



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 28 August 2012

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 generally held on the second Tuesday of each month (except January), and the last Tuesday of each month (except December), meeting dates are listed on Council's website. 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 also be held on a Tuesday and 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 items 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 by 3:00pm on the day of the meeting, of those items they wish to discuss. A list of items for discussion will be displayed at the meeting for the public to view.

At the appropriate stage of the meeting, the Chairperson will move for all those items which have not been listed for discussion (or have registered speakers from the public) to be adopted on block. 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 an item raised in the business paper at the Council meeting. You must register to speak at a Council meeting. To register you must lodge an application form with Council prior to 3:00pm on the day of the meeting. The application form is available on the Council's website, from the Customer Service Unit and by contacting the Manager - Corporate Services and Governance on (02) 4560 4426 or by email at council@hawkesbury.nsw.gov.au.

The Mayor will invite registered persons to address the Council when the item is being considered. Speakers have a maximum of five minutes to present their views. The Code of Meeting Practice allows for three speakers on the Proponent side (i.e. in support) and three for the Respondent side (i.e. in objection). If there are a large number of speakers for one item, speakers will be asked to organise for three representatives to address the Council for either the Proponent or Respondent side (six speakers in total).

Voting

The motion for each item listed for discussion will be displayed for Councillors and public viewing, if it is different to the recommendation in the Business Paper. The Chair will then ask the Councillors to vote, generally by a show of hands or voices. Depending on the vote, a motion will be Carried (passed) or Lost.

Planning Decision

Under Section 375A of the Local Government Act 1993, voting for all Planning decisions must be recorded individually. Hence, the Chairperson will ask Councillors to vote with their electronic controls on planning items and the result will be displayed on a board located above the Minute Clerk. 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. This electronic voting system was an innovation in Australian Local Government pioneered by Hawkesbury City Council.

Business Papers

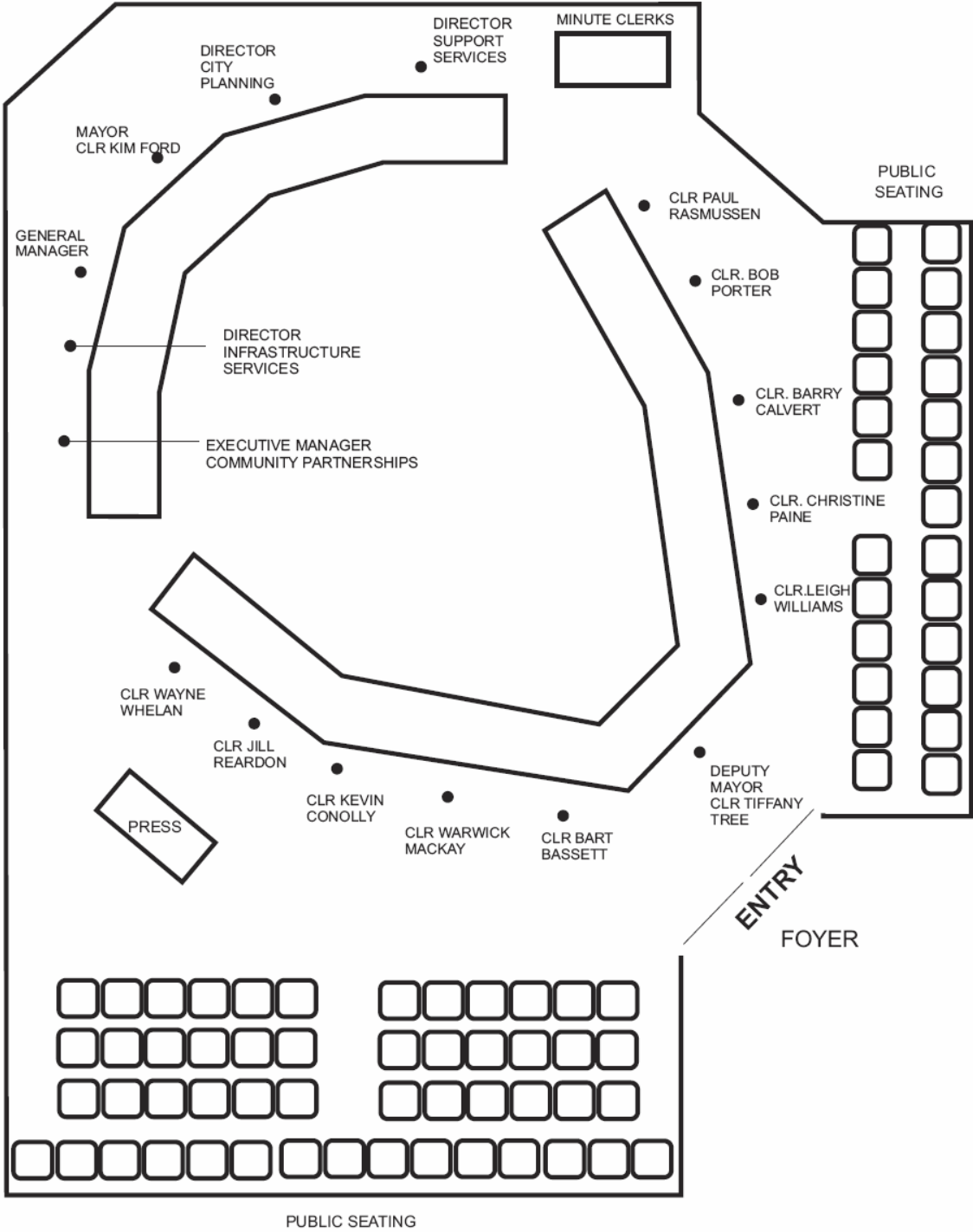
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>

Hard copies of the business paper can be viewed at Council's Administration Building and Libraries after 12 noon on the Friday before the meeting, and electronic copies are available on CD to the public after 12 noon from Council's Customer Service Unit. The business paper can also be viewed on the public computers in the foyer of Council's Administration Building.

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: 148 GM - NSW Independent Local Government Review Panel - Submission to Consultation Paper "Strengthening Your Community"

REPORT:

Executive Summary

In August 2011 the Division of Local Government (DLG) conducted a "Destination 2036 Workshop (the Workshop) with representatives from all NSW councils and other related industry groups attending.

Subsequently, the Minister for Local Government (the Minister) established a Steering Committee (SC) to progress the work undertaken at the Workshop. The SC then produced an Actions Plan and Outcomes Paper which following their release for comment are now guiding the SC's activities.

In addition, the Minister also appointed the NSW Independent Local Government Review Panel (the Panel). The Panel's Terms of Reference *"is to investigate and identify options for governance models, structural arrangements and boundary changes for local government in NSW"* taking a number of matters/issues into consideration.

The Panel has now released a Consultation Paper (the Paper) titled *"Strengthening Your Community"* and is calling for submissions on a number of *"Key Questions"* raised in the Paper. Submissions close on 14 September 2012. A Draft Submission has been prepared for Council's consideration to enable Council to make a submission on the Paper.

Consultation

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

Background

In August 2011 the Division of Local Government (DLG) conducted a "Destination 2036" Workshop (the Workshop) with representatives from all NSW councils and other related industry groups attending. Council was represented at the Workshop by the Mayor and General Manager with a report concerning the outcomes of the Workshop being submitted to the Council meeting of 13 September 2011 for Council's information.

Subsequently, the Minister for Local Government (the Minister) established a Steering Committee (SC) to progress the work undertaken at the Workshop. The SC consists of representatives of the Local Government & Shires Association of NSW (LGSA), Local Government Managers Australia (LGMA) and the DLG. The SC then produced an Actions Plan and Outcomes Paper which following their release for comment are now guiding the SC's activities.

In addition, the Minister also appointed the NSW Independent Local Government Review Panel (the Panel). The Panel's Terms of Reference are:

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“to investigate and identify options for governance models, structural arrangements and boundary changes for local government in NSW”, taking into consideration:

1. *Ability to support the current and future needs of local communities*
2. *Ability to deliver services and infrastructure efficiently effectively and in a timely manner*
3. *The financial sustainability of each local government area*
4. *Ability for local representation and decision making*
5. *Barriers and incentives to encourage voluntary boundary changes*

In conducting the review the Panel will:

- *Ensure recommendations meet the different nature and needs of regional, rural and metropolitan communities*
- *Consult widely with the broader community and key stakeholders*
- *Take into account the work completed, and future work to be completed, under the Destination 2036 initiative*
- *Take into account the broader interests of the State including as outlined in the State Plan*
- *Consider the experiences of other jurisdictions in both the nature and implementation of local government reform*
- *Take into account the Liberal-National’s 2011 election policy of no forced amalgamations”*

It has been indicated that the Panel intends to undertake its review process in four stages, namely:

Stage 1: Identifying key issues and exploring ideas (July - September 2012)

Stage 2: Options for change (October 2012 - January 2013)

Stage 3: Future directions (February - May 2013)

Stage 4: Final report (June - July 2013)

As part of “Stage 1” the Panel has now released a Consultation Paper (the Paper) titled *“Strengthening Your Community”*. A copy of the Paper has previously been provided to all councillors and is also available at:

www.localgovernmentreview.nsw.gov.au/documents/LGR/Strengthening_Community_low_res.pdf

The Panel is calling for submissions on a number of “Key Questions” raised in the Paper. These “Key Questions” are:

- “1. *What are the best aspects of NSW local government in its current form?*
2. *What challenges will your community have to meet over the next 25 years?*
3. *What ‘top 5’ changes should be made to local government to help meet your community’s future challenges?”*

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Submissions close on 14 September 2012. A Draft Submission included as Attachment 1 to this report has been prepared for Council's consideration to enable Council to make a submission on the Paper. It should be noted that this draft submission has been prepared on the basis of the "*Key Questions*" being addressed in relation to local government as a whole rather than being "Hawkesbury specific" except where relevant in response to question 2.

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.
- Maintain its independent identity and voice through strong local government and community institutions.

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.
- Maintain and review a sustainable long term financial framework.

Financial Implications

No financial implications directly applicable to this report.

RECOMMENDATION:

That the Draft Submission attached to the report be endorsed and referred to the NSW Independent Local Government Review Panel in response to the Panel's Consultation Paper "Strengthening Your Community", July 2012.

ATTACHMENTS:

- AT - 1** Draft Submission to the NSW Independent Local Government Review Panel's Consultation Paper "Strengthening Your Community", July 2012.

AT - 1 Draft Submission to the NSW Independent Local Government Review Panel's Consultation Paper "Strengthening Your Community", July 2012.

Hawkesbury City Council

Draft Submission to the NSW Independent Local Government Review Panel's Consultation Paper "Strengthening Your Community", July 2012.

Hawkesbury City Council has reviewed the Consultation Paper issued by the NSW Independent Local Government Review Panel in July 2012 titled "Strengthening Your Community" and is pleased to accept the opportunity to provide feedback and comment upon the "Key Questions" the Paper raises.

In respect of each of the "Key Questions" the following comments are provided:

1. What are the best aspects of NSW local government in its current form?

Local representation

- Local government elected representatives reflect and represent their local community and are able to consider the diverse ideas and views which exist in any community. Locally elected councillors are accessible to the community and in a better position to listen to and respond to local issues.
- Councils can consider the diverse ideas and views of the local community when determining the wide range of issues that face local government on a day to day basis such as resource and service allocation; development of the strategic direction for the community and the associated plans and programs to achieve this strategic direction; representation of the local community to other levels of government, etc.

"Local" strategic planning

- As local government is the level of government "closest to the local community" it is ideally placed to develop and implement strategic planning for its area from the "local" level which allows and facilitates local input and influence. This strategic planning ranges from higher level issues such as the development of the local long term Community Strategic Plan, Operational Plans and Delivery Programs, Asset Plans, etc. to plans and programs for individual services or activities.

Responsiveness

- Councils are close to the community which they serve and can change and be responsive to changing community demands and expectations. They can also develop, adapt and modify services to meet local changing needs and requirements.

Regional co-operation

- For the most part, the concept of "regional co-operation" and resource sharing between local government organisations has been embraced and has largely benefited local communities. Many Regional Organisations of Councils have been established and operate to varying levels but all appear to have the common goal of fostering regional collaboration which could include almost every aspect of local government. This may manifest itself in many forms ranging from regional advocacy on important regional and local issues; the sharing and development of ideas and policies on a range of issues; the provision of support between member councils; to joint purchasing arrangements resulting in financial benefits to member councils.

Resource sharing is also significant between councils the extent of which is highlighted in the Survey Report titled "Collaborative Arrangements between Councils" issued by the Division of Local Government, Department of Premier and Cabinet in June 2011.

2. What challenges will your community have to meet over the next 25 years?

Infrastructure renewal/improvement

- A key challenge for Council in the next 25 years is considered to relate to the existing and increasing infrastructure maintenance and renewal backlog. This situation is compounded by the effects of rate pegging; cost shifting by state and federal governments; increased expectations for existing and new services provided or to be provided by councils and the imposition of additional requirements upon councils without a corresponding funding or resourcing increase.

There is also a significant need for improvement to existing infrastructure, particularly at the state responsibility level in relation to Regional roads and bridges to improve access both within the City as well as access to and from the region.

Public transport access

- Currently the area has significant deficiencies in relation to public transport availability and access. There is a need for more and improved public transport options and a better connected network to not only service the main urban areas but to also service rural areas.

Planning system review

- The State Government's recent release of the Green Paper "A New Planning System for NSW" deals with the Government's "vision" for the planning system into the future. The review of the planning system holds many significant implications for local government not the least of which relates to the role of the elected council in the strategic direction and development determination process. Whilst the review being undertaken by the Panel would not directly address this separate review process it does need to be considered in the context of the future roles and responsibilities of elected representatives.

Rate pegging

- Rate pegging has had a serious effect on the financial viability of local government since its introduction nearly three decades ago and means that local government authorities can never, in realistic terms, be in charge of their own financial futures. Local government is continually being encouraged and required to plan on a strategic basis as to how it will deliver assets and services to the communities they serve. However this strategic direction is severely restricted due to the financial implications resulting from rate pegging which will be an ongoing difficulty if the situation is not redressed.

The continuation of rate pegging will result in it becoming increasingly difficult for local government to act strategically in the delivery of new infrastructure and services and to also attempt to address the infrastructure backlog that exists. Greater reliance will be placed on state and federal government funding with those levels of government also facing their own financial difficulties.

Maintaining existing services

- As a corollary to the challenges of infrastructure renewal and rate pegging the ongoing maintenance, let alone improvement to, existing services provided by councils is becoming and will continue to be increasingly difficult. Most councils are faced with the need to divert as much funding as possible to attempt to address infrastructure issues without effective

increases to revenue sources. This places increasing pressure on the maintenance of existing services which the local community may have come to expect are provided by its local council and makes it extremely difficult to provide new or improved services.

3. What 'top 5' changes should be made to local government to help meet your community's future challenges?

Financing of local government and financial sustainability

- The overall financing and revenue raising capacity of local government requires significant review to ensure the continued viability and financial sustainability of local government. This review should be broader reaching than the traditional concept of the rating structure and the effects of rate pegging. In realistic terms the income base and revenue generation potential of councils has not increased significantly over the last few decades, however, the services provided by councils and expected by the community have changed and increased significantly.

Without an improvement to the ability of local government to become and maintain financial sustainability it will be increasing difficult for local government to develop and meet the continued expectations and requirements of the local communities which they serve.

- As a corollary to the above, the issue of cost shifting from state and federal governments to local government needs to be properly addressed so as to ensure that when local government is required to undertake additional activities that an appropriate, on going funding source is also provided.

Adequate recognition

- Constitutional recognition of local government is a very important issue and must be achieved in the Australian Constitution so as to ensure that the Federal Government has the ongoing power to fund local government directly and appropriately recognise the role, value and context of local government in the Australian community.
- Local government organisations have considerable skill and expertise which needs to be more appropriately recognised by other levels of government. Other levels of government should work in partnership and on a collaborative basis with local government recognising the level of skills and expertise that does exist rather than adopting an overly prescriptive and directive approach to local government that has tended to occur in the past.

Reducing over regulation

- Councils, as a legitimate level of government, operate within a statutory framework which largely governs the activities it performs and services it provides. However, within this framework there has been an increasing tendency for councils to be overly regulated with increasing accountability requirements without there being any real benefit or value from the added regulation. This is also a further example of the skills and expertise within local government not being recognised or acknowledged by other levels of government resulting in those levels considering there is a need to direct and instruct local government on how it should operate in minute detail.

Structure of local government

- Currently local government is structured on the basis of a "one model fits all" approach. In reviewing local government it will be important for alternate structures to be considered and for a more flexible approach to be developed that recognises the variations that occur between local government authorities. A model or structure that works well in say the metropolitan or major city environment may not be the most suitable for a rural or regional

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urban area. As such, it is suggested that a number of models that suit the varying environments of local government could and should be considered rather than the traditional "one model fits all" situation.

Enhancement of opportunities for regional co-operation

- Earlier in this submission it was suggested that regional co-operation was considered to be one of the "best aspects of NSW local government in its current form". While this is considered to be correct this co-operative approach can at times be hampered by governance and related requirements placed on individual organisations, i.e. tendering requirements, which can make it somewhat difficult to take full advantage of this approach.

Any review of local government should recognise this difficulty and incorporate changes that facilitate and encourage opportunities for regional co-operation rather than present difficulties or constraints.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 149 **CP - Development Application - DA0747/11 - Roof Replacement - Lot 2 DP 56964 - 2/ 2-4 Little Church Street, Windsor - (95498, 38193)**

Development Information

File Number: DA0747/11
Property Address: 2/2-4 Little Church Street, Windsor
Applicant: Mr Jason Michael Quayle
Owner: Mr JM Quayle
Proposal Details: Retrospective – Roof Replacement
Estimated Cost: \$6,728.28
Zone: Multi Unit Housing under HLEP 1989
Date Received: 23 December 2011
Advertising: 10 to 24 January 2012

Recommendation: Refusal

REPORT:

The application seeks retrospective approval for works undertaken in November 2008 to the Bell Inn located on Lot 2 SP 56964, 2/2 Little Church Street, Windsor. The works involved the replacement of the iron roof, removal of the curved valance located under the front awning and the replacement of the guttering and lead flashings of Unit 2.

On this application there is considerable background to the discussions both prior to lodgement and during the assessment phase. The essential merit issues are:

- the roof replacement involves the use of colorbond and the previous roof was galvanized iron. Colorbond material causes an adverse chemical reaction with the materials on the fixtures and will cause deterioration in future,
- the remaining roof on Unit 1 is galvanized iron and has many of the original fixtures (e.g. flashing and fastenings) in place,
- the form (curved shape) of the replacement roof and verandah is not the same as the original roof (this is disputed by the applicant) and the roof over Unit 1 of the same building,
- the roof form and materials are an integral part of the heritage listing for the subject building. Council has not raised any objections to internal works which have already been undertaken and are completed.

The main procedural aspects are:

- At no time did Council advise the owner that DA consent was NOT required. To the contrary all correspondence has re-enforced that a DA is required,
- Works on a heritage item require DA consent unless the work is considered to be consistent with Clause 27 (3) of the HLEP 1989,
- Council has received qualified advice from two independent heritage architects that came to the same view i.e. that this roof replacement does not involve 'like for like' materials or form. The applicant has not submitted any technical advice from a suitably qualified professional (e.g. architect, heritage advisor) to refute that advice,

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- Since the DA was lodged, the customer has been provided with multiple opportunities to negotiate and discuss the proposal. Notwithstanding discussions, the proposal has not been formally amended since lodgement.

An assessment of the proposal has revealed that the works which were undertaken have resulted in an adverse impact on the heritage significance of the Bell Inn. It is recommended that the application be refused and that an order be issued requiring the property owner to reinstate the building to match what was previously in place.

The application is being reported to Council for determination at the request of the Mayor, Councillor Ford.

Description of Proposal

The application seeks retrospective approval for works which have been undertaken to part of the heritage building known as the Bell Inn located on lot 2 in SP56964, 2 Little Church Street Windsor. The works only involve Lot 2 with Lot 1 remaining in its original condition (The building is essentially an attached dual occupancy).

The works which have been undertaken include:

- the replacement of the bell curved galvanised iron roof with straight corrugated colorbond metal roof,
- replacement of the bell curved galvanised iron veranda with straight corrugated colorbond metal sheeting,
- the replacement of the original gutters with colorbond materials,
- the removal of the curved timber valance located under the awning which has later been reinstated, and
- the removal of lead flashings and finishes with colorbond metal strips.

The application is supported by a Statement of Environmental Effects and a Heritage Impact Statement. However the supporting documents do not include any advice from a heritage architect or other qualified heritage professional.

History of the Application

The application was submitted as a result of Council becoming aware that the property owners undertook works to the Bell Inn without any formal approval. A summary of the events leading up to the application and discussions held during the application process is provided below:

5 May 2008	Council received email from property owner requesting advice in relation to the restoration of the existing heritage building.
22 May 2008	Council's Heritage Advisor undertook a site inspection with property owner to discuss possible restoration works including the roof to the Bell Inn. Verbal advice provided that "like for like" replacement could be considered.
November 2008	Unauthorised works to unit 2 of the Bell Inn undertaken. <i>NOTE: since the site inspection of 22 May 2008 Council did not receive an application or any correspondence from property owner to clarify or confirm what works are proposed to be undertaken.</i>
22 March 2009	Council received email from a member of the public concerned that works which have been undertaken to the Bell Inn were not sympathetic to the heritage item.
20 April 2009	Letter sent to property owner advising that the works which have been undertaken have had an adverse impact on the heritage significance of the Bell Inn and were not approved by Council.

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11 May 2009	Letter received from property owner explaining that they believed that they had done what they were required to do by speaking with Council's Heritage Advisor.
29 September 2009	Council's Planning Manager, Town Planning Co-ordinator and Heritage Advisor held onsite meeting with customer discussing unauthorised works. Customer advised that the unauthorised works require approval and a development application is required to be lodged to obtain approval.
27 October 2009	Letter received from AQ Planning consultants on behalf of the property owner stating that the works did not require approval under HLEP 1989 and the works can be considered as "like for like."
4 January 2010	Letter sent to applicant advising that the works undertaken are not considered to be "like for like" and that Clause 27(3)(b) requires written confirmation to be provided to the property owner before any works commence.
29 November 2010	Letter received from AQ Planning stating that the works undertaken were maintenance.
13 January 2011	Letter sent to AQ Planning advising that Council had responded to letter dated 27/10/2009 and if they want Council to consider the retention of the roof material, the property owners will be required to lodge a retrospective development application.
10 November 2011	Council's records revealed that the property owners had not responded to Council's previous correspondences. Notice of intention to serve an order sent to property owner regarding unauthorised works.
5 December 2011	Order issued on property owner regarding unauthorised works as no development application had been received.
23 December 2011	Development Application submitted seeking approval for unauthorised works. Council advised applicant that any compliance action will be held pending determination of the application.
13 February 2012	Council engaged a consultant heritage advisor to review application, and the consultant advised that the works undertaken have an impact on the heritage significance on the building and are not considered to be "like for like".
31 May 2012	Meeting held with customer regarding roof form and materials. Applicant to respond to heritage issues raised by Council regarding materials and form of the unauthorised works.
26 June 2012	Follow up email from Council to applicant providing detailed works which would be required to be undertaken to reinstate the roof and satisfy Council's concerns.
13 July 2012	Customer provided email to Council dated 26 June 2012 detailing the works they are willing to undertake to address Council's concerns.
16 July 2012	Customer advised that Council will consider the email dated 13/07/2012 to determine if it would adequately address Council concerns.
31 July 2012	Council sent email to applicant advising that there were 3 options available to proceed with application. i.e. Council can determine the application based on the information submitted (likely refusal); applicant can amend the application to comply with Council's request dated 26 June 2012; or the applicant can choose to withdraw the application (and an Order would be re-issued to ensure works are undertaken).

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Council Policies, Procedures and Codes to Which the Matter Relates

- Sydney Regional Environmental Plan 20. (No.2 - 1997) - Hawkesbury Nepean River
- Hawkesbury Local Environmental Plan 1989
- Draft Hawkesbury Local Environmental Plan 2011
- Hawkesbury Development Control Plan 2002

Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979 (EPA Act)

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 of any:

i. Environmental Planning Instrument:

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

The proposal is consistent with the aims and objectives of SREP No. 20. It is considered that the proposed development will not significantly impact 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 contained in this plan.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The subject property is zoned *Multi Unit Housing* under Hawkesbury Local Environmental Plan 1989. An assessment of the proposal reveals that the development is inconsistent with the overall aims and objectives of this plan, specifically in relation to the following Clauses:

Clause 2, Aims, Objectives etc

This clause states that the aims and objectives of HLEP 1989 are:

- to provide the mechanism for the management, orderly and economic development and conservation of land within the City of Hawkesbury,*
- to provide appropriate land in area, location and quality for living, working and recreational activities and agricultural production,*
- to protect attractive landscapes and preserve places of natural beauty, including wetlands and waterways,*
- to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City of Hawkesbury for future generations, and*
- to provide opportunities for the provision of secure, appropriate and affordable housing in a variety of types and tenures for all income groups within the City.*

The works which have been undertaken to the Bell Inn are considered to be contrary to the overall aims and objectives of HLEP 1989 (particularly part (d)) given that works were carried out without any written approval and they have resulted in impacting upon the appearance of a heritage item identified under this plan.

Clause 9A Zone objectives

The proposal is contrary to the objectives of the zone which are to allow for development that is in character with the surrounding built environment. In this respect the works which have been undertaken to unit 2 do not fit within the historical context of the Bell Inn or the historical significance of Windsor.

Clause 9B Exempt Development

It is noted that the works undertaken do not fall under works that can be considered as exempt development under this plan as the Bell Inn is a listed heritage item.

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Clause 27 Heritage Items

The subject property contains a heritage item listed under Schedule 1 of HELP 1989 known as "The Bell Inn", corner Little Church Street, lots 1 and 2, SP 56964. (154). This clause requires Council to take into consideration the following:

- (1) *A person shall not, in respect of a building, work, relic, tree or place that is a heritage item:*
 - (a) *demolish or alter the building or work,*
 - (b) *damage or move the relic, including excavation for the purpose of exposing the relic,*
 - (c) *damage or despoil the place or tree,*
 - (d) *erect a building on or subdivide land on which the building, work or relic is situated or the land which comprises that place, or*
 - (e) *damage any tree on land which the building, work or relic is situated or on the land which comprises the place, except with the consent of the Council.*

Comment:

Clause 27 (1) (a) and (e) applies as the development involves altering the building and hence the consent of Council is required via a development application.

The works undertaken to the heritage item are not considered to be either restoration or maintenance works under Clause 27(3) (discussed below) as the property owner has not used the same or similar building materials and techniques "like for like" to what was previously in place.

The works to the Bell Inn would be more appropriately identified as reconstruction works. It is considered that the reconstruction of the roof and awning has damaged the heritage significance of the building.

- (2) *The Council shall not grant consent to a development application under subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.*

Comment:

Following the resignation of Council's Consultant Heritage Advisor, Council engaged a Heritage Architect as a heritage advisory consultant to undertake an assessment of the proposal and review the works which have been undertaken i.e. the replacement of the iron bell cast eaves, iron roof and lead flashings.

Following a review of the information submitted and a site inspection the Heritage Advisor concluded that the works which have been undertaken have resulted in an adverse impact on the heritage significance of the Bell Inn.

The Heritage Advisor considered that supporting the works which have been undertaken would be contrary to this clause and it is necessary that the building be reinstated to match with the original portion of the building (Unit 1). This would ensure that the building retains its heritage status and significance over time given that:

- (a) The materials proposed to be retained are different from what is currently in place on Unit 1 (See attachment 2 – Site inspection photos), specifically in regard to the profile, colour, corrugations, sheet length, fastenings, finishes and materials;
- (b) There is a clear disconnect between the materials and finishes used on Unit 1 and Unit 2; and,

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- (c) The retention of the materials used in the roof reconstruction will have an adverse impact on the materials on Unit 1 as the rate of corrosion and methods of attachment are not compatible.

Comment:

When making decisions that relate directly to heritage items the principles of the Burra Charter should be closely observed. In this respect any proposal to reconstruct or modify a heritage building from its original state should be undertaken using the same materials and techniques originally used in its construction in order to preserve the place of cultural significance of the item.

It is important to ensure that the sense of place and identity of the building known as the Bell Inn is preserved. The bell shape curved roof has a direct connection with the name of the building. It is considered that supporting the unauthorised works will set an undesirable precedent when considering the future of the roof on Unit 1. This would not only change the appearance of the entire building but impact upon the historical significance of the buildings name, hence directly upon the heritage item and its relationship to the history of Windsor.

- (3) *Development consent is not required by this clause for development described in the Table to clause 9B if:*

- (a) *in the opinion of the Council:*

- (i) *the proposed development is of a minor nature or consists of maintenance of the heritage item, and*
- (ii) *the proposed development would not adversely affect the significance of the heritage item, and*

- (b) *the proponent has notified the Council in writing of the proposed development and the Council has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause.*

Comment:

It is acknowledged that Council previously arranged for the (then) Heritage Advisor to meet with the property owner on site and discuss proposed maintenance works to the Bell Inn. However, the former Heritage Advisor does not agree with the applicant's version of the site meeting discussions and, additionally, no written request or response advising that the roof works discussed could be undertaken without approval. It is clear that the works which have been undertaken could not be considered as maintenance works or minor works as they involved the complete reconstruction of the roof.

The property owner has been advised on a number of occasions that the works undertaken to the Bell Inn have been done without Council consent and have resulted in an adverse impact on the heritage significance of the building.

Clause 28 Development in the vicinity of Heritage Items

As previously mentioned in this report the Bell Inn is a strata building of two (2) lots in SP 56964. The works which have been undertaken only relate to the portion of the building identified as being on Unit 2 with Unit 1 remaining in its original condition. Support of the proposal would result in impacting upon the appearance of the heritage item and its setting as the works which have been undertaken to Unit 2 are not complementary to the Unit 1 portion of the building which has remained in its original condition.

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Clause 34 Suspension of certain Laws etc.

The subject lot is known as lot 2 in Strata Plan No. SP 56964. Support of the proposal would be contrary to the specific terms of restriction on the use of the land, specifically in relation to the following restrictions which state that:

- *“ The registered proprietor of the land so burdened shall not carry out any work on either lot, including maintenance work, that is not done in combination with and consistent with the maintenance and restoration work of the entire building.*
- *The registered proprietor of the land shall not carry out any work on the heritage building without receiving prior approval to do so from Hawkesbury City Council. ”*

Therefore the proposal is inconsistent with the above restrictions on use of the land as:

- The work carried out was not done in combination or consistent with the maintenance or restoration of the entire building; and,
- The property owners did not receive any formal approval from Council prior to the commencement of the works.

It is further highlighted that the works undertaken are considered to be reconstruction works not restoration or maintenance.

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

Draft Hawkesbury Local Environmental Plan 2011

Draft Hawkesbury Local Environmental Plan 2011 was exhibited 5 February 2010 to 12 April 2010. The subject site falls within R3 Medium Density Residential zone under draft HLEP 2011.

It is considered that the proposal is inconsistent with the aims, objectives and clauses of this plan as:

- (a) The proposal has not resulted in enhancing or conserving the appearance of a recognised heritage building,
- (b) the works undertaken would require development consent under the draft plan, and
- (c) the proposal is contrary to the overall matters for consideration under Clause 5.10 of the draft plan.

Support of this proposal would create an outcome that sets an undesirable precedent in determining retrospective applications for works which have been carried out without Council approval. The draft plan has been created to ensure that the heritage significance of buildings within the Hawkesbury is preserved. Consequently it is recommended that the application be refused on the basis that the proposal is contrary to the heritage conservation objectives of Draft Hawkesbury Local Environmental Plan 2011.

iii. Development Control Plan applying to the land:

Hawkesbury Development Control Plan (HDCP) 2002

An assessment of the proposal against the relevant provisions of this plan follows:

Part A Chapter 2 - General Information

It is noted that there have been a number of discussions held between Council staff and the applicant in an attempt to negotiate an outcome where the Council can be satisfied that the building retains its heritage significance. The information provided is not considered to be adequate to undertake a full heritage impact assessment of the proposal, i.e. plans, specifications and schedule of works has not been provided. However, Council's consultant Heritage Advisor has been granted access to the site as required to make observations and some information has been submitted including photos and anecdotal information.

Part A Chapter 3 - Notification

The application was notified to adjacent property owners from 10 January 2012 – 24 January 2012 in accordance with this plan. No submissions were received.

Part D Chapter 1 - Residential development

It is considered that the proposal is inconsistent with the aims of the residential development chapter in that the works which have been undertaken are not sympathetic to the heritage significance of the Bell Inn and the materials and finishes used have impacted the overall appearance of the building.

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 has been no planning agreement or draft planning agreement entered into under Section 93F of the Environmental Planning and Assessment Act, 1979.

v. Matters prescribed by the Regulations:

Should the application be supported the Environmental Planning and Assessment Regulation 2000, requires the development to:

- Comply with the National Construction Code – Building Code of Australia, and
- Be levied against Council's S94A Development Contributions Plan.

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 subject site is located within the town centre of historic Windsor which has a large number of heritage items each with their own special characteristics. In this respect it is considered that the Bell Inn's contribution to Windsor is the shape and form of the bell cast eaves. This style of building is rare and it is clear that this is one of the most significant heritage aspects of the building and it is the principle reason it is identified as a heritage item. Council's Heritage Register identifies the building of being of State significance being an "excellent example of a modest corner inn in Georgian residential precinct" the register describes the building as follows:

*"a two storey sandstock brick hotel typical of early types built c. 1841 and known originally as The Bell Inn. Double hung windows have twelve panes to ground floor and originally nine to first floor Doors are six-panelled type, sandstone paving to single storey verandah, lintels and sills. Of particular interest are the **bell cast eaves** to the main hipped iron roof and heavily curved timber valances to verandah. The façade is given added delicacy by an extensive picket fence along the verandah post line. The building has been restored for use as a private residence"*

It is clear that the unauthorised works which have been undertaken to the Bell Inn are contrary to the overall heritage significance of the building and contrary to some of the fundamental reasons this building was considered to be important enough to be included on Council's Heritage register. Support of the proposal would have an adverse environmental impact on the historical built environment of Windsor.

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c. Suitability of the site for the development:

The proposal is inconsistent with the strategic direction for the locality and is therefore not considered suitable for the proposed development.

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

The application was publicly exhibited for the period 10 January 2012 – 24 January 2012. No submissions were received in response to the application during this period.

It is however noted that the adjoining property owner on Unit 1 has approached Council seeking advice on roof works to the roof of Unit 1. In this respect the adjoining property owner has indicated that they do not want to begin any works until there is some certainty about the roof form and materials that Council requires.

e. The Public Interest:

It is considered that supporting the proposal would be contrary to the overall public interest. The works which have been undertaken have not respected the heritage significance of the Bell Inn or its historical significance in Windsor.

Conclusion

An assessment of the proposal has revealed that the development is inconsistent with the relevant aims and objectives of the Hawkesbury Local Environmental Plan 1989, Draft Hawkesbury Local Environmental Plan 2011 and Hawkesbury Development Control Plan 2002.

Support of the proposal would have an adverse impact on the heritage significance and siting of the Bell Inn and it is recommended that the current application be refused and the unauthorised works be reinstated to match with the existing geometry of Unit 1 and use traditional materials including Galvanised iron roof sheeting and lead flashings.

The above issues have been thoroughly considered during assessment and in discussions with the applicant. The applicant has been advised that the retention of the unauthorised works (or partial retention) is not supported by Council officers based on the expert heritage advice received.

The applicant's unqualified heritage opinion that the works which have been undertaken using "like for like" materials and finishes is not supported on technical grounds as it is clear that the works which have been undertaken are neither compatible nor consistent with the heritage significance of the building. It should be noted that if the reconstruction of the roof was designed or overseen by a person with recognised heritage expertise the issues with respect to heritage may have been avoided.

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.

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RECOMMENDATION:

That development application DA0747/11 at Lot 2 S/P 56964, 2/2-4 Little Church Street, Windsor for roof replacement works to the Bell Inn be refused for the following reasons:

1. The development application contains insufficient information to carry out a proper assessment of the likely impacts of the proposed development in terms of Section 79C of the Environmental Planning and Assessment Act, 1979. Insufficient information in respect to the works proposed to be done to address heritage issues has been provided with the application.
2. The proposed development is inconsistent overall aims and objectives of the Hawkesbury Local Environmental Plan 1989 and Clause 27 Heritage Item requirements of this plan. The application has been unable to demonstrate that the proposal would not result in an adverse heritage impact.
3. The proposal is inconsistent with the overall aims and objectives of the Draft Hawkesbury Local Environmental Plan 2011 and Clause 5.2 requirements in relation to heritage conservation of this Plan.
4. The proposal is inconsistent with the aims, objectives and rules of Hawkesbury Development Control Plan 2002.
5. The proposal would interfere with the unique heritage significance of the heritage item known as the Bell Inn.
6. Due to the above reasons the proposal is considered to not be in the public interest.

ATTACHMENTS:

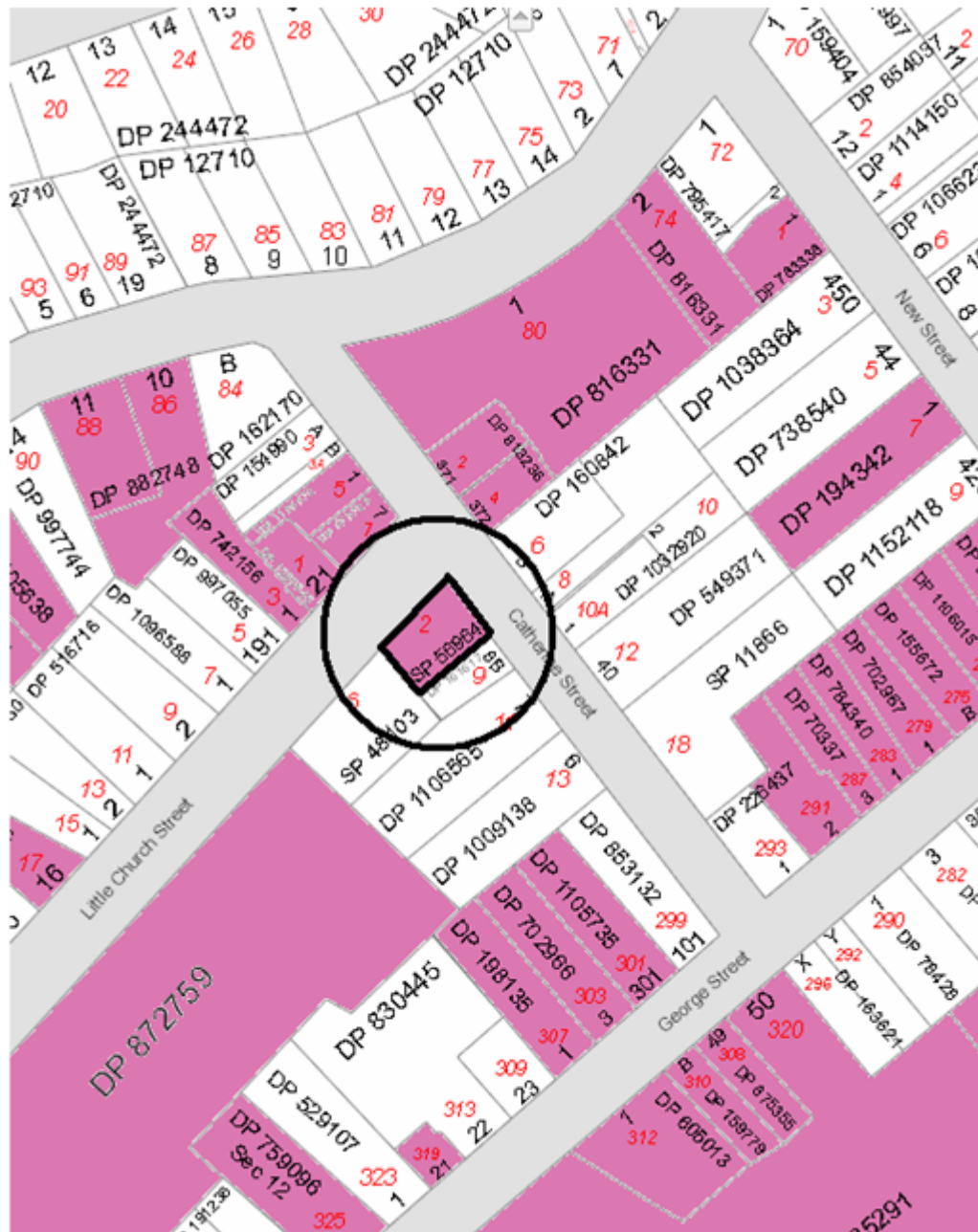
AT - 1 Locality Plan & Aerial Photo

AT - 2 Site Inspection Photos

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AT 1 - Locality Plan



Locally Listed Heritage Items under HLEP 1989

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Aerial Photo



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AT 2 – Site Inspection Photographs



Unit 1

Unit 2

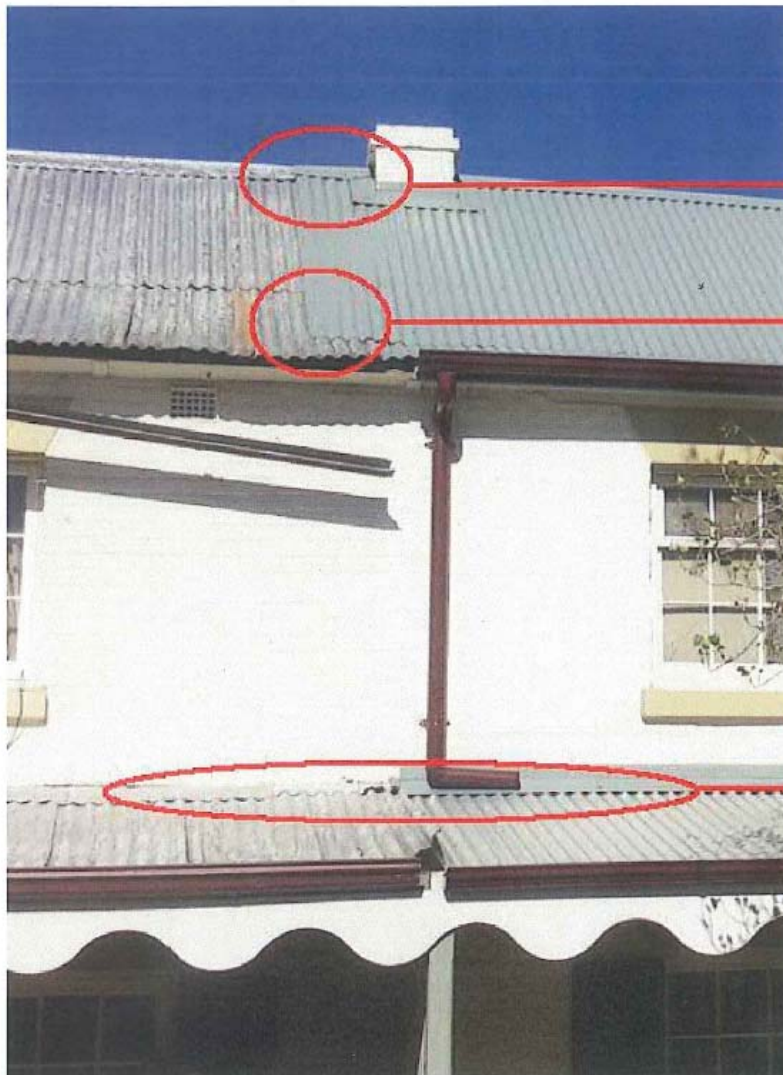


Original bell curved roof

Flat Colorbond finish

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Lead flashing against new colorbond flashing.

Different shape and length of materials used.

Note: Area where corrosion between metals would occur over time.

Original flashing used has a slim and discrete finish.

Colorbond flashing bulky and does not follow contours of the corrugations.

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Unit 1 Original bell curved roof



Unit 2 Flat Colorbond finish

oooO END OF REPORT Oooo

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Item: 150 **CP - Development Application - DA0644/11 - Construction of Camping Sites and Amenities Buildings - Lot 2 DP 1101683 - 433 Pitt Town Bottoms Road, Pitt Town Bottoms - (95498, 85782, 90731)**

Previous Item: 669, Ordinary (29 May 2012)

Development Information

File Number: DA0644/11
Property Address: 433 Pitt Town Bottoms Road, Pitt Town Bottoms
Lot 2, DP 1101683
Applicant: Urban City Consulting Pty Ltd
Owner: Ski Across Pty Ltd
Proposal Details: Construction of camping sites and amenities buildings
Estimated Cost: \$225,000.00
Zone: Environmental Protection – Agriculture Protection under HLEP 1989
RU2 Rural Landscape under Draft HLEP 2011
Date Received: 2 November 2011
Advertising: 15 to 29 November 2011

Key Issues: ♦ Permissibility
 ♦ Flooding

Recommendation: Refusal

REPORT:

Executive Summary

This application seeks the consent of Council to operate a rural tourist facility, construct camping sites, amenities buildings and an internal access road at 433 Pitt Town Bottoms Road, Pitt Town Bottoms.

This application was previously considered at Council's meeting of 29 May 2012 and the previous report is included as Attachment 1. At that time Council resolved to defer the application to allow the matter to be referred to a Councillor Briefing Session and allow further discussions between the applicant and Council staff to address the matters raised in the prepared Council report.

The two central areas of dispute in this matter are the characterisation of the land use under the land use definitions and flood provisions of the HLEP. Both of these factors determine whether the proposal is permitted or prohibited development.

The applicant maintains that the proposal is characterised as a 'rural tourist facility' whilst Council officers maintain that the buildings, activities and habitable use together mean the proposal should be characterised as a 'tourist facility'. The applicant categorises the buildings as minor outbuildings under the flood provisions using Clause 25(6) of the HLEP whilst the Council officers maintain that the overall proposal is for accommodation purposes and must therefore be considered against the habitable land use provisions of Clause 25(3) of the HLEP, as the structures, when considered as part of the overall use and not as a separate structure, cannot be classified as a "minor structure".

Additional information, including a legal opinion, has been submitted by the Applicant to address the primary issues of permissibility and flooding. Having reviewed this information it is still considered that the primary use is as a "tourist facility". However, even putting permissibility aside, the critical flooding issues have not been resolved and as such the refusal of the application is recommended.

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Key Issues

- Permissibility
- Flooding

Chronology

Previous recent applications for use of the land for a similar purpose:

- DA0524/09 - Five recreational storage sheds was lodged with Council on 4 September 2009. This application was formally withdrawn on 17 November 2009.
- DA0160/10 - Five rural sheds with attached carports was lodged with Council on 11 March 2010. This application was reported to Council on 9 November 2010 with the recommendation for refusal. Council voted to defer this matter to allow further discussions between the applicant and staff. This application was formally withdrawn on 29 July 2011.

Recent Chronology of DA0644/11 (lodged on 2 November 2011)

- 29 May 2012 – Previous report to Council,
- 21 June 2012 – Council officers met with Applicant, Owner and Cr Porter,
- 3 July 2012 – Briefing Session was held with Councillors about land use definitions and flood provisions,
- 12 July 2012 – Letter from Owner to Council by email,
- 18 July 2012 – Applicant submits additional information and legal advice,
- 30 July 2012 – Council letter to applicant requesting further information to address Clause 25(5) (use of the site) and 25(5) (flood evacuation and management),
- 10 August 2012 - Letter from Owner to council by email,
- 14 August 2012 - Discussion between the Director of City Planning and the applicant. Applicant was satisfied that all required information and responses to requests for additional information have been made,
- 15 August 2012 – Two emails from Owner to Council,
- 15 August 2012 – Council letter to Owner answering queries and confirming discussions with Applicant on 14 August that no further information would be submitted by applicant so that the assessment report could be completed for the deadline to make the agenda for this Council meeting.

Background

Development Application No. DA0644/11 involves the following:

- The establishment of 10 grass camping sites with areas of 64m²;
- The construction of five buildings, each of which are divided into two spaces to service each of the 10 camping sites individually. These 10 individual buildings will each have enclosed areas of 70m² and covered courtyards of 35m². The submitted plans and documentation indicate that the enclosed areas of the buildings will contain bathroom facilities and also be used for the storage and parking of vehicles, boats, canoes, water skiing equipment, etc. Each of the covered courtyards are to be provided with barbecue facilities;
- The construction of an internal access road to service the buildings; and
- The removal of weeds from the riverbank and the plantation of indigenous vegetation to the riverbank and surrounds of the rural tourist facility.

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The submitted documentation suggests that the site will operate as a caravan park. The 'amenities buildings' will not be used for habitable purposes and will instead be used for the storage of vehicles and equipment. Tents, caravans and the like are to be set up within the designated camping sites to provide short-term accommodation.

A concrete boat ramp providing access to the Hawkesbury River exists to the north-eastern corner of the site. During an inspection a relocatable pontoon was also observed along the riverbank. It is understood that waterskiing, canoeing and boating will be undertaken from the site.

The proposal was originally reported to Council on 29 May 2012 with a recommendation for refusal. The refusal of the development was recommended on the following grounds:

- Classification of use (i.e. the development was seen to fall under the definition of a tourist facility);
- Permissibility of development (i.e. tourist facilities are prohibited within the Environmental Protection – Agriculture Protection zone);
- Inconsistency with the objectives of the Hawkesbury Local Environmental Plan 1989 (HLEP 1989);
- Adverse flooding and safety risks associated with the development;
- Adverse visual impacts;
- Insufficient information had been provided for the full and proper assessment of the proposal;
- Prohibition of the development under the Draft Hawkesbury Local Environmental Plan 2011 (Draft HELP 2011); and
- The proposal was not seen to be in the public interest due to flooding.

Council deferred this application and resolved as follows:

"That the matter be referred to a Councillor Briefing Session and that in the intervening period Council staff have further discussions with the applicant in respect of issues raised at the meeting."

In accordance with this resolution, on 21 June 2012 a meeting was held between the Applicant, the owner and Council staff to discuss the issues identified in the previous report to Council. Councillor Porter also attended this meeting as an observer.

Each of the issues identified in the previous report were discussed at length. It was agreed that two primary issues required resolution before the advancement of this application; that is, the permissibility of the development and flooding. This report has been prepared to address those pre-determinative issues of permissibility and flooding.

Permissibility

The subject land is zoned Environmental Protection – Agriculture Protection under the HLEP 1989. Under HLEP 1989:

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

tourist facilities means a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidaying public

The Applicant has defined the proposed development as a 'rural tourist facility'. In the previously prepared Council report it was concluded by Council Officers that the development fell under the definition of a 'tourist facility'. Rural tourist facilities are a permissible form of development within the Environmental Protection – Agriculture Protection zone, tourist facilities are prohibited.

Documentation supplied by the Applicant indicates that the north-eastern portion of the site will be used as

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a short-term camping site. The hiring of camp sites and the associated buildings will be open to any members of the public or organisations. It is understood a manager will be onsite at all times when the sites are being used by members of the public. The development could not be defined as a rural tourist facility – or a tourist facility for that matter – if it was solely used by the 10 families that own the property.

Since the meeting of 29 May 2012, the Applicant has supplied Council with legal advice relating to the permissibility of the development. This legal advice is included as Attachment 2.

The advice argues that the primary difference between the two definitions is that rural tourist facilities are intended to be located within a rural area and are to be used to provide “*low scale holiday accommodation*” for the travelling or holidaying public. The tourist facility definition does not restrict the scale of accommodation which is intended for the travelling or holidaying public.

The submitted legal advice refers to a Class 1 Appeal to the Land and Environment (L&E) Court which dealt with the definition of ‘low scale’. The definition used in the case is then used to demonstrate that the proposed development may be defined as a rural tourist facility and is therefore permissible.

However, this low scale definition is taken from an adopted Byron Shire Council Policy. Given that Hawkesbury City Council has not adopted its own definition of low scale, the use of a Byron Shire Council definition is of little relevance to the current application.

It is acknowledged that camping sites or caravan parks can fall under the definition of rural tourist facilities. Indeed Council approved the Wanderest Travellers Park in Richmond as a rural tourist facility. In that instance it was accepted that the Wanderest Travellers Park comprised a rural tourist facility on the basis that it did not contain permanent structures with the exception of a common toilet.

Unlike the majority of caravan parks which provide camping grounds and communal facilities such as toilets and showers, the submitted application proposes the construction of large buildings to service each of the individual sites. It is not accepted that these structures comprise low scale accommodation.

Given the number of sites, the individual servicing of the sites as well as the size, layout and permanency of the structures, it is considered that the proposal represents a more intensive form of development and does not comprise low scale accommodation. Instead Council officers remain of the view that the development more accurately falls under the definition of “tourist facility”. Tourist facilities are prohibited within the Environmental Protection – Agriculture Protection zone.

It should be noted that the previous Council report questioned the nature of the boat rides, ski activities and lessons that were mentioned in the Applicant’s Business Management Plan. In response to this concern the Applicant has advised that any such activities will only be available to people who are staying at the site. Consequently it is accepted that these activities may be ancillary to the primary use of the land, be it a tourist or rural tourist facility.

Flooding

The area of the site that is to accommodate the development (the amenities buildings and camping sites) has levels of approximately 9.47m AHD to 9.81m AHD. A floor level of 10m AHD is nominated for the amenities buildings.

The 1-in-100 year flood level for the locality is 17.3m AHD and as such the property is defined as flood liable land.

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Clause 25 of the HLEP 1989 outlines Council's controls for the development of flood liable land. The relevant provisions of this clause state:

(1) In this clause:

commencement day means the day on which Hawkesbury Local Environmental Plan 1989 (Amendment No 86) commenced.

flood compatible materials means building materials and surface finishes capable of withstanding prolonged immersion in water.

floodway means the channel of a river or stream and those portions of the flood plain adjoining the channel which constitute the main flow path for floodwaters.

- (2) A building shall not be erected on any land lying at a level lower than 3m below the 1-in-100 year flood level for the area in which the land is situated, except as provided by subclauses (4), (6) and (8).
- (3) Each habitable room in a building situated on any land to which this plan applies shall have a floor level no lower than the 1-in-100 year flood level for the area in which the land is located.
- (4) (Lapsed provision)
- (5) The Council shall, in the assessment of a development application, consider the flood liability of access to the land and, if the land is within a floodway, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this clause have been satisfied.
- (6) Minor structures such as outbuildings, sheds and garages may be erected on land below the 1-in-100 year flood level, with the consent of the Council. The Council shall, in the assessment of a development application for such a structure, consider the likely frequency of flooding, the potential flood damage and measures to be taken for the evacuation of the property.
- (7) Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible materials.
- (8) (Lapsed provision)

Applicant's Submission (including legal advice)

The Applicant suggests that the row of buildings is 'minor' in nature and consequently the proposal is to be assessed against the provisions of Clause 25(6) of the HLEP 1989. As the development also involves the use of the site for camping an assessment against the provisions of Clauses 25(5) and (7) has also been provided by the Applicant at the request of Council.

The Applicant's submission is as follows:

"The main issues relating to flooding are as follows:

- *Clause 25(6)*
- *Extent of flooding inundation of the structures.*
- *Flood evacuation plan*

Clause 25(6)

- (6) *Minor structures such as outbuildings, sheds and garages may be erected on land below the 1-in-100 year flood level, with the consent of the Council. The Council shall, in the assessment of a development application for such a structure, consider the likely frequency of flooding, the potential flood damage and measures to be taken for the evacuation of the property.*

The issue as to whether the structures associated with the camping sites that are only used for toilet, shower facilities and storage are considered to be "Minor Structures" has been addressed in a legal opinion (...).

The opinion has argued that propose intent of the clause is to permit a genus of what is termed "Minor Structures" on a site such as this. The genus or class of buildings envisaged by the sub clause which may be erected is indicated by reference to the words "outbuildings, sheds and garages". The opinion has looked at the definitions of shed and garage and the both have a common purpose of providing for storage. The proposed buildings are used for the purpose of storage and parking of vehicles, boats, canoes and water skiing equipment.

The opinion has concluded that the assessing officer has assessed the buildings on the wrong basis.

Extent of flooding inundation of the structures

As discussed in the report to Council the structures will be inundated where the water level exceeds 10m AHD.

The nature of the construction of the structures involves masonry walls with metal frame and roof. The construction materials are considered to be flood compatible and capable of being immersed in water for a period of time without losing any of its structural integrity.

Council has previously approved a shed on the adjoining property to the east of the site in a similar locality that has similar construction materials that will be used. This building was engineered to be able to withstand the velocity of the flood waters in the locality. This building was approved in 2008 and the engineering details were accepted by Council.

I have assumed that the flood character of the locality has not altered since 2008.

As a result of the above it is possible for the buildings to be constructed to withstand the velocity of the flood waters.

Flood Evacuation Plan

A flood evacuation plan was submitted with the DA.

The matters discussed at the meeting on the 21 June in relation to flood evacuation of the site revolved around the following matters:

- *SES impact of more people in the area causing potential interruption to the SES service.*
- *Evacuation away from the site*
- *Evacuation of equipment from the site*
- *Physical access to the site and when site will be cut off*
- *Lead time for evacuation*

The proposed development involving a camping facility is unlikely to be used during times of long intense rainfall which contributes to the potential raising of the levels of the river and flooding. As a result it will be extremely unlikely people will be camping on the site during these weather conditions and the area will be closed and gates locked to prohibit entry to the site.

Given the small number of site any persons who have booked a site will be phoned and advised that the site is closed and access is not available. As a result this management measure will prevent use of the site during potential time of flooding.

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As no person will be on the site during these times the issue of being cut off and evacuation from the site can be controlled to ensure this does not become an issue.

The equipment that is likely to be stored in the buildings associated with the camping sites will be boats, canoes and skiing equipment associated with the camping grounds. The boats are on trailers and the canoes can be loaded onto the boat as well as the skiing equipment to limit the number of vehicles movements needed to remove the equipment. The boat and trailer is connected to a tow bar on a vehicle and moved to higher ground or back to the owner's property.

It is unlikely that all the buildings will have a boat and trailer parked inside that needs to be moved in the event of a potential flood.

Given the ease of moving the equipment off the site it is envisaged that all the equipment could be moved within 1 hour at the maximum.

The level of Pitt Town Bottoms Rd in the vicinity of the site ranges from 5.5m to 8m which would be cut off for events below 1:5 year.

Based on the recent flooding event this year the water level from the river was monitored on a regular basis and adequate time (more than 24 hours) was provided to inform people when access points were likely to be cut off. As a result this provides an adequate lead time to remove any equipment from the site to higher times.

Given the nature of the use and the management measures for flood evacuation it is unlikely that the development will pose any significant risk to persons or equipment associated with the development.

Clause 25(5)

- (5) The Council shall, in the assessment of a development application, consider the flood liability of access to the land and, if the land is within a floodway, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this clause have been satisfied.*

As previously stated the proposed development involving a camping facility which is unlikely to be used during times of long intense rainfall which contributes to the potential raising of the levels of the river and flooding.

It is extremely unlikely people will be camping on the site during these weather conditions and the area will be closed and gates locked to prohibit entry to the site.

The site will be cut off for flooding events less than 1:5 year.

However given the nature of the use it is unlikely that people will be using the camping sites during these periods of potential flooding.

The revised flood evacuation plan that is attached will ensure that for all flood events that will affect the property there will be no risk to property or humans.

The effects of the site being isolated will be minor as no persons will be on the site and all the equipment in the buildings will be removed from the site before Pitt Town Bottoms Rd is inundated by flood waters.

The scale of the development involving only 10 camping sites and 5 buildings will ensure any evacuation and removal of equipment in the buildings to higher ground outside the flood waters can occur in a short time period (around 1 hour at the maximum) given the ease of the removal of the equipment.

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The scale of the development is not considered intense but low scale as argued in the legal opinion previously provided to council.

The time period given by the relevant authorities for a flood warning is sufficient to have the equipment and any persons removed from the site well before the flood waters cut off the site to higher areas outside the floods.

Given the nature of the use and the management measures for flood evacuation it is unlikely that the development will pose any significant risk to persons or equipment associated with the development."

Council Assessment Comment:

The predicted flood levels for the locality are approximately:

1-in-100 year flood	17.3m AHD
1-in-50 year flood	15.7m AHD
1-in-20 year flood	13.7m AHD
1-in-10 year flood	12.3m AHD
1-in-5 year flood	11.1m AHD

The Floodplain Development Manual promotes a merit-based approach to the use of flood prone land. The development of flood liable land is not prohibited. Accordingly, Clause 25 of HLEP 1989 sets out the current flood restrictions on development.

Clause 25(6) Considerations (categorisation of structures)

It is not disputed that Council can consider minor structures on flood affected land pursuant to Clause 25(6) of the HLEP 1989. However, it is not accepted that the proposed development is minor in nature. It is considered that the provision of individual buildings for each of the camping sites, as well as the size, layout and permanency of these buildings, represents a more intensive form of development and may also result in longer-term residential use. The structures are associated with the use of the site as a caravan park and it is against this use Council must consider its flooding provisions, not an outbuilding as maintained by the Applicant. The structures may individually have a utilitarian function but collectively they support the purpose of accommodation for tourism purposes.

For these reasons the amenities buildings cannot be considered as 'minor' under Clause 25(6).

Clause 25(2) Considerations (minimum land level)

It is maintained that any buildings for either a 'rural tourist facility' or 'tourist facility' use of this land should be considered under Clause 25(2) of HLEP 1989 which prohibits the construction of buildings on land more than 3m below the predicted 1-in-100 year flood level. This requires that the land level for the buildings should be no lower than 14.3m AHD. As the site's natural ground levels (at 9.4m-9.81m AHD) are more than 3m below 17.3m AHD the proposed amenities buildings are prohibited.

The development would be significantly inundated by each of the predicted flood events (ranging from 1.1m to 7.3m). The camping sites and buildings would be immersed under several metres of water during the predicted 1-in-100, 1-in-50, 1-in-20 and 1-in-10 year flood events. The camping sites and amenities buildings would also be immersed by more than 1m of water during the predicted 1-in-5 year flood event. There is no place above the flood levels for safe refuge on this land (or nearby) even in the event of a minor flood.

It is possible to lodge a SEPP 1 objection to the development standard under Clause 25(2) however the degree of variation would be significant ($14.3\text{m} - 9.81\text{m} = 4.49\text{m}$ or 69%) and Clause 25(5) would still need to be considered (see below). NOTE: The minimum floor level of a building is a separate matter under Clause 25(3) but is irrelevant if the land levels have not been achieved.

Clause 25(5) Considerations

It is critical to note that Clause 25(5) of the HLEP 1989 requires that flood liability of the access and isolation of land be considered ***“notwithstanding whether other aspects of this clause have been satisfied”***.

The site is identified by WaterRide (flood modelling software generally accepted by all flood consultants working in the Hawkesbury, including work for Infrastructure NSW) as being “High Hazard” located within a floodway.

Given the frequency and extent of the flooding predicted, as well as the site's location within a floodway, the land is not considered suitable for the proposed use, in particular one that includes the construction of numerous permanent buildings. It is considered that the large size and layout of the amenities buildings, and their association with a form of residential/habitable use, increases the risks associated with this proposal.

A check of Council's records regarding the approval of the adjoining property indicates that that approval was not for "a similar building", i.e., rural tourist facility, but rather a rural shed. In this regard the use of the building is substantially different to that being proposed under the current development application, i.e., Rural Tourist Facility. Council's issues of concern relate not only to a structure being erected but also its use. There are substantially greater risks to life and property if a building is used for a rural tourist facility or the like when compared to a building being used as a rural shed.

A comparison with the Wanderest site for flood free access was also considered. It was noted that Wanderest is only 170m from land located above the 1 in 100 level whereas this site is a minimum of 1.4 km from land located above the 1 in 100 level and importantly that the access (over a watercourse at about 6.0m - 7.0m AHD) would be cut quickly even during low level flooding.

Therefore those other developments are not seen to be precedents for this development. As such a proposal involving accommodation on this site cannot be supported under Clause 25 (5) on flooding and safety grounds.

Clause 25(7) Considerations (flood compatibility of structures)

The applicant has submitted adequate information to address this clause and if Council were to support the proposal, relevant conditions of consent can be imposed.

Flood Liability for Decision Making

This application is the third development application submitted with the same intention of land use on this site i.e. short-term accommodation. Notwithstanding the differing planning opinions on classification of the use, the known data on 1 in 100 year flood levels and existing land levels remains undisputed.

Previous legal advice obtained by Council notes, that in determining a development application under Clause 25 of HLEP 1989, on high hazard flood liable land, Council (and its officers) should consider advice from the relevant qualified specialists and must give serious consideration to the matters set out in Clause 25(6) i.e.:

- the likely frequency of flooding;
- the potential flood damage; and
- measures to be taken for the evacuation of the property.

Section 733 of the Local Government Act 1993 ("LG Act") provides a Council with a statutory exemption from liability in respect of advice furnished or things done or omitted to be done in "good faith" in so far as it relates to the likelihood of land being flooded or the nature or extent of any such flooding. However, the legal advice indicates that unless the decision maker can demonstrate that these matters have been given due consideration then the protection of "good faith" cannot be assumed.

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Other Issues

In discussions with the Applicant and Council officers on 21 June 2012 and also at the Council Briefing, it was noted that if the proposal is a prohibited use then the merit aspects of the development need not be considered further. On this basis, and to avoid premature expense to the Applicant, Council officers suggested that the pre-determinative issues of permissibility and flooding be resolved. Hence, as discussed in the previously prepared Council report, the following matters remain outstanding:

- Effluent Disposal – The submitted report is deficient in that it does not include a site plan. Areas of disposal should be sited to minimise impacts to the river and the agricultural use of the land.
- Management Plan – A detailed plan is required for the management of the site (permanent caretaker when the park is open, hours of operation, lights out, activities undertaken onsite etc.). The activities to be undertaken onsite are to be clearly detailed and strategies are to be prepared to minimise potential amenity impacts.
- Contamination – Given past agricultural uses, Council's Environmental Health Officer has requested a contamination report to ensure the land is suitable for the proposed use.
- Office of Water – The use of the boat ramp and pontoon needs to be referred to the Office of Water for comment. This aspect of the development was not identified in the original submission.

These secondary matters are seen to be relatively minor but will need to be addressed prior to the determination of the application. Should Council be supportive of the development it is recommended that delegation be given to the General Manager to resolve these matters and determine the application.

Conclusion

This report has been prepared to discuss the two primary issues relating to this development; permissibility and flooding. Concerns relating to each of these issues remain and for this reason the development is recommended for refusal.

Planning Decision

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

RECOMMENDATION:

That Development Application No. DA0644/11 for the operation of a rural tourist facility, construction of camping sites, amenities buildings and an internal access road on Lot 2 DP: 1101683, known as 433 Pitt Town Bottoms Road, Pitt Town Bottoms, be refused for the following reasons:

1. The proposal falls under the definition of a 'tourist facility' and under the Hawkesbury Local Environmental Plan 1989 is prohibited within the Environmental Protection – Agriculture Protection zone.
2. The proposal is inconsistent with the objectives of the Hawkesbury Local Environmental Plan 1989.
3. Under the provisions of Draft Hawkesbury Local Environmental Plan 2011 the use of the site as a caravan park is prohibited within the RU2 Rural Landscape zone.

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4. The proposal is inconsistent with the objectives of the RU2 Rural Landscape zone.
5. The proposal does not demonstrate compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
6. The proposal fails to satisfy the requirements of State Environmental Planning Policy No. 55 – Remediation of Land in that insufficient evidence has been provided to demonstrate that the land is suitable for its intended use.
7. The flooding and safety risks associated with the development, given the scale and intensity, are high and are too great to mitigate in the circumstances.
8. The row of buildings is residential in appearance and will adversely impact on the scenic quality of the locality.
9. Insufficient information has been provided for the full and proper assessment of the proposal.
10. Approval of structures and this use in the locality subject to high flood risk is not in the public interest.

ATTACHMENTS:

AT 1 – Council Report dated 29 May 2012

AT 2 – Applicant's Legal Advice

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AT 1 - Council Report dated 29 May 2012

ITEM: CP - Development Application - DA0644/11 - Construction of Camping Sites and Amenities Buildings - Lot 2 DP 1101683 - 433 Pitt Town Bottoms Road, Pitt Town Bottoms - (95498, 85782, 90731)

Development Information

File Number: DA0644/11
Property Address: 433 Pitt Town Bottoms Road, Pitt Town Bottoms NSW 2756
Applicant: Urban City Consulting Pty Limited
Owner: Ski Across Pty Limited
Proposal Details: Rural Tourist Facility – Construction of camping sites and amenities buildings
Estimated Cost: \$225,000.00
Zone: Environmental Protection – Agriculture Protection
Date Received: 2 November 2011
Advertising: 15 November to 29 November 2011

Recommendation: Refusal

REPORT:

This application seeks the consent of Council to operate a rural tourist facility, construct camping sites, amenities buildings and an internal access road at 433 Pitt Town Bottoms Road, Pitt Town Bottoms.

The applicant has nominated that the proposed development falls under the definition of a rural tourist facility. However, the Hawkesbury Local Environmental Plan 1989's (HLEP 1989) definition of a 'rural tourist facility' refers to "*low scale holiday accommodation*". Given the number of sites, the individual servicing of the sites and the permanency of structures to be accommodated, the applicant's assertion that the proposal comprises a rural tourist facility is not supported. Instead it is considered that the development falls under the definition of a 'tourist facility'.

Tourist facilities are prohibited within the Environmental Protection – Agriculture Protection zone under the HLEP 1989. The proposal is defined as a 'caravan park' under the Draft Hawkesbury Local Environmental Plan 2011 (Draft HLEP 2011) and is a prohibited use.

The subject property comprises flood liable land. The area of the property that is to house the camping sites and buildings is significantly below the 1-in-100 flood level, and would also be subject to the inundation of more frequent 1-in-50, 1-in-20, 1-in-10 and 1-in-5 year flood events.

Council is able to consider minor structures on flood affected land. However, it is not accepted that the proposed buildings are of a minor nature. It is considered that the provision of individual buildings for each of the camping sites, as well as the size, layout and permanency of these buildings, represents a more intensive form of development and may also result in longer-term residential use. Given the extent of the flood affectation, as well the intensity of the development, the proposal is not supported on flooding and safety grounds and is recommended for refusal.

A number of applications involving similar proposals have previously been submitted to Council for the site. These applications were withdrawn by the Applicant. The application is being reported to Council given the history of the site and the fact that one of the previous applications for structures on the site (since withdrawn by the applicant) was called to Council by Councillor Porter.

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Key Issues Relevant to the Decision

- Definition and permissibility of the development;
- Flooding;
- Size and appearance of structures.

Development Description

The proposal involves the following:

- The establishment of 10 grassed camping sites with areas of 64m²;
- The construction of five buildings, each of which are split in two to service the ten camping sites. These 10 individual buildings will each have enclosed areas of 70m² and covered courtyards of 35m². The submitted plans and documentation indicate that the enclosed areas of the buildings will contain bathroom facilities and also be used for the storage and parking of vehicles, boats, canoes, water skiing equipment, etc. Each of the covered courtyards are to be provided with barbecue facilities;
- The construction of an internal access road to service the buildings; and
- The removal of weeds from the riverbank and the plantation of indigenous vegetation to the riverbank and surrounds of the rural tourist facility.

The submitted documentation suggests that the site will operate as a caravan park. The 'amenities buildings' will not be used for habitable purposes and will instead be used for the storage of vehicles and equipment. Tents, caravans and the like are to be set up within the designated camping sites to provide short-term accommodation.

A concrete boat ramp providing access to the Hawkesbury River exists to the north-eastern corner of the site. During an inspection a relocatable pontoon was also observed along the riverbank. It is understood that waterskiing, canoeing and boating will be undertaken from the site.

Portions of the proposed structures are to be located within 40 metres of the Hawkesbury River and as such the proposal was referred to the NSW Office of Water as 'Integrated Development'.

Site and Locality Description

The subject site is known as 433 Pitt Town Bottoms Road, Pitt Town Bottoms. The site is irregularly shaped and the site currently operates as a turf farm. Several sheds and ancillary structures currently exist on the site relating to the use of the site as a turf farm. The site has direct frontage to the Hawkesbury River.

On the opposite side of Hawkesbury River, to the north of the subject site is a State Heritage Item, Australiana Pioneer Village (496 Wilberforce Road). On the opposite side of Hawkesbury River to the east is the Butterfly Farm (446 Wilberforce Road) which is a local heritage item.

Turf farms and other agricultural uses generally dominate the locality, although water skiing parks exist at 505 Pitt Town Bottoms Road and 482 Wilberforce Road.

History

The Applicant has submitted two development applications previously for the site; DA0524/09 for the construction of five recreational storage sheds with recreational facilities and DA0160/10 (called to Council by Councillor Porter) for five rural sheds with attached carports. Both of these applications were withdrawn.

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A brief timeline for the current application, DA0644/11, is included below:

- The application was submitted to Council on 2 November 2011 and notified from 15 to 29 November 2011.
- The proposal was referred to the NSW Office of Water given its proximity to the Hawkesbury River. Comments from the NSW Office of Water were received on 2 December 2011.
- The proposal was referred to the NSW Office of Environment and Heritage (formerly known as the NSW Heritage Council) given its proximity to the Australiana Pioneer Village. Comments from the NSW Office of Environment and Heritage were received on 14 December 2011.
- A response to the comments provided by the NSW Office of Environment and Heritage was supplied by the Applicant on 28 February 2012.

Council Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
- Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River (SREP No. 20)
- State Environmental Planning Policy No. 21 – Caravan Parks (SEPP No. 21)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP No. 64)
- Draft Hawkesbury Local Environmental Plan 2011 (Draft HLEP 2011)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Section 79C Matters for Consideration

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act.

(a) (i) Environmental Planning Instruments

Hawkesbury Local Environmental Plan 1989

The subject land is zoned Environmental Protection – Agriculture Protection under the HLEP 1989.

The Statement of Environmental Effects (SoEE) submitted with the application indicates that the north-eastern portion of the site will be used as a short-term camping site. The Applicant has defined this use as a rural tourist facility.

The HLEP 1989 contains the following definition for a rural tourist facility:

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

It is acknowledged that camping sites or caravan parks can fall under the definition of rural tourist facilities. However, the HLEP 1989's definition includes a reference to "*low-scale accommodation*". Unlike the majority of caravan parks which provide camping grounds and communal facilities such as toilets and showers, the submitted application proposes the construction of large buildings to service each of the individual sites. It is not accepted that these structures comprise low-scale accommodation and, given the past history of applications for the site, there are also concerns that they will be used for habitable or long-term residential occupation.

Considering the number of sites, the individual servicing of the sites as well as the size, layout and permanency of the structures, it is considered that the proposal represents a more intensive form of development and does not comprise low-scale accommodation. Instead it is considered that the development more accurately falls under the definition of a tourist facility.

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The HLEP 1989 defines a tourist facility as:

***tourist facilities** means a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidaying public.*

Tourist facilities are prohibited within the Environmental Protection – Agriculture Protection under the HLEP 1989.

In addition to camping, extracts from the Applicant's Business Management Plan indicates that ski lessons, boat rides and the hiring of canoes and paddleboards will be undertaken from the site. Such a use would generally fall under the definition of a 'recreational establishment', which "*means a building or place used for health farms, religious retreat houses, rest homes, youth camps, outdoor recreational activities, sporting activities and the like, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause*".

Like tourist facilities, recreation establishments are prohibited within the Environmental Protection – Agriculture Protection zone.

The submitted SoEE does not address this aspect of the proposal in terms of permissibility. Whilst it is acknowledged that such activities may be subservient to an overriding permissible use, this has not been raised by the Applicant nor are the potential impacts generated by such activities discussed.

Clause 25(2) of the HLEP 1989 outlines that a "*building shall not be erected on any land lying at a level lower than 3 metres below the 1-in-100 year flood level for the area..., except as provided by subclauses (4), (6) and (8)*". Clause 25(6) continues "*minor structures such as outbuildings, sheds and garages may be erected on land below the 1-in-100 year flood level, with the consent of the Council. The Council shall, in the assessment of a development application for such a structure, consider the likely frequency of flooding, the potential flood damage and measures to be taken for the evacuation of the property*".

A survey was not lodged in support of the application. However, levels between 9.47 metres AHD and 9.81 metres AHD are nominated for the area of the site that is to accommodate the proposed structures and camping grounds. A floor level of 10m AHD is nominated for the amenities buildings.

The property comprises flood liable land, given that a level of 17.3m AHD is predicted for the 1-in-100 year flood event.

The adopted flood levels for the locality are as follows:

1-in-100 year flood	17.3m AHD
1-in-50 year flood	15.7m AHD
1-in-20 year flood	13.7m AHD
1-in-10 year flood	12.3m AHD
1-in-5 year flood	11.1m AHD

Consequently, the development would be significantly inundated by each of the predicted flood events (ranging from 1.1 metres to 7.3 metres). The camping sites and buildings would be immersed under several metres of water during the predicted 1-in-100, 1-in-50, 1-in-20 and 1-in-10 year flood events. The camping sites and amenities buildings would also be immersed by more than 1m of water during the predicted 1-in-5 year flood event.

As detailed previously, Council is able consider minor structures on flood affected land pursuant to Clause 25(6) of the HLEP 1989. However, it is not accepted that the proposed development is minor in nature. It is considered that the provision of individual buildings for each of the camping sites, as well as the size, layout and permanency of these buildings, represents a more intensive form of development and may also result in longer-term residential use. On this basis the amenities buildings cannot be considered as 'minor' under Clause 25(6) and would instead have to be considered against Clause 25(2) of the HLEP 1989, which prohibits the construction of buildings on land more than 3 metres below the predicted 1-in-100 year

flood level. As the site's natural ground levels are more than 3 metres below 17.3 metres AHD the proposed amenities buildings are prohibited.

Given the frequency and extent of the flooding predicted, the land is not considered suitable for the proposed use, in particular one that includes the construction of numerous permanent buildings. It is considered that the large size and layout of the amenities buildings, and their likely adaption to provide short or longer-term accommodation, increases the risks associated with this proposal.

A flood evacuation management plan has been prepared and submitted by the Applicant. However, this document is limited and does not include information such as evacuation routes, contact numbers and the like. Further to this, it should be noted that evacuation plans do not reduce the risk of flood or associated property damage.

On these grounds the proposal is not supported on flooding and safety grounds.

Section 9A of the HLEP 1989 establishes the following objectives for the Environmental Protection – Agriculture Protection zone:

- a) *to protect the agricultural potential of rural land in order to promote, preserve and encourage agricultural production,*
- b) *to ensure that agricultural activities occur in a manner:*
 - i. *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*
 - ii. *that satisfies best practice guidelines and best management practices,*
- c) *to ensure that development does not create or contribute to rural land use conflicts,*
- d) *to ensure that development retains or enhances existing landscape values that include a distinctly agricultural component,*
- e) *to preserve river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality,*
- f) *to protect hilltops, ridge lines, river valleys, rural landscapes and other local features of scenic significance,*
- g) *to prevent the establishment of traffic generating development along main and arterial roads,*
- h) *to control outdoor advertising so that it does not disfigure the rural landscape,*
- i) *to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services,*
- j) *to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,*
- k) *to encourage existing sustainable agricultural activities.*

It is considered that the proposal is inconsistent with the objectives of the zone in that the row of buildings are distinctly residential in character and will detract from the locality's rural character and the scenic quality of the Hawkesbury River. Given that the exact location of the effluent disposal area has not been indicated it is further considered that the proposal will result in land use conflict.

Therefore, in summary, it is considered that the development fails to satisfy the provisions of the HLEP 1989.

Sydney Regional Environmental Planning Policy 20 – Hawkesbury – Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims "*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context*". SREP No. 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

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The subject property is located within an area identified by SREP No. 20 as being of local significance. The accompanying study documentation indicates that the scenic value of this portion of the Hawkesbury River has been reduced by bank and recreation site treatments. The supporting study documents suggest the existing caravan, camping and water-ski parks project a visual presence that varies “*from pleasant to obtrusive*”.

Sections 6 (7) and (11) of the SREP No. 20 outline a number of strategies for recreation and tourist facilities, as well as vegetation, located along the river. Strategies include:

- *Plan and manage recreational and tourist developments, and associated access points, cycleways and footpaths, so as to minimise any adverse environmental impacts on the river.*
- *Maintain areas of extensive, prominent or significant vegetation to protect the character of the river.*
- *Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study.*
- *Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, and shrubs, particularly locally indigenous plants.*

Landscaping plans have been submitted in support of the application and generally satisfy the provisions of this Policy through the use of indigenous vegetation along the river. However, the appearance of the amenities buildings is seen to be incompatible with the scenic character of the area. As opposed to a more agricultural/rural character, the row of buildings is seen to be residential in appearance.

Clause 11 of SREP No. 20 also establishes development controls for land uses in or near the river. In the assessment of such proposals, Council must consider:

The need to locate access points where riverbanks are stable, away from river shallows and major beds of attached aquatic plants, away from fishing grounds and fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities, and where significant fauna and wetland habitats will not be adversely affected.

The area sought for development has previously been cleared and disturbed by past farming activities. The structures are to be located approximately 40 metres from the banks of the river and it is considered that the structures and camping sites will have no significant adverse impact on flora and fauna species, populations or habitats.

However, it is clear that there is also intent is to carry out recreational activities using the river and riverbank such as boating, waterskiing and fishing. This aspect of the development has been largely ignored in the documentation submitted to Council.

A concrete boat ramp providing access to the Hawkesbury River exists to the north-eastern corner of the site. During an inspection a relocatable pontoon was also observed along the riverbank. As detailed in previous reports prepared for this site, Council does not have any record of approval for these structures.

Retrospective approval would be required for the boat ramp; whilst the relocatable pontoon would also require approval should there be a desire to retain it. To obtain consent for these structures the written consent of the Department of Lands would be required should these structures be located over Crown Land (the Hawkesbury River). Comments and approvals would also be required from the NSW Office of Water and NSW Department of Primary Industries – Fishing and Aquaculture.

Until approvals are obtained for these structures the operation of recreation activities from the site cannot be considered. Accordingly it is felt that the proposal does not satisfy the objectives of SREP No. 20.

State Environmental Planning Policy No. 21 – Caravan Parks

SEPP No. 21 establishes controls for the establishment of caravan parks. This Policy defines a 'caravan park' as "*land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed*".

The proposal involves the establishment of ten camping sites and would therefore fall under the above SEPP No. 21 (and Draft HELP 2011) definition of a caravan park. As such the provisions of SEPP No. 21 would apply to the development.

The consent of Council is required for the operation of caravan parks pursuant to Clause 8 (1) of the Policy.

Section 3 (1) of SEPP No. 21 aims to encourage:

- a) *the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and*
- b) *the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and*
- c) *the provision of community facilities for land so used, and*
- d) *the protection of the environment of, and in the vicinity of, land so used.*

Council may grant a development consent required by this Policy only after it has considered the following:

- a) *whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*
- b) *whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*
- c) *whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*
- d) *whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*
- e) *any relevant guidelines issued by the Director, and*
- f) *the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.*

The submitted application does not address the provisions of this Policy.

As detailed elsewhere in this report, the property comprises flood-liaible land. Whilst the Draft Management Plan and SoEE outlines that the caravan park will only provide short-term accommodation, the provision of large fixed structures servicing each individual camping site suggests these structures may be used on a more permanent basis. Given the frequency and extent of the flooding predicted, the land is not considered suitable for use as a caravan park of this nature. The flood and safety risks associated with the development are considered unacceptable.

SEPP No. 21 requires an assessment of the proposal against the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. This assessment is required on the basis that caravan parks also need operational approval under Section 68 of the Local Government Act 1993.

The submitted application contains no assessment against the requirements of Part 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation. Insufficient information has been provided to allow a detailed assessment against these requirements. Additionally, it should be noted that the proposal fails to comply with the Regulation's facility, laundry, separation, visitor, disabled access, management plan, road width and lighting requirements.

State Environmental Planning Policy No. 36 – Manufactured Home Estates

SEPP No. 36 does not apply to the Sydney region and the proposed structures do not strictly fall under the definition of a 'manufactured home'. For the purposes of this Policy a manufactured home means "a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:

- a) *that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and*
- b) *that is not capable of being registered under the Traffic Act 1909,*

and includes any associated structures that form part of the dwelling.

Whilst similar the proposed amenities buildings do not fall under this definition as they are not pre-manufactured nor do they contain laundries.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

Council's mapping system indicates that the subject site contains Alluvial Woodland and weed plumes. The Alluvial Woodland vegetation community is defined as an endangered ecological community and may also comprise koala habitat.

No trees are to be removed to accommodate the proposed development (with the exception of noxious weed removal), and it is highly unlikely that koala populations exist within the locality or that the remnant vegetation onsite could support koalas. Therefore, having regards to the requirements of SEPP No. 44, it is considered that the proposal will not impact any significant strands of vegetation or disturb any natural habitats which would be considered as 'core koala habitat'.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority "*must not consent to the carrying out of any development on land unless:*

- a) *it has considered whether the land is contaminated, and*
- b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose".*

The site is currently used as a turf farm and has a long history of use for agricultural purposes. Documentation contained within the submitted SoEE suggests that agricultural practices have been undertaken that are unlikely to have contaminated the land.

Whilst this may be the case, based on the supplied information, Council cannot be confident that the site is free from contamination. The application fails to satisfy the requirements of SEPP No. 55 in that a contamination report has not been provided and insufficient evidence has been provided to demonstrate that the land is suitable for its intended use.

State Environmental Planning Policy No. 64 – Advertising and Signage

The submitted SoEE outlines that signage will be installed on the site to advertise and identify the proposed development. However no details regarding the location, size and appearance of this signage has been included. As such an assessment against the provisions of Sections 3(1) (a) and 8 of SEPP No. 64 has not been undertaken.

(a) (ii) Draft Environmental Planning Instruments**Hawkesbury Local Environmental Plan 2011**

Draft HLEP 2011 has been publicly exhibited and is a matter of consideration under Section 79C (1) (a) (ii) of the EP&A Act.

Under Draft HLEP 2011 the subject site would be zoned RU2 Rural Landscape. The proposed development would most appropriately be defined as a 'caravan park' under Draft HLEP 2011's Dictionary. Like SEPP No. 21, Draft HLEP 2011 defines a caravan park as "*land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed*".

Caravan parks are prohibited within the RU2 Rural Landscape zone.

The weight to be placed on the provisions of the Draft HLEP 2011 is dependent on how 'certain and imminent' the gazettal of a draft instrument is. At the time of submission, Council had exhibited and forwarded the draft instrument to the Department of Planning and Infrastructure for gazettal. As Draft HLEP 2011 represents Council's planning intent significant weight should still be given to the provisions of this draft.

The Draft HLEP 2011 establishes the following objectives for the RU2 Rural Landscape zone:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To ensure that development occurs in a manner that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows; land surface conditions and important ecosystems such as waterways.*
- *To ensure that development retains or enhances existing landscape values which includes a distinctive agricultural component.*
- *To preserve the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.*
- *To protect hilltops, ridge lines, river valleys, rural landscape and other local features of scenic significance.*
- *To ensure that development does not create unreasonable or economic demands, or both, for provision or extension of public amenities or services.*

The proposal is seen to be inconsistent with these objectives on the grounds that the use of a portion of the site as a caravan park and the rest of the site for agricultural purposes (turf farm) will result in a conflict between land uses. It is further considered that the residential appearance of the amenities buildings is incompatible with the area's rural character.

It is therefore considered that the proposal fails to satisfy the provisions of Draft HLEP 2011.

(a) (iii) Development Control Plans**Hawkesbury Development Control Plan 2002**

The proposal was notified in accordance with the Part A Chapter 3 of the HDCP 2002. No submissions were received.

Table 2.5.5 of Part C Chapter 2 establishes the following parking controls for caravan parks:

- One space per caravan/camping site, plus
- One visitor space per 10 sites or part thereof

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Provided the amenities buildings are used for the parking of vehicles, each of the camping sites would be provided with a single space as required.

The provision of visitor parking is not shown on the submitted plans, although it is recognised that space may be available onsite.

Effluent disposal is discussed further in this report.

(a) (iv) Planning Agreements

There are no planning agreements applicable to the proposed development.

(a) (v) Matters Prescribed by the Regulations

These matters have been considered in the assessment of this application.

(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 submitted application is largely silent on the use of the site for recreational purposes. Extracts from the Business Management Plan indicate that ski lessons, boat rides and the hiring of canoes and paddleboards will be undertaken from the site. This plan suggests fees will be charged for lessons and the hiring of equipment. However, it is unclear if this equipment and services are only available to tourists staying at the park, or if they will be available to the wider public.

The Draft Management Plan and SoEE are deficient in that they do not address this matter.

Likewise, the likely impacts of recreational activities being undertaken from the premises has not been explored or addressed by the applicant within the SEE.

The Draft Management Plan fails to address the day-to-day operation of the caravan park, e.g. the Draft Management Plan does not outline whether a manager/supervisor will be permanently located onsite. Without these details Council cannot be confident that the park will operate in a manner so as to minimise amenity, social and environmental impacts to neighbours and the locality.

On-site Effluent Disposal

An effluent disposal report has been submitted in support of the application and details that onsite sewage systems will be installed for each of the buildings.

Council's Environmental Health Officer has reviewed the report and has provided the following comments:

- *A site plan with the location of the proposed on-site sewage management systems has not been provided.*
- *The buffer distance of 100 metres to the Hawkesbury River needs to be complied with so that the disposal area is more than 100 metres away.*
- *The report has not addressed maximum hydraulic loads over the summer and holiday season (when the sport of water skiing is most popular) when the site will be utilized the most. How are they going to limit the number of people per site to three?*
- *I am concerned that the volume of effluent calculated to be produced by each building is underestimated for peak times.*

Insufficient information has therefore been provided to demonstrate that the development satisfies Part C Chapter 7 of the HDCP 2002.

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Council's Environmental Health staff have been unable to provide further comments with respect to the proposal given that the submission does not address the provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation.

(c) Suitability of the site for the development

During times of flood the development site may be inundated by several metres (up to 7 metres) of water across the entire site. Due to the frequency and extent of the flooding predicted for the site, it is considered that the land is not suitable for the proposed use. The flooding and safety risks cannot be justified given the scale and intensity of the proposed development.

Should the structures be accepted as bona fide non-habitable amenities buildings there would be a requirement that they are constructed of flood compatible materials and strengthened to increase resistance to floodwater flow, buoyancy and debris impact.

(d) Submissions

The application was publicly exhibited in accordance with Part A Chapter 3 of the HDCP 2002 between 15 and 29 November 2011. No submissions were received in response to the notification of this application.

Comments received from the NSW Office of Water and NSW Office of Environment and Heritage are discussed later in this report.

(e) The Public Interest

The Applicant's classification of the development as a rural tourist facility is not accepted on the account of its scale and intensity. As such the development is prohibited under both the HLEP 1989 and Draft HLEP 2011. Given the flood risks involved it is also considered that the approval of this application would set an inappropriate precedent for the area.

Furthermore, the cumulative impact of this and/or similar developments on properties affected by the 1-in-100 year event are considered to not be in the public interest in terms of flood risk.

The proposal is therefore seen to be contrary to the public's interest.

Referrals

NSW Office of Water – The submitted plans indicate that the structures are to be located within 40 metres of the Hawkesbury River. Consequently the proposal was referred to the NSW Office for Water as Integrated Development.

However, the NSW Office of Water has advised that a Controlled Activity Approval is not required on the basis that the proposed works are not occurring on waterfront land (being land within 40 metres of the Mean High Water Mark [MHWM] of the river).

In this regard it should be noted that the submitted application was largely silent with the respect to the use of the site for recreational activities and the use of the existing boat ramp and pontoon.

NSW Office of Environment and Heritage – The proposal was referred to the NSW Office of Environment and Heritage given its proximity to the state-listed Australiana Pioneer Village (496 Wilberforce Road). In turn the NSW Office of Environment and Heritage has provided general advice for Council's consideration.

Whilst the recommendations of the NSW Office of Environment and Heritage have been noted, it is considered that sufficient separation exists between the subject site and the State-listed heritage item across the river. Given that the area has been largely cleared and minimal excavation would be required for the buildings, further archaeological assessment is considered unreasonable in this instance.

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Financial Implications

Based on the supplied value-of-works of \$225,000.00, the payment of a Section 94A Development Contribution of \$2,250.00 would be payable should the application be supported.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C(1) having been taken into consideration. The proposal falls under the definition of a tourist facility under the HLEP 1989 and a caravan park under Draft HLEP 2011. Under each of these instruments the proposal represents a prohibited form of development. On account of the frequency and extent of the flooding predicted for the site, it is also considered that the land is not suitable for the proposed use. The flooding and safety risks associated with the development cannot be justified given the scale and intensity of the proposed development.

The development is therefore recommended for refusal.

Planning Decision

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

RECOMMENDATION:

That Development Application No. DA0644/11 for the operation of a tourist facility, construction of camping sites, amenities buildings and an internal access road on Lot 2 DP: 1101683, known as 433 Pitt Town Bottoms Road, Pitt Town Bottoms, be refused for the following reasons:

1. The proposal falls under the definition of a ‘tourist facility’ and under the Hawkesbury Local Environmental Plan 1989 is prohibited within the Environmental Protection – Agriculture Protection zone.
2. The proposal is inconsistent with the objectives of the Hawkesbury Local Environmental Plan 1989.
3. Under the provisions of Draft Hawkesbury Local Environmental Plan 2011 the use of the site as a caravan park is prohibited within the RU2 Rural Landscape zone.
4. The proposal is inconsistent with the objectives of the RU2 Rural Landscape zone.
5. The proposal does not demonstrate compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
6. The proposal fails to satisfy the requirements of State Environmental Planning Policy No. 55 – Remediation of Land in that insufficient evidence has been provided to demonstrate that the land is suitable for its intended use.
7. The flooding and safety risks associated with the development, given the scale and intensity, are high and are too great to mitigate in the circumstances.

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8. The row of buildings is residential in appearance and will adversely impact on the scenic quality of the locality.
9. Insufficient information has been provided for the full and proper assessment of the proposal.
10. Approval of structures and this use in the locality subject to high flood risk is not in the public interest.

ATTACHMENTS:

AT - 1 Locality Plan

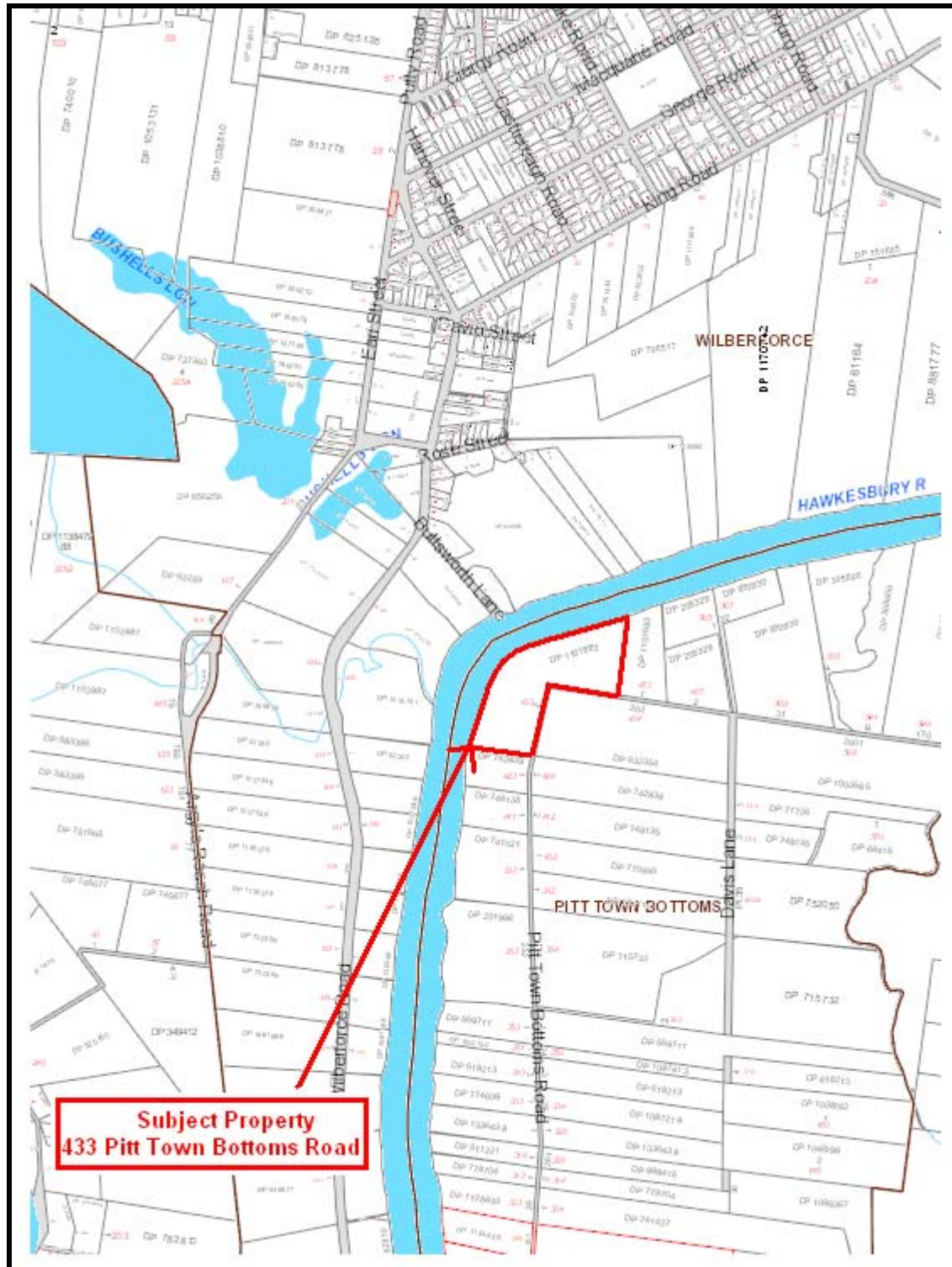
AT - 2 Aerial Photograph

AT - 3 Architectural Plans

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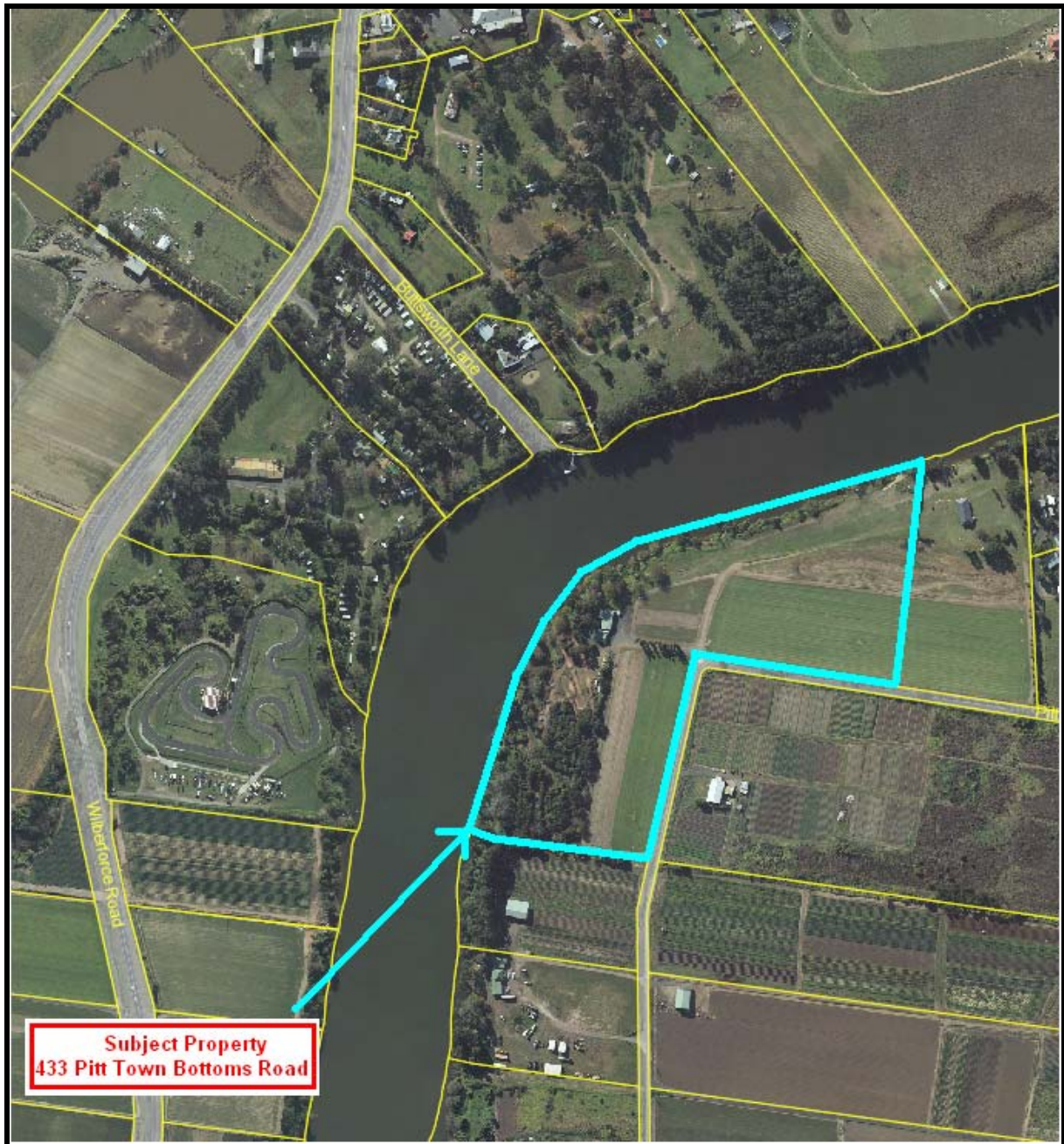
AT - 1 Locality Plan



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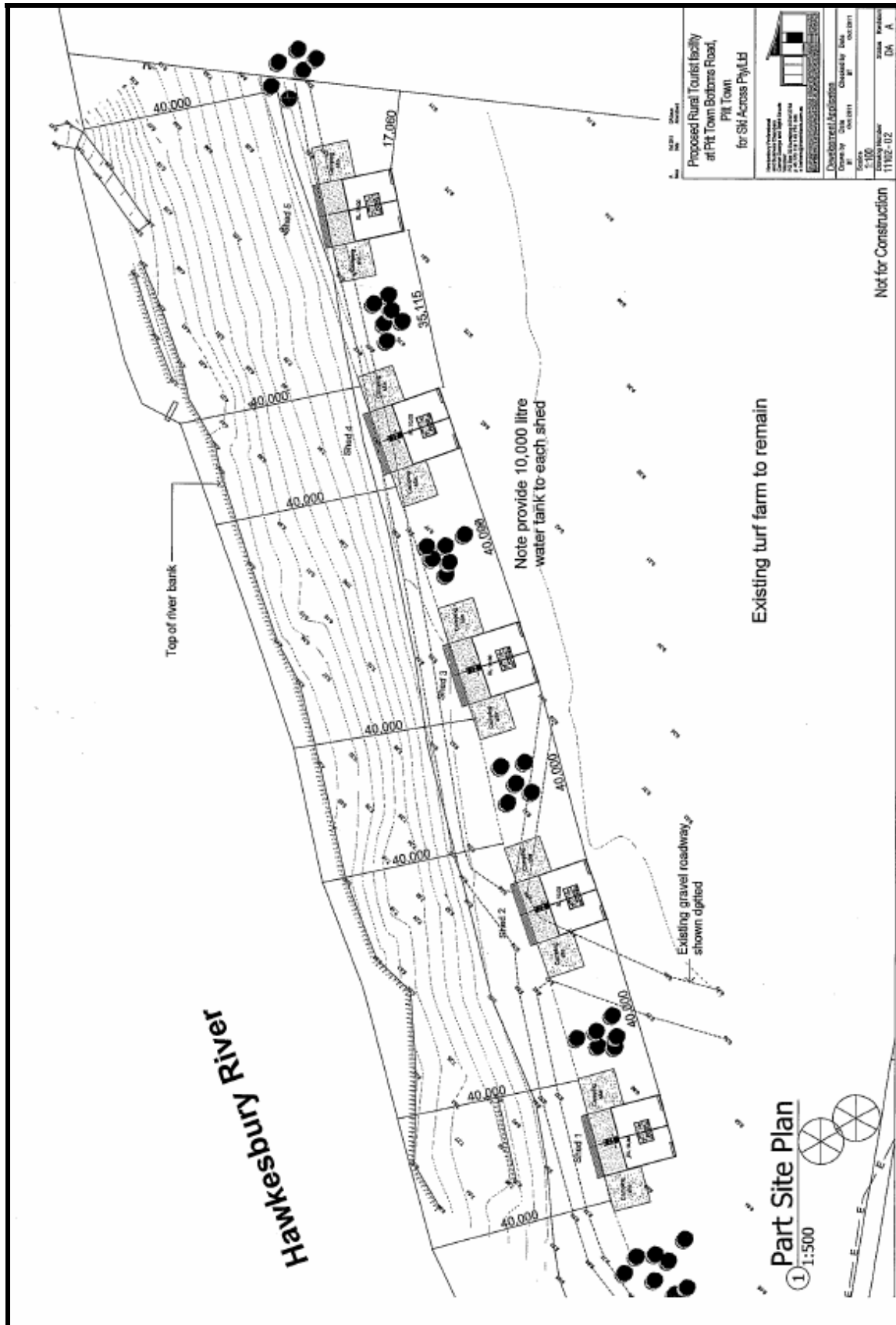
AT - 2 Aerial Photograph



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AT - 3 Architectural Plans



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AT 2 - Applicants Legal Advice



ritchie & castellan
solicitors & notaries

Your Ref: Greg Hall
Our Ref: GC:NT:120280

Email: gcastellan@ritchiecastellan.com.au

2 July 2012

Ski Across Pty Ltd
c/-Urban City Consulting
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RECEIVED
- 3 JUL 2012

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Also by email

E-MAILED
2/7/12 @ 10:41am

Dear Mr Hall,

Further Advice on Rural Tourist Facility – 433 Pitt Town Bottoms Road, Pitt Town Bottoms

I refer to your email dated Monday, 25 June 2012 requesting further advice on the following matters:-

1. The permissibility of the use and the definition of rural tourist facility.
2. The flooding issue.

Permissibility of the use

The proposed use is permitted as a rural tourist facility but not as a tourist facility. The Author of the Report to Council dated 29 May 2012 categorised the use as a tourist facility.

Section 5 of Hawkesbury LEP 1989 provides the following definition for Rural Tourist Facilities:-

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

Section 5 of Hawkesbury LEP 1989 provides the following definition for Tourist Facilities:-

"Tourist facilities means a building or place that is used to provide refreshment, accommodation, recreation or amusement facilities for the travelling or holidaying public."

Looking at the definitions of *Rural Tourist Facilities* and *Tourist Facilities* the main difference seems to be that the former is intended to be in a rural area and is to be used to provide low scale holiday accommodation for the travelling or holidaying public whilst the

latter, although it does not designate an area, is intended to provide facilities in a built-up area and does not restrict the scale of the accommodation which is also intended for all the travelling or holidaying public.

It can also be seen that the definition of rural tourist facility emphasises the low scale nature of the use as compared with the definition of tourist facility which may be of a larger scale.

Whether the proposal is low scale in nature

This question arose in a Class 1 Appeal to the Land and Environment Court in *Christopher George Longeran t/a East Coast Planning Consultants v Byron Shire Council* [2003] NSWLEC 298 (22 October 2003) before Commissioner Moore. There were two appeals before the Court, No. 10588 of 2003 which related to modification of parking conditions and 10589 of 2003 being an appeal considering a development application for the use of an existing refreshment room serving a rural tourist facility by seeking to make the use of the refreshment room available to non-resident users. The existing development consisted of twelve residential cabins, a manager's residence and a large restaurant/refreshment room structure with associated outdoor areas available for entertainment or use by guests.

The Court considered the definition of "low scale" contained in *Byron Rural Settlement Strategy 1998* for guidance. This strategy defined "low scale" in the following terms:-

"Low scale refers to rural tourist developments which are small enough to be managed and operated by the principal owners(s) living on the property without requiring additional 'outside' staff. Such development must create minimal visual and environmental impacts on the surrounding natural features of an area by incorporating the appropriate measures (ie. cabin height, cabin gross floor area, cabin density, number of stories, colour, energy efficient building design, management of sewage and greywater, and composting) outlined in the guidelines below and in the other sections of the Strategy."

The Court found that the intensification of use of the road leading to the development and its impact on the amenity enjoyed by local residents along the road, would alter the nature of the scale of the development, so that it would be no longer be low scale in nature.

Referring to the definition of *low scale* reproduced above from the *Byron Rural Settlement Strategy 1998* we note the following in relation to this proposed development:-

- It is proposed that the facility will be managed and operated by the present owners of the site with minimal outside staff.
- The structures associated with the camping areas are single storey and the duplex construction reduces the number of structures associated with the camping areas required on the site.
- There are five structures associated with the camping areas set back 40 metres from the riverbank in a way which permits continuation of use of the property for turf farming thus maintaining the rural character of the area.



- No additional utility services are required.

Having regard to these matters and the overall proposed development, in my opinion the proposal is low scale holiday accommodation within the meaning of the definition of Rural Tourist Facilities as defined in Hawkesbury LEP 1989.

The flooding issue

The Author of the Report to Council Meeting dated 29 May 2012 has assessed the buildings under Clause 25(2) of HLEP 1989. The basis for the assessment is stated:-

"However, it is not accepted that the proposed development is minor in nature. It is considered that the provision of individual buildings for each of the camping sites, as well as the size, layout and permanency of these buildings, represents a more intensive form of development and may also result in longer-term residential use."

Clause 25(6) of HLEP 1989 states:-

"Minor structures such as outbuildings, sheds and garages may be erected on land below the 1-in-100 year flood level, with the consent of the Council. The Council shall, in the assessment of a development application for such a structure, consider the likely frequency of flooding, the potential flood damage and measures to be taken for the evacuation of the property".

The obvious intent of the sub-clause is to permit a genus of what are termed "Minor structures" on a site such as this. The genus or class of buildings envisaged by the sub-clause which may be erected is indicated by reference to the words "outbuildings, sheds and garages".

The Macquarie Dictionary, Revised 3rd Edition, provides the following definitions of these words:-

"Outbuilding means a detached building supporting a main building.

Shed is defined as: 1. *A slight or rough structure built for shelter, storage etc.*
2. *A large, strongly built structure, often open at the sides or end.*

Garage is defined as a building for sheltering a motor vehicle or vehicles."

It can be seen that the definition of a shed or garage has the common purpose of providing for storage.

The proposed buildings are to be used for the purpose of storage and parking of vehicles, boats, canoes and water skiing equipment. It will not be used for habitable purposes. Should that be a consideration then, use of the buildings may be controlled by imposition of an appropriate condition to provide that they are not used for habitable purposes.



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2 July 2012

The assessment by the planner indicates that he has not assessed the structures in accordance with clause 25(6) but rather has assessed the structures themselves, but rather that he has assessed it on the basis that **"it is not accepted that the proposed development is minor in nature"**.

The sub-clause obviously requires an assessment to be made of the actual structure and the sub-clause itself indicates the type of structures which are to be regarded as minor structures under the sub-clause.

It is clear the author assessed it on the wrong basis.

Should you wish to discuss this matter further, please do not hesitate to contact John Thompson.

Yours faithfully,
ritchie & castellan

oooO END OF REPORT Oooo

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Item: 151 **CP - Development Application - DA0236/12 - Stage Alterations and additions to create grandstand and associated facilities - Lot 1 DP 879466 - 698 George Street, South Windsor - (95498, 10612)**

Development Information

File Number: DA0236/12
Property Address: 698 George Street, South Windsor
Applicant: Windsor Leagues Club Ltd
Owner: Windsor Leagues Club Ltd
Proposal Details: Stage alterations and additions to create grandstand and associated facilities
Estimated Cost: \$2,446,775.00
Zone: 6(a) Open Space (Existing Recreation) under Hawkesbury Local Environmental Plan 1989
RE2 Private Recreation under Draft Hawkesbury Local Environmental Plan
Date Received: 25 May 2012
Advertising: 1 to 15 June 2012

Key Issues:

- ◆ Flooding – SEPP No. 1 Objection
- ◆ Parking impacts
- ◆ Visual appearance

Recommendation: Approval

REPORT:

Executive Summary

This application seeks the consent of Council to undertake alterations and additions to create a grandstand and associated facilities at 698 George Street, South Windsor. The proposed grandstand is to be located on the Windsor Leagues Club Oval and is to provide seating for approximately 800 people.

The subject property is zoned 6(a) Open Space (Existing Recreation) under Hawkesbury Local Environmental Plan 1989 (HLEP 1989) and is used for sporting activities. The proposed grandstand complex is seen to be ancillary to the use of the land as a 'recreation area' and is therefore permissible within the 6(a) Open Space (Existing Recreation) zone.

The property is flood liable and whilst the majority of the complex's ground floor level matches the level of the existing amenities building, the proposal fails to satisfy the minimum land level requirements under Clause 25(4) of the HLEP 1989. The Applicant has therefore submitted an objection pursuant to State Environmental Planning Policy No. 1 – Development Standards (SEPP No. 1) that compliance with this development standard is unreasonable and unnecessary in this instance.

Given that the development comprises a non-habitable use; may be constructed of flood compatible materials; and generally matches existing building levels, it is recommended that Council support the SEPP No. 1 Objection to Clause 25(4) of the HLEP 1989.

The application is being presented to Council for determination as it involves a variation under SEPP 1 to a development standard to Clause 25(4) of approximately 13%. Since 2008, all SEPP No. 1 objections with variations in excess of 10% have to be reported to a Council Meeting for determination.

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Description of Proposal

Pursuant to Section 78A(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks Council's approval to undertake alterations and additions to create a grandstand and associated facilities at 698 George Street, South Windsor.

The subject property is the Windsor Leagues Club Oval, which is associated with the adjoining Windsor Leagues Club at 1A Rifle Range Road. The oval is the home ground of the Windsor Wolves.

An amenities block consisting of locker rooms, toilets, dugouts, canteen and viewing stand exists on the western side of the main rugby league field. The submitted application proposes alterations to this facility to provide an eight-hundred seat covered grandstand, a viewing room, additional toilets, enlarged locker rooms, an enlarged canteen, new dugouts, storage rooms and a lift to service the complex. The works are to be undertaken in 2 stages (phases).

The grandstand complex is to have a footprint of approximately 88m², a ceiling height of 9.3m and a maximum (roof) height of 11.245m.

Summary Recommendation

The development is ancillary to the existing use of the property as a recreation area and is therefore permissible within the 6(a) Open Space (Existing Recreation) zone. The proposed development is an upgrade of facilities servicing patrons of the sporting ground and therefore does not generate additional parking or substantially different amenity impacts in comparison to the existing situation.

The grandstand complex is to be used for non-habitable purposes only and is ancillary to the recreational use of the property. The submitted SEPP No. 1 Objection is seen to be well-founded and the conditional approval of the development is recommended.

Site Description and Locality

The subject property is located on the southern corner of George Street and Rifle Range Road, South Windsor, and has a site area of approximately 4.57 hectares. The property comprises flood liable land as it is located below the predicted 1-in-100 year flood level of 17.3m AHD.

A football field is located within the centre of the site, with an amenities building and smaller training field located to the west and a barbecue facility located to the east. The property is associated with the adjoining Windsor Leagues Club at 1A Rifle Range Road and a shared carpark with 241 spaces exists over the two sites. Structures associated with the leagues club building are also located on the subject property.

Two vehicular crossings, providing both access and egress, are available from Rifle Range Road, with the main entrance to the Windsor Leagues Club located on 1A Rifle Range Road.

Surrounding development generally consists of residential properties to the north, south and east, with Rifle Range Road acting as a primary entrance to the Bligh Park and South Windsor residential area. Bede Polding College is located to the east and properties to the west (on the opposite side of George Street) have a rural zoning and consist of dwelling houses and agricultural uses.

Site History

Development applications previously approved for the subject site include:

NO.	Proposal	Decision
M1333/00	Construction of a grandstand	Approved
DA1567/03	Alterations and retrospective approval for an earthen spectator mound	Approved
DA0174/04	Construction of a grandstand	Approved

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Development Consent No. DA1333/00 was approved for the construction of an uncovered grandstand capable of seating four-hundred (400) people at the northern end of the field. This consent was not acted upon and has now lapsed.

Development Application No. DA1567/03 was submitted to formalise unauthorised filling that was undertaken onsite. This filling was undertaken to provide an earthen spectator mound around the field. Approval was granted and the works have been completed.

Development Consent No. DA0174/04 approved the construction of a grandstand capable of seating nine-hundred (900) people. Like the current proposal before Council, this consent approved the construction of a grandstand and other facilities over and adjacent to the existing amenities block. This consent was not acted upon and has now lapsed.

Note: No conditions were imposed on these consents that restricted the hours of the recreation area or the sporting activities. Standard noise restrictions were imposed with Development Consent No. DA0174/04.

Application History

The development application was submitted to Council on 25 May 2012. The notification of this proposal was undertaken from 1 to 15 June 2012.

Additional information was requested on 30 July and an amended SEPP No. 1 Objection was received on 3 August 2012.

Council Policies, Procedures and Codes to Which the Matter Relates

- Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
- State Environmental Planning Policy No. 1 – Development Standards (SEPP No. 1)
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- State Environmental Planning Policy No. 64 – Advertisements and Advertising Structures (SEPP No. 64)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Draft Hawkesbury Local Environmental Plan 2011 (Draft HLEP 2011)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

Section 79C Matters for Consideration

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 79C of the EP&A Act:

a) The provisions (where applicable) of:

(i) Environmental Planning Instruments:

Hawkesbury Local Environmental Plan 1989

The subject property is zoned 6(a) Open Space (Existing Recreation) under the HLEP 1989.

The site is used for sporting activities and, as detailed previously in this report, a number of approvals relating to the use of the site as a recreation area have been issued. The proposed grandstand complex is seen to be ancillary to the use of the land as a recreation area and is therefore permissible within the 6(a) Open Space (Existing Recreation) zone.

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The objectives of the 6(a) Open Space (Existing Recreation) zone are:

- (a) *to identify existing publicly owned land that is used or is capable of being used for active or passive recreation purposes;*
- (b) *to encourage the development of public open spaces in a manner which maximises the satisfaction of the community's diverse recreation needs;*
- (c) *to enable development associated with, ancillary to or supportive of public recreation use; and*
- (d) *to encourage the development of open spaces as major urban landscape elements.*

The subject land is privately owned by the Windsor Leagues Club however the proposal is seen to be consistent with the general recreation objectives above. The approval of this development will provide the municipality with a modern sporting facility and improved spectator seating.

Clause 22 Considerations (development on main roads)

Clause 22 of the HLEP 1989 outlines controls for development that fronts main or arterial roads. Clause 22(1) states:

1. *In determining any application for consent to carry out development in any zone where the land has a frontage to a main or arterial road, the Council shall have regard, in addition to the matters specified in section 79C(1) of the Act, to the following principles:*
 - (a) *Development should be of a type compatible with the maintenance and enhancement, as far as is practicable, of the existing scenic character of the locality.*
 - (b) *Development should not generate significant additional traffic or create or increase ribbon development directly along a main or arterial road, relative to the capacity and safety of the road.*
 - (c) *Any building should be sited and designed to be of an appropriate scale, so as to maintain the character of the area, to minimise disturbance to the landscape, not to intrude into the skyline and to maintain an overall pattern of building development that is consistent with the character of the area.*
 - (d) *Any building should be set back, from the nearest alignment of the main or arterial road, the distance to be determined by the Council having regard to:*
 - (i) *the nature, scale and function of the building;*
 - (ii) *the maximisation of sight distances for drivers, including visibility of points of access;*
 - (iii) *the minimisation of distractions to drivers; and*
 - (iv) *any possible need to alter the road alignment in the future.*

The subject property fronts George Street, which is a main road owned and controlled by the Roads and Maritime Services (RMS). Whilst the property fronts this main road there is no formal access from that road and access to the site is available from Rifle Range Road. The property is located within an established urban/rural residential area and is associated with the Windsor Leagues Club and its main sporting field.

At its highest point the grandstand will have a height of approximately 11m. In this regard, the visual prominence of this building is expected to be less given that the property is approximately 3m lower than George Street. The grandstand complex is to be set approximately 19m from the site's western boundary and in excess of 21m from George Street. The existing stand of native vegetation adjoining the George Street boundary will also act as a visual buffer from the main road to the grandstand structure.

It is considered that the grandstand complex is visually compatible with the recreational use of the land. The bulk, scale, height and appearance of the development are seen to be acceptable when viewed from George Street and is not expected to detract from the scenic quality of the locality.

The roof of the grandstand complex will be Colorbond Surfmist and the walls will be a mixture of natural concrete, Colorbond Classic Cream and Dulux paint in a white/cream colour. The seats (facing away from the main road) will be in green and gold.

No specific setback distances for this form of development have been established by Council, and the site is not burdened by road widening. The structure is well setback from George Street and is not expected to generate any adverse impacts for drivers along this road.

The impacts of the proposed development have been assessed and are considered to comply with the requirements of Clause 22 of HLEP 1989.

Clause 25 Considerations (flood controls)

Clause 25 of the HLEP 1989 establishes Council's flooding controls. The ground floor level and the dugouts of the grandstand complex fail to satisfy the minimum land level requirements under Clause 25(4) of the HLEP 1989 and consequently a SEPP No. 1 Objection has been lodged arguing that full-compliance with this development standard is unreasonable and unnecessary in this instance. A discussion of this SEPP No. 1 Objection is included below.

The property would be defined as a 'flood storage area' as opposed to a floodway under the Floodplain Development Manual. The imposition of conditions relating to the structural integrity of the building and the use of flood compatible materials are recommended to satisfy Clauses 25(5) and (7) of the HLEP 1989.

It is therefore considered that the development satisfies the provisions under Clause 25 of the HLEP 1989.

State Environmental Planning Policy No. 1 – Development Standards

The predicted 1-in-100 year flood level for the locality is 17.3m AHD and the area accommodating the development has levels of approximately 11.8 to 12.5m AHD. Accordingly the subject property is defined as flood liable land.

The existing amenities building has a floor level of 12.2m AHD and the proposed ground floor works are to continue at this level. The dugouts to the front of the grandstand are to be lower than the ground floor, with a floor level of 11.37m AHD nominated. The 'mezzanine' and 'upper level' areas of the grandstand are to have levels of 15m AHD and 18.5 AHD respectively.

Clause 25 of the HLEP 1989 outlines controls for development within flood liable land. The relevant provisions of this clause state:

1. In this clause:
commencement day means the day on which Hawkesbury Local Environmental Plan 1989 (Amendment No 86) commenced.
flood compatible materials means building materials and surface finishes capable of withstanding prolonged immersion in water.
floodway means the channel of a river or stream and those portions of the flood plain adjoining the channel which constitute the main flow path for floodwaters.
2. A building shall not be erected on any land lying at a level lower than 3m below the 1-in-100 year flood level for the area in which the land is situated, except as provided by subclauses (4), (6) and (8).
3. Each habitable room in a building situated on any land to which this plan applies shall have a floor level no lower than the 1-in-100 year flood level for the area in which the land is located.
4. Notwithstanding subclauses (2), (3), (10) and (11), a building that was lawfully situated on any land at 30 June 1997 may, with the consent of the Council, be extended, altered, added to or replaced if the floor level of the building, after the building work has been carried out, is not more than 3m below the floor height standard for the land immediately before the commencement day.
5. The Council shall, in the assessment of a development application, consider the flood liability of access to the land and, if the land is within a floodway, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this clause have been satisfied.

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6. Minor structures such as outbuildings, sheds and garages may be erected on land below the 1-in-100 year flood level, with the consent of the Council. The Council shall, in the assessment of a development application for such a structure, consider the likely frequency of flooding, the potential flood damage and measures to be taken for the evacuation of the property.
7. Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible materials.

Clause 25(4) of the HLEP 1989 allows a building that was legally situated on any land as of 30 June 1997 to be altered and extended if the floor level is not more than 3m below the floor height standard that applied prior to the adoption of the HLEP 1989. Perusal of Council's records indicates that the existing amenities building was lawfully situated on the site at this date. Therefore, as a floor height standard of 16m AHD previously applied Council can consider works with a level at or above 13m AHD under Clause 25(4) of the HLEP 1989.

However, with levels of 12.2 AHD and 11.37m AHD the ground floor and dugouts each fail to achieve the minimum 13m AHD floor height level required by Clause 25(4) of the HLEP 1989. A variation of approximately 13% applies in this instance.

The Applicant has submitted a SEPP No. 1 Objection arguing that compliance with this development standard is unreasonable and unnecessary in this instance. The Applicant has provided the following justification for the proposed development:

- *The proposed facility is a non-habitable building and will be vacant most of the time,*
- *The ground floor level, which includes the locker room and kitchen facilities, is to be maintained at the existing level,*
- *The dugouts are a minor component of the development, are non-habitable and will only be used during game events,*
- *Adequate notice of a significant flood event can reasonably be expected in this locality. With such a warning any games may be cancelled,*
- *The materials to be used in the construction are to be compatible with flood waters,*
- *Plant and service equipment is to be installed above the 3m floor height standard,*
- *The lift will be installed with sensitive equipment at the top of the shaft and the lift itself will be arranged to park at the top in the event of a flood,*
- *Valuable equipment that may be moved could be moved via the lift and stored above the level of the assumed 1-in-100 year flood event, and*
- *The proposed structure is non-critical in terms of community infrastructure.*

Clause 25(4) of the HLEP 1989 is expressed as a numerical measurement and is not seen to be a prohibition. It is therefore accepted that it is a development standard. The tests outlined in *Wehbe v Pittwater Council* [2007] NSWLEC 827 have been used in the assessment of this SEPP No. 1 Objection:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*

Comment:

Clause 25(4) of HLEP 1989 recognises that buildings that were approved under previous planning controls may be considered differently than buildings on new or vacant allotments of land.

The grandstand complex is to be non-habitable and will generally be vacant except on game days, for training and ground preparation etc. The ground floor level, which includes the locker room, toilets and kitchen facilities, is to be maintained at the existing level, whilst the lower level dugouts are a minor component of the development. Therefore despite the non-compliance it is considered that the proposal satisfies the objectives of Clause 25(4) of the HLEP 1989.

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2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*

Comment:

It is not accepted that the underlying objective of the development standard is not relevant to the proposed development. However, given the site's history and the nature of the building's use, the proposed development is seen to be acceptable and strict compliance with Clause 25(4) is seen to be unnecessary.

3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*

Comment:

Strict compliance with the development standard would prevent the re-development or upgrade of existing facilities. For this reason compliance is seen to be unreasonable in this instance.

4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

Comment:

Clause 25(4) of the HLEP 1989 applies to both habitable and non-habitable buildings. The provisions of this development standard have generally been enforced, except in rare circumstances based on the history of the site and the nature of the use.

As such it cannot be argued that the development standard has been abandoned or destroyed by past Council determinations.

5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Comment:

Both the current and proposed zonings are appropriate given the use of the land.

6. *The applicant must satisfy the consent authority that "the objection is well founded" and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

Comment:

The justification detailed in the supplied SEPP No. 1 Objection for the development's non-compliance is seen to be well founded.

7. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the EP&A Act.*

Comment:

Section 5(a) of the EP&A Act aims to encourage:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land.*

The subject property is used as a recreational area and the proposed grandstand complex is associated with this use. The grandstand complex will not be used for habitable purposes and the floor level is comparable to the level of the existing amenities building. As such the flooding and safety risks associated with the development are seen to be acceptable. Accordingly the proposal is seen to satisfy the objectives of Section 5(a)(ii) of the EP&A Act in that it allows for the orderly development of the property.

SEPP No. 1 allows for the flexible application of Council controls and the proposal is seen to be consistent with the intent of this Policy.

- 8. *It is also important to consider:*
- 9. *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
- 10. *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

Comment:

The non-compliance does not raise any matter of significance for State or regional planning. The relevant planning control, the HLEP 1989, has been established by Council and is therefore a local planning matter.

The proposal is seen to be consistent with the NSW Government's Floodplain Development Manual in that it advocates a merit-based approach to the development of flood-labile land.

The benefits of maintaining Council's flooding controls are recognised given that they apply to a variety of building types. However, in this instance it is considered that the development standard may be varied to allow for an extension of a non-habitable building associated with a non-habitable use, i.e., sporting facility.

Having considered the submitted SEPP No. 1 Objection it is felt that the non-compliance with Clause 25(4) will not conflict with Council's flooding objectives. On account of the existing use of the site and the non-habitable use of the grandstand complex, it is considered that the approval of this application will not diminish the significance of the development standard. The submitted SEPP No. 1 Objection is seen to be well-founded and in this instance a departure from the flood height controls contained within Clause 25(4) of the HLEP 1989 is considered acceptable. It is therefore recommended that the Council support the SEPP No. 1 Objection.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

No trees are to be removed to accommodate the proposed development. Although it is highly unlikely that any koalas remain within the locality, having regards to the requirements of SEPP No. 44, it is considered that the proposal will not impact any significant stands of vegetation or disturb any natural habitats which would be considered as potential or core koala habitat.

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State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines a consent authority “*must not consent to the carrying out of any development on land unless:*

- (i) *it has considered whether the land is contaminated, and*
- (ii) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (iii) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose”.*

Council's records indicate that fill has been brought to the site for the construction of the southern hill however conditions were imposed relating to contamination. Given that the grandstand complex is to be located away from this area and the recreational use of the land will continue, the site is considered suitable for the proposed development.

State Environmental Planning Policy No. 64 – Advertisements

SEPP No. 64 requires that Council consider the impact of advertisements in relation to main roads.

A 3-D perspective prepared in support of the proposal indicates that advertisements will be provided to the frontal walls of the grandstand complex. However the architectural drawings for approval do not indicate that this area will be used for this purpose. Therefore an assessment of the proposal against the provisions of SEPP No. 64 has not been undertaken.

Should the application be approved it is recommended that a condition is imposed highlighting that the installation of signage or advertisements is not permitted by that consent and these matters will require the separate consent of Council.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

The subject land falls within the boundary of SREP No. 20. This Policy aims “*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context*”. SREP No. 20 requires an assessment of development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

The subject property is not located within a scenic corridor as identified within SREP No. 20's Scenic Quality guideline. The development will not significantly impact on the environment of the Hawkesbury-Nepean River as it is within an established urban/rural residential area. No vegetation is to be removed to accommodate the grandstand complex.

The proposal is seen to be consistent with the provisions of SREP No. 20 and will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

- (ii) **Draft Environmental Planning Instruments that is or has been placed on exhibition and details of which have been notified to Council:**

Draft Hawkesbury Local Environmental Plan 2011

Draft HLEP 2011 has been publicly exhibited and is a matter of consideration under Section 79C(1)(a)(ii) of the EP&A Act.

Under Draft HLEP 2011 the subject site is to be zoned RE2 Private Recreation. The proposed grandstand complex is ancillary to the use of the site as a ‘recreation facility (major)’. Recreational facilities (major) are a permissible form of development within the RE2 Private Recreation zone.

The proposal is therefore consistent with the provisions of the Draft HLEP 2011.

(iii) Any Development Control Plan

Hawkesbury Development Control Plan 2002

The proposal has been considered against the provisions of the HDCP 2002:

Part A Chapter 3: Notification

The proposal was notified in accordance with Sections 3.3 and 3.10 of Part A Chapter 3 of the HDCP 2002. No submissions were received.

Part C Chapter 2: Car Parking and Access

The subject property is associated with the adjoining Windsor Leagues Club at 1A Rifle Range Road and a shared carpark exists over the two sites. A total of 241 spaces exist across the two sites.

Total carparking numbers are not proposed to be altered although three spaces will be allocated for disabled parking and a temporary pick-up area on the western portion of the site.

No specific guidelines for sportsgrounds or grandstands are provided in Part C Chapter 2 of the HDCP 2002. A traffic and parking report has been submitted in support of the application. This report argues that the grandstand complex will provide improved facilities for spectators, players and officials that are already likely to attend games. Game schedules will not be altered with the new complex. Accordingly the report suggests that no additional parking spaces are required as the development will not change the traffic and parking activities generated by the existing playing field.

Council's Development Engineer has reviewed the proposal and has raised no objection to the proposal on traffic or parking grounds.

The existing oval has long been in use and no restrictions were identified in terms of total numbers or hours of operation. Based on the findings of the traffic and parking report, and the outcome of the assessment review of the report, it is considered that the development is unlikely to generate unreasonable traffic and parking impacts in comparison to the existing situation.

(iii) Any Planning Agreement:

Not applicable. The developer has not entered into a planning agreement with Council or the Department of Planning and Infrastructure.

(iv) Matters prescribed by the Regulations:

These matters have been considered in the assessment of this application. The development may be conditioned to comply with the Building Code of Australia (BCA)/National Construction Code.

The grandstand complex has been designed to incorporate disabled access, facilities, toilets and a lift. A disabled access report has been submitted in support of the application.

(v) 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:

These matters have been considered in the assessment of this application.

The existing oval has long been in use and no Council restrictions were identified in terms of total numbers or hours of operation, although the application suggests the oval may be used sporadically between 9:00am to 9:00pm, 7 days a week. It is acknowledged that large events have the potential to generate noise. However, as discussed previously there is little evidence to suggest that the grandstand will

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dramatically increase spectator numbers. Significant changes in usage, patronage or match schedules are not anticipated.

Residential properties are located within the general vicinity of the property, with separation distances in excess of 130m to the south, 150m to the north and 220m to the east proposed to the nearest residential properties. Noise generated by spectators is expected to be occasional and tempered by the lowered level of the oval, the angle of the grandstand, the screening of the Windsor Leagues Club building and the separation distances involved.

The rear wall of the grandstand will face properties to the west and the separation distances will be approximately 280m.

Given the current use of the site and the familiarity of neighbours with the oval, it is not expected that the proposed development will generate unreasonable noise impacts for neighbours. Standard noise restrictions were imposed with Development Consent No. DA0174/04 and it is recommended that the same condition be imposed should the subject application be approved.

Surrounding properties will not be significantly or unreasonably impacted upon in terms of sunlight access, overshadowing, privacy or loss of views or vistas.

Stormwater is to be discharged into an adjacent drainage channel and as such onsite detention (OSD) is not required. An engineering construction certificate is not required for the works.

The development is within Council's sewer catchment. The assessment has found that the development will not impact on Council's sewer however the discharge category may have to be re-evaluated.

The existing amenities building contains a canteen, which is to be reconstructed and extended with this application. In this regard the development proposal, if approved, will require the imposition of standard food safety and premises fitout conditions.

It is therefore considered unlikely that the proposed development will generate significant adverse environmental, social or economic impacts for the locality.

(vi) Suitability of the site for the development:

These matters have been considered as part of the assessment of the development application.

Council's mapping system indicates that the property contains Shale Plains Woodland and Shale/Gravel Transition Woodland along its boundaries to George Street and Rifle Range Road. Also known as Cumberland Plain Woodland, this vegetation is identified as a critically endangered ecological community under the Threatened Species Conservation Act, 1995.

The property does not contain Cumberland Plain Priority Conservation vegetation.

The proposed development area is located away from this vegetation community and no indigenous vegetation is to be removed to accommodate the development. As such it is considered that the development will have no significant adverse impacts on flora and fauna species, populations or habitats.

The western portion of the site is identified as 'bushfire prone land'. However given the nature of the use, and the grandstand's classification under the BCA, there are no specific bushfire requirements for this form of development.

Given the existing use of the property and the site's relationship with the Windsor Leagues Club, the proposed development is considered suitable within the context of the locality.

(vii) Any submissions made in accordance with the Act or the Regulations:

The application was publically notified in accordance with the HDCP 2002 from 1 to 15 June 2012. No submissions were received in response to this notification.

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(viii) The Public Interest:

The proposed development is associated with the existing use of the land and is permissible under both the current HLEP 1989 and Draft HLEP 2012. The development will not alter the use of the land and instead involves an upgrade of facilities and spectator seating. In this regard it should be noted that a grandstand accommodating 900 seats was previously approved in 2004 but was never constructed.

Given the existing use of the site the development is not expected to adversely impact on the amenity of the locality or the surrounding environment. As such the approval of the application is seen to be in the public interest.

Financial Implications

Based on the supplied estimated value-of-works of \$2,446,775.00 a Section 94A Development Contribution of \$24,467.75 is payable should the application be approved.

Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act with all matters specified under Section 79C(1) having been taken into consideration. The proposed grandstand is ancillary to the use of the land as a recreation area and is not expected to generate unreasonable parking demands for the locality.

The SEPP No. 1 Objection to Clause 25(4) of the HLEP 1989 is seen to be well-founded and the development is therefore recommended for conditional approval.

Planning Decision

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

RECOMMENDATION:

That:

1. The objection to Clause 25(4) of the Hawkesbury Local Environmental Plan 1989 (as amended), lodged pursuant to State Environmental Planning Policy No. 1 – Development Standards, is supported;
2. Development Application No. DA0236/12 for staged alterations and additions to create a grandstand complex on Lot 1 DP: 879466, known as 698 George Street, South Windsor, be approved subject to the conditions as follows:

General Conditions

1. The development shall take place in accordance with the stamped plans (Drawing No's DA-2 – DA-15 prepared by Midson Group Pty Ltd and dated 17 May 2012), 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 (Building).

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3. The building subject to this approval shall not be used or occupied prior to the issue of an Occupation Certificate. Occupation Certificates are to be obtained for each stage (phase) of the development.
4. The development shall comply with the provisions of the Building Code of Australia (BCA)/National Construction Code.
5. 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.
6. The land is within the Hawkesbury City Council Sewerage Catchment. A separate application shall be submitted to Council for any alterations or connections to the sewer mains. The applicant shall consult with Council regarding acceptable discharge limits to the sewerage system.
7. Inspections for a Compliance Certificate shall be requested from Hawkesbury City Council for internal and external sewer drainage prior to the covering of any pipe. An inspection fee applies.
8. Prior to trading the canteen must notify the NSW Food Authority of its operation and register with Council as a food business.

Prior to Issue of Construction Certificate

9. The development shall comply with the provisions of the National Construction Code/Building Code of Australia (BCA). Details of compliance are to be provided to the Principal Certifying Authority (PCA) prior to issue of a Construction Certificate.
10. The development shall comply with the Disability (Access to Premises – Buildings) Standards 2010. Details of compliance are to be provided to the Principal Certifying Authority (PCA) prior to issue of a Construction Certificate.
11. 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 \$24,467.75 shall be paid to Hawkesbury City Council. This fee is based on the supplied estimated value-of-works of \$2,446,775.00.

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.

12. Compliance with Section 109F of the Environmental Planning and Assessment Act 1979 – payment of the long service levy under Section 34 of the Building and Construction Industry Long Service Payments Acts 1986 – is required. All building works in excess of \$25,000.00 are subject to the payment of a Long Service Levy fee. A copy of the receipt for the payment of the Long Service Levy shall be provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate.

Payments can be made at Long Service Payments Corporation offices or most Councils.

Prior to Commencement of Works

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13. 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.
14. At least two days prior to the commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation 2000.
15. 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.
16. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority (PCA) prior to any works commencing on site.
17. 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) 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.
18. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
19. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
20. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's water mains, stormwater drains and/or easements and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site: www.sydneywater.com.au, see Your Business then Building & Developing then Building & Renovating or telephone Sydney Water 13 20 92.

During Construction

21. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7:00am - 6:00pm and on Saturdays between 8:00am - 4:00pm.
22. The site shall be secured to prevent the depositing of any unauthorised material.
23. Dust control measures (e.g. vegetative cover, mulches, irrigation, barriers and stone) shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
24. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.

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25. The site shall be kept clean and tidy during the works and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply:
- (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 metal 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.
26. At all times during demolition, a competent person shall directly supervise the work. It is the responsibility of the person to ensure that:
- (a) Utility services not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
 - (b) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
 - (c) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - (d) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
 - (e) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.
 - (f) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings.
 - (g) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
 - (h) All work shall be carried out in accordance with AS2601.
 - (i) No material is to be burnt on site.
27. 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 17.3m AHD to increase resistance to floodwater flow and debris impact to a water velocity of 2m/sec.
28. Scour protection is to be provided at stormwater outlets to the channel.

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29. All works associated with the development shall be carried in accordance with the requirements of:
- Food Act 2003 and Regulations there under.
 - Australian Standard 4674:2004 'Design, construction and fit-out of food premises'.
 - Australian Standard 1668.2:2002 'The use of ventilation and air conditioning in buildings – Ventilation design for indoor air contaminant control'.
30. The food premises (canteen) is to comply with Hawkesbury City Council's 'Food Premises Fit Out Code'.
31. Any area used for the storage of food or food appliances/equipment is to comply with the relevant section of Hawkesbury City Council's 'Food Premises Fit Out Code' including Section 7.0 – Storerooms.
32. Ceilings throughout the premises are to be solid and are to comply with Section 4.0 of Hawkesbury City Council's 'Food Premises Fit Out Code'. "Drop in" ceiling panels are not permitted over food preparation or food storage areas.
33. All walls, floors, benches, shelves, chairs, fittings and the like are to be constructed with materials that are smooth, durable, impervious to moisture, and capable of being easily cleaned with a disinfectant. Fittings and equipment should be constructed so as not to harbour food, insects or vermin.
34. The floors are to be covered with a durable, non-toxic, impervious surface, graded to trapped floor waste outlets (where necessary), and connected to an approved drainage installation. The floor covering is to be free of protrusions or gaps.
- Where used, floor tiles are to be epoxy grouted.
35. All wall/floor junctions in the food preparation and storage area(s), including any prefabricated low temperature room walls and floors, shall be coved according to Hawkesbury City Council's 'Food Premises Fit Out Code'. The coving is to be a minimum radius of 25mm using a smooth impervious material of a light colour. Where walls and floors are tiled, the coving is to be of a tile type. "Stick on" coving is not permitted. Feather edge skirting is not permitted
36. The premises are to be fitted with adequate hand washing facilities for the preparation of food. Hand washing basins are required in addition to other basins and sinks in any toilet, AND in any food preparation area. Where separate additional food preparation areas are provided, an additional hand washing basin is needed. Hand washing basins are required:
- to be fitted with hand's free taps such as knee or foot operated devices;
 - with hot and cold running potable water;
 - with a common spout delivering water of at least 40° Centigrade; and
 - to be easily accessible at all times.
37. A slop sink should be installed so that mop water does not contaminate the kitchen sinks. Mop water and water used for washing garbage receptacles must not be disposed of using a storm water drainage inlet.
38. Food preparation and storage areas are to be adequately protected from flies, insects, and vermin. Windows are to be screened, and doorways are to be provided with self closing doors. External doors are to be provided with self-closing screen doors.

Prior to Issue of an Occupation Certificate

39. Occupation Certificates shall be obtained for each stage (phase) of the development.
40. A Trade Waste Agreement must be entered into with Hawkesbury City Council for the discharge of trade waste to Council's sewer prior to the release of the Stage 1 Occupation Certificate.
41. Prior to the release of the Stage 1 Occupation Certificate the applicant shall submit a report from a suitably qualified Engineer which verifies the following:
 - (a) Any damage to the proposed structure sustained in a flood will not generate debris capable of causing damage to downstream buildings or property.
 - (b) Any part of the structure at or below the 1 in 100 year flood level will be able to withstand the force of floodwaters (including buoyancy forces) and the impact of debris.
 - (c) All finishes, plant fittings and equipment subject to inundation will be of materials and functional capability resistant to the effects of floodwaters.
42. Prior to the release of the Stage 1 Occupation Certificate a flood warning sign of durable material shall be permanently fixed in a prominent location within the site. The sign shall advise occupants that the site may subject to inundation during times of flood.
43. Prior to the release of the Stage 1 Occupation Certificate the applicant shall prepare a flood emergency evacuation and management plan for the development. The plan shall advise occupants of flood evacuation procedures and emergency telephone numbers. The applicant shall contact Council and the NSW State Emergency Service for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building in a prominent location and maintained at all times.

Use of the Development

44. The food premises shall be maintained in accordance with the requirements of:
 - Food Act 2003 and Regulations there under.
 - Australian Standard 4674:2004 'Design, construction and fit-out of food premises'.
45. A portable thermometer accurate to $\pm 1^{\circ}\text{C}$ is to be available at the premises at all times for the purposes of checking cold and hot foods for compliance temperatures.
46. Potentially hazardous foods should be stored below 5°C , or above 60°C at all times in accordance with The Food Act 2003.
47. Any activity carried out in accordance with this approval shall not give rise to offensive noise, offensive odour, or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
48. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
49. In accordance with the requirements of Part 5.7 Protection of the Environment Operations Act 1997, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.
50. Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.

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51. Traffic Marshalls are to be provided for games where a significant number of spectators are expected. Where any traffic control is to occur on public roads, the Traffic Marshals involved will require certification from the Roads and Maritime Services (RMS), formerly known as the Roads and Traffic Authority (RTA).
52. No signage or advertisements have been approved with this consent. The installation of signage and/or advertisements may require the formal approval of Council.

The reasons for the imposition of these conditions are those matters in 79C(1) of the Environmental Planning and Assessment Act 1979 as are relevant to the subject development.

Advisory Notes

- This consent operates from the *consent date* shown on the top of this notice and will lapse unless the development is commenced within five years from this date.
- Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
- Where the land is within the Hawkesbury City Council Sewerage Catchment. A separate application shall be submitted to Council for any alterations or connections to the sewer mains. The applicant shall consult with Council regarding acceptable discharge limits to the sewerage system.
- The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing on Council's Application Form (refer to Council's website or customer service centre) within six months after receipt of this Notice of Determination, together with payment of the appropriate fees. It is recommended that the applicant discuss any request for a review of determination with Council staff before lodging such a request.

NOTE: This clause does not relate to Designated, Integrated, Crown or applications determined by the Joint Regional Planning Panel or applications previously considered under Section 82A of the Environmental Planning and Assessment Act 1979.

- If you are dissatisfied with this decision Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after the date on which you receive this notice.
- The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- The applicant shall make themselves aware of the Disability Discrimination Act (DDA) 1992 in order to assess their responsibilities and liabilities with regards to the provision of access for all people.

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- Should any Aboriginal site or relic or European relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service or the Heritage Office (European relic) consulted. Any person who knowingly disturbs an Aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974 and Heritage Act.

ATTACHMENTS:

AT - 1 Locality Map

AT - 2 Aerial Map

AT - 3 Plan of the Proposal

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AT 1 – Locality Map



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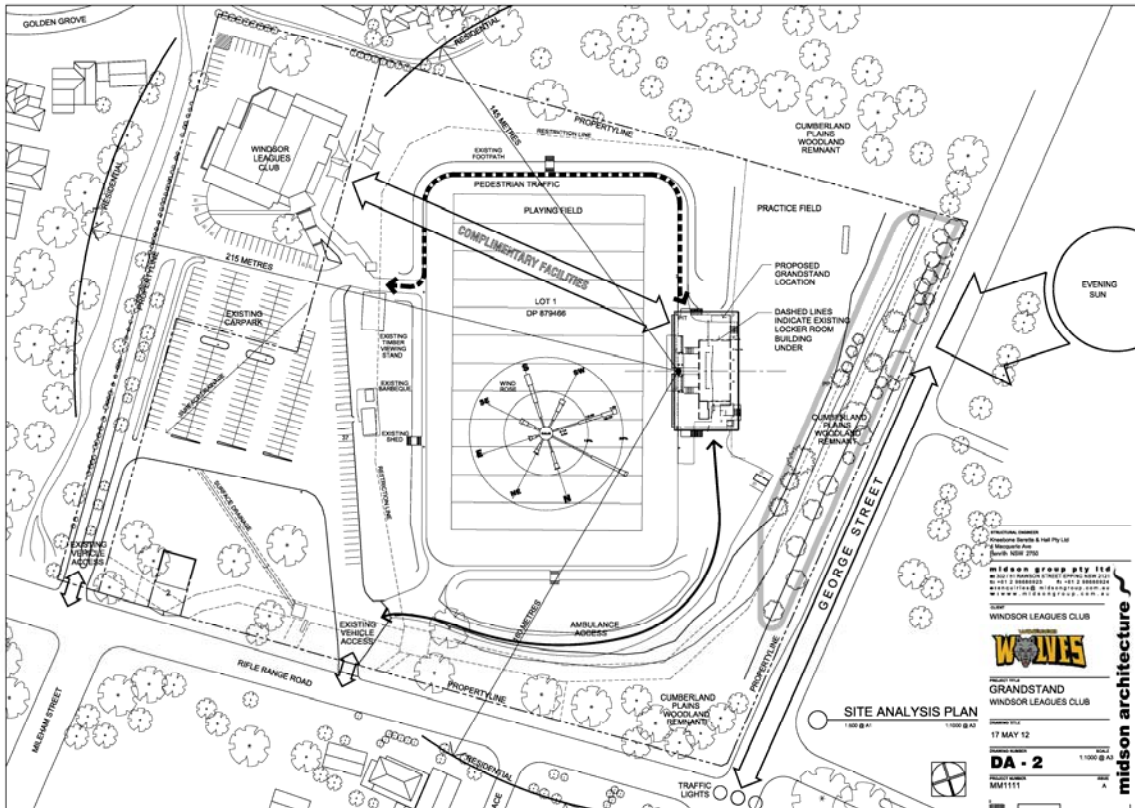
AT 2 – Aerial Map



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AT 3 – Plans of the Proposal



oooO END OF REPORT Oooo

Item: 152 CP - Hawkesbury River Pre-dredging Investigations between Windsor and Sackville Ferry - (95498)

REPORT:**Executive Summary**

The purpose of this report is to present the findings of the Hawkesbury River Pre-dredging Investigations between Windsor and Sackville Ferry which was undertaken by WorleyParsons consultants. It is recommended that the report be received by Council.

Consultation

The issues raised in this report concern matters which requires community consultation under Council's Community Engagement Policy should Council determine to undertake further work on this project.

Background

The Hawkesbury River is an important natural feature of the region that is highly regarded for its aesthetics and role in the local ecosystem. Concerns from users of the River have been raised over a number of years in relation to the navigability between Windsor and Sackville Ferry area. On 30 March 2010 Council, in part, resolved to request the State Government to undertake "limited dredging to make the River safe for navigation". To address River user concerns, Council also commissioned pre-dredging investigations of the River to ensure safe, ongoing access for users of the River in a manner that also preserves the ecological attributes of the area.

On 23 February 2011, the former Land and Property Management Authority (LPMA), now the Office of Environment and Heritage (OE&H), approved a grant of 50% of Council's actual expenditure for the pre-dredging investigation project up to a maximum of \$32,500 under the NSW Government's Waterways Program.

On 29 March 2011, at an Ordinary Council meeting, Council resolved to accept the dollar for dollar grant offer under the Waterways Funding Program for the pre-dredging investigations. Council also committed \$32,500 matching contribution from its existing budget and resolved to present a report to the Floodplain Risk Management Advisory Committee requesting that the Committee identify and prioritise potential dredging locations along the River between Windsor and Sackville that would provide the most benefit to improving navigability of the River along this stretch of the River.

On 7 April 2011, a letter was sent to the LPMA advising Council's acceptance of the grant offer and Conditions of Financial Assistance.

On 18 April 2011, the Hawkesbury City Council Floodplain Risk Management Advisory Committee (FPRMAC) identified and prioritised the following seven locations for dredging investigation:

1. Sackville Ferry
2. Sackville Gorge
3. Ebenezer Church
4. Pitt Town Bottoms
5. Sandy Point (near Grono Point)
6. Cattai Creek
7. Breakaway or Bens Point (Upstream of Windsor Bridge)

Preliminary work for dredging investigation was carried out by Council staff involving a desktop study, research and collation of available hydrographic data and consultation with other Councils (Gosford and

Manly), who have recently completed dredging works, to share information, experience and the approval processes.

Hydrographic Survey data

In late 2011 Sydney Water completed a hydrographic survey of the Hawkesbury-Nepean River system as part of the Hawkesbury-Nepean River water quality modelling project. The Sydney Water 2011 survey data and the historic data collected in 1978 and 1987 by the OE&H were used in the dredging investigation.

A minor flood event occurred in the late February 2012, and to ascertain any change in the river bed levels from the 2011 survey, additional sonar or soundings data were obtained in May 2012 by NSW Roads and Maritime Services (RMS). This data was forwarded to the consultant undertaking the investigation work.

Consultant Brief

A consultant brief was prepared and proposals invited through public advertisement for further detailed investigations to be undertaken. The listed tasks required the preparation of an environmental impact assessment or Review of Environmental Factors (REF) in accordance with the factors listed under clause 228 of the Environmental Planning and Assessment Regulation 2000 for the navigation dredging of part of the Hawkesbury River between "The Breakaway" and Sackville Ferry.

The scope and extent of the consultant brief specifically required:

- Review of existing environment of the project area;
- The legislative setting, including permissibility and potential approvals;
- Infill rates and sources to the project area;
- Historic bed changes in the identified locations;
- Navigation requirements to maintain existing River uses and required vessel drafts and current navigability of the identified locations;
- Potential costs associated with dredging; and
- Analysis of sediments in the project area.

Review of Environmental Factors

The Review of Environmental Factors (REF) study is required to document the likely impacts of the proposed dredging on the environment and to detail protective measures to be implemented. The REF study is required prior to the application for approval or the commencement of any River dredging operation. As such, the consultant brief required the REF to accompany license and permit applications to the Office of Environment and Heritage and the Department of Lands for the dredging operation works and any other requirements stipulated by these two government agencies.

Upon the finalisation of the consultant brief, in December 2011 consultant proposals were invited via publicly advertisement. Four submissions were received by the submission closing time on 24 January 2012. On 30 March 2012 following assessment of all the submissions received against the selection criteria WorleyParsons consultants was engaged to undertake the investigation tasks.

Hawkesbury River Dredging Investigations - Summary of the Report by WorleyParsons

The investigations report presents the outcomes of the consultant investigations into the existing navigability of the Hawkesbury River at the seven priority locations and provides conclusions on the needs for dredging at these locations.

Historical and recent hydrographic surveys of the Hawkesbury River show that the River bed in the project area is dynamic and the channel thalweg is constantly changing, albeit slowly. Changes comprise both scour and shoaling. It is likely that the Hawkesbury River in the project area undergoes periods of accretion during low flows, while experiencing net scour due to the effect of flood flows. Notwithstanding this, limited accretion is noted in some surveyed sections, which may be due to sediment supply from local stream bank erosion. In addition, secondary (helical) flows are likely to move sediment from the outside to the inside of River bends, forming shoals on the inside bend from locally sourced sediment.

An analysis was undertaken of the identified investigation locations within the Hawkesbury River to determine their current navigability. Navigation requirements in terms of depth and channel width were assessed and compared with the existing conditions at each of the locations.

The navigation requirements for the investigation area were determined to comprise a minimum functional water depth of 1.8m at mean low water spring tide. This was based on the draught of a 20m power boat with an under keel clearance of 0.3m, giving an acceptable bed level of -1.9m to -2.1m AHD and below.

Given the project area is largely used for recreational boating, including water-skiing and wake-boarding, these reference depths are considered to be conservative. Most recreational boats, in particular water-skiing and wake-boarding boats have a much lower draught than those referenced in Table 1.

Table 1: Navigation requirement assumptions (reference AS 3962-2001)

Element	Depth
20 m power boat draught	1.5 m
Under keel clearance	0.3 m
Minimum functional water depth	1.8 m

An ideal fairway (a navigable deep-water channel in a River) width of 100m was assumed to be required for the project area, allowing 30m between passing vessels and 30m clearance to each bank (see Figure below). However, in restricted areas a fairway width of 50m was considered to be acceptable. These assumptions were confirmed with RMS.

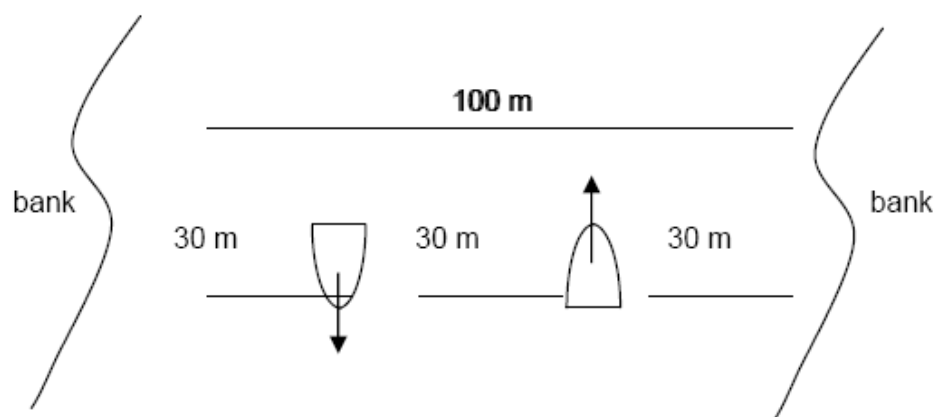


Figure 1: Schematic showing ideal fairway width

Given a minimum functional water depth of 1.8m at mean low water spring tide, the tidal planes provided by Manly Hydraulics Laboratory were used to determine the maximum functional bed level at each of the priority locations (i.e. the maximum bed level at which a water depth of at least 1.8m will present at mean low water spring tide) (Table 2).

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Table 2: Maximum functional bed level of priority locations

Location	Mean low water spring tide	Tide reference station (station number)	Reference minimum functional water depth	Location maximum functional bed level
Sackville Ferry	-0.3 m AHD	Sackville (212406)	1.8 m	-2.1 m AHD
Sackville Gorge	-0.2 m AHD	Ebenezer (212427)	1.8 m	-2.0 m AHD
Ebenezer Church	-0.2 m AHD	Ebenezer (212427)	1.8 m	-2.0 m AHD
Cattai Creek	-0.2 m AHD	Ebenezer (212427)	1.8 m	-2.0 m AHD
Sandy Point	-0.2 m AHD	Ebenezer (212427)	1.8 m	-2.0 m AHD
Pitt Town Bottoms	-0.2 m AHD	Ebenezer (212427)	1.8 m	-2.0 m AHD
Ben's Point	-0.1 m AHD	Windsor (212426)	1.8 m	-1.9 m AHD

The maximum functional bed level at each location was then compared with cross sections developed from the 2011 survey data for that location to assess its navigability.

Based on available data and assumptions for navigation requirements of a 50m to 100m fairway, with an acceptable channel bed level of -1.9m to -2.1m AHD and below, Ben's Point represents the only location that does not comply with navigation requirements. A navigable channel of as little as 25m occurs at this location. However, this area is located within an existing reduced speed zone (4 knot limit) and as such is not used for water-skiing or wake-boarding.

Alternative Minimum Functional Water Depth

Although the navigation requirements provided above are considered to be appropriate, by both the consultant and the RMS, for the Hawkesbury River within the investigation area, Council, at the meeting held on 31 July 2010, suggestions were made that there would be merit in investigating the potential for provision of a minimum functional water depth of 3.0m at mean low water spring tide. This alternative minimum functional water depth was flagged as potentially enabling navigation for larger recreational and commercial vessels in the upper reaches of the Hawkesbury River system.

The maximum functional bed level at each of the priority locations for the alternative minimum functional water depth was calculated by adding 1.2m to the maximum functional bed level described in Table 2.

A summary of the approximate (rounded to the nearest 5m) existing maximum fairway widths at each of the seven priority locations for a minimum functional water depth of 3.0m is provided in Table 3. These widths are based on cross sections developed from the 2011 survey data.

Table 3: Approximate existing fairway widths at priority locations assuming a minimum functional water depth of 3.0 metres at mean low water spring tide

Location and Cross Section	Maximum functional bed level (AHD)	Approximate fairway width
Sackville Ferry 1	-3.30 m	5 m
Sackville Ferry 2	-3.30 m	0 m
Sackville Ferry 3	-3.30 m	35 m
Sackville Ferry 4	-3.30 m	80 m

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Location and Cross Section	Maximum functional bed level (AHD)	Approximate fairway width
Sackville Ferry 5	-3.30 m	125 m
Sackville Ferry 6	-3.30 m	135 m
Sackville Gorge 1	-3.20 m	135 m
Sackville Gorge 2	-3.20 m	70 m
Sackville Gorge 3	-3.20 m	75 m
Ebenezer Church 1	-3.20 m	105 m
Ebenezer Church 2	-3.20 m	100 m
Ebenezer Church 3	-3.20 m	80 m
Cattai Creek 1	-3.20 m	80 m
Cattai Creek 2	-3.20 m	100 m
Cattai Creek 3	-3.20 m	15 m
Sandy Point 1	-3.20 m	65 m
Sandy Point 2	-3.20 m	65 m
Sandy Point 3	-3.20 m	70 m
Pitt Town Bottoms 1	-3.20 m	90 m
Pitt Town Bottoms 2	-3.20 m	35 m
Pitt Town Bottoms 3	-3.20 m	100 m
Pitt Town Bottoms 4	-3.20 m	95 m
Pitt Town Bottoms 5	-3.20 m	35 m
Ben's Point 1	-3.10 m	5 m
Ben's Point 2	-3.10 m	35 m
Ben's Point 3	-3.10 m	35 m

Assuming the alternative minimum functional water depth of 3.0m, the ideal fairway width of 100m is present in at least one cross section at Sackville Ferry, Ebenezer Church, Cattai Creek and Pitt Town Bottoms. A restricted, although acceptable, fairway width of 50m or more is also present in at least one cross section at all of the priority locations except Ben's Point.

In order to achieve a minimum functional water depth of 3.0m for a fairway width of at least 50m, dredging would be required at the following locations:

- Sackville Ferry (Cross Sections 1, 2 and 3)
- Cattai Creek (Cross Section 3)
- Pitt Town Bottoms (Cross Sections 2 and 5)
- Ben's Point (Cross Sections 1, 2 and 3)

It should be noted that, in order to achieve a minimum functional water depth of 3.0m for the Hawkesbury River between Ben's Point and Sackville Ferry, dredging would likely be required along the length of this

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reach of the River. A detailed hydrographic survey of the River would be required to confirm the extent and volume of dredging required.

A range of relevant legislation would need to be reviewed if dredging were to be undertaken to achieve a minimum functional water depth of 3.0m. This review of the legislation would need to consider the specific project details including the location, volume and capital investment value of the dredging and the mechanisms for ensuring that the provisions of current legislation are adhered to.

The following is a summary of the legislative approvals expected to be required for dredging within the project area:

- Dredging to improve navigation in the project area would require consent under the provisions of Clause 69(3) of the Infrastructure SEPP. The dredging would therefore be subject to the environmental assessment and approval requirements of Part 4 of the EP&A Act.
- Part 4 of the EP&A Act sets out the development assessment requirements for those developments that require consent. Part 4 generally requires the preparation of a Statement of Environmental Effects (SEE) or an Environmental Impact Statement (EIS), depending on the nature, location and capital investment value of the proposed development.
- Depending on the location of any proposed dredging, both Hawkesbury City Council and The Hills Shire Council may be the consent authorities for the work if it were to be undertaken under Part 4. Consideration of the requirements of Schedule 4A of the EP&A Act would also be relevant to establish if the Joint Regional Planning Panel (JRPP) is authorised to exercise consent authority functions of councils.
- Part 7 of the *Fisheries Management Act 1994* requires a permit for a number of activities, including those involving dredging and reclamation work and those involving harm to marine vegetation. If the work were to be approved under Part 4 of the EP&A Act, the work would comprise integrated development. If any marine vegetation, such as mangroves or seagrasses, was expected to be impacted through the dredging processes, a permit under Section 205 would also be required.
- Clause 11(6) of the Hawkesbury-Nepean River SREP provides development controls, including the requirement for consent, for extractive industries comprising maintenance dredging and extractive operations. Consent is required under the provisions of Clause 11(7) for the filling of land, including through disposal of spoil from dredging, where filling exceeds 1 metre in depth, or an area of 100 square metres.
- Should dredging involve extraction of more than 30,000m³ per year of extractive materials, dredging work would be declared a scheduled activity pursuant to Schedule 1 Part 1 of the *Protection of the Environment Operations Act 1997* (refer Section 3.8). As such, an Environmental Protection Licence would be required under the provisions of the *Protection of the Environment Operations Act 1997* to undertake dredging work, only if dredging of 30,000m³ or more per year is required. However, an Environmental Protection Licence may be obtained for smaller dredging projects in order to protect the principal from prosecution relating to the discharge of pollutants to water.
- A licence may be required for the use of Crown land, including for the extraction of materials such as dredging of sand and gravel from waterways under the *Crown Lands Act 1989*. Use of such materials for commercial purposes would also attract royalty payments on the materials removed in addition to annual rent paid on licences. If no existing Crown lease is in place over the River authorising Hawkesbury City Council to undertake dredging, a licence would be required for the use of the Crown land.
- A 'controlled activity approval' is required under the *Water Management Act 2000* for controlled activities undertaken in, on or under waterfront land. Under Clause 38 of the Water Management (General) Regulation 2011, Hawkesbury City Council, a public authority, is exempt from the requirement to obtain a controlled activity approval and approval under the *Water Management Act 2000* is not required.

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- A number of matters of national environmental significance occur in the project area, including threatened and migratory species, threatened ecological communities, two Nationally Important Wetlands and a National Heritage Place. An assessment of the likely impacts on these matters would be required to determine if dredging was likely to cause a significant impact and thus require referral under the EPBC Act.

Dredging Costs

Costs associated with dredging can be significant and vary depending on the volume and nature of material to be extracted, as well as the end use of the extracted material. A large component of dredging costs is associated with site establishment and disestablishment. It is estimated that site establishment and disestablishment costs for dredging in the investigation area would be in the order of \$100,000. Dredging costs of around \$10/m³ would apply.

Table 4: Estimated cost of typical LPMA dredging projects (Moses and Ling, 2010)

Category	Quantity	Indicative Cost
Major Dredging	60,000 cubic metres	\$600,000 - \$800,000
Medium Dredging	30,000 cubic metres	\$400,000 - \$500,000
Minor Dredging	20,000 cubic metres	\$300,000 - \$400,000

Costs associated with a Crown land licence (if required) would also need to be considered.

The use of dredge materials for commercial purposes would also attract royalty payments on the materials removed in addition to licences fees and rent.

Sediment Analysis

If dredging were proposed, sampling of River sediments would be required to determine the type of material present and identify any contamination. After dredging requirements were established and agreed with Council and following a review of any existing data relevant to the contaminants of potential concern, a Sampling and Analysis Plan (SAP) would be prepared.

Conclusion

The salient points from the conclusions drawn by the consultant are:

- Based on available data and assumptions for navigation requirements of a 50m to 100m fairway, with an acceptable channel bed level of -1.9m to -2.1m AHD and below (i.e. a minimum functional water depth of 1.8m), Ben's Point represents the only location that does not comply with navigation requirements. A navigable channel of as little as 25m occurs at this location. However, this area is located within an existing reduced speed zone (4 knot limit) and as such is not used for water-skiing or wake-boarding. Dredging in this area would require planning approval and other licences.
- If an alternative minimum functional water depth of 3.0m were to be adopted, along with a required fairway width of 50m to 100m, dredging would be required at Sackville Ferry, Cattai Creek, Pitt Town Bottoms and Ben's Point. Dredging in these areas would require planning approval and other licences.
- The ability to utilise the sale of dredged material is dependent on the nature of materials and the proximity to a suitable market. If dredged material cannot be sold or beneficially reused, it would need to be side-cast into waters adjacent to the dredge channel. This process would carry its own risks, making the River shallower in those locations.

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- As such, it is considered that dredging is not required at any of the investigations locations. Given the dynamic nature of the River, it is important that the location of navigational markers continue to be monitored and adjusted in response to shoaling and scouring occurring in the River.

Conformance to Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Directions statements;

- To look after our cultural and environmental assets for future generations so that they too can enjoy and benefit from a clean River and natural eco-systems, rural and cultural landscape.

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

- Facilitate ecologically sustainable development through the retention and long term management of natural assets.

Financial Implications

No financial implications applicable to this report beyond currently budgeted amount.

RECOMMENDATION:

That:

1. The Hawkesbury River Dredging Investigations Report prepared by WorleyParsons dated 17 August 2012 be received and noted.
2. Further work on this matter will proceed upon completion of the Estuary Management Plan currently being prepared by Council and due for completion and adoption by Council prior to September 2013.

ATTACHMENTS:

- AT - 1** Hawkesbury River Dredging Investigations - Final Summary Report dated 17 August 2012 -
(Distributed Under Separate Cover)

oooO END OF REPORT Oooo

Item: 153 CP - Trial of NSW Food Authority Scores on Doors to Food Premises within Hawkesbury Local Government Area to be Trialled for a Period of 12 months - (95498, 96330)

REPORT:

The 'Scores on Doors' program involves the use of NSW Food Authority generic food inspection forms known as Food Premises Assessment Reports (FPAR), allowing a score to be generated, which corresponds to a star rating score.

- 5 Stars (0 - 3 points) - Excellent
- 4 Stars (4 - 8 points) - Very Good
- 3 Stars (9 - 15 points) - Good

The 'Scores on Doors' program is proposed to be implemented during Council routine inspection of food premises within Hawkesbury Local Government Area.

The 'Scores on Doors' program is a voluntary program and open to all food premises which are high or medium risk upon signing a terms agreement form for their involvement in the program.

It is proposed to trial the 'Scores on Doors' program over 12 months, after which a review is to be conducted to determine the success of the program, which is to be reported to Council with a recommendation to continue or discontinue the program.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement process proposed in this report meets the criteria for the minimum level of community engagement required under Council's policy.

The proposed 'Scores on Doors' trial will be advertised for public comment for a period of 28 days in accordance with Section 610F and 705 of the "*Local Government Act 1993*."

Background

In January 2012, Council submitted an expression of interest to the NSW Food Authority as part of the Food Regulation Partnership to participate in the 'Scores on Doors' Trail Pilot for retail food businesses.

Developed in conjunction with the 'Scores on Doors' program a key component of the program is the Food Premises Assessment Report or FPAR. The FPAR was originally drafted and piloted in 2010 and has since been revised in consultation with Environmental Health Officer's from numerous Councils.

The aim of the FPAR was to allow an accumulated score to be tallied up during a food inspection with the end result representing a score in the 'Scores on Doors' program.

The FPAR was also seen to improve inspection consistency and provide guidance to officers and businesses on high risk food handling practices and provide food businesses with a self assessment tool. Additionally, it was designed to create incentives for businesses to improve their compliance with regulatory requirements.

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There are currently approximately 80 councils trialling the FPAR. The FPAR document is available in two forms:

1. a 'Scores on Doors' version currently being used by approximately 30 Councils including those participating in the 'Scores on Doors' trial and;
2. a non 'Scores on Doors' version being trialled by over 50 Councils.

The FPAR document was scheduled to be reviewed in July 2012 based on feedback from councils participating in the trial. However, this information has not yet been released. It was advised by the NSW Food Authority that the program would continue.

Currently the 'Scores on Doors' program is at the end of a 12 month review period, which ends in August 2012 this year, however as previously mentioned the trial is scheduled to continue beyond that date.

The NSW Food Authority has advised that the program is open to all councils and is receiving positive feedback from Councils and food businesses currently participating within the 'Scores on Doors' Program. Councils who are not participating in the trial are still being encouraged to join.

Prior to commencement of the trial, the proposed 'Scores on Doors' program should be placed on public exhibition for a period of 28 days, in accordance with the requirements of the "*Local Government Act 1993*," to allow public consultation prior to its introduction.

The "Scores on Doors" program as part of its consideration was discussed internally with staff and external consultation with representatives of the NSW Food Authority, and a 12 month trial was deemed appropriate if Council was to become involved in the program.

Brief Description of Program

The 'Scores on Doors' program will be aimed at medium and high risk retail food businesses, processing and selling food in NSW, including:

- Restaurants
- Cafes
- Takeaway shops
- Bakeries
- Pubs
- Clubs
- Hotels

The pilot is not intended for supermarkets, delicatessens, low risk food businesses, or those serving pre-packaged food. It is also not intended for school canteens, child care centres, temporary markets, mobile food vending vehicles or premises licensed by the NSW Food Authority, such as butchers. Some of these businesses may be included at a later stage if the pilot is successful.

The assessment will be based on a standardised Food Premises Assessment Report (see attached supporting document - Attachment 1) with points accumulating for non-compliance. The grade applied will result from an unannounced routine inspection and will not be reviewed until the next routine inspection. The grading is outlined below:

- 5 - Stars - Excellent - The business has achieved the top grade which means that it achieved the highest level of compliance with food safety standards.
- 4 - Stars - Very Good - The business has very good food safety practices in place. Some minor areas where standards were not met will need to be addressed.
- 3 - Stars - Good - The business has a good standard of food safety. A number of areas, although not serious, need to be corrected.

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As part of the process all food businesses (with the exception of those highlighted above) will be invited to participate in the program. The program will not be made mandatory to all businesses. Those businesses that are interested in participating will be required to sign an agreement to participate. This agreement outlines the responsibilities of Council and food business and requires businesses to display their certificate at each public entrance. As part of this agreement, if a business is not happy with the grade applied, they will have the opportunity to request a review of the result.

To assist with the introduction of the 'Scores on Doors' program the food authority have provided Council with some generic advertising documents with additional supporting documentation further explaining the process.

In order to review and track the progress of the program, councils participating in the 'Scores on Doors' program will meet on a regular basis with the NSW Food Authority to discuss the program and any problems encountered.

There is also a dedicated Council Reference Group made up of a number of participating and non-participating councils and a Hospitality Industry Working Group made up of representatives from the food industry who will be meeting throughout the program.

In conclusion this program has significant motivational benefits for many food premises within the Hawkesbury. As a trial it is proposed to implement this program over a 12 month period to gauge its success, after which a review will be conducted with the option of either extending or exiting from the program.

Conformance to Community Strategic Plan

The proposal is consistent with the Looking After People and Place Directions statement;

- Be a place where we value, protect and enhance the historical, social, cultural and environmental character of Hawkesbury's towns, villages and rural landscapes.

Financial Implications

Funding for this initiative can be met from within the Regulatory Services approved budget.

The program will incur minimal additional staff time, with any additional costs such as paperwork covered within the adopted administration charges for food premises.

Additional inspections as a result of a program review request will be covered by Council re-inspection fees and charges.

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RECOMMENDATION:

That:

1. A trial "Scores on Doors" program be implemented over a 12 month period as outlined in the report.
2. The proposed trial program be placed on public exhibition for a period of 28 days for public comment in accordance with the requirements of Section 610F and 705 of the "*Local Government Act 1993*."
3. If Council does not receive any negative public comment about the proposed trial program, the program be implemented in accordance with parts 1 and 2 without being further reported to Council.
4. Following the trial period the results of the review are to be reported to Council with a recommendation to continue or discontinue the program.

ATTACHMENTS:

AT - 1 Food Regulation Partnership - Food Premises Assessment Report

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Food Premises Assessment Report Explanatory Notes and Definitions (Food Standards Code Ch3 standards 3.2.2 and 3.2.3)

This assessment report is based on guidance in the Safe Food Australia (2001) publication: A Guide to the Food Safety Standards. The Guide should be consulted if assistance with interpretation of the food safety standards is required. The assessment is set up as a checklist. In some cases an item will be supported with a list in italics of areas where compliance is required. It might not be possible to observe all the areas in a single inspection. Despite the presence of a list each item is a single issue of compliance. The assessment focuses on the foodborne illness risk factors identified by the US Centres for Disease Control. The key targets for inspection are: inadequate cooling & cold holding temperatures; food prepared ahead of planned service; inadequate hot holding temperatures; poor personal hygiene & infected food handlers; inadequate reheating and inadequate cleaning of equipment.

Food Handling Controls

5. Protection from the possibility of contamination includes appropriately covering food so that it is protected from potential contamination sources and includes keeping ready to eat foods separated from raw foods.

7. 'Potentially hazardous food' is food that has to be kept at certain temperatures to minimise the growth of any pathogenic microorganisms that may be present in the food or to prevent the formation of toxins in the food. Examples of potentially hazardous food include meat, seafood, dairy and foods such as salads and some cut fruits.

7. Temperature control means maintaining potentially hazardous food at a temperature of:

- (a) 5°C or below or
- (b) 60°C or above or
- (c) another temperature if the food business demonstrates that maintenance of the food at this temperature for the period of time for which it will be maintained, will not adversely affect the microbiological safety of the food.

9. A food business must when cooling cooked potentially hazardous food, cool the food:

- (a) within two hours – from 60°C to 21°C; and
- (b) within a further four hours – from 21°C to 5°C

10. A food business must when reheating previously cooked and cooled potentially hazardous food to hold it hot, use a process that rapidly heats the food to a temperature of 60°C or above, eg heating in an oven, microwave or on a stove top.

11. A food business must, when displaying unpackaged ready to eat food for self service:

- (a) ensure the display of food is effectively supervised so that any food that is contaminated by a customer or is likely to have been contaminated is removed from display without delay;
- (b) provide separate serving utensils for each food or other dispensing methods that minimise the likelihood of the food being contaminated; and
- (c) provide protective barriers that minimise the likelihood of contamination by customers.

Health and Hygiene Requirements

14. Thorough handwashing includes using the designated handwashing facility to wash hands, fingers and wrists using warm water and soap for a recommended 15 seconds, thorough rinsing of hands under warm water and drying thoroughly on single use towel or air dryer.

18. A food handler must wash his or her hands whenever their hands are likely to be a source of contamination of food. This includes:

- before working with ready to eat food after handling raw food
- immediately after using the toilet
- before commencing or recommencing handling food
- immediately after smoking, coughing, sneezing, using a handkerchief or tissue, eating, drinking or using tobacco, and
- after touching his or her hair, scalp or a body opening.

19. A food business must ensure the following persons do not engage in the handling of food for the food business where there is a reasonable likelihood of food contamination:

- (a) a person known to be suffering from a foodborne disease, or who is a carrier of a foodborne disease; and
- (b) a person known or reasonably suspected to have a symptom that may indicate he or she is suffering from a foodborne disease.

Cleaning and Sanitising

22. Food premises and fixtures, fittings and equipment must be maintained to a standard of cleanliness where there is no accumulation of:

- (a) garbage, except in garbage containers; (b) recycled matter, except in containers; (c) food waste; (d) dirt; (e) grease; or
- (f) other visible matter

23. Clean and Sanitary condition means a surface or utensil is:

- (a) clean; and (b) has had applied to it heat and/or chemicals or other process so that the number of microorganisms has been reduced to a safe level.

Design and Construction

30. General requirements for design and construction of food premises must:

- (a) be appropriate for the activities for which the premises are used; (b) provide adequate space; (c) permit effective cleaning and, if necessary, sanitising and (d) to the extent that is practicable exclude dirt, dust, fumes, smoke, not permit the entry or harbourage of pests.

31. Adequate supply of potable water means water that is acceptable for human consumption and available at an adequate volume, pressure and temperature for handwashing, cleaning and food processing requirements.

33. Adequate storage facilities for garbage and recyclable matter means facilities that will contain the volume and types of garbage and recyclable material produced by the food business and not provide a breeding ground for pests and be capable of being easily and effectively cleaned.

34. Lighting must be sufficient to enable food handlers to readily see whether areas or equipment are clean, to detect signs of pests and to clearly see food and equipment they are handling.

38. Adequate ventilation (natural or mechanical) must be provided to remove fumes, smoke, steam and vapours from the food premises.

oooO END OF REPORT Oooo

Item: 154 CP - Planning System Review Green Paper Submission - (95498)

REPORT:**Executive Summary**

The purpose of this report is to advise Council of the exhibition of the “*A New Planning System for NSW - Green Paper*” that is currently on public exhibition until 5 October 2012, and to propose a submission be forwarded to the NSW State Government from Council.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council’s Community Engagement Policy. The Green Paper is a matter that the NSW State Government currently has on public exhibition. Any person can make a submission to this Paper directly to the NSW State Government. This report is to advise Council of the proposed submission to Green Paper from Council’s operational perspective.

Background

In July 2011 the Minister for Planning announced that the review/rewrite of the Environmental Planning and Assessment Act 1979 (The Act) would commence (The planning system review). The review process is being undertaken in five stages as follows:

- Stage 1 The review announcement in July 2011.
- Stage 2 Listening and Scoping. This commenced with a meeting of peak interest groups in Sydney (attended by the Director City Planning and the General Manager) and then two months of community meetings in over 40 locations across the State.
- Stage 3 Issues Paper. The submissions and comments received in the listening and scoping stage (Stage 2) have been used to produce the issues paper titled “*The way ahead for planning in NSW?*”
- Stage 4 Policy options release. **(Current stage)** A working group will, in collaboration with the review Panel, prepare a “Green Paper” which will set out a preferred structure for a new planning system.
- Stage 5 Draft Legislation. A “White Paper” will be prepared for exhibition prior to a Bill being submitted to Parliament.

The above process is currently at Stage 4 with the Green Paper being released in July 2012. The Green Paper is a lengthy document of some 90 pages with two separate volumes of work on international planning law and the independent review panel report as background. The Green Paper and other relevant documentation are available for downloading from www.planningreview.nsw.gov.au.

Submissions on the Green Paper are due by 5 October 2012.

On 14 February 2012 Council considered a report on the Issues Paper and the submission to that Paper was forwarded to the Department of Planning & Infrastructure on 17 February 2012.

Overview of Existing System

To assist in the consideration of the Green Paper proposals for a new planning system, a brief overview of the existing system is useful in order to compare the two systems. The existing *Environmental Planning and Assessment Act 1979* (the Act) has several Parts that deal with different functions of the Act.

Parts 1 and 2 deal with administration of the Act and the functions of the Minister, Director General, the Department and Committees. Part 2A deals with the Planning Assessment Commission (PAC) the Joint Regional Planning Panels (JRPPs) and Council functions in relation to these bodies.

Part 3 deals with the making of Environmental Planning Instruments (principally Local Environmental Plans (LEPs) and Development Control Plans (DCPs) as Regional Environmental Plans have been repealed and are now State Environmental Planning Policies (SEPPs)). This Part includes the process and procedures for the "Gateway" Planning Proposal process to change an LEP.

Part 4 deals with development assessment (Development Applications (DAs) and all the processes for the receipt, assessment, determination and compliance with the determination issues), development contributions (S94), Planning Agreements, affordable housing, appeals and existing uses. Part 4A deals with development certification, Part 4B dealt with accreditation of certifiers (now repealed) and Part 4C liability issues.

Part 5 deals with environmental assessment of development and works that do not require a Part 4 (DA) approval to proceed. These include many public utility functions, including Council activities. Part 5.1 deals with State Infrastructure assessment and approvals.

Part 6 deals with enforcement and Orders, Part 7 finance, Part 7A addresses liability in respect of contaminated land and Part 8 contains miscellaneous provisions such as bush fire prone land, political donations, planning & building certificates, etc. The Act also contains ten Schedules that address specific provisions in the Act.

As seen from the above the Act deals with a very broad range of matters and the most well know are those of the LEP, DAs and DCP issues relating to development proposals. Currently there is no statutory requirement for the preparation of evidenced based Strategies prior to the development of an LEP (to zone land). However, it is becoming increasingly difficult to not have such documents prepared as they have become necessary via Ministerial Directions (Part 6 of the Act) and other guidelines in the assessment of Planning Proposals (Part 3 of the Act).

Due to the increased amendment of the above Act and the need to navigate such a legalistic process, the development assessment process has become very process, rather than outcome focused.

Overview of Proposed System

The proposed system changes are based on four fundamental reforms as stated in the Green Paper:

- *Community Participation*
The major shift in the new planning system is to engage communities as an integral part of making key planning decisions that will affect the growth of their communities.
- *Strategic Focus*
A major shift to evidence based strategic planning in terms of planning effort, community and stakeholder engagement and decision making.
- *Streamlined Approval*
A shift to a performance based system in which duplicative layers of assessment have been removed, decisions are fast and transparent, and code complying development is maximised.

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- *Provision of Infrastructure*
A genuine integration of planning for infrastructure with the strategic planning of land use so that infrastructure that supports growth is funded and delivered.
- *Delivery Culture*
Promotion of a “can do” culture in the system with Government and local councils accountable for delivering results.

A summary diagram from the Green Paper explaining the above is shown in Attachment 1 to this report. The Green Paper discusses these fundamental changes in a general way and, whilst providing some discussion on these matters, does not provide much of the detail as to how these changes would be implemented. A summary of the Green Paper discussion is as follows:

Community Participation

The Green Paper states that it is intended to empower communities in the decision making process by engaging the community early at the strategic planning stages to set the overall planning outcomes. It states that this will make decision making more transparent and community confidence in decisions will be increased through:

- Evidence based decision making with full participation by communities.
- A clear strategic context for decisions to be made and a clear line of sight through the hierarchy of plans.
- Readily accessible planning information with plans at all levels written in plain English.
- Public tracking of decision making processes and public reporting timeframes.

A summary chart from the Green Paper identifying the intended roles and participation for community, Local Government, Environmental Groups and Stakeholders and industry is shown in Attachment 2.

Strategic Planning

The proposed changes will place a much greater focus on evidence based strategic planning and for this to be implemented through legislation. Major structural change is proposed at all levels of the planning system in an attempt to remove complexity and duplication by developing the following hierarchy of plans:

- **NSW Planning Policies**
These would articulate the NSW Government’s Policy direction and position on major planning issues such as housing and housing affordability, employment, mining, coastal planning, etc.
- **Regional Growth Plans**
These would include the current Sydney Metropolitan Plan for Sydney. They are proposed to become integrated growth plans, linked with the *NSW Long-Term Transport Master Plan* and the *State Infrastructure Strategy*. Local Councils and community/stakeholder representatives would participate on the regional Planning Boards that prepare these Plans.
- **Sub-Regional Delivery Plans**
These would be prepared in growth areas based on groupings of local Councils. It is proposed these will be underpinned by a series of *Sectorial Strategies* that will provide a strong evidence base for housing, employment, retail, environment, etc; linked to *Growth Infrastructure Plans* that will provide a costed, funded infrastructure link to support growth; prepared in partnership with Local Government, state agencies, stakeholders and the community; based on new subregional boundaries that group Councils on economic growth patterns. However, the Green Paper does not indicate any details of how these “Sectorial boundaries” will be determined or who will determine these.

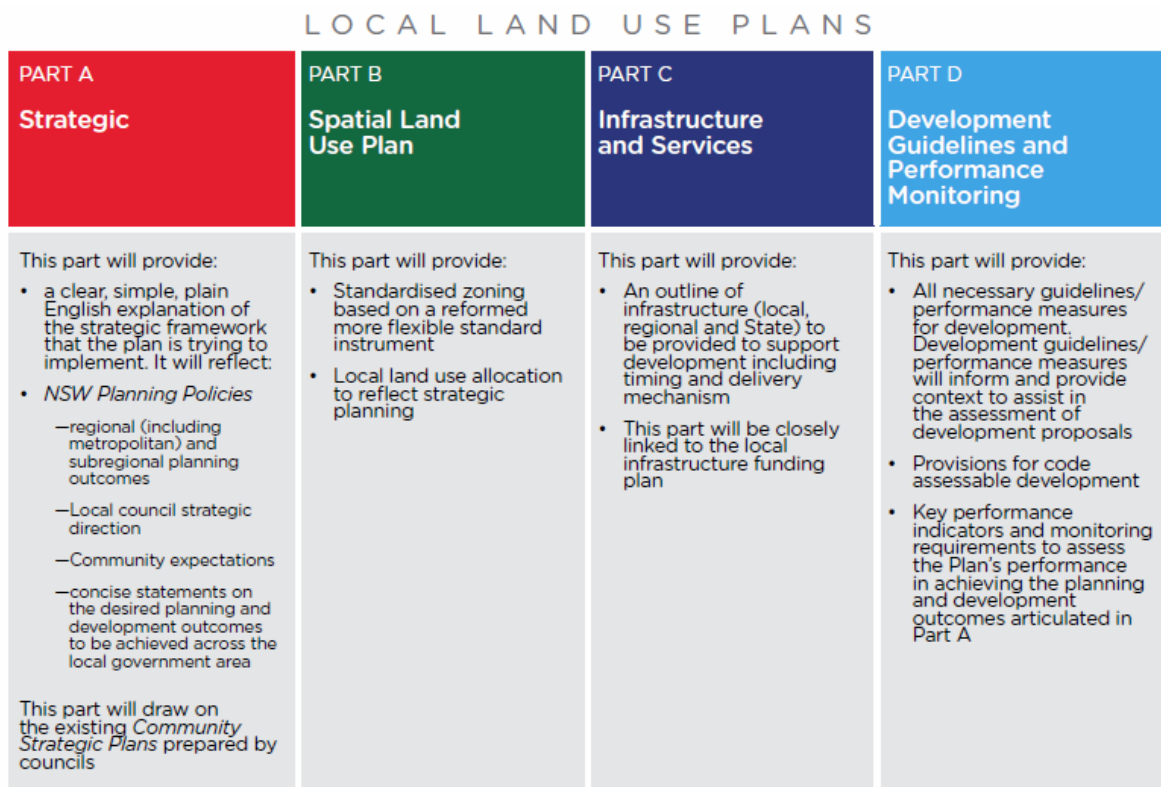
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- Local Land Use Plans

These will essentially replace the current Local Environmental Plans (LEP). It is proposed these will include four parts; a strategic context; special land use zones; an infrastructure growth and servicing delivery component and development guidelines and standards.

These Plans would be prepared by Local Councils and essentially replace the current LEP. The preparation of these Plans must be consistent with the higher level Plans in the abovementioned hierarchy of Plans. The general system is similar to the Integrated Planning and Reporting system that has recently been introduced via the Local Government Act (Community Strategic Plan, Delivery Plan with Resourcing Strategy and Operational Plan). The following diagram shows the proposed layout and conceptual content of these Plans.



- New Zones

It is proposed to create new zones being an Enterprise Zone (proactively provide for innovative investment and to boost employment), a Future Urban release Area Zone (to identify areas earmarked for future urban release) and a Suburban Character Zone (to provide for the preservation of the urban character or established development patterns and amenity).

Development Assessment and Compliance

The proposed changes in this area include;

- Development that is consistent with the strategic plan will be able to proceed in a straightforward manner and other development assessed on their merits against strategic outcomes.
- Code complying development is proposed to be maximised, i.e., proposals that meet set guidelines and standards will be guaranteed a 10 day approval process (same as the current Complying Development provisions but with amended standards to increase use).
- Depoliticised decision making - Local Government to focus on strategy and encouraged to delegate decisions to independent experts.

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- Remove concurrences through the strategic planning process.
- Reform State Significant Development.
- Smarter and timely merit assessments. Adoption of an “amber light approach” to development assessment that allows the determining authority to suggest/permit amendments to a proposal that would allow approval where refusal would be the outcome if it was not amended.
- Introduce the right to review rezonings and merit appeals.

Provision of Infrastructure

The Green Paper proposes the following in relation to infrastructure provision:

- Contestable Infrastructure to enable greater private participation in the delivery of growth supporting infrastructure.
- Growth Infrastructure Plans to link strategic planning with infrastructure planning and provision.
- “Fairer, simpler system of infrastructure contributions to support the rapid supply of housing and improve affordability”.
- Public priority Infrastructure to streamline assessment for major infrastructure delivery and provide upfront certainty accounting for increasing private delivery models.

The Green Paper also proposes the following new governance initiatives to improve the delivery of the planning system:

- A Chief Executive Officer’s Group to integrate and drive implementation.
- Regional Planning Boards to advise on regional and subregional strategy plan-making, infrastructure and planning issues.
- Mandatory performance monitoring against clear indicators with regular public reporting and review.
- Major organisational reform program to address the structure and culture of the system.

General Comments on the Proposed system for inclusion in the Council Submission

The above outline of the proposed changes is a very brief summary of the Green Paper. Whilst the Green Paper expands on the principles of the above changes, it is lacking in the detail as to how some of the changes would be applied. The following brief comments are made on the abovementioned five main change areas and these are expanded in the proposed submission to be made on the Green Paper:

Community Participation

The concept of involving the community early in the decision making process is completely supported. The proposal to develop a *Public Participation Charter* as an integral part of the planning system is also commended. However, the Green Paper seems to rely heavily on the early participation of the community and stakeholders at the strategic planning level and then seems to assume that the development proposals following this process would be acceptable without further input.

Currently there are no technical guidelines or methodology for assessing legitimate but competing public interests. The Public Participation Charter should clearly indicate the matters that will be given weight and those that do not play a part in decision making on planning matters.

It is agreed that there should be significant effort and consultation at the strategic planning stage and that this work would set sound foundations for the streamlined assessment of development proposals that are consistent with that strategic direction. However, there is little or no discussion, apart from the mention of a "Public Participation Charter" as to how successful that early consultation will be in relation to the general community understanding of the translation of those strategic concepts to development "on the ground". The understanding of strategic concepts and the resultant outcomes is an acquired skill. There are many that currently work in the industry that have varying skill levels in this regard. To expect the general community to gain a complete understanding of the strategic planning of their locality and how that will translate into development on the ground is, potentially, an unrealistic aim, at least in the short term.

Many in the community do not seem to have an interest in the strategic planning of an area and are usually only motivated to participate in any consultation if a development proposal will directly (i.e., is proposed next door) impact on them or their property. Whilst this is a generalised statement there is the potential for limited community participation in this model. In this regard the Green paper seems to have overlooked this need for "cultural" change towards the system in the community.

Strategic Focus

There is always a need for the formulation of good strategic planning and policy to guide the development of localities or communities. There is also a great need for this strategy to be strongly evidence based to ensure that the long term strategic direction is sound and not ad-hoc in its implementation.

The Green Paper states that this strategic focus is required to give certainty to the community, stakeholders and the industry as to what to expect in the locality and enables an outcome, rather than a process oriented, system. This sentiment is supported. However, there is some concern as to how the direction and changes proposed in the Green Paper will be implemented to achieve sometimes conflicting aims.

The Green Paper proposes the changes in order to provide certainty to both applicants and the community. However, the Green Paper also proposes that any new system should also be flexible to account for rapidly changing community needs and market forces. To this end the Green Paper proposes the expanded use of Code complying development. This desire to increase Code complying development is supported (provided the strategic context is firmly in place) and does not raise any objections. The Green Paper also proposes that if there are minor non-compliances outside those Codes that the system should allow a merit assessment to be undertaken on the non-compliance areas only, i.e., where the proposed development complies with all of the Code standards except for a variation to, say height or setback, then the merit assessment is only undertaken on that non-conformance to the height or setback and the other areas are not open to merit assessment. This approach has some merit and is generally supported. However, if this is to occur then there must be strong guidelines as to how this is undertaken in order to maintain the certainty that the Green Paper is seeking.

Where the Green Paper is proposing the most conflicting changes is where it proposes flexibility to such a degree that where a proposal is entirely outside the Code standards there is still the flexibility for merit assessment based solely on strategic outcomes. (This is illustrated on page 57 of the Green Paper). In this regard, the assessment of a proposal on strategic outcomes only is a very subjective assessment that, with the expanded appeal rights proposed in the Green Paper, could result in significantly more appeals and subsequent delays and costs to development. This seems to be contrary to the general direction of the Green Paper. It is also difficult to understand how this degree of flexibility will provide certainty to communities that participated in the strategic planning for the locality and understood that the strategic development envelope would be the limit for future development.

Streamlined Approvals

The abovementioned strategic focus will set a sound basis for the provision of streamlined approvals for the majority of development proposals. This process should also remove much of the duplication in assessment process that hinders the current system.

The proposal to “depoliticise” the decision making by recommending (does not seem to be mandatory at this stage) that local councils delegate the decision making for development to independent expert panels. The Green Paper indicates that this can be undertaken by appointing an Independent Assessment Panel (similar to an IHAP) or increase delegations to staff. Whilst there is merit in the concept of this change there are a number of matters that arise from this recommendation.

The first is that there seems to be a significant amount of discussion in the Green Paper and the other review documents regarding the politicising of development decisions. Whilst this does occur in some circumstances, the vast majority of development decisions are not made by elected representatives. As the Green Paper states only three percent of development decisions in the state are made by elected representatives. In this regard there seems to be a disproportionate amount of discussion and effort being given to a relatively minor issue.

The second is that the suggestion to form a Panel of independent experts, whilst reasonable in theory, can be at significant expense to the local council. Some of these Panels, depending on the makeup and number on the panel, can cost upwards of \$3,000 to \$5,000 per meeting. Over time this can add up to a significant cost with no apparent way of recovering that additional cost. The Green Paper does not touch upon the additional cost of some of the recommended changes nor does it mention any changes to the current regulated fee system that is built into the current system.

There is clearly a need for the ability to refer decision making on a development to an independent panel or other body in circumstances where the matters are politically sensitive or the issues are of a complex technical nature that requires expert assessment. In this regard the current system can provide for these situations without the need for significant change.

Provision of Infrastructure

The proposed change to the strategic planning process, giving statutory weight to a process that is integrated with infrastructure planning is fully supported. For many years strategic planning has raised the need for the integration of infrastructure planning with land use planning. However, with the current structure of state, and to a lesser extent, local governments there has been a basic structural obstacle to this occurring due to different departments and/or Ministers being responsible for infrastructure provision, treasury and land use planning. This matter has been partially recognised in the Green Paper but, apart from implying that the planning profession is to blame, does not seem to indicate how the various levels of government will work together to achieve this.

The Green Paper has raised the issue of infrastructure contributions and the need for a “fairer” system of contributions to be developed. Whilst there is agreement that the system needs to be fair there is also a need to be realistic about the infrastructure requirements, the costs of that infrastructure and the ability of the infrastructure providers to raise the necessary funding. In the past this issue has focused, disproportionately, on the local Section 94 contributions and has resulted in the unreasonable restriction of those contributions. A fair system is supported but the system must be reasonable and provide for the reasonable collection of contributions from abroad base of users of that infrastructure. Unfortunately the Green Paper lack detail on this matter.

Delivery Culture

There is agreement that the current system has developed a culture that is overly legalistic and at times bureaucratic. The Green Paper seems to rest much of this “blame” on local councils or the planning profession rather than the system that is administered by these bodies. Curiously, Planning Culture is raised under Change 23 (on page 88) as a matter for reform and suggests that the ‘next generation of planners’ will be better able to understand land economics and growth management’. Whilst the sentiment is not disputed, this reform appears to go well beyond the scope of, and control of, a government agency and legislation administering planning processes. It appears to be an attack on the profession of planning alone as there is no suggestion of planners being accredited to determine complying development or strategic outcomes elsewhere in the reforms.

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There does not seem to be any recognition in the Green Paper that the culture that is being criticised is a direct result of the existing system that has evolved. The legalistic processes and requirements of the existing system have resulted in a bureaucratic process that is focused on the process in order to reduce the amount of appeals, and the subsequent costs, that are made against (principally) local Councils.

Whilst it may be possible to change legislation to assist with this change, the cultural change required should not be limited to those that administer the planning system. There is a cultural mindset in the community in relation to the current planning system. In this regard, the community generally gains comfort from a system that provides some "rigid" controls to development that either permits or prohibits some uses and also sets standards for heights, setbacks, floor space ratios, etc. This type of arrangement gives many people that do not regularly use the system certainty in relation to what will happen in their local area. A shift in this culture in the community will be more difficult and will take longer to implement than envisaged in the Green Paper.

The "Cultural" change that the Green Paper seeks to make in the system will need to expand beyond the "planners" and "Council" to include the "litigant culture" of many communities and applicants. To achieve change in this "culture" would assist in a more collaborative, rather than an adversarial culture that can focus better on agreed outcomes.

It is agreed that the system needs to be improved to be more outcome focused. However, the Green Paper seems to be too narrowly focused on the causes of these problems and is somewhat unrealistic about the timeframes to undertake this wider cultural change.

Conformance to Community Strategic Plan

The proposal is consistent with the Shaping our Future Together Directions statements;

- Have transparent, accountable and respected leadership and an engaged community.
- Have constructive and productive partnerships with residents, community groups and institutions.

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.

Financial Implications

There are no financial implications applicable to this report.

RECOMMENDATION:

That the Draft Submission attached to the report be endorsed and referred to the NSW Government in response to the exhibition of the Green Paper - A New Planning System for NSW.

ATTACHMENTS:

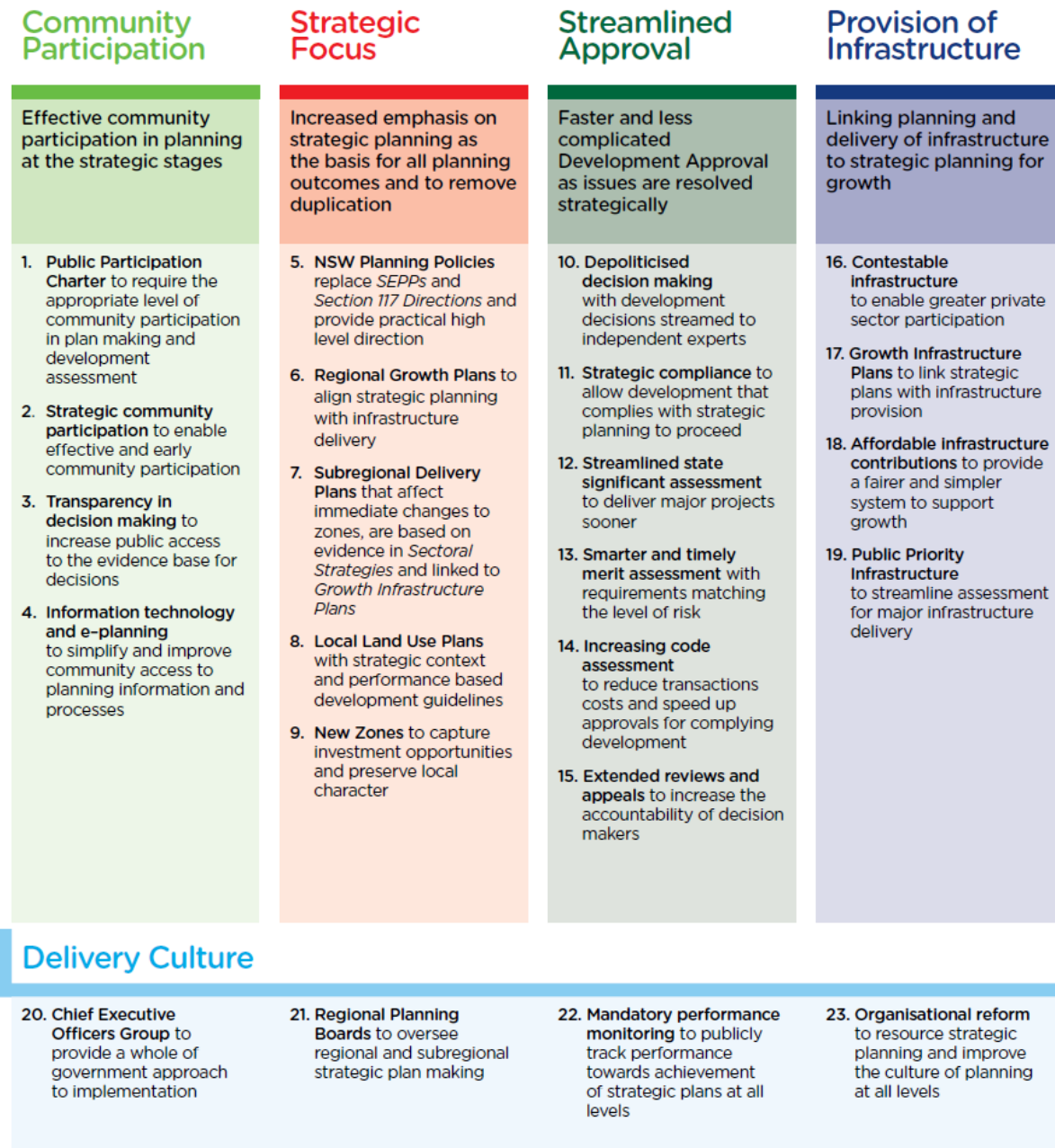
AT - 1 Summary diagram of changes.

AT - 2 Summary chart of consultation roles.

AT - 3 Draft Submission to the Green Paper - A New Planning System for NSW.

AT 1 – Summary Diagram of Changes

FIGURE 1 BLUEPRINT FOR CHANGE: A NEW PLANNING SYSTEM FOR NSW



AT 2 - Summary chart of consultation roles

FIGURE 6

THE COMMUNITY AND KEY STAKEHOLDERS WILL HAVE A KEY ROLE IN IMPLEMENTING THE NEW SYSTEM

Community	<p><i>A Public Participation Charter will be an integral part of the planning system</i></p> <hr/> <p>Community participation will be key and legislatively provided for in the making of <i>State Planning Policies, Regional Growth Plans, Subregional Delivery Plans and Local Land Use Plans</i></p> <hr/> <p>Community representatives will be invited on Regional Planning Boards</p> <hr/> <p>Community participation will occur for State Significant Development, Merit Assessed Development, Priority Infrastructure Projects and merit-related issues and design matters for Code Assessment Development</p> <hr/> <p>Through 'e-Planning', the community will have access to zonings and other key development controls via 'Google style' viewer</p> <hr/> <p>The community will have electronic access to planning system requirements, public tracking of decision process and public reporting of timeframes</p> <hr/> <p>All members of the public will have electronic access to annual planning performance reports related to the planning and delivery of the number of dwellings and jobs, the area of environmental land protected and the delivery of major growth infrastructure</p> <hr/> <p>Appeal rights to the Land and Environment Court will be maintained</p>
Local Government	<p>Local government will be key participants by legislation in the making of <i>Regional Growth Plans and Subregional Delivery Plans</i></p> <hr/> <p>Local government be key participants on Regional Planning Boards</p> <hr/> <p>Local government will be responsible for making <i>Local Land Use Plans</i></p> <hr/> <p>Local government will participate in the assessment of State Significant Development and Priority Infrastructure Projects</p> <hr/> <p>Local government will be the consent authority for Merit Assessed Development and merit-related issues and design matters for Code Assessment Development</p>
Environmental Groups	<p>Environmental groups will be consulted by law in the making of <i>State Planning Policies, Regional Growth Plans, Subregional Delivery Plans and Local Land Use Plans</i></p> <hr/> <p>Environmental groups will participate in the assessment of State Significant Development, Merit Assessed Development, Priority Infrastructure Projects and merit related issues and design matters for Code Assessment Development</p> <hr/> <p>Representatives will be invited to participate on Regional Planning Boards</p>
Stakeholders & Industry	<p>Stakeholders and industry will be consulted in the making of <i>State Planning Policies, Regional Growth Plans, Subregional Delivery Plans and Local Land Use Plans</i></p> <hr/> <p>Key stakeholders (e.g. Catchment Management Authorities) and industry will sit on Regional Planning Boards to guide the development of growth plans</p> <hr/> <p>Stakeholder engagement will be provided for in legislation</p>

AT - 3 Draft Submission to the Green Paper - A New Planning System for NSW.

Hawkesbury City Council has reviewed the Green Paper – A New Planning System for NSW and appreciates the opportunity to provide comments on this Paper. The following submission structure generally follows the fundamental change headings that are outlined in the Green Paper.

Community Participation

The concept of involving the community early in the decision making process is completely supported. The proposal to develop a *Public Participation Charter* as an integral part of the planning system is also commended. However, the Green Paper seems to rely heavily on the early participation of the community and stakeholders at the strategic planning level and then seems to assume that the development proposals following this process would be acceptable without further need for input from the community or stakeholders. This is understandable for Code compliant proposals; however, there should be a provision that would allow further consultation for merit assessment matters.

It is agreed that there should be significant effort and consultation at the strategic planning stage and that this work would set sound foundations for the streamlined assessment of development proposals that are consistent with that strategic direction. However, there is little or no discussion, apart from the mention of a “Public Participation Charter” as to how successful that early consultation will be in relation to the general community’s understanding of the translation of those strategic concepts to development “on the ground”. The understanding of strategic concepts and the resultant outcomes is an acquired skill. To expect the general community to gain a complete understanding of the strategic planning of their locality and how that will translate into development on the ground is, potentially, an unrealistic aim, at least in the short term.

Many in the community do not seem to have an interest in the strategic planning of an area and are usually only motivated to participate in any consultation if a development proposal will directly impact on them or their property (i.e., is proposed next door). Whilst this is a generalised statement there is the potential for limited community participation in this model. In this regard the Green paper seems to have overlooked this need for “cultural” change to the community attitude towards the system in general.

Currently there are no technical guidelines or methodology for assessing legitimate but competing public interests. The Public Participation Charter should clearly indicate the matters that will be given weight and those that do not play a part in decision making on planning matters.

Summary Comments;

Council supports the development of a *Public Participation Charter* and the preparation of a template charter. However, it is unclear how this Charter will improve the current provisions. It is considered that this Charter should;

1. Make provision for additional consultation at merit assessment stages,
2. Should clearly indicate the matters that will be given weight and those that do not play a part in decision making on planning and development matters,
3. Provide technical guidelines or methodology for assessing legitimate but competing public interests,
4. Include strategies to encourage community participation in the strategic consultation phases and potentially include participation targets,
5. Identify how certain “Stakeholder” and “Environmental Groups” are defined, i.e., what constitutes an “environmental group” in different localities. (Progress Associations, Landcare groups, a group greater than 3 or 4 concerned residents?)
6. Detailed guidelines for the use of e-planning tools and in particular social media to provide for diversity in community participation,

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7. Online tools should be considered as one of many community engagement tools in the Public Participation charter and not the substitute for face to face consultation methods. Online consultation should not be too heavily relied upon until access to the National Broadband Network is established across all of NSW,
8. Consideration should be given to the required changes/operation of other legislation, e.g., Conveyancing Act, etc, where ePlanning may eliminate the need for S149 Planning Certificates. This would also introduce the need for "Cultural" change in other areas of the industry.
9. Initiate changes to the Copyright act or provide legislative protection for councils under the new planning act to enable more widespread access to planning information. This should include common access protocols, copyright exemptions and agreed minimum levels of public access to planning information,
10. Common protocols for software providers and ideally a common platform for e-data and secure online payments should be well established,
11. Memorandums of understanding between councils, state government agencies and software providers about database sharing on a statewide basis,
12. Funding to councils for base data collection; process improvement and e-planning software implementation,
13. Mechanisms should be developed for the funding of this additional community consultation at the strategic planning stage where currently there is little or no funding mechanism for this work.
14. The "Plain English" documentation that is proposed is commendable. However, there is a need for consistency in the wording for these explanations so that the intent of the changes are implemented and also the "plain English" does not result in legal appeals to the interpretation of these matters.

Strategic Focus

There is always a need for the formulation of good evidence based strategic planning and policy to guide the development of localities or communities. There is also a great need for this strategy to be strongly evidence based to ensure that the long term strategic direction is sound and not ad-hoc in its implementation.

The Green Paper states that this strategic focus is required to give certainty to the community, stakeholders and the industry as to what to expect in the locality and enables an outcome, rather than a process, oriented system. This sentiment is supported. However, there is some concern as to how the direction and changes proposed in the Green Paper will be implemented to achieve these sometimes conflicting aims.

The Green Paper proposes the changes in order to provide certainty to both applicants and the community. However, the Green Paper also proposes that any new system should also be flexible to account for rapidly changing community needs and market forces. To this end the Green Paper proposes the expanded use of Code complying development. This desire to increase Code complying development is supported (provided the strategic context is firmly in place).

The Green Paper also proposes that if there are minor non-compliances outside those Codes that the system should allow a merit assessment to be undertaken on the non-compliance areas only, i.e., where the proposed development complies with all of the Code standards except for a variation to, say height or setback, then the merit assessment is only undertaken on that non-conformance to the height or setback and the other areas are not open to merit assessment. This approach has some merit and is generally supported. However, if this is to occur then there must be strong guidelines as to how this is undertaken in order to maintain the certainty that the Green Paper is seeking to provide to both applicants and the community.

Where the Green Paper is proposing the most conflicting changes is where it proposes flexibility to such a degree that where a proposal is entirely outside the Code standards there is still the flexibility for merit assessment based solely on strategic outcomes. (This is illustrated on page 57 of the Green Paper). In this regard, the assessment of a proposal on strategic outcomes only is a very subjective assessment that, with the expanded appeal rights proposed in the Green Paper, could result in significantly more appeals (from both applicants and community) and subsequent delays and costs to development. This seems to be contrary to the general direction of the Green Paper. It is also difficult to understand how this degree of flexibility will provide certainty to communities that participated in the strategic planning for the locality and understood that the strategic development envelope would be the limit for future development.

Summary Comments;

Council supports:

1. The greater focus on evidence based strategic planning,
2. The embedding of that evidence based strategic planning into the legislation,
3. The intent of providing more certainty into the system,
4. The intent to improve flexibility in the system,

Council requests that the State Government provide:

1. Sound guidelines or controls on the system to ensure that the concept of certainty and flexibility are complementary and do not result in conflict,
2. Make provision for merit assessment guidelines, and the application of those guidelines, to be consistent across the system. For this to occur there is a need for the system to address this matter in detail to ensure that the incremental erosion of the system does not occur as it has in the past,
3. Expand the strategic focus that is discussed in the Green Paper to strategic planning for the environment, urban design and social justice principles as well as there is little mention of this in the Green Paper.
4. Make provision for funding the preparation of the Land Use Plans by local government. Local government have dedicated a significant amount of resources into the preparation of Standard Instrument LEPs and the Land Use Plan in the Green Paper seems to be repeating this process for little gain.
5. Provide details of training programs to build the skill base and number of qualified persons that can undertake the significant additional work in converting/rewriting the planning instruments and controls in local government. The additional work, at least in the next two to three years, will be significant and it is unclear if there are enough adequately qualified persons in NSW to ensure the existing system is operated whilst the additional strategic planning and Land Use Plan preparation is undertaken.

Streamlined Approvals

The abovementioned strategic focus would set a sound basis for the provision of streamlined approvals for the majority of development proposals. This process should also remove much of the duplication in assessment process that hinders the current system.

It is proposed to “depoliticise” the decision making by recommending (rather than mandating at this stage) that local councils delegate the decision making for development to independent expert panels. The Green Paper indicates that this can be undertaken by appointing an Independent Assessment Panel (similar to an IHAP) or increase delegations to staff. Whilst there is merit in the concept of this change there are a number of concerns that arise from this recommendation.

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The first is that there seems to be a significant amount of discussion in the Green Paper and the other review documents regarding the politicising of development decisions. Whilst this does occur in some circumstances, the vast majority of development decisions are not made by elected representatives. As the Green Paper states only three percent of development decisions in the state are made by elected representatives. In this regard there seems to be a disproportionate amount of discussion and effort being given to a relatively minor issue.

The second is that the suggestion to form a Panel of independent experts, whilst reasonable in theory, can be at significant expense to the local council. Some of these Panels, depending on the makeup and number on the panel, can cost upwards of \$3,000 to \$5,000 per meeting. Over time this can add up to a significant cost with no apparent way of recovering that additional cost. The Green Paper does not touch upon the additional cost of some of the recommended changes nor does it mention any changes to the current regulated fee system that is built into the current system.

There is clearly a need for the ability to refer decision making on a development to elected representatives, an independent panel or other body in circumstances where the matters are politically sensitive or the issues are of a complex technical nature that requires expert assessment. In this regard the current system can provide for these situations without the need for significant change.

Summary Comments;

Council supports:

1. The simplifying of the development approval processes and the use of technical decision making processes on complex matters,
2. The opportunity for strategic or site compatibility certificates, which should be issued by the relevant planning authority rather than a Departmental based system,
3. The expansion of complying development and introduction of code assessable development,

Council requests that the State Government provide:

1. To assist with the implementation of the "Amber Light Approach" described in the Green Paper, amendments would be required to Code of Conduct provisions, ICAC guidelines and other related restrictions that currently affect the ability of Council planning staff to assist applicants with submission of, or amendments to, applications that would make them acceptable for approval, i.e., relax the provisions (not delete these probity provisions) to enable the planning and assessment staff to achieve the "can do" attitude that the Green Paper is proposing,
2. A 60 day minimum assessment time be imposed for complex merit assessments,
3. An accredited system for DA lodgement to ensure complete applications are prepared, i.e., accreditation of planners, or others, for lodgment of applications that will ensure these are complete and prepared professionally and consider all relevant matters. This would streamline the front part of the process.
4. Performance based guidelines for development assessment that have measurable outcomes and balance public interest with private land ownership rights,
5. A technical panel (separate to the regional panel) be formed to develop guidelines for merit assessment and provide consultant style support to all, but especially small councils with limited professional specialists (e.g. urban design, heritage, vegetation, contamination and amenity matters such as acoustic impacts),
6. Funding to provide resources to establish a strategic database of information and approach to key barriers for complying development approval processes such as flooding, endangered vegetation, bushfire and heritage (European and Aboriginal),

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7. Provide state-wide guidelines on the assessment of minor structures that fall outside the complying development provisions (e.g. "Installing modern services on heritage buildings" http://www.heritage.tas.gov.au/media/pdf/Modern_services_Web.pdf),
8. Provide support for the planning profession by identifying clear accreditation requirements for planning processes under the new Planning Act,
9. Provide flexibility to fees for development. The current statutory fee arrangement is counterproductive to competition and is quickly outdated.

Provision of Infrastructure

The proposed change to the strategic planning process, giving statutory weight to a process that is integrated with infrastructure planning is fully supported. For many years strategic planning has raised the need for the integration of infrastructure planning with land use planning. However, with the current structure of state, and to a lesser extent, local governments there has been a basic structural obstacle to this occurring due to different departments and/or Ministers being responsible for infrastructure provision, treasury and land use planning. This matter has been partially recognised in the Green Paper but, apart from implying that the planning profession is to blame, it does not seem to indicate how the various levels of government will work together to achieve this.

The Green Paper has raised the issue of infrastructure contributions and the need for a "fairer" system of contributions to be developed. Whilst there is agreement that the system needs to be fair there is also a need to be realistic about the infrastructure requirements, the costs of that infrastructure and the ability of the infrastructure providers to raise the necessary funding. In the past this issue has focused, disproportionately, on the local Section 94 contributions and has resulted in the unreasonable restriction of those contributions. A fair system is supported but the system must be reasonable and provide for the reasonable collection of contributions from abroad base of users of that infrastructure. Unfortunately the Green Paper lacks detail on this matter.

Summary Comments;

Council supports:

1. The integration of infrastructure planning with land use planning via legislation,
2. A fair system of infrastructure contributions for all stakeholders being the community, developers, infrastructure providers and the end users,

Council requests that the State Government provide:

1. Review the scope of works that are proposed for the Local Infrastructure Plan and Regional Open Space Levy. There is no point in a council obtaining land for various uses if there is no ability to raise funds to improve or develop that land for community or sporting facilities. There either needs to be an increase in the scope of infrastructure contributions or ability to impose levies or special rates for those additional improvements,
2. A cultural change within the State infrastructure providers to work collaboratively with local authorities to ensure the full integration of land use and infrastructure planning and provision, rather than the current process of infrastructure providers dictating local land use planning,
3. Mechanisms to ensure that infrastructure contributions/provisions are subject to regular review and amended where required to ensure that the contribution/provision meets the current and future needs of the community and users.
4. Prepare standard guidelines for the preparation of contributions plans, or the like, that apply consistently across the state and to state and local authorities.

Delivery Culture

There is agreement that the current system has developed a culture that is overly legalistic and at times bureaucratic. The Green Paper seems to rest much of this “blame” on local councils or the planning profession rather than the system that is administered by these bodies. Curiously, Planning Culture is raised under Change 23 (on page 88) as a matter for reform and suggests that the ‘next generation of planners’ will be better able to understand land economics and growth management’. Whilst the sentiment is not disputed, this reform appears to go well beyond the scope of, and control of, a government agency and legislation administering planning processes. It appears to be an attack on the profession of planning alone as there is no suggestion of planners being accredited to determine complying development or strategic outcomes elsewhere in the reforms. Similarly there is no recognition that the planners are simply administering the system or following the processes that have been created by others within that system.

There does not seem to be any recognition in the Green Paper that the culture that is being criticised is a direct result of the existing system that has evolved. The legalistic processes and requirements of the existing system have resulted in a bureaucratic process that is focused on the process in order to reduce the number of appeals, and the subsequent costs, that are made against (principally) local Councils.

Whilst it may be possible to change legislation to assist with this change, the cultural change required should not be limited to those that administer the planning system. There is a cultural mindset in the community in relation to the current planning system. In this regard, the community generally gains comfort from a system that provides some “rigid” controls to development that either permits or prohibits some uses and also sets standards for heights, setbacks, floor space ratios, etc. This type of arrangement gives many people that do not regularly use the system certainty in relation to what will happen in their local area. A shift in this culture in the community will be more difficult and will take longer to implement than envisaged in the Green Paper.

The “Cultural” change that the Green Paper seeks to make in the system will need to expand beyond the “planners” and “Council” to the general users of the system both in the industry and the community. In this regard the “litigant culture” of many communities, applicants and the industry should also be a focus for change.

It is agreed that the system needs to be improved to be more outcome focused. However, the Green Paper seems to be too narrowly focused on the causes of these problems and is somewhat unrealistic about the timeframes to undertake this wider cultural change.

Summary Comments;**Council supports:**

1. The concept that there are proposed to be measures to implement the revised planning system,
2. The proposal for performance monitoring. However, this support is qualified as the details of that monitoring are not expressed in the Paper and there are concerns that the monitoring (quarterly) is too frequent and would take away resources that could be utilised elsewhere in the system. Monitoring should be annual.

Council requests that the State Government provide:

1. Greater detail regarding the monitoring and reporting mechanisms. These mechanisms should be simple and uniform across the state (or potentially nationally) and should be usable and accessible to all,
2. A greater focus on a “Planning System” rather than the current focus of the Green Paper of a “development approval system”. The focus of the Paper has been on, what is essentially Parts 3 and 4 of the existing Act rather than a systematic review of the Act.
3. Provide details as to how the current compliance, enforcement and Orders system that will be needed to assist the implementation of the system will operate.

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General Comments

- The Green Paper is titled “A New Planning System for NSW”. It is disappointing that the Paper has focused almost entirely on the “process” for approving development rather than a comprehensive review of planning in NSW. In this regard there seems to be the view that “planning” is development assessment. However, the true meaning of planning is much broader than this and should include the planning for, and integration of, other factors that make up society, such as design, character, social justice principles, etc, as well as the issues of transport, housing, infrastructure, etc.
- The Green Paper has essentially reviewed processes within the existing system. Ironically the Paper is proposing similar systems to those that it has been most critical about. Most of the changes that the Paper has proposed for a new system can already be undertaken in the existing system. The process changes and the timeframe for implementation introduce the danger that the legislation will essentially “tinker with” the existing system and will not facilitate the cultural shift that is required within the regular users of the system (both private and public), the general community and the organisational structure of government.
- If the intent of the previous Issues Paper and Green Paper was to propose a new planning system there could have been some more radical proposals discussed. These could include raising the question such as: With the increase in strategic planning and code assessment, why have development applications or assessment at all? This type of system could consist of sound strategic planning set by the local council, code assessed development that can be undertaken by any qualified certifier (not necessarily council at all) and then a strong audit system that is undertaken by the local council, with well developed and robust enforcement provisions. Whilst it is not suggested that this is the only type of alternate system, it does not seem that this exploration has been undertaken at all in this process.
- The system review has proposed a number of significant changes to the types of plans and processes. For any such system to operate effectively it needs to be properly resourced and the provision of those resources need to be easily adapted to respond to market changes. As such any review of the act should consider the review of the current regulated fee structure. Local councils are expected to compete in the development and building market but are constrained by the current fee structure in the planning legislation as well as the rigid operating structure that is imposed by the Local Government Act. In this regard, councils cannot respond to market changes and resourcing changes as quickly as the private sector. Any planning system review should also consider these external constraints more seriously and explore what changes can be made to improve funding and resourcing flexibility without reducing the probity and transparency required and demanded by the community.

oooO END OF REPORT Oooo

INFRASTRUCTURE SERVICES

Item: 155 **IS - Effects on Carbon Price on Hawkesbury City Waste Management Facility - (95495, 112179, 107)**

Previous Item: 126, Ordinary (10 July 2012)

REPORT:

Executive Summary

Council at its meeting of 10 July 2012 considered a report on the impacts of the Clean Energy Act 2011 on the operation of the Hawkesbury City Waste Management Facility (HCWMF).

Council resolved to refer the matter to a briefing session for further information. This briefing occurred on 7 August 2012 and the report is resubmitted for Council's consideration.

Under the carbon price legislation, landfill facilities with direct emissions of 25,000 tonnes carbon dioxide equivalent (CO₂-e) or more per annum, will be liable to pay the carbon price.

It has been estimated (using the calculation method provided by the Department of Climate Change and Energy Efficiency) that if the amount of waste deposited to landfill at Council's Waste Management Facility continued to increase at the average percentage rate per year (2.425 %) that has been experienced in the past, the Facility would not exceed the facility threshold of 25,000 tonnes (CO₂-e) until the year 2016. It has been estimated, using the same calculator, that with the increase in the amount of material diverted from landfill through increased recycling and the proposed green waste collection and diversion, the Facility would not reach the threshold until 2023. With the implementation of a gas collection (use/destruction) system, the breaching of the threshold is anticipated to be delayed indefinitely.

In order to reduce the impact on landfill charges, and the longer term financial risks to Council, it is recommended that:

1. A tender be prepared for the design, supply, installation and potentially the operation and maintenance of a landfill gas collection system at the Hawkesbury City Waste Management Facility to be undertaken in 2012/2013 and;
2. The future budget allocation for the gas collection system be brought forward to 2012/2013 to fund the project.

Consultation

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

Background

Council owns and operates the Hawkesbury City Waste Management Facility (HCWMF) which commenced operation in 1976 and continues to receive waste.

The HCWMF receives waste only from properties within the Hawkesbury Local Government area. Approximately 25,000 tonnes of predominantly municipal solid waste (MSW) is currently received into the landfill each year.

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The waste received is deposited and compacted within a landfill cell. Over time the waste begins to breakdown/ decompose in the absence of oxygen (a process known as anaerobic decomposition). This anaerobic breakdown of the buried waste creates methane which is 21 times more potent than CO₂ as a greenhouse gas (GHG). Emissions of methane and smaller quantities of Nitrous Oxide (N₂O) continue to be produced for many decades following landfill deposition.

Over the lifetime of the HCWMF, the anaerobic decomposition of the waste buried since 1976 within the landfill cells has and will continue to generate significant quantities of methane.

The HCWMF was calculated as generating 24,043 tonnes (CO₂-e) in 2011/2012 using the calculation method provided by the Department of Climate Change and Energy Efficiency for calculation of landfill emissions in accordance with the National Greenhouse and Energy Reporting requirements.

Under the carbon price legislation only landfill facilities with direct emissions of 25,000 tonnes (CO₂-e) or more will be liable to pay the carbon price.

The carbon price does not apply to waste deposited prior to 1 July 2012, however the emissions created by this waste (known as 'legacy waste') will count towards the emissions limit used to determine if a facility meets the carbon price liability thresholds.

It has been calculated that if the amount of waste deposited to HCWMF increases at the average percentage rate per year (2.425 %) that has been experienced in the past, the Facility will exceed the facility threshold of 25,000 tonnes (CO₂-e) in 2016.

However, it has also been calculated that through an increase in the amount of material diverted from landfill through the proposed reuse and recycling (including a 17% diversion rate of green waste assumed) the threshold will not be exceeded until 2023.

Because waste deposited in any given year will continue to emit GHGs for many decades, and payment of the carbon price is paid for emissions in years following the initial deposition, it is necessary to recover the cost of emissions for the whole period of emissions, above the threshold, at the time of waste being accepted into the landfill. Calculations of the potential liability, taking into account the time value of money, have been carried out to determine the effect of exceeding the 25,000 CO₂-e threshold limit. The calculation results in a Net Present Value (NPV) of the future liability.

The possible costs based on various discount rates (ie, future interest rates that would apply to invested funds) for various classes of waste have been estimated and these are summarised in the following table below (Municipal Solid Waste (MSW), Commercial and Industrial Waste (C & I), and Construction and Demolition Waste (C & D)).

Table – Cost (NPV) for Emissions Liability per tonne

Net Discount Rate	MSW	C & I	C & D
4%	\$31.27	\$27.65	\$4.24
5%	\$28.49	\$24.76	\$3.69
6%	\$26.14	\$22.37	\$3.24

The above estimates will require external verification as they are subject to ACCC assessment.

If the HCWMF was to breach the threshold at any stage during its operational life then Council would be liable for all future CO₂-e emissions from waste deposited into landfill from 1 July 2012 for the period where emissions exceed the threshold.

To quantify this impact, and the potential risk to Council, the following hypothetical example outlines the total cost if emissions exceeded 25,000 tonnes CO₂-e in 2013/2014 as a result of waste deposited in 2012/2013.

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24,280 tonnes (waste deposited into landfill 2012/2013 estimated) of predominantly MSW would generate GHGs over the life of the landfill with a liability (NPV) in 2013/2014 of:

\$759,236 @ 4% discount rate

\$634,679 @ 6% discount rate

These amounts would need to be recovered from future waste deposition (in addition to the component attributable to that future waste).

There is clearly a significant risk to Council due to the uncertainty of predicting future interest rates and the inability and equity of attempting to recover any future short falls.

Options

In order to avoid the impact of carbon pricing, it is necessary to ensure that emissions do not exceed 25,000 tonnes CO₂-e per annum.

There are a limited number of options available to achieve this. These include:

1. Green Waste Collection

Council is now in the process of tendering for this service which will delay the breaching of the current threshold until 2023, dependent on diversion rates. It should be noted that GHG emissions will remain close to the threshold, however, and that any change to assumptions may cause the threshold to be breached earlier.

2. Development of an alternate waste treatment (AWT) process.

Investigations have commenced into the potential for different treatment systems, however approval and development of an AWT is likely to take a number of years and is dependant on current negotiations over the current landfill site lease, relating to extension of the lease and site future tenure.

3. Landfill Gas Collection (LGC)

A LGC system is a process which collects the methane via a system of pipes which captures the gas beneath a landfill cell capping and conveys it to a collection tank for destruction or use in a turbine to generate power.

The implementation of a gas collection system at the HCWMF and a kerbside green waste collection and diversion from landfill could maintain the CO₂-e emissions to well below the 25,000 tonne threshold and therefore eliminate potential liabilities.

The estimated cost of providing an approved gas collection system is \$1 million. This cost has been built into the financial plan for the landfill and will be recovered over the active life of the Facility.

Council can provide this gas collection infrastructure through various contractual arrangements including sale of carbon credits. Detailed assessment of alternatives would be carried out during tender preparation.

Conformance to Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Directions statement;

- Work with our communities and businesses to use our resources in a sustainable way and employ best practices and technologies that are in harmony with our natural environment.

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

- Develop and implement waste and recycling strategies

Financial Implications

If appropriate action is not taken to reduce CO₂-e emissions, and if the HCWMF was to breach the threshold at any stage during its operational life, then Council would be liable for all future CO₂-e emissions from waste deposited into landfill from 1 July 2012.

In the absence of immediate action to limit the emission of GHGs to below the threshold, the threshold will be exceeded in 2015/2016. The carbon price would then impact upon the budget of the Waste Facility from 2015/2016. A carbon fee for waste received at the gate of the HCWMF would need to be recovered from future waste deposition to collect money to pay for the CO₂-e liability of waste deposited in 2012/2013. This fee would also need to be applied to the Domestic Waste Charge (Component 81).

RECOMMENDATION:

That:

1. A selective tender incorporating an expression of interest stage be prepared for the design, supply, installation and potentially the operation and maintenance of a landfill gas collection system at the Hawkesbury Council Waste Management Facility to be undertaken in 2012/2013.
2. The future budget allocation for the gas collection system be brought forward to 2012/2013 to fund the project.

ATTACHMENTS:

AT - 1 Emissions from landfill facilities fact sheet – Australian Government, Clean Energy Future

AT - 1 Emissions from landfill facilities fact sheet – Australian Government, Clean Energy Future

Australian Government



FACT SHEET

Emissions from landfill facilities

Local governments and other operators may be liable to pay a carbon price for their methane emissions from landfill.

Landfill operators will have incentives to reduce their emissions by capturing methane, which can be used to generate electricity. Emissions can also be reduced by diverting waste or other treatments.

Landfill emissions

Many local governments and other operators are already taking action to reduce methane emissions from landfill facilities. Even so, the waste sector produces around 15 million tonnes of carbon pollution each year, equivalent to 3 percent of Australia's emissions.

Waste deposited in landfill today will create carbon pollution for decades as the material decomposes. Without action to reduce emissions, a tonne of standard municipal solid waste will release about 1.2 tonnes of carbon pollution.

The Clean Energy Future plan has the potential to significantly reduce our landfill waste emissions, potentially halving annual waste sector emissions by 2020.

Liability for landfill emissions

What landfill sites will be liable under the carbon price?

Landfill facilities with direct emissions of 25,000 tonnes carbon dioxide equivalent (CO₂-e) a year or more will be liable under the carbon price. As a broad rule of thumb, towns with 20,000 people or more should examine whether their landfill sites exceed the threshold.

The carbon price will not apply to emissions from waste deposited prior to 1 July 2012 (this is known as legacy waste emissions). This is because landfill operators cannot recover the cost of emissions from waste deposited in the past. Those emissions will count towards determining facility thresholds for liability for the carbon price.

There will be no carbon price liability for landfill facilities with emissions of less than 25,000 tonnes (CO₂-e) of carbon pollution a year for at least the first three years of the carbon price. The Climate Change Authority will review arrangements for these smaller landfills (between 10,000 and 25,000 tonnes) no later than 2015-2016. However, the Government's preference is to maintain the current arrangements unless there is clear evidence that the current thresholds have led to waste diversion in the industry.

If the threshold is changed (through changes to regulations) and affected, smaller landfills become covered by the carbon price mechanism sometime after 2015, the Government will ensure that these landfills are liable only for emissions from waste deposited after the change is made.

Measuring and reporting landfill emissions

Landfill operators liable under the carbon price will now be required to report their greenhouse gas emissions to the Clean Energy Regulator from 1 July 2012.

The National Greenhouse and Energy Reporting Act 2007 (the NGER Act) provides a framework for methodologies for estimating these emissions. Methods for estimating methane from landfills have been developed in consultation with stakeholders and are outlined in Part 5.2 of the *National Greenhouse and Energy Reporting (Measurement) Determination 2008*.

The Government will conduct information and training sessions for affected landfill operators to meet their requirements under the NGER reporting framework in early 2012.

More information about the National Greenhouse and Energy Reporting Framework is available at: www.climatechange.gov.au/government/initiatives/national-greenhouse-energy-reporting.aspx

Opportunities to reduce landfill waste emissions

Landfill operators can reduce their carbon price liabilities or in some cases avoid liability by reducing their emissions below the liability threshold.

Activities that reduce emission including capturing landfill gas to generate electricity, flaring methane, waste diversion, recycling, and composting. Many of these activities can generate revenue and may be eligible for Government incentives through schemes such as the Renewable Energy Target and the Carbon Farming Initiative.

Carbon Farming Initiative

The Carbon Farming Initiative (CFI) will provide incentives to reduce emissions from legacy waste by creating carbon credits. This opportunity is open to any landfill with legacy waste irrespective of size. CFI credits can be used to meet obligations under the carbon price and can also be sold into voluntary and international carbon markets.

The waste sector is likely to generate enough CFI credits to meet the sector's liabilities under the carbon price in the period to 2020. In particular, landfill operators will be able to meet up to 100 per cent of their carbon price liability using credits issued under the Carbon Farming Initiative (CFI) during the fixed price years of the carbon pricing mechanism.

Landfill operators wishing to participate in the CFI will need to use methodologies approved by the Government. An independent expert committee, the Domestic Offsets Integrity Committee (DOIC), will assess methodologies and provide recommendations to the Minister for Climate Change and Energy Efficiency on their approval. A CFI methodology for the capture and combustion of landfill gas is currently under consideration by the DOIC.

Waste projects can be backdated to the commencement of the CFI. This will allow existing waste projects, such as those approved under the Australia Government's Greenhouse Friendly program and the Greenhouse Gas Reduction Scheme (GGAS), to receive CFI credits for abatement from 1 July 2010. More information on the CFI is available at www.climatechange.gov.au/cfi.

Renewable Energy Target

The Renewable Energy Target (RET) will help ensure that at least 20 per cent of Australia's electricity comes from renewable sources by 2020.

Landfill operators could also be eligible for support under the RET scheme. Power stations using landfill gas to generate electricity can apply to become accredited renewable energy power stations. This will allow them to create a tradable certificate for each megawatt-hour of electricity generated using landfill gas. More information on the RET, including on becoming an accredited renewable energy power station, is available at www.orer.gov.au.

Further Information

For further information call 1800 057 590.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 August 2012

Item: 156 **IS - Lower Portland Ferry Working Party - (95495)**

Previous Item: 102, Ordinary (26 June 2012)

REPORT:

Executive Summary

Council, in considering a report on the operation of the Lower Portland Ferry resolved to seek to establish, in conjunction with The Hills Shire Council, a Working Party including two community representatives.

Council sought expressions of interest via public advertisement for this representation. At the conclusion of the advertising period two nominations were received being:

- John Hermitage
- Stephen Arblaster

As only two nominations were received, these have been accepted and this report is provided to Council to formally endorse this action.

Consultation

The issues raised in this report concern matters which constitute a trigger for Community Engagement under Council's Community Engagement Policy. The community engagement process proposed in this report meets the criteria for the minimum level of community engagement required under Council's Policy.

In accordance with Council's Community Engagement Strategy, nominations were sought through a transparent and equitable public process.

Background

Council at its meeting of 26 June 2012 considered a report detailing issues associated with the future operation of the Lower Portland Ferry and, in indicating its support for the ongoing operation of the service, also sought to establish a Working Party with two community representatives.

Following an initial meeting with The Hills Shire Council, which also indicated their support for the ongoing operation of the ferry, nominations were sought for community representation via a publically advertised expression of interest process.

At the conclusion of the period two nominations were received being:

- John Hermitage
- Stephen Arblaster

As only two nominations were received, these have been accepted and this report seeks Council's endorsement of this action.

A meeting of the working Party will be convened at the earliest possible time.

ORDINARY MEETING

Meeting Date: 28 August 2012

Conformance to Community Strategic Plan

The proposal is consistent with the Linking the Hawkesbury Directions statement;

- Plan for, maintain and renew our physical infrastructure and community services, facilities and communication connections for the benefit of residents, visitors and businesses.

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

- Establish partnership with neighbouring Councils and transport providers to service the Hawkesbury.

Financial Implications

There are no financial implications resulting from this report.

RECOMMENDATION:

That Council note and endorse the actions of the General Manager in accepting the nominations of John Hermitage and Stephen Arblaster for membership of the Lower Portland Ferry Working Party.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 157**IS - Richmond, Vineyard and McLeod Park Amenities - (79354)**

REPORT:**Executive Summary**

This report looks at the provision of locking the toilet facilities at Vineyard Park, Richmond Park and McLeod Park, South Windsor.

Due to antisocial behaviour, vandalism and inappropriate behaviour, a request has been received from both the Windsor Police and the Hawkesbury Sports Council to lock Richmond Park, Vineyard Park and McLeod Park toilet blocks to reduce this inappropriate behaviour.

Richmond Park and McLeod Park are well utilised during the day with the anti social behaviour and vandalism occurring at night when less people are using the Parks. Vineyard Park toilets were provided for sporting users of the oval. The toilets were previously gated however with the gates no longer in existence the site has antisocial behaviour at night.

It is recommended that gates be placed on Richmond Park and Vineyard Park toilet blocks with Richmond Park and McLeod Park being locked between 9pm and 6.30am and Vineyard Park being locked permanently with only users of the reserve having access to these toilets.

Consultation

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

Background

A request has been received from both Windsor Police, Hawkesbury Sports Council and residents to lock Richmond Park, Vineyard Park and McLeod Park toilets due to antisocial behaviour such as drug use, vandalism and inappropriate behaviour. These three toilet blocks are currently open 24 hours a day.

Richmond Park toilets are very prone to vandalism and drug use at night due to its central location in Richmond. The Windsor Police have regular call outs to the Park and over \$6,000 has been spent on vandalism repairs in this toilet block alone over the last year. Due to the toilets being well utilised during the day it is thus recommended that the toilets only be locked at night, between 9pm and 6:30am, to reduce the antisocial behaviour. Alternative public toilets are located at Woodhill's Car park, less than 80m from Richmond Park, which could be used when Richmond Park toilets were closed. Sporting Groups will be given keys for access during training periods when using the park outside the proposed opening hours.

Vineyard Park toilets were built for users of the oval and have been previously gated. Sports toilets are generally locked permanently and hirers of the oval get given a key for their access. This reduces vandalism and maintenance costs.

An initial quote has identified that Richmond Park and Vineyard Park toilet blocks can have gates fitted to them at a cost of approximately \$3,500 per toilet block. This cost can be covered through the Parks Operational budget. This initial out lay would be recouped through less vandalism to both sites.

McLeod Park toilets already have doors fitted that can be locked. The toilets have been vandalised regularly over the last number of years with the toilets being damaged four times in the last four weeks. Locking these toilets at night would reduce this anti social behaviour as well as saving on maintenance costs.

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Whilst staff could open the toilets at Richmond Park and McLeod Park daily, a Security Company would be required to lock the toilets at night. An initial quote from the Company that currently locks a number of Council's toilets is \$150 a month per toilet block. This equates to an additional \$3,600 per year.

It is recommended that gates be placed on Richmond Park and Vineyard Park toilet blocks with Richmond Park and McLeod Park being locked between 9pm and 6:30am and Vineyard Park being locked permanently with only users of the reserve having access to these toilets.

Conformance to Community Strategic Plan

The proposal is consistent with the Looking After People and Place Directions statement;

- Population Growth is matched with the provision of infrastructure and is sympathetic to the rural environment, heritage values and character of the Hawkesbury.

Financial Implications

The cost of the gates will be covered through the Parks Operational budget. The security budget would need to be increased to include the locking of the Richmond Park and McLeod Park toilets and this would be sourced through the next quarterly review.

RECOMMENDATION:

That:

1. Gates be installed on both Richmond Park and Vineyard Park Toilets.
2. Richmond Park and McLeod Park toilets are to be locked during the evening between 9:00pm and 6:30am.
3. Vineyard Park Toilets are to be locked permanently with sporting groups being given a key for access when they book to use the oval.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 158 IS - Sydney Blues and Roots Festival - Exclusive Use - (95496)

REPORT:**Executive Summary**

The representatives of the Sydney Blues and Roots Festival have submitted an application to Council to hold the Sydney Blues and Roots Festival Windsor at Thompson Square and Windsor Mall from 26 to 28 October 2012.

The event is into its fourth year and attracts between 1500 – 2000 people per day. The Sydney Blues and Roots Festival is seeking exclusive use as well as the temporary suspension of an area of an established Alcohol Free Zone (AFZ) in Windsor Mall, George Street, Windsor and the Restricted Alcohol Zone (RAZ) within Thompson Square, Windsor during their event. The proposed areas in which these suspensions will effect will be clearly identified and restricted during this event.

The Sydney Blues and Roots Festival is seeking the closure of George Street, between Bridge Street and Baker Street. This closure was reported to the Local Traffic Committee on 13 August 2012, with the minutes from this meeting in this Business Paper, recommending approval.

Subject to the concurrence of the Hawkesbury Local Area Command (Police), it is recommended to support the application to partially suspend the AFZ within the Windsor Mall, and partially suspend the RAZ within Thompson Square, for the dates and times approved for this event rather than the suspension for the entire weekend. This is a precautionary measure to ensure enforcement action may be taken, if needed, after the finishing time each night of the event.

Due to the flow on effects from the event, it is recommended that exclusive use be given for the use of Thompson Square and the Windsor Mall for this event.

Consultation

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

However, in accordance with the Ministerial Guidelines on AFZs, the Police will be consulted regarding the suspension of the AFZ within the Windsor Mall, and the suspension of the RAZ within the Thompson Square, during the event. As part of the Ministerial Guidelines on alcohol-free zones, public notification of the proposed suspension will be required, as well as confirmation of the approved suspension if/when applicable.

Due to the Thompson Square being a heritage precinct, the organisers are required to seek approval through Heritage Office as part of their application process.

Background

The representatives of the Sydney Blues and Roots Festival have submitted an application to Council to hold the Sydney Blues and Roots Festival Windsor at Thompson Square and Windsor Mall from 26 to 28 October 2012.

This will be the fourth Annual Sydney Blues and Roots Festival to be held in Windsor. It is expected that approximately 2,000 patrons per day will attend the Festival over the duration of the weekend. This event will be a ticketed event. The Festival is intending to run between Friday evening and Sunday evening and will be held in a variety of venues throughout the Windsor central business precinct including hotels, restaurants, cafes, outdoor venues including Thompson Square and the Hawkesbury Paddle Wheeler. All venues are intended to be within walking distance of each other.

ORDINARY MEETING

Meeting Date: 28 August 2012

The times of the event will be:

Friday 26 October 2012	7pm till 1.00am
Saturday 27 October 2012	1pm till 1.00am
Sunday 28 October 2012	1pm till 10.30pm

The organisers have also arranged with the Hawkesbury Sports Council for camping at Deerubbin Park. Camping was held for the first time last year.

Suspension of Alcohol Free Zone and Restricted Alcohol Zone

Section 645 of the Local Government Act 1993 (the Act) provides for Council, by resolution, to allow for the temporary suspension of AFZs. The Act and associated guidelines provide a specific procedure which must be followed in relation to suspending AFZs, and this includes a requirement to seek Council's endorsement. Following the adoption of this suspension, Council must publish a notice in a local newspaper informing of the suspension. Street signs must be covered immediately on commencement of the timeframe, and the covers removed immediately following the suspended time. This is the responsibility of the organiser of the event but will be overseen by Council staff. Liaison with local Police both before and after the Council Resolution is an essential requirement.

In relation to parks and reserves and other public areas like Thompson Square, Council may in accordance with Section 632 of the Local Government Act, prohibit the consumption of alcohol in these areas. A sign indicating that the activity is prohibited, is placed on the subject area, however, public consultation is not required. The restriction can be enforced by authorised Council Staff.

The Sydney Blues and Roots Festival are seeking to temporarily suspend an area of an established AFZ in Windsor Mall, George Street, Windsor and the RAZ within Thompson Square, Windsor. Attachment 1 shows the area where the AFZ is proposed to be suspended, whilst Attachment 2 shows the area where the RAZ is proposed to be suspended.

In 2010 and 2011, Council resolved to align the suspension periods to the approved times for the Festival and this is again recommended for this year. This precautionary measure is to ensure appropriate enforcement action can be taken in the Mall and the Square following the end of each night's activities, if needed. This does not impact on any licensed establishments serving alcohol within their licensed areas in accordance with their liquor licenses.

This application was assessed in accordance with the Local Government Act 1993, Part 4 – Street Drinking and Ministerial Guidelines. The Police have been verbally consulted, and no objections were raised to the temporary suspension of the AFZ and the RAZ within the effected areas, for the approved dates and times of the Festival, subject to:

- a) The licensed premises adhere to any other requirements of the NSW Police Service and relevant authorities in relation to the service of alcohol within those areas. A limited licence, if not already held, must be applied for and granted by the Casino, Liquor and Gaming Control Authority for Thompson Square.
- b) The suspension of the alcohol free zones are only within the fenced areas of the Zones as shown in Attachments 1 and 2 of this report. Any areas not fenced remain Alcohol Free Zones.
- c) No alcohol is to be removed from within any fenced area
- d) No glass is permitted within the current Alcohol Free Zones and Restricted Alcohol Zones.
- e) Uniformed licensed security guards to remain at the entrances and exits of each of the Alcohol Free Zones and Restricted Alcohol Zones to ensure no persons leave the area with alcohol.

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- f) Uniformed licensed security guards to patrol within the fenced areas to ensure there is no intoxication or anti-social behaviour.
- g) A limit of 300 patrons are to be allowed in the fenced area of Windsor Mall.
- h) A limit of 1200 patrons are to be allowed in the fenced area of Thompson Square.
- i) The AFZ and RAZ suspension areas as indicated in Attachments 1 and 2 of this report be barricaded off.
- j) Signage advising the suspension of the AFZ and RAZ within the designated barricaded areas indicated in Attachments 1 and 2 of this report are to be displayed on the outer side of the barricade fences.

It is anticipated that similar conditions will be imposed for the 2012 event, however, such written approval is yet to be received from the Police.

Exclusive Use

The organisers are seeking exclusive use of Thompson Square and Windsor Mall (between the former Westpac Bank/Vault Restaurant and the Fitzroy Hotel). Music in these open areas will cease at 11pm on Friday and Saturday nights and 9pm on Sunday.

The exclusive Use of Thompson Square requires a resolution from Council and is subject to exclusive use fees. For a Corporate/business organisation – where an entry fee is charged, the fee is \$2.30 per person or \$2,000 per day whichever is the greater. Fees for the use of the Mall for entertainment/events is \$500 per day.

Thompson Square is part of a Heritage precinct and thus the applicant also needs to apply for permission from the NSW Heritage Office.

Approval for Traffic Management is undertaken as part of the Special Event Application.

It is anticipated that the event will have significant flow-on effects to the business community and as such approval is recommended.

Conformance to Community Strategic Plan

The proposal is consistent with the Supporting Business and Local Jobs Directions statement;

- Help create thriving town centres, each with its own character that attract residents, visitors and business.

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

- Develop economic strategy that promotes local industry in a regional context.

Financial Implications

Income will be generated through user charges for the use of the Thompson Square and Windsor Mall.

ORDINARY MEETING

Meeting Date: 28 August 2012

RECOMMENDATION:

That:

1. Approval be granted to Sydney Blues and Roots Festival for "Exclusive Use" of Thompson Square and the Windsor Mall as identified in their application for 26, 27 and 28 October 2012.
2. The approval be subject to the following conditions/documents:
 - a) Council's general park conditions.
 - b) Council's Fees and Charges.
 - c) The Windsor Foreshore Plan of Management.
 - d) Approval of a Traffic Management Plan as part of the Special Event Application.
 - e) Approvals from the NSW Heritage Office
 - f) Correspondence from Draybi Pty Limited (the owners of the former Westpac Bank/Vault Restaurant premises) consenting to restricted access to the premises
3. The Alcohol Free Zone within Windsor Mall, George Street, Windsor in the area indicated in Attachment 2 to this report as "*AFZ suspension area*" be suspended between Fitzgerald Street and Kable Street, Windsor, subject to the approval of the Hawkesbury Local Area Command (Police), for the purpose of holding the Sydney Blues and Roots Festival – Windsor 2012 during the following dates and times:

Friday 26 October 2012	7.00pm to 1.00am
Saturday 27 October 2012	1.00pm to 1.00am
Sunday 28 October 2012	1.00pm to 10.30pm
4. The Restricted Alcohol Zone within Thompson Square in the area indicated in Attachment 2 to this report as "*RAZ suspension area*" be suspended, subject to the approval of the Hawkesbury Local Area Command (Police), for the purpose of holding the Sydney Blues and Roots Festival – Windsor 2012 during the following dates and times:

Friday 26 October 2012	7.00pm to 1.00am
Saturday 27 October 2012	1.00pm to 1.00am
Sunday 28 October 2012	1.00pm to 10.30pm
5. The suspension of the AFZ and RAZ, as outlined in Parts 3 and 4 above, be subject to the following conditions that are required to be complied with by the Event Organiser:
 - (i) The licensed premises adhere to any other requirements of the NSW Police Service and relevant authorities in relation to the service of alcohol within those areas. A limited licence, if not already held, must be applied for and granted by the Casino, Liquor and Gaming Control Authority for Thompson Square.
 - (ii) The suspension of the alcohol free zones are only within the fenced areas of the Zones as shown in Attachments 1 and 2 of this report. Any areas not fenced remain Alcohol Free Zones.
 - (iii) No alcohol is to be removed from within any fenced area.
 - (iv) No glass is permitted within the current Alcohol Free Zones and Restricted Alcohol Zones.

ORDINARY MEETING

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- (v) Uniformed licensed security guards to remain at the entrances and exits of each of the Alcohol Free Zones and Restricted Alcohol Zones to ensure no persons leave the area with alcohol.
 - (vi) Uniformed licensed security guards to patrol within the fenced areas to ensure there is no intoxication or anti-social behaviour.
 - (vii) A limit of 300 patrons are to be allowed in the fenced area of Windsor Mall.
 - (viii) A limit of 1200 patrons are to be allowed in the fenced area of Thompsons Square.
 - (ix) The AFZ and RAZ suspension areas as indicated in Attachments 1 and 2 of this report be barricaded off.
 - (x) Signage advising the suspension of the AFZ and RAZ within the designated barricaded areas indicated in Attachments 1 and 2 of this report are to be displayed on the outer side of the barricade fences.
6. The period of suspension of the AFZ and RAZ within the barricaded areas indicated in Attachments 1 and 2 of this report be advertised.
7. The Event Organiser and the NSW Police Service, Hawkesbury Local Area Command, be advised of Council's decision.

ATTACHMENTS:

AT - 1 Site Map - AFZ - Windsor Mall

AT - 2 Site Map - RAZ - Thompson Square

Meeting Date: 28 August 2012

Hand-drawn floor plan of the George Hotel layout. The plan shows a central corridor with various rooms and facilities. On the left side, from top to bottom, are: Vault 146, Toilets, a Bar with an adjacent Band's Kitchen Room, a Rotunda with a Sound Desk, a Food area, and a Food area with an entrance/exit marked with a double-headed arrow. On the right side, from top to bottom, are: Commonwealth Bank, St George Bank, and a large area labeled 'LADE'. At the bottom of the plan, there is a 'CREDIT STAGE' and a 'RENDITION STAGE'. The central corridor is labeled 'EMERGENCY EXIT' and 'SECURITY TEMP FENCE'. The bottom of the plan is labeled 'TOTAL 1400 sq ft'.

ORDINARY MEETING

Meeting Date: 28 August 2012

AT - 2 Site Map - RAZ - Thompson Square



ooo END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 28 August 2012**SUPPORT SERVICES****Item: 159****SS - Monthly Investments Report - July 2012 - (96332, 95496)****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 \$35.70 million in investments at 31 July 2012.

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 \$35.70 million in investments as at 31 July 2012. 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								
ANZ	A1+	AA-	31-July-12		5.00%	2,500,000	7.00%	
CBA	A1+	AA-	31-July-12		4.00%	550,000	1.58%	3,050,000
Term Investments								
ANZ	A1+	AA-	23-Mar-12	17-Oct-12	6.00%	400,000	1.12%	
ANZ	A1+	AA-	13-Jun-12	07-Nov-12	5.10%	1,000,000	2.80%	
Bankwest	A1+	AA-	22-Feb-12	22-Aug-12	5.85%	1,200,000	3.36%	
Bankwest	A1+	AA-	07-Mar-12	05-Sep-12	5.85%	2,000,000	5.60%	
Bankwest	A1+	AA-	21-Mar-12	05-Sep-12	5.90%	500,000	1.40%	
Bankwest	A1+	AA-	13-Jun-12	26-Sep-12	5.20%	1,000,000	2.80%	
Bankwest	A1+	AA-	31-July-12	30-Jan-13	5.10%	1,000,000	2.80%	
CBA	A1+	AA-	29-May-12	27-Aug-12	5.30%	500,000	1.40%	

ORDINARY MEETING

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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 \$
CBA	A1+	AA-	31-May-12	27-Aug-12	5.30%	1,000,000	2.80%	
CUA	A-2	BBB	07-Mar-12	06-Feb-13	6.05%	250,000	0.70%	
NAB	A1+	AA-	22-Feb-12	22-Aug-12	5.85%	1,000,000	2.80%	
NAB	A1+	AA-	11-Apr-12	10-Oct-12	5.72%	2,000,000	5.60%	
NAB	A1+	AA-	16-May-12	20-Nov-12	5.35%	2,000,000	5.60%	
NAB	A1+	AA-	16-May-12	20-Nov-12	5.35%	1,000,000	2.80%	
NAB	A1+	AA-	06-Jun-12	05-Dec-12	5.15%	2,500,000	7.00%	
NAB	A1+	AA-	13-Jun-12	16-Jan-13	5.12%	1,000,000	2.80%	
NAB	A1+	AA-	25-Jul-12	30-Jan-13	5.04%	2,000,000	5.60%	
NAB	A1+	AA-	25-Jul-12	24-Jul-13	4.92%	1,000,000	2.80%	
St George	A1+	AA-	09-Feb-12	08-Aug-12	5.93%	1,000,000	2.80%	
St George	A1+	AA-	24-Feb-12	05-Sep-12	6.01%	800,000	2.24%	
St George	A1+	AA-	17-May-12	20-Nov-12	5.35%	1,000,000	2.80%	
Westpac	A1+	AA-	10-Aug-11	08-Aug-12	6.00%	2,000,000	5.60%	
Westpac	A1+	AA-	17-Aug-11	15-Aug-12	6.00%	1,000,000	2.80%	
Westpac	A1+	AA-	09-May-12	07-Nov-12	5.55%	3,000,000	8.40%	
Westpac	A1+	AA-	06-Jun-12	05-Dec-12	5.10%	1,000,000	2.80%	
Westpac	A1+	AA-	26-Apr-12	24-Oct-12	5.70%	500,000	1.40%	
Westpac	A1+	AA-	26-Apr-12	24-Oct-12	5.70%	1,000,000	2.80%	32,650,000
TOTAL INVESTMENT AS AT 31 JULY 2012								35,700,000

Performance by Type

Category	Balance \$	Average Interest	Bench Mark	Bench Mark %	Difference to Benchmark
Cash at Call	3,050,000	4.82%	Reserve Bank Cash Reference Rate	3.50%	1.32%
Term Deposit	32,650,000	5.50%	UBS 90 Day Bank Bill Rate	3.57%	1.93%
Total	35,700,000	5.44%			

Restricted/Unrestricted Funds

Restriction Type	Amount \$
External Restrictions -S94	7,499,845
External Restrictions - Other	5,852,964
Internal Restrictions	19,511,314
Unrestricted	2,835,877
Total	35,700,000

ORDINARY MEETING

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Funds subject to external restrictions cannot be utilised for any purpose other than that specified, in line with legislative requirements. Externally restricted funds include funds relating to Section 94 Contributions, Domestic Waste Management, Stormwater Management and Grants.

Internal restrictions refer to funds allocated through a Council Resolution for specific purposes, or to meet future known expenses. Whilst it would 'technically' be possible for these funds to be utilised for other purposes, such a course of action, unless done on a temporary internal loan basis, would not be recommended, nor would it be 'good business practice'. Internally restricted funds include funds relating to Tip Remediation, Plant Replacement, Risk Management and Election.

Unrestricted funds may be used for general purposes in line with Council's adopted budget.

Investment Commentary

The investment portfolio decreased by \$4.10 million for the month of July 2012. During July, income was received totalling \$3.69 million, including rate payments amounting to \$1.36 million, while payments to suppliers and staff costs amounted to \$7.86 million.

The investment portfolio currently involves a number of term deposits and on-call accounts. Council's current investment portfolio is not subject to share market volatility.

As at 31 July 2012, Council has invested \$8.5 million with second tier financial institutions, that are wholly owned subsidiaries of major trading banks, and \$0.25 million invested with a second tier institution that is not a wholly owned subsidiary of a major Australian trading bank, with the remaining funds being invested with first tier institutions. Council's adopted Investment Policy allows Council to invest funds with second tier Authorised Deposit-taking Institutions that are wholly owned subsidiaries of major Australian trading banks, subject to conditions stipulated in the Policy. Investments in second tier financial institutions, that are not wholly owned subsidiaries of major trading banks, are limited to the amount guaranteed under the Financial Claims Scheme (FCS) for Authorised Deposit-taking Institutions (ADIs), in line with Council's Investment Policy.

The FCS protects depositors by guaranteeing deposits (up to the cap) held in ADIs incorporated in Australia, and allows quick access to deposits if an ADI becomes insolvent. A permanent guarantee cap, per account holder, per ADI, of \$250,000, has been in place since 1 February 2012.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Independent advice is sought on new investment opportunities, and Council's investment portfolio is independently reviewed by Council's investment advisor each calendar quarter.

Council's investment portfolio complies with Council's Investment Policy, adopted on 26 June 2012.

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.

ORDINARY MEETING

Meeting Date: 28 August 2012

Financial Implications

Funds have been invested with the aim of achieving budgeted income in 2012/2013.

RECOMMENDATION:

The report regarding the monthly investments for July 2012 be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 August 2012

Item: 160 SS - Pecuniary Interest Returns - (95496, 96333)

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 one 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 1993.

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 those 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
Project Engineer – Construction and Maintenance	28/05/2012	02/07/2012

ORDINARY MEETING

Meeting Date: 28 August 2012

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

That the information be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 August 2012

Item: 161 **SS - June 2012 Quarterly Review - 2011/2012 Management Plan - (95496, 96332)**

Previous Item: 126, Extraordinary (21 June 2011)

REPORT:

Executive Summary

The Local Government Amendment (Planning and Reporting) Act 2009 provides transitional provisions for phasing in the legislative requirements of the Integrated Planning and Reporting Framework over a three-year period. Transitional provisions provide that councils continue to operate under the legislative requirements in place prior to the Amendment Act, until such time as their Group commences under the new Integrated Planning and Reporting Framework. Hawkesbury City Council has opted to be a Group 3 council, implementing the Integrated Planning and Reporting Framework by June 2012.

In light of transitional provisions, the June 2012 Quarterly Review has been prepared in accordance with the legislative requirements in place prior to the Amendment Act.

In accordance with Clause 203 of the Local Government (General) Regulation 2005, 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.

Section 407 (Repealed) 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.

This report and the relevant attachment provide information on Council's financial performance and progress in achieving the objectives set out in its Management Plan, as at 30 June 2012.

Clause 211 of the Local Government (General) Regulation 2005, allows for approved expenditure votes not to lapse at the end of the financial year. Included, in the attachment, is an itemised list of projects requiring funding to be carried over into the 2012/2013 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 2011/2012 on 21 June 2011.

The Quarterly Review for the quarter ending 30 September 2011 was adopted by Council on 29 November 2011. The Quarterly Review for the quarter ending 31 December 2011 was adopted by Council on 28 February 2012. The Quarterly Review for the quarter ending 31 March 2012 was adopted by Council on 29 May 2012.

The June 2012 Quarterly Review has been prepared and is attached to this report as Attachment 1.

ORDINARY MEETING

Meeting Date: 28 August 2012

Financial Performance

As part of the Management Plan Review, Clause 203 of the Local Government (General) Regulation 2005 requires a review of the income and expenditure for the year in comparison to budget estimates.

The June 2012 Quarterly Budget Review results in a balanced end of year position and in the opinion of the Responsible Accounting Officer, maintains a satisfactory short term financial position for Council. This result is prior to accounting adjustments and consolidation of other entities' accounts and is subject to final audit.

Operating Income

For the year ended 30 June 2012, Council's total income from continuing operations including rates, fees and charges, grants, contributions and other revenue is \$62.5M, exceeding the Budget by \$2.4M. This variance has principally resulted from the advance payment of the first instalment of the 2012/2013 Financial Assistance Grant. Also reported, as income from continuing operations, is an amount of \$14.3M included in the capital grants and contribution amount in relation to non-cash contributions in respect of land under roads and infrastructure assets within the Pitt Town development area. This is offset by a corresponding capital expenditure amount, resulting in an overall nil effect on Council's results. The positive variance is also contributed to by better than budgeted interest earned on investments.

Operating Expenditure

Council's operating expenditure is required for the provision of core services including road maintenance, parks, cultural and recreational facilities, regulatory services, building and development control, waste management, environmental and sewerage facilities. For the year ending 30 June 2012, total operating expenditure, excluding depreciation is \$49.5M compared to a budget of \$51M. Operational funds of approximately \$1.9M are requested to be carried over to the 2012/2013 financial year as part of this Review, including grant funded works. Unspent amounts relating to Reserve funded programs remain in their respective Reserves. Major favourable variances include legal expenditure, workers compensation expenditure and information technology expenditure. Unfavourable variances include unbudgeted employee leave entitlements.

Details on the major variances referred to above are included in this report.

The budgetary controls in place at Council ensure that major variances or trends are identified in a timely manner and accounted for as part of quarterly budget reviews. Managers are required to explain variances outside the acceptable threshold on a monthly basis, and are required to address these variances as part of the quarterly review process.

Capital Expenditure

Council manages and maintains \$726M worth of assets, and during 2011/2012 has spent \$16.6M of a \$25.3M capital budget on road construction, kerb, guttering and drainage works, bridges, footpaths, open spaces, stormwater assets, sewerage assets, waste management assets, public works plant, community buildings and fleet replacement. Capital works requested to be carried over to the 2011/2012 financial year amount to \$7.4M.

A detailed list of projects requested to be carried over to the 2012/2013 financial year is contained within the attachment to this report.

ORDINARY MEETING

Meeting Date: 28 August 2012

Accounting Adjustments

As at the end of the 2011/2012, Council's overall position compared to the Full Year budget is a balanced position. However, an end of year accounting entry reflecting a loss in value in Council's investment properties results in an expense of \$1.2M being included in the Other Expenses. This amount is not an actual loss incurred by Council as no investment properties were sold during 2011/2012. However, the Local Government Code of Accounting Practice and Financial Reporting Guidelines (Code) issued by the Division of Local Government and applicable Accounting Standards, the financial statements must show losses in value, whether realised or not, if the fair value or market value of investment properties is less than that reported as at 30 June 2011. The loss of \$1.2M accounted for is based on an independent valuer's advice that the market values have dropped between 5% and 10% during the 2011/2012 financial year.

Also impacting on the end result is the inclusion of Council's share in the movement in Westpool's equity. An amount of \$0.2M is shown as income in the Income and Expenses Statement.

The consolidation of the income and expenses relating to Hawkesbury Sports Council results in a minor deficit also contributing to the overall Council's position of a deficit of \$1.042M after accounting adjustments.

Investments

As at the end of June 2012, Council's investment portfolio amounted to \$39.8M with average earnings for 2011/2012 of 6.32%.

Restricted Assets

As at 30 June 2012, Council's Reserves amount to \$32.73M, with \$13.97M being externally restricted, and \$18.76M being internally restricted.

Major Budget Variances

The more significant items of the June 2012 Review include:

- *Interest Income – Favourable Variance \$395K*
(Adopted Management Plan –Part 2 – SS Pg 38)

Interest earned on Council's investments as at June 2012 amounted to \$2.6M compared to the Full Year Budget of \$2.2M. The 2011/2012 adopted budget for interest earnings on Council's portfolio was based on an investment portfolio of \$30M, attracting an interest rate of 6%. During 2011/2012 the average investment portfolio was in the vicinity of \$41M, with an average annualised rate on term deposits of 6.32%. This revenue stream is closely monitored and some adjustments have been in previous 2011/2012 quarterly reviews to reflect the better than budgeted trend. It is noted that following a number of interest cuts by the Reserve Bank, recent investments have attracted lower rates than those achieved earlier in the financial year.

- *Legal Expenditure – Favourable Variance \$214K*
(Adopted Management Plan –Part 2 – SS Pg 47)

Legal expenditure incurred during the 2011/2012 financial year amounted to \$156K compared to a budget of \$370K. The under expenditure is mainly attributed to less than budgeted legal advice being required and matters currently subject to court action not being determined as yet. To ensure that unexpected matters and outstanding matters being finalised, resulting in legal expenditure incurred in 2012/2013, do not adversely affect the budget allocation for the year, an amount of \$210K has been quarantined in an internally restricted Legal Services Reserve.

- *Workers Compensation – Favourable Variance \$191K*
(Adopted Management Plan –Part 2 – GM Pg 5)

ORDINARY MEETING

Meeting Date: 28 August 2012

The full year budget for workers compensation expenditure for 2011/2012 is \$350K. For the financial year ending 30 June 2012, total workers compensation expenditure was \$159K, resulting in a positive variance of \$191K. This expenditure budget is used for minor claims and associated expenses. The favourable variance is mainly a result of timing differences between claims arising and associated expenses being incurred, and therefore are not savings in real terms.

Council is a self-insurer for liabilities arising from Workers Compensation claims. As a self-insurer, Council is required to maintain an adequate provision, the level of which is based on a qualified actuary's advice. The level of provision required to be maintained is assessed at the end of each financial year and is impacted by existing and potential claims. Council also maintains a Workers Compensation Reserve which is utilised to increase the provision, from one year to another, and to replenish the provision in the event of a claim payment being made during the year. An amount of \$190K has been transferred to the Workers Compensation Reserve to ensure this Reserve is maintained at an adequate level.

- *IT Operating Expenditure – Favourable Variance \$139K*
(Adopted Management Plan – Part 2 – SS Pg 45)

As at the end of June 2012, actual expenditure incurred in relation to information technology network administration was \$139K under Budget. The majority of the savings have resulted from the reduced reliance on consultancies, with an increased use of internal resources.

- *Employee Leave Provision – Unfavourable Variance \$284K*

Council is required to ensure that it maintains its employee leave entitlements provisions at an appropriate level. Council's liability in respect of employee leave entitlements as at 30 June 2012 has been determined and results in an increase in the overall provisions required for Annual Leave, Leave in Lieu, Long Service Leave and Pre 1993 Sick Leave of \$584K. The March 2012 Quarterly Review included an unfavourable Budget variation of \$300K aimed at partially funding the estimated increase in leave entitlements provisions to be processed as at June 2012. This left a total unbudgeted variance of \$284K to be addressed in the June Quarter. This unfavourable variance was offset mainly through the favourable variance in interest income referred to earlier in the report.

- *Non-cash Contributions - Nil Impact*

As referred to earlier in the report, the reported capital grants and contributions in the amount of \$17.2M include \$14.3M accounted for as non-cash developer contributions. The Code requires councils to account for land under roads. As part of the Pitt Town development currently underway, a number of roads have been dedicated to Council. The value of these roads dedicated to Council has been determined by reference to the average value of adjoining land in accordance with the requirements of the Code, resulting in \$8.2M being accounted for as a non-cash contribution, with an offsetting capital expenditure amount being processed. An additional amount of \$1.7M relating to land under roads in the McGraths Hill industrial area was also included. Also arising from dedications through the Pitt Town Development are amounts accounted for relating to kerb and guttering assets (\$0.4M) and drainage assets (\$3.9M). These amounts are shown in capital grants and contributions with offsetting amounts shown in capital expenditure.

- *Reserve Funded Variances*

The following variations are within internally or externally restricted funds, and consequently have no net impact on Council's overall position.

- *Contractors Charges (Waste Management Facility) – A favourable variance of \$117K was incurred over 2011/2012 in relation to contractors charges at the Waste Management Facility. This variation has resulted from less than budgeted expenses being incurred in the areas plant hire and recycling contractors at the Hawkesbury Waste Management Facility.*

ORDINARY MEETING

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- *Section 88 Contributions* – A favourable variance of \$246K occurred in respect of the Section 88 contributions paid in the current financial year. Section 88 contributions are based on the tonnage of waste that is not recycled at the Waste Management Facility. The decrease in tonnages recycled and leaving the facility has led to the reduction in contributions payable.

It is to be noted that at the time this report is being prepared, Council's Annual Financial Statements were not finalised as yet. Final accounting adjustments and any necessary adjustments arising from the external audit scheduled for late September 2012, may result in slight variations in some of the amounts quoted in this report. It is not expected that those variations, if any, would be material enough to alter, in general terms, the overall result for the 2011/2012 financial year.

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 documentation.

RECOMMENDATION:

That:

1. The information contained in the report on the 2011/2012 Management Plan – June 2012 Quarterly Review be received.
2. The Quarterly Review of the 2011/2012 Management Plan for the period ending 30 June 2012 be adopted.

ATTACHMENTS:

AT - 1 2011/2012 Management Plan Review – June 2012 Quarter - (*distributed under separate cover*)

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 28 August 2012

Item: 162 **SS - Consultants Utilised by Council - 1 January 2012 to 30 June 2012 - (95496, 79337)**

Previous Item: 187, Ordinary (14 June 2005)

REPORT:**Executive Summary**

At the meeting of Council held on 14 June 2005, consideration was given to a report regarding the consultants utilised by Council in 2003/2004 and 2004/2005. Subsequently, in recent years, Council has been provided with reports outlining consultants utilised by Council on a six monthly basis.

This purpose of this report is to provide details of the various firms or persons the Council has utilised as consultants for the period January to June 2012.

Consultation

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

Background

At the meeting of Council held on 14 June 2005, consideration was given to a report regarding the consultants utilised by Council. That report, detailed various consultants, the purpose of the engagement, and the expenditure in 2003/2004 and 2004/2005.

Subsequently, in recent years Council has considered reports outlining consultants utilised by Council for six monthly periods, being January to June and July to December each year.

The following table provides details of the various firms or persons the Council has utilised as consultants for the period January to June 2012, detailing the purpose of the consultancies, and the amount paid in this period:

Firm	Purpose	Funding Source	External Requirement	6 Months to 30/06/2012
Aprince Consulting Pty Limited	Waste Management Options Feasibility Study - WASIP	Grant Funds	Yes	\$6,760.72
APrince Consulting Pty Limited	Waste Management Community Consultation – Garden Organics / Green Waste - WASIP	Grant Funds	Yes	\$5,500.00
Barker Ryan Stewart	Development Engineering Services November 2011 – February 2012	General Funds	No	\$33,030.00
Benchmark Building Certifiers	Temporary Building Surveyor	General Funds	No	\$4,590.00
Bewsher Consulting Pty Ltd	Hawkesbury Floodplain Risk Management Study and Plan	Grant Funds/ General Funds	No	\$49,057.16

ORDINARY MEETING

Meeting Date: 28 August 2012

Firm	Purpose	Funding Source	External Requirement	6 Months to 30/06/2012
Clouston Associates	Open Space and Recreation Strategy	General Funds / Grant Funds	No	\$60,948.00
Consulting Earth Scientists Pty Ltd	WMF monthly and quarterly environmental monitoring and Annual Report	Internal Reserve	Environment Protection Authority	\$43,244.62
Kirsten Davies and Associates Consultants	Development of Hawkesbury Cultural Plan and review of achievements against current Cultural Plan	General Funds	No	\$9,600.00
Donald Ellsmore Pty Ltd	Heritage advisory services November – December 2011	General Funds	No	\$1,900.00
Environmental Partnership (NSW) Pty Ltd	Landscape architectural consultancy services – Windsor Foreshore Stage 2	General Funds	No	\$16,000.00
GeoEnviro Consultancy Pty Ltd	Pavement investigation – Portland Head Road, Ebenezer	General Funds	No	\$3,470.00
Jones Lange LaSalle Advisory Services P/L	Market rent assessment – Lot 192 The Driftway, Clarendon	Internal Reserve	No	\$4,000.00
Landarc	McQuade Park Draft Plan of Management	General Funds / Grant Funds	No	\$14,000.00
Landarc	Holmes Drive Reserve Draft Plan of Management	General Funds	No	\$4,080.00
McKinlay Morgan and associates Pty Ltd	Survey and preparation of acquisition plan for dedication of road – Jones Road, Lower Portland	General Funds	No	\$19,873.50
OCP Architects Pty Ltd	Heritage advisory services February - May 2012	General Funds	No	\$9,460.50
Minerva Consulting Group	WH&S Professional Services & SI Nat Audit preparation	General Funds	No	\$9,900.00
The Playground Doctor	Council playground site inspections	General Funds	Insurance and Public Liability requirement	\$4,305.00
PriceWaterhouse Coopers	Interim Audit Fee for 2011/2012	General Funds	Division of Local Government	\$25,000.00
C C Reeves	Heritage advisory services February - May 2012	General Funds	No	\$7,030.00
Sphere Company	Macquarie Street Properties Project	General Funds	No	\$600.00
Spectra Financial Services	Investment advisory services January to June 2012	General Funds	Division of Local Government	\$8,000.00

ORDINARY MEETING**Meeting Date:** 28 August 2012

Firm	Purpose	Funding Source	External Requirement	6 Months to 30/06/2012
Vekta Pty Ltd	Waste Management Facility volumes December 2011 and Plan	Internal Reserve	Office of Environment & Heritage	\$10,900.00
KD Wood Valuations (Aust) Pty Ltd	Rental Assessments and other valuation services	General Funds	No	\$2,000.00
KD Wood Valuations (Aust) Pty Ltd	Proposed acquisitions - Pitt Town Development Area	General Funds	No	\$10,454.55
Worley Parsons	Pre-dredging investigation of Hawkesbury River between Windsor and Sackville – Stage 1 Sediment sampling and analysis	General Funds	No	\$6,240.00
J Wyndham Prince	Consultancy & Engineering Services Roberts Creek Rd Culvert Upgrade	General Funds	No	\$3,345.00
TOTAL				\$373,289.05

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.

Funding

This is an information report requested by Council and costs detailed have been met within existing budgets.

RECOMMENDATION:

That the information concerning consultancies utilised by Council during the period January to June 2012 be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 163 SS - Exemption from Rating - 7 Grenville Street, Pitt Town - (95496, 96332, 9050)

REPORT:

Executive Summary

A rating exemption may be sought by an individual or organisation based on certain criteria as set out in the Local Government Act, 1993.

The Local Government Act, 1993, Part 6, stipulates the criteria required to be met for a rating exemption to apply. Section 555(1)(e)(ii) stipulates that land belonging to a religious body and that has a building used or occupied solely as the residence of a minister of religion, is exempt from all rates.

An application has been received from the Pitt Town Anglican Community Church requesting exemption from rating for the property known as 7 Grenville Street, Pitt Town (Lot B, DP 154347).

This report recommends that Section 555(1)(e)(ii) of the Local Government Act, 1993, is applied to the rating exemption sought and that the property known as 7 Grenville Street, Pitt Town (Lot B, DP 154347), is granted exemption from all rates applicable to the property in accordance with Section 555(1)(e)(ii) of the Act.

Consultation

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

Background

An application has been received from the Pitt Town Anglican Community Church requesting exemption from rating for the property known as 7 Grenville Street, Pitt Town (Lot B, DP 154347).

The property was purchased by the Anglican Church Property Trust Diocese Of Sydney on 18 December 2007, and has been used as a residence for a minister since 10 March 2012. The property is located just a short distance from the Church located at 110 Bathurst Street, Pitt Town.

Application for rate exemption is made in accordance with Section 555(1)(e)(ii) of the Local Government Act, 1993 which provides, in part, as follows:

"Section 555 - What land is exempt from all rates?"

(1) The following land is exempt from all rates:

(e) Land that belongs to a religious body and is occupied and used in connection with:

(ii) A building used or occupied solely as the residence of a minister of religion in connection with any such church or building".

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.

ORDINARY MEETING

Meeting Date: 28 August 2012

Funding

This report recommends the abandonment of an amount of \$940.70. This amount will be funded from the Rating budget allocation for 2012/2013, and will subsequently be recovered through the notional yield calculation for 2013/2014.

RECOMMENDATION:

That:

1. The Anglican Church Property Trust Diocese Of Sydney be granted an exemption from rating from 1 July 2012 for the property known as 7 Grenville Street, Pitt Town (Lot B, DP 154347).
2. An amount of \$940.70 be abandoned in respect of rates for the period 1 July 2012 to 30 June 2013.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 August 2012

Item: 164 **SS - Hawkesbury River County Council - Member Council Contributions - (95496, 12212)**

Previous Item: 44, Extra-Ordinary (17 April 2012)

REPORT:

Executive Summary

Council, at its Extra-Ordinary Meeting on 17 April 2012, gave consideration to a report regarding the Council's Draft Delivery Program 2012-2016 and Draft Operational Plan 2012/2013.

At that meeting, Council resolved, in part, that:

- "4. *In respect of the increase in Council's contribution to the Hawkesbury River County Council the County Council be advised that in the event that it receives funding from an alternate source for aquatic weed harvesting that Council would expect that the proportion of the increased contribution from constituent councils in respect of the Aquatic Weed Harvesting Levy would be refunded to councils.*"

Hawkesbury River County Council (County Council) has now advised that it has been successful in receiving additional funding from the NSW State Government for the purpose of aquatic weed control in the Hawkesbury-Nepean River system. The County Council also advised that it is a requirement that the County Council match the State Contribution dollar for dollar, and therefore, Hawkesbury City Council would still be required to pay the entire 2012/2013 annual contribution of \$152,798.

The report recommends that the information from the County Council regarding the additional funding be received and that Council pay the 2012/2013 annual contribution of \$152,798 to the County Council.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. However, Council's annual contribution to the County Council was contained in the Operational Plan 2012/2013 which was publicly exhibited during May 2012.

Background

The Hawkesbury River County Council (County Council) is the Local Control Authority for the management and control of declared noxious weeds in the local government areas of Blacktown, Hawkesbury, Penrith and The Hills. The four member councils provide an annual contribution to the County Council to assist with its operations.

In November 2011, the County Council advised Council that it had resolved to increase the constituent Member Council annual contributions from \$127,998 to \$152,798 for 2012/2013. The increase is to cover general operation cost increases and the operational cost of deploying a permanent Aquatic Weed Harvesting Team in the River. It is noted that constituent Council contributions have not increased since 2009. The increase in constituent Council contributions for 2012/2013 includes an Aquatic Weed Harvesting Levy of \$12,500.

Council, at its Extra-Ordinary Meeting on 17 April 2012, gave consideration to a report regarding the Council's Draft Delivery Program 2012-2016 and Draft Operational Plan 2012/2013. At that meeting, Council resolved, in part, that:

ORDINARY MEETING

Meeting Date: 28 August 2012

- "4. *In respect of the increase in Council's contribution to the Hawkesbury River County Council the County Council be advised that in the event that it receives funding from an alternate source for aquatic weed harvesting that Council would expect that the proportion of the increased contribution from constituent councils in respect of the Aquatic Weed Harvesting Levy would be refunded to councils.*"

Correspondence was forwarded to the County Council in accordance with the above resolution.

The County Council has now forwarded a letter dated 14 August 2012 to Council in regard to this matter. A copy of this letter is attached as Attachment 1 to this report. The letter indicates that the County Council has been successful in receiving additional funding of \$400,000 over four years for the purpose of aquatic weed control in the Hawkesbury-Nepean River system. The funds will be administered by the NSW Department of Primary Industries, and it is a requirement that constituent Councils match the State contribution dollar for dollar, and therefore, Hawkesbury City Council is still required to pay the entire annual contribution for 2012/2013 of \$152,798.

Provision, in the amount of \$152,798, has been made in Council's adopted 2012/2013 Operational Plan for the payment of Council's annual contribution to the County Council.

Based on the advice from the County Council regarding the funding received for aquatic weed control, the requirement that constituent Councils match the funding dollar for dollar and as Council has made provision in its adopted 2012/2013 Operational Plan, it is recommended that Council's annual contribution in the amount of \$152,798, for 2012/2013 to the County Council, be agreed to.

Conformance to Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Directions statement;

- To look after our cultural and environmental assets for future generations so that they too can enjoy and benefit from a clean river and natural eco-systems, rural and cultural landscape.

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

- Working partnership with relevant stakeholders to protect designated waters.

Financial Implications

Provision, in the amount of \$152,798, has been made in Component 36-Pollution Control of the 2012/2013 Adopted Operational Plan for Council's annual contribution to the County Council.

RECOMMENDATION:

That:

1. The information contained in the report regarding Council's 2012/2013 contribution to the Hawkesbury River County Council be received.
2. Council approve the payment of \$152,798 to the Hawkesbury River County Council, as its contribution for 2012/2013 to the County Council.

ATTACHMENTS:

AT - 1 Letter dated 14 August 2012 from the Hawkesbury River County Council.

ORDINARY MEETING

Meeting Date: 28 August 2012

AT 1 - Letter dated 14 August 2012 from the Hawkesbury River County Council

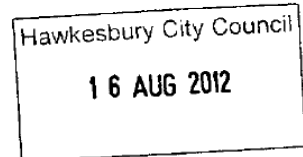


HAWKESBURY RIVER COUNTY COUNCIL

The Local Control Authority for the management and control of declared noxious weeds in the local government areas of Baukham Hills, Blacktown, Hawkesbury and Penrith.

14 August 2012

Mr Laurie Mifsud
Director – Support Services
Hawkesbury City Council
PO Box 146
Windsor NSW 2756



Re: Member Council Contributions

Dear Mr Mifsud,

Thank you for your letter dated 27 July 2012 (Ref: 95496/12212) in regard to the HCC resolution of 17 April 2012.

Hawkesbury River County Council has been successful in receiving additional funding of \$400K over four years for the purpose of aquatic weed control in the Hawkesbury-Nepean River system. This was announced by the Minister for Primary Industries, Hon. Katrina Hodgkinson MP on 7 August 2012. The funds will be administered via the NSW Department of Primary Industries, and it is a requirement that HRCC constituent council's match the State contribution dollar for dollar. The Council contribution is covered by the member contribution increase being first levied in the 2012/13 FY (an increase of \$24,798).

A Hawkesbury River County Council resolution at the Ordinary Meeting of 9 August 2012 agreed to continue to match the NSW Government funding for the next four years (Minute# 1544). As such, Hawkesbury City Council is still required to pay the outstanding invoice (#00004737) of \$152,798.

The new funding program is expected to bring significant results for the Hawkesbury area, and Councils investment of \$152,798 will deliver \$341,741 of spending in the LGA when leveraged with other funding sources. (HRCC Operational Plan 2012/13 and Aquatic Weed Delivery Plan 2012/16).

We are excited about this new project and the positive results it will deliver for the region, should you require any further information please do not hesitate to call me on 4587 0233.

Yours faithfully,


Chris Dewhurst
General Manager



SCANNED

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oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 August 2012

Item: 165 **SS - Review of Windsor Mall Policy and Outdoor Dining & Footpath Trading Policy - (95496, 96333)**

Previous Item: 75, Ordinary (24 April 2007)
 190, Ordinary (9 September 2008)
 51, Ordinary (24 April 2012)

REPORT:

Executive Summary

At the meeting of Council on 24 April 2007, Council adopted an "Outdoor Dining and Footpath Trading Policy" which covered all footpath trading activities, including dining, across the whole of the Hawkesbury Local Government Area (Hawkesbury LGA), excluding Windsor Mall.

At the meeting of Council on 9 September 2008, Council adopted a "Windsor Mall Policy" which covered most activities likely to be undertaken in Windsor Mall.

The "Outdoor Dining and Footpath Trading Policy" specifically excludes Windsor Mall, while the "Windsor Mall Policy" did not adequately cover outdoor dining or footpath trading, and instead referred to the provisions of the "Outdoor Dining and Footpath Trading Policy" for such purposes.

Amendments were made to the "Outdoor Dining and Footpath Trading Policy" and the "Windsor Mall Policy", and both were reported to the meeting of Council on 24 April 2012. Council considered the amended versions of each Policy and resolved:

"That:

- 1. The amended "Outdoor Dining and Footpath Trading Policy" attached as Attachment 1 to the report, be placed on public exhibition for a period of 28 days, and that the matter be reported back to Council at the conclusion of the exhibition period.*
- 2. The amended "Windsor Mall Policy" attached as Attachment 2 to the report, be placed on public exhibition for a period of 28 days, and that the matter be reported back to Council at the conclusion of the exhibition period.*
- 3. Following the 28 day exhibition period, this matter be referred to a Councillor Briefing Session prior to being further reported to Council."*

This report outlines the results of the public exhibition and Councillor Briefing Session and recommends the amended Policies be adopted.

Consultation

Both the "Outdoor Dining and Footpath Trading Policy" and the "Windsor Mall Policy" were placed on public exhibition for a period of 28 days.

Background

At the meeting of Council on 24 April 2007, Council adopted an "Outdoor Dining and Footpath Trading Policy" which covered all footpath trading activities, including dining, across the whole of the Hawkesbury LGA, excluding Windsor Mall.

At the meeting of Council on 9 September 2008, Council adopted a "Windsor Mall Policy" which covered most activities likely to be undertaken in Windsor Mall.

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As the “Outdoor Dining and Footpath Trading Policy” excludes Windsor Mall, while the “Windsor Mall Policy” does not adequately cover outdoor dining or footpath trading and, instead referred to the provisions of the “Outdoor Dining and Footpath Trading Policy”, the Policies were not cohesive, effective or easily understood by the users of the footpaths or the Mall. Accordingly they were reviewed.

As a result of the review, amendments were made to the “Outdoor Dining and Footpath Trading Policy”. These were minor amendments only. Amendments were also made to the “Windsor Mall Policy”, which appeared to be substantial, however the majority of additional information was taken directly from the “Outdoor Dining and Footpath Trading Policy” so it could be a stand alone Policy. At the meeting of Council held on 24 April 2012, Council considered the amended versions of each Policy and resolved the following:

“That:

- 1. The amended “Outdoor Dining and Footpath Trading Policy” attached as Attachment 1 to the report, be placed on public exhibition for a period of 28 days, and that the matter be reported back to Council at the conclusion of the exhibition period.*
- 2. The amended “Windsor Mall Policy” attached as Attachment 2 to the report, be placed on public exhibition for a period of 28 days, and that the matter be reported back to Council at the conclusion of the exhibition period.*
- 3. Following the 28 day exhibition period, this matter be referred to a Councillor Briefing Session prior to being further reported to Council.”*

In accordance with the resolution, both Policies were placed on exhibition.

No formal submissions were received on the “Outdoor Dining and Footpath Trading Policy” or the “Windsor Mall Policy”.

Whilst no formal submissions were received in relation to the “Windsor Mall Policy”, an email supporting the “Windsor Mall Policy” was received from the Australia’s Outback Bakehouse, which also contained some general comments and suggestions. The President of The Windsor Mall Craft Market Committee on behalf of the Committee and the Windsor Business Group, verbally supported the “Windsor Mall Policy” and also made some general comments and suggestions.

These comments and suggestions from members of the public regarding the “Windsor Mall Policy”, as well as those made by Councillors during the Council meeting on 24 April 2012, were considered when further reviewing the Policies and preparing the presentation to Councillors at the Briefing Session on 7 August 2012. Only further minor amendments have been made to the “Windsor Mall Policy” as a result, being:

- In relation to clarification of permitted foods, words have been added to Clause 4.4.7 to confirm that Council is the final authority on the matter.
- The description of ‘Offensive Noise’ has been expanded within Clause 4.4.8 so that users of the Mall have a greater understanding of how and when noise could be deemed offensive;
- The addition of Clause 4.5.9 alerting users of the Mall to smoke free dining legislation, due to come into effect in 2015, has been included in the Policy;
- Clause 4.6.2 which pertains to merchandise displayed within footpath trading areas has been cross referenced with Clause 4.4.7 which pertains to permitted foods, to ensure that there is no confusion or conflict;
- Armoured Guard Services have been added to the list of vehicles permitted to access Windsor Mall anytime, as outlined within Clause 6.1;

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- Council, in conjunction with Windsor Local Area Command, is in the process of installing CCTV Cameras in Windsor Mall. Accordingly, Clause 7.3 has been added to the Policy to alert users of Windsor Mall of the existence and operation of the cameras.

The only proposed amendment to the "Outdoor Dining and Footpath Trading Policy" is to include Clause 5.11 alerting permit holders to smoke free dining legislation, due to come into effect in 2015. A copy of the "Outdoor Dining and Footpath Trading Policy" containing this amendment is attached as Attachment 1 to this report.

The "Windsor Mall Policy" containing the above amendments is attached as Attachment 2 to this report. With the exception of grammatical or formatting errors, any amendments or additions to the "Windsor Mall Policy" since the meeting of 24 April 2012 have been underlined.

As none of the amendments or additions change the meaning or intent of the "Windsor Mall Policy" and the "Outdoor Dining and Footpath Trading Policy", Council can adopt the Policies without further exhibition.

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 the strategy in the Community Strategic Plan being:
- Have ongoing engagement and communication with our community, governments and industries.

Financial Implications

No financial implications are applicable to this report.

RECOMMENDATION:

That Council adopt:

1. The "Outdoor Dining and Footpath Trading Policy" attached as Attachment 1 to the report.
2. The "Windsor Mall Policy" attached as Attachment 2 to the report.

ATTACHMENTS:

AT - 1 "Outdoor Dining and Footpath Trading Policy" - (*Distributed under separate cover*)

AT - 2 "Windsor Mall Policy" - (*Distributed under separate cover*)

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 28 August 2012

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Hawkesbury Civic and Citizenship Committee - 18 July 2012

The meeting commenced at 5:35 pm in Council's large committee room.

Present:	Councillor Kim Ford Councillor Barry Calvert David Bertenshaw (Hawkesbury Sports Council Representative) Jean Peare OAM (Community Representative) Todd Miladinovic (Community Representative)
Apologies:	Councillor Tiffany Tree Councillor Warwick Mackay OAM Barry Adams (The Richmond Club Representative) Dianne Finch (Community representative)
In Attendance:	Sonia Porter, Corporate Communication Manager Jillian Bentham - Public Relations Coordinator

REPORT:

Apologies for absence were received from Councillor Tiffany Tree, Councillor Warwick Mackay, Dianne Finch and Barry Adams.

RESOLVED on the motion of David Bertenshaw and seconded by Jean Peare that apologies be accepted.

David Bertenshaw declared an interest in determining the recipients of the sports medal awards, as he was the nominator for the awards.

The Committee accepted his declaration of interest and David Bertenshaw refrained from discussion and voting regarding all four sports medal recipients.

Committee members were provided with a list of additional information requested from a nominator that was not available at the time of delivery of the Business Paper.

SECTION 1 - Confirmation of Minutes

Minutes of last meeting

RESOLVED on the motion of David Bertenshaw and seconded by Councillor Barry Calvert.

That the minutes of Hawkesbury Civic and Citizenship Committee Meeting held on the Wednesday, 7 December 2011, be accepted.

ORDINARY MEETING
Reports of Committees

SECTION 2 - Reports for Determination

ITEM: 1 Selection of 2011 Sports Awards Recipients

Sport Certificates

Motion:

RESOLVED on the motion of David Bertenshaw and seconded by Jean Peare

Refer to RESOLUTION

Resolution:

RESOLVED on the motion of David Bertenshaw and seconded by Jean Peare.

That all the award recipient nominations for the Sport Certificate Award be accepted and for nominees to receive awards as nominated, as below.

Nominee Name	Award Nominated For	Years of Service	Nominator Name	Outcome
Greg Hitchcock	30 Year Certificate	30+	Maroota Cricket Club	30 Year Certificate
Peter Cassidy	30 Year Certificate	39	George Greentree	30 Year Certificate
Craig Douglas	20 Year Certificate	20	George Greentree	20 Year Certificate
Marcus Stubbings	20 Year Certificate	20	George Greentree	20 Year Certificate
Maxine Miller	20 Year Certificate	20	George Greentree	20 Year Certificate
Michelle Hinton	20 Year Certificate	20	George Greentree	20 Year Certificate
Mick O'Hare	20 Year Certificate	20	George Greentree	20 Year Certificate
Rod Hitchcock	20 Year Certificate	21	Maroota Cricket Club	20 Year Certificate
Adrian Woodbury	10 Year Certificate	18	Maroota Cricket Club	10 Year Certificate
Chris Tabet	10 Year Certificate	11	George Greentree	10 Year Certificate
Dominic Brown	10 Year Certificate	11	George Greentree	10 Year Certificate
Mark VanDerReyden	10 Year Certificate	16	David Wassall	10 Year Certificate
Paul Collier	10 Year Certificate	15	George Greentree	10 Year Certificate
Robert Fitton	10 Year Certificate	12	George Greentree	10 Year Certificate

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Nominee Name	Award Nominated For	Years of Service	Nominator Name	Outcome
Stephen Hile	10 Year Certificate	13	George Greentree	10 Year Certificate

Sport Medal

David Bertenshaw refrained from voting due to his declaration of interest in the following awards.

Motion:

RESOLVED on the motion of Todd Miladinovic and seconded by Jean Peare.

Refer to RESOLUTION

Resolution:

RESOLVED on the motion of Todd Miladinovic and seconded by Jean Peare

That all the award recipient nominations for the Sports Medal Award be accepted and for nominees to receive awards as nominated, as below.

Nominee Name	Award Nominated For	Nominator Name	Outcome
Christopher Gee	Sports Medal	David Bertenshaw	Sports Medal
Edwin George	Sports Medal	David Bertenshaw	Sports Medal
Gavin Hartge	Sports Medal	David Bertenshaw	Sports Medal
Robert Carle	Sports Medal	David Bertenshaw	Sports Medal

SECTION 3 - Reports for Information

ITEM: 1 Sports Medal Awards Ceremony Location and Time

Motion:

RESOLVED on the motion of Councillor Barry Calvert and seconded by David Bertenshaw.

Refer to RESOLUTION

Resolution:

RESOLVED on the motion of Councillor Barry Calvert and seconded by David Bertenshaw.

That the information be received.

GENERAL BUSINESS

ITEM: 1 Collection of Nominations in Future Years

The committee discussed the number of nominations received and the larger number received from one different club each year.

It was suggested that in future years that the Hawkesbury Sports Council, Mayor of Hawkesbury and members of the Civic and Citizenship ceremony be engaged to encourage nominations from sporting clubs.

Corporate Communications will engage the Committee for next year's nomination as advised by the Committee.

ITEM: 2 Selection Criteria for Sports Awards

The Committee discussed the time frame of which participants in the sporting community must be committed to their sport to be able to be considered for a Hawkesbury Sports Award.

The Committee asked that the Hawkesbury Sports Awards selection criteria be reviewed at the next Civic and Citizenship Committee meeting to ensure that the selection criteria is still relevant to our sporting community.

ITEM: 3 Committee Representations

The committee was informed that this would be the final Civic and Citizenship Committee meeting before the Local Government Elections to be held 8 September 2012. Community representatives sit a four year term on Committees. Committee positions are reviewed after this time in line with the Local Government Elections. Community representatives on the Civic and Citizenship Committee were informed that they would be required to reapply for a position on the Committee in the coming months.

Jean Peare, a current community representative, informed the Committee that she would not be reapplying to be on the Civic and Citizenship Committee.

Mayor of Hawkesbury Councillor Kim Ford thanked Jean Peare on behalf of the Civic and Citizenship Committee for her commitment and dedication throughout her time on the Committee. She was a member of the Committee since 2005, when it was established.

Next Meeting

TBA

The meeting closed at 6.00pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Heritage Advisory Committee Minutes - 9 August 2012 - (80242)

The meeting commenced at 5.08pm.

Present:	Professor Ian Jack, Chairperson Mr Graham Edds, Deputy Chairperson Councillor Jill Reardon, Hawkesbury City Council Ms Danielle Wheeler, Community Member Ms Deborah Hallam, Community Member
Apologies:	Ms Jan Barkley Jack, Community Member Mr Jonathan Auld, Community Member Ms Michelle Nichols, Community Member
In Attendance:	Mr Matthew Owens, Hawkesbury City Council Mrs Shari Hussein, Hawkesbury City Council Mrs Robyn Kozjak - Minute Taker, Hawkesbury City Council

REPORT:

RESOLVED on the motion of Councillor Reardon and seconded by Mr Graham Edds that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Mr Graham Edds and seconded by Ms Deborah Hallam that the Minutes of the Heritage Advisory Committee held on 31 May 2012 be confirmed.

BUSINESS ARISING FROM PREVIOUS MINUTES

The Chair made enquiry as to the status of the position of Heritage Advisor. Mr Owens responded by advising that options to procure a permanent advisory service were being investigated and in the meantime as an interim measure, two contractors were being utilised to provide heritage advice. Mrs Hussein advised she was in the process of gathering ideas from other Councils in relation to the provision of heritage advisory services and invited ideas/comments from members in relation to same.

ORDINARY MEETING
Reports of Committees

Attendance Register of Heritage Advisory Committee

Member	18/08/11	09/02/12	08/03/12	31/05/12	09/08/12
Councillor Jill Reardon- (HCC)	✓	✓	✓	✓	✓
Mr Graham Edds	A	✓	✓	✓	✓
Ms Deborah Hallam	✓	A	A	✓	✓
Professor Ian Jack	✓	✓	✓	✓	✓
Ms Jan Barkley Jack	A	✓	✓	A	A
Mr Jonathan Auld	✓	✓	✓	✓	A
Ms Michelle Nichols	✓	✓	✓	✓	A
Ms Danielle Wheeler	✓	A	✓	A	✓

Key: A = Formal Apology ✓ = Present X = Absent - no apology

SECTION 4 - Reports for Information

1. Annual Report - Heritage Advisory Committee - 2011/2012

DISCUSSION:

The Annual Report was discussed and it was agreed the following amendments be made:

- Pg 8 - Item (b) amend wording to read "*Committee is pursuing proposal to State Heritage list Macquarie Town Plans of Windsor, Wilberforce, Richmond and **Pitt Town**. To date no response received from **OEH** despite repeated requests.*"
- Pg 9 - Item (b) - second bullet point - amend wording to read "*Ongoing concern relating to level of listing **for many heritage items including** Belmont House - St John of God Hospital and Thompson Square/Windsor Bridge.*"
- Mr Edds referred to Pg 10 where reference was made to priority actions to be undertaken for 2012. Mr Edds noted the list of priority actions was not included in the report. Mr Owens responded the information in the report was not intended to be comprehensive, as it was a generic report prepared for Council to enable Council to review compliance to the adopted Constitution. Mr Owens advised he would arrange for the list of actions to be distributed to members for their reference.

RECOMMENDATION TO COMMITTEE:

That the Committee note the Annual Report.

MOTION:

RESOLVED on the motion of Mr Graham Edds, seconded by Councillor Reardon

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Committee note the Annual Report.

SECTION 5 - General Business

Yobarnie and Nevallan Keyline Farms - Notice of Intention to consider State Listing - Exhibition period closes 24 September 2012

- Mr Owens reported a Gateway Determination for a Planning Proposal at 108 Grose Vale Road, North Richmond (the property the subject of the Keyline Farms) had recently been received. Mr Owens reported the Proposal was currently with the Office of Environment and Heritage (OEH) as one of the conditions of consent required the Conservation Management Plan (CMP) for Yobarnie to be endorsed by the OEH. Mr Owens advised he would contact the OEH to ascertain the status of the review of the CMP.

5.45pm - Ms Wheeler arrived at the meeting

- Mr Edds asked if he could be provided with further information on the Keyline system. Mr Owens advised the CMP for the site contained comprehensive information on the Keyline Farms and he would provide the CMP to members for their perusal.
- Mr Owens reported a submission would be made to the Heritage Council and welcomed input from the Committee as part of that submission, or alternatively, suggested members may wish to submit their own comments.

MOTION:

RESOLVED on the motion of Mr Graham Edds, seconded by Ms Danielle Wheeler

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Committee:

1. Recommend to Council to support the nomination of Yobarnie and Nevallan Keyline Farms to be listed on the State Heritage Register.
2. Request that Council consider positively the State listing of Yobarnie and Nevallan Keyline Farms in its submission to the Heritage Council of New South Wales.

Update on Working Party for Cemeteries

- It was reported Ms Michelle Nichols was working on the discussion paper for cemeteries and would bring the paper back to a future HAC meeting.

Comments and Suggestions for Heritage matters on Council's Website

- Mr Owens sought suggestions for heritage related items to be included in the Sustainable Living Guide on Council's website. Mr Edds suggested the OEH be approached to see if they would like to participate in the project. Mrs Hussein responded it may be more appropriate to source local assistance and reminded the Committee Ms Nichols had previously advised she could provide contacts for volunteers from the University to assist with projects. Mrs Hussein further suggested student planners on work experience could be considered as a potential resource for assistance.

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- Mrs Hussein raised concern there did not appear to be any regulations or guidelines in place which recognised potential implications minor developments (not requiring development approval) could have in relation to heritage localities. Mrs Hussein acknowledged the need for a national approach in relation to minor developments (eg. NBN fixtures and solar panels) and suggested this issue be flagged as a theme for future discussion.

Western Sydney Heritage Project - Mrs Hussein - Verbal Update

- Mrs Hussein reported three meetings with participants from Western Sydney Councils - now called Heritage of Western Sydney (HoWS), had taken place to date. Mrs Hussein emphasised the HoWS Project was in an embryonic stage, reporting no budget, resources nor funding was available at this time. Mrs Hussein advised it was envisaged four or five meetings would take place per year, with the eventual goal being the construction of a common website to use tourism as a vehicle to promote early settlement heritage across Western Sydney council areas.

Windsor Master Plan

- Mr Edds made enquiry regarding the progress of the review of the Windsor Master Plan. Mr Owens responded the review of Windsor Master Plan was included in Council's Operational Plan and was scheduled to be finalised this financial year. Mr Edds asked if this project was to be undertaken through a consultant and Mr Owens confirmed urban design consultants would be sought to quote on the project.

Pitt Town - Application for listing on National Heritage List

- The Chair referred to an application to list historic Pitt Town on the National Heritage List and expressed his disappointment the Heritage Council decided against the proposal.

The meeting closed at 6.44pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Local Traffic Committee - 13 August 2012 - (80245)

Minutes of the Meeting of the Local Traffic Committee held in the Large Committee Room, Windsor, on Monday, 12 August 2012 commencing at 3:00pm.

ATTENDANCE

Present: Councillor Kim Ford (Chairman)
Mr Richard McHenery, Roads and Maritime Services
Mr Bart Bassett, MP (Londonderry)

Apologies: Mr Kevin Conolly, MP (Riverstone)
Mr Ray Williams, MP (Hawkesbury)
Mr Peter Ramshaw, NSW Taxi Council
Mr Carlos DeSousa, Hawkesbury Valley Bus Service
Snr Constable Brad Phillips, NSW Police Force
Mr Jodie Edmunds, Westbus

In Attendance: Mr C Amit, Manager, Design & Mapping Services
Ms Judy Wong, Community Safety Co-ordinator

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

SECTION 1 - Minutes

Item 1.1 Confirmation of Minutes

The Committee resolved on the motion of Mr Richard McHenery, seconded by Councillor Kim Ford, that the minutes from the previous meeting held 9 July 2012 be confirmed with the following amendment:

Attendance: Mr Richard McHenery, Roads and Maritime Services be added to "Present" and deleted from "Apologies".

Item 1.2 Business Arising

There was no business arising from the previous minutes.

SECTION 2 - Reports for Determination

Item 2.1 **LTC - 13 August 2012 - Item 2.1 - B-Double Route Application by Toll Transport Pty Ltd - Beaumont Avenue, North Richmond (Londonderry) - (80245, 123265, 81090)**

REPORT:

Introduction:

An application has been received from Toll Transport Pty Ltd seeking approval to operate 25 metre long B-Doubles to access the Hanna Match Australia Pty Ltd Site from Beaumont Avenue, North Richmond. Whilst the delivery site fronts Bells Line of Road, access is via Beaumont Avenue. (*ECM Document No. 4044016*).

The applicant has advised that the specific route includes, Bells Line of Road (RMS) from the North Richmond Bridge (RMS) – crossing the Hawkesbury River, travelling north-west, turning right into Terrace Road and right into Beaumont Avenue. The destination point is the property bounded by 24 Bells Line of Road (Gate 1) and 32 Beaumont Avenue (Gate 2), accessed from Beaumont Avenue.

It is proposed to enter the destination point from Beaumont Avenue and exit onto Beaumont Avenue, travelling back along the route, left into Terrace Road and left into Bells Line of Road (RMS).

Discussion:

Terrace Road from Bells Line of Road to Beaumont Avenue and Beaumont Avenue from Terrace Road to its end are not approved for B-Double vehicles.

Assessment of B-Double routes is undertaken in accordance with the "Route Assessment Guidelines for Restricted Access Vehicles (May 2002)" issued by the Roads and Maritime Services - RMS (formerly RTA). Under the Guidelines, minimum standards are provided for lane and shoulder widths for B-Double routes. These widths are assessed in correlation with the given AADT for the relevant road. This assessment is based only on Council roads and not RMS roads:

- For an AADT of 100 to 500; 7.0 metre formation on straight alignment, with assessment to be based on traffic, gradient, lane width, sight distances and other relevant factors.
- For an AADT of 500 to 2000; the minimum lane width required is 3.0 metres with 1.0 metre shoulders. Total minimum road formation required = 8.0 metres.
- For an AADT of 2000 to 6000; the minimum lane width required is 3.0 metres with 1.2 metre shoulders. Total minimum road formation required = 8.4 metres.

Table 1: Proposed 25 metre long B-Double Route Data – HCC Roads

Road/Location	Road Section	Total Road Width (Seal + K&G)	K&G / Shoulder	AADT (year)
Terrace Road	Bells Line of Road (BLOR) to Beaumont Avenue	13.10 metres	K&G on south-eastern side, with gravel shoulder on north-western side and K&G only near the Kerb Return at BLOR.	4149(1995)
Beaumont Avenue	Terrace Road to	6.90 metres	K&G on northern	1585(2006)

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Road/Location	Road Section	Total Road Width (Seal + K&G)	K&G / Shoulder	AADT (year)
	Chainage 80.0 metres		side, with gravel shoulder on southern side.	
	Chainage 80.0 metres to chainage 205 metres – Gate 1 (first Access Point)	10.70 metres		
	Chainage 205.0 metres to Chainage 335.0 metres – Gate 2 (second Access Point)	10.00 metres		



The speed limit for Terrace Road is 60 kph and the speed limit for Beaumont Avenue is 50 kph.

The available total road widths along the proposed route do satisfy the minimum requirements set out in the Guidelines. The section of Beaumont Avenue for a length of 80.0 metres from Terrace Road is within the acceptable limits of the road formation width, as there is a considerable width of unsealed shoulder on the southern side of the road.

Currently Semi-trailer vehicles operate along this route, as specific approval for this class of vehicle is not required. The applicant states that the proposal to operate B-Doubles is to reduce the effective vehicle trips.

A Field trial was undertaken on 06 July 2012. The RMS regional freight route co-ordinator was present on site with council representatives during the field trial. During the field trial the applicant advised that only access to Gate 1 is required and Gate 2 will not be required and is withdrawn from the application. The

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Site is a combination of the 2 properties referred to as, No. 24 Bells Line of Road and No. 32 Beaumont Avenue.

During the field trial, it was observed that the 25m long B-Double failed to negotiate the following manoeuvres;

- Right turn from Beaumont Avenue into Gate 1 (No. 24 Bells Line of Road): The manoeuvre was only possible by utilising the full width of the road, including the northern kerb parking lane. With parked vehicles in the northern kerb parking lane, this manoeuvre would be further hindered.
- Left Turn out of Gate 1 (No. 24 Bells Line of Road) into Beaumont Avenue: The manoeuvre was only possible by crossing onto the opposite side of the road over the notional centre line. The exit speed was restricted with this manoeuvre. With parked vehicles in the northern kerb parking lane, this manoeuvre would be further hindered.

The applicant indicated that the Site is currently being redeveloped with a new exit point to be provided at a point further west along Beaumont Avenue. The layout and configuration of the Site will be evident once the site is fully operational.

Based on the field trial undertaken and the existing configuration of the Site, the application to operate 25 metre long B-Doubles cannot be supported along Terrace Road and Beaumont Avenue, North Richmond, to provide access into both No. 24 Bells Line of Road (access via Beaumont Avenue) and No. 32 Beaumont Avenue.

In accordance with the "Route Assessment Guidelines for Restricted Access Vehicles (May 2002)" issued by the Roads and Maritime Services - RMS (formerly RTA), the stipulated route has been assessed as NOT Complying.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Mr Bart Bassett, MP, seconded by Mr Richard McHenry.

That the application to operate 25 metre long B-Doubles not be supported along the route of Terrace Road and Beaumont Avenue, North Richmond, to provide access into both No. 24 Bells Line of Road (access via Beaumont Avenue) and No. 32 Beaumont Avenue, as the stipulated route has been assessed as NOT Complying in accordance with the "Route Assessment Guidelines for Restricted Access Vehicles (May 2002)" issued by the Roads and Maritime Services - RMS (formerly RTA).

APPENDICES:

AT - 1 B-Double Route Assessment.

AT 1 - B-Double Route Assessment

B-DOUBLE ROUTE ASSESSMENT

Route:

Origin

Address: The route includes:

- Bells Line of Road (RMS) from the North Richmond Bridge (RMS) – crossing the Hawkesbury River, travelling north-west, turning right into Terrace Road, right into Beaumont Avenue, North Richmond.

Destination

Address:

- Gate 1: No. 24 Bells Line of Road, North Richmond - Access from Beaumont Avenue, North Richmond.
- Gate 2: No. 32 Beaumont Avenue, North Richmond ←

WITHDRAWN
BY APPLICANT.
DURING
FIELD TRIAL.

A completed application form showing route details is attached.

This is to certify that the assessment criteria checklist has been ticked and comments provided as appropriate.

My assessment of the inspected route against the Guidelines is that the route is

suitable overall

not suitable overall

Regional Freight Route Co-ordinator Responsible for the Route Assessment:

Name:

Signature:

Date:

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CLAUSE NO	ASSESSMENT CRITERIA	Y E S	N O	COMMENTS
A3.1	Assessor is personally familiar with B-Double operations and regulations	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
A3.2	ENVIRONMENT AND COMMUNITY AMENITY			N/A
A3.2.1	Noise Considered views of local community in noise sensitive areas.			Not a noise sensitive area. No additional noise due to B-Doubles replacing Semi-trailers.
A3.2.2	Community Amenity Considered local community concerns			N/A Industrial area. Currently trucks use this route.
A3.3	DIMENSIONAL CAPACITY			
A3.3.1	Lane and Shoulder Widths Lane and shoulder widths meet desirable standards.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
A3.3.2	Vehicle Swept Path Requirements Geometry of corners, roundabouts, intersections, and other traffic management devices adequately accommodates B-Double swept path.			Failed Exit out of lane 1, cross onto opposite side of road.
A3.3.3	Railway Level Crossings and Adjacent Intersections Signal warning time allows clearance of B-Doubles, or, if passive control, sight distances adequate for B-Doubles.		<input checked="" type="checkbox"/>	N/A
	B-Double can clear the crossing/intersection before having to stop at adjacent intersection.			N/A

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CLAUSE NO	ASSESSMENT CRITERIA	Y E S	N O	COMMENTS
A3.3.4	Terminals Applicant to ensure suitability of terminal. Entry and exit in the forward direction.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Terminal tested during field trial.
A3.4	ROAD SAFETY AND TRAFFIC MANAGEMENT			
A3.4.1	Overtaking Opportunities - Rural Areas Overtaking opportunities meet the requirements of the route.			N/A
A3.4.2	Sight Distances Safe Intersection Sight Distances are met.	<input type="checkbox"/>	<input type="checkbox"/>	
A3.4.3	Traffic Signals Green time satisfactory.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bells Line of Road and Terrace Road.
A3.4	STRUCTURAL CAPACITY Bridges are structurally capable of carrying B-Doubles.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A No Bridges along the HCC section of the route. Only RMS

Other issues:

Should a trial of the route be undertaken? yes **Undertaken on 6 July 2012**
no ____

Work required to overcome obstacles to route approval:

WIDER GATE AT ACCESS GATE 1, FUTURE ACCESS

POINT TO BE PROVIDED - POSSIBLE LG-APPROX

Assessment of low volume road not included in the checklist: N/A

road: _____ satisfactory ____ not satisfactory

Item 2.2 LTC - 13 August 2012 - Item 2.2 - Sydney Blues and Roots Festival - Windsor 2012 - (Riverstone) - (80245, 114164)

REPORT:

Introduction:

An application has been received from the promoters of the Sydney Blues and Roots Festival, seeking approval (in traffic management terms) to conduct the Sydney Blues and Roots Festival – Windsor 2012, in and around the Windsor Town Centre from Friday 26 October 2012 to Sunday 28 October 2012.

The event organiser has advised:

- The event is in its fourth year.
- The Sydney Blues and Roots Festival is a music festival to be held in various indoor and outdoor venues in Windsor.
- The very best of established and emerging blues and roots acts from around Australia, presenting diverse styles of music will be showcased.
- Local musicians and other young performers are encouraged and given particular attention.
- Additional activities will include market stalls, buskers, jam sessions, workshops and youth groups.
- Event times are:
 - Friday 26 October 2012 – 7.00pm to 1.00am
 - Saturday 27 October 2012 – 1.00pm to 1.00am
 - Sunday 28 October 2012 – 1.00pm to 10.30pm.
- The Festival is an opportunity to showcase the historic Windsor district, gain increased tourism and develop business and commercial opportunities.
- Local businesses should enjoy enhanced trading opportunities on the weekend of the Festival and will be encouraged to become involved in the Festival.
- The Festival will be held in October to take advantage of spring weather conditions and avoid clashing with other festivals and local events.
- Windsor is considered an ideal location to conduct such a festival due to its accessibility, history, dining and accommodation facilities, unique village-like atmosphere and relaxed ambiance,
- The Festival will have a total of three indoor venues and two outdoor venues.
- The indoor venues include; The Vault 146 Restaurant, Trentino's Restaurant on George, and Restaurant 22.
- The outdoor venues include; Thompsons Square where two stages will be in place and Windsor Mall where one stage will be in place directly outside The Vault 146 Restaurant.
- The Festival is promoted as a safe and friendly event, transcending the barriers of age, gender and culture, presented in intimate performance spaces.

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- The Festival will be a ticketed event. Ticket prices will be affordable which should guarantee a favourable attendance.
- As the Festival is a ticketed event, it is proposed at this stage to completely enclose both outdoor venues with temporary fencing.
- Based on attendances at the previous Festivals, it is expected that between 1500 to 2000 patrons per day will attend the Festival in 2012.
- Due to the proximity of the Festival and the amount of pedestrian traffic, as well as containment of crowds, it will be necessary to undertake the following road closures:

Road Closure Details:

- From 7.00am Friday, 26 October 2012 through to 12.00 noon Monday, 29 October 2012.
- George Street closed between Bridge Street and Baker Street (excluding the intersections of Bridge Street and Baker Street) only for north-east bound traffic.
- The south-west bound lane in George Street between Bridge Street and Baker Street shall remain open during the entire Festival to ensure that trade and visitors to the south-eastern side of George Street is not hindered.
- Thompson Square (the road) closed between George Street and The Terrace.
- Pedestrian fencing along Thompson Square (the road) is to be installed along the north-western footpath between the kerb line and the paved footpath. Pedestrian access is to remain along the north-western side of Thompson Square (the road).
- Traffic will be monitored at all times with any build ups cleared immediately. Traffic control will be on site to implement any changes required.
- Emergency vehicles will be given priority at all times.
- Existing parking and buses will not be affected by the Festival.
- Pedestrians have adequate facilities to traverse through and around the Festival site which includes all of the fenced area of the Festival. Traffic controllers will be in place at the busy times to minimise any issues with vehicular traffic.
- The Festival has been designed to minimise and contain the flow of pedestrian traffic with regards to the safety of all who visit the Township of Windsor.
- A signed petition, with majority support, relating to the temporary closure of George Street and Thompson Square for the Festival by surrounding businesses, has been submitted.

Refer to Attachment 1 - Sydney Blues and Roots Festival Proposed Road Closure Details.

Discussion

It would be appropriate to classify the event as a "Class 2" special event under the "Traffic and Transport Management for Special Events" guidelines issued by the Roads and Maritime Services - RMS (formerly RTA) as the event may impact minor traffic and transport systems due to the proposed road closures and there may be a low scale disruption to the non-event community.

The Transport Management Plan (TMP) and the associated Traffic Control Plan (TCP) is to be submitted to the Roads and Maritime Services - RMS (formerly RTA) for authorisation due to the proposed road closures. The road closure of George Street at Bridge Street is subject to approval from the RMS.

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Event Road Closure Details:

- From 7.00am Friday, 26 October 2012 through to 12.00 noon Monday, 29 October 2012.
- George Street closed between Bridge Street and Baker Street (excluding the intersections of Bridge Street and Baker Street) only for north-east bound traffic.
- The south-west bound lane in George Street between Bridge Street and Baker Street shall remain open during the entire Festival to ensure that trade and visitors to the south-eastern side of George Street is not hindered.
- Thompson Square (the road) closed between George Street and The Terrace.
- Pedestrian fencing along Thompson Square (the road) is to be installed along the north-western footpath between the kerb line and the paved footpath. Pedestrian access is to remain for the non-event community along the north-western side of Thompson Square (the road).

The event road closures are supported. The road closures will allow for the free flow of traffic through Baker Street, with George Street being closed between Baker Street and Bridge Street. The closure of Thompson Square (the road) will allow for the free flow of pedestrians in and around the Thompson Square Park area as well as pedestrian access for the non-event community along the north-western footpath in Thompson Square (the road).

Due to the event venues being located across the Windsor Town Centre from the Thompson Square Park to The Mall adjacent to The Vault 146 Restaurant, the event organiser will be requested to provide traffic control at the intersections of George Street/Baker Street and George Street/Kable Street for the duration of the event to ensure that there is a balanced flow of both vehicular and pedestrian traffic across these 2 intersections.

The regulatory speed limit in the vicinity of the event is 50kph.

The event organiser has submitted the following items in relation to the event: Attachment 2 (ECM Document No: 4116523):

1. Traffic and Transport Management for Special Events – HCC: Form A – Initial Approval - Application Form,
2. Traffic and Transport Management for Special Events – HCC: Form B – Initial Approval Application - Checklist,
3. Special Event Transport Management Plan Template – RTA (Roads and Maritime Services - RMS),
4. Traffic Management Plan (TMP) that only gives a brief outline of the event,
5. Traffic Control Plan (TCP) – does not provide specific details in relation to the road closures.
6. Festival Outline,
7. Signed petition, with majority support, relating to the temporary closure of George Street and Thompson Square for the Festival by surrounding businesses.

COMMITTEE RECOMMENDATION:

RESOLVED on the motion of Councillor Kim Ford, seconded by Mr Bart Bassett, MP.

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That:

1. The Sydney Blues and Roots Festival - Windsor 2012 event, in and around the Windsor Town Centre planned from Friday 26 October 2012 to Sunday 28 October 2012 be classified as a “**Class 2**” special event, in terms of traffic management, under the “Traffic and Transport Management for Special Events” guidelines issued by the Roads and Maritime Services - RMS (formerly RTA).
2. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the Roads and Maritime Services - RMS (formerly RTA) publication “Guide to Traffic and Transport Management for Special Events” (Version 3.4) and the Hawkesbury City Council special event information package that explains the responsibilities of the event organiser in detail.
4. It is strongly recommended that the event organiser visits Council's web site, <http://www.hawkesbury.nsw.gov.au/news-and-events/organising-an-event>, and refers to the documentation contained within this link which relates to other approvals that may be required for the event as a whole. It is the responsibility of the event organiser to ensure that they are familiar with the contents and requirements of this information. The approval conditions listed below relate only to matters relating to the traffic management of the event.
5. No objection (in terms of traffic management) be held to this event subject to compliance with the information contained within the application submitted, the following road closures and traffic control measures;
 - Road Closure; George Street between Bridge Street and Baker Street only for north-east bound traffic (excluding the intersections of Bridge Street and Baker Street), from 7.00am Friday, 26 October 2012 through to 12.00 noon Monday, 29 October 2012.
 - The south-west bound lane in George Street between Bridge Street and Baker Street shall remain open during the entire Festival to ensure that trade and visitors to the south-eastern side of George Street is not hindered
 - Road Closure; Thompson Square (the road) between George Street and The Terrace from 7.00am Friday, 26 October 2012 through to 12.00 noon Monday, 29 October 2012.
 - Pedestrian fencing along Thompson Square (the road) is to be installed along the north-western footpath between the kerb line and the paved footpath. Pedestrian access is to remain for the non-event community along the north-western side of Thompson Square (the road).
 - No other road closures are permitted.
 - Due to the event venues being located across the Windsor Town Centre from the Thompson Square Park to The Mall adjacent to The Vault 146 Restaurant, the event organiser will be requested to provide traffic control at the intersections of George Street/Baker Street and George Street/Kable Street for the duration of the event to ensure that there is a balanced flow of both vehicular and pedestrian traffic across these 2 intersections

and the following conditions:

Prior to the event:

- 5a. the event organiser is responsible for ensuring the safety of all involved in relation to the proposed event and must fully comply with the requirements of the Work Health & Safety (WHS) Act 2011, WHS Regulations 2011 and associated Australian Standards and applicable

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Codes of Practice. It is incumbent on the organiser under this legislation to ensure all potential risks are identified and assessed as to the level of harm they may pose and that suitable control measures are instigated to either eliminate these or at least reduce them to an acceptable level. This will include assessing the potential risks to spectators, participants and road/park/facility users etc during the event including setting up and clean up activities. This process must also include (where appropriate) but is not limited to the safe handling of hazardous substances, electrical equipment testing, tagging and layout, traffic/pedestrian management plans, certification and licensing in relation to amusement rides, relevant current insurance cover and must be inclusive of meaningful consultation with all stakeholders. (information for event organisers about managing risk is available on the NSW Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>; additionally council has an events template which can be provided to assist in identifying and controlling risks);

- 5b. the event organiser is to assess the risk and address the suitability of the entire site as part of the risk assessment considering the possible risks for all. This assessment should be carried out by visual inspection of the site by the event organiser prior to preparing the TMP and prior to the event;
- 5c. the event organiser is to obtain approval to conduct the event, from the NSW Police Force; **a copy of the Police Force approval to be submitted to Council;**
- 5d. the event organiser is to obtain approval from the Roads and Maritime Services - RMS (formerly RTA) as road closures are proposed; **a copy of the Roads and Maritime Services - RMS (formerly RTA) approval to be submitted to Council;**
- 5e. the event organiser **is to submit a Transport Management Plan (TMP) for the entire event incorporating a Traffic Control Plan (TCP)**, which needs to include details such as the specific position of barriers, signs etc, required for the proposed road closures and traffic diversions, **to Council and the Roads and Maritime Services - RMS (formerly RTA)** for acknowledgement. The TCP should be prepared by a person holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA) to satisfy the requirements of the relevant Work Cover legislation;
- 5f. the event organiser is to **submit to Council a copy of its Public Liability Policy** in an amount not less than **\$10,000,000 noting Council and the Roads and Maritime Services - RMS (formerly RTA) as interested parties on the Policy** and that Policy is to cover **both on-road and off-road activities;**
- 5g. the event organiser is to obtain written approval from Councils' Parks and Recreation Section for the use of Thompson Square Park;
- 5h. the event organiser is to obtain written approval from Councils' Corporate Services and Governance section for the use of Windsor Mall;
- 5i. the event organiser is to advertise the event in the local press stating the entire extent of the event, - including the proposed traffic control measures, road closures, and detour routes - and the traffic impact/delays expected, due to the event, two weeks prior to the event; **a copy of the proposed advertisement to be submitted to Council** (indicating the advertising medium);
- 5j. the event organiser is to notify the details of the event to the NSW Ambulance Service, Fire and Rescue NSW, NSW Rural Fire Service and SES at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**
- 5k. the event organiser is to directly notify relevant bus companies, tourist bus operators and taxi companies operating in the area which may be affected by the event, - including the proposed traffic control measures, road closures and detour routes - and the traffic impact/delays expected, due to the event for at least two weeks prior to the event; **a copy of the correspondence to be submitted to Council;**

- 5l. the event organiser is to directly notify all the residences and businesses which may be affected by the event, - including the proposed traffic control measures, road closures and detour routes - and the traffic impact/delays expected, due to the event for at least two weeks prior to the event; The event organiser is to undertake a letter drop to all affected residents and businesses in proximity of the event, with that letter advising full details of the event; **a copy of the correspondence to be submitted to Council;**
- 5m. the event organiser is to **submit** the completed " Traffic and Transport Management for Special Events – **Final Approval Application Form (Form C)" to Council;**

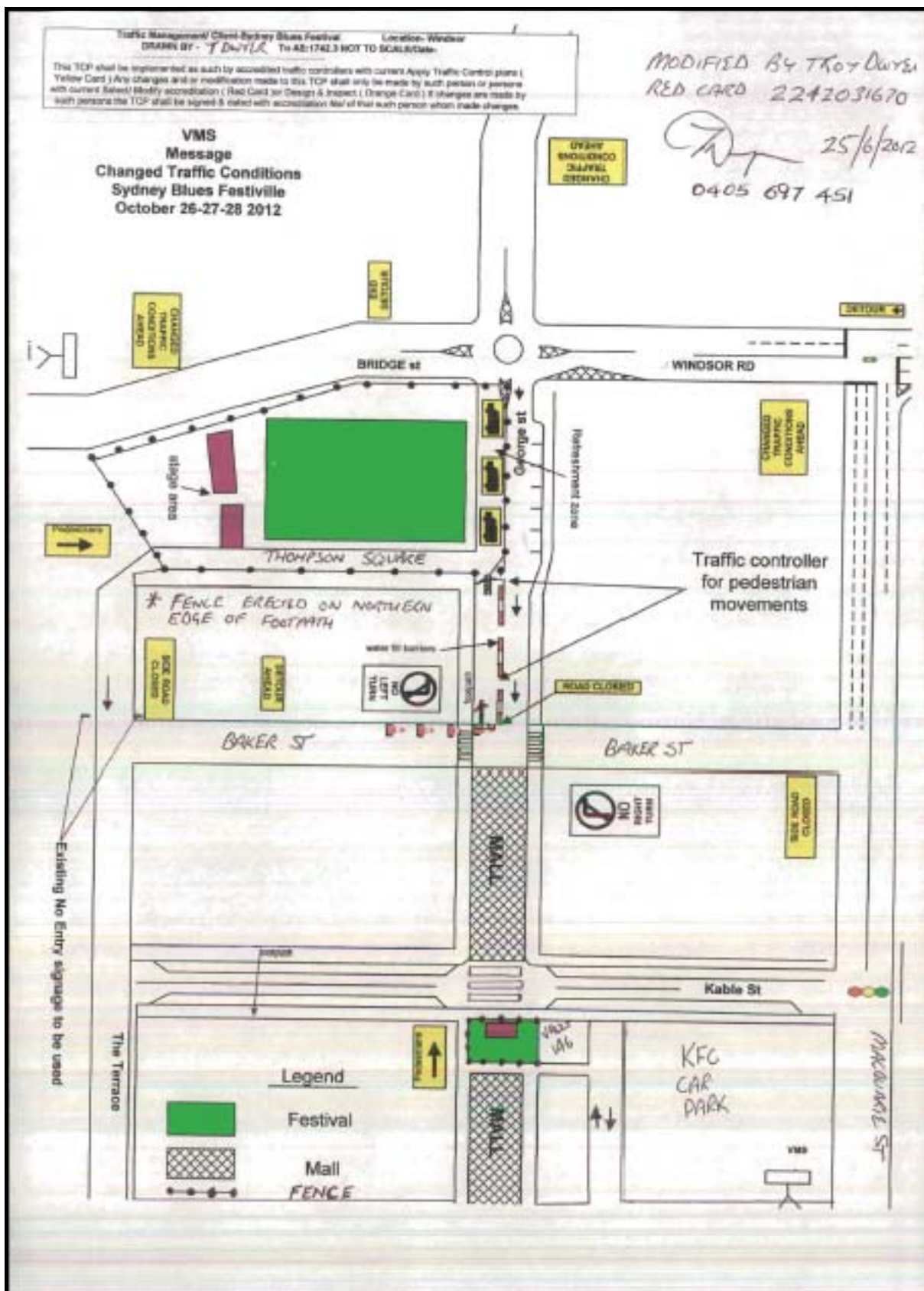
During the event:

- 5n. access is to be maintained for businesses, residents and their visitors;
- 5o. a clear passageway of at least 4 metres in width is to be maintained at all times for emergency vehicles;
- 5p. all traffic controllers / marshals operating within the public road network are to hold appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5q. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices are to be placed along the detour route (including the road closure points), during the event, under the direction of a traffic controller holding appropriate certification as required by the Roads and Maritime Services - RMS (formerly RTA);
- 5r. the participants are to be advised of the traffic control arrangements in place, prior to the commencement of the event; and,
- 5s. all roads and marshalling points are to be kept clean and tidy, with all signs and devices to be removed immediately upon completion of the activity.

APPENDICES:

- AT - 1** Sydney Blues and Roots Festival Proposed Road Closure Details
- AT - 2** Special Event Application - (ECM Document No. 4116523) - *see attached.*

AT 1 - Sydney Blues and Roots Festival Proposed Road Closure Details



ORDINARY MEETING
Reports of Committees

SECTION 3 - Reports for Information

There were no Reports for Information.

SECTION 4 - General Business

There were no General Business.

SECTION 5 - Next Meeting

The next Local Traffic Committee meeting will be held on Monday, 10 September 2012 at 3:00pm in the Large Committee Room.

The meeting terminated at 3:50pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillors Questions from Previous Meetings and Responses

REPORT:

Questions – 14 August 2012

#	Councillor	Question	Response
1	Rasmussen	Requested an update on the T-map study.	The Director City Planning advised that the first draft of the TMAP for the North Richmond Planning Proposal is expected in September. This will then allow the additional work required by the Gateway determination conditions to commence (funding and access discussions). This work must be completed before public exhibition.
2	Porter	Asked when the report being prepared for separate dwellings will be reported to Council.	The Director City Planning advised that this is expected to be finalised in October 2012.
3	Calvert	Requested that the road markings on Beaumont Road and Terrace Road North Richmond be re-painted.	The Director Infrastructure Services advised that the instructions have been issued for line marking to be carried out.
4	Calvert	Asked if Council have received a response from the State Government regarding ownership of the Lower Portland Ferry.	The Director Infrastructure Services advised that a letter had been sent, however, no response has been received at this stage.
5	Calvert	Asked if Council could update the previous review of the financial benefits of implementing solar powered street lighting.	The Director Infrastructure Services advised that a preliminary investigation will be carried out and reported to a future Council meeting.
6	Paine	Asked about the response by Council to correspondence received on the 15 July from a Pitt Town resident regarding his development.	The Director City Planning advised that a response was forwarded on 15 August 2012.
7	Paine	Asked if Council could seek Wespool's opinion regarding increasing insurance costs for Council owned buildings.	The General Manager advised that comment is being sought from Westpool and when received will be provided to all Councillors.

ORDINARY MEETING
Questions for Next Meeting

#	Councillor	Question	Response
8	Williams	Asked if Council staff could undertake repairs to the eastern end of Bullridge Road from Royerdale Place to the T intersection of West Portland Road.	The Director Infrastructure Services advised that investigations are currently being undertaken to determine the extent of pavement repairs necessary and immediate repairs to maintain serviceability will also be undertaken.
9	Tree	Asked if Council staff could advise of the purpose of the Contingency Reserve and its possible uses.	The Director Support Services advised the Contingency Reserve was established in 2006 with the aim of providing a source for meeting deficits in future quarterly reviews, or unexpected expenditure requirements, or a reduction in income, not being able to be funded from existing budgets in future years. The establishment of this Reserve followed a number of deficit results in quarterly reviews in the 2004/2005 and 2005/2006 financial years.
10	Reardon	Requested that future programs for future Local Government Weeks - where by local school students are shown what part Local Government plays in the community.	The General Manager advised that the request has been noted and will be considered when organising future Local Government Week activities.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Questions for Next Meeting



ordinary
meeting

end of
business
paper

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