



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 25 May 2010

location: council chambers

time: 6:30 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 6:30pm 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 6:30pm. 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.

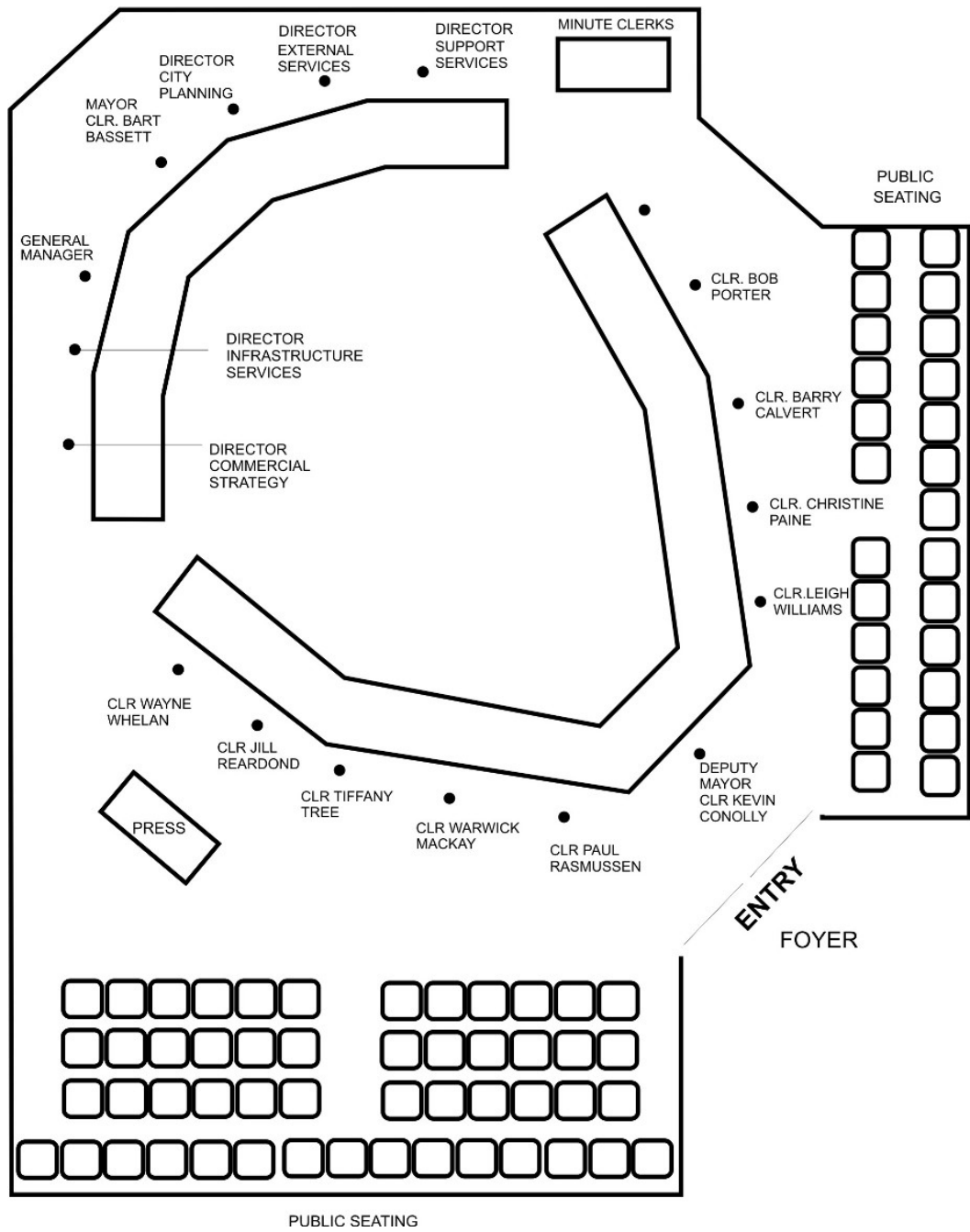
Website

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 4 - Reports for Determination

GENERAL MANAGER

Item: 99 GM - Westpool and United Independent Pools - Inclusion of Wollongong City Council as a Member - (82644, 79426, 106190, 79351)

REPORT:

Executive Summary

Council is a member of Westpool for the purposes of the pooling of public liability and professional indemnity insurances and has been involved in the formation and subsequent operation of the United Independent Pools (UIP) in association with MetroPool for the purposes of pooling for a number of other classes of insurances such as Industrial Special Risks, Motor Vehicle, Directors and Officers Liability, Personal Accident, Volunteers, etc.

Council's membership of Westpool and, subsequently, UIP has been very beneficial for the Council, as well as other member councils, in obtaining favourable insurance renewals and the management of the various classes of insurance effected by Westpool and UIP.

Westpool's membership is currently made up of the following councils:

- Blacktown City Council
- Blue Mountains City Council
- Fairfield City Council
- Hawkesbury City Council
- Liverpool City Council
- Parramatta City Council
- Penrith City Council

UIP is a combination of the membership of Westpool, as shown above, and Metropool. Metropool's current membership is made up of the following councils:

- Auburn Council
- Botany Bay City Council
- Holroyd City Council
- Hunters Hill Council
- Lane Cove City Council
- Marrickville Council
- Rockdale City Council

In addition, following an approach in 2009 Wollongong City Council has been an associate member of Westpool and UIP pending an evaluation of its proposal to become a full member. Following a full evaluation of Wollongong's proposed membership, Westpool and UIP now propose to include Wollongong City Council as a full member from 31 October 2010.

The following report has now been provided by the Westpool/UIP for Council's information regarding the process associated with Wollongong's inclusion.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

Background

Wollongong City Council approached Westpool and United Independent Pools in January 2009. They had undertaken an independent review of the insurance portfolio and it recommended that the Pools offered the best solution to meet their needs. They sought membership in February 2009 and their application was considered by both Boards. It was agreed a working party be established to review their application and consider their risks. The working party met with Wollongong City Council in early March 2009 to consider their application and recommended that Wollongong City Council be offered associate membership from May 2009. They also proposed that a due diligence process be undertaken. This recommendation was adopted by both United Independent Pools and Westpool.

Expressions of interest were sought and firms were asked to quote against a project scope developed by the Pools. This project scope considered a range of risks specific to Wollongong City Council, a review of their risk management culture, and response to the ICAC enquiry.

KPMG was engaged to review the risk culture of Wollongong City Council and provide a report on their ongoing exposures and commitment to pooling. A working party was established to monitor progress of KPMG and prepare a report for consideration by United Independent Pools and Westpool.

Whilst KPMG was undertaking the due diligence review, Claims Management Australasia (CMA) undertook a review of all Wollongong City Council's medium to large claims and claims detail was transferred into the Pools' claims management system. In addition the Pools' actuary, David Minty, considered the impact of Wollongong City Council's membership on the Pools' future contributions.

The Pools' broker, Willis Australia, also carried out a comprehensive review of Wollongong City Council's wording in May 2009 as compared to the Pools for all lines of insurance. They renewed all existing insurances and through our collective buying power, negotiated considerable savings for Wollongong City Council.

In the meanwhile the working party continued to oversee the work of KPMG with an initial draft reported to the United Independent Pools Executive on 10 March 2010. After a comprehensive review of the KPMG report, the Executive developed a series of additional issues for Wollongong City Council to respond to. The Executive also agreed that Wollongong City Council should consider the KPMG draft report to enable them an opportunity to comment on the management of ongoing risks.

Wollongong City Council provided feedback to the report addressing risks to KPMG's satisfaction and they provided a response to all questions raised by the Executive. In addition they offered for the Executive and any interested members to attend a meeting in Wollongong to discuss their response to risk and their commitment to the principles of the Pools.

A meeting was scheduled on 8 April 2010 where Wollongong City Council outlined their risk management approach, strategies to manage risks specific to their area and the actions taken to respond to the issues raised during the ICAC enquiry. The meeting was supported by presentations from the General Manager, senior staff, internal ombudsman, independent members of the governance committee and one of Wollongong City Council's administrators.

The Executive was impressed with their response to risk and the changes they have implemented since the ICAC enquiry. They are addressing their risks well and have demonstrated a commitment to the principles and practices of the Pools. Positive responses have also been received from our actuary, brokers and claims management team regarding Wollongong City Council's operations and ongoing commitment to the Pools.

Results of the Due Diligence Review

KPMG was engaged to undertake a comprehensive review of Wollongong City Council's operations and response to risk. This involved interviewing staff at Wollongong City Council and reviewing a range of documents which address the issues raised in the brief. The working party met with KPMG at key stages to ensure the review was progressing and assess current findings.

KPMG completed the due diligence review and submitted the report to a special meeting of Westpool and United Independent Pools on 30 April 2010. A copy of the KPMG report was provided to all members.

In addition a two-page Executive Summary was provided with a checklist of the key criteria investigated as part of this review and a copy is attached to this report. The Executive Summary considers issues which were addressed by our brokers, claims management team, and actuary in an attempt to provide an overall health check.

KPMG has investigated each of the issues raised in the due diligence brief and is satisfied that Wollongong City Council is managing their risks well and poses no material risk above that expected within a normal council operation.

Our claims management firm, CMA, has been working with Wollongong City Council over the past 12 months and has undertaken a complete review of all files above \$50,000. Claims have also been entered into our claims database and all current and new matters were referred to Westpool panel solicitors.

The claims reserves have been reviewed and are now consistent with our claims reserving protocols. The position has improved and no new claims of any significance have arisen in the past 12 months. Wollongong City Council is recording all claims in our claims management system (CMS) and the staff are complying with procedures and practices within our claims manual.

CMA is satisfied that Wollongong City Council have embraced the spirit and technical procedures of our claims manual. Furthermore, they comment that the claims experience in recent years is good and consistent with expectations.

As mentioned previously, Willis Brokers undertook a major review of Wollongong City Council's policies and insurance wording. There are some differences and it is intended that the Pools incorporate the best of each policy wording into one single document for renewal in October.

Willis have indicated that the following items are seen as relevant and beneficial to United Independent Pools and Westpool from an insurance perspective:

- Bulk buying power should generate favourable premiums.
- The increased size of the United Independent Pools account is likely to generate further interest from the local and overseas underwriting markets.
- Strengthening of position in negotiating breadth of cover in policy wordings with insurers.
- Opportunity to explore insurance products, currently purchased by Wollongong City Council, which may be of interest to Westpool (i.e. Statutory Liability).
- Streamlining of marketing activities.
- Uniform service model for all members.

Impact on Contributions

David Minty has undertaken a review of contributions factoring in the relative size of Wollongong City Council compared to other members and their claims experience.

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David reported his findings to the special Board meetings of United Independent Pools and Westpool and it demonstrated that accepting Wollongong City Council as a full member would not adversely impact contributions; instead members would experience slight reductions as administrative costs are shared over more members.

The existing equity of members would not be impacted, however in the case of Westpool, a larger pool will mean that the minimal capital requirement (MCR) would need to increase over the next few years. To address this the actuary proposes that Wollongong City Council make an additional contribution to the equity and a further report was requested to determine the appropriate level of additional contribution.

Additional Issues

In considering the application for Wollongong City Council it is worthwhile considering some of the additional benefits the members will receive by the inclusion of a new member.

- The Pools grow through sharing knowledge, policies and procedures. Inclusion of Wollongong City Council will bring fresh ideas which all can benefit from.
- New membership brings new individuals who can share knowledge and skills to help manage our risks.
- Inclusion of Wollongong City Council increases our buying power in the insurance market which, if managed correctly, should help drive prices down.
- Westpool and United Independent Pools are susceptible to competition and loss of members could compromise our future. Similarly, inclusion of a large member should help to strengthen our position in the market and protect us from competition.
- Inclusion of Wollongong City Council will bring an additional \$1 million funds into both Westpool and United Independent Pools. While some of this money is used to pay insurance and running costs, up to 50% of it is retained as claims provisions and increases our investment portfolio.

Decision of Westpool and United Independent Pools

The due diligence review has resulted in a comprehensive analysis of Wollongong City Council risks and their actions to manage these risks. The report has considered the impact on existing members and demonstrates that the introduction of Wollongong City Council will add value to our organisations and not adversely impact on existing members.

In light of the review Westpool and United Independent Pools have resolved to invite Wollongong City Council as a full member commencing 31 October 2010.

A letter has been forwarded to Wollongong City Council formally offering full membership to both Westpool and United Independent Pools effective 31 October 2010 once their existing insurance expires. The Boards will consider Wollongong City Council's response along with a further report on the additional equity contribution required by Westpool. In addition the Board will finalise a new Deed of Agreement which will need to be signed by each member general manager.

This report has been prepared to notify all members of this significant development and outline the thorough review process which has been undertaken over the past 18 months.

The members of Westpool and United Independent Pools consider that this recent development will strengthen our Pools and increase our position in the insurance market. The report is submitted to inform members of the pending inclusion of Wollongong City Council as a new member of United Independent Pools and Westpool effective 31 October 2010.

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Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services.

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Maintain and review a sustainable long term financial framework

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That the information regarding the inclusion of Wollongong City Council as a member of Westpool and United Independent Pools from 31 October 2010 be received and noted.

ATTACHMENTS:

AT - 1 Wollongong City Council - Due Diligence Executive Summary

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AT - 1 Wollongong City Council - Due Diligence Executive Summary

Area	Advisor	Summary	Comment
Costs			
a) Contribution rate	Finity	✓	Inclusion of Wollongong City Council as a full member will result in 1% reduction in contributions. All existing members will benefit as administrative costs will be shared amongst 15 instead of 14 members. Additional costs for insurance will be covered by the Wollongong City Council contribution.
b) Capital requirements	Finity	✓	The Capital Adequacy Ratio will reduce initially due to the larger pool exposure, but the actuary recommends Wollongong City Council fund an additional \$130k per year for 3 years to help rebuild this position.
Claims			
a) Claims experience	CMA	✓	The claim experience for recent years is good and consistent with expectations.
b) Claims processing	CMA	✓	Wollongong City Council (in both Executive Management and Insurance Division staff) have embraced the spirit and technical procedures of the claims manual and general Westpool claims handling requirements.
Specific Wollongong City Council Identified Risks			
a) Operational Risks – Claims Management Review, Professional Development Risks and Approval Process, Corporate Governance	KPMG Actuaries	✓	No material risks above that expected in the normal operations of a council.
b) Cultural Risks – ERM Culture, Commitment to Pooling Philosophy, ICAC Enquiry	KPMG Actuaries	✓	No unexpected material risks or risk management deficiencies identified.

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Area	Advisor	Summary	Comment
c) Physical Risks – Coastal Risks, Landslip and Subsidence Risks, Flooding and Overland Flow, Climate Change	KPMG Actuaries	✓	No unexpected material risks identified although there is potential for claims to emerge (as there is in other member councils).
Insurance Coverage			
a) Policy issues	Willis	✓	Willis undertook a major review of Wollongong City Council insurance wordings in May 2009. There were some differences in wording which may ultimately benefit Westpool members. Willis intends to include these extensions at renewal time to ensure consistent cover.
b) Market power	Willis	✓	Willis consider that the inclusion of Wollongong City Council as a member will strengthen United Independent Pools' position in the insurance market. This should provide more leverage in the market to drive a better deal, more services and products.
Other			
a) Intellectual property	-	✓	Great opportunity to share knowledge.
b) Equity	-	✓	Current equity proportions will be retained in member's name. Wollongong City Council will not gain benefit from existing equity as this is distributed by fund year. Wollongong City Council will share in any future equity or deficit according to the contribution proportions.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 100 **CP - Development Application - Two Lot Torrens Title Subdivision to provide for a Water Recycling Facility - Lot 1062 DP1131838, 43 Bootles Lane, Pitt Town - (DA0084/10, 676, 95498)**

Development Information

File Number: DA0084/10
Property Address: 43 Bootles Lane, PITT TOWN NSW 2756
Applicant: Bona Vista Properties Pty Limited
Owner: Bona Vista Properties Pty Limited
Proposal Details: Two Lot Torrens Title Subdivision to Provide for a Water Recycling Facility
Zone: Environmental Protection - Agriculture Protection
Advertising: 1/03/2010 - 17/03/2010
Date Received: 11/02/2010

Key Issues:

- ◆ Objection under State Environmental Planning Policy No.1
- ◆ Allotment Area

Recommendation: That the objection under State Environmental Planning Policy (SEPP) No. 1 be supported and that Council seek the concurrence of the Department of Planning to the SEPP No. 1 variation.

REPORT:

Introduction

An application has been received seeking approval for a two lot subdivision of Lot 1062 DP 1131838 at 43 Bootles Lane, Pitt Town. The parcel of land for which the current application relates, is the residue lot of the Bona Vista, Pitt Town Subdivision.

The subdivision will result in an area of 3125m² being created and the remaining allotment having an area of 7.943ha.

The application is being reported to Council as the variation to allotment area exceeds 10% and since November 2009 it is a requirement for all State Environmental Planning Policy No. 1 variations greater than 10% to be considered by Council. This report recommends that Council support the variation and seek the concurrence from the NSW Department of Planning.

Description of Proposal

The application is proposing the Torrens Title subdivision of land to create two allotment areas of 3125m² and 7.943ha respectively. The purpose behind the subdivision proposal is to facilitate the future erection of a Water Recycling Facility, which will provide reticulated sewerage services to the Pitt Town release area. The Water Recycling Facility is proposed as an alternative to the sewerage scheme previously adopted by Council. Council resolved on 25 August 2009 to take appropriate action should this alternate scheme proceed.

Subject to satisfying the license requirements of a Water Recycling Facility within State Environmental Planning Policy (2007) Infrastructure, development consent from Council will not be necessary for the Facility. However, approval is still required for the subdivision to enable land to be transferred to a licensed authority under the Water Industry Competition Act, 2006 (WICA) to install the Water Recycling Facility.

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Legislative changes to WICA now enable private entities to become a Water Authority with the same powers of any current Water/Sewer Authority. The Act sets out the functions and responsibilities given to the Minister for Water and the Independent Pricing and Regulatory Tribunal (IPART) in relation to the licensing scheme.

An application for a water license is currently being considered under the Water Industry Competition Act, 2006 (WICA).

History

- 10 July 2008 - Minister for Planning granted Part 3A concept approval for the overall development/subdivision of 659 lots within 5 precincts, including a boat ramp and provision for related infrastructure (services).
- 18 November 2009 – The Department of Planning approved a Section 75W modification amending the Part 3A approval. The amendments slightly modify lot layout and road design, improving engineering design outcomes, including drainage and increased the opportunity for the retention of trees.
- 25 August 2009 – Council considered a report with options on the matter of a private entity being granted a water licence and made the following resolution, in part:

"That:

Should a private water authority be granted a license to provide sewerage services to the new development area of Pitt Town, the current servicing strategy for Pitt Town be reviewed on the basis that the existing sewerage area of Pitt Town continue to be serviced as part of the existing Council owned sewerage system.

In the event that the Pitt Town servicing strategy is altered, a review of the developer contribution plan for sewerage infrastructure for Pitt Town be undertaken and reported to Council."

Issues Relevant to the Decision - In Point Form

- Allotment area
- Objection under State Environmental Planning Policy No.1

Council Policies, Procedures and Codes to Which the Matter Relates

Hawkesbury Local Environmental Plan 1989
Sydney Regional Environmental Plan No 20
State Environmental Planning Policy No. 1
State Environmental Planning Policy (Infrastructure) 2007
Hawkesbury Development Control Plan 2002

Section 79C Matters for Consideration

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

- a. The provisions (where applicable) of any:
 - i. Environmental Planning Instrument:

The relevant environmental planning instruments are:

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject property is zoned Environmental Protection - Agriculture Protection. Subdivision of land within the Environmental Protection – Agriculture Protection zone (shown hatched on the map) is permissible only if the area of each of the allotments to be created is not less than 10 hectares.

The subdivision will result in an area of 3125m² being created and the remaining allotment having an area of 7.943ha. An objection under State Environmental Planning Policy No.1 seeking a variation to the lot size requirement in respect to the Environmental Protection – Agriculture Protection zone was submitted and is recommended for support. This is discussed further in the report.

In addition to the above, the following clauses of Hawkesbury Local Environmental Plan 1989 were taken into consideration:

Clause 2 - Aims, objectives etc
Clause 5 - Definitions
Clause 9 - Carrying out of development
Clause 9a - Zone objectives
Clause 10 - Subdivision general
Clause 11 - Rural Subdivision
Clause 18 - Provision of water, sewerage services, etc
Clause 25 – Development of flood liable land
Clause 32B - Development of land at Pitt Town (the Bona Vista property)
Clause 37A - Development on land identified on Acid Sulfate Soils Planning Map
Clause 54 - Pitt Town - Heritage
Clause 55 - Pitt Town - subdivision and regional transport infrastructure

An assessment of the Development Application otherwise reveals that the proposal complies with the matters raised in the above clauses of Hawkesbury Local Environmental Plan 1989, with the exception of allotment area contained in Clause 11.

State Environmental Planning Policy No. 1 – Development Standards

An objection under State Environmental Planning Policy No. 1 was lodged in respect to the minimum allotment size requirement for land zoned Environmental Protection – Agriculture Protection (Scenic). The SEPP No. 1 objection states:

“The failure of the proposed subdivision to comply with the minimum lot size of the Environmental Protection – Agriculture Protection (Scenic) zone is an anomaly that has emerged due to the retention of the existing zoning over this portion of the Pitt Town Development Area, on a site that is already undersized for this zone.

The site has been located with respect to minimising environmental impact and vegetation removal, co-locating services, topography and accessibility. Little opportunity exists to locate this infrastructure elsewhere on the subject land without causing increased environmental impact. Positioning the infrastructure in this location improves the viability of the Part 3A approved Vermont Pitt Town residential development project. “

In responding to the clauses of SEPP No. 1, the applicant has claimed that compliance with the development standard is considered unreasonable and unnecessary,

“as the proposal will facilitate the objectives of the respective zone that applies to the land. “

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In addition, the applicant states that:

“The development standard in this instance is considered unnecessary and unreasonable as maintaining the development standard does not contribute to the protection of the land as effectively as the zone provisions relating to land use permissibility or the land use objectives.”

Comment:

The purpose behind this subdivision is to facilitate the future erection of a water recycling factory, which requires a land transfer to a licensed authority under the Water Industry Competition Act, 2006 (WICA) to install the Water Recycling Facility. Without the proposed subdivision, the proposed Water Recycling Facility cannot commence, unless the land is transferred to a licensed authority. The site is considered to be ideally located, as Pump Station T is located adjacent to the proposed allotment.

The applicant's arguments relating to the allotment being already undersized and not used for agricultural pursuits are not relevant in relation to the current application as their statements relate to a residential subdivision. In this case the purpose of the subdivision is to facilitate the provision of a water factory (Sewer Treatment Plant) to treat sewage and provide recycled water to the development and will NOT have a dwelling entitlement. This type of facility is usually operated by a public authority (such as Council or Sydney Water) licensed under the Water Industry Competition Act 2006 to undertake such work and, as such, the LEP and the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) permit this development without consent.

In this case, the application for a licence has been made, by an entity that holds other licences for similar facilities, but has not yet been issued. Should this subdivision be proposed by an existing Water Licence holder, such as Council or Sydney Water, there would be no obstacle to the approval of this subdivision proposal.

Given that the variation in Lot size is in excess of 10%, the application requires the consideration by Council. It is proposed that should Council support the proposed subdivision, the application be referred to the Department of Planning for concurrence.

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

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

The proposal is consistent with the aims and objectives of SREP No. 20.

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

Within the Draft Hawkesbury Local Environmental Plan 2009, the subject site is zoned RU2 Rural Landscape. The subject development is permissible only if the area of each of the allotments to be created is not less than 10 hectares. In the proposed development, an area of 3125m² will be created and the remaining allotment having an area of 7.943ha. An exception to this development standard can be considered where it is demonstrated by the applicant that:

- a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- b) that there are sufficient planning grounds to justify contravening the development standards.

As detailed earlier in the report, it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that sufficient planning grounds exist to justify contravening the development standard.

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Whilst the SEPP (Infrastructure) 2007 provides an exemption from development consent for the water factory itself the SEPP makes no provision to exempt the subdivision that is required. The current planning provisions contained in HLEP 1989 only assist in instances where the development or subdivision is undertaken by Council or another existing public authority. This anomaly is acknowledged and it is one that is not overcome by the Standard Template approach in the Draft LEP. It is noted that the applicant has made a submission to the Draft LEP on this basis for separate consideration.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan

The Hawkesbury Development Control Plan 2002 applies to the proposal. An assessment of the proposal against the relevant provisions of this Plan follows:

Subdivision Chapter

The following is an assessment against the relevant Rules of the Subdivision Chapter in respect to Part D. Part E of HDCP does not apply in this instance.

Element	Rule	Complies
General		
Flora and Fauna Protection	(a) Any subdivision proposal which is likely to result in any clearing of native vegetation or impact on any environmentally sensitive area is to be accompanied by a flora and fauna assessment report prepared by a suitably qualified person. This report is to primarily address the Eight Part Test pursuant to the Act (Section 5A), State Environmental Planning Policy 44 – Koala Habitat protection.	Yes. No trees are required to be removed as a result of the proposed subdivision. Yes
	(b) Vegetation cover should be retained where ever practicable as it acts to stabilize soils, minimize runoff, acts as a pollutant trap along watercourses and is important as a habitat for native fauna.	Yes Yes
	(c) Degraded areas are to be rehabilitated as part of the subdivision.	Yes
	(d) Vegetation should be retained where it forms a link between other bush land areas.	Yes Yes
	(e) Vegetation which is scenically and environmentally significant should be retained.	Yes
	(f) Vegetation which adds to the soil stability of the land should be retained.	
	(g) All subdivision proposals should be designed so as to minimize fragmentation of bushland.	

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Element	Rule	Complies
Visual Amenity	<p>(a) Building envelopes, accessways and road shall avoid ridge tops and steep slopes.</p> <p>(b) Subdivision of escarpments, ridges and other visually interesting places should:</p> <ul style="list-style-type: none"> ❖ Be managed in such a way that the visual impact rising from development on newly created allotments is minimal; and ❖ Retain visually significant vegetation such as that found on ridge tops and other visually prominent locations. <p>(c) <i>Development Applications for subdivision shall take into consideration the provisions of SREP No. 20 in relation to scenic quality.</i></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>See assessment above.</p>
Heritage	<p>(a) A subdivision proposal on land which contains or is adjacent to an item of environmental heritage as defined in Schedule 1 of the Hawkesbury LEP should illustrate the means proposed to preserve and protect such items.</p>	<p>Yes.</p>
Utility Services	<p>(a) Underground power provided to all residential and industrial subdivisions. Where infill subdivision is proposed, the existing system, whether above or underground shall be maintained.</p> <p>(b) All lots created are to have the provision of power.</p> <p>(c) Where reticulated water is not available, a minimum storage of 100,000 litres must be provided. A minimum of 10,000 litres must be available during bush fire danger periods.</p>	<p>N/A. The subject lot will not have a dwelling entitlement.</p> <p>Condition</p> <p>NA.</p>
Flooding, Landslip & Contaminated Land	<p>(a) Compliance with clause 25 of Hawkesbury Local Environmental Plan 1989.</p> <p>(b) Access to the subdivision shall be located above the 1% AEP flood level.</p> <p>(c) Where a subdivision proposal is on land identified as being potentially subject to landslip, the applicant shall engage a geotechnical consultant to prepare a report on</p>	<p>Yes. No buildings are proposed to be erected in conjunction with the subdivision proposal.</p> <p>No. The subdivision is proposed to facilitate the future erection of a water recycling facility. Flood free access is not critical to the establishment of the water recycling facility.</p> <p>N/A</p>

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Element	Rule	Complies
	<p>the viability of subdivision the land and provide recommendations as to the siting and the type of buildings which could be permitted on the subject land.</p> <p>(d) In the event the Council deems that there is the potential that land subject to a subdivision application is contaminated then the applicant shall engage a suitably qualified person to undertake a soil and ground water assessment.</p> <p>(e) Contaminated Land shall be remediated prior to the issue of the Subdivision Certificate.</p>	<p>Not considered to be contaminated.</p> <p>N/A</p>
Rural Lot Size and Shape	<p>(a) The minimum allotment size for land within rural and environmental protection zones are contained within Hawkesbury Local Environmental Plan 1989.</p> <p>(b) Lots should be able to accommodate a building envelope of 2000m² with a minimum dimension of 20 metres. Building envelopes should be located a minimum of 30 metres from significant trees and other significant vegetation or landscape features. Building envelopes will contain the dwelling house, rural sheds, landscaping, and on-site effluent treatment and disposal areas, and bushfire mitigation.</p> <p>(c) In calculating the area of a battle-axe or hatchet shaped allotment, the area of the battle axe handle should be included.</p> <p>(d) The width to depth ratio of allotments should not exceed 1:5.</p> <p>(e) Lot layout shall consider the location of watercourse vegetation and other environmental features.</p>	<p>Yes (See SEPP 1 comments)</p> <p>No. The subdivision is proposed to facilitate the future erection of a water recycling facility. The subject lot will not have a dwelling entitlement.</p> <p>N/A</p> <p>NA</p> <p>Yes</p>
Effluent Disposal	<p>(a) An effluent disposal report prepared by a suitably qualified person is required to accompany any development application for rural and rural-residential subdivisions.</p> <p>(b) Any system proposed other than a Household Aerated Wastewater Treatment System is required to be installed prior to release of Subdivision Certificate.</p>	<p>NA</p> <p>NA</p>
Rural Road and Access Way Design	<p>(a) The design specifications in Figure 4 at the end of this clause are to be met.</p> <p>(b) Where the road width is insufficient or unsatisfactory, an applicant should dedicate or provide land required for local road widening or new roads at no cost to Council.</p>	<p>N/A</p> <p>N/A</p>

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Element	Rule	Complies
	(c) Upgrading of the access way from the nearest sealed road to the proposed subdivision to an all weather standard suitable for the expected traffic generation arising from the subdivision. This work may require the sealing of the pavement dependent upon traffic generation.	N/A
	(d) Where access to the subdivision is via a Crown or Reserve road in addition to the above, the road should be fully constructed to a standard commensurate with roads in the locality and linked to the nearest Council road. Prior to any construction works being undertaken the relevant section of Crown road is to be transferred to Council.	N/A
	(e) The road fronting the subdivision shall be sealed into half width (minimum 3.5 metres). An all weather standard of road construction may be acceptable where the expected traffic volume generated by the subdivision proposal is low and no sealed road in the vicinity.	Yes
	(f) Water courses should be piped where they cross roads and the applicant should create drainage easements generally 10 metres long and 4 metres wide over the point of any discharge of any water from any public road onto private property.	N/A
	(g) All internal driveways shall be constructed to an all weather standard suitable for the expected traffic generation. An all weather access should also be provided across the footway to any battle-axe lot. Such access should be sealed within the vicinity of existing houses on adjoining lots where dust nuisance may occur and also on steeply sloping land.	NA
	(h) Where 3 or more individual access handles are proposed, common roads are to be provided.	N/A
	(i) Battle-axe handles shall have a minimum width of 6 metres.	N/A
	(j) Access ways should have a maximum grade of 25% (1:4) and be sealed if the grade exceeds 1:6, concrete if exceeds 1 in 5.	NA
	(k) Where an access way meets a public road there should be a minimum sight distance of 70 metres. This may be increased on roads with a high speed limit.	Na
	(l) Cul-de-sacs for rural roads should have a minimum seal radii of 12.0 metres and boundary radii of 17.0 metres.	N/A

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iv. Planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F:

There are no planning agreements applicable to the proposed development.

v. Matters prescribed by the Regulations:

The development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

b. The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality:

The proposed subdivision is not considered to result in unreasonable amenity impacts to adjoining properties, as it will not diminish the agricultural potential of the remainder of the allotment, which is currently not used for this purpose. No dwelling entitlement will be given, with the purpose behind the subdivision proposal to facilitate the future erection of a Water Recycling Facility. Environmental impacts are limited, with no earthworks or removal of vegetation proposed.

c. Suitability of the site for the development:

The Water Industries Competition Act 2006 makes provision for the expansion of persons able to obtain a water licence to operate a water recycling facility. The subdivision will facilitate such an activity and the proposed allotment is to be located adjacent to existing infrastructure such as Pump Station T within 43 Bootles Lane, Pitt Town. Given that no earthworks are proposed and that the subdivision does not require the removal of any vegetation, the site is considered suitable for the development proposed.

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

In their letter dated 23 February 2010, the Department of Planning advised that *"concurrence is required if Council proposes to grant development consent to the development application."*

It is proposed that should the Council support the proposed development, that the application be referred to the Department of Planning for concurrence.

e. The Public Interest:

The purpose behind the subdivision proposal is to facilitate the future erection of a Water Recycling Facility, which requires a land transfer to a licensed authority under WICA. The Water Recycling Facility will provide reticulated sewerage services to the Pitt Town release area and is proposed as an alternative to the sewerage scheme previously adopted by Council. Council considered options for dealing with this alternate scheme at the meeting of 25 August 2009.

Having regard to the relevant planning considerations, it is concluded that it would be in the public interest to approve the proposed subdivision to engage the first step in the land transfer process to facilitate the future construction of the Water Recycling Facility.

Conclusion:

The current proposal is not consistent with the minimum allotment size requirement for subdivision as per Clause 11(2) of Hawkesbury Local Environmental Plan 1989. However, it is considered that strict compliance with these requirements is unreasonable and unnecessary in this instance, and is therefore worthy of support.

Under the provisions of State Environmental Planning Policy No. 1 (SEPP No.1), Council can not determine the application without the concurrence of the Director General. It is recommended that Council support the application and request that the Director General grant concurrence to the application. Should concurrence be granted, the application can be approved. Should concurrence

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not be granted, then the application must be refused. Both of these determination options may be undertaken under the delegated authority of the General Manager.

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.

Developer Contributions

The development is exempt from contributions under Section 94E of the Environmental Planning and Assessment Act 1979 or Council’s Section 94A Contributions Plan.

RECOMMENDATION:

That:

1. The objection under State Environmental Planning policy No. 1 be supported.
2. Council seek the concurrence of the Department of Planning to the SEPP No. 1 variation.
3. Development application DA0084/10 at Lot 1062 DP 1131838, 43 Bootles Lane, PITT TOWN for a Two Lot Torrens Title Subdivision be supported and, upon the receipt of the response from the Department of Planning, authority be delegated to the General Manager to appropriately determine the application.

ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Plan of subdivision
- AT - 3 Potential development consent conditions should the application be approved.

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1067
7.943ha
(BY DEED)

1068
3125m²

JOHNSTON STREET
(20.115 WIDE)

CASURINA AVENUE
(15 WIDE)

BOOTS LANE
(15.09 WIDE)

VERMONT STREET
(15 WIDE)

PITTSMOOR STREET
(15 WIDE)

SCHEDULE OF PERMANENT MARKS.

MARK	LOCATION	ZONE	CLASS	ORDER
SSH 4381	30102.255	4187986.744	56	B 2
SSH 4382	30104.484	4187973.125	56	B 2
SSH 4383	30102.491	4187974.296	56	C 4
SSH 4384	30104.498	4187974.296	56	C 4

SCHEDULE OF CURVED BOUNDARIES

No.	BEARING	CHORD	ARC	RADIUS
1	92°01'50"	18.285	18.275	151.5
2	84°38'00"	16.576	16.534	87.5
3	84°20'40"	24.195	24.145	107.5

DRAFT ONLY!

Surveyor: ANTHONY MICHAEL ATKINS
 Date of Survey: 31 JULY 2009
 Surveyor's Ref: 10-3454-WF

PLAN OF SUBDIVISION OF LOT 1062 IN D.P. 1131838

L.G.A.: HAWKESBURY
 Locality: PITT TOWN
 Subdivision No: 1131838
 Lengths are in metres. Locality Data: 1131838

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

Registered DP

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AT - 3 Potential development consent conditions should the application be approved.

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate construction certificate.
3. Creation of a restriction on use of land pursuant to Section 88B of the Conveyancing Act as follows:
 - a) Prohibiting the erection of a dwelling on Proposed Lot 1068.

Prior to Issue of Construction Certificate

4. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.
5. Payment of a Construction Certificate checking fee of \$616.00 and a Compliance Certificate inspection fee of \$1237.50 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2010. Fees required if an Accredited Certifier is used will be provided on request.
6. Construction of the road is not to commence until three copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
7. A Traffic Guidance Scheme prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Guidance Scheme is to be approved by the Roads and Traffic Authority before submission to Council.

Prior to Commencement of Works

8. All traffic management devices shall be installed and maintained in accordance with the approved traffic guidance scheme.
9. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
10. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.

During Construction

11. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
12. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved plan and Hawkesbury Development Control Plan chapter on Soil Erosion and Sedimentation.

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13. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
14. The road shoulder and half width road pavement of Bootles Lane shall be constructed with a sealed pavement for the length of proposed Lot 1068. The works shall include a kerb return extending to the tangent point in Johnston Street.

Prior to Issue of Subdivision Certificate

15. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
16. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
17. Written clearance from an energy service provider shall be submitted to the Principal Certifying Authority.
18. A plan of subdivision prepared to the requirements of the Land Titles Office, shall be submitted to Council, with four copies.
19. A survey plan showing all existing services on the lots including sewer connections, water connections and stormwater disposal shall be submitted. The plan shall demonstrate that there are no encroachments over remaining or proposed boundaries.
20. Payment of a linen release Fee of \$421.00 in accordance with Council's Fees and Charges at the time of lodgement of the linen plan.
21. Copies of any instruments, requiring the creation of a positive covenant and/or restriction as to user under Sections 88B of the Conveyancing Act 1919, required under this development consent are to be submitted for approval with the final plan of subdivision, prior to the release of the plan of subdivision.

The terms of such restriction to be prepared by a registered surveyor prior to issue of the Subdivision Certificate to Hawkesbury Council's standard requirements at the applicant's expense. Hawkesbury Council shall be nominated as a party to release, vary or modify such restriction.

oooO END OF REPORT Oooo

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Item: 101 **CP - Development Application - Construction of a Service Station - Lot 3 DP 233054 & Part Lot B DP158748, 11 Macquarie St, Windsor NSW 2756 - (DA0578/09, 74442, 97811, 95498)**

Development Information

File Number: DA0578/09
Property Address: 11 Macquarie Street, Windsor NSW 2756
Applicant: Woolworths Limited
Owner: Rosefawn Pty Limited
Proposal Details: Construction of a Service Station
Zone: 3(a) Business General & Zone 9(b) Proposed Road
Advertising: 8/10/2009 - 21/10/2009
Date Received: 28/09/2009

Key Issues:

- ◆ Objection under State Environmental Planning Policy No.1
- ◆ RTA Requirements

Recommendation: That the objection under State Environmental Planning Policy (SEPP) No. 1 be supported and that Council seek the concurrence of the Department of Planning to the SEPP No. 1 variation.

REPORT:

Introduction

An application has been received seeking approval for the construction of a service station at Lot 3 DP 233054 and Part Lot B DP 158748 11 Macquarie Street, Windsor. Due to the development having direct vehicular access to Macquarie Street, a State Road under the control of the Roads and Traffic Authority (RTA), the application was considered to be a traffic generating development in accordance with State Environmental Planning Policy (SEPP) 2007 (Infrastructure). The application was referred to the RTA twice following modifications made to the internal layout and vehicular access points into the site.

This Development Application is submitted to Council for consideration as the SEPP No. 1 objection received objecting to clause 6 of Hawkesbury Local Environmental Plan, seeks numerical departure of greater than 10% in respect to the distance of the service station from the intersection of the main roads of Macquarie and Bridge Streets and requires Council to determine the application, prior to concurrence being obtained from the NSW Department of Planning.

Description of Proposal

The applicant seeks consent for the construction of a service station, situated on the corner of Baker and Macquarie Street, Windsor. Three fuel dispensers, including one LPG dispenser will be provided on site underneath a canopy and a paypoint building located at the north east corner of the site. The site currently benefits from existing vehicular crossings from both street frontages, with Baker Street proposed as an access entry only. Due to the proximity of the site and the development in relation to Macquarie Street and Bridge Street, the application was referred to the Roads and Traffic Authority (RTA) in accordance with the requirements of State Environmental Planning Policy (Infrastructure) 2007.

The entire frontage of the site along Baker Street is impacted by road widening to accommodate a possible widening of Baker Street.

The road widening if taken up by Council, will result in the Baker Street vehicular crossing being consumed by the road widening works. Due to the severe changes in level within the site towards Baker Street, no

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vehicular crossing from Baker Street would be possible following any road widening. The development however, still benefits from an entry and an exit onto Macquarie Street. The layout of the proposal has been amended to take into consideration the possibility that road widening may eventuate in the future, with internal manoeuvrability satisfying Australian Standard turning paths for all vehicles entering and exiting the site.

The development seeks to operate 24 hours a day, seven days a week.

History

The application states that the use of the site for the purposes as a service station commenced from 1964 and ceased when development consent was granted for the removal of underground tanks, demolition of canopy and remediation of the site within DA0288/05 approved in August 2005. Following remediation works, a Site Audit Statement was issued in November 2007, declaring that the site was suitable for numerous purposes, including commercial/industrial use.

Issues Relevant to the Decision - In Point Form

- RTA requirements
- Objection under State Environmental Planning Policy No.1

Council Policies, Procedures and Codes to Which the Matter Relates

State Environmental Planning Policy No. 1
State Environmental Planning Policy (Infrastructure) 2007
State Environmental Planning Policy No. 55 – Remediation of land
State Environmental Planning Policy No. 64 – Advertising and signage
Hawkesbury Local Environmental Plan 1989
Sydney Regional Environmental Plan No 20
Hawkesbury Development Control Plan 2002

Section 79C Matters for Consideration

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

a. The provisions (where applicable) of any:

i. Environmental Planning Instrument:

The relevant environmental planning instruments are:

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject property is zoned 3(a) Business General. Service stations are permissible land uses within the 3(a) Business General zone. Clause 6 – Adoption of Model Provisions, which refers to Part 5 – Special Provisions of HLEP 1989 states that for service stations or car repair stations:

“A building or work shall not be erected or used and land shall not be used for the purpose of a service station unless:

- (a) *The site is more than 90 metres from the junction or intersection of a main or arterial road, with another main or arterial road;*
- (b) *Where the site has frontage to a main or arterial road:*
 - (i) *The Roads and Traffic Authority has been consulted; and*
 - (ii) *Where the site is not a corner lot, the frontage to the road is not less than 38 metres, or, where the site is a corner lot, the frontage to the road is not less than 30 metres*

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- (c) *where the site has frontage to a road other than a main road, the frontage is not less than 30 metres;*
- (d) *the width of a vehicle crossing over a footpath is not more than 9 metres;*
- (e) *any vehicular crossing over a footpath is not closer than 6 metres to a road intersection;*
- (f) *separate entrances to and exits from the site are provided and those entrances and exits are separated by physical barriers constructed on the road alignment and so identified by suitable signs readily visible to persons using the adjoining road or entering;*
- (g) *where the site is a corner lot and the Council so requires, separate entrances and exits are provided to and from each of the adjoining roads and a physical barrier is erected so that a vehicle entering the site must, when leaving it, use an exit leading only to the road from which entrance was gained;*
- (h) *inlets to bulk fuel storage tanks are so situated on the site as to ensure that tankers, while discharging fuel into such tanks, shall stand wholly within the site;*
- (i) *fuel pumps are within the site and not closer than 3 metres to the road alignment;*
- (j) *the layout of the site is such as to facilitate the movement of vehicles entering into or leaving the site with the flow of traffic on the adjoining road;*
- (k) *vehicular access to or from site from or to an adjoining road is situated not less than 24 metres to any traffic lights on the roads; and*
- (l) *the site is suitably landscaped to the satisfaction of the consent authority."*

The proposed service station is situated a distance of only 63 metres from the intersection of Macquarie and Bridge Streets. An objection under SEPP No.1 seeking a variation to the distance of the service station from the intersection of the main roads of Macquarie and Bridge Streets was submitted and is considered worthy of support.

In addition to the above, the following clauses of Hawkesbury Local Environmental Plan 1989 were taken into consideration:

Clause 2 - Aims, objectives etc
Clause 5 – Definitions
Clause 6 – Adoption of 1980 Model Provisions
Clause 9 - Carrying out of development
Clause 9a - Zone objectives
Clause 18 – Provision of water, sewerage etc services
Clause 22 – Development fronting a main or arterial road
Clause 25 – Development of flood liable land
Clause 28 – Development in the vicinity of heritage items
Clause 31 – Acquisition and use of reserved land
Clause 37A – Development on land identified on Acid Sulfate Soils Planning Map

An assessment of the Development Application otherwise reveals that the proposal complies with the matters raised in the above clauses of Hawkesbury Local Environmental Plan 1989, with the exception of distances from a junction or intersection of a main road or arterial road as contained within Clause 6 – Adoption of 1980 Model Provisions.

State Environmental Planning Policy No. 1 – Development Standards

An objection under State Environmental Planning Policy No. 1 was lodged in respect to the distance of the development from the intersection of Macquarie and Bridge Streets. This SEPP No. 1 objection states:

"Clause 3 of SEPP No.1 allows flexibility in circumstances where strict compliance would be unreasonable or unnecessary or hinder attainment of the objects of the Act.

The accompanying Traffic and Parking Report by Colston Budd Hunt & Kafes provides evidence to the effect that there is expected to be no adverse effect on traffic safety as a result of resurrecting a petrol station on this site and continuing the traditional land use. "

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The applicant's claim that compliance with the development standard is considered unreasonable and unnecessary, for the following reasons:

- *The site exists and has done so for many years without restraint on safety and efficiency*
- *The Land and Environment Court has referred to such instances as "accidents of history"*
- *The site is large and has a secondary street frontage and access*
- *Similar sites in other Local Government Areas allow flexibility towards minimum street frontages.*
- *The proposal will be situated on a consolidated lot with two street frontages. A total of 75.71 metres of street frontage.*
- *The access from Macquarie Street is separated i.e one for entry only and the other for exit only.*
- *The Baker Street access will provide secondary entry only thus offsetting the Macquarie Street entry.*
- *The existing frontage length and distance was applied to traditional service stations but newer petrol stations are less intensive because of the lack of vehicle repairs and the like with one frontage and providing both entry and exit thereto.*

The requirement for service stations to be located a minimum of 90 metres from the intersection of arterial roads is a current development standard within HLEP 1989 and a trigger for Development Applications to be referred to the RTA in accordance with SEPP (Infrastructure) 2007.

The traffic implications of the development of on site carparking, access arrangements, internal circulation and parking layout and the ability of the road network to be able to support the traffic generated by the development have been assessed and are considered satisfactory. Whilst the site is located only 63 metres from the intersection of Macquarie and Bridge Streets, the development has demonstrated that the site is suitable for this land use and can function adequately, despite not complying with the numerical development standard. Further in this respect, the RTA raise no objection to the development subject to specific conditions of consent.

Given the arguments presented by the applicant and noting that the allotments were previously utilised for the use as a service station, it is considered that the application adequately demonstrates that the standard is unreasonable in this case.

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

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

The proposal is consistent with the aims and objectives of SREP No. 20.

State Environmental Planning Policy No. 55 – Remediation of land

Development consent was granted for the removal of underground tanks, demolition of canopy and remediation of the site within DA0288/05 approved in August 2005. Following remediation works, a Site Audit Statement was issued in November 2007, declaring that the site was suitable for numerous purposes, including commercial/industrial use. The proposed development as a service station is consistent with the nominated use's declared suitable within the Site Audit Statement.

State Environmental Planning Policy No. 64 – Advertising and signage

Under SEPP No.64 Part 2 Signage Generally, "A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3(1) (a), and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1."*

An assessment of the proposal against the aims of this policy and the assessment criteria specified in Schedule 1 reveals that the development is consistent with the aims of the Policy and the assessment criteria specified in Schedule 1.

State Environmental Planning Policy (Infrastructure) 2007

Due to the development having direct vehicular access to Macquarie Street, a State Road under the control of the Roads and Traffic Authority (RTA), the application was considered to be a traffic generating development in accordance with State Environmental Planning Policy (SEPP) 2007 (Infrastructure). The application was referred to the RTA twice following modifications made to the internal layout and vehicular access points into the site. On the 26 March 2010, the RTA granted concurrence to the proposal subject to specific conditions of consent.

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

Within Draft Hawkesbury Local Environmental Plan 2009, the subject site is zoned B2 Local Centre and SP2 Infrastructure. The subject development is permissible with consent. Unlike Hawkesbury Local Environmental Plan 1989, no numerical provisions relate to the development of a service station within the Draft Local Environmental Plan.

iii) any development control plan applying to the land

The application has been notified to adjoining property owners in accordance with the requirements of Hawkesbury Development Control Plan 2002 Part A, Chapter 3.

In respect to carparking requirements, Hawkesbury Development Control Plan (HDCP) 2002 Part C, Chapter 2 Carparking and access requires that service stations provide five spaces per work bay, plus one space per 30m² of ancillary retail floor space. The development does not propose any workbays, but does provide a small pay point terminal of approximately 78m² in area, thus requiring three carspaces to be provided on site. The development proposes seven carspaces on site, satisfying Council's requirements.

The application also wishes to erect a pylon sign for advertising and the display of petrol prices to a height of 6 metres. The height of the pylon sign is consistent with the requirements specified within HDCP 2002 Part C, Chapter 3 Signs.

(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

There are no planning agreements applicable to the proposed development.

iv) any matters prescribed by the regulations

The proposed development is not inconsistent with the provisions of the Environmental Planning and Assessment Regulation, 2000.

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

The development site has been utilised for the purposes of a service station since 1964 up until recently when the site was remediated. The emergence of a new service station is not considered to distract from the local context and setting, given the sites previous long standing use.

Access, Transport & Traffic

Due to the development having direct vehicular access to Macquarie Street, a State Road under the control of the Roads and Traffic Authority (RTA), the application was considered to be a traffic generating development in accordance with State Environmental Planning Policy (SEPP) 2007 (Infrastructure). The

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application was referred to the RTA twice following modifications made to the internal layout and vehicular access points into the site. On the 26 March 2010, the RTA granted concurrence to the proposal subject to specific conditions of consent.

Utilities

It is considered that the proposed development will not place unreasonable demands on the provision of services.

Heritage

The site is not a registered heritage item under any local or state registry. The subject land is however located adjacent to Thompson Square at the rear. The application was referred to the NSW State Heritage Office for comment and no objections were raised.

Soils

Erosion and sedimentation controls will be enforced through conditions of consent.

Waste

Provision exists on site for the storage of skip bins located to the north west of the pay point building. Removal of waste generated by the development is proposed to be removed by a private contractor.

Natural Hazards

The subject land is not defined as bushfire prone land, however is situated at a level below the 1:100 flood year event for Windsor. As the development is not for habitable occupation, no development standards for commercial floor levels exist.

Site Design and Internal Design

The development demonstrates that all service vehicles, including tanker delivery trucks can manoeuvre adequately within the site and entering and exiting the site.

Construction

Construction is not expected to unreasonably impact upon surrounding business' and residential properties to the north east of the development site.

Cumulative Impacts

The proposed development is compatible with surrounding land uses and no negative cumulative impact is foreseen.

c) the suitability of the site for the development

Development consent was granted for the removal of underground tanks, demolition of canopy and remediation of the site within DA0288/05 approved in August 2005. Following remediation works, a Site Audit Statement was issued in November 2007, declaring that the site was suitable for numerous purposes, including commercial/industrial use. The proposed development as a service station is consistent with the nominated use's declared suitable within the Site Audit Statement.

The traffic implications of the development on site carparking, access arrangements, internal circulation and parking layout and the ability of the road network to be able to support the traffic generated by the development have been assessed and are considered satisfactory. Whilst the site is located only 63 metres from the intersection of Macquarie and Bridge Streets, the development has demonstrated that the site is suitable for this land use and can function adequately, despite failing the numerical development

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standard. Further in this respect, the RTA raise no objection to the development subject to specific conditions of consent.

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

Community Consultation

The application was notified to adjoining property owners for 14 days in accordance with Hawkesbury Development Control Plan 2002 from the 8th to 21st of October 2009. Within this period, one letter of objection was received.

1. Business' will suffer as due to cut price food and drinks that will be sold by Woolworths.

Comment: The proposed land use is already permitted in the zone with Council consent. No substantial evidence has been submitted to conclude such an impact would eventuate, with economic forces dictating the success and failure of businesses. It should also be noted that the introduction of competition to existing businesses alone is not a relevant planning matter.

e) the public interest

The site is considered suitable for the development proposed, with the traffic implications of the development on site carparking, access arrangements, internal circulation and parking layout and the ability of the road network to be able to support the traffic generated by the development considered to be satisfactory.

Having regard to the relevant planning considerations and the matters raised in public submissions, it is concluded that the proposal is not contrary to the public interest.

Conclusion

The current proposal is not consistent with the distance requirements for service stations from the intersection of arterial roads as per Clause 6 of Hawkesbury Local Environmental Plan 1989. However, it is considered that the applicant has successfully demonstrated that strict compliance with these requirements is unreasonable and unnecessary in this instance, and is therefore worthy of support.

Under the provisions of State Environmental Planning Policy No. 1 (SEPP No.1), Council can not determine the application without the concurrence of the Director General. It is recommended that Council support the application and request that the Director General grant concurrence to the application. Should concurrence be granted, the application can be approved. Should concurrence not be granted, then the application must be refused. Both of these determination options may be undertaken under the delegated authority of the General Manager.

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.

Developer Contributions

The following developer contributions apply to this development - \$9,000. Accordingly, a condition of consent is required to be imposed in this regard.

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RECOMMENDATION:

That:

1. The objection under State Environmental Planning policy No. 1 be supported.
2. Council seek the concurrence of the Department of Planning to the SEPP No. 1 variation.
3. Development application DA0578/09 at Lot 3 DP 233054 and Part Lot B DP 158748, 11 Macquarie Street WINDSOR NSW 2756 for Construction of a Service station be supported and, upon the receipt of the response from the Department of Planning, authority be delegated to the General Manager to appropriately determine the application.

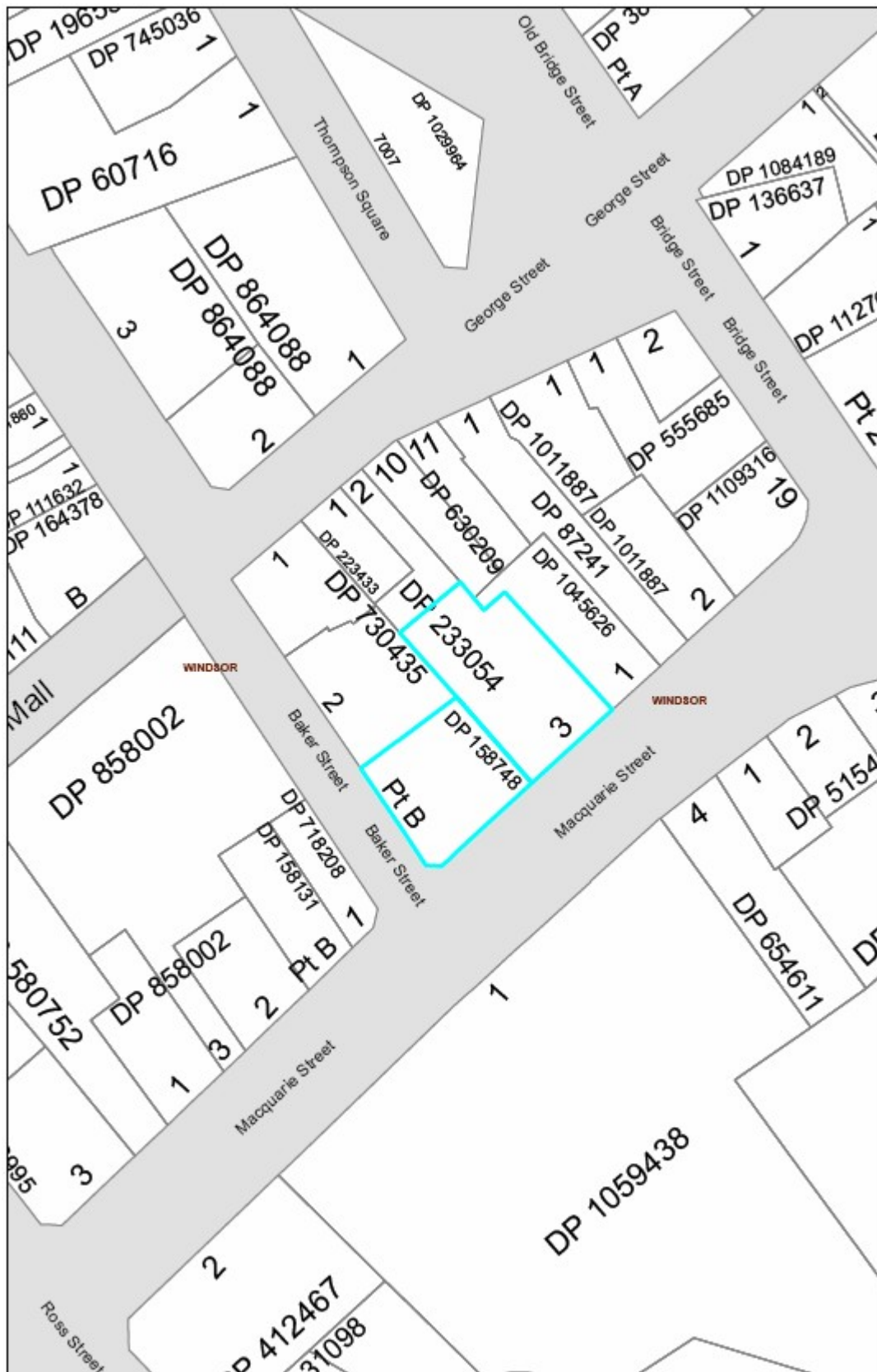
ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Site Plan
- AT - 3 Elevations
- AT - 4 Potential development consent conditions should the application be approved

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AT - 1 Locality Plan



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WOOLWORTHS LIMITED
 1. Woolworths Ltd.
 2. 100 Macquarie Street
 3. Sydney NSW 2000
 4. Tel: (02) 9550 1000
 5. Fax: (02) 9550 1001

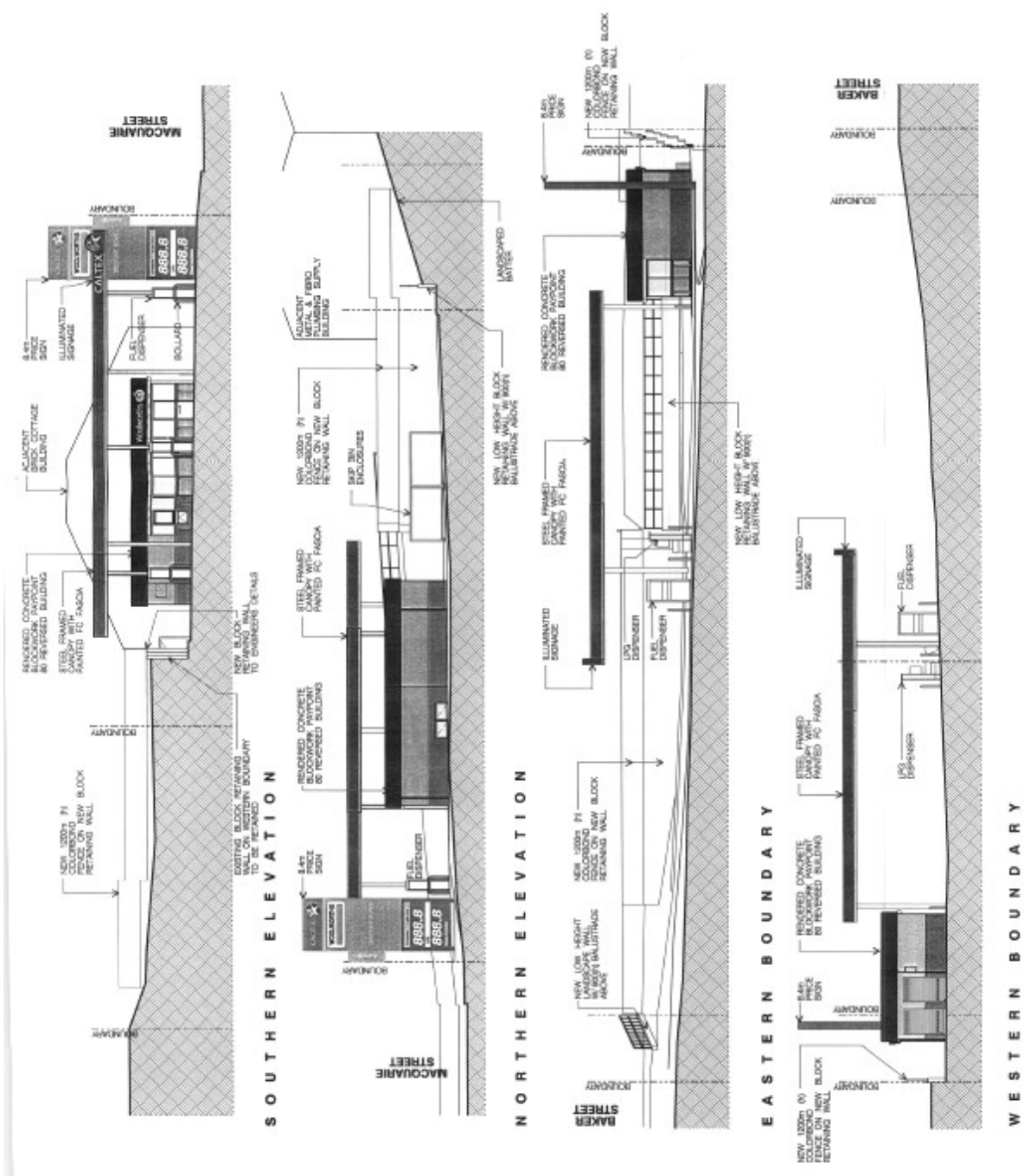
SCOTTCARVER
 1. Scott Carver Pty Ltd
 2. 100 Macquarie Street
 3. Sydney NSW 2000
 4. Tel: (02) 9550 1000
 5. Fax: (02) 9550 1001

PROPOSED PETROLEUM FILLING STATION
 1. FILLING STATION
 2. Cnr MACQUARIE STREET
 3. & BAKER STREET
 4. WINDSOR NSW
 5. LAYOUT PLAN

20090028

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AT - 4 Potential development consent conditions should the application be approved

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
5. The development shall comply with the provisions of the Building Code of Australia at all times.
6. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.
7. Hawkesbury City Council is the sewer authority for this development, inspection for compliance certification for internal and external sewer drainage shall be requested and approved prior to covering any pipe. An inspection fee applies.
8. The development shall be designed and operated in accordance with the acoustic report No. 4658 Revision 0, prepared by RSA Acoustics and dated 24 February 2010.

Prior to Issue of Construction Certificate

9. The subject sites shall be consolidated in accordance with the approved plan. The plan for consolidation is to be registered prior to the release of the Construction Certificate.
10. The design and construction of the proposed new driveway crossing on Macquarie Street shall be in accordance with AS2890.1 – 2002 and the Roads and Traffic Authority (RTA) requirements (ie. 11m at the kerbline). Details of further requirements can be obtained from the RTA's Project Services Manager, Traffic Projects Section, Parramatta (ph. 02 8849 2144).

A certified copy of the design plans shall be submitted to the RTA for consideration and approval prior to the release of the Construction Certificate by the Principle Certifying Authority and commencement of road works.

The RTA fees for administration, plan checking, civil works inspections and Project management shall be paid by the applicant prior to the road works.

11. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.
12. Construction of the road, access, car park, drainage, filling and retaining walls are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.

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13. A Traffic Management Plan prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to the Principle Certifying Authority for approval. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Management Plan is to be approved by the Roads and Traffic Authority before submission to Council.
14. Retaining walls are to be designed by a suitably qualified and experienced Structural Engineer and approved by the Principle Certifying Authority prior to construction.
15. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$9,000 shall be paid to Hawkesbury City Council.

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

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

16. The applicant shall submit plans for assessment and approval by Hawkesbury City Council regarding the collection and treatment of Trade Waste prior to discharge to the local sewerage system.

Prior to Commencement of Works

17. Should there be changes to the RTA's drainage system then detailed design plans and hydraulic calculations of the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset management
Roads and Traffic Authority
PO Box 973 Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regard to the Civil Works requirement please contact the RTA's Project Engineer, External Works Ph 02 8849 2114 or Fax 8849 2766.

18. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan.
19. A waste management plan shall be submitted to and approved by the Principle Certifying Authority. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
20. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
21. The applicant shall advise Hawkesbury City Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the *Environmental Planning and Assessment Act, 1979*.
22. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the *Environmental Planning and Assessment Regulation*.

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23. Toilet facilities (to the satisfaction of the Principle Certifying Authority) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
24. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.
 - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - (d) The name and contact number of the Principal Certifying Authority.

During Construction

25. All redundant driveways are to be removed along the site's Macquarie Street frontage with kerb and gutter reinstated to the RTA's requirements.
26. The layout of the proposed car parking and loading areas associated with the subject development (including driveways, queuing areas, grades, turn paths, sight distance requirements, aisle widths and parking bay dimensions) should be in accordance with AS2890.1 – 2004 and AS2890.2 – 2002 for heavy vehicle usage.
27. The development shall be completed in accordance with the approved colours and finishes and shall not be altered.
28. Off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.
29. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
30. The loading area shown on the plan to cater for a small rigid vehicle is to be increased in size to comply with the minimum requirements of AS2890.2 – 2002 for this type of vehicle (3.5m x 6.4m). The loading bay is to be clearly marked as such.
31. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
32. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
33. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.

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34. The development shall be constructed of flood compatible materials in accordance with the NSW Government Flood Plain Manual. In this respect the following design precautions must be adhered to in all respects:
 - (a) all electrical, heating and air conditioning service installations are to be located above the 2% AEP flood level of 15.7m AHD;
 - (b) the building is to be constructed of flood compatible materials such as galvanised steel frame, galvanised zinc alum cladding doors and door frames; and
 - (c) the structure and walls shall be strengthened to a level of 15.7m AHD to increase resistance to floodwater flow and debris impact.
35. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
36. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
37. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
38. All necessary street signage and pavement markings shall be installed and/or relocated as required.
39. The installation and operation of any fuel facility is to be done in accordance with:
 - (a) AS4897 – 2008 : Design, installation and operation of underground petroleum storage systems.
 - (b) AS1596 – 2002 Storage and handling of LP Gas
 - (c) AS1940-1993 The Storage and Handling of Flammable and Combustible Liquids
 - (d) All WorkCover NSW Requirements

Prior to Issue of the Occupation Certificate

40. Dedication of road widening along the Baker Street frontage of the site. The current road reserve width of Baker Street is shown as 12.805m. The dedication is to be 7.195m wide (subject to final survey), to result in a final width of the Baker Street road reserve of 20 metres. The dedication of road widening is to be at no cost to Council.
41. The applicant must enter into a Trade Waste Agreement with Hawkesbury City Council.
42. Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.

Use of the Development

43. No internal or external alterations shall be carried out without prior approval of Council.
44. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - (a) been assessed by a properly qualified person, and
 - (b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.

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45. No additional advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.
46. No advertising signs or structures shall be displayed on the footpaths, pedestrianways, roadways or on any land other than the approved development site.
47. The development shall be limited to the area shown on the submitted plans.
48. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
49. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
50. All waste materials shall be regularly removed from the property.
51. Only pre-packaged foods and drinks shall be sold from the premises.
52. No air-conditioning condenser units or plant machinery shall be located within the side setback adjacent to No. 7 Macquarie Street, Windsor.
53. Vehicles entering the property must be wholly contained within the property before being required to stop.
54. All vehicles are to enter/exit to the site in a forward direction.
55. Fuel deliveries shall be restricted to outside of the AM / PM traffic peaks to minimise potential conflicts between articulated vehicles and passenger vehicles in the fuel dispensing area and to also minimise the potential for vehicles to queue out of the site and disrupt traffic flows along Macquarie Street. Fuel delivery tankers, while discharging fuel into storage tanks, shall stand wholly within the site
56. All chemicals shall be stored, handled and disposed of in accordance with:
 - (a) AS1940-1993. The Storage and Handling of Flammable and Combustible Liquids
 - (b) The Department of Environment, Climate Change and Water - Storage and Handling Liquids: Environmental Protection – Participants Manual.
 - (c) Environmental Compliance Report: Liquid Chemical Storage handling and spill management – Part B Review of best practice and regulation
57. The hours of operation are 24 hours a day, seven (7) days a week.

Advisory Notes

- **** All works/regulatory signposting associated with the proposed development are to be at no cost to the RTA.
- **** All construction vehicles are to be contained wholly within the site as a work zone permit will not be approved on Macquarie Street.

oooO END OF REPORT Oooo

Item: 102**CP - Submission to Metropolitan Strategy Review - (95498)**

REPORT:**Executive Summary**

In March 2010 the Premier and Minister for Planning released a discussion paper, *Sydney Towards 2036* which examines how Sydney can address the future challenges that development and conservation will pose.

The discussion paper is the first stage in a review of the Metropolitan strategy - *City of Cities: A Plan for Sydney's Future*, Sydney's long-term Strategy. The Metropolitan Strategy was released by the NSW State Government in December 2005 and is due for review.

The Discussion Paper gives a brief overview of the issues to be considered and poses a series of questions (page 8 and 9 of the discussion paper) to assist in the structure of submissions.

A submission has been prepared and is attached to this report. It is recommended that this submission be noted and forwarded to the Department of Planning prior to the closing date for submissions on 28 May 2010.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy as the discussion paper is a document of the Department of Planning and the NSW State Government. However, Council did issue a media release on 22 April 2010 encouraging residents to view the Discussion Paper and lodge a submission via the Department's dedicated website. Copies of the Discussion Paper were also available for viewing at Council's office.

Background

The Metropolitan Strategy – *City of Cities: A Plan for Sydney's Future* was released by the NSW State Government in December 2005 after a long period of consultation and preparation. The Strategy is a high level planning document for the entire metropolitan area and provided a sustainable and integrated framework for development and conservation in Sydney. The Strategy made provision for review every five years and the current Discussion Paper is the first stage of that review.

The Metropolitan Strategy provided the framework that allowed the preparation of the Subregional Strategies for the metropolitan area, of which the North West Subregional Strategy is relevant for the Hawkesbury.

The release of the Metropolitan Strategy was a major step forward for the planning of the metropolitan area and has assisted in focusing the direction of planning. Some of this focus has been in the form of specifying the need for environmental targets and the introduction of the Sustainability Criteria for Land Release proposals within the Metropolitan Area.

However, the application of the Strategy principles has indicated that there is a real need to focus more on the need to better integrate land use planning with transport and the provision of infrastructure. This is evident both in the Discussion Paper content but also shown by the fact that the Paper has been released by the Premier, Minister for Planning and Infrastructure and also the Minister for Transport and Roads.

It should be noted that the Metropolitan Strategy is a very high level strategic document and does not specify specific actions for individual Council areas. (These actions are articulated in the Subregional Strategies and Council Strategies.) Despite this it is considered that a submission to the Discussion Paper

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is required to ensure that the integration of land use planning, transport and infrastructure are the focus of the NSW State Government when considering development issues in the Metropolitan Area.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- A balanced set of decisions that integrate jobs, housing, infrastructure, heritage, and environment that incorporates sustainability principles.

and is also consistent with the nominated strategy in the Community Strategic Plan being:

- Have ongoing engagement and communication with our community, governments and industries.

Although only the above Direction statement and Strategy have been noted, it is clear that the strategic direction of the Sydney Metropolitan area is directly relevant and will influence multiple Directions and Strategies contained in Council's Community Strategic Plan.

Financial Implications

There are no direct financial implications for the preparation of the submission to the Discussion Paper with the exception of the staff time to prepare the submission. However, the degree of integration of transport and infrastructure at the State level will have direct, positive and negative, financial implications in the future. These implications are unknown at the moment.

RECOMMENDATION:

That the attached submission to the Discussion Paper – *Metropolitan Strategy Review – Sydney Towards 2036* be forwarded to Department of Planning prior to 28 May 2010.

ATTACHMENTS:

AT - 1 Hawkesbury City Council Submission to the Metropolitan Strategy Review

AT - 1 Hawkesbury City Council Submission to the Metropolitan Strategy Review**Hawkesbury City Council
Submission to Metropolitan Strategy Review****1. Planning for a growing population***Question 1A*

Should Sydney continue to accommodate the majority of population growth in NSW? What are the alternatives?

Response: Population growth, regardless of its amount or location within Sydney or outside of Sydney, should only be accommodated if it is planned and delivered in a sustainable, timely and responsible manner.

Growth areas have an opportunity to set the benchmark for sustainable development, with services and facilities delivered to ensure inclusion of all ages and levels of need. A critical factor will be the timely delivery of public transport (train, bus and cycle ways) to give sustainable access to employment opportunities while reducing congestion, pollution, and travel times.

Planning for growth will need to give consideration to local council priorities to address the changing demographics in each LGA and changing community expectations. Ideally these priorities should be identified in each Council's long term community strategic plan, eg Hawkesbury Community Strategic Plan 2010 – 2030 and given appropriate recognition in the sub-regional strategies of the Department of Planning.

The North West sub-regional population is projected to increase by 51.8% by 2036. This level of population growth can only be achieved if the principles for sustainable development are applied with an equitable and timely distribution of resources, infrastructure, and services, and access to housing and employment opportunities. This will require:

- a choice of housing options that meets the needs of a diverse population,
- an analysis of the existing supply, capacity and future demand and funding for infrastructure, services and open spaces.
- timely provision of the required infrastructure to ensure it is in place prior to, or as development proceeds and not as a "catch up" to development growth.

2. Making Sydney climate change ready*Question 2A*

What land use responses will help Sydney mitigate, and adapt to climate change?

Response: In addition to the major impacts of flooding, bushfires and storms, two key issues for the Hawkesbury and potentially other areas that will be require responses are heat waves and contamination and disease. These issues are discussed below.

At Richmond the weather records show that, on average, there are currently two days per annum with temperatures of 40°C or more. Also, on average, there is a sequence of three or more days over 40°C every 10 years. It is projected that by 2070 there will be 6 to 7 days of 40°C or more per annum. As a result there will be an increased potential for premature deaths and widespread personal illness, distress and discomfort.

The NSW Government should develop, in collaboration with the LGSA and local councils, a NSW Heat Wave Strategy. Various state, regional and local actions may include:

- review and revise Council's own work arrangements for outdoor staff during heatwaves including increased personal protection and altered work hours,

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- establish and maintain a database of residents most vulnerable and monitor those residents during heatwaves,
- provide “heat refuges” for use by the most vulnerable during heat waves.
- Financial support for design and implementation of streetscape works to assist in the “heat island” effect in urban centres.

With respect to contamination and disease there will be a need for all governments to address the increased risks to human health from water, food and vector borne diseases, as well as respiratory illnesses and conditions affected by lifestyle and diet, all of which may be exacerbated by climate change. Various actions include:

- establish a regular forum with state agencies and local councils to maintain attention on potential contamination and disease risks,
- use this forum to share information and to collaborate on precautions and contingency planning,
- increased frequency of inspection of food handling premises during heat waves or in the event of outbreaks of gastrointestinal illness.

Question 2B.

How can the planning system help Sydney adapt to the impacts of climate change?

Response: Planning and design issues arise when we know that the future climate will be uncertain and quite different from that of the past and we lack a defensible technical basis for accounting for climate change when planning new communities and designing major infrastructure.

Assuming that traditional design and planning are no longer valid and having no agreed alternative, places local councils in an invidious position. Such examples include planning and design responses to the likelihood of more severe flooding, bushfires or storms. Various adaption actions include:

- NSW Rural Fire Service preparing and publishing revised bushfire hazard maps that explicitly allow for the increased bushfire frequency and severity that climate changes will bring,
- seeking the early revision of relevant Australian Standards and codes that allow for projected climate changes,
- updating Council’s flood studies and associated floodplain risk management studies and plans to account for projected changes in rainfall intensity and sea level rise,
- undertaking sensitivity analysis at a range of locations to understand the direction and size of likely changes to design flood levels and inundation extents resulting from projected changes in rainfall intensity and sea level rise,
- factoring in climate change uncertainty when making irreversible land use planning decisions,
- designing new infrastructure with provision for its early retirement or major upgrade to cope with early deterioration due to warmer temperatures.

Bushfires will become more severe as a result of increases in extreme temperatures, stronger local wind gusts, lower average rainfall and reduced soil moisture. This could result in several deaths, many homes or council assets destroyed. Local hospitals will be required to treat increased instances of multiple injuries and a decline in the number of local bushfire fighting volunteers is expected due to increasing demands. The following collaborative actions are required to reduce risks associated with increased bushfires:

- updating of bushfire hazard maps and bushfire prone land maps,
- updated land use planning to better address existing fire constraints rather than attempting to mitigate those risks to permit development,
- development consent conditions in bush fire prone areas must reflect best practice bushfire management,
- establish and maintain a register of residents who live in areas of very high or extreme bushfire hazard,
- assistance for NSW RFS in educating residents in bush fire preparedness,
- mapping of Council buildings and assets which are bush fire prone and determining priorities for treatments to reduce risks,

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- assistance for NSW RFS to maintain and build the number and capacity of bushfire volunteers.

Question 2C

How can planning in Sydney be improved to boost water, fuel, energy and waste efficiency?

Response: Potential impacts due to water shortages may include poorer water quality, more aquatic weed in local rivers and creeks, reduction of environmental flow to sustain biota in small streams, increased cost of water, and higher costs for, or prohibition on, using mains water to irrigate playing fields, gardens and golf courses and top up swimming pools. Actions to address these impacts could include:

- increased environmental water releases from Warragamba Dam,
- increased funding for County Councils to control aquatic weeds,
- educating the community about the reasons for poor water quality and changes in behaviour,
- managing small streams as ephemeral, rather than permanent flow streams,
- investigate ways to reduce losses from swimming pools and alternative sources of potable top up water.

Flooding and storm water surcharge resulting from climate change storm intensities will impact significantly on all councils. It is forecast that the storm rainfall intensities that cause major floods (i.e. 100 year – 72 hour intervals) will initially increase, but then decrease to less than current values later this century. The storm rainfall intensities that cause major flooding from minor streams (i.e 100 year- 2 hour intervals) and the storms that cause nuisance flooding when property and local storm water drainage systems surcharge (i.e. 5 year - up to 2 hour intervals) will increase very substantially as the century progresses. Actions to address these impacts could include:

- review of flood studies and apply them to all future drainage, flood and waterway designs,
- monitoring the condition of council roads with respect to increased rainfall intensities causing rapid degradation,
- identify any residents who may be isolated in future major floods and amend emergency management plans to assist those residents.

Storms, including thunderstorms and hailstorms, will have an increased and significant impact, with the economic impacts of hail storms are of particular concern. Some actions that can be taken include:

- encouraging more research into local severe storms,
- early revision of design codes and standards to reflect the likely increase risks of storm damage,
- applying development consent conditions that comply with updated codes and standards,
- collecting and maintaining data on storm damages in each LGA,
- reviewing and revising council's tree preservation orders to reduce disruptions to services caused by severe storms,
- establishment of a phone "hot line" or web site to advise parents of unexpected closure of education establishments, community services and recreation facilities due to severe storms.

Question 2D

How can we bring more green and open spaces into our communities?

Response: Actions to protect biodiversity as a result of changes to climatic conditions will be needed. Various actions could include:

- an initial identification and assessment by DECCW of current status and threats in order to prioritise recovery and threat abatement actions,
- field surveys by DECCW to determine the population size and condition of species thought close to local extinction,
- engaging community and landholder interest and participation in actions,
- employing coordinators to manage recovery of threat abatement teams, liaising with stakeholders in order to implement Priorities Action Statements (PAS).

3 Integrating land use with transport

Question 3A

What is the best use of land within walking distance of stations and bus stops?

Response: In general terms, suitable land uses within walking distance of stations and major bus stops would consist of a mix of employment activities, community and recreation facilities, commuter parking to cater for the broader catchment area and higher density housing. This will provide employment, recreation and residential opportunities with easy access to public transport and will reduce reliance on private motor vehicles for commuting. In turn, this has the potential to reduce travel times, traffic congestion and generally contribute to quality of life, community health and wellbeing. The provision of jobs and housing within walking distance to public transport is also likely to reduce the need for new infrastructure.

In locations where employment activity is deemed unsuitable, consideration should still be given to medium to high density residential development, taking into account the local character and community and council views.

Question 3B

How can we make our city better for pedestrians, cyclists and public transport users?

Response: Pedestrians, cyclists and public transport users generally have lower priority in the transport network access, although some progress has been made to reverse this trend. However, these users need to be given a more equal share when prioritising planning rather than the traditional priority being given to private motor vehicle transport.

The first essential step in trying to make a better city for pedestrians, cyclists and public transport users is to provide appropriately linked and safe pathways for pedestrians and cycle ways network.

Secondly, in appropriate locations cyclists, pedestrians and public transport users must be given access and movement priority over the private motorised vehicles in the transport network. This will encourage and reinforce adoption of walking and cycling or using public transport as a preferred mode to commute.

Thirdly, the transport network design for pedestrians, cyclist and public transport users should incorporate contemporary design solutions, making the walking, cycling and the use of public transport and the journeys safe, inviting, attractive, convenient, affordable, and a pleasing experience. This would generally result in separated facilities rather than a cycleway or path "tacked on" to the side of a major highway.

Question 3C

How can we reduce the need for people to travel as far or as often by car?

Response: Travel is necessitated by a number of factors such as employment and residential density and locations; social, recreational and cultural pursuits; and time and environmental considerations. A well planned, designed, constructed, integrated and operated transport network, along with the provision of employment, housing and community and recreation services within population centres and convenient locations, can significantly reduce reliance on private cars for travel. This is especially true in the western suburbs of Sydney.

People intrinsically compare the cost, convenience and benefits of using various modes of transport to reach their destination. Public transport, walking and cycling options compete with convenience and status of private motor vehicle use. Hence, to reduce people's reliance on travel by use of car, there must be demonstrated tangible benefits of alternative transport use. In addition community education starting from an early age at school on the benefits of alternatives to private motor vehicles transport should be continued. Public transport links across Western Sydney, linking the "Cities within Sydney", should be given greater priority rather than the traditional radial links into and out of the Sydney CBD.

4 More jobs in the Sydney Region

Question 4A

Where should we reserve future employment land?

Response: Future employment land should be reserved in areas that are close to or within population centres and areas forecast for higher population growth. Employment areas should be located close to public transport services and, where appropriate, close to residential areas.

The Department of Planning and relevant councils should reserve future employment land via an appropriate environmental planning instrument e.g a SEPP or LEP, ideally with the Department of Planning and/or council being guided by a Employment Land Strategy (or similar).

Particular emphasis should be placed on the economic, environmental and social value of agricultural land on the fringe of Sydney and this land being appropriately reserved/protected to restrict erosion of these lands by the increasing pressure for residential and "lifestyle" living.

Question 4B

How can we maintain and revitalise older industrial sites in established areas?

Response: The Department of Planning and councils should ensure that older industrial areas are adequately serviced to cater for the changing role of such areas and that planning instruments are up to date and/or flexible enough to cater for the changing role and possibly include development bonuses to encourage revitalisation.

Question 4C

What initiatives can boost the success of future employment land?

Response: Clear strategic direction is required from the State government as a whole and individual government departments regarding the importance of employment lands within the Sydney region, analysis of the comparative advantages of the industries, and the government's desire to retain, promote, and grow these industries.

Both the Commonwealth and State government should consider what financial incentives they may be able to offer, in particular with a review of taxes and provision of appropriate transport linkages and infrastructure. Support of these areas with appropriate infrastructure (transport, electricity, water, etc) that builds and retains capacity to cater for those employment uses is critical.

Investigation of the current and future demand and supply of labour is required as well as action to secure an appropriately trained and available labour supply. It is considered that the Commonwealth and State governments are best placed to achieve this.

The comparative advantages of the clustering of business and industry types whether by way of physical clustering or by way of partnership agreements should be investigated and acted upon.

Question 4D

How can we ensure sufficient retail and commercial space to support economic growth?

Response: By investigating what space exists, where it exists, what is the likely future demand for space, examining how this space is to be provided, and committing to its delivery in a timely manner. Assistance, including financial and Policy, to Local Government for investigation and planning on a more regional, rather than locality, basis would assist in the location of these uses in a more efficient manner.

Question 4E

What economic development incentives might attract businesses and increase jobs?

Response: The effectiveness of incentives and/or other measures that reduce the planning complexity and cost for the establishment and growth of businesses and job creation should be investigated. Incentives should also seek to ensure that the forecast employment capacity targets of the Department of Planning and individual councils are achieved, i.e. incentives may need to be based on maximising the number of employees per floor space as opposed to incentives which just seek to maximise floor space.

However, these incentives should not result in short cuts to the creation of jobs at the expense of the appropriate provision of infrastructure.

5 Growing Sydney's value

Question 5A

What are the way of facilitating diverse employment and supporting jobs in new and existing centres?

Response: Diverse employment and support of jobs can be achieved by:

- flexible zonings and development controls that assist in providing certainty to investors
- ensure required land is appropriately zoned and adequately serviced
- good access to transport routes and close to existing labour markets
- support for specialised industry sectors
- access to training opportunities which match the needs of the area
- investigation of barriers to entry and action to reduce or remove these barriers.

Question 5B

How can we attract diverse employment and new jobs in Western Sydney?

Response: The workforce profile and job stock in western Sydney has traditionally been in generally lower value professions than in the eastern region. High quality jobs are now spread across all industry types hence achieving high quality jobs growth in western Sydney is not just about increasing office jobs but also increasing jobs in other industries. A key aim should be to increase the understanding of the comparative strengths of western Sydney and the value of these industries.

Expectations for better services, facilities and transport, public and private, would rise as employment quality and diversity increases. As such, simply increasing employment alone without the required support services and infrastructure would not be successful.

Question 5C

How do we encourage affordable places for small and creative businesses?

Response: By providing the opportunity and support for start up businesses to establish themselves. This could be achieved through the council's LEPs allowing for "home industries", "home businesses" and "home occupations" and providing sufficient business and industrial zoned land to allow for the creation of small lot units or shared floor spaces.

Question 5D

How do we enhance Sydney's role as a Global City?

Response: Policies, planning and infrastructure provision needs to be focused on broad, strategic issues rather than locality or sectional (i.e., western, eastern, southern or northern) parts of the city. Existing planning and policies are becoming internally focused and are not taking advantage of the significant benefits that areas surrounding Sydney and other areas of the State can offer in the overall package of Sydney as a global city.

6 Strengthening a City of Cities

Question 6A

What is the best way to unlock potential for growth in centres and areas within walking distance to stations and bus stops?

Response: The best way to unlock potential for growth in centres and areas within walking distance to stations and bus stops is to improve the capacity of strategically located land within the centre or match the available land for development with the nature of land desired for employment and business generating activities. The capacity could normally be improved with the following approaches:

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- improve/upgrade existing local infrastructure and/or provide new infrastructure to support the expected growth through effective collaboration of relevant stakeholders in meeting upfront costs and funding sources for delivering infrastructure on time,
- ensure the availability of sufficient land for essential land uses and mixed use activities through appropriate zoning,
- improve connectivity or provide safer and convenient links between the centre and the existing pedestrian/cycle network and the surrounding development,
- provide flexible and appropriate development controls and incentives for developers and investors to achieve cost effective designs and developments.

Question 6B

How can the planning system support investment and jobs in new and existing centres?

Response: The planning system needs to provide an equitable, easily understood and usable planning framework with greater emphasis on the preparation of strategies and plans that have some Statutory weight and that:

- provide for adequate and appropriate land for development,
- require well designed development, and
- promote employment and business activities.

Review of the planning Legislation that places a greater emphasis on Statutory strategic planning at all levels of Government would assist in the streamlining of approval processes as there would be greater certainty within the planning system rather than having strategic debates at the development application stage.

The planning system also needs to provide an effective developer contribution mechanism to ensure timely upgrade of the existing infrastructure or provision of new infrastructure to support and manage the desired development within the centre.

Question 6C

What features are essential to a vibrant centre?

Response: The following features are considered essential to a vibrant centre:

- a blend of business/retail activities, services and facilities, residential uses and recreational opportunities within the centre,
- the location of the centre within a reasonable walking distance to surrounding residential development with sufficient population to sustain the centre,
- the right balance between working and living in the centre,
- convenient, safer and pleasing pedestrian/cycle links,
- pleasing, friendly and safe environment in which people can comfortably live, work, shop, relax and visit,
- good urban design elements enabling attractive, safe and pleasant public domain spaces.

Question 6D

How do we ensure these features are incorporated into our planning?

Response: Develop strategies, policies and plans incorporating appropriate and flexible zones, zone objectives and other required provisions, that zone adequate areas of land for business, recreational, residential and community uses with close proximity to public transport networks in order to allow for a range of compatible and mixed land uses. Surrounding land within a reasonable walking distance of the centre is to be appropriately zoned to allow for a variety of housing types to support the centre. Mechanisms to fund essential community amenities and infrastructure that are vital to the centre are also required.

Clear strategic direction, from all levels of Government that is easily understood by communities is crucial to provide certainty to communities and investors.

7 Meeting changing housing Needs

Question 7A

What housing types will we need in our local areas in the future?

Response: Communities need to be planned in a sustainable manner allowing them equitable access to housing and employment opportunities. A greater diversity of housing stock will be needed as well as a more equitable access to such housing. Within existing urban areas priority should be given the increasing the diversity of housing types in areas which have close proximity to jobs and services.

Housing Policy at all levels of Government needs to allow, and encourage, housing adaptability to cater for the changing needs of the occupants and the population. This includes housing that can adapt to the temporary or permanent disablement of the occupant or to allow the future housing stock to adapt to the needs of an aging population. This would assist in keeping an aging population in their own home for longer, reducing the need for additional aged care facilities, and also allows the occupants to remain in the locality where their support network of family and friends can assist them.

In regard to affordable access to housing, increases to the number and diversity of housing stock will have little effect in reducing housing stress unless a suite of options, including housing policy and taxation incentives, are applied. This would require an in-depth assessment of the costs and benefits of each option or combination of options as it is generally the case that there is no one option that will address the issue in a satisfactory manner.

Question 7B

Which areas are appropriate for higher density housing – such as apartments?

Response: Higher density housing should be located near transport hubs and in close proximity to essential services, employment and community infrastructure. Planning should take into account local council strategies to address housing targets, changing demographic needs in each LGA, the existing character of the area and the wishes and needs of the existing and proposed community.

8 Balancing land uses on the city fringe

Question 8A

Should we continue to concentrate Greenfields development in the Growth Centres?

Response: One of the major risks with Greenfield development is its potential to adversely impact upon and/or eliminate food production lands. This is the case whether or not development takes place in or outside the Growth Centre areas, however the risk is likely to be increased if Greenfield development occurs in an ad-hoc manner outside of the Growth Centres. In the future there will be increased supply risks for healthy and affordable food, particularly for low income residents, as a result of decreased food production due to climate change and higher food transport and storage costs. Various actions to combat this risk include:

- NSW State Government and local councils protecting prime agricultural land, particularly on Sydney's fringe, from urban encroachment and development,
- supporting efforts to maintain food production in the Sydney basin,
- address issues of rising land prices for food production lands that make the land more profitable for alternate uses, such as residential, but still retains the viability of the land for agricultural pursuits,
- work with the NSW Food Authority to reduce food spoilage and wastage in order to both maintain health standards and affordable food prices.

Question 8B.

Should more be done to encourage food production in the Sydney Basin?

Response: Yes. Modern food production, transport and storage is highly dependent upon cheap fossil fuels which, as the world's known oil reserves are depleted over coming decades, will rapidly increase in

price. At the same time, climate change will reduce food production as a result of less water available for irrigated agriculture and higher temperatures. More severe and frequent droughts reduce food production and higher fuel prices will make trucking food long distances less viable. Therefore growing food as close as possible to major population centres which minimise “food miles” will become a necessity.

Question 8C.

To what extent should land on the city fringe be identified and protected for open space and conservation?

Response: Loss of open space, conservation and biodiversity is one of the greatest risks of climate change because the impacts are irreversible. Biodiversity provides human society with a wide range of benefits, both tangible and intangible, and contributes to environmental quality upon which all life forms ultimately depend. During previous periods of climate change, plant and animal species migrated to places with a more favourable climate. Human world wide activities prevent this natural migration as migration paths have been blocked or removed. Ensuring green corridors are provided to regional open space and conservation areas with appropriate management to prevent deterioration should be a high priority for the State government.

Retention of open space for amenity and recreation is also an important resource for city living. The amenity and health benefits to the city add to the total package required for a global city.

Question 8D

How can the process of Greenfield land release be improved?

Response: Greenfield land is a term used to describe a piece of previously undeveloped land, in a city or rural area, either currently used for agriculture or landscape design, or just left to nature. Greenfield land development could be improved by providing access to existing transport and infrastructure hubs that avoids duplicating facilities and ongoing maintenance costs. Timely provision of infrastructure is vital to the affordability and success of Greenfield land release. This is an issue that would be significantly assisted if the planning system imposed greater focus on strategic planning at all levels of Government and infrastructure providers.

The impacts on flora and fauna could also be minimised if the Greenfield development areas are connected within and to other development areas by a green corridor allowing the transfer of species and diversification.

9 Achieving renewal

Question 9A

Which parts of Sydney would benefit from a new centre with shops, small businesses and public transport?

The Department would be in a more appropriate position to consider this question in a holistic manner than individuals. However, when considering this question the consideration should not be limited to new centres where there is currently no centre. Serious consideration should also be given to the rejuvenation or revitalisation of existing centres that are failing to keep pace with the expectations of the local community due to fragmented ownership or lack of local resources. Assistance, financial and planning, to the local Council or communities responsible for these centres would assist in retaining population in these localities and encourage community ownership that will assist in the integration of the many centres contained in the global city of Sydney.

Question 9B

How can we improve the design of public spaces and new buildings in existing areas?

Response: Most public spaces that people use are local spaces they visit regularly. Improvements to public spaces may be needed where the spaces are less attractive, unsafe, out of character or untidy or lack of appropriate community amenities or proper care. There are many ways of improving a public space such as replacing or changing materials, finishes, colours or installing new street lights, furniture, planting litter boxes. Public space improvement projects or new development are very rarely successful unless they involve people who have an interest in the space or the building involved.

The responsible authority needs to consult the community and other relevant stakeholders to determine how and what to improve in order to make the public space or the new building more attractive, visually pleasing and functional. The engagement of appropriate persons or professionals is required to make improvements based on the stakeholder ideas, concerns or comments.

This work is usually the domain of one Local Government Authority with the benefits of those improvements being enjoyed by residents and visitors to that area. However, the increasing demands on Local Government resources combined with restrictions on funding sources for Local Government are reducing the ability to successfully undertake this important work.

Question 9C

What are the barriers to accessing key services in your local area?

Response: The lack of convenient, safe and continued pedestrian/cycle links between existing residential areas and the town centre is considered to be the main hurdle accessing the town centre.

Some of the barriers to accessing key services in the Hawkesbury LGA are:

- very limited or no public transport within the Hawkesbury LGA and to regional centres (e.g for specialist health services) in adjacent LGAs (particularly Penrith). Many localities within the Hawkesbury are isolated with significant distance from services,
- services not provided in the LGA or limited capacity of key services in LGA (e.g. Housing NSW Office reduced to an out-reach service available 1 day per week in Richmond),
- lack of necessary infrastructure limits access to key services i.e no mains sewerage in many rural villages; limitations of roads & bridges – particularly during periods of flooding (e.g. North Richmond); congested regional roads in peak hours or poor connectivity (e.g. Richmond Road from Blacktown to Bells Line of Road); single line rail service on Richmond Line; no expansion capacity of existing infrastructure to support projected growth (particularly west of the Hawkesbury River) – water, electricity and other services,
- lack of, or poor connectivity of footpaths and cycle-ways limits sustainable means of accessing services or is a direct barrier to disadvantaged group (youth, seniors, families and people with a disability),
- increased costs of accessing essential services (particularly for low income earners) – water, electricity, and phone services.

Increasing costs to Local Councils (on fixed revenue base) to continue to meet community expectations for services – results in limited services available in the long term.

Question 9D

What future uses, activities and services should be grouped in and around centre?

Response: The appropriate balance and grouping of places or activities such as retail, commercial, residential, health, education, leisure, entertainment and community and personal services that fulfil day-to-day needs of the local community with the surrounding development predominantly characterized by varying types and scale of housing.

10 Implementation

Question 10A

What should be the key characteristics of an urban renewal authority (e.g. Sydney Metropolitan Development Authority)?

The integration of land use planning and provision of transport services and other infrastructure. Engagement with affected councils, stakeholders and communities in the development and delivery of urban renewal projects.

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Question 10B

What legislative and planning tools should be available to such an authority?

Legislation and planning tools that do not unfairly or unreasonably strip councils of their planning controls and that do not alienate the community. This will require inclusive and transparent provisions relating to the Authority's powers such as acquisition and rezoning of land, development approval processes, engagement with councils, stakeholders and the community, compliance with councils Community Strategic Plans and other key strategic documents.

Question 10C

What indicators should we use to measure the success of our Metropolitan Plan?

Response: Key indicators will need to be centred upon leadership, good governance, and effective working partnerships between all levels of government as these things will be required to create sustainable communities in Sydney towards 2036. In addition to jobs and housing, a new metropolitan strategy should contain timely targets for a range of services and facilities to meet the needs of residents and visitors such as community, cultural, recreational, sporting, health and educational services and facilities. This will assist in developing strongly connected, safe, sustainable, and healthy communities.

11 What else?

Question 11A

What top three issues or geographical areas should the next Metropolitan Plan particularly focus on? Why?

The integration of land use planning and provision of transport services and other infrastructure to service the existing and future population.

Sustainable population growth based on what the community, environment and the economy can tolerate as opposed to forecasting and accepting population growth based on historical growth rates.

Adaption to climate change.

Question 11B

Do you think the ten proposed directions above are the right way for Sydney to head towards 2036?

Generally, they represent a satisfactory response.

oooO END OF REPORT Oooo

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SUPPORT SERVICES

Item: 103 **SS - March 2010 Quarterly Review - 2009/2010 Management Plan - (95496, 96332, 107)**

Previous Item: 109, Extraordinary (16 June 2009)

REPORT:

Executive Summary

Within two months of the end of each quarter, Council is required to review progress in achieving the objectives set out in its Management Plan. This report and the relevant attachment provide information on Council's financial performance and financial position for the nine months ending 31 March 2010, and the resulting financial position including the budget variations proposed. The report and attachment provide details on the major budget variations proposed in this quarterly budget review and provide an itemised list of all variations requested. The attachment to this report also includes the quarterly operational plan review, providing an update on the achievement of Council's adopted targets for the 2009/2010 financial year.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

Background

Council adopted its Management Plan for 2009/2010 on 16 June 2009.

Section 407 of the Local Government Act 1993 requires the General Manager to report to Council the extent to which strategies set by the Council's current Management Plan have been achieved during that quarter.

The Quarterly Review for the quarter ending 30 September 2009 was adopted by Council on 24 November 2009. The Quarterly Review for the quarter ending 31 December 2009 was adopted by Council on 23 February 2010.

The March 2010 Quarterly Review has been prepared and is attached to this report as Attachment 1.

Financial Position

As part of the Management Plan review, Clause 203 of the Local Government (General) Regulation 2005 requires a revised estimate of the income and expenditure for the year.

The March 2010 review recommends budget adjustments that result in a balanced adjustment for the quarter, and in the opinion of the Responsible Accounting Officer, maintains a satisfactory short term financial position for Council.

The more significant items of the March 2010 review include:

- ***Interest Income – Favourable Variance \$250K***
(Adopted Management Plan –Part 2 – SS Pg 32)

The full year budget for interest earnings for 2009/2010 is \$1.4M. As at the end of March 2010, Council's earnings achieved the current full year budget of \$1.4M. This positive variance results from a combination

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of a variation in the capital invested and the interest rates movements. As at the end of the third quarter, Council has an investment portfolio of \$39.3M averaging earnings of 4.84%. A positive variance of \$250K is included in this review.

While this review was being prepared, the Reserve Bank raised the cash rate to 4.5% effective 7 May 2010.

Based on the interest rates currently being applied to Council's investment portfolio, it is expected that this positive variance will continue until the end of this financial year.

- **Rates Revenue – Favourable Variance \$111K**

(Adopted Management Plan –Part 2 – SS Pg 30)

A favourable budget variation is included in this review in respect of rating income. When the budget estimates for rating revenue are prepared they are based on the rateable property base at the time, allowing for growth. As the financial year progresses the number of ratepayers may vary due to new properties being added to the rateable property base and properties becoming non-rateable. As at the end of March 2010, rating revenue arising from the Residential Category exceeded the full year budget by \$22K. Rating revenue arising from the Farmland Category exceeded the full year budget by \$89K. Rating income from the Business Category is in line with the full year budget.

- **Advertising – Favourable Variance \$30K**

(Adopted Management Plan –Part 2 – SS Pg 2)

A favourable budget variation is included in this review for advertising expenditure. Council incurs advertising expenditure in respect of job vacancies, documents on public exhibition, tenders and other relevant communication and community consultation requirements. The full year budget for this expenditure item in 2009 /2010 is \$168K. As at the end of March 2010, \$82K was expended. Based on this trend and expected expenditure in the last quarter of the financial year, it is proposed to reduce this budget allocation by \$30K.

- **Computer Leases – Favourable Variance \$40K**

(Adopted Management Plan –Part 2 – SS Pg 39)

A favourable budget variation is included in this review in respect of computer leasing expenditure. Council leases the majority of computer equipment. This procurement approach results in Council always having up to date equipment, as well as avoiding large capital expenditures impacting a particular budget year. The lease payments commitments for the remaining months of the financial year have been assessed and it has been determined that the current budget allocation can be reduced by \$40K.

- **Parking Patrol – Net Favourable Variance \$43K**

(Adopted Management Plan –Part 2 – CP Pg 29)

During the first nine months of the financial year income generated from the Parking Patrol Program has been tracking positively against budget, with the trend expected to be sustained for the remaining months of the financial year. The additional income from fines is partially offset by additional fine processing costs incurred. Additional casual staff funding is also required to deliver additional programs. In this review it is proposed to increase the budgeted income by \$100K, with corresponding increases in expenditure of \$57K, resulting in a net favourable variance of \$43K.

- **Building Works Program – Favourable Variance \$13K**

(Adopted Management Plan –Part 2 – IS Various)

As part of Council's Building Maintenance Program a number of sites are identified each year to be painted. Painting of Council buildings is an outsourced activity. As a result of the tender prices being cheaper than estimated and budgeted, savings have been identified in this expenditure item. Partially offsetting these savings are some project costs for maintenance and capital works, estimated to exceed the budget allocation. The overall net result for building works is a favourable variation of \$13K.

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- **Transfer to Election Reserve – Unfavourable Variance \$66K**
(Adopted Management Plan –Part 2 – GM Pg 13)

As Council is aware, following the passing of Councillor Dr Rex Stubbs OAM, a By-Election is required and will be held on 19 June 2010.

Council elections are funded by an internally restricted reserve, the Election Reserve. An amount is set aside in each annual budget with the aim of the Reserve achieving a sufficient level of funding in line with the election cycle. As at the end of March 2010, the Election Reserve amounted to \$200K. A further \$100K is included in the Draft 2010/2011 Budget Estimates, currently on exhibition. These funds, in addition to the amount budgeted for 2011/2012 would bring the Election Reserve to \$400K in the Election Year.

The funding of the By-Election will impact the election funding plan as funds will be required to be utilised from the Election Reserve in the current year. In order to minimise the pressure on future years, an amount of \$66K is proposed to be transferred to the Election Reserve in this Review.

- **Australiana Pioneer Village – Unfavourable Variance \$110K**
(Adopted Management Plan – Not Budgeted)

At the meeting of 2 February 2010, Council considered a report regarding the Hawkesbury Heritage Farm (Australiana Pioneer Village). At that meeting Council resolved that a lease be granted to the Friends of the Australiana Pioneer Village Society Inc. Council also resolved that upon finalisation of the lease, Council agrees to contribute a “one off” amount of up to \$100K to reimburse the Friends for works undertaken. An unfavourable variation of \$100K is included in this review in line with this resolution. When considering this matter, Council also resolved that an annual amount of \$10K be contributed for the initial lease period of 5 years only to cover the cost of rates, charges, etc. As this amount is expected to be required in the current financial year, it has also been included as an unfavourable variation in this review.

- **Parks Maintenance – Unfavourable Variance \$145K**
(Adopted Management Plan –Part 2 – IS Pg 4)

In the 2009/2010 Adopted Management Plan, Council allocated \$845K for parks maintenance. As part of the December Quarterly Review, an adjustment of \$85K was included to increase the adopted budget for parks maintenance. Despite this adjustment, as at the end of the third quarter, parks operating expenses are trending to exceed Budget. Included in this review there are a number of unfavourable adjustments relating to parks maintenance expenses, offset by reductions or favourable income variations within the parks and recreation budgets, resulting in a net unfavourable variance of \$145K.

Parks maintenance costs have been monitored closely over the recent months. Whilst every effort has been made to limit costs, in order to maintain the current levels of service it is necessary to increase the parks operating expenditure budget as detailed in this review.

- **Family Day Care - Unfavourable Variance \$39K**
(Adopted Management Plan –Part 2 – CP Pg 2)

An unfavourable adjustment of \$39K is included in this review to fund the operating loss expected to result from the Family Day Care Program. A number of community services including aged care and child care services are provided by Council through Peppercorn Services Inc. When compared with the cost to Council to provide these services itself, the outsourcing to Peppercorn Services Inc is the most cost-effective alternative. Over the last two years, Peppercorn Services Inc. has been delivering quality community services to the Hawkesbury community with minimal impact on Council's resources. Peppercorn Services Inc is heavily reliant on grant funding and on the demand for services provided.

The Family Day Care Program has not been generating the desired level of income mainly due to the drop in service providers. The stringent requirements increasingly being imposed on family day care carers are making the family day care business a less attractive undertaking. While a financial contribution by Council is being proposed, it is to be noted that this contribution is far less than what it would cost Council should it take the delivery of the outsourced community services back under its management.

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- **Septic Tanks Inspection Fees – Unfavourable Variance \$40K**
(Adopted Management Plan –Part 2 – CP Pg 8)

An unfavourable adjustment is included in this review in respect of income generated through septic tanks inspections. As part of the December 2009 Quarterly Review, this income stream was reduced by \$30K. On reviewing the trend as at the end of the third quarter, it is expected that the adjusted budget income will not be achieved by the end of the financial year. The connection to the sewerage system in the Freemans Reach, Glossodia and Wilberforce areas will result in this income stream dropping further in the next financial year. This has been reflected in the 2010/2011 Draft Budget.

- **Plant Running Costs and Internal Hire Income – Net Unfavourable Variance \$54K**
(Adopted Management Plan –Part 2 – IS Pg 3, 29)

In order to ensure that adequate funding is available to deliver the Plant Replacement Program, appropriate plant hire charges are allocated to activities involving the use of Council's plant. The setting of the rate is based on the costs of running plant, changeover costs and usage rate. These rates are reviewed regularly. As at the end of the reporting period, the income generated through internal plant hire is trending to slightly exceed Budget. Offsetting this favourable trend is running costs exceeding Budget. Running costs include annual registration, insurance, fuel and maintenance costs. The net unfavourable variation included in this review is \$54K.

- **Grants**

A number of adjustments relating to grant funding received and not budgeted are included in this review. These adjustments have a nil effect on the Budget position. The major adjustments relating to grant funding are outlined below:

- Arts Funding Program Grant - \$100K
- Regional & Local Community Infrastructure (Round 2) Funding - \$360K
- NSW Department of Community Services Area Assistance Scheme 2009 - funds received by YMCA to partially fund the gym expansion at the Hawkesbury Leisure Centre - \$110K
- NSW Community Building Partnership Program - funds received by YMCA to partially fund the gym expansion at the Hawkesbury Leisure Centre - \$110K

Various other grants adjustments are detailed in the attachment.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Maintain and review sustainable long term financial framework

Funding

Funding and budget impacts have been specified within this report and attached review documentation.

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RECOMMENDATION:

That:

1. The information contained in the report on the 2009/2010 Management Plan – March 2010 Quarterly Review be received.
2. The Quarterly Review of the 2009/2010 Management Plan for the period ending 31 March 2010 be adopted.

ATTACHMENTS:

AT - 1 2009/2010 Management Plan Review – March 2010 Quarter - *(distributed under separate cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 25 May 2010**Item: 104 SS - Monthly Investments Report - April 2010 - (96332, 95496)**

Previous Item: 17, Ordinary (3 February 2009)
82, Ordinary (28 April 2009)

REPORT:**Executive Summary**

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

This report indicates that Council held \$38.05 million in investments at 30 April 2010.

It is recommended that this report be received and noted.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

Background

The following table indicates that Council held \$38.05 million in investments as at 30 April 2010. Details of the financial institutions with which the investments were made, date investments were taken out, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term and the percentage of the total portfolio, are provided below.

Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
On Call								
CBA	A1+	AA	30-Apr-10		4.75%	5,050,000	13.24%	5,050,000
Term Investments								
AMP	A1	A	20-Jan-10	21-Jan-11	6.86%	1,000,000	2.63%	
ANZ	A1+	AA	24-Mar-10	20-Oct-10	6.25%	1,000,000	2.63%	
ANZ	A1+	AA	25-Nov-09	24-Nov-10	6.00%	1,000,000	2.63%	
ANZ	A1+	AA	02-Sep-09	02-Sep-10	5.25%	2,000,000	5.26%	
ANZ	A1+	AA	10-Feb-10	11-Aug-10	6.20%	500,000	1.31%	
ANZ	A1+	AA	03-Mar-10	29-Nov-10	6.30%	2,000,000	5.26%	
Bank of Cyprus	Moody's P-1	A	02-Nov-09	27-Oct-10	5.70%	1,000,000	2.63%	
Bank of Queensland	A-2	BBB+	20-Jul-09	19-May-10	4.50%	1,000,000	2.63%	
Bankwest	A1+	AA	19-Aug-09	19-Aug-10	5.00%	1,000,000	2.63%	

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Investment Type	Institution Short Term Rating	Institution Long Term Rating	Lodgement Date	Maturity Date	Interest Rate %	Principal \$	Percentage of Portfolio	Total \$
Bendigo and Adelaide Bank	A-2	BBB+	09-Oct-09	13-Oct-10	5.30%	1,000,000	2.63%	
Citibank	A-1	A+	21-Apr-10	20-Jul-10	5.30%	1,000,000	2.63%	
Credit Union Australia	unrated	BBB	24-Mar-10	22-Jul-10	5.99%	1,000,000	2.63%	
Elders Rural Bank	A-2	BBB	15-Jun-09	15-Jun-10	4.64%	1,000,000	2.63%	
IMB	A-2	BBB	10-Feb-10	11-Aug-10	6.25%	1,000,000	2.63%	
Investec Bank	Moody's P-2	BBB	02-Sept-09	02-Sep-10	5.74%	1,000,000	2.63%	
Macquarie Bank	A-1	A	18-Jun-09	15-Jun-10	4.50%	1,000,000	2.63%	
Members Equity	A-2	BBB	03-Mar-10	02-Jun-10	5.75%	1,000,000	2.63%	
NAB	A1+	AA	08-Dec-09	08-Dec-10	6.80%	3,000,000	7.88%	
NAB	A1+	AA	03-Dec-09	03-Dec-10	6.80%	2,000,000	5.26%	
NAB	A1+	AA	02-Sep-09	04-Aug-10	5.20%	1,000,000	2.63%	
NAB	A1+	AA	24-Feb-10	26-May-10	5.32%	1,000,000	2.63%	
NAB	A1+	AA	25-Nov-09	26-May-10	5.50%	1,000,000	2.63%	
Newcastle Permanent	A-2	BBB+	18-Jun-09	15-Jun-10	4.55%	1,000,000	2.63%	
Qantas Staff Credit Union	unrated	unrated	27-Apr-10	25-Aug-10	6.15%	500,000	1.31%	
Suncorp	A-1	A	12-Jun-09	14-Jun-10	4.60%	1,000,000	2.63%	
Westpac	A1+	AA	20-Jan-10	21-Jul-10	6.20%	1,000,000	2.63%	
Westpac	A1+	AA	21-Dec-09	21-Dec-10	7.00%	3,000,000	7.88%	33,000,000
TOTAL INVESTMENT AS AT 30 APRIL 2010								38,050,000

	Bench Mark	Actual
Bench Mark - UBSA 90 Day Bank Bill Index	4.63%	5.86%
Bench Mark - 11am Cash Rate	4.25%	4.75%

Performance by Type

Category	Balance	Average Interest	Difference to Benchmark	Restriction Type	Amount
Cash at Call	5,050,000	4.75%	0.50%	External Restrictions -S94	6,037,656
Term Deposit	33,000,000	5.86%	1.23%	External Restrictions - Other	11,439,662
				Internal Restrictions	14,274,459
				Unrestricted	6,298,223
	38,050,000	5.71%	1.08%	Total	38,050,000

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The various sources of the restricted funds referred to in the above table are as follows:

External Restrictions – Section 94 Contributions

External Restrictions – Other (reserve details below)

- Waste Management
- Sewerage
- Unexpended Grants
- Stormwater Management

Internal Restrictions (reserve details below)

- Employees Leave Entitlements
- Election
- Information Technology
- Plant Replacement
- Infrastructure
- Property Development (currently negative balance)
- Risk Management
- Heritage
- Sullage
- Tip Remediation

With regard to the above details those funds subject to external restrictions **cannot** be utilised for any purpose other than that specified.

In respect of funds subject to internal restrictions, whilst it would “technically” be possible for these funds to be utilised for other purposes such a course of action, unless of a temporary internal loan basis, would not be recommended nor would it be “good business practice,” as these funds have been allocated for specific purposes (information technology, plant replacement, risk management, etc.) or to meet future known expenses that should be provided for on an ongoing basis (employee leave entitlements, election, etc.)

Funds referred to as “unrestricted” are, effectively, Council's daily operational funding for purposes such as the payment of salaries and wages, various works proposed or in progress as adopted in Council's budget, daily operational expenses, etc. These “unrestricted” funds could only be utilised for other purposes by the reduction of a corresponding amount from a service or provision already included within Council's adopted budget. The level of these funds also vary depending upon the business cycle in areas such as the payment of creditors, receipt of rate payments, capital works and/or purchases, etc.

Investment Commentary

The investment portfolio decreased by \$1.26 million for the month of April, 2010. During April, various income was received totalling \$3.14 million, including rate payments amounting to \$0.98 million, while payments to suppliers and staff costs amounted to \$4.36 million.

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

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

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

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"That:

- 1. In respect of Council funds invested with acknowledged tier one major Australian trading banks (ANZ, CBA, NAB and Westpac), that Council accept the coverage available, without cost, from the Federal Government's "Guarantee Scheme", and not optionally guarantee additional funds.*
- 2. Council's investments in other banking institutions, not referred to in 1 above, and authorised under the current Ministerial Investment Order and Council's Investment Policy, be limited to an amount equivalent to the level of funds that receive coverage under the Federal Government's "Guarantee Scheme" without additional cost to Council.*
- 3. All investments be made in accordance with Council's investment policy.*
- 4. Council receive a further report updating Council's Investment Policy following the release of new investment guidelines by the Department of Local Government."*

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

As at 30 April 2010, Council has invested \$14.5 million with 2nd tier financial institutions, noting that one of these institutions is a subsidiary of a major Australian trading bank. The investment of up to \$1 million with fifteen 2nd tier banks is entirely covered by the free Government Guarantee Scheme, and is in accordance with the revised Ministerial Investment Order, Council's Investment Policy, and Council's resolution at its meeting on 3 February 2009.

On 7 February 2010, the Federal Government announced its withdrawal of the Government Guarantee Scheme for Large Deposits and Wholesale Funding on 31 March 2010. Deposits already under the Guarantee will be grandfathered up to 2015. This will not affect Council's investments, as Council's investments with 2nd tier institutions do not exceed \$1million, and investments exceeding \$1million with the major banks are not guaranteed. The Financial Claims Scheme (the free guarantee of up to \$1million) still stands until its review in October 2011.

Effective from 4 May 2010, the Reserve Bank raised official interest rates by one quarter of one percent to a cash rate of 4.5%.

The Governor of the Reserve Bank of Australia released the following statement on monetary policy on 4 May 2010:

"At its meeting today, the Board decided to raise the cash rate by 25 basis points to 4.5 per cent, effective 5 May 2010.

Recently, forecasts for world GDP growth have been revised up again, and growth is expected to be at trend pace or a little above in 2010. Conditions in Europe remain quite weak, though recent data suggest growth is becoming more established in North America. In Asia, where financial sectors are not impaired, growth has continued to be strong, contributing to pressure on prices for raw materials. The authorities in several countries outside the major industrial economies have now started to reduce the degree of stimulus to their economies.

Global financial markets are functioning much better than they were a year ago, but sovereign risk concerns have escalated significantly in Europe over recent weeks. This has prompted additional efforts by policymakers to put fiscal policies onto a sounder footing and to provide support for Greece in the near term. To date, there has been very little contagion outside Europe.

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Australia's terms of trade are rising by more than earlier expected, and this year will probably regain the peak seen in 2008. This will add to incomes and foster a build-up in investment in the resources sector. Under these conditions, output growth over the year ahead is likely to exceed that seen last year, even though the effects of earlier expansionary policy measures will be diminishing. The process of business sector deleveraging is moderating, with business credit stabilising and indications that lenders are starting to become more willing to lend to some borrowers, though credit conditions for some sectors remain difficult. Credit outstanding for housing has been expanding at a solid pace. New loan approvals for housing have moderated over recent months as interest rates have risen and the impact of large grants to first-home buyers has tailed off. Nonetheless, at this point the market for established dwellings is still characterised by considerable buoyancy, with prices continuing to increase over recent months.

Recent data on inflation confirm that it has declined from its peak in 2008, helped by a noticeable slowing in private-sector labour costs during 2009, the rise in the exchange rate and the earlier period of slower growth in demand. In both underlying and CPI terms, inflation over the most recent 12 months was around 3 per cent. Nonetheless, the extent of decline from here may not be quite as much as earlier forecast and inflation now appears likely to be in the upper half of the target zone over the coming year.

With the risk of serious economic contraction in Australia having passed some time ago, the Board has been adjusting the cash rate towards levels that would be consistent with interest rates to borrowers being close to the average experience over the past decade or more. The Board expects that, as a result of today's decision, rates for most borrowers will be around average levels. This represents a significant adjustment from the very expansionary settings reached a year ago.

The Board will continue to assess prospects for demand and inflation, and set monetary policy as needed to achieve an average inflation rate of 2–3 per cent over time.”

Investment Certification

I, Emma Galea (Responsible Accounting Officer), hereby certify that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Be financially sustainable to meet the current and future needs of the community based on a diversified income base, affordable and viable services

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Maintain and review a sustainable long term financial framework

Financial Implications

Funds have been invested with the aim of achieving budgeted income in 2009/2010.

RECOMMENDATION:

The report regarding the monthly investments for April 2010 be received and noted.

ORDINARY MEETING

Meeting Date: 25 May 2010

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 25 May 2010

Item: 105

SS - 2010/2011 Remuneration for Councillors and Mayor - (95496, 96332)

REPORT:

Executive Summary

The Local Government Act 1993 (the Act) makes provision for the payment of fees to the Mayor and other Councillors. Payment is to be made in accordance with determinations of the Local Government Remuneration Tribunal (the Tribunal). The Tribunal, each year, sets the maximum and minimum amount of fees to be paid to Mayors and Councillors of Councils. The Tribunal has recently handed down its determination for 2010/2011 and this report recommends that Council set the maximum amount under the Tribunal's determination applicable to this Council.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

Background

The Local Government Remuneration Tribunal, pursuant to Section 239 of the Act is required to determine the categories of councils and mayoral offices at least once every three years. The Tribunal last undertook a fundamental review of the categories of councils in 2009. In undertaking that review, the Tribunal found that there was no strong case to significantly alter the current categories of councillor and mayoral offices, or to move individual councils between categories. While the groupings remained unchanged, the Tribunal decided to apply descriptive titles to the categories which more accurately reflect the nature of the differences between the various groups.

Accordingly, Category 3, the category in which Hawkesbury City Council fell, was renamed to Regional Rural. The next review of categories is scheduled to take place during the 2012 review.

With regard to fees for councillors and mayors, the Tribunal, pursuant to Section 241 of the Act, has recently determined the maximum and minimum amount of fees to be paid to mayors and councillors of councils, as well as chairpersons and members of county councils, during the period from 1 July 2010 to 30 June 2011.

The Tribunal's review had regard to issues raised in submissions made by the Local Government and Shires Associations and individual councils including that made by Hawkesbury City Council. The submissions addressed a number of issues including integrated planning and reporting reform; planning reforms, including the Joint Regional Planning Panels; interstate comparisons; categorisation; workload and attracting high quality candidates to nominate for election to local government.

Following the review, the Tribunal considered that an increase of 3% in the fees for councillors and mayors was appropriate.

Accordingly, the Tribunal has determined that the annual fees to be paid for the period from 1 July 2010 to 30 June 2011 for a Regional Rural Council (which includes Hawkesbury City Council) are as follows:

	Councillor Annual Fee		Mayor Additional Fee	
	Minimum	Maximum	Minimum	Maximum
Regional Rural	\$7,250.00	\$15,970.00	\$15,430.00	\$34,860.00

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In the past it has been the practice for Council to pay the maximum fee and the following table depicts the annual and monthly payments that will be paid to Councillors, the Mayor and the Deputy Mayor if the practice is maintained. The Deputy Mayor's fee has been maintained at 15% of the Mayoral fee.

	Councillors Fees		Mayor / Deputy Mayor *		Maximum Total	
	Maximum - Annual	Maximum - Monthly	Maximum - Annual	Maximum - Monthly	Annual	Monthly
Councillors	\$15,970.00	\$1,330.83			\$15,970.00	\$1,330.83
Mayor	\$15,970.00	\$1,330.83	\$34,860.00 Less \$5,229.00	\$2,469.25	\$45,601.00	\$3,800.08
Deputy Mayor	\$15,970.00	\$1,330.83	\$5,229.00	\$435.75	\$21,199.00	\$1,766.58

Note: * It should be noted that pursuant to Section 249 of the Act, the fee paid to the Mayor and Deputy Mayor, is paid in addition to the fee paid to the Mayor and Deputy Mayor as a Councillor.

The current fees for Councillors and the Mayor are \$15,500.00 and \$33,840.00, respectively, with an additional fee of \$5,076.00 being paid to the Deputy Mayor and deducted from the Mayor's fees.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Have a transparent, accountable and respected leadership and an engaged community

Financial Implications

Councillor and Mayoral fees have been provided for in Component 69 - Elected Members of the 2010/2011 Draft Budget.

RECOMMENDATION:

That:

1. The annual fee for Councillors for 2010/2011 be set at \$15,970.00.
2. The additional annual fee for the Mayor be set at \$34,860.00, and the Deputy Mayor's additional annual fee be set at \$5,229.00 to be deducted from the Mayor's annual fee.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 25 May 2010

Item: 106 SS - Pecuniary Interest Returns - (79337, 95496)

REPORT:

Executive Summary

The Local Government Act, 1993 details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Returns by Councillors and Designated Persons. This Report provides information regarding a Return recently lodged with the General Manager by a Designated Person. It is recommended that Council note that the Disclosure of Pecuniary Interests and Other Matters Return lodged with the General Manager has been tabled in accordance with the Local Government Act.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy.

Background

Section 450A of the Local Government Act, 1993 relates to the register of Pecuniary Interest Returns and the tabling of these Returns, which have been lodged by Councillors and Designated Persons. Section 450A of the Act is as follows:

"450A Register and tabling of returns:

1. *The general manager must keep a register of returns required to be lodged with the general manager under section 449.*
2. *Returns required to be lodged with the general manager under section 449 must be tabled at a meeting of the council, being:*
 - (a) *in the case of a return lodged in accordance with section 449 (1)—the first meeting held after the last day for lodgement under that subsection, or*
 - (b) *in the case of a return lodged in accordance with section 449 (3)—the first meeting held after the last day for lodgement under that subsection, or*
 - (c) *in the case of a return otherwise lodged with the general manager—the first meeting after lodgement."*

With regard to Section 450A(1), a register of all Returns lodged by Councillors and Designated Persons in accordance with Section 449 of the Act is currently kept by Council as required by this part of the Act.

With regard to Section 450A(2), all Returns lodged by Councillors and Designated Persons under Section 449 of the Act must be tabled at a Council Meeting as outlined in Sections 450A(2)(a), (b) and (c) above.

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

Position	Return Date	Date Lodged
Senior Strategic Land Use Planner	22/2/2010	23/4/2010

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

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

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Have transparent, accountable and respected leadership and an engaged community and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:
- Have ongoing engagement and communication with our community, governments and industries.

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

The report regarding Pecuniary Interest Returns be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 25 May 2010

Item: 107 SS - Code of Meeting Practice - Questions Without Notice - (95496, 79337)

Previous Item: 11, Ordinary (2 February 2010)
210, Ordinary (29 September 2009)
123, Ordinary (30 June 2009)
NM, Ordinary (12 May 2009)
201, Ordinary (28 June 2005)
62, Ordinary (9 November 2004)

REPORT:

Executive Summary

Council adopted a revised Code of Meeting Practice on 29 September 2009 which became effective from 10 November 2009. The review highlighted an apparent inconsistency between Council's adopted Code and the Local Government Act (LGA) and its Regulations in relation to the agenda item, for Council's Ordinary Meetings, "Questions Without Notice". Council, following legal advice, resolved to make representations to retain this practice. The Division of Local Government, Department of Premier and Cabinet (DLG) has responded confirming that "Questions Without Notice" is inconsistent with the Regulations and that the LGA prevents Council from including it in its Code. In light of the advice, this report recommends a hybrid practice consistent with the LGA and its Regulations allowing Councillors to raise questions at a Council Meeting as suggested by the DLG.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. However, prior to adopting an amended Code of Meeting Practice, unless the amendments are not substantial, Council is required to prepare a Draft Code of Meeting Practice for public exhibition (Section 361 of the LGA). The exhibition period must not be less than 28 days.

In this regard, the proposed amendments are considered to be not substantial, as they reflect required legislative compliance, and public exhibition is not recommended.

Background

Following a review process, Council adopted a revised Code of Meeting Practice on 29 September 2009 which became effective from 10 November 2009. As a result of the review process, some debate was generated as to the legalities of having "Questions Without Notice" as an agenda item for Council's Ordinary Meetings following advice from the DLG that this was not consistent with the legislation.

Following consideration of amendments to the Council's Code of Meeting Practice, Council resolved to seek legal advice as to whether the asking of questions seeking information and answering of those questions by councillors or staff constitutes transaction of business in the terms of Section 241 of the Local Government (General) Regulation 2005. Legal advice was sought on 29 October 2009 and received by letter dated 16 December 2009. The legal advice supported the views expressed by the then Department of Local Government in its updated Practice Note 16 – Meetings Practice issued in August 2009. The legal advice in relation to having Questions Without Notice as an agenda item concludes by stating:

"Whilst it may have been the practice of some councils in the past to have an agenda item for 'Questions Without Notice' we agree with the view expressed by the Division of Local Government, Department of Premier and Cabinet in Practice Note 16 that having such an agenda item is inconsistent with the provisions of the Regulations and is likely to constitute a breach of the LG Act in respect of which any person may bring proceedings in the Land and Environment Court to remedy or restrain (see section 674 of the LG Act)."

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Council considered the legal advice (see report attached as Attachment 1) and at its meeting of 2 February 2010 resolved as follows:

"That:

1. *Reference to Questions Without Notice remain in Council's Code of Meeting Practice.*
2. *Council make representations to the Director General of the Division of Local Government and the Minister for Local Government indicating that Council believes that Questions Without Notice should remain as part of Council's meeting practice and present details in support of such a position.*
3. *Council seek support from its Local State Members of Parliament."*

In accordance with Council's resolution, representations were made to the various persons mentioned in the resolution.

By letter date 16 April 2010, the Chief Executive, Local Government (a Division of the Department of Premier and Cabinet) responded on behalf of the Minister for Local Government and the Director General of the Department of Premier and Cabinet. A copy of that letter is attached as Attachment 2 to this report.

The response maintains the view that having an agenda item "Questions Without Notice" is inconsistent with the provisions of the Local Government (General) Regulation 2005. It concludes with the following advice:

"As it is considered that having an agenda item "Questions Without Notice" is inconsistent with clause 241(1) of the Regulation (clause 1.4.11 of the Practice Note), it follows that section 360 of the Act would operate to prevent a council from including in its code of meeting practice a provision authorising such an agenda item for its meetings."

Suggested Approach

In light of the various professional advices received by Council on this matter, it is clear that "Questions Without Notice" irrespective of the arguments in support of such a practice, is, in essence, unlawful. Even if Council does not delete the provision from the Code, the operation of Section 360 of the LGA would have that effect. As such Council is prevented from including it in its Code of Meeting Practice.

Previously, it was reported that the advice in the Practice Note in relation to this issue is that:

- Councillors may ask questions during the meeting on matters on the business paper as outlined in the Code (see 3.2.7 and 3.3.6 of Council's Code);
- Councillors can ask questions of the General Manager using the "questions with notice" provisions of the Code including appropriate notice (see 3.3.7 of Council's Code);
- A matter not on the business paper may be dealt with where the matter is ruled by the chairperson to be of great urgency but only after a motion is passed to allow this particular business to be dealt with (see 2.2.3 (3) of Council's Code).

In addition, as previously reported, for operational matters Councillors may utilise existing protocols and contacting the General Manager or relevant Director for a response. It should be also noted that Council is investigating an electronic Customer Request Management System which may also be utilised by Councillors to lodge enquiries, questions and the like.

In view of the various advices now received it would appear that Council should now formally dispense with the Questions Without Notice item of the Council Meeting, and, as such, could resolve that the Code of Meeting Practice be amended as follows:

- In Clause 2.3.4 - delete sub clause 4) – tabling of Documents during question time.
- In Clause 2.3.6 - "Order of Business" - delete Item 12) "Councillors' Questions without Notice".

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Such amendments are not required to be publicly exhibited as they are amendments required to bring the Code in line with legislative requirements.

The Departmental response offers a further suggestion and states:

"...Council may wish to consider adopting a practice where councillors, just prior to the end of an open council meeting, are given an opportunity to raise questions on the understanding that the answers will be provided at the following meeting.

Such questions should be recorded in the minutes of the meeting. This could be formalised by way of an agenda item "Questions for Next Meeting". This would constitute notice of the question for the following meeting, provided that there is sufficient time between the two meetings to meet the notice requirements of clause 241 of the Regulation."

In terms of the suggestion to introduce an agenda item "Questions for Next Meeting", a practical way this would work would be for Councillors at the Council Meeting to raise their questions, these would be noted in the minutes and a formal response would be provided in the Business Paper for the next meeting, if timing permitted. In cases where business paper deadlines do not make it possible to have a formal written response to the questions at the next meeting, a response would be provided at the meeting after. In cases where a response cannot be provided within two meetings, a response outlining why the question cannot be answered and an anticipated timeframe for the response will be provided.

On the basis of Council's previous discussions and resolution to lobby for the continuation of "Questions Without Notice", it would seem that the DLG's suggestion for an agenda item "Questions for Next Meeting" is a reasonable solution and is proposed. The proposal would be effected by the inclusion of a new clause 3.3.12 titled "Questions For Next Meeting" which would read as follows:

"3.3.12 Questions For Next Meeting"

1. *At all Council meetings, each Councillor may ask questions for the next Council meeting under the segment of the business paper designated for that purpose. The Mayor or Chairperson of the meeting may exercise discretion in limiting questions or ruling any question out of order.*
2. *Questions for the next meeting should relate to questions concerning items not on the business paper of the Meeting where the question is raised.*
3. *The chairperson must not permit discussion or any reply to a question under this clause.*
4. *Councillor questions for the next meeting and responses shall be included on the next Council Meeting's business paper or, if this is not possible, the one following the next or an explanation given as to the reasons for delay and anticipated time of final response.*
5. *These questions and subsequent reports responding to the questions are not subject to discussion, debate or public address at the meeting asked and/or answered.*
6. *This clause does not apply to an extraordinary meeting of the Council.*
7. *Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting."*

A consequential amendment would be required to the order of business for Ordinary Meetings. In this regard it is proposed that Item 12 of Clause 2.3.6 - "Order of Business" would be amended to read "Questions For Next Meeting" in lieu of "Questions Without Notice". This would mean that the last agenda item of the Ordinary Council Meeting prior to reports proposed to be discussed in Confidential Session, would have Councillors ask questions as is now the case with the exception that there will be no responses to those questions until the following meeting if possible.

Section 362(2) of the LGA requires proposed amendments to Council's Code of Meeting Practice be publicly exhibited prior to adoption, unless the Council is of the opinion that the amendments are not substantial.

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It is considered that the proposed amendments to the Code of Meeting Practice are not substantial as they mainly reflect amendments which are compulsory to bring it in line with the Regulations, and provide a minor variation to the Questions With Notice item.

It is, therefore, considered that public exhibition of the amended Code of Meeting Practice is not required.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping Our Future Together Directions statement;

- Have transparent, accountable and respected leadership and an engaged community.

and is also consistent with (or is a nominated) strategy in the Community Strategic Plan being:

- Have ongoing engagement and communication with our community, governments and industries.

Financial Implications

No financial implications applicable to this report.

RECOMMENDATION:

That:

1. The Code of Meeting Practice be amended as follows:

- a. Delete reference to Questions Without Notice as follows:

- i. Delete sub clause 4) (Tabling of Documents During Question Time) of Clause 2.3.4.
- ii. Delete Item 12 (Councillors' Questions Without Notice) of Clause 2.3.6 - Order of Business.

- b. Insert reference to Questions For Next Meeting as follows:

- i. Add Clause 3.3.12 as follows:

"3.3.12 Questions For Next Meeting

1. *At all Council meetings, each Councillor may ask questions for the next Council meeting under the segment of the business paper designated for that purpose. The Mayor or Chairperson of the meeting may exercise discretion in limiting questions or ruling any question out of order.*
2. *Questions for the next meeting should relate to questions concerning items not on the business paper of the Meeting where the question is raised.*
3. *The chairperson must not permit discussion or any reply to a question under this clause.*
4. *Councillor questions for the next meeting and responses shall be included on the next Council Meeting's business paper or, if this is not possible, the one following the next or an explanation given as to the reasons for delay and anticipated time of final response.*
5. *These questions and subsequent reports responding to the questions are not subject to discussion, debate or public address at the meeting asked and/or answered.*
6. *This clause does not apply to an extraordinary meeting of the Council.*
7. *Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting."*

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- ii. Reword Item 12 of Clause 2.3.6 - "Order of Business" to read "Questions For Next Meeting" in lieu of "Questions Without Notice".
2. As the amendments to the Code of Meeting Practice are not substantial, the changes not be advertised and the amended Code of Meeting Practice be adopted from the date of this meeting.

ATTACHMENTS:

- AT - 1** Report to Council of 2 February 2010: SS - Code of Meeting Practice - Questions Without Notice - (79337)
- AT – 2** Response from the Department of Premier and Cabinet dated 16 April 2010.

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AT - 1 Report to Council of 2 February 2010: SS - Code of Meeting Practice - Questions Without Notice - (79337)

ITEM: Business Paper - Ordinary Meeting Agenda - 25 May 2010

Previous Item: 210, Ordinary (29 September 2009)
123, Ordinary (30 June 2009)
NM, Ordinary (12 May 2009)
201, Ordinary (28 June 2005)
62, Ordinary (9 November 2004)

REPORT:

Council, at its meeting of 29 September 2009, in relation to its review of the Code of Meeting Practice, resolved in part:

"That:

- 1. In Council's view the amendments, other than that relating to the proposal to discontinue "Questions Without Notice", made since exhibition of Council's Draft Code of Meeting Practice are not substantial and accordingly, but for that one exception, they may be adopted without further exhibition.*
- 2. The sections of the existing Code of Meeting Practice relating to "Questions Without Notice" be retained in the Revised Code on an interim basis.*
- 3. The Revised Draft Code of Meeting Practice, as exhibited and amended by this resolution be adopted by Council.*
- 4. The Revised Code of Meeting Practice as amended take effect from 10 November 2009.*
- 5. In Council's view, the practice of "Questions Without Notice" does not constitute transacting business in the terms of Section 241 of the Local Government (General) Regulation 2005, as no resolutions of Council are made by means of that practice, unless through the moving of a motion of urgency as provided for in Section 241 (3).*
- 6. Council obtain legal advice as to whether the asking of questions seeking information and answering of those questions by councillors or staff constitutes transaction of business in the terms of Section 241 of the Local Government (General) Regulation 2005.*
- 7. In the event that legal advice supports the view that "Questions Without Notice" are not inconsistent with Section 241 of the Local Government (General) Regulation 2005, Council write to the Minister for Local Government conveying that advice and stating its view that "Questions Without Notice" are an important dimension of councillors' role on behalf of the community and the Department's Practice Note No. 16 should be amended to permit the continuation of such questions with appropriate procedural conditions."*

In relation to point 6 above, legal advice was sought from Marsdens Law Group, and a copy of the legal advice, received by letter dated 16 December 2009, is attached as Attachment 1 to this report.

The legal advice supports the views expressed by the then Department of Local Government in its updated Practice Note 16 – Meetings Practice, issued in August 2009. The legal advice, in relation to having Questions on Notice as an agenda item, concludes by stating:

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“Whilst it may have been the practice of some councils in the past to have an agenda item for ‘Questions Without Notice’ we agree with the view expressed by the Division of Local Government, Department of Premier and Cabinet in Practice Note 16 that having such an agenda item is inconsistent with the provisions of the Regulations and is likely to constitute a breach of the LG Act in respect of which any person may bring proceedings in the Land and Environment Court to remedy or restrain (see section 674 of the LG Act).”

As previously reported, under Section 360(2) of the Local Government Act, 1993 (the Act), Council may establish a Code of Meeting Practice. The Code must incorporate meeting procedures set out in the Act, and Local Government (General) Regulation 2005, and can incorporate local provisions. However, in adopting local provisions, the Code must be consistent with the relevant legislative provisions.

Accordingly, the Code of Meeting Practice meets the above requirements, except in respect of the issue of “Questions Without Notice”. The advice in the Practice Note, in relation to this issue, is that:

- Councillors may ask questions during the meeting on matters on the business paper, as outlined in the Code;
- Councillors can ask questions of the General Manager using the “questions on notice” provisions of the Code, including appropriate notice;
- A matter, not on the business paper, may be dealt with where the matter is ruled by the Chairperson to be of great urgency, but only after a motion is passed to allow this particular business to be dealt with.

In addition, and as previously mentioned for operational matters, Councillors may utilise existing protocols, and contact the General Manager or relevant Director for a response. Council is investigating upgrading the electronic Customer Request Management System which may also be utilised by Councillors to lodge enquiries, questions and the like.

In light of the legal advice and the advice contained within the Practice Note, it is suggested that the Code of Meeting Practice be amended to delete reference to “Questions Without Notice”, by making the following changes:

- In Clause 2.3.4 - delete sub clause 4 – Tabling of Documents during question time.
- In Clause 2.3.6 - “Order of Business” - delete Item 12 “Councillors’ Questions without Notice”, and renumber remainder.

Such amendments are not required to be publicly exhibited as they are amendments required to bring the Code in line with legislative requirements.

It is pointed out that these changes are only being recommended to ensure that Council's Code meets legislative requirements and the Practice Note issued by the Division of Local Government.

Conformance to Strategic Plan

The proposal is consistent with the *Shaping our future together* Directions statement;

“Have transparent, accountable and respected leadership and an engaged community.”

and is also consistent with the strategy in the Community Strategic Plan being:

“Having ongoing engagement and communication with our community, *governments and industries.*”

Funding

Not applicable.

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RECOMMENDATION:

That Council's Code of Meeting Practice be amended to delete references to "Questions Without Notice", by deleting Sub-Clause 4 of Clause 2.3.4, and Item 12. "Councillors' Questions Without Notice" in Clause 2.3.6.

ATTACHMENTS:

AT - 1 Legal advice received from Marsdens Law Group dated 16 December 2009.

ORDINARY MEETING

Meeting Date: 25 May 2010

AT - 1 Legal advice received from Marsdens Law Group dated 16 December 2009

Our Ref: 58 34 8250:tb
Contact: Adam Seton
Contact Tel: 4626 5077
Contact Email: aseton@marsdens.net.au

Your Ref: Fausto Sut

The General Manager
Hawkesbury City Council
DX 8601 WINDSOR



ABN 59 874 202 316

All correspondence to
PO Box 291
Campbelltown NSW 2560
DX 5107 Campbelltown

www.marsdens.net.au
email@marsdens.net.au

16 December 2009

Dear Sir,

Re: Questions without Notice on Council Meeting Agenda

We refer to your letter dated 29 October 2009 and the email from Fausto Sut of Council dated 5 November 2009 and note that Council seeks our advice as to whether having an agenda item on Council's business papers for "Questions without Notice" is inconsistent with the provisions of the Local Government Act 1993 and the Local Government (General) Regulation 2005 and in particular whether the asking of questions by Councillors seeking information from staff or other Councillors constitutes the transaction of business in the terms of Clause 241 of the Local Government (General) Regulation 2005.

BACKGROUND

On 31 August 2009 the Division of Local Government, Department of Premier and Cabinet published a revised and updated version of Practice Note 16 - Meetings Practice. In the circular accompanying the revised Practice Note (circular No 09/32) the Deputy Director General (Local Government) relevantly states:

"The Practice Note was developed to help councillors and staff conduct council meetings in accordance with best practice standards.

The Practice Note explains the provisions of the Local Government Act 1993 and the Local Government (General) Regulation 2005 as they relate to council meetings and decision-making processes.

It is a general guide to council meetings and provides the answers to frequently asked questions."

The revised version of the Practice Note relevantly states in the last two paragraphs of the Introduction:

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AGENTS IN VICTORIA, QUEENSLAND AND AUSTRALIAN CAPITAL TERRITORY

Partners
J H Marsden
J B Adam
K J Searle
A I Percival
A J Seton
E M White
D R Baird
P J Crittenden
T C Reeve
G P Butterfield
J Bonura
J T Henshaw
J J Tunks
Consultant
R H Norwood
Senior Associates
P D Hudson
N M Youssef
J R Thornton
Associates
D A Vardy
C R McElroy
T M Danjoux
A E Hayward
S A Rocha
N Kallipolitis
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Re: Questions without Notice on Council Meeting Agenda

16 December 2009

"Local councils are largely independent bodies, mainly responsible to their residents and ratepayers (rather than to the Minister for Local Government or the Division of Local Government, Department of Premier and Cabinet), for the way in which they operate. This includes the running of meetings. It is not the role of the Minister or the Division to direct councils on the day-to-day administration of their affairs."

This Practice Note has been made as a guide for councils, councillors and members of the public. It does not give legal advice. You should seek your own legal advice on issues of concern."

On page 7 of the Practice Note it is stated:

"1.4.11 Is it appropriate to have as an agenda item "Questions Without Notice"?"

Having an agenda item, "questions without notice" is inconsistent with the provisions of the Regulation that require notice to be given of matters to be discussed at council meetings (cl 241).

Allowing questions without notice would avoid the notice provisions of clause 241 of the Regulation. That clause enables all councillors and the public to be aware, by reading the agenda, of matters that will be raised at each meeting. It also enables councillors to give careful thought to any pecuniary interest or conflict of interest they might have in a matter, rather than having to hastily confront an issue during the meeting.

However, questions can be proposed by giving notice to the general manager in the usual way (see 1.4.10) and can be asked during the meeting in relation to business already before council (see 2.5). If the matter is genuinely urgent, and the matter is not on the agenda, it could be dealt with under clause 241(3) of the Regulation. For information relating to asking questions about matters on the agenda during the meeting, see 2.5 of this Practice Note."

Advice

As noted above Practice Note 16 - Meetings Practice of August 2009 is a "general guide to council meetings" and is not a guideline adopted by the Director-General under section 23A of the Local Government Act 1993 ("LG Act") relating to the exercise by a council of its functions which the council is compelled to take into consideration before exercising any of its functions.

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However, given that the Practice Note sets out the views of the Division of Local Government, Department of Premier and Cabinet in relation to requirements for council meetings it would be prudent for a council to have regard to the views expressed in the Practice Note.

A council must comply with the provisions of the LG Act and the Local Government (General) Regulation 2005 ("the Regulation") in respect of the conduct of council meetings. The Regulation makes provision with respect to the conduct of meetings of councils and committees of councils of which all the members are councillors. In that regard a council may adopt a code of meeting practice that incorporates the provisions of the Regulation and supplements the provisions of the Regulation with provisions that are not inconsistent with them.

Clause 241 of the Regulation relevantly provides as follows:

"241 Giving notice of business

(1) A council must not transact business at a meeting of the council:

(a) unless a councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and

(b) unless notice of the business has been sent to the councillors in accordance with section 367 of the Act.

(2) Subclause (1) does not apply to the consideration of business at a meeting if the business:

(a) is already before, or directly relates to a matter that is already before, the council, or

(b) is the election of a chairperson to preside at the meeting as provided by clause 236(1), or

(c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or

(d) is a motion for the adoption of recommendations of a committee of the council.

(3) Despite subclause (1), business may be transacted at a meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:

(a) a motion is passed to have the business transacted at the meeting, and

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Re: Questions without Notice on Council Meeting Agenda

16 December 2009

(b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice.

(4) Despite clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put."

There is no definition of the term "business" in the LG Act or the Regulation. Accordingly, that term must be given its ordinary and natural meaning in the context in which it appears. In our view "business" would include the asking of any question by a councillor to another councillor or employee of council either with or without notice. If questions are asked at a Council meeting the Council is transacting its business irrespective of whether the questions are answered or result in a resolution being made.

In our view, the effect of clause 241 of the Regulation is that an item of business, which would include a question sought to be put by a councillor to another councillor or employee of the council (through the general manager), cannot be transacted unless notice of that business in writing has been given by the councillor to the general manager within such time before the meeting as is fixed by the council's code of meeting practice. The only exceptions to this rule are where:

- the question sought to be put directly relates to a matter that is already before the council, or
- the question sought to be put is a matter or topic put to the meeting by the chairperson in accordance with clause 243, (i.e. a mayoral minute) or
- a motion is passed to have allow the question to be put at the meeting and the question is ruled by the chairperson to be of great urgency.

Support for the proposition that a question sought to be put by a councillor to another councillor or employee of the council (through the general manager), cannot be transacted unless notice of that business in writing has been given by the councillor to the general manager within such time before the meeting as is fixed by the council's code of meeting practice is found in clause 249 of the Regulation which allows a councillor to put a question to another councillor or employee of council but provides that the councillor or council employee to whom a question is put is entitled to be given "reasonable notice" of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.

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Meeting Date: 25 May 2010

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Re: Questions without Notice on Council Meeting Agenda

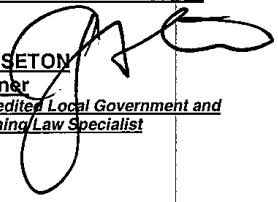
16 December 2009

Whilst it may have been the practice of some councils in the past to have an agenda item for "Questions Without Notice" we agree with the view expressed by the Division of Local Government, Department of Premier and Cabinet in Practice Note 16 that having such an agenda item is inconsistent with the provisions of the Regulation and is likely to constitute a breach of the LG Act in respect of which any person may bring proceedings in the Land and Environment Court to remedy or restrain (see section 674 of the LG Act).

We trust that the above advice is of assistance. Please do not hesitate to contact Adam Seton at our office if you wish to discuss the advice or require further advice

Yours faithfully

MARSDENS LAW GROUP


A.J. SETON
Partner
*Accredited Local Government and
Planning Law Specialist*

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ORDINARY MEETING

Meeting Date: 25 May 2010

AT – 2 Response from the Department of Premier and Cabinet dated 16 April 2010

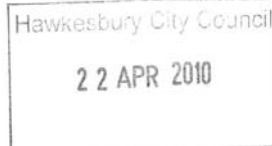


Department of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

OUR REFERENCE
YOUR REFERENCE
CONTACT

A208742
Mr P Jackson
Susan Hartley
4428 4214

Mr Peter Jackson
General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756



Dear Mr Jackson

I am writing in reply to your letters of 26 February 2010 to the Minister for Local Government, the Hon Barbara Perry MP, and to the Director General of the Department of Premier and Cabinet, Mr Brendan O'Reilly, regarding the Division of Local Government's recently revised Meetings Practice Note. The Minister and the Director General of the Department of Premier and Cabinet have requested that I respond to you on their behalf.

I note that Council has requested a review of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005*, and the Meetings Practice Note with a view to allowing questions without notice to be retained as an agenda item at council meetings.

I understand from your correspondence that, at its meeting of 2 February 2010, Council resolved to retain "Questions Without Notice" in its code of meetings practice and to make representations on this issue.

At the outset, I should mention that the Meetings Practice Note is designed to assist councils in running their meetings. It provides answers to questions commonly asked of the Division of Local Government in regard to meetings. While the answers do not constitute legal advice, they state what the Division of Local Government considers is better practice in the conduct of meetings within the legislative framework of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

For your information, following a comprehensive review of the Meetings Practice Note by the Division of Local Government, clause 1.4.11 was inserted into the Note. The Clause provides, among other things, that having an agenda item "questions without notice" is inconsistent with the provisions of the Regulation. The clause was inserted for the following reasons.

Clause 241(1) of the Regulation provides that a council may not transact business at a council meeting unless written notice of the business had been given within the required time and notice has been sent to all councillors. Certain exceptions are provided for in clauses 241(2) and 241(3).

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SCANNED



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The purpose of clause 241(1) is to promote openness and transparency in local government in accordance with the objectives of the Act. The clause seeks to achieve this by ensuring that all councillors and the public will be aware of all matters that will be raised at each council meeting.

While Hawkesbury City Council's concerns have been noted, it is considered that the removal of an agenda item "Questions Without Notice" from a council's Code of Meetings Practice will not constrain councillors in asking questions at meetings nor will it stifle debate.

To the contrary, clause 1.4.11 of the Meetings Practice Note ensures that the process of asking questions is consistent across the State and that questions, when asked, are appropriately recorded and responded to.

The Meetings Practice Note provides, at clause 1.4.10, that it is acceptable to have as an agenda item "Questions on Notice". Such an item would allow councillors to provide questions to the General Manager for inclusion on the agenda for the next council meeting.

Further, Council may wish to consider adopting a practice where councillors, just prior to the end of an open council meeting, are given an opportunity to raise questions on the understanding that the answers will be provided at the following meeting.

Such questions should be recorded in the minutes of the meeting. This could be formalised by way of an agenda item "Questions for Next Meeting". This would constitute a means of giving notice of the question for the following meeting, provided that there is sufficient time between the two meetings to meet the notice requirements of clause 241 of the Regulation.

It is also important to clarify that councillors are always at liberty to ask a question without notice of another councillor or the General Manager about a matter on the meeting agenda during the debate of that matter.

Also, clause 1.4.11 of the Practice Note provides that if the subject matter of a question from a councillor is genuinely urgent and the question does not relate to an agenda item then, in those circumstances, the councillor could still raise the issue in accordance with clause 241(3) of the Regulation. This clause allows a matter to be raised before council, despite due notice not having been given, if:

- a motion is passed to have the matter brought before the meeting, and
- the matter proposed to be brought forward is ruled by the chairperson to be of great urgency.

As you are aware, the conduct of council meetings is governed by the Act, the Regulation and a council's own code of meeting practice. Section 360 of the Act provides that a council may adopt a code of meeting practice that incorporates those provisions of the Regulation that govern the conduct of meetings and that supplements the Regulation with provisions that are not inconsistent with them.

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As it is considered that having an agenda item "Questions Without Notice" is inconsistent with clause 241(1) of the Regulation (clause 1.4.11 of the Practice Note), it follows that section 360 of the Act would operate to prevent a council from including in its code of meeting practice a provision authorising such an agenda item for its meetings.

I trust this information is of assistance.

Yours sincerely



Ross Woodward
Chief Executive, Local Government
A Division of the Department of Premier and Cabinet

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 25 May 2010

CONFIDENTIAL REPORTS

GENERAL MANAGER

**Item: 108 GM - United Independent Pools/Westpool - Tenders for Service Provider -
(106190, 79426, 79351) 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)(d) of the Act as it relates to tenders for service providers to United Independent Pools/Westpool and the information is regarded as being commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it, confer a commercial advantage on a competitor of the Council, or reveal a trade secret and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ORDINARY MEETING

Meeting Date: 25 May 2010

INFRASTRUCTURE SERVICES

Item: 109 IS - Tender No.01210 - South Windsor Recycled Water Scheme - (95495, 79357)
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 tenders for the supply of goods and/or services to Council and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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

ORDINARY MEETING

Meeting Date: 25 May 2010

Item: 110 IS - Tender No. 01710 - Construction of the Thorley Street Flood Evacuation Route, Bligh Park - (95495) **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 tenders for the supply of goods and/or services to Council and it is considered that the release of the information would, if disclosed, confer a commercial advantage on a person or organisation with whom the council is conducting (or proposes to conduct) business and, therefore, if considered in an open meeting would, on balance, be contrary to the public interest.

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



ordinary
meeting

end of
business
paper

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