



Hawkesbury City Council

ordinary  
meeting  
business  
paper

date of meeting: 29 June 2021

location: council chambers and  
by audio-visual link

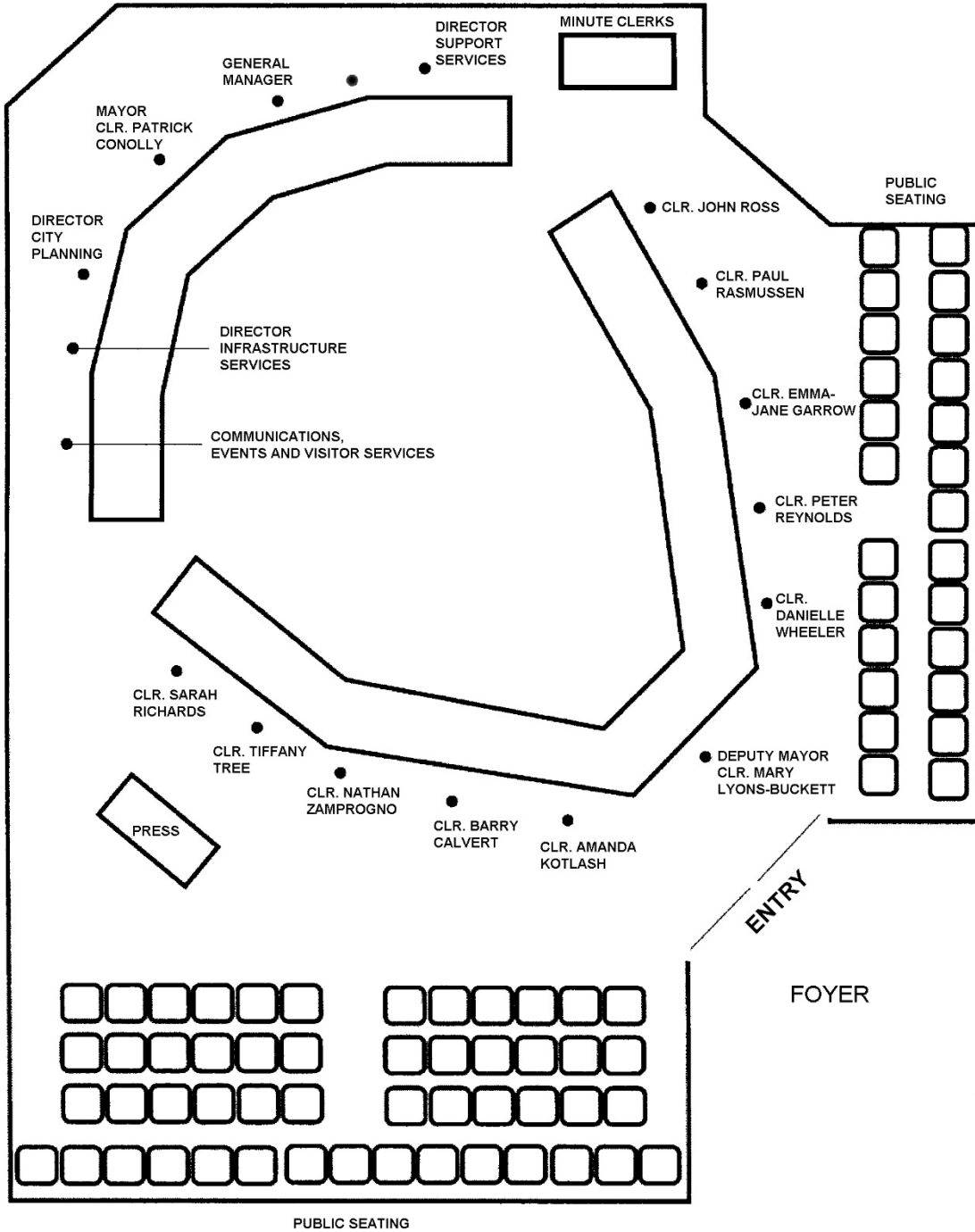
time: 6:30 p.m.



# mission statement

*Hawkesbury City Council  
leading and working  
with our community  
to create a healthy  
and resilient future.*

# Hawkesbury City Council





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**ORDINARY MEETING**  
**Procedural Matters**  
**Meeting Date: 29 June 2021**

**PROCEDURAL MATTERS**

**Welcome**

The Mayor, Councillor Patrick Conolly will acknowledge the Indigenous Heritage.

The General Manager will address the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

**Attendance**

Attending Councillors and Council staff members will be noted for the purposes of the Minutes.

**Apologies and Leave of Absence**

The Mayor will ask for any Apologies or Leave of Absence Requests to be noted.

**Declaration of Interest**

The Mayor will ask for any Declaration of Interests from the attending Councillors. These will then be addressed at the relevant item.

**Acknowledgement of Official Visitors to the Council**

The Mayor will acknowledge and welcome official visitors to the Council and make any relevant presentations as required.

**ORDINARY MEETING**

**Procedural Matters**

**Meeting Date:** 29 June 2021



ORDINARY MEETING

SECTION 1 - Confirmation of Minutes

Meeting Date: 29 June 2021

ordinary

section 1

confirmation of minutes

**ORDINARY MEETING**

**SECTION 1 - Confirmation of Minutes**

**Meeting Date:** 29 June 2021

**SECTION 1 - Confirmation of Minutes**



Hawkesbury City Council

ordinary  
meeting  
minutes

date of meeting: 15 June 2021

location: council chambers

and by audio-visual link

time: 6:30 p.m.



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## ORDINARY MEETING

Minutes: 15 June 2021

Minutes of the Ordinary Meeting held at the Council Chambers, Windsor and by Audio-Visual Link, on 15 June 2021, commencing at 6:30pm.

### Welcome

The Mayor, Councillor Patrick Conolly acknowledged the Indigenous Heritage.

The General Manager addressed the Council meeting, mentioning:

- Emergency Procedures
- Recording of the Council Meeting
- Statement regarding people addressing the Meeting
- Mobile phones

### ATTENDANCE

#### PRESENT:

At Council Chambers: Councillor Patrick Conolly, Mayor, Councillor Mary Lyons-Buckett, Deputy Mayor and Councillors Barry Calvert, Emma-Jane Garrow, Amanda Kotlash, Peter Reynolds, Sarah Richards, John Ross, Tiffany Tree, Danielle Wheeler and Nathan Zamprogno.

By Audio-Visual Link: Councillor Paul Rasmussen.

#### ALSO PRESENT:

At Council Chambers: General Manager - Elizabeth Richardson, Director City Planning - Linda Perrine, Director Infrastructure Services - Jeff Organ, Director Support Services - Laurie Mifsud, Acting Chief Financial Officer - Vanessa Browning, Strategic Planning Manager - Andrew Kearns, Manager Corporate Communication - Suzanne Stuart, Acting Manager Property and Strategy - Linda Hewitt, Manager Corporate Services and Governance - Charles McElroy and Administrative Support Coordinator - Tracey Easterbrook.

### APOLOGIES AND LEAVE OF ABSENCE

No apologies for absence were received from Councillors.

The General Manager advised that at the Council Meeting on 20 April 2021, Council resolved to grant approval for Councillor Rasmussen to attend the Council Meeting of 15 June 2021 by audio-visual link.

### DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

### Acknowledgement of Official Visitors to the Council

There were no official visitors to Council.

**ORDINARY MEETING**

**Minutes: 15 June 2021**

**SECTION 1 - Confirmation of Minutes**

**153 RESOLUTION:**

RESOLVED on the motion of Councillor Lyons-Buckett and seconded by Councillor Zamprogno that the Minutes of the Ordinary Meeting held on the 8 June 2021, be confirmed.



SECTION 3 – Reports for Determination

PLANNING DECISIONS

**Item: 109** CP - Planning Proposal to Amend Hawkesbury Local Environmental Plan 2012 from RU4 Primary Production Small Lots to IN1 General Industrial - 27 Park Road, Vineyard and 41 Park Road, Mulgrave - (95498, 144940, 124414)

**Previous Item:** 269, Ordinary (13 November 2018)

**Directorate:** City Planning

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**MOTION:**

RESOLVED on the motion of Councillor Ross, seconded by Councillor Kotlash.

*Refer to RESOLUTION*

**154 RESOLUTION:**

RESOLVED on the motion of Councillor Ross, seconded by Councillor Kotlash.

That Council:

1. Receive and note the outcome of consultation on the Planning Proposal and supporting documentation for 27 Park Road, Vineyard and 41 Park Road, Mulgrave.
2. Proceed with the making of the plan to amend the Hawkesbury Local Environmental Plan 2012 to allow development of 27 Park Road, Vineyard and 41 Park Road, Mulgrave for general industrial purposes as follows:
  - a) Amend the Land Zoning Map to change the current RU4 Primary Production Small Lots zoning of the subject site to IN1 General Industrial.
  - b) Amend the Height of Buildings Map to remove the current 10m maximum permissible height provision currently applying to the subject site.
  - c) Amend the Lot Size Map to remove the current 2ha minimum lot size provision currently applying to the subject site.
3. Submit the adopted Land Zoning, Height of Buildings and Lot Size Maps and supporting planning documentation to the Department of Planning, Industry and Environment for preparation and finalisation of a draft Instrument to give effect to the Planning Proposal.
4. Adopt and make the proposed amendment to the Hawkesbury Local Environmental Plan 2012 as outlined in this report, under the authorisation for Council to exercise delegation issued by the "Gateway" determination, upon receipt of the final Instrument from the Department of Planning, Industry and Environment.
5. Following the making of the plan advise the Department of Planning, Industry and Environment that the Plan has been made and request notification of the Plan on the NSW Legislation website.

## ORDINARY MEETING

Minutes: 15 June 2021

In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a council or committee meeting. Accordingly, the Chairperson called for a division in respect of the motion, the results of which were as follows:

**For the Motion:** Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Tree and Zamprogno.

**Against the Motion:** Councillors Ross and Wheeler.

**Absent:** Nil.

### SUPPORT SERVICES

**Item: 110** SS - Pecuniary Interest Return - Designated Person - (95496, 96333)

**Directorate:** Support Services

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#### **MOTION:**

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

*Refer to RESOLUTION*

#### **155 RESOLUTION:**

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

That the Clause 4.21(a) Pecuniary Interest Return be received and noted.

**For the Motion:** Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

**Against the Motion:** Nil.

**Absent:** Nil.

**ORDINARY MEETING**

**Minutes: 15 June 2021**

**Item: 111**                    **SS - Request for Use of Windsor Mall - Christmas in July Promotion - (95496, 112106)**

**Directorate:**                Support Services

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**MOTION:**

RESOLVED on the motion of Councillor Richards, seconded by Councillor Wheeler.

*Refer to RESOLUTION*

**156 RESOLUTION:**

RESOLVED on the motion of Councillor Richards, seconded by Councillor Wheeler.

That Council:

1. Agree to use parts of the Windsor Mall in front of Guy Stuff at 156 George Street, Windsor for an artificial snow machine and in front of Loder House at 126 George Street, Windsor for a large Christmas Tree, from 1 July to 31 July 2021, as part of the Christmas in July promotion program, subject to the conditions set out in this report.
2. Agree to waive the 'Display and Promotions – Owners/Shopkeepers in the Mall' fee in the amount of \$220.55.
3. Agree that any future requests for financial assistance for events will require applicants to apply under Rounds 1 and 2 of Council's Event Sponsorship Program.

**For the Motion:**                Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

**Against the Motion:**            Nil.

**Absent:**                            Nil.

**ORDINARY MEETING**

**Minutes: 15 June 2021**

**SECTION 4 – Reports of Committees**

**Item: 112**                    **ROC - Audit Committee - 26 May 2021 - (91369, 95496)**

**Directorate:**            Support Services

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**MOTION:**

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Zamprogno.

*Refer to RESOLUTION*

**157 RESOLUTION:**

RESOLVED on the motion of Councillor Rasmussen, seconded by Councillor Zamprogno.

That in relation to the Minutes of the Audit Committee Meeting held on the 26 May 2021

1. Council receive and note the Audit Committee Minutes in respect to Items 1, 2, 3, 4, 6, 7 and 8.
2. Council endorse the Committee Recommendation in respect of Item 5, namely:

*"That:*

1. *The Audit Committee Charter, attached as Attachment 1 to the report, be adopted.*
2. *The Audit Committee noted that changes to the Audit Committee Charter will be required following the release of A New Risk Management and Internal Audit Framework for Local Councils in NSW.*
3. *Audit Committee members be provided with copies of the report (Item 111) considered by Council at its meeting on 30 June 2009 and the resolutions of Council (Resolutions 183 and 184) regarding the Audit Committee."*

3. Council endorse the Committee Recommendation in respect of Item 9, namely:

*"That:*

1. *The Request for Tender for the Provision of Internal Audit Services document attached as Attachment 1 to this report be received and noted with the following amendments:*
  - a) Section C5 on page 24
    - *Remove the 7<sup>th</sup> dot point and replace with the following:*
      - *Identify any risks when carrying out the internal audits to ensure that Council's Risk Register is updated.*
    - *Remove the 8<sup>th</sup> dot point and replace with the following:*
      - *Stay up to date with the relevant risk and audit legislation and provide relevant advice to Council accordingly.*

**ORDINARY MEETING**

**Minutes: 15 June 2021**

b) Points 3, 4 and 5 on page 26

- *The words "Chief Audit Executive" be replaced with "General Manager or relevant Officer in accordance with the adopted legislative requirements."*

2. *The Audit Committee nominated Ms Ellen Hegarty and Councillor Paul Rasmussen to be part of the Tender Evaluation Panel for the Tender for the Provision of Internal Audit Services.*

**For the Motion:** Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprognó.

**Against the Motion:** Nil.

**Absent:** Nil.

**ORDINARY MEETING**

**Minutes: 15 June 2021**

**SECTION 5 – Notices of Motion**

**Item: 113**                      **NM1 - Review of Payment of Expenses and Provision of Facilities to Councillors Policy - (138884, 79351)**

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**MOTION:**

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Wheeler.

*Refer to RESOLUTION*

**158 RESOLUTION:**

RESOLVED on the motion of Councillor Zamprogno, seconded by Councillor Wheeler.

That:

1. Council concludes a review of its "Payment of Expenses and Provision of Facilities to Councillors" policy so that the revised policy is active in time for the new term of Council in September.
2. The draft policy to be formulated and presented for exhibition consider the following issues:
  - a) Additional flexibility within the allocated budget for each Councillor to choose the resources that best equip them to discharge Council business, i.e Phones, iPads, laptop, cellular modem, printer etc.
  - b) Updating anachronistic clauses such as those referring to the installation of land lines or fax machines for Councillors (Part 3.2.a.ix and Part 3.2.c.iii)
  - c) Examines what options can be presented in the policy without contravening Section 403 of the Local Government General Regulation 2005 (Payment of expenses and provision of facilities) which states: *"A policy under section 252 of the Act must not include any provision enabling a council: (a) to pay any councillor an allowance in the nature of a general expense allowance."*
  - d) Considers updating section Part 2.2.d (Superannuation) to reflect recent changes to Section 254B of the Local Government Act as they relate to Superannuation for Local Government Councillors, and suggest clauses that become enacted if and when Council decides to make such payments, preferably on an opt-out basis, after 1 July 2022.
  - e) Deletes Part 3.13 (Provision of recordings of Council meetings to Councillors), so long as the retention period for publicly available podcasts of Council meetings is extended to the whole term of Council.
3. Council report on the feasibility and cost of moving to an on-line system for the lodgment and reconciliation of Councillor expense claims.

**For the Motion:**                      Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Reynolds, Richards, Ross, Tree, Wheeler and Zamprogno.

**Against the Motion:**                      Nil.

**Absent:**                                      Nil.

**ORDINARY MEETING**

**Minutes: 15 June 2021**

**Item: 114                    NM2 - Natural Environment Conservation and Restoration Strategy - (138881)**

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It was requested by Councillor Lyons-Buckett that this item be dealt with in seriatim.

**159 RESOLUTION:**

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Calvert.

That Council agree that a Natural Environment Conservation and Restoration Strategy is a necessary addition to Council's set of strategic documents, that could be nested under the higher umbrella Sustainability Strategy and would complement many of Council's existing strategic documents.

**For the Motion:**                    Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Reynolds, Richards, Tree, Wheeler and Zamprogno.

**Against the Motion:**            Councillors Rasmussen and Ross.

**Absent:**                                Nil.

**160 RESOLUTION:**

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Calvert.

That Council request that staff produce a report for the Environment Committee on options available to Council to prepare such a Strategy by mid July 2021, using the information provided in the background section below as a guide.

**For the Motion:**                    Councillors Conolly, Calvert, Kotlash, Richards, Tree, Wheeler and Zamprogno.

**Against the Motion:**            Councillors Garrow, Lyons-Buckett, Rasmussen, Reynolds and Ross.

**Absent:**                                Nil.

**161 RESOLUTION:**

RESOLVED on the motion of Councillor Kotlash, seconded by Councillor Calvert.

That Council request that the Environment Committee assess the options identified in the staff report and advise Council on the best way of achieving a Strategy that has achievable actions that will make a discernible difference to the natural environment.

**For the Motion:**                    Councillors Conolly, Calvert, Kotlash, Richards, Tree, Wheeler and Zamprogno.

**Against the Motion:**            Councillors Garrow, Lyons-Buckett, Rasmussen, Reynolds and Ross.

**Absent:**                                Nil.

**ORDINARY MEETING**

**Minutes: 15 June 2021**

**CONFIDENTIAL REPORTS**

**162 RESOLUTION:**

RESOLVED on the motion of Councillor Richards, seconded by Councillor Tree.

That:

1. The Council meeting be closed to deal with confidential matters and in accordance with Section 10A of the Local Government Act 1993, members of the Press and the public be excluded from the Council Chambers during consideration of the following items:

**Item: 115 Acquisition for Drainage Purposes - Part of Lot 2 in Deposited Plan 76375, being 130 Hall Street, Pitt Town - (95496, 112106, 10535, 5247)**

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act, 1993 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.*

2. 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 these matters be withheld from the Press and public.

**163 RESOLUTION:**

RESOLVED on the motion of Councillor Richards, seconded by Councillor Calvert that open meeting be resumed.



**ORDINARY MEETING**

**Minutes: 15 June 2021**

**Item: 115**                    **SS - Acquisition for Drainage Purposes - Part of Lot 2 in Deposited Plan 76375, being 130 Hall Street, Pitt Town - (95496, 112106, 10535, 5247)**

**Previous Item:**        278, Ordinary (13 November 2018)  
                              167, Ordinary (25 August 2020)

**Directorate:**            Support Services

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**MOTION:**

The General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Wheeler, seconded by Councillor Garrow.

***Refer to RESOLUTION***

**164 RESOLUTION:**

The General Manager advised that whilst in closed session, the Council RESOLVED on the motion of Councillor Wheeler, seconded by Councillor Garrow.

That:

1. Council undertake the compulsory acquisition, under Sections 187 and 196 of the Local Government Act 1993 of an area of land as shown in Attachment 1, in the order of 4.142 hectares within part of 130 Hall Street, Pitt Town (Lot 2 in DP 76375), being Proposed Lots 31 and 32 in DP 1268597, for the purposes of creating a retention basin and associated infrastructure.
2. Council undertake the compulsory acquisition, under Sections 187 and 196 of the Local Government Act 1993 of an area of land as shown in Attachment 1 for a right of carriageway over Proposed Lot 33 in DP 1268597 (marked A on the Plan of Acquisition), 15 meters wide and variable within part of 130 Hall Street, Pitt Town (Lot 2 in DP 76375), for the purposes of creating an access way to the retention basin and associated infrastructure.
3. Council undertake the compulsory acquisition, under Sections 187 and 196 of the Local Government Act 1993 of an area of land as shown in Attachment 1 for a right of carriageway and easement for services over Proposed Lot 33 in DP 1268597 (marked B and C on the Plan of Acquisition), 7.5 meters wide and variable within part of 130 Hall Street, Pitt Town (Lot 2 in DP 76375), for the purposes of creating an access way to the retention basin and associated infrastructure.
4. Council approve the making of an application to the Minister for Local Government for the issue of a Proposed Acquisition Notice (PAN) under the Land Acquisition (Just Terms Compensation) Act 1991 with respect to the acquisition of the land and right of carriageways and easement for services.
5. Council approve the making of an application to the Governor for the publication of an Acquisition Notice in the NSW Government Gazette under the Land Acquisition (Just Terms Compensation) Act 1991 with respect to the acquisition of the land and right of carriageways and easement for services.
6. Council bear all costs associated with the process of acquiring the land, rights of carriageways and easement for services.
7. Authority be given for any documentation in association with this matter to be executed under the Seal of Council.

**ORDINARY MEETING**

**Minutes:** 15 June 2021

8. Council grant delegation to the General Manager to execute any documents on behalf of Council, associated with the compulsory acquisition process, which do not require the Seal of Council to be affixed.
9. Details of Council's resolution be conveyed to the affected landowners together with the advice that Council is not and will not be bound by the terms of its resolution until such time as appropriate documentation to put such resolution into effect has been executed.

**For the Motion:** Councillors Conolly, Lyons-Buckett, Calvert, Garrow, Kotlash, Rasmussen, Richards, Tree, Wheeler and Zamprogno.

**Against the Motion:** Councillors Reynolds and Ross.

**Absent:** Nil.

The meeting terminated at 8:20pm.

Submitted to and confirmed at the Ordinary meeting held on 29 June 2021.

.....  
Mayor

ordinary

section 2

mayoral minutes

**ORDINARY MEETING**  
**SECTION 2 – Mayoral Minute**  
**Meeting Date: 29 June 2021**

**ORDINARY MEETING**  
**SECTION 2 – Mayoral Minute**  
**Meeting Date: 29 June 2021**

**SECTION 2 – Mayoral Minutes**

**Item: 116**                    **MM1 - The Late John Miller - (125610, 79351)**

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**BACKGROUND:**

The late John Miller was a stalwart of the Hawkesbury community. His many achievements and contributions included advocacy for flood mitigation and other infrastructure, promotion of our tourism potential, and researching and documenting our local history.

Councillor Sarah Richards and I recently met with some of Mr Miller's family to discuss how we could acknowledge John's contribution to our community.

We noted that John had connections with a number of sites, and that a memorial may be appropriate in Thompson Square, outside the Deerubbin Centre, at Streeton Lookout or in Ham Common.

Following further consultation with Mr Miller's family, a report could be provided to Council outlining a location of an appropriate plaque or memorial, the costs of the plaque or memorial and how it could be funded.

**RECOMMENDATION:**

That:

1. Council acknowledge the contribution of the late John Miller to the Hawkesbury community by installing a plaque or other suitable memorial of his life and achievements in a public space.
2. A report be provided to Council outlining a location of an appropriate plaque or memorial, the costs of the plaque or memorial and how it could be funded.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF MAYORAL MINUTE Oooo**

**ORDINARY MEETING**  
**SECTION 2 – Mayoral Minute**  
**Meeting Date: 29 June 2021**

**Item: 117**                      **MM2 - No Confidence in the Deputy Mayor - (125610, 79351)**

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**RECOMMENDATION:**

That Council:

1. Note per the attached Statement of Reasons, that the Office of Local Government have found that Councillor Lyons-Buckett engaged in Misconduct in relation to the Kurmond-Kurrajong Investigation Area.
2. Does not have confidence in Councillor Lyons-Buckett to continue in the role of Deputy Mayor.

**ATTACHMENTS:**

- AT - 1** Statement of Reasons for Taking Disciplinary Action under Section 440I Councillor Mary Lyons-Buckett - Hawkesbury City Council.

**oooO END OF MAYORAL MINUTE Oooo**

**ORDINARY MEETING**  
**SECTION 2 – Mayoral Minute**  
**Meeting Date: 29 June 2021**

**AT - 1 Statement of Reasons for Taking Disciplinary Action under Section 440I Councillor Mary Lyons-Buckett - Hawkesbury City Council**

**LOCAL GOVERNMENT ACT 1993**

**SECTION 440I**

**STATEMENT OF REASONS FOR TAKING DISCIPLINARY ACTION  
UNDER SECTION 440I  
COUNCILLOR MARY LYONS-BUCKETT – HAWKESBURY CITY COUNCIL**

1. I, Luke Walton, Acting Deputy Secretary, Local Government, Planning and Policy, having considered a departmental report prepared under section 440H(5) of the Local Government Act 1993 (the Act), am satisfied that Councillor Mary Lyons-Buckett has engaged in misconduct as defined by section 440F of the Act.
2. I have determined, after considering Councillor Lyons-Buckett's submissions, that she should:
  - be counselled, pursuant to section 440I(2)(a) of the Act; and
  - a Statement of Reasons be prepared and published pursuant to section 440I(7) of the Act.

**RELEVANT LEGISLATION**

3. "Misconduct" is defined under section 440F of the Act as any of the following:
  - (a) a contravention by the councillor of this Act or the regulations,
  - (b) a failure by the councillor to comply with an applicable requirement of a code of conduct,
  - (c) a failure by a councillor to comply with an order issued by the Departmental Chief Executive under this Division,
  - (d) an act of disorder committed by the councillor at a meeting of the council or a committee of the council,
  - (e) an act or omission of the councillor intended by the councillor to prevent the proper or effective functioning of the council or a committee of the council.
4. Section 440H(1) of the Act provides that the Departmental Chief Executive may conduct an investigation for the purpose of determining whether a councillor has engaged in misconduct.
5. Section 440H(5) of the Act provides that the Departmental Chief Executive may arrange for a departmental report to be prepared in relation to an investigation conducted under this section. The preparation of such a report is a prerequisite to a decision by the Departmental Chief Executive to take disciplinary action against the councillor.
6. Section 440I(1) provides that the Departmental Chief Executive may take disciplinary action against a councillor if satisfied that:

**ORDINARY MEETING**  
**SECTION 2 – Mayoral Minute**  
**Meeting Date: 29 June 2021**

*Statement Of Reasons – Determination by Departmental Chief Executive, Office of Local Government*

- (a) the councillor has engaged in misconduct (whether on the basis of a department report or a report by the Ombudsman or Independent Commission Against Corruption), and
- (b) disciplinary action is warranted.
7. Section 440I(2) authorises the Departmental Chief Executive to take one or more of the following disciplinary actions:
- (a) counsel the councillor,
- (b) reprimand the councillor,
- (c) by order, direct the councillor to cease engaging in the misconduct,
- (d) by order, direct the councillor to apologise for the misconduct in the manner specified in the order,
- (e) by order, direct the councillor to undertake training,
- (f) by order, direct the councillor to participate in mediation,
- (g) by order, suspend the councillor from civic office for a period not exceeding 3 months,
- (h) by order, suspend the councillor's right to be paid any fee or other remuneration to which the councillor would otherwise be entitled as the holder of the civic office, in respect of a period not exceeding 3 months (without suspending the councillor from civic office for that period).
8. Section 440I(6) provides that the Departmental Chief Executive is to make a decision to suspend a councillor from civic office or to suspend a councillor's right to be paid any fee or other remuneration, and statement of reasons for the decision, publicly available.
9. Section 440I(7) provides that the Departmental Chief Executive may make any other decision to take disciplinary action against a councillor, and the statement of reasons for the decision, publicly available.

**THE MATTER**

10. The matter that formed the basis of the investigation was whether Cllr Mary Lyons-Buckett of Hawkesbury City Council engaged in misconduct, as defined in section 440F of the Act at the meeting of Council held on 30 June 2020, particularly in respect of her participation in the consideration of a matter described in the business paper as *Item: 111 CP – Update on Kurmond-Kurrajong Investigation Area Structure Plan – Post Exhibition Report – (124414.95498)*.
11. Specifically, by reference to the Investigation Report at Part 4, the following particulars are provided:
- Allegation 1 – Alleged pecuniary interest
- It is alleged that Cllr Lyons-Buckett did not comply with clause 4.29 of the code at the meeting of Council held on 30 June 2020.
  - Clause 4.29 stipulates, in effect, that a councillor who has a pecuniary interest in any matter with which the council is concerned must not be present at, or in sight of, the meeting of the council when the matter is being considered or discussed or at any time

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during which the council is voting on any question in relation to the matter. It is alleged that Cllr Lyons-Buckett did not do so.

- It is alleged that Cllr Lyons-Buckett had a pecuniary interest in the consideration of a matter described in the business paper as *Item: 111 CP – Update on Kurmond-Kurrajong Investigation Area Structure Plan – Post Exhibition Report – (124414, 95498)* (the matter).
- It is alleged that Cllr Lyons-Buckett was present when the matter was being considered, discussed and when related motions were being voted on.

Allegation 2 - Alleged non-pecuniary conflict of interest

- It is alleged that Cllr Lyons-Buckett did not comply with clause 5.4 of the code at the meeting of Council held on 30 June 2020.
- Clause 5.4 of the code stipulates, in effect, that a non-pecuniary conflict of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. This requires a councillor to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with the code. It is alleged that Cllr Lyons-Buckett did not do so.
- Clauses 5.10 and 5.11 of the code deal with the appropriate action required of a councillor to manage a non-pecuniary conflict of interest.
- Clause 5.10 of the code stipulates, in effect, that if a councillor has a significant non-pecuniary conflict of interest that arises in relation to a matter under consideration at a council meeting, it must be managed as if the councillor had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29 of the code.
- Clause 5.11 of the code stipulates, in effect, that if a councillor determines that they have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, they must, when disclosing the interest also explain why they consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- It is alleged that Cllr Lyons-Buckett had a significant non-pecuniary conflict of interest in the consideration of a matter described in the business paper as *Item: 111 CP – Update on Kurmond-Kurrajong Investigation Area Structure Plan – Post Exhibition Report – (124414, 95498)*. (the matter)
- It is alleged that Cllr Lyons-Buckett was present when the matter was being considered, discussed and when related motions were being voted on and did not fully disclose the nature of her non-pecuniary conflict of interest in the matter.

Allegation 3 – Failure to exercise a reasonable degree of care and diligence

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- It is alleged that Clr Lyons-Buckett did not comply with clause 3.2 of the code in relation to the disclosure she made relating to the matter at the meeting of Council held on 30 June 2020.
- Clause 3.2 of the code stipulates that:  
You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act (section 439).
- It is alleged that Clr Lyons-Buckett, in purporting to make a “special disclosure” in relation to the matter, failed to exercise a reasonable degree of care and diligence. It is alleged that Clr Lyons-Buckett did not:
  - adequately review the provisions of the code governing the making of a “special disclosure”;
  - seek advice prior to the meeting about the matter and her obligations.

**REASONS FOR COUNSELLING COUNCILLOR LYONS-BUCKETT AND MAKING THE DECISION PUBLIC UNDER SECTIONS 440I(2)(a) SECTIONS 440(7) OF THE LOCAL GOVERNMENT ACT 1993**

12. I have formed a view in relation to this matter after having considered the Departmental Report, Annexures to the Departmental Report, the former Deputy Secretary’s letter to Clr Lyons-Buckett, and submissions provided by both Clr Lyons-Buckett and the Office of Local Government in relation to this matter.
13. Significantly, I have given careful consideration to the submissions from Clr Lyons-Buckett dated 27 April 2021, but hold the view that the public interest in publication outweighs the private interests of the councillor in not having the matter made public.
14. I am satisfied that Clr Lyons-Buckett engaged in misconduct, as defined in section 440F(1)(b) of the Act at the meeting of Hawkesbury City Council held on 30 June 2020 by:
  - not appropriately managing a non-pecuniary conflict of interest in the consideration of a matter described in the business paper for the meeting as *Item: 111 CP – Update on Kurmond-Kurrajong Investigation Area Structure Plan – Post Exhibition Report – (124414, 95498)*, this being conduct that was contrary to clause 5.4 of the Council’s adopted code of conduct (code); and
  - failing to exercise a reasonable degree of care and diligence in preparing and attempting to make a disclosure pursuant to the provisions of clause 4.36 and clause 4.37 of the code in relation to the matter, this being conduct that was contrary to clause 3.2 of the code.
15. I concur with the former Deputy Secretary’s preliminary views and note that:
  - The matter is sufficiently serious as to warrant counselling and the publication of a statement of reasons.
  - The imposition of a penalty and publication of the reasons for this is important to deter Council officials from engaging in the conduct detailed in the departmental report.

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- The penalties of reprimand, suspension from civic office and/or from the right to be paid a fee are not warranted given Clr Lyons-Buckett's previous good conduct, the lack of any evidence of dishonesty and/or motivation for personal gain.
  - There is no need for an order that Clr Lyons-Buckett undertake training given she has done that of her own volition.
  - The matter is not one that should be referred back to Council or to the NCAT (s.440J(2)(a) and (b)).
16. I have noted that in regard to the matter that was canvassed in the departmental report, the evidence indicates Councillor Lyons-Buckett moved and spoke to a motion related to the matter, after purporting to make a special disclosure.
17. I note Clr Lyons-Buckett cooperated fully with the investigation and there is nothing to suggest that the misconduct described in the department report is part of a pattern and, as stated above, has not engaged in misconduct previously.
18. I appreciate Councillor Lyons-Buckett participated, of her own volition in further training to gain a more in-depth understanding of her obligations pursuant to the code. I have taken this into account when determining what disciplinary action may be warranted.
19. I have also taken into account Clr Lyons-Buckett's detailed submissions on the matter overall and particularly in relation to the issue of whether the statement of reasons should be published.
20. While I have taken into account that Councillor Lyons-Buckett has served her community as a councillor for more than eight years and not been found to have engaged in misconduct previously, it must be accepted by her that a failure to appropriately manage a conflict of interest has the potential to undermine community confidence in the probity of council decision-making. The potential for this is exacerbated where the person with the conflict of interest actively participates in the consideration of the matter and/or manifestly fails to exercise due care and diligence.
21. Taking disciplinary action in the manner outlined will have the important benefit of reassuring the community that probity in council decision-making is of the utmost importance; our system of government relies on people being able to trust our public institutions. It will also have the benefit, if the decision is made public, of reminding other council officials of their obligations and deterring them from engaging in such conduct.

**DATED:** 18 June 2021



**Luke Walton**  
**Acting Deputy Secretary, Local Government, Planning and Policy**  
**Department of Planning, Industry and Environment**

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oooO END OF MAYORAL MINUTE Oooo

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reports  
for determination

**ORDINARY MEETING**

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**SECTION 3 – Reports for Determination**

**GENERAL MANAGER**

**Item: 118**                      **GM - Adoption of 2021/2022 Operational Plan - (79351)**

**Previous Item:**            102, Ordinary (8 June 2021)

**Directorate:**                General Manager

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**PURPOSE OF THE REPORT:**

The purpose of this report is to consider submissions received regarding the exhibited Draft 2021/2022 Operational Plan and to make and fix rates and charges for the year ending 30 June 2022; and address questions raised at the Ordinary Meeting 8 June 2021.

**EXECUTIVE SUMMARY:**

At the Ordinary Meeting of Council held on 20 April 2021, consideration was given to a report in relation to the Draft 2021/2022 Operational Plan. At that meeting, Council resolved that the report be received, and that the Draft 2021/2022 Operational Plan be adopted for exhibition purposes and be advertised in accordance with the Local Government Act 1993.

In addition, Council resolved that the Draft 2021/2022 Operational Plan be reported back to Council post the public exhibition period to consider:

- Public submissions received
- The adoption of Draft 2021/2022 Operational Plan
- The making and fixing of the rates and charges for the 2021/2022 financial year.

At the Ordinary Meeting of Council held on 8 June 2021, consideration was given to a report in relation to the adoption of the 2021/2022 Operational Plan and Making and Levying of Rates and Fixing of Charges for the period 1 July 2021 to 30 June 2022. At that meeting, Council resolved that:

*"Council defer consideration of the 2021/2022 Operational Plan be deferred until further information which may have bearing on allocated resources can be providing, including:*

1. *Confirmation of State Government funding for repair and betterment (widening) of Greens Road as stated by local members to residents.*
2. *Cost of permanent seal versus proposed temporary seal for Wheelbarrow Ridge Road, difference in timeframe, and options to funding.*
3. *Clarification of unspent funds in the Federal Government Emergency Response Fund intended to mitigate against disasters, and Council's capacity to access this funding.*
4. *Projected costs of provision of access including via waterway for residents currently having to travel via Wheelbarrow Ridge fire trail, or other temporary solution to enable such impacted residents to avoid the additional travel.*
5. *Projected costs of garbage collection trial (potentially purchase of small garbage truck or alternative method) to access areas currently considered unable to receive garbage collection (eg. Greens Road, Wheelbarrow Ridge Road and Upper Colo area).*

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Council staff have provided this additional information as part of this Report. This report also considers submissions received and makes the recommendation to adopt the 2021/2022 Operational Plan, subject to budgetary changes and to make and fix rates and charges for the year ending 30 June 2022.

**RECOMMENDATION:**

That:

1. The report regarding Draft 2021/2022 Operational Plan be noted.
2. The Draft 2021/2022 Operational Plan including the fees and charges, as placed on public exhibition, with the exclusion of the allocation of \$1,500 for funding Council's membership of the Sydney Weeds Network, be adopted incorporating the amendments as outlined in the report including the rates in the dollar for 2021/2022 to incorporate valuation changes up to the final Rating Resolution.
3. Council Make and Levy the following Rates and Fix the following Charges for the 2021/2022 financial period in accordance with Section 535 of the Local Government Act 1993 (Land Values used for calculation of rates have a Base Date of 1 July 2019):

**Residential Category**

In accordance with Section 535 of the Local Government Act 1993, an Ordinary rate named "Residential Rate" in accordance with Section 543 (1), of zero point two zero six one seven one (0.206171) cents in the valuation dollar be levied on all properties categorised as Residential in accordance with Section 516. These properties will be subject to an ad valorem rate and a base amount of \$439.00. The levying of the base amount from the Residential Category will generate 29.85% of the notional yield applicable to the Residential Category.

**Farmland Category**

In accordance with Section 535 of the Local Government Act 1993, an Ordinary rate named "Farmland Rate" in accordance with Section 543 (1), of zero point one eight five five five four (0.185554) cents in the valuation dollar be levied on all properties categorised as Farmland in accordance with Section 515. These properties will be subject to an ad valorem rate and a base amount of \$439.00. The levying of the base amount from the Farmland Category will generate 14.43% of the notional yield applicable to the Farmland Category.

**Business Category**

In accordance with Section 535 of the Local Government Act 1993, an Ordinary rate named "Business Area 1" in accordance with Section 543 (1), of zero point four one two three four two (0.412342) cents in the valuation dollar be levied on all properties in the Business sub-category Business Area 1 in accordance with Section 518. These properties will be subject to an ad valorem rate and a base amount of \$439.00. The levying of the base amount from the Business Area 1 sub-category will generate 12.86% of the notional yield applicable to the Business Area 1 sub - category.

In accordance with Section 535 of the Local Government Act 1993, an Ordinary rate named "Business Area 2" in accordance with Section 543 (1), of zero point four one two three four two (0.412342) cents in the valuation dollar be levied on all properties in the Business sub-category Business Area 2 in accordance with Section 518. These properties will be subject to an ad valorem rate and a base amount of \$439.00. The levying of the base amount from the Business Area 2 sub-category will generate 10.58% of the notional yield applicable to the Business Area 2 sub-category.

In accordance with Section 535 of the Local Government Act 1993, an Ordinary rate named "Business Area Other" in accordance with Section 543 (1), of zero point four one two three four two (0.412342) cents in the valuation dollar be levied on all properties in the Business sub-category Business Area Other in accordance with Section 518. These properties will be subject to an ad



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valorem rate and a base amount of \$439.00. The levying of the base amount from the Business Area Other sub-category will generate 12.28% of the notional yield applicable to the Business Area Other sub-category.

**Domestic Waste Management Service**

For 2021/2022, in accordance with Section 496 of the Local Government Act 1993:

- A "Weekly Domestic (Inc. Green) Waste Mgt Charge 240L" annual charge of \$681.75 be made for a 240 litre bin, for each weekly domestic waste service to an occupied property which is categorised as Residential or Farmland, and for which a weekly domestic waste service, including a green waste service, is available. This charge includes a weekly pickup for garbage, a fortnightly pickup for recycling, a fortnightly pick up for green waste and one kerbside pickup for the financial year.
- A "Weekly Domestic Waste Mgt Charge 240L" annual charge of \$596.37 be made for a 240 litre bin, for each weekly domestic waste service to an occupied property which is categorised as Residential or Farmland, and for which a weekly domestic waste service, is available. This charge includes a weekly pickup for garbage, a fortnightly pickup for recycling, and one kerbside pickup for the financial year.
- A "Weekly Domestic (Inc. Green) Waste Mgt Charge 140L" annual charge of \$462.61 be made for a 140 litre bin for each weekly domestic waste service to an occupied property which is categorised as Residential or Farmland, and for which a weekly domestic waste service, including a green waste service, is available. This charge includes a weekly pickup for garbage, a fortnightly pickup for recycling, a fortnightly pick up for green waste and one kerbside pickup for the financial year.
- A "Weekly Domestic Waste Mgt Charge 140L" annual charge of \$377.24 be made for a 140 litre bin for each weekly domestic waste service to an occupied property which is categorised as Residential or Farmland, and for which a weekly domestic waste service is available. This charge includes a weekly pickup for garbage, a fortnightly pickup for recycling and one kerbside pickup for the financial year.
- A "Fortnightly Domestic Waste Mgt Charge 240L" annual charge of \$377.24 be made for a 240 litre bin, for each fortnightly domestic waste service to an occupied property which is categorised as Residential or Farmland, and for which a fortnightly domestic waste service, is available. This charge includes a fortnightly pickup for garbage, a fortnightly pickup for recycling and one kerbside pickup for the financial year.
- A "Fortnightly Domestic Waste Mgt Charge 140L" annual charge of \$462.61 be made for a 140 litre bin for each fortnightly domestic waste service to an occupied property which is categorised as Residential or Farmland, and for which a fortnightly domestic waste service, is available. This charge includes a fortnightly pickup for garbage, a fortnightly pickup for recycling and one kerbside pickup for the financial year.
- A "Weekly Domestic Waste Service Availability" annual charge of \$172.39 be made for parcels of land where a weekly domestic waste service is available but the service is not utilised.
- A "Fortnightly Domestic Waste Service Availability" annual charge of \$86.18 be made for parcels of land where a fortnightly domestic waste service is available but the service is not utilised.

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**Pensioner Rebate**

In accordance with Section 575 of the Local Government Act 1993 where a property is owned and occupied by eligible pensioner(s), a rebate amounting to 50% (fifty percent) of the combined rates and domestic waste service charges up to a maximum of \$250.00 (two hundred and fifty dollars) in annual concession will be granted for 2021/2022.

**Business Waste Management Service**

For 2021/2022, in accordance with Section 501 of the Local Government Act 1993

- A “Weekly Business Waste Management Service 240L” annual charge of \$893.78 be made for a 240 litre bin, for each weekly waste service to a property which is categorised as Business and for which a weekly waste service is utilised.
- A “Weekly Business Waste Management Service 140L” annual charge of \$546.94 be made for a 140 litre bin for each weekly waste service to a property which is categorised as Business and for which a weekly waste service is utilised.
- A “Fortnightly Business Waste Management Service 240L” annual charge of \$625.65 be made for a 240 litre bin, for each fortnightly waste service to a property which is categorised as Business and for which a fortnightly waste service is utilised.
- A “Fortnightly Business Waste Management Service 140L” annual charge of \$382.86 be made for a 140 litre bin for each fortnightly waste service to a property which is categorised as Business and for which a fortnightly waste service is utilised.

**Sewerage Service**

For 2021/2022, in accordance with Section 501 of the Local Government Act 1993, the following range of annual charges be made for the provision of sewerage services.

- "Sewer Residential Connected" \$931.02
- "Sewer Residential Unconnected" \$619.97
- "Sewer Business Unconnected" \$624.72
- "Sewer Business Category 1 (<1,000L per day)" \$1,083.66
- "Sewer Business Category 2 (1,001 - 5,000L / day)" \$5,433.53
- "Sewer Business Category 3 (5,001 - 10,000L / day)" \$10,823.88
- "Sewer Business Category 4 (10,001 - 20,000L / day)" \$21,581.65
- "Sewer Business Category 5 (>20,000L / day)" \$21,581.65
- Additionally, a trade waste volume charge of \$3.49 per kilolitre be charged to Business Category 5 properties for each kilolitre in excess of 20,000L.

**Pensioner Rebate**

Where a residential property receiving this service is owned by pensioner(s) eligible for an Ordinary Rate pensioner rebate, then a rebate amounting to \$465.51 be granted to the owner(s) in annual concession for 2021/2022.

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**Stormwater Management Charge**

For 2021/2022, in accordance with Section 496A of the Local Government Act 1993, the following annual charges be made for stormwater management :

- "Stormwater Management – Residential" \$25.00
- "Stormwater Management - Residential Strata" 12.50
- "Stormwater Management – Business" \$25.00 per 350m<sup>2</sup> or part thereof, up to a maximum \$1,500.00.
- "Stormwater Management - Business Strata" Pro-rata of business charge, based on land valuation apportionment.

**Sullage Pump-Out Services**

For 2021/2022:

- In accordance with Section 501 of the Local Government Act 1993, a "Fortnightly Sullage Pump-out Service" annual charge of \$2,605.36 will be made for the provision of a fortnightly sullage pump-out service to residential properties.
- In accordance with Section 501 of the Local Government Act 1993, a "Weekly Sullage Pump-out Service" annual charge of \$5,210.72 will be made for the provision of a weekly sullage pump-out service to residential properties.
- Where a property receiving a sullage pump-out service is owned by pensioner(s) eligible for an Ordinary Rate pensioner rebate, and the property is occupied solely by the eligible pensioner(s), in accordance with Section 577 of the Local Government Act 1993 a rebate amounting to 50% of the applicable charge be granted to the owner(s) in annual concession for 2021/2022.
- In accordance with Section 502 of the Local Government Act 1993, additional pump-outs can be requested at a cost of \$166.94 per extra service.
- In accordance with Section 502 of the Local Government Act 1993, emergency after hours pump-outs be charged at \$209.63 per service.
- In accordance with Section 502 of the Local Government Act 1993, that a charge of \$28.69 be made for each 1,000 (one thousand) litres of effluent pumped out from commercial and industrial properties for services being conducted on request.

**Drainage Management Charge**

For 2021/2022, in accordance with Section 501 of the Local Government Act 1993, the following annual charges be made for drainage management :

- |                                       |          |
|---------------------------------------|----------|
| • "Drainage Management - Residential" | \$25.00* |
| • "Drainage Management - Business"    | \$25.00* |

\*The Drainage Management Service Charge is only applicable to properties in the identified urban release area in North Richmond (Redbank). Properties in this area are not subject to the Stormwater Management Service Charge.

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**Interest Charges**

In accordance with Section 566 (3) of the Local Government Act 1993, the interest rate charged on overdue rates and charges for 2021/2022 by Council be set at the maximum permitted by the Minister for Local Government. For the 2021/2022 rating year, this will be 6.0% per annum.

5. The persons and/or organisations that made submissions in response to the exhibition of Council's Draft 2021/2022 Operational Plan be advised of Council's decision in this regard and the relevant comments in the report.
6. The additional information, as requested by Council at its Ordinary Meeting of 8 June 2021, provided in the report, be received and noted.

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**BACKGROUND**

At its Meeting of Council held on 20 April 2021, consideration was given to a report regarding the Draft 2021/2022 Operational Plan. Council adopted the following resolution relevant to this report:

*"That:*

1. *The report regarding the Draft 2021/2022 Operational Plan be received and noted.*
2. *The Draft 2021/2022 Operational Plan attached as Attachment 1 to the report, be approved for public exhibition and that Council give public notice of the exhibition of the Draft 2021/2022 Operational Plan for a minimum of 28 days in accordance with Section 405 of the Local Government Act 1993.*
3. *The Draft 2021/2022 Operational Plan be reported back to Council, post the public exhibition period, to consider any public submissions received and to consider the adoption of this document and to make and fix rates and charges for the year ended 30 June 2022."*

At the Ordinary Meeting of Council held on 8 June 2021, consideration was given to a report in relation to the adoption of the 2021/2022 Operational Plan and Making and Levying of Rates and Fixing of Charges for the period 1 July 2021 to 30 June 2022. At that meeting, Council resolved:

*"That Council defer consideration of the 2021/2022 Operational Plan be deferred until further information which may have bearing on allocated resources can be providing, including:*

1. *Confirmation of State Government funding for repair and betterment (widening) of Greens Road as stated by local members to residents.*
2. *Cost of permanent seal versus proposed temporary seal for Wheelbarrow Ridge Road, difference in timeframe, and options to funding.*
3. *Clarification of unspent funds in the Federal Government Emergency Response Fund intended to mitigate against disasters, and Council's capacity to access this funding.*
4. *Projected costs of provision of access including via waterway for residents currently having to travel via Wheelbarrow Ridge fire trail, or other temporary solution to enable such impacted residents to avoid the additional travel.*
5. *Projected costs of garbage collection trial (potentially purchase of small garbage truck or alternative method) to access areas currently considered unable to receive garbage collection (eg. Greens Road, Wheelbarrow Ridge Road and Upper Colo area).*

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**Relevant Legislation**

- Local Government Act 1993
- Local Government (General) Regulation 2005

**DISCUSSION**

**Public Submissions**

The Draft 2021/2022 Operational Plan was advertised and placed on public exhibition for a period of 28 days from Friday, 23 April 2021 until Friday, 21 May 2021 in accordance with legislative requirements.

The draft document was circulated via Council's website, media releases, advertisement on Council Notices, through Council's social media platforms and by way of Council's online community portal *Your Hawkesbury Your Say*. Hard copies were also made available to the public at Council's Administration Building, Richmond and Windsor libraries and at Council's stall at The Hawkesbury Show. The following table summarises the level of activity in 2020 compared with 2021 as tracked on *Your Hawkesbury Your Say*.

During the exhibition period, 36 submissions were received as detailed in this report. This is in contrast to the 13 submissions received last year. The submissions have been considered and have not resulted in any amendments being required.

The submissions received are attached as Attachment 2 to this report.

A summary of the submissions and comments responding to the submissions is provided below:

**Submissions referring to roads**

There were many submissions referring to improvements to roads. Many submissions named more than one road. The summary below is listed by road, rather than by submission, to provide a clearer report on Council's comments to each road enquiry. Individual submissions are provided verbatim in Attachment 2 to this report.

Road	Number of submissions	Summary of submission	Comment
Packer Road, Lower Portland	2	Sealing Packer Road	This project is listed within the 2021/2022 works program.
Greens Road, Lower Portland	4	Sealing and repair works to Greens Road	Sealing Greens Road from current sealed portion up to South Sydney Guest House is listed in the 2020/2021 works program. However due to damage caused by a landslip, Council has had to delay these works until a geotechnical report is finalised.
Bourke Street, East Richmond	2	Upgrade Bourke Street near Richmond Station	Current section between railway line and Hawkesbury Valley Way is listed in the 2020/2021 works program, and work will commence after Transport for NSW upgrade the concrete dish crossing and the intersection. Upgrade of section from railway line to March Street is listed in the 2021/2022 works program.

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<b>Road</b>	<b>Number of submissions</b>	<b>Summary of submission</b>	<b>Comment</b>
“Old’ Bells Line of Road, Kurrajong	1	Upgrade section of Bells Line of Road referred to as “Old Bells Line of Road” for use as a detour for congestion on Bellbird Hill	This section of road is currently an unformed road. Given steep topography and other safety considerations, there is no plan to establish this as a road.
Roberts Creek Road, Blaxlands Ridge	1	Seal the unsealed section of this road	This section of road is currently listed in the 2022/2023 works program which will be considered within that years’ Operational Plan.
Crooked Lane, North Richmond	1	Crooked Lane and part of Slopes Road between Crooked Lane and Maddens Road to be sealed	This work is currently listed in the 2024/2025 works program and will be considered within that years’ Operational Plan.
Crooked Lane Bridge, North Richmond	1	Crooked Lane Bridge to be widened to two lanes	Council is aware of this situation and consideration will be given in future works programs.
Crooked Lane and Bells Line of Road, North Richmond	1	Desire for a roundabout at intersection between Crooked Lane and Bells Line of Road	The matter will need to be referred to Transport for NSW as work on the intersection is under their jurisdiction.
Harris Street, South Windsor	1	Desire for this street to be resealed	The request has been noted and will be taken into consideration for prioritisation in Councils road rehabilitation program.
Mountain Lagoon Road, Bilpin	1	Desire for the unsealed section of this road to be sealed	This has been submitted on a list of works to be completed under the Bushfire Local Economic recovery Program (State Government). Awaiting funding announcement.
Ponderosa Drive, Lower Portland	1	Desire for this road to be sealed	These works are not listed within the current ten-year works program, however the submission has been noted for future consideration.
Settlers Road, Lower Macdonald	1	Desire for this road to be sealed and upgraded	This has been submitted on a list of works to be completed under the Bushfire Local Economic recovery Program (State Government). Awaiting funding announcement.
Wollombi Road from St. Albans to Bucketty	1	Desire for this road to be sealed	These works are not listed within the current ten-year works program, however the submission has been noted for future consideration.
Colo Heights Road, Upper Colo	1	Upgrades to this road for safety	This road will be given additional maintenance to manage traffic safety due to loss of Upper Colo Bridge.

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<b>Road</b>	<b>Number of submissions</b>	<b>Summary of submission</b>	<b>Comment</b>
Ham Street, Windsor	1	Issue raised regarding drivers doing burnouts and generally driving unsafely	This matter will be referred to the Police.
South Windsor Roads	1	Details for roads to be sealed in South Windsor, as only high-level in Draft Operational Plan	Rejuvenation works to roads within South Windsor includes: <ul style="list-style-type: none"> <li>• Drummond Street - George Street to Macquarie Street</li> <li>• George Street - Campbell Street to James Street</li> <li>• George Street James Street to Drummond Street.</li> </ul>
Bilpin Roads	1	Desire for road works in the Bilpin area	There have been works submitted on the list of works to be completed under the Bushfire Local Economic recovery Program (State Government). Awaiting funding announcement.
Comleroy Road, Kurrajong	1	Desire for this road to be repair at the Bells Line of Road	Repairs will be undertaken.
Golden Valley Drive, Glossodia	1	Desire for this road to be repairs	This matter will be investigated and maintenance undertaken as required.
Mitchell Drive, Glossodia	1	Desire for this road to be repairs	Kerb and drainage works are currently listed in the 2023/2024 and 2026/2027 works program which will be considered within the Operational Plan for these years. Maintenance will be undertaken as required.
Creek Ridge Road, Glossodia	1	Desire for road repair	This work has been completed.
Creek Ridge Road. Glossodia	1	Desire for this road to be widened	The request has been noted and will be taken into consideration for future works programs.
East Kurrajong Road, East Kurrajong	1	Desire for this road to be upgraded	The request has been noted and will be taken into consideration for future works programs.
Upper Colo Road, Upper Colo	1	Desire for this road to be sealed to Comleroy Road	This work is currently listed in the 2022/2023 works program and will be considered within that years' Operational Plan.
Wheelbarrow Ridge Road, Lower Portland	3	Desire for this road to be widened to a two lane road and sealed at Greens Road, Lower Portland end	The request has been noted and will be taken into consideration for future works programs.
Hebron Road, Lower Portland	1	Minor drainage works be undertaken to this road and vegetation near this road be cleared	This matter has been referred for further investigation and undertaking of any maintenance works.

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Road	Number of submissions	Summary of submission	Comment
Putty Road, Kurrajong	2	Safety issue at intersection of this road and Teale Road	Council is in active discussion with Transport for NSW in regards to the safety of this intersection.
West Portland Road	1	Minor repair works be undertaken	This matter has been referred for further investigation and maintenance as necessary.

**Submissions referring to other matters**

Related to rates:

Desire for a combination of the 30% base rate with a centre of population basis, where ratepayers in areas further away from the main centres of Windsor and Richmond are charged a lower rate than ratepayers closer to those centres.

Comment:

Council considers the rates structure to be implemented as part of the preparation of the Draft Operational Plan each year. There were no changes made to the rating structure for the Draft 2021/2022 Operational Plan. The Local Government Amendment Act 2021 was passed in NSW Parliament in May 2021 which will help councils provide more flexible residential rating subcategories that can provide a link between rates paid and access to services and infrastructure. This enhanced flexibility will be considered by Council after the election in September 2021 when determining the appropriate rates structure to be implemented when developing the Draft 2022/2023 Operational Plan.

Related to Upgrade and face lift to North Richmond shopping centre.

Upgrade and face lift to North Richmond shopping centre.

Comment:

Council is currently developing a series of place plans for the towns and villages of the Hawkesbury. North Richmond will be captured within these plans. The North Richmond shopping centre is privately owned, however Council will liaise with centre owner through the development of the place plan.

Related to Thompson Square

Item 1 - Refurbishment of the Phillip Cunningham memorial in Thompson Square. This memorial commemorates an important historical event and should have landmark qualities.

Comment

An investigation has been carried out to inspect the monument and whilst the monument does need cleaning and a re-paint the overall condition is good. Following the completion of the Transport for NSW Windsor Bridge Project, Council is looking to undertake some landscape works and general improvement to Thompson Square and will also look to undertake the minor refurbishments at that time.

Item 2 - Uniform world-class heritage signage in Thompson Square and other significant areas in Windsor. We propose that this signage would welcome visitors to Thompson Square and inform them of its status on the State Heritage Register and its listing by the National Trust. Similar signage addressing Windsor's status in history could also be placed on Windsor Road and Hawkesbury Valley Way.

Comment

Council is currently undertaking a signage and wayfinding project which will look at signage across the entire local government area. Also, as a part of the Windsor Bridge replacement project by Transport for NSW, they have undertaken an interpretative signage project which includes Thompson Square.



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Item 3 - Restoration of the remains of the police/military compound in front of the former police station site.

Comment

Council will take this under consideration for future programs relating to heritage conservation.

Item 4 - Development and implementation of a policy on lighting, including the up-lighting of heritage buildings, particularly in Thompson Square, and solar lighting in Howe Park.

Comment

Council will take this under consideration for future programs relating to this area, as it is out of scope of the current Liveability Program.

Item 5 - Refurbishment and activation of gas lamps.

Comment

The refurbishment and activation of the gas lamps are currently being considered as part of the detailed design of Council's Liveability program for the Windsor Town Centre.

Item 6 - Maintenance of Windsor Wharf. Suitable heritage style fencing to keep cars from entering the green space in Thompson Square (bollards would work for this) and along the grass area that connects with George and Bridge Streets (for child protection).

Comment

Bollards have been installed at the Bridge Street side of Thompson Square to stop vehicle access, as part of the Transport for NSW works on the park near Windsor Bridge. Fencing and bollards can be considered for the top of Thompson Square as part of the upgrade of Thompson Square.

**Further Information Requested at the Council Meeting on 8 June 2021**

Council staff have prepared responses the following additional information as requested at the Ordinary Meeting on 8 June 2021:-

Item 1 - Confirmation of State Government funding for repair and betterment (widening) of Greens Road as stated by local members to residents.

Response

The repair of Greens Road will be the subject of a claim under the Natural Disaster Funding arrangements, specifically the Essential Public Assets Restoration element. Under this element, Council identifies the scope and cost of work for approval. In regard to betterment, the arrangements provide for alternate works or standards where materials, standards or physical constraints exist in restoring the asset to its previous condition. Council will be looking at the appropriate contemporary standards for road design for this road in preparing that design and funding approval.

Item 2 - Cost of permanent seal versus proposed temporary seal for Wheelbarrow Ridge Road, difference in timeframe, and options to funding.

Response

The temporary seal being proposed is for dust suppression given the additional diverted traffic volumes. This work can be undertaken in the next few weeks subject to weather. The cost of this is estimated at approximately, \$25,000.

The cost of constructing and sealing the road including widening over a distance of approximately 700m is estimated to be in the order of \$650,000. Design and construction would take approximately six months, although it should be emphasised that this guidance is provided without the benefit of detail design and technical assessment.

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Item 3 - Clarification of unspent funds in the Federal Government Emergency Response Fund intended to mitigate against disasters, and Council's capacity to access this funding.

#### Response

The Emergency Response Fund (ERF) was established by the Commonwealth Government through the commencement of the ERF Act in December 2019. The ERF was credited with the uncommitted balance of another program which was closed.

Based on the advice available on the Department of Finance website (<https://www.finance.gov.au/emergency-response-fund>) the Government is able to draw up to \$200 million in any given year, "beyond what is already available to fund emergency response and natural disaster recovery and preparedness, where it determines the existing recovery and resilience-building programs are insufficient to provide an appropriate response to natural disasters".

As at the 31 March 2021, the Cash Balance of the Fund is \$4.45 billion.

Item 4 - Projected costs of provision of access including via waterway for residents currently having to travel via Wheelbarrow Ridge fire trail, or other temporary solution to enable such impacted residents to avoid the additional travel.

#### Response

As the cost of the provision of access via waterway will depend upon the how long the completion of works required to reinstated Greens Road will require, a definitive estimate is unable to be provided at this stage. Once the consultant's report in relation to Greens Road restoration is received, an update will be able to be provided to Council at that point. Options for waterway access are being investigated with potential operators.

Item 5 - Projected costs of garbage collection trial (potentially purchase of small garbage truck or alternative method) to access areas currently considered unable to receive garbage collection (eg. Greens Road, Wheelbarrow Ridge Road and Upper Colo area).

#### Response

There are a range of factors to consider regarding the conduct of a garbage collection trial. Council staff have undertaken research into the options available to undertake a trial and the associated cost, with responses yet to be finalised. It is recommended that a Councillor Briefing Session be held outlining all factors to be considered and likely costs of options once research has been completed and cost benefit analyses undertaken. Should Council resolve to proceed with a trial, budgetary adjustments can be made in the following Quarterly Budget Review Statement, with funding from the Domestic Waste Reserve. It is to be noted that any additional cost will result in increased Domestic Waste Annual Charges in future years.

### **Amendments**

Listed below are details of amendments proposed to be made to the exhibited Draft 2021/2022 Operational Plan. These amendments are reflected in the 2021/2022 Operational Plan attached as Attachment 1 (distributed under separate cover).

1. A number of minor typographical errors have been identified and the document has been amended accordingly.
2. The following fee requires amendment in line with advice from the NSW Department of Planning, Industry and Environment in May 2021, (page number is in reference to the exhibited Draft 2021/2022 Operational Plan):
  - Page 90, Proposed New Fee – *Compliance Levy* to be renamed as *Fees – Compliance Levy Transition Framework*. As part of a review of Compliance Levies being undertaken by the NSW Government, a new compliance levy framework will be implemented from 1 July 2021,

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which will change how levies are charged on development applications in relation to compliance activities. New provisions in relation to compliance cost notices and a complying development levy will be issued from 1 September 2021, but these are yet to be determined. More information is available at <https://www.planning.nsw.gov.au/compliancelevies>.

- The Draft 2021/2022 Operational Plan had allowed for \$100,000 to be collected, based on the above proposed new fee. As the new fees are yet to be determined by the NSW Government, it is recommended that the 2021/2022 Draft Budget is amended to remove the income. Once the fees become known, budget variations will be considered in following Quarterly Budget Review Statements.
3. Council received the Emergency Services Contribution Assessment Notice for 2021/2022 on 30 April 2021. Council's contribution to the Emergency Services Levy is \$1,098,605, which is \$382,064 less than the 2021/2022 Draft Budget. The amount budgeted was based on a 2.1% increase on the 2020/2021 Emergency Services Levy of \$1,450,158. It is therefore recommended that the 2021/2022 Draft Budget is amended to account for this expenditure reduction.
  4. Based on the recommended changes to the 2021/2022 Draft Budget outlined in (2) and (3) above, an unallocated surplus of \$282,064 exists. In line of the increased need for enhanced community resilience and ability to respond appropriately to adverse events, it is recommended that this amount is placed in the Crisis Management Response Reserve.

#### **Making the Rates for the 2021/2022 Financial Year**

- *Rates in the dollar 2021/2022*

As stated in the Draft 2021/2022 Operational Plan placed on public exhibition, the rates in the dollar in the recommendation in this report differ slightly to those placed on public exhibition. It is prudent to incorporate the latest valuation changes available to ensure Council's valuation base remains as up to date as possible thereby maximising potential revenue.

All relevant figures in the Operational plan document have been updated accordingly.

- *Variation of General Income for 2021/2022*

In September 2020, IPART announced a 2.0% general increase in terms of Section 506 of the Local Government Act 1993 for the rating year commencing 1 July 2021.

The recommendation within this report details the rate in the dollar and applicable base amount for each rating category in the Hawkesbury Local Government Area based on the above.

Council is required to make and levy the rates and fix the charges for the 2021/2022 financial year. The Rates detailed in the recommendation reflect a 2.0% variation to general income and reflect the rating structure as exhibited. The charges reflect the amounts exhibited.

#### **COMMUNITY ENGAGEMENT**

The issues raised in this report concern matters that required Community Engagement under Council's Community Engagement Policy and public exhibition, in accordance with the Local Government Act 1993.

#### **CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036**

The proposal is consistent with all the Focus Areas, Directions and Strategies contained within the 2017-2036 Hawkesbury Community Strategic Plan.

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**FINANCIAL IMPACT**

The adoption of the recommendations in this report will result in the Draft 2021/2022 Operational Plan, as placed on exhibition and incorporating the changes proposed in this report, being adopted.

**FIT FOR THE FUTURE STRATEGY CONSIDERATIONS**

The matters addressed in this report are directly aligned with specific Fit for the Future Strategies. The 2021/2022 Operational Plan reflects the applicable Fit for the Future Strategies.

**ATTACHMENTS:**

- AT - 1** Hawkesbury City Council 2021/2022 Operational Plan - *Distributed under separate cover*).
- AT - 2** Submissions received during the exhibition of the Draft 2021/2022 Operational Plan - *(Distributed under separate cover)*.

**oooO END OF REPORT Oooo**

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**CITY PLANNING**

**Item: 119**                    **CP - Domestic Sullage - (95498, 112179)**

**Previous Item:**            106, Ordinary (26 May 2020)

**Directorate:**              City Planning

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**PURPOSE OF THE REPORT:**

The purpose of this report is to provide a response to Council's Resolution from its meeting on 26 May 2020 concerning the NM3 - Collection of Domestic Sullage.

**EXECUTIVE SUMMARY:**

Concerns have been raised regarding the resident-incurred costs associated with effluent pump-out services and the need to educate and promote alternate on-site sewage management facility types.

This report provides a response to the various elements of information requested within the Notice of Motion. The report recommends that Council note the information provided and that Council continues to lobby the State Government regarding potential subsidies and provide educational material to the community.

**RECOMMENDATION:**

That:

1. Council note the contents of the report regarding Domestic Sullage:
  2. Council continue to lobby the State Government for rebates for residents or subsidies for Council to be able to pass on savings to residents for effluent pump-out services to homes that cannot be connected to a reticulated sewage system (sewage main).
  3. The Council's Sewage Management Facility team continue to modernise information relating to the many types of on-site sewage management facilities and publish this information to Council's website.
  4. Council include information pertaining to a property's onsite sewage management facility (where applicable) as part of conveyancer's information packages for the purchase of property.
  5. A further report be provided with alternate pricing structure options including user pay.
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**BACKGROUND**

This report is in response to the Notice of Motion NM3 - Collection of Domestic Sullage resolved by Council on 26 May 2020:

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"That:

1. *Identify and investigate alternative commercially viable and environmentally sound options for our community in relation to the pump out and collection of domestic sullage, and report the results to Council.*
2. *It is envisaged that this would involve work with the community to promote and implement any such alternative options."*

The Notice of Motion requested information on a number of matters including but not limited to:

- Information about properties that have pump out systems, numbers and locations
- How other Councils deal with pump outs
- Council charges
- Alternate systems and costs
- Community education

Residents within the Hawkesbury currently pay pump out rates significantly higher than the adjoining Blue Mountains City Council Local Government Area, due to the subsidies that State Government pay to the relevant landowners in these areas.

While Council has made representations to the local Member regarding this matter, to date we have not been successful in obtaining any subsidies for Hawkesbury residents.

There are now a number of examples where individual land owners across the State, including those living on some tiny inner-city sites, have been able to treat all of their waste on site and avoid the need to connect to an outside sewerage service.

Further concerns were also raised regarding the ongoing costs incurred by Council regarding effluent pump-outs being treated at Council's sewage treatment facilities.

#### Relevant Legislation

- Water Industry Competition Act (WICA)
- Part 3, Division 2 (Sections 56-66) of the Local Government Act 1993
- Protection of the Environment Operations Act 1997 and regulations under it
- Local Government (General) Regulation 2005
- Onsite Domestic Waste Water Management AS 1547/2012 (Standard)
- The Hawkesbury Development Control Plan. Section 1.18 of the Hawkesbury Development Control Plan states, in relation to effluent disposal: 1.18 *EFFLUENT DISPOSAL Aim (b) To ensure that there is adequate land for onsite effluent where land is not serviced by reticulated sewer. Objectives – Connection to reticulated sewerage is required for all forms of residential development, apart from single dwellings and rural dual occupancies.*

#### DISCUSSION

##### Introduction: Types of on-site sewage management facilities

Properties in rural, rural residential or in small villages that are not connected to the sewerage system require an on-site sewage management facility.

The type of on-site sewage management facility a property can have is determined by standards relating to ground type and other factors. Though many properties can utilise alternative on-site sewage management facilities, anecdotal information indicates that many residents opt for a sewage pump-out service because alternatives require a higher degree of maintenance and/or pose a higher risk of failure and non-compliance.

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Types of on-site sewage management facilities are:

- Effluent pump-outs (conventional gravity system or pressure sewerage system)
- Septic tanks with adsorption trenches or evapotranspiration beds;
- Aerated wastewater treatment systems,
- Composting units
- Reed beds, sand filters and mounds

These systems ensure that all wastewater from kitchens, laundries and bathrooms is disposed of safely. This is important to prevent pollution and the spread of disease. Owners of properties with an on-site sewage management facility have responsibilities to ensure they are maintained and in working order. Property owners and Council must work together to make sure septic systems do not pollute our waterways or cause contamination or health risks.

**On-site sewage management facilities in the Hawkesbury Local Government Area**

The table below shows the types of sewage management systems in the Hawkesbury along with the number of properties that have that type of system.

**Table 1 – Number of types of systems in the Hawkesbury Local Government Area**

<b>Septic Management System Type</b>	<b>Number of properties</b>
Effluent pump-outs (conventional gravity system or pressure sewerage system)	790 residential 36 commercial
Septic tanks with adsorption trenches or evapotranspiration beds;	3,723
Aerated wastewater treatment systems,	2,339
Reed beds, sand filters and mounds	27
Composting units (wet or dry)	17

Effluent pump-out systems:

Hawkesbury City Council provides a sullage collection, transport and disposal service to 790 residential and 36 commercial premises within the Hawkesbury Local Government area. These properties are not connected to a reticulated sewerage system (sewer main).

Attached as Attachment 1 to this report is a map showing the locations of these properties in the local government area.

The following addresses each element or question raised within the Notice of Motion.

- The number and general locations of these properties

There are currently 790 domestic properties with an effluent pump-out system being utilised. A large number of these properties are located in:

- Bowen Mountain (largest concentration)
- Cumberland Reach
- Ebenezer
- Freemans Reach
- Kurrajong
- Kurrajong Heights
- Kurmond
- North Richmond
- Sackville

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- Wilberforce
- Vineyard
- Others scattered across the Local Government Area
- **The size of these properties and an indication of why they require this particular type of system**

Lot sizes with effluent pump-out systems in the Hawkesbury Local Government Area range from 400sqm to over 3,000sqm.

Any property that cannot be connected to a reticulated sewage system (sewage main) must have a compliant on-site sewage management facility. The type of on-site sewage management facility a property can have will be dependent on a variety of factors including, but not limited to characteristics described in the table below:

**Table 2 – Land characteristics determining type of sewage management facility**

Land characteristics
Lot Size
Slope gradient
Soil depth and stability
Soil category
Depth to seasonal water table
Duration of continuous seasonal soil saturation
Dispersive soil
Content of stones, cobbles or boulders
Climatic factors
Proximity to waterways

In some situations, lot owners also have the ability to select their preferred type of on-site sewage management facility, given they remain compliant with legislation and standards. Though many properties can utilise alternative on-site sewage management facilities, many residents opt for a sewage pump-out service because alternatives require a higher degree of maintenance and/or pose a higher risk of failure and non-compliance.

Properties in locations such as Bowen Mountain which are located on solid rock do not have any alternatives to pump outs. This is based off the criteria shown in table 2 of this report. Given the water cannot be absorbed by dirt and other ground matter, the water will pool underground and cause hazards to property footings resulting in landslips, rising damp and swamp-type conditions.

- **How pump-out charges are determined**

Council provides this service through an agreed contract with Staples Premier Pumpouts. Residents are charged for the service on a full cost-recovery basis by Council as no state government or Sydney Water rebates can be accessed by these residents. The fees for domestic sullage pump out services listed in Council's 2020/2021 Fees and Charges

- \$2,505.16 per year for a fortnightly pump out service
- \$5,010.32 per year for a weekly pump out service

While all residents have the option of acquiring their own pump out service directly with another supplier, no residents in the Hawkesbury have taken that option. Council is able to obtain the most cost-efficient prices through economies of scale for all residents who require a pump-out service. Council has lobbied on a number of occasions for rebates from State Government and Sydney Water, to no avail (lobbying efforts detailed later in this report).



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Research into the costs associated with treating effluent pump-outs at Council's sewage treatment facilities have also shown there would not be significant savings to be realised if the sullage was treated elsewhere, given the majority of effluent treated at these facilities comes from the reticulated sewage system (sewage main).

At the Council briefing held on 22 June 2021, questions were raised about an alternative potential pricing structure, which could also include a user-pay model. It was determined that a further report would be completed to address this.

- ***Possible alternative on-site treatment systems, including cost comparisons to pump-out***

Residents with other types of on-site sewage management facilities (not effluent pump-out) do not incur the ongoing cost of paying for a pump-out service, as their wastewater is treated by their system in various ways dependant on their system type.

While Table 2 shows there are a number of properties that have these types of onsite sewage management facilities, these properties also comply with the Onsite Domestic Waste Water Management AS 1547/2012 standard and relevant legislation. Though some properties currently utilising an effluent pump-out system would also fall into these categories, the costs to convert/decommission their pump-out system and set up an alternative system are generally viewed as prohibitive.

Further, many of these types of systems (in particular, composting units, reed beds, sand filter mounds and worm farms require a high level of dedication and effort on the part of the property owner to maintain in working and compliant order. Even with a high level of dedication, user-error can result in system failure which can then lead to extensive contamination of land application areas. These types of systems can also have a negative effect on property resale value, as it can limit the number of potential buyers. A desktop review (online) found price ranges for system types as below:

- Effluent pump-outs (conventional gravity system or pressure sewerage system)
  - Approximately \$2,000 - \$3,000 plus installation, excavation and material costs plus annual fee of \$2,026.16 for the pump-out service through Council.
- Septic tanks with adsorption trenches or evapotranspiration beds;
  - Approximately \$4,000 - \$6,000 plus trenching at approx. \$100 per meter, plus installation, excavation and material costs plus ongoing costs.
- Aerated wastewater treatment systems,
  - Approximately \$7,000 - \$14,000 plus installation, excavation and material costs plus ongoing costs.
- Irrigation systems
  - A wide approximate range from \$200 - \$8,000 dependent on multiple factors including ground/soil type, land size plus ongoing costs.
- Composting units, reed beds, sand filters and mounds
  - A wide approximate range from \$200 - \$30,000 plus ongoing costs.
- Worm farm systems
  - \$13,000 – \$25,000 Treated water has to be disposed of via sub-soil an application which has to be done more than 300mm underground. These systems are also highly susceptible to failure for a range of reasons including but not limited to temperature change, chemical sensitivity, and flooding.
- Dry composting systems also exist, with high costs that are very dependent on property type and are unpopular due to the level of direct maintenance by the property owner, odour and flies.

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Further, if a resident has an effluent pump-out system installed on their property and wished to change to one of the abovementioned systems, there would also be a cost to empty and decommission their existing system.

If a property has an existing system that fails or the owner fails to service their system regularly (must show proof), Council can and does force owners to convert their systems to a pump-out service. This is a rare occurrence, but is in the best interest of environmental and public health.

There are examples around Australia of property owners attempting, and in some circumstances being successful in going “off grid”. An example of this is the famous Michael Mobbs ‘green house’ in Chippendale (City of Sydney Local Government Area). Michael Mobbs utilised many green ideas to completely take his home off the grid and manage it in a sustainable way. In terms of his waste water, Michael treats this water utilising a unique and purpose-built aerated wastewater treatment system, which also treats the water with other filtration methods including sand and UV lights. NSW Health would determine this system as a ‘unique’ system and has allowed it to be used for water re-use for washing clothes and flushing toilets for the purpose of research. The reused water may be safe for healthy people to be around; however those with compromised immune systems could potentially face severe health risks with a system like this.

- **Environmentally vulnerable areas of the Hawkesbury protected by pump-out systems**

- Locations of wetlands and other ecologically sensitive areas;
- Whether there is any protection afforded to downstream seafood growers, by the number of pump-out systems in the Hawkesbury; and
- How pump-out systems might protect the quality of the water being treated by the drinking water filtration plant at North Richmond.

As shown in the attached map, many properties who subscribe to Council's pump-out service are located along wetlands and other ecologically sensitive areas.

The efforts of Council's Sewage Management Facilities (SMF) team are to ensure sewage on private property does not result in dangerous levels of water and food contamination and outbreaks of disease. They deliver the Septic Safe community health program to inspect and identify septic systems in the community and keep them working well. This provides protection to all users of the river, including farms and seafood growers.

- An estimate of the reduction in operating costs to the sewage treatment plant/s that receive the sullage from our pump-out systems if it was to be treated elsewhere
- An estimate of any changes in the foreshadowed cost of future upgrades/maintenance needed to our sewage treatment plants if domestic sullage was treated elsewhere

An investigation to determine if there would be a reduction in operating costs to the sewage treatment plants that receive the sullage from our pump-out systems if it was to be treated elsewhere was undertaken. An investigation to determine if there would be any savings in the foreshadowed cost of future upgrades/maintenance needed to our sewage treatment plants if domestic sullage was treated elsewhere was also undertaken.

Currently, sullage collected from septic systems are treated at Council's sewage treatment plants. There would be little to no impact on the operating costs to Council's sewage treatment plants at South Windsor and McGrath's Hill if the sullage from pump-out services were treated elsewhere. The reason for this is that these treatment facilities also treat wastewater from properties connected to the reticulated sewage system (sewage main).

Further, costs to divert sullage from our pump-out service to other treatment plants (for example, Sydney Water treatment plant at North Richmond) would not see any significant discounts for property owners. Their charges equate to a saving of \$43.00 per annum based solely on their published fees and charges, which do not take into account any administrative or other etc. costs of diverting sullage to their treatment plants.

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- **The evaluation of Council’s current policy on collection of domestic sullage (Policy No. PES0001Z). This policy is dated 14 March 2000 and is in need of review and updating.**

While this policy has been updated, it is currently being reviewed as part of an overarching review of Council’s policies, which will be reported back to Council in 2021.

- **How other councils manage pump-out services**
- **Their charges and their specifications for needing to have a pump-put system**
- **Whether there are any options for sharing contracts for pump-out services**

Under the legislation, Councils have no obligation to provide the Effluent Collection and Disposal Service to residential or commercial premises. Because of this, most councils have ceased providing this service to residential and commercial customers. The nearest council area continuing to provide the service is Blue Mountains City Council. However due to the small number of properties continuing to receive the service in that area, there is a lack of economy of scale to see a benefit in sharing the contract with them.

Research into how other councils deal with and charge for pump-out services has shown that other than Hawkesbury City Council, Blue Mountains City Council and Hornsby Shire Council are the only councils in metropolitan Sydney providing pump-out services. Further, Hornsby Shire Council only provides emergency pump-out services for failing systems. Because of this, there are no other councils Hawkesbury could work with to share a contract for pump out services which would be of financial benefit.

Other charges and their specifications for needing to have a pump-put system

All properties across Australia that cannot be connected to a reticulated sewage system (sewage main) must comply with the Australian/New Zealand Standard for on-site domestic wastewater management (AS/NZS 1547:2012).

- **What sort of support, if any, other Councils get from the State or Federal governments for their residents who have a pump-out system?**

Blue Mountains City Council

As part of the Sydney Water Priority Sewerage Program the Blue Mountains City Council area was largely connected to reticulated sewer. Only 15 properties were found not to be economical to sewer and a decision was made to leave these on a pump out system, with Sydney Water subsidising the pump out cost.

Pump out of these properties is undertaken by Blue Mountains City Council, at cost, and billed to the resident who then seeks a rebate from Sydney Water.

Sydney Water rebate the difference between their normal sewer charge (Currently \$335.00).

A cost comparison of current charges between Blue Mountains City Council and Hawkesbury City Council is tabled below. The significant difference is attributed to the lack of economy of scale.

Council	Residential Service per annum (fortnightly service) 2020/2021	Commercial Service (\$/ kl) 2020/2021
Hawkesbury City Council	\$2,505.16*	\$22.31
Blue Mountains City Council	\$8,190.00** / \$335***	\$48.00

- \*6000 litres max. per pump out
- \*\*Cost before subsidy and using 4,000 litres per pump out
- \*\*\*Cost after subsidy and using 4,000 litres per pump out

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- **Lobbying**

Council staff have, on multiple occasions, lobbied State government for further rebates for residents having to pay for their effluent pump-out services including:

A Mayoral Minute from 12 May 2020 (MM – Inequitable and inconsistent application of the NSW Environment Protection Authority Waste Levy – 80093) also raised this issue. Letters were sent on 1 June 2020 lobbying for waste levy reductions and also included points regarding the Sydney Water rebate provided to Blue Mountains residents using a sewage pump out service specifically directed.

The letter was sent to:

- Robyn Preston MP
- NSW Environmental Protection Agency (Tracey Mackey)
- Minister for Energy and Environment (Matt Kean)
- NSW Treasurer (Dominic Perrottet)

#### Robyn Preston MP

Correspondence sent by Ms Preston to Melinda Pavey MP – Minister for Water, Property and Housing to Robyn Preston MP generated the below response (excerpt) dated 25 January 2021:

*“There is no NSW Government or Sydney Water policy of subsidising septic pump out charges for residents living in Sydney water’s water supply catchments. Nor is there any plan to introduce such a policy.*

*The Blue Mountains septic pump-out rebate Mr Conroy refers to is a legacy of a specific Government Direction to Sydney Water in 1988...”*

#### NSW Environmental Protection Agency (Tracey Mackey)

No response received

#### Minister for Energy and Environment (Matt Kean)

A meeting was held on 13 July 2020 with Minister Kean, Cllr Barry Calvert (then Mayor), Cllr Mary Lyons-Buckett (Deputy Mayor), Peter Conroy (General Manager), Cllr John Ross and Cllr Amanda Kotlash. Further from this meeting, written correspondence was sent to the Minister further justifying the need for the Hawkesbury Local Government Area to be reclassified as a Regional (waste) Levy area.

A letter received from Minister Kean on 11 May 2021 did not specifically mention subsidies for pump-out services, however it noted that the waste levy and grants for waste infrastructure would be detailed in the State Government’s 20 Year Waste Strategy (to be finalised).

#### **Education Program**

Council’s Sewage Management Facility Team (SMF) conduct inspections on all on-site sewage management facilities in the Hawkesbury Local Government Area. While on site, members of this team educate residents on how to manage their systems properly so they remain operational and compliant with standards and regulations.

Often residents speak to the team about the costs associated with pump-out systems while they are on site. During these inspections the staff provide resident with brochures which detail how each of the systems work.

The team also educates residents on measures they can take to help keep costs of services down, including ensuring that the pump-out contractor can access their system with ease, thus reducing the time they spend on site and keeping costs down.

The team is currently working on modernising these brochures, with a view of having this information published to Council’s website.

### **Informing potential buyers of property prior to purchase**

Through informal feedback, Council has learnt that many potential buyers of properties are unaware of the onsite sewage management facility on the property they are looking to purchase. This poses a great issue particularly for people who have been used to living at properties connected to a reticulated sewage system (sewage main).

A possible solution for this is for council staff to include information about a property's onsite sewage management facility as part of information packages provided to conveyancers acting on behalf of property purchasers.

### **FINANCIAL CONSIDERATIONS**

Currently, the expenditure incurred to provide the Effluent Collection and Disposal Service is fully funded by annual charges collected. Both income and expenditure associated with this service is maintained through the internally restricted Sullage Reserve.

Council could consider cross-subsidising this service to reduce the annual charge, but as all households incur some costs associated with sewage this poses equity issues. For example, if subsidised, a household connected to Council's Sewerage System will pay annual charges for that service, but also receive a reduced level of other Council services as a result of subsidising the Sullage Service.

### **COMMUNITY ENGAGEMENT**

Council's Sewage Management Facility Team (SMF) conduct approximately 240 inspections per month for on-site sewage management. During these inspections, the SMF team use the opportunity to provide information and education about the resident's on-site sewage management facility. Approximately 70% of residents are also interested in learning about alternative options which may be available and the team members provide this information, having considered the property specifications and constraints.

The team also educates residents on measures they can take to help keep costs of services down, including ensuring that the pump-out contractor can access their system with ease, thus reducing the time they spend on site and keeping costs down.

The team is currently working on modernising the information brochures, with a view of having this information published to Council's website.

### **CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036**

The proposal is consistent with the following Focus Area/s, Direction/s and Strategies within the CSP:

#### Our Environment

- 3.1 The natural environment is protected and enhanced - Value, protect and enhance our unique natural environment
  - 3.1.2 Act to protect and improve the natural environment including working with key agency partners.
  - 3.1.3 Minimise our community's impacts on habitat and biodiversity and protect areas of conservation value.
  - 3.1.4 Use a range of compliance measures to protect the natural environment.

### **FINANCIAL IMPACT**

There are no financial implications applicable for this report.

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**FIT FOR THE FUTURE STRATEGY CONSIDERATIONS**

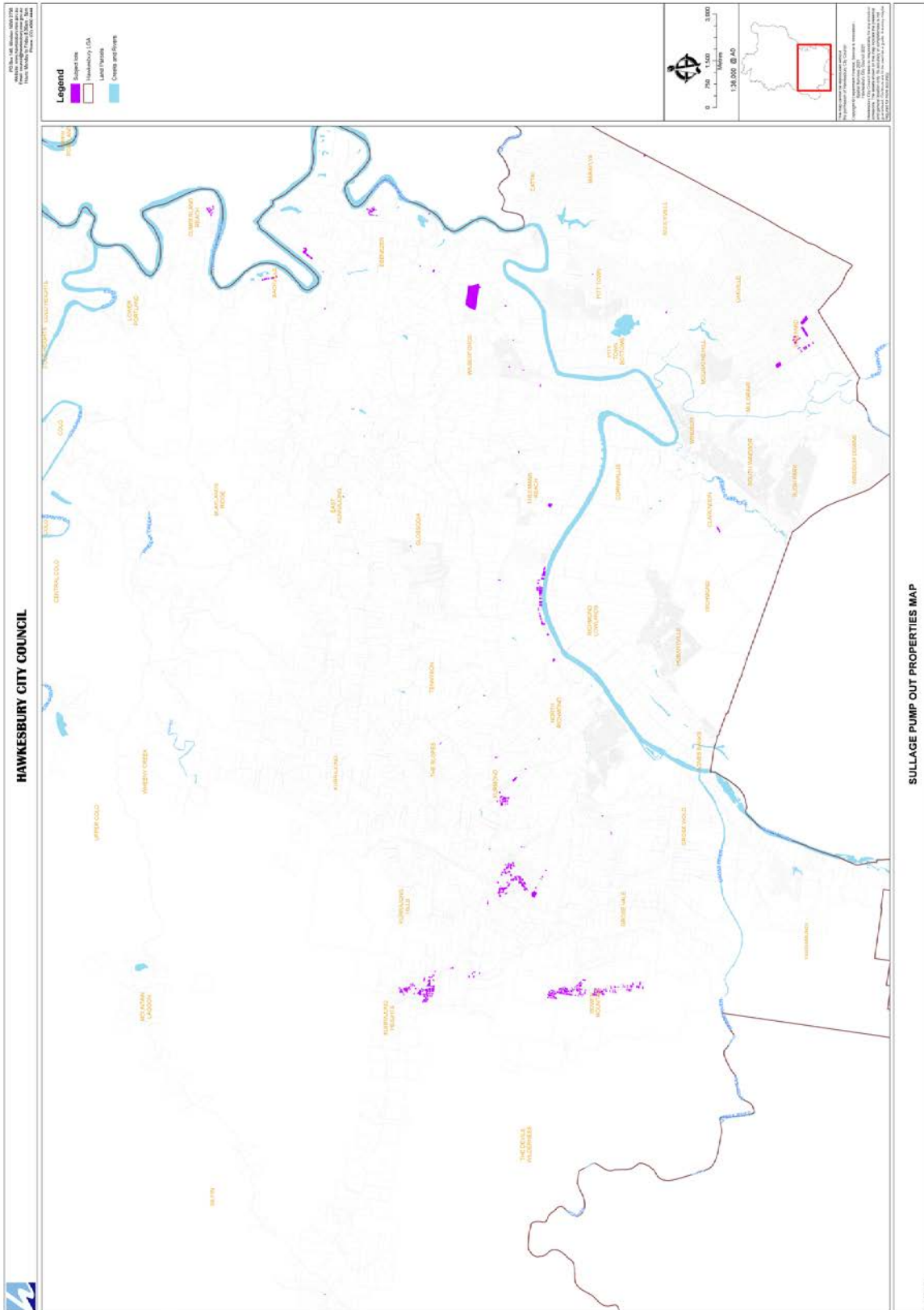
The proposal is not currently aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal will require the allocation of additional financial and staffing resources which are currently not budgeted for in the Long-Term Financial Plan.

**ATTACHMENTS:**

**AT - 1** Map of locations of pump-out systems in the Hawkesbury Local Government Area.

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**AT - 1 Map of locations of pump-out systems in the Hawkesbury Local Government Area**



oooO END OF REPORT Oooo

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**Item: 120**                    **CP - Appointments to Hawkesbury Local Planning Panel - (95498)**

**Previous Item:**        089, Ordinary (11 May 2021)  
                              056, Ordinary (30 March 2021)

**Directorate:**            City Planning

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**PURPOSE OF THE REPORT:**

The purpose of this report is to appoint a Chair and alternate Chairs, and select a pool of seven expert representatives for membership of the Hawkesbury Local Planning Panel.

**EXECUTIVE SUMMARY:**

The Environmental Planning and Assessment Act 1979 (the Act) was amended on 1 March 2018 to introduce the requirement for all councils in the Greater Sydney Region to operate a Local Planning Panel to replace Council as the consent authority to determine specific types of development applications. In June 2018, a further Ministerial Direction was issued requiring that all planning proposals (other than those of a minor nature) be referred to the Panel for advice.

It is a requirement of the Act that Council's Local Planning Panel consists of four members: a Chair, approved by the Minister, two expert panel members selected from a list compiled by the Department of Planning, Industry and Environment and one community representative. The Hawkesbury Local Planning Panel was established in 2018 and the term of the current members of the Panel ends on 30 June 2021.

The Minister for Planning and Public Spaces has approved a Chair and two alternate Chairs for appointment to the Hawkesbury Local Planning Panel. Council is required to make those appointments.

Council is required to select experts from a pool endorsed by the Department of Planning, Industry and Environment. This report makes recommendations with respect to the appointments of seven experts for a period of three years commencing on 1 July 2021 until 29 February 2024.

Council has undertaken an expression of interest to select community representatives for appointment to the Panel, however due to the limited number of responses it is recommended that this process be recommenced. The Planning Panels Secretariat has advised that it is open to Council to appoint the Chair and alternate chairs and experts so that those positions commence effective 1 July 2021 and to appoint community members after the expression of interest process. The Panel normally meets on the third Thursday of each month. No matters are scheduled for the month of July 2021.

**RECOMMENDATION:**

That Council:

1. In accordance with the approval contained in the letter from the Minister for Planning and Public Spaces sent to Council on 13 May 2021, appoint David Ryan as Chair of the Hawkesbury Local Planning Panel until 29 February 2024 and appoint Louise Byrne and Stephen Leathley as alternate chairs until 29 February 2024.
2. Select the following expert representatives for appointment to the pool of expert members of the Hawkesbury Local Planning Panel until 29 February 2024:
  - Deborah Sutherland
  - Juliet Grant



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- John Brunton
  - Ian Stapleton
  - Wayne Carter
  - Ian Hunt
  - Elizabeth Kinkade.
3. Advise the Department of Planning, Industry and Environment of the appointments to the Hawkesbury Local Planning Panel.
  4. Recommence the process for seeking expressions of interest from the community for the role of community representatives on the Hawkesbury Local Planning Panel by placing at least two advertisements in local media publications for a period of not less than 28 days, as well as advertising through Council's website and social media.
  5. Delegate to the General Manager responsibility for arranging the recruitment and shortlisting of suitable community representatives in accordance with the requirements of the Local Planning Panels Fact Sheet "Panel member selection guide for councils" via an expression of interest.
  6. Receive a further report to consider the General Manager's recommendations and determine the pool of community representatives to be appointed.

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## BACKGROUND

### Hawkesbury Local Planning Panel Representation

The current members of the Hawkesbury Local Planning Panel established in 2018 are comprised of a Chair and two alternative Chairs, seven expert members from which two are chosen for each meeting and three community representatives from which one is chosen for each meeting. Members are rotated depending on their expertise, availability and to maintain gender balance.

Every three years the Chairs/alternate Chairs and independent expert members are recruited, selected, and approved by the Minister for Planning, Industry and Environment and are then appointed by Council.

The three year term of the current Panel expired on 28 March 2021, however on 30 March 2021 Council resolved to extend the tenure of the current members until 30 June 2021, pursuant to direction from the Planning Panels Secretariat.

By letter sent to Council on 13 May 2021, the Minister for Planning and Public Spaces advised Council of the approved Chair and alternate chairs for the Hawkesbury Local Planning Panel for the period 1 July 2021 to 29 February 2024. The Minister also advised of the list of approved experts from which Council is required to pick at least two experts.

Council is also required to recruit, select, and appoint community representatives. Community representatives are appointed to bring local knowledge and experience to the Hawkesbury Local Planning Panel. A pool of community representatives should be appointed to ensure that the panel can proceed in the event that a member may be unavailable for any reason, and also to enable the Chair to rotate members periodically.

The Council must seek expressions of interest from the community for the role of community representative on the Hawkesbury Local Planning Panel by placing at least two advertisements in local media publications for a period of not less than 28 days as well as advertising through Council's website, and social media.

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The selection criteria for community membership specified/recommended in the guidelines attached as Attachment 1 are as follows:

- Are current residents within the Local Government Area,
- Have an understanding of the Local Government Area and issues of concern to the local community,
- Have the capacity to form independent views and to contribute constructively to the determination of applications,
- Are able to demonstrate a basic level of understanding of the planning system, ie, knowledge of the council's local environmental plan, development control plan, local strategic planning instrument or community strategic plan,
- Are committed to:
  - following the Code of Conduct for Local Planning Panel Members and the Local Planning Panels Operational Procedures,
  - attending the Local Planning Panel meetings and completing Panel business in required timeframes.

Mayors, Councillors, property developers and real estate agents are not eligible for appointment to Local Planning Panels.

At its meeting on 11 May 2021 Council resolved in part to seek expressions of interest from the community for the role of community representatives on Council's Local Planning Panel by placing at least two advertisements in local media publications for a period of not less than 28 days, as well as advertising through Council's website and social media.

Council also resolved to delegate to the General Manager responsibility for arranging the recruitment and shortlisting of suitable community representatives.

Council sought expressions of interest from community members by placing two advertisements in local newspapers and advertising on Council's website and social media. However, responses were limited and addressed only some of the eligibility requirements.

#### Relevant Legislation

The Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

#### DISCUSSION

The following categories of applications are determined by the Hawkesbury Local Planning Panel as provided by Schedule 1 of the Ministerial Direction issued on 23 February 2018:

##### 1. Conflict of Interest

Development for which the applicant or landowner is:

- a) the council,
- b) a councillor,
- c) a member of council staff who is principally involved in the exercise of council's functions under the *Environmental Planning and Assessment Act 1979*,
- d) a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth), or
- e) a relative (within the meaning of the *Local Government Act 1993*) of a person referred to in (b) to (d).

but not development for the following purposes:

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- a) internal alterations and additions to any building that is not a heritage item,
- b) advertising signage,
- c) maintenance and restoration of a heritage item, or
- d) minor building structures projecting from the building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

#### 2. Contentious Development

Development that:

- a) in the case of a council having an approved submissions policy – is subject of the number of submissions set by that policy, or
- b) in any other case – is the subject of 10 or more unique submissions by way of objection.

#### 3. Departure from Development Standards

Development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

Note: If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the Panel can delegate these applications to council staff to determine.

#### 4. Sensitive Development

- a) Designated development
- b) Development to which *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies.
- c) Development involving the demolition of a heritage item,
- d) Development for the purposes of new licensed premises, that will require one of the following liquor licences:
  - (i) A club licence under the *Registered Clubs Act 1976*,
  - (ii) A hotel (general bar) licence under the *Liquor Act 2007*, or
  - (iii) An on-premises licence for public entertainment venues under the *Liquor Act 2007*.
- e) Development for the purposes of sex services premises and restricted premises.
- f) Development applications for which the developer has offered to enter into a planning agreement.

The remaining development applications are determined in accordance with Clause 4.5 of the Environmental Planning and Assessment Act 1979 generally either under delegated authority, or by the regional planning panel under Clause 4.7 of the Act.

#### Experts

The Minister for Planning and Public Spaces approved a list of independent, qualified persons from which expert members are to be chosen by those councils required to appoint experts to their Panels.

The list contains over 200 qualified persons who have successfully completed probity checks. The list indicates if they have expertise in one or more of the following 11 areas:

- Planning
- Architecture
- Heritage
- Environment
- Urban Design
- Economics

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- Traffic and Transport
- Law
- Engineering
- Tourism
- Government Administration

The list was reviewed. Of the total approved experts, 101 were listed as prepared to join the Hawkesbury Local Planning Panel. The review of the experts included ascertaining those who were on the current panel, knowledge of Council's planning instruments, the nominee's area of expertise in the context of the types of matters likely to be referred to the panel and also personal knowledge and experience with the individuals.

The panel member selection guide says that Council should select sufficient experts for appointment to ensure that Panel meetings can proceed in the event that a member may be unavailable for any reasons, and also to enable the Chair to rotate Panel members periodically.

It is considered that the expert panel members should have expertise that is relevant to the likely development proposals to be submitted in the Hawkesbury. These include, but are not limited to, the areas of heritage, architecture and urban design, environment, rural development and planning.

It is recommended that Council select seven experts. Whilst the Panel for a matter will include two expert members, appointing seven experts will provide Council with a pool members to utilise depending on the type of applications or planning proposals to be considered. Similarly the pool of seven would provide flexibility in the case that some representatives are not available to attend meetings or have a conflict of interest. The Director City Planning would discuss selection of the expert members for individual meetings with the Chair of the meeting.

Recommendations concerning experts have been made based securing a broad range of professional expertise, particularly in areas where Council has limited dedicated resources. Consideration has also been given to:

- The types of matters likely to be put before the Panel;
- The familiarity of current Panel members with the Local Government Area the relevant planning instruments
- Experience required of experts particularly in relation to heritage, architecture and urban design, environment, and planning and engineering.

In this regard the following experts are recommended to be selected for the pool of experts:

- John Brunton (Existing Panel member)
- Wayne Carter
- Juliet Grant (Existing Panel member)
- Ian Hunt
- Elizabeth Kinkade
- Ian Stapleton
- Deborah Sutherland (Existing Panel member)

Information about each of these experts is contained in Attachment 1 to this report.

### COMMUNITY ENGAGEMENT

The issues raised in this report relating to membership of the Hawkesbury Local Planning Panel concern matters which do not require additional community consultation under Council's Community Engagement Policy.

The expert Panel members have been selected from the list of nominations compiled by the Department of Planning, Industry and Environment for Panel expert members.

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**CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036**

The proposal is consistent with the following Focus Area, Direction and Strategy within the CSP.

Our Leadership

1.4 Reinforcing and establishing effective strategic partnerships – Build strong relationships and shared responsibilities.

1.4.1 Foster positive relationship with all tiers of government and peak bodies to ensure a thorough understanding of eth challenges and local requirements of the Hawkesbury.

**FINANCIAL IMPACT**

The operations of a Local Planning Panel are the responsibility, and at the expense of, each council. The Minister may make recommendations as to the remuneration for the Chair, experts, and community members. Council is responsible for the servicing of the Panel, e.g. assessment of applications by staff, all secretariat functions such as preparation of agendas, provision of premises to hold meetings, site inspections, notification of meetings to stakeholders and catering (if meetings are held in person).

The Hawkesbury Local Planning Panel meetings are held on the third Thursday of each month as required. The expenditure has been provided for in the 2020/2021 budget as well is in the 2021/2022 budget. The 2020/2021 Operational Plan includes an amount of \$51,025 however to date only \$1,012 has been expended. The Draft 2021/2022 Operational Plan includes an amount of \$30,000 for Hawkesbury Local Planning Panel meetings.

**FIT FOR THE FUTURE STRATEGY CONSIDERATIONS**

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications, outside of Council's adopted Long-Term Financial Plan.

**ATTACHMENTS:**

**AT - 1** Information concerning recommended experts for Hawkesbury Local Planning Panel.

**ORDINARY MEETING**

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**AT - 1 Information concerning recommended experts for Hawkesbury Local Planning Panel**

<b>Hawkesbury Local Planning Panel Expert Recommendations</b>			
<b>Name</b>	<b>Current Employment</b>	<b>Experience</b>	<b>Area(s) of Expertise</b>
John Brunton	Consultant Planner, John Brunton Planning	<ul style="list-style-type: none"> <li>• Experience across all areas of planning, heritage and urban design in the public and private sectors</li> <li>• Consultant Planner, John Brunton Planning (2013-present)</li> <li>• Director of Environmental Services and Environmental Operations Manager, Sutherland Shire Council (1995-1996)</li> <li>• City Strategist, Ryde City Council (1991-1995)</li> <li>• Deputy Chief Town Planner, Ryde Municipal Council (1986-1991)</li> <li>• Manager Planning Projects, Penrith City Council (1981-1986)</li> <li>• Heritage Planner, NSW Heritage Branch (1978-1981)</li> <li>• Planner, NSW Department of Planning (1975-1978)</li> <li>• Town Planning Cadet, NSW SPA &amp; PEC (1971-1975)</li> </ul>	Planning, Heritage, Urban Design and Government and Public Administration
Wayne Carter		<ul style="list-style-type: none"> <li>• 27 years experience in Executive Management and General Manager roles in Local and State Government in NSW</li> <li>• General Manager, Bankstown City Council</li> <li>• Executive Director City Assets and Operations, City of Parramatta (2019-2020)</li> <li>• General Manager, NSW Land and Housing Corp Projects Division (LAHC) (2013-2016)</li> <li>• General Manager, Resitech Division of Housing NSW (2005-2007)</li> </ul>	Urban Design, Traffic and Transport, Engineering and Government and Public Administration
Julie Grant	Executive Director and General Manager – Planning, City Plan	<ul style="list-style-type: none"> <li>• Experience in land economics, development feasibility and residential constructions economics. Current expertise in the development of affordable housing</li> <li>• Over 28 years experience in local and state government as well as the consulting environment</li> <li>• Executive Director and General Manager, City Plan Strategy and Development (2016-present)</li> <li>• Director, District Planning, NSW Department of Planning and Environment (2013-2015)</li> <li>• Regional Director, Sydney Region East, NSW Planning and Infrastructure (2011-2013)</li> <li>• Senior Manager, Centre for Transport Planning, Transport for NSW (2006-2011)</li> </ul>	Planning and Law

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Hawkesbury Local Planning Panel Expert Recommendations		
Name	Current Employment	Area(s) of Expertise
Ian Hunt	Member of Advisory Board, Sherpa Consulting	<p><b>Experience</b></p> <ul style="list-style-type: none"> <li>A senior business leader with 35 years experience in engineering and project management, including 25 years in senior executive and general management positions</li> <li>Member of Advisory Board, Sherpa Consulting (2020 to date)</li> <li>Chief Executive Officer and Director, Moorebank Intermodal Company Limited (2013-2018)</li> <li>Chief Executive Officer, Reliance Rail Pty Ltd (2011-2013)</li> <li>Chief Executive Officer and Director, Connector Motorways Pty Ltd (2004-2012)</li> <li>Project Director, State General Manager and Business Development Manager, Kellogg Brown &amp; Root (1995-2003)</li> <li>Regional General Manager and various design engineering roles, Maunsell Pty Ltd (now AECOM), (1983-1995)</li> <li>Graduate Engineer, Johns Perry (1981-1983)</li> </ul> <p><b>Area(s) of Expertise</b></p> <p>Traffic and Transport and Government and Public Administration</p>
Elizabeth Kinkade	Director, EK Strategy	<p><b>Experience</b></p> <ul style="list-style-type: none"> <li>A Town Planner with more than 26 years experience in Local and State Government covering regional strategic planning, development assessment, policy and legislative reform.</li> <li>Various senior executive leadership positions in the NSW State Government demonstrating communication, collaboration and the ability to act professionally and with integrity</li> <li>Senior Government experience in planning, policy, governance, strategy and plan making</li> <li>Strategic Project Manager, Blacktown City Council (2021)</li> <li>Executive Director, Land Use Strategy, Department of Planning, Industry &amp; Environment (2019)</li> <li>Executive Director, Housing &amp; Urban Renewal, Department of Planning &amp; Environment (2019)</li> <li>Executive Director, Energy Delivery and Co-ordination (2018)</li> <li>Executive Director, Housing &amp; Urban Renewal (2018)</li> <li>Executive Director, Planning Policy, Department of Planning &amp; Environment (2014-2018)</li> <li>Acting CEO, Greater Sydney Commission (2015-2016)</li> <li>Executive Director and Planning Policy Director, Department of Planning &amp; Infrastructure (2009-2014)</li> <li>Planning Policy Director, Growth Centres Commission (2007-2009)</li> <li>Regional Director, Department of Planning (2005-2007)</li> <li>Various roles in State and Local Government (1992-2005)</li> </ul> <p><b>Area(s) of Expertise</b></p> <p>Planning and Government and Public Administration</p>

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<b>Hawkesbury Local Planning Panel Expert Recommendations</b>		
<b>Name</b>	<b>Current Employment</b>	<b>Area(s) of Expertise</b>
Ian Stapleton	Lucas Stapleton Johnson and Partners Pty Ltd	<ul style="list-style-type: none"> <li>• Award winning architect with over 40 years of experience in architectural conservation</li> <li>• Director, Lucas Stapleton Johnson &amp; Partners Pty Ltd (2016-present)</li> <li>• Director Clive Lucas, Stapleton &amp; Partners Pty Ltd (1983-2016)</li> <li>• Associate Partner, Clive Lucas Pty Ltd (1981-1983)</li> <li>• Employee, Fisher Lucas Architects (1976-1981)</li> <li>• Employee, Sydney Government Architects Office (1976-1977)</li> </ul>
Deborah Sutherland	Director, DSA Planning	<ul style="list-style-type: none"> <li>• Highly experienced strategic land use planner with a strong statutory planning background who has worked on a diversity of projects across numerous industry sectors</li> <li>• Runs own planning and urban design company and also worked in a number of senior leadership roles.</li> <li>• The planner and author of a number of other significant strategic and statutory planning projects</li> <li>• Director, DSA Planning (2019-present)</li> <li>• Principal and Senior Planning Specialist, Cardno (2012-2019)</li> <li>• NSW Office Principal &amp; Planning Manager, PLACE Design Group (2009-2012)</li> <li>• Director &amp; Principal, S &amp; K Planning &amp; Urban Design Pty Ltd &amp; DSA Planning &amp; Design (2003-2009)</li> <li>• Principal Strategic &amp; Statutory Planning, Woods Bagot (2003)</li> <li>• Associate Manager Strategic &amp; Statutory Planning, Architectus (2000-2003)</li> <li>• Principal Planner, Geolink (1999-2000)</li> <li>• Senior Planner, JBA Urban Planning Consultants (1997-1999)</li> <li>• Consultant Planner, Self Employed (1994-1997)</li> <li>• Manager Strategic Planning Bankstown City Council (1993-1994)</li> <li>• Strategic Planner, Willoughby Council (1990-1993)</li> </ul>

oooO END OF REPORT Oooo



**ORDINARY MEETING**  
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**Meeting Date: 29 June 2021**

**Item: 121**                    **CP - NSW State Government Flood Prone Land Package - (95498, 124414)**

**Directorate:**            City Planning

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**PURPOSE OF THE REPORT:**

The purpose of this report is to provide:

- A summary of new legislation released by the NSW Government in relation to flooding which is set to commence on 14 July 2021
- A discussion of the implications of the new legislation, including:
  - the new mandatory Standard Instrument Clause 5.21 *Flood planning*
  - applying flood related development controls on land between the flood planning level and the Probable Maximum Flood for certain types of development
  - the impact of the commencement of the new legislation on current and future development applications.
- Consideration of the implications of adopting the new optional Standard Instrument Clause 5.22 *Special flood considerations*
- A recommendation to amend Council's Flood Policy 2020 to reflect the changes being made by the NSW Government to the Hawkesbury Local Environmental Plan 2012 flooding clause, and reflect minor changes that have been identified through the application of the policy since October 2020
- A recommendation to write to the Minister for Planning and Public Spaces to request that the commencement of new this legislation be deferred for councils in the Hawkesbury-Nepean Valley. Such a deferral is considered necessary until the Government's commitments and actions within the Resilient Valley, Resilient Communities— the Hawkesbury-Nepean Valley Flood Risk Management Strategy are completed, and evidence-based decisions about flood related development controls can inform legislative requirements.

**EXECUTIVE SUMMARY:**

On 14 May 2021, the following legislation was notified on the NSW Legislation website:

- Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021
- State Environmental Planning Policy Amendment (Flood Planning) 2021
- Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021.

This legislation commences on 14 July 2021, and will be supported at that time by:

- 'Considering flooding in land use planning' Guideline
- Planning Circular - Considering flooding in land use planning: guidance and statutory requirements
- A revised local planning direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.

Details of the Flood Prone Land Package were provided to NSW councils on 26 May 2021, and a webinar to explain changes to all NSW councils was held on 16 June 2021.

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The legislation will:

- Repeal existing Clause 6.3 of Hawkesbury Local Environmental Plan 2012 and replace it with the new compulsory Standard Instrument Clause 5.21 *Flood planning*.
- Introduce the new optional Standard Instrument Clause 5.22 *Special flood considerations*.
- Amend Clause 7A of Schedule 4 of the Environmental Planning and Assessment Regulation 2000 in relation to notations on Planning Certificates in relation to flood related development controls.
- Introduce the 'flood planning area' definition into Hawkesbury Local Environmental Plan 2012.
- Permit consideration of a different 'flood planning level', and therefore 'flood planning area', to the 1:100 ARI level through the floodplain risk management process. It also allows consideration of a range of different 'flood planning areas' based on land use types such as residential, industrial or commercial development.

Currently there are two flood projects being undertaken by Council:

1. Review of Hawkesbury Floodplain Risk Management Study and Plan 2012 (scheduled for completion in August 2022)
2. MacDonald River, Colo River, Webbs Creek and Greens Creek Flood Study and Floodplain Risk Management Study and Plan (scheduled for completion in December 2022).

It is considered that the outcome of the flood projects will inform Council on whether or not the inclusion of optional Clause 5.22 *Special flood considerations* into Hawkesbury Local Environmental Plan 2012 is warranted. As a result, it is recommended that Council not incorporate Clause 5.22 into Hawkesbury Local Environmental Plan 2012 at this time, and reconsider the matter following completion of the abovementioned Floodplain Risk Management Studies and Plans.

As a consequence of the new legislation, Council's Flood Policy 2020 and associated 'Schedule of Flood Related Development Controls' has been updated to reflect the changes made by the introduction of Clause 5.21 into Hawkesbury Local Environmental Plan 2012. In addition, the 'Schedule of Flood Related Development Controls' was also reviewed to identify any amendments required to improve its effectiveness and useability.

As detailed in the report, discussion with other councils within the Hawkesbury-Nepean Valley has highlighted common concerns with respect to the Flood Prone Land Package. As such, a recommendation has been included to seek a deferral of the Package within the Hawkesbury-Nepean Valley until the NSW Government has completed its commitments associated with the Resilient Valley, Resilient Communities—the Hawkesbury-Nepean Valley Flood Risk Management Strategy.

**RECOMMENDATION:**

That Council:

1. Note the changes to the legislation in relation to the Department of Planning, Industry and Environment's Flood Prone Land Package.
2. Advise the Department of Planning, Industry and Environment that Hawkesbury Council does not wish to opt in to including Clause 5.22 *Special flood considerations* into Hawkesbury Local Environmental Plan 2012 at this time, and will consider this further once Council has completed the Review of Hawkesbury Floodplain Risk Management Study and Plan 2012 and the MacDonald River, Colo River, Webbs Creek and Greens Creek Flood Study and Floodplain Risk Management Study and Plan.
3. Adopt the proposed amendments to the Flood Policy 2020 included as Attachment 7 to commence on 14 July 2021, being the date that the NSW Government's Flood Planning legislation comes into effect.

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4. Request that the Minister for Planning and Public Spaces defer the commencement of the new legislation for councils in the Hawkesbury-Nepean Valley until the Government's commitments and actions within the Resilient Valley, Resilient Communities— the Hawkesbury-Nepean Valley Flood Risk Management Strategy are completed, and evidence-based decisions about flood related development controls can inform legislative requirements.

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## BACKGROUND

### Existing Situation

#### ***Hawkesbury Local Environmental Plan 2012***

Clause 6.3 of Hawkesbury Local Environmental Plan 2012 provides the objectives, considerations and controls in relation to the development of land at or below the 'flood planning level'.

The 'flood planning level' is defined by Hawkesbury Local Environmental Plan 2012 to mean "*the level of a 1:100 ARI (average recurrent interval) flood event.*"

Note that 'Average Recurrent Interval' (ARI) is a measure of flood probability or chance of a flood occurring in any one year. A 1:100 ARI flood is a flood that occurs (or is exceeded) on average once every 100 years. It is also known as a 1% AEP flood.

Clause 6.3(3) prevents the granting of development consent unless the consent authority is satisfied that:

- A development is compatible with the flood hazard of the land
- A development will have no adverse impacts on flood behaviour
- Measures to manage risk to life are in place
- No adverse impacts on the environment will result
- No unsustainable social and economic cost to the community will result as a consequence of the proposed development.

Clause 6.3 of Hawkesbury Local Environmental Plan 2012 provides flood related development controls based on the 'flood planning level'. It is the model local provision clause developed for use in Standard Instrument Local Environmental Plans at the time that Hawkesbury Local Environmental Plan 2012 was compiled.

#### ***Planning Circular PS07-003 – New guideline and changes to section 117 direction and EP&A Regulation on flood prone land***

This Planning Circular, issued on 31 January 2007 provided advice on changes introduced, at that time, in relation to flood related development controls on residential land above the 1 in 100 year flood and up to the probable maximum flood.

The changes included amendment to the Environmental Planning and Assessment Regulation 2000 in relation to the provision of flood information on planning certificates, a revised ministerial direction regarding flood prone land, and the introduction of a new guideline concerning flood related development controls in low flood risk areas.

#### ***Guideline on Development Controls in Low Flood Risk Areas – Floodplain Development Manual***

The Guideline provides advice on appropriate flood related controls for residential and non-residential development in areas of flood prone land above the flood planning level for residential development (sometimes known as low risk areas).

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In particular, the guideline prevents Councils from applying flood related development controls for residential development on land above the 1 in 100 year flood level unless 'Exceptional Circumstances' has been granted by the Department of Planning, Industry and Environment.

For this reason, the 1 in 100 year flood level was adopted by Hawkesbury Local Environmental Plan 2012 as the flood planning level.

#### New Legislation

The Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021, State Environmental Planning Policy Amendment (Flood Planning) 2021, and Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 was notified on the NSW legislation website on 14 May 2021. This legislation will commence 14 July 2021.

The new legislation and supporting documents include:

- A new planning circular: 'Considering flooding in land use planning'
- A new guideline: 'Considering Flooding in Land Use Planning (2021)'
- An amendment to clause 7A of Schedule 4 to the Environmental Planning and Assessment Regulation 2000
- Two standard instrument local environmental plan clauses which introduce flood related development controls (one mandatory, and one optional)
- A State Environmental Planning Policy amendment to replace councils existing flood planning clause with the new mandatory standard instrument clause
- A revised local planning direction regarding flooding issued under section 9.1 of the Environmental Planning and Assessment Act 1979 (the Act).

Copies of the above listed documents are provided in Attachments 1 to 6.

In particular, the legislation:

- Introduces a new mandatory clause into Hawkesbury Local Environmental Plan 2012 that include considerations relating to:
  - compatibility of development with flood function and behaviour
  - efficient evacuation of people with particular reference to not exceeding the capacity of existing evacuation routes
  - the impact of development on projected changes to flood behaviour as a result of climate change
  - the potential to modify, relocate or remove buildings if the surrounding area is impacted by flooding.
- Introduces a new optional clause that:
  - when applied to sensitive and hazardous development permits flood related development controls to be applied on land between the 'flood planning area', and the Probable Maximum Flood, or
  - when applied to land that has a particular risk to life and requires evacuation or other safety considerations requires the consideration of matters relating to:
    - o safe occupation and efficient evacuation
    - o measure to manage risk to life
    - o impacts on the environment in the event of a flood.
- Will amend notations on Planning Certificates to reflect changes to the circumstances where flood related development controls can be applied for different types of development.

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Previously, Council considered a report at its Ordinary Meeting on 30 June 2020 with respect to a submission to the Draft Flood Prone Land Package. At that Meeting, Council resolved to provide a submission to the Department of Planning, Industry and Environment, which raised a number of matters, none of which would appear to have been addressed by the final Flood Prone Land Package.

In terms of flood planning, between Council and the NSW State Government there are numerous studies and proposals for changes to existing flood policies, as well as the introduction of new policies on a state, regional and local level, including:

#### *NSW State Government*

- Floodplain Development Manual (Under Review)
- NSW State Government Flood Prone Land Package of legislative amendments (This Package).

#### *Regional*

- Resilient Valley/Resilient Communities Regional Flood Strategy
- Regional Flood Study 2019
- New Regional Flood Study (2D) (Under Development)
- Strategic Land Use Framework for Hawkesbury Nepean Valley (Under Development since 2017)
- Strategic Road Planning – Flood Evacuation (Under Development since 2017).

#### *Hawkesbury City Council*

- Hawkesbury Floodplain Risk Management Study and Plan 2012 (Under Review)
- Macdonald River, Colo River, Webbs Creek, Greens Creek Flood Study and Floodplain Risk Management Study and Plan (Under Development)
- Hawkesbury Local Environmental Plan 2012 (Under Review)
- Hawkesbury Development Control Plan 2002 – Flood Chapter (Under Development)
- Flood Policy 2020 (adopted 27 October 2020, but requires review as a consequence of this new legislation).

The relationship between the work being undertaken at State, Regional and Local levels is shown in Figure 1 below. Figure 1 highlights the complexity of flood planning, and that it will take a considerable period of time for the various State and Regional components to be finalised and aligned. Once this has occurred, local planning provisions associated with flood planning can be fully aligned.

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	<b>FLOOD STUDIES AND STRATEGIES</b>	<b>Informs ⇒</b>	<b>LAND USE PLANNING</b>
<b>STATE</b>	Floodplain Development Manual <b>(Under Review)</b>	<b>Informs ⇒</b>	Flood Package of Amendments <b>(This Package)</b>
	<b>Informs ⇓</b>		
<b>REGIONAL</b>	Resilient Valley/Resilient Communities Regional Flood Strategy  Regional Flood Study 2019  New Regional Flood Study (2D) <b>(Under Development)</b>	<b>Informs ⇒</b>	Strategic Land Use Framework <b>(Under Development)</b>  Strategic Road Planning (Evacuation) <b>(Under Development)</b>
	<b>Informs ⇓</b>		
<b>LOCAL</b>	Hawkesbury Floodplain Risk Management Study and Plan 2012 <b>(Under Review)</b>  Macdonald River and Colo River Flood Study and Floodplain Risk Management Study and Plan <b>(Under Development)</b>	<b>Informs ⇒</b>	Hawkesbury Local Environmental Plan 2012 <b>(Under Review)</b>  Hawkesbury Development Control Plan <b>(Under Development - New Flood Chapter)</b>  Flood Policy 2020 <b>(Adopted, but requires amendment)</b>

**Figure 1 – Elements of Flood Planning in the Hawkesbury Nepean Valley**

**Relevant Legislation**

The Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 will introduce a new flood clause on 14 July 2021. New Clause 5.21 will be compulsory and will be automatically incorporated into Hawkesbury Local Environmental Plan 2012 at that time by the Department of Planning, Industry and Environment.

Clause 5.21 will read:

**5.21 Flood planning**

- (1) *The objectives of this clause are as follows –*
- (a) *to minimise the flood risk to life and property associated with the use of land,*
  - (b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
  - (c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*

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- (d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*
- (2) *Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development –*
- *is compatible with the flood function and behaviour on the land, and*
  - *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
  - *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
  - *incorporates appropriate measures to manage risk to life in the event of a flood, and*
  - *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*
- (3) *In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters –*
- *the impact of the development on projected changes to flood behaviour as a result of climate change,*
  - *the intended design and scale of buildings resulting from the development,*
  - *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
  - *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*
- (4) *A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.*
- (5) *In this clause –*

**Considering Flooding in Land Use Planning Guideline** means the Considering Flooding in Land Use Planning Guideline published on the Department's website on 14 July 2021.

**Flood planning area** has the same meaning as it has in the Floodplain Development Manual.

**Floodplain Development Manual** means the floodplain Development Manual (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

The Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 also introduces a new optional Clause that councils can opt to incorporate into their local environmental plans now or in the future. Optional Clause 5.22 states:

**5.22 Special flood considerations**

- (1) *The objectives of this clause area as follows –*
- (a) *to enable the safe occupation and evacuation of people subject to flooding,*
  - (b) *to ensure development on land is compatible with the land's flood behaviour in the event of a flood,*
  - (c) *to avoid adverse or cumulative impacts on flood behaviour,*
  - (d) *to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,*
  - (e) *to avoid adverse effect of hazardous development on the environment during flood events.*

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- (2) *This clause applies to –*
- (a) *For sensitive and hazardous development – land between the flood planning area and the probable maximum flood, and*
  - (b) *For development that is not sensitive and hazardous development – land the consent authority considers to be land that, in the event of a flood, may –*
    - (i) *cause a particular risk to life, and*
    - (ii) *require the evacuation of people or other safety consideration.*
- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development –*
- (a) *will not affect the safe occupation and efficient evacuation of people in the event of a flood, and*
  - (b) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
  - (c) *will not adversely affect the environment in the event of a flood.*
- (4) *A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.*
- (5) *In this clause –*

**Considering Flooding in Land Use Planning Guideline** - see clause 5.21(5).

**Flood planning area** – see clause 5.21(5).

**Floodplain Development Manual** – see clause 5.21(5).

**Probable maximum flood** has the same meaning as it has in the Floodplain Development Manual.

**Sensitive and hazardous development** means development for the following purposes –

- (a) *[list land uses]*

**Direction**– Only the following land uses are permitted to be included in the list –

- (a) *boarding house,*
- (b) *caravan parks,*
- (c) *correctional centres,*
- (d) *early education and care facilities,*
- (e) *eco-tourist facilities,*
- (f) *educational establishments,*
- (g) *emergency services facilities,*
- (h) *group homes,*
- (i) *hazardous industries,*
- (j) *hazardous storage establishments*
- (k) *hospitals,*
- (l) *hostels,*
- (m) *information and education facilities,*
- (n) *respite day care centres,*
- (o) *seniors housing,*
- (p) *sewerage systems,*
- (q) *tourist and visitor accommodation,*
- (r) *water supply systems.*

The Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021 amends Schedule 4 of the Environmental Planning and Assessment Regulation 2000 in relation to the information



required to be provided in Planning Certificates in relation to flooding. In this regard Clause 7A of Schedule 4 will be amended to require the following to be disclosed on Planning Certificates:

**7A Flood related development controls**

1. *If the land or part of the land or part of the land is within the flood planning area and subject to flood related development controls.*
2. *If the land or part of the land is between the flood planning area and the probable maximum flood and subject to flood related development controls.*

**DISCUSSION**

**Clause 5.21 – Flood Planning**

From 14 July 2021, existing Clause 6.3 – *Flood planning* of Hawkesbury Local Environmental Plan 2012 will be repealed and replaced by the new compulsory Standard Instrument Clause 5.21 *Flood planning*.

Clause 5.21 is mandatory and will be automatically placed into all councils local environmental plans by the NSW Government on 14 July 2021. All NSW councils existing flood planning clause will also be revoked at this time through the commencement of State Environmental Planning Policy Amendment (Flood Planning) 2021.

Clause 5.21 will introduce a new concept/term into Hawkesbury Local Environmental Plan 2012 – the ‘flood planning area’. ‘Flood planning area’ is defined by the *Floodplain Development Manual* to mean “*the area of land below the FPL (flood planning level) and thus subject to flood related development controls.*” As a consequence of the introduction of this clause, flood related development controls will now be applied to land located within the ‘flood planning area’.

Presently, Hawkesbury Local Environmental Plan 2012 nominates the ‘flood planning level’ as the “*level of a 1:100 ARI (average recurrent interval) flood event.*” It is intended that this current flood planning level will be retained for the present, pending further consideration through the completion of floodplain risk management studies and plans.

The NSW Government Floodplain Development Manual identifies the 1% AEP flood event (also known as the 1:100 ARI flood event), or an equivalent historic flood, as an appropriate starting point for determining the Flood Planning Level.

The new legislation permits consideration of a different ‘flood planning level’, and therefore ‘flood planning area’, to the 1% AEP flood level. The Department of Planning, Industry and Environment advises that alternative flood planning levels and areas are to be determined through the completion of floodplain risk management studies and plan. The new legislation also allows consideration of a range of different ‘flood planning areas’ based on land use types such as residential, industrial or commercial development. Council can then have a range of development controls to suit the flood constraints of different areas and different types of development.

The Department of Planning, Industry and Environment advises that councils should define their flood planning areas and flood planning levels in their development control plans and outline if there are multiple flood planning areas and flood planning levels in their local government area and where they apply.

It should be noted that, at present, Council does not have a Chapter within the Hawkesbury Development Control Plan relating to the management of development on flood prone land. The Flood Policy 2020 provides Council’s current flood related development controls in order to provide guidance, transparency and ensure consistency of outcomes in applying clause 6.3 Flood planning of the Hawkesbury Local Environmental Plan 2012.

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The Department of Planning, Industry and Environment advises that mapping of the flood planning area is preferred but the clause can still apply to areas that are not mapped - i.e. to the area below the flood planning level.

There will be areas within the Hawkesbury Local Government Area where it is known to flood, but where the flood planning level (1% AEP level) has not been quantified. These areas will not be able to be included in any mapping of the 'flood planning area', until such time as flood studies can be undertaken to determine the flood planning level. As a consequence the accuracy of any 'flood planning area' map created will be compromised. If used publicly, such an incomplete map could be misleading. For this reason, it is considered that the definition of the 'flood planning area' be used in Council's Flood Policy 2020 and associated 'Schedule of Flood Related Development Controls', rather than depicting this area through mapping.

New Clause 5.21 includes considerations relating to:

- Compatibility of development with flood function and behaviour
- Efficient evacuation of people with particular reference to not exceeding the capacity of existing evacuation routes
- The impact of development on projected changes to flood behaviour as a result of climate change
- The potential to modify, relocate or remove buildings if the surrounding area is impacted by flooding.

Of particular concern, the proposed new mandatory clause (Clause 5.21 *Flood planning*) introduces a requirement for Council to consider the evacuation capacity of existing evacuation routes, and the impacts of a development on projected changes to flood behaviour as a result of climate change.

It is considered that councils are not the authority with the power or responsibility for evacuation, and therefore it is not a council's role to determine evacuation capacity.

Council has not been formally (or informally) advised of the evacuation capacity of the region based on State Emergency Services capabilities or the capacity of roads/evacuation routes. In addition, Council has not undertaken such investigations to date.

It is noted that in the NSW Government's Hawkesbury-Nepean Valley Flood Risk Management Strategy 'Resilient Valley, Resilient Communities' the following evacuation constraints have been highlighted:

- There is not enough road capacity to safely evacuate the whole population on time
- There are multiple communities relying on common, constrained and congested road links for evacuation
- Key evacuation routes become flooded at low points long before population centres are inundated creating flood islands
- The Bureau of Meteorology has advised they can provide up to 15 hour flood level predictions for large flood events; however the State Emergency Services needs more than 15 hours.

In the absence of information in relation to evacuation capacity or projected changes to flood behaviour as a result of climate change, concern is raised that Council may have no option other than to refuse all applications on land within the Flood Planning Area, unless a proponent undertakes detailed analysis of flood evacuation capacity in order to demonstrate that capability or capacity is available.

#### **Clause 5.22 – Special flood considerations**

Clause 5.22 *Special flood considerations* is an optional clause that:

- when applied to sensitive and hazardous development, permits flood related development controls to be applied on land between the 'flood planning area' and the Probable Maximum Flood; or

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- when applied to land that has a particular risk to life and requires evacuation or other safety considerations, requires the consideration of matters relating to:
  - safe occupation and efficient evacuation;
  - measure to manage risk to life; and
  - impacts on the environment in the event of a flood.

The 'special flood consideration' clause is optional, and councils have been asked if they wish to opt into this clause. For those council's that 'opt in', the Department of Planning, Industry and Environment will amend participating local environmental plans through an amending State Environmental Planning Policy. Council has until 30 June 2021 in which to opt into incorporating the new clause.

It should be noted that Council can incorporate Clause 5.22 *Special flood considerations* into the Hawkesbury Local Environmental Plan 2012 through an amending local environmental plan if deemed necessary at any time in the future.

Currently there are two flood projects being undertaken by Council:

1. Review of Hawkesbury Floodplain Risk Management Study and Plan 2012 (scheduled for completion August 2022)
2. MacDonal River, Colo River, Webbs Creek and Greens Creek Flood Study and Floodplain Risk Management Study and Plan (scheduled for completion December 2022).

It is considered that the outcome of the flood projects will inform Council on whether or not the inclusion of optional Clause 5.22 into Hawkesbury Local Environmental Plan 2012 is warranted, and if so, under what circumstances and what controls should apply. As a result, it is recommended that Council not incorporate Clause 5.22 into Hawkesbury Local Environmental Plan 2012 at this time, and reconsider the matter following completion of the abovementioned Floodplain Risk Management Studies and Plans.

#### **Planning Certificates**

The new legislation includes amendments to Schedule 4 of the Environmental Planning and Assessment Regulation 2000 in respect to the information required to be provided on Planning Certificates issued under Section 10.7(2) of the Environmental Planning and Assessment Act 1979.

These amendments relate to the circumstances where flood related development controls can be applied for different types of development, and reflect the changes introduced by the new local environmental plan clauses (Clauses 5.21 and 5.22).

There will be situations where it is unknown as to whether a particular property is affected by the flood planning level, and therefore subject to flood related development controls. Planning circular – Considering flooding in land use planning: guidance and statutory requirements advises:

*"If councils do not have this information, then an 'unknown' response should be provided in the planning certificate until such time as the information is made available to councils and councils have updated its flood-related development controls.*

*Unmapped locations may also be subject to flood related development controls and these areas should be noted in the planning certificate."*

#### **Hawkesbury City Council Flood Policy 2020**

As a consequence of the new legislation released by the NSW Government, Council's Flood Policy 2020 and associated 'Schedule of Flood Related Development Controls' has been updated to reflect the changes made by the introduction of Clause 5.21 into Hawkesbury Local Environmental Plan 2012.

The Flood Policy 2020 was adopted at Council's Ordinary Meeting held on 27 October 2020. Recently, Council Officers have also undertaken a review of the 'Schedule of Flood Related Development Controls' in order to gauge its effectiveness and useability. As a result of this review, a number of changes have

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been made to the Schedule to make the controls easier to understand or to introduce additional controls where there were gaps.

The amended Flood Policy and 'Schedule of Flood Related Development Controls' are provided in Attachments 7 and 8 to this Report.

The key changes to the Policy and associated Schedule include:

- Amendments as a consequence of the upcoming changes to Hawkesbury Local Environmental Plan 2012 flood clause, such as clause number, reference to flood planning area and definitions;
- An explanation within the Policy and Schedule of how the flood related development controls, which are linked to the hazard category of land, also relate to the compatibility of development with flood function and behaviour of land to satisfy the requirements of the new legislation;
- An explanation within the Schedule of flood risk, hydraulic classification and compatibility with flood function and behaviour to satisfy the requirements of the new legislation;
- Rewording of controls to provide improved clarity;
- Rewording and introduction of controls to more clearly distinguish between the requirements for buildings and ancillary buildings and structures (such as garages, carports, other outbuildings, fences, swimming pools, dams, uncovered horse arena);
- Clarification that an Evacuation Capability Assessment is required for all new development or the intensification of occupancy of a site for both compatible and incompatible development;
- Rewording of controls relating to the importation of fill to land to clarify that fill can be brought to site to facilitate development for the purposes of environmental protection works, bank restoration/stabilisation works or boat ramps;
- The introduction of controls clarifying that farm buildings and other buildings ancillary to agriculture can be located on land located more than 3 metres below the Flood Planning Level subject to meeting other requirements of the Schedule. This control only applies to Hazard Categories H5 and H6, and aims to support the agricultural use of land.

Prior to its adoption by Council, the Flood Policy was exhibited between 31 August 2020 to 28 September 2020. The Community Participation Plan stipulates that the exhibition timeframe for a policy is 28 days, however the Plan does not specify if or when a policy should be notified.

It is considered that the exhibition of the amended Flood Policy is not warranted in this instance given that the amendments proposed to the Policy are a consequence of changes in the legislation or are generally matters relating to the interpretation, understanding and clarification of flood related development controls. In addition, Council has been provided with a very short timeframe in which to update its policies, processes and procedures in order to implement the new requirements starting on 14 July 2021. To not have a Flood Policy/planning controls that are aligned with new legislation is considered to represent significant risk.

#### **Impact on Existing and Future Development Applications**

The changes to local environmental plan flood clauses and flood notations on planning certificates will apply from 14 July 2021. However, the requirements of new Clauses 5.21 and 5.22 will not apply to or in respect of any development application that was made, but not determined before the commencement of the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 (i.e. 14 July 2021) in accordance with Cause 8 of the Standard Instrument (Local Environmental Plans) Order 2006.

The Flood Policy 2020 was prepared to provide up-to-date and relevant, best practice controls to meet the requirements of the current Clause 6.3 – *Flood planning of Hawkesbury Local Environmental Plan 2012*, and to clearly express how a proposed development's suitability is assessed in relation to the impacts of flooding. The Policy formalised existing practices in the assessment of development applications against Clause 6.3, thereby also making this process transparent to the public. In this regard it was not considered necessary that the Policy include saving or transitional provisions for existing development applications.

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The controls within the 'Schedule of Flood Related Development Controls' are based on the Hazard Category/s in which a development will be situated. Whilst the development controls are linked to the Hazard Category/s, the controls have also been developed taking into consideration flood function (floodway or flood storage), the vulnerability of land use types, density/scale of a development, design and structure of a building, likely evacuation constraints and measures that can be implemented to minimise risk to life and flood damages. In this regard, the methodology in developing the flood related development controls is still relevant, and means that the existing controls will generally satisfy all of the considerations of new Clause 5.21.

However, as discussed previously in this Report, new Clause 5.21 requires Council to be satisfied of the efficient evacuation of people with particular reference to not exceeding the capacity of existing evacuation routes. In addition, Council also needs to consider the impact of development on projected changes to flood behaviour as a result of climate change.

At present, Council does not have information in relation to evacuation capacity or projected changes to flood behaviour as a result of climate change. Therefore concern is raised that Council may have no option other than to refuse all applications on land within the Flood Planning Area, unless a proponent undertakes detailed analysis of flood evacuation capacity and climate change impacts.

Given these significant concerns, and based on discussion with other councils in the Hawkesbury-Nepean Valley, a recommendation has also been included to write to the Minister for Planning and Public Spaces to request that the commencement of new this legislation be deferred for councils in the Hawkesbury-Nepean Valley. Such a deferral is considered necessary until the Government's commitments and actions within the Resilient Valley, Resilient Communities— the Hawkesbury-Nepean Valley Flood Risk Management Strategy are completed, and evidence-based decisions about flood related development controls can inform legislative requirements.

The actions that need to be completed to enable councils to address specific provisions in the new legislation, are in part identified by "Outcomes 3 and 4" in the Strategy and include:

- a. The Regional Land Use Planning Framework (to be completed by the Department of Planning, Industry and Environment and Infrastructure NSW) will, among other matters, consider the existing and future planned population to determine the risk to life and evacuation capacity.
- b. Develop a fit for purpose regional evacuation model that identifies evacuation capacity constraints for different areas in the Valley (to be prepared by Transport for NSW). It is noted that the Flood Evacuation Model (FEM2) is currently being undertaken by the State Emergency Services (SES). A Geographical Information Services (GIS) layer will be required by councils to assess any proposal as required by the proposed changes.
- c. Undertake a contemporary regional flood study to identify the current flood hazards from riverine flooding based on a new fit for purpose and accessible regional flood model (to be prepared by Hawkesbury-Nepean Valley Flood Risk Management Directorate).
- d. Review of the NSW Floodplain Development Manual (to be undertaken by the Department of Planning, Industry and Environment).

### COMMUNITY ENGAGEMENT

This matter relates primarily to new legislation introduced by the NSW Government.

As discussed in the report, it is considered that the exhibition of the amended Flood Policy is not warranted in this instance given that the amendments proposed to the Policy are a consequence of changes in the legislation by the NSW Government, or are generally matters relating to the interpretation, understanding and clarification of the Policy and the 'Schedule of Flood Related Development Controls'.

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**CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036**

The proposal is consistent with the following Focus Area, Direction and Strategies within the CSP.

Our Leadership

- 1.5 Regulation and Compliance – Encourage a shared responsibility for effective local compliance.
  - 1.5.1 Undertake Council initiatives within a clear and fair framework of strategic planning, policies, procedures and service standards as required under all regulatory frameworks.
  - 1.5.2 Best practice, sustainability principles, accountability and good governance are incorporated in all activities undertaken by Council.

**FINANCIAL IMPACT**

The commencement of new legislation could have a potential impact on the number of Development Applications made and therefore could have an impact on development assessment income as a consequence.

**FIT FOR THE FUTURE STRATEGY CONSIDERATIONS**

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal has no resourcing implications outside of Council's adopted 2020/2021 Operational Plan, which will adversely impact on Council's financial sustainability.

**ATTACHMENTS:**

- AT - 1** Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021.
- AT - 2** State Environmental Planning Policy Amendment (Flood Planning) 2021.
- AT - 3** Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021.
- AT - 4** 'Considering flooding in land use planning' Guideline - *(Distributed under separate cover)*.
- AT - 5** Planning circular – Considering flooding in land use planning: guidance and statutory requirements.
- AT - 6** Revised local planning direction under Section 9.1 of the Environmental Planning and Assessment Act 1979.
- AT - 7** Flood Policy 2020, Version 2, dated June 2021 - *(Distributed under separate cover)*.
- AT - 8** Schedule of Flood Related Development Controls, Version 2, dated June 2021 - *(Distributed under separate cover)*.

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

**AT - 1 Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021**



New South Wales

**Environmental Planning and Assessment  
Amendment (Flood Planning) Regulation  
2021**

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

ROB STOKES, MP  
Minister for Planning and Public Spaces

**Explanatory note**

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000* to require a planning certificate to specify whether the land or part of the land to which it relates is within the flood planning area, or between the flood planning area and the probable maximum flood, and subject to flood related development controls.

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Published LW 14 May 2021 (2021 No 219)

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021 [NSW]

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**Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021**

under the

Environmental Planning and Assessment Act 1979

**1 Name of Regulation**

This Regulation is the *Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021*.

**2 Commencement**

This Regulation commences on 14 July 2021 and is required to be published on the NSW legislation website.

**3 Amendment of Environmental Planning and Assessment Regulation 2000**

**Schedule 4 Planning certificates**

Omit clause 7A. Insert instead—

**7A Flood related development controls**

- (1) If the land or part of the land is within the flood planning area and subject to flood related development controls.
- (2) If the land or part of the land is between the flood planning area and the probable maximum flood and subject to flood related development controls.
- (3) In this clause—

*flood planning area* has the same meaning as in the Floodplain Development Manual.

*Floodplain Development Manual* means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

*probable maximum flood* has the same meaning as in the Floodplain Development Manual.



ORDINARY MEETING

SECTION 3 – Reports for Determination

Meeting Date: 29 June 2021

**AT - 2 State Environmental Planning Policy Amendment (Flood Planning) 2021**



New South Wales

**State Environmental Planning Policy  
Amendment (Flood Planning) 2021**

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

Minister for Planning and Public Spaces

Not for distribution

e2021-058.d07

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]

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**State Environmental Planning Policy Amendment (Flood Planning) 2021**

under the

Environmental Planning and Assessment Act 1979

**1 Name of Policy**

This Policy is *State Environmental Planning Policy Amendment (Flood Planning) 2021*.

**2 Commencement**

This Policy commences on 14 July 2021 and is required to be published on the NSW legislation website.

**3 Repeal of Policy**

This Policy is repealed on the day following the day on which this Policy commences.

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Page 2

**ORDINARY MEETING**

**SECTION 3 – Reports for Determination**

**Meeting Date: 29 June 2021**

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]  
 Schedule 1 Amendments consequent on the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021

**Schedule 1 Amendments consequent on the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021**

**Repeal of flood planning clauses**

The following provisions are repealed—

<b>Plan</b>	<b>Provisions repealed</b>
<i>Albury Local Environmental Plan 2010</i>	7.4
<i>Armidale Dumaresq Local Environmental Plan 2012</i>	6.2
<i>Ashfield Local Environmental Plan 2013</i>	6.2
<i>Auburn Local Environmental Plan 2010</i>	6.3
<i>Ballina Local Environmental Plan 2012</i>	7.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Balranald Local Environmental Plan 2010</i>	6.4
<i>Bankstown Local Environmental Plan 2015</i>	6.3
<i>Bathurst Regional Local Environmental Plan 2014</i>	7.1
<i>Bega Valley Local Environmental Plan 2013</i>	6.3
<i>Bellingen Local Environmental Plan 2010</i>	7.3
<i>Berrigan Local Environmental Plan 2015</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Blacktown Local Environmental Plan 2015</i>	7.1
<i>Bland Local Environmental Plan 2011</i>	6.7
<i>Blayney Local Environmental Plan 2012</i>	6.1, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Blue Mountains Local Environmental Plan 2015</i>	6.10
<i>Bogan Local Environmental Plan 2011</i>	7.2
<i>Bombala Local Environmental Plan 2012</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Boorowa Local Environmental Plan 2012</i>	6.2
<i>Bourke Local Environmental Plan 2012</i>	6.2
<i>Brewarrina Local Environmental Plan 2012</i>	6.2
<i>Burwood Local Environmental Plan 2012</i>	6.2
<i>Byron Local Environmental Plan 2014</i>	6.3
<i>Cabonne Local Environmental Plan 2012</i>	6.1, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Camden Local Environmental Plan 2010</i>	7.1
<i>Campbelltown Local Environmental Plan 2015</i>	7.2
<i>Canada Bay Local Environmental Plan 2013</i>	6.8, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Canterbury Local Environmental Plan 2012</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]  
 Schedule 1 Amendments consequent on the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021

<b>Plan</b>	<b>Provisions repealed</b>
<i>Carrathool Local Environmental Plan 2012</i>	6.2
<i>Central Darling Local Environmental Plan 2012</i>	6.2
<i>Cessnock Local Environmental Plan 2011</i>	7.3
<i>Clarence Valley Local Environmental Plan 2011</i>	7.3
<i>Cobar Local Environmental Plan 2012</i>	6.2
<i>Coffs Harbour Local Environmental Plan 2013</i>	7.3
<i>Conargo Local Environmental Plan 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Coolamon Local Environmental Plan 2011</i>	6.5
<i>Cooma-Monaro Local Environmental Plan 2013</i>	6.2
<i>Coonamble Local Environmental Plan 2011</i>	6.6
<i>Cootamundra Local Environmental Plan 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Corowa Local Environmental Plan 2012</i>	7.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Cowra Local Environmental Plan 2012</i>	7.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Deniliquin Local Environmental Plan 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Dubbo Local Environmental Plan 2011</i>	7.1
<i>Dungog Local Environmental Plan 2014</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Eurobodalla Local Environmental Plan 2012</i>	6.5
<i>Fairfield Local Environmental Plan 2013</i>	6.3
<i>Forbes Local Environmental Plan 2013</i>	7.2
<i>Gilgandra Local Environmental Plan 2011</i>	7.5, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Glen Innes Severn Local Environmental Plan 2012</i>	7.1
<i>Gloucester Local Environmental Plan 2010</i>	6.1
<i>Gosford Local Environmental Plan 2014</i>	7.2
<i>Goulburn Mulwaree Local Environmental Plan 2009</i>	7.1, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Great Lakes Local Environmental Plan 2014</i>	7.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Greater Hume Local Environmental Plan 2012</i>	6.1A
<i>Greater Taree Local Environmental Plan 2010</i>	7.2
<i>Griffith Local Environmental Plan 2014</i>	7.2
<i>Gundagai Local Environmental Plan 2011</i>	6.4
<i>Gunnedah Local Environmental Plan 2012</i>	6.1, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Guyra Local Environmental Plan 2012</i>	6.2

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]  
 Schedule 1 Amendments consequent on the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021

<b>Plan</b>	<b>Provisions repealed</b>
<i>Gwydir Local Environmental Plan 2013</i>	6.2
<i>Harden Local Environmental Plan 2011</i>	6.5
<i>Hawkesbury Local Environmental Plan 2012</i>	6.3
<i>Hay Local Environmental Plan 2011</i>	6.8
<i>Holroyd Local Environmental Plan 2013</i>	6.4
<i>Hornsby Local Environmental Plan 2013</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Inverell Local Environmental Plan 2012</i>	6.2
<i>Jerilderie Local Environmental Plan 2012</i>	6.2
<i>Junee Local Environmental Plan 2012</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Kempsey Local Environmental Plan 2013</i>	7.3
<i>Kiama Local Environmental Plan 2011</i>	6.3
<i>Kogarah Local Environmental Plan 2012</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Kyogle Local Environmental Plan 2012</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Lachlan Local Environmental Plan 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Lake Macquarie Local Environmental Plan 2014</i>	7.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Leeton Local Environmental Plan 2014</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Leichhardt Local Environmental Plan 2013</i>	6.3
<i>Lismore Local Environmental Plan 2012</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Lithgow Local Environmental Plan 2014</i>	7.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Liverpool Local Environmental Plan 2008</i>	7.8
<i>Liverpool Plains Local Environmental Plan 2011</i>	7.2
<i>Lockhart Local Environmental Plan 2012</i>	6.1
<i>Maitland Local Environmental Plan 2011</i>	7.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Manly Local Environmental Plan 2013</i>	6.3
<i>Marrickville Local Environmental Plan 2011</i>	6.3
<i>Mid-Western Regional Local Environmental Plan 2012</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Moree Plains Local Environmental Plan 2011</i>	7.6
<i>Murray Local Environmental Plan 2011</i>	7.8, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Murrumbidgee Local Environmental Plan 2013</i>	6.2
<i>Nambucca Local Environmental Plan 2010</i>	7.3

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]  
 Schedule 1 Amendments consequent on the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021

<b>Plan</b>	<b>Provisions repealed</b>
<i>Narrabri Local Environmental Plan 2012</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Narrandera Local Environmental Plan 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Narromine Local Environmental Plan 2011</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Oberon Local Environmental Plan 2013</i>	6.2
<i>Orange Local Environmental Plan 2011</i>	7.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Palerang Local Environmental Plan 2014</i>	6.2
<i>Parramatta (former The Hills) Local Environmental Plan 2012</i>	7.3
<i>Parramatta Local Environmental Plan 2011</i>	6.3
<i>Penrith Local Environmental Plan 2010</i>	7.2
<i>Pittwater Local Environmental Plan 2014</i>	7.3
<i>Port Macquarie-Hastings Local Environmental Plan 2011</i>	7.3
<i>Port Stephens Local Environmental Plan 2013</i>	7.3
<i>Queanbeyan Local Environmental Plan 2012</i>	7.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Queanbeyan Local Environmental Plan (West Jerrabomberra) 2013</i>	6.8
<i>Randwick Local Environmental Plan 2012</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Richmond Valley Local Environmental Plan 2012</i>	6.5
<i>Rockdale Local Environmental Plan 2011</i>	6.6
<i>Ryde Local Environmental Plan 2014</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Shellharbour Local Environmental Plan 2013</i>	6.3
<i>Shoalhaven Local Environmental Plan 2014</i>	7.3
<i>Singleton Local Environmental Plan 2013</i>	7.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Snowy River Local Environmental Plan 2013</i>	7.1
<i>Strathfield Local Environmental Plan 2012</i>	6.3
<i>Sutherland Shire Local Environmental Plan 2015</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Sydney Local Environmental Plan 2012</i>	7.15
<i>Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011</i>	6.2
<i>Sydney Local Environmental Plan (Green Square Town Centre) 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Sydney Local Environmental Plan (Harold Park) 2011</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]  
 Schedule 1 Amendments consequent on the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021

<b>Plan</b>	<b>Provisions repealed</b>
<i>Tamworth Regional Local Environmental Plan 2010</i>	7.2
<i>Temora Local Environmental Plan 2010</i>	6.6, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Tenterfield Local Environmental Plan 2013</i>	6.2
<i>The Hills Local Environmental Plan 2019</i>	7.3
<i>Tumbarumba Local Environmental Plan 2010</i>	6.1
<i>Tumut Local Environmental Plan 2012</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Tweed City Centre Local Environmental Plan 2012</i>	6.2
<i>Tweed Local Environmental Plan 2014</i>	7.3
<i>Upper Hunter Local Environmental Plan 2013</i>	6.2
<i>Upper Lachlan Local Environmental Plan 2010</i>	6.1, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Uralla Local Environmental Plan 2012</i>	6.2
<i>Urana Local Environmental Plan 2011</i>	6.5, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Wagga Wagga Local Environmental Plan 2010</i>	7.2
<i>Wakool Local Environmental Plan 2013</i>	6.2
<i>Walcha Local Environmental Plan 2012</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Walgett Local Environmental Plan 2013</i>	6.2
<i>Warren Local Environmental Plan 2012</i>	6.2
<i>Warringah Local Environmental Plan 2011</i>	6.3
<i>Warrumbungle Local Environmental Plan 2013</i>	6.2, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Waverley Local Environmental Plan 2012</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Weddin Local Environmental Plan 2011</i>	6.5, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Wellington Local Environmental Plan 2012</i>	6.1, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Wentworth Local Environmental Plan 2011</i>	7.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Willoughby Local Environmental Plan 2012</i>	6.3
<i>Wingecarribee Local Environmental Plan 2010</i>	7.9
<i>Wollondilly Local Environmental Plan 2011</i>	7.4
<i>Wollongong Local Environmental Plan 2009</i>	7.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Woollahra Local Environmental Plan 2014</i>	6.3, definition of <i>Flood Planning Map</i> in the Dictionary
<i>Wyong Local Environmental Plan 2013</i>	7.2
<i>Yass Valley Local Environmental Plan 2013</i>	6.2

**ORDINARY MEETING**

**SECTION 3 – Reports for Determination**

**Meeting Date:** 29 June 2021

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]  
Schedule 1 Amendments consequent on the Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021

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<b>Plan</b>	<b>Provisions repealed</b>
<i>Yass Valley Local Environmental Plan (Parkwood) 2020</i>	7.2
<i>Young Local Environmental Plan 2010</i>	6.6

Not for distribution



ORDINARY MEETING

SECTION 3 – Reports for Determination

Meeting Date: 29 June 2021

State Environmental Planning Policy Amendment (Flood Planning) 2021 [NSW]  
Schedule 2 – Amendment of State Environmental Planning Policy (State Significant Precincts) 2005

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**Schedule 2    Amendment of State Environmental Planning  
Policy (State Significant Precincts) 2005**

**Appendix 16 Edmondson Park South site**

Omit “1:00 ARI” from clause 26(5), definition of *flood planning level*.

Insert instead “1:100 ARI”.

Not for distribution

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

**AT - 3 - Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021**



New South Wales

**Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021**

under the

Environmental Planning and Assessment Act 1979

MARGARET BEAZLEY, Governor

I, the Honourable Margaret Beazley AC QC, Governor of New South Wales, with the advice of the Executive Council, make the following Order under section 3.20 of the *Environmental Planning and Assessment Act 1979*.

Dated 12 May 2021.

By Her Excellency's Command,

ROB STOKES, MP  
Minister for Planning and Public Spaces

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Published LW 14 May 2021 (2021 No 226)

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 [NSW]

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**Standard Instrument (Local Environmental Plans) Amendment  
(Flood Planning) Order 2021**

under the

Environmental Planning and Assessment Act 1979

**1 Name of Order**

*This Order is Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021.*

**2 Commencement**

This Order commences on 14 July 2021 and is required to be published on the NSW legislation website.

Not for distribution

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 [NSW]  
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

**Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006**

**Clauses 5.21 and 5.22**

Insert after clause 5.20—

**5.21 Flood planning [compulsory]**

- (1) The objectives of this clause are as follows—
  - (a) to minimise the flood risk to life and property associated with the use of land,
  - (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
  - (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
  - (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.
- (2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—
  - (a) is compatible with the flood function and behaviour on the land, and
  - (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and
  - (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and
  - (d) incorporates appropriate measures to manage risk to life in the event of a flood, and
  - (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
- (3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—
  - (a) the impact of the development on projected changes to flood behaviour as a result of climate change,
  - (b) the intended design and scale of buildings resulting from the development,
  - (c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,
  - (d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.
- (4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.
- (5) In this clause—

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 [NSW]  
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental  
Plans) Order 2006

*Considering Flooding in Land Use Planning Guideline* means the *Considering Flooding in Land Use Planning Guideline* published on the Department's website on 14 July 2021.

**flood planning area** has the same meaning as it has in the Floodplain Development Manual.

**Floodplain Development Manual** means the *Floodplain Development Manual* (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.

**5.22 Special flood considerations [optional]**

- (1) The objectives of this clause are as follows—
  - (a) to enable the safe occupation and evacuation of people subject to flooding,
  - (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,
  - (c) to avoid adverse or cumulative impacts on flood behaviour,
  - (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,
  - (e) to avoid adverse effects of hazardous development on the environment during flood events.
- (2) This clause applies to—
  - (a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood, and
  - (b) for development that is not sensitive and hazardous development—land the consent authority considers to be land that, in the event of a flood, may—
    - (i) cause a particular risk to life, and
    - (ii) require the evacuation of people or other safety considerations.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—
  - (a) will not affect the safe occupation and efficient evacuation of people in the event of a flood, and
  - (b) incorporates appropriate measures to manage risk to life in the event of a flood, and
  - (c) will not adversely affect the environment in the event of a flood.
- (4) A word or expression used in this clause has the same meaning as it has in the *Considering Flooding in Land Use Planning Guideline* unless it is otherwise defined in this clause.
- (5) In this clause—

*Considering Flooding in Land Use Planning Guideline*—see clause 5.21(5).  
**flood planning area**—see clause 5.21(5).  
*Floodplain Development Manual*—see clause 5.21(5).  
**probable maximum flood** has the same meaning as it has in the Floodplain Development Manual.  
**sensitive and hazardous development** means development for the following purposes—

**ORDINARY MEETING**  
**SECTION 3 – Reports for Determination**  
**Meeting Date: 29 June 2021**

Standard Instrument (Local Environmental Plans) Amendment (Flood Planning) Order 2021 [NSW]  
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental  
Plans) Order 2006

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(a) *[list land uses]*

**Direction—** Only the following land uses are permitted to be included in the list—

- (a) boarding houses,
- (b) caravan parks,
- (c) correctional centres,
- (d) early education and care facilities,
- (e) eco-tourist facilities,
- (f) educational establishments,
- (g) emergency services facilities,
- (h) group homes,
- (i) hazardous industries,
- (j) hazardous storage establishments,
- (k) hospitals,
- (l) hostels,
- (m) information and education facilities,
- (n) respite day care centres,
- (o) seniors housing,
- (p) sewerage systems,
- (q) tourist and visitor accommodation,
- (r) water supply systems.

Not for distribution

**AT - 5 Planning circular – Considering flooding in land use planning: guidance and statutory requirements**

## Planning circular

### PLANNING SYSTEM

Circular	PS 21-xxx
Issued	14 July 2021
Related	Replaces PS07-003

## Considering flooding in land use planning: guidance and statutory requirements

This circular replaces Planning Circular PS07-003 and provides information on how to consider flooding in land use planning. This circular also discusses changes to requirements for planning certificates issued under section 10.7 of the *Environmental Planning and Assessment Act 1979* and local planning direction 4.3 on flooding, which affects planning proposals.

### Introduction

The NSW Government's Flood Prone Land Policy (the policy) is set out in the *Floodplain Development Manual: the management of flood liable land*, April 2005 (the manual).

The policy provides that councils are primarily responsible for managing flood risk to reduce the risk to life, property damage and other impacts in their local government areas. It also recognises that flood-prone land may be able to support some types of development.

The manual helps councils make informed decisions about managing flood risk through the development and implementation of floodplain risk management (FRM) plans through the FRM process.

Section 733 of the *Local Government Act 1993* protects councils from liability if they have followed the principles of the manual. This circular is consistent with the principles of the manual.

The manual sets out key issues relating to protecting existing and future occupants of flood-prone land that need to be considered in land use planning. These include the:

- safety of people including evacuation considerations
- management of flood risk, to reduce flood damage to public and private property and infrastructure
- management of the impacts of development, including cumulative impacts of development
- application of development controls
- management of the impacts of development on emergency services.

This circular provides advice on a package of changes regarding how land use planning considers flooding and flood-related constraints.

The package includes:

- an amendment to clause 7A of Schedule 4 to the *Environmental Planning and Assessment Regulation 2000* (the Regulation)
- a revised local planning direction regarding flooding issued under section 9.1 of the *Environmental Planning and Assessment Act 1979* (the Act)
- two local environmental plan (LEP) clauses which introduces flood related development controls
- a new guideline: *Considering Flooding in Land Use Planning (2021)*
- revoking the *Guideline on Development Controls on Low Flood Risk Areas (2007)*.

The manual and its supporting guides, the *National Best Practice Guidance Australian Institute of Disaster Resilience (AIDR) Handbook 7* and its supporting documents, the *AIDR Guideline 7.5* and *AIDR Practice Note 7.7*, all encourage the full range of flood risk to be considered in land use planning.

Understanding the constraints that flooding places on development of land can assist in identifying areas suitable for different types of development, as well as risk-appropriate controls that should apply to different types of development in LEPs. Development control plans (DCPs) may provide details of more specific controls relating to the varying constraints in different areas of the floodplain.

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Effective consideration of flood risk in land use planning involves developing an understanding of the full range of flood behaviour up to the Probable Maximum Flood (PMF) and considering this in management of flood risk.

### Section 10.7 planning certificates— Amendment to the EP&A Regulation

The *Environmental Planning and Assessment Amendment (Flood Planning) Regulation 2021* amends Schedule 4 to the Regulation to revise the matters to be specified in a planning certificate issued under section 10.7 for land subject to flood-related development controls.

Councils will continue to be required to distinguish between land where different categories of flood-related development controls apply.

Flood-related development controls are not defined but would include any development controls relating to flooding that apply to land, that are a matter for consideration under section 4.15 of the Act.

**Clause 7A(1)** of Schedule 4 to the Regulation will require councils to include a notation on section 10.7 planning certificates if the land or part of the land to which the certificate relates is within the flood planning area (FPA) and subject to flood related development controls.

**Clause 7A(2)** of Schedule 4 to the Regulation will require councils to include a notation on section 10.7 planning certificates if the land or part of the land to which the certificate relates is between the FPA and the probable maximum flood (PMF) and subject to flood related development controls. The FPA and the PMF have the same meaning as they have in the manual.

The amendment to the Regulation will commence on **14 July 2021** to allow councils time to prepare for the new requirements when issuing section 10.7 planning certificates.

If councils do not have this information, then an 'unknown' response should be provided in the planning certificate until such time as the information is made available to councils and councils have updated its flood-related development controls.

Unmapped locations may also be subject to flood related development controls and these areas should be noted in the planning certificate.

Where known, councils should include any additional information on flooding and flood risk in the planning certificate, under section 10.7(part 5) of the Act, outlining if the land is located within the floodplain.

### Local planning direction 4.3—Flooding

Planning proposals are required to be consistent with directions issued under section 9.1 of the EP&A Act. Local Planning Direction 4.3—Flooding

requires, among other matters, a planning proposal to be consistent with the principles of the manual.

The direction has been revised to remove the need to obtain exceptional circumstances to apply flood-related residential development controls above the 1% Annual Exceedance Probability (AEP) flood event. It also ensures planning proposals consider the flood risks and do not permit residential accommodation in high hazard areas and other land uses on flood-prone land where the development cannot effectively evacuate.

The direction also makes provision for special flood considerations where councils have chosen to adopt the optional Special flood considerations clause in an LEP.

The revised direction will apply to planning proposals that have not been issued with a gateway determination under section 3.34(2) of EP&A Act.

### Considering Flooding in Land Use Planning Guideline

The guideline supports the principles of the manual and provides advice to councils on land use planning on flood-prone land. It provides councils with greater flexibility in defining the areas to which flood-related development controls apply, with consideration of defined flood events, freeboards, low-probability/high-consequence flooding and emergency management considerations.

The manual states that a defined flood event (DFE) of 1% AEP, or a historic flood of similar scale, plus a freeboard should generally be used as the minimum level for setting residential flood planning levels (FPL). Choosing different DFEs and freeboards requires justification based on a merit assessment that is consistent with the FRM process and principles of the Floodplain Development Manual.

**Special Flood Considerations apply to sensitive and hazardous development in areas between the FPA and the PMF and to land that may cause a particular risk to life and other safety considerations that require additional controls. These controls relate to the management of risk to life and the risk of hazardous industry/hazardous storage establishments to the community and the environment in the event of a flood.**

### Revised LEP clauses

To reflect the changes to the Regulation for flood-related development, two LEP clauses have been developed to apply to local government areas with flood-prone land.

The LEP clauses relate to:

- Flood Planning
- Special Flood Considerations.



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**Further information**

The revised local planning direction is available on the department's website at [www.planning.nsw.gov.au/flooding](http://www.planning.nsw.gov.au/flooding)

The Regulation is available from the NSW Legislation website at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) in the 'As Made' section.

The NSW Government's Floodplain Development Manual (2005) and supporting documents are available online at

[environment.nsw.gov.au/topics/water/floodplains/floodplain-manual](http://environment.nsw.gov.au/topics/water/floodplains/floodplain-manual)

and

[environment.nsw.gov.au/topics/water/floodplains/floodplain-guidelines](http://environment.nsw.gov.au/topics/water/floodplains/floodplain-guidelines)

Australian Institute of Disaster Resilience (AIDR) 2017 Managing the Floodplain Handbook and supporting documents are available online at

[knowledge.aidr.org.au/resources/handbook-7-managing-the-floodplain/](http://knowledge.aidr.org.au/resources/handbook-7-managing-the-floodplain/)

For more information, please contact the relevant Department of Planning, Industry and Environment regional planning team.

Office contact details are available at [www.planning.nsw.gov.au/Contact-Us](http://www.planning.nsw.gov.au/Contact-Us)

Department of Planning, Industry and Environment circulars are available at: [planning.nsw.gov.au/circulars](http://planning.nsw.gov.au/circulars)

**Authorised by:**

**Alex O'Mara**

**Group Deputy Secretary**

**Place, Design and Public Spaces**

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**Important note:** This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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**AT - 6 Revised local planning direction under Section 9.1 of the Environmental Planning and Assessment Act 1979**

LOCAL PLANNING DIRECTIONS

Section 9.1(2) of the *Environmental Planning and Assessment Act 1979*

## Flooding

### Objectives

- (1) The objectives of this direction are:
- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.
  - (b) to ensure that the provisions of a local environmental plan that apply to flood prone land are commensurate with flood behaviour and include consideration of the potential flood impacts on and off the subject land.

### Where this direction applies

- (2) This direction applies to all relevant planning authorities that are responsible for flood prone land.

### When this direction applies

- (3) This direction applies when a planning proposal authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

### What a planning proposal authority must do if this direction applies

- (4) A planning proposal must include provisions that give effect to and are consistent with:
- (a) the NSW Flood Prone Land Policy,
  - (b) the principles of the Floodplain Development Manual 2005,
  - (c) the *Considering flooding in land use planning guideline 2021*, and
  - (d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.
- (5) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Environmental Protection Zones to a Residential, Business, Industrial or Special Purpose Zones.
- (6) A planning proposal must not contain provisions that apply to the flood planning area which:
- (a) permit development in floodway areas,
  - (b) permit development that will result in significant flood impacts to other properties,
  - (c) permit development for the purposes of residential accommodation in high hazard areas,
  - (d) permit a significant increase in the development and/or dwelling density of that land,
  - (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,
  - (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,
  - (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or
  - (h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.
- (7) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:
- (a) permit development in floodway areas,
  - (b) permit development that will result in significant flood impacts to other properties,
  - (c) permit a significant increase in the dwelling density of that land,
  - (d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and

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Section 9.1(2) of the *Environmental Planning and Assessment Act 1979*

- seniors housing in areas where the occupants of the development cannot effectively evacuate,
- (e) are likely to affect the safe occupation of and efficient evacuation of the lot, or
  - (f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.
- (8) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.

**Consistency**

- (9) A planning proposal may be inconsistent with the terms of this direction only if the planning proposal authority can satisfy the Secretary of the Department of Planning, Industry and Environment (or their nominee) that:
- (a) the planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant Council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
  - (b) where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005 or
  - (c) the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or
  - (d) the provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.

**Note:** In this direction:

- (a) "flood prone land" "flood storage" "floodway" and "high hazard" have the same meaning as in the Floodplain Development Manual 2005.
- (b) "flood planning level" "flood behaviour" and "flood planning area" has the same meaning as in the Considering flooding in land use planning guideline 2021.
- (c) Special flood considerations are outlined in the Considering flooding in land use planning guideline 2021 and an optional clause in the Standard Instrument (Local Environmental Plans) Order 2006.
- (d) Under the floodplain risk management process outlined in the NSW Government's *Floodplain Development Manual 2005*, councils may produce a flood study followed by a floodplain risk management study and floodplain risk management plan.

Direction 4.3 – to be issued 14 July 2021

oooO END OF REPORT Oooo

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**INFRASTRUCTURE SERVICES**

**Item: 122**                      **IS - Pitt Town Public Domain Works - Community Survey - (95495, 96332)**

**Directorate:**                      Infrastructure Services

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**PURPOSE OF THE REPORT:**

The purpose of this report is to outline the results of voting from Council's YourHawkesbury-YourSay survey of various works proposed for Pitt Town and recommends endorsement of the prioritised program of works.

**EXECUTIVE SUMMARY:**

Council provided an allocation of \$150,000 in its 2020/2021 Operational Plan for public domain works in Pitt Town. Council committed \$40,000 toward the construction of the Bona Vista toilet, leaving \$110,000 for other works. A range of projects had been suggested by the community and Council conducted a survey via its YourHawkesbury-YourSay website. Residents were invited to participate in the survey and rank the proposed projects from one to eight according to their importance.

This report outlines the results of the survey conducted and recommends the highest ranked projects be endorsed for construction within the available funding.

**RECOMMENDATION:**

That:

1. Council note the results of the voting from its YourHawkesbury-YourSay survey for various works in Pitt Town.
2. Council endorse the undertaking of the following works in Pitt Town:
  - Walking path between the end of Johnston Street and Bootles Lane - \$15,000
  - Footpath in Grenville Street - \$23,000
  - Shade cover over the existing seats in Bona Vista Park - \$10,000
  - Third shade sail in Bona Vista Park - \$19,000
  - Larger established shade tree planting in and around Bona Vista Park equipment - \$1,000 per tree including maintenance and maturity - \$10,000
  - Shade sail over play equipment in Wellesley Street Park - \$40,000
3. Additional funding of \$7,000 be allocated from the footpaving program to enable completion of those works.

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**BACKGROUND**

Council conducted a survey regarding proposed Pitt Town Public Domain Improvements via its YourHawkesbury-YourSay website from 21 May 2021 to 11 June 2021. Residents were invited to rank the proposed projects from one to eight according to their importance. The projects listed for consideration and

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the approximate cost of each project in the survey are listed below. The available funding was \$110,000 (noting that \$40,000 had previously been allocated to the Bella Vista Park Toilet Facility).

1. Footpath in Grenville Street - \$23,000
2. Footpath on Hawkesbury Street - \$50,000
3. Walking path between the end of Johnston Street and Bootles Lane - \$15,000
4. Shade sail over play equipment in Wellesley Street Park - \$40,000
5. Covered seating in Wellesley Street Park - \$16,000
6. Third shade sail in Bona Vista Park - \$19,000
7. Shade cover over the existing seats in Bona Vista Park - \$10,000
8. Larger established shade tree planting in and around Bona Vista Park equipment - \$1,000 per tree including maintenance and maturity (ten trees).

The total value of all works in the survey was \$183,000 which exceeded the available funding.

The survey was publicised via Council's website and Facebook page and 100 submissions were received from community members.

The results of the survey have been collated and are listed below in order of importance from the submissions received:

Rank	Description	Score	\$
1	Walking path between the end of Johnston Street and Bootles Lane	6.52	\$15,000
2	Footpath on Hawkesbury Street	6.44	\$50,000
3	Footpath in Grenville Street	6.40	\$23,000
4	Shade cover over the existing seats in Bona Vista Park	5.55	\$10,000
5	Third shade sail in Bona Vista Park	5.03	\$19,000
6	Larger established shade tree planting in and around Bona Vista park equipment - \$1,000 per tree including maintenance and maturity	4.82	\$10,000
7	Shade sail over play equipment in Wellesley Street Park	4.68	\$40,000
8	Covered seating in Wellesley Park	4.56	\$16,000

Council had made application for Commonwealth Funding for the construction of the footpath in Hawkesbury Street. Pending formal approval this project was left in the survey. Council received advice of approval of that grant on 17 June 2021. Excluding that project from the list to be funded would generally allow the inclusion of all items other than covered seating in Wellesley Street Park. Whilst that list including the shade sail in Wellesley Street Park over the playground would total \$117,000 and exceeds the available funding of \$110,000, funding of the shortfall can be accommodated with savings within Council's footpaving program, should Council agree.

#### DISCUSSION

The survey results indicate that the priority for the community was highest for footpaving projects, however the funding available is generally sufficient to undertake all works identified in the survey with the exception of the covered seating in Wellesley Street Park. This project can be considered in future programs.

#### COMMUNITY ENGAGEMENT

The issues raised in this report concern matters which were subject to community consultation through YourHawkesbury-YourSay.

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**CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036**

The proposal is consistent with the following Focus Area, Direction and Strategies within the CSP.

Our Future

- 5.1 Strategic Planning Governance - Encourage informed planning, balanced growth and community engagement
  - 5.1.2 Council's decision making on all matters is transparent, accessible and accountable.
  - 5.1.3 Council will continually review its service provision to ensure best possible outcomes for the community.
  - 5.1.4 Encourage increased community participation in planning and policy development.

**FINANCIAL IMPACT**

Funding for these works is provided in the 2020/2021 Operational Plan.

Additional funding required to undertake the identified projects will require an additional \$7,000 which can be accommodated within savings from the footpath construction program.

**FIT FOR THE FUTURE STRATEGY CONSIDERATIONS**

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks. The proposal will enable Council to sustainably manage community assets in accordance with the scheduled program of works in the Long-Term Financial Plan.

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF REPORT Oooo**

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**SUPPORT SERVICES**

**Item: 123**                      **SS - Investment Report - May 2021 - (95496, 96332)**

**Previous Item:**            097, Ordinary (25 May 2021)

**Directorate:**                Support Services

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**PURPOSE OF THE REPORT:**

The purpose of this report is to 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.

**EXECUTIVE SUMMARY:**

This report indicates that Council held \$54.8 million in investments at 31 May 2021 and outlines that all investments were made in accordance with the Act, the Regulation and Council's Investment Policy.

**RECOMMENDATION:**

That the Monthly Investment Report for May 2021 be received and noted.

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**BACKGROUND**

Council held \$54.8 million in investments as at 31 May 2021. Details on the composition of the Investment Portfolio, and its compliance with Council's Investment Policy are provided below. Details include the financial institutions with which the investments were made, the maturity date (where applicable), the rate of return achieved, the credit rating of the institutions both in the short term and the long term, the percentage of the total portfolio, exposure to credit ratings bands and the spread of maturities.

**1. Composition of Investment portfolio**

Tables 1 to 3 below provide details regarding the \$54.8 million in investments held as at 31 May 2021.

***Table 1 - Summary of Council's Investment Portfolio as at 31 May 2021***

<b>Product Type</b>	<b>Face Value</b>	<b>% of Total</b>
At Call Deposits	\$2,400,000	4.4%
TCorp Cash Fund	\$2,133,227	3.9%
Term Deposits - Fixed Rate	\$50,300,000	91.7%
<b>Grand Total</b>	<b>\$54,833,227</b>	<b>100.0%</b>

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**Table 2 - Total Investments by Issuer's Long - Term Credit Rating**

Long Term Credit Rating	Face Value	% of Total
AA-	\$45,700,000	83.3%
BBB	\$3,000,000	5.5%
BBB+	\$4,000,000	7.3%
NSW TCorp Cash Fund	\$2,133,227	3.9%
<b>Grand Total</b>	<b>\$54,833,227</b>	<b>100.0%</b>

**Table 3 – Fixed Term Deposits**

Institution	Long Term Rating	Short Term Rating	Maturity	Rate	Face Value
ANZ	AA-	A-1+	07-Jul-21	0.80%	\$3,000,000
Bank of Queensland	BBB+		11-Aug-21	0.90%	\$2,500,000
			16-Dec-21	0.55%	\$500,000
Commonwealth Bank of Australia	AA-	A-1+	21-Jul-21	0.67%	\$2,000,000*
			21-Jul-21	0.61%	\$1,000,000
			26-Aug-21	0.69%	\$1,000,000*
			14-Oct-21	0.64%	\$3,000,000
			04-Nov-21	0.55%	\$1,500,000
			13-Jan-22	0.40%	\$1,000,000
			10-Feb-22	0.41%	\$1,500,000*
			23-Feb-22	0.43%	\$2,000,000
			17-Mar-22	0.40%	\$1,000,000
			07-Apr-22	0.40%	\$2,000,000
			21-Apr-22	0.42%	\$500,000
			20-Nov-23	0.65%	\$1,000,000
ME Bank	BBB	A-2	25-Jun-21	0.30%	\$2,000,000
			09-Dec-21	0.50%	\$2,000,000
National Australia Bank	AA-	A-1+	03-Jun-21	0.99%	\$3,000,000
			22-Sep-21	0.70%	\$1,000,000
			14-Oct-21	0.50%	\$500,000
			10-Nov-21	0.50%	\$2,000,000
			13-Jan-22	0.45%	\$2,000,000
			27-Jan-22	0.42%	\$800,000
			19-Nov-24	0.75%	\$1,000,000
			15-Jan-25	0.80%	\$500,000
			05-Mar-25	1.05%	\$1,500,000
			03-Nov-25	0.95%	\$500,000
			19-Nov-25	0.90%	\$500,000
			13-Jan-26	1.00%	\$500,000
Westpac	AA-	A-1+	03-Jun-21	0.91%	\$1,000,000
			18-Jun-21	0.92%	\$1,500,000
			22-Sep-21	0.67%	\$1,000,000*
			09-Dec-21	0.49%	\$2,000,000*
			28-Apr-22	0.36%	\$1,000,000*
			05-May-22	0.35%	\$1,000,000*
<b>Grand Total</b>					<b>\$50,300,000</b>

\*Environmental, Social and Governance (ESG) investments as per Council's Investment Policy.



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**Environmental, Social and Governance (ESG) Investments**

Tables 4 and 5 below provide the details on Environment, Social and Governance (ESG) investments and the proportion compared to the total Investment Portfolio.

**Table 4 – ESG Investments**

Institution	Long Term Rating	Short Term Rating	Maturity	Rate	Face Value
Commonwealth Bank of Australia	AA-	A-1+	21-Jul-21	0.67%	\$2,000,000
			26-Aug-21	0.69%	\$1,000,000
			10-Feb-22	0.41%	\$1,500,000
Westpac	AA-	A-1+	22-Sep-21	0.67%	\$1,000,000
			09-Dec-21	0.49%	\$2,000,000
			28-Apr-22	0.36%	\$1,000,000
			05-May-22	0.35%	\$1,000,000
<b>Grand Total</b>					<b>\$9,500,000</b>

**Table 5 – Summary of Council’s Investment Portfolio in Terms of ESG**

Product Type	Face Value	% of Total
Environmental, Social and Governance (ESG)	\$9,500,000	18.89%
Other	\$40,800,000	81.11%
<b>Grand Total</b>	<b>\$50,300,000</b>	<b>100.0%</b>

**2. Compliance to Investment Policy**

Tables 6 to 7 below summarise Council’s exposure limits to the credit ratings bands, term to maturity parameters and compliance with Council’s Investment Policy.

**Table 6 – Exposure Limits to credit ratings bands**

Long-Term Credit Rating	Exposure of Entire Portfolio		
	Actual	Maximum	Compliant
AAA to AA- or Major Bank and below	<b>96.11%</b>	100%	Yes
A+ to A- and below	<b>12.77%</b>	50%	Yes
BBB+ to BBB and below	<b>12.77%</b>	40%	Yes
BBB- and below	<b>0%</b>	10%	Yes
TCorp Cash Fund	<b>3.89%</b>	20%	Yes

**Table 7 – Term to Maturity**

Long-Term Credit Rating	Term to Maturity	
	Maximum	Compliant
AA+, AA, AA- (and Major Banks)	5 years	Yes
A+, A, A-	3 years	Yes
BBB+, BBB, BBB-	3 years	Yes
Non-rated ADIs	1 year	Yes

**3. Portfolio Return**

Council’s investment portfolio (excluding At Call Deposits and TCorp Cash Fund) provided a weighted average return (running yield) as shown in Table 8 below.

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**Table 8 – Portfolio Return**

30 April 2021	Weighted Average Return (Running Yield)
Hawkesbury City Council – Investment Portfolio	0.054%
Benchmark – Bloomberg Ausbond Bank Bill Index	0.004%
<b>Performance Relative to Benchmark</b>	<b>0.050%</b>

Based on Council’s Investment Advisor advice, the running yield is the most appropriate for Council’s portfolio. The rationale for this conclusion is that if all investments are purchased at par and mature at par, then the return over the holding period of that investment is simply the running yield.

**Relevant Legislation**

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 investments have been made in accordance with the Act, the Regulation and the Council’s Investment Policy.

**Investment Certification**

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

**DISCUSSION**

Council’s investments and returns achieved are driven and impacted by economic and market conditions. Council’s Investment Advisor has reviewed Council’s investments as at 31 May 2021 and has advised as follows:

- *“Council’s portfolio monthly return is around 0.05% above the Bloomberg AusBond Bank Bill benchmark. This return excludes at Call Accounts and the NSW TCorp Cash Fund.*
- *Amicus recently reviewed Council’s Investment Policy and the revised Investment Policy Limits are now reflected in the Amicus reports. Council’s Investment Portfolio is within its internal policy limits.*
- *Bank of Queensland (BoQ) and ME Bank (MEB) have announced a merger subject to due diligence. The target date for completion is August 2021. Once BoQ and MEB are combined, Council will have an 12.77% exposure to the combined entity (based on this month’s portfolio size). This will be outside the 10% portfolio limit for BBB rated entities. However, when purchased, all investments were within portfolio limits. Amicus’ recommendation is no new investments be made in either BoQ or MEB and the current investments are held until they mature thus avoiding exacerbating any over exposures to the combined entity should the merger proceed.*
- *Overall, exposures to individual entities and to credit limits have been well managed such that there is additional capacity to add exposures to any of the existing entities if an opportunity arises, or to absorb any downgrades. Amicus generally recommends its clients operate with “buffers” between policy limit maximums and minimums to provide flexibility and avoid breaches, which is the strategy adopted by Hawkesbury City Council.*

*In the current investment environment, Amicus suggests Council pursues the following investment strategies with regards to any excess liquidity:*

- *Invest in the best Term Deposit rates available within the capacity of Policy limits.*

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- *Take limited exposures (no more \$4 million of the total portfolio per entity, obviously within policy limits of 10% with a buffer) to issuers outside the Major Banks in short-dated Term Deposits if rates are attractive. This is a very low risk strategy given the steps taken by the Reserve Bank of Australia to ensure no Authorised Deposit Taking Institutions will fail due to liquidity reasons in the short-term. In making these investments, Council should consider the likely lowest overall total size of the investment portfolio over the year to ensure that total exposures to an issuer outside the Major Banks does not exceed the 10% limit because the overall portfolio size has decreased since the initial investment was made.*
- *Consider investing in Bonds and Floating Rate Notes where the yields and risks are attractive relative to Term Deposits. As per prior reports, the relative value of these two instruments varies with market conditions and there are commonly periods where one is more attractive than the other and vice versa.*
- *With current Term Deposit rates well below the average of Council's average annual yield investment returns will fall in the coming months and so Amicus recommends Council actively pursue the strategies outlined above to mitigate the coming impact on absolute returns."*

During the reporting period, the investment portfolio decreased by \$1.6 million reflecting funds received, payments made, and redemption of invested funds and lodging of new term deposits, which is driven by cash flow requirements.

**Restriction of Funds**

Council's total investment portfolio as at 31 May 2021 included funds that are restricted as to what they can be expended on.

**Table 9 – Restriction of Funds**

Restriction Type	Amount	%
External Restrictions - S7.11 and S7.12 Developer Contributions	\$14,389,890	26.24%
External Restrictions - Western Parkland City Liveability Program	\$3,312,731	6.04%
External Restrictions - Bushfire and Flood Grants	\$1,403,943	2.56%
External Restrictions - Other (e.g. domestic waste, sewerage)	\$3,799,374	6.93%
Internal Restrictions (e.g. election, workers compensation, Employee Leave Entitlements)	\$14,481,320	26.41%
Unrestricted	\$17,445,969	31.82%
<b>Total</b>	<b>\$54,833,227</b>	<b>100.00%</b>

Unrestricted funds, whilst not subject to a restriction for a specific purpose, are fully committed to fund operational and capital expenditure in line with Council's adopted Operational Plan. As there are timing differences between the accounting for income and expenditure in line with the Plan, and the corresponding impact on Council's cash funds, a sufficient level of funds is required to be kept at all times to ensure Council's commitments are met in a timely manner. Council's cash management processes are based on maintaining enough cash levels to enable commitments to be met when due, while at the same time ensuring investment returns are maximised through term investments where possible.

In addition to funds being fully allocated to fund the Operational Plan activities, funds relating to closed self-funded programs and that are subject to legislative restrictions cannot be utilised for any purpose other

## ORDINARY MEETING

### SECTION 3 – Reports for Determination

Meeting Date: 29 June 2021

than that specified. Externally restricted funds include funds relating to Section 7.11 and Section 7.12 Contributions, Domestic Waste Management, Sewerage Management, Stormwater Management and Grants.

Funds subject to an internal restriction refer to funds kept aside for specific purposes, or to meet future known expenses. This allows for significant expenditures to be met in the applicable year without having a significant impact on that year. Internally restricted funds include funds relating to Tip Remediation, Workers Compensation, and Elections.

#### ***Liveability, Fire and Flood Funding***

At its meeting on 28 July 2020 Council resolved that future monthly investment reports identify the proportion of total investments made up of:

- Western Parkland City Liveability Program funding
- State and Federal Government grant funding for fire and flood.

Table 9 (above) has been amended to provide the details of the proportions.

#### **COMMUNITY ENGAGEMENT**

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

#### **CONFORMANCE TO THE HAWKESBURY COMMUNITY STRATEGIC PLAN 2017-2036**

The proposal is consistent with the following Focus Area, Direction and Strategies within the CSP.

##### Our Leadership

1.3 Financial Sustainability - Build strong financial sustainability for now and future generations.

1.3.1 In all of Council's strategies, plans and decision making there will be a strong focus on financial sustainability.

1.3.2 Meet the needs of the community now and into the future by managing Council's assets with a long-term focus.

#### **FINANCIAL IMPACT**

The matters raised in this report have direct financial implications. The income applicable is provided for in the Adopted 2020/2021 Operational Plan.

#### **FIT FOR THE FUTURE STRATEGY CONSIDERATIONS**

The proposal is aligned with Council's long term plan to improve and maintain organisational sustainability and achieve Fit for the Future financial benchmarks.

#### **ATTACHMENTS:**

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ordinary

section 4

reports  
of committees

**ORDINARY MEETING**

**SECTION 4 – Reports of Committees**

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**SECTION 4 – Reports of Committees**

No Reports of Committees.

ordinary

section 5

notices of motion

**ORDINARY MEETING**  
**SECTION 5 – Notices of Motion**  
**Meeting Date: 29 June 2021**



**ORDINARY MEETING**  
**SECTION 5 – Notices of Motion**  
**Meeting Date: 29 June 2021**

**SECTION 5 – Notices of Motion**

**Item: 124**                      **NM - Richmond Bridge Duplication and traffic improvements - (79351, 138885)**

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**Submitted by:** Councillor Ross

**NOTICE OF MOTION:**

That Council:

1. Support the North Richmond Southern bypass route and suggests further investigation be undertaken by Transport for NSW of a connection to Grose Vale Road; as well as Bells Line of Road.
2. Maintains its advocacy for a Southern bypass route to be constructed with a minimum Bridge level of 1 in 100 flood recurrence interval height.
3. Write to Transport for NSW in those terms following release of its 'Preferred Option' contained within its Community update of June 2021."

**ATTACHMENTS:**

There are no supporting documents for this report.

**oooO END OF NOTICE OF MOTION Oooo**

**ORDINARY MEETING**  
**Questions for Next Meeting**  
**Meeting Date: 29 June 2021**

**QUESTIONS FOR NEXT MEETING**

**Item: 125                      Responses to Councillor Questions Taken On Notice at the Council Meeting - 8 June 2021 (79351)**

**REPORT:**

The following questions were received from Councillors regarding road matters on the Council Meeting Business Paper of 8 June 2021. Those questions were taken on notice and the responses are provided below.

#	Councillor	Question	Response
1	Wheeler	Greens Road - Residents told by Federal and State Members there is funding for betterment, is Council in receipt of that information? This is information we should seek in this instance. Want to see information on a permanent seal versus proposed temporary seal. Residents were advised of a temporary seal for Wheelbarrow Ridge Road, can we get information about the options for that?	This response has been provided in the Report on Item 116 in the Business Paper.
2	Wheeler	Questions on unspent funds in Federal Government emergency response fund used to mitigate against disasters, can we get further information about Council's capacity to access that funding. We may use some of that to mitigate around Lower Portland.	This response has been provided in the Report on Item 116 in the Business Paper.

**ORDINARY MEETING**

**Questions for Next Meeting**

**Meeting Date:** 29 June 2021

#	Councillor	Question	Response
3	Wheeler	<p>What can we do to provide access for residents that currently have to travel over Wheelbarrow Ridge Road fire trail so they can get temporary access rather than drive very lengthy route twice per day. Kids are missing school and some people aren't willing to leave their homes. Can we look into temporary solutions on Greens Road until the road is fixed?</p> <p>Surplus from emergency services levy \$282K that was put towards Roads crisis management response reserve, can we discuss the use of that for temporary access on Greens Road?</p> <p>Have we asked for funding under the Everyone Can Play grants for accessible playgrounds for funding that is due 25th June?</p> <p>What progress have we made on the relocation of Wilberforce RFS Shed and Fire Control?</p> <p>Why do we charge parents and carers \$1 each to supervise their own kids at Richmond Pool?</p>	<p>The Director Infrastructure Services advised that the geotechnical consultants have been briefed to consider all options to allow use of the road; options for water based access are also being investigated.</p> <p>At this stage funding is not an impediment with physical constraints and safety being the primary constraint. Those funds could however be utilized if required when works and funding arrangements are known.</p> <p>An application for funding is being, for South Windsor Park Playground (grant requires matching funding)</p> <p>We are awaiting response from NSW RFS on preferred sites, following assessment by Public Works. It is intended to provide a briefing to Council following a receipt of that response.</p> <p>Charging levels for non-participating entry are based on utilisation and cleaning of other facilities at the pool and is considered fairer than building in the costs to all other entry fees where no parents or carers may attend.</p>
4	Lyons-Buckett	<p>Cost of garbage collection trial in the areas that don't have a collection. Is it better as a notice of motion?</p>	<p>The Director City Planning advised that it can be dealt within the Operational Plan but not sure how quickly we can get the costings.</p>

**ORDINARY MEETING**

**Questions for Next Meeting**

**Meeting Date:** 29 June 2021

#	Councillor	Question	Response
5	Kotlash	Are alternatives via waterway just as time consuming and is the preference to be covered under emergency funding.	The Director Infrastructure Services advised options for waterbased access are being investigated.
		In relation to alternative access, are there any other alternatives other than waterways.	Dependent on the technical and safety advice, options for temporary repairs and/or light vehicle use are being investigated.
	Lyons-Buckett	Can the Community have access via waterways via floating pontoon?	This is being investigated in conjunction with other options for improving access.
	Kotlash	Need to know costs of accessibility for water traders to get in there.	Access is available for water deliveries, however these are impacted by the 5 Tonne Limit and longer distances.
	Wheeler	Will include waterway for people to get stuff and themselves in and out.	Investigations are being undertaken to look at options and costs for alternate access including water based.
6	Garrow	Can we get a timeframe on outstanding resolutions on third party agreements; and a basic cost analysis on each of those items.	The Director Support Services response has been provided as Attachment 1 to this report.
7	Ross	What part of funding of \$1.3M to the Hawkesbury Sports Council will be allocated to compliance with AS2560 and AS4282 at all of the fields operated under jurisdiction of Hawkesbury Sports Council.	The Director Support Services advised that Council is contributing \$860,526 for the operations of Hawkesbury Sports Council (HSC), \$315,640 for capital works to be undertaken by Hawkesbury Sports Council and \$115,000 has been allocated for lighting upgrades compliant with Australian Standards to be undertaken by Council. Hawkesbury Sports Council is currently reviewing the capital works program for 2021/2022 in light of the proposed allocation and is considering allocation of \$100,000 towards compliant lighting upgrades.
8	Garrow	In regard to Greens Road? - Do we know of the immediate response plan for RFS, Police, Ambulance is?	The Director Infrastructure Services advised that Emergency Services have been advised of closures and they are making arrangements for responses.
9	Ross	Have we also informed Hills Shire Council and Emergency bodies associated in case they need to use lower Portland Ferry?	The Director Infrastructure Services advised Hills Shire Council and emergency agencies have been advised of closure of Greens Road.

**ORDINARY MEETING**  
**Questions for Next Meeting**  
**Meeting Date: 29 June 2021**

**ATTACHMENTS:**

**AT - 1** Response to Question point 6.

**ORDINARY MEETING**

**Questions for Next Meeting**

**Meeting Date:** 29 June 2021

**AT - 1 Response to Question point 6**

The Director Support Services advised that in relation to the review of Peppercorn Services Inc Council resolved to implement recommendations concerning and outs outsourcing framework, revision of the Memorandum of Terms of Delegation, the development of a strategic audit plan and quarterly reporting. The outsourcing framework has been completed and is proposed that Council be briefed and receive a report on the implementation of the balance of this resolution and the separate resolution concerning the Peppercorn Services Inc action plan. This will include information concerning the remainder of the recommendations in the InConsult report.

In relation to the Hawkesbury River County Council, Council resolved to request that Hawkesbury River County Council be requested to urgently implement some of the recommendations contained in the InConsult report concerning Risk Management and Audit, Risk and Improvement, as well as provision of information by way of quarterly reporting. Committee is implemented prior to March 2021 and implement requirements in accordance with the new risk management and internal audit framework. It is proposed that Council be briefed and receive a report on the implementation of this resolution. This will include information concerning the remainder of the recommendations in the InConsult report.

The next proposed review was of the Hawkesbury Sports Council. Having regard to issues raised when the completed review reports have been discussed at Council Meetings and Councillor Briefing Sessions, Councillors were briefed on the scope of the review of the Hawkesbury Sports Council, and as a result Council is obtaining legal advice on the delegation of functions to the Hawkesbury Sports Council prior to proceeding with the any review.

At this stage there does not appear to be any costs associated with the implementation of the review recommendations or Council resolutions concerning the reviews which require budget consideration.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Questions for Next Meeting**  
**Meeting Date: 29 June 2021**

**Item: 126                      Responses to Councillor Questions Taken On Notice at the Council Meeting - 15 June 2021 - (79351)**

**REPORT:**

The following questions were received from Councillors regarding matters on the Council Meeting Business Paper of 15 June 2021. Those questions were taken on notice and the responses are provided below.

#	Councillor	Question	Response
1	Reynolds	If there is no rezoning of Vineyard Stage Two, then Sydney Water won't be able to supply or service this area, but it says that Council could service the rezoning if Sydney Water was not able to. So at what sort of cost would it be for Council to pay for the waste water servicing system for this area if Sydney Water didn't do it?	The Director Infrastructure Services advised that the land is currently, unable to be connected to Councils sewer system due to current unavailability of treatment capacity at McGraths Hill Sewerage Treatment Plant. It is not possible to identify that costs of providing a service until sewer upgrade investigation are complete.  It should also be noted that this site is currently outside of Hawkesbury City Council's "area of operation" for sewer operation.
2	Ross	Is the remainder of the industrial area in Park Road, Mulgrave serviced by Hawkesbury City Council or Sydney Water in regard to waste water?	The Director Infrastructure Services advised that the existing Mulgrave industrial lands are connected to the Hawkesbury City Council sewer system.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**  
**Questions for Next Meeting**  
**Meeting Date: 29 June 2021**

**Item: 127**                      **Questions with Notice - 29 June 2021**

**Questions - 29 June 2021**

#	Councillor	Question	Response
1	Lyons-Buckett	Could we please have an update on the following:	
		a) Bushfire review commenced May 2020.	The Director Infrastructure Services advised the Hawkesbury Bush Fire Management Committee completed an After Action Review in March 2020. This generally related to incident management and planning Council also engaged the Leadbeater Group to undertake a review and debrief of other aspects of the fire incident and two workshops were subsequently held as well as individual interviews. A final report is anticipated to be completed in July.
		b) Review of Council's policies, plans and procedures for disaster and emergency response, as resolved on 18 February 2020.	The Director Infrastructure Services advised that in relation to Council resolution RES008/20, a detailed report is being prepared in response and it is anticipated that this will be submitted to Council in July.
		c) Actions taken to identify evacuation centres and ensure they are compliant and prepared	The Director Infrastructure Services advised a review of the Hawkesbury Local Government Area Emergency Plan is currently being finalized in conjunction with relevant agency input and this includes reviews of evacuation centres.
		d) Amendments to the Hawkesbury Nepean Flood Emergency Sub-Plan	The Director City Planning response has been provided as Attachment 1 to this report.
		e) Establishment of a Working Group to act as an advisory group for Council's grant funded Floodplain Management projects in accordance with the NSW Floodplain Development Manual.	The Director City Planning response has been provided as Attachment 2 to this report.



**ORDINARY MEETING**  
**Questions for Next Meeting**  
**Meeting Date: 29 June 2021**

#	Councillor	Question	Response
2	Wheeler	1. What notice did Hawkesbury City Council have of them announcement of the preferred option for the Richmond Bridge project?	The General Manager advised Council staff received no advance notice.
		2. When can Councillors expect to receive a briefing on the matter?	The General Manager advised this matter will be discussed at a future Councillor Briefing Session
		3. Will Council be submitting a position to TfNSW on the preferred option?	The General Manager advised Council staff will be preparing a submission and will be reported back to Council following a Councillor Briefing Session.

**ATTACHMENTS:**

**AT - 1** Response to Question 1 d) - Questions with Notice - 29 June 2021.

**AT - 2** Response to Question 1 e) - Questions with Notice - 29 June 2021.

**ORDINARY MEETING**

**Questions for Next Meeting**

**Meeting Date:** 29 June 2021

**AT - 1 Response to Question 1 d) - Questions with Notice - 29 June 2021**

The Director City Planning advised that The State Emergency Service updated the Hawkesbury-Nepean Flood Emergency Sub Plan in June 2020.

The Plan sets out the multi-agency arrangements for the emergency management of flooding affecting the Hawkesbury-Nepean Valley.

In addition to the updated Plan, there are a series of Annexures including:

- Annex A – Hazard and Risk in the Hawkesbury-Nepean Valley
- Annex B – Flood Warning Gauges
- Annex C – Sectors, Sub Sectors and Strategy selection considerations
- Annex D – Evacuation Management Arrangements
- Annex E – Flood Rescue Arrangements
- Annex F – Resupply Arrangements
- Annex G – Dam Emergency Arrangements
- Annex H – Managing Transport Impacts

The updated Plan includes a number of elements, including:

Purpose, Authority, Activation, Scope, Goals, Audience, Linkages, Maintaining the plan

The Plan also sets the emergency risk context, and includes the following themed approach:

- Prevention (Floodplain Management, Regional Land Use Planning, Evacuation Routes)
- Preparedness (Emergency planning, operational readiness, community resilience)
- Response (Operations, coordination, information and warnings)
- Recovery Arrangements

The updated Plan was presented to the Floodplain Risk Management Advisory Committee in September 2020 who provided direct feedback to State Emergency Service representatives, who highlighted that the updated Plan had consolidated evacuation management to show the sequence and managing road networks. State Emergency Service representatives also highlighted that Annex C (Sectors) and Annex D (Evacuation Management Arrangements) will be amended, with a fairly extensive revision to the sub-sectors expected. It was also outlined that as new information becomes available amendments will be made on a more regular basis rather than every 5 years as has previously been the case.

**ORDINARY MEETING**  
**Questions for Next Meeting**  
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**AT - 2 Response to Question 1 e) - Questions with Notice - 29 June 2021**

As part of Council's resolution on 9 February 2021 with respect to the Committee structure, a number of floodplain management matters were referred to the newly formed Disaster and Emergency Committee, including:

*"Act as an advisory Committee in accordance with the NSW Floodplain Development Manual for Council's Floodplain Management projects."*

In order to respond to the referral from Council of the various floodplain management matters, including Council's floodplain management projects, a report was presented to Council's Disaster and Emergency Committee Meeting on 14 April 2021. Given the complexity and range of issues to be addressed in preparation of floodplain risk management plans, and utilising the NSW Floodplain Development Manual as best practice guidance, the formation of a working group to the Committee to act as an advisory group for Council's grant funded floodplain management projects in accordance with the NSW Floodplain Development Manual was recommended.

Following consideration of the matter, the Committee resolved:

*"That the Disaster and Emergency Committee:*

1. *Advise Council that it should urgently advocate for the Richmond Bridge Duplication Project to include a bridge and approach roads that provide better access during a major flood event.*
2. *Recommend that Council advocate with all relevant agencies and organisations for resilience planning for infrastructure, in particular electricity, during flood events.*
3. *Recommend that the committee continue to provide advice for Council's grant funded floodplain management projects."*

The Minutes of the Disaster and Emergency Committee Meeting on 14 April 2021 are scheduled to be presented to Council on 22 June 2021.

Council currently has two grant funded floodplain management projects, including:

- Review of the Hawkesbury Floodplain Risk Management Study and Plan 2012
- Flood Study and Floodplain Risk Management Study and Plan for the Macdonald and Colo Rivers, Greens and Webbs Creek

Council has recently been advised by the funding body for the grants program that engagement of selected consultants can now officially occur. As such, with the formal commencement of the two floodplain management projects advice will need to be sought from the Disaster and Emergency Committee as the projects progress.

It is anticipated that as this work progresses Council will utilise the NSW Floodplain Development Manual (2005) which:

- Provides best practice guidance for the management of floodplains in NSW
- Supports the NSW Government's Flood Prone Land Policy by providing for the development of sustainable strategies for managing human occupation and use of the floodplain considering best practice risk management principles
- Provides a guideline for the preparation and implementation of floodplain risk management plans
- Outlines the process of developing floodplain risk management plans, including the formation of a Floodplain Risk Management Committee.

**ORDINARY MEETING**

**Questions for Next Meeting**

**Meeting Date:** 29 June 2021

And ensure the involvement of the necessary expertise including:

- The local council itself (both elected representatives and council staff);
- The local community
- Key industry groups;
- Environmental interest groups;
- State and Commonwealth Government Agencies; and
- Specialist consultants, as engaged.

The Floodplain Development Manual identifies that local community representatives would include local flood affected landholders (residential and business), relevant industry bodies (eg the chamber of commerce), and environmental groups. Community representatives play an important role in:

- Linking the committee and the local community
- Providing historical advice on local problems and perceived solutions
- Considering the implications of matters that impact on the local community
- Facilitating formal representations to the committee on behalf of the public.

The local community, both flood prone and otherwise, has a key role to play in the development, implementation and success of a management plan. If it is to be accepted and successful, it is essential that clear and concise communications flow between the committee and the community so that affected individuals and community groups can 'have their say' and learn of their roles and responsibilities.

**oooO END OF REPORT Oooo**

**ORDINARY MEETING**

**Confidential Reports**

**Meeting Date:** 29 June 2021

**CONFIDENTIAL REPORTS**

**Item: 128**                    **IS - Lease from Crepe Myrtle - 442 and (part of) 441 Cornwallis Road, Cornwallis - (793514, 95495)**

**Directorate:**                Infrastructure Services

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**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 MEETING**

**Confidential Reports**

**Meeting Date:** 29 June 2021

**Item: 129**                    **SS - Lease to OSR Group Pty Ltd - Windsor Function Centre - 7 Dight Street, Windsor - (95496, 107)**

**Directorate:**                Support Services

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**REASON FOR CONFIDENTIALITY**

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

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

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