



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 12 May 2015

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 11pm. 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 3pm 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 register to speak on any items in the business paper other than the Confirmation of Minutes; Mayoral Minutes; Responses to Questions from Previous Meeting; Notices of Motion (including Rescission Motions); Mayoral Elections; Deputy Mayoral Elections; Committee Elections and Annual Committee Reports. To register, you must lodge an application form with Council prior to 3pm on the day of the meeting. The application form is available on Council's website, from the Customer Service Unit or by contacting the Manager - Corporate Services and Governance on (02) 4560 4444 or by email at council@hawkesbury.nsw.gov.au.

The Mayor will invite registered persons to address the Council when the relevant item is being considered. Speakers have a maximum of three minutes to present their views. The Code of Meeting Practice allows for three speakers 'For' a recommendation (i.e. in support), and three speakers 'Against' a recommendation (i.e. in opposition).

Speakers representing an organisation or group must provide written consent from the identified organisation or group (to speak on its behalf) when registering to speak, specifically by way of letter to the General Manager within the registration timeframe.

All speakers must state their name, organisation if applicable (after producing written authorisation from that organisation) and their interest in the matter before speaking.

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

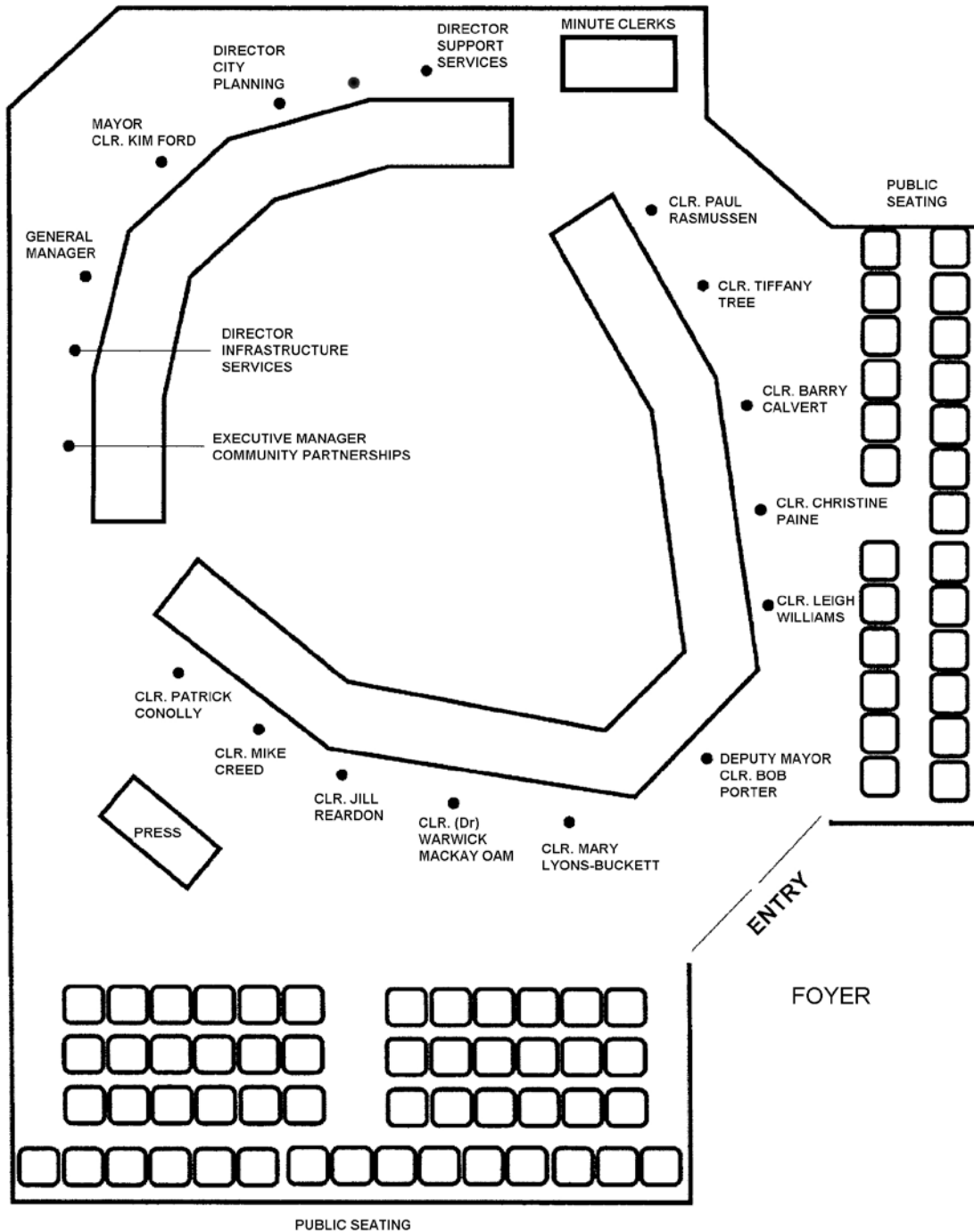
Business papers can be viewed online from noon on the Friday before the meeting on Council's website: <http://www.hawkesbury.nsw.gov.au>.

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 4444.

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SECTION 3 - Reports for Determination

PLANNING DECISIONS

Item: 66 **CP - Development Report - DA0088/15 - Lot 7 DP 7571 - 89 Boundary Road, Glossodia - Landfill, construction of a farm building, erection of igloos and establishment of additional growing beds - (95498, 116927, 15110, 130392)**

Development Information

File Number: DA0088/15
Property Address: 89 Boundary Road, Glossodia
Applicant: Aconsult
Owner: Mr BJ Bugeja and Mrs M Bugeja
Proposal Details: Horticulture – Landfill, construction of a farm building, erection of igloos and establishment of additional growing beds
Estimated Cost: \$50,000
Zone: RU1 Primary Production under Hawkesbury Local Environmental Plan 2012
Date Received: 23 February 2015
Advertising: 5 March 2015 – 19 March 2015

Key Issues:

- ◆ Retrospective landfill
- ◆ Flora and fauna impact

Recommendation: Approval

REPORT:

Executive summary

The application seeks Council's approval for landfill, construction of a farm building, erection of igloos and establishment of additional growing beds at 89 Boundary Road, Glossodia. The majority of the landfill has been undertaken without consent and therefore retrospective approval is sought for this existing work.

Following a detailed assessment of the application it is recommended that the proposal be supported as the development is permissible with Council consent within the RU1 Primary Production zone and generally complies with the objectives of the zone.

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

Background

Following a complaint regarding truck movements, an inspection by Council officers on the 5 August 2014 observed a significant volume of fill (approximately 8,000m³) had been imported to the site, in particular to the north-west part of the site. Site investigations revealed fragments of asbestos containing material (ACM) had been imported to the site within the fill material. Fill containing building waste was also identified alongside ACM impacted fill soils.

A Clean-Up Notice under Section 91 of the Environment Operations Act 1997 was served on the owners of the property on 13 August 2014.

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In response Council received appropriate documentation to satisfy the clean-up direction. In this regard there does not appear to be any further contamination on the site. However, the importation and use of the fill material at the premises required development consent for which consent had not been obtained. This current application therefore seeks retrospective approval for the landfill that currently exists on the site.

Issues relevant to the decision

- Retrospective landfill
- Flora and fauna impact

Description of proposal

The application seeks Council approval for the following:

- The importation and placement of approximately 880m³ of fill material to the rear of the property.
- The construction of a new farm building having an area of 216m² to be located to the south of the existing metal farm building onsite.
- The erection of six 18m (width) by 40m (length) igloos to be located west of the existing metal farm building and adjacent to the northern boundary. There will be a 4m separation between each igloo to provide an access track. The igloos are to be setback 8m from the property boundary.
- The establishment of two outside growing beds for flower production to be located south of the proposed igloos. The proposed growing beds are located in areas that are subject to existing or proposed fill.
- The removal of existing vegetation located on the south western corner of the land.
- Retrospective approval for the existing landfill of approximately 8,000m³ that has been imported to the rear of the site.

Description of the land and its surroundings

The subject property is legally described as Lot 7 DP 7571 and has an area of approximately 20.19Ha. The property is rectangular in shape, having dimensions of approximately 220m by 918m.

The proposed development is to be located within the rear western portion of the site.

The land contains two dwelling houses, a machinery shed, various outbuildings and four dams. A watercourse traverses the front eastern portion of the land through the large dam sited in this area. This dam has a capacity of approximately 12 mega litres.

The property is predominantly cleared, with a pocket of vegetation along a portion of the eastern (front) boundary and scattered trees in the south western corner of the land. Both these areas have been identified as remnant Cumberland Plains Woodland, listed as a Critically Endangered Ecological Community under the Threatened Species Conservation Act 1995.

A ridge line crosses the site approximately 600 metres from the eastern (Boundary Road) frontage. The area that will contain the proposed landfill, outside growing beds, igloos and farm building comprises an area of approximately 3Ha.

Surrounding land uses include rural residential properties, cattle grazing, horse establishments, market gardens and a mushroom farm.

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History

- BA0392/89 - Approved a dwelling on the subject site including retaining the existing 1926 dwelling house.
- DA0054/02 - Approved the enlargement of the existing dam to 12 mega litres, clearing of native vegetation and establishment of a cut flower farm.
- DA0405/07 - Approved an agricultural farm shed, igloos and landfill.
- DA0657/10 - Refused a poultry farm. This application was determined by the Joint Regional Planning Panel
- DA0341/12 - Approved alterations and additions to an existing dwelling house

Council Policies, Procedures and Codes to which the matter relates

- Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- State Environmental Planning Policy No. 44 - Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 44 – Remediation of land (SEPP No. 55)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

Section 79C matters for consideration

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

a) *The provisions of any:*

(i) **Environmental Planning Instrument:**

Hawkesbury Local Environmental Plan 2012

An assessment of the proposed development against the relevant provisions of the HLEP 2012 follows:

Clause 1.2 Aim of Plan

The proposed development is considered to be consistent with the aims of the Plan as outlined in Clause 1.2 of HLEP 2012.

Clause 2.2 Zoning of land to which Plan applies

The subject land is zoned RU1 Primary Production under the HLEP 2012. The proposed uses are permitted with consent in this zone.

Clause 2.3 Zone objectives and Land Use Table

Subclause (2) requires in the determination of a development application that regard is given to the objectives of the zone. The zone objectives of the RU1 Primary Production zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*

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- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage agricultural activities that do not rely on highly fertile land.*
- *To ensure that development occurs in a way 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 promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- *To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.*
- *To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.*

The HLEP 2012 contains the following definitions that are relevant to the proposal:

"Horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture.

Farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and included a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

Earthworks means excavation or filling

Fill means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) *The depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or*
- (b) *The use of land as a waste disposal facility."*

It is noted that a previous approval, Development Consent No. DA0054/02, allowed the subject land to be used as a cut flower farm. Under the HLEP 2012, such a use falls under the definition of 'horticulture, which is a form of 'intensive plant agriculture'. Intensive plant agriculture is permissible within the RU1 Primary Production zone.

'Farm buildings' and 'earthworks' are separately defined and permissible under the HLEP 2012, however overall the various components of this application are seen to be ancillary to the overriding horticulture/intensive plant agriculture use. Accordingly the development represents a permissible form of development.

The proposal is consistent with the overall objectives of the zone in that the proposed development would encourage agricultural activities and promote diversity in primary industry enterprises and systems appropriate for the area.

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Clause 6.1 Acid sulphate soils

The subject land is within Class 5 as shown on the Acid Sulfate Soils Map. The development does not involve any works as defined by this Clause. The subject land is not within 500m of land within another Class, and therefore there are no further requirements in respect to acid sulphate soil management for the proposed development.

Clause 6.2 Earthworks

The subject application seeks retrospective consent for already imported fill to the site as well as for the additional fill to be brought to the site. It is noted that a Clean-Up Notice under Section 91 of the Environment Operations Act 1997 was served on the 13 August 2014 for the site. In this respect Council received appropriate documentations as requested which were considered satisfactory and that the clean-up direction has been complied with. Additional fill (approximately 880m³) is proposed to be brought on site to facilitate the levelling of the surface so that it falls to the existing dam located on the north western corner of the site.

Appropriate conditions will be imposed to the consent to minimise any detrimental effect on the existing and likely amenity of adjoining properties.

Clause 6.4 Terrestrial biodiversity

It is noted that Development Consent No. DA0054/02 approved the clearing of native vegetation on the site in conjunction with a cut flower farm. This clearing was approved subject to the conservation of native vegetation within two areas on the site. The clearing of the land has been carried out, however the cut flower activity has not commenced.

The proposed outside growing beds will encroach into the south west conservation area, requiring the removal of vegetation. Further vegetation removal from this area is also proposed even though no works are proposed outside of the growing areas.

This subject application relies on a Report titled 'Flora and Fauna Survey and Assessment of Lot 7, DP 7571, 89 Boundary Road, Glossodia, New South Wales', dated 28 March 2010 and prepared by Dr Trevor J. Hawkeswood which was submitted in support of the previous Development Application No. DA0657/10.

The assessment identified that remnant Cumberland Plains Woodland was present on the land, being an area of remnant/regrowth woodland in the eastern portion of the land and consisting of remnant trees in a western portion of the property. Cumberland Plains Woodland is identified as a critically endangered ecological community under the Threatened Species Conservation Act 1995.

The submitted Flora and Fauna Survey and Assessment Report also identified that the existing dams on the site support a diverse array of insects, some reptiles, birds and amphibians, and advised that a landscape/revegetation plan should be provided elsewhere to ensure ecological protection to this water body.

The subject application also refers to the report titled 'Flora and Fauna Assessment and Seven Part Tests of Significance' dated January 2011, prepared by Anderson Environmental Consultants P/L, submitted for the previous application DA0657/10.

That Report advises:

"The results of the Seven Part Tests of Significance indicate that a Species Impact Statement would not be required, as there would be no significant impacts on any threatened species, populations or endangered ecological communities as listed under the New South Wales Threatened Species Conservation Act (1995) or the Commonwealth Environment Protection and Biodiversity Conservation Act (1999).

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The removal of some of the area proposed previously for conservation purposes as part of the new proposal would occur however it is recommended that a Vegetation Management Plan be written to improve the integrity and viability of this vegetation so there is NO NETT LOSS. This is consistent with management of such communities under the IUCN (International Union for the Conservation of Nature) conservation protocols and it is on this basis that the recommendations in the report are made.

The vegetation (in the south western area of the property) is no longer considered to represent any endangered ecological community due to its high levels of structural and floristic degradation. Approximately 2500m² of this area would require direct disturbance through the removal of the trees mentioned and it is expected that another 1000m² would be impacted by indirect impacts.

Due to the previous mentioned DA by council (of which details are not available) it appears that this area was proposed as a conservation area and as such this area should be managed and extended to the east via a Vegetation Management Plan to ensure there is no net loss of this vegetation.

Implementation of a VMP would result in no long term effect on this vegetation and if fully implemented then this vegetation could be restored to a sound condition."

Whilst it is considered that the requirements of Part 5A of the EP & A Act are satisfied in that the proposed development will have no significant impact on threatened species, populations, ecological communities or their habitats, it is identified that the subject property, which is predominantly cleared, has ample area to accommodate the development without further clearing of the remaining native trees. It is also noted that these trees are within an area previously identified for conservation/preservation and subject to a Vegetation Management Plan for regeneration of the Cumberland Plains Woodland community.

It is also noted that an updated report was not provided as requested by Council. The submitted site plan shows that proposed growing beds will only encroach on a part of the vegetated area, therefore there is no justification for clearing of the whole south western corner of the land.

Appropriate conditions will be imposed to the consent to limit the area for proposed outside growing beds to avoid further clearing of the existing vegetation.

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 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

It is considered that the proposed development will not significantly impact on the environment of the Hawkesbury - Nepean River either in a local or regional context and the proposal is consistent with the general and specific aims, planning considerations, planning policies and recommended strategies of SREP No. 20.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

SEPP No. 44 applies to land within the Hawkesbury Local Government Area to which a development application has been made and has an area of more than 1 hectare.

The submitted application refers to the previous flora-fauna assessment reports submitted for DA0657/10 for the subject land. Both the 'Flora and Fauna Survey and Assessment' Report prepared by Dr T Hawkeswood dated 28 March 2010 and the 'Flora and Fauna Assessment and Seven Part Test of Significant' prepared by Anderson Environmental Consultants P/L dated January

2011 identified the site as being 'potential habitat', but not 'core koala habitat' as defined by State Environmental Planning Policy No. 44.

It is likely that these findings are still relevant.

Therefore the Council is not prevented from granting consent to the proposal under the provisions of this Policy.

State Environmental Planning Policy No. 55 – Remediation of Land

A search of Council files indicated that the land has not been used for any approved activities which would render the soil contaminated to such a degree as to prevent the future development of the land for a cut flower farm. Therefore the application is considered to be consistent with the provisions of SEPP No. 55.

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

There are no Draft Environmental Planning Instruments relevant to the subject land or development.

(iii) Development Control Plan applying to the land:

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

Part A Chapter 2 – General Information

The subject application provides adequate information for the assessment of the proposal and therefore complies with this chapter.

Part A Chapter 3 – Notification

The application was notified to adjacent property owners in accordance with HDCP 2002. Three submission were received which are discussed in detail below.

Part C Chapter 4 – Soil Erosion and Sediment Control

Erosion and sediment control can be enforced through conditions of consent in accordance with the provisions of this Chapter.

Part D Chapter 7 – Landfill

A significant amount of fill, approximately 8,000m³ has already been brought to the site and documentation was submitted with Council's Environment and Regulatory Services Branch which were considered satisfactory to prove that the existing imported fill to the site was 'clean'. The quality of the fill already imported to the site is therefore considered to be appropriate to the intended use of the site.

The subject application also proposes importation of approximately 880m³ additional fill to facilitate final earth works and grading to be carried out on-site in order to complement those earthworks already undertaken. This additional fill will be likely to attract an additional 30 truck movements to the site to deliver the landfill.

From the provided contour plan the site has been previously filled in areas up to 1 metre in depth with the general depth of filling of 500 mm over the whole area. The proposed filling levels show that the top area will be cut by up to 600mm and the remaining areas filled by up to 800 mm. This cut and fill will balance out and the need for additional fill material will be a minimum. The stated fill to be imported is 880m³ which equates to a volume of 30m by 30m by 1m deep.

Appropriate conditions will be imposed in the consent to minimise any adverse impact on the amenity of the adjacent properties.

Part D Chapter 8 – Erection of Rural Sheds

It is proposed to erect a farm building having an area of 216m² (9m by 24m) and a height of 3.7m to be located to the south of the existing metal farm building on site. The erection of the farm building will require 800mm of fill in order to achieve level building platforms.

Within the RU1 Primary Production zone, Part D Chapter 8 of the HDCP 2002 outlines a maximum area of 170m² and a maximum height of 5m for rural sheds. However, these controls do not apply to rural industry structures or to structures related to an agricultural use.

It is considered that the size of the farm building is justified as it will be used in conjunction with the already approved flower growing farm. In regards to the visual dominance it is considered that the proposed farm building is situated at a considerable distance from the front boundary assisting in reducing its visual impact.

The structure is to be constructed in Colorbond steel. The colour of the farm building is proposed to be in neutral tones that are seen to be compatible with the rural character of the area.

The proposed structure will be recognisable as a building associated with an agricultural use and on this basis is seen to be compatible with the rural character of the area.

(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:

These matters have been considered in the assessment of this application. Should the application be supported the EP&A Regulation 2000 outlines that the development is to:

- comply with the National Construction Code/Building Code of Australia (BCA), and
- be levied against Council's S94A Development Contributions Plan (where relevant).

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:

Context and setting

The locality contains a mix of rural residential uses, cattle grazing, horse establishments, market gardens and a mushroom farm. The proposed development is considered consistent with these land uses. The proposed development will not adversely impact on the scenic quality of the landscape.

Flora and fauna

The submitted application proposes removal of the existing vegetation located on the south western corner of the property. As detailed previously in this report appropriate conditions will be imposed in the consent to minimise any adverse impact on the existing vegetation of the land.

Noise and dust

The additional 30 truck movements to deliver additional fill to the site may cause noise and dust pollution to the adjacent neighbours. Appropriate conditions will be imposed to the consent to minimise any adverse impact to the adjacent neighbours.

Landscaping

A landscaping concept plan has been submitted in support of the application. However, it does not detail the species/types of vegetation to be planted. Appropriate conditions will be included in the consent to provide adequate vegetation buffer areas to neighbouring properties and the dam.

To cater for a vegetation buffer and access track it is recommended that the igloos are setback a minimum of 10m from the northern boundary.

Visual impact

The proposed igloos will be located along the northern boundary behind the existing metal farm building. It is proposed to have a maximum 4m of height covered with a heavy duty clear plastic roof. The proposed farm building will be located to the south of the existing farm building.

Both the farm building and the igloos will be located at a considerable distance from the street frontage, whilst landscaping will be provided to soften and screen the igloos. Accordingly it is considered that these structures will have no significant adverse visual impact.

Drainage

All surface water and irrigation will flow into the existing dam located on the north western boundary of the site. Additional catch drains will be constructed along the western edge of the proposed fill area that will also feed into the existing dam.

c) Suitability of the site for the development:

There are no constraints from surrounding land uses that would make this development prohibitive and it is considered that the development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats. Adequate services and utilities are available to the site and access to the site is satisfactory for the intended use.

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

Public Authorities

The application was referred to the NSW Office of Water (NOW) for comments. In their letter of 24 March 2015, the NOW provided their General Terms of Approval for 'works' requiring a Controlled Activity Approval under the Water Management Act 2000.

Public Submissions

The proposed development was placed on public exhibition from 5 March 2015 to 19 March 2015. Three submissions were received. The matters raised in these submissions are discussed below:

1. *High number of truck movements are causing dust and noise pollution.*

Comment: It is acknowledged that a significant number of trucks would have visited the site to undertake the unauthorised landfill works. As those truck movements were unauthorised there were no controls (development consent conditions) in place to assist in the control of those movements.

A relatively small number of additional truck movements will be required to finalise the works. Conditions have been imposed on the development to mitigate dust from leaving the site, during and after landfill and construction works. Conditions have also been imposed on the development to minimise the hours of building works to be conducted on site.

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2. *More landfill is not supported.*

Comment: The submitted application seeks retrospective approval for the existing landfill which has already been brought to the site. Appropriate documentation has been supplied separately to Council's Environment and Health section which were considered satisfactory and the imported fill was proved as clean. Additional fill (approximately 880m³) is proposed to be brought on the site to support finished surface grades that fall to the existing dam on site. This additional fill will attract an additional 30 truck movements to the site to deliver the landfill. Council's Development Engineer has reviewed the proposal and raised no objection subject to conditions. Should this application be supported it will place conditions on those truck movements, that were not in place previously, that will assist to mitigate the impacts from those additional truck movements.

3. *No evidence of farming activities for past 10 years.*

Comment: It is noted that Development Consent No. DA0054/02 approved the establishment of a cut flower farm on the subject property. This consent also approved the enlargement of an existing dam and clearing of vegetation.

Development Consent No. DA0405/07 approved construction of an agricultural farm building, igloos and landfill as an ancillary development to the approved flower farm development.

4. *Proposed removal of vegetation is not justified*

Comment: The submitted application proposes removal of the existing vegetation located on the south western corner of the property. The application referred to the flora and fauna assessment reports submitted previously for the poultry farm application (DA0657/10) for the subject site. Even though the reports concluded that the existing vegetation (identified as remnant of Cumberland Plains Woodland) is no longer considered to represent any EEC due to its degradation, Council is not supportive of the removal of this vegetated area.

The flora and fauna reports referred to for this application are out dated and there is not enough justification for clearing the whole south western corner as the proposed growing beds can easily be accommodated without completely disturbing this area.

5. *Some of the conditions imposed by previous DA consent were not met fully.*

Comment: This matter is not a relevant planning consideration in the assessment of this development application. However, Council's Compliance section has been previously aware of this matter and has again been notified regarding this issue to further investigate.

e) **The Public Interest:**

The proposed development is consistent with the relevant planning controls which affect the site. It is therefore considered that the proposal is not contrary to the public interest.

Developer Contributions

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

Conclusion

The proposal is considered to be consistent with the relevant planning controls that apply to the development and it is recommended that the application be supported subject to the implementation of the conditions recommended in this report.

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. DA0088/15 at Lot 7 DP 7571, 89 Boundary Road, Glossodia for landfilling, construction of a farm building, erection of igloos and the establishment of growing beds be approved subject to the following conditions:

NSW Office of Water Conditions

- A. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2015/0088 and provided by Council;
- (i) Site Plan, map and/or surveys
- Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
- B. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
- C. The consent holder must prepare or commission the preparation of:
- (i) Vegetation Management Plan
(ii) Erosion and Sediment Control Plan
(iii) Soil and Water Management Plan
- D. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water’s guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx.
- (i) Vegetation Management Plans
(ii) Riparian Corridors
- E. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.
- F. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.
- G. The consent holder must ensure that no materials of cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

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- H. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
- I. The consent holder must ensure that no excavation is undertaken on waterfront land other in accordance with a plan approved by the NSW Office of Water.

Hawkesbury City Council Conditions

General Conditions

1. The development shall take place generally in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate/Design Compliance Certificate.
3. The development shall comply with the provisions of the Building Code of Australia/National Construction Code.
4. The farm building and igloos shall not be used or occupied prior to the issue of an Occupation Certificate.
5. A works as executed plan and contour depth of fill plan prepared by a registered surveyor or the design engineer shall be submitted to finalise the earthworks.
6. The accredited certifier shall provide copies of all Part 4A Certificates issued under the Environmental Planning and Assessment Act 1979 relevant to this development to Hawkesbury City Council within seven days of issuing the certificate. A registration fee applies.
7. No native vegetation shall be removed from the site, with the exception of the vegetation located within the approved growing beds, within the approved area of fill and within 10m of the growing beds.

Prior to Issue of Construction Certificate/Design Compliance Certificate

8. Evidence that a Works Approval has been obtained from the NSW Office of Water shall be provided to the Principal Certifying Authority (PCA) prior to the release of the Construction Certificate and/or Design Compliance Certificate.
9. A detailed landscaping plan shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate/Design Compliance Certificate.

The plan shall detail the following:

- The identified remnant vegetation located in the southwest corner of the site shall be retained, with the exception of the vegetation located within the approved growing beds, within the approved area of fill and within 10m of the growing beds.
- A vegetation buffer with a minimum width of 5m shall be provided along the northern property boundary with 119 Boundary Road.
- A vegetation buffer with a minimum width of 20m shall be provided east of the dam (between the dam and the growing beds/igloos).

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- A minimum 10m wide vegetation buffer zones shall be planted along the southern and western boundaries of the property. Existing native trees and shrubs within these buffer zones shall be retained.

Vegetation to be planted within these buffer zones shall consist of a mixture of native trees, shrubs and groundcover species of local provenance.

10. The igloos are to be located a minimum of 10m from the northern property boundary with 119 Boundary Road. Amended plans demonstrating compliance with this requirement are to be provided prior to the release of the relevant Construction Certificate.

The igloos or the growing beds are to be reduced in size to achieve this requirement. The growing beds shall not be moved further to the south.

11. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.
12. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.

13. Details of any fill material removed from or imported to the site shall be submitted with the engineering plans. Details to include quantities, borrow sites or disposal sites.

Prior to Commencement of Works

14. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
15. 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.
16. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council in accordance with the Environmental Planning and Assessment Regulation.
17. A copy of receipt of payment of Long Service Levy shall be provided to the Principal Certifying Authority prior to any works commencing on site. Payments can be made at Long Service Corporation offices or most Councils.
18. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such a facility shall be located wholly within the property boundary.
19. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road:
 - 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.

The sign is to be maintained for the duration of works.

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20. No excavated material, including soil, shall be removed from the site.

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 7am and 6pm and on Saturdays between 8am and 4pm. Work is prohibited on Sundays and public holidays.
22. The site shall be secured to prevent unauthorised access and the depositing of unauthorised material.
23. The site shall be kept clean and tidy and all unused building materials and rubbish shall be removed from the site upon completion of the project.
24. 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.
- a) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - b) Builders waste must not be burnt or buried on site.
 - c) All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
25. Compliance certificates (known as Part 4A Certificates) are to be issued for Critical stage inspections as detailed in the Environmental Planning and Assessment Regulation 2000 as required by section 109E (3) (d) of the Environmental Planning and Assessment Act 1979 by the nominated Principal Certifying Authority.
26. Filling shall comprise only uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material shall be provided to the Principal Certifying Authority (and Council if a private certifier is used) prior to placing any fill on site.
27. A ticketing system is to accompany any material being brought to the site. A register is to be kept on site to cross reference against the source records.
- An independent site auditor is to be engaged to undertake appropriate certification regarding the monitoring and validation of the fill material imported to the site as being sound, suitable for the use and free of contamination.
28. 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.
29. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
30. Dust control measures, e.g. water cart spraying shall be applied to suppress dust created by truck movements and filling activities that take place on site.
31. All trucks entering or leaving the site shall have their trays suitably covered to prevent spillage from the truck onto the road.
32. The igloos are to be located a minimum of 10m away from the northern property boundary with 119 Boundary Road.

A vegetation buffer with a minimum width of 5m shall be provided within this setback, immediately adjoining the northern boundary as indicated in the approved plans. The vegetation to be planted within this buffer zone shall consist of a mixture of native trees, shrubs and groundcover species of local provenance.

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33. A vegetation buffer with a minimum width of 20m shall be provided east of the dam (between the dam and the growing beds/igloos). The vegetation to be planted within this buffer zone shall consist of a mixture of native trees, shrubs and groundcover species of local provenance.
34. Minimum 10m wide vegetation buffer zones shall be planted along the southern and western boundaries of the property. Existing native trees and shrubs within these buffer zones shall be retained.

The vegetation to be planted within these buffer zones shall consist of a mixture of native trees, shrubs and groundcover species of local provenance
35. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity or diversion of flows.
36. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification.
37. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan 2002 – Appendix E – Civil Works Specification, Part II, Table 1.1.

Use of the Development

38. The development shall be limited to the area shown on the stamped plans and as amended by the conditions of this consent.
39. The landscaping works shall be completed before the cultivation of the growing beds.
40. The operation of the development is to be carried out in accordance with the Farm Management Plan prepared for Mr B Bugeja and dated 20 July 2012'.

The farm activities shall be limited to the hours of 7:00am to 6:00pm seven days a week.
41. The subject development, including the farm building and igloos, are to be maintained in a clean and tidy manner.
42. The plastic linings of the igloos are to be maintained and to be kept in a tidy manner. Any damaged igloo plastic coverings are not to be left on site and are to be disposed of off-site appropriately.
43. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the NSW EPA's Industrial Noise Policy (2000), do not exceed 5dB(A) LA(eq) above background noise levels with respect to noise amenity of residential dwellings.
44. Potential dust sources on the land shall be minimised through the maintenance of vegetation cover and the use of water sprays to suppress dust from exposed areas during periods of dry and/or windy weather.
45. Tilling and harvesting shall not be undertaken on extremely windy days.
46. Manure and compost are to be mixed into the soil directly following application to prevent odour or dust being blown onto surrounding properties. There is to be no spray drift of chemicals onto surrounding properties. Spraying is not to be conducted on windy days or when humidity is very high.
47. The farm building shall not be occupied for human habitation/residential purposes.

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Advisory Notes

- *** 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.
- *** The applicant is advised to make detailed inquiries as to whether approval by the Australian Government Minister for the Environment and Heritage is necessary under the Environment Protection and Biodiversity Conservation Act 1999.
- *** 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.
- *** 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.

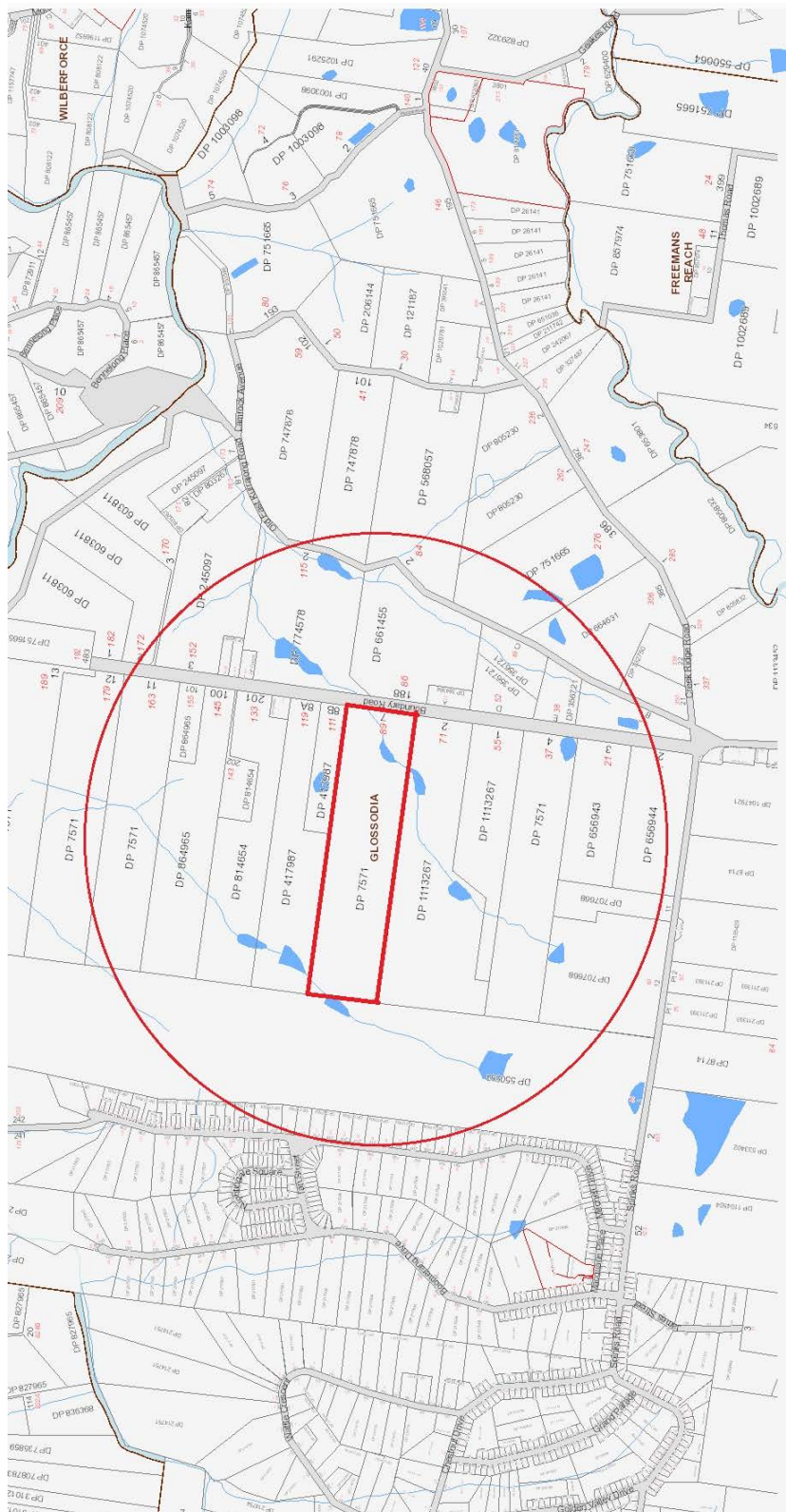
ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Aerial Plan
- AT - 3 Site Plan
- AT - 4 Elevations

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AT - 1 Locality Plan



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AT - 2 Aerial Plan



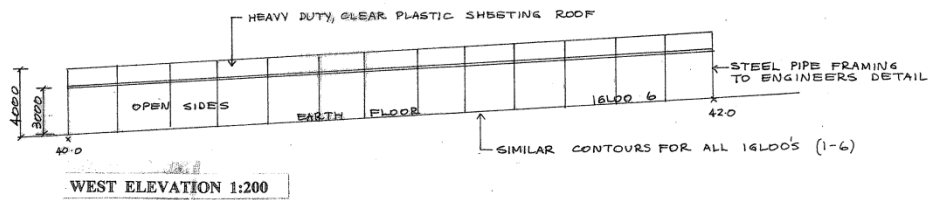
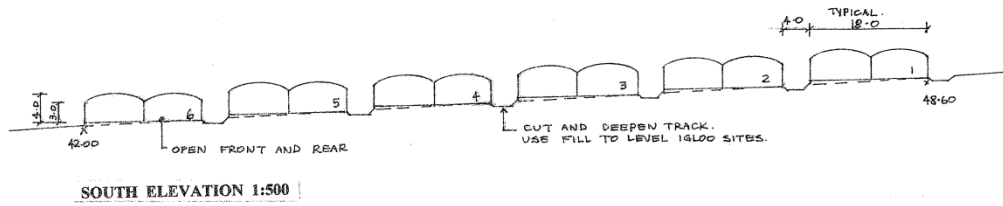
Meeting Date: 12 May 2015

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ORDINARY MEETING

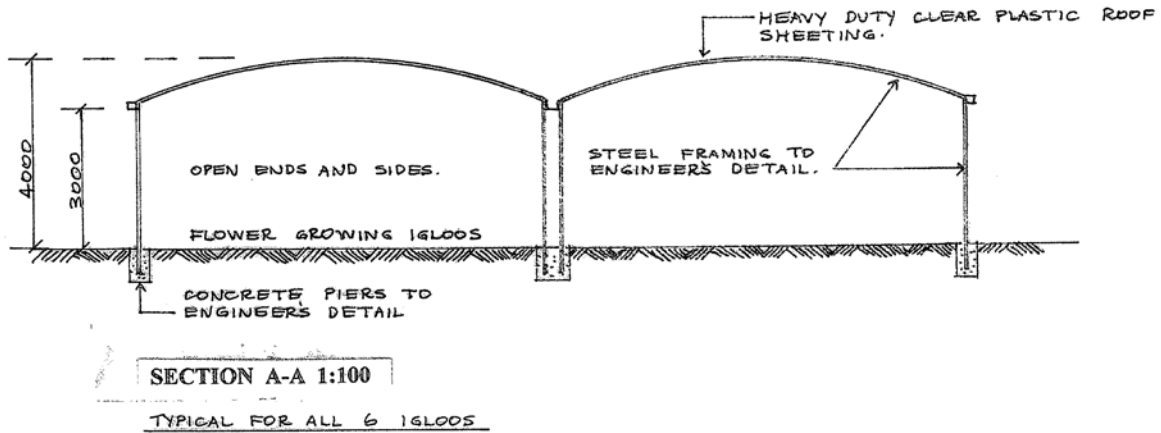
Meeting Date: 12 May 2015

AT - 4 Elevations



SHEET 3 OF 6

PROPOSED FLOWER GROWING IGLOOS
AT 89 BOUNDARY ROAD, GLOSSODIA 2756
FOR Mr B BUGEJA
Scales as shown
Date 17.02.15
Drawn by A Bonnici 9626-8425

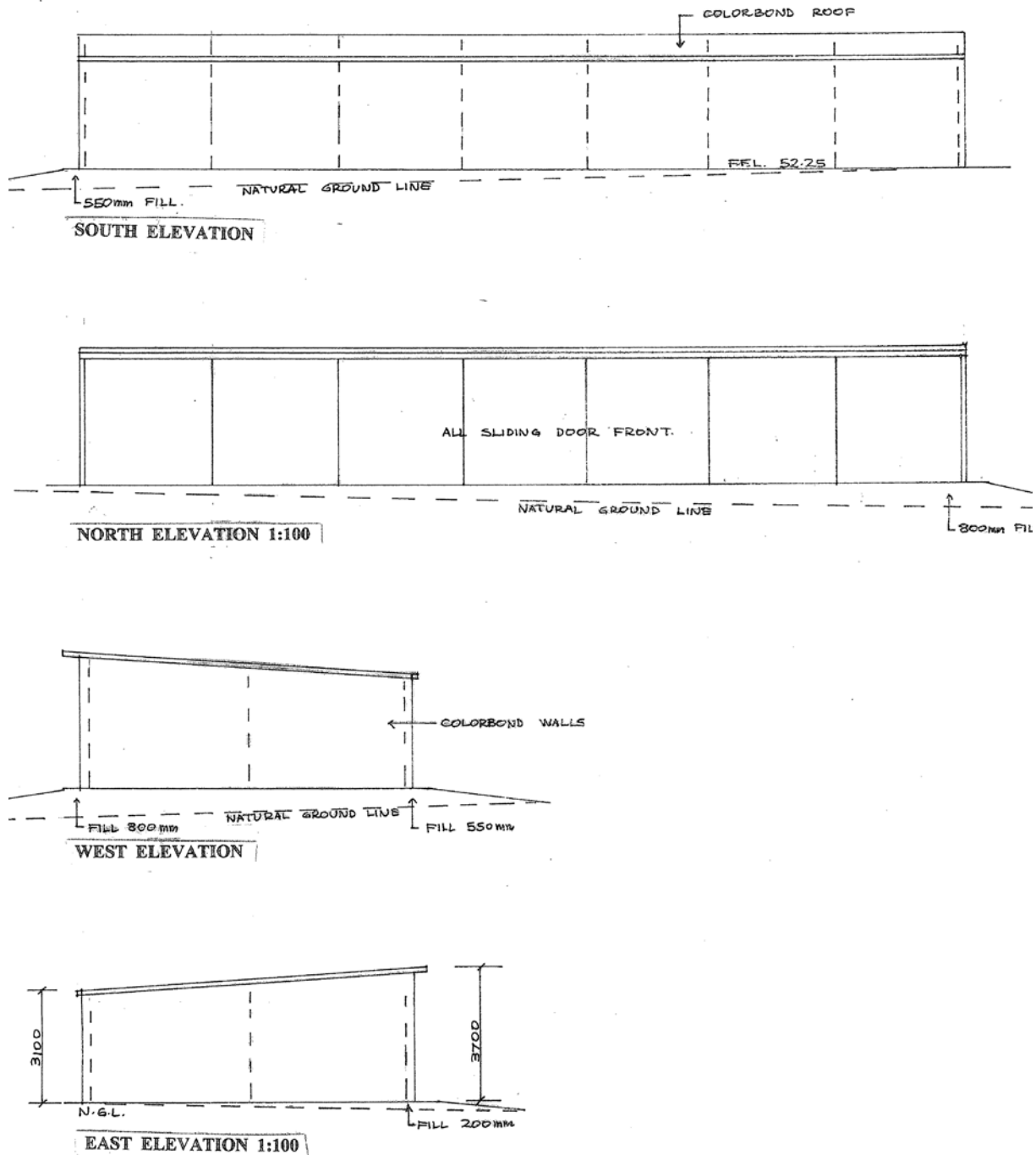


SHEET 4 OF 6

PROPOSED FLOWER GROWING IGLOOS
AT 89 BOUNDARY ROAD, GLOSSODIA 2756
FOR Mr B BUGEJA
Scales as shown
Date 17.02.15
Drawn by A Bonnici 9626-8425

ORDINARY MEETING

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SHEET 6 OF 6

PROPOSED FARM SHED
AT 89 BOUNDARY ROAD, GLOSSODIA 2756
FOR Mr B BUGEJA
Scales as shown
Date 17.02.15
Drawn by A Bonnici 9626-8425

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 12 May 2015

Item: 67 CP - Development Report - DA0156/15 - Lot 25 DP 663770 - 1 Powells Lane, Richmond Lowlands - Temporary use of an existing building - (95498, 102260, 78522)

Previous Item: 3, Ordinary (3 February 2015)

Development Information

File Number: DA0156/15
Property Address: 1 Powells Lanes, Richmond Lowlands
Applicant: Montgomery Planning Solutions
Owner: Basscave Pty Ltd
Proposal Details: Temporary Use - Temporary use of the existing building (Polo Barn) for the holding of functions
Estimated Cost: \$0
Zone: RU2 Rural Landscape
Date Received: 20/03/2015
Advertising: 8/04/2015 - 22/04/2015

Key Issues:

- ◆ Noise
- ◆ Flooding
- ◆ Onsite wastewater disposal
- ◆ Management of the development
- ◆ Unlawful works
- ◆ Compliance with the Building Code of Australia

Recommendation: Approval

REPORT:

Executive Summary

This application seeks approval for the temporary use of an existing building for the holding of functions at 1 Powells Lane, Richmond Lowlands. The subject building is described in the plans and documentation as the 'Polo Barn'.

Clause 2.8 of Hawkesbury Local Environmental Plan 2012 permits land to be used for any purpose as a temporary use subject to certain requirements, including Council's satisfaction that the use will have no adverse impacts on the environment or the amenity of the neighbourhood. This Clause only allows the use to be carried out for a maximum of 28 days within any 12 month period.

The application was publicly notified from 8 April 2015 to 22 April 2015. Five submissions were received objecting to the development. A summary of the matters raised in the submissions are as follows:

- the 'Polo Barn' building has been modified without development consent, and no Building Certificate has been obtained
- the use of the 'Polo Barn' building for functions will adversely impact adjoining land with particular respect to noise generation
- the building is not compliant with the Building Code of Australia
- the application does not propose any sound proofing measure to the building
- two versions of the acoustic review were submitted with the application, and these reports contradict each other
- the application does not provide event details
- the proposed development will have an adverse impact from increased traffic.

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There is no objection, in principle, to the proposed use of the building for functions if that use has no adverse impact on the environment and the amenity of surrounding properties, especially in respect to noise. In this regard the matters raised in the submissions are relevant. However, these matters can be resolved through conditions of consent.

Given the nature and scale of the proposed development, it is proposed that, if approved, any consent be limited in time. In this regard a period of three years is proposed. In doing so, it will ensure that the use can be considered as 'temporary' and that any measures employed to mitigate the impacts of the development can be monitored.

In addition, the manner in which it is proposed to manage effluent disposal, car parking and access roads, whilst suitable in the short term, is not considered to be desirable or sustainable for the long term operation of the development.

It is recommended that the application be approved.

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 for the temporary use of an existing building (the Polo Barn) for functions. The proposal specifically involves the following:

- Use of the Polo Barn for wedding receptions and functions associated with polo events. It is proposed that a maximum of 28 functions will be held within any 12 month period. It is proposed that only the ground floor of the building will be used for these purposes. The first floor of the building will not be used for functions.
- The provision of hardstand car parking spaces for 40 vehicles.
- The provision of 27 overflow car parking spaces

The supplied documentation outlines the following operational details for the proposed use:

- Seating for up to 200 patrons.
- Operating hours of:
 - Sunday – Thursday: 2pm to 11pm – music off by 10:30pm and all patrons to leave premises by 11pm.
 - Friday – Saturday: 2pm to 12 midnight – music off by 11:30pm and all patrons to leave premises by 12 midnight.
- 10 staff (maximum).

No signage is proposed. The development does not involve the removal of any native vegetation onsite.

Site and Locality Description

The subject property is legally described as Lot 25 DP 663770 and has an area of 28.26 Hectares. The subject site adjoins Powells Lane to the east and has a northern frontage to the Hawkesbury River. The property is located within the Richmond Lowlands, approximately 2km from the Richmond town centre.

The site contains a number of polo fields, a stable complex, a rural workers dwelling, an agricultural farm shed and the subject Polo Barn. The Polo Barn is located within the north eastern corner of the site. Annexed to the Polo Barn is covered car parking and a marshalling area.

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The Polo Barn is accessible via a private road from Ridges Lane that passes through three allotments that are collectively known as 100 Ridges Lane. A secondary access is also available from Powells Lane however the use of this driveway is not proposed with this development.

Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite of the Hawkesbury River comprises of a steep escarpment with residential properties located at the top of that escarpment along Terrace Road.

Background

- On 15 June 2014 a Notice of Intention to Serve an Order under the EP&A Act was issued to the owner to cease the unauthorised use of the site for wedding receptions and other functions.
- Development Application DA0429/14 to use the Polo Barn as a restaurant was lodged with Council on 4 July 2014.
- On 12 September 2014, an Order under the EP&A Act was issued to the owner to cease the unauthorised use of the site for weddings and functions.
- On 17 November 2014 a Direction to Take Preventative Action under the Protection of the Environment Operations Act 1997 was issued to the owners of the land. This Direction related to noise from the site and specified noise limits for the site. Monitoring of the compliance with that Direction since has not identified any non-compliances.
- Argosy Agricultural Group Pty Ltd, Sydney Polo Club Pty Ltd and Mr and Mrs Higgins provided an undertaking on 17 December 2014 that they would refrain from promoting the venue or taking any further bookings for the use as a Function Centre (Wedding Receptions) until further discussions take place with Council officers early in 2015.
- The Applicant filed a Class 1 Appeal against Council's deemed refusal of DA0429/14 on 12 December 2014.
- At Council's Meeting of 3 February 2015 it was resolved to refuse DA0429/14.
- The Class 1 Appeal was dismissed on 20 March 2015
- Development Application DA0156/15 (the application subject to this report) was lodged on 20 March 2015

Development Plans Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Sydney Regional Environmental Plan No. 9 – Extractive Industry (SREP No. 9)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

In determining the application, Council is required to take into consideration the following matters relevant to the development that applies to the type of development and the land to which the development relates:

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**State Environmental Planning Policy No. 44 – Koala Habitat Protection**

State Environmental Planning Policy No. 44 - Koala Habitat applies to land within the Hawkesbury Local Government Area to which a development application has been made and has an area of more than 1 hectare.

Circular No. B35 was issued by the former Department of Planning (DIPNR) on 22 March 1995. The purpose of the Circular was to provide information relating to the implementation of SEPP 44 and to provide the Guidelines made by the Director for the purposes of the SEPP. Section 1.5 of the Circular states, inter alia, that:

"In relation to affected DAs it is the intention of the policy that investigations for "potential" and "core" koala habitats be limited to those areas in which it is proposed to disturb habitat".

The site exceeds 1 hectare in area and therefore triggers the requirements of SEPP No. 44. However, the proposed development does not require the removal of native vegetation and will therefore not disturb habitat areas within the site. Consequently, an investigation into whether or not the land is potential koala habitat is not required for the development.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines that 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 has a history of being used for agricultural, sporting and residential purposes. The subject building was previously used as a milking shed and office for a dairy which operated on the land. The Applicant advises:

"As the building was used for milk production, the relevant food production hygiene controls would have been applied.

Notwithstanding, the current owners thoroughly cleaned the building, added new impervious flooring and timber internal walls."

The proposed use is to utilise the existing structures on the land, and level areas for car parking. It will not result in the disturbance of soils. It is unlikely that the previous uses of the land would have contaminated the land so as to prevent the proposed development. The land is therefore considered suitable for the proposed commercial development with regard to the provisions of SEPP No. 55.

Sydney Regional Environmental Plan No. 9 – Extractive Industry (SREP No. 9)

This Plan aims to facilitate extractive industries by identifying land which contains material of regional significance, ensuring consideration is given to the impacts of other development on these industries and to promote the carrying out of these industries in an environmentally acceptable manner.

The subject property is located on land that is identified in Schedule 5 of this Plan being "the land identified on Sheet 9 of the map as Richmond Lowlands sand/gravel".

Whilst the land is subject to this Policy, SREP No. 9 does not contain any specific requirements in relation to the individual development of the land for other purposes. It is considered that the proposed development will have no impact on the potential use of the land for extractive purposes in the future.

Sydney Regional Environmental Planning Policy No. 20 - Hawkesbury Nepean River

The subject land falls within the boundary of SREP 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 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

The subject land is situated within a scenic corridor of regional significance. In addition, a wetland identified under this Plan is located on the subject property and a number of identified wetlands are located in the vicinity of the development.

Specifically Clauses 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7) and 11(9), 11(15), 11(16) & 11(17) of the Plan are relevant to the proposal.

The proposed development involves the use of an existing building for functions. The building is situated 140m from the Hawkesbury River and existing vegetation will be maintained. 40 hard stand car parking spaces are to be provided within existing level, previously cleared areas. Internal driveways within the property exist. It is also noted that the 30 space car park area located adjacent to Powells Lane is within approximately 186m of the mapped ephemeral wetland on the property 215 Edwards Lane, Richmond Lowlands,

Given that the proposed development does not involve building works or substantial earthworks, and is located within previously cleared areas, it is considered that the proposal will have no adverse impact on:

- the water catchment
- the habitat of native flora and fauna, including aquatic habitats
- the riverine scenic quality
- the stability of the riverbank
- the quantity and quality of water entering the Hawkesbury River or nearby watercourses and wetlands, or on groundwater quality
- land conditions
- cultural heritage.

In this regard, the proposed development is consistent with clauses 6(1), 6(2), 6(6), 6(7), 11(15) & 11(16) of this Policy.

The proposal is relying on the existing onsite wastewater treatment system to service the development. Therefore the application is consistent with Clause 11(17) which relate only to the installation of a new system. However, the adequacy of the existing system is discussed later in this Report.

Schedule 1 of SREP No. 20 identifies the property as containing items of non-aboriginal heritage; being a farm building and fence. These items have been identified by this Policy as being located "Edwards Road, corner of Powells Lane, Richmond Lowlands". Site inspections carried out by Council officers and Council's Heritage advisor has failed to locate these items, or any buildings or structures of heritage value on the land. It is also noted that the property is not listed as a heritage item under Hawkesbury Local Environmental Plan 2012.

The proposal is considered to be consistent with the aims, planning considerations, planning policies, recommended strategies and development controls of SREP No. 20.

Hawkesbury Local Environmental Plan 2012

An assessment of the proposed development against the relevant provisions of Hawkesbury Local Environmental Plan 2012 follows:

Clause 2.2 Zoning of land to which Plan applies.

The Property No. 1 Powells Lane, Richmond Lowlands is comprised of 10 individual lots and is zoned part RU2 Rural Landscape and part E2 Environmental Conservation. The portion of the property that is subject to this application is located on land within the RU2 Rural Landscape zone.

Clause 2.3 Zone objectives and Land Use Table

Subclause (2) requires in the determination of a development application that regard is given to the objectives of the zone. It is considered that the proposed development is consistent with the objectives of the zone as:

- the proposed development will have no adverse impact on the existing landscape and rural character, or the scenic quality of the locality given that no additional buildings are proposed and no clearing of vegetation is required. The use of an existing cleared area as a car park for 30 vehicles will have no unreasonable visual impacts.
- it is considered that the proposed use, subject to the imposition of conditions relating to noise, is compatible with, and will not create unreasonable conflicts with, the use of properties in the locality for residential, recreational and agricultural uses.
- the proposal will not result in the fragmentation or alienation of resource lands.
- the proposed development will 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 as previously discussed.
- the proposal will have no adverse impact on existing landscape values, the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.
- the proposed use will not create unreasonable demands for the provision or extension of public amenities or services.
- the proposed development will have no adverse impact on the wetlands located on the property and within the locality having regard to their ecological, scientific, cultural and aesthetic values.

The development is located a minimum of approximately 250m from the wetland located on the property and approximately 186m from the closest mapped wetland located on a nearby property.

The car parking area adjacent to Powells Lane will require upgrading to provide an all-weather surface. These works will have no significant adverse impact on the wetland. The upgrading of car parking areas will reduce erosion and thereby sedimentation of downstream watercourses and wetlands. Should sedimentation occur from the overflow parking area, given the lay of the land, any impact will remain on the property.

Clause 2.8 Temporary use of land

The Applicant is seeking approval for the temporary use of the 'Polo Barn' for the holding of functions under Clause 2.8 of HLEP 2012. Clause 2.8 states:

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- (1) *the objective of this clause to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) *Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.*
- (3) *Development consent must not be granted unless the consent authority is satisfied that:*

 - (a) *the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
 - (b) *the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
 - (c) *the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
 - (d) *at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*

The proposed development is considered to be consistent with the objectives of this Clause in that it will not compromise the future development of the land as the proposed use will utilise existing buildings, access roads and cleared areas for car parking. In this regard, at the conclusion of each function the land will be in a condition comparable to that in which it was before.

Having regard to subclause (2), the application proposes a maximum of 28 functions within a twelve month period. Should the proposal be supported, this requirement can be ensured through conditions of any consent.

The Statement of Environmental Effects (SEE) submitted in support of the application advises that:

"The purpose of this application is to provide the opportunity for Council to issue temporary approval to allow the existing booked weddings to take place."

However, further in the SEE it is stated that the function centre will also cater for functions associated with polo events. Discussions with the Applicant have also revealed that there is an expectation that if approved, the temporary use will be ongoing.

It is considered that this is contrary to what would be expected of a temporary use, that is, a use that is short in duration and infrequent. The proposed development comprising of up to 28 functions within a year, every year indefinitely, presents as a permanent development.

An onsite sewage management system exists on the land and services the facilities within the existing building. The Applicant states:

"Wastewater is treated and disposed on-site by means of the existing aerated wastewater treatment system and irrigation system, which has serviced functions within the building for many years without incident."

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It is considered that the existing system is unsuitable for the proposed use in that it is not a commercial system. In addition, a recent wastewater report, prepared by Envirotech Consultants, for this system (submitted with DA0429/14 for a 120 seat restaurant within the Polo Barn building) identified that the system needed to be augmented/ upgraded to cater for the predicted wastewater loads. The current application seeks functions for a maximum of 200 people.

In this regard, it is proposed that portable toilets be used as an acceptable short term solution. However to minimise any adverse impacts on the amenity of the locality, it will be a requirement of any consent that they be removed at the conclusion of each event within 24 hours.

Two versions of the 'Acoustic Compliance Review – Sydney Polo Club' report prepared by The Acoustic Group (dated 17 February 2015 and 19 February 2015) were submitted with the application. The Reports included a review of the acoustic assessment prepared by Day Design P/L (Reference 5424-1-1R, dated 3 July 2014) which accompanied the previous development application (DA0429/14) for the proposed use of the Polo Barn as a restaurant.

The Day Design Report had made specific recommendations regarding the structure, modifications to the building, changes to glazing and keeping certain doors closed to mitigate any noise impacts from the use of the building. However, the reports by The Acoustic Group have not advised if any of these recommendations are going to be implemented or reasons why if they are not.

Council's Environmental Health Co-ordinator has reviewed both the Day Design Report and The Acoustic Group Reports and has identified a number of deficiencies, including discrepancies in background noise readings between reports, unsubstantiated statements, and assumptions based on an incorrect distance to nearest receptor. In addition, the two reports by The Acoustic Group contradict each other.

Whilst the application fails to demonstrate that the development will not generate adverse noise impacts for residents within the vicinity of the proposed development, it is acknowledged that measures can be implemented to mitigate noise impacts, including acoustic treatment of the building and by limiting noise levels. Should the application be supported in principle, conditions of consent can be imposed requiring the submission of an acoustic report demonstrating that noise generated by the development will have no unreasonable impacts on the locality, prior to any events taking place.

It is also acknowledged that the management of the activity will also play a role in mitigating any adverse impacts on the amenity of the locality. This is evident since the issue of the Direction to Take Preventative Action issued for the site in November 2014. Since the issue of that Direction Council's noise monitoring has not identified any non-compliances with that Direction. In this regard, an operation management plan will also be required as a condition of any consent.

Given the above it is proposed that, if approved, any consent be limited in time. In this regard a period of three years is proposed to ensure that the use can be considered as 'temporary' and that any measures employed to mitigate the impacts of the development can be monitored.

It is concluded that, subject to conditions of consent, the proposed development can achieve consistency with the requirements of the Clause.

Clause 4.3 Height of buildings

The maximum height of the building is 7.199m which is well below the maximum building height of 10m required by this Clause.

Clause 6.1 – Acid Sulphate Soils

The land affected by the development falls within Class 4 and Class 5 as identified on the Acid Sulfate Soils Planning Map. The proposed development does not include any works as defined within this clause and therefore no further investigations in respect to acid sulphate soils are required. The proposal is consistent with the requirements of this Clause.

Clause 6.3 – Flood Planning

"(1) The objectives of this clause are as follows:

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published by the NSW Government in April 2005, unless it is otherwise defined in this clause.

(5) In this clause:

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event."

Council's mapping indicates that the area of the site that accommodates the Polo Barn has a land level of approximately 15m AHD. It is also noted that the main access route to and from the site is as low as 10m AHD and the main parking area has a minimum level at approximately 11m AHD. The property is therefore defined as flood prone land.

The adopted 1-in-100 year flood level for the area is approximately 17.4m AHD. The Hawkesbury Nepean Flood Study also identifies that the level for the 1 in 5 (20%) chance per year is 12.5m. Therefore it is considered that the property will be subject to flooding on a frequent basis. Access to the subject property from Richmond is via Triangle or Onus Lane and Ridges Lane. These Roads are located below the 1 in 100 year flood level, and high hazard areas exist in the vicinity, effectively cutting off the evacuation route from the subject property to flood free land within Richmond.

The Applicant states:

"The proposal is for the temporary use of an existing barn for functions. The building will not be occupied by persons on any long term basis. Rather, patrons will attend the premises for short periods only for meals and entertainment.

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The road access will be inundated by backwaters prior to the land itself being flooded. There is generally a warning in this location of at least 24 hours prior to a flood event. The premises will close during flood warning periods to ensure that there is no risk to life. There is also sufficient warning to ensure that there is no unnecessary loss of property.

It is considered that the proposed temporary use is compatible with the flood hazard associated with the land as the use will not be operating during times of flood. There is no information available at this time about the effects of climate change on flood behaviour in this area."

Having regard to the principles of the NSW Government Floodplain Development Manual April 2005, it is considered that part of the subject land is within a flood-prone land category of High Hazard - Flood Storage.

Whilst a significant portion of visitors to the site would be unfamiliar with the area, the nature of flooding and evacuation procedures, the effective warning time for an impending flood would be in excess of 24 hours. With the preparation of a Flood Evacuation Management Plan, as well as the implementation of appropriate management practices for events, such as the cancelling of functions once a flood warning has been given, it is considered that the proposed use is compatible with the flood hazard associated with the land.

A Flood Evacuation Management Plan has not been provided in conjunction with the application however it is acknowledged that this would ordinarily be required to be prepared as a condition of consent.

Given the proposal utilises an existing building it is considered that the development will not affect flood behaviour in the locality, adversely affect the environment or cause erosion, siltation, the destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The following matters, contained in Council's Development of Flood Liable Land Policy must also be applied when assessing an application on flood affected land or to which Clause 6.3 of the HLEP 2012 applies:

- "1. A building shall not be erected on any land lying at a level lower than 3 metres below the 1:100 ARI (average recurrent interval) flood event level for the area in which the land is situated, except as provided by subclauses (3) and (5).
2. Each habitable room in a building situated on any land to which this Policy applies shall have a floor level no lower than the 1:100 ARI (average recurrent interval) flood event level for the area in which the land is located.
3. Notwithstanding subclauses (1), (2), (7) and (8), a building that was lawfully situated on any land at 30 June 1997 may 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 3 metres below the floor height standard for the land immediately before the commencement day.
4. The assessment of a development application must consider the flood liability of access to the land and, if the land is within a floodway area, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this Policy have been satisfied. In this regard the access to, and egress from, the land should not result in a travel path through areas of higher flood hazard risk and the development should not result in the occupants/users of the development being isolated and requiring rescue.

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5. *Minor (Non-Habitable) structures such as Farm Buildings, Outbuildings, Sheds, Garages and other Ancillary Structures may be erected on land below the 1:100 ARI (average recurrent interval) flood event level. However, the assessment of a development application for such a structure must consider the likely frequency of flooding, the potential flood damage (to both the subject structure and to other surrounding property should the structure be washed away) and measures to be taken for the evacuation of the property. In this regard the access to, and egress from, the land should not result in a travel path through areas of higher flood hazard risk.*
6. *Any part of a building below the 1:100 ARI (average recurrent interval) flood event level is to be constructed of flood compatible materials."*

The subject building satisfies Clause 1 above in that it is located on land that is not less than 3m below the adopted 1-in-100 year flood level. The proposal involves the use of an existing building for a non-habitable purpose so as to also satisfy Clause 5 of the Development of Flood Liable Land Policy.

Access to the site from Ridges Lane will require visitors to pass through areas of higher flood hazard, which is contrary to the Policy. However, access to the site will be inundated by backwaters prior to the land itself being flooded. Warnings will generally be issued a minimum of 24 hours before any major flooding event which should be sufficient to allow for the closure of the premises during periods of flood risk.

It is considered that the proposal, being a non-residential use, will generally satisfy Clause 6.3 of the HLEP 2012 and Council's Development of Flood Liable Land Policy.

Clause 6.4 – Terrestrial Biodiversity

Northern and southern portions of the site are identified on the Terrestrial Biodiversity Map as comprising 'Endangered Ecological Communities' and 'Connectivity between significant vegetation' under this Clause. It is noted that no tree removal is proposed in conjunction with the proposal and the development area is clear of the mapped areas identified above. The development is therefore seen to be consistent with this Clause.

Clause 6.5 – Wetlands

The development is located a minimum of approximately 250m from the wetland located on the property and approximately 186m from the closest mapped wetland located on a nearby property.

The car parking area adjacent to Powells Lane will require upgrading to provide an all-weather surface. These works will have no significant adverse impact on the wetland. The upgrading of car parking areas will reduce erosion and thereby sedimentation of downstream watercourses and wetlands.

Clause 6.7 – Essential Services

The Applicant advises:

"All drinking water will be commercially packaged bottled water. All food will be prepared off site in commercial kitchens by contract caterers and delivered to the building ready to serve to patrons. Roof water will be collected in a tank and reticulated for toilet flushing and hand washing. All taps within the amenities will be labelled "water not suitable for drinking".

The use of bottled water within the food service and preparation areas can be ensured through conditions of consent.

Electricity is connected to the building.

As previously discussed, given the unsuitability of the existing sewage management facility, it will be a requirement that portable toilets be provided to service the events.

Given the land levels, stormwater runoff from the car park areas will remain, and be managed on the property.

Access roads within the property are considered to be suitable for the proposed development.

(a)(ii) Draft Environmental Planning Instruments

There are no Draft Environmental Planning Instruments applicable to the proposed development or the subject land.

(a)(iii) Development Control Plans

Hawkesbury Development Control Plan 2002

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

Part A Chapter 3 – Notification

The application was notified in accordance with Part A Chapter 3 of the HDCP 2002. As a result five submissions raising objection to the proposal have been received in response to the application. The matters raised in these submissions are discussed later in this Report.

Part C Chapter 2 – Car parking and Access

Part C Chapter 2 of the HDCP 2002 outlines that car parking for 'restaurants, reception centres and refreshment rooms' is to be provided at a rate of one space per 20m² of gross floor area or one space per three seats, whichever is greater.

Based on a 200 seats capacity, 67 car parking spaces are required. The development proposes to provide a total of 40 spaces within two car parks. Ten spaces will be provided in an area adjacent to the building, with one of these spaces designated as a disabled space. The main car park, located approximately 200m to the south east, will provide 30 car spaces.

The Applicant states:

"The application proposes a total of 40 nominated car parking spaces. There is adequate overflow parking available adjacent to the larger of the two car parking areas. It is submitted that the parking provisions will be adequate for the proposed temporary development."

Whilst the Applicant does not provide any justification for the short fall in parking spaces, on a short term basis, the use of grassed areas for overflow parking is considered acceptable. However, on a long term basis, the continued use of these areas for parking may lead to land degradation if not upgraded. For this reason, the imposition of a time limit on any consent is further justified.

(a)(iiia) Planning Agreements

There has been no planning agreement or draft planning agreement entered into under Section 93F of the EP&A Act.

(a)(iv) Matters prescribed by the Regulations

The EP&A Regulation 2000 outlines that the development is to:

- Comply with the National Construction Code / Building Code of Australia (BCA);
- be levied against Council's S94A Development Contributions Plan (where applicable); and
- consider if any works to upgrade the building are warranted.

Suitable conditions of consent may be imposed to ensure compliance with these requirements should the application be approved.

(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*

Context and Setting

Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite side of the Hawkesbury River comprises a steep escarpment with residential properties located at the top of that escarpment along Terrace Road.

It is considered that the proposed development will have no unreasonable impacts on the locality in respect to overshadowing, loss of views or vistas, or loss of visual or acoustic privacy given the size of the property, the location of the development on the land, and the presence of existing vegetation and landscaping.

However, as previously discussed, noise generated by the development has the potential to adversely impact the locality. Subject to the Applicant demonstrating that noise levels can meet legislative requirements, it is concluded that the proposed use is generally compatible with the existing land uses within the area. It is noted that noise monitoring by Council over the last 6 months indicates that this conclusion is reasonable.

Access, Transport and Traffic

At a rate of three persons per car, the proposed development would generate 67 vehicles to the site. The Applicant advises that a maximum of three delivery vehicles per day would be expected and that the maximum number of staff would be 10. This would result in a maximum of 80 vehicles entering or leaving the site at any one time.

A similar development is also proposed on the adjoining property known as 106 Ridges Lane, Richmond Lowlands within the existing buildings known as 'Sunnybrook Barn' (DA0157/15). This development also proposes a maximum number of guests at each function of 200, and therefore will generate the same traffic volumes.

Therefore the cumulative impact of both developments in regard to traffic generation would be expected to be a maximum of 160 vehicles for both premises, assuming that they both operate at capacity at the same time. However, it is recognised that not everyone will arrive and depart at the same time, and deliveries usually occur outside of the peak times.

Given the above, it is considered that the proposed development is unlikely to result in unreasonable traffic, transport or access impacts upon the surrounding road network having regard to the current usage of the roads in the locality, their capacity and condition.

The proposal provides suitable access and parking for the effective and efficient operation of the site on a temporary and short term basis

(c) Suitability of the site for the development

Adequate services and utilities are available to the site.

The development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats as no clearing of native vegetation is required.

The flooding affectation of the land is not prohibitive to the proposed development as previously discussed.

The site is located within a rural area subject to low background noise levels. However this is not considered to be prohibitive to the development as mitigation measures (as has been demonstrated in recent months via Council's noise monitoring) can be undertaken to achieve compliance with relevant noise controls.

The site is considered to be suitable for the development subject to the implementation of the conditions attached to this Report.

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

The application was notified in accordance with the HDCP 2002. Responses from five adjoining property owners were received in response to this notification. The matters raised in the submissions are discussed below:

- the 'Polo Barn' building has been modified without development consent, and no Building Certificate has been obtained.
- The building is not compliant with the Building Code of Australia.

Comment: It is acknowledged that unauthorised works have been undertaken within the building as has occurred on some adjoining properties. However, if required this may be addressed through the Building Certificate process that would be addressed via consent conditions should the development be approved. A Building Code of Australia compliance report was submitted for a previous application for the site and that report concluded that the building required relatively minor upgrades to make compliant. Obviously those upgrades would depend on the use that is approved for the site and the ultimate BCA classification. In this regard, an upgraded report demonstrating compliance or otherwise with the National Construction Code/Building Code of Australia would be required, including matters relating to fire safety and disabled access. Should significant works be required to upgrade the building, a separate development application may need to be lodged.

- the use of the 'Polo Barn' building for functions will adversely impact adjoining land with particular respect to noise generation.
- The application does not propose any sound proofing measure to the building.
- Two versions of the acoustic review were submitted with the application, and these reports contradict each other.

Comment: As previously discussed, it is agreed that the application does not satisfactorily demonstrate the likely impacts of noise generated by the development. However, should the application be supported in principle, conditions of consent can be imposed requiring the submission for approval by the Principal Certifying Authority of an acoustic report demonstrating that noise generated by the development will have no unreasonable impacts on the locality, prior to any events taking place. In this regard, the cumulative impact of the use of both the Polo Barn and the Sunnybrook Barn (DA0157/15) for functions would need to be taken into consideration when proposing mitigation measures to achieve acceptable noise levels. This would appear to be possible given noise monitoring by Council over recent months at the site.

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It is considered that noise generated by increased traffic within the locality would not be unreasonable as it would be short lived. However, noise associated with the arrival and departure of guests has the potential to cause a nuisance. Management practices can be employed to minimise noise resulting from patrons. In this regard a Patron Management Plan will be required as a condition of any consent.

- The application does not provide event details;

Comment: It is confirmed that the application does not provide specific details in respect to events, as approval is not only being sought for the previously booked weddings (details of which have previously been submitted to Council and obtained by objectors), it is also being sought for future functions, being primarily associated with polo events.

The monitoring of the number of functions held on the property can be resolved through conditions of consent requiring the keeping of a register.

- The proposed development will have an adverse impact from increased traffic.

Comment: Having regard to the current low traffic volumes of roads and polo events held on adjoining properties from time to time within the locality, it is considered that traffic generated by the proposed development will have no adverse impact on the road network. This matter has been discussed previously within this Report.

Access to the property and internal driveways are existing and considered suitable for the proposed use.

- One Respondent raised concern about not being notified of the development

Comment: It is confirmed that the application was notified and publicly exhibited in accordance with Hawkesbury Development Control Plan. All adjoining property owners/occupiers were notified in writing, including the Respondent. The evidence on Council's records does not support this claim.

(e) The Public Interest

The proposed development is considered to be generally consistent with the relevant legislation and policies. With the clarification of potential noise impacts and the implementation of mitigation measure, it is considered that the proposed development will have no adverse impact on the amenity of the locality. This matter can be resolved through conditions of consent if the proposal is supported.

On this basis it is considered that the proposed development is not contrary to the public interest.

Developer Contributions

Based on the supplied estimated value-of-work a Section 94A Development Contribution is not applicable.

Conclusion

The proposed development is considered to be consistent with the relevant provisions of Hawkesbury Local Environmental Plan 2012, Sydney Regional Environmental Plan No. 9, Sydney Regional Environmental Plan No. 20, State Environmental Planning Policies No. 44 & 55, Hawkesbury Development Control Plan, and other relevant policies.

Having regard to the disposal of wastewater, the provision of parking and the suitability of existing facilities and infrastructure on the site, it is concluded that the carrying out of the development on a short term basis will have no significant adverse impact on the natural and built environment. For this reason a time limited approval is recommended.

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It is acknowledged that the application does not satisfactorily demonstrate that the existing building meets the requirements of the Building Code of Australia, especially in relation to fire safety, disabled access and the unlawful works carried out internally. However, as discussed these matters can be resolved with submission of an updated BCA report and the issue of a Building Certificate.

It is further considered that potential noise impacts from the development can be mitigated by way of acoustic treatment and management practices. This is demonstrated by previous noise monitoring of the site by Council. In this regard conditions can be imposed in any consent requiring submission of a satisfactory acoustic report and a patron management plan for approval. Any recommendations within the approved acoustic report would be implemented prior to the use of the building for any functions.

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 Council as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 approve Development Application No. DA0156/15 for the temporary use of the land for functions on Lot 25 DP 633770, known as 1 Powells Lane, Richmond Lowlands, subject to the following conditions:

General Conditions

1. The development shall take place generally in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. This consent is limited in time and shall expire on 30 June 2018.
3. The building shall not be used for functions prior to the issue of an Occupation Certificate.
4. The development shall comply with the provisions of the National Construction Code/ Building Code of Australia.
5. Potable water shall be provided to the development in accordance with the NSW Health Private Water Supply Guidelines.
6. An acoustic report must be submitted for approval to Hawkesbury City Council demonstrating that the noise emitted from the development does not exceed more than 5 dB(A) above background noise levels in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) prior to midnight at the boundary of any affected residence. The noise from the development must not be audible within any habitable room in any residential premises after midnight.

Should the acoustic report make recommendations resulting in any works, separate development consent will be required.

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7. A 149D Building Certificate application for the unapproved works within the existing building shall be submitted to Hawkesbury City Council. The building certificate must be issued prior to the issue of any occupation certificate. The following information must be submitted with the application:
 - a) A report, prepared by a suitably qualified person, demonstrating compliance or otherwise with the National Construction Code/Building Code of Australia. Where any non-compliances exist, the report must make recommendations to address the non-compliances. Particular attention shall be given to egress from the building in the event of an emergency and fire safety measures.
 - b) A structural engineer's certificate certifying the existing structure is capable of withstanding the loads likely to be imposed on it, including resistance to the impact of floodwater in respect to debris and buoyancy forces.
 - c) A statutory declaration or certificate of compliance and a drainage diagram from a licensed plumber is to be provided in relation to sanitary plumbing.
 - d) A termite treatment certificate from a licensed contractor certifying that the structure complies with Australian Standard AS 3660.
 - e) A certificate for wet area waterproofing.

Prior to Commencement of Works

8. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
9. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
10. 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.
11. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
12. 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.
13. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - a) Unauthorised access to the site is prohibited.
 - b) The owner of the site.
 - c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - d) The name and contact number of the Principal Certifying Authority.

During Construction

14. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
15. Forty car parking spaces to service the development, together with access driveways and turning areas, shall be constructed with an all-weather seal, line marked, signposted and maintained. The car park is to comply with AS2890.1 2004, as a minimum standard.
16. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.

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17. Disabled parking shall be provided in accordance with AS2890.6 - 2009.
18. A servicing area with a minimum all-weather surface is to be provided in a suitable location adjacent to the development. The dimensions of the service area are to comply with the requirements of AS2890.2, 2002, for the largest vehicle required to regularly service the site.
19. During the demolition and construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
20. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am - 6pm and on Saturdays between 8am - 4pm.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project.

Prior to Issue of the Final Occupation Certificate

22. 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 Services for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building on a prominent location and maintained at all times.
23. 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.
24. All recommendations within the approved acoustic report required by Condition 6 of this Consent must be implemented prior to the issue of any occupation certificate.
25. The 149D Building Certificate required by Condition 7 of this Consent must be issued prior to the issue of any occupation certificate.
26. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
27. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
28. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
29. A works as executed plan shall be submitted to Council on completion of the car park construction works. The plan shall demonstrate that the car parking and servicing areas have been provided in accordance with the conditions of consent.
30. All premises offering food, packaged or otherwise, are to be registered with Council and have inspections conducted by Council's officers as necessary/required. These premises are required to comply with the Food Act 2003, associated Regulations, and the Food Safety Standards 3.2.2 and 3.2.3. These are available on line at www.foodstandards.gov.au. A plan showing the food preparation/serving area and details demonstrating compliance with the Food Act, 2003 and associated regulations and standards must be submitted with the registration form

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31. A patron management plan for the use of the land for functions shall be submitted to and approved by Hawkesbury City Council. The Plan shall address, but not be limited to:
- a) noise generated from patrons entering or leaving the premises, from within car parking areas and outdoor areas
 - b) monitoring/management of noise generated from music and PA systems
 - c) antisocial behaviour
 - d) the responsible service of alcohol
 - e) responsibility for the management of events. For example, and in addition to the items above, who ensures that music ceases and patrons have left the site by the nominated times.

The Plan must detail any likely impacts generated by the use of the premises and propose suitable measures to mitigate these impacts.

Use of the Development

32. The operator shall keep a register detailing the date and times of when the premises is being used for a function and the number of guests attending. This register must be made available to Council officers on request.
33. No more than 28 days within a 12 month period shall be used for the holding of functions on the land.
34. No more than 200 guests are permitted at any function at any given time.
35. A copy of this Development Consent shall be kept on the premises at all times and be made available to Council, Police or other authorised persons upon request.
36. Operating hours shall be limited to:
- Sunday – Thursday: 2pm to 11pm
- All music must cease by 10:30pm
All patrons must leave the premises by 11pm.
- Friday – Saturday: 2pm to 12 midnight
- All music must cease by 11:30pm
All patrons must leave the premises by 12 midnight.
37. All music, entertainment and speeches are only to be conducted within the 'Polo Barn' building.
38. Signs must be placed in clearly visible positions within the building requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
39. Service deliveries to and from the site shall be limited to 7am to 5pm Monday to Sunday.
40. The activity shall be carried out in accordance with the Patron Management Plan.
41. Portable toilets are to be provided to service each function. Amenities are required to be provided for a maximum number of people attending and at the following rates:
- a) male facilities are to be provided at a rate of 3 water closets, 8 urinals and 2 hand basins per 500 people attending
 - b) female facilities are to be provided at a rate of 13 water closets and 2 hand basins per 500 people attending
 - c) hand washing facilities are required at a rate of one hand wash facility per 125 people attending.

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42. All Portable toilets and amenities are to be removed from the site within 24 hours of the completion of each function.
43. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - a) been assessed by a properly qualified person
 - b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
44. The noise emitted from the development must not exceed more than 5 dB(A) above background noise levels in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) prior to midnight at the boundary of any affected residence. The noise from the development shall not be audible within any habitable room in any residential premises after midnight.
45. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
46. The lighting from the development is to be directed away from surrounding properties, at an angle of 45 degrees towards the ground and shielded if needed to prevent any light spillage onto adjoining properties.
47. All work and the storage of goods, materials and waste shall be confined within the building or approved storage areas at all times.
48. All waste materials are to be stored in covered waste storage bins and regularly removed from the property. Waste is to be separated where appropriate for re-use and recycling purposes. Waste is to be contained in such a manner to prevent it from being blown, moved or located around the property or surrounding properties.

Advisory Notes

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
- *** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- *** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- *** Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- *** 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.

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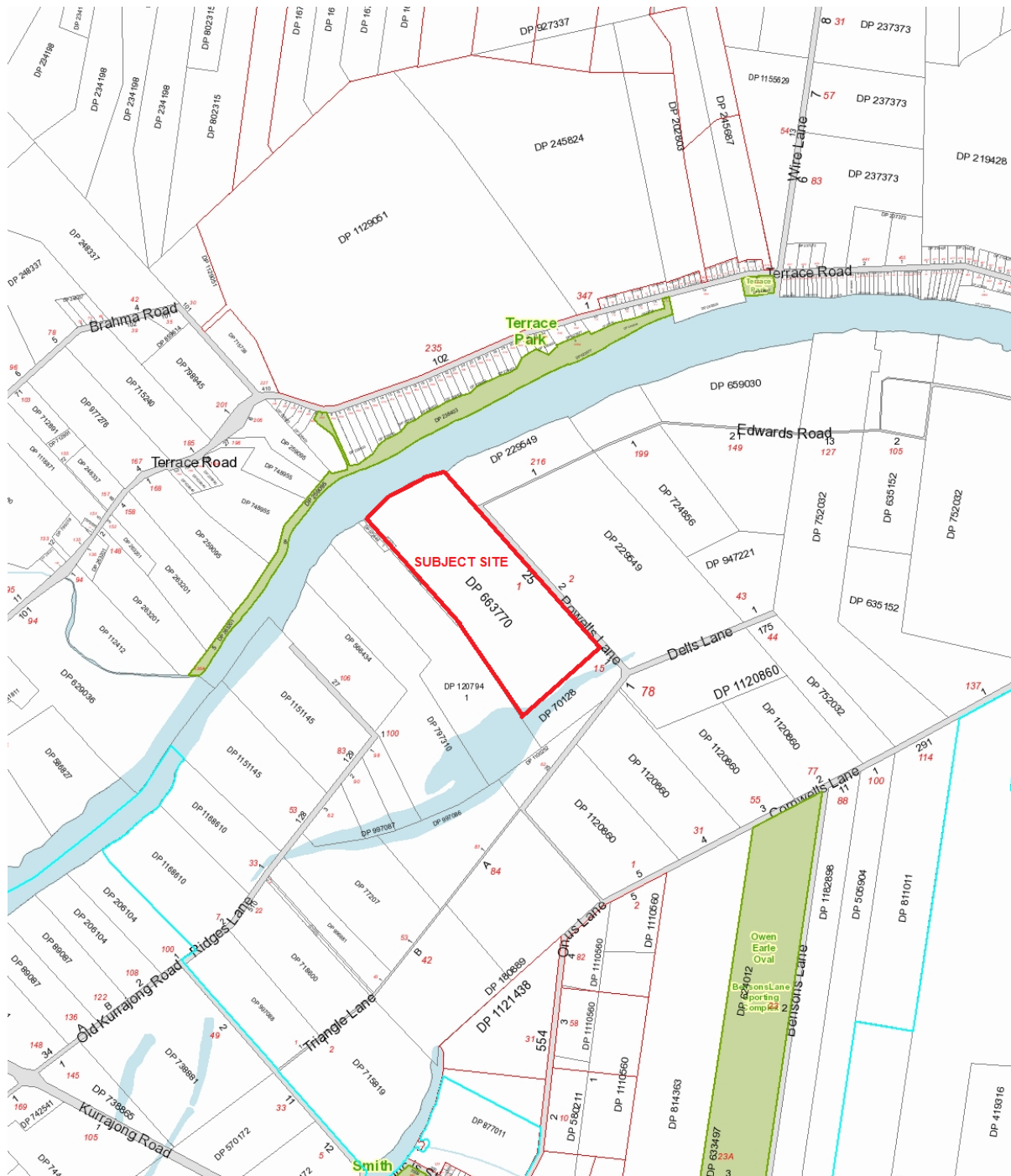
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ATTACHMENTS:

- AT - 1** Locality Map
- AT - 2** Aerial Map
- AT - 3** Site Plan
- AT - 4** Floor Plan of Existing Building (Polo Barn)

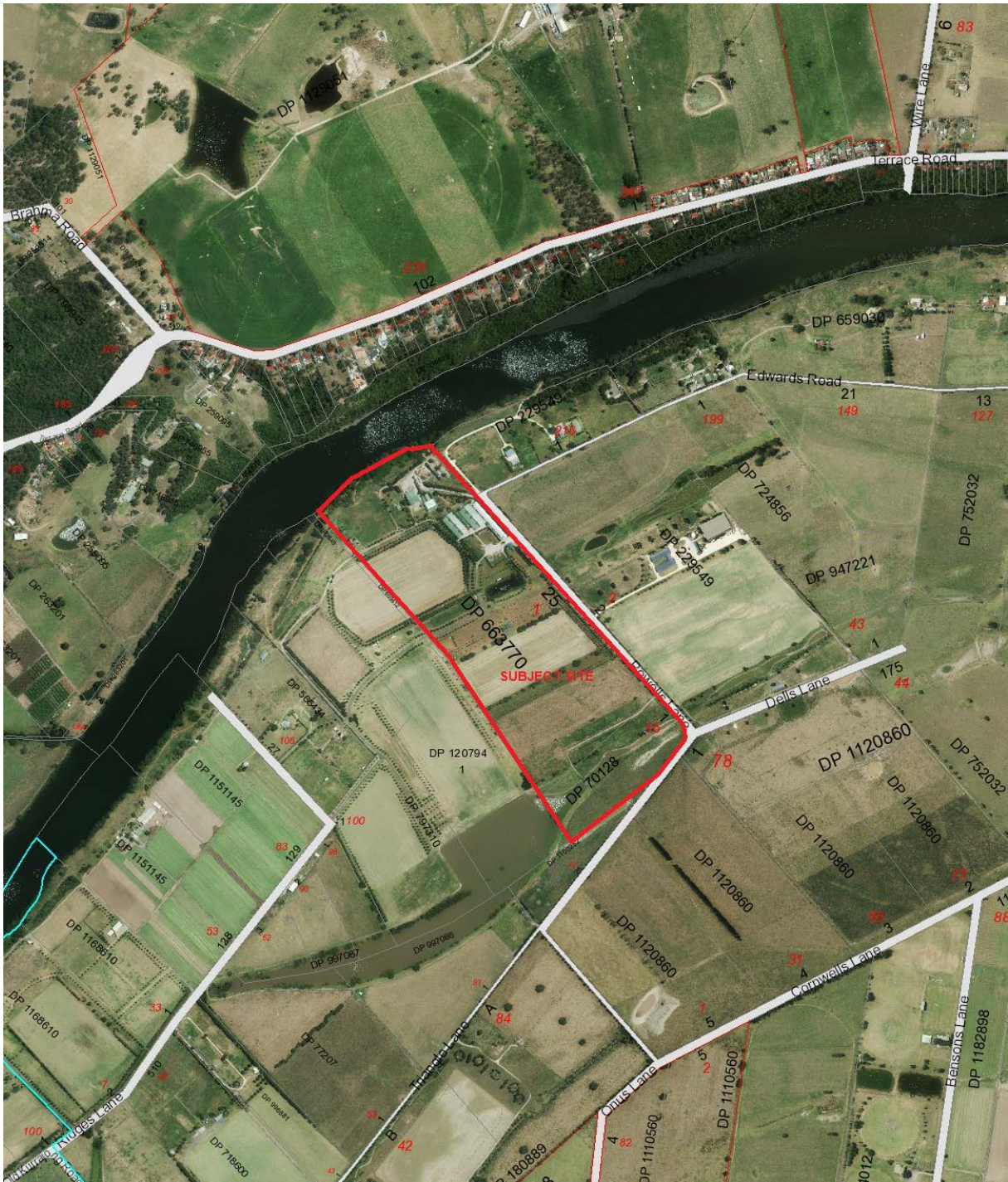
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AT - 1 Locality Map



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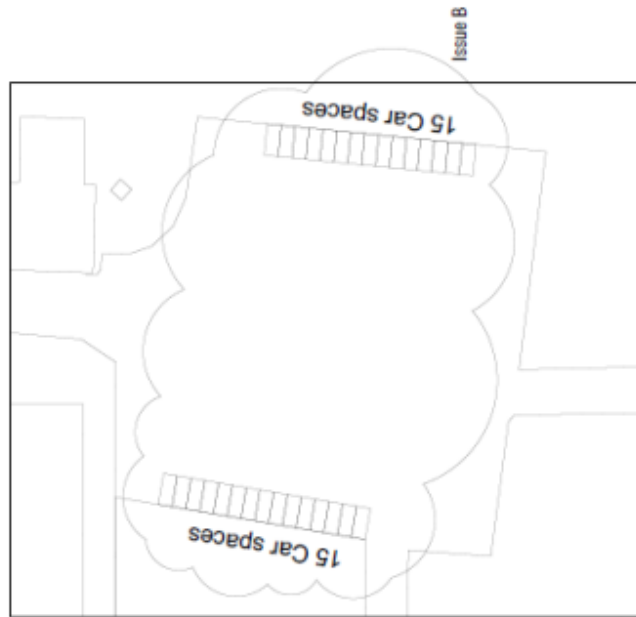
AT - 2 Aerial Map



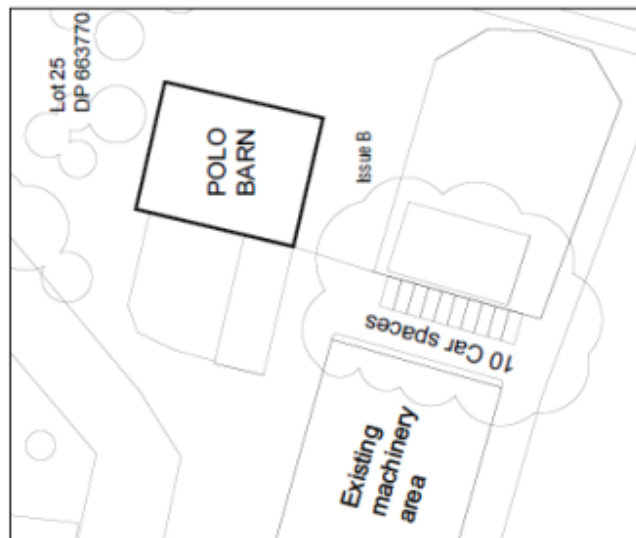
Meeting Date: 12 May 2015

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1 Location Plan



3 Parking Plan 2

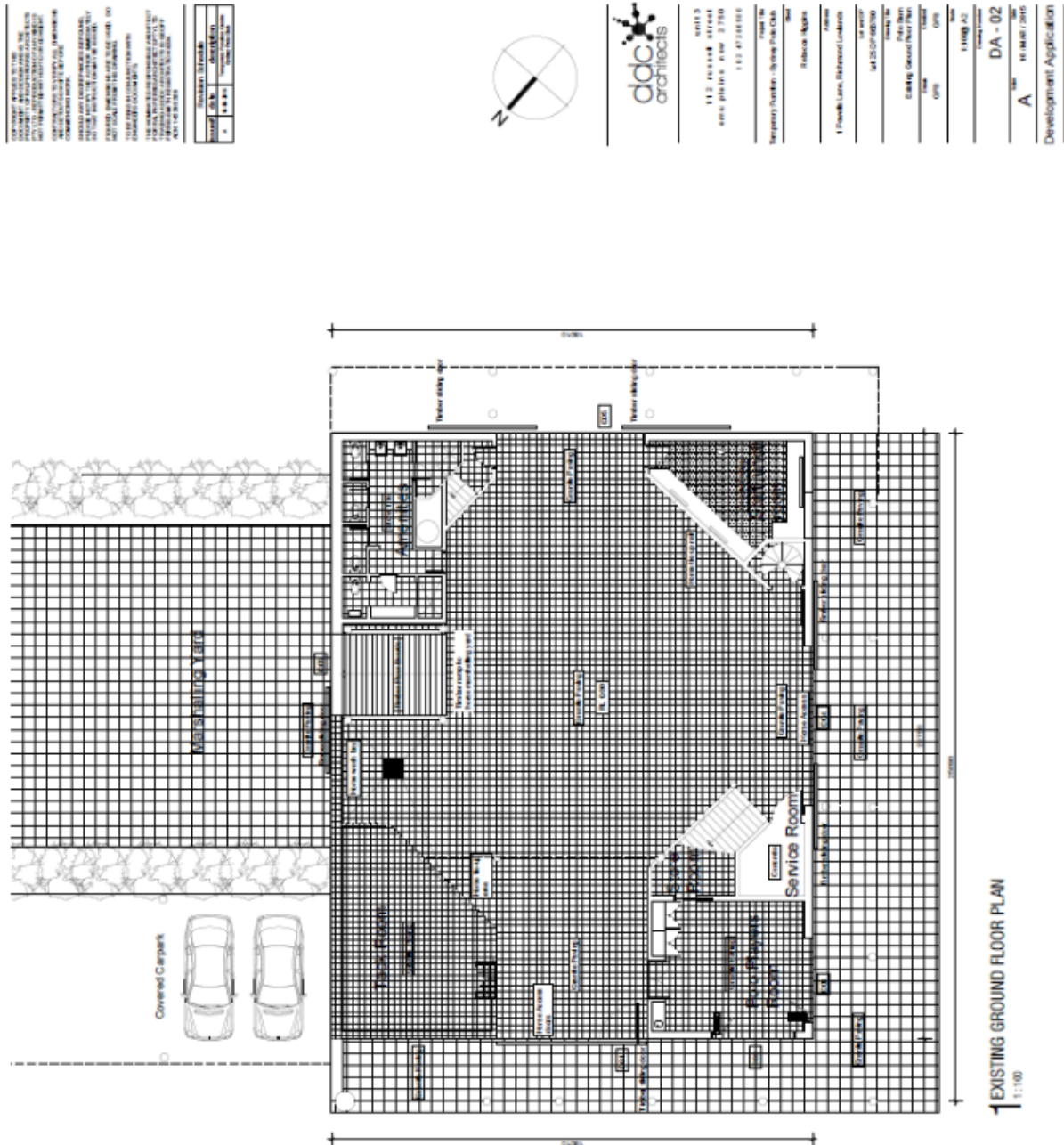


2 Parking Plan 1.

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AT - 4 Floor Plan of Existing Building (Polo Barn)



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Item: 68 CP - Development Report - DA0157/15 - Lot 27 DP 566434 - 106 Ridges Lane, Richmond Lowlands - Temporary use of an existing building - (95498, 102260, 78522)

Previous Item: 4, Ordinary (3 February 2015)

Development Information

File Number: DA0157/15
Property Address: 106 Ridges Lane, Richmond Lowlands
Applicant: Montgomery Planning Solutions
Owner: Basscave Pty Ltd
Proposal Details: Temporary Use - Temporary use of the existing building (Sunnybrook Barn) for the holding of functions
Estimated Cost: \$0
Zone: RU2 Rural Landscape
Date Received: 20/03/2015
Advertising: 7/04/2015 - 21/04/2015

Key Issues:

- ◆ Noise
- ◆ Flooding
- ◆ Onsite wastewater disposal
- ◆ Management of the development
- ◆ Unlawful works
- ◆ Compliance with the Building Code of Australia

Recommendation: Approval

REPORT:

Executive Summary

This application seeks approval for the temporary use of an existing building for the holding of functions at 106 Ridges Lane, Richmond Lowlands. The subject building is described in the plans and documentation as the 'Sunnybrook Barn'.

Clause 2.8 of Hawkesbury Local Environmental Plan 2012 permits land to be used for any purpose as a temporary use subject to certain requirements, including Council's satisfaction that the use will have no adverse impacts on the environment or the amenity of the neighbourhood. This Clause only allows the use to be carried out for a maximum of 28 days within any 12 month period.

The application was publicly notified from 7 April 2015 to 21 April 2015. Two submissions were received objecting to the development. A summary of the matters raised in the submissions are as follows:

- the 'Sunnybrook Barn' building has been modified without development consent, and no Building Certificate has been obtained;
- the use of the 'Sunnybrook Barn' building for functions will adversely impact adjoining land with particular respect to noise generation;
- The building is not compliant with the Building Code of Australia;
- The application does not propose any sound proofing measures to the building;
- Two versions of the acoustic review were submitted with the application, and these reports contradict each other.
- The application does not provide event details;
- The proposed development will have an adverse impact from increased traffic

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There is no objection, in principle, to the proposed use of the building for functions if that use has no adverse impact on the environment and the amenity of surrounding properties, especially in respect to noise. In this regard the matters raised in the submissions are relevant, however these matters can be resolved through conditions of consent.

Given the nature and scale of the proposed development, it is proposed that, if approved, any consent be limited in time. In this regard a period of three years is proposed. In doing so, it will ensure that the use can be considered as 'temporary', and that any measures employed to mitigate the impacts of the development can be monitored.

In addition, the manner in which it is proposed to manage effluent disposal, car parking and access roads, whilst suitable in the short term, is not considered to be desirable or sustainable for the long term operation of the development.

It is recommended that the application be approved.

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 for the temporary use of an existing building (the Sunnybrook Barn) for functions. The proposal specifically involves the following:

- Use of the Sunnybrook Barn for wedding receptions and functions associated with polo events. It is proposed that a maximum of 28 functions will be held within any 12 month period. It is proposed that only the ground floor of the building will be used for these purposes. The first floor mezzanine of the building will not be used for functions.
- The provision of hardstand car parking spaces for 40 vehicles.
- The provision of 27 overflow car parking spaces

The supplied documentation outlines the following operational details for the proposed use:

- Seating for up to 200 patrons.
- Operating hours of:
 - Sunday – Thursday: 2pm to 11pm – music off by 10:30pm and all patrons to leave premises by 11pm.
 - Friday – Saturday: 2pm to 12 midnight – music off by 11:30pm and all patrons to leave premises by 12 midnight.
- 10 staff (maximum).

No signage is proposed. The development does not involve the removal of any native vegetation onsite.

Site and Locality Description

The subject property consists of two allotments that are legally described as Lot 27 DP 566434 and Lot 1 DP 797310 and have a combined site area of approximately 27 Hectares. The site adjoins Ridges Lane to the west and has a northern frontage to the Hawkesbury River. The property is located within the Richmond Lowlands, approximately 2km from the Richmond town centre.

The site contains a number of polo fields, wetlands, a dwelling house and a number of outbuildings, including the subject Sunnybrook Barn. Sunnybrook Barn is located within the north eastern corner of the site.

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Sunnybrook Barn is accessible via a private road from Ridges Lane.

Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite of the Hawkesbury River comprises of a steep escarpment with residential properties located at the top of this escarpment along Terrace Road.

Background

- On 15 June 2014 a Notice of Intention to Serve an Order under the EP&A Act was issued to the owner to cease the unauthorised use of the site for wedding receptions and other functions.
- Development Application DA0430/14 to use the Sunnybrook Barn as a restaurant was lodged with Council on 4 July 2014.
- On 12 September 2014, an Order under the EP&A Act was issued to the owner to cease the unauthorised use of the site for weddings and functions.
- On 17 November 2014 a Direction to Take Preventative Action under the Protection of the Environment Operations Act 1997 was issued to the owners of the land. This Direction related to noise from the site and specified noise limits for the site. Monitoring of the compliance with that Direction since has not identified any non-compliances.
- Argosy Agricultural Group Pty Ltd, Sydney Polo Club Pty Ltd and Peter and Rebecca Higgins provided an undertaking on 17 December 2014 that they would refrain from promoting the venue or taking any further bookings for the use as a Function Centre (Wedding Receptions) until further discussions take place with Council officers early in 2015.
- The Applicant filed a Class 1 Appeal against Council's deemed refusal of DA0430/14 on 12 December 2014.
- At Council's Meeting of 3 February 2015 it was resolved to refuse DA0430/14.
- The Class 1 Appeal was dismissed on 20 March 2015
- Development Application DA0157/15 (the application subject to this report) was lodged on 20 March 2015

Development Plans Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP No. 44)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- Sydney Regional Environmental Plan No. 9 – Extractive Industry (SREP No. 9)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan 2012 (HLEP 2012)
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

In determining the application, Council is required to take into consideration the following matters relevant to the development that applies to the type of development and the land to which the development relates:

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**State Environmental Planning Policy No. 44 – Koala Habitat Protection**

State Environmental Planning Policy No. 44 - Koala Habitat applies to land within the Hawkesbury Local Government Area to which a development application has been made and has an area of more than 1 hectare.

Circular No. B35 was issued by the former Department of Planning (DIPNR) on 22 March 1995. The purpose of the Circular was to provide information relating to the implementation of SEPP 44 and to provide the Guidelines made by the Director for the purposes of the SEPP. Section 1.5 of the Circular states, inter alia, that:

"In relation to affected DAs it is the intention of the policy that investigations for "potential" and "core" koala habitats be limited to those areas in which it is proposed to disturb habitat".

The site exceeds 1 hectare in area and therefore triggers the requirements of SEPP No. 44. However, the proposed development does not require the removal of native vegetation and will therefore not disturb habitat areas within the site. Consequently, an investigation into whether or not the land is potential koala habitat is not required for the development.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7(1) of SEPP No. 55 outlines that 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 has a history of being used for agricultural, sporting and residential purposes. The subject building is of modern construction (approved with Development Consent No. DA1127/04) and was previously used for the storage of hay prior to its current use. It is unlikely that such uses would have contaminated the land. The land is therefore considered suitable for the proposed commercial development with regard to the provisions of SEPP No. 55.

Sydney Regional Environmental Plan No. 9 – Extractive Industry (SREP No. 9)

This Plan aims to facilitate extractive industries by identifying land which contains material of regional significance, ensuring consideration is given to the impacts of other development on these industries and to promote the carrying out of these industries in an environmentally acceptable manner.

The subject property is located on land that is identified in Schedule 5 of this Plan being "the land identified on Sheet 9 of the map as Richmond Lowlands sand/gravel".

Whilst the land is subject to this Policy, SREP No. 9 does not contain any specific requirements in relation to the individual development of the land for other purposes. It is considered that the proposed development will have no impact on the potential use of the land for extractive purposes in the future.

Sydney Regional Environmental Planning Policy No. 20 - Hawkesbury Nepean River

The subject land falls within the boundary of SREP 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 20 requires Council to assess development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

The subject land is situated within a scenic corridor of regional significance. In addition, a wetland identified under this Plan is located on the subject property and a number of identified wetlands are located in the vicinity of the development.

Specifically Clauses 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7) and 11(9), 11(15), 11(16) & 11(17) of the Plan are relevant to the proposal.

The proposed development involves the use of an existing building for functions. The building is situated 120m from the Hawkesbury River and existing vegetation will be maintained. Forty hard stand car parking spaces are to be provided within an existing level, previously cleared area. Internal driveways within the property exist.

Given that the proposed development does not involve building works or substantial earthworks, and is located within previously cleared areas, it is considered that the proposal will have no adverse impact on:

- the water catchment
- the habitat of native flora and fauna, including aquatic habitats
- the riverine scenic quality
- the stability of the riverbank
- the quantity and quality of water entering the Hawkesbury River or nearby watercourses and wetlands, or on groundwater quality
- land conditions.

In this regard, the proposed development is consistent with clauses 6(1), 6(2), 6(6), 6(7), 11(15) & 11(16) of this Policy.

The proposal is relying on the existing onsite wastewater treatment system to service the development. Therefore, the application is consistent with Clause 11(17) which relate only to the installation of a new system. However, the adequacy of the existing system is discussed later in this Report.

The proposal is considered to be consistent with the aims, planning considerations, planning policies, recommended strategies and development controls of SREP No. 20.

Hawkesbury Local Environmental Plan 2012

An assessment of the proposed development against the relevant provisions of Hawkesbury Local Environmental Plan 2012 follows:

Clause 2.2 Zoning of land to which Plan applies.

The Property No. 106 Ridges Lane, Richmond Lowlands is comprised of two individual lots. The Sunnybrook Barn is located on Lot 27 DP 566434 which is zoned RU2 Rural Landscape

Clause 2.3 Zone objectives and Land Use Table

Subclause (2) requires in the determination of a development application that regard is given to the objectives of the zone. It is considered that the proposed development is consistent with the objectives of the zone as:

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- the proposed development will have no adverse impact on the existing landscape and rural character, or the scenic quality of the locality given that no additional buildings are proposed and no clearing of vegetation is required. The use of an existing cleared area as a car park for 40 vehicles will have no unreasonable visual impacts.
- it is considered that the proposed use, subject to the imposition of conditions relating to noise, is compatible with, and will not create unreasonable conflicts with, the use of properties in the locality for residential, recreational and agricultural uses.
- the proposal will not result in the fragmentation or alienation of resource lands.
- the proposed development will 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 as previously discussed.
- the proposal will have no adverse impact on existing landscape values, the river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other features of scenic quality.
- the proposed use will not create unreasonable demands for the provision or extension of public amenities or services.
- the proposed development will have no adverse impact on the wetlands located on the property and within the locality having regard to their ecological, scientific, cultural and aesthetic values.

The development is located a minimum of approximately 700m from the wetland located on the property. The car parking area will require upgrading to provide an all-weather surface. These works will have no significant adverse impact on the wetland. The upgrading of car parking area will reduce erosion and thereby sedimentation of downstream watercourses and wetlands. Should sedimentation occur from the overflow parking area, given the lay of the land, any impact will remain within the property.

Clause 2.8 Temporary use of land

The Applicant is seeking approval for the temporary use of the 'Sunnybrook Barn' for the holding of functions under Clause 2.8 of HLEP 2012. Clause 2.8 states:

- “(1) the objective of this clause to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.*
- (3) Development consent must not be granted unless the consent authority is satisfied that:*
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*

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- (c) *the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
- (d) *at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use."*

The proposed development is considered to be consistent with the objectives of this Clause in that it will not compromise the future development of the land as the proposed use will utilise existing buildings, access roads and cleared areas for car parking. In this regard, at the conclusion of each function the land will be in a condition comparable to that in which it was before.

Having regard to subclause (2), the application proposes a maximum of 28 functions within a twelve month period. Should the proposal be supported, this requirement can be ensured through conditions of any consent.

The Statement of Environmental Effects (SEE) submitted in support of the application advises that:

"The purpose of this application is to provide the opportunity for Council to issue temporary approval to allow the existing booked weddings to take place."

However, further in the SEE it is stated that the function centre will also cater for functions associated with polo events. Discussions with the Applicant have also revealed that there is an expectation that if approved, the temporary use will be ongoing.

It is considered that this is contrary to what would be expected of a temporary use, that is, a use that is short in duration and infrequent. The proposed development comprising of up to 28 functions within a year, every year indefinitely, presents as a permanent development.

An onsite sewage management system exists on the land and services the facilities within the existing building. The Applicant states:

"Wastewater is treated and disposed on-site by means of the existing sewer management facility, which has serviced functions within the building for many years without incident."

It is considered that the existing system is unsuitable for the proposed use in that it is not a commercial system. In addition, a recent wastewater report, prepared by Envirotech Consultants (submitted with DA0430/14 for a 120 seat restaurant within the Sunnybrook Barn building) proposed a new system to cater for the predicted wastewater loads. The current application seeks functions for a maximum of 200 people.

In this regard, it is proposed that portable toilets be used as an acceptable short term solution. However to minimise any adverse impacts on the amenity of the locality, it will be a requirement of any consent that they be removed at the conclusion of each event within 24 hours.

Two versions of the 'Acoustic Compliance Review – Sydney Polo Club' report prepared by The Acoustic Group (dated 17 February 2015 and 19 February 2015) were submitted with the application. The Reports included a review of the acoustic assessment prepared by Day Design P/L (Reference 5424-1-1R, dated 3 July 2014) which accompanied the previous development application (DA0430/14) for the proposed use of the Sunnybrook Barn as a restaurant.

The Day Design Report had made specific recommendations regarding the structure, modifications to the building, changes to glazing and keeping certain doors closed to mitigate any noise impacts from the use of the building. However, the reports by The Acoustic Group have not advised if any of these recommendations are going to be implemented or reasons why if they are not.

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Council's Environmental Health Co-ordinator has reviewed both the Day Design Report and The Acoustic Group Reports and has identified a number of deficiencies, including discrepancies in background noise readings between reports, unsubstantiated statements, and assumptions based on an incorrect distance to nearest receptor. In addition, the two reports by The Acoustic Group contradict each other.

Whilst the application fails to demonstrate that the development will not generate adverse noise impacts for residents within the vicinity of the proposed development, it is acknowledged that measures can be implemented to mitigate noise impacts, including acoustic treatment of the building and by limiting noise levels. Should the application be supported in principle, conditions of consent can be imposed requiring the submission of an acoustic report demonstrating that noise generated by the development will have no unreasonable impacts on the locality, prior to any events taking place.

It is also acknowledged that the management of the activity will also play a role in mitigating any adverse impacts on the amenity of the locality. This is evident since the issue of the Direction to Take Preventative Action issued for the site in November 2014. Since the issue of that Direction Council's noise monitoring has not identified any non-compliances with that Direction. In this regard, an operation management plan will also be required as a condition of any consent.

Given the above it is proposed that, if approved, any consent be limited in time. In this regard a period of three years is proposed to ensure that the use can be considered as 'temporary' and that any measures employed to mitigate the impacts of the development can be monitored.

It is concluded that, subject to conditions of consent, the proposed development can achieve consistency with the requirements of the Clause.

Clause 4.3 Height of buildings

The maximum height of the building is 6.84m which is well below the maximum building height of 10m required by this Clause.

Clause 6.1 – Acid Sulphate Soils

The land affected by the development falls within Class 4 and Class 5 as identified on the Acid Sulfate Soils Planning Map. The proposed development does not include any works as defined within this clause and therefore no further investigations in respect to acid sulphate soils are required. The proposal is consistent with the requirements of this Clause.

Clause 6.3 – Flood Planning

(1) *The objectives of this clause are as follows:*

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) *to avoid significant adverse impacts on flood behaviour and the environment.*

(2) *This clause applies to land at or below the flood planning level.*

(3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

- (a) *is compatible with the flood hazard of the land, and*
- (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*

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- (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
 - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*
- (4) *A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published by the NSW Government in April 2005, unless it is otherwise defined in this clause.*
- (5) *In this clause:*

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event."

Council's mapping indicates that the area of the site that accommodates the Sunnybrook Barn has a land level of approximately 15.5m AHD. It is also noted that the main access route to and from the site is as low as 10m AHD and the parking area has a level at approximately 15m AHD. The property is therefore defined as flood prone land.

The adopted 1-in-100 year flood level for the area is approximately 17.4m AHD. The Hawkesbury Nepean Flood Study also identifies that the level for the 1 in 5 (20%) chance per year is 12.5m. Therefore, it is considered that the property will be subject to flooding on a frequent basis. Access to the subject property from Richmond is via Triangle or Onus Lane and Ridges Lane. These Roads are located below the 1 in 100 year flood level, and high hazard areas exist in the vicinity, effectively cutting off the evacuation route from the subject property to flood free land within Richmond.

The Applicant states:

"The proposal is for the temporary use of an existing barn for functions. The building will not be occupied by persons on any long term basis. Rather, patrons will attend the premises for short periods only for meals and entertainment.

The road access will be inundated by backwaters prior to the land itself being flooded. There is generally a warning in this location of at least 24 hours prior to a flood event. The premises will close during flood warning periods to ensure that there is no risk to life. There is also sufficient warning to ensure that there is no unnecessary loss of property.

It is considered that the proposed temporary use is compatible with the flood hazard associated with the land as the use will not be operating during times of flood. There is no information available at this time about the effects of climate change on flood behaviour in this area."

Having regard to the principles of the NSW Government Floodplain Development Manual April 2005, it is considered that part of the subject land is within a flood-prone land category of High Hazard - Flood Storage.

Whilst a significant portion of visitors to the site would be unfamiliar with the area, the nature of flooding and evacuation procedures, the effective warning time for an impending flood would be in excess of 24 hours. With the preparation of a Flood Evacuation Management Plan, as well as the implementation of appropriate management practices for events, such as the cancelling of functions once a flood warning has been given, it is considered that the proposed use is compatible with the flood hazard associated with the land.

A Flood Evacuation Management Plan has not been provided in conjunction with the application however it is acknowledged that this would ordinarily be required to be prepared as a condition of consent.

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Given the proposal utilises an existing building it is considered that the development will not affect flood behaviour in the locality, adversely affect the environment or cause erosion, siltation, the destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The following matters, contained in Council's Development of Flood Liable Land Policy must also be applied when assessing an application on flood affected land or to which Clause 6.3 of the HLEP 2012 applies:

- "1. A building shall not be erected on any land lying at a level lower than 3 metres below the 1:100 ARI (average recurrent interval) flood event level for the area in which the land is situated, except as provided by subclauses (3) and (5).*
- 2. Each habitable room in a building situated on any land to which this Policy applies shall have a floor level no lower than the 1:100 ARI (average recurrent interval) flood event level for the area in which the land is located.*
- 3. Notwithstanding subclauses (1), (2), (7) and (8), a building that was lawfully situated on any land at 30 June 1997 may 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 3 metres below the floor height standard for the land immediately before the commencement day.*
- 4. The assessment of a development application must consider the flood liability of access to the land and, if the land is within a floodway area, the effect of isolation of the land by flooding, notwithstanding whether other aspects of this Policy have been satisfied. In this regard the access to, and egress from, the land should not result in a travel path through areas of higher flood hazard risk and the development should not result in the occupants/users of the development being isolated and requiring rescue.*
- 5. Minor (Non-Habitable) structures such as Farm Buildings, Outbuildings, Sheds, Garages and other Ancillary Structures may be erected on land below the 1:100 ARI (average recurrent interval) flood event level. However, the assessment of a development application for such a structure must consider the likely frequency of flooding, the potential flood damage (to both the subject structure and to other surrounding property should the structure be washed away) and measures to be taken for the evacuation of the property. In this regard the access to, and egress from, the land should not result in a travel path through areas of higher flood hazard risk.*
- 6. Any part of a building below the 1:100 ARI (average recurrent interval) flood event level is to be constructed of flood compatible materials."*

The subject building satisfies Clause 1 above in that it is located on land that is not less than 3m below the adopted 1-in-100 year flood level. The proposal involves the use of an existing building for a non-habitable purpose so as to also satisfy Clause 5 of the Development of Flood Liable Land Policy.

Access to the site from Ridges Lane will require visitors to pass through areas of higher flood hazard, which is contrary to the Policy. However, access to the site will be inundated by backwaters prior to the land itself being flooded. Warnings will generally be issued a minimum of 24 hours before any major flooding event which should be sufficient to allow for the closure of the premises during periods of flood risk.

It is considered that the proposal, being a non-residential use, will generally satisfy Clause 6.3 of the HLEP 2012 and Council's Development of Flood Liable Land Policy.

Clause 6.4 – Terrestrial Biodiversity

Northern and southern portions of the site are identified on the Terrestrial Biodiversity Map as comprising 'Endangered Ecological Communities' and 'Connectivity between significant vegetation' under this Clause. It is noted that no tree removal is proposed in conjunction with the proposal and the development area is clear of the mapped areas identified above. The development is therefore seen to be consistent with this Clause.

Clause 6.5 – Wetlands

A mapped wetland is located in the southern portion of the site. The proposed works are located approximately 700m from this wetland and are unlikely to impact the waterbody.

Clause 6.7 – Essential Services

The Applicant advises:

"All drinking water will be commercially packaged bottled water. All food will be prepared off site in commercial kitchens by contract caterers and delivered to the building ready to serve to patrons. Roof water will be collected in a tank and reticulated for toilet flushing and hand washing. All taps within the amenities will be labelled "water not suitable for drinking".

The use of bottled water within the food service and preparation areas can be ensured through conditions of consent.

Electricity is connected to the building.

As previously discussed, given the unsuitability of the existing sewage management facility, it will be a requirement that portable toilets be provided to service the events.

Given the land levels, stormwater runoff from the car park areas will remain and be managed on the property.

Access roads within the property are considered to be suitable for the proposed development.

(a)(ii) Draft Environmental Planning Instruments

There are no Draft Environmental Planning Instruments applicable to the proposed development or the subject land.

(a)(iii) Development Control Plans

Hawkesbury Development Control Plan 2002

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

Part A Chapter 3 – Notification

The application was notified in accordance with Part A Chapter 3 of the HDCP 2002. As a result two submissions raising objection to the proposal have been received in response to the application. The matters raised in these submissions are discussed later in this Report.

Part C Chapter 2 – Car parking and Access

Part C Chapter 2 of the HDCP 2002 outlines that car parking for 'restaurants, reception centres and refreshment rooms' is to be provided at a rate of one space per 20m² of gross floor area or one space per three seats, whichever is greater.

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Based on a 200 seats capacity, 67 car parking spaces are required. The development proposes to provide a total of 40 spaces within a cleared area located approximately 150m from the building.

The Applicant states:

“The application proposes a total of 40 nominated car parking spaces. There is adequate overflow parking available adjacent to the car parking area. It is submitted that the parking provisions will be adequate for the proposed temporary development.”

Whilst the Applicant does not provide any justification for the short fall in parking spaces, on a short term basis, the use of grassed areas for overflow parking is considered acceptable. However, on a long term basis, the continued use of these areas for parking may lead to land degradation if not upgraded. For this reason, the imposition of a time limit on any consent is further justified.

(a)(iii) Planning Agreements

There has been no planning agreement or draft planning agreement entered into under Section 93F of the EP&A Act.

(a)(iv) Matters prescribed by the Regulations

The EP&A Regulation 2000 outlines that the development is to:

- comply with the National Construction Code / Building Code of Australia (BCA);
- be levied against Council's S94A Development Contributions Plan (where applicable); and
- consider if any works to upgrade the building are warranted.

Suitable conditions of consent may be imposed to ensure compliance with these requirements should the application be approved.

(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

Context and Setting

Surrounding development within the Richmond Lowlands generally comprises of agricultural land, polo fields and limited numbers of rural residential properties. Land on the opposite side of the Hawkesbury River comprises a steep escarpment with residential properties located at the top of that escarpment along Terrace Road.

It is considered that the proposed development will have no unreasonable impacts on the locality in respect to overshadowing, loss of views or vistas, or loss of visual or acoustic privacy given the size of the property, the location of the development on the land, and the presence of existing vegetation and landscaping.

However, as previously discussed, noise generated by the development has the potential to adversely impact the locality. Subject to the Applicant demonstrating that noise levels can meet legislative requirements, it is concluded that the proposed use is generally compatible with the existing landuses within the area. It is noted that noise monitoring by Council over the last 6 months indicates that this conclusion is reasonable.

Access, Transport and Traffic

At a rate of three persons per car, the proposed development would generate 67 vehicles to the site. The Applicant advises that a maximum of three delivery vehicles per day would be expected and that the maximum number of staff would be 10. This would result in a maximum of 80 vehicles entering or leaving the site at any one time.

A similar development is also proposed on the adjoining property known as 106 Ridges Lane, Richmond Lowlands within the existing buildings known as 'Sunnybrook Barn' (DA0157/15). This development also proposes a maximum number of guests at each function of 200, and therefore will generate the same traffic volumes.

Therefore the cumulative impact of both developments in regard to traffic generation would be expected to be a maximum of 160 vehicles for both premises, assuming that they both operate at capacity at the same time. However, it is recognised that not everyone will arrive and depart at the same time, and deliveries usually occur outside of the peak times.

Given the above, it is considered that the proposed development is unlikely to result in unreasonable traffic, transport or access impacts upon the surrounding road network having regard to the current usage of the roads in the locality, their capacity and condition.

The proposal provides suitable access and parking for the effective and efficient operation of the site on a temporary and short term basis

(c) *Suitability of the site for the development*

Adequate services and utilities are available to the site.

The development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats as no clearing of native vegetation is required.

The flooding affectation of the land is not prohibitive to the proposed development as previously discussed.

The site is located within a rural area subject to low background noise levels. However this is not considered to be prohibitive to the development as mitigation measures (as demonstrated in recent months via Council's noise monitoring) can be undertaken to achieve compliance with relevant noise controls.

The site is considered to be suitable for the development subject to the implementation of the conditions attached to this Report.

(d) *Any submissions made in accordance with the Act or the Regulations*

The application was notified in accordance with the HDCP 2002. Responses from two adjoining property owners were received as a result of this notification. The matters raised in the submissions are discussed below:

- The 'Sunnybrook Barn' building has been modified without development consent, and no Building Certificate has been obtained.
- The building is not compliant with the Building Code of Australia.

Comment: It is acknowledged that unauthorised works have been undertaken within the building as has occurred on some adjoining properties. However, if required this may be addressed through the Building Certificate process that would be addressed via consent conditions should the development be approved. A Building Code of Australia compliance report was submitted for a previous application for the site and that report concluded that the building required relatively minor upgrades to make compliant. Obviously those upgrades would depend on the use that is approved for the site and the ultimate BCA classification. In this regard, an updated report demonstrating compliance or otherwise with the National Construction Code/Building Code of Australia would be required, including matters relating to fire safety and disabled access. Should significant works be required to upgrade the building, a separate development application may need to be lodged.

- The use of the 'Sunnybrook Barn' building for functions will adversely impact adjoining land with particular respect to noise generation.

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- The application does not propose any sound proofing measure to the building.
- Two versions of the acoustic review were submitted with the application, and these reports contradict each other.

Comment: As previously discussed, it is agreed that the application does not satisfactorily demonstrate the likely impacts of noise generated by the development. However, should the application be supported in principle, conditions of consent can be imposed requiring the submission for approval by the Principal Certifying Authority of an acoustic report demonstrating that noise generated by the development will have no unreasonable impacts on the locality, prior to any events taking place. In this regard, the cumulative impact of the use of both the Sunnybrook Barn and the Polo Barn (DA0156/15) for functions would need to be taken into consideration when proposing mitigation measures to achieve acceptable noise levels. This would appear to be possible given noise monitoring by Council over recent months.

It is considered that noise generated by increased traffic within the locality would not be unreasonable as it would be short lived. However, noise associated with the arrival and departure of guests has the potential to cause a nuisance. Management practices can be employed to minimise noise resulting from patrons. In this regard a Patron Management Plan will be required as a condition of any consent.

- The application does not provide event details;

Comment: It is confirmed that the application does not provide specific details in respect to events, as approval is not only being sought for the previously booked weddings (details of which have previously been submitted to Council and obtained by objectors), it is also being sought for future functions, being primarily associated with polo events.

The monitoring of the number of functions held on the property can be resolved through conditions of consent requiring the keeping of a register.

- The proposed development will have an adverse impact from increased traffic.

Comment: Having regard to the current low traffic volumes of roads and polo events held on adjoining properties from time to time within the locality, it is considered that traffic generated by the proposed development will have no adverse impact on the road network. This matter has been discussed previously within this Report.

Access to the property and internal driveways are existing and considered suitable for the proposed use.

- Two Respondents raised concern about not being notified of this development.

Comment: It is confirmed that the application was notified and publicly exhibited in accordance with Hawkesbury Development Control Plan (DCP). All adjoining property owners/occupiers were notified in writing. The Respondents' land does not directly adjoin the subject land and therefore were not required to be notified under the DCP.

It is noted that notification of the Polo Barn proposal (DA0156/15) was given to these Respondents as they are adjoining neighbours to the proposed Polo Barn development.

(e) The Public Interest

The proposed development is considered to be generally consistent with the relevant legislation and policies. With the clarification of potential noise impacts and the implementation of mitigation measure, it is considered that the proposed development will have no adverse impact on the amenity of the locality. This matter can be resolved through conditions of consent if the proposal is supported.

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On this basis it is considered that the proposed development is not contrary to the public interest.

Developer Contributions

Based on the supplied estimated value-of-work a Section 94A Development Contribution is not applicable.

Conclusion

The proposed development is considered to be consistent with the relevant provisions of Hawkesbury Local Environmental Plan 2012, Sydney Regional Environmental Plan No. 9, Sydney Regional Environmental Plan No. 20, State Environmental Planning Policies No. 44 & 55, Hawkesbury Development Control Plan, and other relevant policies.

Having regard to the disposal of wastewater, the provision of parking and the suitability of existing facilities and infrastructure on the site, it is concluded that the carrying out of the development on a short term basis will have no significant adverse impact on the natural and built environment. For this reason a time limited approval is recommended.

It is acknowledged that the application does not satisfactorily demonstrate that the existing building meets the requirements of the Building Code of Australia, especially in relation to fire safety, disabled access and the unlawful works carried out internally. However, as discussed these matters can be resolved with submission of an updated BCA report and the issue of a Building Certificate.

It is further considered that potential noise impacts from the development can be mitigated by way of acoustic treatment and management practices. This is also demonstrated by previous noise monitoring of an adjoining site by Council. In this regard conditions can be imposed in any consent requiring submission of a satisfactory acoustic report and a patron management plan for approval. Any recommendations within the approved acoustic report would be implemented prior to the use of the building for any functions.

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 Council as the consent authority pursuant to Clause 80(1)(b) of the Environmental Planning and Assessment Act 1979 approve Development Application No. DA0157/15 for the temporary use of the land for functions on Lot 27 DP 566434 and Lot 1 DP 797310, known as 106 Ridges Lane, Richmond Lowlands, subject to the following conditions:

General Conditions

1. The development shall take place generally in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. This consent is limited in time and shall expire on 30 June 2018.
3. The building shall not be used for functions or occupied prior to the issue of an Occupation Certificate.

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4. The development shall comply with the provisions of the National Construction Code/ Building Code of Australia. In this regard, adequate provision shall be made for egress from the building in the event of an emergency.
5. Potable water shall be provided to the development in accordance with the NSW Health Private Water Supply Guidelines.
6. An acoustic report must be submitted for approval to Hawkesbury City Council demonstrating that the noise emitted from the development does not exceed more than 5 dB(A) above background noise levels in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) prior to midnight at the boundary of any affected residence. The noise from the development must not be audible within any habitable room in any residential premises after midnight.

Should the acoustic report make recommendations resulting in any works, separate development consent will be required.

7. A 149D Building Certificate application for the unapproved works within the existing building shall be submitted to Hawkesbury City Council. The building certificate must be issued prior to the issue of any occupation certificate. The following information must be submitted with the application:
 - a) A report, prepared by a suitably qualified person, demonstrating compliance or otherwise with the National Construction Code/Building Code of Australia. Where any non-compliances exist, the report must make recommendations to address the non-compliances. Particular attention must be paid to egress from the building in the event of an emergency.
 - b) A structural engineer's certificate certifying the existing structure is capable of withstanding the loads likely to be imposed on it, including resistance to the impact of floodwater in respect to debris and buoyancy forces.
 - c) A statutory declaration or certificate of compliance and a drainage diagram from a licensed plumber is to be provided in relation to sanitary plumbing.
 - d) A termite treatment certificate from a licensed contractor certifying that the structure complies with Australian Standard AS 3660.
 - e) A certificate for wet area waterproofing.

Prior to Commencement of Works

8. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction.
9. A waste management plan shall be submitted to and approved by Council. The plan shall address any builder's waste and waste generated during the day to day operation of the development. Particular attention shall be paid to type and quantity of waste, recycling, reuse, storage and disposal.
10. 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.
11. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
12. 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.

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13. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - a) Unauthorised access to the site is prohibited.
 - b) The owner of the site.
 - c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - d) The name and contact number of the Principal Certifying Authority.

During Construction

14. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan Appendix E Civil Works Specification.
15. Forty car parking spaces to service the development, together with access driveways and turning areas, shall be constructed with an all-weather seal, line marked, signposted and maintained. The adjacent driveway is to be widened as required to achieve a minimum aisle width for manoeuvring of 5.8m. The car park is to comply with AS2890.1 2004, as a minimum standard.
16. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
17. Disabled parking shall be provided in accordance with AS2890.6 - 2009.
18. A servicing area with a minimum all-weather surface is to be provided in a suitable location adjacent to the development. The dimensions of the service area are to comply with the requirements of AS2890.2, 2002, for the largest vehicle required to regularly service the site.
19. During the demolition and construction period, the person responsible for the site is to retain records of waste disposal (waste receipts or dockets, recycling processor receipts etc.) in a Waste Data File. The Waste Data File must be provided to Council officers on request to demonstrate that the approved Waste Management Plan is being implemented.
20. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am - 6pm and on Saturdays between 8am - 4pm.
21. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project.

Prior to Issue of the Final Occupation Certificate

22. 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 Services for advice in the preparation of the plan. The evacuation procedures shall be permanently fixed to the building on a prominent location and maintained at all times.
23. 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.
24. All recommendations within the approved acoustic report required by Condition 6 of this Consent must be implemented prior to the issue of any occupation certificate.

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25. The 149D Building Certificate required by Condition 7 of this Consent must be issued prior to the issue of any occupation certificate.
26. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
27. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
28. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
29. A works as executed plan shall be submitted to Council on completion of the car park construction works. The plan shall demonstrate that the car parking and servicing areas have been provided in accordance with the conditions of consent.
30. All premises offering food, packaged or otherwise, are to be registered with Council and have inspections conducted by Council's officers as necessary/required. These premises are required to comply with the Food Act 2003, associated Regulations, and the Food Safety Standards 3.2.2 and 3.2.3. These are available on line at www.foodstandards.gov.au. A plan showing the food preparation/serving area and details demonstrating compliance with the Food Act, 2003 and associated regulations and standards must be submitted with the registration form
31. A patron management plan for the use of the land for functions shall be submitted to and approved by Hawkesbury City Council. The Plan shall address, but not be limited to:
 - a) noise generated from patrons entering or leaving the premises, from within car parking areas and outdoor areas;
 - b) monitoring/management of noise generated from music and PA systems;
 - c) antisocial behaviour,
 - d) the responsible service of alcohol; and
 - e) responsibility for the management of events. For example, and in addition to the items above, who ensures that music ceases and patrons have left the site by the nominated times.

The Plan must detail any likely impacts generated by the use of the premises and propose suitable measures to mitigate these impacts.

Use of the Development

32. The operator shall keep a register detailing the date and times of when the premises is being used for a function and the number of guests attending. This register must be made available to Council officers on request.
33. No more than 28 days within a 12 month period shall be used for the holding of functions on the land.
34. No more than 200 guests are permitted at any function at any given time.
35. A copy of this Development Consent shall be kept on the premises at all times and be made available to Council, Police or other authorised persons upon request.
36. Operating hours shall be limited to:
 - Sunday – Thursday: 2pm to 11pmAll music must cease by 10:30pm
All patrons must leave the premises by 11pm.

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- Friday – Saturday: 2pm to 12 midnight

All music must cease by 11:30pm

All patrons must leave the premises by 12 midnight.

37. All music, entertainment and speeches are only to be conducted within the 'Sunnybrook Barn' building.
38. Signs must be placed in clearly visible positions within the building requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
39. Service deliveries to and from the site shall be limited to 7am to 5pm Monday to Sunday.
40. The activity shall be carried out in accordance with the Patron Management Plan.
41. Portable toilets are to be provided to service each function. Amenities are required to be provided for a maximum number of people attending and at the following rates:
 - a) Male facilities are to be provided at a rate of 3 water closets, 8 urinals and 2 hand basins per 500 people attending.
 - b) Female facilities are to be provided at a rate of 13 water closets and 2 hand basins per 500 people attending.
 - c) Hand washing facilities are required at a rate of one hand wash facility per 125 people attending.
42. All Portable toilets and amenities are to be removed from the site within 24 hours of the completion of each functions.
43. All fire safety equipment and fixtures shall be regularly serviced and maintained. The owner or their agent shall certify annually that each of the fire safety measures specified in this statement has:
 - a) been assessed by a properly qualified person, and
 - b) found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the certificate is issued.
44. The noise emitted from the development must not exceed more than 5 dB(A) above background noise levels in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) prior to midnight at the boundary of any affected residence. The noise from the development shall not be audible within any habitable room in any residential premises after midnight.
45. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
46. The lighting from the development is to be directed away from surrounding properties, at an angle of 45 degrees towards the ground and shielded if needed to prevent any light spillage onto adjoining properties.
47. All work and the storage of goods, materials and waste shall be confined within the building or approved storage areas at all times.
48. All waste materials are to be stored in covered waste storage bins and regularly removed from the property. Waste is to be separated where appropriate for re-use and recycling purposes. Waste is to be contained in such a manner to prevent it from being blown, moved or located around the property or surrounding properties.

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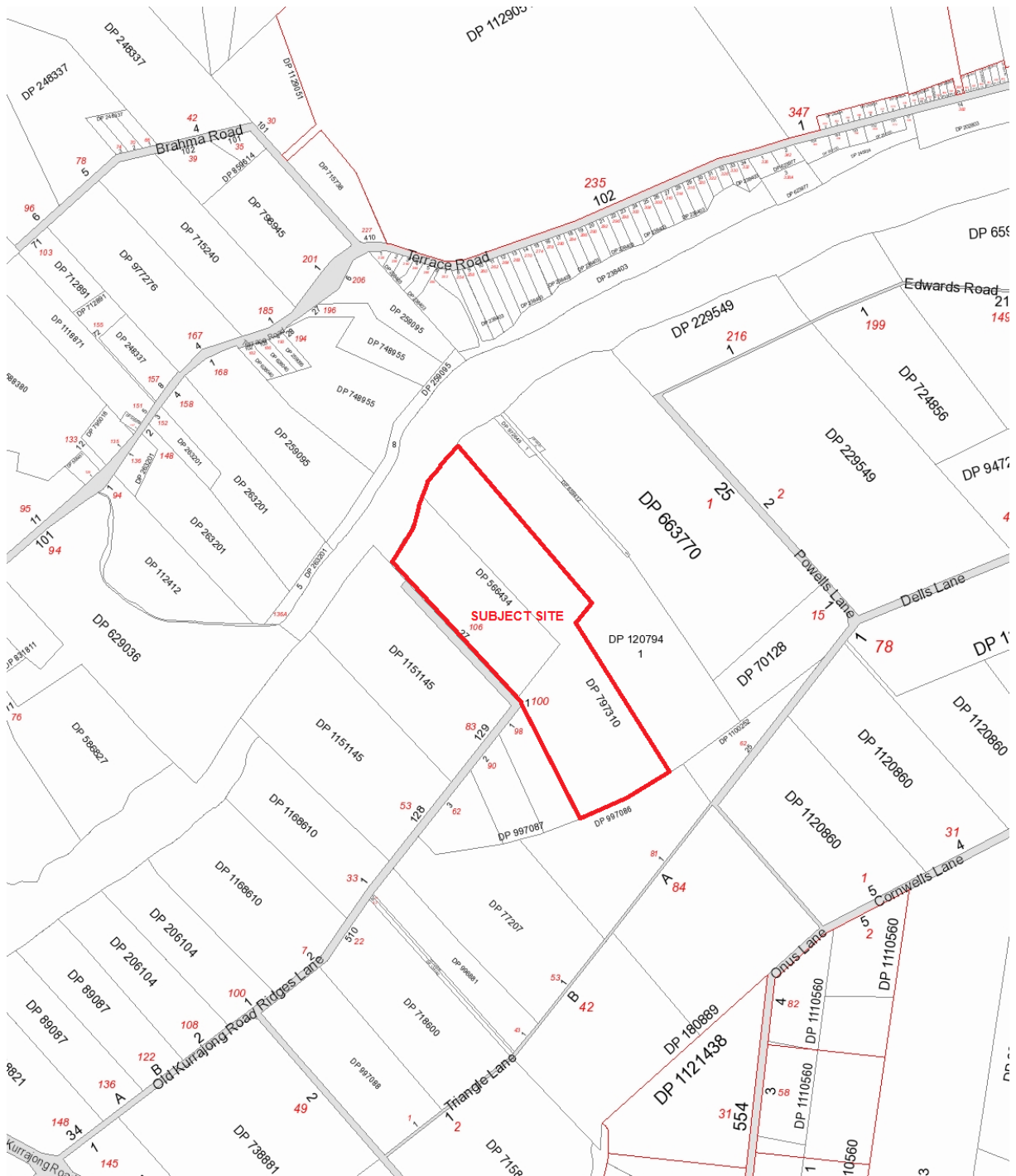
Advisory Notes

- *** The applicant shall make themselves aware of the Discrimination Against People with Disabilities Act (DDA) and assess their responsibilities and liabilities with regards to the provision of access for all people.
- *** Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
- *** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed development. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- *** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.
- *** Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997.
- *** 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.

ATTACHMENTS:

- AT - 1 Locality Map
- AT - 2 Aerial Map
- AT - 3 Site Plan
- AT - 4 Floor Plan of Existing Building (Sunnybrook Barn)

AT - 1 Locality Map



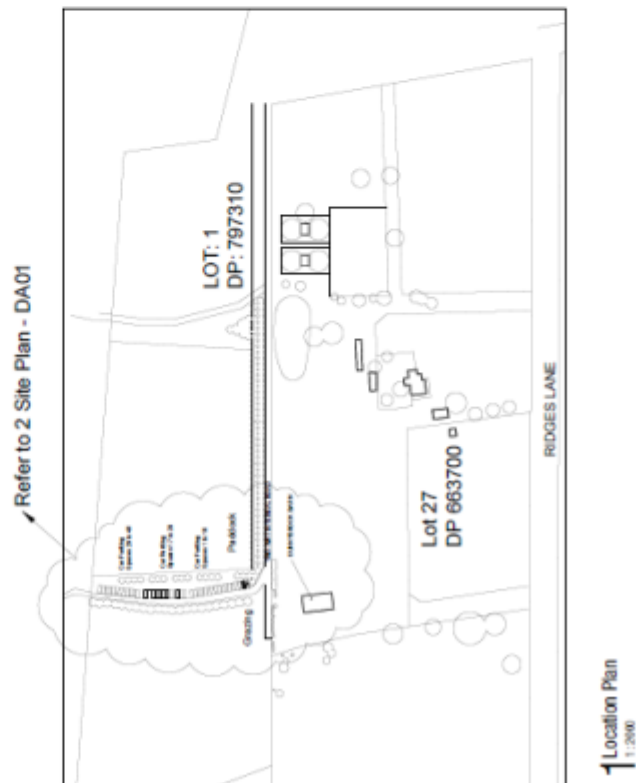
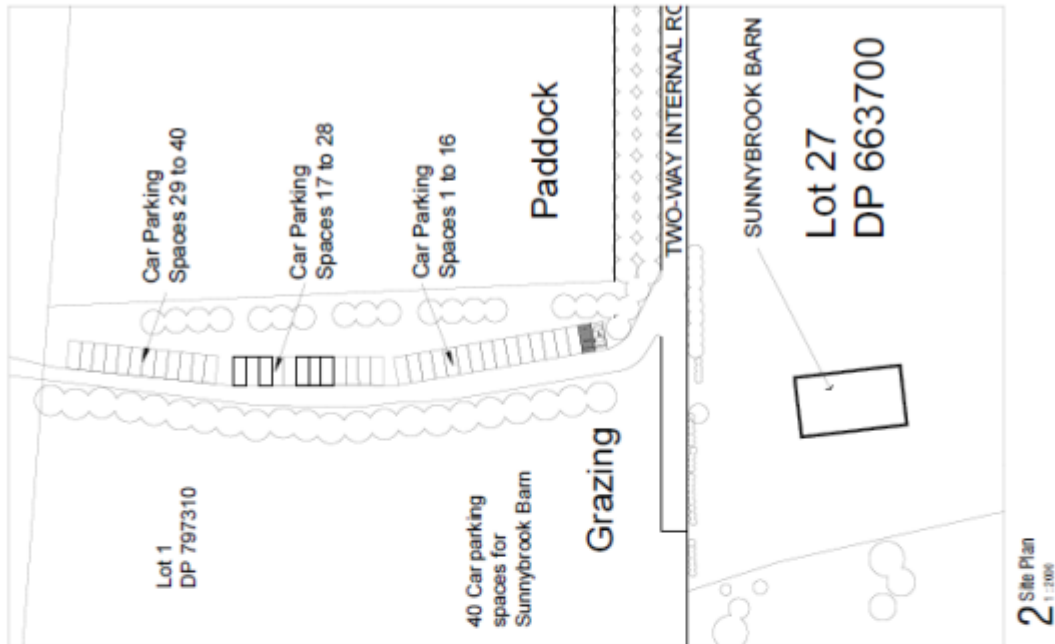
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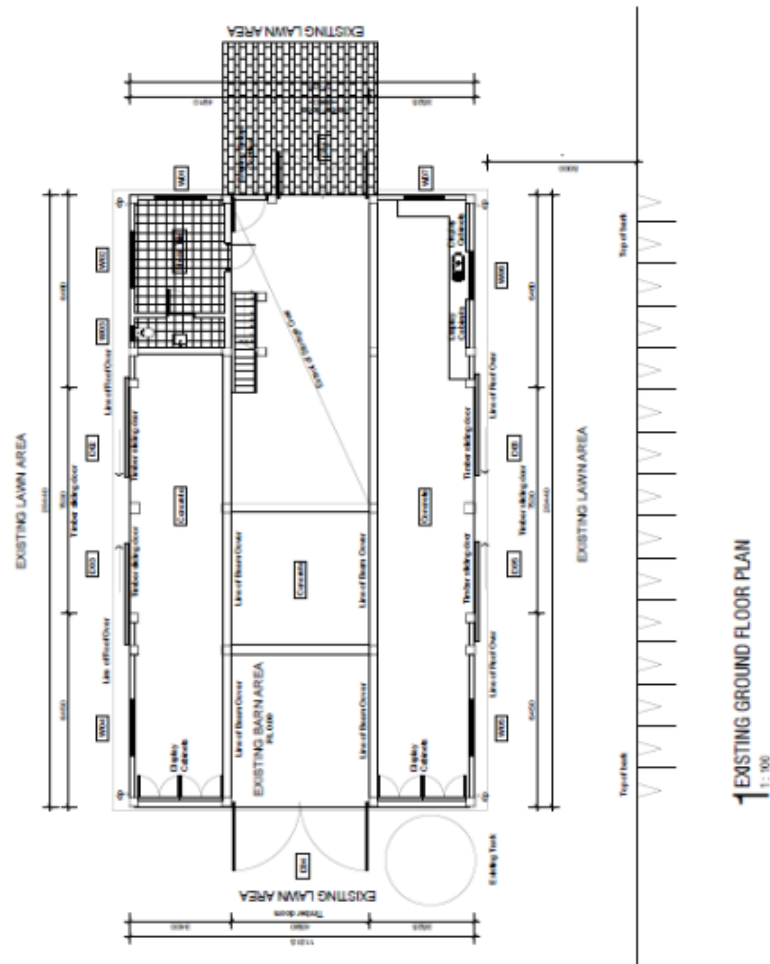
AT - 2 Aerial Map



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Item: 69

CP - LEP006/14 - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 - 631 Bells Line of Road, Kurrajong - (95498, 124414)

REPORT:

Executive Summary

This report discusses a planning proposal (LEP006/14) from Glenn Falson, Urban and Rural Planning Consultant, (the applicant) which seeks to amend *Hawkesbury Local Environmental Plan 2012* (the LEP) to enable subdivision of Lot 1 DP 120436, 631 Bells Line of Road, Kurrajong (the subject site) into 10 large residential community title lots with minimum lot sizes of 4,000m² and 1ha and one road lot.

It should be noted that this application was submitted before the Council resolution of 3 February 2015 to suspend new planning proposals. The site is part of the Kurrajong Investigation Area.

This planning proposal proposes an amendment to the Lot Size Map of the LEP only and does not seek to change the existing RU1 Primary Production zoning of the site.

It is recommended that Council support the preparation of a planning proposal to allow development of the subject site primarily for large lot residential development.

Consultation

The planning proposal has not yet been exhibited. If the planning proposal is to proceed it will be exhibited in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* (the Act) and associated Regulations and as specified in the Gateway determination.

Background

On 3 February 2015 Council considered a Mayoral Minute regarding implementation planning for the Hawkesbury Residential Land Strategy (HRLS). Specifically the Mayoral Minute highlighted the need to undertake structure planning and development contribution planning for development areas.

In response to the Mayoral Minute Council resolved, in part, as follows:

"That:

1. *Council suspend acceptance of new planning proposals under the Hawkesbury Residential Land Strategy (RLS) until the key implementation actions of the RLS, in particular, structure planning and development contribution planning has been completed for the Kurrajong/Kurmond investigation areas or 31 July 2015.*
2. *Planning proposals (for which the application fee payment has already been received) currently lodged with Council are to continue to be processed. These applications, in accordance with previous resolutions of Council, are not to proceed to gazettal until the relevant structure plan and/or S94 Plan is in place."*

Council received this planning proposal in December 2014, hence this report considers the planning proposal against the current state and local strategic planning framework and other relevant criteria in accordance with Part 2 of the above resolution.

On 31 March 2015 Council considered a report on the proposed large lot residential/rural-residential development investigation area for Kurmond and Kurrajong and resolved to adopt an investigation area to enable structure planning and development contributions planning for the purposes of large lot residential / rural-residential within Kurmond and Kurrajong. The Kurrajong Investigation Area referred to in this report includes the subject site (see Figure 1 below).

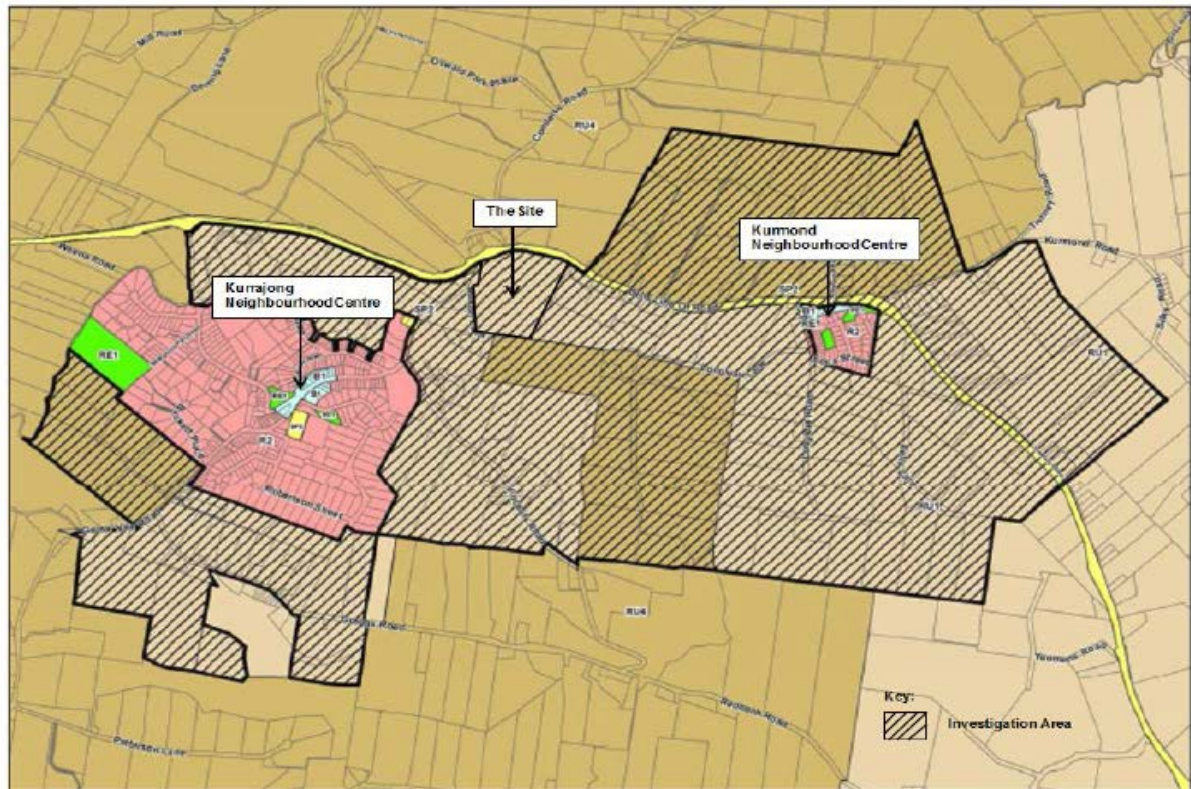


Figure 1: Kurrajong and Kurmond Investigation Area

Planning Proposal

The planning proposal seeks an amendment to the LEP in order to permit the subdivision of the site into 11 lots with new Lot 1 being the future access road that provides access to the proposed 10 large residential lots (Lot 2 - Lot 11) with two different minimum lot sizes of 4,000m² and 1ha. The applicant intends to achieve this proposed outcome by amending the Minimum Lot Size Map (Map Identification No. 3800_COM_LSZ_008A_040_20140131) of the LEP.

The applicant presumes that the draft LEP will include a suitable provision to limit the maximum lot yield of the subdivision consistent with the planning proposal. The Department of Planning and Environment (DP & E) will ultimately decide on the type of amendment to the LEP. However it is understood that at present the DP & E's preferred option is to amend the Lot Size Map of the LEP and not include a clause or a provision in the LEP to limit the number of lots of subdivision of the land.

A concept plan for the proposed community title subdivision (Figure 3 of this report) for discussion purposes only in relation to the potential yield of the site and does not form part of the planning proposal. This concept plan shows ten large lots with minimum lot sizes of 4,000m² and 1ha.

Subject Site and Surrounds

The subject site is located approximately north-east of the Kurrajong Neighbourhood Centre and is in very close proximity to the intersection of Bells Line of Road, Old Bells Line of Road and Mason Lane. The site has an area of 12.55ha and has an irregular shape with an approximate 400m frontage to Bells Line of Road. The site can also be accessed via Mason Lane (see Figure 2).

The site is zoned RU1 Primary Production under the LEP. The current minimum lot size for subdivision of this land is 10ha.

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The site contains a dwelling house, associated out buildings and two dams. The existing dwelling house is located on the north-eastern corner of the site adjacent to Bells Line of Road. The site is currently being used for residential purposes and has been previously used for grazing and fruit orcharding.

The site is partly cleared and areas of dense native vegetation occupy the northern and north-western slopes and along the central natural watercourse.

The site is shown as being bushfire prone (bushfire vegetation category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

The site is shown as being within Acid Sulfate Soil Classification 5. This represents a relatively low chance of acid sulfate soils being present on the site.

The site is shown as being Agriculture Land Classification 3 and 4 on maps prepared by the former NSW Department of Agriculture.

The land generally falls from Bells Line of Road with an elevation of approximately 154 AHD towards the existing dam which is located near the middle of the site at a level of approximately 114 AHD. A natural watercourse originates from the north-western slopes of the site and flows through the middle of the site and the dam. Another smaller watercourse runs parallel to this central watercourse and through a smaller dam located closer to the southern boundary. Both these watercourses flow south-east direction to join into the Redbank Creek network, which enters the Hawkesbury River north of Richmond.

According to Council's slope mapping land along northern and north-western boundaries and central watercourse has a slope greater than 25% and the remaining open grass land area with some scattered trees is generally less than 20% in slope.

The site is situated above 1 in 100 year ARI flood level.

The properties immediately to the north are zoned RU4 Primary Production Small Lots, properties immediately to the east and west are zoned RU1 Primary Production and properties immediately to the south are zoned RU4 and RU1. The immediate locality is predominantly zoned RU1 Primary Production. The current minimum lot sizes apply for the subdivision of the immediate surrounding properties are generally in the range of 4ha to 10ha in size.

Applicant's Justification of Proposal

The applicant has provided the following justification for the planning proposal.

- *Council's Residential Land Strategy has identified specific areas/localities that are considered by the Council as suitable for further investigation for urban expansion and in a range of lot sizes from denser urban areas to the rural surrounding areas. The site is considered to be within an area identified by broad description within Council's strategy for investigation and consideration for further urban development.*
- *The premise of the proposal is that it recognises that the subject land is, prima facie, suitable for large lot residential use and would be an appropriate transitional development between the existing Kurrajong Village and the larger rural and rural/residential holdings as they radiate from the village.*
- *Preliminary site investigations have been carried out which has demonstrated that the land is capable of being subdivided into a number of lots that would not be inconsistent with other lands in the vicinity and would form an appropriate component of village expansion at Kurrajong.*
- *Water, electricity, telephone and transport services are currently available to the site boundaries.*

- *The site is capable of containing on-site wastewater disposal and matters relating to vegetation management and bushfire control can be satisfied.*

‘A Plan for Growing Sydney’ (the Sydney Metropolitan Strategy), Draft North West Subregional Strategy and Hawkesbury Residential Land Strategy

The NSW Government’s ‘A Plan for Growing Sydney’ December 2014 (the Sydney Metropolitan Strategy) and Draft North West Subregional Strategy establish the broad planning directions for the Sydney metropolitan area and north-western sector of Sydney respectively. These documents identify a number of strategies, objectives and actions relating to the economy and employment, centres and corridors, housing, transport, environment and resources, parks and public places, implementation and governance.

These two documents have a high level metropolitan and regional focus and for the most part are not readily applicable to a singular rural residential planning proposal at Kurrajong. Notwithstanding this the applicant has provided an assessment of the planning proposal against these two documents and concludes that the proposal is consistent with these strategies. Taking into consideration the location of the proposed development, being on the fringe of Kurrajong Neighbourhood Centre, it is considered that the proposal for large lot residential development demonstrates satisfactory compliance with these strategies.

The HRLS is, in part, a response to the above mentioned State strategies and seeks to identify residential investigation areas and sustainable development criteria which are consistent with the NSW Government’s strategies.

The HRLS contained the following commentary and criteria regarding large lot residential / rural residential development.

“2.10 Strategy for Rural Village Development

The Hawkesbury Residential Development Model focuses on future residential development in urban areas and key centres. However, the importance of maintaining the viability of existing rural villages is recognised. As such, the Hawkesbury Residential Strategy has developed a strategy for rural residential development.

Future development in rural villages should be of low density and large lot dwellings, which focus on proximity to centres and services and facilities. Rural village development should also minimise impacts on agricultural land, protect scenic landscape and natural areas, and occur within servicing limits or constraints.”

The proposal can be described as a rural residential development on the fringe of the Kurrajong village.

The HRLS states that the future role of rural residential development is as follows:

"Rural residential developments have historically been a popular lifestyle choice within Hawkesbury LGA. However, rural residential development has a number of issues associated with it including:

- *Impacts on road networks;*
- *Servicing and infrastructure;*
- *Access to facilities and services;*
- *Access to transport and services;*
- *Maintaining the rural landscape and*
- *Impacts on existing agricultural operations.*

Whilst this Strategy acknowledges rural residential dwellings are a part of the Hawkesbury residential fabric, rural residential dwellings will play a lesser role in accommodating the future population. As such, future rural development should be low density and large lot residential dwellings."

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For the purposes of this proposal, the relevant criteria for rural residential development, as stated in Section 6.5 of the HRLS, are that it be large lot residential dwellings and:

- *Be able to have onsite sewerage disposal;*
- *Cluster around or on the periphery of villages;*
- *Cluster around villages with services that meet existing neighbourhood criteria services as a Minimum (within a 1km radius);*
- *Address environmental constraints and have minimal impact on the environment;*
- *Occur only within the capacity of the rural village*

The ability to dispose of effluent on site is discussed in later sections of this report.

The site is on the fringe of the Kurrajong Neighbourhood Centre and is within the one kilometre radius specified in the HRLS.

Relevant environmental constraints are discussed in later sections of this report.

Council Policy - Rezoning of Land for Residential Purposes - Infrastructure Issues

On 30 August 2011, Council adopted the following Policy:

"That as a matter of policy, Council indicates that it will consider applications to rezone land for residential purposes in the Hawkesbury LGA only if the application is consistent with the directions and strategies contained in Council's adopted Community Strategic Plan, has adequately considered the existing infrastructure issues in the locality of the development (and the impacts of the proposed development on that infrastructure) and has made appropriate provision for the required infrastructure for the proposed development in accordance with the sustainability criteria contained in Council's adopted Hawkesbury Residential Land Strategy.

Note 1:

In relation to the term "adequately considered the existing infrastructure" above, this will be determined ultimately by Council resolution following full merit assessments, Council resolution to go to public exhibition and Council resolution to finally adopt the proposal, with or without amendment.

Note 2:

The requirements of the term "appropriate provision for the required infrastructure" are set out in the sustainability matrix and criteria for development/settlement types in chapter six and other relevant sections of the Hawkesbury Residential Land Strategy 2011."

Compliance with the HRLS has been discussed above. Compliance with CSP will be discussed later in this report.

Council Policy - Our City Our Future Rural Rezonings Policy

This Policy was adopted by Council on 16 May 1998 and had its origin in the Our City Our Future study of the early 1990s.

Since the time of adoption this Policy has essentially been superseded by subsequent amendments to *Hawkesbury Local Environmental Plan 1989*, *NSW Draft North West Subregional Strategy*, the *Hawkesbury Residential Land Strategy*, the *Hawkesbury Community Strategic Plan*, the commencement of *LEP 2012*, and the DP&Es "Gateway" system for dealing with planning proposals.

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The Policy is repeated below with responses provided by the applicant.

- a) Fragmentation of the land is to be minimised

Applicant response

The land is within an area identified within the HRLS as having urban potential. Fragmentation of the land is envisaged by this subsequent strategy.

- b) Consolidation within and on land contiguous with existing towns and villages be preferred over smaller lot subdivision away from existing towns and villages.

Applicant response

The proposal is consistent with this principle.

- c) No subdivision along main roads and any subdivision to be effectively screened from minor roads.

Applicant response

Whilst the site fronts a main road all access will be via Mason Lane. Existing vegetation will screen the subdivision from view from Bells Line of Road.

- d) No subdivision along ridgelines or escapements.

Applicant response

The site is not on a ridgeline or escapements.

- e) Where on site effluent disposal is proposed, lots are to have an area of at least one hectare unless the effectiveness of a smaller area can be demonstrated by geotechnical investigation.

Applicant response

Each lot is greater than one hectare. There has been an effluent disposal assessment which concludes that the site of lots proposed and other criteria is met such that lots are suitable for effluent disposal.

Staff response

The proposed lots 2, 5, 6, 7 and 8 are less than one hectare. However a preliminary effluent disposal report prepared by Barker Ryan Stewart (BRS) and attached to the planning proposal concludes that each lot is considered suitable for the effective disposal of effluent using an aerated wastewater treatment system with surface irrigation. This issue is considered in detail in the latter part of this report.

- f) The existing proportion of tree coverage on any site is to be retained on enhanced.

Applicant response

The subdivision does not propose removal of vegetation. Bushfire asset protection zones and effluent disposal can take place without the need for clearing of vegetation.

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Staff response

A flora and fauna survey and assessment report prepared by UBM Ecological Consultants (UBM) and submitted in support of the planning proposal states that less than 10% area of regrowth Moist Shale Woodland (MSW) at the head of the central vegetated watercourse would need to be cleared or modified to create Asset Protection Zone (APZ) between the proposed building footprints and the hazard (i.e. the bushland). However the likely impacts of the planning proposal would be minimal in terms of the local occurrence of the MSW ecological community. This issue is considered in detail under the heading of 'flora and fauna' in the latter part of this report.

- g) Any rezoning proposals are to require the preparation of environmental studies and Section 94 Contributions Plans at the applicant's expense.

Applicant response

The rezoning process has altered since this policy of Council. The Gateway process will dictate whether further studies are required.

Staff response

Taking into consideration the scale of the development it is considered that an environmental study is not required. However, this will be a matter for the DP&E to advise Council on as a result of their "Gateway" process.

The need for a Section 94 Contribution Plan or a Voluntary Planning Agreement can be further discussed with the applicant if this planning proposal is to proceed.

- h) Community title be encouraged for rural subdivision as a means of conserving environmental features, maintaining agricultural land and arranging for the maintenance of access roads and other capital improvements.

Applicant response

The planning proposal is put to Council on the basis of a community title subdivision.

Section 117 Directions

The Minister for Planning, under section 117(2) of *the Environmental Planning and Assessment Act 1979* (EP&A Act), issues directions that relevant planning authorities including councils must comply when preparing planning proposals. The directions cover the following broad range categories:

- Employment and resources
- Environment and heritage
- Housing, infrastructure and urban development
- Hazard and risk
- Regional planning
- Local plan making
- Implementation of a Plan for Growing Sydney

Section 117 Directions are issued by the Minister for Planning and Infrastructure and apply to planning proposals. Typically, the Section 117 Directions will require certain matters to be complied with and/or require consultation with government authorities during the preparation of the planning proposal. However all these Directions permit variations subject to meeting certain criteria (see the last part of this section of the report). The principal criterion for variation to a 117 Direction is consistency with an adopted Local or Regional Strategy. A summary of the key Section 117 Directions follows:

Direction 1.2 Rural Zones

Planning proposals must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and must not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

The planning proposal seeks an amendment to the Lot Size Map of the LEP and it does not propose any zoning changes or contain provisions to increase the permissible density of land. It is therefore considered that the planning proposal is consistent with this Direction.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

Should Council resolve to proceed with the planning proposal and receive a Gateway determination advising to proceed with the planning proposal from DP&E, the NSW Trade & Investment (NSW T&I) would be consulted in accordance with the Direction 1.3(4).

Direction 3.4 Integrating Land Use and Transport

Planning proposals must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice - Guidelines for planning and development (DUAP 2001)

In summary this document seeks to provide guidance on how future development may reduce growth in the number and length of private car journeys and make walking, cycling and public transport more attractive. It contains 10 "Accessible Development" principles which promote concentration within centres, mixed uses in centres, aligning centres with corridors, linking public transport with land use strategies, street connections, pedestrian access, cycle access, management of parking supply, road management, and good urban design.

The document is very much centres based and not readily applicable to consideration of a rural residential planning proposal. The document also provides guidance regarding consultation to be undertaken as part of the planning proposal process and various investigations/plans to be undertaken. It is recommended that if this planning proposal is to proceed Council seek guidance from the DP&I via the "Gateway" process, regarding the applicability of this document.

Direction 4.1 Acid Sulfate Soils

The objective of this Direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. This Direction requires consideration of the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of DP&E. The subject site is identified as containing "Class 5 acid sulfate soils on the Acid Sulphate Soils Planning Maps, and as such any future development on the land will be subject to Clause 6.1 Acid Sulfate Soils of the LEP which has been prepared in accordance with the Acid Sulfate Soils Model Local Environmental Plan provisions within the Acid Sulfate Soils Planning Guidelines adopted by the Director General.

This Direction requires that a relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soil study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of such study to the Director General prior to undertaking community consultation in satisfaction of section 57 of the Act. An acid sulfate soil study has not been included in the planning proposal. The DP&E will consider this as part of their "Gateway" determination and if required can request further information/consideration of this matter.

Direction 4.4 Planning for Bushfire Protection

The land is identified as bushfire prone, containing Vegetation Category 1. This Direction requires consultation with the NSW Rural Fire Service following receipt of a Gateway determination, compliance with Planning for Bushfire Protection 2006, and compliance with various Asset Protection Zones, vehicular access, water supply, layout, and building material provisions.

Direction 6.1 Approval and Referral Requirements

The objective of this Direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. This Direction requires that a planning proposal must:

- “(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and*
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:*
 - (i) the appropriate Minister or public authority, and*
 - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act, and*
- (c) not identify development as designated development unless the relevant planning authority:*
 - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and*
 - (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.”*

It is considered that the planning proposal is consistent with this Direction as it does not contain provisions requiring the concurrence, consultation or referral of development applications to a Minister or public authority, and does not identify development as designated development.

Direction 6.3 Site Specific Provisions

The objective of this Direction is to discourage unnecessary restrictive site specific planning controls. The planning proposal proposes an amendment to the Lot Size Map of the LEP only. It is therefore considered that the proposed amendment is consistent with this Direction.

Direction 7.1 Implementation of ‘A Plan for Growing Sydney’

This Direction requires planning proposals to be consistent with ‘A Plan for Growing Sydney’ (the Sydney Metropolitan Strategy) released in December 2014. ‘A Plan for Growing Sydney’ is the NSW Government’s 20-year plan for the Sydney Metropolitan Area. It provides directions for Sydney’s productivity, environmental management, and liveability; and for the location of housing, employment, infrastructure and open space.

‘A Plan for Growing Sydney’, which is one of the issues taken into consideration in the early part of the assessment of the planning proposal, establishes that the planning proposal is consistent with this Plan.

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The Section 117 Directions do allow for planning proposals to be inconsistent with the Directions. In general terms a planning proposal may be inconsistent with a Direction only if the DP&I is satisfied that the proposal is:

- a) justified by a strategy which:
 - gives consideration to the objectives of the Direction, and
 - identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - is approved by the Director-General of the DP&I, or
- b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this Direction, or
- c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this Direction, or
- d) is of minor significance.

The HRLS has been prepared with consideration given to the various policies and strategies of the NSW Government and Section 117 Directions of the Minister. In this regard, a planning proposal that is consistent with the Hawkesbury Residential Land Strategy is more likely to be able to justify compliance or support for any such inconsistency.

State Environmental Planning Policies

The State Environmental Planning Policies of most relevance are *State Environmental Planning Policy (SEPP) No. 55 - Remediation of Land*, *Sydney Regional Environmental Plan (SREP) No. 9 - Extractive Industry (No 2- 1995)* and *(SREP) No. 20 - Hawkesbury - Nepean River (No.2 - 1997)*.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

SEPP 55 requires consideration as to whether or not land is contaminated and, if so, is it suitable for future permitted uses in its current state or does it require remediation. The SEPP may require Council to obtain, and have regard to, a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

The applicant states that:

"The land has not been used for an agricultural use for many years. Previous uses were for limited grazing activities of cattle and horses. There is no obvious evidence of surface or groundwater pollution as a result of past uses. It is not believed that any geotechnical investigations need to be carried out for the planning proposal to proceed."

The site also has been used as a hobby farm for cattle.

Council's Regulatory Services - Compliance and Enforcement Section has carried out a site investigation in August 2013 and observed several earth mound motorbike jumps (less than 600mm in height above the natural ground level) constructed as part of a motorbike track within the site. The occupier of the site at the time of inspection advised the Council's compliance and enforcement officers that no fill material was imported to the site.

If the planning proposal is to proceed further consideration of potential contamination can be dealt with after DP&E "Gateway" determination.

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Sydney Regional Environmental Plan No. 9 - Extractive Industry (No 2- 1995) - (SREP 9)

The primary aims of SREP 9 are to facilitate the development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance and to ensure consideration is given to the impact of encroaching development on the ability of extractive industries to realise their full potential. The site is not within the vicinity of land described in Schedule 1, 2 and 5 of the SREP nor will the proposal development restrict the obtaining of deposits of extractive material from such land.

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

The aim of SREP No 20 (No. 2 - 1997) is 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. This requires consideration of the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, impacts of the development on the environment, the feasibility of alternatives and consideration of specific matters such as total catchment management, water quality, water quantity, flora and fauna, agriculture, rural residential development and the metropolitan strategy.

Specifically the SREP encourages Council to consider the following:

- rural residential areas should not reduce agricultural viability, contribute to urban sprawl or have adverse environmental impact (particularly on the water cycle and flora and fauna)
- develop in accordance with the land capability of the site and do not cause land degradation
- the impact of the development and the cumulative environmental impact of other development proposals on the catchment
- quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters
- consider the need to ensure that water quality goals for aquatic ecosystem protection are achieved and monitored
- consider the ability of the land to accommodate on-site effluent disposal in the long term and do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site
- minimise or eliminate point source and diffuse source pollution by the use of best management practices
- site and orientate development appropriately to ensure bank stability
- protect the habitat of native aquatic plants
- locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land
- consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms
- conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities and existing or potential fauna corridors
- minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices

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- consider the impact on ecological processes, such as waste assimilation and nutrient cycling
- consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas
- consider the need to control access to flora and fauna habitat areas
- give priority to agricultural production in rural zones
- protect agricultural sustainability from the adverse impacts of other forms of proposed development
- consider the ability of the site to sustain over the long term the development concerned
- maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development;
- consider any adverse environmental impacts of infrastructure associated with the development concerned.

The site falls within the Middle Nepean & Hawkesbury River Catchment Area of SREP 20.

It is considered that future dwellings on the planned additional lots have the potential to either satisfy the relevant provisions SREP No 20 or be able to appropriately minimise its impacts.

Topography

The land generally falls from Bells Line of Road with an elevation of approximately 154 AHD in south-easterly direction towards the existing dam which is located at a level of approximately 114 AHD and approximately 90m away from the north-eastern boundary of the site. A natural watercourse originates from the north-western slopes of the site and runs through the middle of the site and the dam. Also a small watercourse runs parallel to this watercourse and through a small dam located closer to the southern boundary. Both these watercourses flow further down in a south-easterly direction to join into the Redbank Creek.

According to Council's slope mapping, there are areas of land covered with dense vegetation along northern and western boundaries and two watercourses that have a slope greater than 25%. As shown in Figure 2 below approximately 45% is open grass land area with some scattered trees shown in red and cross-hatched and is generally less than 15% in slope. As the HRLS recognises slopes greater than 15% act as a constraint to development, future development of the site for residential purposes would need to be limited only to the land area with slopes less than 15%.

According to Council's slope mapping, proposed Lots 2 and 5 on the 10 large lot concept plan contain more than 80% of land with a slope greater than 15%. Also proposed lots 3 and 9 contains significant portions of land with a slope greater than 15%. The steeper sloping part of the land will, to varying degrees, act as a constraint for the location and type of dwelling, effluent disposal system, and driveways.

The Strategy slope constraint combined with the impacts these slopes have on effluent disposal, potential impacts on the existing native vegetation and the proposed dwelling houses and site access, it is considered that the proposed 10 lots yield on the site as shown on the above concept plan may not be achievable. Given these circumstances it is considered appropriate to limit the proposed 4,000m² lot size only to the north-eastern corner of the site and the remainder of the site area for large lots with minimum lot size of 1ha as shown in Attachment 1 - Proposed Lot Size Map to this report. This would be likely to result in a lesser number of lots on the site than proposed. However this is not a determining factor for this assessment and it could be addressed at the development application stage.

Ecology

The Terrestrial Biodiversity Map of the LEP identifies the whole site area (other than a very narrow strip of land area near the southern boundary) as 'connectivity between remnant vegetation' and records the site as containing Shale Sandstone Transition Forest (Low sandstone influence) with conservation significance.

The planning proposal is accompanied by a flora and fauna survey and assessment report prepared by UBM Ecological Consultants. The report provides the following information on flora and fauna within and adjacent to the site.

Flora

There is no presence of Shale Sandstone Transition Forest or any other sandstone species on the site and the dominant extant community as Moist Shale Woodland (MSW) which is listed separately as an Endangered Ecological Community under the *Threatened Species Conservation Act 1995* (TSC Act).

Less than 10% area of regrowth MSW at the head of the central vegetated watercourse would need to be cleared or modified to create Asset Protection Zone (APZ) between the proposed building footprints and the hazard (i.e. the bushland). It is anticipated that the remainder of the bushland on the steep slopes and along the central watercourse will be retained and managed to preserve and protect its natural conservation values through a site-specific vegetation management plan.

An assessment of the impacts of the planning proposal, and specifically the need to create an APZ on the endangered MSW undertaken under Section 5A of the Act has determined that the likely impacts would be minimal in terms of the local occurrence of the MSW ecological community. As a result a Species Impact Statement has not been recommended for flora issues. However, if the Concept Plan of Community Title Subdivision is amended to remove or relocate the subject lots of concern to the bushfire ecologist, i.e. to move them closer to the vegetated central drainage line, it is likely that a Species Impact Statement will be required.

The report further indicates that there is no presence of threatened flora species or populations listed under the TSC Act on the site.

Fauna

In November 2013 during the field survey by the consultants, 28 native bird species were detected within, adjacent to, or flying over the site. One species of native reptile was observed, and two species of native frog were heard calling from dams in the site. Eight species of microbat were detected within the site. Two other native mammals were observed. Also foxes and Feral Red Deer were observed on the site.

Assessments of significance have been undertaken for those threatened species known to utilise the resources of the subject property/study area or considered likely to use these resources on occasion. These are the Powerful Owl, a suite of microbats and the Grey-Headed Flying Fox. The Assessments undertaken for the threatened species listed above have concluded that there will be no significant impact on these species, and that no further studies are required. However, if the concept plan is amended and additional areas of native vegetation are removed or modified, these assessments will have to be revisited.

Given the presence of these significant flora and fauna species within the site, any future development would require preparation of a flora and fauna report in accordance with Section 5A of the Act. This will enable Council to determine the likely impacts of the future development of the site on the existing flora and fauna species.

Public Transport, Accessibility and Traffic Generation

Public transport is limited to the Westbus Route 682 service along Bells Line of Road between Richmond and Kurrajong. The service operates every 30 minutes during peak period and every 120 minutes during off peak. The closest bus stop is located within the Kurrajong Neighbourhood Centre. Given the limited frequency of service and the location of the bus stop it is anticipated that the future residents of the proposed subdivision will most likely to rely upon private vehicles.

The site is currently accessed via Bells Line of Road which is classified as a 'main road' under the NSW *Roads Act 1993*.

The applicant states that the main access to the site will be from Mason lane and the proposed access way off Mason Lane will be a private road managed under a community title.

The planning proposal is not supported by a traffic impact statement and the cumulative impact of similar proposals that may occur in the future has not been taken into consideration by the planning proposal. It is considered that this is a matter for Council and Roads and Maritime Services (RMS) to address with the outcome being incorporated into affected planning proposals.

In recent reports to Council dealing with other planning proposals within the vicinity of Kurmond it has been noted that Council has received petitions from residents west of the Hawkesbury River concerned about rezoning of land for residential purposes in the absence of required infrastructure upgrades. To address this it has been recommended that Council commence the preparation of a Section 94 Contributions Plan for the land within the vicinity of Kurmond to ensure that all proposed developments in the locality contribute the required infrastructure, specially road upgrade and provision, in the locality. Alternatively applicants and Council can commence Voluntary Planning Agreement negotiations to address this issue. It is considered that it is a fundamental matter to be dealt with by Council prior to the finalisation of any planning proposals in the locality as the cumulative impact of these types of development will be unacceptable if no traffic improvements are made.

Bushfire Hazard

The site is shown as being bushfire prone (bushfire vegetation category 1) on the NSW Rural Fire Service's Bushfire Prone Land Map.

A bushfire risk assessment report prepared by Control Line Consulting in December 2013 in support of the planning proposal states that the site inspection and interpretation of aerial photo of the site confirms the Hawkesbury Bushfire Prone Land Map does not accurately represent the current extent of Category 1 Vegetation within the site and the area shown as Category 1 Vegetation is excessive. It further states that forest vegetation is limited to the north-west corner of the site and an occluded section within the south-eastern section of the site and Category 2 Vegetation occupies the vast majority of the site which represents grassland. The report concludes that future subdivision of the land as proposed in the subdivision concept plan could be able to comply with the provisions of bushfire regulatory requirements.

If the planning proposal is to proceed it will be referred to the NSW Rural Fire Service (RFS), being the responsible authority of bushfire protection, for comment.

Agricultural Land Classification

The site is shown as being Agriculture Land Classification 3 and 4 on maps prepared by the former NSW Department of Agriculture. These lands are described by the classification system as:

- "3. *Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with sown pasture. The overall production level is moderate because of edaphic or environmental constraints. Erosion hazard, soil structural breakdown or other factors, including climate, may limit the capacity for cultivation and soil conservation or drainage works may be required.*
4. *Land suitable for grazing but not for cultivation. Agriculture is based on native pastures or improved pastures established using minimum tillage techniques. Production may be seasonally high but the overall production level is low as a result of major environmental constraints."*

Given the proximity of the site to surrounding rural residential properties and the size and slope of the site it is considered that it is unlikely the site could be used for a substantial or sustainable agricultural enterprise. However the land could still be used for light grazing.

Character

The predominant character of the immediate locality is rural residential (see Figure 4 below).



Figure 4: Aerial view of the site and surrounds

The area surrounding the site contains a mix of lot sizes and in particular there are a number of relatively small rural-residential lots with minimum lot sizes ranging from approximately 815m² - 3,000m² to the north-west and south-east fronting Bells Line of Road. The average size of lots immediately to south-west of the site fronting Mason Lane is 4,200m².

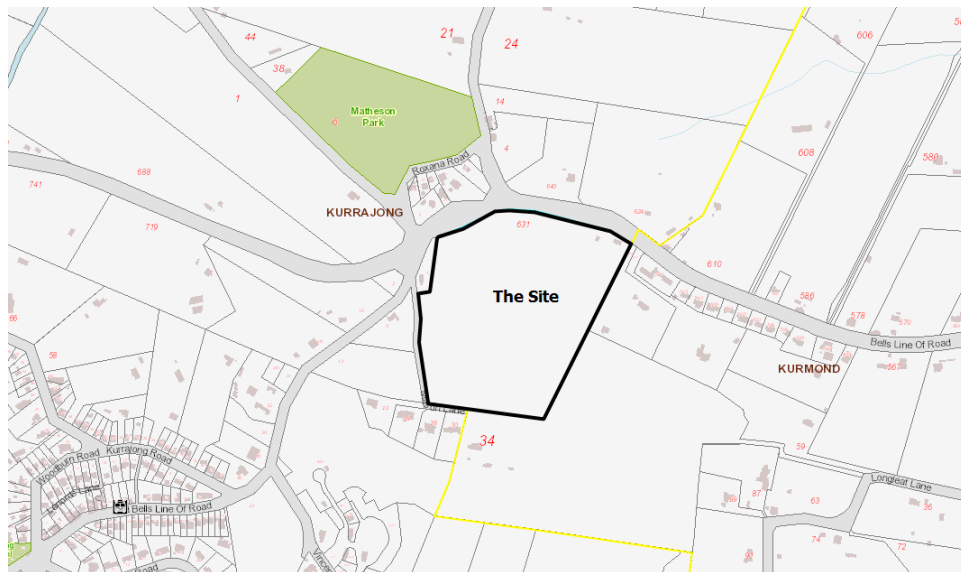


Figure 5: The Site and surrounding properties with a mix of lot sizes

Given the predominant rural residential character of the immediately vicinity and the abovementioned a mix of surrounding lot sizes, the intended outcome of the planning proposal to subdivide the land into large lot residential lots with minimum lot sizes of 4,000m² and 1ha is considered consistent with the existing character of the locality.

Services

The applicant states that:

"The proposal for 10 housing lots will not require the provision of additional public infrastructure. Electricity and telephone is available to the site. Reticulated water goes past the site's frontage. Whilst it is assumed that water would be available from Sydney Water if there was a supply difficulty then this would not be a bar to the subdivision occurring as the majority of nearby lots rely on water catchment rather than the reticulated supply."

The site does not have an access to a reticulated sewerage system and future development of the site would need to be depended on on-site sewerage management (OSSM) system. The existing dwelling house on proposed Lot 5 is served by an existing OSSM system. According to Council's records a five-year licence to operate the system issued by Council has expired in December 2014 and now the licence needs to be renewed to continue with the operation of the system. The location of this system relative to the boundaries of proposed Lot 5 is unknown, this can be further investigated at development application stage.

A preliminary effluent disposal report prepared by BRS has been submitted in support of the planning proposal. The report states that preliminary calculations carried out indicate an area of 994m² required for effluent disposal for each lot. Taking setbacks and other site constraints into consideration, areas in excess of 1,024m² for each proposed lot are available.

The report further states that based on a preliminary assessment and BRS's experience the site is considered to be suitable for on-site disposal of effluent generated by future dwellings within the recommended preliminary effluent disposal areas shown in Figure 6 below.

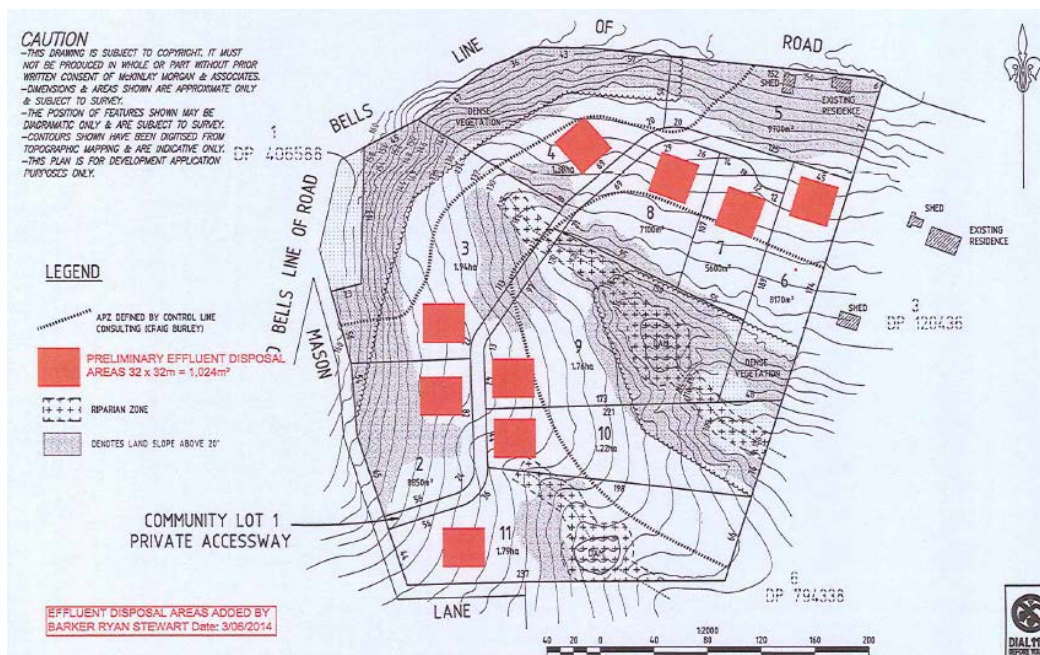


Figure 6: Proposed preliminary effluent disposal areas

The preliminary effluent disposal report concludes that:

"From the preliminary assessment of on-site effluent disposal for the proposed rezoning, each lot is considered suitable for the effective dispose of effluent using an aerated wastewater treatment system with surface irrigation serving a maximum number of 10 persons, without having detrimental impact on the environment provided:

- *The disposal area required for each proposed lot will be approximately 994m² while a provision of over 1,024 has been allowed for.*
- *A total wet weather storage of 3.1 cubic metres will be required to be provided within any proposed future system which will have a capacity of approximately 7,000m litres.*
- *The model of the system to be installed will be selected from the list of accredited units provided by the New South Wales Department of Health.*
- *Any system will need to be installed, operated and maintained in accordance with the manufacturer's instructions and the Council conditions of approval.*
- *Buffers and setbacks have been checked and maintained generally in accordance with the aforementioned on-site effluent disposal policies."*

However given the land area free of any slope/development constraints shown on the concept plan is inconsistent with the HRLS slope constraint criteria and possible reduction in number of lots on the site a detailed soil assessment will need to be undertaken at the subdivision application stage to determine the exact sizing and location of the effluent disposal areas. Verification/clarification of the distances of the effluent disposal areas from the two existing watercourses will also be required during further investigation and design of effluent disposal areas at the subdivision application stage.

Heritage

The site is not identified as a heritage item/property in Schedule 5 Environmental Heritage of the LEP or located within a conservation area.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Looking after People and Place Directions statement.

- Offer residents a choice of housing options that meet their needs whilst being sympathetic to the qualities of the Hawkesbury.
- Population growth is matched with the provisions of infrastructure and is sympathetic to the rural, environmental, heritage values and character of the Hawkesbury.
- Have development on both sides of the river supported by appropriate physical and community infrastructure.

Conclusion

It is considered that some form of rural residential development on the site is appropriate and it is recommended that Council support the preparation of a planning proposal to amend the LEP to allow development of the land for rural residential development.

Whilst the site has potential for the development of rural residential allotments for the reasons of slope constraints, which may contribute to increased potential adverse impacts on the existing Endangered Ecological Community from on-site waste water disposal, asset protection zones, etc., it is recommended that 4,000m² minimum lot size be limited to the north-east corner of the site and 1ha minimum lot size be applied to the remainder of the site as shown in Attachment 1 to this report.

It is recommended that if the DP&E determines that the planning proposal is to proceed, this development, via a Section 94 Plan or Voluntary Planning Agreement, contribute to the required infrastructure, specially road upgrade and provision in the locality.

Financial Implications

The applicant has paid the fees required by Council's fees and charges for the preparation of local environmental plans.

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.

ORDINARY MEETING

Meeting Date: 12 May 2015

RECOMMENDATION:

That:

1. Council support the preparation of a planning proposal for Lot 1 DP 120436, 631 Bells Line of Road, Kurrajong to amend the Lot Size Map of Hawkesbury Local Environmental Plan 2012 to permit minimum lot sizes of not less than 4,000m² and 1ha on the land as shown in Attachment 1 to this report.
2. Council does not endorse any proposed subdivision layout/plan submitted with the planning proposal as this will need to be subject to a development application should the planning proposal result in making the plan.
3. The planning proposal be forwarded to the Department of Planning and Environment for a "Gateway" determination.
4. The Department of Planning and Environment be advised that Council wishes to request a Written Authorisation to Exercise Delegation to make the Plan.
5. The Department of Planning and Environment and the applicant be advised that in addition to all other relevant planning considerations being addressed, final Council support for the proposal will only be given if Council is satisfied that satisfactory progress, either completion of the Section 94 Developer Contributions Plan or a Voluntary Planning Agreement, has been made towards resolving infrastructure provision for this planning proposal.

ATTACHMENTS:

AT - 1 Proposed Minimum Lot Size Map

CITY PLANNING

Item: 70 CP - Sustainability Indicators - (95498, 124414)

REPORT:

Executive Summary

At its meeting of 30 March 2015, the Sustainability Advisory Committee (SAC) endorsed Council's existing Community Indicators as Sustainability Indicators.

The SAC also resolved that a recommendation be made that the Community Indicators, adopted by Council on 29 July 2014, also be adopted as Sustainability Indicators.

Consultation

Consultation for the development of the Sustainability Indicators has been conducted with the SAC.

Background

One of the key roles of the SAC is to assist Council in developing Sustainability Indicators.

Council adopted a list of Community Indicators on 29 July 2014 to be used to measure progress in the implementation of the Hawkesbury Community Strategic Plan 2013-2032 (CSP). The list of the Community Indicators has been compiled to reflect the Strategies and Measures in the CSP.

The Community Indicators were provided to the SAC as a starting point for development of Sustainability Indicators. The SAC met on 24 March 2014 and 17 November 2014 and at an informal meeting with some of the SAC members on 4 September 2014 to develop Sustainability Indicators.

At the meeting of 17 November 2014 it was agreed by the SAC that the Community Indicators should be used as Sustainability Indicators. It was also agreed that if additional suitable Sustainability Indicators are developed, that these will be used in addition to the Community Indicators. On 30 March 2015 the SAC adopted Council's existing Community Indicators as Sustainability Indicators.

A resolution of Council is required in order for the Community Indicators to also be used as Sustainability Indicators. It is therefore recommended that the SAC's request Council adopt the Community Indicators as Sustainability Indicators.

Conformance to the Hawkesbury Community Strategic Plan

The proposal is consistent with the Caring for Our Environment Theme and is also consistent with the CSP being:

- Adherence to adopted sustainability indicators

Financial Implications

There are no direct financial implications associated with this report at this stage.

ORDINARY MEETING

Meeting Date: 12 May 2015

RECOMMENDATION:

That the Community Indicators adopted by Council on 29 July 2014 also be adopted as Council's Sustainability Indicators to be used in relevant reports.

ATTACHMENTS:

AT - 1 Community Indicators - *(Distributed Under Separate Cover)*.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 12 May 2015

INFRASTRUCTURE SERVICES

Item: 71 **IS - Exclusive Use of Governor Phillip Reserve - The Hawkesbury 120 Ski Race Classic 2015 - (95495, 79354, 92138)**

REPORT:

Executive Summary

Ski Racing NSW Inc. are seeking exclusive use of Governor Phillip Reserve for the 2015 Hawkesbury 120 Water Ski Classic to be held on Saturday, 29 August 2015 and Sunday, 30 August 2015.

The race has been conducted annually over the last nine years and contributes positively to the local economy in addition to providing a high profile sporting event for the area. It has recently been included as the 1st event in the National Ski Racing Australia Classic Series, attracting support from local and interstate competitors. It is recommended that approval be given for the exclusive use of the Reserve in accordance with applicable conditions.

Consultation

Although the issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy, public notification of the event will be undertaken through signage and advertisements.

Background

Ski Racing NSW Inc have requested exclusive use of Governor Phillip Reserve on Saturday, 29 August 2015 and Sunday, 30 August 2015 to conduct the annual Hawkesbury 120 Water Ski Classic, with non-exclusive use for set up on Friday, 28 August 2015.

This event is a regular fixture at Governor Phillip Reserve. It is well coordinated, receives good attendance, and is considered to provide positive benefits to both the community and local businesses as well as providing a high profile sporting event for the area.

The event will be required to obtain approval for traffic management, which is to be undertaken as part of the Special Event Application.

Conformance to the Hawkesbury 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 attracts residents, visitors and businesses

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

- Differentiate, brand and promote the Hawkesbury as a tourism destination

Financial Implications

Income will be generated through user charges for use of the Reserve in accordance with the Draft 2015/2016 Operational Plan.

ORDINARY MEETING

Meeting Date: 12 May 2015

RECOMMENDATION:

That:

1. Approval be granted to Ski Racing NSW Inc for “exclusive use” of Governor Phillip Reserve for the 2015 Hawkesbury 120 Ski Race Classic to be held on Saturday, 29 and Sunday, 30 August 2015.
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) The Governor Phillip Exclusive Use Policy.
 - e) The Governor Phillip Noise Policy.
 - f) A Traffic Management Plan which has been approved as part of the Special Event Application.
3. As the applicant has not advised alternative dates in the event of inclement weather or other circumstances, the General Manager be given authority to negotiate exclusive use on an alternate date, if required by the applicant.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 12 May 2015

ordinary

section 4

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 4 - Reports of Committees

ROC Development Application Monitoring Advisory Committee Minutes - 26 March 2015 - (95496, 91369)

Minutes of the Meeting of the Development Application Monitoring Advisory Committee held in Council Chambers, Windsor on Thursday, 26 March 2015.

The meeting commenced at 5pm.

Present:	Councillor Kim Ford, Chairperson Councillor Warwick Mackay OAM Councillor Bob Porter
Apologies:	Councillor Mike Creed, Deputy Chairperson Councill Paul Rasmussen
In Attendance:	Mr Peter Jackson, Hawkesbury City Council Mr Matthew Owens, Hawkesbury City Council Ms Cristie Evenhuis, Hawkesbury City Council

REPORT:

RESOLVED on the motion of Councillor Bob Porter and seconded by Councillor Warwick Mackay that the apologies be accepted.

Attendance Register

Member	6/11/14	26/3/15				
Councillor Kim Ford	✓	✓				
Councillor Bob Porter	✓	✓				
Councillor Mike Creed	A	A				
Councillor (Dr) Warwick Mackay	✓	✓				
Councillor Paul Rasmussen	A	A				
Mr Peter Jackson (GM)	✓	✓				
Mr Matt Owens (DCP)	✓	✓				
Ms Cristie Evenhuis (MDS)	✓	✓				

Key: A = Formal Apology ✓ = Present X = Absent - no apology

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Bob Porter and seconded by Councillor Warwick Mackay that the Minutes of the Development Application Monitoring Advisory Committee held on the Thursday, 6 November 2014, be confirmed.

SECTION 4 - Reports for Information

Item: 1 Development Application Statistics - 1 October 2014 - 31 December 2014

RECOMMENDATION TO COMMITTEE:

That the information regarding the Development Application Statistics for the period 1 September 2014 – 31 December 2014 be received and noted.

MOTION:

RESOLVED on the motion of Councillor Warwick Mackay, seconded by Councillor Bob Porter.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the information regarding the Development Application Statistics for the period 1 September 2014 – 31 December 2014 be received and noted.

Item: 2 Development Application (DA) Riverfront Land/Properties - October - December 2014

RECOMMENDATION TO COMMITTEE:

That the information regarding the development application processing and requirements for riverfront land/properties October 2014 – December 2014 be received and noted.

MOTION:

RESOLVED on the motion of Councillor Warwick Mackay, seconded by Councillor Bob Porter.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the information regarding the development application processing and requirements for riverfront land/properties October 2014 – December 2014 be received and noted.

SECTION 5 - General Business

Following a question by the Mayor, Councillor Kim Ford, discussion took place regarding the potential processing time for a development application (DA) submitted with all documentation in order and where there were no objections or subsequent issues. The discussion also referred to matters that arise during the processing of a DA that were likely to delay its finalisation.

ORDINARY MEETING
Reports of Committees

The meeting terminated at 5:40pm.

Submitted to and confirmed at the meeting of the Development Application Monitoring Advisory Committee to be scheduled.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC Sustainability Advisory Committee - 30 March 2015 - (126363)

The meeting commenced at 5:03pm in Council Chambers.

Present: Councillor Mary Lyons-Buckett, Chairperson
Mr John Street, Deputy Chairperson
Councillor Leigh Williams, Hawkesbury City Council
Ms Vicki Lett, Community Member
Ms Jean Downie, Community Member
Ms Jen Dollin, University of Western Sydney
Ms Janice Bagot, Office of Environment and Heritage

Apologies: Mr Matthew Owens, Hawkesbury City Council
Mr Phil Pleffer, Hawkesbury City Council

In Attendance: Mrs Shari Hussein, Hawkesbury City Council
Ms Suzanne Stuart, Hawkesbury City Council
Ms Robyn Kozjak - Minute Taker, Hawkesbury City Council

REPORT:

RESOLVED on the motion of Ms Dollin and seconded by Mr Street that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Ms Dollin and seconded by Mr Street that the Minutes of the Sustainability Advisory Committee held on 17 November 2014, be confirmed.

Attendance Register of Sustainability Advisory Committee

Member	17.11.14	30.03.15			
Councillor Mary Lyons-Buckett	✓	✓			
Councillor Leigh Williams	A	✓			
Ms Jean Downie	✓	✓			
Ms Jen Dollin	✓	✓			
Ms Vicki Lett	A	✓			
Mr John Street	✓	✓			
Ms Janice Bagot	A (belated apology due to heavy traffic conditions)	✓			

Key: A = Formal Apology ✓ = Present X = Absent - no apology

ORDINARY MEETING
Reports of Committees

BUSINESS ARISING:

5:05pm - Ms Downie arrived at the meeting.

- Mr Street advised two Green Army teams had been working on clearing the weed infested access way from Old Kurrajong Road to the North Richmond Bridge and advised the footpath was now cleared. Mr Street sought Council's assistance in maintaining that access way in the future. Mr Street added HEN was presently negotiating with Redbank developers to extend its development work into private property areas to ensure the riparian zone was in good condition prior to its being potentially impacted by the Redbank development.

5:14pm - Mr Organ commenced his presentation.

Mr Organ addressed the Committee, advising Council adopts a sustainable approach to all works undertaken, and spoke of some of the initiatives Council had taken, including:

- Major water saving initiatives - replacement of taps, low flow equipment, dual flush toilets etc.
- Power saving measures - 30kw power saver system on roof of Administration Building and at the Oasis Aquatic Centre as well as solar heating system which supplements heating of pool.
- Building management systems - computer based system which controls and monitors the building's energy demands by controlling mechanical and electrical equipment, lighting, security and power systems in Council buildings.
- Replacement of bulbs with LEDs, 537 street lights to be replaced.
- Irrigation of sports fields remotely controlled by Sports Council - (avoids misuse of water - sprinklers no longer automatically turn on during rain).
- General material consumption - use of low toxicity materials, chemicals, paints.
- Building maintenance projects - recycling initiatives, separation of items from landfill, use of recycled road base where possible.
- Electric appliances - star rating taken into account.
- Tree lopping - trees left in situ at site and reused.
- Composting - production of high quality saleable material.
- Plant - whole of life costs assessed when purchasing on trucks (including fuel consumption).
- STP - Recycled water, introduction of new blowers - reduced consumption as now running one blower at a time.
- Land fill - methane capture system (flaring), although not sufficient to drive generator.

Mr Street asked what amount of methane was captured.

Mr Organ responded he would provide a response in the Minutes.

- Councillor Williams made reference to Council vehicles and suggested they be reviewed to ascertain the feasibility of attaining a more environmentally sound and sustainable fleet.
- The Chair reported the Mayor drove a hybrid vehicle.

ORDINARY MEETING
Reports of Committees

- Mrs Hussein responded Council held a range of vehicles for various types of jobs and suggested she provide a report to the Committee in relation to Council's fleet, its cost efficiency and sustainability requirements.

MOTION:

RESOLVED on the motion of Ms Dollin, seconded by Mr Street.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That a report be provided at the next meeting outlining relevant standards and sustainability requirements in relation to Council's car fleet and plant.

- Ms Bagot asked if Council held a policy in relation to water bubblers as she had not seen any at events.
- Mrs Hussein responded Council does have a Sustainable Events Policy which was applicable to those holding events in the area.

Note: Council's Sustainable Events Policy can be found on Council's website at:

<http://council.hawkesbury.nsw.gov.au/masterviewui/user/dwssubject/default.aspx?page=found&1=sustainable%20events>

- Mr Organ advised the cost of providing and connecting bubblers was not cost effective (at approximately \$7,000 for each bubbler) and added bottle filling stations for new developments was being investigated.

5:47pm - Mr Organ and Mr McClure left the meeting

SECTION 3 - Reports for Determination

Item: 1 SAC - Adoption of Sustainability Indicators - (126363)

Previous Item: SAC (24 March 2014)
 135, Ordinary (29 July 2014)
 SAC (17 November 2014)

DISCUSSION:

- Ms Bagot noted there did not appear to be any indicators pertaining to biodiversity conservation.
- Discussion arose regarding the addition of a biodiversity indicator and the Committee generally agreed issues such as tree preservation and biodiversity offsets needed to be addressed.

ORDINARY MEETING

Reports of Committees

- Mrs Hussein reported, in relation to tree preservation, the introduction of the 10/50 vegetation rules posed extra challenges in covering data pertaining to vegetation, as well as RFS requirements for asset protection zones. Mrs Hussein advised, in relation to vegetation mapping (including that of the Cumberland Plain), Council did not have any formal biodiversity offset arrangements in place. Mrs Hussein suggested for the Committee's assistance, should it wish to add a biodiversity indicator at a later stage, that she bring a report to the next meeting covering technical information in relation to biodiversity.
- Ms Dollin made reference to the annual reporting of E.coli data as set out in the *Water Quality Guidelines* indicator and raised concern the recording of a high reading of the bacteria, in retrospect, would be of no benefit. It was suggested the monthly statistics (provided to Council by the Sydney Catchment Management Authority), be reported on an annual basis to determine the movement in levels of bacteria. Ms Dollin added levels of algal bloom could also be reported in a similar manner.

Mrs Hussein reminded the Committee the purpose of the indicators was to measure progress in the implementation of the Hawkesbury Community Strategic Plan, over a longer term period, and not immediate events (such as fish kill from a pollution incident which was raised in earlier discussion).

- Mrs Hussein acknowledged the indicators did not include detailed river health/sustainability indicators, however, suggested the indicators be adopted as per the report, and modifications made at a later stage, should the Committee wish to do so.
- Ms Lett referred to Council's State of the Environment report and suggested river health issues and data be presented in "plain English" to assist, educate and grow the community's interest in river health.

The Chair agreed educating the community was of high importance and suggested that matter be addressed at the next meeting.

- Ms Dollin suggested food mapping be flagged as a future item for the Committee's consideration, particularly in regards to child care and aged care services in terms of buying from local farmers, as opposed to buying from supermarkets.

6:20pm - Ms Dollin left the meeting.

RECOMMENDATION TO COMMITTEE:

That the Sustainability Advisory Committee recommend to Council that the Community Indicators adopted by Council on 29 July 2104 also be adopted as Sustainability Indicators.

MOTION:

RESOLVED on the motion of Mr Street, seconded by Councillor Williams.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Sustainability Advisory Committee:

1. Recommend to Council that the Community Indicators adopted by Council on 29 July 2104 also be adopted as Sustainability Indicators.
2. Continue discussions on the sustainability indicators after adoption to:
 - a) examine education
 - b) examine data collection
 - c) provide annual review of the indicators for future possible additions

SECTION 4 - Reports for Information

Item: 2 SAC - Southern Sydney Regional Organisation of Councils - Solar Power Scheme - (126363)

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Ms Lett, seconded by Mr Street.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the information be received.

SECTION 5 - General Business

Nil.

Discussion arising out of Questions from Previous Meeting and Responses

- Mr Street referred to Q.4 in relation to Council's use of plantation forest paper and advised he believed Council should use only 100% recycled paper as plantation forest paper was 18% more expensive. Mr Street added savings could be made through careful waste management and made reference to the superfluous blank pages in the business paper.

Mrs Hussein responded Council was moving towards paperless processes, for example, the provision of iPads for Councillors in lieu of hard copy business papers and providing and preparation of fewer copies of business papers for the gallery attendees. Mrs Hussein advised there was a range of processes in train, moving towards a paperless office environment, including electronically stamping development approvals.

ORDINARY MEETING
Reports of Committees

MOTION:

RESOLVED on the motion of Mr Street, seconded by Ms Lett.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That Councillors' and staff's efforts to change from paper to paperless communication be continued.

- Ms Lett suggested staff endeavour to negotiate the price on recycled paper (and other products), as her employer, a government agency, was successful in negotiating a good price for "evolve" paper.

Mrs Hussein responded she would raise that suggestion with Council's purchasing officer.

The Chair closed the meeting and advised as the next meeting was later in the year (19 October), she would liaise with members via email to arrange an informal meeting in the meantime.

The meeting closed at 6:54pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC **Human Services Advisory Committee - 23 April 2015 - (123486)**

The meeting commenced at 9:40am.

Present: Councillor Barry Calvert, Deputy Chairperson
Councillor Mary Lyons-Buckett, Hawkesbury City Council
Ms Jacquie Menzies, Community Representative
Mr Glenn Powers, Community Representative
Mr Nick Sabel, Wentworth Community Housing
Ms Birgit Walter, North Richmond Community Centre and HARC

Apologies: Ms Vickie Shackley, Chairperson
Ms Denise Handcock, Peppercorn Services Inc
Mr Matthew Owens, Hawkesbury City Council
Ms Meagan Ang, Hawkesbury City Council

In Attendance: Mrs Shari Hussein, Hawkesbury City Council
Mr Joseph Litwin, Hawkesbury City Council
Mr Michael Laing, Hawkesbury City Council
Ms Robyn Kozjak - Minute Taker, Hawkesbury City Council

Non Attendance: Mr Douglas Carbery, Community Representative

REPORT:

In the absence of the Chair, Councillor Calvert, as Deputy Chair, opened the meeting.

RESOLVED on the motion of Councillor Lyons-Buckett and seconded by Ms Walter that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Lyons-Buckett and seconded by Mr Powers that the Minutes of the Human Services Advisory Committee held on the 5 February 2015, be confirmed.

Attendance Register of Human Services Advisory Committee

Member	06.11.14	05.02.15	23.04.15		
Councillor Barry Calvert	✓	✓	✓		
Councillor Mary Lyons Buckett	✓	✓	✓		
Ms Vickie Shackley	✓	✓	A		
Ms Denise Handcock	✓	✓	A		
Mr Douglas Carbery	✓	✓	X		
Mr Nick Sabel	✓	A <i>Ms Rariff in lieu</i>	✓		
Mr Glenn Powers	✓	✓	✓		
Ms Jacquie Menzies	X <i>Was not aware of meeting due to communication devices offline</i>	A	✓		
Ms Birgit Walter	✓	A	✓		

Key: A = Formal Apology

✓ = Present

X = Absent - no apology

ORDINARY MEETING
Reports of Committees

SECTION 3 - Reports for Determination

Item: 1 **HSAC - April 2015 Update - Hawkesbury Homelessness Action Plan - (123486)**

Previous Item: 1, HSAC (5 February 2015)

DISCUSSION:

9:45am - Ms Menzies arrived at the meeting.

- Mr Laing reported on the initiation of “The Right Door” 1800 number as a single entry point into the Nepean, Hawkesbury and Lithgow region’s homelessness and support services.
- Mr Laing advised staff from Council’s Community Services Branch had today attended a meeting facilitated by FACS Nepean-Blue Mountains District in relation to a Homeless Youth Assistance Program which aims to provide integrated support and crisis accommodation to young people 12-15 years from Penrith, Blue Mountains, Hawkesbury and Lithgow areas. Mr Laing advised he would confer with staff from that branch to ascertain the outcome of that meeting and bring back information to the next Committee meeting.
- Mrs Hussein suggested key actions be drawn out of the HHAP for discussion at the next meeting.
- The Committee asked for some clarity as to what accommodation was presently available to homeless people in the Hawkesbury and it was resolved to ascertain the status of the proposed services to be provided by Platform Youth Services (previously the Turning Point).
- Mr Laing advised Wentworth Community Housing in Windsor provided accommodation, on a temporary basis (for up to one week).
- The Committee resolved that the local Member of Parliament be asked to assist in securing accommodation.

RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.
2. Council officers forward a copy of the HHAP to the (new) NSW Minister of Family and Community Services, the Hon. Brad Hazzard (MP), and the local Members of Parliament.

MOTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Ms Walter.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be received.
2. Council officers forward a copy of the HHAP to the (new) NSW Minister of Family and Community Services, the Hon. Brad Hazzard (MP), and the local Member of Parliament.
3. Council officers approach the local Member of Parliament to secure some places and housing options for homelessness to assist with the HHAP and work with Council.
4. The local Member of Parliament be invited to meet with the HSAC to discuss the HHAP.

SECTION 4 - Reports for Information

Item: 2 **HSAC - Draft Voluntary Planning Agreement for Jacaranda Ponds - (123486)**

Previous Item: 2, HSAC (31 October 2013)
 3, HSAC (20 February 2014)

DISCUSSION:

- Mr Laing made reference to submissions made during the exhibition of the draft VPA and in particular to the suggestions made from the Glossodia Community Reference Group via the online engagement hub on Council's website.
- Mrs Hussein advised submissions and suggestions would be recorded in a report to Council in the near future.

10:10am - Mr Sabel arrived at the meeting.

- Discussion arose in relation to the list of community services and facilities identified for inclusion in the draft VPA and the Committee generally agreed to make child care facilities a priority.

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Mr Powers, seconded by Ms Menzies.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Glossodia Community Reference Group and the developer be asked to give priority to before and after school care and long day care centre implementation.

ORDINARY MEETING
Reports of Committees

Item: 3 **HSAC - Affordable Housing Options - Update - (123486)**

Previous Item: 2, HSAC (20 February 2014)
 4, HSAC (6 November 2014)
 2, HSAC (5 February 2015)

DISCUSSION:

- Councillor Calvert made reference to Mr Sabel's intention to move on from Wentworth Community Housing after 17 years of dedicated work and thanked Mr Sabel for his assistance with the Committee.

The Committee wished Mr Sabel well in his future endeavours.

- Mr Sabel thanked the Committee and recommended Ms Jenny Ranft be accepted as Wentworth Community Housing's representative for future HSAC meetings

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Councillor Lyons-Buckett, seconded by Ms Walter.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Committee recognise the work done by Nick Sabel in assisting with the policy work done by the HSAC and wish him well in his future endeavours.

Item: 4 **HSAC - Non Provision of Funded Allied Health Services to Hawkesbury Residents - Outcome of Representations - (123486)**

Previous Item: 1, HSAC (24 July 2014)
 2, HSAC (6 November 2014)

DISCUSSION:

- Mr Litwin advised he would confer with Ms Ang, Community Programs Co-ordinator and provide further information in relation to an update on the provision of funded allied health services to Hawkesbury residents.
- The Committee raised grave concern at the lack of local health services available to Hawkesbury residents.
- Councillor Lyons-Buckett asked if it was possible to look into transport links being made available to the Penrith health precinct (eg a regular shuttle from the Hawkesbury), stating it was imperative that services be made accessible to Hawkesbury's residents.

ORDINARY MEETING
Reports of Committees

RECOMMENDATION TO COMMITTEE:

That the information be received.

MOTION:

RESOLVED on the motion of Councillor Calvert, seconded by Councillor Lyons-Buckett.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That a report be prepared for the HSAC to:

1. Explore accessibility to funded allied health services in Penrith.
2. Outline outreach services and partnership opportunities for funded allied health services in the Hawkesbury.

SECTION 5 - General Business

Nil.

The meeting closed at 10.50am.

oooO END OF REPORT Oooo

ORDINARY MEETING
Questions for Next Meeting

QUESTIONS FOR NEXT MEETING

Councillor Questions from Previous Meeting and Responses - (79351)

REPORT:

Questions - 28 April 2015

#	Councillor	Question	Response
1	Paine	Enquired as to the current legal position in respect of the function centres at Richmond Lowlands and noise generation.	The Director City Planning advised that Council is currently the second respondent to Class 4 proceedings between two property owners on the lowlands. (One owner taking the other owner to Court to cease use of site as a function centre.) Council is submitting an appearance only in these proceedings. The outcome of the two development applications for Temporary Use of existing buildings on this meeting agenda will have an impact on the direction of these proceedings.
2	Paine	Requested information about plans in place for managing flood waters in McGraths Hill from South Creek and what future plans are considered for managing traffic on Hawkesbury Valley Way.	The Director Infrastructure Services advised that although there are no current proposals by RMS to raise Windsor Road east of South Creek, the issues of traffic management and evacuation in a range of flood events is currently being assessed in detail as part of the Hawkesbury Nepean Flood Transport and Traffic Arrangements being undertaken by the State Government.
3	Williams	Requested advice on the option of removal of the traffic island at Tollhouse Way that is causing disruption to traffic flow and access to residential driveways.	The Director Infrastructure Services advised that the cost of removal of the island including new pavement is estimated at \$17,000. This work is listed for consideration in future work programs, however is currently not funded, with priority being given to maintenance and renewal of deteriorated assets.

ORDINARY MEETING**Questions for Next Meeting**

#	Councillor	Question	Response
4	Williams	Enquired on the extent of flooding at McGrath's Hill flats due to Mackenzie Creek arising from the run-off from the Rouse Hill development and if this is the case, whether it is possible to apply for State Government assistance to resolve water retention issues.	The Director Infrastructure Services advised that the flooding of Windsor Road was due to high flows in South Creek whilst McKenzies Creek and Killarney Chain of Ponds Creek catchment extend to Box Hill and Schofield no significant development activity has yet taken place in these areas. Future development of these North West Growth Centre precincts will incorporate stormwater detention basins to mitigate development impacts.
5	Creed	Referred to an email from the General Manager's office regarding a letter in relation to Lantana as a noxious weed (NM2, 24 February 2015) and enquired why the delegates to the Hawkesbury River County Council have not maintained Council's position as per the resolution of 24 February 2015 and if there is a policy or process in place requiring delegates to maintain Council's adopted position when acting as Council's representatives.	The General Manager advised that a request for the reasons for Council's delegates voting in a particular manner would need to be directed towards those delegates and that Council does not have a policy in relation to how Council's delegates to an organisation should vote. However, this may be similar to the situation of an appointment to a Board, where it is expected that the person represent the best interests of that organisation when performing that role other than presenting the views of the appointing body.

oooO END OF REPORT Oooo

ORDINARY MEETING
CONFIDENTIAL REPORTS

CONFIDENTIAL REPORTS

Item: 72 **SS - Property Matter - Lease to Danielle Dibley and Shanon Bryan-Hojel - Clarendon Parkside Cafe (Part of Lot 3 in Deposited Plan 1062683) - (95496, 112106, 74459) CONFIDENTIAL**

Reason for Confidentiality

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

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

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



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meeting

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