



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 11 August 2009
location: council chambers
time: 5:00 p.m.



mission
statement

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

How Council Operates

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

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

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

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

Meeting Procedure

The Mayor is Chairperson of the meeting.

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

Public Participation

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

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

A Point of Interest

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

Planning Decision

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

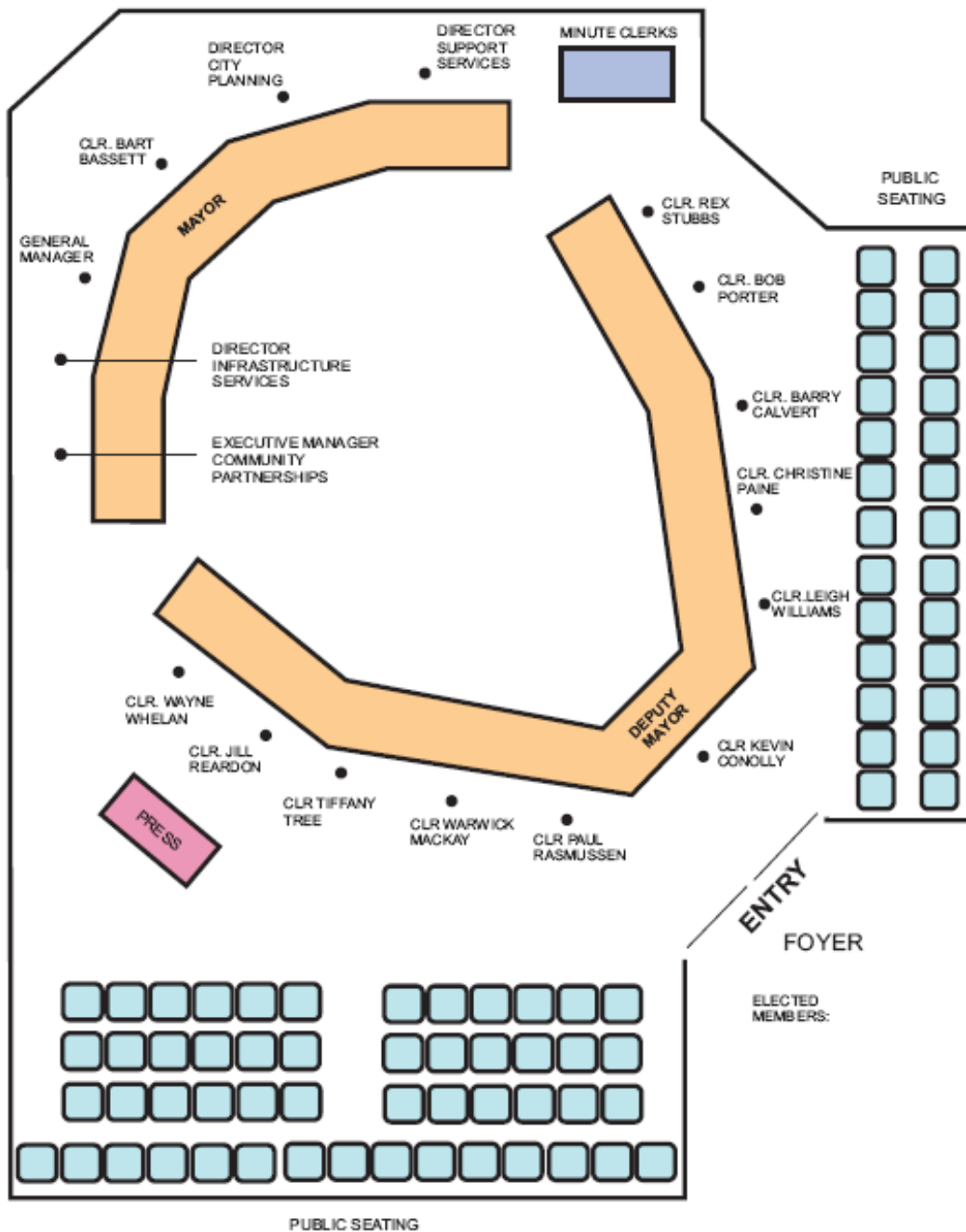
Website

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

Further Information

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

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SECTION 1 - Confirmation of Minutes

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SECTION 3 - Notices of Motion

NM1 - Flood Immunity Proposed New Windsor Bridge - (111630, 79351)

Submitted by: Councillor W Whelan

NOTICE OF MOTION:

That Council request through our State Representatives and the RTA Regional Manager that:

1. Confirmation on improved flood immunity for a 1 in 5 year flood event, is a major objective criteria in the proposed new Windsor Bridge.
2. Only RTA Bridge options that provide road access to Wilberforce and Windsor Road, inclusive of flood immunity for a 1 in 5 year flood event, will be considered.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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Notices of Motion

NM2 - Local Aboriginal Land Council Investigation of Development Applications - (95498, 36939)

Submitted by: Councillor Paine

NOTICE OF MOTION:

That a report be brought to Council explaining the process used by the Local Aboriginal Land Council for selection of properties needing further investigation, by them, prior to determining a development application.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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SECTION 4 - Reports for Determination

CITY PLANNING

Item: 147 **CP - Modification of Development Consent 77/86 - Extension of Operating Hours - Richmond Star Kebab, Lot 3 SP 37397, 148 Windsor Street RICHMOND NSW 2753 - (D0027/86A, 95498, 74563, 30015, 30016, 30014, 75729)**

Development Information

Applicant: Falson and Associates P/L
Applicants Rep: Glenn Falson
Owner: Mrs M S C Low, Mr N L G King, Mr L H Pellew
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
State Environmental Planning Policy No. 4
Area: 1483m²
Zone: 3(a) Business General Under Hawkesbury Local Environmental Plan 1989
Advertising: 30 April 2009 to 14 May 2009
Date Received: 16 April 2009

Key Issues:

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

Recommendation: Refusal

REPORT:

Introduction

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

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

Background

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

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

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

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Development Consent No. 77/1986. The provisions of SEPP No. 4 required that the hours of operation of a shop permitted by this Policy not extend outside the hours previously approved.

Current Situation

The applicant advises that the Kebab shop has been operating outside the approved hours since about 2006. Enquiries were made by NSW Police as to the approved hours of operation of the shop due to incidents of anti social behaviour associated with the premises. In October 2007 Council became aware of the unauthorised operating hours via the Police. The application to change the hours of operation was submitted in response to Council's request to comply with the original development consent. The application was received on 16 April 2008. The modification application is supported by a petition signed by approximately 1,762 shop patrons.

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

The Proposal

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

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

Statutory Situation

Environmental Planning and Assessment Act, 1979

Assessment of Section 96(1A)

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

S.96(1A)

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

- (a) *it is satisfied that the proposed modification is of minimal environmental impact, and*

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

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

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

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

(i) *the regulations, if the regulations so require, or*

(ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

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

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

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

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

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

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

S.96(3)

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

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

S.96(4)

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

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

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

a) **the provisions of:**

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

The relevant environmental planning instruments are:

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

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

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

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

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

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

iii) any development control plan applying to the land

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

iv) any matters prescribed by the regulations

Comment: No relevant matters are prescribed by the regulations

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

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

Context and Setting

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

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

Social impact on the locality

Please refer to NSW Police submission and comments below.

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

The original approval for the shop did not provide an area for seating. Seating has since been provided within the shop however, this is limited to two small tables and three chairs due to the small public space available (approximately 15m²) to accommodate customers. It is predicted that this space would comfortably cater for approximately 8 patrons at a time. Hence if there are larger numbers of customers they would be forced to wait on the public footpath.

c) the suitability of the site for the development

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

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

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

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

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

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

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

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

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

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

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

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

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

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

e) the public interest

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

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

Environmental Planning and Assessment Regulations 2000

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

Conclusion

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

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

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

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Planning Decision

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

RECOMMENDATION:

That:

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

ATTACHMENTS:

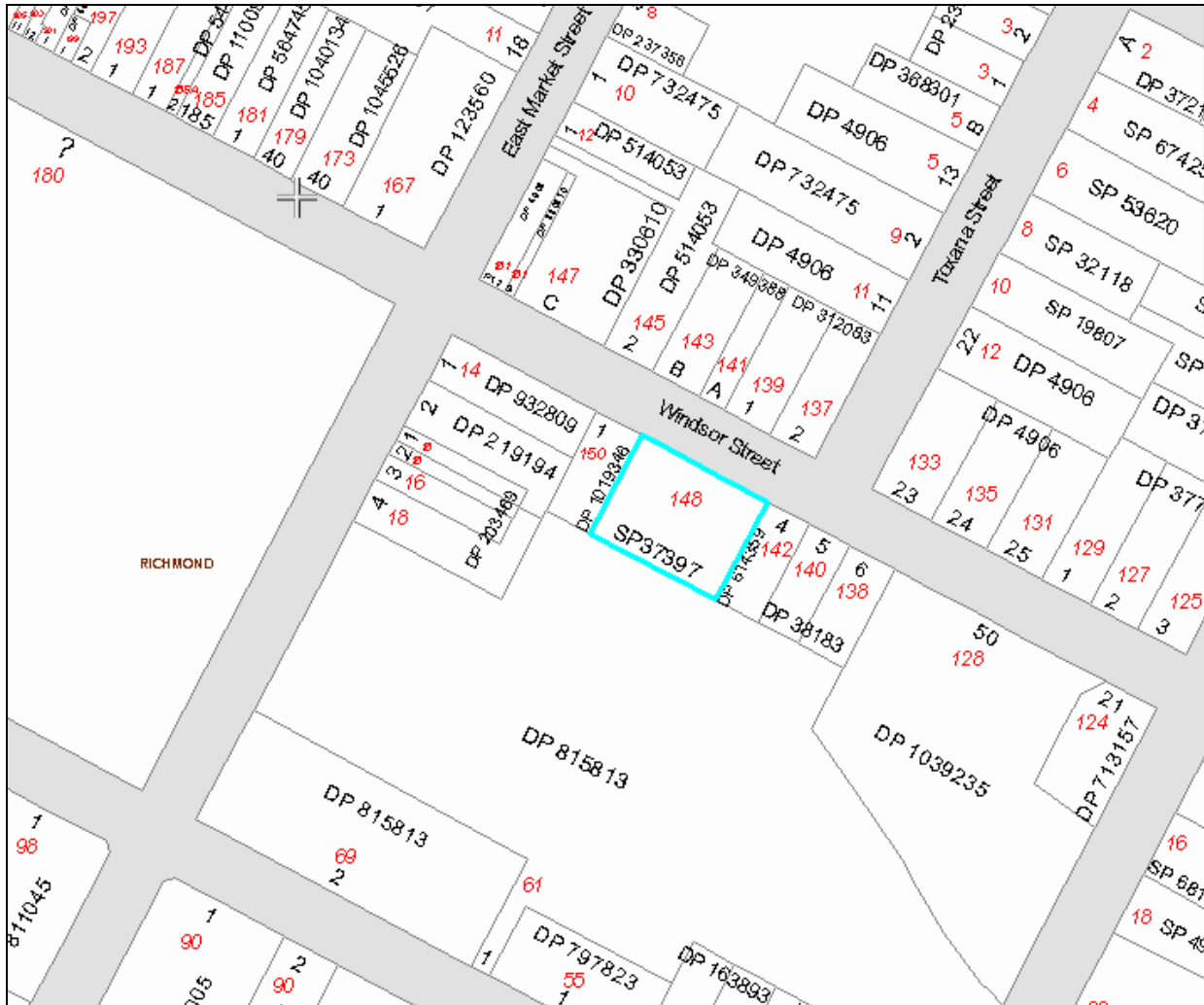
AT - 1 Locality Plan

AT - 2 Aerial Photo

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AT - 1 Locality Plan



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AT - 2 Aerial Photo



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Item: 148 CP - Late Applications and Additional Information - Community Sponsorship Program - 2009/2010 - Round 1 - (96328)

REPORT:

This report has been prepared to advise Council of two late applications for financial assistance which require determination under Round 1 of the Community Sponsorship Program for 2009/2010 and provides additional information in relation to a previous application from the *Sydney Blues Festival*. The report also proposes that Council adopt a clarifying position in relation to the possible renewal of 3 year event sponsorship agreements executed under the Community Sponsorship Program.

Background

At its Ordinary Meeting held on 28 July 2009, Council determined applications received under Round 1 of the Community Sponsorship Program for 2009/2010. In relation to an application received from the *Sydney Blues Festival*, Council resolved (in part):

“3. Staff have discussions with the Windsor Business Group regarding the application for sponsorship from the *Sydney Blues Festival* and report back to Council.”

In response to a question from Councillor Williams, the Mayor confirmed that a request had been received for Council to sponsor a *Colo Wilderness Area Family Picnic Day* and that an application would be reported for Council's consideration.

At the same meeting Council also resolved to allocate \$10,000 from the Community Sponsorship Program (CSP) to support the establishment of an additional short term category within the CSP to provide assistance to community groups seeking to hold events and activities in conjunction with the Hawkesbury Macquarie 2010 Celebrations.

Community Sponsorship Program 2009/2010

Budget for Community Sponsorship Program

| | |
|---|-----------------|
| Total Budget for Financial Year 2009/2010 | \$60,770 |
| Expenditure to date: | |
| Allocated to Hawkesbury Eisteddfod | \$18,540 |
| Approved under Round 1(18 applicants) | \$20,399 |
| Allocated to Macquarie 2010 Seed Seeding Grants | <u>\$10,000</u> |
| <u>Total</u> | <u>\$48,939</u> |
| Budget Balance at 01/08/2009 | \$11,831 |

Provision of Financial Assistance to 'Business Entities'

Council's Sponsorship Policy does not necessarily prevent Council from providing financial assistance to a 'business entity' (in the same way that Section 356 (2) of the Local Government Act does not restrict Council from providing financial assistance to 'a proposed recipient who acts for private gain'). However the Policy does imply that the provision of financial assistance should be directed to community groups with limited access to alternate sources of funding and whose values and objectives do not conflict with those of the Council (as defined in Council's adopted strategic, operational and community plans).

The intent of the Sponsorship Policy is mirrored in the criteria and administrative arrangements for Council's Community Sponsorship Program. As a result, the Community Sponsorship Program precludes Council from providing financial sponsorship to a 'for profit' entity. This operational prohibition reflects the

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restricted funding available for Council sponsorship and the likely divergence between Council's values and objectives *vis-à-vis* those of a commercially driven enterprise.

For these reasons the application from the Sydney Blues Festival (SBF) was assessed by staff as non-compliant with the Community Sponsorship Program as the SBF was considered to be a for-profit entity whose organisational values may not have concurred with those of Council.

The Sydney Blues Festival Application

The application from the Sydney Blues Festival as submitted to Council, requested that Council contribute \$5,000 of a total of \$25,000 to be obtained via corporate sponsorships. The total cost of the event was estimated at \$155,000 with the bulk of income (\$120,000) to be derived from entry fees.

To give effect to Council's resolution of 28 July 2009, Council staff spoke to the nominated contact person for the Sydney Blues Festival. The contact person confirmed that the proposed Festival was a commercial undertaking but stressed that organisers of the event were unsure of the profitability of the event and were not anticipating that the event would 'break even' for at least the initial two years of the event. The contact person indicated that the motivation for the event was not primarily driven by financial considerations.

Subsequent discussion with the Windsor Business Group Inc. (WBG) indicated that the WBG were aware of the proposal and were of the view that, if implemented, the Festival would act as a catalyst for the promotion of Windsor as a tourism destination and as a vehicle for responding to the recreational and cultural needs of residents. The WBG is a not-for-profit group whose primary role is to '*promote Windsor NSW, Its people, Its History, Its Potential and Its Environment*'. The WBG believes that any support it can offer to the Sydney Blues Festival is consistent with this role and is keen to support an event which, to all intents and purposed, could be considered a not-for profit community activity given that the event is unlikely to generate a commercial return in its first few years

The WBG is willing to submit an application for funding of \$5,000 under the CSP on the basis that it would remit this amount to the Sydney Blues Festival organisers. The WBG has indicated that it will also be providing at least \$1,000 in sponsorship for this event.

This arrangement would overcome the prohibition within the Community Sponsorship Program (which precludes Council from providing financial assistance to a for profit entity). As indicated above, while the original CSP application from the organisers of the Sydney Blues Festival was not necessarily invalid under the wording of Council's Sponsorship Policy, it was nominally inconsistent with the practical intent of the Policy. The application by the WBG would provide a more correct fit with the intent of Council's Sponsorship Policy and the Community Sponsorship Program in that the role of the WBG is clearly consistent with Council's objectives. Approval of the WBG application would enable this group to support a 'community' blues festival which is unlikely to generate a commercial return (at least in its first years). For Council to satisfy itself of the appropriateness of providing sponsorship for the SBF, it is proposed that Council not enter into the standard 3 year event sponsorship agreement and limit sponsorship to one year only.

Late Applications

Two additional applications for funding under the Community Sponsorship Program have been received after the report of Round 1 applications to Council. These applications (together with the SBF applications) are outlined in Table 1.

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| Applicant | Type (1) | Proposal | Amount requested | Recom. Amount | Comment |
|---|----------|---|------------------|---------------|--|
| 1. Windsor Business Group | ES | Contribution to staging of Sydney Blues Festival. | 5,000 | 5,000 | Revised application (refer to additional information in Report). Recommend one-year sponsorship only |
| 2. Colo Wilderness Area Family Picnic Day | ES | Staging of Community Family Day | 2,400 | 2,400 | The Family Picnic Day has been held in the past. Funds raised from event donated to local community groups and schools. |
| 3. Hawkesbury Schools Dance Festival | ES | Staging of dance festival involving 36 Primary and Secondary schools. | 3,523 | 3,523 | This event is held bi-annually and has been sponsored by Council in the past. Funds required are for the hire of the Function Centre |
| TOTAL | | | | 10,923 | |

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

**Table 1 – Late and revised applications financial assistance Round 1 of 2009/2010
Community Sponsorship Program**

Further Rounds of Community Sponsorship Program for 2009/2010

While there are sufficient funds to cover the total recommended amount of \$10,923 for these late and revised applications, the approval of these applications will leave a balance of \$908 for the Community Sponsorship Program for the remainder of the 2009/2010 financial year.

This balance will be insufficient to meet 'historical' commitments under the CSP associated with Council subsidising the hire of the Windsor Function Centre to enable local schools to stage annual Presentation Nights. The likely costs to meet these commitments is in the vicinity of \$1,500. Accordingly, the CSP will be slightly over-budget for 2009/2010.

More significantly funds within the CSP will be exhausted which will limit the provision of further financial assistance for the remainder of this financial year. It is proposed therefore that further rounds of the CSP not be advertised and Council advise prospective applicants that, unfortunately further applications for financial assistance under the CSP for 2009/2010 cannot be received.

Event Sponsorship Category - Renewal of Existing Sponsorship Agreements

The Community Sponsorship Program was established following the review of Council's previous Community Donations Program. The review was conducted in 2005 and 2006 and identified a number of inequities within the then Community Donations Program which were impacting on the financial sustainability of the program. In particular, the analysis of funding provided over the preceding 5 years indicated that the Community Donations Program had evolved into a fixed program of financial assistance which was directed to the same small pool of community groups limiting Council's capacity to financially support new community groups or to respond to emerging community needs.

In considering the findings and submissions arising out of the Grants Review, Council endorsed 15 principles in relation to the administration, equity and financial sustainability of a future grants program. One of these principles was to 'encourage the longer term sustainability of projects by limiting duration of grants to a maximum of 3 years (with provision for further extensions in special circumstances)'. These principles were subsequently reflected in Council's Sponsorship Policy and its Community Sponsorship Program – with particular reference to the Event Sponsorship category.

The Event Sponsorship category was established to provide community groups with access to sponsorship to support the staging of community and cultural events. The three year sponsorship time period was implemented to provide community groups with security in relation to the provision of financial assistance so that they had the time to develop and consolidate their particular event.

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Applicants who had successfully applied for event sponsorship under the revised Community Sponsorship Program, were advised that it was Council's intention that this sponsorship should not impose a long term financial obligation and that Council anticipated that at the end of the three year term the event would be financially viable so as not to require further Council funding, thereby releasing the funds for use by other community organisations.

Currently, more than three-quarters (76%) of funding allocated under the Community Sponsorship Program for 2009/2010 has fallen within the three year event sponsorship category. A number of three-year event sponsorship agreements are in either their last or penultimate year of sponsorship. The significant proportion of CSP funding allocated to event sponsorship carries the risk that the CSP will once again evolve into a fixed program of financial assistance directed to the same small pool of community groups limiting Council's capacity to support new community groups or activities.

It is acknowledged that many community groups are reliant on Council sponsorship for the viability of their sponsored events. Under these circumstances, the complete withdrawal of Council sponsorship is likely to see the cessation of these events. At the same time however, the continued sponsorship of these events at current levels will preclude Council from providing sponsorship to other community groups seeking to stage new events and will also limit Council's capacity to providing financial assistance under the other categories within the Community Sponsorship Program.

As it currently stands, Council has endorsed a sponsorship principle which would prevent Council in the absence of 'special circumstances' from renewing three year events sponsorship agreements - with the exception of the Hawkesbury Eisteddfod which is covered by a separate Council resolution. To assist Council staff in advising prospective applicants who are seeking to renew existing three year sponsorship agreements it is proposed that Council adopt a clarifying position in relation to the renewal of these agreements.

Having regard to the financial sustainability of the Community Sponsorship Program (as outlined above) it is proposed that Council adopt the following clarifying position:

Council will consider applications to renew existing three year event sponsorship agreements on the following basis:

- prospective applicants will need to re-apply for the renewal of their event sponsorship;
- eligible event sponsorship renewal applications will be funded at 75% of the amount approved in the previous event sponsorship agreement.

If approved by Council, this clarifying position will be incorporated in written and electronic information relating to the Community Sponsorship Program.

Conformance to Strategic Plan

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

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

Funding

Funding allocations recommended in this report are available within current budget provisions. However as indicated in the report, the approval of funds may result in the Community Sponsorship Program exceeding its budget allocation requiring a budget variation adjustment.

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RECOMMENDATION:

That Council:

1. Approve payments of Section 356 Financial Assistance to the organisations and individuals listed, and at the level recommended in Table 1 of this report.
2. Approve the execution of Council's standard Sponsorship Agreement for the applications identified in Table 1 of this report.
3. Authorise Council staff to advise prospective applicants that funding under the Community Sponsorship Program for 2009/2010 has been fully allocated, and that further applications for financial assistance for the remainder of 2009/2010 cannot be received.
4. Authorise Council staff to advise current recipients of three year event sponsorship agreements that Council may consider the renewal of these agreements on the following basis:
 - (a) prospective applicants will need to re-apply for the renewal of their event sponsorship;
 - (b) eligible event sponsorship renewal applications will be funded at 75% of the amount approved in the previous event sponsorship agreement.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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INFRASTRUCTURE SERVICES

Item: 149 **IS - Proposed Wording of Memorial Plaque on Cycleway between Pitt Town Road Intersection and Wianamatta Bridge, Windsor - (95494)**

Previous Item: 77, Ordinary (28 April 2009)

REPORT:

Council at its meeting of 28 April 2009 in consideration of a report relating to the naming of the cycleway bridge over Wianamatta Creek resolved in part that *“A report be brought back to Council as to the appropriate wording in naming the cycleway between Pitt Town Road intersection and the Bridge to honour all Hawkesbury residents who have lost their lives on roadways”*.

Following the opening of the cycleway bridge, Wianamatta Bridge, draft wording for a cycleway plaque was proposed by the RTA communications and media section as outlined below:

NSW Crest

MEMORIAL CYCLEWAY

In honour of all cyclists tragically killed in accidents on our roads.

Officially named by

The Hon Michael Daley MP
NSW Minister for Roads

The Hon John Aquilina MP
Member for Riverstone

on

Monday 15 June 2009

It is understood that the intent of Council's resolution was to *“honour all Hawkesbury residents who have lost their lives on roadways”*; not specifically cyclists, and as such it is recommended that the RTA be requested to amend the wording on the plaque accordingly.

In addition, given that Council will assume responsibility for the cycleway, and in view of the fact that Council originally recommended the notion of a memorial cycleway, it would also seem appropriate to request the inclusion of the Council logo and/or reference to the Council and/or the Mayor.

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It is suggested that the plaque could be reworded as outlined below:

NSW Crest

Council Logo

MEMORIAL CYCLEWAY

In honour of Hawkesbury residents
who have lost their lives on our roads.

Officially named by

The Hon Michael Daley MP
NSW Minister for Roads

The Hon John Aquilina MP
Member for Riverstone

Councillor Bart Bassett
Mayor, City of Hawkesbury

on
Monday 15 June 2009

Conformance to Strategic Plan

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

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

Funding

Nil impact on current budget.

RECOMMENDATION:

That, in relation to the memorial plaque to be placed on the Cycleway between Pitt Town Road Intersection and Wianamatta Bridge, Windsor, the RTA be requested to:

1. Amend the plaque wording as follows:
 - *"In honour of Hawkesbury residents who have lost their lives on our roads."*
2. Include the Council Crest and reference to the Mayor.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 150 **IS - Proposed Upgrade to the Windsor Railway Station Transport Interchange and Commuter Car Park - (95495, 99132)**

REPORT:

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

The Upgrade will include:

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

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

The majority of the upgrade works will be undertaken on Railcorp land, however the construction of the Serpentine Path and the turning area for the bus interchange will encroach upon the adjacent road reserves in George Street and Church Street respectively.

Currently the existing main carpark, bus interchange and pathway from the underpass in George Street to the Station have been under lease from Railcorp to Council, whereby Council has undertaken the maintenance of these areas. The future maintenance of the site will be the responsibility of Railcorp and as such it is proposed that the existing Railcorp Leases be terminated.

The construction of the new roundabout in George Street at the access point to the Interchange will be undertaken by Railcorp, however, the ongoing maintenance of this facility after the defects liability period will be the responsibility of Council as the roundabout will be within the road reserve. Railcorp will be requested to pay a one-off Capitalised Maintenance Contribution of \$50,000 for the operation and maintenance of the new roundabout in George Street.

Details of the road encroachments and Railcorp Leases are listed below:

Church Street Encroachment:

The proposed bus turning area encroaches over a section of the Church Street road reserve adjacent to Nos. 5 and 6 Church Street. This section of road reserve is required to facilitate the turning movements of buses within the bus interchange. The existing land owned by Railcorp adjacent to the end of Church Street is not adequate.

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The encroachment onto Church Street will not have an adverse impact on the available on-street parking due to the provision of additional off-street parking within the two new car parks. The encroachment however, may have an adverse effect (access to property and loss of roadside frontage) on the adjacent property owners and in particular No.5 Church Street. The property at No. 6 Church Street is owned by Railcorp and will be incorporated into the overall scheme.

The options available to Railcorp are to either acquire or lease the required section of the Church Street road reserve. Either option would require as a minimum, consultation with adjoining owners to ascertain the impacts of the encroachment.

It will be the responsibility of Railcorp to reconstruct the end of Church Street in the vicinity of Nos 3 to 6 to ensure its functionality. The existing alignment of Church Street does not provide for a turning area (cul-de-sac). It would be unreasonable to expect Railcorp to provide a turning area as this will require the acquisition of adjacent properties.

Serpentine Path and George Street Encroachment:

The Serpentine Path is to be constructed to provide access from the George Street rail under-pass to Windsor Station. The path is to be constructed partly within the road reserve (over the existing small carpark of 20 spaces) and Railcorp land at the south-east corner of the site.

The options available to Railcorp are to either acquire or lease the required section of road reserve in George Street. The maintenance of the Serpentine Path area, including landscaping, will be the responsibility of Railcorp as part of the ongoing maintenance program for the entire site.

The shaping of the Serpentine Path and the subsequent encroachment onto the George Street Road Reserve is to allow for easy access to Windsor Station and in particular disabled access.

Railcorp Lands Leased by Council:

There are three Railcorp Leases to Council over the general footprint of the Windsor Station precinct. These leases have been in place over a long period of time extending as far back as 1955 and cover the existing main carpark, bus interchange and the footpath in George Street from the rail underpass to the Station.

With the upgrade works proposed for this precinct and Railcorp taking responsibility for the ongoing maintenance of the site it is proposed that the existing Railcorp Leases be terminated. The termination of the existing Leases may not be immediate and will need to be undertaken in accordance with the conditions contained within these leases.

Details of the Railcorp Lands Leased by Council are listed below and outlined in the attached Drawing "Railcorp Lands Leased by Council at Windsor Station" - Attachment 2:

Table 1: Details of Railcorp Lands Leased by Council

| Lease No. | Project ID No. | Location | Agreement Date | Description |
|-----------|----------------|----------|----------------|---|
| 96738 | 2 | Windsor | 1/01/1955 | <u>Footpath:</u> Land for the construction and maintenance of footpath. Land about 45m x 1.52m |
| B 10559 | 3 | Windsor | 1/08/1963 | <u>Car Park:</u> Land about 1467m ² for public car parking George Street |
| A 1966/52 | 4 | Windsor | 20/10/1966 | <u>Bus Interchange:</u> Tar sealing of railway station approach off George Street |

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Conformance to Strategic Plan

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

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

Funding

Nil impact on the current budget.

RECOMMENDATION:

That:

1. The utilisation of the Road Reserves in George Street for the Serpentine Path and Church Street for the bus turning area be supported and Railcorp be requested to either acquire or lease the corresponding road reserves.
2. All costs (both immediate and ongoing) associated with the acquisition and or lease are to be met by Railcorp, with necessary documentation executed under the Seal of Council.
3. Railcorp be requested to pay an Assessment Fee to Council to the value of \$20,000 to cover Administrative and Technical costs incurred by Council.
4. The three existing Railcorp Leases as follows be terminated:

Table 1: Details of Railcorp Lands Leased by Council

| Lease No. | Project ID No. | Location | Agreement Date | Description |
|-----------|----------------|----------|----------------|---|
| 96738 | 2 | Windsor | 1/01/1955 | <u>Footpath:</u> Land for the construction and maintenance of footpath. Land about 45m x 1.52m |
| B 10559 | 3 | Windsor | 1/08/1963 | <u>Car Park:</u> Land about 1467m2 for public car parking George Street |
| A 1966/52 | 4 | Windsor | 20/10/1966 | <u>Bus Interchange:</u> Tar sealing of railway station approach off George Street |

5. Railcorp be requested to pay a one-off Capitalised Maintenance Contribution of \$50,000 for the operation and maintenance of the new roundabout in George Street.

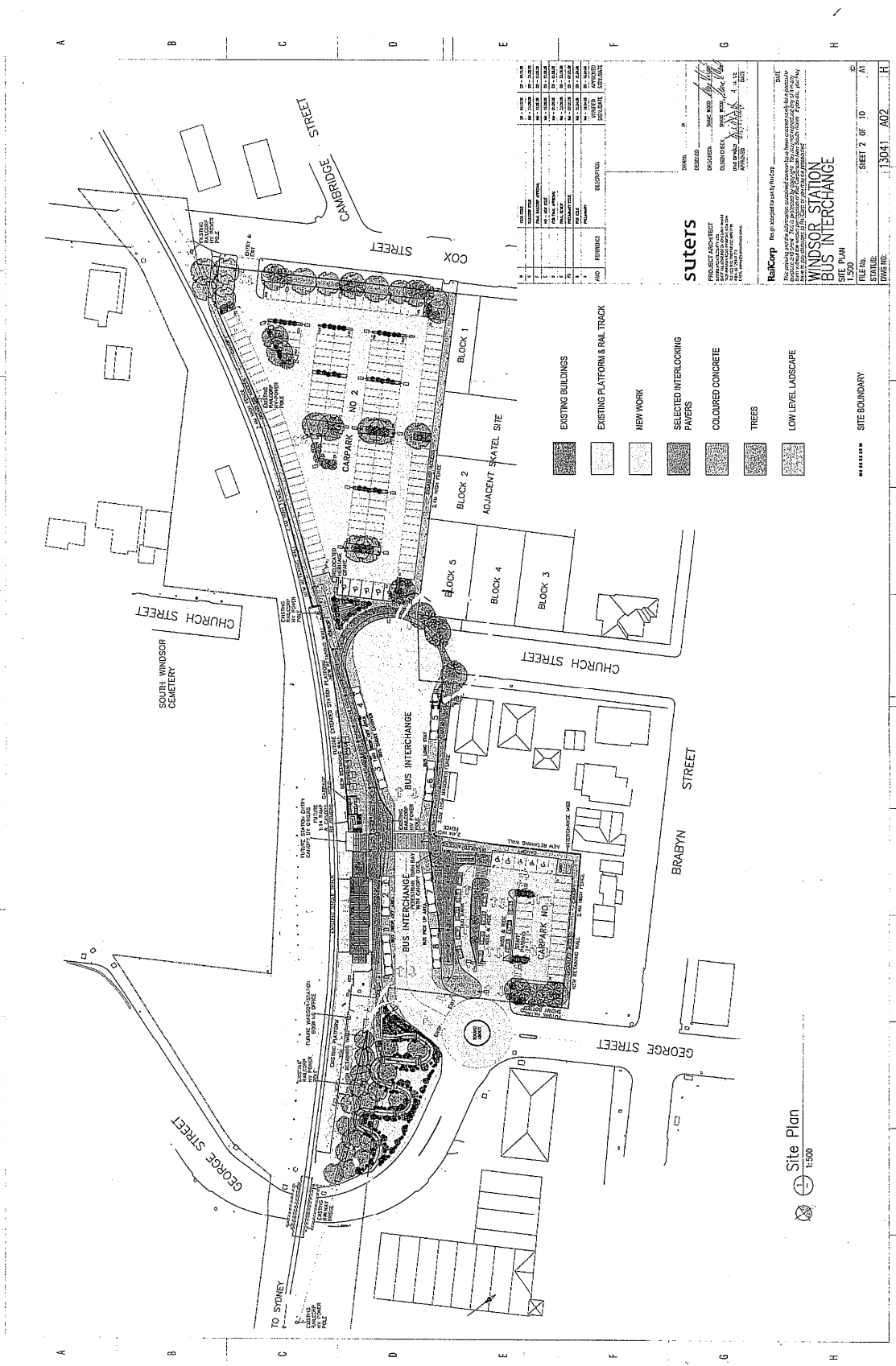
ATTACHMENTS:

- AT - 1** "Windsor Station Bus Interchange - Site Plan" - DWG No. 13041 A02 H
- AT - 2** Overview Plan: Railcorp Lands Leased by Council at Windsor Station

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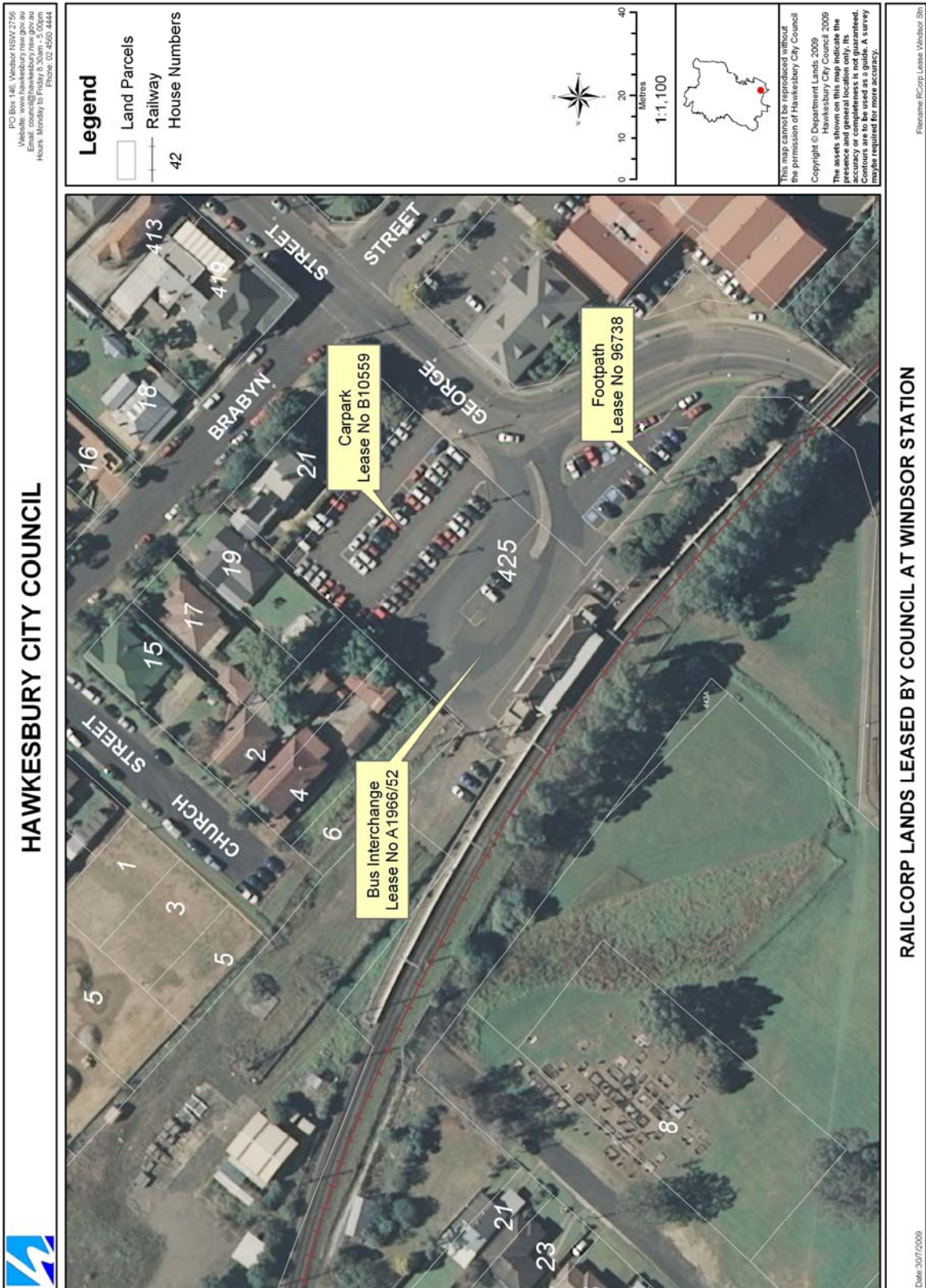
AT - 1 Windsor Station Bus Interchange – Site Plan” – DWG No. 13041 A02 H



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AT - 2 Overview Plan: Railcorp Lands Leased by Council at Windsor Station



oooO END OF REPORT Oooo

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Item: 151 **IS - Woodbury Reserve Plan of Management - (95494, 79354, 38871)**

Previous Item: 217, Ordinary (21 October 2008)

REPORT:

In consideration of a report to Council on 21 October 2008 regarding the Draft Plan of Management for Woodbury Reserve, Council resolved:

"That the matter be deferred and Council be presented with a report regarding the proposal submitted by the Glossodia Community Anglican Church."

The Glossodia Community Anglican Church were requesting through a "Peppercorn" lease, the provision of community land for the purpose of building a church/community facility. The initial request was to lease 2-3 acres of the Reserve but this was amended to a plot no bigger than 30m x 30m. The land would be located in the bushland area behind the shopping centre car park, between the Community Centre and the Childcare Centre (An aerial photo will be displayed at the meeting). The proposal includes:

- construction of a church building;
- landscaping of the area with Australian native plants and trees; and
- the use of the community centre car park on Sunday mornings, minimising impact on the shopping centre car park.

Whilst the building is to be licensed by the Sydney Diocese as an Anglican place of worship, the applicant has indicated that there would be no reason why other groups could not use the church.

The use of community land is governed by the Local Government Act 1993. The Act states that all community land requires a plan of management and that each parcel of land needs to be categorised as either:

- (a) a natural area,
- (b) a sportsground,
- (c) a park,
- (d) an area of cultural significance,
- (e) general community use.

The Regulations of the Act state that 'Land should be categorised as a natural area under Section 36 (4) of the Act if the land, whether or not in an undisturbed state, possesses a significant geological feature, geomorphological feature, landform, representative system or other natural feature **or attribute that would be sufficient to further categorise the land as bushland**, wetland, escarpment, watercourse or foreshore under Section 36 (5) of the Act.'

Land that is categorised as a natural area is to be further categorised as one or more of the following:

- (a) bushland,
- (b) wetland,
- (c) escarpment,
- (d) watercourse,
- (e) foreshore,
- (f) a category prescribed by the regulations

How each of these areas is managed is determined by core objectives.

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The area chosen by the Glossodia Community Anglican Church has been identified in the Draft Plan of Management as a natural area - bushland. The proposed development does not meet the Core Objectives of natural areas, parks and sports grounds, and in order to allow such a facility in the Reserve, it would need to be located in an area categorised as General Community Use (or excised from the park).

Legal advice has been sought in relation to the proposal to clarify whether a lease could be provided to the Glossodia Community Anglican Church on the proposed site. The legal advice has determined that it would be difficult to demonstrate that the proposal was not contradictory to the core objectives of a natural area set out in Section 36 E and J of the Local Government Act 1993. These are outlined below:

36E Core Objectives for Management of Community Land Categorised as a Natural Area

The core objectives for management of community land categorised as a natural area are:

- (a) to conserve biodiversity and maintain ecosystem function in respect of the land, or the feature or habitat in respect of which the land is categorised as a natural area, and
- (b) to maintain the land, or that feature or habitat, in its natural state and setting, and
- (c) to provide for the restoration and regeneration of the land, and
- (d) to provide for community use of and access to the land in such a manner as will minimise and mitigate any disturbance caused by human intrusion, and
- (e) to assist in and facilitate the implementation of any provisions restricting the use and management of the land that are set out in a recovery plan or threat abatement plan prepared under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*.

36J Core Objectives for Management of Community Land Categorised as Bushland

The core objectives for management of community land categorised as bushland are:

- (a) to ensure the ongoing ecological viability of the land by protecting the ecological biodiversity and habitat values of the land, the flora and fauna (including invertebrates, fungi and micro-organisms) of the land and other ecological values of the land, and
- (b) to protect the aesthetic, heritage, recreational, educational and scientific values of the land, and
- (c) to promote the management of the land in a manner that protects and enhances the values and quality of the land and facilitates public enjoyment of the land, and to implement measures directed to minimising or mitigating any disturbance caused by human intrusion, and
- (d) to restore degraded bushland, and
- (e) to protect existing landforms such as natural drainage lines, watercourses and foreshores, and
- (f) to retain bushland in parcels of a size and configuration that will enable the existing plant and animal communities to survive in the long term, and
- (g) to protect bushland as a natural stabiliser of the soil surface.

If this could not be demonstrated, Council would have no power to grant the lease that has been sought even if it was expressly authorised in a Plan of Management for the land.

The request by the Glossodia Community Anglican Church for the provision of community land for the purpose of building a church/community facility cannot be supported as it contravenes the Local Government Act 1993.

Conformance to Strategic Plan

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

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

Funding

Funding to develop the Reserve would come through Council's Park Improvement Program

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RECOMMENDATION:

That:

1. The request by the Glossodia Community Anglican Church for the provision of community land for the purpose of building a church/community facility not be supported as it would contravene the Local Government Act 1993.
2. The Woodbury Reserve Plan of Management be adopted.

ATTACHMENTS:

AT - 1 Woodbury Reserve Site Plan - *(to be displayed at the meeting)*.

oooO END OF REPORT Oooo

Item: 152 IS - The 2009 Local Government Filming Protocol - (95494, 79354)

REPORT:

Purpose

On the 22 March 2009, the NSW State Government announced the introduction of the 2009 Local Government Filming Protocol which came into effect on 30 March 2009. The 2009 Local Government Filming Protocol is supported by the Filming Related Legislation Amendment Act 2008 and applicable to all NSW Councils.

The aim of this report is to:

1. Provide an overview of the Filming Protocol requirements;
2. Discuss the new fee structure required under the Filming Protocol; and
3. Explain the impact that the Filming Protocol will have on Council's future filming income estimates.

Background/Introduction

On 6 June 2008, the 'Filming Related Legislation Amendment Bill 2008' was introduced into the NSW Parliament. The object of this Bill was "to amend various Acts and instruments to support the screen industry by reducing or simplifying regulatory impediments to the carrying out of filming projects".

In this Amendment Bill, reference was made to a Filming Protocol that would prescribe how Councils are to respond to film applications and charge fees using a cost recovery model.

The Film and Television Office reviewed the previous Filming Protocol and circulated a revised draft as well as a Draft Code of Conduct for the Film Industry to NSW Councils and the Local Government Shires Association for comment.

Several meetings were held in late 2008 with representatives from the Film and Television Office (FTO) and Local Government Shires Association to discuss the draft protocol, develop a standard framework for the cost recovery fee model and raise any concerns about its application across NSW Councils.

The draft was refined on a few occasions until the sudden announcement on 22 March 2009 by the NSW State Government that the 2009 Film Protocol was final and will become effective from 30 March 2009. This short time frame has disappointed many Councils who have had little time to shift from the old administration system to the new system under the protocol.

The new Legislation and Protocol has been specifically developed by the State Government to provide consistency in approvals across Councils, hasten the approval process and remove unnecessary 'red tape' for filmmakers in NSW to help attract investment and jobs growth.

The protocol applies to private property and public property, including Council land such as parks and roads.

The new system will have two major impacts:

1. Potential increase in frequency for filming at some locations.
2. Some minor loss of income.

Analysis

The Current Administration System

The current administration process for filming in the Hawkesbury is:

- Application is received and assessed by officers from various Divisions as required;
- Based on a standard assessment checklist and local knowledge it is determined whether the filming can proceed;
- Applications may be declined, although very seldom and in some instances is based on scale and level of impact, particularly during the summer period in high usage areas;
- Administration and usage fees are charged;
- A permit with standard conditions is issued along with an invoice; and
- The invoice is paid in advance.

The New Administration System with regard to the Filming Protocol

Key Elements of the 2009 Local Government Filming Protocol are (*pg 10 of filming protocol*);

- As a general principle, local councils and government agencies are required to approve screen projects unless there are compelling reasons not to do so. Councils and agencies are required to give a timely written response.
- There is now a presumption that filming activities are allowed on community land, subject to conditions to ensure environmental protection or express exclusions in the applicable plan of management.
- Government and local council fees and charges associated with location filming must be reasonable and cost reflective.
- Getting suitable parking at a reasonable cost has been a major challenge for filmmakers. Being able to park vehicles carrying equipment, sets, costumes and catering is essential to filming on location. The package of changes makes it easier for filming vehicles to park for an extended period.
- Getting access to public lands has been an issue for some productions. The legislation streamlines the processes for filmmakers wanting to film on public lands such as Crown Land, National Parks and State Forests.
- Temporary structures related to filming are now subject to simpler approval processes (*pg 10 of filming protocol*).

Other key processes/requirements specified in the protocol and how they are proposed to be managed is listed below.

Film Contact Officer pg 11

- Councils are required to appoint a film contact officer to assist film makers in obtaining the necessary approval, support and access to Council Services'.

The Parks and Recreation Manager has currently taken on this role.

- Council should provide an approved film production with an after hours contact number.

It is suggested that the contacts be Council's Rangers or Parks Staff that can be contacted during these times.

Filming on Private Land pg 12

- Filming entirely on private land does not require approval from Council.
- Filming on private land that occurs fewer than 30 days per year does not require development consent.
- Filmmakers must however, notify Council of filming activity as required by SEPP 4'.

There appears to be no significant impact on Council resources regarding the above matter.

Community Concerns pg 12

- Councils should usually be able to deal with community concerns by imposing conditions on approvals.
- Managing complaints is not a cost recovery issue if a production is acting legally and in accordance with the approval and any conditions prescribed by councils. Costs may not be imposed on a film production to recover for the time spent by council managing complaints from disaffected residents, businesses or councillors'.

Council Officers at Hawkesbury and other Councils have concerns about the complaint handling process. Council is expected to manage complaints even if the activity is outside their control eg Filming on Private Land.

Most Councils at recent filming forums to discuss the implementation of the protocol agreed that complaints should also be referred to the Film and Television Office. Councils also agreed to record data on complaints (and compliments) in order to collect hard data for a joint review in 12mths time.

Frequent Filming pg 12 & 17

- Councils have a delicate path to negotiate when particular locations are frequently used for filming, or where filming is scheduled at the same time as a major public event.
- Councils have to balance filming applications with community needs and amenity. Frequent requests to use a site can create a significant challenge for a local council.
- However, in line with the policy that location filming is to be supported, it is recommended that Councils develop strategies to manage usage of sites subject to higher demand. This can include developing parking management plans or providing suggestions of alternative locations which match the attributes sought by the filmmaker. Similarly, filmmakers will need to consider whether alternative locations are equally suitable for capturing the images sought'.

This is unlikely to have a great impact as the Hawkesbury does not currently have any areas that are filmed on a regular basis.

Construction pg 12

- Certain temporary structures and alterations or additions to buildings or works are now exempt development where the development is for the sole purpose of filming. This will apply only for short-term filming projects where the development will not remain in place for more than 30 days within a 12-month period'.

No significant impact is expected in Hawkesbury as very few of these type of applications are received. Each application that involves the erection of temporary structures will be dealt with on a case by case basis.

Parking pg 13

- The fees charged for parking of film vehicles are what any other vehicle would be expected to pay.
- No special premiums are to be placed on filming for these areas. E.g. restricted zones, metered zones and/or public car parks.
- However, costs can be recovered for forgone revenue particularly in reserving car spaces
- As a general rule, there will be no costs recoverable by council for trucks parked in unrestricted areas. The needs of residents and businesses will need to be considered, and on occasion it may be appropriate for the production company to offer alternative parking or compensation to residents who will be adversely affected'.

The RTA have also released a 'Filming Projects: Guidelines for parking and road closures', which came into effect on 1 May 2009. The Guidelines include explanation and administration processes on the legislation changes for:

- Prescribing a filming project and any activity that is ancillary to carrying out a filming project as a road event and;
- Exempting heavy and long vehicles in a built up area for longer than 1hr if the vehicle is stopped for a purpose connected with the carrying out of an authorised filming project.

There may be potential complaints in scenarios where;

- filming on private property occurs which does not require Council approval and trucks take away parking in unrestricted residential zones;
- trucks are parking in residential and/or commercial streets

In these scenarios Council would be required to negotiate with the applicant. This may mean placing site restrictions (if applicable) such as seeking approval from all residents in the street, or compensating residents for the inconvenience, or specifying alternative parking locations that lessen the impact upon residents. Council may also consult the FTO and RTA to resolve traffic and parking concerns relevant to filming.

Application Assessment Process pg 14-21

The current administrative process for 'one off' applications is sufficient to meet the new requirements in processing applications. Most Sydney Councils including Hawkesbury will shift to using the standard application template to remain consistent and hopefully reduce administration time.

The Sydney Councils that attended the recent forums held have also agreed to develop standard conditions and administrative principles to again ensure consistency across Sydney. These are currently being developed.

Declining an Application pg 19

- Generally an approval should be granted unless exceptional circumstances apply. Such instances are expected to be rare and unusual. As an example only (and the particular circumstances must be considered in each instance), a major public event which will attract large crowds and pose real risk to public safety could be exceptional. However, the challenge of managing crowded urban spaces is not itself exceptional.
- A request by a film production may not be reasonable, for example, to close a busy road during peak hour. Even where a council believes exceptional circumstances apply, negotiations with the film

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production over relocation, alternative times, or the imposition of appropriate conditions should be considered.

- If an application is refused, Council must provide reasons for the refusal in writing. Council will need to inform the applicant by phone, fax or email as soon as practicable after the decision has been made, and must give written reasons for the refusal within three business days of the decision.
- Reasons for refusal must be relevant and not relate to extraneous matters such as community dissatisfaction, screen content or "quality control". Difficulties such as peak usage periods (for example, school holidays) and other major events do not provide immediate grounds for refusal. Councils are encouraged to work with the filmmakers or impose appropriate conditions in order to manage the locations in the interests of both filmmakers and the community.
- Another example of extraneous matters is if a council holds a view that the content of the filming activity promotes values which it does not endorse (for example, violence, alcohol consumption, portrayal of a region in an unflattering manner). Elected officials are entitled to be informed about a proposed filming activity in their area. However, opposition from interested councillors, council staff, residents or other interest groups are not sufficient grounds for refusal.
- Councils have no editorial function provided the filmmakers are complying with the law. Councils do not have the authority to withhold approval on the basis of content or moral grounds.

Generally, Council Officers have not experienced any problems with administering filming applications and try to meet the needs of the applicants.

When issuing future permits, staff will be more vigilant to place specific conditions in the permit issued to mitigate any negative impacts on the area and/or community. However the above principles may mean that Council loses some control of filming (when, how and content) and/or are challenged in the future if applications are refused.

Financial

Fees and Charges pg 23-29

- The only Council fees and charges that apply to filming are for recovery of specific Council costs. The legislation requires that fees associated with filming projects are set in a transparent manner and on a cost-reflective basis.
- Fees and fee setting mechanisms in this Protocol apply to all Councils unless an alternative Council protocol has been approved by the Director General.
- Any fees or charges determined through the Protocol provide maximum limits and this does not prevent a local council from deciding to waive or adopt a lesser fee or charge in any case. This may be in response to the nature of the screen production (perceived local, social or charitable benefit) or may be an incentive to encourage production companies to bring a project to a region.
- For clarification – the act of filming in itself does not attract any fee'.
- In relation to location filming related activities Councils are only able to impose fees in three areas:
 1. For lodgement of an application where an approval is required from Council;
 2. To recover costs from services provided by the Council; and
 3. For the hire of constructed facilities such as town halls, community centres, and swimming pools (as allowable under the Council management plan)'.

At the Filming Protocol Information session held on 1 May 2009, John Scott from NSW Dept of Premier and Cabinet advised that:

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- The Filming Protocol is part of the new Filming Legislation adopted.
- The fee structure supersedes any fee structure the Councils currently have.
- Section 610 of the LGA Act (see below) enables the new fee structure to supersede Councils current fees and charges without the normal management plan process, ie old fee structure has been superseded by new fee structure by law and does not require public exhibition and comment.

The new fee structure became effective from 30 March 2009.

LOCAL GOVERNMENT ACT 1993 - SECT 610

Effect of other Acts

610 Effect of other Acts

- (1) *If the amount of a fee for a service is determined under another Act:*
- (a) *a Council may not determine an amount that is inconsistent with the amount determined under the other act, and*
 - (b) *a Council may not charge a fee in addition to the amount determined under the other Act.*
- (2) *If the charging of a fee for a service is prohibited under another Act, a Council must not charge a fee for the service under this Act."*

Compulsory New Fee Structure

The new fee structure is based on an administration fee and cost recovery fees. The administration fee to be charged is categorised below:

| Ultra Low | Low | Medium | High |
|---|--------------------------------|--|--------------------------|
| No more than 10 crew | 11-25 crew | 26-50 crew | > 50 crew |
| No disruption is caused to the Council's stakeholders, retailers or motorists or other events in the vicinity of the activities | No more than 4 trucks/vans | No more than 10 trucks | > 10 trucks |
| Activities are contained to footways or public open space areas only | No construction | Some construction | Significant construction |
| Public safety is maintained at the locations at all times during the conduct of the activities | Minimal equipment/lighting | Equipment used for example, dolly, trucks, medium-sized cranes, jibs | Extensive equipment |
| Vehicles associated with the conduct of the activities are legally parked at all times and are not driven onto footways, parks or plaza areas | Small or no unit base required | Unit base required | Large unit base required |
| | Usually 1-2 locations | No more than 4 locations | > 4 locations |
| \$0 | \$0 - \$150 | \$0 - \$300 | \$0 - \$500 |

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Note: Crew has been interpreted as total persons involved in the filming project, ie crew, actors, extras and support staff.

Assessment of Traffic Management Plans:

The following fees cover the administrative cost of processing traffic management plans

| Low | Medium | High |
|--|--|---|
| Stop/go traffic control on a local or Council-managed road | Stop/go traffic control on a multi-laned or state road | Road closures |
| Police consultation | Police consultation | |
| RTA consultation | RTA consultation | |
| \$0 - \$100 | \$0 - \$300 | As per Council's assessment fees |

It is recommended that Council's fee structure be based on the figures within the table above.

Financial Impact

Council does not derive a large income from filming with \$1,192 collected in 2007/2008 and \$1,973 in 2008/2009. It is estimated that income would be halved as the majority of filming applications fit the 'Ultra Low' Category of no more than 10 crew for which there is no administration fee, and it is very difficult under the new fee structure to charge any cost recovery fees.

Review

The FTO will be conducting an informal review in 12 months whilst the Department of Local Government intends to undertake a formal review in 2 years.

Consultation

Various meetings were held late 2008 to discuss the draft Protocol prior to its formal adoption in March 2009. Attendees to these meetings included representatives from the Film and Television Office, Local Government Shires Association and various Council representatives.

City of Sydney Council has continued to host a forum with a group of Council officers to continue to discuss a wide range of issues arising from the implementation of the Filming Protocol.

The most recent meeting was held on 5 May 2009 at City of Sydney. The forum discussed administrative processes including:

- Resident notification
- Curfews
- Application form
- Conditions of use
- Fees and Charges
- Parking/Road Closures/Traffic Control
- Feedback Monitoring
- Waiving of fees and charges
- Still Photography
- Dispute resolution
- Code of conduct

The basis of the forums is to share information, discuss issues and how to collectively resolve them and establish consistent standard processes.

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The outcome of the meeting included;

- The Filming Protocol acknowledges that all filming on private property must be undertaken under SEPP 4 conditions. This includes the need for 5 days notice to stakeholders and Council.
- Conditions for filming permits can include;
 - Resident notification
 - Curfews particularly using the Protection of the Environment Operations Act
 - (Noise Control) Regulation 2008 limiting hours for activities (eg music and power tools)
 - Parking
 - Consequences of breaching the code of conduct eg not approving future applications
- A few of the Councils at the forum have agreed to work together to draft standard conditions for all Councils to use. Site specific conditions will be at each Council's discretion
- Waiving of fees and charges – there were mixed views, however the forum resolved that each Council would determine waiving of fees at their own discretion. Eg Registered Charities
- Councils agreed to record data on number and type of applications, complaints and compliments for 12 months for input into the review
- Fees will still apply to photography; however the structure may be more aligned with filming
- Each Council will manage dispute resolution, however most agreed to write to the Dept of Local Government and Shires Association to implement their recent suggestion of introducing independent arbitration.

Participants agreed that the meetings were a great forum to share information and collaborate in implementing the protocol and those regular meetings will continue to occur throughout the year.

Hawkesbury Council Officers who administer the film applications have been briefed throughout the process and are working together to adjust administrative procedures and documents to align with the new filming protocol.

Timeframe

The new fees and charges structure came into effect from 30 March 2009.

The revised application form and permit will be effective immediately to remain consistent with other Councils.

Conformance to Strategic Plan

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

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

Funding

Potentially there may be some reduction in income that is currently being received from filming.

RECOMMENDATION:

That:

1. The information be received, with particular note that Council's current fees and charges for filming have been superseded by the Department of Local Government's Filming Protocol which came into effect on 30 March 2009 as a result of the Filming Related Legislation Amendment Act 2008.

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2. The adopted 2009/2010 Management Plan filming fees and charges be amended to reflect the fee structure stated in the Filming Related Legislation Amendment Act 2008 and Local Government Filming Protocol.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 11 August 2009

Item: 153 **IS - Acknowledgement of Important Works Carried Out by Community Groups - (95494, 79354)**

Previous Item: NM1, Ordinary (14 July 2009)

REPORT:

Council at its Ordinary meeting on 14 July 2009 resolved

"That:

- 1. Council acknowledge the contribution made by community groups in a voluntary capacity to improve public lands by carrying out bush-regeneration, rubbish removal and the like.*
- 2. Council write to the State Government to request that green waste be exempted from the landfill levy.*
- 3. Council liaise with community groups doing this work to determine the most appropriate methodology for the work in each case and to facilitate applications to recognised Bushcare and Landcare groups to Council's community sponsorship program to offset tip fees as necessary.*
- 4. A report be provided to Council on the feasibility of providing a chipper to Bushcare groups to allow waste to be mulched on site."*

This report is in regard to parts 3 and 4 of the above resolution.

Report

It would appear that the Hawkesbury Rainforest Network are the only bushcare group who take green waste generated through their activities to the Council Waste Management Facility for disposal. The budget for bushcare work is limited and as such careful prioritisation is required to ensure adequate funding is provided to target those areas identified as having the greatest need. Authorised Bushcare groups/People for Parks groups generally keep the green waste on site to assist in erosion control or arrange through the Bush Care Co-ordinator to have the waste removed by staff working in the area, when this is not practical. Whilst the Hawkesbury Rainforest Network certainly have staff support for the work they are undertaking, the current site that they are addressing is not considered as a high priority site and as such is not identified within the budget.

As this seems to be the only affected group, a meeting was held with a representative of the Hawkesbury Rainforest Network on Wednesday, 22 July 2009 to determine the most appropriate way to deal with the green waste generated from their work.

The group currently reuse a lot of the larger logs on the Kurrajong site however, due to the limited area to store material some green waste is required to be removed. The Hawkesbury Rainforest Network preference would be for the material to be mulched and kept on site. This would reduce tip fees as well as travelling time, wear and tear on the volunteer's vehicle, and associated liability.

A proposal was considered by Council at its Ordinary Meeting on 28 July 2009 to provide a grant of \$500, from the Community Sponsorship Program, to cover tip fees for authorised Bushcare groups. This proposal was supported by Council. The current minimum tipping fee for green waste is \$6. The grant would enable around eighty loads of less than 1 tonne to be disposed of by bushcare groups throughout the year.

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The Hawkesbury Rainforest Network have sought quotes for chipper hire. These quotes range from \$130 - \$435 a day depending on the size of the chipper. Obviously the \$500 grant would provide limited use if used for the hire of a chipper nor would there be adequate funds available for this purpose on an ongoing basis. There is also major concerns regarding the safety of volunteers utilising this sort of equipment and as such this option is not recommended.

Conformance to Strategic Plan

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

"Strategic Direction: Implement processes to identify and respond to the infrastructure requirements (information, access and mobility) of groups with special needs."

Funding

Nil impact on current budget.

RECOMMENDATION:

That the provision of a wood chipper for use by bushcare groups not be supported for the reasons outlined within the report.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 11 August 2009

CONFIDENTIAL REPORTS

Item: 154 **SS - Property Matter - Lease to Daniel Naethuys and Rebecca Gee Trading as "Outback Pizza" - Shop 6 Glossodia Shopping Centre - (31304, 113095, 95496, 96083, 102920) CONFIDENTIAL**

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act, 1993, and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

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Item: 155 **SS - Property Matter - Assignment of Lease from Spectaz Pty Ltd ATF The Spectaz Trust to H & H Hotel Group Pty Ltd - Windsor Function Centre - (95495, 113428, 33132, 101957, 86990, 73732) CONFIDENTIAL**

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act, 1993, and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

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Item: 156 **SS - Property Matter - Extinguishment of Lease to Migae Pty Limited and Lease to Michael Taranto trading as 'Country Pizza' - Shop 8, Wilberforce Shopping Centre - (95495, 102035, 32578, 34779, 74403) CONFIDENTIAL**

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with the provisions of Part 1 of Chapter 4 of the Local Government Act, 1993, and the matters dealt with in this report are to be considered while the meeting is closed to the press and the public.*

Specifically, the matter is to be dealt with pursuant to Section 10A(2)(c) of the Act as it relates to details concerning the leasing of a Council property and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Hawkesbury Bicycle and Access Mobility Committee - 18 June 2009 - (98212)

The meeting commenced at 4:25pm in the Meeting Room, Peppercorn Place

| | | |
|-----------------------|---|---|
| Present: | Councillor Leigh Williams Councillor Christine Paine Alan Aldrich Doug Bathersby | Chair, Councillor Representative Councillor Representative Community Representative Community Representative |
| Apologies: | Virginia Kruse Chris Cameron Peter McKenzie Joseph Litwin | Community Representative Community Representative Community Representative Hawkesbury City Council |
| In Attendance: | Denise Oakes Kaylene Kelland | Hawkesbury City Council Hawkesbury City Council |

REPORT:

Councillor William welcomed all members.

CONFIRMATION OF MINUTES:

1. Matters arising from Previous Minutes

Ms Oakes provided an update on the request for information on the status of the Rickaby's Creek bridge project. Ms. Oakes confirmed that Council has applied for additional funding for this project.

2. Confirmation of Minutes

RESOLVED on the motion of Doug Bathersby and seconded by Alan Aldrich that the Minutes of the Hawkesbury Bicycle and Access Mobility Committee held on 19 March 2009 be confirmed.

SECTION 2 - REPORTS FOR DETERMINATION

Item 8: Update on Windsor Mobility Map

DISCUSSION:

- Mr. Aldrich provided additional information on the progress of the Mobility Mapping project. Mr Aldrich and Councillor Paine have been visiting businesses in the Windsor CBD and distributing information about the project aims and the process of consenting to participate in the project.
- The Committee discussed the media article in the Hawkesbury Gazette on 10 June 2009 describing the Mapping Project with Councillor Paine and Alan Aldrich being quoted and photographed. The article was tabled by Denise Oakes.

MOTION:

RESOLVED on the motion of Doug Bathersby and seconded by Alan Aldrich.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION.

That the information be received.

Item 9: Update on the Windsor Mobility Plan

DISCUSSION:

- In addition to the information provided in the report, Mr. Bathersby further updated the committee on the cycleway audits which he assisted the consultant staff from GTA to conduct. Mr Bathersby praised the professionalism and quality of the work of the selected consultants.
- The opening of the Wianamatta bridge on the cycleway at Windsor on 15 June was discussed. Mr Bathersby advised he attended on behalf of the local Bicycle User Group. It was agreed that the completion of the new cycleway link by the RTA was a major benefit to the Hawkesbury area.
- The media article in the Hawkesbury Gazette regarding the official opening of the cycleway bridge on June 17 was tabled by Ms Oakes.

MOTION:

RESOLVED on the motion of Councillor Paine and seconded by Alan Aldrich.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION

That:

1. The information be received.
2. That Mr Bathersby be thanked for providing his assistance with the audit process.

SECTION 3 - GENERAL BUSINESS

- 3.1 Ms Oakes advised that the Director of Infrastructure Services, Mr Chris Daley, requested the Committee consider a proposal by the Rotary Club of Richmond to fund and construct a concrete walking path of approximately 4km in length along Onus Lane, Cornwallis Lane and Bensons Lane in Richmond. The proposal was tabled.

MOTION:

RESOLVED on the motion of Councillor Williams and seconded by Alan Aldrich.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION

That:

1. The proposal be supported in principle.
2. The proposal be referred to the Director of Infrastructure Services to progress matters relating to the development and construction requirements and costs of the proposed project.

NEXT MEETING – to be held at 4:00 pm on Thursday, 20 August 2009, at the Meeting Room Peppercorn Place, 320 George St. WINDSOR.

Meeting Closed at 5:25pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees



ordinary
meeting

end of
business
paper

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