current level of operations. This would improve the amenity and minimise conflicts by reducing noise and odour impacts on the existing rural residential land uses.

(d) *to ensure that agricultural activity is sustainable,*

The subject site will continue to be used as a mushroom farm and the proposed works will improve sustainability of the land for intensive agricultural activity.

(e) *to provide for rural residential development on former agricultural land if the land has been remediated,*

The proposal is not for rural residential development.

(f) *to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,*

The proposed new shed is located along the Forrester Place frontage to the site. The proposed building will be constructed in a green colorbond material to match with other structures on the site. The existing Entrance Gate 2 will continue to be used for access to deliver farm material and substrate. Views to the proposed shed from the surrounding properties should only be minimally impacted as most of the dwelling houses are located beyond the subject site. Additional landscaping is to be provided in the vicinity of the shed to improve screening and minimise view impacts from Forrester Place.

(g) *to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflict with other land uses in the locality,*

The existing mushroom growing business will continue and there is no increase in conflict with other land uses in the locality.

(h) *to ensure that development occurs in a manner:*

(i) *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*

(ii) *that satisfies best practice guidelines and best management practices.*

The proposed new shed will result in additional roofwater. The site has adequate slope to drain the additional storm water to the existing dam located on the site. The proposed use is not likely to have any significant impacts on existing water catchments including the groundwater and surface water flows.

(i) *to prevent the establishment of traffic generating development along main and arterial roads,*

The subject site is not located on a main road. In addition the proposal will not result in an increase in the production capacity of the existing farm and minimal additional traffic is likely to be generated as a result of the proposed new shed.

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

The introduction of improved technology will reduce the energy consumption of electricity and fossil fuel. when compared to that required for the current processes involved in the growing of mushrooms. The proposal is considered not to create any unreasonable demand for the provision or extension of public amenities or services.

### **Sydney Regional Environmental Plan No. 20 (No.2 -1997)**

It is considered that the proposed development is consistent with the aims and objectives of the Plan.

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

#### **Car Parking and Access**

The application involves the construction of a new shed for the existing mushroom farm business. The proposal will not involve any significant increase in traffic movements associated with the facility as it is envisaged that there will be no increase in the overall production capacity of the farm.

The application does not involve any increase in existing employee numbers. No change is proposed to the existing car parking, loading and unloading operations including the number of delivery vehicles to and from the site. The Entrance Gate No. 1 will continue to be used for staff parking and mushroom pick ups whereas the Entrance Gate No. 2 will be used to deliver substrate compost and other farm material. It is considered that suitable provision for access and parking has been made on the subject land.

#### **Community Consultation**

The application was publicly exhibited for the period 8 - 22 May 2007. A total of 2 individual submissions and a petition signed by 7 persons were received. These submissions raised concerns on the basis of additional noise, unacceptable views, increase in traffic, increase in compost odour and impact on property values. The submissions also suggested that the shed be relocated to the Forrester Place frontage.

Upon receipt of additional information from the applicant, the people who made submissions were again notified for the period 13 - 24 November 2007. A total of three submissions reiterating previous concerns were received. The objectors also requested an onsite meeting with Council.

A meeting was accordingly held on 16 April 2008 and following the meeting, the applicant submitted revised plan relocating the proposed shed to Forrester Place frontage as suggested in most of the previous submissions. The amended plans were notified for the period 28 May - 16 June 2008. A total of six submissions were received.

Two of the submissions raised no objections to the proposal subject to a ensuring no increase in the production, traffic and planting of additional trees along the boundaries. A summary of the matters raised in the submissions is provided below:

- Improvement in technology will result in a 4 times increase in treating capacity of the present treatment room
- Increase in staff vehicles and truck movements due to increased production
- Increased odour
- Increase the flow of silt over the road
- Impact on property values
- No objection subject to:
  - No increase in traffic and no change to the volume of mushroom spawned
  - Bulk Pasteurisation does not mean larger quantities of RAW COMPOST as this shed openly faces the residents
  - No existing barrier trees to be removed on the northern and eastern side of the property
  - Extend proposed tree planting from Forrester Place across existing fence line northern end

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- Replace barrier of dead pine trees along eastern boundary as no tree planting has been proposed along this boundary.

The issues raised in the submission are discussed in the subsequent sections of this report.

### ***Context and Setting (raised by respondents)***

Surrounding properties are primarily used for rural residential and agricultural purposes. These properties contain dwelling houses and sheds of varying sizes. The proposal involves the construction of a new shed along the Forrester Place boundary with a setback ranging between 5m and 2.6m provided.

There are several dwelling houses adjoining the subject land, however there are no dwelling houses or driveway crossings directly opposite the area between the Entrance Gate No 1 and 2 where the proposed shed is to be located. The property which is directly opposite the site to the west has both its dwelling house and driveway off Pitt Town Dural Road. It is considered that the bulk and scale of the proposed works are generally consistent with the scenic quality of the surrounding area.

The proposed use is permissible in the Rural Living zone. The proposed development will represent no change to the intensity of use of the land and will have a minor impact on the surrounding locality. Surrounding properties will not be significantly or unreasonably impacted upon in terms of loss of visual or acoustic privacy, loss of views and vistas as the proposed shed will be constructed adjacent to the existing structures with a backdrop of a much higher structure due to the slope of the land. In addition, the majority of the residents supported the shed to be sited at this location.

### ***Access, transport and traffic (Raised by respondents)***

The subject site has dual frontage to Pitt Town Dural Road and Forrester Place. The main access is provided to the site off Forrester Place via two existing driveways. The Entrance Gate 1 is used for access to staff vehicles and mushroom pickup vehicles. All deliveries to the site occur from the Entrance Gate 2.

The proposal will not increase the production capacity of the existing farm and the application states that there will be no change to the existing heavy and staff vehicle movement to the site. The application does not propose any increase the business activity or rate of production rather achieve a more consistent quality of substrate and ensure maximum efficiency from the raw material brought in to the site.

The existing driveway to Entrance Gate 2 and the manoeuvring area is unsealed. It is proposed to provide an all weather surface to the manoeuvring area. A condition of consent is included in the recommendation that requires a minimum 9m wide bitumen sealed rural footway crossing. This will minimise any silt movement from the site to the street and adjoining properties.

### ***Noise and Dust (Raised by respondents)***

Noise likely to be generated by the existing farm includes that from the vehicles, filling of substrate in wooden trays, operation of ventilation fans and forklift movements. The normal hours of operation are from 7:00am to 3:30pm with occasional weekend harvesting and mushroom collection.

The new shed will be used to complete the peak heat and spawning phases of the mushroom growing process. The existing system requires the use of forklifts to frequently relocate the wooden trays to the dedicated rooms. This process usually occurs outdoors resulting in noise. The new system which is to be installed within the new shed will phase out the use of wooden trays and thus reducing the noise emissions.

The application includes an acoustic report which concludes that the external noise emissions from the new shed will fully comply with EPA Industrial Noise Policy requirements provided construction recommendations which require the external wall and roof to be constructed with colorbond sandwich structure with junctions sealed. The recommendation of the Acoustic report is included as a condition of any consent.

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In regards to the dust or silt, it noted that a condition of consent requires on-site manoeuvring areas to be all weather surface and the Entrance Gate 2 crossing to be bitumen sealed . This will minimise any dust or silt movement to the street and adjoining properties.

### ***Odour***

The existing farm imports fully prepared Phase 1 compost which is comprised of raw materials such as wheat straw, chicken litter and gypsum in their basic form composted into a specific substrate for mushroom growing. The application states that the proposed change in technology will continue to use the compost of the same maturity and raw compost will not be produced on site. The same type of compost will be processed using better technology where oxygen will be monitored and controlled by computer thereby reducing the odour as compared to the existing processes.

### ***Drainage***

The site slopes to the north and the majority of the runoff is directed towards a dam located near the north western boundary. The new shed as well as the works to the manoeuvring area will result in some additional runoff. A condition of consent requires the roof and hardstand areas to be piped to discharge in the dam on site.

### ***Landscaping and tree planting (Raised by respondents)***

The construction of a new shed would require removal of some trees along the Forrester Place frontage to the site. A condition of consent requiring replacement trees as well as planting of additional trees beyond the entrance Gate No 2 along the east-west axis is included in the recommendation. These trees shall be Australian native with a mature height enough to provide screening to the new shed.

One of the submissions also requested additional trees along the eastern boundary beyond the northern edge of the existing platform where the shed as originally proposed was to be constructed. Since no works including removal of any existing vegetation is to be carried out in this area, planting of additional trees is not a work that is connected with the current development application and the imposition of such a condition is not possible. The amended location of the shed does not warrant planting of this area as it is screened by other buildings.

### ***Impact on land values***

A concern is raised that the proposed new shed will impact on property values in the area.

There is no evidence to suggest that the proposed new shed will affect re-sale of other properties in the area, particularly as the mushroom farm is already in existence.

### ***Cumulative impacts***

The proposed additional shed is considered to be compatible with the surrounding land uses and subject to compliance with conditions of consent no significant negative cumulative impact is foreseen.

### ***Suitability of the site for the development***

The proposed shed is to be used in conjunction with the existing use of the site. There are no significant constraints of surrounding land uses that will make this development prohibitive. The proposed development will not lead to unmanageable transport demands as no change is proposed to the production capacity of the existing farm and adequate access, manoeuvring areas and on-site car parking for vehicles associated with the use can be provided. The air quality and microclimate is likely to improve as the introduction of new technology will minimise noise, odour and dust from the site. The site is not critical to the water cycle of the catchment. The development will not have a significant impact upon critical habitats and threatened species, populations, ecological communities and habitats. It is therefore concluded that the site is suitable for the proposed development.

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### Public interest

The submissions of the respondents have been identified in an earlier section of this report. It is considered that the concerns raised are not of sufficient weight as to warrant refusal of the application and many can be addressed by way of condition of consent. In addition, the application was modified and the shed relocated to the current location in light of the suggestions made by some of the respondents.

### Conclusion

The proposed construction of a new shed to be used in conjunction with the existing mushroom growing business for the installation of a new system for the peak heating and spawn running phases demonstrates satisfactory compliance with the provisions of Sydney Regional Environmental Plan No. 20, Hawkesbury Local Environmental Plan 1989, Hawkesbury Development Control Plan 2002 and other relevant policies.

Subject to the inclusion of appropriate conditions relating to acoustic treatment, additional landscaping and operational restrictions it is considered that the proposal constitutes a satisfactory form of development. The matters raised by the respondents do not warrant refusal of the application. Accordingly, it is recommended that the application be approved.

### RECOMMENDATION:

That Development Application DA0200/07 for the construction of a new shed to be used in conjunction with the existing mushroom growing business at Lot 8 DP 263911, 457 Pitt Town Dural Road, Maraylya be approved subject to the following conditions:

#### General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
5. The development shall comply with the provisions of the Building Code of Australia at all times.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
7. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.

#### Prior to the Issue of the Construction Certificate

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

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10. Construction of the access, cut and fill and retaining walls are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director of Environment and Development or an Accredited Certifier.
11. Payment of a Construction Certificate checking fee of \$280.00 and a Compliance Certificate inspection fee of \$560.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2009. Fees required if an Accredited Certifier is used will be provided on request.
12. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$2,745.00 shall be paid to Hawkesbury City Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time).

The contribution is to be paid prior to the issue of the construction certificate and copies of receipts(s) confirming that the contribution has been fully paid are to be provided to the certifying authority.

13. A landscape plan, prepared by a suitably qualified person, is to be approved by the Principle Certifying Authority prior to the issue of the Construction Certificate. The plan is to make provision for landscaped screens along the Forrester Place boundary in front of the new shed and additional trees beyond the entrance Gate No 2 along the east-west axis to complement the existing trees. The proposed plant species shall be Australian native with a minimum mature height of 8 metres, are to be specified on the plan. These landscaping works are to be completed prior to the issue of the Occupation Certificate.
14. Retaining walls are to be designed by a suitably qualified and experienced Structural Engineer. Plans certified by a structural engineer are to be submitted with the application for construction certificate.
15. All roofwater and hardstand areas are to be drained to the existing dam on the site. A drainage design is to be submitted with the construction certificate for approval. The plan is to be prepared by a suitably qualified person. The plan is to include adequate scour protection to prevent erosion at the outlet/s.
16. The plans are to be amended in accordance with the recommendations of the Acoustic Report prepared by Acoustic Logic Consultancy Dated 24 June 2008, the external wall and roof shall be constructed with colorbond sandwich material with junctions sealed. The cavity shall be minimum 100mm and filled by 11kg/m3 glasswool insulation. Details are to be submitted with the Construction Certificate.
17. The plans are to be amended in accordance with the recommendations of the Acoustic Report prepared by Acoustic Logic Consultancy Dated 24 June 2008, the air intake of the plant room is to be located on the western façade of the plant room. Details are to be submitted with the Construction Certificate.
18. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.

### Prior to the Commencement of Works

19. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.

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20. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
21. A copy of receipt of payment of Long Service Levy shall be provided to the Principal Certifying Authority prior to any works commencing on site. Payments can be made at Long Service Corporation offices or most Councils.
22. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
23. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
24. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
  - a) Unauthorised access to the site is prohibited.
  - b) The owner of the site.
  - c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
  - d) The name and contact number of the Principal Certifying Authority.
25. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.

### During Construction

26. All fill to be adequately compacted by track rolling or similar in layers not exceeding 300mm.
27. The cut or fill shall be battered at a slope not exceeding 1 (one) vertical to 4 (four) horizontal, with a height not exceeding 0.5metre.
28. The development shall be completed in accordance with the approved colours and finishes and shall not be altered.
29. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
30. No trees other than those within 3m the footprint of the building are to be removed without the approval of Council.
31. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
32. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
33. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
34. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.



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35. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
- a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
  - b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
  - c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.

36. Mandatory inspections shall be carried out and Compliance Certificates issued only by Council or an accredited certifier for the following components or construction:

**Note: Structural Engineer's Certificates, Drainage Diagrams and Wet Area Installation Certificates are NOT acceptable unless they are from an accredited person.**

- (a) commencement of work (including erosion controls, site works and site set out);
  - (b) piers;
  - (c) steel reinforcement prior to pouring concrete;
  - (d) external sewer or stormwater lines, prior to backfilling;
  - (e) framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
  - (f) on completion of the works;
37. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
38. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
39. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
40. A bitumen sealed rural footway crossing 9m wide shall be constructed to the development in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification.

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

41. Compliance with all conditions of this development consent.
42. Retaining walls are to be certified on completion by a suitably qualified and experienced Structural Engineer.
43. A water quality management plan for the dam water is to be prepared by a suitably qualified person and submitted to Hawkesbury City Council for approval. The plan should include a testing regime; consider the testing required, and the frequency of the testing. The plan should clearly identify the water quality criteria, and the remedial actions (if any) following an unsatisfactory reading. In order to

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accommodate consistently good readings, it is suggested that a more relaxed frequency be required where several good readings are experienced.

### Prior to Use of the Development

44. No internal or external alterations shall be carried out without prior approval of Council.
45. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
  - a) been assessed by a properly qualified person, and
  - b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
46. Operating hours shall be limited to 7.00am to 3.30pm Mondays to Fridays. A maximum of four mushroom collection deliveries per month is permissible and shall only be carried out between 8:00am and 3:30pm on Saturdays and Sundays.
47. Noise generated as a result of the development shall be managed so that the LAeq noise levels, measured at any point in accordance with the NSW DEC's Industrial Noise Source Policy, do not exceed 5dB(A) (LAeq) above background levels (LA90) with respect to noise amenity of nearby properties and associated outdoor areas.
48. Noisy activities such as forklift movements and transport of growing trays should not commence until after 7:00am on a weekday; and after 8:00am on a Sunday or public holiday.
49. The Development shall be conducted so as to avoid unreasonable noise or vibration and cause no unreasonable interference to adjoining or nearby residential areas, particularly from equipment, sound systems and the like. In the event of a noise problem arising, the person in charge of the premises shall when instructed by Hawkesbury City Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to the satisfaction of Manager Regulatory Services.
50. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.
51. No advertising signs or structures shall be displayed on the footpaths, pedestrianways, roadways or on any land other than the approved development site.
52. The development shall be limited to the area shown on the submitted plans.
53. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
54. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
55. All vehicles being loaded or unloaded shall stand entirely within the property.
56. All vehicles shall be driven in a forward direction at all times when entering and leaving the premises.
57. All waste materials shall be regularly removed from the property.

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### Advisory Notes

- The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
- The applicant is advised to consult with:
  - (a) Sydney Water Corporation Limited
  - (b) Integral Energy
  - (c) Natural Gas Company
  - (d) a local telecommunications carrier

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.

- The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

### ATTACHMENTS:

- AT - 1** Locality Plan
- AT - 2** Site Layout Plan
- AT - 3** Floor Plan
- At - 4** Elevations

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Map of the City of Port Huron, Michigan, showing various lots and their identifiers. The map includes a north arrow in the bottom left corner and a scale bar at the bottom center indicating 0 to 112.973m. The map is divided into numerous lots, each labeled with a number and a lot identifier. A specific lot, Lot 5 DP 250911, is highlighted in blue. The map also shows major roads like Port Huron - Dunes Road and Port Huron - Dunes Road, and a water body labeled 'Port Huron - Dunes Road'.

Lot 5 DP 250911 (highlighted in blue)

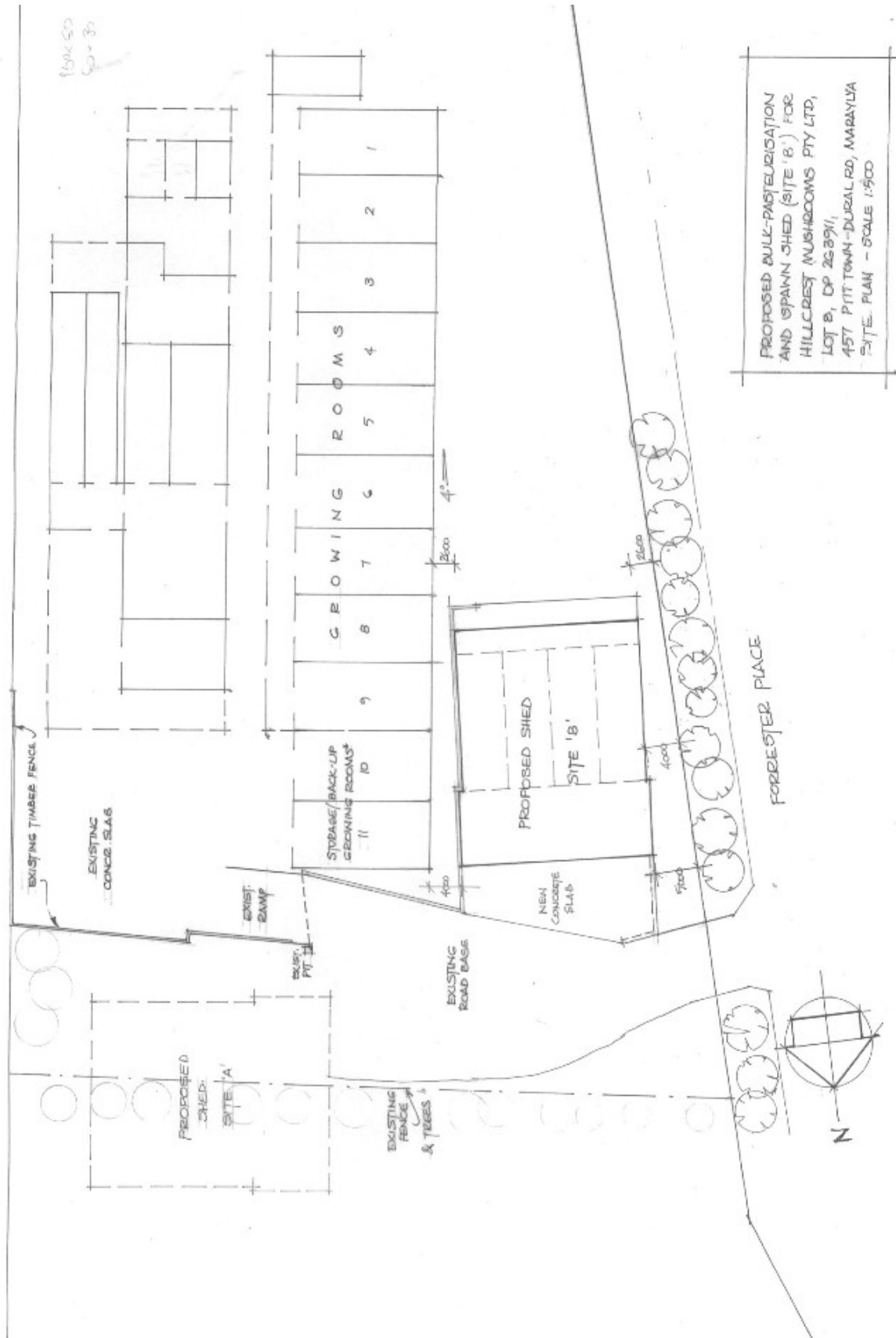
Other lots shown include:

- Lot 1 DP 250911
- Lot 2 DP 250911
- Lot 3 DP 250911
- Lot 4 DP 250911
- Lot 6 DP 250911
- Lot 7 DP 250911
- Lot 8 DP 250911
- Lot 9 DP 250911
- Lot 10 DP 250911
- Lot 11 DP 250911
- Lot 12 DP 250911
- Lot 13 DP 250911
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- Lot 200 DP 250911

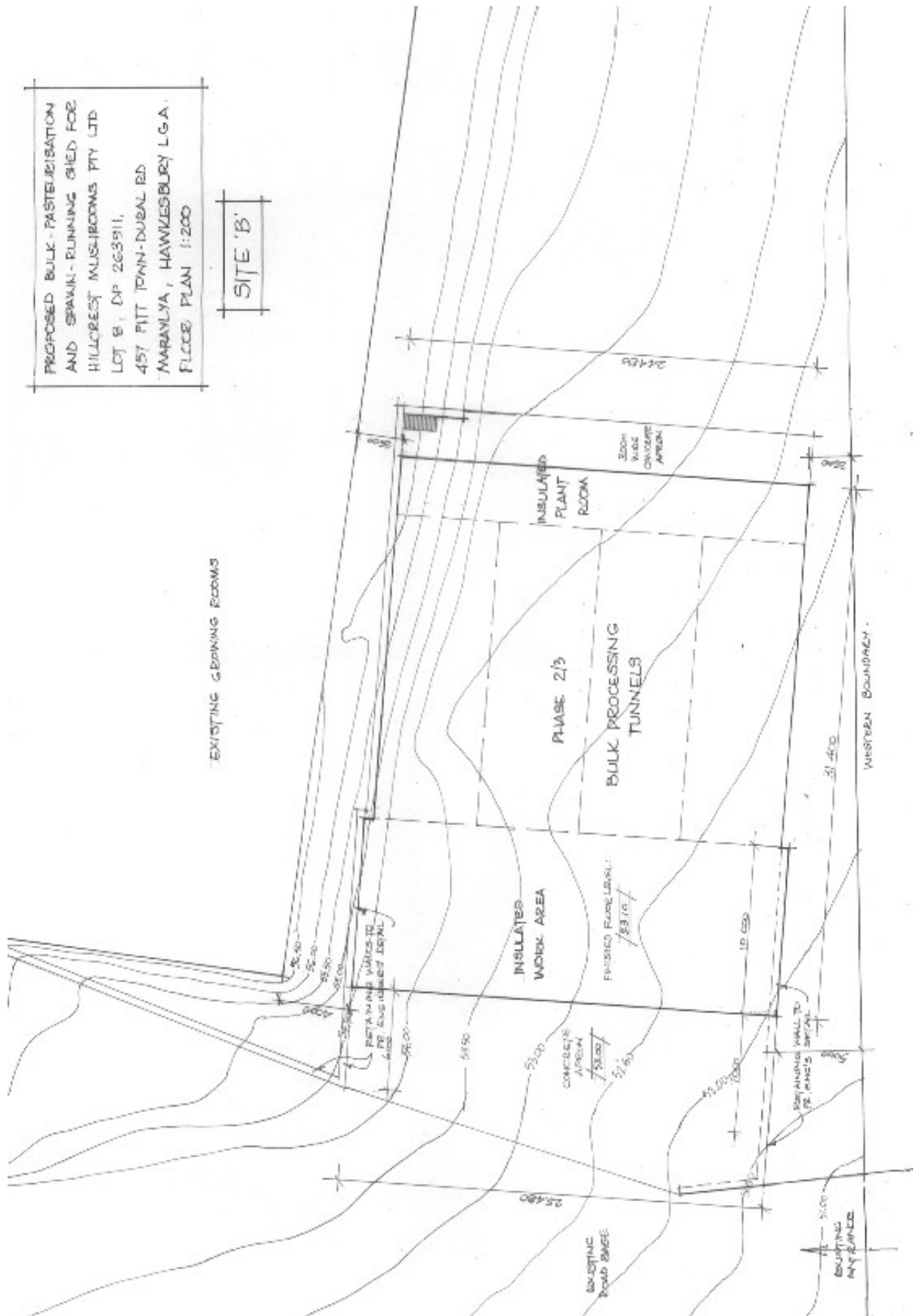
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## AT - 2 Site layout plan



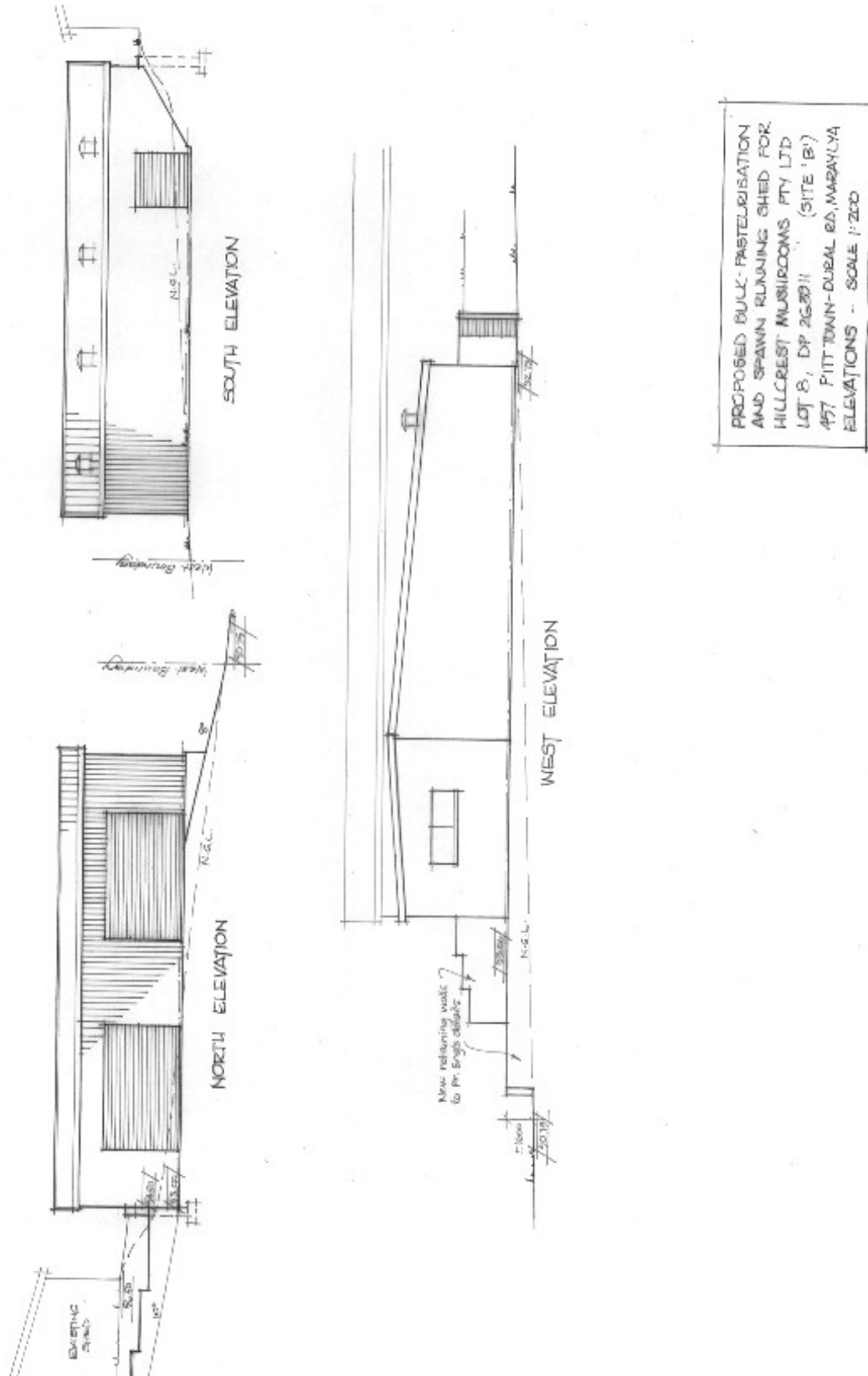
## AT - 3 Floor plan



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At - 4 Elevations



oooO END OF REPORT Oooo

## ORDINARY MEETING

Meeting Date: 8 July 2008

**Item: 142**                    **CP - Application for Residential Rezoning - Lot 2 DP237575, 35 Chapel Street, Richmond - (95498)**

**Previous Item:**            103, Ordinary (27 May 2008)

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### REPORT:

#### Introduction

Council has received a request from Montgomery Planning Solutions, acting on behalf of land owners Mr P and Mrs K Smith, for the rezoning of Lot 2 DP 237575, 35 Chapel Street, Richmond to allow for the subdivision of the land into 16 lots. The proposed lots range in size from 1200m<sup>2</sup> to 5.20ha.

The applicant requests the rezoning be incorporated into the Council's conversion of Hawkesbury Local Environmental Plan 1989 into the NSW Governments Standard LEP (template LEP) and that Council prepare a site specific Development Control Plan to control allotment sizes, setbacks, upgrading of access, building heights and roof pitch.

This report provides an assessment of the proposal.

#### Background

This matter was considered by Council at the meeting of 27 May 2008 where the following resolution was made:

*"That this matter be deferred until the next Council meeting."*

On 4 June 2008 Council received a letter from the State Emergency Service regarding the subject property. A copy of the letter and it's attachments are attached to this report. The SES were approached by the property owner on 28 May 2008 (copy attached) and requested a *"decision of your Department on this matter"*. The letter from the landowner also stated the following:

*"Recently on the 27<sup>th</sup> May 2008 a Development Application was heard at a Hawkesbury City Council Meeting. Council deferred the D.A. until we have correspondence from the SES before a final Council decision will be made."*

This statement from the landowner is incorrect as the matter considered by Council on 27 May relates to a rezoning of land and not a development application. The letter also incorrectly states that the Council deferred the matter until correspondence was received from the SES. The matter was essentially deferred at the request of the applicant's consultant to allow time to submit a response to the issues raised in the report.

The SES statement to the landowner is also partly inaccurate in relation to the comments regarding funding for the Floodplain Risk Management Plan over the last 11 years. Although Council has received significant funding over this time, that funding was to undertaken flood evacuation works and not for the preparation of a Flood Risk Management Plan. However, it should be noted that Council is in discussion with the Department of Environment and Climate Change (DECC) in relation to finalising the brief for the Flood Risk Management Plan work. It is not anticipated that this work will be completed until late 2009 at the earliest.

The SES letter to Council states the following:

*"As can be seen in the Service's response, we do not intend to engage with the applicant. Council must urgently address the matter of developing a strategic floodplain risk management plan for the LGA. The SES is increasingly concerned about the cumulative impact of ongoing infill and new development within the LGA. That development has the*



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*potential to undermine the community safety gains achieved under the Hawkesbury-Nepean Flood Management Strategy."*

On 1 July 2008 the applicant submitted to Council a response to the report. The response is attached to this report. At the end of the report is a response to the applicant's additional information.

Given that the landowner and their consultant have not provided any substantial additional information in relation to this rezoning matter and the letter from the SES regarding concerns with the cumulative impact of infill development without a strategic context, the recommendation in this report is similar to that recommended to Council on 27 May 2008.

### Description of Site and Surrounds

The property is to the south of Chapel Street, Richmond and is accessed via a Right of Carriageway over an access handle for the adjoining equine stud (Hobartville Stud). Note the legal status of this accessway will be discussed later in this report. The property has an area of 8.099 ha and is presently zoned part Environmental Protection - Agriculture Protection (approx 6.6ha) and part 7(a) Wetlands (approx 1.5ha). The land zoned 7(a) Wetlands is also shown as a wetland under Sydney Regional Environmental Plan No. 20 - Hawkesbury - Nepean River (No.2 - 1997).

Under the current provisions of the Environmental Protection - Agriculture Protection zone, the minimum lot size for new lots is 10ha, hence at present the property does not have subdivision potential.

The property varies in height from approx 21m AHD to 17m AHD in the area where the new lots are proposed. This is an area of approx 3.5ha with the higher land fronting the Right of Carriageway. Beyond this upper plateau the land then falls sharply to the north-west to low lying land with a height of approximately 9m AHD.

Improvements on the land currently consist of a dwelling with onsite disposal of effluent, a tennis court and associated driveway and landscaping. The balance of the property mainly consists of grass lands.

Housing and Open Space zoned land is located to the south, Hobartville Stud is located to the west, Kurrajong Road is located to the north, two dwellings with an aged care village (Hawkesbury Village) beyond is located to the north-east and Multi Unit Housing zoned land (John Tebbutt Mews) is located to the east. Hobartville Stud is listed as a heritage item on Schedule 1 of HELP 1989 and the subject land shares the accessway from Chapel Street with Hobartville Stud.

Beyond the immediately surrounding properties, the main distant views to the property are from the west through to north across the floodplain.

The height of 1 in 100 year flood event for the surrounding area varies from 18.3m AHD at Yarramundi to 17.5m AHD at North Richmond bridge.

The land is partly affected by the 20 - 25 ANEF contour, however most of the land proposed to be subdivided is not affected by the ANEF contours. The 20 - 25 ANEF affection does not represent a significant impediment to further subdivision of this land.

The land contains Class 4 and Class 5 acid sulphate lands as shown on the Acid Sulphate Soils Planning Map. The Class 4 land is generally in the low lying wetland areas, the Class 5 land is generally in the area of the proposed allotments.

### Chronology of Rezoning Requests / Council Decisions

August 1993 - Plan submitted to Council for 46 lots.

October 1998 - Re-submission of August 1993 plan from McKinlay Morgan & Associates Pty Ltd. McKinlay Morgan advised by the then Manager Building and Development to submit a site specific Local Environmental Plan application with accompanying Local Environmental Study considering matters such as visual impact, effect on wetlands, proximity to heritage items, service availability.

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February 1999 - Request from owners for Council to include land in Urban Development Strategy. Suggestion of approximately 30 lots.

March 1999 - Letter from Council advising owners that property falls outside Urban Land Strategy investigation areas. Advised that if they wish to pursue the matter then they should submit a detailed application and accompanying fee. Matters to be considered included in the letter.

May 1999 - Rezoning submission received by Falson and Associates Pty Ltd as well as \$2000 application fee. Proposal for 46 lots (same plan as 1993 plan).

August 1999 - Letter from Council to Falson and Associates requesting further information and clarification of some matters.

April 2000 - Response received from Falson and Associates. Number of proposed lots reduced to 38.

June/July 2000 - Matter reported to Council's General Purpose Committee. Recommendation that proposal not be supported, suggestion that a lower density development addressing concerns raised in report may be considered by Council. Ordinary Meeting of Council deferred matter pending submission of further information from applicant. Petition from some residents of William Cox Drive objecting to proposal was received.

December 2000 - Additional information, including traffic report, received from Falson and Associates. Proposal amended to 18 lots.

January 2001 - Meeting with Council staff, Mr Glenn Falson and Mr Smith. Additional information/clarification of issues requested by Council staff.

November 2003 - Letter from owners requesting advice regarding possibility of subdivision of land into 8 to 10 allotments. Letter also stated that a stud cattle farm had existed on the property since 1971.

April 2004 - Letter from Council advising of previous matters which require consideration/additional information.

October 2006 - Letter from owners requesting property be considered for residential rezoning in new template LEP.

November 2006 - General report to Council regarding template LEP. Mr Smith addressed Council.

December 2006 - Letter from Council advising of "conversion" nature of new template LEP and information to be submitted with rezoning request.

April 2007 - Notice of Motion regarding anomalies in Hawkesbury Local Environmental Plan 1989. Subject property nominated for change to residential zone or zone for aged care facility.

May 2007 - Report to Council regarding investigations resulting from Notice of Motion. Recommendation was that "The land owned by Mr Smith in Chapel Street Richmond not be included in the adjoining residential zone or a zoning appropriate for an aged care facility." Council resolution was that *"The land owned by Mr Smith in Chapel Street Richmond be subject to a further report to Council following the release of the State Government Subregional Study."*

October 2007 - Current proposal received from Montgomery Planning Services. Proposal for 16 lots.

In general terms, throughout the various proposals and discussions, Council staff have requested the follows matters be addressed in any rezoning proposal:

- Visual impact
- Effect on wetlands

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- Proximity to and impact on adjacent heritage item
- Service availability
- Department of Planning Section 117 directions
- Provisions of SREP No 20 Hawkesbury - Nepean (No.2 -1997)
- Details and justification of lot sizes, configuration and density
- Aircraft noise
- Impact on flora and fauna
- Traffic impacts, in particular operation of intersection of Chapel Street and Kurrajong Road - March Street
- Legal access over Right of Carriageway and adequacy of access

Whilst information on some of these matters has been submitted, not all matters have been adequately addressed or justified.

### **Applicant's Justification of the Proposal**

In summary the applicant's justifications are:

- The proposed form of housing is not available in the City.
- The proposal would have negligible impact on the environment.
- The land is flood free and presents no constraints to the proposed development.
- The adjoining wetland system will not be impacted and the proposal will not affect sight lines to the historic "Hobartville" stud.
- The developable area of the subject land is currently not used for agriculture.
- There is no agriculture in the immediate locality other than animal grazing and forestry, it is unlikely that the development proposed would create or contribute to rural land use conflict.
- Existing landscape values will be retained through careful subdivision design and application of development controls.
- The scenic river valley corridor, including the wetland floodplain grazing land and historic Hobartville Stud, will not be impacted by the proposed development.
- The land is bounded on two sides by existing urban development. Development of the land for large residential lots will create an appropriate transition between rural and urban land uses.
- The land has the appropriate physical characteristics to support residential development.
- The proposed rezoning represents infill development utilising existing infrastructure.
- The land is close to all amenities and services produced in the Richmond town centre.
- The proposal will add to the range of housing choice within the City of Hawkesbury and Richmond in particular.

### **Assessment**

#### *Draft North West Subregional Strategy*

The Draft North West Subregional Strategy was released in December 2007 and on exhibition for comment until March 2008. The strategy is yet to be finalised.

Within the Housing section of the draft Strategy the flood evacuation constraints of the Hawkesbury Local Government Area are specifically mentioned and states that further development in Richmond and Windsor is constrained by the capacity of the existing flood evacuation network. In this regard the strategy suggests that there is no capacity for additional growth outside that already planned under the current LEP without substantial work to the flood evacuation route. In this regard the dwelling target (5000 additional dwelling) assumes that growth will occur within the existing capacity of the LEP and north (west) of the Hawkesbury River.

The draft Strategy does not preclude further development south of the river, however, it needs to meet the sustainability criteria and it will be necessary to demonstrate flood evacuation measures are in place to the satisfaction of the State Emergency Service. These matters have not been satisfactorily addressed in the submissions.

#### *Land Use Strategy*

On 7 May 2007 Council resolved to undertake a Land Use Strategy.

It is envisaged that this Strategy would, inter alia, investigate future housing needs and options to fulfil any required demand. This would include an examination of the criteria to be used to identify land suitable for new residential development.

As resolved in May 2007, the preparation of the Land Use Strategy is dependent on the North West Sub-Regional Strategy prepared by the Department of Planning. The draft Sub-Regional Strategy has enabled work on population projections and initial data gathering to commence, including discussions with other authorities. However, at present this Strategy has not advanced to a stage whereby housing supply and demand has been thoroughly investigated or the criteria for land to be investigated established. It is expected that the criteria will be discussed and reported progressively to Council in the latter half of 2008. In the absence of this Strategy it is considered premature to recommend support for the proposal presented to Council.

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

Two Department of Planning Circulars are of particular relevance in considering the 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 rezonings 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 implication 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.

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.*

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Further the Circular states that rezonings unlikely to be supported include the rezoning of a site for residential uses ahead of other land that is identified in a strategic urban settlement strategy and land rezoning or change of 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 outcomes of the previously mentioned Land Use Strategy would serve as a guide for a urban settlement strategy (or similar) and provide context for any resultant comprehensive LEP dealing with the supply and type of residential development permissible within residential zones. In light of the Department's advise it would appear premature to support the proposal in the absence of the Land Use Strategy.

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.

	<b>Evaluation Criteria</b>	<b>Applicant's Response</b>	<b>Comment in Reply</b>
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)?	At this time there is no agreed regional strategic direction for development in the area.	The draft Subregional Strategy (released after this proposal was received) seeks to set the direction for development in the area. Direction of draft Subregional Strategy discussed above. The Department of Planning will require Council to take the draft Strategy into account.
2.	Will the LEP implement studies and strategic work consistent with State and regional policies and Ministerial (s.117) directions?	The LEP will be consistent with State and Regional Policies. In regional terms the proposal is relatively minor and should be considered on merit as an opportunity to increase housing choice and availability within the existing Richmond township.	Compliance with S117 directions 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?	There will be no loss of employment lands within the City of Hawkesbury.	Agreed.
5.	Will the LEP be compatible/complementary with surrounding land uses?	The LEP will be compatible and complementary with the surrounding land uses. The surrounding uses are a mix of residential, aged persons housing, nursing home and grazing land. The LEP will provide an appropriate transition between land uses.	Compatibility with surrounding landuses discussed later in this report.  Existing development of the property also provides an appropriate transition between surrounding agricultural and residential land uses.

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	<b>Evaluation Criteria</b>	<b>Applicant's Response</b>	<b>Comment in Reply</b>
6.	Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?	No. It is considered that this site is unique.	The site not unique. Hobartville Stud and selected properties in Dight Street, Richmond are in the same zone with land above the 1 in 100 year flood level, outside of the ANEF contours and with possible connection to services.
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?	There have been no other spot rezonings in recent years in the locality	Whilst there have been no other written rezoning requests in the locality, Council staff regularly field counter and telephone enquiries regarding rezoning of rural and environmental protection zone land. Examination of the cumulative effects would be best achieved after the Land Use Strategy, this would also include the cumulative effect of similar proposal on the capacity of the flood evacuation routes serving Richmond.

*Section 117 Directions*

Section 117(2) of the Environmental Planning and Assessment Act 1979 directs Councils to consider various matters when preparing a draft LEP.

The relevant Section 117 directions for the proposal are as follows:

Direction 2.1 Environmental Protection Zone - a LEP shall not reduce the environmental protection standards that apply to Environmental Protection zones, including modifying any development standards or subdivisions controls.

Direction 3.1 Residential Zones - a draft LEP shall include provisions that encourage the provisions of housing that will:

- a. broaden the choice of building types and location available in the housing market, and
- b. make more efficient use of existing infrastructure and services,
- c. reduce the consumption of land for housing and associated urban development on the urban fringe,
- d. be of good design

Direction 3.4 Integrating Land Use and Transport - a draft LEP shall locate zones for urban purposes in such a manner so as to give effect to the aims, objectives and principles of *Improving Transport Choice - Guidelines for planning and development*

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Direction 4.1 Acid Sulphate Soils - a Council shall not prepare a draft LEP that proposes an intensification of land uses on land identifies as having the probability of containing acid sulphate soils on the Acid Sulphate Soils Planning Maps unless the council has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils.

Generally a draft LEP may be inconsistent with a Direction provided Council can satisfy the Department of Planning that the inconsistency can be justified by way of an environmental study or the inconsistency is of minor significance.

In terms of Direction 2.1 the applicant contends that the proposal is of minor significance. The applicant has not provided any specific information in relation to Directions 3.1, 3.4 or 4.1.

### *LEP Template Conversion*

The applicant suggests than the most appropriate template LEP zone for the developable area is RU6 Transition.

The mandated objectives of this zone are:

*To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.*

*To minimise conflict between land uses within the zone and land uses within adjoining zones.*

This zone has not been selected in the conversion of HLEP 1989 to the template LEP. The guidelines issued by the Department state that the transition zone is generally intended to be used in special circumstances for land that provides a transition or buffer between rural land uses (including intensive rural land uses) and other sensitive land uses such as residential, education or community uses.

In light of this, it would appear using the RU6 Transition zone for residential development, as is suggested, is in conflict with the intention of this zone which is to provide a buffer between rural landuses and residential uses.

### *HLEP 1989 and SREP No 20*

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;
- To protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways; and,
- To provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City.

In order to satisfy these objectives it is recommended that support for any zone change, as proposed in this particular case, be considered in a wider strategic manner such as through a Land Use or Residential Strategy as opposed to being considered in a ad-hoc and possibility inconsistent manner.

SREP No 20 Hawkesbury - Nepean (No.2 - 1997) contains many matters to take into consideration by Council when preparing a draft LEP. The main relevant provisions include total catchment management, environmentally sensitive areas, water quality, water quantity, cultural heritage, flora and fauna, riverine scenic quality, agriculture, rural residential development, and urban development.

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In general terms the SREP encourages minimising impacts on scenic areas, water qualities, and flora and fauna; protection of wetlands; new development to be located in areas that are already cleared; conservation of heritage items; and providing effective separation between agricultural uses and adjoining residential uses.

### *Potential Agricultural Land Use conflicts*

Rezoning of the property and its resultant subdivision in the manner proposed will result in more dwellings being closer to the adjacent equine stud Hobartville Stud. Whilst this Stud is not necessarily an intensive equine establishment, it is still a working, viable establishment that may be adversely impacted upon should a potentially conflicting landuse be permitted adjacent to the site.

When separation distances between equine establishments and surrounding residences are inadequate typical conflicts which arise relate to odours, harbourage of vermin, noise, and the early morning training and transportation of horses. Some of Hobartville Stud's horse paddocks, including stables, are located immediately to the west of the subject property.

### *Access and Traffic Management*

Vehicular access to the subject property is gained via the short section of Chapel Street (approx 82m long) south of Kurrajong Road - March Street and then via an existing accessway over an access handle for Hobartville Stud.

There is some confusion regarding the legal status of this existing accessway. Examination of relevant Deposited Plans and associated title documents suggests that the legal accessway to 35 Chapel Street may be via a 4.6m wide Right of Carriageway over adjoining Lots 1 and 2 DP 1065028 and Lot 11 DP 851433. These properties are immediately to the north-west of the Hobartville Stud access handle. The actual physical accessway appears to be within the 9.15m access handle for Hobartville Stud. If the proposal is to be supported this locational aspect will need to be clarified.

The applicant notes that the existing accessway over Hobartville Stud's land provides a tree-lined semi rural laneway entrance to the subject land and it is proposed that the accessway be upgraded by way of a number of single passing bays rather than widening to current road standards. However, it should be noted that this "rural laneway" is private property and not under the control of Council as public road. The applicant has not provided any design or concept diagram showing the layout of this access. The Indicative Lot Layout submitted with the rezoning request shows an internal private accessway serving lots 4 to 16. This access is towards the south-western corner of the subject property.

A subdivision of the type proposed would normally require a properly constructed public road accessing the new properties with a minimum road reserve width of 15m and a sealed carriageway width of 8m, kerb and guttering and stormwater drainage. The existing legal and/or physical right of carriageway does not and cannot comply with this requirement as it is private property, not fully owned by the subject site.

Typically, passing bays require a minimum sealed width of 6m, inclusive of the width of the single trafficable lane. Given the above mentioned confusion it is unclear if passing bays could be accommodated within the legal Right of Carriageway.

The legal right of carriageway terminates near the eastern most corner of subject property. As a result proposed lots 2 - 16 would not have legal access over Hobartville Stud land beyond the termination of the right of carriageway.

Essentially, the subject land does not have suitable access to a public road for the land to be considered further for future subdivision and development of the type proposed.

The applicant has submitted a traffic impact review prepared by Christopher Hallam & Associates Pty Ltd. The report is dated August 2000 and examines the traffic generation impacts of an 18 lot subdivision. It is unfortunate that the applicant has not submitted an updated traffic report which takes into account the possible impacts of the subsequent additions to Hawkesbury Village in the early 2000s and the anecdotal evidence that traffic volumes on Kurrajong Road - March Street have increased since 2000. RTA traffic



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counts for the period 1987 to 2002 show that Kurrajong Road average daily traffic volumes at the nearest traffic counter to the site have increase by 2% per annum. In 2002 the average daily traffic volume was approximately 27,000, if this trend has continued to present day then the average daily volume would be approximately 30,500.

In summary the traffic report found that the then intersection of Kurrajong Road - March Street/Chapel Street had an "E" level of service in the morning and afternoon peak hours. For a Give Way/Stop Sign controlled intersection an "E" level of service means the intersection is at capacity and requires another control mode. The reasons given in the report for this level of service was the high traffic volumes in Kurrajong Road - March Street and the difficulty drivers faced in making a right turn from Chapel Street. Such a turn movement requires drivers to wait for gaps in both easterly and westerly traffic flows in Kurrajong Road - March Street. The report states that the proposed subdivision would not change this level of service. The report also stated that:

*The current situation is one where there is no easy improvement option. The level of side street traffic flow is so low that options such as traffic signals or a roundabout would not be justified.*

Given the level of service identified in 2000, the possibility of a worse level of service now, and there being no identified opportunity to improve the level of service it would not be good planning practice to approve additional lots whereby the only means of access to the public road network is via this, at capacity, intersection.

### Services

The applicant advises that initial enquiries have been made with Sydney Water and Integral Energy and that sewer, water and electricity can be provided for the proposed development. The applicant has not provided any details as to any necessary easements, existing or proposed, required to provide these servicing.

Garbage and recycling collection in this short section of Chapel Street currently consists of approximately 17 services (i.e bins from existing dwellings in Chapel Street, Hawkesbury Village and the properties accessed via the right of carriageway). Council's trucks do not enter onto Hobartville Stud's land to collect garbage, hence all bins are serviced in Chapel Street. The proposed subdivision would add an additional 15 garbage and recycling services. Hence, at peak, approximately 32 garbage and 32 recycling bins would be put out for collection within this relatively short (82m) section of roadway. The Indicative Lot Layout shown in the proposal would also require residents to transport their bins up to 500m from their residences to a pick up point in Chapel Street. This in practice is considered inappropriate and unacceptable for a residential development.

### Conclusion

The proposed rezoning for residential purposes is inconsistent with the Department of Planning's draft North West Subregional Strategy in so far as it would result in residential development outside of that already planning under the current provisions of HLEP 1989.

Any decision to support the rezoning in advance of the findings of Council's Land Use Strategy, and resultant land release criteria, is considered to be premature. Such support would not be consistent with the fundamental aims of the HLEP 1989 which, in summary, is to provide for the orderly development of land within the City as well as to provide appropriate land in quality, area and location for residential uses.

The proposal rezoning is in conflict with the Department of Planning's objective of reducing the number of spot rezonings and the criteria for assessing spot rezonings. The proposal has not demonstrated satisfactory compliance with the Department's evaluation criteria.

The applicant's suggested zone change to RU6 Transition appears to be in conflict with the intent of that zone, in so far as it would introduce residential development in a zone which is to provide separation between residential uses and rural land. Furthermore, the resultant residential development may create land use conflicts with the neighbouring Hobartville Stud given the proximity of the Stud to the subject land.

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Finally, a fundamental failing of the proposal is the vehicular access to the site. This includes the currently at capacity intersection of Chapel Street and Kurrajong Road - March Street, the currently inadequate Right of Carriageway, the substandard proposed road construction to serve the resultant residential development, and the excessive distance residents will have to transport their garbage and recycling bins for collection.

It is therefore recommended that the proposed rezoning of 35 Chapel Street, Richmond for residential purposes not be supported.

### **Response to Applicant's Additional Information**

#### Draft North West Subregional Strategy

The applicant claims it is unfair to use the draft Strategy as a reason not to support the proposal given the proposal has been before Council for many years, and furthermore the proposal can be considered to be infill development.

#### **Comment**

It is true that the proposal has been with Council for many years. However, as shown in the "Chronology of Rezoning Requests / Council Decisions" section of this report, the applicant has been advised that the proposal was not supported. Regardless of how long the proposal has been with Council the Department of Planning will require Council to provide an assessment of the proposal in terms of its consistency or otherwise with subregional strategies.

The fundamental constraint of flood evacuation identified in the draft Strategy has not been addressed in the applicant's response.

#### Land Use Strategy

The applicant claims it is unfair to use the Land Use Strategy as a reason to oppose the application.

#### **Comment**

The report to Council does not seek to oppose the proposal due to the absence of a Land Use Strategy. The report recommends that the proposal be further considered once Council has finalised a Land Use Strategy/residential strategy.

#### Department of Planning Circulars

The applicant claims it is a matter of opinion whether the proposal complies with the requirements of these circulars.

#### **Comment**

This information was provided in the report so that Council would be aware of the Department's position on spot rezonings. Ultimately it will be the opinion of the Department as to whether or not the proposal satisfies the "Evaluation Criteria" and whether or not they would support this spot rezoning independently of the strategic planning projects Council is currently undertaking.

#### Section 117 Directions

With respect to Direction 2.1 the applicant claims that the proposal represents an inconsistency of minor significance.

#### **Comment**

The applicant claims that Direction 3.1 is not relevant because a residential zone is not proposed. However, this direction also applies to "any other zone in which significant residential development is permitted or proposed to be permitted". The Direction does not define what is "significant", however it is considered that such significance would be determined with respect to a variety of matters such as the number of lots, the location of the lots, the housing choice available, and the resultant use of infrastructure and services.

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The applicant claims that the proposal presents no inconsistencies with Direction 3.4 and 4.1. However as stated in the report to Council, the applicant has not provided any specific information in relation to these Directions.

For example, with respect to Direction 3.4 Integrating Land Use and Transport, LEPs are required to locate zones for urban purposes and included provisions that satisfy the provisions of *Improving Transport Choice - Guidelines for planning and development* (DUAP 2001). This document contains a specific section on Housing and includes matters such as proximity of housing to transport services, minimum densities, access to major road networks, pedestrian and cycle connections, and building setbacks. With respect to Direction 4.1, Council is required to consider an acid sulfate soils study assessing the appropriateness of the change of land use. Such study has not been provided by the applicant.

### LEP Template Conversion

The applicant states that the LEP request was for the rezoning to be considered as a spot rezoning and not part of the template conversion.

### **Comment**

The applicant has not provided a response regarding the concerns raised in the report concerning the appropriateness of the RU6 Transition zone other than to say that "The matter of the appropriate zone is ultimately for council to determine. Our suggestion for the transition zone was to assist the Council rather than being prescriptive." As mentioned previously in this report, the RU6 zone is not proposed to be used in the Template LEP and the use of that zone for the purpose of permitting residential development is contrary to the intent of the zone.

### HLEP 1989 and SREP No 20

The applicant claims that these matters were properly considered in the rezoning proposal. The report to Council made no comment as to the adequacy or otherwise of the applicant's assessment of these matters.

The report to Council however did recommend that given the objectives of the HLEP 1989 the proposal should be considered in a wider strategic manner as opposed to a piece-meal and possibly inconsistent manner.

### Potential Agricultural Land Use Conflicts

The applicant states that the Hobartville Stud is used for low scale grazing of horses and claims that there is no intensive agriculture which is likely to give rise to land use conflict. The applicant also advises that Hobartville Stud currently adjoins at least 25 small residential allotments and that only two lots (each in excess of 2000m<sup>2</sup>) are proposed to adjoin the Stud. As mentioned earlier in this report, the practice of approving conflicting landuses on adjoining properties is not a good practice.

### Access and Traffic Management

The applicant's cites legal advice previously submitted to Council regarding the status and use of the right of carriageway and claims that the provision of a design for the accessway is unfounded as this level of detail would normally be provided at development application stage.

The applicant has not provided any further information regarding the concerns raised as to the possible discrepancy between location of the legal accessway shown on respective deposited plans and the location of the physical accessway which presently exists.

The provision of a road design would not normally be required until development application stage, however it is contented that the proposed accessway is not "normal" due to its proposed width, provision of passing bays, retention of mature trees, and narrow width of the right of carriageway (legal or physical) in which the accessway is to be accommodated.

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The applicant states that the traffic report submitted with the proposal concluded that it would have no impact on the existing intersection of Chapel Street and Kurrajong Road.

The applicant has not responded to the concerns raised regarding the age (almost 8 years old) of the traffic report or the fact that the intersection has a "E" level of service and that no opportunities have been identified to improve this level of service.

### Services

The applicant claims that these matters are not required to be resolved at this stage. Under normal circumstances this would be correct, however, particularly with respect to garbage and recycling collection and the distance that residents would be expected to travel to enable waste collection, the proposal is not normal due to the remoteness of the proposed lots to the nearest collection point.

### **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**

No budget impact if the recommendation is adopted.

### **RECOMMENDATION:**

That the:

1. Proposed rezoning of 35 Chapel Street, Richmond for residential purposes not be supported.
2. Land be considered further when Council has finalised a residential strategy that is consistent with the North West Subregional Strategy and further work has been undertaken on the Flood Risk Management Plan for the Hawkesbury.

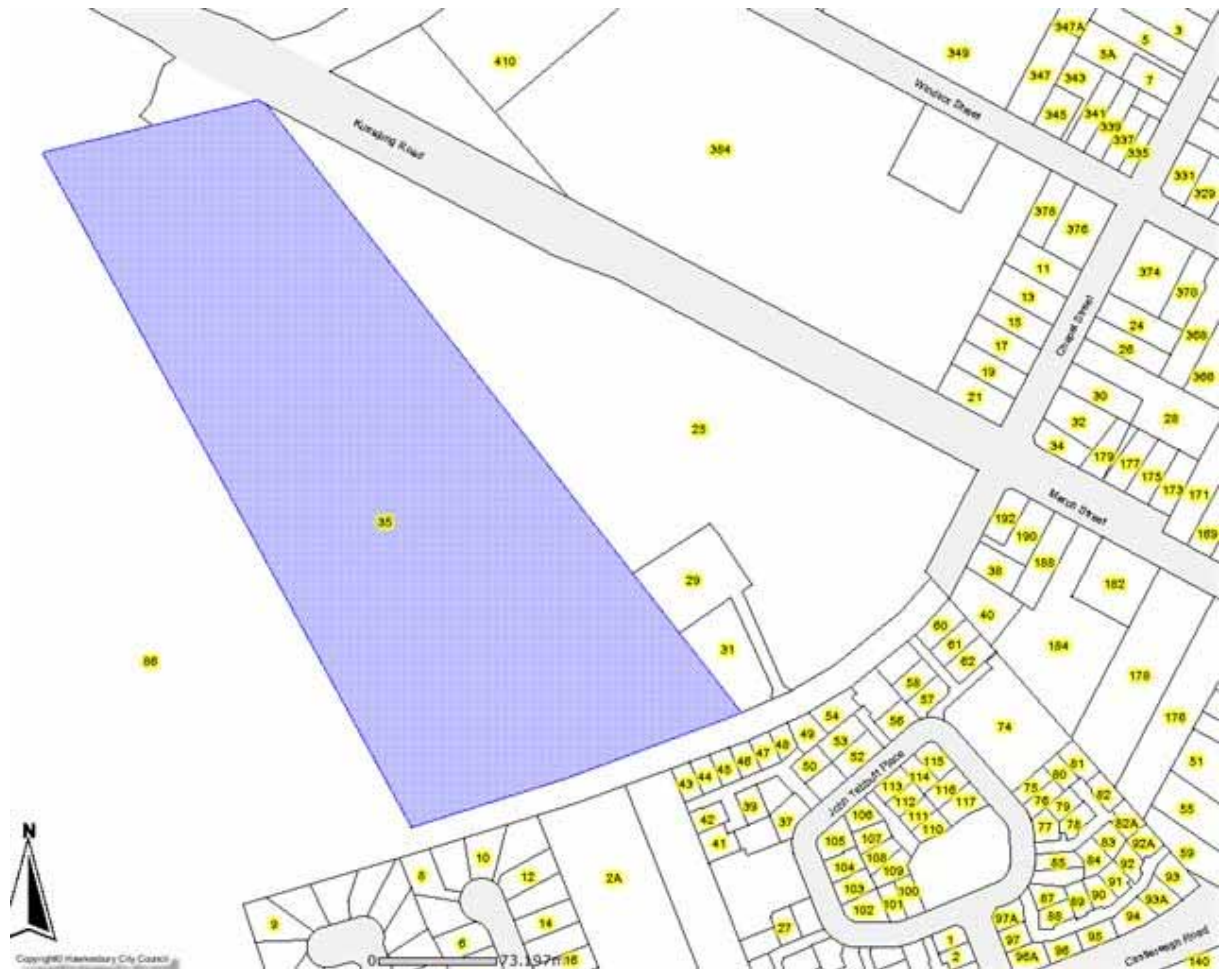
### **ATTACHMENTS:**

- AT - 1** Locality Plan
- AT - 2** Indicative Lot Layout
- AT - 3** Applicant's Submission

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Meeting Date: 8 July 2008

AT - 1 Locality Plan



**Meeting Date:** 8 July 2008

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**AT - 3 Applicant's Submission**



Our Ref: 07/0029  
Your Ref: P347/160



PO Box 49  
Kurmond NSW 2757

28 June 2008

The General Manager  
Hawkesbury City Council  
PO Box 146  
Windsor NSW 2756

Attention Mr Matthew Owens

Dear Matthew

**Application for Rezoning – 35 Chapel Street Richmond**

Further to my verbal submission at Ordinary Meeting of Council on 27 May 2008, I wish to formally respond to the matters raised in the Council report on behalf of my clients, Mr & Mrs Smith.

***Draft North West Subregional Strategy***

The current submission was lodged in October 2007, two months prior to the release of the draft Strategy. The application to rezone this land, however has been with the Council for many years, therefore it is most unfair that the draft Strategy is now used as a reason to not support the proposal.

It is pointed out that the North West Subregional strategy is a draft document only and has not been finalised. It is also submitted that the proposal is for sixteen allotments only, which should be considered as infill development in the same way as multi-unit housing is treated in Richmond.

***Land Use Strategy***

This proposed strategy has not commenced, despite Council resolving to prepare it more than 12 months ago. Again it is unfair to use this as reason to oppose the application. It is understood that no brief has been issued and no consultants engaged to prepare the strategy at this time.

***Department of Planning Circulars***

It is a matter of opinion, whether the proposal complies with the requirements of these circulars. In my submission, the proposal does meet all the relevant evaluation criteria. In relation to spot rezonings it is pointed out that Council does not have a strategic urban settlement strategy, nor is Council preparing a comprehensive LEP. Therefore, in my submission there is no reason why the matter cannot proceed.

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**Section 117 Directions**

In relation to Direction 2.1 – Environmental protection zone, clause 6(d) of the Direction provides that a draft LEP may be inconsistent if a council can satisfy the DOP that the draft LEP is of minor significance. In my submission, the addition of 16 allotments to the Richmond town centre is of minor significance.

The submission does not propose a residential zone, therefore Direction 3.1 is not relevant. The proposal presents no inconsistencies with Directions 3.4 or 4.1.

**LEP Template Conversion**

Council resolved on 29 May 2007 not to change the status of the land in the process of converting to the template LEP. This proposal requests Council to consider the land as spot rezoning and not as part of the template conversion. There is nothing to prevent Council from introducing a new zone from the template as proposed.

**HLEP 1989 & SREP 20**

In my submission these matters have been properly considered. DOP Circular PS 06-013: Local Environmental Studies states:

*"The decision to rezone land and the amount of information required to make this decision is a matter for council. However, it is not appropriate that detailed local environmental study style rezoning applications be expected before council or the Director-General has agreed to proceed with a rezoning.*

*As such councils should refrain from asking for excessive amounts of detail before a proposal is considered by council and the Director-General."*

**Potential Agricultural Land Use Conflicts**

The adjoining property mentioned in the report is used for low scale grazing and horses. There is no intensive agriculture which is likely to give rise to land use conflict. Notwithstanding, the proposed subdivision layout takes this matter into account as only two proposed lots will essentially share a common boundary with the horse establishment. Both of those lots are in excess of 2000m<sup>2</sup>, which provides for appropriate dwelling setbacks.

The horse establishment currently adjoins at least 25 small residential allotments and dwellings. It is also pointed out that two small rural-residential lots adjoin the northern boundary of my client's land. These are similar in size to that which is proposed by this application. While it is important to prevent conflicts with agriculture it is my submission that if there was any potential conflict as described in the report, it would already have occurred as existing adjoining dwellings are closer than what is proposed.

**Access and Traffic Management**

In relation to access, the submission dated October 2007 included legal advice, which confirms that access to individual subdivided lots can be legally provided without the consent of the owner of that land. Also there is no legal impediment to upgrading the right of carriageway.

It is submitted that the criticism that "the applicant has not provided any design concept diagram" is unfounded as this is a level of detail which would normally be provided at development application stage. Also the comment appears contrary to DOP Circular PS 06-013.



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The submission was accompanied by a traffic report which concluded that the proposal would have no impact on the existing intersection of Chapel Street and Kurrajong Road.

**Services**

This section of the report raises matters of detail which are usually dealt with during the draft LEP S62 consultation process and the development application process. In my submission these matters are not required to be resolved at this stage of the process.

**RU6 – Transition Zone**

The matter of the appropriate zone is ultimately for council to determine. Our suggestion for the transition zone was to assist the Council rather than being prescriptive.

In summary, all of the matters previously raised by Council have been addressed by the applicant in the October 2007 submission. The following table provides a checklist of those matters:

<b>Issue raised by Council</b>	<b>Response</b>	<b>Resolved</b>
<i>Legal access across Hobartville Stud property.</i>	Evidence that legal access is available for the proposal is provided in the form of a legal opinion from a solicitor and a barrister. Refer to attachment 3.	Yes
<i>Level of service of the intersection at Chapel Street and March Street.</i>	The traffic impact review (Attachment 2) concludes that the proposal would not significantly increase the peak period delays.	Yes
<i>The density of the site should be determined by the issues of access, heritage values and water supply.</i>	Through examination of the constraints, the density of the site has been determined as 16 large residential allotments. This density (4.5 dwellings per hectare) is considered a suitable transition from rural to residential densities.	Yes
<i>Availability of water.</i>	All services are available to the site. Should Council resolve to prepare a draft LEP further detailed design and investigation will proceed.	Yes
<i>Aircraft noise.</i>	The Department of Defence has issued a revised aircraft noise forecast map for Richmond RAAF Base to 2014. The previous forecast map showed the land to be largely affected by the 25 – 30 ANEF contour. The developable area of the subject land is now only slightly affected in the northeast corner by the 20 – 25 ANEF contour. The land is suitable for residential use.	Yes
<i>Submit a formal rezoning</i>	A formal rezoning application for this proposal	Yes

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application with a local environmental study.	was in fact submitted in 2000. Council considered the application and resolved to defer consideration pending a revised submission from the applicant. This report is submitted in response to Council's resolution.  The NSW Director General of Planning specifically advises that "it is not appropriate that detailed local environmental study style rezoning applications be expected before the Council or the Director General has agreed to proceed with a rezoning" <sup>1</sup> .	
Impact on Wetlands, Flooding and Amenity.	These matters have been satisfactorily addressed. Refer to section 5 of the report.	Yes
Consistency with DOP Circular PS 06-015, spot rezoning.	Refer to Attachment 3 for compliance with evaluation criteria.	Yes

There are no constraints which would restrict development of the land as proposed. The principles plan and indicative lot layout demonstrate that the development will respect the significance and setting of the adjoining heritage item. There will be no adverse environmental impacts arising from the proposal.

It would be appreciated if this response could be included in the report to Council on 8 July 2008.

Yours sincerely



Robert Montgomery  
Principal

<sup>1</sup> NSW Department of Planning Circular PS 06-013, 2 may 2006

oooO END OF REPORT Oooo

**ORDINARY MEETING****Meeting Date:** 8 July 2008

**Item: 143**      **CP - 13 Allotment Community Title Subdivision and Alterations and Additions to Approved Tourist Facility Development - Lot 202 DP1022911, 101-125 Greens Road, Lower Portland - (DA0102/08, 102260, 40203, 95498)**

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**Development Information**

**Applicant:** Montgomery Planning Solutions  
**Owner:** Mrs GJ Gilling  
**Stat. Provisions:** Hawkesbury Local Environmental Plan 1989  
**Area:** 21.265 H  
**Zone:** Hawkesbury Local Environmental Plan 1989  
Environmental Protection - Mixed Agriculture (Scenic)  
**Advertising:** 15/5/2008 to 30/5/08  
**Date Received:** 18/2/08

**Key Issues:**

- ◆ Departure from Minimum Allotment Size
- ◆ State Environmental Planning Policy No 1 Objection

**Recommendation:** Refusal

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**REPORT:****Introduction**

The application seeks approval for a 13 lot Community Title subdivision and alterations/additions to an approved tourist facility development. The application is being reported to Council given the extent of departure from the minimum subdivision area requirement of 40 hectares applicable to the Environmental Protection - Mixed Agriculture (Scenic) zone in Hawkesbury Local Environmental Plan 1989.

**Description of Proposal**

The application proposes a 13 lot Community Title subdivision of the site with the land areas being described as follows:

<b>Proposed Lot</b>	<b>Usage</b>	<b>Land Area</b>
1	Community Lot	19.7 ha
2	Tourist Cabin	490 sqm
3	Tourist Cabin	470 sqm
4	Tourist Cabin	470 sqm
5	Tourist Cabin	460 sqm
6	Tourist Cabin	470 sqm
7	Tourist Cabin	490 sqm
8	Tourist Cabin	575 sqm
9	Tourist Cabin	450 sqm
10	Tourist Cabin	400 sqm
11	Tourist Cabin	410 sqm
12	Manager's Residence	1 000 sqm
13	Caretakers Residence	1 000 sqm

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In addition, the application proposes alterations to the approved tourist facility development involving the following:

- four additional self-contained two bedroom cabins
- relocation of cabins, manager's residence and guest car park
- provision of two storage buildings to be used by guests and cabin owners
- alteration to the onsite effluent disposal system

### Background

Development Consent No. DA0797/06 was granted on 9 May 2007 for a tourist facility development on Lot 202 DP 1022911, 101-125 Greens Road (subject site) comprising the following:

- Six self-contained two bedroom tourist cabins
- Recreation building and swimming pool
- Car parking area accommodating a total of eight spaces
- Use of approved dwelling (DA0622/04) as managers residence
- Caretaker's cabin
- Business Identification Sign

Development Consent No. DA0705/06 was issued on 2 February 2007 for the conversion of the existing residence situated on Lot 201, DP 1022911 No. 101 Greens Road into a 45 seat refreshment room and associated car parking area accommodating a total of 19 spaces.

### Community Consultation

The application was notified to adjacent property owners in accordance with the requirements contained in Development Control Plan 2002 by letter dated 14 May 2008. In response to this notification two written submissions were received. The issues raised are detailed as follows:

**1. Proposal does not satisfy the minimum 40 hectare allotment area requirement for the Environmental Protection 7(d) zone.**

Comment: This issue is discussed in the main body of the report and it is considered that the variation to the prescribed standard is unacceptable and as such the submitted State Environmental Planning Policy No. 1 objection is not supported. In addition, support of the application would create an undesirable precedent for similar subdivision proposal's within the rural zoned land in the Hawkesbury area compromising the stated objectives of these areas.

**2. Development fails to meet the objectives for the Environmental Protection 7(d) zone contained in Hawkesbury Local Environmental Plan 1989.**

Comment: As discussed in the report it is considered that the proposal represents an unsatisfactory form of development having regard to the objectives of the Environmental Protection - Mixed Agriculture (Scenic) zone.

**3. Proposal is inconsistent with the provisions of Sydney Regional Environmental Plan No. 20.**

Comment: The proposal is inconsistent with the with the aims of the plan having regard to planning strategy for rural residential development and identified land release areas. Accordingly, it is considered that this issue is of such nature so as to be given determining weight.

**4. Community Title subdivision has the potential to impact the area and circumvents Council regulations relating to subdivision.**

Comment: A Community Title subdivision is similar to any other subdivision and is required to have regard to the minimum allotment size criteria contained in Hawkesbury Local Environmental

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Plan 1989. As discussed within the report it is considered that the extent of departure is unacceptable.

**5. Effluent laden runoff would have the potential to affect water quality on neighbouring land and wetland areas.**

Comment: A wastewater disposal assessment report was submitted in conjunction with the application demonstrating that the site is capable of accommodating wastewater associated with the proposal.

**6. Traffic safety concerns relating to the point of access associated with the site on Greens Road.**

Comment: It is considered that site access is satisfactory. In addition, it is noted that a number of conditions have been included in previous consents so as ensure that the proposal is able to satisfy relevant standards.

**7. An extensive aboriginal archaeological investigation of the site has not been undertaken .**

Comment: As the application is not recommended for approval the applicant was not requested to undertake an investigation of the site. Should Council consider approving the application an aboriginal archaeological investigation would be required to be undertaken prior to consent being issued.

**8. Noise impact associated with the usage of the tourist facility upon adjoining land owners.**

Comment: The level of noise anticipated in conjunction with the proposal is considered not to be of such nature so as to be given determining weight. In addition, appropriate conditions could be included restricting noise levels associated with the use so that compliance is achieved with the Industrial Noise Policy.

**9. Consent is not given for the provision of gate access in the boundary fence by the adjacent property owner.**

Comment: This is a matter that is required to be resolved between the respective land owners.

**10. Proposal is not consistent with development in the surrounding district.**

Comment: The allotment size proposed in conjunction with the subdivision is not consistent with the pattern of development in the immediate area. As such, this issue is considered to be of such nature so as to be given determining weight.

**11. The proposal poses an unacceptable bushfire risk.**

Comment: The subject application was considered by the NSW Rural Fire Service as Integrated Development pursuant to Section 100B of the Rural Fires Act 1997. As detailed in this report the NSW Rural Fire Service have considered the application and deemed the application as a satisfactory form of development having regard to Planning for Bushfire Protection 2001 subject to conditions.

**12. Development fails to adequately address legislative requirements relating to threatened species and endangered ecological communities.**

Comment: A flora and fauna assessment was submitted in conjunction with the subject application. It is considered that the impact of proposal upon existing vegetation is satisfactory and accordingly this issue has not been given determining weight.

**13. It is considered the proposal constitutes a dual occupancy which is not permissible in the zone.**

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Comment: The proposal includes a manager's residence and a separate caretaker's cabin. It is considered that the caretaker's cabin forms an ancillary use to the tourist facility development and accordingly is a permissible form of development and is able to be considered under Hawkesbury Local Environmental Plan 1989 as amended.

**Matters for consideration under Section 79(C) of the Environmental Planning and Assessment Act 1979:**

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are addressed as follows:

<b>Section 79C "Matters for Consideration" Comments</b>	<b>Section 79C "Matters for Consideration" Comments</b>
<b>Section 79C (1) (a)(i) – Provisions of any environmental planning instrument</b>	See discussion on "HLEP 1989" and SREP No. 20 in this report.
<b>Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument</b>	The proposal is not inconsistent with the provisions of Draft Hawkesbury Local Environmental Plan No. 153.
<b>Section 79C (1) (a)(iii) – Provisions of any development control plan</b>	Refer to discussion on Hawkesbury DCP 2002 in this report
<b>Section 79C (1) (a)(iii) – Provisions of the regulations</b>	None applicable.
<b>Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</b>	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed in the main body of this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality.</p>
<b>Section 79C (1) (c) – the suitability of the site for the development</b>	<p><b>Location</b> - The site is considered able to support the proposed development.</p> <p><b>Physical</b> - The site has sufficient area and dimensions, has suitable road access, is relatively free from environmental constraint and can be adequately drained. Therefore, the site is considered suitable for the proposed development.</p>
<b>Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</b>	Submissions received are addressed in detail in the main body of the report.

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

The subject site falls within the Middle Hawkesbury Nepean River Catchment area defined by SREP No. 20 (No. 2 - 1997). It is considered that the proposal is inconsistent with the aims of the plan having regard to planning strategy for rural residential development and identified land release areas.

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

SEPP No. 44 applies to land within the Hawkesbury Local Government Area for which development consent is sought having a total land area in excess of 1 hectare. Having regard to the requirements of SEPP No. 44 a flora and fauna assessment titled *Flora and Fauna Report for 125 Greens Road, Paradise Point Lot 202 in DP 1022911 - Proposed Holiday Cabins*, was prepared by Danny Wotherspoon - Abel Ecology, dated 20 May 2005 in relation to the site. This assessment estimated that percentage of feed trees situated on the site was less than 15% of the total number and that the site did not constitute Potential Koala Habitat.

It is considered that the conclusions contained in this report in relation to impact upon potential koala were reasonable and that the proposal would not have a significant effect in this regard.

### **Hawkesbury Local Environmental Plan 1989 (LEP)**

#### Clause 9A – Zone objectives

The proposed development is considered to be inconsistent with the objectives of the Environmental Protection - Mixed Agriculture (Scenic) zone. The stated objectives of this zone are detailed as follows:

- (a) *to encourage existing sustainable agricultural activities,*
- (b) *to ensure that development does not create or contribute to rural land use conflicts,*
- (c) *to encourage agricultural activities that do not rely on highly fertile land,*
- (d) *to prevent fragmentation of agricultural land,*
- (e) *to ensure that agricultural activities occur in a manner:*
  - (i) *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*
  - (ii) *that satisfies best practice guidelines and best management practices,*
- (f) *to promote the conservation and enhancement of local native vegetation, including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation,*
- (g) *to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component,*
- (h) *to prevent the establishment of traffic generating development along main and arterial roads,*
- (i) *to control outdoor advertising so that it does not disfigure the rural landscape,*
- (j) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.*

The subject application is deemed inconsistent with the objectives in that it proposes the fragmentation of agricultural land resulting in a significant reduction in the capability of the resultant allotments to accommodate uses anticipated by Clause 9 of Hawkesbury Local Environmental Plan 1989.

**ORDINARY MEETING****Meeting Date:** 8 July 2008Clause 11 – Rural subdivision – general provisions

Clause 11 (2) of HLEP 1989 provides the following:

- (2) *Except as otherwise provided by this clause and clause 13, the Council may consent to the subdivision of land in Zone No 7 (a) or 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone only if the area of each of the allotments to be created is not less than:*
- (a) *if it is not a lot averaging subdivision, that shown for the zone in Column 2 of the following Table, or*
- (b) *if it is a lot averaging subdivision, that shown for the zone in Column 3 of that Table.*

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Zone</b>	<b>Minimum allotment size if not lot averaging subdivision</b>	<b>Minimum allotment size if lot averaging subdivision</b>
<b>Environmental Protection—Mixed Agriculture (Scenic)</b>	<b>40 hectares</b>	<b>Not applicable</b>

Comment: The proposal does not satisfy the minimum area provisions detailed above in that the resultant allotments do not satisfy the minimum 40 hectare requirement proposing allotment sizes ranging between 400sqm and 19.7 hectares. Accordingly, it is considered that the subdivision does not provide land of suitable configuration that is consistent with the established subdivision pattern of the area.

It is noted that the applicant has submitted a SEPP 1 Objection in relation to the minimum area provisions that is considered separately in this report.

Clause 11 (3) of HLEP 1989 provides that:

- (3) *The Council may consent to the subdivision of land to which this clause applies only if:*
- (a) *there is a ratio between the depth of the allotment and the frontage of the allotment that, in the opinion of the Council, is satisfactory having regard to the purpose for which the allotment is to be used, and*

Comment: Clause 11(3) of HLEP 1989 provides that the consent authority is to be satisfied that the ratio between the depth and width of the allotment provides suitable dimension to enable the site to accommodate the range of land uses envisaged within the zone. It is considered that the resultant allotments are not adequate in size and dimension to sustain a form of development that is consistent with the zone objectives contained in the Environmental Protection - Mixed Agriculture (Scenic) zone.

- (b) *the pattern of allotments created by the proposed subdivision and the location of any proposed buildings on those allotments will, in the opinion of the Council, minimise the impact on any threatened species, populations or endangered ecological community or regionally significant wetland, watercourses, agriculture and bush fire threat, and*

Comment: It is considered that the proposed subdivision will not have a significant impact upon any threatened species, populations or endangered ecological communities or significant wetland, watercourses, agriculture or be subject to significant bushfire threat.



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- (c) *the Council has considered a geotechnical assessment that demonstrates the land is adequate for the on-site disposal of effluent, and*

Comment: A report prepared by Kerry Flanagan Wastewater On-site Wastewater Management Assessment & Design Proposed Tourist Facility on Lot 202 DP 1022911 101 Greens Road Lower Portland, dated 20 January 2008 details that a suitable opportunity exists to effectively treat and dispose of wastewater associated with the proposed development.

- (d) *in the opinion of the Council, each of the allotments created contains suitable areas for a dwelling-house, an asset protection zone relating to bush fire hazard and effluent disposal.*

Comment: Given the size and configuration of Proposed Lots 2 - 13 (ranging in area between 400 - 1000 sqm) individual bushfire asset protection zones and effluent disposal areas are not able to be accommodated on each allotment. In this regard the subdivision layout relies upon the community allotment to provide this requirement.

Clause 11 (6) of Hawkesbury LEP 1989 provides the following:

- (6) *Consent must not be granted to a subdivision of land in Zone No 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone that creates an allotment (otherwise than for use for a public purpose) unless the Council is satisfied that there is an area of land above the 1-in-100 year flood level on the allotment that is:*
- (a) *sufficient for the erection of a dwelling-house, and*
- (b) *at natural surface level or at a level achieved by filling carried out with the consent of the Council.*

Comment: The subject site has not been identified as being flood prone.

SEPP No. 1 Objection to Clause 11 of Hawkesbury Local Environmental Plan 1989

As detailed in the previous section of this report the proposed subdivision does not satisfy the minimum allotment size provisions of 40 ha in relation to land zoned Environmental Protection - Mixed Agriculture (Scenic) contained in Clause 11 of Hawkesbury Local Environmental Plan 1989. In regard to the non compliance with this development standard the applicant has submitted an objection under the provisions of SEPP No. 1 – Development Standards.

The following comments have been prepared by the applicant having regard to the objection lodged pursuant to SEPP No. 1:

- 1. The land is zoned to permit tourist facilities, and a tourist development has already been approved on the land. In terms of environmental impacts, the proposed subdivision is simply a line on a plan. It does not increase the impacts of the approved development in any way.*
- 2. The proposed lots will not be used for permanent residential accommodation. This will be prevented by a management plan which is registered with the title to the lots under the Community Land Development Act.*
- 3. The current subdivision rules for Hawkesbury were conceived in the 1970's and 80's and are mostly designed around housing entitlements and viability of service provision for permanent living. Now some 30-40 years old, they do not recognise the potential for tourism.*
- 4. Tourism represents a major component of Hawkesbury's economic base. In 2004-05 there were 3 245 bed spaces in Hawkesbury, an increase of 8.5% on the previous year.*

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*Income from accommodation during the last year was just over \$7 million, an increase of 15.3% on the previous year. Total turnover from tourism was estimated at \$47 million in 2001 and in 2006, 5.2% of the workforce was employed in accommodation and food services. It is therefore important to attract capital investment in tourism in Hawkesbury.*

5. *The subdivision provides a capital investment structure and an ongoing revenue stream for maintenance of the facilities and for regeneration and maintenance of the native bushland which covers some 20 hectares of the land. Further development of the site will be "locked out" by the community title plan.*
6. *The land is not large enough to have any potential for viable agriculture. Also the close proximity to residences would preclude any intensive agriculture on the land. Previous grazing of the cleared parts of the land has led to some degradation of the native bushland.*
7. *The proposal will not create any land use conflict within the zone.*
8. *Although unique to Hawkesbury, this form of tourist subdivision is becoming quite common in NSW and other states. Attached to this SEE is a recent article from the Sydney Morning Herald which confirms this (Attachment 2). Also attached is some information about existing community title tourist developments (Attachment 4).*

Clause 11 of Hawkesbury Local Environmental Plan requires that allotments have a minimum area of 40 hectares within the Environmental Protection - Mixed Agriculture (Scenic) zone. As detailed previously in this report the proposal provides for a range of undersized allotments ranging between 400 sqm and 19.7 ha representing 39,960 sqm (99.90%) and 20,300sqm (50.75%) below the minimum requirement respectively.

The proposed subdivision if approved will involve the creation of allotments substantially below the prescribed minimum requirement resulting in the establishment of an undesirable precedent for similar proposals (and tourist facility development) within the rural zones contained in the Hawkesbury area.

In addition, it is considered that the proposal does not satisfy the stated objectives listed in Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan 2002 for rural subdivision. Given the degree of non compliance with the minimum allotment size criteria it is not considered appropriate to support the variation sought under the provisions of SEPP No. 1 in this instance.

The principal reason for the State Environmental Planning Policy No. 1 objection is that the subdivision is required in order to attract investment in the development and this will enable adequate financing of the proposal. Council previously has not approved subdivision of a tourist facility development and opportunities such as Company Title exist whereby Council approval is not required as this form of titling is not registered with the Land Titles Office.

### **NSW Department of Planning**

As the departure to the minimum allotment size criteria contained in Clause 11 of Hawkesbury Local Environmental Plan 1989 exceeds 10% the Development Application and accompanying objection lodged pursuant to State Environmental Planning Policy No. 1 – Development Standards was forwarded to the NSW Department of Planning for the concurrence of the Director-General pursuant to the provisions of Section 79B of the Environmental Planning and Assessment Act, 1979.

Correspondence was subsequently received from the Department detailing that it would not further process this application until it is advised by Council whether it supports or does not support the application.

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### Clause 18 – Provision of water, sewerage etc. services

The subject site is not serviced by a reticulated water supply. An on-site wastewater treatment system is proposed to cater for wastewater associated with the proposal. A report prepared by Kerry Flanagan Wastewater titled *On-site Wastewater Management Assessment & Design Proposed Tourist Facility on Lot 202 DP 1022911 101 Greens Road Lower Portland*, dated 20 January 2008 was submitted with the application detailing that adequate opportunity exists on-site to effectively treat and dispose of wastewater associated with the additional self-contained cabins.

In addition, electricity and telephone services are available to the site.

### Clause 24 - Development in certain environmental and other zones

The provisions of Clause 24 apply to land in the Environmental Protection - Mixed Agriculture (Scenic) zone. The additional cabins and construction of the storage buildings are considered to represent a satisfactory form of development being generally consistent with the provisions of this clause in that the proposal is able to maintain the existing landscape qualities of the area.

As detailed previously in this report it is considered that the proposed subdivision, seeking fragmentation of the land into allotments substantially below the minimum requirement, does not represent a satisfactory form of development.

### Clause 36 - Clearing of land in certain environmental and other zones

Clause 36 requires development consent to fell trees, fill or otherwise alter the surface level of land within the Environmental Protection - Mixed Agriculture (Scenic) zone. In this regard it is noted that the original application involved the removal of approximately twenty (20) trees within the proposed development area. The subject application will not involve a significant increase in tree removal as the location of the majority of buildings are on previously cleared land.

Notwithstanding the above a flora and fauna impact assessment was undertaken of the site titled *Flora and Fauna Report for 125 Greens Road, Paradise Point Lot 202 in DP 1022911 - Proposed Holiday Cabins*, prepared by Danny Wotherspoon - Abel Ecology, dated 20 May 2005. It is noted that this report was prepared in support of a larger development proposed on the subject land (DA0439/05) however it is considered reasonable to accept the conclusions of this assessment in conjunction with the subject application given that the principal development area (PDA) represents a portion of that previously proposed.

Given the conclusions contained in the flora/fauna impact statement it is considered that the proposal would not have a significant environmental impact and accordingly it is considered that the proposal satisfies the requirements of this clause.

### Clause 37A – Development on land identified on Acid Sulfate Soils Planning Map

The land is identified as Class 5 Land on the Acid Sulfate Soils Planning Map. As the proposal does not involve significant earthworks no impact upon the watertable is anticipated on adjacent Class 1, 3 and 4 Land.

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

#### Landscaping

Part C, Chapter 1 of Hawkesbury Development Control Plan 2002 provides general provisions having regard to landscape treatment. A landscape plan for the site was approved in conjunction with Development Consent No. DA0797/06. A revised landscape plan was not requested from the applicant given the issues associated with the application.

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### Car parking and Access

Part C, Chapter 2 of Hawkesbury Development Control Plan 2002 details the requirements of on-site car parking associated with various land uses. It is noted however that no specific numerical standard has been provided for *tourist facilities*. Accordingly, it is considered reasonable to apply the minimum on-site requirement for *motel* development, being required to provide the following level on-site car parking:

*Motel: 1 space per unit, plus 1 space per employee*

In addition, the car parking requirement for dwelling houses, being applicable for the proposed manager's residence and caretakers dwelling is

*Dwelling House: 2 covered spaces per large dwelling (GFA more than 85m<sup>2</sup>).*

The plans submitted in conjunction with the application detail the provision of thirteen (13) car parking spaces situated on the upper portion of the site and a further twelve (12) spaces adjacent to the proposed caretaker's cabin thereby satisfying the numerical car parking requirements listed above. It is considered that the designated car parking areas are satisfactory. Should the application be recommended for approval appropriate conditions could be included relating to the design complying with the provisions of AS2890, use of suitable surface treatment allowing all weather use, provision of covered spaces for the manager's/caretaker's residence and the provision of landscaping treatment adjacent to the car parking areas so as to soften overall visual impact.

Access to the proposed development is proposed via an existing driveway from Greens Road. Previous development consents issued in respect of the subject site have incorporated conditions requiring construction of an all weather driveway, widening to 6 metres at the intersection with Greens Road and requiring compliance with Section 4.3.2 of Planning for Bushfire Protection. Details submitted previously have indicated that the local RFS has indicated that the access road can cater for a fire tanker.

### **NSW Rural Fire Service Comments**

The application was referred to the NSW Rural Fire Service seeking a Bush Fire Safety Authority under Section 100B of the Rural Fires Act 1997. The NSW Rural Fire Service has granted a Bush Fire Safety Authority as detailed in correspondence dated 27 March 2008.

### **Conclusion**

The application has been considered having regard to Section 79C of the Environmental Planning and Assessment Act 1979, Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River, Hawkesbury Local Environmental Plan 1989, Hawkesbury Development Control Plan 2002 and other relevant controls and policies.

Council has no policy or strategy in place to enable the subdivision of tourist facility development and accordingly the subdivision of the subject proposal is unable to be favourably considered. The subdivision of the approved tourist facility development will result in allotments that are significantly below the prescribed minimum allotment size for the Environmental Protection - Mixed Agriculture (Scenic) zone. Should the application be approved an undesirable precedent for similar subdivision on Rural zoned land in the Hawkesbury area will be established. Given the issues associated with the proposal the variation to the minimum allotment size criteria is not supported and the application is recommended for refusal.

The remaining aspects of the application for the extension of the tourist facility generally conforms to the requirements and is possible to support should the subdivision component be removed from the application. Should this occur, the applicant would be required to submit an Aboriginal Archaeological assessment report prior to the issue of that consent.

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### RECOMMENDATION:

That Development Application No. DA0102/08 for a 13 allotment community title subdivision, alterations and additions to approved tourist facility development involving four additional self-contained two bedroom cabins, relocation of cabins, manager's residence and guest car park, two storage buildings and alteration to onsite effluent disposal system at Lot 202 DP 1022911, 101-125 Greens Road, Lower Portland be refused for the following reasons:

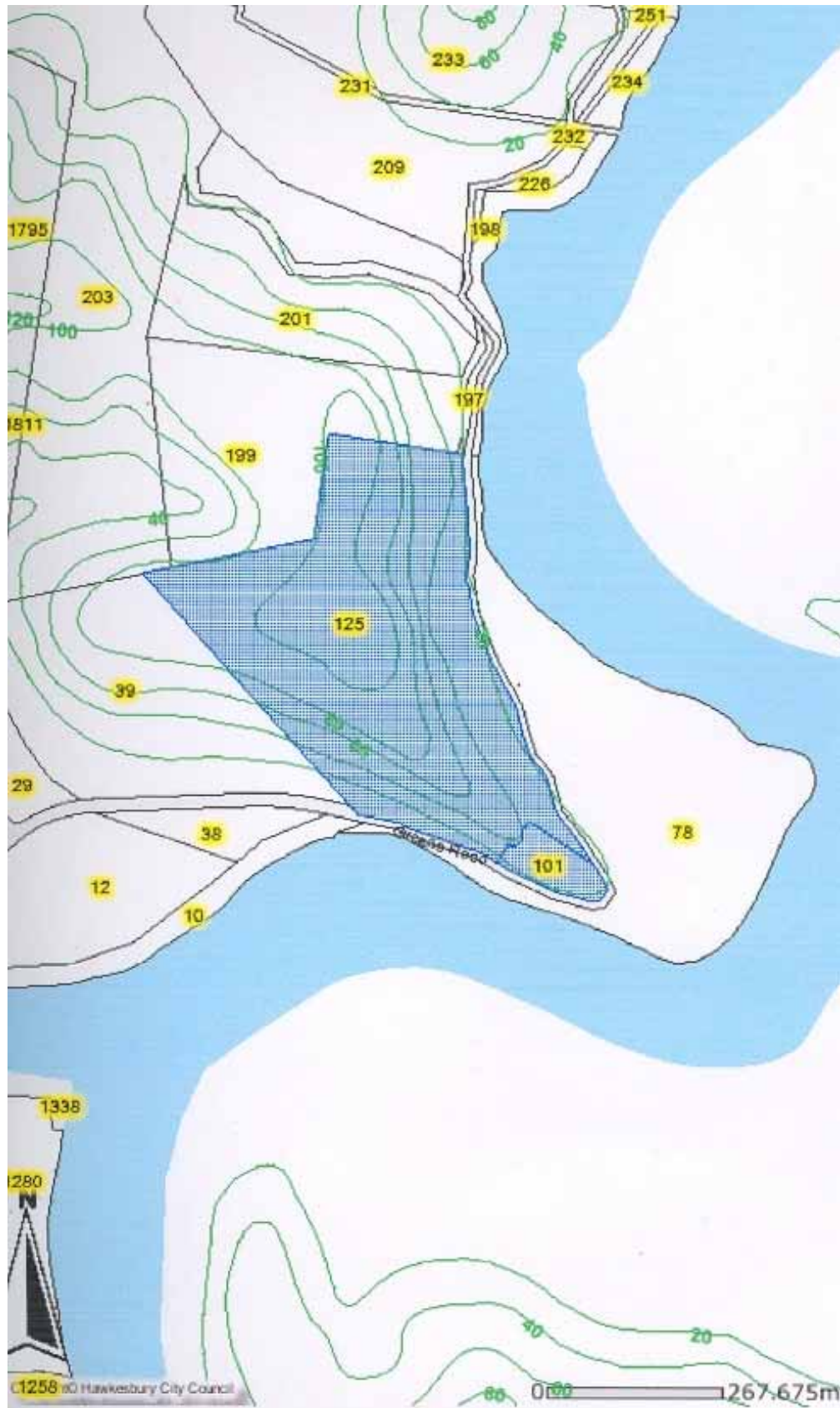
1. Pursuant to the provisions of Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act, 1979 as amended the proposed subdivision is inconsistent with the minimum allotment area standard of 40 ha within the Environmental Protection - Mixed Agriculture (Scenic) zone contained in Clause 11(2)(a) of Hawkesbury Local Environmental Plan 1989.
2. Pursuant to the provisions of Section 79C (1)(a)(i) and (e) of the Environmental Planning and Assessment Act, 1979 as amended the objection lodged pursuant to the provisions of State Environmental Planning Policy No. 1 – Development Standards is not supported for the following reasons:
  - (a) The extent of deviation from Clause 11(2)(a) is considered to be inconsistent with the subject land zoning. The applicant has not provided sufficient grounds as to why compliance with the development standard contained in Clause 11(2)(a) of Hawkesbury LEP 1989 is unreasonable or unnecessary.
  - (b) The proposal is inconsistent with the objectives of the Environmental Protection - Mixed Agriculture (Scenic) zone in Hawkesbury LEP 1989, SREP 20 Hawkesbury-Nepean River and the Metropolitan Strategy, with respect to planning strategy for rural-residential development and land release.
  - (c) Approval of the proposed subdivision will create a precedent for undersized subdivisions in the Environmental Protection - Mixed Agriculture (Scenic) zone. The proposal is therefore not in the public interest.
3. Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979 as amended the proposed subdivision does not satisfy the stated objectives of the Environmental Protection - Mixed Agriculture (Scenic) zone in that the subdivision:
  - (a) will contribute to the further fragmentation of agricultural land
  - (b) reduce the capability of the land to accommodate uses anticipated by Clause 9 of Hawkesbury Local Environmental Plan 1989
  - (c) have the potential to reduce the rural character of the locality
  - (d) does not encourage agricultural use of the land
  - (e) fails to retain or enhance existing landscape values involving agricultural land uses; and
  - (f) will contribute to the demand for the provision or extension of public amenities or services.
4. Pursuant to the provisions of Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, as amended, the proposal does not satisfy the provisions of Sydney Regional Environmental Plan No. 20 in that the proposal is inconsistent with the aims of the plan having regard to planning strategy for rural residential development and identified land release areas.

### ATTACHMENTS:

There are no supporting documents for this report.

- AT - 1** Locality Plan  
**AT - 2** Site Plan  
**AT - 3** Elevations

AT - 1 Locality Plan

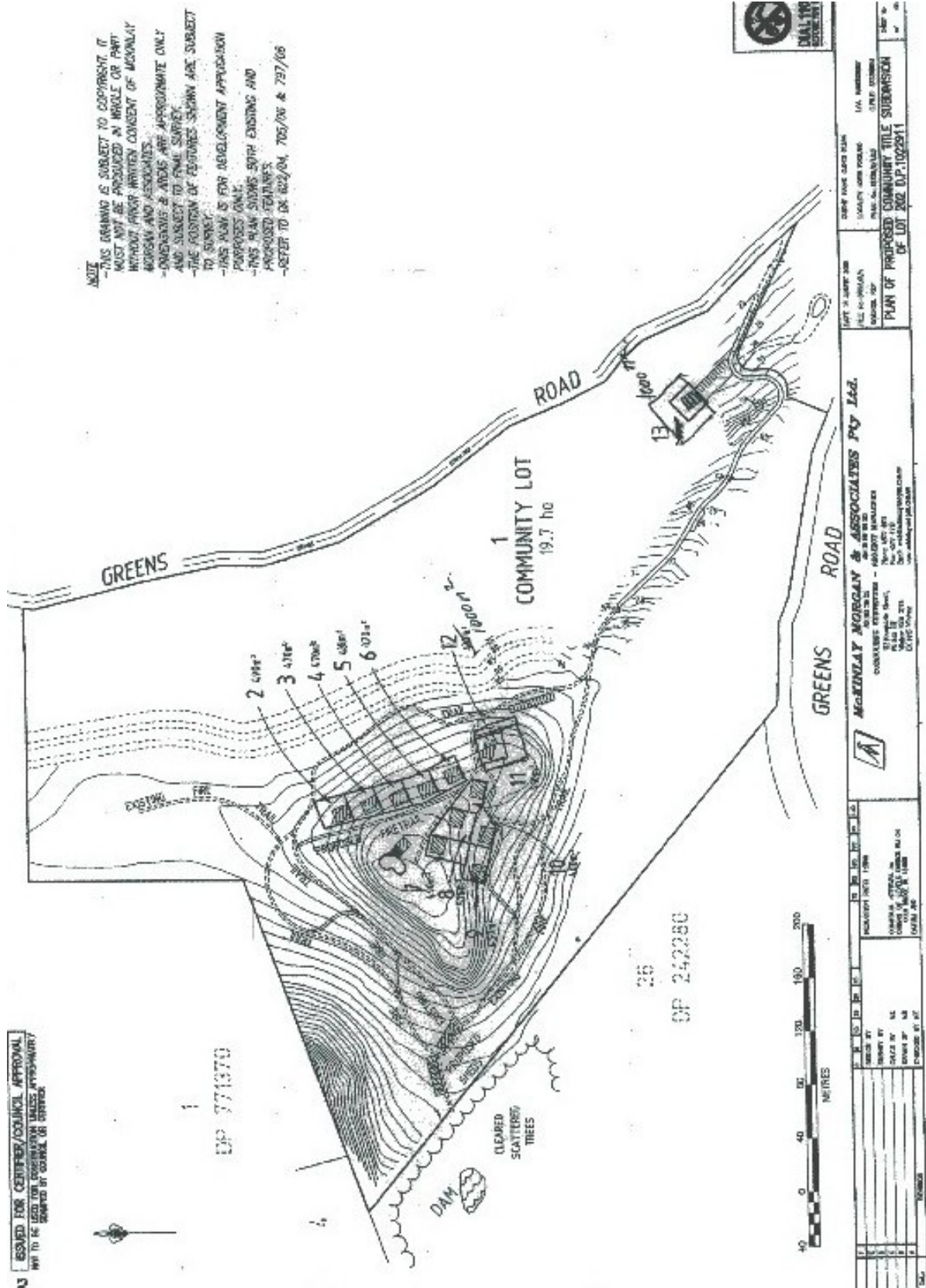




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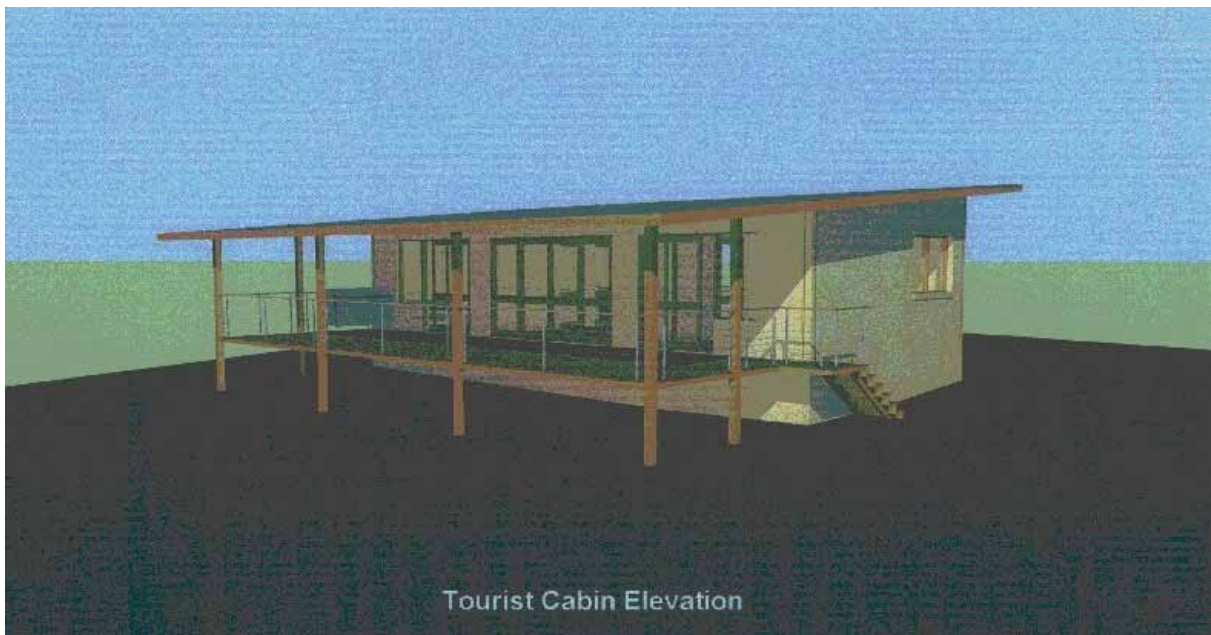
## AT - 2 Site Plan



**ORDINARY MEETING**

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**AT - 3 Elevations**



**oooO END OF REPORT Oooo**



## ORDINARY MEETING

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**Item: 144**                    **CP - Proposed rezoning - Lot 1 DP827148, 234 Richmond Road, Clarendon - (74563, 80951, 95498)**

**Previous Item:**            113, Ordinary (26 June 2007)

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### REPORT:

#### Introduction

Council at its meeting of 26 June 2007 resolved to prepare a draft Local Environmental Plan to rezone Lot 1 DP827148, 234 Richmond Road, Clarendon from Open Space 6(c)(Private Recreation) to 4(b) Light Industry. This was to facilitate the site being developed for the purpose of a Mitre 10 Hardware Store. At that meeting Council also resolved that:

1. *"The draft Local Environmental Plan amend the definition of Bulky goods sales and showroom to be consistent with the Standard Order (Local Environmental Plans) 2006.*
2. *Given the minor nature of the proposed rezoning a local environmental study not be prepared.*
3. *The applicant is to submit a full traffic report prior to the assessment and referral of the application under the provisions of Section 62 of the Environmental Planning and Assessment Act, 1979.*
4. *Council enter into negotiations towards the preparation of a voluntary planning agreement to secure an appropriate design of the development and the proposed use."*

The purpose of this report is to advise Council of the outcome of the consultation with government agencies and the community in relation to the draft Local Environmental Plan (LEP). A Development Application has not been lodged for the proposed use as it is currently not a permissible use under the existing 6(c) zone.

#### Department of Planning Advice under Section 54

The Department of Planning was notified of Council's intention under section 54 of the Environmental Planning and Assessment Act 1979 and was requested to issue of a "Written Authorisation to Exercise Delegation" to allow Council to proceed with the draft LEP.

The Authorisation to Exercise Delegation was issued by the Director General on 24 September 2007 and allows Council to use its Delegation in respect of section 65 (certifying the plan for exhibition) and section 69 (report to the Minister).

The Department also advised that *bulky goods premises* as defined in the NSW Standard Template would not be a permissible use in the Industrial zones and it was therefore recommended that Council introduce the *timber and building supplies* definition. The draft LEP was amended to meet this requirement of the Department of Planning.

#### Section 62 Consultation

In accordance with the Environmental Planning and Assessment Act 1979 the following agencies were consulted prior to the preparation of the draft local environmental plan:

- Roads and Traffic Authority
- Department of Tourism Sport and Recreation
- Deerubbin Local Aboriginal Land Council

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- Integral Energy
- Telstra
- Telstra Countrywide- Nepean Hawkesbury Macarthur
- Sydney Water
- NSW Department of Aboriginal Affairs
- Rail Estate
- NSW Department of Primary Industries - Minerals
- NSW Fire Brigade
- NSW State Emergency Service
- Transgrid
- Commonwealth Civil Aviation and Safety Authority
- Department of Defence
- Department of Planning-NSW Heritage Office

Responses were received from the Department of Primary Industries, Transgrid, the Civil Aviation Authority and the Department of Defence who raised no objection to the draft plan. However, the Department of Defence requested further consultation at the development application stage.

Subsequent to the section 62 consultation the draft LEP was prepared and incorporated the comments from the Department of Planning. The comments from the Department of Defence were also incorporated and requires before Council consents to a development on the subject land, it must consider the effect on the aircraft operations of the RAAF Base Richmond with respect to the height of buildings relative to any Department of Defence Obstruction Clearance Surfaces, reflectivity of building materials, birdlife attraction, and any other requirements from the Department of Defence.

### Public Exhibition

The Section 65 Certificate was signed on 23 January 2008 and the draft LEP was placed on public exhibition from Thursday 24 January 2008 to Friday 22 February 2008. The draft plan and supporting documentation were displayed during normal office hours at the Council offices George Street, Windsor and on Council's website. Advertisements were displayed in the Hawkesbury Gazette and 35 adjoining owners were notified,

The draft LEP was also sent to the government authorities as listed above. A submission was received from the Roads and Traffic Authority who had no objection to the draft plan. The RTA advised that the traffic impact of the proposed development would be assessed at the development application stage.

### Submissions

As noted above 35 adjoining owners were notified of the draft plan and a three submissions were received. The locality plan showing the subject site and the respondents properties is attached to this report. A summary of the issues raised by respondents is provided below:

#### Submission 1

This submission states that there is no objection to development on the site however concerns are raised about the effect a development may have on 210 Richmond Road. The concerns are as follows:

- *Concern about the development being approved around us.*
- *The property (No. 210) is heritage listed and subject to flooding.*
- *In 2005 Council issued approval for a childcare centre on the land next door, allowing it to be raised to 17.5m. Since that time there have been substantial problems with flooding and water retention on our property.*
- *The 160-180 year old building has damp in each of the walls from floor to ceiling and the integrity of the building is under threat.*
- *The property next door has also had significant problems with water retention and livestock had to be evacuated as the water did not leave the property. Ag pipes and fill improved the situation but*

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*gravel and soil still had to be placed in one area at 210 Richmond Road to allow access to the back of the property.*

- *The drainage issue is not helped by the railway line.*
- *If Mitre 10 is allowed to develop and raise the land the water will have nowhere to run and the building will need to be declared uninhabitable.*
- *Hold significant fears for their building and property if the land is raised on the Mitre 10 site.*
- *Concerned about further damage to building.*

### Submission 2

Strongly object to the proposal based on the following:

- *Open Space 6(c) is the most appropriate zoning.*
- *Ambience of the suburb will be destroyed.*
- *Other hardware stores have closed down (Mitre 10 Richmond, Bunnings North Richmond and Andy Macs South Windsor)*
- *Richmond Road is not wide enough to sustain overtaking or parked vehicles.*
- *Traffic volumes during events at Richmond RAAF Base and the Showgrounds are constant and will be exacerbated with Mitre10. This makes pedestrian access (across the road) impossible.*
- *Increased traffic from childcare centre and inadequate access arrangement into existing service station.*
- *Devaluing of property.*
- *Clarendon should be an extension of the Scenic Tourist Route/recreation rather than an industrial area.*

### Submission 3

This submission states that there is no concern over the proposed rezoning or the development on the site however concerns are raised about the following matters:

- *Stormwater and drainage impact from a large area of roof and carpark.*
- *The development of the childcare centre, including the raising of the land has led to water over the paddock after heavy rain and rising damp in the building. The same issues will arise from this larger scale development*
- *Potential traffic risk.*

### **Comment and discussion of submissions**

Several issues have been raised in the submissions and the relevant planning matters relate to stormwater, drainage, flooding, impact on heritage, traffic and character/amenity. Each of these issues is discussed below.

#### Drainage, Stormwater and Flooding

Two of the submissions raised significant issues about drainage in the locality, including the perceived impact of the childcare centre at 216 Richmond Road. A complaint was received by the occupant of 226 Richmond Road in July 2007 and was investigated by Council officers. It was determined at this time that one of the contributing factors to the problem was the blockage of culverts under the railway line.

The subject property is located at the end of a localised development catchment of 6 hectares. The natural flow path for the catchment is to the south over the Hawkesbury Race Club and eventually to Rickabys Creek. Currently these flows are intercepted and diverted by open channels towards culverts located beneath the adjacent railway corridor.

The childcare centre is located at 216 Richmond Road, Clarendon and as noted above, historically water flowed across the land to the south. As a result of the childcare centre, drainage was intercepted, conveyed to the rear and diverted to Rickabys Creek. This had the effect of draining water away from the buildings to the west and it is therefore highly unlikely that the childcare centre contributes to the present drainage issues. The core upstream drainage deficiencies within the catchment are partially attributed to the presence of railway structures.

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The applicant was requested to provide concept drainage stormwater plans for the proposed development. This information was lodged on 29 May 2008 and prepared by Barker Ryan Consulting. The report considered the flows generated from the site in both the pre and post development conditions and the means by which the increase in site discharge resulting from the proposed development can be mitigated. It found that a number of measures can be implemented to reduce the impact of increased discharge from the site. The primary measure would be the provision of on-site detention contained within the carpark.

The report concluded that subject to final design and satisfactory maintenance the provision of on-site detention in conjunction with the measures described above would reduce the post development flows to pre development levels or below and therefore mitigate any stormwater discharge impacts from the proposed development on the downstream property.

The Drainage Strategy Report was reviewed by Council officers and found to be satisfactory. In summary, the proposed development on the site will not have a detrimental impact on the local drainage issues, it is more likely that the mitigation measures will improve the existing situation.

There are no changes required to the draft plan required as a result of the submissions relating to drainage and stormwater.

### Traffic

Access to the subject site is via Richmond Road. The applicant lodged a preliminary traffic report so as to ascertain the traffic flows associated with the development. The report concluded that the traffic generated by the proposed development will not have a significant impact on the capacity of Richmond Road and the site distances exceed the standards required by the Australian Standard and RTA guidelines.

The RTA was consulted under section 62 of the Environmental Planning and Assessment Act 1979 and as noted above have no objection to the draft LEP. It is noted that a development application will be referred to the RTA should the matter proceed.

A full traffic report will be required should the matter proceed, however the preliminary investigations indicate that the proposed development will not generate traffic beyond the capacity of the local traffic network. There are no changes required to the draft plan required as a result of the submissions relating to traffic.

### Character

The Clarendon precinct consists of a variety of land uses including tourist accommodation, Hawkesbury Race Club, commercial development and residential development. Land to the north of Richmond Road is predominantly used for residential purposes and the Richmond RAAF Base. Land to the south predominantly consists of commercial uses including the service station, restaurant and tavern, veterinary clinic, childcare centre, human resource agency and the racecourse.

The surrounding land is characterised by a variety of land uses and it is considered that the proposed use will not be incompatible with these land uses.

There are no changes required to the draft plan required as a result of the submissions relating to character and amenity.

### **Conclusion**

An assessment of the Section 117 Ministerial Directions has been carried out and it is considered that the proposal is generally consistent with the relevant Section 117 Ministerial Directions, State Environmental Planning Policies and Regional Environmental Planning Policies. Approval was sought from the Director General for minor inconsistencies with Direction 5 (Flood Prone Land) and Direction 16 (Industrial Zones). The Executive Director, (Metropolitan Planning) of the Department of Planning advised of her satisfaction of the draft amendment being of minor significance on 21 February 2008.

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Council previously resolved to enter into negotiations towards the preparation of a voluntary planning agreement to secure an appropriate design of the development and the proposed use. Given the subsequent changes to legislation in relation to Planning Agreements, this matter is under investigation and Council will be further advised. It should be noted that the design of the development is a matter that is capable of being addressed via the normal development application process.

Having considered the submissions to the public exhibition of the draft plan it is recommended that Council proceed with the draft Amendment 153 and the prepare the plan for finalisation and gazettal.

### **Conformance to Strategic Plan**

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

*"Objective: Investigating and planning the City's future in consultation with our community, and coordinating human and financial resources to achieve this future "*

### **Funding**

No impact on budget.

### **RECOMMENDATION:**

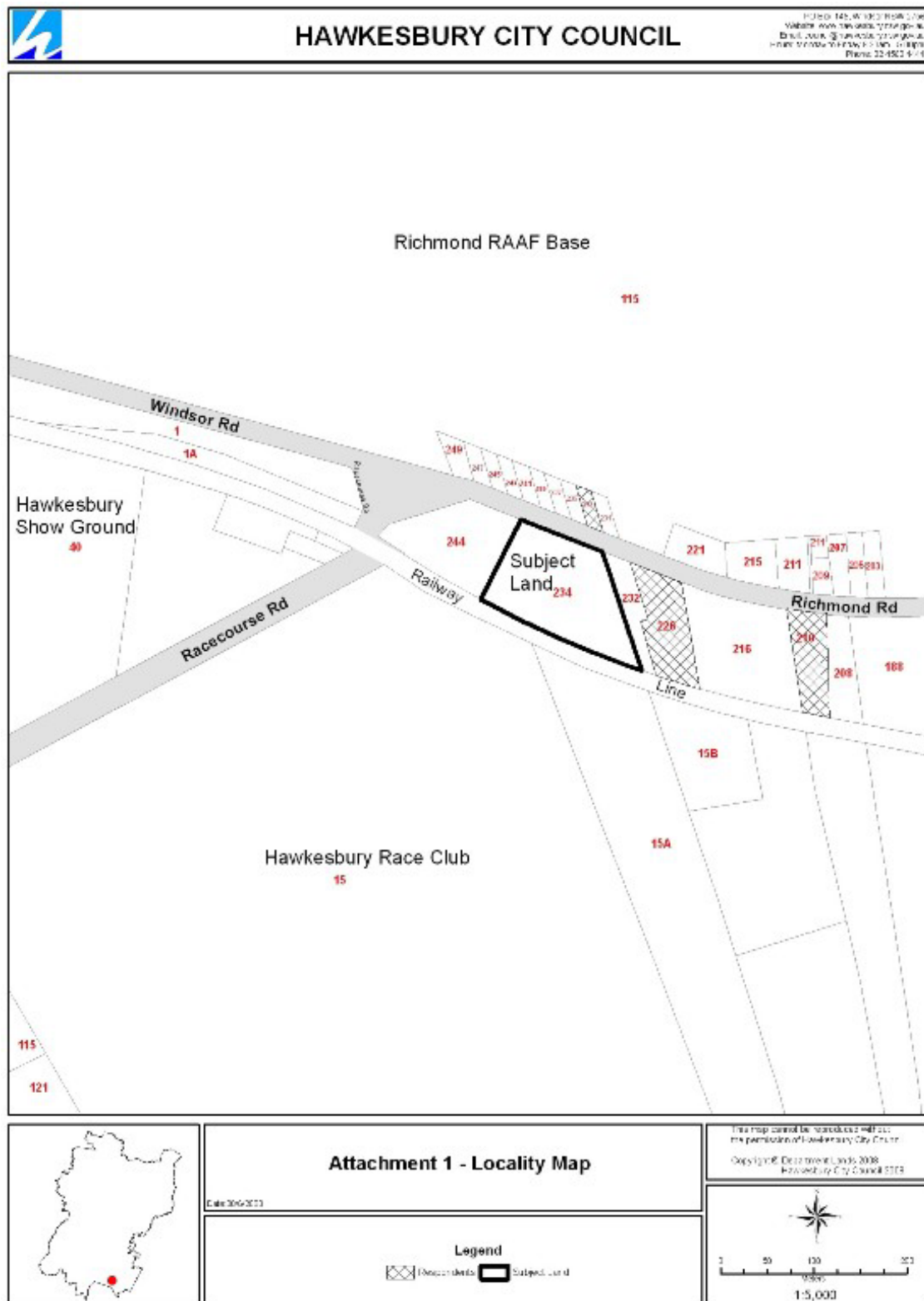
That the draft Local Environmental Plan - Amendment 153 to rezone land at Lot 1 DP827148, 234 Richmond Road, Clarendon be finalised and forwarded to the Minister requesting that the Plan be made.

### **ATTACHMENTS:**

**AT - 1** Locality Map - Subject Land and location of respondents.

**Meeting Date:** 8 July 2008

**AT - 1 Locality Map - Subject Land and location of respondents.**



oooO END OF REPORT Oooo

ordinary

section 5

reports  
of committees

**ORDINARY MEETING**  
Reports of Committees



**ORDINARY MEETING**  
Reports of Committees

**SECTION 5 - Reports of Committees**

**ROC - Local Traffic Committee - 18 June 2008 - (80245)**

Minutes of the Meeting of the Local Traffic Committee held in the Large Committee Room, Windsor, on Wednesday, 18 June 2008, commencing at 3.00pm.

**ATTENDANCE**

<b>Present:</b>	Councillor B Bassett (Chairperson) Mr J Suprain, Roads and Traffic Authority Mr J Christie, Officer of Messrs A Shearan, MP and J Aquilina, MP
<b>Apologies:</b>	Mr R Elson, Department of Transport Snr Constable B McClifty, NSW Police Service Mr R Williams, MP (Hawkesbury)
<b>In Attendance:</b>	Mr C Amit, Manager, Design & Mapping Services Mr T Shepherd, Administrative Officer, Infrastructure Services Ms E Rainbow, Administrative Officer, Infrastructure Services

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The Chairman tendered an apology on behalf of Mr R Williams, MP, advising that Mr Williams 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**

The Minutes of the meeting held on 21 May 2008 were confirmed.

**Item 1.2       Business Arising**

**Item 1.2a       LTC - 18 June 2008 - Item 1.2(a) - Boundary Road/Old Pitt Town Road, Oakville - Traffic Conditions - (80245)**

**Previous Item:**       1.2, Local Traffic Committee (21 May 2008)  
                             4.1, Local Traffic Committee (16 April 2008)

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**REPORT:**

Mr C Amit tabled traffic counts conducted on Boundary Road, Oakville as well as a copy of a report submitted by Baulkham Hills Shire Council and advised that the speeds of vehicles over the extended chainage surveyed during 24 May 2008 - 13 June 2008 were within parameters, possibly resulting from NSW Police Service patrols conducted during 1 -21 May 2008.

**RECOMMENDATION:**

That:

1. Edge marking/linemarking be undertaken over the full length where permitted;
2. The appreciation of the Chairman be conveyed to the staff of both Baulkham Hills Shire Council and Hawkesbury City Council for efforts in conducting such as extended survey; and
3. A copy of the traffic counts be forwarded to Ms L Markus, MP, Member for Greenway for information.

**APPENDICES:**

**AT - 1** Summary of Traffic Counts, Boundary Road

**AT - 2** Map - Traffic Count Locations, Boundary Road

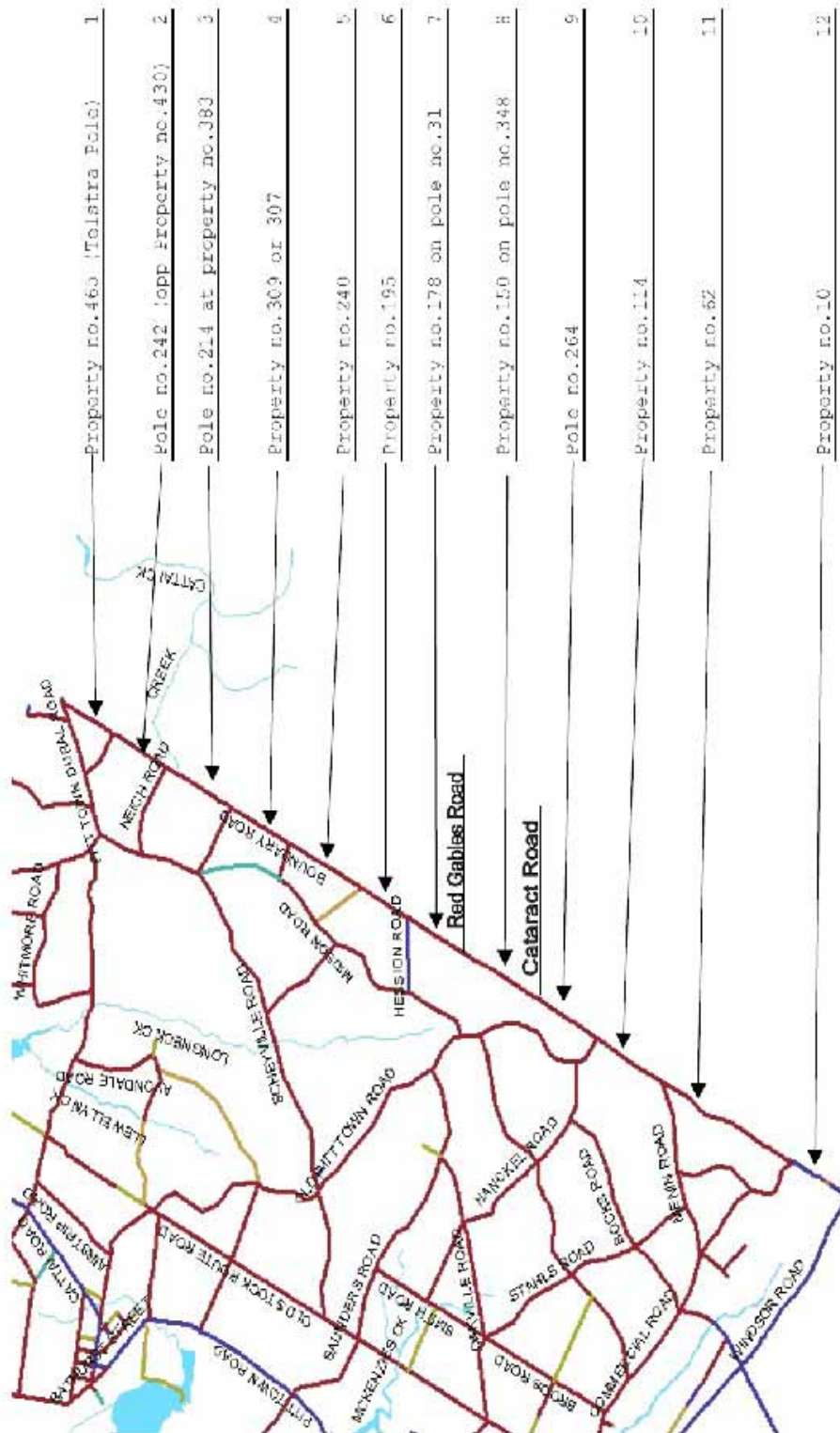
**ORDINARY MEETING**  
Reports of Committees

AT - 1 Summary of Traffic Counts, Boundary Road

Boundary Road Traffic Counts					3 WEEK SUMMARY						
					24 May 2008 to 13 June 2008						
Counter owner	Map Location	Location of Counter	Speed Limit	Ch of Counter from Windsor Rd	Total No. of Vehicles	ADT	85% Speed	Mean Speed	Percent exceeding speed limit	Mean Speed Exceeding	Comments
hcc	12	(no.10) Windsor Road to Commercial Road	80	454	82447	3926	84.2	76.9	36.5	86.4	
hcc	11	(no.55) Commercial Rd to Menin Road	80	1741	66032	3144	86.0	77.8	39.7	86.0	
hcc	10	(no.114) Mennin Rd to Old Pitt Town Rd	80	2754	69275	3299	82.4	73.7	23.1	85.4	
hcc	9	(pole 264) Old Pitt Town to Cataract Rd	80	3121	66372	3161	81.7	74.1	21.6	85.2	200m Nth of Old Pitt Town Road
hcc	8	(no.156)Cataract to Red Gables Rd	80	4015	64338	3064	81.7	73.5	20.9	85.1	
hcc	7	(no.178) Red Gables to Hession Rd	80	4800	59836	2849	87.8	79.3	47.6	86.9	
bhc	6	(no.195) Sth of Maquies Rd	80	5360	3682		89.6	74.1	39.0	94.9	Problem with counter ADT is not available
bhc	5	Cusack Road to Martins Road	80	6271	28528	2377	90.4	81.0	52.9	88.2	First day of is 4/6/08 to Midnight 15/6/08 (12 days)
bhc	4	(no.309) Martins to Dunns Road	80	6935	53570	2551	87.8	77.8	39.3	88.2	80/60 change over is ch7121
bhc	3	(no.383) Dunns to Neich Road	60	7705	35141	1673	77.0	67.7	80.5	71.0	School Zone 40 Ch7851 to 8199
bhc	2	(no.430) Neich Road to Mewton Rd	60	8258	25977	1237	72.7	62.3	59.0	69.2	80/60 change over is ch8315
bhc	1	(no.465) Pitt Town Dural to Mewton Rd	80	8785	17616	839	82.1	72.6	20.9	88.6	Broken hose in first week - Ch 9274 end of road.

<p align="center"><b>ORDINARY MEETING</b></p> <p align="center">Reports of Committees</p>
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**AT - 2** Map - Traffic Count Locations, Boundary Road



**ORDINARY MEETING**  
Reports of Committees

**Item 1.2b      LTC - 18 June 2008 - Item 1.2(b) - Richmond/North Richmond - Traffic Management - (80245)**

**Previous Item:**      4.2 QWN, Local Traffic Committee ( 21 May 2008)

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**REPORT:**

On behalf of Mr R Williams, MP, the Chairman enquired as to progress regarding liaison with the Roads and Traffic Authority in relation to traffic conditions at North Richmond, particularly whether representations by Mr A Prabhakar, tabled by Mr R Williams at the meeting held on 21 May 2008 had been responded to.

Mr T Shepherd advised that Council's resolution in respect of the above matter had been forwarded to Messrs Williams, Ottaway and Prabhakar.

**RECOMMENDATION:**

That the information be received.

**APPENDICES:**

There are no supporting documents for this report.

**SECTION 2 - Reports for Determination**

**Item 2.1      LTC - 18 June 2008 - Item 2.1 - The Hawkesbury 120 Ski Race Classic 2008- (Hawkesbury, Londonderry & Riverstone) - (80245, 92138,103916)**

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**REPORT:**

**Introduction:**

An application has been received from Ski Racing NSW Inc. seeking approval to conduct the Hawkesbury 120 Ski Race Classic on Saturday, 30 and Sunday, 31 August 2008.

The Hawkesbury 120 Ski Race Classic was initially undertaken in 2006.

Event Details: Wind

- 29 August 2008: 12.00noon - 5:00pm  
Vessel safety scrutineering at Governor Phillip Reserve, Windsor.

**ORDINARY MEETING**  
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- 30 August 2008: 9.00am - 4:00pm  
Ski Race From Governor Philip Reserve, Windsor to Sackville Ski Gardens, Sackville and return.
- 31 August 2008: 9.00am - 4:00pm.  
Ski Race From Governor Philip Reserve, Windsor to NSW Ski Grounds Caravan Park(Known as NSW Ski Gardens) at Wisemans Ferry and return.

In addition to traffic management issues, exclusive use of Governor Phillip reserve is required by the applicant and this latter aspect requires Council approval. In the interests of effective administration, this matter will be dealt with as a joint report to Council via the Local Traffic Committee.

**Traffic Management Issues;**

The Ski Racing NSW Inc. has informed the following in respect of this event:

i) Affected Streets are:

George Street, Windsor: between Bridge Street and Palmer Street from around 12.00noon to 5.00pm on 29 August 2008, 7:00am on 30 August 2008, and 6:00am on 31 August 2008,

Arndell Street, Windsor: the full length from around 7:00am on 30 August 2008, and 6:00am on 31 August 2008,

Palmer Street, Windsor: the full length from around 7:00am on 30 August 2008, and 6:00am on 31 August 2008,

North Street/Court Street, Windsor: the full length around 7:00am on 30 August 2008, and 6:00am on 31 August 2008,

- ii) The effect on traffic is not expected to be significant.
- iii) It is expected that the event will impact only marginally on traffic using Windsor Road, Bridge Street, Macquarie Street and Wilberforce Road compared to the normal traffic during weekends.
- iv) As no road closures will be in place, there will be little effect on traditional afternoon peak hour southeast bound traffic on Windsor Road.
- v) Expecting approximately 1000 to 2000 spectators across the 2 days (30-31 August 2008).
- vi) Parking will be at Governor Phillip Reserve with additional parking available off street utilising vacant land adjacent to Governor Phillip Reserve. Parking is available for approximately 4000 vehicles.
- vii) The number of entries (competitors and boat trailers) expected is approximately 125 to 175 for the event. Up to 4 participants per boat made up of the Driver, Observer and possibly 2 skiers.
- viii) A letter drop will be undertaken to all residents in the proximity of the event location.

The Ski Racing NSW Inc. is seeking Council / RTA approval for the following Ferry Services on 31 August 2008:

Lower Portland Ferry (HCC)	9.00am – 4.00pm - Total suspension. Required due to poor sight distance leading to the ferry and the bends in the river. The total suspension will enable a free flow of competitors across the ferry crossing.
Sackville Ferry (RTA)	9.00am – 4.00pm - Reduced Operation of the ferry, whereby a full load of vehicles are to be aboard prior to the ferry undertaking a crossing. The reduced operation will enable free flow of competitors across the ferry crossing.

**ORDINARY MEETING**  
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Safety vessels with crews will be placed on the relevant side of the Ferry with suitable equipment to indicate to competitors that the Ferry may be operating. The course vessels will have radio communications with a marshal on both Ferries and the respective ferry masters. Use of both ferries by Emergency Vehicle Traffic will not be effected. The event organiser acknowledges that either Council or the RTA on the day may have the need to alter the suspension or reduced services at their discretion.

Webbs Creek Ferry and Wiseman Ferry are located downstream to the NSW Ski Gardens, and subsequently these ferry operations are not effected.

The event organiser has submitted the following items in relation to this event: Appendix 1 (Dataworks Document No: 2784005):

- i) Details of the Special Event - Traffic template,
- ii) Submission to NSW Police Service,
- iii) Transport Management Plan (TMP) without the associated TCP for the Ferries. The applicant advised verbally that the Reduced capacity for operating Sackville Ferry is 9.00am to 4.00pm contrary to the listed 8.00am to 4.00pm in the TMP.
- iv) Copy of intended advertisements of the event and in particular Ferry operating times.
- v) Copies of correspondence to be forwarded to the Residents, Businesses, NSW Ambulance Service, NSW Rural Fire Service, SES, NSW Maritime Service, Windsor Fire Brigade and Richmond Fire Brigade.
- vi) Public Liability Insurance to the value of \$20,000,000 which expired on 31 May 2008.

#### **Discussion**

#### **Traffic Issues**

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

It is noted that the event organiser has lodged an application seeking approval to conduct the event with the NSW Police Service and NSW Maritime Services.

Lower Portland Ferry Service is under the care and control of Hawkesbury City Council. Sackville Ferry Services is the under the care and control of the RTA and hence, the RTA approval be sought directly by the event organiser for the reduced ferry operations.

#### **Governor Phillip Reserve**

The Ski Racing NSW Inc. has requested exclusive use of Governor Phillip Reserve on 30 & 31 August 2008 to conduct the Hawkesbury 120 Ski Race Classic. The applicant has not advised of an alternate date in the event of inclement weather.

This event has been held since 2006. The organisers will need to comply with the Governor Phillip Noise Policy.

**RECOMMENDATION:**

**A. Traffic Issues**

That:

1. The Hawkesbury 120 Ski Race Classic event planned for 30 and 31 August 2008 be classified as a **"Class 1"** special event under the "Traffic and Transport Management for Special Events" guidelines issued by the RTA.
2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the RTA publication "Guide to Traffic and Transport Management for Special Events" (Version 3.4) and the Hawkesbury City Council special event information package which 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 obtaining approval to conduct this event, from the NSW Police Service; **a copy of the Police Service approval be submitted to Council;**
- 4b. The event organiser obtains approval from the RTA as this is a **"Class 1"** event; **a copy of the RTA approval be submitted to Council;**
- 4c. the event organiser **submitting a Traffic Control Plan (TCP) relating to the Ferry Operations to Council and the RTA** for acknowledgement. The TCP should be prepared by a person holding appropriate certification required by the RTA to satisfy the requirements of the relevant Work Cover legislation;
- 4d. the event organiser **submitting to Council a copy of its Public Liability Policy** in an amount not less than \$20,000,000 **noting Council and the Roads and Traffic Authority as interested parties on the Policy** and that Policy to cover **both on-road and off-road activity;**
- 4e. the event organiser obtaining the relevant approval to conduct this event from the Waterways Authority; **A copy of this approval be submitted to Council;**
- 4f. the event organiser advertising the event in the local press stating the entire route/extent of the event and the traffic impact / delays due to the event two weeks prior to the event; **a copy of the proposed advertisement has been submitted to Council** (indicating the advertising medium);
- 4g. the event organiser notifying the details of the event to the NSW Ambulance Services, NSW Fire Brigade / Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence has been submitted to Council;**
- 4h. the event organiser directly notifying relevant bus companies, tourist bus operators and taxi companies operating in the area and all the residences and businesses affected by the event at least two weeks prior to the event; The applicant undertaking a letter drop to all affected residents and businesses in the proximity to the event, with that letter advising full details of the event; **a copy of the correspondence has been submitted to Council;**



- 4i. the event organiser advising all adjoining Councils such as Gosford, Baulkham Hills, Hornsby of this event and in particular the ferry closures and obtaining any necessary approvals from these Councils;
- 4j. the event organiser submitting the completed "Special Event - Traffic Final Approval" form to Council;

**During the event:**

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

**Ferry Services**

- 5. That the applicant seek RTA approval for reduced crossing/operation of Sackville Ferry Services. No objection is held to the suspension of the Lower Portland Ferry Service. Suspension/reduced operation of the ferry services is subject to the applicant complying with the following conditions, as well as any conditions imposed by the RTA:
  - 5a) the applicant contacting Hawkesbury City Council's Construction and Maintenance Section and the Ferry operator, three weeks prior to the event with regard to the suspension of Lower Portland Ferry service maintained by Hawkesbury City Council;
  - 5b) Advertising of the proposed event being undertaken at the expense of The event organiser in both Sydney and Local newspapers, two weeks prior to the event, in relation to:
    - traffic impact and delays,
    - exclusive use of Governor Phillip Reserve,
    - timings of suspension of ferry services,such notice is to be incorporated in the news sections of those newspapers and to be approximately 1/8 (one-eighth) page size;
  - 5c) signs be erected at the expense of the event organiser in locations indicated in the approved Transport Management Plan and Traffic Control Plan and at a size indicated in the same, on all roads leading to the ferries, as well as on each ferry, for at least two weeks prior to the event;
  - 5d) safety precautions as previously established in the TMP are to be placed at all ferry locations, such to include a boat and crew downstream from each ferry with suitable equipment to indicate to competitors that a ferry may be operating and with communication between that boat and ferry vessel, such procedures are to be implemented to the satisfaction of the Waterways Authority, RTA and Hawkesbury City Council; and,

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- 5e) the Transport Management Centre, Roads & Traffic Authority and Council be authorised to alter ferry suspension/operation times if necessary.

**B. Governor Phillip Reserve**

1. That approval be granted to Ski Racing NSW Inc for exclusive use of Governor Phillip Reserve on Saturday 30 and Sunday 31 August 2008, subject to compliance with the following conditions:
  - 1a) The applicant paying per day the exclusive use contribution rate, plus the toilet cleaning charge, applicable at the time of the event;
  - 1b) The reserve being left clean and tidy with the applicant being responsible for the disposal of all waste from the reserve;
  - 1c) The applicant obtaining appropriate licences from the Waterways Authority regarding conduct of this event;
  - 1d) If required, the applicant to obtain appropriate licence from the Licensing Branch of the NSW Police Service for the sale of alcoholic beverages at the proposed event;
  - 1e) The applicant obtaining all necessary permits/approvals in relation to amusement devices/rides including Integral Energy regarding the supply of power to devices/rides and their proximity to power supply lines;
  - 1f) Any building, vehicle or stall that is preparing food for public consumption is to comply with Council's "Information for Food Stall Holders" brochure; this information and any related food/public health information can be obtained by contacting Council's Environmental Health Officers, on direct line 4560 4571;
  - 1g) The applicant lodge a damage bond applicable at time of event;
  - 1h) A letter box drop is to be undertaken to all affected residents in proximity to the event by the applicant, with that letter advising full details of the function;
  - 1i) A copy of your Public Liability Policy for \$10,000,000 (ten million dollars) and indemnifying Hawkesbury City Council is to be submitted 1 (one) week prior to the event;
  - 1j) The event manager/applicant must undertake a Risk Assessment of the event to be conducted including pre-event preparations. This assessment must identify potential hazards and the procedures that need to be implemented to eliminate or control those hazards. The event manager/applicant is responsible for ensuring that procedures are followed and that they comply with the requirements of the Occupational Health and Safety Regulations 2001.
2. That the applicant be allowed use of the Reserve on Friday, 29 August, 2008 to facilitate set-up and Vessel safety scrutineering;
3. Noise levels are to comply with Governor Phillip Reserve Noise Policy;
4. As the applicant has not advised of an alternate date in the event of inclement weather, the Manager of Parks & Recreation be granted delegated authority to negotiate exclusive use on an alternate date, if required by the applicant.

**APPENDICES:**

**AT - 1** Special Event Application - (Dataworks Document No. 2784005 - *see attached*).

**Item 2.2      LTC - 18 June 2008 - Item 2.2 - Shahzada 400 Kilometre Horse Endurance Ride, St Albans\_2008 - (Hawkesbury) - (80245, 86185)**

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**REPORT:**

An application has been received from Shahzada Memorial Endurance Test Inc. seeking approval to conduct its annual Shahzada 400 Kilometre Horse Endurance Ride, in and around the St Albans and Macdonald Valley areas. The event will be held from 25 to 29 August 2008.

The event organiser has advised the following:

- This event has been held over the last 27 years.
- Start and end point for the event will be within the St Albans village.
- St Albans Bridge, which is under the care and control of the Roads and Traffic Authority, will only be used in the event of flooding of the Macdonald River,.
- There will be approximately 150 horse riders participating.
- There will be approximately 30 spectators
- Parking of vehicles will be predominantly on private land

Refer to - Appendix 1(Dataworks Document No: 2798570) for the Event Route details

The route of the ride is predominantly on the tracks within the Parr State Recreational Area, Yengo National Park, private farmlands and on the following public roads

- Upper Macdonald Road – Unsealed Road
- Wollombi Road – Sealed and Unsealed Road
- Settlers Road – Sealed and Unsealed Road
- Bulga Street – Sealed section
- Wrights Creek Road - Unsealed Road
- St Albans Road - Sealed and Unsealed
- Wharf Street – Sealed Road
- Webbs Creek Road - Unsealed Road
- Webbs Creek Mountain Road - Unsealed Road
- Crossing of the Macdonald River at various locations.

The event is also traversing along Great Northern Road, which is under the care and control of the National Parks and Wildlife Service (Department of Environment and Conservation).

**Discussion**

It would be appropriate to classify this event as a “Class 2” special event under the “Traffic Management for Special Events” guidelines issued by the Roads & Traffic Authority as this event may impact minor traffic and transport systems and there is a low scale disruption to the non-event community.

The event organiser has submitted the following items in relation to this event: Appendix 1 (Dataworks Document No: 2798570):

- i) Details of the Special Event - Traffic template,
- ii) Superseded Transport Management Plan (TMP) and Traffic Control Plan (TCP). The TMP refers to the 2005 event and the TCP has expired,
- iii) Public Liability Insurance Policy to the value of \$20,000,000,
- iv) Copy of advertisement about the event but it does not indicate the route for the event,
- v) Approval from National Parks and Wildlife Service (Department of Environment and Conservation)

**ORDINARY MEETING**  
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- vi) Copies of correspondence forwarded to the NSW Police Service, NSW Ambulance Services, NSW Rural Fire Services, Waterway Authority and SES.

Authorisation for the use of St Albans Bridge is required from the RTA.

**RECOMMENDATION:**

That:

1. The Shahzada 400 Kilometre Horse Endurance Ride event, in and around the St Albans and Macdonald Valley areas, planned from 25 to 29 August 2008 be classified as a **"Class 2"** 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 which 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 obtaining approval to conduct this event, from the NSW Police Service; **a copy of the Police Service approval be submitted to Council;**
- 4b. the event organiser obtaining approval from the RTA as the event may traverse across St Albans Bridge; **a copy of the RTA approval be submitted to Council;**
- 4c. the event organiser **submitting a Transport Management Plan (TMP) for the entire route incorporating a Traffic Control Plan (TCP) to Council and the RTA** for acknowledgement. The TCP should be prepared by a person holding appropriate certification required by the RTA to satisfy the requirements of the relevant Work Cover legislation;
- 4d. the Event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a Water Cart for the duration of the event. Method of watering and frequency is to be addressed and outlined in the TMP;
- 4e. the event organiser obtaining the relevant approval to conduct this event from the Waterways Authority; **A copy of this approval be submitted to Council;**
- 4f. the event organiser obtaining the relevant approval from the Department of Natural Resources to cross the Macdonald River; **A copy of this approval be submitted to Council;**
- 4g. the event organiser advertising the event in the local press stating the entire route/extent of the event and the traffic impact/delays due to the event two weeks prior to the event; **a copy of the proposed advertisement be submitted to Council** (indicating the advertising medium);
- 4h. the event organiser directly notifying relevant bus companies, tourist bus operators and taxi companies operating in the area and all the residences and businesses affected by the event at least two weeks prior to the event; The applicant undertaking a letter drop to all affected

**ORDINARY MEETING**  
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residents and businesses in the proximity to the event, with that letter advising full details of the event; **a copy of the correspondence be submitted to Council;**

- 4i. If the use of a Council Park/Reserve is required, written approval is required from Councils' Parks and Recreation section;
- 4j. the event organiser obtaining approval from the NSW Department of Lands for the use of any Crown Road or Crown Land
- 4k. the event organiser obtaining any necessary approvals from adjoining Councils;
- 4l. the event organiser assessing the risk and addressing the suitability of the entire route as part of the risk assessment considering the possible risks for all; This assessment should be carried out by visual inspection of the route / site by the event organiser prior to preparing the TMP and prior to the event;
- 4m. the event organiser carrying 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 designing and implementing 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>);
- 4n. the event organiser submitting the completed "Special Event - Traffic Final Approval" form to Council;

**During the event:**

- 4o. access being maintained for businesses, residents and their visitors;
- 4p. a clear passageway of at least 4 metres in width being maintained at all times for emergency vehicles;
- 4q. all traffic controllers / marshals operating within the public road network holding appropriate certification required by the RTA;
- 4r. the riders are made aware of and are following all the general road user rules whilst riding on public roads;
- 4s. in accordance with the submitted TMP and associated TCP, appropriate advisory signs, and traffic control devices be placed during the event along the route under the direction of a traffic controller holding appropriate certification required by the RTA;
- 4t. the competitors and participants be advised of the traffic control and other arrangements in place, prior to the commencement of the event; and,
- 4u. all roads and marshalling points are to be kept clean and tidy, with all directional signs to be removed immediately on completion of the activity
- 4v. the Event organiser is to ensure that dust along the unsealed sections of road utilised by the event participants and those travelling to the event are mitigated by providing a Water Cart for the duration of the event. The method of watering and frequency is to be undertaken as outlined in the TMP

**APPENDICES:**

**AT - 1** Special Event Application - (Dataworks Document No. 2798570) - *see attached*.

**Item 2.3      LTC - 18 June 2008 - Item 2.3 - Proposed Extension to School Bus Zone in Kurmond Road, Freeman's Reach - Freeman's Reach Public School (Hawkesbury & Londonderry) - (80245, 19335)**

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**REPORT:****Introduction**

Representation has been received from the Principal and the P&C of Freeman's Reach Public School (Dataworks Document Nos. 2787304 & 2803601) requesting that the existing School Bus Zone in Kurmond Road, in the vicinity of the school, be extended to facilitate an additional 2 buses. Currently the existing School Bus Zone facilitates 4 buses.

The issues raised include:

1. Safety; with buses parking side by side (double parked) within the bus bay which is a confined space,
2. The students are having to walk between buses to board their bus,
3. Parents having to walk their children along the footpath parallel to the bus bay whilst buses are backing up in this confined area with reduced visibility and often blocking the footpath,
4. there was a near fatal occurrence when a bus backing up in the bus bay pushed a stroller with a baby in it against the fence.
5. The additional bus zone is only required for the afternoon period.

**Discussion**

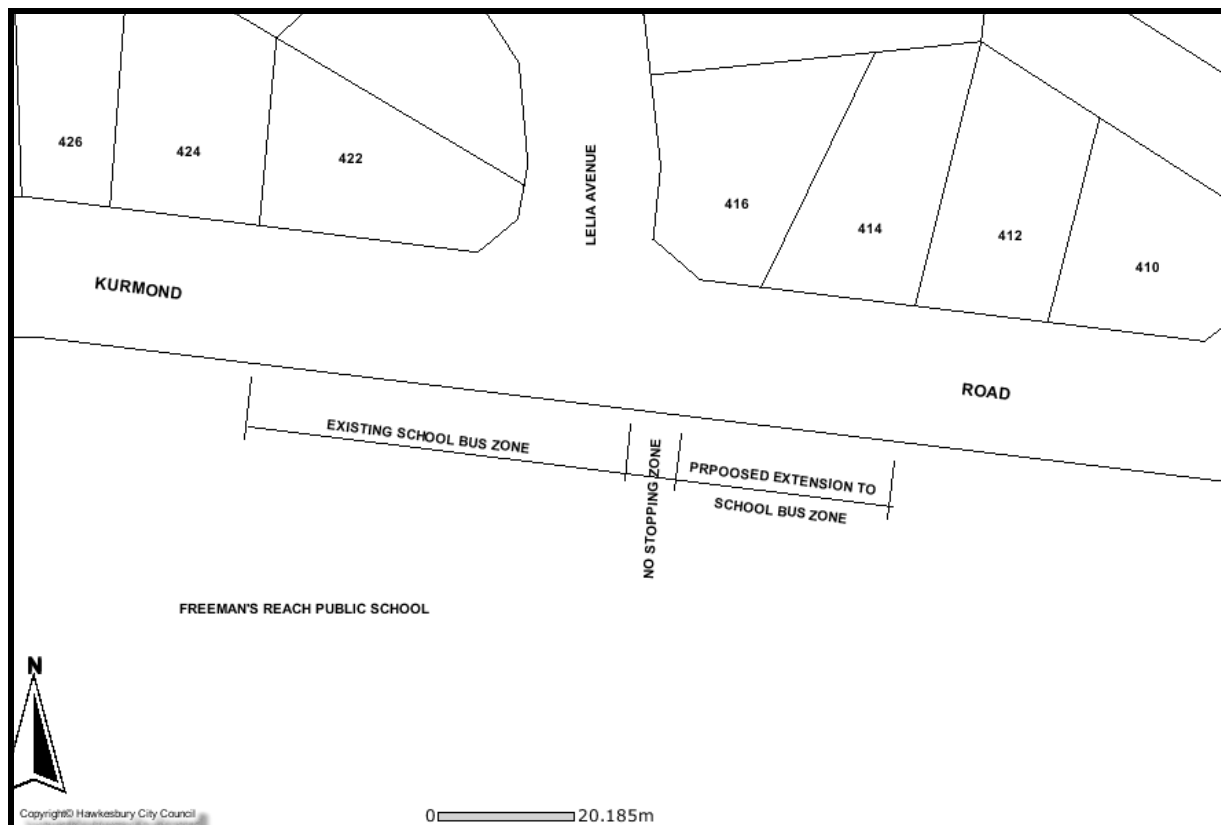
The current regulatory speed limit on Kurmond Road in the vicinity of the school is 60 kph with the School Zone of 40kph operating during the times of 8.00am to 9.30am and 2.30pm to 4.00pm. This road is a Major Distributor road. Parallel parking is permitted on both sides of the road except on some sections where there are parking restriction signs.

The existing School Bus Zone operates within the time frame of "8.00am - 9.00am and 2.30pm - 3.30pm - School Days" and is located on the southern side of Kurmond Road, in the vicinity of the school, and is approximately 60.0 metres long. The existing School Bus Zone is indented from the general Kerb and Gutter alignment in the Street. This total length of 60.0 metres includes the kerb and gutter tapers in and out of the Bus Bay. Effectively 4 buses are capable of Standing within this zone allowing for minimum draw in and draw out lengths as well as minimum gap separation for independent operation.

To provide for the additional 2 buses, the existing School Bus Zone will need to be extended in an easterly direction (approach side to the existing zone), and within the general Kerb and Gutter alignment, by 37.0 metres which conforms with the current Standard for an end block Bus Zone catering for a 'Design Bus' of 12.5 metres. The extended bus zone is only required between 2.30pm and 3.30pm - school days.

Currently the section of roadside east of the existing School Bus Zone has a 7.0 metre No Stopping Zone (which needs to be retained to maintain site distance), followed by all day parking. Effectively 5-6 car parking space will be lost, however there is sufficient kerb side parking for parents in Kurmond Road and the surrounding streets.

These changes have been supported by the School Principal, who will arrange for the changes to be advised to the school community via its newsletter, and the Bus companies; Westbus and Hawkesbury Valley. Confirmation of these proposed changes were agreed to at a site meeting between these parties on 6 June 2008.



**RECOMMENDATION:**

That the existing School Bus Zone (approximately 60.0 metres in length) located on the southern side of Kurmond Road in the vicinity of Freeman's Reach Public School, be extended in an easterly direction for a distance of 37.0 metres and to operate within the time frame of "2.30pm - 3.30pm - School Days". The extension of the School Bus Zone is to commence from a point east of the existing 7.0 metre No Stopping, which abuts the eastern end of the existing School Bus Zone.

**APPENDICES:**

There are no supporting documents for this report.

**SECTION 3 - Reports for Information**

Nil Reports for Information.

**SECTION 4 - General Business**

**Item 4.1      LTC - 18 June 2008 - Item 4.1 QWN - Onus Lane, Richmond - Traffic Conditions - (80245)**

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Mr J Christie

**REPORT:**

Advised of representations received regarding speeding vehicles and pedestrian/vehicle conflict on Onus Lane, Richmond, with some speed restriction signs missing.

**RECOMMENDATION:**

That the Roads and Traffic Authority be requested to investigate/review the speed limit on Onus Lane, Richmond, as well as undertake an audit of speed restriction/warning signage at that location.

**APPENDICES:**

There are no supporting documents for this report.

**Item 4.2      LTC - 18 June 2008 - Item 4.2 QWN - Mulgrave Station Directional Signage, Hawkesbury Valley Way - (80245)**

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Mr J Suprain

**REPORT:**

Advised that Mulgrave Station directional signage would be erected at access ramps to the Hawkesbury Valley Way in the near future, as recommended by the Committee at its meeting held on 19 September 2008.

**RECOMMENDATION:**

That the information be received.

**APPENDICES:**

There are no supporting documents for this report.



**ORDINARY MEETING**  
Reports of Committees

**Item 4.3      LTC - 18 June 2008 - Item 4.3 QWN - Hawkesbury Valley Way, Mulgrave/Bells Line of Road/Comleroy Road, Kurrajong - (80245)**

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Councillor B Bassett

**REPORT:**

Advised of presence of graffiti on signage/structure of Hawkesbury Valley Way, Mulgrave, as well as on signage at the intersection of Bells Line of Road/Comleroy Road, Kurrajong.

Mr J Suprain advised that both locations would be attended to by the Maintenance Section, Roads and Traffic Authority.

**RECOMMENDATION:**

That the information be received.

**APPENDICES:**

There are no supporting documents for this report.

**Item 4.4      LTC - 18 June 2008 - Item 4.4 QWN - East Market/March Streets, Richmond - Traffic Condition - (80245)**

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Councillor B Bassett

**REPORT:**

Advised of delay caused to eastbound through traffic on March Street, Richmond at East Market Street, generated by queued right turn traffic/dedicated left turn only lane.

**RECOMMENDATION:**

That this matter be referred to the Roads and Traffic Authority for investigation/advice.

**APPENDICES:**

There are no supporting documents for this report.

**ORDINARY MEETING**  
Reports of Committees

**Item 4.5      LTC - 18 June 2008 - Item 4.5 QWN - Bells Line of Road - Speed Restriction - (80245)**

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Councillor B Bassett

**REPORT:**

Enquired of Mr J Suprain as to when speed restriction plates were to be installed on poles erected on generally the full length of Bells Line of Road.

Mr J Suprain advised that this matter was still under consideration by the Authority.

**RECOMMENDATION:**

That the Roads and Traffic Authority be requested to investigate/advise regarding this matter.

**APPENDICES:**

There are no supporting documents for this report.

**SECTION 5 - Next Meeting**

The next Local Traffic Committee meeting will be held on Wednesday, 16 July 2008 at 3.00pm in the Large Committee Room.

The meeting terminated at 3.55pm.

**oooO END OF REPORT Oooo**



ordinary  
meeting

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