



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 31 July 2007

location: council chambers

time: 5:00 p.m.

ORDINARY MEETING

Table of Contents

Meeting Date: 31 July 2007

AGENDA

- **WELCOME / EXPLANATIONS / PRAYER**
- **APOLOGIES**
- **DECLARATION OF INTERESTS**
- **SECTION 1 - Confirmation of Minutes**
- **AGENDA ITEMS SUBJECT TO PUBLIC ADDRESS**
- **SECTION 2 - Mayoral Minutes**
- **QUESTIONS WITH NOTICE**
- **SECTION 3 - Notices of Motion**
- **EXCEPTION REPORT - Adoption of Items Not Identified for Discussion and Decision**
- **SECTION 4 - Reports for Determination**

**Acting General Manager
City Planning
Infrastructure Services
Support Services**

- **SECTION 5 - Reports of Committees**
- **QUESTIONS WITHOUT NOTICE**

ORDINARY MEETING

Table of Contents

Meeting Date: 31 July 2007

ORDINARY MEETING**Table of Contents****Meeting Date:** 31 July 2007**TABLE OF CONTENTS**

| ITEM | SUBJECT | PAGE |
|-------------|---|-------------|
| | QUESTIONS WITH NOTICE | 4 |
| | QWN - Carbon Trading Scheme - (80106, 95498, 107) | 4 |
| | SECTION 4 - Reports for Determination | 18 |
| | ACTING GENERAL MANAGER | 18 |
| Item:138 | AGM - New South Wales Electoral Commission - Indicative Costs for 2008 Local Government Elections - (79351, 107) | 18 |
| | CITY PLANNING | 22 |
| Item:142 | CP - Agricultural Shed - 198 Yarramundi Lane, Agnes Banks - (DA0979/06, 95498, 96329, 13399, 103509, 100489) | 22 |
| Item:144 | CP - Development Application for Colour Bond Fence and Retaining Wall - 20 William Cox Drive, Richmond NSW 2753 - (DA0197/07, 78735, 100500, 96329, 95498) | 36 |
| Item:145 | CP - Use of Existing Site Office As a Dwelling, Extension to Rural Shed (Exceeding 170sqm) and Garage - 25 Crowleys Lane, Agnes Banks NSW 2753 - (DA0765/06, 95498, 96329, 77499) | 47 |
| Item:146 | CP - Tourist Facility - 1619A Bells Line of Road, Kurrajong Heights NSW 2758 - (DA0215/07, 95498, 96329, 38269, 38268, 73916) | 64 |

ORDINARY MEETING

Questions With Notice

QUESTIONS WITH NOTICE

QWN - Carbon Trading Scheme - (80106, 95498, 107)

Submitted by: Councillor P Rasmussen

BACKGROUND:

Given that a carbon trading scheme may soon be introduced to Australia and that Hawkesbury City Council has large areas of native and planted vegetation in the form of national parks, wilderness, parks and gardens, tree plantations, crop farming, and privately owned stands of trees, there is a need to take stock of and bring to account the size and importance of our carbon portfolio.

The environmental and economic benefits of bringing to account our vast carbon portfolio and our net carbon position needs to be explored at the strategic level sooner rather than later.

QUESTIONS:

1. **Does the Hawkesbury City Council's ledger of accounts record the City's carbon portfolio? If not, why not?**

Hawkesbury City Council has a solid historical record of its greenhouse gas emissions through its involvement in the Cities for Climate Protection Program, and more recently through its receipt of regular energy and greenhouse gas performance reports as part of its subscription to the Planet Footprint Program for Local Government.

Involvement in these initiatives has been driven primarily through a need to better improve energy performance within the organisation, and to influence the community to improve its energy performance, with the overall objective being to reduce greenhouse gas emissions from within Council and from across the wider Local Government area.

Cities for Climate Protection Program

Hawkesbury City Council joined the Cities for Climate Protection Program (CCP) in April 2000. This program is designed to assist Local Governments reduce corporate and community greenhouse gas emissions through the achievement of five project Milestones. Since joining, Council has achieved the five Cities for Climate Protection Milestones.

A timeline of Council's progression through the CCP Program is shown below:

April 2000

Hawkesbury City Council joined CCP.

November 2001

Milestone 1: Completed an inventory and forecast for key sources of greenhouse gas emissions by Council and the community.

April 2002

Milestone 2: Council commits to reducing Corporate greenhouse gas emissions by 20% below 2000 levels by 2010 for corporate (Council) emissions, and by 20% below 1996 levels by 2010 for community emissions.

ORDINARY MEETING

Questions With Notice

June 2002

Milestone 3: Developed and adopted a Greenhouse Gas Reduction Strategy to achieve the Corporate and Community emissions reduction goals.

January 2003

Milestone 4: Implemented significant sections of the Strategy, and awarded Milestone 4.

May 2003

Milestone 5: Monitor and report greenhouse emissions and implementation of actions and measures. Completed a reinventory and the preparation of an associated report.

As part of the CCP Program, Hawkesbury City Council has implemented numerous actions to reduce greenhouse gas emissions from both the Corporate and Community sector. An example of some of the Corporate measures implemented to date, include:

- Installed soft starters to pump stations
- Enabled energy star facility on all office equipment
- Promoted energy awareness among staff through staging of an 'Energy Week'.
- Formed a Technical Group to coordinate the progress of energy efficient programs within the organisation.

2. If yes, where is the portfolio reported?

Core data relating to the organisation's greenhouse gas emissions is held by Planet Footprint Pty Ltd, and is available to Council on request. Planet Footprint also provides Council with quarterly greenhouse gas performance reports which are stored on the organisation's network, as well as in hard copy form with the City's Senior Strategic Environmental Planner.

Planet Footprint has organised a workshop with key staff during August to identify ways for the organisation to manage and report on the greenhouse performance data it is receiving from Planet Footprint. Part of this workshop will involve examining processes for reporting greenhouse performance to Councillors, and for storing key performance data within the core performance databases of the organisation.

Prior to its participation in the Planet Footprint Program, the City received information on its greenhouse performance via development of emissions inventories required as part of its involvement with the Cities for Climate Protection Program. These inventories are summarised in reports that have been reported to Council, and inventory data resides in a database managed by the International Council for Local Environmental Initiatives (ICLEI) who manage the CCP Program.

Hawkesbury City Council has recently been awarded an Urban Sustainability Seed Funding grant of \$20,000 from the NSW Environmental Trust.

These funds will be used to engage the Institute for Sustainable Futures UTS, Sydney to assist with the preparation of a sustainability strategy.

Council has a strategic commitment to 'sustainable and liveable communities' and 'sustainable development' (Draft Strategic Plan 2007/2008, p.26), and is currently undertaking many activities that relate to the various dimensions of sustainability which includes the calculation of Greenhouse Gas.

However, a need has been identified to achieve a better integration of sustainability issues across Council. This would be achieved by:

- Assessing the current situation with regard to sustainability planning - including the identification of any gaps in Council's approach to addressing sustainability;
- Identifying opportunities to integrate sustainability into Council's governance framework and planning processes- with regards to monitoring and reporting outcomes;

ORDINARY MEETING

Questions With Notice

- Embedding the community's vision into Council's approach to sustainability;
- Increasing the understanding of and commitment to sustainability (as a holistic framework with environmental, social and economic dimensions) among Council staff and Councillors; and
- Developing a strategic approach to sustainability, to guide and inform Council planning processes over the longer term.

3. Does the City have an estimate of its net carbon position?

The City has a solid understanding of its net carbon position, through information received from Planet Footprint and through development of greenhouse gas emissions inventories as part of the Cities for Climate Protection Program.

Cities for Climate Protection Program Emissions inventories are divided into both corporate (Council) and community emissions. The Corporate sector was divided into five categories:

- Buildings** - This sector accounted for emissions from Council owned and operated buildings.
- Vehicle Fleet** - Which accounted for emissions from fuel use of the Council's vehicles and plant machinery.
- Street Lighting** - This sector accounts for emissions resulting from street lighting, including Country Energy/Great Southern Energy street lighting and Council decorative park lighting.
- Water** - This sector accounted for emissions resulting from the energy used to pump water for reticulation on Council owned property.
- Waste** - The sector accounted for emissions that result from the breakdown of organic waste.

Baseline Energy Use- Corporate

The total greenhouse gas emissions for Hawkesbury City Council's Corporate sector for 2000 were **7511 tonnes CO₂^e** (Figure 1).

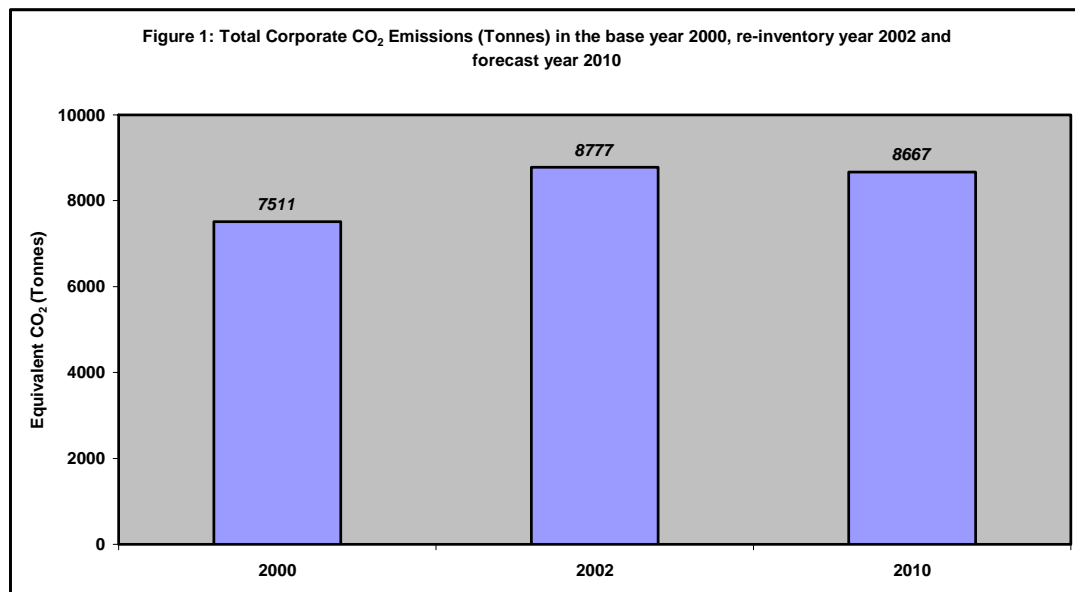
Emissions increased by 16.8 per cent to **8777 tonnes CO₂^e** in the 2002 year which is higher than the 2010 forecast total of **8667 tonnes CO₂^e** (Figure 1).

Total costs of energy increased from the base to re-inventory year by 14.4 per cent. In 2000 Council paid **\$1,295,166** for energy and in 2002 the cost increased to **\$1,481,285** (Figure 2). This result is in contrast to the 'business as usual' forecast of **\$1,489,865** in energy costs by 2010.

ORDINARY MEETING

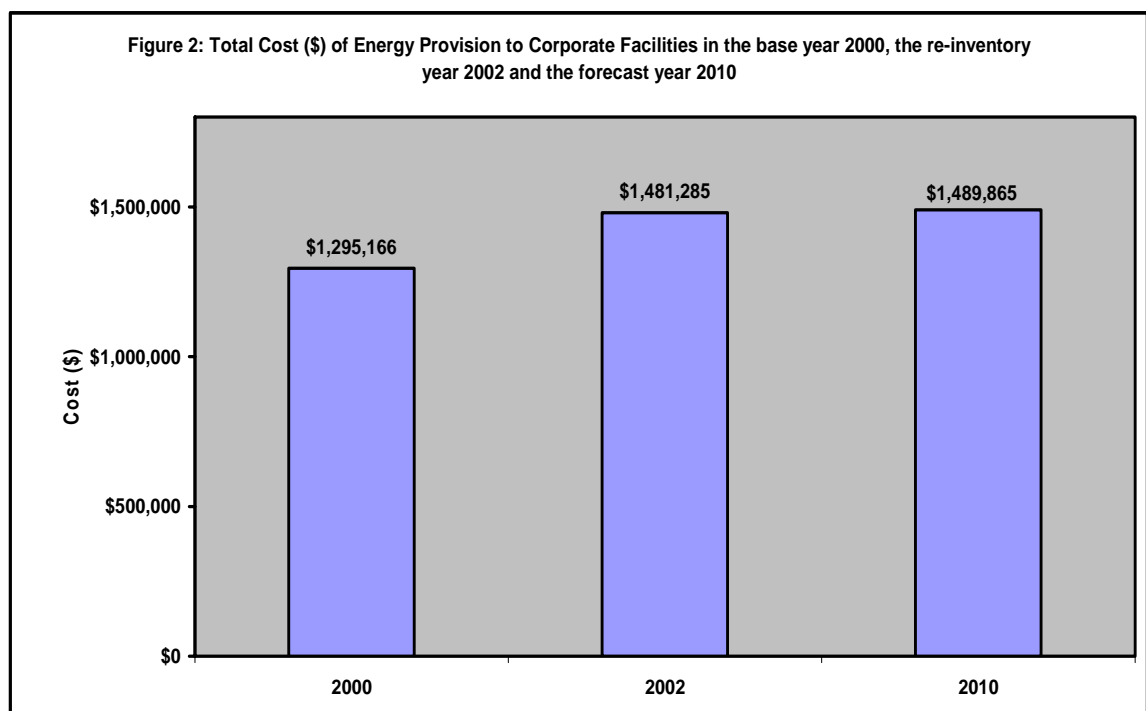
Questions With Notice

Figure 1 Total Corporate CO₂ Emissions



Figures 1 and 2 show the increase in emissions and energy costs in individual Corporate sectors between the base, re-inventory and forecast year. In terms of emissions, the Water/Sewerage and Buildings sectors showed the highest growth in emissions from 2000 to 2002, increasing by 21.2 per cent, and 17.6 per cent respectively. The Vehicles and Streetlighting sectors also increased by 13.7 and 13.3 per cent respectively while the waste sector showed no change from the base year overall.

Figure 2 Base Year 2000 Inventory



ORDINARY MEETING

Questions With Notice

The State Government has also realised that high energy users, including some local Councils, play a large and important role in reducing greenhouse gas emissions in the attempt to cease global warming and climate change. Ensuring all councils have calculated their Corporate Greenhouse Gas emissions may also provide a platform for the introduction of the Carbon Trading Scheme.

This is reflected in the Energy Savings Order 2005, which was gazetted on 28 October 2005 by the Minister for Utilities.

This Order requires business and government agencies with high energy use at a site and large local Councils to prepare a draft Energy Savings Action Plan (ESAP) and Water Savings Action Plan (WSAP) in accordance with section 34R of the Energy and Utilities Administration Act 1987, and submit it to the Minister for approval. Schedule 2 designates Hawkesbury City Council as an energy user and requires the Council to prepare both Plans.

The Energy Savings Action Plan (ESAP) has been developed in accordance with the DEUS Guidelines for ESAPs, as required by the *Energy Administration Amendment (Water and Energy Savings) Act 2005*.

The following summary represents the amount of energy and Greenhouse Gas Emissions expressed in the form of CO₂ across Council's high energy users.

Table 1 Baseline Data 2005-2006

| Site | Baseline Energy Use per annum (GJ) 2005-2006 | Greenhouse Emissions Tonnes (CO ₂) |
|----------------------------|--|---|
| Administration Building | 1,818 | 497 |
| Oasis Aquatic Centre | 12,233 | 3,347 |
| Deerubbin Centre | 1,372 | 375 |
| Sth Windsor STP | 3,060 | 837 |
| McGraths Hill STP | 716 | 196 |
| Streetlights | 6,512 | 1,782 |
| Dight St Offices | 936 | 256 |
| Fairy Road Pump Station | 3,391 | 28 |
| Total | 30,038 | 8,218 |

The Plan is currently in draft format only, and there is still work to be completed during 2007 to ensure the ESAP becomes a powerful blueprint for change within Council. In particular, detailed monitoring of many sites has to be carried out to better understand the energy characteristics at those locations, and greater detail needs to be provided in developing sound business cases for actions.

This work will be carried out over coming months as Council receives further information from staff, contractors and consultants. It is also anticipated that the Plan will be adjusted and updated on a regular basis as Council receives more detailed and accurate information to help it put together effective business cases for further energy efficiency measures.

4. If so, is that position in credit or deficit?

Council's Net Carbon Position.

Figure 3 indicates from the 2000 year baseline data Council increased their CO₂ emissions by 16.9 % until 2002. The 2002 data includes Corporate and Community emissions based on the 2001 ABS data. This major increase was contributed by the inclusion of Council infrastructure. Several high consuming new buildings were measured since the base year which included the Stadium, Australiana Village, Bligh Park Child Care Centre and Youth & Community Centre.

ORDINARY MEETING

Questions With Notice

However, measures implemented in the Corporate sector since the base year has achieved an abatement in the re-inventory year of 255 tonnes CO₂. This was achieved by installing soft starters to pump stations, purchasing energy star printers, photocopiers and computers.

From 2002 to 2005/2006 Council decreased their Corporate CO₂ emissions by 6.3%. This was mainly achieved by improved energy efficiency such as:

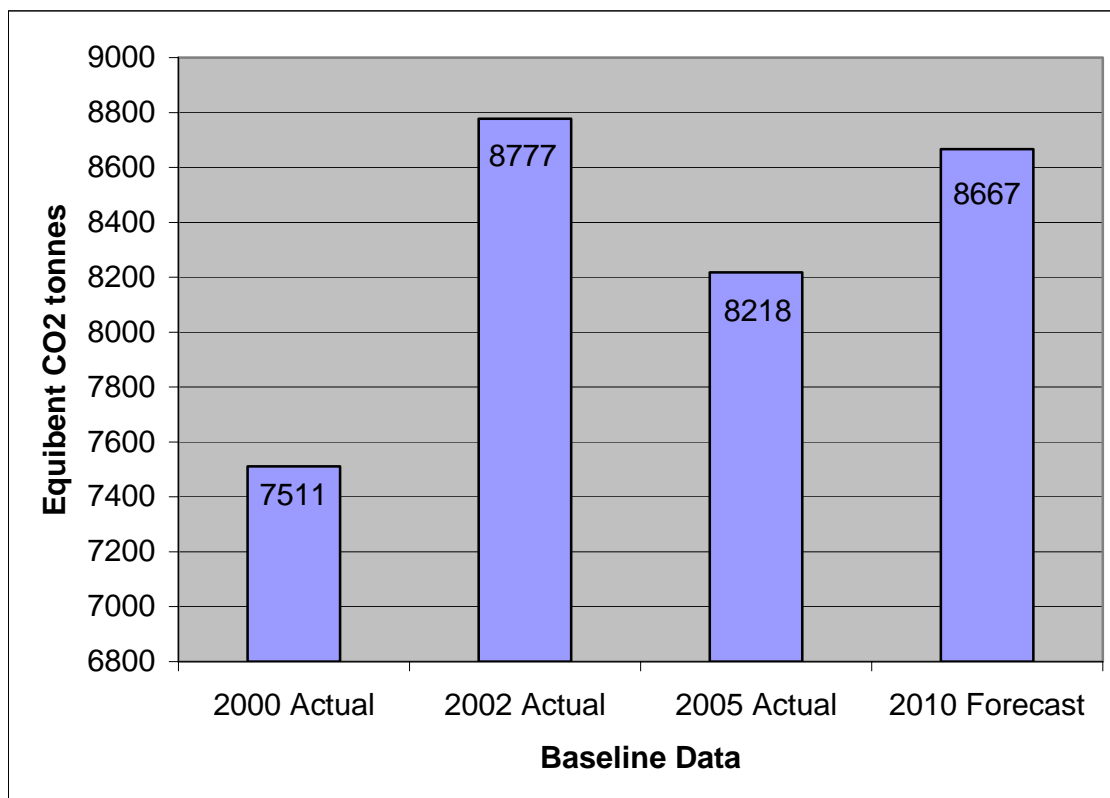
- Retrofitting lights with high efficiency tubes;
- Installing sensors to control lighting;
- Installing control timers on appliances;
- Staff education through energy week; and
- Formulation of a internal steering team to implement identified actions.

The difference between the Cities for Climate Protection Baseline Data (2000, 2002 & 2010) and the Energy Savings Action Plan Baseline Data (2005 (Figure 3)) is the latter does not include corporate emission from Council's vehicle fleet, all stationary energy uses (other than the top ten), and pollution emissions from the Waste Management Facility.

Community data for this period will not be available until the business sector of the 2006 ABS information is released in early 2008.

The new 2005/2006 baseline data currently represent 94.8% of the 2010 target of CO₂ emissions. However, there are data gaps as previously discussed.

Figure 3 Total Corporate CO₂ Emissions.



5. Is Council's operations a net source or sink for carbon emissions?
and
6. Is the City's net carbon position one of being a source or a sink of carbon?

ORDINARY MEETING

Questions With Notice

Council's operations are a net source for carbon emissions. Council can further improve its net carbon position by implementing the changes identified in the Draft Energy & Water Savings Action Plan and annually review corporate greenhouse gas emissions.

By implementing the identified actions Council can decrease its CO₂ emissions. These savings are the net positive position that will be the tradable commodity when the Carbon Trading Scheme is introduced to Australia.

The City of Hawkesbury contains 68.9 % of National Parks. The only Council owned areas of potential carbon sinks include:

- Public Open Space (Existing Recreation) approx 0.12%;
- Open Space Proposed Recreation approx 0.01%; and some of the Special Use 5(a) 0.71%.

7. Given the extensive nature of crop farming in our City, has farming been included into the strategic carbon balance sheet for our city?

Farming emissions have not previously been included in the Community calculations as Council has historically little influence. Currently CCP is working on a "Victorian Rural Project" which will model rural emissions from farming and agriculture. However, if the model is adopted they will then incorporate those emissions into the community data.

8. Would it be possible to report Council's net carbon position on a yearly basis?

Council's subscription to the Planet Footprint Local Government Program sees it receive energy related greenhouse gas performance reports every quarter, for all its built assets. These reports can be compiled and reported to Council on an annual basis if required. Council may consider extending its involvement with Planet Footprint to also have Planet Footprint track emissions from fleet and waste operations, enabling it to receive a full report on its net carbon position *every quarter*.

Council is also considering making a grant application to the Australian Greenhouse Office (AGO) to assist it to develop more frequent greenhouse gas emissions inventories that are consistent with those developed previously through its involvement with the Cities for Climate Protection Program. The development of more frequent full emissions inventories, together with the regular performance reports delivered by Planet Footprint, will enable Council to identify the total CO₂ abatement for implementing such reduction measures as:

- Cogeneration Plant;
- Reduction of lease back fleet to 4 cylinder engines;
- Review of the Emissions 20% target for 2010;
- Coordination of the Greenhouse Gas Reduction Strategy;
- Preparation for the Carbon Trading Scheme implementation;
- Monitoring success- subscription to "Planet Footprint";
- Green purchasing agreements;
- Energy efficient contracts with providers;
- Ensure energy efficient principles are included in design of new Council buildings;
- Installation of power factor corrections for electricity supply; and
- Implement Sustainability Strategy.

At its 13 April 2007 meeting, the Council of Australian Governments (COAG) agreed to:

"establish a mandatory national greenhouse gas emissions and energy reporting system, with the detailed design to be settled after the Prime Minister's Task Group on Emissions Trading reports at the end of May".

ORDINARY MEETING

Questions With Notice

The Government recognises that Australia, like every country, has a responsibility to control and reduce its greenhouse gas emissions over time.

The Australian Government will invest \$26.1 million over five years to set up a single, streamlined system for greenhouse and energy reporting by Australian companies, Minister for Environmental and Water Resources, Malcolm Turnbull, confirmed on 17 July 2007.

Many companies already involved in monitoring their emissions through other programmes with some having to prepare up to eight different reports will benefit from a single, streamlined national reporting system.

Local Government has been assured that the final National Greenhouse Gas Emission and Energy Reporting System, will enable a simple transfer of existing data. The system is expected to be in place by July 2008.

9. **Has any strategic thinking or work been done to model the financial benefits and potential revenue to our City of carbon credit trading? If not, why not?**

Council has been monitoring the recent efforts of Randwick City Council to establish a Local Government carbon trading scheme, including investigation by Randwick and its consultants as to the advantages, disadvantages and challenges to be overcome to establish such a scheme.

In particular, it has become obvious that any participation in a carbon or emissions trading scheme will require all participants to develop rigorous in-house systems and frameworks for management of the processes and data needed for effective trading. As such, we have focussed on building internal capacity to meet the demands of any trading scheme to ensure we can participate effectively once a local, state or Commonwealth scheme is in place and operational.

Strategic Direction

In accordance with Council's Strategic Plan the following key performance indicators have been identified by an internal working party. These programs are to be developed, reviewed and adjusted on a regular basis in line with the review of the Management Plan so they remain relevant.

The targets are designed to be set at an organisation-wide level by a working group, and then guidance provided to individual business units to set department-specific targets as they see fit.

1. Develop broad and long term energy and water improvement objectives to provide strategic direction to the organisation's energy and water programs.
2. Include development of annual quantifiable energy and water targets as part of the corporate planning process.
3. Consider updating the Hawkesbury Sustainable Energy and Greenhouse Strategy to incorporate water management issues, to become an integrated Energy and Water Strategic Improvement Plan to meet DEUS and CCP requirements.
 - a. Develop revised plan.
 - b. Develop and document an associated process to ensure the actions contained in this plan feed seamlessly into the annual budgeting process.
 - c. Ensure this plan is updated on a regular (annual) basis as part of an overall management review of energy and water management issues.
4. Implement a simple and streamlined process to ensure management and staff consider the current energy and water issues and associated indicators, objectives and targets, when developing the management and operating plans and budgets, to ensure these plans include strategic programs to address these issues and meet these objectives. Aim to have the

ORDINARY MEETING

Questions With Notice

consideration of energy and water issues and outcomes a routine part of the annual planning process.

5. Develop processes for the regular reporting of energy and water performance (against the objectives and targets) and program outcomes to staff and Commissioners. Consider developing energy and water 'report cards' that integrate with core business reporting processes.
6. Develop and implement a stand-alone Environmental Policy that effectively incorporates energy and water management issues to set the overall direction for HCC's environmental programs.

Annual Reporting

In compliance with item two above, "Include development of annual quantifiable energy and water targets as part of the corporate planning process", Council at its Ordinary Meeting held on 30 August 2005 resolved to subscribe to the Planet Footprint Program for Local Government.

Planet Footprint is an international sustainability benchmarking organisation that operates a Local Government program whereby Councils receive regular reports detailing their energy and water consumption for all their facilities, as well as details of how they are performing against other Councils in their region and across Australia.

Planet Footprint's Local Government Program is comprised of two types of Reports - Service Detail Reports and Footprint Reports.

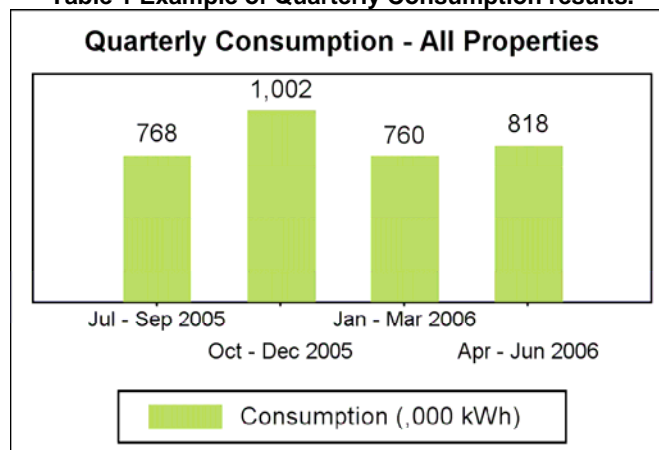
Service Detail Reports present all accounts for a Council in a comprehensive register that includes current and historical consumption, costs, green energy and greenhouse gas emissions. These reports are available on demand, as well as sent quarterly to Council.

Footprint Reports, which include Organisation Footprint Reports and Property Footprint Reports, build on the data compiled in the Service Detail Reports by presenting performance in terms of properties and assets for more in depth analysis (compared to the accounts, based Service Detail Reports).

The value of Planet Footprint lies in its ability to consistently provide highly analysed data to Councils to increase their capacity for improving environmental performance.

Footprint Reports are also where comparisons and benchmarking are carried out. It is envisaged to provide this transparent information on Council's web site as soon as possible.

Table 1 Example of Quarterly Consumption results.



ORDINARY MEETING

Questions With Notice

Table 2 Example of Council's Quarterly Greenhouse Gas Emissions

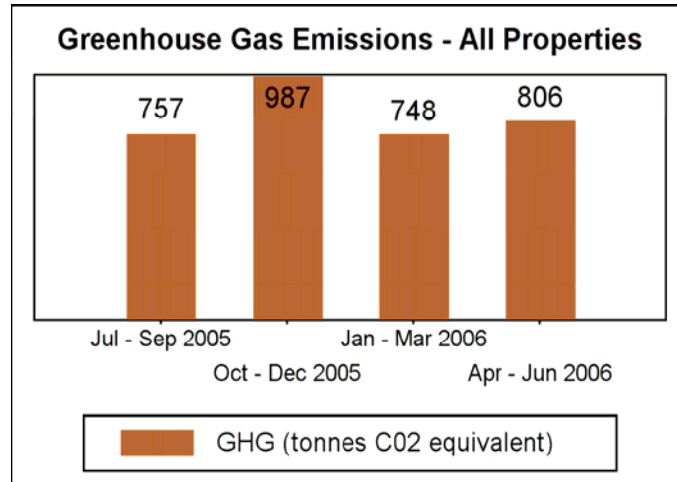


Table 3 Indicates the monthly tonnage reports from Visy Recycling. These reports indicates Hawkesbury City Council's monthly totals of recycling in tonnes received and processed at the Blacktown Materials Recovery Facility. The monthly report also demonstrates the Greenhouse benefits, Energy Savings and Water Savings recovered by recycling waste resources.

These monthly reports will be available on Council's web site in the near future.

ORDINARY MEETING

Questions With Notice

Table 3

Hawkesbury Council and Visy Recycling - Year to Date

Environmental Benefits of Recycling Calculator

Recycling Composition Known

Recycling Composition Unknown

Enter Total Quantity of Recycling (Tonnes)

| Material | Quantity Recycled (Tonnes) |
|-------------------|----------------------------|
| Paper/ Cardboard | 4,161 |
| Liquid Paperboard | 12 |
| Glass | 1,758 |
| Aluminium | 32 |
| Steel | 171 |
| HDPE | 114 |
| PET | 182 |



| Material | Quantity Recycled (Tonnes) | NSW Average % Composition | Landfill Space Saved (m³) |
|-------------------|----------------------------|---------------------------|---------------------------|
| Paper/ Cardboard | 4,161 | 64.7% | 13,445 |
| Liquid Paperboard | 12 | 0.2% | 32 |
| Glass | 1,758 | 27.3% | 3,159 |
| Aluminium | 32 | 0.5% | 27 |
| Steel | 171 | 2.7% | 486 |
| HDPE | 114 | 1.8% | 218 |
| PET | 182 | 2.8% | 348 |
| TOTAL | | | 17,716 |

Greenhouse Benefits



| Material | Greenhouse Benefits (Tonnes CO ₂ eq per tonne recycled) | Total Greenhouse Benefits (Tonnes CO ₂ eq) | Cars Permanently Removed from Roads | Groups of 10 Cars Permanently Removed from Roads |
|-------------------|--|---|-------------------------------------|--|
| Paper/ Cardboard | 0.4 | 1,664 | 400 | 40 |
| Liquid Paperboard | -0.2 | -2 | -1 | -0 |
| Glass | 0.4 | 615 | 148 | 15 |
| Aluminium | 15.2 | 484 | 116 | 12 |
| Steel | 0.8 | 137 | 33 | 3 |
| HDPE | 0.5 | 56 | 13 | 1 |
| PET | 1.5 | 274 | 66 | 7 |
| TOTAL | | 3,228 | 775 | 78 |

Energy Savings



| Material | Energy Savings (Gigajoule per tonne recycled) | Total Energy Savings (Gigajoule) | Annual Electricity Requirements (Blocks of 10 Households) | Annual Electricity Requirements (Blocks of 100 Households) |
|-------------------|---|----------------------------------|---|--|
| Paper/ Cardboard | 18.0 | 74,891 | 347 | 35 |
| Liquid Paperboard | 7.2 | 84 | 0 | 0 |
| Glass | 3.8 | 6,679 | 31 | 3 |
| Aluminium | 171.0 | 5,456 | 25 | 3 |
| Steel | 32.9 | 5,635 | 26 | 3 |
| HDPE | 46.8 | 5,334 | 25 | 2 |
| PET | 49.5 | 8,986 | 42 | 4 |
| TOTAL | | 107,065 | 496 | 50 |

Water Savings



| Material | Water Savings (1,000 litres per tonne recycled) | Total Water Savings (1,000 Litres) | Olympic Swimming Pools | Average Sized Backyard Swimming Pools | Annual Water Usage (Persons) |
|-------------------|---|------------------------------------|------------------------|---------------------------------------|------------------------------|
| Paper/ Cardboard | 23.7 | 98,607 | 39 | 1,793 | 1,054 |
| Liquid Paperboard | 9.6 | 112 | 0 | 2 | 1 |
| Glass | 2.0 | 3,515 | 1 | 64 | 38 |
| Aluminium | 233.2 | 7,440 | 3 | 135 | 80 |
| Steel | 1.1 | 188 | 0 | 3 | 2 |
| HDPE | -10.4 | -1,185 | -0 | -22 | -13 |
| PET | -12.1 | -2,197 | -1 | -40 | -23 |
| TOTAL | | 106,481 | 43 | 1,936 | 1,138 |

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF QUESTION WITH NOTICE Oooo

ORDINARY MEETING
Questions With Notice

ordinary

section 4

reports
for determination

ORDINARY MEETING
Reports of Committees

SECTION 4 - Reports for Determination

ACTING GENERAL MANAGER

Item:138 AGM - New South Wales Electoral Commission - Indicative Costs for 2008 Local Government Elections - (79351, 107)

REPORT:

A letter dated 18 June 2007 has been received from the New South Wales Electoral Commission advising the indicative cost for conducting the 2008 Local Government Election for Hawkesbury City Council will be \$287,400. A copy of this letter is included as Attachment A to this report.

It will be noted that the Commission's letter indicates that following a review of a number of issues relating to the conduct of Local Government elections it was identified that the Commission was not conducting the elections on a "full cost recovery basis". It is also indicated that based on the work undertaken for other elections, having regard for the particular requirements of Local Government elections, prepared on a "full cost recovery basis" the cost, or charge by the Commission, for this Council would be as indicated above.

The costs involved in the 2004 Local Government election for this Council was \$135,648, including the payment of staff utilised on election day and a payment of \$37,381 to the Commission. Whilst some indirect costs may not have been charged to the election account at the time, it is not considered that this would significantly increase this total cost.

Based on the advice now received from the Commission the suggested cost for the 2008 Local Government election (\$287,400) represents an increase in the order of 110% (\$151,752) on the cost incurred by Council for the 2004 election.

In preparation for the cost of the 2008 election, an amount of \$30,000 has been placed in a reserve for this purpose and based on a similar amount being provided, as normal, in the 2008/2009 budget an amount of \$150,000 would have been available for the 2008 election. This would be \$137,400 less than the amount now being advised by the Commission as being required at the time for this purpose. Council will appreciate that it will be difficult to allocate this additional amount in what is an already tight budgetary situation.

Had the cost incurred for the 2004 election increased by a rate similar to the CPI, or the rate pegging increases approved by the State Government, the cost of the 2008 election would have been anticipated to have been in the order of \$160,000.

Whilst it is acknowledged that the cost of conducting the election may have increased at a rate greater than CPI or rate pegging, given the introduction of additional requirements; changes to and improvement of electoral processes over time; etc., it is difficult to suggest that an increase in costs in the order suggested, namely approximately 110% or \$151,752, can be justified even if, as indicated, this has been calculated on a "full cost recovery basis". This is particularly highlighted when it must be acknowledged that councils are restricted by rate pegging limits and the State Government regulates many charges councils levy and these are not done on a "full cost recovery basis".

As it is not considered that the increase in election costs as being indicated are reasonable it is suggested that Council should submit a motion to the upcoming Local Government Association Annual Conference calling on the State Government to review this direction and require the Commission to consider a more realistic cost structure for the 2008 Local Government elections, having regard to the costs incurred by councils in 2004. In addition, the Council could also make appropriate representations to the Premier and Minister in this regard.

Conformance to Strategic Plan

This proposal is deemed to conform with the objectives set out in Council's Strategic Plan:

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

Funding

The costs advised by the New South Wales Electoral Commission for the conduct of the 2008 Local Government elections in Council's area represent a significant increase on the cost incurred for the 2004 election as well as a significant increase on the cost that would normally be expected for the 2008 election. Based on the advice received Council will need to allocate an additional \$137,400 in the 2008/2009 budget for this purpose in an already difficult budgetary climate.

RECOMMENDATION:

That Council:

1. Submit a motion to the 2007 Local Government Association Annual Conference calling on the State Government to review the direction advised by the New South Wales Electoral Commission in respect of the costs to be charged to councils for the conduct of the 2008 Local Government elections and require the Commission to consider a more realistic cost structure for the 2008 elections, having regard to the costs incurred by councils in 2004.
2. Make representations to the Premier and relevant State Minister in this regard.

ATTACHMENTS:

AT - 1 Copy of letter dated 18 June 2007 from New South Wales Electoral Commission.

AT - 1 Copy of letter dated 18 June 2007 from New South Wales Electoral Commission.



18 June 2007

Mr Graeme Faulkner
General Manager
Hawkesbury City Council
PO Box 146
Windsor NSW 2756



Dear Mr Faulkner

Indicative Costing for Local Government 2008 General Elections

I am writing to provide you with information that may assist in your budget for the September 2008 Local Government elections.

In 2005 the Council for the Cost and Quality of Government reviewed the New South Wales Electoral Commission (NSWEC) and identified a number of issues relating to the NSWEC's conduct of Local Government elections. The review, amongst other things, identified that the NSWEC was not conducting such elections on a full cost recovery basis.

The NSWEC receives no funding from the Government for the cost of establishing and maintaining an infrastructure and expertise to conduct Local Government elections. Government expects that all such election activity is undertaken on a full cost recovery basis.

The NSWEC commissioned independent auditors to review the current pricing structure and to recommend a pricing structure based on a full cost recovery model. The pricing structure reflects the full cost of providing professional election services.

The pricing structure is as follows:

- NSWEC election management fee of \$195 per hour for staff members;
- Casual staff to be charged at cost with no overhead added;
- Disbursements (printing, postage, ballot papers, etc) to be charged at cost with no overhead; and
- Legal costs to be at Crown Solicitor's invoice with no overhead.

The election management fee includes the NSWEC's costs associated with maintaining an infrastructure to provide election services to councils including maintaining customised local government computer systems, instruction manuals and forms for Returning Officers and candidates, the preparation of training material and seminars for Returning Officers and prospective candidates and our intellectual understanding of Local Government election legislation.



The NSWEC will arrange for the payment of all polling officials engaged by the Returning Officer and clerical assistants who are not full-time employees of the council. In the past this cost has been paid directly by councils.

Cost of the State Election

We have now completed the March 2007 State election. The cost of the election was approximately \$38.4m. This works out at \$8.79 per enrolled elector.

The Local Government elections do not have the costs associated with a tally room, the Legislative Council ballot paper production, interstate and overseas postal voting, the making of television commercials and the conduct of a large scale media campaign. Local Government elections in 2004 had some 4,500 candidates compared with 900 candidates at the recent State election. This increases the NSWEC's overhead in managing candidates.

In the case of the State election we required 93 Returning Officers. In the case of the Local Government elections we require some 152 Returning Officers. These people have to be recruited and trained.

The full cost of preparing for as well as conducting Local Government elections must be met by councils.

On the basis of the above the NSWEC has estimated that the cost of all Local Government elections will be \$31m. In the case of your council, Hawkesbury City Council, we have estimated that there will be approximately 40,258 electors at the time of the election. This will work out at \$7.14 per elector with a total budget of \$287,400. The reason for providing you with this information now is so that you can allocate an amount of money in your 2008/09 budget for the realistic cost of running elections in your area.

This estimate does not take into account costs associated with mayoral elections, referendums, polls or uncontested wards.

In the next six months a Client Services Officer from the NSWEC will be making arrangements to meet with you and your staff to discuss election services that you consider appropriate for your voters. Naturally this will effect the costing.

I look forward to meeting with you in the near future and for your staff to meet with one of our Client Services Officers in the next six months to discuss election services.

Yours sincerely

Colin Barry
Electoral Commissioner

oooO END OF REPORT Oooo

CITY PLANNING

Item:142 **CP - Agricultural Shed - 198 Yarramundi Lane, Agnes Banks - (DA0979/06, 95498, 96329, 13399, 103509, 100489)**

Development Information

Applicant: Falson & Associates Pty Limited
Owner: Mr D Bugeja
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Hawkesbury Development Control Plan
Area: 8ha
Zone: Environmental Protection - Agriculture Protection
 Hawkesbury Protection - Agriculture Protection (Scenic) under Hawkesbury Local
 Environmental Plan 1989
Advertising: Not Required under DCP provisions
Date Received: 6 December 2006

Key Issues: ♦ Development without consent.

Recommendation: Approval

REPORT:

Introduction

Development consent is sought for the use of a rural shed. The building that is subject of this application is currently in existence and has not previously received development consent.

On 29 May Council made the following resolution:

That Development Applications seeking approval for buildings already under construction or completed without consent be the subject of a report to Council and not approved under delegated authority.

In accordance with the above resolution, in respect to retrospective approvals, the application is being reported to Council.

Description of Proposal

The application involves the approval of the use of a structure erected without consent as a rural shed. The structure has been constructed without Council approval. The shed is constructed of metal and houses pumps and tanks associated with the use of the land for the purposes of intensive agriculture (hydroponics).

The shed has a floor area of 116 square metres and is approximately 3.63 metres in height above ground level and is located 110 metres from Yarramundi Lane.

Background

The land has a past history of intensive agriculture. Aerial photographs reveal an orchard existed in 1997 and market gardening occurred after that time.

ORDINARY MEETING
Reports of Committees

| | |
|-------------------|---|
| 15 June 2005 | Anonymous complaint received in relation to shed under construction. |
| 21 June 2006 | Complaint received regarding unlawful and unsafe structure. |
| 23 June 2005 | Response sent to complainant from Council Officer, Mr John Pye. |
| 11 November 2005 | Correspondence forwarded to owner of premises regarding the unlawful works and the process for obtaining consent. A period of thirty days was given to lodge an application. |
| 13 April 2006 | Notice of Intention to Serve an Order under Section 121H of Environmental Planning and Assessment Act 1979 served upon owners requiring the demolition of the unlawful structure. |
| 4 July 2006 | Order under Section 121H of Environmental Planning and Assessment Act 1979 issued requiring demolition of structure. |
| 13 July 2006 | Correspondence received from Mr Glenn Falson (Planning Consultant acting on behalf of the owner) requesting a stay of the Order pending further discussion with his client. |
| 14 July 2006 | Correspondence of response sent to Glenn Falson advising a submission must be received by 1 August 2006. |
| 18 July 2006 | Correspondence from Glenn Falson advising a Development Application is being prepared. |
| 13 September 2006 | Email to Council's Ms Louise Gee received from Glenn Falson stating he is under the impression that the unlawful shed has existed for over 20 years. Mr Falson asked the question of whether a DA was necessary in this case. |
| 20 October 2006 | Fax from Council's Regulatory Services Manager, Mr Garry Baldry to Glenn Falson requesting evidence of the previous existence of the structure. |
| 26 October 2006 | Email from Glenn Falson to Garry Baldry conceding that aerial photographs depict the shed not being in existence in 2003. |
| 6 December 2006 | Development Application No. 979/06 lodged with Council (subject of this report). |

Statutory Framework - Unlawful Structures

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

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

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

As previously mentioned, the Act does not provide for retrospective approval for unlawful structures but a person may obtain a Section 149A Building Certificate from Council. The certificate differs from a development consent or building approval for a structure, in that it confers certain forms of legal immunity on the structure (Section 149E of the Act) rather than granting consent for the structure. It is important to

ORDINARY MEETING
Reports of Committees

note that the Section 149A certificate does not make an unlawful structure lawful but simply makes it immune from certain types of legal action for a period of seven years.

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:

| Section 79C “Matters for Consideration” Comments | Section 79C “Matters for Consideration” Comments |
|--|--|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “HLEP 1989” and SREP No. 20 in this report. |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument | THERE ARE NO DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS APPLYING TO THE SUBJECT LAND. |
| Section 79C (1) (a)(iii) – Provisions of any development control plan | REFER TO DISCUSSION ON HAWKESBURY DCP 2002 IN THIS REPORT |
| Section 79C (1) (a)(iii) – Provisions of the regulations | None applicable. |
| 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 | (i) The environmental impacts of the proposed development on the natural and built environment are addressed in the main body of this report. (ii) The proposed development will not have a detrimental social impact in the locality. (iii) The proposed development will not have a detrimental economic impact in the locality. |
| Section 79C (1) (c) – the suitability of the site for the development | Location – The site is considered suitable for the proposed development. Physical - The site does not contain any significant environmental constraint. |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | There are no submissions made in accordance with the Act or Regs. |

a) the provisions of:

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

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 consistent with the aims and objectives of the Plan.

Hawkesbury Local Environmental Plan 1989 (LEP)

Clause 2 - Aims, objectives etc,

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

Clause 5 - Definitions and Environmental Planning and Assessment Model Provisions 1980

The proposal is defined as *rural shed* under the provisions of Hawkesbury Local Environmental Plan 1989. Clause 5 of Hawkesbury Local Environmental Plan 1989 provides the following definitions:

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

Clause 9 - Carrying out development

Clause 9 of Hawkesbury Local Environmental Plan 1989 provides a Land Use Matrix specifying the permissibility or otherwise of particular forms of development. The Land Use Matrix permits rural sheds within the Environmental Protection - Agriculture Protection (Scenic) and Rural Living zones.

Clause 9A - Zone objectives

The proposed development is considered to be consistent with the objectives of the Environmental Protection - Agriculture Protection (Scenic) and Rural Living zones. The proposal's degree of compliance with stated objectives of the Environmental Protection - Agriculture Protection (Scenic) zone are detailed as follows:

Environmental Protection - Agriculture Protection (Scenic) Zone

(a) to protect the agricultural potential of rural land in order to promote, preserve and encourage agricultural production,

Comment: The land currently accommodates an intensive agricultural use. It is argued that the proposal will improve the management of the agricultural use of the land. It is considered that the proposal is consistent with this objective.

(b) 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,

Comment: The application does not seek consent for agricultural use of the land. The application involves the regularisation and use of a structure currently situated on the site.

(c) to ensure that development does not create or contribute to rural land use conflicts,

Comment: The proposal, seeking consent for a rural shed, is not considered to create or contribute to rural land use conflicts.

(d) to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component,

Comment: The proposal will not have a significant impact upon the existing agricultural character of the area.

(e) to preserve river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality,

Comment: It is considered that the proposal is compatible with the scenic quality of the rural area and will not have a detrimental impact upon the locality.

(f) to protect hilltops, ridge lines, river valleys, rural landscapes and other local features of scenic significance,

Comment: It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

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

Comment: The proposed use will not cause a significant increase in traffic movements associated with the site. In addition it is noted that the site does not adjoin a main or arterial road.

(h) to control outdoor advertising so that it does not disfigure the rural landscape,

Comment: No advertising structures are proposed in conjunction with the application.

(i) to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services,

Comment: The existing services available to the site will not be required to be augmented in conjunction with the proposal.

(j) 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,

Comment: It is considered that the existing rural landscape character of the area would not be adversely impacted as a consequence of the proposal. It is noted that landscape treatment is proposed to be provided adjacent to the existing structure to assist in softening visual impact.

(k) to encourage existing sustainable agricultural activities.

Comment: The proposal does not impact upon the continuation of the existing agricultural activity being undertaken on the subject land.

Clause 18 - Provision of water, sewerage etc services

Services are available and are capable of being augmented to accommodate the proposal.

Clause 24 - Development in certain environmental and other zones

This clause requires the consent authority to consider height, siting and the colour of building materials to ensure buildings are compatible with the surrounding landscape and therefore maintain consistency with the scenic qualities of the locality.

The work the subject of this application has already been constructed. In this regard, Council has limited opportunity to require alterations to the height and siting of the structure. Notwithstanding this, the height of the structure is considered acceptable so as not to adversely impact the scenic quality of the area. In addition, the siting of the structure is considered reasonable given the size of the land and the nature of the agricultural activities undertaken on the land. The buildings have been sited in a location where they will be beneficial for the existing agricultural activity and have a minimal impact on the scenic quality of the locality. The colours associated with the structures are appropriate.

Landscaping is proposed as part of the application to assist in screening the structure from Yarramundi Lane and Crowleys Lane. The landscaping will soften the impact of the structure and improve the scenic quality of the area.

The applicant has provided reasons for the owners failure to obtain prior development consent (as required under this Clause of the Local Environmental Plan) as being unaware that consent was required to be obtained for a relatively small structure in the middle of their property. It should be noted that ignorance of a Law is not accepted as a defence for non-compliance. However, in this case approval of the application would seem appropriate.

Clause 25 - Development of flood liable land

The structure being used as a rural shed is permissible under this clause of the Local Environmental Plan and the development is constructed of flood compatible materials.

In the event of flooding, the structure is likely to suffer damage and could possibly be completely demolished. It is considered unlikely that the structure would result in severe damage to downstream properties. There are no required evacuation measures to be considered as part of this assessment as the application only relates to a shed.

Clause 28 - Development in the vicinity of heritage items

This clause states that the Council shall not grant consent to an application to carry out development in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

The subject land is situated adjacent to two (2) items of local heritage significance being identified in Schedule 1 of Hawkesbury Local Environmental Plan 1989 as "*Bronte*", *Portion 46, Parish of Ham Common, DP 752032. (444)*, and "*Blue Gardens*", *No. 254, Lot 4 DP 738221. (505)*.

"Blue Gardens" is located on No 254 Yarramundi Lane and is approximately 550 metres from the proposed structure and "Bronte" is located on No 248 Castlereagh Road and is approximately 800 metres away from the proposed structure.

It is considered that there is sufficient spatial separation between the subject structure and the existing heritage items so that the impact of the proposed shed is not demonstrable upon the setting and character of the heritage items.

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

The land is identified as Class 5 Land on the Acid Sulphate Soils Planning Map and is approximately 400 metres from Class 1 land.. As the proposal does not involve significant earthworks, no impact upon the watertable is anticipated on adjacent Class 1, 2, 3 and 4 Land and therefore the development is acceptable under this clause of the Local Environmental Plan.

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

There are no relevant draft environmental planning instruments that are applicable to the proposal or the land.

iii) any development control plan applying to the land

Hawkesbury Development Control Plan 2002 affects the land.

Part A, Chapter 1 - Purpose and Aims

The proposed development is considered to be consistent with the general aims and objectives of Hawkesbury Development Control Plan 2002.

Part A, Chapter 2 – General Information

It is considered that sufficient information has been submitted with the application for Council to assess the application.

Part A, Chapter 3 - Notification

The application was not required to be notified to adjoining property owners and occupiers in accordance with the requirements of Hawkesbury Development Control Plan 2002.

Rural Sheds

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

It is noted that Amendment No. 108 to Hawkesbury Local Environmental Plan 1989 was gazetted since the adoption of Hawkesbury Development Control Plan 2002 that had the effect of changing a number of zone names amongst other changes. Accordingly, the land currently zoned Environmental Protection - Agriculture Protection (Scenic) was previously zoned Environmental Protection (Scenic) 7(d1). As such the application has been considered on the provisions relating to this zoning in the Development Control Plan.

The following is an assessment of the proposal against these design principles:

| Design Principles | The Proposal | Compliance |
|--|---|------------|
| Siting | | |
| Sheds shall be located no closer to the road than the existing dwelling house on the property. | The shed is located in front of the dwelling by approx. 230 metres. The shed is setback approximately 110 metres from Yarramundi Lane. | NO. |
| Cut and fill shall be limited to 2m of cut and 900mm of fill | No alterations to ground levels. | YES |
| Sheds are not to be erected on land which has a slope in excess of 10% | The land is generally flat | YES |
| The erection of rural sheds should involve minimal disturbance to native vegetation. | No vegetation was required to be removed. | YES |
| Size | | |
| In Environmental Protection zones the applicant will need to justify the size of any shed exceeding 170m ² in terms of the use of the shed and the land, as well as measures taken to minimise the impact on neighbours and the general area. | <p>The structure is associated with the use of the land.</p> <p>An existing shed has been constructed with approval at 360 square metres in area. The approval was issued mid 2003 for a use also associated with the agricultural use of the land.</p> | YES |

ORDINARY MEETING
Reports of Committees

| Design Principles | The Proposal | Compliance |
|--|--|------------|
| | | |
| Height | | |
| In other zones, the total height of rural shed exceeding 5 metres shall be justified in terms of the use of the shed and the visual impact of the development. | The maximum height of the proposal is 3.63 metres. | YES |
| The total height of "barn style" sheds may exceed 5m based on individual merit. | Flat roof design | N/A |
| Form | | |
| Rural sheds with standard roof form will be limited to rectangular shapes. | Rectangular shape proposed | YES |
| Sheds of other roof forms, for example barn style, will be encouraged. | N/A | N/A |
| Colour | | |
| The colour of a rural shed will match or blend in with those of existing buildings. | The colour of the shed is grey, which is not out of character with older rural sheds. | YES |
| On vacant land the colour for rural sheds shall be taken from the natural environment. | N/A | N/A |
| Type of Building Materials | | |
| Building materials used in the construction of rural sheds are to be new, prepainted and non-reflective | The materials used are recycled corrugated iron. The iron is dulled and non-reflective. | NO |
| The use of corrugated iron will be considered subject to size, height, design and location of the rural shed. | The shed is constructed of corrugated iron, however the location of the shed is in front of the dwelling. The size and height of the shed are conducive to the use of corrugated iron. | YES |
| Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible material. | The shed is constructed of steel posts and metal cladding. It is considered to be flood compatible materials. | YES |
| Landscaping | | |
| Plantings are to be a mix of trees, shrubs and ground cover. | A landscape plan has been submitted. | YES |

ORDINARY MEETING
Reports of Committees

| Design Principles | The Proposal | Compliance |
|---|---|------------|
| Trees shall include species that at maturity have a height above the ridgeline of the shed. | Maximum suggested height of proposed landscaping is approx. 3 metres. | YES |
| Shrub mass shall provide adequate screening. | The proposed plants would provide sufficient screening | YES |
| Plants endemic to the area are to be chosen. | Native planting are proposed. | YES |

Assessment of Non-Compliances with DCP.

Siting - The shed is located in front of the dwelling, however the dwelling is setback towards the rear of the 8ha premises. The shed is located approximately 110 metres from Yarramundi lane and is required to house pumps associated with the agricultural use of the land. The visual impact of the shed in it's current location is considered to be acceptable given the setback distances.

Type of Building materials - the materials used for the structure are recycled corrugated iron. These have been weathered due to age and the appearance is non-reflective. The use of corrugated iron is sympathetic to the rural character of sheds and is considered to be acceptable in this circumstance.

In view of the above matters of non-compliance with Hawkesbury Development Control Plan, the proposal is justified in terms of it non-compliances and the departures from the DCP are not considered sufficient to justify a refusal of the application.

iv) any matters prescribed by the regulations

There are no matters that are discernable that affect the proposal.

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

Context And Setting

The development is of relatively low scale, bulk and size and therefore is acceptable in its context and setting.

Heritage

Two heritage buildings are in the vicinity, however the impact of the proposal on the heritage items is not considered to be significant.

Natural Hazards

The land is affected by flooding and the proposal is likely to suffer severe damage in the event of a large flood event. However, the structure is a non-habitable building and this risk is acceptable to the owner.

Cumulative Impact

The cumulative impact is not considered to be demonstrable.

The likely impacts of the development are considered acceptable given the relatively small scale of the development and the fact that the development is existing. See also below for additional matters.

c) the suitability of the site for the development

The site is considered suitable for the development as proposed.

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

The application was not required to be notified under Hawkesbury Development Control Plan and hence no submissions were received.

Council should be aware that this matter of the unlawful shed came to the attention of Council staff mid 2005 due to a complaint from a local resident.

e) the public interest

The proposed development is not contrary to the public interest.

RECOMMENDATION:

That:

- A. A Penalty Infringement Notice be issued under the Environmental Planning and Assessment Act for breeches of the Act, and
- B. That Development Application No. 0979/06 for a rural shed be approved subject to the following conditions:

General

- 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. A Section 149A Building Certificate Application is to be lodged with Council for the structure.
- 3. A structural engineer shall inspect and certify that the structural alterations identified in the report prepared by C.G.Hilder Pty Ltd dated 5 March 2007 have been completed. The structural engineer shall provide a certificate, which is to be submitted to Hawkesbury City Council certifying that the structure is capable of withstanding the loads likely to be imposed upon it, including wind loadings.
- 4. The landscaping works shall be completed within a period of six months from the date of consent.

Use

- 5. No internal or external alterations shall be carried out without prior approval of Council.
- 6. The development shall be limited to the area shown on the submitted plans.
- 7. The subject development, including landscaping, is to be maintained in a clean and tidy manner.

ATTACHMENTS:

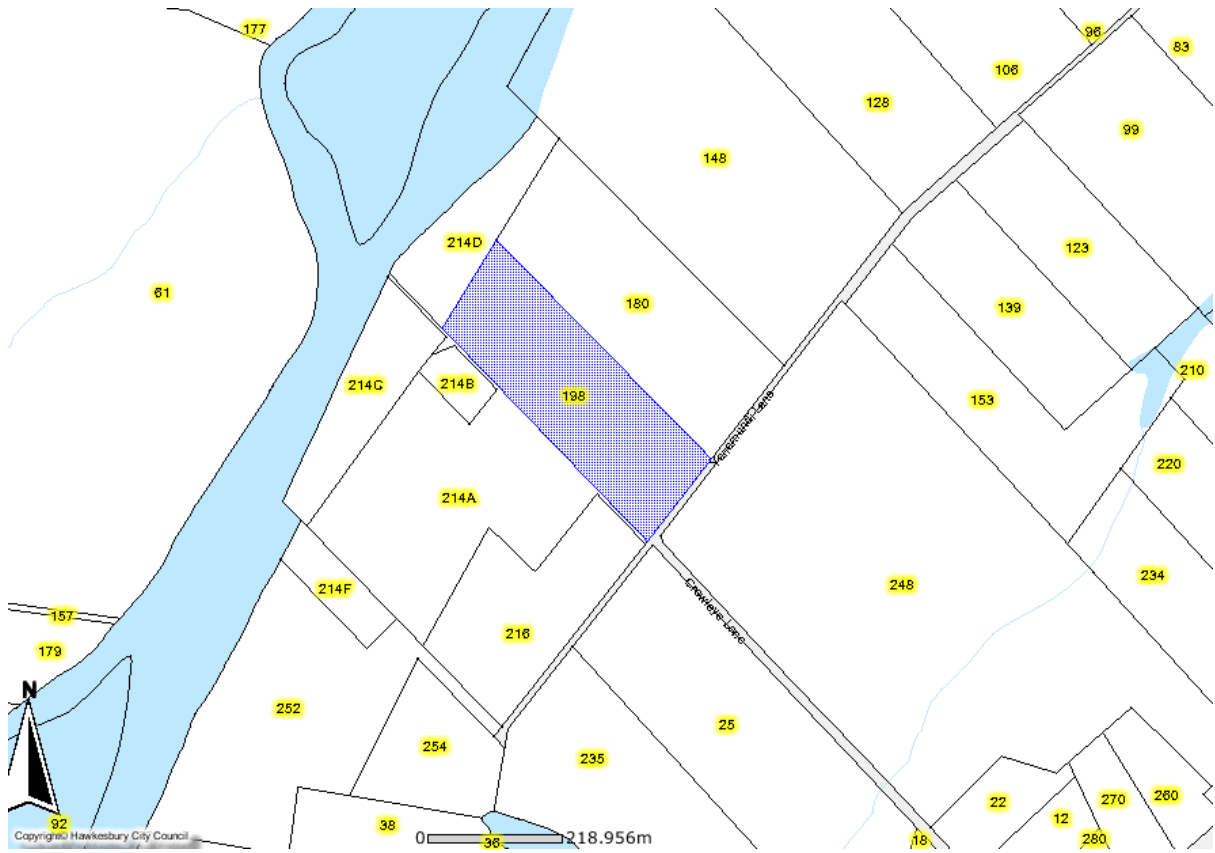
AT - 1 Locality Plan

AT - 2 Elevations Plans

ORDINARY MEETING
Reports of Committees

AT - 3 Floor Plan

AT - 1 Locality Plan



Issue Date A 02/02/17
Amendment Landscaping Sited

Project Name LOT 1, D.P. 500522
Address 16 YARRAMUNDI LANE, YARRAMUNDI
For S.A.C. BURGESS

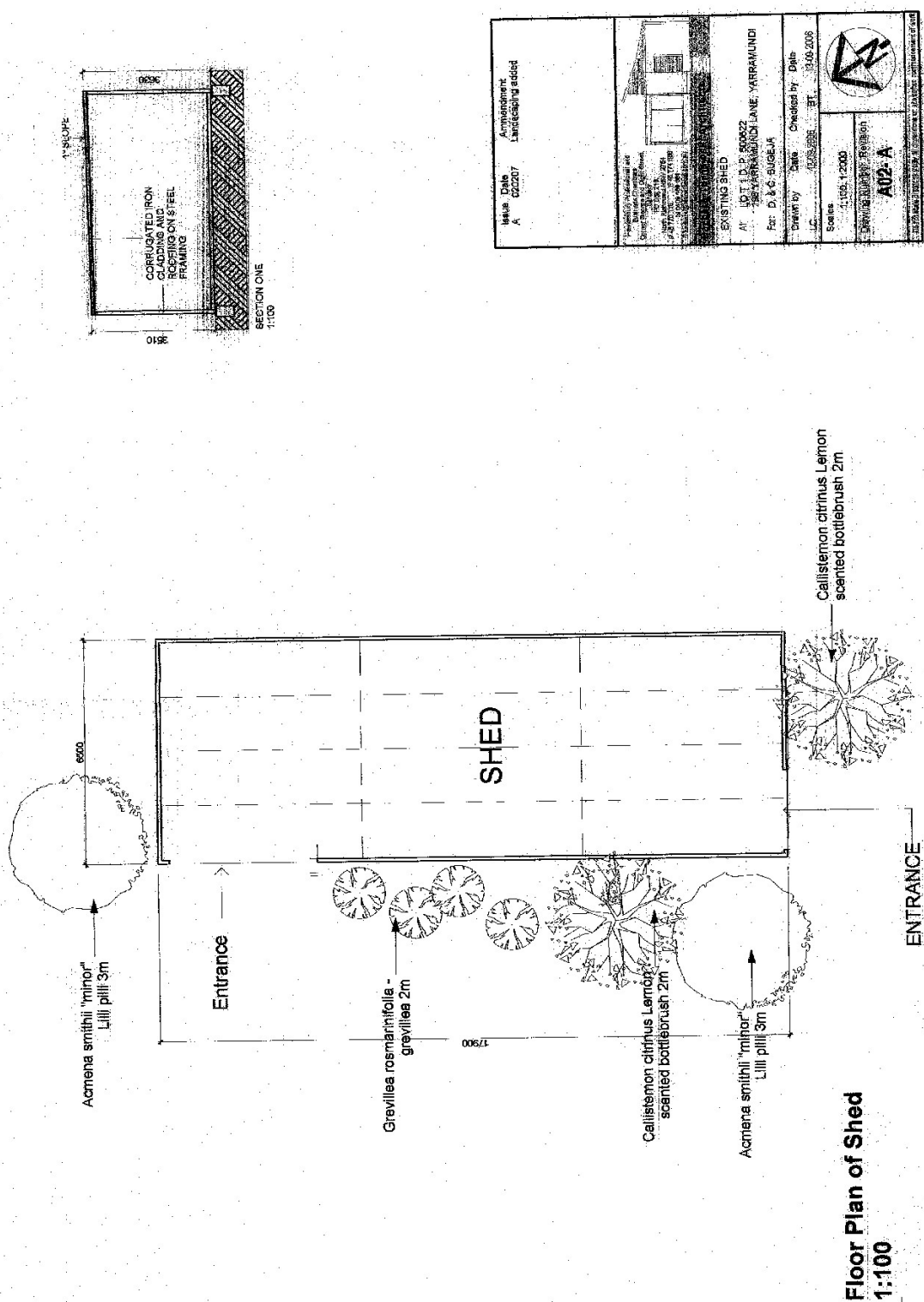
Drawn by Date
Checked by Date
LC 13/02/2016
BT 13/02/2016

Scale 1:2000 (0.1"=1'00")
Series 1:2000 (0.1"=1'00")
Drawn by Date
Checked by Date
LC 13/02/2016
BT 13/02/2016

North Arrow

Site Plan 1:2000

AT - 3 Floor Plan



oooO END OF REPORT Oooo

Item:144 **CP - Development Application for Colour Bond Fence and Retaining Wall - 20 William Cox Drive, Richmond NSW 2753 - (DA0197/07, 78735, 100500, 96329, 95498)**

Development Information

Applicant: Mr P G and Mrs V Millington
Owner: Mr P G Millington
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Hawkesbury Development Control Plan
Area: 566 m2
Zone: Hawkesbury Local Environmental Plan 1989 - Housing
Advertising: 12 June 2007 to 26 June 2007
Date Received: 13 April 2007

Key Issues: ♦ Part of work commenced without approval
 ♦ One submission received

Recommendation: Approval

REPORT:

Introduction

Development consent is sought for a 1.8m colorbond fence and the use of a retaining wall. The retaining wall that is subject to this application is currently in existence.

On 29 May Council made the following resolution:

"That Development Applications seeking approval for buildings already under construction or completed without consent be the subject of a report to Council and not approved under delegated authority."

In accordance with the above resolution, in respect to retrospective approvals, the application is being reported to Council.

Description of Proposal

The proposed 1.8m high colourbond fence is to be located on the northern and eastern property boundary with a return back to the residence. This brings the fence in line with the front of the building.

The retaining wall is a minimum of 540mm high to a maximum height of 860mm along the North eastern and south eastern boundaries.

The property is such that there is a definite difference between the level of the block and Council's footpath. The land appears to have been previously retained by a retaining wall and the land would have been cut at the time of subdivision.

The property is a corner block and the dwelling is situated to face the corner rather than one or the other of the streets. The right hand corner of the residence is closest to Grand Flaneur Drive having a set back of 7.5m. The left-hand corner having a setback of four metres, with this side being the largest side and the front entry of the residence facing William Cox Drive.

The dwelling is positioned to front the corner of the allotment with very little usable rear yard.

The applicant has proposed the fence in order to eliminate a security problem, create a useable space and provide for a front area that is aesthetically in keeping with the district.

The reasons given by the applicant for the application are:

- Majority of open space is located forward of the dwelling. The applicant is trying to make use of the side yard.
- The position of the dwelling does not provide a reasonable rear yard.
- The existing neighbours garage blocks the northerly aspect and overshadows the small rear yard.
- With an increasing family a secure yard is needed for the children.
- The existing telephone box on the corner provides a lot of noise and the front lawn is used as a short cut by pedestrians.
- The telephone box is a security problem to the property as without a clear boundary the booth occupants have access into the applicant's property.

Background

The applicant originally proposed a fence to the side boundary and in line with the front of the building. During assessment of the application it was brought to the Council's attention that landscaping was occurring.

The applicant was retaining the existing front yard. As the levels proposed were a maximum height of 860mm, a development consent was required.

The owner of the property was approached and advised that approval was required and that the work was to cease. The applicant claimed that they were not aware that approval was required. The owner considered that the work was landscaping, similar to what is in the street, and as such did not require consent.

Once informed, the application was subsequently amended and renotified. However, subsequent inspection revealed that the retaining wall was completed and the footpath made safe.

As the work had been done without Council approval the application is required to be reported to Council.

Statutory Framework - Unlawful Structures

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

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

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

As previously mentioned, the Act does not provide for retrospective approval for unlawful structures but a person may obtain a Section 149 Building Certificate from Council. The certificate differs from a development consent or building approval for a structure, in that it confers certain forms of legal immunity

on the structure (Section 149E of the Act) rather than granting consent for the structure. It is important to note that the Section 149 certificate does not make an unlawful structure lawful but simply makes it immune from certain types of legal action for a period of seven years.

Matters for Consideration Under Section 79(c) of the Environmental Planning and Assessment Act 1979

a) The provisions of:

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

The proposal is not inconsistent with any relevant REPs or SEPPs.

Hawkesbury Local Environmental Plan 1989

Hawkesbury Local Environmental Plan (LEP) 1989 applies to the land.

The aims and objectives of this plan are:

- (a) to provide the mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury,*
- (b) to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- (c) to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- (d) to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City of Hawkesbury for future generations, and*
- (e) 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.*

The development is consistent with the general aims and objectives of this plan.

The subject property is zoned **Housing** under Hawkesbury Local Environmental Plan 1989

The objectives of this zone are as follows:

- (a) To provide for low density housing and associated facilities in locations of high amenity and accessibility,*

Comment:

This objective does not relate to this proposal

- (b) to protect the character of traditional residential development and streetscapes,*

Comment:

It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

- (c) to ensure that new development retains and enhances the existing character,*

Comment:

It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

- (d) *to ensure that development is sympathetic to the natural amenity and ecological processes of the area,*

Comment:

It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

- (e) *to enable development for purposes other than residential only if it is compatible with the character of the living area and has a domestic scale and character,*

Comment:

It is considered that the proposal is compatible with the area and is domestic in scale and character.

- (f) *to control subdivision so that the provision for water supply and sewerage disposal on each resultant lot is satisfactory to the Council,*

Comment:

This objective does not relate to this proposal

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

Comment:

This objective does not relate to this proposal

Under Clause 9 b) of the LEP from the land Matrix set out the fence and the retaining wall are

"development that requires consent, but may be exempt or complying"

As the retaining wall is to be located along the boundary, it does not fit the exempt or complying development criteria and therefore is permitted only with Consent.

A fence along a side boundary is deemed exempt under Councils LEP and as it is behind the line of the building is permitted to be 2.4 metre above ground.

However, in this instance the fence proposed is 1.8m from the inside ground level and will be a maximum of 2.6 metre from the footpath due to the difference in the existing levels.

The applicant is proposing a variation of a further height of 260mm. This height would only extend for a distance of approximately four metre.

As both the material and colour of the fence and wall are different, this would breakup the overall appearance of the structure. Also there is a tree located on the footpath which would add to the aesthetics of the proposal.

As the corner location of the property is prominent when entering the estate, in order to reduce to bulk it is recommended that the fence be reduced to 1600mm from the internal ground level.

As the pedestrians line of sight would not extend into the applicants yard, privacy would still be achieved.

The backfill that would be required to tidy up behind the retaining wall (less than 300mm depth) is deemed exempt under the Council's LEP 9B Exempt Table.

An engineers Certificate for the wall would not be required as the wall is not greater than one metre. However, as the work has been undertaken without approval or construction inspections, a statutory declaration that the work has been completed to the manufactures specifications is required.

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

There are no relevant draft EPI's that affect the land or the proposal.

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

Hawkesbury Development Control Plan 2002

Part A, Chapter 1 - Purpose and Aims

The proposed development is considered to be consistent with the general aims and objectives of Hawkesbury Development Control Plan 2002.

Part A, Chapter 2 – General Information

It is considered that sufficient information has been submitted with the application for Council to assess the application.

Part A, Chapter 3 - Notification

The application was notified to adjoining property owners and occupiers in accordance with the requirements of Hawkesbury Development Control Plan 2002. The notification period extended between 3 May 2007 to 17 May 2007 and notification for the revised plans between 12 April 2007 to 26 April 2007. In response to this notification two written submissions were received from the same respondent.

Residential Development

Fencing and retaining Walls

Part D, Chapter 1.19 of the DCP relates to (front) fences and retaining walls.

To ensure that fences and boundary retaining walls should be compatible with the character of the location and integrated with the design of the buildings.

The retaining wall design is considered to be in character with the other walls in the area, and colorbond fencing is typical for the district.

Photos (Photos 1 to 4) of the retaining walls in the district will be displayed on the board in the Council Chambers.

These retaining walls are containing the front yards, where the land has been cut to create the footpath. Stone and brick are predominate in the area. However, the property beside the applicants has its' land retained by a koppers log wall approximately 700mm high.

Photos 5 to 7 (Refer to the board in the Council Chambers) show the applicants property with the wall under construction. The close proximity of the telephone box, the location of the respondents driveway and the small section that is proposed to be fenced, in relation to the wide clear frontage of the dwelling.

- iv) **Any Matters Prescribed by the Regulations**

There are no matters discernable that are prescribed by the Regulations that affect the development.

- b) **The Likely Impacts the Development, Including Environmental Impacts on Both the Natural and Built Environments, Social and Economic Impacts in the Locality**

The development is not considered to be out of character with the surrounding landscape and it is unlikely that the development will have any adverse environmental impact on the locality.

Noise and Vibration

The development will contribute to the reduction of noise to the existing residence and the amenity of the property.

Safety, Security and Crime

The development will have significant benefit to applicants property as both the retaining wall and the fence define the boundary and prevent the constant trespass on the property that the applicant is experiencing due to the telephone box on the footpath.

c) The Suitability of the Site for the Development

The site is suitable for the development.

d) Any Submissions Made in Accordance with the EPA Act or Regulations

Two Submissions by the same respondent were received by Council during the exhibition period.

Respondent:

"Application is not consistent with Hawkesbury Development Control Plan"

Comment

The proposal is considered to be consistent with the objectives of the DCP.

Respondent:

"Plan provided by the applicant to Council does not reflect of the nature of the work to be carried out."

Comment

The amended Plans indicate the work to be done.

Respondent:

"Safety issues regarding egress from my property to the street."

Comment

Line of sight when reversing a vehicle from a driveway is across the footpath area and is not taken across a neighbouring property. The fence would not impact on the line of site for the egress from the adjoining property. However, the applicant has chosen to splay the corner adjacent to the respondent's driveway in order to address the respondents concerns.

Respondent:

"Loss of streetscape amenity."

Comment;

The fence and retaining wall are not out of character with the area. This is evident in the photos that will be displayed in the Council Chambers.

Respondent;

"The Hawkesbury City Council DCP 1.9.f provides for walls to be not taller than 500mm"

Comment

Under Clause 9 b) of the LEP from the land Matrix set out for the fence and the retaining wall are "development that requires consent, but may be exempt or complying". The DCP provisions provide guidelines to ensure development is compatible to the area. As the retaining wall is to be located along the boundary, it does not fit the exempt or complying development criteria and therefore requires Consent. The proposed retaining wall and fence are considered to be consistent with similar development in the local area.

Respondent;

"The plans provided show no provision for fill at 20 William Cox Drive"

Comment

The plans provided indicate the work to be done. The block is being tidied up in a similar manner to adjoining and surrounding properties. The retaining wall will contain the existing cut of the property and in parts the area behind the wall back filled to provide a level lawn. The backfill that would be required to tidy up behind the retaining wall (less than 300mm depth) is deemed exempt under the Council's LEP 9B Exempt Table.

e) The Public Interest

The matter is not considered to be contrary to the general public interest.

Conformance to Strategic Plan

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

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

"Sustainable and liveable communities that respect, preserve and manage the heritage, cultural and natural assets of the City".

Funding

No impact on Budget.

RECOMMENDATION:

That:

- A. A penalty notice be issued under the Environmental Planning and Assessment Act for breaches of the Act, and
- B. Development Application No. DA097/07 for a retaining wall and fence be approved subject to the following conditions:

General

- 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 development shall comply with the provisions of the Building Code of Australia at all times.
- 4. The development shall comply with the Environmental Planning and Assessment Act, 1979 at all times.

Prior To Commencement of Works

- 5. Submit to Council a statutory declaration that the work has been completed to the manufactures specifications.

ORDINARY MEETING
Reports of Committees

6. The fence shall be set out by a Registered Surveyor. The Survey Certificate of the fence showing the position of the fence under construction and in compliance with the approved plans shall be lodged with the principal certifying authority. Any easements must be shown on the Survey Certificate.
7. 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.
8. 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.
9. The approved plans must be submitted to a Sydney Water Quick Check agent or customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site www.sydneywater.com.au, see Building Developing and Plumbing then Quick Check or telephone 13 20 92.
10. The consent authority or a private accredited certifier must either:
 - Ensure that Quick Check agent/Sydney Water has appropriate stamped the plans before the issue of any Construction Certificate; or
 - If there is a combine Development/Construction Certificate application or Complying Development, include the above condition as one to be met prior to works commencing on site.

During Construction

11. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
12. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7:00am - 6:00pm and on Saturdays between 8am – 4pm.
13. 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.
14. 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) on completion of the works;

Use of the Development

15. 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.

Advisory Notes

*** 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.

*** 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 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.

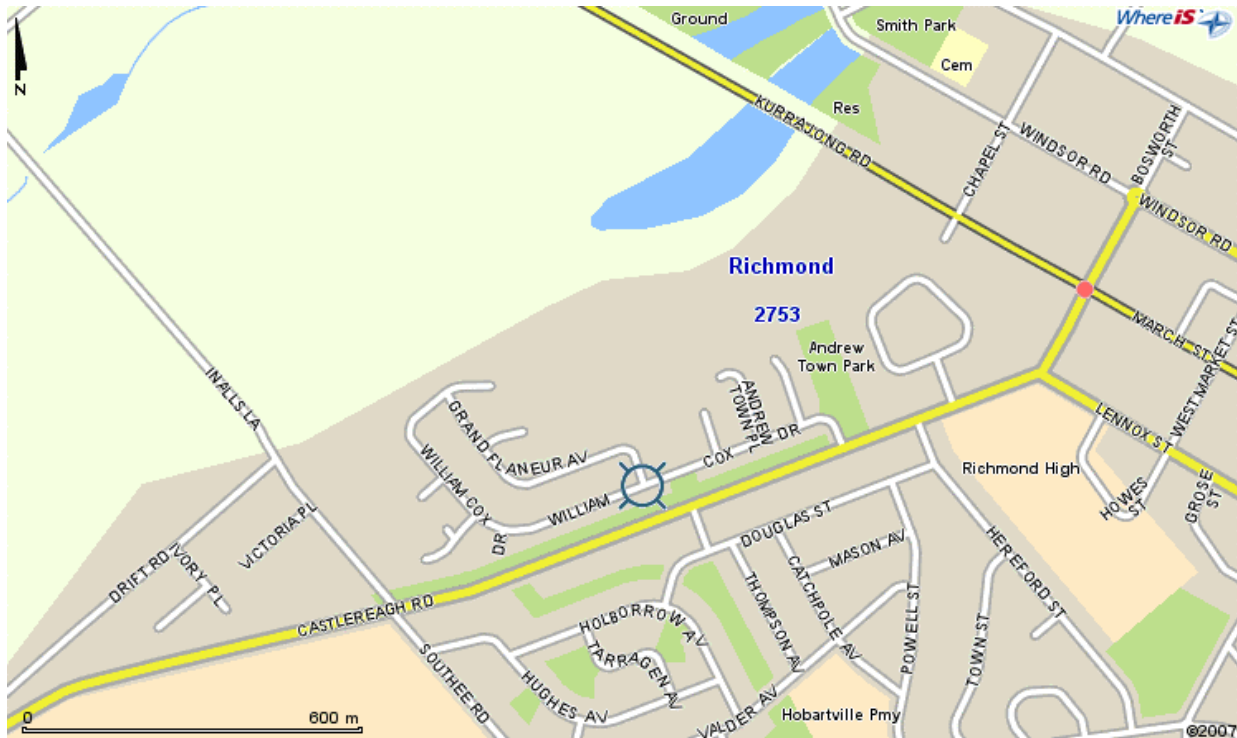
ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Site Plan

ORDINARY MEETING
Reports of Committees

AT - 1 Locality Plan



Reports of Committees

[illegible]

oooO END OF REPORT Oooo

Item:145 **CP - Use of Existing Site Office As a Dwelling, Extension to Rural Shed (Exceeding 170sqm) and Garage - 25 Crowleys Lane, Agnes Banks NSW 2753 - (DA0765/06, 95498, 96329, 77499)**

Development Information

Applicant: Mr F Bugeja, Mrs L Bugeja and Mr J Bugeja
Applicants Rep: Falson & Associates Pty Ltd
Owner: Mr F Bugeja, Mrs L Bugeja and Mr J Bugeja
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Hawkesbury Development Control Plan
Area: 14.14 ha
Zone: Hawkesbury Local Environmental Plan 1989
Environmental Protection - Agriculture Protection (Scenic) and Rural Living
Advertising: 26 April 2007 to 10 May 2007
Date Received: 20 September 2007

Key Issues: ♦ Development without consent

Recommendation: Approval

REPORT:

Description of Proposal

Introduction

Development consent is sought for the use of an approved site office as a dwelling, extension to a rural shed and garage. The buildings that are subject of this application are currently in existence and are only partly approved as detailed in the background.

On 29 May Council made the following resolution:

"That Development Applications seeking approval for buildings already under construction or completed without consent be the subject of a report to Council and not approved under delegated authority."

In accordance with the above resolution, in respect to retrospective approvals, the application is being reported to Council.

Conversion of Site Office as Dwelling

Approval is sought for conversion of an approved site office as a dwelling house. The dwelling contains two bedrooms, living room, kitchen/dining room, laundry and bathroom. The building is of single level construction with the walls consisting of painted weatherboard with aluminium framed window and colorbond steel being used as the roofing material. A minimum 3 metre setback has been provided to the south eastern boundary of the site. The building has a floor area of 81.6sqm.

Rural Shed Extension

The application seeks approval for a 63.24m² extension to a farm shed through the provision of a 5.27 metre wide addition adjacent to the north western wall of the building. The addition has a height ranging from 3.8 metre to 4.6 metre which is less than the height of the main shed building ranging from 5 metre at gutter level to 6.1 metre at uppermost ridge. The addition will increase the total floor area of the shed from

ORDINARY MEETING
Reports of Committees

360sqm to 423.24sqm. The wall and roof material used in conjunction with the addition is to comprise of colorbond steel. The shed is to maintain a minimum 6 metre setback to the south western boundary of the site.

Garage

The application also seeks consent for a double garage situated between the proposed dwelling house and shed. The garage is 6.8 metre wide and has a depth of 6 metre providing a total area of 40.8 metre. The height of this structure ranges from 2.4 metre at gutter level to 3.3 metre at uppermost ridge level. The wall and roof material consists of colorbond steel. Two roller shutter doors provide access.

Background

| | |
|-------------------|---|
| 30 October 2002 | Development Consent No. DA0825/02 issued for the erection of a farm shed (storage of machinery and vegetables) and the relocation of a site office |
| 30 April 2003 | S96 approval issued for reconfiguration of internal walls and plumbing works of the site office so as to provide worker facilities consisting of rest room, lunch room, store rooms, bathroom, kitchen, office and access ramp |
| 3 December 2004 | Correspondence received providing that the site office was being used as a dwelling |
| 28 January 2005 | Correspondence to owners seeking compliance with consent conditions regarding habitation of site office |
| 11 November 2005 | Correspondence to owners of property requiring lodgement of Development Application for shed extension and arrange inspection of property to determine compliance with consent conditions relating to habitation of site office (applications required to be submitted 30 days of date of letter) |
| 6 December 2005 | Correspondence from Falson & Associates advising engagement to prepare development application documentation for conversion of site office to dwelling and shed extension and requesting additional time for submission of applications |
| 6 December 2005 | Facsimile to Falson & Associates granting extension until 5 January 2006 |
| 13 April 2006 | Notice of Intention to Serve Order Under Section 121H of EPA & Assessment Act for: <ul style="list-style-type: none">• Cessation of use of site office for human habitation• Demolition of shed extension |
| 21 September 2006 | Development Application No. DA0765/06 lodged with Council (subject of this report) |

Statutory Framework - Unlawful Structures

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

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

ORDINARY MEETING
Reports of Committees

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

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

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:

| Section 79C “Matters for Consideration” Comments | Section 79C “Matters for Consideration” Comments |
|--|---|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “HLEP 1989” and SREP No. 20 in this report. |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument | There are no draft environmental planning instruments applying to the subject land. |
| Section 79C (1) (a)(iii) – Provisions of any development control plan | Refer to discussion on Hawkesbury DCP 2002 in this report |
| Section 79C (1) (a)(iii) – Provisions of the regulations | None applicable. |
| 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 | <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 in the locality.</p> |
| Section 79C (1) (c) – the suitability of the site for the development | <p>Location – The site is considered suitable for the proposed development.</p> <p>Physical - The site does not contain any significant environmental constraint.</p> |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | There are no submissions made in accordance with the Act or Regs. |

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 consistent with the aims and objectives of the Plan.

Hawkesbury Local Environmental Plan 1989 (LEP)

Clause 2 - Aims, objectives etc,

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

Clause 5 - Definitions and Environmental Planning and Assessment Model Provisions 1980

The proposal is defined as *dwelling*, *rural shed* and *garage* under the provisions of Hawkesbury Local Environmental Plan 1989. Clause 5 of Hawkesbury Local Environmental Plan 1989 provides the following definitions:

garage means a fully enclosed building for housing a car.

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

In addition to the definitions contained in Clause 5 Hawkesbury Local Environmental Plan adopts the following definition for a dwelling contained in the Environmental Planning and Assessment Model Provisions 1980:

dwelling means a room or suite or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

Clause 9 – Carrying out development

The property is zoned Environmental Protection - Agriculture Protection (Scenic) with a small portion of the site zoned as Rural Living under the provisions of the Hawkesbury LEP 1989.

Clause 9 of Hawkesbury Local Environmental Plan 1989 provides a Land Use Matrix specifying the permissibility or otherwise of particular forms of development. The Land Use Matrix permits dwellings, rural sheds and garages within the Environmental Protection - Agriculture Protection (Scenic) and Rural Living zones.

Clause 9A – Zone objectives

The proposed development is considered to be consistent with the objectives of the Environmental Protection - Agriculture Protection (Scenic) and Rural Living zones. The proposal's degree of compliance with stated objectives of the Environmental Protection - Agriculture Protection (Scenic) zone are detailed as follows:

Environmental Protection - Agriculture Protection (Scenic) Zone

- (a) to protect the agricultural potential of rural land in order to promote, preserve and encourage agricultural production,***

Comment:

The land currently accommodates an intensive agricultural use. It is argued that the proposal will improve the management of the agricultural use of the land. It is considered that the proposal is consistent with this objective.

(b) 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,**

Comment:

The application does not seek consent for agricultural use of the land. The application involves the regularisation and use of buildings currently situated on the site.

(c) to ensure that development does not create or contribute to rural land use conflicts,

Comment:

The proposal, seeking consent for a dwelling, shed extension and garage, is not considered to create or contribute to rural land use conflicts.

(d) to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component,

Comment:

The proposal will not have a significant impact upon the existing agricultural character of the area.

(e) to preserve river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality,

Comment:

It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

(f) to protect hilltops, ridge lines, river valleys, rural landscapes and other local features of scenic significance,

Comment:

It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

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

Comment:

The proposed use will not cause a significant increase in traffic movements associated with the site. In addition it is noted that the site does not adjoin a main or arterial road.

(h) to control outdoor advertising so that it does not disfigure the rural landscape,

Comment:

No advertising structures are proposed in conjunction with the application.

(i) to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services,

Comment:

The existing services available to the site will not be required to be augmented in conjunction with the proposal.

- (j) 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,**

Comment:

It is considered that the existing rural landscape character of the area would not be adversely impacted as a consequence of the proposal.

- (k) to encourage existing sustainable agricultural activities.**

Comment:

The proposal does not impact upon the continuation of the existing agricultural activity being undertaken on the subject land.

Rural Living Zone

The proposal's degree of compliance with stated objectives of the Rural Living zone are detailed as follows:

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

Comment:

The application seeks the approval of a dwelling on the portion of land zoned "Rural Living".

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

Comment:

The proposal does not involve any alteration to the agricultural activity undertaken on the subject land.

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

Comment:

It is not envisaged that the proposal would result in any significant degree of conflict with existing rural living land uses on adjacent land.

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

Comment:

The proposal does not involve any alteration to the agricultural activity undertaken on the subject land.

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

Comment:

The site is not considered to exhibit any characteristics that would preclude residential use of the land. In this regard a preliminary site investigation is required to demonstrate that no contamination hazard exists for the proposed use of the approved site office as a dwelling.

- (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,**

Comment:

It is considered that the existing rural landscape character of the area would not be adversely impacted as a consequence of the proposal.

- (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,**

Comment:

The proposal does not involve any alteration to the existing intensive agricultural use of the land it being noted that the majority of this use is situated on adjacent Environmental protection - Agriculture Protection (Scenic) zone.

- (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,**

Comment:

The proposal is not anticipated to have an adverse impact upon water catchments, land surface conditions and important ecosystems.

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

Comment:

The proposed use will not cause a significant increase in traffic movements associated with the site. In addition it is noted that the site does not adjoin a main or arterial road.

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

Comment:

The existing services available to the site will not be required to be augmented in conjunction with the proposal.

Clause 18 – Provision of water, sewerage etc services

Services are available and are capable of accommodating the proposal.

Clause 24 – Development in certain environmental and other zones

This clause requires the consent authority to consider height, siting and the colour of building materials to ensure buildings are compatible with the surrounding landscape and therefore maintain consistency with the scenic qualities of the locality.

The buildings have been sited in a location where they will be beneficial for the existing agricultural activity and have a minimal impact on the scenic quality of the locality. The colours associated with the structures are appropriate.

Clause 25 - Development of flood liable land

The site is affected by the 1:100 year flood event (18.1 metres). The structures are sited on the highest part of the site, on land between 16 and 19 metre contours. In this regard the shed extension is situated on land situated at 16 metre whilst the dwelling is located above 18 metre AHD. It is considered that the proposal is satisfactory having regard to the provisions of this clause.

Clause 28 - Development in the vicinity of heritage items

The subject land is situated adjacent to an item of local heritage significance being identified in Schedule 1 of Hawkesbury Local Environmental Plan 1989 as “Bronte”, Portion 46, Parish of Ham Common, DP

752032. (444). It is considered that the proposal would not have an adverse impact on this item or its setting.

Clause 34 - Suspension of certain laws etc

The plan of subdivision applying to the subject land provides a Positive Covenant that requires the following:

Any residence to be constructed on the lot herein burdened must be constructed wholly within the area shown as "A" on the abovementioned plan with a floor level of not less than 18.3 metres above Australian Height Datum.

The dwelling is not situated wholly within the identified area. It is noted that the provisions of Clause 34 of Hawkesbury Local Environmental Plan 1989 enable the consent authority to consider the application irrespective of such restriction.

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

The land is identified as Class 5 Land on the Acid Sulphate 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

Part A, Chapter 1 - Purpose and Aims

The proposed development is considered to be consistent with the general aims and objectives of Hawkesbury Development Control Plan 2002.

Part A, Chapter 2 – General Information

It is considered that sufficient information has been submitted with the application for Council to assess the application.

Part A, Chapter 3 - Notification

The application was notified to adjoining property owners and occupiers in accordance with the requirements of Hawkesbury Development Control Plan 2002. The notification period extended between 26 April 2007 to 10 May 2007. In response to this notification no written submissions were received.

Residential Development

Building Height

Chapter 1.3 in Part D of Hawkesbury Development Control Plan 2002 prescribes a maximum ceiling height of seven metres and an overall maximum height of 10 metres. The subject proposal is able to satisfy this requirement as detailed in the following table:

| | Dwelling | Garage |
|--------------------------|-----------------|---------------|
| Ceiling Height (maximum) | 3.6m | - |
| Maximum Height | 4.5m | 3.3m |

In addition, it is noted that the proposal is able to satisfy the building height plane provisions contained in the development control plan.

ORDINARY MEETING
Reports of Committees

Setbacks

The dwelling and garage maintain a minimum side boundary setback of three metres. The setbacks are considered satisfactory.

Car Parking

Hawkesbury Development Control Plan 2002 provides the following car parking rate for dwelling houses:

Dwelling House: 1.5 covered spaces (dwellings 55 to 85sqm)

In this regard it is noted that the a two car garage has been provided on site. Accordingly, the nominated car parking requirement is satisfied.

Rural Sheds

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

It is noted that Amendment No. 108 to Hawkesbury Local Environmental Plan 1989 was gazetted since the adoption of Hawkesbury Development Control Plan 2002 that had the effect of changing a number of zone names amongst other changes. Accordingly, the land currently zoned Environmental Protection - Agriculture Protection (Scenic) was previously zoned Environmental Protection (Scenic) 7(d1). As such the application has been considered on the provisions relating to this zoning in the Development Control Plan.

The following is an assessment of the proposal against these design principles:

| Design Principles | The Proposal | Compliance |
|---|---|------------|
| Siting Cut and fill shall be limited to 2m of cut and 900mm of fill | The site is generally level. Compliance with this requirement has been achieved. | Yes |
| Sheds shall be located no closer to the road than the existing dwelling house. | The proposal satisfies this requirement locating the shed extension adjacent to the rear property boundary behind the dwelling. | Yes |
| Sheds are not to be erected on land which has a slope in excess of 10% | The portion of the site where the shed extension is located is generally level and accordingly satisfies this requirement. | Yes |
| The erection of rural sheds should involve minimal disturbance to native vegetation. | The portion of the site where the shed extension is located is clear of any vegetation. | Yes |
| Size The maximum size of sheds in rural 1(c) and 1(c1) zones shall not exceed 170m ² . The cumulative total of all outbuildings shall not exceed 170m ² on any one property in these zones. | NA | NA |

ORDINARY MEETING
Reports of Committees

| Design Principles | The Proposal | Compliance |
|---|---|--|
| In 1(a), 1(b), 7(d), 7(d1) and 7(e) zones applicant will need to justify the size of any shed exceeding 170m ² in terms of the use of the shed and the land, as well as measures taken to minimise the impact on neighbours and the general area. | 423.24 m ² | Refer to reasons outlined below |
| <p>Height The total height of a rural shed erected in Rural 1(c) and 1(c1) zones shall be no more than 5m or no higher than the height of the ridgeline of the dwelling house on the same property, whichever is less.</p> <p>In other zones the total height of a rural shed exceeding 5m shall be justified in terms of the use of the shed and the visual impact of the development.</p> <p>The total height of 'barn style' sheds may exceed 5m based on individual merit.</p> | <p>NA</p> <p>4.6m to ridge of extension.</p> <p>NA</p> | <p>NA</p> <p>Yes</p> <p>NA</p> |
| <p>Form Rural sheds with standard roof form will be limited to rectangular shapes.</p> <p>Sheds of other roof forms, for example barn style, will be encouraged.</p> | <p>The shed (inclusive of extension) is rectangular with dimensions of 35.27m X 12m.</p> <p>NA</p> | <p>Yes</p> <p>NA</p> |
| <p>Colour The colour of a rural shed will match or blend in with those of existing buildings.</p> <p>On vacant land the colour for rural sheds shall be taken from the natural environment.</p> | <p>N/A, no other buildings exist on site.</p> <p>"Mist Green" colour. The colour scheme blends in with the natural environment.</p> | <p>N/A</p> <p>Yes</p> |
| <p>Type of Building Materials Building materials used in the construction of rural sheds are to be new, prepainted and non-reflective.</p> <p>The use of corrugated iron will be considered subject to the size, height, design and location of the rural shed.</p> <p>Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible materials.</p> | <p>Colorbond material associated with extension.</p> <p>N/A</p> <p>The shed extension is situated within the predicted 1:100 year flood level. The materials used satisfy this requirement.</p> | <p>Satisfactory.</p> <p>N/A</p> <p>Yes</p> |

ORDINARY MEETING
Reports of Committees

| Design Principles | The Proposal | Compliance |
|---|---|----------------------|
| <p>Landscaping Plantings are to be a mix of trees, shrubs and ground cover.</p> <p>Trees shall include species that at maturity have a height above the ridgeline of the shed.</p> <p>Shrub mass shall provide adequate screening.</p> <p>Plants endemic to the area are to be chosen.</p> | <p>Existing vegetation considered satisfactory.</p> <p>As above</p> <p>As above</p> <p>As above</p> | <p>Satisfactory.</p> |

Variation to Rural Shed Design Controls

Size

The applicant has provided the following having regard to the size of the shed:

Whilst the shed is relatively large it will not be a dominant built form in the locality particularly given the number of other large sheds in its vicinity and the distance of it from the road and dwellings on adjoining lands.

The size of the shed is commensurate with the existing use of the property and the requirement to house equipment associated with the agricultural use of it.

It is noted that there is no size restriction on agricultural sheds within Council's LEP. The increase in size of the shed is minimal in the circumstances.

The site is currently used for intensive agriculture and the shed is required as an ancillary building to support the primary use. The shed has been sited to minimise its visual impact on the locality having regard to the use of the site. Accordingly, the shed extension is considered reasonable in the circumstances.

RECOMMENDATION:

That:

- A. A penalty notice be issued under the Environmental Planning and Assessment Act for breeches of the Act, and
- B. Development Application No. DA0765/06 for a Dwelling House, Rural Shed Extension and Garage - use existing site office as a dwelling, extension to rural shed (exceeding 170sqm) and garage be approved subject to the following conditions:

ORDINARY MEETING
Reports of Committees

General Conditions

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

| Architectural Drawing Number | Dated |
|--|--------------|
| 06337-01 | 11/07/2006 |
| 06337-02 | 11/07/2006 |
| 06337-03 | 11/07/2006 |
| 06337-04 | 11/07/2006 |
| Document Name | Dated |
| Statement of Environmental Effects - Proposed Dwelling, Garage and Rural shed Extension: 25 Crowley's Lane Agnes Banks | 09/2006 |

2. The development shall comply with the provisions of the Building Code of Australia. A report detailing compliance with the Building Code of Australia is to be prepared by a suitably qualified consultant.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. 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.
5. Submission of a certificate from an engineer certifying the structural adequacy of the dwelling, the garage and shed addition. The certificate is also to consider wind loading.
6. A Section 149A Building Certificate Application is to be lodged with Council for the structures within 28 days of the date of this consent notice.
7. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the principal certifying authority prior to commencement of any works required to satisfy compliance with the Building Code of Australia.
8. The approved plans must be submitted to a Sydney Water Quick Check agent or customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site www.sydneywater.com.au, see Building Developing and Plumbing then Quick Check or telephone 13 20 92.
10. All roofwater shall be drained to appropriate water storage vessel/s.
11. An automatic fire detection and alarm system shall be installed within the building in accordance with the Building Code of Australia for Class 1A and 1B Dwellings. Alarms and Detectors shall be installed by a licensed electrician and multiple alarms shall be interconnected, an certificate of the installation shall be provided prior to occupation of the building or addition.
12. Any water tanks, outbuildings or other ancillary structures shall be finished in colours and materials of earth tones of low reflective quality to blend in with the natural landscape.
13. The habitable floor levels shall be at or above the 1% AEP flood level of 17.3 metre AHD. A survey certificate is to be submitted for the proposed dwelling demonstrating compliance with this requirement.
14. A report demonstrating the proposed dwelling's compliance with the intent of BASIX requirements is to be submitted to Council.

Use Of The Development

15. No internal or external alterations shall be carried out without prior approval of Council.

Advisory Notes

*** 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.

ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Site Plan

AT - 3 Floor Plans/Elevation Plans

| |
|---|
| <p align="center">ORDINARY MEETING</p> <p align="center">Reports of Committees</p> |
|---|

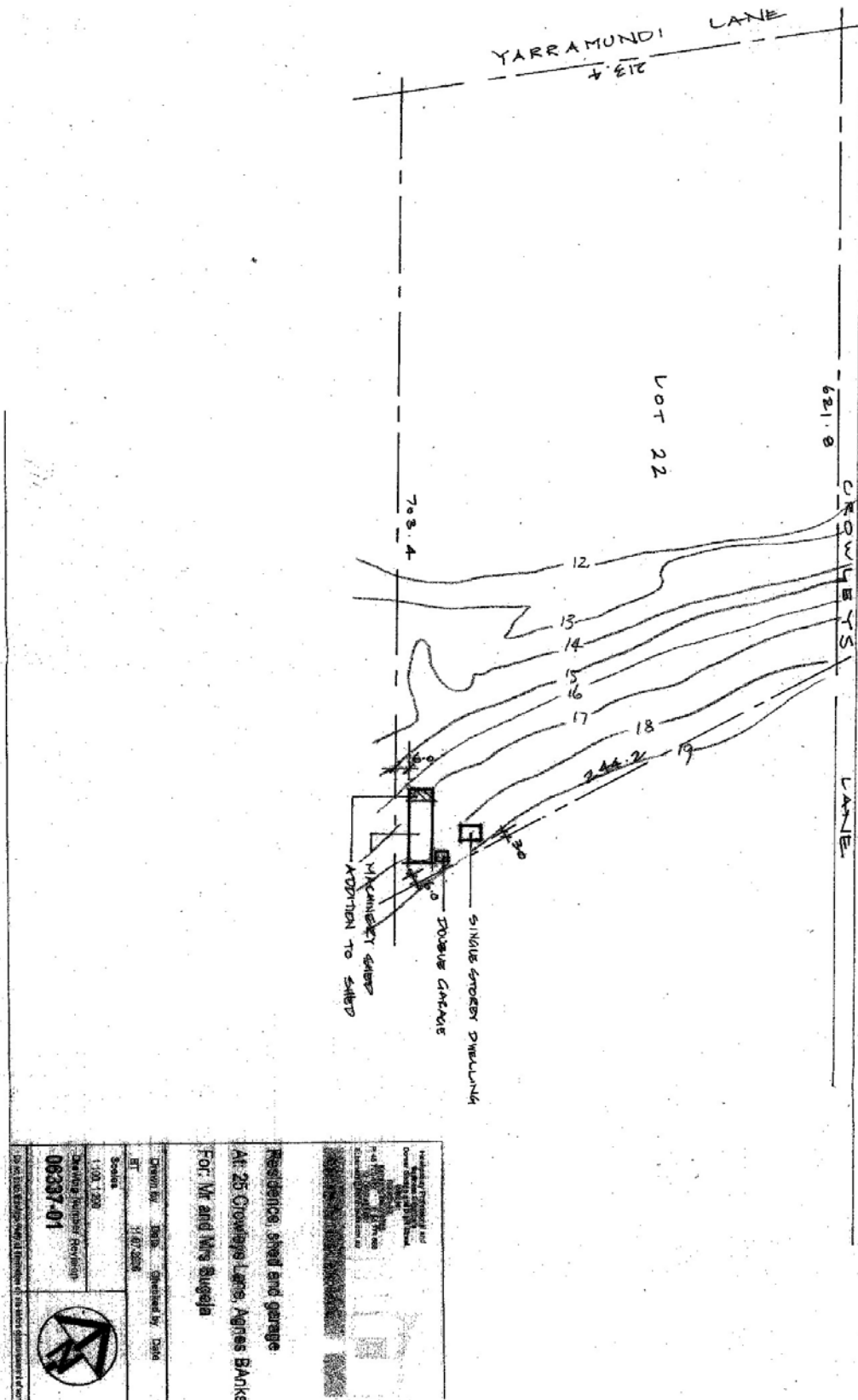
AT - 1 Locality Plan



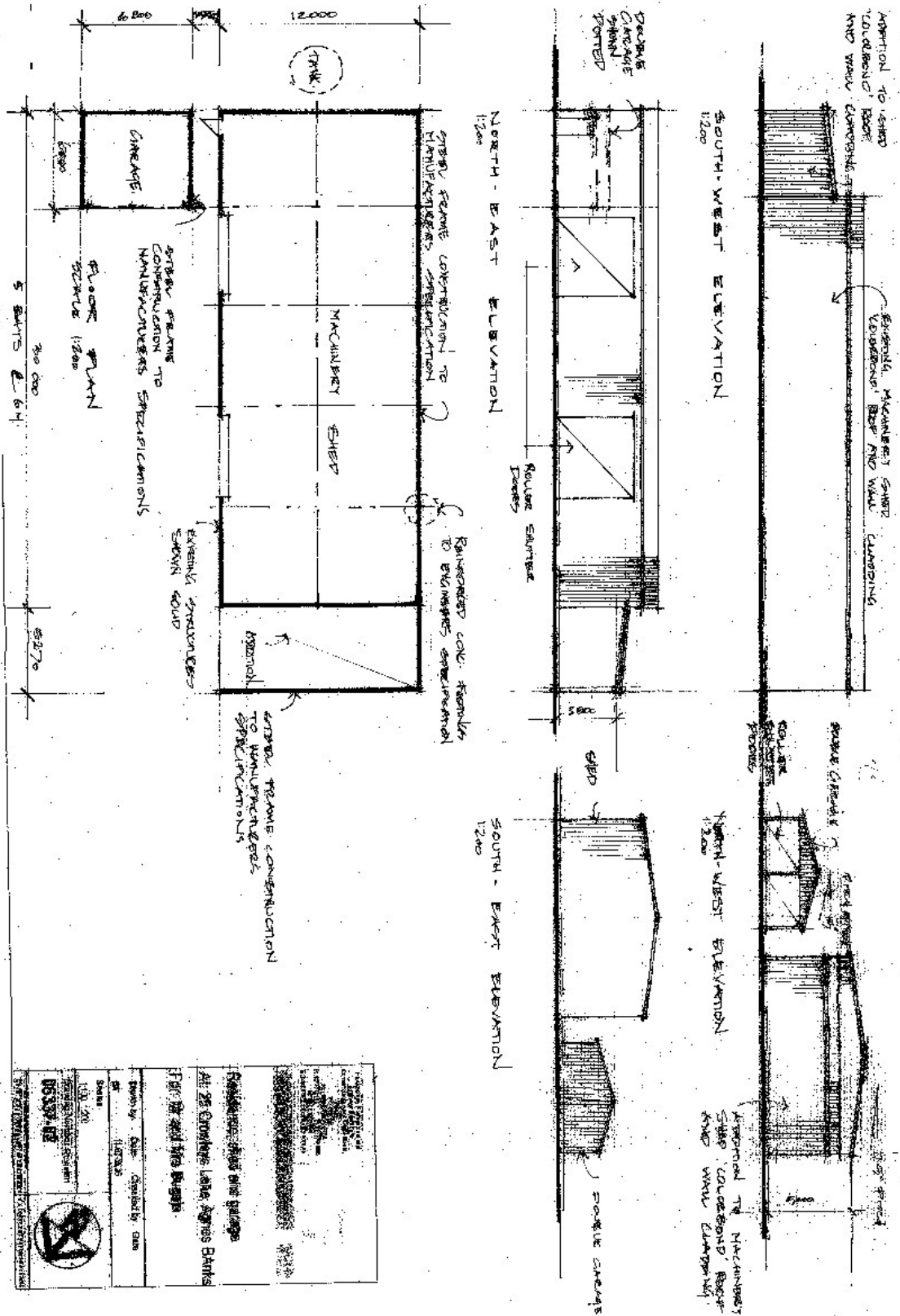
ORDINARY MEETING

Reports of Committees

AT - 2 Site Plan

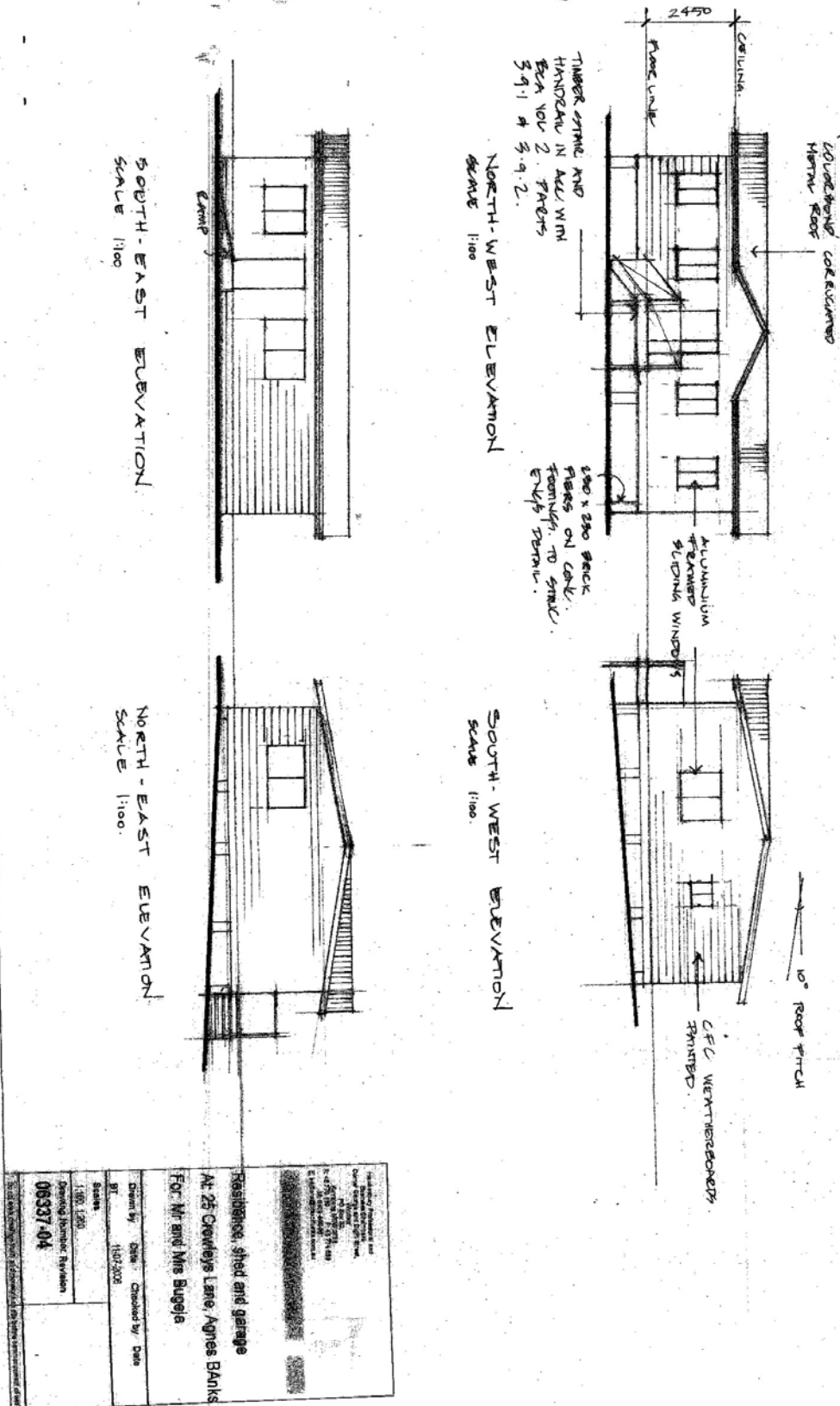


AT - 3 Floor Plans/Elevation Plans



ORDINARY MEETING

Reports of Committees



0000 END OF REPORT 0000

Item:146 **CP - Tourist Facility - 1619A Bells Line of Road, Kurrajong Heights NSW 2758 - (DA0215/07, 95498, 96329, 38269, 38268, 73916)**

Development Information

Applicant: Mr J and Mrs A McMillan
Applicants Rep: McKinlay Morgan & Associates
Owner: Mr J and Mrs A McMillan
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Hawkesbury Development Control Plan
Zone: Environmental Protection - Agriculture Protection (Scenic) Under Hawkesbury Local Environmental Plan 1989.
Advertising: 4 May 2007 to 18 May 2007
Date Received: 26 April 2007

Key Issues: ♦ Development without approval

Recommendation: Approval

REPORT:

Introduction

Development consent is sought for the use of two (2) existing structures as a Rural Tourist Facility (Bed and Breakfast accommodation). The buildings that are subject of this application are currently in existence and are used for Bed and Breakfast accommodation.

On 29 May Council made the following resolution:

"That Development Applications seeking approval for buildings already under construction or completed without consent be the subject of a report to Council and not approved under delegated authority."

In accordance with the above resolution, in respect to retrospective approvals, the application is being reported to Council.

Description of Proposal

The application proposes to use two existing structures on the site for Bed and Breakfast accommodation.

The structure known as "Clyde" which was a previous shed contains two bedrooms, living /kitchen room, and bathroom.

The structure known as "Murrah" was constructed several years ago without any formal Council approval contains one bedroom living/kitchen room and bathroom.

The two structures are located some distance from the property boundaries and cannot be seen from any surrounding property due to the existing vegetation.

Access to the site is from a Crown Road which adjoins Bells Line of Road. The site is approximately one kilometre along the Crown Road from Bells Line of Road.

Background

The property owners contacted Council officers to discuss the uses of the structures and when it was found no approval had been granted for their use and in the case of “Murrah” for the construction the owners submitted the necessary application to seek Council approval.

Matters for Consideration Under Section 79(c) of the Environmental Planning and Assessment Act 1979

Statutory Framework - Unlawful Structures

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

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

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

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

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

| Section 79C “Matters for Consideration” Comments | Section 79C “Matters for Consideration” Comments |
|--|--|
| Section 79C (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on “HLEP 1989” and SREP No. 20 in this report. |
| Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument | THERE ARE NO DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS APPLYING TO THE SUBJECT LAND. |
| Section 79C (1) (a)(iii) – Provisions of any development control plan | REFER TO DISCUSSION ON HAWKESBURY DCP 2002 IN THIS REPORT |
| Section 79C (1) (a)(iii) – Provisions of the regulations | None applicable. |
| 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 | <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> |

ORDINARY MEETING

Reports of Committees

| Section 79C “Matters for Consideration” Comments | Section 79C “Matters for Consideration” Comments |
|--|---|
| | (iii) The proposed development will not have a detrimental economic impact in the locality. |
| Section 79C (1) (c) – the suitability of the site for the development | <p>Location – The site is considered suitable for the proposed development.</p> <p>Physical - The site does not contain any significant environmental constraint.</p> |
| Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | There are no submissions made in accordance with the Act or Regs. |

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

Sydney Regional Environmental Planning Policy (SREP) 20 aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. The policy requires a consent authority to consider, in determining an application for development on affected land, the general planning considerations outlined in Clause 5 of the policy as well as the specific planning policies and related recommended strategies outlined in Clause 6 of the policy. If the proposed development is specifically listed in Part 3 of the policy, the development is required to comply with the relevant development controls and address any listed matters for consideration.

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

Hawkesbury Local Environmental Plan 1989 (LEP)

Clause 2 - Aims, objectives etc,

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

Clause 5 – Definitions and Environmental Planning and Assessment Model Provisions 1980

The proposal is defined as a *Rural Tourist Facility* under the provisions of Hawkesbury Local Environmental Plan 1989. Clause 5 of Hawkesbury Local Environmental Plan 1989 provides the following definitions:

Rural Tourist Facility means a building or place in a rural area that is used to provide low scale holiday accommodation, recreation or education for the travelling or holidaying public and may consist of holiday cabins, horse riding facilities, refreshment rooms or the like.

Clause 9 – Carrying out development

Clause 9 of Hawkesbury Local Environmental Plan 1989 provides a Land Use Matrix specifying the permissibility or otherwise of particular forms of development. The Land Use Matrix permits rural tourist facility within the Environmental Protection - Agriculture Protection (Scenic)

Clause 9A – Zone objectives

The proposed development is considered to be consistent with the objectives of the Environmental Protection - Agriculture Protection (Scenic). The proposal's degree of compliance with stated objectives of the Environmental Protection - Agriculture Protection (scenic) zone are detailed as follows:

Environmental Protection - Agriculture Protection (Scenic) Zone

- (a) to protect the agricultural potential of rural land in order to promote, preserve and encourage agricultural production,**

Comment:

The land currently accommodates a rural residential use consisting of a dwelling and associated outbuildings. It is considered that the proposal is consistent with this objective and protects agricultural potential due to the low scale of the proposed development..

- (b) 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,**

Comment:

The application does not seek consent for agricultural use of the land. The application involves the regularisation and use of buildings currently situated on the site.

- (c) to ensure that development does not create or contribute to rural land use conflicts,**

Comment:

The proposal, seeking consent for a rural tourist facility (B&B accommodation), is not considered to create or contribute to rural land use conflicts.

- (d) to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component,**

Comment:

The proposal will not have a significant impact upon the existing landscape and agricultural character of the area.

- (e) to preserve river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality,**

Comment:

It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

- (f) to protect hilltops, ridge lines, river valleys, rural landscapes and other local features of scenic significance,**

Comment:

It is considered that the proposal is compatible with the scenic quality of the area and will not have a detrimental impact upon the locality.

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

Comment:

The proposed use will not cause a significant increase in traffic movements associated with the site.

- (h) to control outdoor advertising so that it does not disfigure the rural landscape,**

Comment:

No advertising structures are proposed in conjunction with the application.

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

Comment:

The existing services available to the site will not be required to be augmented in conjunction with the proposal.

- (j) ***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,***

Comment:

It is considered that the existing rural landscape character of the area would not be adversely impacted as a consequence of the proposal.

- (k) ***to encourage existing sustainable agricultural activities.***

Comment:

The proposal does not impact upon the continuation of the existing agricultural activities being undertaken in the surrounding area.

Clause 18 – Provision of water, sewerage etc services

Services are available and are capable of being augmented to accommodate the proposal.

Clause 24 – Development in certain environmental and other zones

This clause requires the consent authority to consider height, siting and the colour of building materials to ensure buildings are compatible with the surrounding landscape and therefore maintain consistency with the scenic qualities of the locality.

The buildings have been sited in a location where they will have a minimal impact on the scenic quality of the locality. The colours associated with the structures are appropriate.

Clause 43 – Rural Tourist Facility

This clause requires Council to consider the following matters:

- (a) ***The proposed development will have no significant adverse effect on the present and potential agricultural use of the land and the lands in the vicinity.***

Comment: The land is not productive agricultural land at present and given the site constraints unlikely to be used in the future for agriculture.

- (b) ***The proposed development will be compatible with the rural environment and of minimal environmental impact.***

Comment: The proposed development is compatible with the rural area and will have minor impact.

- (c) ***Adequate separation distances will be incorporated to minimise the potential for land use conflict between the proposed development and the existing or potentially conflicting land uses, such as intensive agriculture on adjoining land.***

Comment: The buildings provide adequate separation distance from the adjoining lands and the potential for conflict is considered low.

The use has been operating from the site for several years without any known impacts.

- (d) ***The proposal incorporates adequate landscaping and screen planting for visual amenity as viewed from a public road or dwelling house on other land in the vicinity.***

Comment: The development retains the existing vegetation on site which provides adequate screening for visual amenity from the Crown Rd and the adjoining properties.

- (e) *All proposed buildings and other uses are clustered so as to reduce impact on the rural amenity.*

Comment: The buildings are clusters close to each other on the site and the existing vegetation on site helps reduce the visual impact.

- (f) *There will be no significant adverse visual impact of the proposed development on the scenic quality of the area.*

Comment: The development retains the existing vegetation on site, which provides adequate screening for visual amenity for the area.

Hawkesbury Development Control Plan 2002

Part A, Chapter 1 - Purpose and Aims

The proposed development is considered to be consistent with the general aims and objectives of Hawkesbury Development Control Plan 2002.

Part A, Chapter 2 – General Information

It is considered that sufficient information has been submitted with the application for Council to assess the application.

Part A, Chapter 3 - Notification

The application was notified to adjoining property owners and occupiers in accordance with the requirements of Hawkesbury Development Control Plan 2002. In response to this notification no written submissions were received.

NSW Rural Fire Service

The application was referred to the NSW Rural Fire Service as Integrated Development under the EPA Act. The NSW RFS has approved the development subject to conditions which are included in the recommendation.

Conclusion

The proposed uses involving Bed & Breakfast accommodation has been operating from the site for a period of time.

The use is consistent with the objectives of the zone and will have only a minor environmental impact. The proposed development is also consistent with the bush fire requirements of the NSW Rural Fire Service.

RECOMMENDATION:

That:

- A. A penalty notice be issued under the Environmental Planning and Assessment Act for breeches of the Act, and
- B. Development Application No. DA0215/07 for a Rural Tourist Facility be approved subject to the following conditions:-

General

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. The development shall comply with the provisions of the Building Code of Australia at all times.
3. An application under Section 149(d) of the EPA Act (Building Certificate) shall be submitted within 30 days from the date of this consent for each of the cottages (one application for the Clyde and one for the Murrah cottages). You are advised to contact one of Council's Building Surveyors prior to submitting the Building Certificate application to determine the information to be submitted with that application.
4. Each cottage shall be provided with a minimum 30,000 litre water storage tank located and fitted with the appliances as outlined by the NSW RFS conditions attached to this consent.
5. An automatic fire detection and alarm system shall be installed within each cottage (Clyde & Murrah) in accordance with the BCA.
6. Alarms and detectors shall be installed by a qualified licensed electrician and shall be connected to an alarm connected to the main dwelling on the property.
7. A certificate of the installation shall be provided prior to the issue of the building certificate for each cottage.
8. The Building Legislation Amendment (Smoke Alarm) Act 2005 requires smoke detectors to be provided in all existing buildings in which people sleep.

Suitable smoke detection/alarms are to be provided to the existing portion of the building, in accordance with the abovementioned legislation or the Building Code of Australia, and should be incorporated with any proposed smoke alarms required by the addition to the building.
9. A Sewer Management Facility System application shall be submitted to and approved by Council within 30 days from the date of this consent.

Prior to Works Commencing

10. A Traffic Management Plan prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council.
11. Payment of a compliance certificate inspection fee of \$541.00 this amount is valid until 30 June 2008

During Construction

12. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
13. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved plan and Hawkesbury Development Control Plan chapter on Soil Erosion and Sedimentation.
14. The road shoulders and full width sealed pavement of 5.5 metres width shall be constructed from the intersection with Bells Line of Road to the southern most access driveway to the development site. The road shall widen to nine metres at the intersection with Bells Line of Road.

Use of Site

15. No internal or external alterations shall be carried out without prior approval of Council.
16. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) LA(eq) above background noise levels with respect to noise amenity of residential dwellings.
17. The rural tourist facility shall be limited to the area shown on the submitted plans.
18. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.
19. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
20. All waste materials shall be regularly removed from the property.
21. The rural tourist facility buildings shall not be used for permanent occupation as a residence.
22. The rural tourist facility buildings shall only be used for short term tourist accommodation with a maximum of two months in any one period.
23. A copy of the guest register is to be provided to Council every 6 months.

NSW Rural Fire Service

24. The property around each building (Clyde and Murrah Cottages) shall be maintained in perpetuity as an 'Inner Protection Areas' (IPA) for a minimum distance of 30 metres as outlined within 'Planning for Bush Fire Protection 2006' and the Service's document "Standards for asset protection zones".
25. Each dwelling (Clyde and Murrah Cottages) shall fully comply with the requirements of Level 1 construction as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'.
26. Roofing to both dwellings shall have leafless guttering and valleys which are to be screened with non corrosive mesh to prevent the build up flammable material. Any materials used shall have a Flammability Index no greater than five.
27. Access is to comply with Section 4.1.3(1) of 'Planning for Bush Fire Protection 2006'.
28. In recognition of no reticulated water supply to both existing dwellings (Clyde and Murrah Cottages) shall each have a minimum of 3kW (5hp) petrol or diesel powered pump and a dedicated 10,000 litre water supply tank dedicated solely for fire fighting purposes. The tank shall be positioned no closer than 10 metres and no further than 20 metres from each dwelling. A 65mm Storz fitting and lever action ball valve shall be installed in the tank. Suitable access to within six metres of the dedicated water supply for a Category 1 heavy bushfire tanker shall also be provided. In addition, a 30 metre long x 19mm diameter fire hose and reel should be installed adjacent to the pump and be capable of covering all points of the existing dwelling. The hose reel should be supplied, via the petrol/diesel powered pressure pump, from the dedicated fire fighting water supply.
29. The openable section of all windows to the existing residential dwelling shall be screened with non corrosive steel mesh to prevent the entry of wind blown embers and reduce the radiant heat impact upon the glass.
30. Roofing to the existing residential dwelling shall have leafless guttering and valleys which are to be screened with non corrosive mesh to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.

31. A Bush Fire Evacuation Plan is to be prepared and submitted to the District RFS office of the NSW Rural Bush Fire Service. The evacuation plan is to detail the following:
- a) under what circumstances will the complex be evacuated.
 - b) where will all persons be evacuated to.
 - c) roles and responsibilities of persons co-ordinating the evacuation.
 - d) roles and responsibilities of persons remaining with the complex after evacuation.
 - e) a procedure to contact the NSW Rural Fire Service District Office/NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

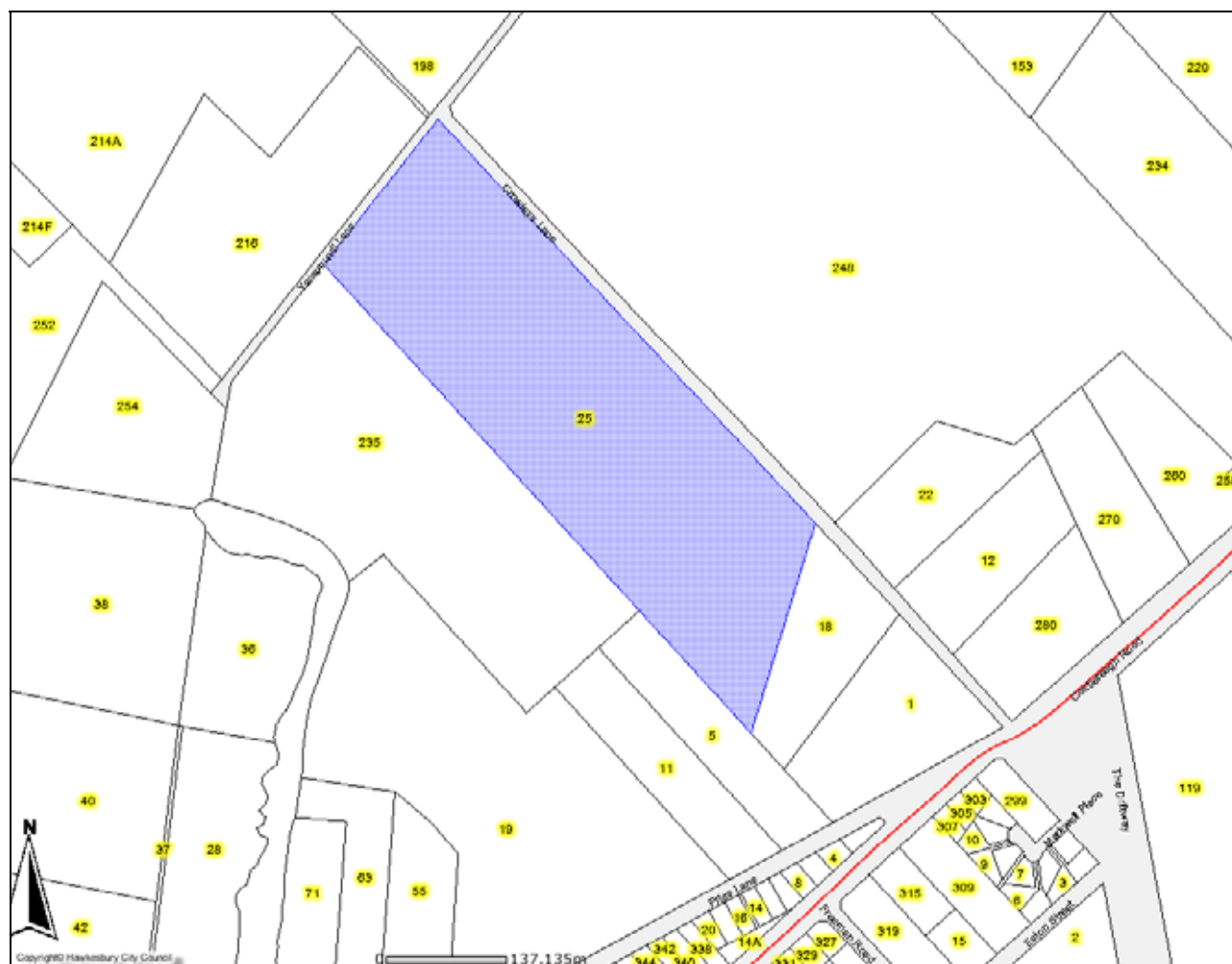
ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Site Plan

AT - 3 Floor Plan

AT - 1 Locality Plan

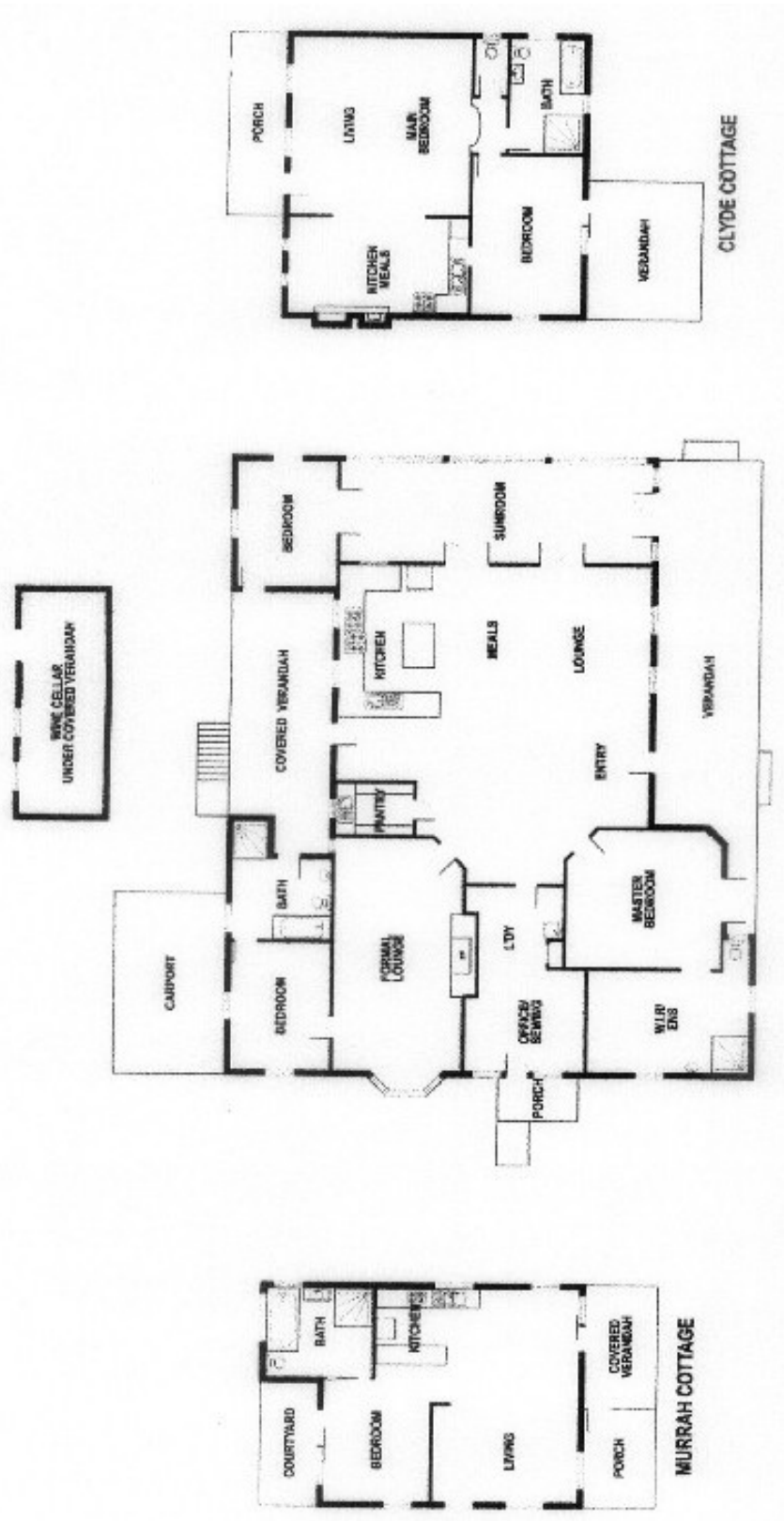


AT - 2 Site Plan



ORDINARY MEETING
Reports of Committees

AT - 3 Floor Plan



oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

This business paper has
been produced
electronically to reduce
costs, improve efficiency
and reduce the use of
paper. Internal control
systems ensure it is an
accurate reproduction of
Council's official copy of
the business paper.