



Hawkesbury City Council

ordinary
meeting
business
paper

date of meeting: 27 November 2007

location: council chambers

time: 5:00 p.m.



mission
statement

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

How Council Operates

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

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

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

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

Meeting Procedure

The Mayor is Chairperson of the meeting.

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

Public Participation

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

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

A Point of Interest

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

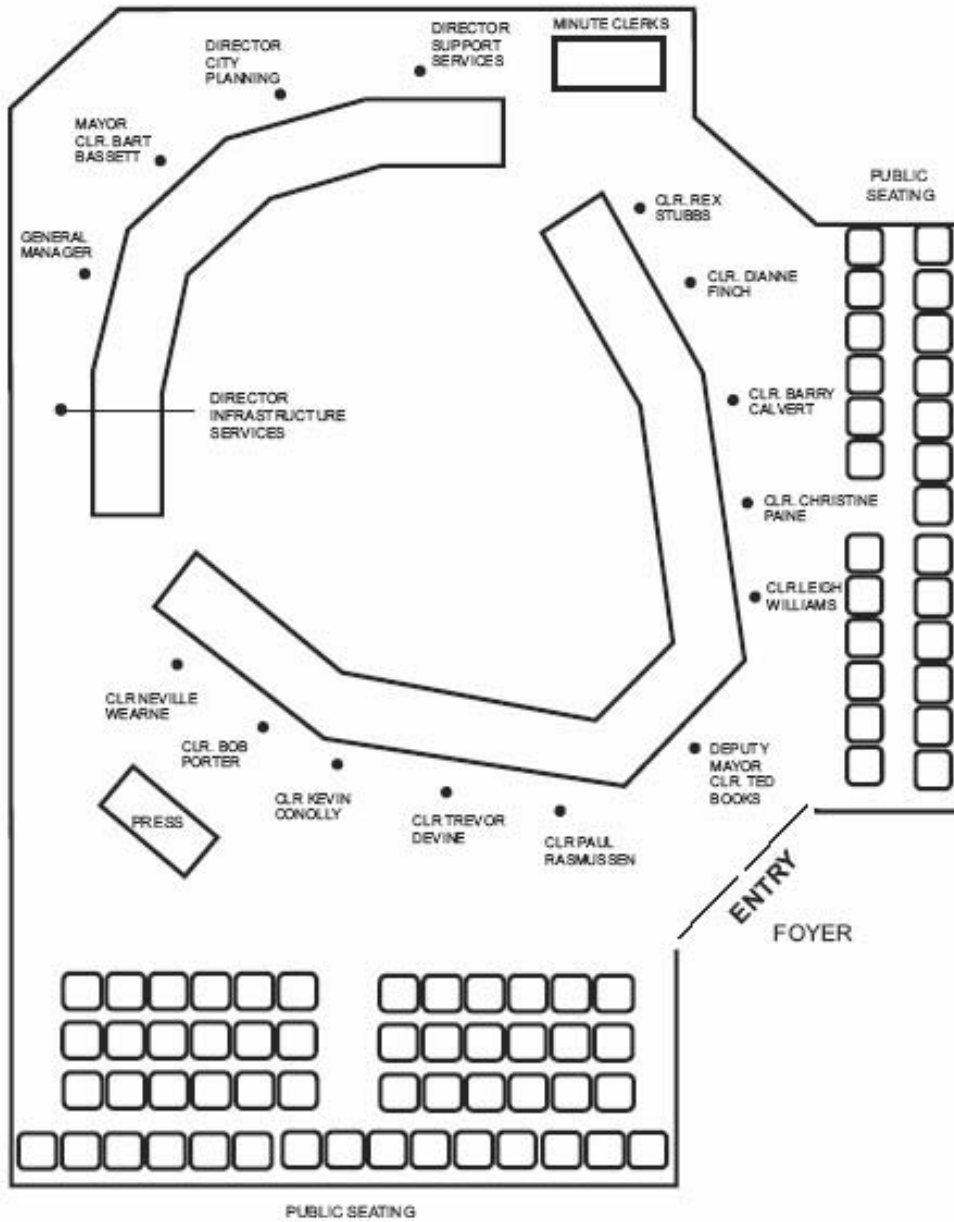
Website

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

Further Information

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

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- **DECLARATION OF INTERESTS**
- **PRESENTATION BY COUNCIL'S AUDITOR, MR DENNIS BANICEVIC OF PRICEWATERHOUSECOOPERS, IN RESPECT OF COUNCIL'S AUDITED 2006/2007 FINANCIAL STATEMENTS**
- **SECTION 1 - Confirmation of Minutes**
- **AGENDA ITEMS SUBJECT TO PUBLIC ADDRESS**
- **SECTION 2 - Mayoral Minutes**
- **QUESTIONS WITH NOTICE**
- **SECTION 3 - Notices of Motion**
- **EXCEPTION REPORT - Adoption of Items Not Identified for Discussion and Decision**
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 - General Manager**
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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 255 **GM - Hawkesbury Sister City Association - Councillor Delegation - (95497)**

Previous Item: 193, Special Meeting (18 September 2007)

REPORT:

Council at its Special Meeting on 18 September 2007, while considering a report on the "Appointment of Committees, Delegates and Representatives" resolved, in part:

"That:

1. *Committees, delegates and representatives as listed in the business paper be approved with the following amendments:*
 - (g) *A report be submitted regarding the possibility of nominating additional Councillors as representatives on the Hawkesbury Sister City Association in view of the recent incorporation of that organisation."*

Council at this meeting appointed Councillor D Finch as Council's Delegate to attend meetings of the Hawkesbury Sister City Association for the 2007/2008 Mayoral term.

The Hawkesbury Sister City Association (Association) during 2007 took steps to become incorporated to provide the entity with an appropriate operational structure and hence legal protection. The Association was incorporated on 23 July 2007. The Association's Constitution was adopted on 16 July 2007 (amended 12 November 2007). The following clauses of the Association's Constitution have relevance to Council's resolution:

• **Clause 3, Membership**

- 3.3 *Membership is open to all individuals and organisations of the City of Hawkesbury who accept and agree to abide by the objects and Constitution of the Association. An unincorporated organisation is not capable of being a member of the Association, but it may nominate individuals to be members to represent it.*
- 3.6 *Members shall pay such fees as are determined by the Association at a General Meeting. Membership fees shall fall due on the first day of each financial year of the Association. The financial period of the Association shall run from July 1 to 30 June or such other period as is determined by the Association. Fees of Hawkesbury City Council delegates will be paid by the Association from the funding provided to the Association by Hawkesbury City Council.*

• **Clause 6, Management Committee**

- 6.1 *Subject to any direction given to the contrary by the Association in General Meeting, the whole of the administration at the Association shall be vested in and shall be controlled by a Management Committee elected for that purpose to each Annual General Meeting of the Association. The Management Committee shall consist of:-*

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President
Vice President
Secretary
Treasurer
Minutes Secretary
Youth Representatives (2)
Historian
Publicity Officer
Interpreter
Eleven (11) other members of the Association elected for that purpose by the Association at the Annual General Meeting
Hawkesbury City Council Delegates (to be determined by Council)

- **Clause 8, Quorums, Voting and Chairperson**

8.6 A maximum of two (2) Councillors, elected by Council, will have voting rights.

Comments on the above clauses of the Association's Constitution are:

- (a) Council is a member of the Association, by virtue of the funds it makes available to the Association to run its activities as part of Council's Sister Cities Program. Council's Association membership is currently represented by the one Council Delegate, which is appointed annually (Clause 3), though additional Councillor representation is possible;
- (b) Council is provided with a position on the Association's Management Committee and the number of delegates that fill this position are at Council's discretion (Clause 6); and
- (c) Notwithstanding (a) and (b) above, a maximum of two Councillors have voting rights in the Association, whether they fill the Management Committee position or attend as a member (Clause 8).

The Association holds Management Committee and General Meetings once a month (Mondays). The main activities of the Association centre around student and adult exchanges with the Hawkesbury Sister Cities of Temple City, USA and Kyotamba, Japan (which is part of Council's Sister Cities Program).

Proposal

It is proposed that Council consider the possibility of nominating additional Councillors as representatives on the Association, having regard to the Association's Constitution, as per its resolution above.

Conformance to Strategic Plan

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

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

Service Statement: Support business development activities that facilitate business networks, and encourage entrepreneurial alliances."

Funding

Not applicable.

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RECOMMENDATION:

That:

1. Additional Councillors be nominated as members of the Hawkesbury Sister City Association.
2. Two Councillors to have voting rights be determined.

ATTACHMENTS:

- AT - 1** Hawkesbury Sister City Association's Constitution - Adopted 16/07/07 (amended 12/11/07), effective on 23 July 2007 - *(distributed under separate cover)*.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 256 **CP - Modification to Development Consent - Shed greater than 170m2 - Lot 1 DP 733243, 457 East Kurrajong Road, East Kurrajong - (MA1305/01A, 17250, 75950, 95498)**

Development Information

Applicant: Robert George Hromek
 Melissa Maree Langham
Owner: Mr RG Hromek & Ms MM Langham
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Hawkesbury Development Control Plan
Area: 4.100H
Zone: Rural Living under Hawkesbury Local Environmental Plan 1989
Advertising: 17 October 2006 to 2 November 2006
 One submission received
Date Received: 18 September 2006

Key Issues: ♦ Non compliance with Development Consent
 ♦ Non compliance with Hawkesbury Development
 ♦ Visual impact
 ♦ Privacy

Recommendation: Approval

REPORT:

Introduction

This application seeks to modify Development Consent MA1305/01, which gave approval for the construction of a rural shed on the subject land.

The application is being reported to Council in accordance with the Council resolution regarding retrospective approvals.

Photographs of the existing shed will be displayed on the noticeboard at the Meeting.

Background

At the General Purpose Committee Meeting of 22 October 2002, Council considered an application seeking approval for a rural shed at 457 East Kurrajong Road, East Kurrajong. The proposed shed was to have an enclosed floor area of 216m² (18m by 12m), a 6m wide side awning and a 3m wide awning along the front elevation. Including the awnings, the shed would have a building footprint of 24m by 15m. The proposed shed was to have a maximum height of 5m. The report to Council recommended that the application be refused, as the proposed shed did not comply with the requirements of Hawkesbury Development Control Plan and would have an adverse impact on neighbouring properties. At this meeting Council resolved:

"that a meeting be arranged between the applicant and staff before the Ordinary meeting (12/11/02) to discuss a reduction in size and to explore options for location of the shed on the property."

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A meeting between the applicants and Council Officers took place on 28 October 2002. Following this discussion, the applicants submitted amended plans which:

- Reduced the size of the proposed shed to 144m² with a side awning 72m² in size. The dimensions of the shed and awning are 12m by 12m and 6m by 12m respectively;
- Relocated the shed to have a setback of 10m from the shared boundary with the Thompson property;
- Reduced the amount of cut to 1.3m, and included 300mm of fill.

These amended plans were approved at Councils Ordinary Meeting of 12 November 2002.

The owners engaged a Private Certifier in respect to the issue of a construction certificate and compliance certificates. During construction a number of complaints were received in respect to non compliance with conditions of consent and the approved plans. These non compliances included:

- Construction works were carried out outside of the approved hours
- Erosion and sedimentation control not in place;
- The cut and fill area larger than approved and the depth of fill approximately 1.3m;
- The northern end of the shed is enclosed (not an awning area as approved);
- The colour of the shed is 'cream', and not the approved 'rivergum' colour
- An additional awning has been constructed on the front (eastern) elevation of the shed.

Following correspondence between Council and the owners, a S.96 application (the subject application) was submitted in respect to the enclosed northern elevation of the shed and the inclusion of a 3m awning along the eastern elevation. This application does not seek approval for, and has not addressed, the other non compliances listed above.

Statutory Framework - Unlawful Structures

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

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

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

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

The Proposal

The Section 96 modification seeks approval for works which have already been carried out, and include:

1. Front awning, along the eastern elevation, 3m wide and 18m long;
2. Enclosure of awning on the northern side of the shed;

Statutory Situation

Assessment Of Section 96(2)

This application is to be determined under the provisions of s96(2) - *Other Modifications* - of the EPA & A Act, 1979.

S.96(2)

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

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

Comment: It is considered that the development as modified is substantially the same as the approved development, albeit a modified enclosed size.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: No approvals are required by a Minister, public authority or approval body.

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

- (i) *the regulations, if the regulations so require, or*
(ii) *a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The application was notified in accordance with Hawkesbury Development Control Plan.

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

Comment: One submission was received. The matters raised in this submission are addressed further in this Report.

S.96(3)

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

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

S.96(4)

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

Comment: The application is for the modification of development consent MA 1305/01.

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s.96(5)

Development consent of the kind referred to in section 79B(3) is not to be modified unless the requirements of section 79B(3)-(7) have been complied with in relation to the proposed modification as if the proposed modification were an application for development consent.

Comment: The proposed modification is not located on land that is, or is a part of, critical habitat, or is likely to significantly affect a threatened species, population, or ecological community, or its habitat. Therefore section 79B(3) - (7) do not apply.

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

Environmental Planning and Assessment Act 1979 and Regulations 2000

a) the provisions of:

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

The relevant environmental planning instruments are:

**Hawkesbury Local Environmental Plan 1989 (HLEP 1989)
General Provisions of HLEP 1989**

Clause 2 - Aims, objectives etc,

The proposed modified development is considered to be consistent with the general aims and objectives as outlined in Clause 2 of the Hawkesbury LEP 1989.

Clause 5 - Definitions

The proposed modified development is defined as 'rural shed', which means:

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

Clause 9 - Carrying out development

The subject land is zoned Rural Living under the provisions of Hawkesbury Local Environmental Plan 1989.

'Rural shed' is permissible within the Rural Living zone.

Clause 9A - Zone objectives

Clause 9A states that consent shall not be granted for a development unless, in the opinion of Council, the carrying out of the development is consistent with the objectives of the zone.

The objectives of the Rural Living zone are:

- (a) to provide primarily for a rural residential lifestyle,
- (b) to enable identified agricultural land uses to continue in operation,
- (c) to minimise conflict with rural living land uses,
- (d) to ensure that agricultural activity is sustainable,
- (e) to provide for rural residential development on former agricultural land if the land has been remediated,
- (f) to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,
- (g) to allow for agricultural land uses that are ancillary to an approved rural residential land use that will not have significant adverse environmental effects or conflicts with other land uses in the locality,
- (h) to ensure that development occurs in a manner:

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- i. that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and
- ii. that satisfies best practice guidelines and best management practices,
 - (i) to prevent the establishment of traffic generating development along main and arterial roads,
 - (j) to ensure that development does not create unreasonable economic demands for the provision or extension of public amenities or services.

It is considered that the proposed modified development is not inconsistent with the above objectives.

Specific Provisions of HLEP 1989

Clause 18 - Provision of water, sewerage etc. services

Clause 18(1) states that development consent will not be granted unless satisfactory arrangements have been made for the provision of water, sewerage, drainage and electricity to the land.

Comment: Services to the property exist and are considered adequate for the proposal.

Conclusion

The proposed modified development is consistent with Hawkesbury Local Environmental Plan 1989 including the Rural Living zone objectives.

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

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

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

There are no relevant draft environmental planning instruments that affect the proposed modified development.

iii) any development control plan applying to the land

Hawkesbury Development Control Plan

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

General Information Chapter

This Chapter provides an explanation of the development application process and provides the requirements for lodging a development application for different landuses.

It is considered the subject application provides adequate information for the assessment of the proposal and therefore is consistent with this Chapter.

Notification Chapter

The aim of this Chapter is to identify under what circumstances development proposals will need to be advertised and the means by which it will be advertised to provide for public participation.

Comment: The application was notified as per the requirements of this Chapter. As a result, one (1) submission was received. The matters raised in this submission are discussed below.

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Rural Sheds Chapter

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

The following is an assessment of the proposed modified shed against these design principles:

Design Principles	The Proposal	Compliance
<p>Siting Cut and fill shall be limited to 2m of cut and 900mm of fill</p> <p>Sheds shall be located no closer to the road than the existing dwelling house.</p> <p>Sheds are not to be erected on land which has a slope in excess of 10%</p> <p>The erection of rural sheds should involve minimal disturbance to native vegetation.</p>	<p>Development Consent MA 1305/01 approved 1.3m cut and 300mm fill as per stamped approved plan sheet 2 of 5.</p> <p>The shed will be located further from the road than the proposed dwelling house</p> <p>The slope of the site is 10.9%</p> <p>The proposal will not involve disturbance to native vegetation.</p>	<p>No The shed has been built on a level platform constructed using approximately 1.3m fill.</p> <p>Yes</p> <p>In the assessment of the original application, the variation to the slope requirement was supported for the following reasons:</p> <ul style="list-style-type: none"> • the variation is of a minor nature; • the use of 1.3m of cut and 300mm of fill to created a level building platform is consistent with the requirements of the DCP; • the location of the proposed shed is considered appropriate as: <ul style="list-style-type: none"> – it provides a satisfactory setback from the boundary of 453 East Kurrajong Road to minimise any impacts in terms of privacy, overshadowing and loss of views; – minimal cut and fill and land disturbance is required; – the removal of native vegetation will not be required. <p>Yes</p>

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Design Principles	The Proposal	Compliance
<p>Size The maximum size of sheds in the 1(c) and 1(c1) areas (includes Rural Living Zone) shall not exceed 150m². The cumulative total of all outbuildings shall not exceed 150m² on any one property in these zones.</p> <p>In zones 1(a), 1(b), 7(d), 7(d1), 7(e), the applicant will need to justify the size of any shed exceeding 150m² in terms of the use of the shed and the land, as well as measures taken to minimise the impact on neighbours and the general area.</p>	<p>The proposed modified shed has an enclosed area of approximately 216m².</p> <p>The land is zoned Rural Living.</p>	<p>No</p> <p>N/A</p>
<p>Height The total height of a rural shed erected in Rural 1(c) and 1(c1) zones (includes Rural Living Zone) shall be no more than 5m or no higher than the height of the ridgeline of the dwelling house on the same property, whichever is less.</p> <p>In other zones the total height of a rural shed exceeding 5m shall be justified in terms of the use of the shed and the visual impact of the development.</p> <p>The total height of 'barn style' sheds may exceed 5m based on individual merit.</p>	<p>The total height of the shed is 5m</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p>
<p>Form Rural sheds with standard roof form will be limited to rectangular shapes.</p> <p>Sheds of other roof forms, for example barn style, will be encouraged.</p>	<p>The shed has dimensions of 12m by 18m.</p>	<p>Yes</p> <p>N/A</p>
<p>Colour The colour of a rural shed will match or blend in with those of existing buildings.</p>	<p>Development Consent MA 1305/01 approved:</p>	<p>No</p>

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Design Principles	The Proposal	Compliance
On vacant land the colour for rural sheds shall be taken from the natural environment.	Walls - 'rivergum' Doors - Beige Roof - Beige as per stamped approved plan sheet 3 of 5.	
<p>Type of Building Materials Building materials used in the construction of rural sheds are to be new, repainted and non-reflective.</p> <p>The use of corrugated iron will be considered subject to the size, height, design and location of the rural shed.</p> <p>Any part of a building below the 1-in-100 year flood level is to be constructed of flood compatible materials.</p>	The building materials are new and are repainted.	<p>No The roof is zincalume</p> <p>N/A</p> <p>N/A</p>
<p>Landscaping Plantings are to be a mix of trees, shrubs and ground cover.</p> <p>Trees shall include species that at maturity have a height above the ridgeline of the shed.</p> <p>Shrub mass shall provide adequate screening.</p> <p>Plants endemic to the area are to be chosen.</p>	Landscaping plan approved with issue of the Construction Certificate. Landscaping has not been fully carried out.	No

Size

Enclosing of the 6m by 12m awning area on the northern side of the shed.

Applicants justification:

1. *Environmental impact on the rest of the shed. Natural elements like wind, rain and debris can enter the entire shed from these openings. The entire security of the shed is compromised from these openings. The structural stability of the shed is compromised by wind being able to pressurise the structure.*
2. *There is no impact on any surrounding properties as the changes to be made are on the backside of the structure. It would be visually no different to the neighbours.*
3. *By closing in these walls the shed would comply with the councils DCP in visual aspects. (The current DCP does not allow for sheds that are built like a square. This change would enhance the shed visual appearance from the premises.*
4. *There are several shed structures in close vicinity that are much larger.*

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5. *The current DCP allows sheds up to 170 square metres.*
6. *The current shed size is 144 square metres.*
7. *The changes would be more aligned with the current shed DCP in terms of rectangular appearance.*
8. *The shed has been cut into the ground to reduce any potential impact to neighbours.*
9. *Comprehensive landscaping has been approved to address screening of the entire structure.*
10. *The structure itself is set back from the road over 50 metres.*
11. *The original D.A. allowed for the back of the shed to be closed and this was agreed by council before the original approval.*

Comment: The approved shed comprised of a 12m by 12m enclosed area with an adjoining 6m wide awning. If constructed to the approved plans, wind, rain and debris could not affect the enclosed area of the shed through this awning. Likewise, it is considered that the awning does not compromise the security of the enclosed shed area. As the approved shed included an awning area, the design should have incorporated measures to ensure structural stability.

The enclosing of the awning area has resulted in a shed 216m² in size, with dimensions of 18m by 12m.

It is considered that the enclosed awning area has no adverse impact on adjoining properties in terms of the existing scenic quality or overshadowing of the building, due to distance from the dwelling house on the property to the west and due to the orientation of the enclosed area in respect to the property to the south.

The proposed modified shed is not inconsistent with the aims and objectives of Clause 8.2.2. Size of the Erection of Rural Sheds Chapter of the Development Control Plan, as the structure is not considered to be visually dominating in the landscape and the size is appropriate in relation to its predominantly residential use, and the size of the property.

Additional 3m awning along front (eastern) elevation

Applicants Justification:

1. *In its original state the shed did not allow for any protection to the contents inside the shed while the roller doors are raised.*
2. *The 3 metre awning gives the contents of the shed protection from the elements.*
3. *There is no impact on any surrounding properties as the changes to be made are screened by native vegetation, heavily landscaped raised mound and a colour bond fence.*
4. *The addition does not compromise any visual aspect for the neighbours.*
5. *The change would make the shed structure more visually appealing from the front view and would add substantial character to the building.*
6. *The contents would be protected from the environmental elements.*
7. *The current DCP allows for awnings to be built under the conforming development scheme of up to 40 squares the awning proposed is 54 square metres.*

Comment: It is considered that the proposed awning along the eastern elevation of the shed has no adverse visual impact on the locality.

Additional Non Compliances

In respect to the construction of the existing shed, it is noted that:

- The shed has been built on a level platform constructed using approximately 1.3m fill.
- The colour of the shed is 'cream', and the roof is 'zinclume'.
- The landscaping has not been fully carried out.

The major concern with the initial application was the location of the shed adjacent to the rear boundary of an adjoining property and the resulting loss of visual and acoustic privacy, and loss of scenic amenity. At this time, the applicant argued that the building platform would be constructed by 1.3m of cut and 300mm of fill, thereby resulting in the shed sitting lower in the landscape and allowing a view from the adjoining residence over the top of the shed. By using less cut and more fill, more of the shed is visible when viewed from the adjoining property.

The 'cream' colour of the shed is considered satisfactory, however, the roof is zincalume and therefore reflective. It is considered reasonable to require the roof to be painted to match the existing shed and reduce its reflectivity.

Only a small amount of landscaping has been carried out. It is considered that the completion of the landscaping would assist in reducing the existing impacts of the shed in respect privacy and visual amenity.

The applicant has provided no justification for these non compliances.

iv) any matters prescribed by the regulations

A Condition that the development is carried out in accordance with the Building Code of Australia was imposed on the original consent.

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

The relevant matters for consideration under Section 79C of the EP & A Act follow:

Context And Setting

Surrounding development consists predominantly of rural residential uses.

The scale and design of the proposed amended building is typical of rural sheds in the locality. Surrounding properties will not be further impacted upon in terms of sunlight access, overshadowing, loss of visual and acoustic privacy, loss of views and vistas as the result on the modification. The impacts of the existing shed on the adjoining property to the south, in terms of loss of privacy and views, could be mitigated, with the completion of the landscaping.

c) the suitability of the site for the development

There are no constraints from surrounding landuses that would make this development prohibitive.

The proposed development will not lead to unmanageable transport demands. Access to the site is satisfactory for the intended use.

Adequate services and utilities are available to the site.

There are no known hazardous landuses/activities nearby.

Ambient noise levels are suitable for the development.

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The site is not critical to the water cycle of the catchment.

The development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats.

The land is flood free and the area has an extreme bushfire risk. These affectations are no prohibitive to the proposed modified development.

It is therefore concluded that the site is suitable for the proposed development as modified.

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

Following notification of the s.96 application, one submission was received. The matters raised in this submission are addressed as follows:

No Power to Consent

"It is our client's first submission that the council does not have the power to approve the modification application. The reasons for the council declining to approve the shed originally proposed by the applicants (at the meeting on 22 October 2002) were clearly set out in the report considered by the Council at that meeting. The reasons that led the Council to conclude (at the meeting on 12 November 2002) that an amended development should be approved are clearly set out in the report considered at that meeting.

The approval of the purported section 96 application would in fact amount to the approval by the Council of a development which is not substantially the same development as that which was approved. The reasons for that conclusion are as follows:

- *the modifications now proposed to the development consent will result in a shed which does not comply with the DCP;*
- *the Council's concerns in relation to the bulk and presentation of the original shed will not be satisfied by the proposed amended shed;*
- *the proposed amended shed will not incorporate the awning that the council specifically required (at the northern end of the structure) before the development consent was granted; and*
- *the council's concerns regarding the visual impact of the shed, which led it to decline to consent to the original proposal, will not be addressed by the proposed modified shed, specifically in relation to the colour of the structure and the amount of cut that has been used."*

Comment: The modified development can be assessed under s.96 of the Environmental Planning and Assessment Act 1979, and is considered to be substantially the same development. Whilst the modified shed will not comply with the requirements of the Shed Chapter of Hawkesbury Development Control Plan in respect to size, the variation is considered to be consistent with the aims and objectives of this Chapter as previously discussed and therefore can be supported.

Contrary to the Public Interest

"The Council gave the original development application very detailed consideration. Two reports were prepared, and lengthy discussions took place between the Council and the applicants.

The initial application was amended, and this first amended application was the subject of the report considered at the meeting on 22 October 2002. When the matter was deferred to allow for discussions, the application was amended for a second time. It was this second amended application that was the subject of the development consent.

In our client's submission it is contrary to the public interest to be permitted to construct a shed which does not comply with the development consent, where that consent was arrived at after detailed consideration by the Council, and to secure, via a section 96 application, the approval of that which the Council originally declined to approve. Such a course brings the planning process into disrepute, and leads to the conclusion by the public that the Council's planning processes cannot be relied upon."

Comment: Noted.

Breach of the DCP

"The DCP has been adopted by the Council as a principal control in relation to development within its local government area. The proposed modified development does not comply with the DCP.

The applicants appear to have dealt with this matter by simply asserting that the shed does comply. We are not aware of any justification for the non-compliance in the material that has been submitted by the applicants to the Council.

In the absence of any justification for the proposed non-compliance, the Council should maintain its standard and decline to approve a shed which significantly exceeds the maximum area requirement of the DCP, both in relation to the shed itself and in relation to the entire property."

Comment:

The applicant has provided justification for the modification, and the variations from the Development Control Plan are supported as discussed above.

The Mistake in the Construction Certificate Documentation

"In the handwritten letter dated 18 September 2006, Mr Hromek contends that there was a mistake in the construction certificate documentation which "referred to the awning being open at both.....east and west elevation. On the D.A. approved plan the west elevation was not specified as being open."

It is difficult to understand this submission, given the clear differentiation in the Council report, considered at the meeting on 12 November 2002, between the 18 metre x 6 metre shed and the 12 metre x 6 metre awning. The Council was clearly informed that it was dealing with two distinct parts of the overall structure, one of which was enclosed and one of which was open. It is difficult to understand how Council's requirement for an awning at the northern end of the structure could be satisfied by enclosing the entire western elevation of the awning, and the entire northern elevation of the awning and by incorporating a doorway in the otherwise enclosed eastern elevation, with the latter being constructed with a doorway".

Comment: Noted.

Description of Development

"The SEE describes the modification application as relating to "Alterations to Existing Shed". The paragraph that follows the headings to the SEE describes the modifications sought as:

"... Seeking to get approval for the following changes to the existing building."

It is very difficult to understand the description of the modifications that then follows. However, we are instructed that all of the modification for which the applicants now seek approval have already been incorporated in the structure."

Comment: Noted

Conclusion

The proposed modification is consistent with the provisions of Hawkesbury Local Environmental Plan 1989 and the aims and objectives of the Rural Sheds Chapter of Hawkesbury Development Control Plan. It is considered that the modified shed will have no increased impacts on surrounding properties or the locality in general, subject to the completion of landscaping and the painting of the shed roof.

The action required should Council not support this S.96 application includes the issue of Orders to demolish the existing shed, remove additional fill deposited on the site and erect a shed of size and colour as approved in the original development approval. Should the unauthorised works be found to be the fault of the Private Certifier, Council would also be required to lodge a formal complaint to the Department of Planning.

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RECOMMENDATION:

That Development Consent DA 1305/01 be amended in the following manner:

Condition 1 be amended to read:

1. To confirm and clarify the terms of this approval, the development shall take place in accordance with the plans submitted with s.96 Modification Application MA 1305/01A excepting as modified by these further conditions.

Insert new condition:

- 18a. The approved landscaping shall be completed within two months of the approval date of this S.96 modification application.

Insert new condition:

- 18b. The external roof of the shed shall be painted to match the existing colour of the shed walls within two (2) months of the approval date of this s.96 modification application.

ATTACHMENTS:

- AT-1** Locality Plan
- AT-2** Site Plan
- AT-3** Elevation Plan

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AT-1 Locality Plan

**To View This Image,
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AT-2 Site Plan

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AT-3 Elevation Plan

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oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 November 2007

Item: 257 **CP - Approval Sought in Retrospect - Shed less than 170m² - Lot 112 DP 214752 Vol 9472 Fol 110, 514 Tennyson Road, Tennyson NSW 2754 - (DA0396/07, 106965, 24741, 24740, 95498)**

Development Information

Applicant: Meagan Ruth McFarlane
Applicants Rep: Sharyn Gould
Owner: Mr SB McFarlane & Mrs MR McFarlane
Stat. Provisions: Environmental Planning and Assessment Act 1979
Hawkesbury Local Environmental Plan 1989
Hawkesbury Development Control Plan
Area: 2.082H
Zone: Housing under Hawkesbury Local Environmental Plan 1989
Advertising: Not required to be notified
Date Received: 13 July 2007

Key Issues: ♦ Unauthorised works to rural shed

Recommendation: Approval

REPORT:

Introduction

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

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

Description of Proposal

The development application relates to the approval of the use of a shed approximately 110 square metres in area, which was constructed unlawfully to replace an existing garage and awning that was 71 square metres in area. The use of this new shed is consistent with the use of the previous shed and is used for storage of equipment and vehicles.

The works the subject of this development application have already been constructed.

Background

11 February 1999 Development Application received in respect of a proposed shed and attached awning - DA0192/99 - Proposed shed and attached awning is approved at 71 square metres in area.

7 April 1999 Final inspection carried out on shed and considered satisfactory.

Unknown date Unlawful works carried out.

13 July 2007 Development Application lodged with Council for works unlawfully carried out.

The current owners have recently purchased the property and were not involved in the unlawful building works.

Statutory Framework - Unlawful Structures

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

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

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

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

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

Planning Assessment

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

a) the provisions of:

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

The Planning Instruments which are considered to control development on the site are;

- Sydney regional Environmental Planning Policy 20.
- Hawkesbury City Council Local Environmental Plan 1989. (HLEP)

Comment: The proposal is not inconsistent with the relevant Planning Instruments.

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

There are no draft environmental planning instruments that relate to the land or affect the proposal.

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

Whilst there are no specific provisions relating to the Housing zone the provisions of the Rural Sheds Chapter of the DCP has been used. The proposed development is considered to be consistent with those provisions.

iv) **any matters prescribed by the regulations**

There are no matters discernable that are prescribed by the regulations that apply to the development.

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

The proposal is located in a semi-rural bushland landscape and the structure does not detract from the context and setting of the landscape or the rural/bushland character of the area. There is no increased impact in terms of access, traffic or transport. There are no heritage listed items in the vicinity of the proposal and there is no likely adverse impact upon water or soils resources.

The likely impacts of the development are considered to be minor and would not result in any demonstrable impact upon the natural or built environment.

c) the suitability of the site for the development

The site is suitable for the development.

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

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

e) the public interest

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

Conclusion

It is considered that in the circumstances of the case, the use of the shed does not pose any significant increase in the impact of the development upon the environment or the character of the area. In this regard, the impact of the development is considered to be acceptable.

The proposed development demonstrates satisfactory compliance with the provisions of Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan and has no environmental impact.

In view of the above matters for consideration and given the location of the structure and the relatively low impact of the structure, the development is considered worthy of Council support.

RECOMMENDATION:

That Development Application DA0396/07 for a Rural Shed at Lot 112 DP214752, 514 Tennyson Road, Tennyson be approved subject to the following conditions:

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.

Use

2. No internal or external alterations shall be carried out without prior approval of Council.
3. The development shall be limited to the area shown on the submitted plans.
4. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
5. The structure shall not be occupied for human habitation/residential, industrial or commercial purposes.

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ATTACHMENTS:

- AT - 1** Site Locality Plan
- AT - 2** Site Plan
- AT - 3** Elevations and Floor Plan

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AT - 1 Site Locality Plan

**To View This Image,
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Meeting Date: 27 November 2007

AT - 2 Site Plan

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ORDINARY MEETING

Meeting Date: 27 November 2007

AT - 3 Elevations and Floor Plan

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oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 November 2007

Item: 258 **CP - Approval Sought in Retrospect - Alterations and Additions to an Existing Building to include an additional Industrial Building - Lot B DP 392112, Lot C DP 365457, Lot B DP 365457, Lot 1 DP 577486, 13A Windsor Street, Richmond - (DA0247/07, 89725, 28**

Development Information

Applicant: Craig Crowther Architects - CC Architects
Owner: Mr AN Woodbury & Mrs DA Woodbury
Area: 5,905m²
Zone: 4(b) Industry Light under Hawkesbury Local Environmental Plan 1989
Advertising: 18 May 2007 to 1 June 2007
Date Received: 7 May 2007

Key Issues:

- ◆ New Industrial Building
- ◆ Traffic and Car Parking
- ◆ Unlawful Works

Recommendation: Approval

REPORT:

Introduction

Development consent is sought for the construction of an additional factory building, associated car parking and landscaping works. The application also seeks retrospective approval for unauthorised additions to the existing factory buildings. The current use of the buildings is the distribution and warehousing of Mufflers and Muffler products.

On 29 May Council resolved:

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

Whilst the proposed new factory building complies with Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan, the application is reported to Council in accordance with the above resolution, in respect to retrospective approvals.

Background

- On 11/12/1987, Development Consent DA0675/85 was issued for the change of use of the existing premises from saw mill and timber sales to timber and machinery sales.
- On 20/6/1990, Development Consent DA0192/90 was issued for the change of use from timber and machinery sales and service to motor vehicle repairs and sale of timber and spare parts
- On 28/8/1999, Development Consent DA00062/99 was issued for the additions and alterations to the existing building. The approved plans show the total floor area of the building as 973m².
- On 7 May 2007, the current Development Application DA0247/07 was lodged seeking consent for the construction of an additional factory building on the subject land. Following a site inspection and

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review of stamped plans with the previous development consents, a number of discrepancies / additional structures were noted on the site.

- On 8 June 2007 the applicant was requested to clarify as to when the additional structures were erected and any approvals issued by Council.
- On 12 July 2007, an amended application was received to include approval for the unlawful works and additions to the existing building were marked on the amended plans.
- On 19 September 2007, further information including the engineering certificates, termite inspection report and Building Code of Australia assessment report in respect to the unlawful additions to the existing factory building was received.

The Proposal

Development Consent is sought for the following:

1. New industrial building

Construction of an additional industrial building with a mezzanine level comprising a total floor space area of approximately 1330m², provision of car parking for 47 vehicles and associated landscaping works. It is to be located behind the existing buildings and will be built with nil boundary setbacks.

The height of the proposed building is approximately 9m. It will be constructed in concrete tilt up panels with metal roofing. The eastern and southern elevations include glazed window and roller shutter doors. The proposed building will be used as a warehouse for mufflers and muffler products.

2. Approval for unlawful additions and alterations to the existing factory building on site including the following:

- a) Building 1 - The existing awning used for spray painting booth was increased in area from 56.25m² to 100.95m² was enclosed with walls in the year 2000.
- b) Building 2 - Portable building with total floor area of 29.51m² was attached to the west of the factory building in the year 2000. This building is being used as an office space.
- c) Building 3 - The existing awning was increased in area from 27.14m² to 31.41m² and was enclosed with walls in the year 2000 to provide all weather storage.
- d) Shipping Container 1 - A large shipping container placed along the eastern wall of the factory building with access from the factory was placed in its current location in 2002. This is being used for storage. This container will be removed upon completion of the proposed new building.
- (e) Shipping Container 2 - A large shipping container placed along the eastern wall of the factory building was placed in its current location approximately 3 months ago. This is being used for storage. This container will be removed upon completion of the proposed new building.

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

New Building:

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

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Section 79C “Matters for Consideration” Comments	Section 79C “Matters for Consideration” Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “HLEP 1989” and SREP No. 20 in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no draft environmental planning instruments that apply to the subject site.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Refer to discussion on Hawkesbury DCP 2002 in this report
Section 79C (1) (a)(iii) – Provisions of the regulations	None applicable.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed in the main body of this report.</p> <p>(ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. The area is zoned for industrial development.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed industrial nature of the use within an identified industrial zoned area.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>Location - The site is considered to be well located for the provision of industrial floor space given the industrial character of the area.</p> <p>Physical - The site has sufficient area and dimensions to accommodate the additional factory building. It has suitable road access and can be adequately drained. Therefore, the site is considered suitable for the proposed development.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	There are no submissions made in accordance with the Act or Regs.

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

The subject site is affected by SREP No. 20 (No. 2 - 1997). Relevant specific planning policies and recommended strategies include those relating total catchment management, environmentally sensitive areas, water quality, water quantity, flora and fauna, agriculture/aquaculture and fishing, rural residential development, and metropolitan strategy. Development controls relate to filling, sewerage systems or works are also incorporated in the plan.

It is considered that the proposal is consistent with the aims of the plan as well as the general and specific planning policies, recommended strategies and development controls outlined in Parts 1, 2 and 3 of SREP No. 20 (No. 2).

Hawkesbury Local Environmental Plan 1989 (LEP)

Clause 2 - Aims, objectives etc.

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

Clause 5 – Definitions

The proposed development is defined as “industry” under Clause 5 of the LEP.

Clause 9 – Carrying out development

The proposed “industrial development” is permissible with development consent within the 4(b) Industry Light zone.

Clause 9A – Zone objectives

The proposed development is considered to be consistent with the objectives of the 4(b) zone. These stated objectives of the 4(b) Industry Light zone are as follows:

- a) *to set aside certain land for the purposes of light industry within convenient distances of the urban centres of the City of Hawkesbury*
- b) *to allow commercial and retail development for*
 - (i) *uses ancillary to the main use of the land within the zone*
 - (ii) *the display and sale of bulky goods, and*
 - (iii) *the day to day needs of the occupants and employees of the surrounding industrial area, and*
- c) *to ensure that industrial development creates areas which are pleasant to work in and safe and efficient in terms of transportation, land utilisation and services distribution.*

Clause 18 – Provision of water, sewerage etc. services

The subject site benefits from the provision of water, sewerage, drainage and electricity services therefore satisfies the requirements of Clause 18.

Clause 22 - Development fronting a main or arterial road

Windsor Street is classified as a Main Road under the care and control of RTA. The land is zoned 4(b) Industry Light and is currently being used for industrial purposes. The siting and design of the proposed building is consistent with the existing character of the area. The additional traffic generated from the use of the new unit is not likely to generate any significant traffic on Windsor Street. Existing access driveway will be widened and utilised for the proposed new unit and no impact on current sight distance is envisaged. The proposed new building is sited towards the rear of the site and the height will not intrude into the skyline thus maintaining an overall pattern of building development that is consistent with the character of the area.

Clause 25 - Development of flood liable land

The subject land is above the 1-in-100 year flood level for the area.

Clause 28 - Development in the vicinity of heritage items

The subject land is located in the vicinity of a heritage item known as "Avenue of plane trees along eastern approach to Richmond (93)". No change to existing driveway is proposed and therefore the row of existing trees on the road reserve will not be affected. Minimal adverse impacts are envisaged on the significance of the heritage item.

Clause 37 - Land affected by aircraft noise

The site is within a ANEF contour 30-35 for the area. AS 2021-2000 -Acoustic-Aircraft Noise Intrusion-Building Siting and Construction allows industrial buildings to be 'Acceptable' in all ANEF zones. The

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application has been reviewed by the Department of Defence and provided their requirements which are included as conditions of any consent.

Clause 37A – Development on Land Identified on Acid Sulfate Soils Planning Map

The subject site is identified as Class 5 land on the Acid Sulfate Soils Planning Map. The proposal is not anticipated to lower the water table below 1 metre on this land.

Hawkesbury Development Control Plan

The relevant chapters of Hawkesbury DCP are:

(a) Notification Chapter

The application has been notified from 18/05/07 - 1/06/07 to adjoining property owners in accordance with the DCP. No submissions were received.

(b) Landscaping Chapter

This chapter outlines the landscaping requirements for all development and in particular existing vegetation like mature trees are to be incorporated into the overall landscaping of a site. Proposed landscaping including details of existing vegetation was submitted with the application. A condition requiring a landscape plan for construction is to be included in any consent

(c) Car Parking

Hawkesbury Development Control Plan 2002 provides the following car parking rate for industrial developments:

4 spaces for all development up to 300sqm of GFA, then 1 space for each 90sqm of GFA or part thereof, in excess of 300sqm.

The total car parking requirements including the new factory building and the existing factory building with work bays is calculated as:

Unit Number	Area	Parking Requirement
Existing buildings	1330 sqm	31 Spaces (4 spaces per 300sqm 11.44 spaces @ 1 space per 90sqm for 1030sqm 15 spaces for 3 work bays @ 5 spaces per work bay)
New building	1068 sqm (Total: 1272 Loading areas - 204 sqm Gross floor area - 1068 sqm)	13 Spaces (4 spaces per 300sqm 9 spaces @ 1 space per 90sqm for 768 sqm)
Total		
44 Spaces Required		48 Spaces provided

The dimensions of the parking spaces is shown as 2.6m x 5.5m. The Parking and Access chapter of the DCP requires that spaces be minimum 2.6m x 5.5m. The proposed loading areas are designed for a medium rigid vehicles and satisfactory manoeuvring areas are provided for the new building.

The existing driveway within the site off Windsor Street is proposed to be widened to around 7m. Considering the nature of use of the site, the driveway is required to be widened to a 9m width as a condition of any consent, should the application be supported.

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(d) Soil Erosion & Sediment Control Chapter

Appropriate conditions have been included in the consent requiring the preparation and installation of suitable soil and sediment control measures in conjunction with the proposed development.

(d) Industrial Development Chapter

Element	Rules	Provides	Complies
Building Setbacks	<ol style="list-style-type: none"> 1. On arterial or sub arterial roads all buildings are to be setback 15 metres from the front property boundary. 2. On all other streets, buildings are to be setback 10 metres from the front property boundary. Consideration will be given to reducing the setback to 4 metres where the proposal demonstrates a high level of design and architectural treatment plus suitable landscaping. This setback can also apply to buildings that are projected at first floor level over car parking areas 3. Where land has two road frontages (not being collector, regional sub-arterial and state arterial road) the building setback to the shorter frontage will be considered on its merits, dependent upon the development proposed and its location. 4. The area between the street frontage and the minimum required building setback is to be reserved for landscaping and access. The provision of car parking spaces within this setback will be considered provided that the car spaces are not within 5m of the front boundary and are suitably screened by landscaping. 5. Landscaping is required in the front setback. A landscape concept plan is required in accordance Part C Chapter 1 landscaping. 	<p>Windsor Street is identified as a main road in HLEP. The proposed new building is located behind the existing building and therefore complies.</p> <p>NA</p> <p>NA</p> <p>The car parking areas is provided in excess of 7m from the front boundary. This is an existing landscape area.</p> <p>A landscape plan has been provided with the application.</p>	Complies
Relationship to adjacent development	<ol style="list-style-type: none"> 1. The applicant may be required to indicate how the industrial land could be developed and also show the location of landscaping, building and other site planning techniques with the aim of minimising impact on adjoining commercial and or residential/rural uses. 	<p>The proposed new factory building is located towards the rear of the site which adjoins other industrial developments.</p>	complies

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Element	Rules	Provides	Complies
Building Design and Construction	<p>(a) Building facades to street frontages constructed predominantly of face brick, concrete panels or pre-coloured masonry blocks (not standard concrete blocks). Partial use of pre-coloured metallic sheeting for the street façade will be considered where it enhances the architectural merit of the building.</p> <p>(b) Front elevations provided with visual relief by varying the façade alignment, incorporating an entrance treatment, and/or orientating office facilities along the front façade. Roller shutters and loading docks should generally not be located on the principle street frontage.</p> <p>(c) Walls separating factory units constructed in masonry where required by the Building Code of Australia, carried to the underside of the roof and sealed to Council's satisfaction. Sections of units may be partitioned with suitable materials.</p> <p>(d) Where a lot contains a number of buildings, a colour scheme or design feature should be used to unify all buildings on the lot.</p> <p>(e) The maximum reflectivity index permissible for any external glazing is 20%.</p>	<p>Concrete panels with glazing provided. Partial use of metallic sheeting has been proposed on corners as part of architectural design.</p> <p>Varied front façade proposed. The proposed new building especially the roller doors will not be visible from the street.</p> <p>NA</p> <p>Colour Scheme provided with application.</p>	<p>Complies</p> <p>Conditional with consent.</p>
Fencing	<p>(a) Fencing located behind the landscaped area only. Decorative open style fencing will be considered forward of the building line.</p> <p>(b) Repainted solid metal fencing is not acceptable.</p>	<p>Existing fencing to remain.</p>	<p>NA</p>
Open Storage Areas	<p>1. Open storage areas screened from the road and adjoining land by screen walls or other approved measures.</p> <p>2. Storage areas located behind the building line.</p>	<p>No opens storage areas proposed.</p>	
Environmental Issues	<p>An acoustic report prepared by a qualified acoustic consultant submitted prior to the approval of any noise generating development. The report shall include background noise measurements, suitable noise criteria, an assessment of noise and any noise control measures.</p> <p>Any machinery or activity considered to create a noise nuisance adequately sound-</p>	<p>Subject to consideration of individual industrial uses for the new unit.</p> <p>Conditional</p>	<p>Subject to consideration at First Use DA.</p>

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Element	Rules	Provides	Complies
	<p>proofed in accordance with the provisions of the <i>Protection of the Environment Operations Act 1997</i> (POE Act).</p> <p>All chemical storage areas designed and maintained in accordance with Work Cover Authority guidelines.</p> <p>Liquid waste sampling points provided for each industrial development in an easily accessible location above ground.</p> <p>All roofing provided with adequate gutter and down pipes connected to the roof water drainage system. Down pipes discharging to an open grated surface inlet pit.</p> <p>No industrial pollutants discharged to the stormwater and sewer without entering into a Trade Waste Agreement with either Council or Sydney Water.</p> <p>The discharge of any pollutants into water courses as defined under the POE Act, controlled to the satisfaction of Council and EPA at all times.</p> <p>Depending on the size, nature of use of the building, particular structures such as bund walls, oil or grit separators, neutralisers, drainage provisions and the like may be required.</p>	<p>See Engineers comments.</p> <p>Conditional</p> <p>Conditional</p> <p>Conditional at individual industrial use DA stage</p>	

iv) any matters prescribed by the regulations

There are no matters prescribed by the regulations which affect the proposal.

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

The siting and design of the proposed development is such that minimal environmental impacts on the natural and built environment are envisaged.

c) the suitability of the site for the development

The subject land is zoned 4(b) Industry Light, however due to noise affectation, medium density housing is unacceptable. The proposed additional unit is consistent with the zoning of the land. There are no physical constraints that will inhibit the use of the site for the intended purposes.

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

No submissions were made in accordance with the EPA Act or Regulations during the exhibition period

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e) the public interest

The application was advertised to the adjoining and nearby property owners. No submissions were received.

f) the public interest

The proposal is considered not to be contrary to the public interest.

Statutory Framework - Unlawful Structures

The application seeks approval for unlawful additions and alterations to the existing factory building including Building 1 currently used as a spray booth, Building 2 used as an office, and Building 3 used as an under cover storage area.

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

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

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

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

In regards to the unlawful works the applicant has provided the following certification from relevant professionals:

1. A Structural Engineers Certificate certifying the unlawful structures are structurally adequate for their present or similar use.
2. A visual termite inspection certificate in accordance with AS3660.2-2000
3. An assessment report on compliance of the unlawful structures with Building Code of Australia, Volume 1, 2007.

Following a review of the above information and site inspection, Council's Building Surveyor has provided comments indicating that the Buildings 1 and 2 do not pose any significant increase in fire load or travel distance for the existing factory building. In regards to Building 3 which is currently being used as a polishing area, the owners have indicated during the site inspection that upon completion of the new building works, this will be demolished. The removal of the Building 3 is required as a condition of any consent, should the application be supported.

The proposed unlawful structures are relatively small in size and similar in bulk, scale and finishes to that of the existing buildings on site. These structures are substantially setback from the street and therefore no significant visual impacts on the amenity of the area are envisaged.

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In view of the above it is recommended that the applicant be required to obtain a Building Certificate for the unlawful structures as the Act does not provide for retrospective approval for unlawful structures. Similarly there is no mechanism to issue a Construction Certificate for the unlawful works, however there are some physical upgrading works and the installation of essential fire safety measures that will be required in accordance with the BCA. These works will require the issue of a Construction Certificate for that part..

Assessment of the matters identified above

Consideration has been given to s79C (1)(b) of the EP&A Act as shown below:

Context And Setting

Surrounding development consists of residential and industrial uses. It is also in close proximity to RAAF Base Richmond. The scale and design of the proposed building is typical of industrial development and compatible with nearby industrial developments.

Surrounding properties especially the residential dwellings will not be significantly or unreasonably impacted upon in terms of sunlight access, overshadowing, and loss of views and vistas as the proposed new building located behind the existing factory on that part of the site which adjoins industrial zone.

Access, Transport and Traffic

The proposed development will not create unreasonable traffic demands on the surrounding street pattern. Car parking and manoeuvring is generally in compliance with the Development Control Plan. Areas of non-compliance can be resolved by condition of consent.

Public Domain

Satisfactory

Utilities

Sewer, electricity and telephone services are available to the site and can be extended to the proposed new building. This is to be a condition of any consent.

Heritage

The subject land is not a listed heritage item in Schedule 1 to Hawkesbury LEP 1989. It is however located in the vicinity of a heritage item known as "Avenue of plane trees along eastern approach to Richmond (93)". No change to existing driveway is proposed and therefore the row of existing trees on the road reserve will not be affected. Minimal adverse impacts are envisaged on the significance of the heritage item.

Other Land Resources

N/A

Water

Water is available and can be extended to the proposed new building.

Soils

The soil structure of the site is suitable for the proposed development. Erosion and sedimentation devices are to be installed during the construction.

Air and Microclimate

The surrounding air and microclimate is suitable for the proposed development.

Flora and Fauna

The proposed development will not significantly effect threatened or endangered flora and fauna, ecological communities or critical habitat as listed under the Threatened Species Conservation Act 1995.

Waste

The site is to be kept tidy and maintained to the satisfaction of Council during the construction period and use of the industrial buildings.

Energy

Satisfactory

Noise and Vibration

The development itself will create an acceptable level of noise pollution or vibration.

Natural Hazards

The subject land is above the 1 in 100 flood level.

Technological Hazards

It is considered that there are no significant technological hazards as a result of the proposed development. The subject land is in close proximity to the western edge of the RAAF Base Richmond. The colour, height and proposed colour scheme will minimise any adverse impacts on the operation of the air base. The Defence Department has raised no objections to the proposal subject to conditions in relation to outdoor lighting, colour scheme. These conditions are to be included as conditions of any consent.

Safety, Security and Crime

The design of the building achieved satisfactory performance for safety, security and crime prevention.

Economic and Social Impact in the Locality

No negative impact expected. The use of the proposed new building will generate additional employment in the area.

Site Design And Internal Design

The proposed site and internal design demonstrates satisfactory compliance with the objectives of the Hawkesbury DCP and is considered satisfactory.

Construction

Construction is not expected to unreasonably impact upon surrounding neighbours including the operations of RAAF Base Richmond.

Cumulative Impact

There are no constraints from surrounding land uses that would make this development prohibitive. Access to the site is satisfactory for the intended use and the proposed development will not lead to unmanageable transport demands.

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Adequate services and utilities are available to the site. There are no known hazardous activities/activities nearby. Ambient noise levels are suitable for the development. The site is not critical to the water cycle of the catchment. The development will not impact upon critical habitats and threatened species, populations, ecological communities and habitats.

Building/Health Comments

No objections to the proposal subject to conditions.

Environment & Waste Comments

Not required.

Engineering Comments

No objections to the proposal subject to conditions.

RECOMMENDATION:

That Development Application DA0247/07 for the construction of new industrial building, car parking and landscaping works and use the unlawful structures in conjunction with the existing industrial use of the land at Lot B DP 392112, Lot C DP 365457, Lot B DP 365457, Lot 1 DP 577486, 13A Windsor Street, Richmond be approved subject to the following conditions:

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. The development shall be modified in the following manner:
 - (a) Additional required exits shall be installed in the subject buildings in accordance with Part D of the Building Code of Australia.
 - (b) All other exits are to be constructed or modified to comply with the provisions of Part D of the Building Code of Australia.
 - (c) The external walls of building 3 shall be upgraded to comply with Table 5 of Specification C1.1 of the Building Code of Australia.
 - (d) All openings to Building 3 that are within three (3) metres of the property boundary are to be protected from the spread of fire in accordance with Part C3.4 and/or Table 5 of Specification C1.1 of the Building Code of Australia.
 - (e) Illuminated exit signage and emergency lighting shall be provided to Buildings 1 and 2 in accordance with Australian Standard 2293.
 - (f) Building 3 shall be demolished at the completion of construction works within sixty (60) days of the occupation of the new building.
 - (g) Textile reports or Certificates certifying compliance with Clause C1.10 of the Building Code of Australia are required to be submitted for all floor and wall coverings.
 - (h) Portable fire extinguishers are required to be provided to buildings 1, 2 and 3 in accordance with Australian Standard 2444.

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- (i) Portable shipping containers 1 and 2 and Building 3 shall be removed from the site at the completion of construction works within sixty (60) days of the occupation of the new building.
3. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
4. The approved use shall not commence until all conditions of this Development Consent have been complied with.
5. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
6. The development shall comply with the provisions of the Building Code of Australia at all times.
7. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
8. A Section 149A Building Certificate Application is to be lodged with Council for the Buildings 1 and 2 as identified on Plan No 07396 - 01 Issue A dated 04-05-07 within 28 days of the date of this consent notice.
9. 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.
10. The development shall also incorporate the amendments made in red to the approved plans, specifications or documentation submitted.
11. The roof shall utilise non reflective materials so as to limit interference with aircraft operations. Details being submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Prior to Issue of a Construction Certificate

12. Registration of a plan of survey consolidating the site into a single allotment. Documentary evidence to be submitted prior to issue of a Construction Certificate.
13. Payment of a Section 94 Contribution of \$74,403.00 to Council covering the construction of drainage for catchment 4 at Richmond. This sum will remain fixed for a period of 3 (three) months after which time it will be recalculated at the rate applicable at the time of payment. The contribution has been determined in accordance with Hawkesbury Section 94 Contribution Plan. A copy of the Contribution Plan may be inspected at Council's Offices, George Street, Windsor.
14. 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.
15. All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.
16. A Traffic Guidance Scheme prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Guidance Scheme is to be approved by the Roads and Traffic Authority before submission to Council.

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17. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and Hawkesbury City Council's Section 94A Development Contributions Plan 2006 (as amended from time to time), a contribution of \$7,000 shall be paid to Hawkesbury City Council.

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

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

Prior to Commencement of Works

18. All traffic guidance devices shall be installed and maintained in accordance with the approved traffic guidance scheme.
19. 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.
20. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
21. The building shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the external walls under construction and in compliance with the approved plans shall be lodged with the principal certifying authority. Any easements must be shown on the Survey Certificate.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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.

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28. The approved plans must be submitted to a Sydney Water Quick Check agent or customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site www.sydneywater.com.au, see Building Developing and Plumbing then Quick Check or telephone 13 20 92.
- The consent authority or a private accredited certifier must either:
 - Ensure that Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate

During Construction

29. The development shall be completed in accordance with the approved colours and finishes and shall not be altered.
30. Exterior surfaces of the proposed structure including the roof shall be painted or treated with an earth toned non-reflective material.
31. The site shall be secured to prevent the depositing of any unauthorised material.
32. Should cranes be used during construction, details of cranes are to be submitted to the Department of Defence prior to commencement of works.
33. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
34. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
35. 48 off-street car parking spaces, together with access driveways and turning areas, shall be constructed, paved, line marked, signposted and maintained, as shown on the approved plan.
36. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
37. 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.
38. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
- a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
 - d) At all times during demolition, a competent person shall directly supervise work. It is the responsibility of the person to ensure that:

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- e) Adjoining owners are given 24 (twenty four) hours notice, in writing, prior to commencing demolition.
 - f) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
 - g) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
 - h) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - i) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
 - j) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.
 - k) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings
 - l) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
 - m) All work shall be carried out in accordance with AS2601 and the Work Plan submitted with the development application.
 - n) Unless otherwise permitted by Council, the structure is to be demolished in reverse order of construction, being progressive and having regard to the type of construction, to enable the maximum separation and recycling of demolished materials to take place.
 - o) No material is to be burnt on site.
39. Mandatory inspections shall be carried out and Compliance Certificates issued only by Council or an accredited certifier for the following components or construction:
- Note: Structural Engineer's Certificates, Drainage Diagrams and Wet Area Installation Certificates are NOT acceptable unless they are from an accredited person.**
- (a) commencement of work (including erosion controls, site works and site set out);
 - (b) piers;
 - (c) internal sewer or stormwater lines prior to covering;
 - (d) steel reinforcement prior to pouring concrete;
 - (e) external sewer or stormwater lines, prior to backfilling;
 - (f) wet area flashing, after the installation of bath and shower fixtures;
 - (g) prior to occupation of the building;
 - (h) on completion of the works.
40. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, including a public road or place, the person causing the excavation to be made:

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- (a) must preserve and protect the building from damage; and
 - (b) if necessary, must underpin and support the building in an approved manner; and
 - (c) must, at least 7 (seven) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (d) The person acting in accordance with this Consent is liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
41. 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.
42. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
43. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
44. Removal of the existing layback crossing and construction of a new heavy duty layback and footway vehicular crossing minimum 9 metres wide tapering to 6m width at the property boundary over the new access driveway shall be constructed to the development . The crossing shall be constructed in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification. Prior to works commencing the applicant shall consult with Asset Services and Recreation regarding fees to be paid, the works required and to organise inspections for a Compliance Certificate.
45. The layback crossing and the driveway shall maintain a minimum 4m setback from any existing street trees within the road reserve.

Prior to Issue of Occupation Certificate

46. Compliance with all conditions of this development consent.
47. 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.
48. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

49. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.

Prior to Use of the Development

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

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51. The new Industrial building shall be used for 'Light Industry' as defined in Hawkesbury Local Environmental Plan 1989.
52. 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.
53. The development shall be limited to the area shown on the submitted plans.
54. Any external lighting shall be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.
55. Any outdoor lighting design shall comply with the requirements of both ADFP-602, Chapter 7 and MOS139 Section 9.2.1. No upward light component (eg aeroscreen) is to be used for any outdoor lighting to minimise potential conflict with aircraft operations.
56. No advertising signs or structures shall be erected, displayed or affixed on any building or land without prior approval.
57. All work and the storage of goods or materials shall be confined within the building or approved areas at all times.
58. All vehicles being loaded or unloaded shall stand entirely within the property.
59. All vehicles shall be driven in a forward direction at all times when entering and leaving the premises.
60. All waste materials shall be regularly removed from the property.

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 applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Integral Energy
- (c) Natural Gas Company
- (d) a local telecommunications carrier

regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.

*** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

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ATTACHMENTS:

- AT - 1** Locality Plan
- AT - 2** Floor Plan and Elevations
- AT - 3** Unlawful Works - Elevations

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AT - 1 Locality Plan

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

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AT - 2 Floor Plans

**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

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**To View This Image,
Please Refer to the Separate
Attachments Document (Maps)**

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AT - 3 Unlawful Works - Elevations

**To View This Image,
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Attachments Document (Maps)**

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Item: 259 **CP - Applications for Retrospective Approvals - (95498)**

Previous Item: 221, Ordinary (30 October 2007)

REPORT:

On 29 May 2007 Council made the following resolution:

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

Since that resolution, all development applications requesting retrospective approval for works have been reported to Council for determination.

At the Ordinary meeting of 30 October 2007, Council resolved the following:

"That a report be submitted to Council for consideration regarding the options available in dealing with Council's recent resolution in respect of retrospective approvals and the development of a policy regarding the fines issued as a result of applications submitted for retrospective approvals."

This report proposes an option for advising Council which applications are for retrospective works and proposes a mechanism for these applications to be called up to Council where required. The report also outlines the process currently adopted by Council in regards to the enforcement policy.

Determination of Development Applications

Currently Council development assessment staff have delegations to determine development applications under certain conditions. These conditions are overseen by the General Manager and Director City Planning and relate to the range and number of objections, variations to Council DCP, Codes and Policies and whether the matter is "called up to Council" by a Councillor. This process has been in place for a number of years and generally works well. Since the Council resolution of 29 May 2007 all applications for retrospective approvals have been reported to Council resulting in some delays determining applications (due to lead-in times to Council meetings) and use of additional staff time in preparation of the reports for Council meetings. It is clear that Council has also identified the inefficiencies in reporting development applications to Council meetings based on no other criteria except for retrospective works.

A list of all development applications received at Council each week is sent to a range of relevant, non-development control, staff and the local Police. This enables these persons to call the assessment staff to discuss any particular application that may be of interest to them. These lists are also contained in the Councillor Newsletter that is issued to all Councillors the week preceding the Ordinary Council meeting. It is noted that a recent survey of Councillors (July) indicated that the newsletter was read always or often by all Councillors.

It is proposed to amend these lists so that any development application that is for a retrospective approval of existing works will be noted on that list for easy identification. This will enable Councillors to peruse this list and identify applications of interest and make further enquiries of staff or to "call up" relevant applications to a Council meeting for determination. If the applications are not "called up" then staff can determine the applications in accordance with the current delegations.

It is also proposed to place the lists of Development Applications received and Development Applications approved on Council's website for general information.

Policy regarding fine enforcement

It is noted that Council adopted an "Enforcement Policy" on 12 December 2006. The Enforcement Policy was developed based on the NSW Ombudsman's model Enforcement Policy, which establishes clear guidelines for the exercise of discretion in dealing with action requests or complaints about unlawful activity. The Policy provides workable guidelines on:

- How to assess whether complaints of unlawful activity require investigation.
- Options for dealing with unlawful activity.
- How to decide whether enforcement action is warranted.

In relation to the Council resolution of 30 October 2007, the following extract of the Enforcement Policy is relevant:

"When deciding whether to take enforcement action, Council staff / management will consider the circumstances of each case and consider the following questions:

- *Could the unlawful activity be carried out lawfully if development consent or an exemption from development consent was sought?*
- *In these circumstances, Council staff will be less inclined to proceed with legal action especially if an owner actively and positively attempts to regularise the situation.*
- *Are the breaches technical or inconsequential in nature with no aggravating circumstances?*
- *Consideration will be given to the material implications that the breach might have on the interests of any party, as well as any detrimental affect on the amenity of the area or environment in general.*
- *Could the non-compliance be easily remedied by some action on the part of the person responsible?*

In general Council staff will attempt to ensure compliance by informal means however there is a need to balance the public interest in enforcing the law with whether it is possible to remedy a breach and at what cost.

- *Has the unlawful activity created a health or safety hazard?*

Consideration should be given to the degree of detriment or risk to public health / safety.

- *Has the unlawful activity had a detrimental impact on the natural environment?*

Consideration should be given to the significance of the impact on threatened species and/or endangered ecological communities

- *Are the unlawful activities or works carried out on a heritage item and did they adversely affect the heritage significance?*

In most cases, Council's Heritage Advisor will be consulted in assessing the detriment to the natural or built environment and whether formal action is warranted.

- *Would it be in the public interest?*

Some of the issues that should be considered are: has the unlawful activity affected a significant number of people, would enforcement action impact unreasonably on certain population groups, particularly disadvantaged or marginalised groups, are there any circumstances of hardship affecting both the complainant and the person or corporation subject to the complaint?

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- *How long has the unlawful activity been occurring and is enforcement action statute barred?*

A time limit might or existing use rights might apply, that prevents Council staff from taking legal action.

- *Have previous warnings been issued?*

If the investigation reveals that a previous warning has been issued and the unlawful activity is not resolved, a more formal approach would be appropriate.

- *Would a draft local environmental plan or amendment make the unlawful activity or work legal in future?*

If there is a draft LEP that would make the unauthorised use legal, consideration should be given to deferring any enforcement action.

- *Is there any doubt over the evidence or the offence?*

Consideration should be given to whether the collected evidence clearly identifies an actual breach. Council staff should not take untimely or unwarranted action.

- *Does the person or corporation exhibit contrition for an offence?*

In some cases it will be appropriate to have regard to the attitude of the offender and their willingness to prevent a recurrence of the problem.

- *Has the person or company who carried out the unlawful activity had an opportunity to provide representations or submissions on the matters?*

Council staff should consider all elements pertaining to the circumstances of the case leading to the non-compliance.

If the process is being used as a delaying action or there has been a blatant attempt to flout the law, appropriate enforcement action will be instigated without delay.

If it is considered enforcement action is required, it will be taken in accordance with existing procedures, legislative processes and independent legal advice.

In taking enforcement action, Council must recognise that the statutory process also provides avenues for representations and appeal and thereby natural justice principles will still be observed."

The provisions of the Enforcement Policy and other relevant Policies and Legislation are regularly considered when considering the appropriate response to unlawful activities. It is clear in most cases of retrospective approvals, the applicant was aware of the need to obtain consent for the structure but did not obtain that consent for a variety of reasons. The need for the consent usually arises when a property is to be sold. There have been some recent cases where an Infringement Notice has not been issued due to the current applicant obtaining the retrospective approval for works undertaken by a previous owner.

Conformance to Strategic Plan

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

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

Funding

There is no direct funding impact from this report. However, the recommendation, if adopted by Council, will result in improved efficiencies in the processing of development applications and infringement notices.

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RECOMMENDATION:

That:

1. Development Applications for retrospective approvals be annotated on the list of Development Applications received.
2. The lists of Development Applications received and Development Applications determined be distributed to the Councillors via the Councillor newsletter and be placed on Council's website.
3. Development applications for retrospective approvals be determined in the same manner as other development applications, that is, under delegated authority unless a Council policy requires referral to Council in particular circumstances or the matter, is "called up to Council" for determination by a Councillor.
4. Council note the provisions of the Enforcement Policy adopted in December 2006

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 260 **CP - Development Application - 2 Lot Torrens Title Subdivision - Lot 1 DP 874920, 34 Inalls Lane, Richmond - (DA0185/07, 74563, 95498)**

Development Information

Applicant: Falson & Associates Pty Limited
Owner: Mr S Delkou
Zone: Environmental Protection
Advertising: 1 November 2007 to 16 November 2007
Date Received: 10 April 2007

Recommendation: Approval

REPORT:

Description of Proposal

Approval is sought for the two (2) lot Torrens Title subdivision of Lot 1 DP 874920, 34 Inalls Lane Richmond. The proposed subdivision seeks to create 2 lots with separate access to the existing dwellings located on site. The proposed allotments will have the following areas:

Proposed Lot 1 – 7575m²
Proposed Lot 2 – 7063m²

The proposed access to Lot 1 will be obtained from Inalls Lane and access to Lot 2 will be obtained from Silverburn Avenue. Each Lot will contain one single dwelling.

The Department of Planning gave concurrence to a State Environmental Planning Policy No. 1 objection lodged in conjunction with the application that provided for allotments having areas less than 10 hectares.

Description of the Land and its Surroundings

The existing lot has an area of 1.4638ha and is irregular in shape. The site currently contains two existing dwellings and two sheds with scattered clusters of vegetation. The land level ranges from 11m AHD to 20m AHD.

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

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

Section 79C “Matters for Consideration” Comments	Section 79C “Matters for Consideration” Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “HLEP 1989”, SEPP 1, SEPP 44 and SREP No. 20 in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no draft environmental planning instruments affecting the site.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Refer to discussion on Hawkesbury DCP 2002 in this report
Section 79C (1) (a)(iii) – Provisions of the regulations	None applicable.

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Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed in the main body of this report. (ii) The proposed development will not have a detrimental social impact in the locality. (iii) The proposed development will not have a detrimental economic impact on the locality.
Section 79C (1) (c) – the suitability of the site for the development	Location - The site is considered able to support the proposed subdivision. Physical - The site has sufficient area and dimensions, has suitable road access and is relatively free from environmental constraint. Therefore, the site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	There were no submissions made in accordance with the Act or Regs.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

SEPP No. 44 applies to land within the Hawkesbury Local Government Area for which development consent is sought having a total land area in excess of 1 hectare.

Comment: Having regard to the requirements of SEPP No. 44 it is noted that the subdivision will not include the removal of any trees or disturbance of any natural habitats which would be considered as "core koala habitat". The subject land has already been developed and it is considered that the subdivision will not impact any potential core koala habitat areas.

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

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

Hawkesbury Local Environmental Plan 1989 (LEP)

Clause 2 - Aims, objectives etc.

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

Clause 9A – Zone objectives

The subject land is comprised of two (2) separate zonings being partly zoned Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map) and Housing under the provisions of Hawkesbury Local Environmental Plan (HLEP) 1989.

The stated objectives of the Environmental Protection - Agricultural Protection (Scenic) zone are detailed as follows;

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

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Comment: It is considered that the proposed subdivision will have no adverse impact on the agricultural potential of the land.

(b) *to ensure that agricultural activities occur in a manner:*

(i) *that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as streams and wetlands, and*

(ii) *that satisfies best practice guidelines and best management practices,*

Comment: No significant adverse impact on water catchments, significant ecosystems or the River, or surface and groundwater quality and flows, or surface conditions is expected to occur as a result of the proposed subdivision.

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

Comment: It is considered that the proposed development will not create any unreasonable rural land use conflicts, given the nature and use of adjoining properties.

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

Comment: It is considered that the subdivision will not have any negative impact on the existing landscape values of the locality.

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

Comment: The proposed subdivision will not have any significant adverse impacts on river valley systems, scenic corridors, wooded ridges, escarpments, environmentally sensitive areas and other local features of scenic quality. As no new works are proposed.

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

Comment: The proposed subdivision will have no significant or adverse impacts on hilltops, ridge lines, river valleys, rural landscapes and other local features of scenic significance.

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

Comment: The proposed development is not considered to be traffic generating. Inalls Lane and Silverburn Avenue are not main or arterial roads. Two dwellings (one on each of the proposed lots) currently exist on the site.

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

Comment: The proposed subdivision does not involve outdoor advertising.

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

Comment: The proposal will not create unreasonable economic demands for the provisions or extension of public amenities or services as existing dwellings on site have separate connections to water, electricity and telephone services.

(j) *to preserve the rural landscape character of the area by controlling the choice and colour of building materials and the position of buildings, access roads and landscaping,*

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Comment: The site currently contains two existing dwellings and two existing sheds, the subdivision proposal will not include any additional buildings.

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

Comment: The proposed subdivision will have no adverse impact on existing or future agricultural activities on the subject land or within the locality.

The stated objectives of the Housing zone are detailed as follows:

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

Comment: The site currently contains two existing dwellings and is situated in a location of high amenity and accessibility.

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

Comment: The subdivision will not affect the character of residential development and streetscape as the proposal does not seek to change the existing buildings on site.

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

Comment: No new buildings are proposed with the subdivision. The existing dwellings on site fit within the existing character of the locality.

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

Comment: The subdivision proposal does not include any alterations to the existing dwellings or site and therefore will not adversely impact the natural amenity and ecological processes of the area.

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

Comment: The size of the proposed lots will provide sufficient space to enable future development.

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

Comment: Each proposed lot has separate water supply and sewage connections to each of the existing dwellings.

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

Comment: The site currently services two dwellings, no additional public amenities or services are required as a result of the subdivision.

Conclusion

The proposed development is considered to be consistent with the objectives of the Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map) and Housing Zones under the provisions of Hawkesbury Local Environmental Plan (HLEP) 1989.

Clause 10 – Subdivision General

Comment: The subdivision proposal is consistent with Clause 10- Subdivision general - of Hawkesbury Local Environmental Plan 1989 as it corresponds with the different boundaries between the zones found on the map.

Clause 11- Rural Subdivision - general provisions

Clause 11 of Hawkesbury LEP 1989 provides the following:

(1) *In this clause:*

commencement day means the day on which Hawkesbury Local Environmental Plan 1989 (Amendment No 126) commenced.

endangered ecological community means any endangered ecological community referred to in Part 3 of Schedule 1 to the Threatened Species Conservation Act 1995.

lot averaging subdivision means a subdivision of land within the Mixed Agriculture, Rural Living or Rural Housing zones that complies with subclause (4) and will not result in an original allotment being divided into more allotments than the number resulting from:

- (a) dividing the area of the original allotment in hectares:
 - (i) by 10, if the land is in the Mixed Agriculture zone, or
 - (ii) by 4, if the land is in the Rural Living zone, or
- (b) multiplying the area of the original allotment in hectares by the density control shown on the map, if the land is in the Rural Housing zone.

original allotment means an allotment in existence at the date on which Hawkesbury Local Environmental Plan 1989 (Amendment No 126) was gazetted.

regionally significant wetlands means any land shown as wetland on “the map” within the meaning of Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997).

- (2) Except as otherwise provided by this clause and clause 13, the Council may consent to the subdivision of land in Zone No 7 (a) or 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone only if the area of each of the allotments to be created is not less than:
 - (a) if it is not a lot averaging subdivision, that shown for the zone in Column 2 of the following Table, or
 - (b) if it is a lot averaging subdivision, that shown for the zone in Column 3 of that Table.

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Column 1 Zone	Column 2 Minimum allotment size if not lot averaging subdivision	Column 3 Minimum allotment size if lot averaging subdivision
<i>Mixed Agriculture (land shown hatched on the map)</i>	40 hectares	<i>Not applicable</i>
<i>Mixed Agriculture (other than land shown hatched on the map)</i>	10 hectares	2.5 hectares
<i>Rural Living (land shown hatched on the map)</i>	2 hectares	<i>Not applicable</i>
<i>Rural Living (other than land shown hatched on the map)</i>	4 hectares	1 hectare
<i>Rural Housing</i>	<i>Minimum lot size as shown on the map (otherwise not applicable)</i>	<i>1,500 square metres if the density control shown on the map is 5.0 per hectare 2,400 square metres if the density control shown on the map is 3.0 per hectare 3,750 square metres if the density control shown on the map is 2.0 per hectare</i>
<i>Environmental Protection—Agriculture Protection (Scenic) (land shown hatched on the map)</i>	10 hectares	<i>Not applicable</i>
<i>Environmental Protection—Agriculture Protection (Scenic) (other than land shown hatched on the map)</i>	40 hectares	<i>Not applicable</i>
<i>Environmental Protection (Wetlands) 7 (a)</i>	40 hectares	<i>Not applicable</i>
<i>Environmental Protection (Scenic) 7 (d)</i>	40 hectares	<i>Not applicable</i>
<i>Environmental Protection—Mixed Agriculture (Scenic)</i>	40 hectares	<i>Not applicable</i>

Comment: The size of proposed Lot 1 is 7575m² and is zoned Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map), Clause 11 of HLEP 1989 requires a minimum allotment size of 10ha on land zoned Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map).

Having regard to the above Proposed Lot 1 does not achieve compliance with the minimum area requirement of 10ha. The applicant has submitted a State Environmental Planning Policy No.1 Objection in relation to minimum area provisions and is considered separately in this report.

(3) *The Council may consent to the subdivision of land to which this clause applies only if:*

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- (a) *there is a ratio between the depth of the allotment and the frontage of the allotment that, in the opinion of the Council, is satisfactory having regard to the purpose for which the allotment is to be used, and*

Comment: The width to depth ratio of the lots is in compliance with the requirements of Hawkesbury Development Control Plan Part D Chapter 3.7.5 Lot Size and Shape. It is therefore concluded that each lot has a satisfactory depth to frontage ratio.

- (b) *the pattern of allotments created by the proposed subdivision and the location of any proposed buildings on those allotments will, in the opinion of the Council, minimise the impact on any threatened species, populations or endangered ecological community or regionally significant wetland, watercourses, agriculture and bush fire threat, and*

Comment: The proposed subdivision will not have a significant impact upon any threatened species, populations or endangered ecological communities or significant wetland, watercourses, agriculture or be subject to significant bushfire threat.

- (c) *the Council has considered a geotechnical assessment that demonstrates the land is adequate for the on-site disposal of effluent, and*

Comment: The existing residential density is not proposed to be altered in conjunction with the proposal. It is also noted that the land is serviced by reticulated sewage infrastructure.

- (d) *in the opinion of the Council, each of the allotments created contains suitable areas for a dwelling-house, an asset protection zone relating to bush fire hazard and effluent disposal.*

Comment: The land is not identified as being bushfire prone on the Bushfire Prone Land Map prepared by the NSW Rural Fire Service.

Clause 11(4) and (5) are not applicable to this application

- (6) *Consent must not be granted to a subdivision of land in Zone No 7 (d) or in the Mixed Agriculture, Rural Living, Rural Housing, Environmental Protection—Agriculture Protection (Scenic) or Environmental Protection—Mixed Agriculture (Scenic) zone that creates an allotment (otherwise than for use for a public purpose) unless the Council is satisfied that there is an area of land above the 1-in-100 year flood level on the allotment that is:*

- (a) *sufficient for the erection of a dwelling-house, and*
(b) *at natural surface level or at a level achieved by filling carried out with the consent of Council.*

Comment: The subject site has been identified as being flood prone. The levels of the land range from 11m AHD to 20m AHD, which partially falls under the 17.5m AHD 1 in 100 year flood level. The existing dwellings on site satisfies the requirements of Clause 25 Development of Flood Liable Land in HLEP 1989 as discussed further in this report.

Clause 11(7), (8) and (9) are not applicable to this application

SEPP No. 1 Objection to Clause 11 of Hawkesbury Local Environmental Plan 1989

As detailed in the previous section of this report the proposed subdivision does not satisfy the minimum allotment size provisions of 10 ha in relation to land zoned Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map) contained in Clause 11 of Hawkesbury Local Environmental Plan 1989. In regard to the non compliance with this development standard the applicant has submitted an objection under the provisions of SEPP No. 1 – Development Standards.

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The following comments have been prepared by the applicant having regard to the objection lodged pursuant to SEPP No. 1:

- *The subdivision follows from proper and reasonable management of a residential landholding having regard to existing zone boundaries and existing physical features.*
- *Particularly the subdivision merely recognises that the land is within a split zoning and has two houses thereon, one within each zone area.*
- *The land is already used as two separate lots with separate services provided.*
- *The subdivision along the zone boundary is consistent with LEP requirements and would not have any impact.*

Clause 11 of Hawkesbury Local Environmental Plan requires that allotments have a minimum area of 10 hectares within the Environmental Protection - Agricultural Protection (Scenic) (land shown hatched on the map) zone. As detailed previously in this report the proposal provides for an undersized allotment as Proposed Lot 1 has an area of 7575m² representing 92425m² below the minimum requirements.

It is considered that the proposal satisfies the stated objectives listed in Hawkesbury Local Environmental Plan 1989 and Hawkesbury Development Control Plan 2002. Given that the subdivision will seek to subdivide the land so that the boundaries will correspond with the boundaries between the zones shown on the map it is therefore considered that the subdivision corresponds with the objectives of Clause 10 general subdivision of the HLEP 1989.

NSW Department of Planning

As the minimum allotment size criteria contained in Clause 11 of Hawkesbury Local Environmental Plan 1989 exceeds 10% the Development Application and accompanying objection was lodged pursuant to State Environmental Planning Policy No. 1 – Development Standards and was forwarded to the NSW Department of Planning for the concurrence of the Director-General pursuant to the provisions of Section 79B of the Environmental Planning and Assessment Act, 1979.

Section 79B of the Environmental Planning and Assessment Act, 1979 provides the following:

- (1) *If, by an [environmental planning instrument](#), the [consent authority](#), before determining the [development application](#), is required to consult with or to obtain the concurrence of a [person](#), the [consent authority](#) must, in accordance with the [environmental planning instrument](#) and the [regulations](#), consult with or obtain the concurrence of the [person](#), unless the [consent authority](#) determines to refuse to grant [development consent](#).*

The Department of Planning has granted concurrence to the proposed subdivision for the SEPP 1 objection to Clause 11(2) variation of Hawkesbury Local Environmental Plan 1989 as detailed in correspondence dated 18th September 2007. This decision is based upon the following:

- The subdivision will enable the subdivision boundary to conform to the zone boundary

Clause 12 – Residential subdivision-general provisions

Proposed Lot 2 is zoned Housing under the provisions of Hawkesbury Local Environmental Plan (HLEP) 1989.

The general provisions for Residential Subdivision are detailed as follows:

- (1) *In this clause:*

"internal allotment" means an allotment to which the only means of access to that part of the allotment that is most suitable for locating a dwelling is by way of:

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- (a) *an access corridor that forms part of the allotment (a "hatchet shaped allotment"), or*
- (b) *an easement or right of way over another allotment.*

Comment: Proposed lot 2 is considered as an "internal allotment" as it falls under Clause 12 subclause (1) of the HLEP 1989.

- (2) *The Council may consent to the subdivision of land in the Housing or Multi Unit Housing zone only if the area of each allotment that is to contain a dwelling is not less than:*

- (a) *if the allotment is not an internal allotment, that shown for the zone in Column 2 of the following Table, or*
- (b) *if the allotment is an internal allotment, that shown for the zone in Column 3 of that Table.*

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Zone</i>	<i>Minimum allotment size for an allotment other than an internal allotment</i>	<i>Minimum internal allotment size</i>
<i>Housing (other than land shown hatched on the map)</i>	<i>450 square metres or as shown on the map, whichever is the greater</i>	<i>450 square metres or as shown on the map, whichever is the greater</i>
<i>Housing (land shown hatched on the map)</i>	<i>600 square metres</i>	<i>700 square metres</i>
<i>Multi Unit Housing</i>	<i>450 square metres</i>	<i>450 square metres</i>

Comment: Clause 12 of HLEP 1989 requires a minimum allotment size of 700m² on land zoned housing for internal allotments. Proposed Lot 2 is zoned Housing and is shown hatched on the map, therefore 700m² is required. Lot 2 achieves this requirement under HLEP 1989 as it provides 7063m².

- (3) *Despite subclause (2), the Council must not consent to the subdivision of land in the Housing zone if:*

- (a) *the land is not serviced by reticulated sewerage, and*
- (b) *the area of any proposed allotment that is to contain a dwelling is less than 4,000 square metres.*

Comment: The subject land is serviced by reticulated sewerage.

- (4) *For the purposes of subclause (2) and (3), in determining the area of an internal allotment that is a hatchet shaped allotment, the area of the access corridor is not to be counted as part of the area of that allotment.*

Comment: The area of the access corridor still falls within Clause 12 subclause (2) and (3) of HLEP 1989 if the access corridors are not included within the lot size calculation.

Clause 12(5) and (6) are not applicable to this application

Clause 18 – Provision of water, sewage etc services

The provisions of Clause 18 state that:

- (1) *The Council shall not consent to any development on land to which this plan applies unless arrangements satisfactory to the Council have been made for the provision to the land of water, sewerage, drainage and electricity services.*

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- (2) *The Council shall not consent to any development on land to which this plan applies as shown on the map by red diagonal hatching, unless and until arrangements satisfactory to the Sydney Water Corporation have been made for the provision to the land of water and sewerage services or, in the case of land within the Windsor Sewerage Scheme Catchment Area, to the Council for the provision to the land of sewerage services.*

Comment: The application was referred to Sydney Water for comment. In their response of 20 August 2007, Sydney Water did not raise any concerns with the subdivision proposal and advised council that a condition of consent should be placed on the approval stating that the developer/applicant shall obtain a Section 73 Compliance Certificate from Sydney Water.

Clause 21 – Danger of bushfire

The subject site has been identified as having a low bushfire risk category. It is not considered that the site will be affected by bushfire.

Clause 24 Development in certain environmental and other zones

This clause applies to land in Zone No 7 (d) or in the Rural Village, Environmental Protection-Agriculture Protection (Scenic) or Environmental Protection-Mixed Agriculture (Scenic) zone and states that;

- (1) *A person shall not erect a building on land to which this clause applies without the consent of the Council.*
- (2) *The Council shall not grant consent to the erection of a building on land to which this clause applies unless it has made an assessment as to whether it should impose conditions relating to:*
- (a) *the height and siting of the building, and*
 - (b) *the colour of materials to be used in the erection of the building, so as to ensure that the building blends with the surrounding landscape and other development and preserves or enhances the scenic quality of the land.*

Comment: This clause requires that an assessment be undertaken as to the height, colour, texture and siting of buildings to ensure preservation of scenic quality. Whilst not strictly applicable to a subdivision proposal the existing buildings are part of the existing scenic quality and will not be altered as a result of the subdivision.

Clause 25 Development of flood liable land

The subject site has been identified as being flood prone. The levels of the land range from 11m AHD to 20m AHD, which partially falls under the 17.5m AHD 1 in 100 year flood level for the area. The existing dwellings on site satisfy the requirements of Clause 25 Development of Flood Liable Land in HLEP 1989 as they are located on the portion of land that is not lower than 3m of the 1-100 year flood level. The sheds located on site are classed as minor structures and do not have to be located above the 1-100 flood level as they are non habitable buildings.

The existing developments on site comply with this clause and will not be affected by the subdivision, both existing dwellings will have separate accessways above the 1-100 year flood level.

Clause 28 Development within the vicinity of Heritage Items

Clause 28 of HLEP 1989 provides that:

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

Comment: Two residential allotments adjoining the site contain heritage items. They are identified as number 40 and 41 Inalls Lane, Richmond under HLEP 1989. This clause requires that an assessment be made as to the impact of the proposed development on these items.

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The application has been referred to the Councils Heritage Advisor for an assessment of the proposal. The heritage advisor had provided the following comment;

"as far as I can determine this subdivision would not have any adverse impact on the heritage values of the nearby heritage items or the area"

It is therefore considered that the subdivision complies with Clause 28 of HELP 1989.

Clause 36 Clearing of land in certain environmental and other zones

A person must not, on land in Zone No 7 (a) or 7 (d) or in the Mixed Agriculture, Rural Living, Rural Village, Environmental Protection-Agriculture Protection (Scenic) or Environmental Protection-Mixed Agriculture (Scenic) zone, fell trees, fill or otherwise alter the surface level of the land without the consent of the Council.

Comment: The subdivision proposal does not require clearing or altering of surface levels. No physical alteration to the land whatsoever is required as a consequence of the subdivision proposal. No impact will be caused by the proposed subdivision.

Clause 37 - Land affected by aircraft noise

The subject land is not situated within an ANEF noise contour.

37A Development on land identified on Acid Sulfate Soils Planning Map

The land is identified as Class 5 Land on the Acid Sulfate Soil Planning Map. As no physical works are proposed the proposal will not impact upon adjacent Class 1 and 4 Land.

Hawkesbury Development Control Plan 2002

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

General Information Chapter

This Chapter provides an explanation of the development application process and provides the requirements for lodging a development application for different land uses.

It is considered the subject application provides adequate information for the assessment of the proposal and generally complies with this Chapter.

Subdivision Chapter

The general principles for this Chapter are to:

- *establish a consistent and coordinated approach to the creation of residential, rural residential and rural lot throughout Hawkesbury;*
- *ensure that subdivision is undertaken in an environmentally sustainable manner;*
- *facilitate different subdivision forms which have the effect of minimising environmental degradation;*
- *address long term planning objectives as contained in Hawkesbury LEP by the creation of lots in locations and of sizes consistent with those objectives;*
- *ensure constructed vehicular access from gazetted public road system to each new lot;*
- *ensure all lots created are physically capable of development;*
- *adopt criteria for rural, rural-residential and residential lots which will ensure each lot is provided with an appropriate amenity, services and access;*

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- *facilities the supply of residential lots of a wide range of sizes and shapes which reflect the statutory visions of Hawkesbury LEP, the availability of reticulated sewage and the need for frontage to public roads; and*
- *protect key cultural resources (places of environmental heritage value) from and use or management practices which will lead to their degradation or destruction.*

The following is an assessment against the Rules of the Subdivision Chapter:

Element	Rule	Complies
General		
Flora and Fauna Protection	<p>(a) Any subdivision proposal which is likely to result in any clearing of native vegetation or impact on any environmentally sensitive area is to be accompanied by a flora and fauna assessment report prepared by a suitably qualified person. This report is to primarily address the Eight Part Test pursuant to the Act (Section 5A), State Environmental Planning Policy 44 – Koala Habitat protection.</p> <p>(b) Vegetation cover should be retained where ever practicable as it acts to stabilize soils, minimize runoff, acts as a pollutant trap along watercourses and is important as a habitat for native fauna.</p> <p>(c) Degraded areas are to be rehabilitated as part of the subdivision.</p> <p>(d) Vegetation should be retained where it forms a link between other bush land areas.</p> <p>(e) Vegetation which is scenically and environmentally significant should be retained.</p> <p>(f) Vegetation which adds to the soil stability of the land should be retained.</p> <p>(g) All subdivision proposals should be designed so as to minimize fragmentation of bushland.</p>	<p>Not Required.</p> <p>The vegetation currently located on site will not be removed</p> <p>Yes, see conditions below</p> <p>Yes</p> <p>There is no scenically or environmentally significant vegetation located on site</p> <p>Yes</p> <p>Yes. Subdivision does not include the removal of any trees. No fragmentation of bushland will result.</p>

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Element	Rule	Complies
Visual Amenity	<p>(a) Building envelopes, accessways and road shall avoid ridge tops and steep slopes.</p> <p>(b) Subdivision of escarpments, ridges and other visually interesting places should: Be managed in such a way that the visual impact rising from development on newly created allotments is minimal; and Retain visually significant vegetation such as that found on ridge tops and other visually prominent locations.</p> <p>(c) Development Applications for subdivision shall take into consideration the provisions of SREP No. 20 in relation to scenic quality.</p>	<p>Yes</p> <p>N/A</p> <p>N/A</p> <p>See assessment above.</p>
Heritage	<p>(a) A subdivision proposal on land which contains or is adjacent to an item of environmental heritage as defined in Schedule 1 of the Hawkesbury LEP should illustrate the means proposed to preserve and protect such items.</p>	<p>Adjacent land contains heritage significant items under the HLEP 1989, see above report</p>
Utility Services	<p>(a) Underground power provided to all residential and industrial subdivisions. Where infill subdivision is proposed, the existing system, whether above or underground shall be maintained.</p> <p>(b) All lots created are to have the provision of power.</p> <p>(c) Where reticulated water is not available, a minimum storage of 100,000 litres must be provided. A minimum of 10,000 litres must be available during bush fire danger periods.</p>	<p>Yes, provided to existing dwellings on site</p> <p>Yes, currently provided to existing dwellings located on site</p> <p>N/A</p>

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Element	Rule	Complies
<p>Flooding, Landslip & Contaminated Land</p>	<p>(a) Compliance with clause 25 of Hawkesbury Local Environmental Plan 1989.</p> <p>(b) Access to the subdivision shall be located above the 1% AEP flood level.</p> <p>(c) Where a subdivision proposal is on land identified as being potentially subject to landslip, the applicant shall engage a geotechnical consultant to prepare a report on the viability of subdivision the land and provide recommendations as to the siting and the type of buildings which could be permitted on the subject land.</p> <p>(d) In the event the Council deems that there is the potential that land subject to a subdivision application is contaminated then the applicant shall engage a suitably qualified person to undertake a soil and ground water assessment.</p> <p>(e) Contaminated Land shall be remediate prior to the issue of the Subdivision Certificate.</p>	<p>Yes</p> <p>Yes. Both lots have existing access to the existing dwellings above 17.5m AHD</p> <p>Not considered to be contaminated.</p> <p>N/A</p> <p>N/A</p>
<p>Residential Local Street Design</p>	<p>Not applicable</p>	<p>N/A</p>
<p>Residential Accessway Design</p>	<p>(a) Accessways should have a minimum width of 4 metres and sealed pavement of 2.5 metres</p> <p>(b) Accessways should not serve more than 5 lots.</p> <p>(c) Accessways should have a maximum grade of 25% (1:4) at any point.</p>	<p>The pavement width is to be 2.5m wide as per conditions below</p> <p>Yes The subdivision will include 2 lots with separate access</p> <p>Access to both lots is predominantly flat and does not have a fall of 25% at any point of the accessway</p>

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	<p>(d) Where the Accessways is steep or fronts a local collector or higher order road (greater than 3,000 vehicles per day) or a high pedestrian area, accessways should be designed so that vehicles can be driven both onto and off the property in a forward direction.</p> <p>(e) Where vehicles would otherwise have to reserve more than 50 meters, a turning area should be provided to enable the vehicles to enter and leave the site in a forward direction and reduce the need to reverse over long distances.</p> <p>(f) Refer to Part D Chapter 1 Residential development for further requirements regarding Accessways should a subdivision be part of a residential development.</p>	<p>Existing accessways provide enough space for vehicles to enter and exit the property in both a forward direction out of proposed lot 1 and lot 2.</p> <p>N/A</p> <p>Yes Complies with Chapter 1 Part D regarding accessways</p>
Planning for Pedestrians and Cyclists and Cyclists in Residential Areas	Not applicable	N/A
Stormwater management	<p>(a) Where the topography prevents discharge of storm water directly to the street gutter or a council controlled pipe system, inter allotment drainage provided to accept run off from all existing or future impervious areas on the subject land. The design and construction of the inter allotment drainage system should be in accordance with the requirements of the Australian Rainfall and Runoff (1987)</p> <p>(b) Where proposals require the creation of easements over downstream properties for drainage purposes, a letter of consent from the owner(s) of the downstream properties should be submitted with DA's</p> <p>(c) Stormwater piped in roads and through allotments in all residential subdivisions.</p> <p>(d) For subdivision proposals comprising 5 lots or more or where Council deems it necessary, a soil and water management plan should be prepared by a properly</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>

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Element	Rule	Complies
	qualified practitioner with the aim of minimizing erosion and maximising the quality of any water leaving the site.	
Lot Size and Shape	<p>(a) In calculating the area of the battle-axe or hatched shaped allotment the accessway is to be excluded. The area of an allotment effected by a "right of carriage way" or private road should also be excluded.</p> <p>(b) Allotments should have a minimum width of 15 metres at the building line. Council may consider a lesser dimension but only as part of an integrated housing development.</p> <p>(c) Lots should be able to accommodate a building envelope of 200m² with a minimum dimension of 10 metres.</p> <p>(d) An allotment should not be less than 20 metres in depth to ensure there is some flexibility in the choice of housing design and siting as well as the availability of suitable space for other activities normally associated with a dwelling.</p> <p>(e) Vegetation which adds significantly to the visual amenity of a locality and/or which is environmentally significant should be conserved in the design of the subdivision proposal.</p> <p>(f) Lots should be designed to allow the construction of a dwelling with a maximum cut of fill of 1 meter from the natural ground level.</p>	<p>Yes</p> <p>Yes, Both lot 1 and lot 2 exceed minimum widths of 15m being 40m and 59.3m respectively</p> <p>Yes, proposed lot 1 and lot 2 will contain an existing dwelling each.</p> <p>Yes, Lot 1 and 2 exceed minimum depth of 20m being 132.2m and 112.7m respectively</p> <p>Yes, No vegetation removal is proposed.</p> <p>N/A Existing dwellings located on site.</p>

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Residential chapter

This chapter refers to relevant sections of residential development which apply to single dwellings and multi unit housing. As the site currently supports two existing dwellings it is considered that there will be no need for any alterations or changes to the existing dwellings located on site. The existing dwellings on site generally comply with the aims and objectives of this chapter.

Carparking and access

The current dwellings located on the site provide adequate space for carparking and access on the site. The subdivision will not impact on the current access and carparking needs of the proposed lots as each dwelling will have sufficient space for carparking and on site manoeuvring. Both accessways provide sufficient space to enter and leave the proposed lots in a forward direction.

Conclusion

The proposed two-lot subdivision has been assessed against the Hawkesbury Councils Development Control Plan and has concluded that the development would not adversely impact on the surrounding environment.

RECOMMENDATION:

That the Development Application No. DA0185/07 for a Two Lot Torrens Title Subdivision of Lot 1, DP874920, 34 Inalls Lane, Richmond be approved subject to the conditions in the attached consent:

General Conditions

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.

Prior To Issue Of Construction Certificate

3. 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.
4. Construction of the access is not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director City Planning or an Accredited Certifier.
5. Payment of a Construction certificate checking fee of \$165.00 and a Compliance Certificate inspection fee of \$335.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2007. Fees required if an Accredited is used will be provided on request.

Prior To Commencement Of Works

6. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.

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7. 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.
8. 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.
9. No excavated material, including soil, shall be removed from the site.
10. The site shall be secured to prevent the depositing of any unauthorised material.
11. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
12. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
13. Vehicle entrances and exits shall be clearly signposted, including street number, and visible from both the street and site at all times.
14. No trees are to be removed without the approval of Council.

During Construction

15. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
16. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.
17. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
18. A centrally located concrete driveway, minimum 2.5 metres wide, shall be constructed along the full length of the access handle to Lot 2. The driveway shall be a minimum thickness of 150mm and be reinforced with F82 mesh.
19. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.

Prior To Issue Of Subdivision Certificate

20. 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.
21. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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22. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
23. A plan of subdivision prepared to the requirements of the Land Titles Office, shall be submitted to Council, with four copies.
24. A survey plan showing all existing services on the lots including septic tank and effluent disposal area, sewer connections, water connections and stormwater disposal shall be submitted. The plan shall demonstrate that there are no encroachments over remaining or proposed boundaries.
25. Payment of a linen release Fee in accordance with Council's Fees and Charges at the time of lodgement of the linen plan.

Advisory Notes

*** Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.

*** The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Integral Energy
- (c) Natural Gas Company
- (d) a local telecommunications carrier

Regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.

*** The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.

*** The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 261 CP - Hawkesbury City Council - Annual Report - 2006/2007 - (95498)

REPORT:

The attached annual report has been prepared in accordance with the requirements of Section 428 of the Local Government Act 1993 and Department of Local Government Circular to councils number 07-41 dated 3 September 2007.

Background

Section 428 of the *Local Government Act 1993* has set a requirement that "within 5 months after the end of each year, a council is required to prepare a report as to its achievements with respect to the objectives and performance targets set out in its management plan for that year".

The Act also prescribes specific reporting requirements, that govern the content of the report, and submission of audited financial statement and State of the Environment report for the year ending 30 June 2007.

The annual report is a Statutory requirement for all New South Wales Councils and must be submitted to the Department of Local Government by the 30 November 2007.

Conformance to Strategic Plan

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

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

Funding

There are no funding implications from the preparation of this report.

RECOMMENDATION:

That:

1. The completion of annual report information be received and noted.
2. Council display the full report on Council's website by the 30 November 2007.

ATTACHMENTS:

- AT - 1** Annual Report 2006-2007 (*Distributed under separate cover*)
- AT - 2** General Purpose and Special Purpose Financial Report and Special Schedules for the period ending 30 June 2007 (*Distributed under separate cover*)
- AT - 3** State of the Environment Report (*Distributed under separate cover*)
- AT - 4** Council's policy on the provision facilities for use by Councillor's and payment of Councillors expenses (*Distributed under separate cover*)

oooO END OF REPORT Oooo

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Item: 262 CP - Naming of rooms within the Hawkesbury Regional Museum - (103542, 95498)

Previous Item: 62, Ordinary (9 November 2004)

REPORT:

This report has been prepared to seek Council's approval to amend a Council resolution on the naming of a room within the Regional Museum. The report also seeks Council's approval for Council staff to undertake further consultation on the naming of rooms within the Regional Museum.

Background

Council at its meeting on 9 November 2004 gave consideration to the naming of facilities and rooms within the Hawkesbury Cultural Precinct. At the meeting, Council resolved (in part):

"That:

5. *The Theatrette within the Hawkesbury Regional Museum be named the "Hugh Williams Theatrette".*
6. *That the public be invited to nominate names for unnamed facilities and rooms of the Hawkesbury Cultural Precinct, as contained within this report, to be considered by a Committee comprising the members of the Capital Infrastructure Works Project Team, together with 2 (two) additional Councillors, to be appointed and that a short list of suggestions be presented to Council for decision.*

Suggested names as provided for in point 6 above were reported to the Council meeting of 8 March 2005.

Hugh Williams Theatrette

Council will be aware that Hugh Williams was one of the architects in the group, Pont, Williams and Leroy Architects, who were engaged to design the new museum building at Windsor. Mr Williams died during the project, which was the last project on which he worked. Council's resolution of 9 November 2004 was made to commemorate his work, in name, within the building.

A meeting was recently held between the museum architects, Warren Leroy and Robert Pont and Council officers, to discuss general business relating to the construction and fit-out phase of the museum. At this meeting the architects expressed their preference for the Hugh Williams Theatrette to be called the Hugh Williams Room.

Council officers support this preference as the designated room will be a multi purpose space used for audio-visual presentations as well as school and public program activities. It is believed that the term theatrette could mislead the public and may result in peoples' expectations being disappointed. For instance the room will not have tiered seating as the term theatrette alludes to.

Based on the above it is recommended that the name of the audio-visual activity room be amended to the *Hugh Williams Room*. It is considered that this proposed name change still commemorates the work undertaken by Mr Williams in regard to this matter.

Recognition of traditional owners.

At its 8 March 2005 meeting, Council resolved to name the Library/Gallery building the *Deerubbin Centre* in recognition of the indigenous heritage of the City - *Deerubbin* was the original (Darug) name for the Hawkesbury River. Council also resolved that eight other nominated names would be accepted and used to name rooms within the Deerubbin Centre and the new Hawkesbury Regional Museum. All of these names were those of non indigenous people.

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Council's resolutions of 9 November 2004 and 8 March 2005 will see three rooms within the new Hawkesbury Regional Museum named after non-Indigenous people (Doug Bowd, Hugh Williams and Jan Barkley Jack). Indigenous people/traditional land owners are not currently recognised through the naming of rooms within the Regional Museum. This omission appears inconsistent with the rich history of the Hawkesbury as a site of continuous contact between indigenous peoples and European settlers - a historically significant '*frontier story*' which has been reinforced by the discovery of substantial Aboriginal artefacts on the site of the Regional Museum. To address this oversight it is proposed that rooms within the Hawkesbury Regional Museum be named after the traditional owners of the Hawkesbury and that local Aboriginal groups be consulted regarding appropriate indigenous names; with suggestions to be supplemented by research conducted by Council's Local Studies Librarian.

Conformance to Strategic Plan

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

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

Funding

There are no funding implications arising directly from this report.

RECOMMENDATION:

That:

1. The audio-visual/activity room within the Hawkesbury Regional Museum building be renamed the *Hugh Williams Room* rather than the Hugh Williams Theatre, as previously resolved by Council.
2. Council further acknowledge the indigenous heritage of the City of Hawkesbury by consulting with local Aboriginal groups to identify appropriate indigenous names for rooms within the Hawkesbury Regional Museum with this consultation to be complemented by research conducted by Council's Local Studies Librarian.
3. Recommendations for naming of rooms within the Hawkesbury Regional Museum to be reported to Council.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 263 CP - Update of NSW Government changes to developer contributions system under Section 94 and 94A of the Environmental Planning & Assessment Act 1979 and request from Department of Planning for new Section 94 plan for Pitt Town Development Area - (95498)

REPORT:

Introduction

Section 94 and 94A of the Environmental Planning and Assessment Act 1979 provides consent authorities with the ability to require developers to provide monetary contributions (and in some cases dedication of land or the provision of material public benefits) for the provision, extension or augmentation of public amenities or public services, or towards recouping the cost of their provision, extension or augmentation. Such contributions are required as a condition of development consent.

The purpose of this report is to:

- advise of NSW Government changes to the ability of Councils to collect contributions under Section 94 and 94A;
- inform Council of a recent request from the Department of Planning (DoP) for a new Section 94 plan for the Pitt Town Development Area; and,
- provide an indicative program to amend and augment Council's current Section 94 and 94A plans.

Background

Council presently has two developer contributions plans. The plans are:

Section 94A Development Contributions Plan 2006; and,

Section 94 Contributions Plan Review November 2005.

The *Section 94A Development Contributions Plan 2006* became effective on 10 May 2006 and collects contributions towards the provision of commercial facilities infrastructure, communications infrastructure, public amenity infrastructure, transportation infrastructure, community buildings, recreation facilities, and park improvements. This plan applies to all land within the City except for land affected by Hawkesbury Local Environmental Plan 1989 - Amendment 145 (referred to in the plan as the Pitt Town Development Area).

Contributions collected under this plan are based on a levy system with the levy being a function of the cost of the development multiplied by a particular percentage applicable to various types of development. These percentages will be discussed later in this report.

The *Section 94 Contributions Plan Review November 2005* became effective with the gazettal of Hawkesbury Local Environmental Plan 1989 - Amendment 145 on 18 August 2006. The November 2005 plan is the latest in a series of reviews of Council's original Section 94 plan adopted by Council in 1992. The plan collects contributions towards the provisions of community facilities, recreation facilities, park improvements, land acquisition, road works, regional infrastructure, car parking, intersection improvements and road maintenance. This plan applies to all land within the Pitt Town Development Area as well as development applications and complying development certificates received by Council prior to 10 May 2006.

Historically the majority of contributions collected under this plan are derived from development applications for subdivision and multi unit housing. These contributions are based on an assumed number

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of persons per lot, in the case of subdivision, or per dwelling type, in the case of multi unit housing. The dollar amount to be paid is generally based on the total number of assumed additional persons to be generated by the development multiplied by the per person cost of providing the relevant public amenity or public service.

November 2006 changes to Section 94A Levies

When Council's Section 94A plan was made effective, the NSW Government's mandated maximum levy was 1% of development cost. At the time the EP & A Act and associated Regulations did not restrict the types of development or set a minimum cost of development to which the levy could apply.

Council decided to apply a 1% levy to all types of development except for single dwellings with a value of less than \$150,000 or development solely for the purposes of Building Code of Australia, Class 10 structures. (Class 10 structures are general minor structures and include buildings such as pergolas, gazebos, sheds, pool and fences). No contributions were to be levied on applications for single dwellings with a value of less than \$150,000 or developments solely for the purposes of Class 10 structures.

Based on these thresholds, and development trends at the time, it was anticipated that Council would collect approximately \$1.1m per annum. This projected income stream was used to assist in the preparation of the 10 year works program contained in the plan.

On 10 November 2006, the Minister for Planning issued a Direction under Section 94E of the EP & A Act that provided for new maximum levies and restricted the types of development that could attract the levy.

The new levies are:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 percent
More than \$200,000	1 percent

The Direction stated that the levy could not be imposed on development for the purposes of disabled access, affordable housing, reducing water or energy consumption, adaptive reuse of a heritage item or, most importantly for Hawkesbury Council, on all development (excluding further subdivision) where a Section 94 contribution has been imposed under a previous development consent relating to the subdivision of land on which the development is proposed to be carried out.

This Direction has significantly reduced Council's ability to levy and collect Section 94A contributions. As of end of September 2007 Council had only received approximately \$300,000 in contributions. Even allowing for the recent reduced development activity in the LGA and the time lag between issuing a development consent and implementation of the consent, the receipts are significantly less than what was expected.

The Direction will require Council's Section 94A plan to be amended. Most likely the amendment will include a significant reduction in the works program, possible reconsideration of the types of development to which the levy applies, as well as possibly reverting back to an amended form of Council's Section 94 plan for certain types of development.

Council staff have started considering such amendments to both Council's Section 94A and 94 plans. A major obstacle in such considerations has been the ability to forecast future levy collections due to that part of the Direction which does not allow a Section 94A levy where a Section 94 contribution has been previously paid. In general terms, all consents for subdivision (excluding boundary adjustment) of residential, rural, environmental protection land and in some cases commercial and industrial land since the adoption of Council's original Section 94 plan in 1992 would have required the payment of a Section 94 contribution. Council's Property Information system can not readily identify the number or location of existing lots created by way a development consent since 1992. Therefore it is not possible to accurately predict the number or percentage of future development applications which will apply to land created by way of a development consent either before or after 1992. In light of this difficulty, the best forecaster for

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future receipts may be an examination of past collection trends, however since the plan is only 18 months old it is not possible to examine and project such trends with a high degree of accuracy or confidence.

Council is also advised that correspondence has been received from Hawkesbury Sports Council Inc. and the Hawkesbury District Agricultural Association Inc. regarding Section 94/94A funding and the works program in those plans. The Hawkesbury Sports Council Inc.'s request is essentially a change in the Section 94 work program at Woodlands Oval. Hawkesbury District Agricultural Association Inc.'s request is for \$400,000 from either the Section 94 or 94A plans or a combination of both towards the Stage 3 construction and fit out of the "Federation Grandstand" at the Hawkesbury Showground. These two requests are to be considered as part of future amendments to the Section 94 and 94A plans.

Council is advised that consideration of the above mentioned amendments will, however, be delayed and further complicated by recent additional NSW Government changes to the Section 94 and 94A contributions system. This is further complicated by the Minister for Planning announcing that the proposal for further development within the Pitt Town Development Area has been declared a Part 3A major project and as a result the Department of Planning requiring, as a matter of priority, Council staff to prepare a revised Section 94 plan for the affected area. These two issues are discussed below.

October / November 2007 changes to Infrastructure contributions system

On 12 October 2007 the Premier of NSW announced that there would be an overhaul of infrastructure charges for new land release areas and claimed that the new regime would cut State and local government infrastructure contributions by 30 to 40%. The accompanying media release (dealing primarily the Growth Centres) stated:

In addition to slashing levies, the changes also include:

- An expansion in infrastructure directly funded by the State Government;
- Reducing the type of projects funded through State and local government infrastructure levies;
- Infrastructure provided by councils to be delivered in a more timely way – typically within seven years – and must directly service new release areas;
- The creation of an Urban Improvement Fund to hold State Government and developer contributions for infrastructure in new land release areas;
- The new levies framework to be progressively applied throughout the State –including 'brownfield' areas – based on local and regional assessments of core infrastructure needs;
- State projects in new land release 'greenfield' areas – including roads – to be put out to competitive tender;
- Levies paid to local government in the growth centres to be held in trust by the State Government to be spent on agreed programs;
- Levies to be payable in two stages as part of the push to fast-track land release to increase competition and improve housing affordability; and
- The amount levied by the State Government for open space and environmental measures remains unchanged.

On 6 November 2007 the Department of Planning issued a Planning Circular (PS 07-018) regarding the new infrastructure contributions system. The new system will affect both the current Section 94 and 94A systems.

In terms of State Infrastructure Contributions the key matters identified in the circular are:

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State contributions applying to greenfield areas identified in Regional or Subregional Strategies, the Metropolitan Development Program or in an approved local strategy will fund 75% of the following attributable State infrastructure costs:

Infrastructure item	Previous approach	New approach
Roads	✓	✓
Rail	✓	✓
Bus	✓	✓
Emergency and justice	✓	Land only
Health	✓	Land only
Education	✓	Land only
Regional open space	✓	Land only
Planning and delivery	✓	✓

These principles will apply immediately to greenfield development sites across the State where rezonings or levies have not yet been finalised. This will result in a unique levy for each precinct or region that reflects underlying attributable infrastructure costs.

The costs of the construction and operation of social infrastructure facilities such as schools and TAFEs, hospitals and emergency services will be borne by the State Government.

The new contribution arrangements will not apply to planning agreements that have already been signed, rezonings already gazetted or development applications where consent has been granted.

In terms of Local Infrastructure Contributions the key matters identified in the circular are:

Future local contributions will be set through an approved section 94 or section 94A plan based on Ministerial Guidelines (to be separately published) and will fund 100% of the following attributable local infrastructure costs:

- local roads
- local bus infrastructure
- local parks that service a development site or precinct
- drainage and water management expenses
- land and facilities for local community infrastructure that services a development site or precinct
- land for other community infrastructure and recreation facilities.

All other costs, such as facilities benefiting existing communities (including council or districtwide community and recreation facilities), can no longer be recovered through local contributions.

The Minister for Planning will issue guidelines to advise the categories of infrastructure costs to be funded from local contributions. Councils will still prepare their own section 94 or section 94A plans in accordance with the guidelines however these will need to be endorsed by a delegate of the Minister for Planning. Councils will be separately advised about the timing for the commencement of these arrangements.

Hawkesbury's current Section 94 plan collects contributions for district community facilities, recreation facilities and park improvements. According to the circular it appears that future locally based Section 94 plans will no longer be able to require contributions for these facilities and improvements. This will impact on the request from the Hawkesbury District Agricultural Association Inc.

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The Circular contains provisions relating to the staging of contribution collections and states that for all future greenfield release areas in NSW, a single contribution combining State and Local infrastructure charges will be set on a developable area basis, and collected at two stages:

- a Rezoning Infrastructure Contribution (RIC) shall apply on the purchaser, at the time land is first sold following rezoning or approval of a development application to recover 25% of State and local infrastructure costs.
- a Serviced Infrastructure Contribution (SIC) will be payable by developers upon release of subdivision or occupancy certificates to recover the remaining 75% of State and local infrastructure costs.

The Circular also advises that State contributions will be held in a "Urban Improvement Fund" managed by NSW Treasury. Funds will be allocated to State agencies through the NSW Budget process and developers will have the opportunity to deliver relevant infrastructure as works in kind and apply for the State's 25% contribution.

Section 94 and section 94A contributions from developments within the growth centres will be held separately under Trust by NSW Treasury on behalf of councils. Councils will be able to draw on these funds based on approved section 94 and section 94A plans subject to funding being spent within the timetable of the approved plan.

Of potential significance to Hawkesbury, the circular advises that the NSW Government may consider collecting and holding section 94 and section 94A contributions for greenfield development outside the growth centres on a case-by-case basis. This is likely to occur for large scale greenfield release areas.

Finally, with respect to State infrastructure contributions and section 94 and section 94A contributions in existing urban areas, the circular advises that the revised contributions framework will apply to section 94 and section 94A contributions in both existing urban areas and greenfield areas with only the incremental costs arising from development being collected through the levy.

Throughout the circular the Department of Planning advise that further guidelines and procedures which will give effect to the reforms are presently being developed. Hence, the time taken for the Department to release the fine detail of the reforms will add further delay to Council's reconsideration of the current Section 94 and 94A plan. The Circular also has the following transitional arrangements:

"Any local environmental plan, planning agreement or section 94 or section 94A contributions plan made on or before 12 November 2007 will continue to operate as if the changes announced by the Premier on 12 October 2007 had not been made. Once the mechanisms to implement the measures outlined in this circular have been finalised additional transitional measures will be put in place."

These transitional arrangements essentially mean that if contribution plans are currently in place then they will continue to operate. However, if a Council decides to amend their current contributions plans, even to consolidate or amend the works program, the new provisions will apply. The last sentence of the above also hints that it may be possible that Councils may be issued a directive to review contributions plans within a certain (as yet unknown) timeframe.

Given this uncertainty it is not recommended that Council review the section 94 or section 94A contributions plans until the full details of the proposed changes are finalised.

Revised Section 94 Plan for Pitt Town Development Area

Recently Council staff have met with the Minister for Planning and Department of Planning (DoP) staff regarding new infrastructure to be provided in the Johnson Property Group's (JPG) proposal for further development within the Pitt Town Development Area.

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The Minister and the Department require Council to prepare a revised Section 94 contributions plan that will be consistent with the current Planning Agreement that the Department has with JPG. The contributions plan must also be consistent with the infrastructure requirements that the Minister and the Department deem to be applicable for the entire Pitt Town development. (The Minister has stated that the playing fields (4 in total) are to be provided on the Fernadell land and the river frontage land should be passive open space). Council's contributions plan will then be publicly exhibited with the Part 3A Concept Plan and ultimately endorsed by the Minister or his delegate. The contributions relating to the JPG development will then be collected in accordance with the Planning Agreement and the remainder of development within Pitt Town will be charged the same contribution rates (CPI adjusted) as the JPG development.

At present, Section 94 development contributions within the Pitt Town Development Area total \$24,303.10 per additional lot. This contribution consists of the following specific contributions:

Preliminary Investigations/Plans	\$	39.13
Land Acquisition	\$	1,800.32
Community Facilities	\$	4,248.53
Park Improvements	\$	2,306.92
Recreation Facilities	\$	1,241.99
Road works	\$	13,400.12
Regional works	\$	1,266.09

Discussions with DoP staff reveal that JPG has provided DoP with a list of suggested local infrastructures to be funded under a new Section 94 plan instead of the current Section 94 plan. In general terms JPGs submission includes the provision of parks (on the Fernadell and Bona Vista properties as well as river front land to the north of Hall Street), a community centre on the Fernadell land, flood evacuation upgrade, local road works and part contribution to construction of the Pitt Town Bypass. The total contribution per additional lot is \$21,620.00.

Comparing JPGs list with the current Section 94 plan, it appears that current contributions for preliminary investigations/plans, district community and recreation facilities, district park improvements, intersection and roundabout works, regional works and plan administration have not been included in the JPG proposal. JPGs proposed contributions towards local community facilities and local road works are substantially less than that which would be required by the method adopted in the current Section 94 plan. By contrast JPG significantly over provides for local park improvements and recreation facilities in terms of what would be required by the Section 94 plan. Finally it is unclear in JPG the value attributed to land acquisition/transfer.

Council staff are currently preparing a response to DoP regarding JPG's proposed infrastructure. Council staff have expressed concern that the JPG proposal is not consistent with the current contributions plan priorities and infrastructure provision as resolved by Council. The Department has requested that staff make a submission on the contribution rates and infrastructure priorities. However, it should be noted that the Minister has indicated that the contribution rate per lot is to be capped.

Council staff will, as a matter of priority, need to prepare a new stand alone Section 94 plan for the Pitt Town Development Area (that must be consistent with the Minister's requirements) for exhibition with the DoPs exhibition of the Part 3A Concept Plan for the land controlled by JPG in Pitt Town.

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Conformance to Strategic Plan

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

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

Funding

Outcomes of amendments/additions to Council's Section 94 and 94A plan will affect contribution receipts and resultant work program.

RECOMMENDATION:

That:

1. The information be noted.
2. The Council be kept informed as to the progress of the revised Section 94 plan for the Pitt Town development area.
3. The Hawkesbury Sports Council Inc and the Hawkesbury District Agricultural Association be informed of the Minister's changes to contributions planning and advised that their requests cannot be met in the foreseeable future.
4. Upon release of the Section 94 guidelines by the Department of Planning, the details and implications for the Hawkesbury be reported to Council.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

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INFRASTRUCTURE SERVICES

Item: 264 **IS - Future of Richmond Pool and Hawkesbury Oasis Aquatic and Fitness Centre - (79354, 34584, 3343)**

Previous Item: 107, Special (25 June 2007)

REPORT:

The exhibition period for Council's 2007/2008 draft Management Plan concluded on 22 May 2007 and prior to, during and after closure of the public consultation period, a total of 16 submissions concerning the Plan had been received. Of these 16 submissions, 12 related to issues associated with either the Hawkesbury Oasis Aquatic and Fitness Centre (Oasis Centre) and/or the Richmond Pool.

At Council's Special Meeting held on the 12 June 2007, it was resolved that:

'Two separate reports be submitted to Council regarding Richmond Pool and the Oasis Centre, following consultation with the users of the these centres in respect of the issues discussed at the meeting.'

Following this resolution, meetings were held with all swim clubs and relevant user groups from both the Richmond Pool and Oasis Centre. The outcome of the meetings are identified below.

Richmond Pool

A range of issues were raised regarding this pool, a summary including comments is outlined below:

1. Undertake upgrade of Richmond Pool /Adjust to 50m and provide wetdecks

The grant through the NSW Governments Capital Assistance Program to upgrade the Richmond Pool has been accepted and the matching funding will be provided through the Infrastructure Renewal Program. Funding was allocated through the Section 94A program but due to reduced income through this process, funds have had to be provided from other sources.

Funding includes:

Capital Assistance Grant	\$200,000
2007/2008 Special Rate Variation	\$300,000
Works Program	\$ 95,000
Sub Total	<u>\$595,000</u>

2008/2009 Special Rate Variation	\$350,000 (proposed in 2008/09 budget)
Total	<u>\$945,000</u>

Works identified as essential to the pool include reducing the length of the main pool from 55yds to 50m, installing new gutter systems (wetdecks) on all pools, a new filtered waterline to separate the filtration system of the smaller pool from the 50m pool in order to meet the Department of Health guidelines on water turnover rates and construction of a building to house the associated plant. It is anticipated that works will commence at the end of the 2007/08 swimming season, subject to contractor availability.

2. Heating to enable the pool to be used year round, including an enclosure or pool covers to reduce heat loss)

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All user groups agreed that the year round heating of **both** the Richmond Pool and Oasis Centre could not be justified, with the majority preferring that the outdoor pool at the Oasis Centre be heated should consideration ever be given to such a proposal.

The estimated capital cost of heating Richmond Pool to enable year round use is \$350,000 approximately, to include \$320,000 for heat pumps and \$30,000 for a thermal blanket. One group thought it necessary to use pool covers year round but were strongly against the building of any enclosure over the pool.

Additional operational costs in terms of electricity, water, chemicals and staffing would also be significant and, unless full cost recovery was applied, this would be an additional expenditure on Council's resources which could not be justified at this stage. An alternative option would be to put in solar heating to increase the temperature during the half year season that the pool is open. Quotes received for this indicate costing of approximately \$140,000 to the 3 pools. Due to the limited roof space on site, racks within a fenced off area would be required to be constructed to house the appropriate infrastructure.

It is recommended at this stage that Richmond Pool not be heated all year round as such action would incur ongoing unsustainable costs.

3. Increase the Pool Size to 8 lanes

The estimated cost to increase the pool by two lanes is approximately \$260,000. Whilst there would be some benefit for larger schools, swim clubs and learn to swim groups, entries to Richmond pool only reached approximately 38,000 people through its gates last season. With these numbers, the pool is not being used to its capacity and it is believed that numbers would need to increase at least three fold to justify such an expansion.

Other considerations would be the turnover of the water in the 50m pool. Even with the small pools coming off line, with the additional water in the 50m pool, it is unlikely that the turnover would meet the Department of Health Guidelines. The cost to upgrade the filtration plant is estimated at \$430,000 which could not be met within the current funding allocated to this project.

Increasing the lane space has not been budgeted for in this current upgrade, and therefore, it is not a recommended action.

4. Electronic Touch pads /Touchpad indent

Swimming Australia has recently determined that national qualifying times must be recorded on electronic equipment - manual times are now only accepted up to State level. Whilst groups did not feel this was essential for Richmond Pool, it was felt that if space for the pads were included, relevant groups could hire out the pads and use them in carnivals and other larger events if required. The groups acknowledged that the pads are too expensive to purchase and agreed that hiring them at their own cost would be appropriate.

Consideration will be given in the design of the upgrade to include a recess to allow touch pads.

5. Picnic Areas/User Pay BBQ

It was suggested that the pool could offer greater amenities such as picnic areas and user pay BBQs. The pool previously had an onsite BBQ but this was removed following vandalism, old age and safety issues with the gas cylinder attachments. BBQs that collect money can expose the site to vandalism where vandals attempt to retrieve the money from its enclosure. Richmond Pool does have regular break-ins. An electric BBQ can be purchased and installed for approximately \$20,000. Ongoing maintenance and electricity costs need to be considered if this option was looked into.

An electric BBQ could be considered as part of the upgrade at the end of the 2007/08 season.

6. User Pay Showers

It was suggested that the toilets be upgraded to include user pay 'water saver' hot showers. The groups were happy with the open design and wanted to maintain the concrete floors for ease of cleanliness.

Construction and ongoing maintenance costs need to be explored regarding this suggestion.

7. External Management

One of the groups indicated that they wanted Council to continue the management of Richmond Pool rather than it being managed by an external organisation.

One of the groups believes that if the pool is heated all year round, and they are offered it as their home pool, their numbers would grow dramatically. They feel that a conservative income from their group alone would exceed \$100,000 per year. The additional income would not however offset the cost of the heating and staff costs needed to run the centre.

It is proposed at this stage the Richmond pool continue to be managed by council staff.

8. Shelters/ Mature tree planting for more shade

The existing shelters are old structures and tired looking. There is also a shortage of shade during busy periods such as carnivals when large school groups are having to spend extended time in the sun and elements. It is also recommended that both small pools and the shallow area of the 50m pool be shaded to reduce impact of the sun on young children and learn to swim groups.

It is proposed to identify suitable areas to provide additional shade planting.

9. Establish rehab/therapy for local elderly population

Heating of the pool would be required to offer this service and access would need to be improved. It is not considered to be a viable economic option.

10. Improve Kiosk, increase health food options etc

Richmond Pool's Kiosk is managed by Council staff and thus a change in the types of food available is possible.

This will be explored over the next season where a survey will be undertaken from users of the facility as to their requests . It must be noted that any introduction of fresh food preparation would increase operational costs due to the need for increased staff time to cater for this and any requirements needed to meet the Food Safety Standards, the Australian Standard 4674/2006 - Design, Construction and Fit out of Food Premises and Council's food premise fit out code .

11. Increase security, upgrade fencing

The entire Richmond Pool site is fenced and all relevant doors strengthened. Vandals do cut through the current fencing and gain access the pool on a regular basis. To upgrade the fence however would incur a large cost.

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12. Retain both toddler and small children's pools

There is currently no proposal to remove either of these pools.

13. Promote through surrounding businesses (eg Richmond Club, McDonalds, RAAF) /Proper marketing and signage to advertise the pool and what it has to offer

These suggestions need to be investigated further. Whilst further advertising may increase numbers, it is doubtful that the increased patronage would recoup advertising costs.

14. Advertise selling of naming rights to gain sponsorship - eg Telstra Stadium

This suggestion would need to be investigated further however due to the small number of people attending this centre it is unlikely that a company would take on this proposition without there being some direct financial benefit to that organisation.

15. Increase seating and parking (90 degree in front of pool)

One of the requests was to consider angling the parking in front of Richmond Pool so that it can cater for more cars. Currently only during peak periods such as carnival season, in February, are there parking issues. This could be considered in a future Capital Works Program if the need becomes justified.

16. Request Dept of Education/Richmond Club to contribute financial support

Current allocated funding and proposed funding for 2008/2009 season would meet a majority of the works to be undertaken. The large remaining ticket items such as heating, widening of the pool and upgrading the filtration system are priced at approximately one million dollars (\$1,000,000). It is unlikely that these costs would be met by either, or a combination of these two groups.

17. Other

Other suggestions for improvements included upgrading the PA system, the lighting, purchase of anti wave lane ropes and to refurbish the change rooms. It was also suggested that Council look at other ways of attracting clientele with items such as a rock climbing wall where people fall back into the pool. Richmond Pools shallow depths may make this difficult.

Whilst these suggestions are not currently a high priority they will be investigated and considered in future programs.

18. Conclusion

Numbers of entries have declined over the years and this seems to be an industry standard. Issues such as exposure to sun, private pools, safety issues and computers are seen as the greatest influence on people attending outdoor pools. Whilst the centre offers a valuable opportunity for the public and numbers may be increased, the large Council pool does not have the prestige it once did. It is unlikely to bring in the numbers of 10 -20yrs ago. An example of this is Penrith Pool which 10 yrs ago had an attendance of 160,000 + entries for just the summer period whereas last year 130,751 attended for the entire year, even though last year was one of the better seasons in terms of weather.

Hawkesbury Oasis Aquatic and Fitness Centre

The issues raised regarding Hawkesbury Oasis Aquatic and Fitness Centre were:

1. Heating the outside 50m pool

One group indicated that heating the outdoor pool during winter was not required as winter is short course season 25m (1 Apr - 31 Aug). The number of swim clubs at the centre means however that space is at a premium and should the 50m pool be available during the winter period this problem would be eased. If the outdoor pool was to be heated it was suggested by one group to consider a half barrier down the pool. There were also concerns about heat loss and suggested a dome over the outdoor pool as well as a thermal blanket.

The outdoor pool at the Oasis Centre currently has nominal heating which enables the swimming season to be extended at both ends should it be required. To provide a heated facility over the winter period would require the purchase of additional heat pumps (approximately \$200,000) and a thermal blanket (\$30,000) which would need to be in place at night.

It is estimated that the additional electricity costs would be in the vicinity of \$40,000 per annum and there would also be the obvious additional costs in terms of supervision (lifeguards) water and chemical dosing.

The cost to implement and maintain this asset makes this proposition a difficult one. It is considered that if Council were to heat one of the Hawkesbury's 50m pools that the Oasis Centre would be a higher priority.

2. Lane space should be allocation/reviewed frequently resources/ Coordinate flexibility in lane allocation

The management of the Hawkesbury Oasis Aquatic and Fitness Centre has been delegated to the YMCA under a management contract. Lane space issues generally only occurs in winter when the outdoor 50m pool is closed. The groups have thus suggested to heat and open the outdoor 50m pool during winter to alleviate this problem.

The provision of lane space was recently reviewed by the YMCA which included a formal consultation process with stakeholders, a public forum and request for written submissions. The lane allocation has since been finalised based on squad numbers for each user and this will be changed on a monthly basis and in accordance with usage.

On a day to day basis, management will ensure that lane allocation is modified if needed to allow larger numbers more space as required. It is appropriate that these day to day operational issues be managed by the YMCA in accordance with the contract arrangements.

3. Electronic Touch pads /Touchpad indent

Ways to attach the pads to the indoor pool are currently being explored. It is believed that this can be provided very simply by attaching the pads to the pool. It is envisaged that these works could be completed by end of November 2007.

4. Increase efficiency with available resources

Some of the groups feel that the YMCA could achieve more with its resources. A YMCA representative did attend some of these meetings and was made aware of these suggestions.

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5. Add additional fans and clocks

These requests have been passed on to the YMCA Management for their consideration.

6. Increase kiosk operating hours

A number of the groups raised that the management of the Kiosk could be improved. The kiosk was found to be often closed when some of the groups are at the centre. The YMCA are addressing this as part of their management strategy.

7. Pool covers for indoor and outdoor pool

Groups have indicated that having covers on both pools would reduce costs and maintain water temperature, even without additional heating. The outdoor pool has covers which currently are not used but the indoor pool has no covers.

There is a cost to purchase the covers and ongoing staff time to install and remove them daily. It is proposed that the use of covers be further investigated and discussed with YMCA management.

8. Increase signage & advertising

This was a recommendation to make the community more aware of the pool and make the pool easier to locate. These proposals still need to be investigated.

9. Improve access into pool - possible portable ramp with handrail as it is difficult to negotiate through the lane ropes (losing members because of this)

The YMCA will work with this group to identify options to improve access for this group.

10. Anti slip on steps next to slide

This request has been passed on to the YMCA management for their consideration

11. Increase gym capacity

The request is to provide increased gym area. The issue was one of not enough room to do a warm up and stretches and the feel that the equipment was cramped into the space. There is space at the back of the gym to expand the room however costs would be substantial, the YMCA are developing a business case for Council's consideration.

12. Improve toilet facilities, especially the female toilets

New doors have been trialled in the female showers to ensure their suitability. It is proposed to have new doors and hinges installed by the end of October 2007. One of the showers will include space for changing. The lack of privacy was raised as an important issue with a number of users.

13. Wizard Swim Team requesting refund of cost for attending Richmond Swimming Centre from the Oasis Centre for winter (approximately \$1,000 per month).

The Wizard Swim Team were offered lane space at Richmond Pool over the 2006/2007 summer period following representation from the team that there was insufficient lane space available at the Oasis Centre.

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Due to the different charging structure between the two centres, Wizards indicate that the fees at the Richmond pool were higher than the Oasis Centre and thus feel that they have been disadvantaged.

Fees charged at Richmond Pool were the adopted fees and charges. Richmond Pool was offered as an option for the club to help them out and they were made aware of the costs at that stage.

It must be noted that fees charged at the Oasis Centre for club members was incorrect over the last year and into this season, the swim clubs were charged at 2005/2006 fees and not at the adopted fees and charges. Whilst the YMCA have realised their error and are making changes now, the clubs have benefited from these lower fees. It is not proposed to provide a refund to the Wizards Swim Team.

14. Improved atmosphere/condition

Groups feel the general standard of the centre is run down. Photos of the Penrith Pool were provided by one group as a shining example of what could be achieved at the Oasis Centre.

Penrith Pool is an outdoor pool but is heated and runs all year round. It does not offer services such as a gym, spa or sauna and thus it is difficult to compare the centres against each other. The Penrith pool's 2006/2007 season attendance was 130,751 entries, its income \$648,901 and expenditure \$848,002. There was a deficit of approximately \$200,000 for that year.

In contrast the Oasis Centre income for the 2006/2007 was \$1,995,000 and Expenditure was \$2,431,000 (these figures include the Indoor stadium). There was a deficit of approximately \$436,000 for that year (for both centres).

By comparison Richmond Pool's 2006/2007 season attendance was approximately 38,000 entries, its income \$123,057 and expenditure \$351,289 (this includes a \$70,300 overhead). There was a deficit of approximately \$228,000 for that year.

It is recommended that the YMCA review the condition of the centre with a view to undertaking improvements.

Conclusion

A number of the suggestions raised have been investigated and will be addressed. The major item of heating the outdoor pool year round is not considered to be sustainable and difficult to justify as a high priority in terms of the needs of the wider community.

Conformance to Strategic Plan

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

"Objective: A network of towns, villages and rural localities connected by well-maintained public and private infrastructure, which supports the social and economic development of the City."

Funding

Funding will be provided from a combination of Capital Assistance Grant, Special Rate Variation and Council's Works Program as outlined in the report.

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Meeting Date: 27 November 2007

RECOMMENDATION:

That:

1. Due to the capital cost of providing heating to either Richmond Pool or the Oasis and the ongoing operating cost should this be undertaken, heating of either outdoor pools not proceed at this stage.
2. Those works outlined within the report that can be achieved within current budgets proceed.
3. Feasibility of the purchase and use of pool covers for all pools be further investigated.
4. The Wizard Swim Team's request for refund of fees for the period that they utilised Richmond Pool not be supported.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 November 2007

Item: 265 IS - Bilpin Oval Reserve / Bilpin Hall Playground - (79354, 39986)

REPORT:

Background

On 20 October 2007, a community consultation was held at Bilpin Oval Reserve to discuss the replacement of the current playground. Approximately 27 residents attended.

The meeting was to also identify the views of the Bilpin community's needs and it did raise several contentious issues including:

- the current state of Bilpin Oval Reserve (feedback from community members identified that the reserve for some time has been in a state of decline and that there were concerns for safety due to the lack of maintenance and aesthetic appeal);
- opposition to replacing the playground with the allocated capital budget; and,
- a majority request from the community that Council redirect some funding towards the existing playground attached to the Bilpin Hall.

While there was some difference of opinion amongst community members, the general consensus overall was that residents would like \$5,000 from the allocated budget for the Bilpin Oval playground, to be reallocated towards the upgrade of the playground at Bilpin Hall, with the remaining budget to be invested in the upgrade of Bilpin Oval Reserve ie. carpark, toilet and picnic amenities, oval improvement, vegetation clearing.

Before any of these issues can be addressed and in order to achieve a positive outcome for all stakeholders, it is important to consider two issues:

1. The potential risk associated with retaining the current playground at Bilpin Hall and its effect on community users/visitors to the area and,
2. The current ownership of the land by the National Parks and Wildlife Service (NPWS) on which Bilpin Oval Reserve exists.

Bilpin Hall Playground

For some time now, there has been a barrage of media coverage and numerous requests from members of the Bilpin Playgroup and Preschool to upgrade the playground at Bilpin Hall.

This playground is approximately 15 years old and was installed by the Colo Wilderness Mobile Resources Unit, now know as Hawkesbury Community Outreach Service (HCOS), with grant funding previously obtained through the Western Sydney Area Assistance Scheme.

Over the last 4 years DOCS have advised the Hawkesbury Community Outreach Service Inc (HCOS) who run the preschool that the play equipment does not meet the requirements of the Children's Services Regulation 2004. It is important to note, that it is the responsibility of the HCOS to ensure that any facility and equipment they use conform with this regulation as part of their licence agreement. Council has no obligation to meet the Regulation, no authority to certify, give permission or authorise approval or conformance of a facility to be used by a preschool. Only the Department of Community Services, at their discretion, can issue a licence for such approvals. It is also important to note, that it is the responsibility of the licensee under Clause 112 of the Children's Services Regulation 2004, to apply in writing to the Director-General DOCS, giving notice of any changes to premises, playgrounds, renovations, or alterations of approved facilities. The licensee is required to apply for a variation to their licence.

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Whilst the equipment itself is still in reasonable condition, the playground no longer meets Australian Standard requirements for softfall surfacing, nor does it meet the requirements of the Children's Services Regulation 2004 as administered by the Department of Community Services (DOCS), for use in a licensed preschool facility. As the playground does not meet this Regulation, DOCS require that the licensee of Bilpin Preschool to cordon off the playground during the time that their preschool operates (which is ONLY two times per week). After their preschool operation ceases, they are required to remove the fencing to allow other users of the hall to utilise the play equipment.

During the time that the preschool operates, the playground is restricted from use by the general public. It is for reasons such as this, and the potential for vandalism of the hall that playgrounds attached to community halls are no longer replaced.

In May 2007, Council staff met with members from both the Bilpin Playgroup and Preschool, Hall Committee and HCOS. At that meeting it was agreed that the drainage issues affecting the playground would be addressed and that the Playgroup would undertake fundraising to upgrade the current playground to meet Australian Standard compliance. To date, kerb and guttering has been installed to stem the affects of overland flow. An independent consultant has been engaged to report on the condition of the existing softfall surface and its impact attenuation. The result identified, that while the impact attenuation was still compliant with Australian Standards, the softfall zones required around the equipment did not meet the DOCS standards.

It is understood that the playgroup has since raised approximately \$4,500, of which \$2000 has been contributed through donations. To date, \$500 has been spent on new sand for the sandpit and a further \$1500 spent on the purchase of a new cubbyhouse. No money has yet been spent on the upgrade of the softfall surface.

Considerations

- Whilst the existing playground at Bilpin Hall is currently maintained at Council cost, it is considered to be seen as one of Councils 63 playgrounds. It is inspected only due to Councils duty of care to people using Council's hall.
- It was proposed at the community meeting that if each parent of preschool signs a permission form that both the preschool and the general public could use the playground simultaneously. Discussions with DOCS following this meeting highlighted that in its current physical location and vicinity to the Hall, the playground would never obtain the approval from DOCS for use by a licensed preschool facility due to Clause 63 of the Children's Services Regulation 2004 which requires exclusive use of the playground for ONLY children that are currently enrolled in the preschool. This means that the general public cannot use this playground during operating hours of the preschool.
- The only way the playground can be used by the licensee and the public simultaneously is for the playground to be completely separated and fenced off from the hall. The preschool can then use the playground by way of an "excursion" which still requires the licensee to seek approval from the DOCS.
- Should the playground be separated from the hall, Council will then have an obligation to manage the playground as part of its playground improvement program. This will include upgrading the existing facility to meet Australian Standards as well as future replacement of this equipment and softfall when required.
- Should the decision be made to maintain the playground as a public facility, Council will have an obligation to undertake associated landscape works including fencing, retaining walls and turfing, to make the area a suitable play space. Associated costs could be in the vicinity of \$10,000 subject to seeking specific quotations.
- Upgrade of this playground could result in ongoing maintenance costs of approximately \$5,000 - \$10,000 over a 10 year period.
- Future replacement costs for a similar playground would be in the vicinity of \$25,000 plus an additional cost for associated landscape works if required.
- The installation of appropriate signage to identify the playground for public use would be required. It is currently not visible to passing visitors and local community.
- Given the location, there are no public toilet facilities or amenities available for use by the general public using this playground.

ORDINARY MEETING

Meeting Date: 27 November 2007

Bilpin Oval Reserve

In the 2007/2008 Management Plan, a capital budget of \$41,000 was allocated to replace the existing playground at Bilpin Oval as part of Council's playground replacement program.

Bilpin Oval Reserve consists of an oval, children's playground, a toilet block, old BBQs and shelters. It was previously reported to Council that the parcel of land which includes the oval was gazetted to NSW National Parks and Wildlife Service in 1979 as part of the Wollemi National Park. Staff were unaware of this change and continued throughout this time to mow, clean the toilets, empty bins and undertake other minor maintenance throughout the reserve.

Action is being undertaken by NPWS to revoke that area of land from the Wollemi National Park, however, an Act of Parliament is required and will take some time to finalise. In the meantime, Council agreed to continue the interim management of the Bilpin Oval Reserve.

At this stage only minor maintenance works can be undertaken within the reserve, no new works are allowed on the site. Once the area has been removed from the Wollemi National Park improvement works can be considered.

Given the response from the community regarding the state of the reserve and safety concerns, the general consensus from the community was that they did not want the playground to be replaced. Instead, they wanted \$5,000 of the budget to be reallocated to the existing playground at Bilpin Hall in bringing it up to meet Australian Standards. The balance of funds, \$36,000, is to be spent on the upgrade of the reserve and improving facilities, which will not be possible in the short term until the reserve is again under the care and control of Council.

Considerations

- Council is unable to undertake any improvement or upgrade works within the Reserve until such time that ownership of the land is transferred from NPWS to Council by an Act of Parliament.
- NPWS have indicated that they are not currently in a position to contribute any funding towards the reserve.
- Any improvements to the Reserve will result in additional costs, including staff resources to maintain this asset.
- Upgrading of the Reserve will require further community consultation, design master planning and future capital funding through the parks improvement program.
- Upgrade of the existing playground will provide an equal access opportunity for use by visitors and the Bilpin community.

Conformance to Strategic Plan

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

"Objective: A network of towns, villages and rural localities connected by well-maintained public and private infrastructure, which supports the social and economic development of the City."

Funding

Funding for the replacement of the playground at Bilpin Oval is provided within the 2007/2008 Works Program.

ORDINARY MEETING

Meeting Date: 27 November 2007

RECOMMENDATION:

That the:

1. Hawkesbury Community Outreach Service be advised that improvements required by the Department of Community Services to the playground installed at the Bilpin Community Hall is their responsibility.
2. Playground at Bilpin Oval be replaced in accordance with the adopted 2007/2008 Works Program.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 November 2007

Item: 266 IS - Road Naming Proposals - Future Subdivisions at Pitt Town - (95495)

Previous Item: 246, Ordinary (13 November 2007)

REPORT:

The future subdivision development of Pitt Town, in accordance with the recently gazetted LEP amendment, will involve a number of new public roads.

The recently approved subdivision of the Bona Vista property by the Johnson Property Group involves new roads.

In accordance with the guidelines set down by the Geographical Names Board of NSW and the requirements of the Roads Act 1993, Council's Local Studies Librarian was approached to suggest names for the new public roads and has searched a range of sources on Pitt Town such as the 1841 and 1901 census, St James Church of England marriages, parish maps and cemetery inscriptions .

Attached to the report is a list of names with some brief background information relating to them.

The names, once approved, will form part of the road name list for Pitt Town where developers can select the road names for the various subdivisions from the list.

The list will also make it more convenient and efficient for new road names rather than each subdivision having to publicly exhibit the proposed road names.

Under Guidelines for the Naming of Roads issued by the Geographical Names Board of New South Wales, unduly long names and names consisting of two or more names should be avoided. Name duplication within a local government area and if possible duplication of names in proximity to adjacent local government areas should be also avoided.

Preferred sources for road names include:

- Aboriginal names
- Local history
- Early explorers, pioneers, settlers and other eminent persons
- War/casualty lists
- Thematic names such as flora, fauna or ships.

It is suggested that names bearing a similarity to an existing name, or names which could be misspelt as 2 words, eg "Farmhouse" could be "Farm House", be excluded.

A submission has been received from the Johnson Property Group and the names proposed by them are listed in the attached table. A number of names proposed for the subdivision fall outside the Geographical Names Board Guidelines and it is suggested that those names not be further considered.

Road names proposed by the Johnson Property Group and considered appropriate are:

1. Orchard (*incl. within Council's proposal*)
2. Casuarina
3. Oaks
4. Holly
5. Camellia
6. Quarry
7. Uniting

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8. Strathmore
9. Fernadell (*incl. within Council's proposal*)
10. Citrus
11. Blighton (*incl. within Council's proposal*)
12. Moorhen
13. Stables
14. Vermont
15. Paddock
16. Pastoral

Conformance to Strategic Plan

The proposal has no linkages to the objectives set out in Council's Strategic Plan.

Funding

Signage will be erected by the developers as part of the development process.

RECOMMENDATION:

That the attached list prepared by the Local Studies Librarian and the 16 proposed names by the Johnson Property Group as listed within the report of proposed road names for use at Pitt Town, be exhibited for public comment.

ATTACHMENTS:

- AT - 1** Details of the proposed road names and background information.
- AT - 2** Proposed Street Names - Johnson Property Group

AT - 1 Details of the Proposed Road Names and Background Information

Selected Street Names for Pitt Town

Compiled by Michelle Nichols, Local Studies Librarian

A range of sources on Pitt Town, such as 1841 and 1901 Census, St. James Church of England marriages, Pitt Town, Parish maps, Pitt Town Cemetery inscriptions plus other reference sources have been reviewed. From these a master list of surnames has been created. That list has been checked against the street names already used in the Hawkesbury and has resulted in the following selection of road names for use at Pitt Town.

1. Alcorn
2. Ayling
3. Barnett
4. Benn
5. Biggers
6. Blighton
7. Burrell
8. Cherry
9. Cleary
10. Curl
11. Fairs
12. Fernadell
13. Fleming
14. Greenfield
15. Horton
16. Huxley
17. Manse
18. May
19. Murphy
20. Newton
21. Orchard
22. Pendergast
23. Percy Place
24. Ryan
25. Stubbs
26. Vaughan
27. Wilkinson

Brief Background Information

Alcorn

Well known Hawkesbury family, descended from Richard & Charlotte Alcorn free settlers. Members of the Alcorn family lived in the Pitt Town area and some family buried at the Pitt Town Cemetery.

Ayling

Rev John Ayling was the minister at the Presbyterian church at Pitt Town and Ebenezer between 1885 to 1897. He was a clergyman, educator and beekeeper. He contributed to apiculture and was President of the National Beekeepers Association.

Barnett

One of the first 22 settlers settled on the South Creek by 1794. Daniel arrived on the First Fleet in 1788 and married Ann, he died at Pitt Town in 1823.

Benn

One of the early land grants in the Pitt Town area was to convict, John Benn 1769-1815 who arrived in 1791. He was granted 60 acres in 1803.

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Biggers

Convict, Thomas Biggers 1757-1830 was one of the largest landholders in the Pitt Town area., his first grant was in 1804.

Blighton

Name of Governor Bligh's farm at Pitt Town. There was also the "Blighton Arms" built in Pitt Town.

Burrell

Family of John and Mary Burrell lived in Pitt Town from the early 1800s. John arrived FREE in 1800 and Mary was daughter of David & Elizabeth Horton. Their children were born in Pitt Town.

Cherry

Rev J. F. Cherry was the minister at St. James Church of England (now Anglican) between 1911-1919. He was an "energetic" cyclist as well.

Cleary

Various members of the Cleary family migrated from Ireland in the 1840s and settled in the Pitt Town area. Descendants still in the Hawkesbury today.

Curl

Thomas Curl convict who arrived on the "Indefatigable" in 1806 lived in the Pitt Town area. Thomas, who was a gardener, died in 1843 and is buried at the Pitt Town cemetery. Members of his family continued to live in Pitt Town for many years later.

Fairs

Local family recorded in *Greville's Official PO Directory of NSW 1878-79* for Pitt Town and Cattai area.

Fernadell

One of the historic and renowned orange orchards in Pitt Town.

Fleming

Henry Fleming 1791-1838 was colonial born and an early resident in Pitt Town. Was responsible for building several early buildings including "Blighton Arms" . He also operated a number of businesses including a store in the town. Fleming married Elizabeth Hall and many of their family were born in Pitt Town. Their daughter Elizabeth died 1825 aged 5 and is buried at the Pitt Town Cemetery.

Greenfield

Greenfield family established in Pitt Town for many years. Eva Alice "Granny" Greenfield nee Stubbs 1863-1941 was a well known midwife in the Pitt Town-Cattai area for over 50 years. (RLP GRE)

Horton

David Horton, convict arrived on the "William & Ann" 1791 & died in 1841 Pitt Town married to Catherine Kelly at Pitt Town and their descendants lived in Pitt Town.

Huxley

Generations of the Huxley family were blacksmiths and operated a blacksmith's forge on the Pitt Town Road.

Manse

Built as a farmhouse, on Punt Road at Pitt Town. in the early 19th century. Purchased and used as the Presbyterian Manse for about 50 years before becoming a private residence again.

May

Descendants of the May family lived in Pitt Town from early 19th century. Laurence May & son Christopher Watkins May were apparently the first to use irrigation pumps on Pitt Town Bottoms.

Murphy

Joseph Murphy was a teacher at Pitt Town Public School from 1895 until 1925.

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Newton

Rev. W. S. Newton was the minister at St. James Church of England (now Anglican) between 1897-1911.

Orchard

In remembrance of the many orange orchards that were once in the Pitt Town area. Many families were made their livelihoods from orchards up until the mid 20th century.

Pendergast

Descendants of convict John Pendergast arrived 1800 & Jane Williams who arrived 1801 lived in the Pitt Town area up until the 20th century. In particular James Pendergast 1803-1865, his first wife Sophia and second Wife Susannah Cunneen and members of their families & descendants.

Percy Place

On old property built in Pitt Town by George Hall in the early 19th century. It was later destroyed by fire.

Ryan

Roger Ryan arrived free from Ireland in 1834, he died in Pitt Town in 1911. Descendants of Roger & Mary Ann still live in Pitt Town.

Stubbs

Pioneering Hawkesbury family. William Stubbs arrived "Coromandel" free in 1802. Descendants of William and Mary lived in Pitt Town area since early 1800s. Long term Councillor, Dr Rex Stubbs is also a descendant of this family.

Vaughan

Patrick and Margaret Vaughan, Irish immigrants, made Pitt Town their home following their marriage in 1868 and their children and descendants lived in the area for some time.

Wilkinson

John Wilkinson was a convict arriving in 1790. He was granted land in 1794 which was later sold to John Grono. He died in 1839 and was buried at Pitt Town.

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AT - 2 Proposed Street Names - Johnson Property Group

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Attachments Document (Maps)**

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oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 November 2007

SUPPORT SERVICES

Item: 267 SS - General Purpose Financial Report and Special Purpose Financial Report for the period ended 30 June 2007 - (96332, 95496)

REPORT:

Council's General Purpose Financial Report and Special Purpose Financial Report for the period ended 30 June 2007, have now been completed, audited and advertised in accordance with the provisions of the Local Government Act (LGA) 1993. The unqualified audit certificate from Council's Auditors, Price Waterhouse Coopers (PWC), has been received and is available for inspection by Councillors and the community.

The LGA 1993 requires that the meeting set for the presentation of the financial reports must be at least seven days after public notice is given and within five weeks after the auditors reports are given to Council. The auditors' reports were received on 30 October 2007 and public notice was given in the Hawkesbury Independent dated 20 November 2007.

In accordance with Section 420(1) of the LGA 1993, any person may make a submission to Council regarding the financial reports or with respect to the auditor's reports. All submissions must be in writing and will be referred to Council's auditors, PWC, and Council can take such action as it considers appropriate.

This report recommends that Council note the completion of the financial reports for 2006/2007 and it also recommends that Council suspend standing orders to allow Council's auditor, Mr Dennis Banicevic, to make a presentation to Council.

OPERATING PERFORMANCE

Given below is a summary of Council's financial result for the period ended 30 June 2007.

Statement of Financial Performance	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Income from continuing operations	55,933	51,973	3,960
Expenses from continuing operations	50,356	49,635	721
Operating Result from continuing operations	5,577	2,338	3,239
Capital Grants & Contributions	2,681	1,429	1,252
Net operating result before capital grants & contributions	2,896	909	1,987

The 2006/07 net operating result before capital grants & contributions has improved to \$2.896 million. Details of revenues and expenses that resulted in the surplus as compared to the previous year are as follows:

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Income from continuing operations	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Rates and Annual Charges	32,345	31,040	1,305
User Charges and Fees	6,352	6,490	(138)
Interest	2,032	1,462	570
Grants & Contributions - Non-Capital	8,595	10,091	(1,496)
Grants & Contributions - Capital	2,681	1,429	1,252
Other Operating Revenues	2,726	1,461	1,265
Profit from Disposal of Assets & JV Equity	1,202	0	1,202
Total Income from continuing operations	55,933	51,973	3,960

Expenses from continuing operations	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Employee Costs	19,314	19,383	(69)
Materials and Contracts	15,896	14,367	1,529
Borrowing Costs	212	201	11
Depreciation and Amortisation	7,018	7,739	(721)
Loss on Disposal of Assets	0	262	(262)
Other Expenses	7,916	7,683	233
Total Expenses from continuing operations	50,356	49,635	721

Statement Of Financial Position

The Statement of Financial Position discloses the assets, liabilities and equity of Council. The table below displays Council's reported Statement of Financial Position for the period ended 30 June 2007 -

Statement of Financial Position	2006/07 \$'000	2005/06 \$'000	Movement Inc/(Dec)
Current Assets	38,438	30,140	8,298
Non Current Assets	349,829	349,458	371
Total Assets	388,267	379,598	8,669
Current Liabilities	10,603	7,970	2,633
Non Current Liabilities	4,833	4,790	43
Total Liabilities	15,436	12,760	2,676
Net Assets	372,831	366,838	5,993
Equity	372,831	366,838	5,993

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Performance Indicators

Council's financial reports disclose a number of financial indicators, which are detailed below:

Financial Performance Indicator	June 2007	June 2006	Industry Benchmark
Unrestricted Current Ratio	363	450	100
Debt Service Ratio	0.02%	0.02%	10%
Rate Coverage %	58%	60%	50%
Rates Outstanding %	5.3%	4.4%	5.0%

Interpretation Of Financial Results

Council's financial position for the period ended 30 June 2007 remains sound. However, projections based on current income and expenditure levels indicate future financial difficulties for Council, if not addressed. Increasing difficulties will be experienced to maintain a balanced budget position, with decreasing funds being available to maintain Council's infrastructure network. It is important to take into consideration Special Schedule 7 which provides estimates on the amount of funds required to bring the existing infrastructure back to a satisfactory condition. As tabled in Special Schedule 7 it is estimated that Council needs to spend over \$111 million to bring its assets back to a satisfactory standard, an annual maintenance requirement of \$14.3 million compared with the current funding of \$6.1 million.

Conformance to Strategic Plan

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

"Objective: Investigating and planning the city's future in consultation with our community and coordinating human and financial resources "

Funding

Not applicable.

RECOMMENDATION:

That Council:

1. Note the completion of the General Purpose, Special Purpose Financial Reports and Special Schedules for the period ended 30 June 2007.
2. Suspend standing orders to allow Council's auditor, Mr Dennis Banicevic of PricewaterhouseCoopers, to make a presentation in respect of Council's audited 2006/07 financial reports.

ATTACHMENTS:

- AT - 1** General Purpose and Special Purpose Financial Reports and Special Schedules for the Period Ended 30 June 2007 - *(Distributed under separate cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 November 2007

Item: 268 SS - September 2007 Quarterly Review - 2007- 2008 Management Plan - (96332, 95496)

REPORT:

Within two months of the end of each quarter, Council is required to review progress in achieving the objectives set out in its Management Plan.

Management Plan

Council adopted its Management Plan for 2007/2008 on 25 June 2007.

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

The September 2007 quarter review has been prepared and is attached for your information.

Financial Position

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

The September 2007 review recommends budget adjustments that result in a balanced adjustment for the quarter, made up of a number of both positive and negative impacts on the adopted budget.

The more significant items include:

Operational Expenditure Variations

Family Day Care and Occasional Care – Unfavourable Variance \$6,950

The operations of the Family Day Care and Occasional Care programs will not be taken over by Peppercorn Services Inc till January 08. This has resulted in a net unbudgeted expenditure for Council of \$6,950, which is being processed as part of this review.

Community Services – Unfavourable Variance \$1,916

An unfavourable adjustment is being processed for Community services. This consists of \$1,187 in respect of electricity charges not budgeted for, \$729 in respect of Rates paid by Council on behalf of the Comleroy School of Arts.

Advertising Expenditure – Unfavourable Variance \$14,000

Advertising expenditure for tenders exceeded estimates and an additional \$14,000 is being requested in this review. This variation request is however being funded by surplus funds in the printing program of \$32,000. This results in a net favourable variance of \$18,000.

Rates Payable – Favourable Variance \$10,474

Savings have been identified in rates payable in the parks and car parking programs. No corresponding decrease in rates income is required.

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Accounting Services – Favourable Variance \$4,613

An amount of \$10,000 carried forward from the 2006/07 financial year in respect of interest to be paid to the Richmond School of Arts has been reduced by \$4,613, as the actual amount paid was less than estimated.

Operating Revenue Variations

Ancillary Services Income - Favourable Variance \$717

Income from Ancillary Services of \$717 was not budgeted for.

RTA On-Costs Recovery - Unfavourable Variance \$50,000

The estimate for on-costs recovered from the RTA and respect of RTA works has been reduced by \$50,000 as the original estimate of \$116K is not expected to be achieved.

Income from Uniforms - Favourable Variance \$4761

Re-imburement of staff uniforms expenditure in the amount of \$4,761 received was not budgeted for.

Income from POPE Licences - Favourable Variance \$2,316

Income received as at the end of September from Places of Public Entertainment Licences exceeded full year budget by \$2,316. The budget is being adjusted by this amount. It is to be noted that upcoming changes in regulation will unfavourably effect this income stream.

Accounting and Administration Services – Unfavourable Variance \$6,365

An unfavourable income adjustment is required to reverse a budgeted income stream for accounting services provided to The Forgotten Valley Mobile Unit Resources programs. These programs are now the responsibility of Peppercorn Services Inc and Council is not providing any administration services.

Financial Assistance Grant – Unfavourable Variance \$142,687

A reduction of \$142,688 in respect of FAG Grant income is being processed. This adjustment is required to reflect the shortfall of funds Council will receive as compared to original estimates.

WSROC Rebates – Favourable Variance \$5,452

An amount of \$5,452 in respect of WSROC rebates was received but was not budgeted for.

Visitor Information Centre – Favourable Variance \$4,500

Income from the Visitor Information has been estimated at \$4,500. This figure may be reviewed in future quarters depending on the running of the centre. It is to be noted that expenditure to run the centre has to date been funded from budgeted contractors costs. Budget transfers to this effect are included in this review.

Fire Control – Favourable Variance \$114,229

A reimbursement from Rural Fire Service of \$103,833 is being processed in this review. Also, reallocation of Council's contribution to Fire Control to individual expenditure items as provided by the latter, has resulted in a minor surplus of \$10,396.

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Capital Variations

Fleet Management – Favourable Variance \$55,786

A review of the current fleet requirements and provisions for replacements in the 07/08 financial year has resulted in a favourable adjustment of \$55,786. This saving has resulted from delay in filling position, and as a result a delay in replacing vehicles.

Road Construction – Nil Variance

A budgeted amount of \$168,000 in respect of Oakville Roundabout was transferred to the Rickaby's Creek bridge to enable matching of Grant funding.

Bells Line of Road - Auslink \$750,000 - grant funds

Gorricks Lane & Freemans Reach Road \$290,000 - grant funds

Provision for Contingencies - Favourable

It is proposed that the surplus of \$12,930 resulting from this Quarterly Review is transferred to the Contingency Reserve.

Conformance to Strategic Plan

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

"Objective: Preparation of quarterly reviews of management targets and financial information."

Funding

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

RECOMMENDATION:

That:

1. The information contained in the report on the 2007-2008 Management Plan - September Quarter Review be received.
2. The quarterly review of the 2007-2008 Management Plan and Financial Statement for the period ending 30 September 2007 be adopted.

ATTACHMENTS:

AT - 1 2007-2008 Management Plan Review - September Quarter - *(distributed under separate cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 27 November 2007

Item: 269 SS - Monthly Investments Report - October 2007 - (96332, 95496)

REPORT:

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

The following table lists the investment portfolio held by Council at 31 October 2007 in a form compliant with legislative and policy requirements.

All investments have been made in accordance with Section 625 of the Local Government Act 1993, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

October 2007

The following table indicates that Council held \$36.2 million in investments as at 31 October 2007. Details of the financial institutions or fund managers with which the investment was made, date investments were taken out, the period to maturity, the rate of return achieved and the credit rating of the investments are provided below.

Investment Type	Lodgement Date	Interest Rate %	Principal	Rating	Total
On Call					
CBA	31-Oct-07	6.45%	\$860,000.00	A1+	\$860,000.00
Cash Fund					
LGFS FOCF	31-Oct-07	7.42%	\$4,024,899.18	AA	\$4,024,899.18
Term Investments					
CBA – Range Accrual Note	19-Jul-07	7.55%	\$500,000.00	A1+	
CBA – CPI Linked Note	4-Apr-07	9.00%	\$500,000.00	A1+	\$1,000,000.00
Managed Funds					
ANZ Cash Plus Fund	31-Oct-07	5.16%	\$962,416.14	AA	
Blackrock Diversified Credit Fund	31-Oct-07	10.09%	\$3,048,159.51	A	
Macquarie Income Plus Fund No 1	31-Oct-07	4.96%	\$6,924,253.92	A	
Aberdeen Cash-Plus Fund	31-Oct-07	5.18%	\$7,500,484.33	A	
Perpetual Credit	31-Oct-07	0.48%	\$6,565,654.75	A	
ING Enhanced Cash	31-Oct-07	4.51%	\$5,327,023.48	A	\$30,327,992.13
TOTAL INVESTMENT AS AT 31 OCTOBER 2007					\$36,212,891.31

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Managed Funds

Bench Mark – October 2007	6.96%	Bench Mark - last 12 months	6.61%
Actual - October 2007	4.80%	Actual -last 12 months	5.38%

Performance by Type

Category	Balance	Average Interest	Difference to Benchmark	Restriction Type	Amount
Cash at Call	\$ 860,000.00	6.45%	-0.51%	External Restrictions -S94	\$ 6,056,428
Term Deposit	\$ 1,000,000.00	7.83%	0.87%	External Restrictions - Other	\$ 10,677,141
Managed Funds	\$ 30,327,992.13	4.80%	-2.16%	Internal Restrictions	\$ 14,913,004
Cash Fund	\$ 4,024,899.18	7.42%	0.46%	Unrestricted	\$ 4,566,318
	\$ 36,212,891.31	6.62%	-0.34%	Total	\$ 36,212,891

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

External Restrictions – Section 94 Contributions

External Restrictions – Other (reserve details below)

- Waste Management Reserve
- Sewerage Operating Reserve
- Sewerage Treatment Reserve
- Asset Replacement – Sewer
- Unexpended Grants Reserve
- Stormwater Management
- Extractive Industries

Internal Restrictions (reserve details below)

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

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

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

Funds referred to as “unrestricted” are, effectively, Council’s daily operational funding for purposes such as the payment of salaries and wages, various works proposed or in progress as adopted in Council’s budget, daily operational expenses, etc. These “unrestricted” funds could only be utilised for other purposes by the reduction of a corresponding amount from a service or provision already included within Council’s adopted

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budget. The level of these funds also vary depending upon the business cycle in areas such as the payment of creditors, receipt of rate payments, capital works and/or purchases, etc.

Investment Commentary

The investment portfolio decreased by \$1.9m for the month. The decrease was due to additional expenditure over income for October period. During October, various income was received, including rates payments amounting to \$3.1m, while payments to suppliers and staff costs amounted to \$5.2m.

Managed Fund performance was below the benchmark (UBS Australia) Bank Bill Index in October 2007 with an average return after fees of 4.80%, compared with the index of 6.96%. The managed funds portfolio has achieved a return after fees for the past 12 months of 5.38%, which under performed the (UBS Australia) Bank Bill Index of 6.61% for the corresponding 12-month period.

The investment portfolio is diversified across a number of investment types. This includes a number of managed funds, term deposits and on-call accounts. Hawkesbury City Council has no direct investments in Collateralised Debt Obligations (CDO's). Council's investment in the Perpetual Credit Managed Fund has a small exposure of 2 – 3% of the fund to CDO holdings that are invested in the US sub prime mortgage market. Council's other Managed Funds have been affected by recent volatility of the Australian share market.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Comparisons are made between existing investments with available products that are not part of Council's portfolio. Independent advice is sought on new investment opportunities.

Conformance to Strategic Plan

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

"Objective: Maximise return on Council's investment portfolio."

Funding

Funds are invested with the aim of achieving budgeted income in 2007/2008.

RECOMMENDATION:

That the information be received and noted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 270 SS - Review of Council's Investment Policy - (96332, 95496)

REPORT:

The purpose of this report is to present an updated Investment Policy for adoption by Council. Council has an existing Investment Policy that has been reviewed by staff and Council's investment advisors (Grove Research & Advisory) resulting in some relatively minor amendments being made to the policy.

A copy of the amended Investment Policy is attached to this report as Attachment 1.

The purpose of the Investment Policy is to establish the guidelines that Hawkesbury City Council adopts in investing its surplus funds. The objectives of this policy are:

1. To confirm the regulations relevant to management of Council's investments and the range of authorised investments;
2. To set boundaries for exposure to market risk, credit risk and duration risk within the investment portfolio and the "single party" exposure of the portfolio to individual institutions or products;
3. To establish a framework for monitoring the investments; and
4. To confirm delegations and other relevant governance matters in relation to Council's investments.

Under Council's Investment Policy all investments are made in accordance with the:

- Local Government Act 1993 - Section 625
- Local Government (General) Regulation 2005 – Clause 212
- Local Government Act 1993 - Order (of the Minister) dated 29 July 2005
- Local Government Code of Accounting Practice and Financial Reporting – Section 11.3.4 and 11.3.5 – Requirement for a Prudent Person Approach
- Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A(2), 14C(1) & (2)

The minor amendments to the policy include reference to the latest legislative requirements and also outline Council's investment strategy to optimise interest income within acceptable risk parameters whilst ensuring the security of these funds. The policy gives specific direction as to the diversification strategy to be implemented and the operational and reporting procedures to be followed.

Conformance to Strategic Plan

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

"Objective: Compliance with all relevant legislation and to maximise return on Council's investment portfolio."

Funding

There are no funding implications arising from this report.

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RECOMMENDATION:

That the revised Investment Policy, attached as Attachment 1 to the report, be adopted by Council.

ATTACHMENTS:

AT - 1 Investment Policy - (*distributed under separate cover*)

oooO END OF REPORT Oooo

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CONFIDENTIAL REPORTS

Item: 271 Tender No.007/FY08 - Tender for Building Painting Services - (79340, 95495)

Reason for Confidentiality

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

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

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

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**Item: 272 SS - Property Matter - Lease Agreement - Hawkesbury District Tennis Association
- (74070, 79337, 95496)**

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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ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Heritage Advisory Committee Minutes - 11 October 2007 - (80242, 95498)

The meeting commenced at 5.30pm in Council Chambers.

Present:	Councillor Ted Books Mr Donald Ellsmore Ms Michelle Nichols Mr Graham Edds Ms Deborah Hallam Mr Matthew Owens	Hawkesbury City Council Hawkesbury Heritage Advisor Community Member Community Member Community Member Hawkesbury City Council
Apologies:	Professor Ian Jack Mr Alan Aldrich Ms Rachel Cumming	Community Member Community Member Hawkesbury City Council
In Attendance:	Ms Robyn Kozjak	Minute Secretary

REPORT:

CONFIRMATION OF MINUTES

RESOLVED on the motion of Mr Donald Ellsmore and seconded by Councillor Ted Books that there were no outstanding resolutions from the previous Heritage Advisory Committee Meeting held on 18 May 2006.

SECTION 4 - Reports for Information

Item 1: Hawkesbury Heritage Study - (80242, 85498)

DISCUSSION:

- Copies of the Hawkesbury Heritage Study Review and Inventory Sheets (Windsor) were distributed to Committee members for perusal and comment at the next Heritage Advisory Committee Meeting. Due to the large volume of documentation distributed, it was agreed the Review should have priority.
- It was advised subsequent to receipt of comments from Committee members, the Review would be distributed to Councillors and subsequently be placed on public exhibition for comment. It was noted, however, concern was raised re making the Review publicly available in its present form as the document was originally prepared for "in-house" use. It was recommended the document be made more "user-friendly".

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- It was noted Professor Ian Jack was overseas at the time of the meeting and would be returning mid November 2007. It was agreed as Professor Jack is an integral member of the Committee and his observations highly valued, that the reading material should be despatched to his address to allow him the opportunity to peruse the documentation upon his return.
- Discussion arose re further meeting dates and it was agreed the Heritage Advisory Committee would next convene on Thursday 13 December 2007.

RECOMMENDATION TO COMMITTEE:

That the Committee consider and provide comments on the Heritage Planning Report and inventory sheets for Windsor at the next meeting.

An AMENDMENT was moved by Mr Matthew Owens, seconded by Councillor Ted Books.

That the Committee consider and provide comments on the Heritage Planning Report and inventory sheets for Windsor at the next Heritage Advisory Committee Meeting on 13 December 2007.

The amendment was carried.

The amendment then became the motion which was put and carried.

MOTION:

RESOLVED on the motion of Mr Matthew Owens, seconded by Councillor Ted Books.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That the Committee consider and provide comments on the Heritage Planning Report and inventory sheets for Windsor at the next Heritage Advisory Committee Meeting on 13 December 2007.

Item: 2 Hawkesbury: A Thematic History (80242, 95498)

DISCUSSION:

- Copies of the Thematic History were distributed via CD to members of the Committee. It was advised hard copies of the Thematic History would be prepared and posted to Committee members in due course.
- It was suggested the Thematic History be made available to Councillors for review and Mr Owens recommended the Thematic History be discussed at the Councillor Briefing Session in the new year.
- Proposals were put forth as to the most appropriate means to release the Thematic History and it was finally agreed it be launched at the National Trust Heritage Festival 2008, details of which would be provided by Ms Nichols.

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RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.
2. The Hawkesbury Thematic History be released/launched at an appropriate event.

An AMENDMENT was moved by Mr Matthew Owens, seconded by Councillor Ted Books.

That:

1. The information be received.
2. The Hawkesbury Thematic History be released/launched at the National Trust Heritage Festival 2008.

The amendment was carried.

The amendment then became the motion which was put and carried.

MOTION:

RESOLVED on the motion of Mr Matthew Owens, seconded by Councillor Ted Books.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be received.
2. The Hawkesbury Thematic History be released/launched at the National Trust Heritage Festival 2008.

GENERAL BUSINESS

- Mr Ellsmore advised the National Trust proposes to hold several educational events in 2008, with emphasis on vernacular buildings, fragile timbers/structures etc and put forth a suggestion that Council participate in the sponsoring of these events.
- Mr Edds enquired as to the future of the Heritage Study and was advised there is uncertainty due to funding issues.

Future Committee Meeting Dates

Heritage Advisory Committee.....Thursday 13 December 2007.

The meeting terminated at 6.35pm.

oooO END OF REPORT Oooo

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ROC - Community Planning Advisory Committee Minutes - 25 October 2007 - (96737, 95498)

The meeting commenced at 9.30am.

Present:	Clr. Barry Calvert Councillor (Dr) Rex Stubbs OAM Ms. Ozen Karanik Mr. Roger Packham Ms. Vickie Shackley Mr. Chris McAlpine	Chair Deputy Chair NSW Dept. of Community Services Community Representative Community Representative Community Representative
Apologies:	Mr. Matt Owen Mr. Nick Sabel Ms. Karen Carter Ms. Robyn Kozjak	HCC Director, City Planning Community Representative Merana Aboriginal Association HCC Minutes Secretary
In Attendance:	Mr. Michael Laing	HCC Staff Representative

REPORT:

CONFIRMATION OF MINUTES

RESOLVED on the motion of Ms Vickie Shackley and seconded by Councillor Stubbs that the Minutes of the Community Planning Committee held on the 19 July 2007, be confirmed.

BUSINESS ARISING:

Mr. Roger Packham asked about an update on the recommendations from Item 5 (re: Affordable Housing). Mr. Michael Laing reported that data on housing is currently being collected and that information on affordable housing will be addressed in the housing component of the land use study. It was agreed that a further update will be provided at the next meeting in early 2008.

Item: 1 Western Sydney Area Assistance Scheme (WSAAS) - Local Ranking Committee Nominations and concerns about the future of the AAS - (96737)

RECOMMENDATION TO COMMITTEE:

That:

1. The Committee appoint Community Representatives to the Hawkesbury Local Ranking Committee.
2. The Committee make recommendations and call for nominations, for an independent Chairperson.
3. The Committee request Council to raise concerns through WSROC and with local State and Federal members to the NSW Minister of Community Services, the Hon. Kevin Green MP, about declining

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funding for the Area Assistance Scheme and the decline in support for, and focus on, the identified needs of local communities (as resourced and supported by Local Council CPO's).

An AMENDMENT was moved by Mr Chris McAlpine, seconded by Ms Vickie Shackley.

That:

1. Ms. Vickie Shackley be nominated as a community representative for the WSAAS Hawkesbury Local Ranking Committee.
2. The CPAC request Council to raise concerns through WSROC and to the NSW Minister of Community Services, the Hon. Kevin Green MP and the Minister for Western Sydney, the Hon. Barbara Perry, as well as local members the Hon. Alan Shearan and Hon. John Aquilina. Specific concerns to be raised are:
 - the loss of 'Pick-Up' funding and the decline of funding in real terms;
 - the decline in support for, and focus on, the identified needs of local communities (as resourced and supported by Local Council Project Officers);
 - the criteria of the scheme be reviewed in consultation with stakeholders to ensure that it is relevant to the current needs of Western Sydney and local council areas.

The amendment was carried.

The amendment then became the motion which was put and carried.

MOTION:

RESOLVED on the motion of Mr Chris McAlpine, seconded by Ms Vickie Shackley.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. Ms. Vickie Shackley be nominated as a community representative for the WSAAS Hawkesbury Local Ranking Committee.
2. The CPAC request Council to raise concerns through WSROC and to the NSW Minister of Community Services, the Hon. Kevin Green MP and the Minister for Western Sydney, the Hon. Barbara Perry, as well as local members the Hon. Alan Shearan and Hon. John Aquilina. Specific concerns to be raised are:
 - the loss of 'Pick-Up' funding and the decline of funding in real terms;
 - the decline in support for, and focus on, the identified needs of local communities (as resourced and supported by Local Council Project Officers);
 - the criteria of the scheme be reviewed in consultation with stakeholders to ensure that it is relevant to the current needs of Western Sydney and local council areas.

Item: 2 Hawkesbury Community Engagement Strategy - (96737)

RECOMMENDATION TO COMMITTEE:

1. That the information be received.

An AMENDMENT was moved by Councillor Stubbs, seconded by Mr Roger Packham.

That:

1. The CPAC congratulate Council on the Community Engagement Strategy and ask that it be repeated in the future as a tool for informing Council.
2. Council further clarify what the community means by "access to services and facilities."
3. Council further clarify what the community means by " the way in which Council consults with the community."
4. This information be linked to the sub-regional planning strategy.
5. The CPAC be kept informed about the sub-regional strategy and be invited to make a submission.

The amendment was carried.

The amendment then became the motion which was put and carried.

MOTION:

RESOLVED on the motion of Councillor Stubbs, seconded by Mr Roger Packham.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION

That:

1. The CPAC congratulate Council on the Community Engagement Strategy and ask that it be repeated in the future as a tool for informing Council.
2. Council further clarify what the community means by "access to services and facilities."
3. Council further clarify what the community means by " the way in which Council consults with the community."
4. This information be linked to the sub-regional planning strategy.
5. The CPAC be kept informed about the sub-regional strategy and be invited to make a submission.

Item: 3 “Transition Town Totnes” – Mr Packham- (Distributed under Separate Cover)

Mr. Roger Packham spoke on the information distributed. The information was received as part of attending a UK seminar "New Economics: Well Being" - part of 17 Towns developing towards sustainable futures.

The Totnes Towns movement is an innovative 'grass-roots' strategy that focuses on developing 'localism' toward a sustainable future. Some examples include a focus on local employment and provision of local food and services.

Some suggestions were discussed:

- Council provide information on sustainable strategies and requirements.
- Council facilitate a community workshop to gauge the level of interest in the Totnes Towns model for the Hawkesbury area.
- Conduct an audit of what sustainability strategies currently exist.

Item: 4 Note for information - Procedures for Replacing Committee Members

RECOMMENDATION TO THE COMMITTEE:

That the position vacated by Ms Saville not be filled until all Committee positions are reconsidered in October 2008.

MOTION:

RESOLVED on the motion of Councillor Stubbs, seconded by Mr Chris McAlpine.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION

That the position vacated by Ms Saville not be filled until all Committee positions are reconsidered in October 2008.

TABLED CORRESPONDENCE:

Item 5: Media Release for the NSW Department of Planning - "Levies on New Homes Slashed to Improve Housing Affordability"

DISCUSSION

- The CPAC noted with concern the proposed changes to the way infrastructure levies will be collected and whether this will really make housing more affordable. It was agreed that the matter would be further investigated when affordable housing issues were work-shopped in 2008.

Future Committee Meeting Dates

Community Planning Advisory Committee.....Thursday, 14 February 2008

oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

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