



general
purpose
committee

3
section

organisation
and
resources

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ITEM: 33 **Purchase of Proposed Three Town Sewerage Scheme Treatment Works Site - Stewarts Lane, Wilberforce**

FILE NUMBER: GL010/001 PT02/CSV/OGK30NCX.C04

PREVIOUS ITEM: 90, Ordinary (16.11.1999)

REPORT:

Council at its November Ordinary meeting considered a report in relation to the purchase of the proposed Three Towns Sewerage Scheme Treatment Works site, located in Stewarts Lane, Wilberforce and resolved as follows:

"That:

- 1. The information be received.*
- 2. Mr Diamond be given the opportunity to address the next General Purpose Committee meeting."*

Subsequently, the report is reproduced in full as follows:

Reference is made to the Questions to the Council from Mr Neville Diamond of the Hawkesbury River Environment Centre, regarding accessing Council files and documents under the Freedom of Information Act 1989, including the site of the proposed treatment works for the Three Towns Sewerage Scheme, in Stewarts Lane, Wilberforce.

Individuals and organisations can apply under the Freedom of Information Act to access files and documents held by Council. To initiate an application, a fee of \$30 (thirty dollars) is paid and the requested information is then researched with relevant files and documents located. Where necessary, consultation is undertaken with any objectors or authors of documents regarding any concerns they may have in relation to the disclosure of the document to the applicant. Generally, there are very few instances where the information can be held i.e. legal and commercial privilege, personal affairs or the threat of harassment to the author of the document and following the consultation process, the applicant is invited to inspect the and nominate disclosed material they wish to receive copies of. A processing charge may be applied for voluminous applications.

In relation to the situation with Mr Diamond, in January this year an application was received from Mr Diamond on behalf of the Hawkesbury River Environment Centre for access to and copies of all documents regarding:

- Wilberforce Abattoirs;
- Mushroom Composting at Ebenezer;
- McGraths Hill and Mulgrave; and
- the Sewerage Treatment Plant at McGraths Hill.

The application involved a significant number of files and a considerable amount of time in research and locating relevant documents. The applicant was advised of the extent of the application and requested to advance a deposit of \$300 (three hundred dollars) to cover processing costs. Later and within the statutory time period, Mr Diamond was advised that access was granted to all files subject to a number of exemptions including legal professional privilege and withholding names and addresses of some complainants and that he could access the files upon payment of \$100 (one hundred dollars) deposit with the balance of \$200 (two hundred dollars) payable upon inspection of the other files. No monies were received and the files not accessed despite significant staff time being allocated to processing the application.

In March, a further request was received from Mr Diamond for files relevant to the purchase of land for the Three Towns Sewerage Treatment Plant. The request did not include the \$30 application fee and Mr Diamond was contacted and advised that the application would not be processed until the fee was paid. Some three weeks later in early April, Mr Diamond came in and paid \$30 and lodged a letter specifically requesting copies of correspondence between companies associated with Mr Rob Tolson and Council and particularly he required a valuation report for the site acquired from Mr Tolson and research details relating to how that particular site was identified and what other sites were considered. The processing of this application once again involved researching a number of files including files on microfiche, which was the basis of Council's records system during the 1980's.

On 22 April, 1999 a letter was forwarded to Mr Diamond indicating that access to the relevant files had been granted, however, it was not until 28 June, 1999 that he came in to inspect the hard copy files and decided not to review any of the microfiche files. He then requested access to a number of relevant reports and he was advised that these reports were available in Windsor Library and were quite sizeable and accordingly, that there would be a cost of \$30 per hour for photocopying these documents plus payment of the \$300 owed on the previous application, prior to any further action being taken on the request. Payment was not received from Mr Diamond, however, in the public interest, access was granted to additional hard copy files and copies from microfiche files were also provided to him. Further correspondence was received from Mr Diamond on 15 October, 1999 regarding the status of his application and in particular, the provision of a copy of the valuation report and a response was forwarded indicating that he had already been granted access to the Report.

The site for the Three Towns Sewerage Treatment Plant was identified after an extensive investigation and in consultation with staff from the then State Pollution Control Commission (now Environment Protection Authority), Sydney Water and consulting engineers, Guthridge, Haskins and Davey. The land is comprised of three lots. Initially the owner was only prepared to sell one of the three lots that had an area of 10.9 hectares. This was a suitable size for the plant and is around the same size as the land on which the South Windsor Sewerage Treatment Plant is located that currently is three times the capacity of the Three Towns proposal and will extend to six times the size of the Three Towns proposal. The 10.9 hectare site was vacant land and the valuers advising the Council gave a valuation of between \$300,000 and \$325,000. Prior to the Council meeting considering the matter the principle of the land owning company advised he was prepared to sell all of the land (that was originally sought) for \$855,000. The Council staff member dealing with the matter was asked to seek from the consultant valuer his opinion of his value of the three lots, one of

which included a recently renovated weatherboard house. The valuer indicated to the Council staff that for three lots he would recommend that Council offer \$850,000. The report to the Council that was presented at an open meeting is as follows:

"Reference is made to the report on this matter (Item 3) and the proposed acquisition of 10.9 hectares of land. There have been further negotiations with the principal of the land owning company Elf Farm Supplies Pty Ltd, Mr R Tolson. He is prepared to sell all of the land in the holding comprising 3 lots, a closed road of 1.2 hectares and Lots 1 and 2 in DP803452, areas of 10.25 and 10.89 hectares for \$855,000.00. Should the three lots have Development Right then the Consultant Valuer would concur with the sale. One of the lots however, is a closed road and under the provisions of the Planning Scheme does not have a Development Right. Accordingly this area of land would have a valuation only as additional area annexed to the larger adjoining lot. In those circumstances the valuation of the property would be less than \$855,000.00 but not less than \$800,000.00. It is to be noted that on Lot 1 there is a recently renovated dwelling.

The land owner has indicated he is not prepared to sell for any less than \$855,000.00, accordingly the Council's only other action would be that of resumption, which the land owner indicates he would vigorously oppose. In those circumstances the acquisition if successful, could take up to two years.

It is considered that the whole of the land area is important to the project and this has been discussed with the Consultant Valuer. He concurs that in the circumstances of the proposed special use for the land, subject to a satisfactory Environmental Impact Statement, that the sum of \$855,000.00 would be acceptable for the purchase.

IT IS RECOMMENDED THAT Council purchase from Elf Farm Supplies Pty Ltd, Lots 1 and 2 in DP803452 and the adjacent area of closed road for the sum of \$855,000.00 (eight hundred and fifty five thousand dollars) and that the Seal of the Council be placed on the necessary documents."

Subsequently the Council resolved in accordance with the recommendation and proceeded to purchase the land.

The price for which land is purchased is based on the valuation at the time of purchase not what some person paid for it at some previous time. In this instance since the land was purchased by Elf Farm Supplies Pty Ltd it had been subdivided and the home on one of the lots extensively renovated.

Mr Diamond has requested an internal review of his application for access to the valuation report and accordingly he has once again been advised that despite his suggestions "valuation reports" have been withheld, access and copies have been provided of all relevant documentation.

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RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 33 Oooo

ITEM: 34 National Competition Policy - Payments to Local Government**FILE NUMBER:** GM001/031 Pt2/GMA/OGK30NAX.G01

REPORT:

Under the National Competition and Related Reforms Agreement State Governments receive Competition payments from the Commonwealth as recognition of the cost involved in implementing National Competition Policy. The benefits of this reform are not distributed evenly between all spheres of governments.

The New South Wales Government has refused to make an allocation of Competition payments received to Local Government which is against the spirit of the agreement. It is understood that the New South Wales Governments' position on the matter is at odds with advice from the Federal Government and that a proportion of the National Competition Policy payments to each State is intended to offset any upfront costs born by councils in implementing National Competition Policy Reform which has a lasting benefit.

The Queensland, Victorian and Western Australian State Governments have committed a proportion of Competition payments to Local Government within their respective states. The money allocated to the NSW Government under the National Competition and Related Reforms Agreement is set to increase to over \$200 million by 2002. It is currently at \$148 million. It is considered that Local Government is entitled to a share in view of the direct cost incurred, increasing costs as a result of National Competition Policy driven reforms in the transport and electricity industries and decreasing revenue streams such as exemption of gas distributors from charges in the Local Government Act. The May 1999 Productivity Commission Draft Report "*Impact of Competition Policy Reforms on rural and regional Australia*" notes that Councils and their respective organisations in some States criticized the fact that Councils would not receive a share of the National Competition Policy payments to reimburse Local Government for the cost of implementing the competitive neutrality requirement of National Competition Policy.

In Queensland, Victoria and Western Australia those Governments have allocated 20%, 9% and 4% of their Competition payments to Local Government respectively. The NSW Government has received \$72.2 million and \$73.5 million in Competition payments in 1997/98 and 1998/99 respectively. Assuming an average of the allocations made by the State passing on the payments to Local Government of 11%, then Local Government in New South Wales has already been denied over \$16 million in payments in the first two years of the agreement.

The payment to the New South Wales Government will increase to \$148 million p.a. in 1999/2000 and 2000/2001, then to over \$200 million p.a. from 2001/2002 until 2005/2006. This represents a minimum of \$1.296 billion payment over the seven year period. Assuming the 11% allocation to Local Government, the allocation to New South Wales Local Government for this period amounts to \$142.56 million representing over \$800,000 per council or \$115,000 per council per year.

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RECOMMENDATION:

That Council make representations to the State Government seeking a fair distribution of National Competition Policy payments to Local Government. That it seeks the assistance of the Local Government Association, WSROC and the State Members of Hawkesbury and Londonderry in this matter.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 34 Oooo

ITEM: 35 Local Government Associations Reference Groups - Nominations for Membership**FILE NUMBER:** GL040/009 Pt02/GMA/OGK30NAX.G02**REPORT:**

The Reference Groups play an important role in assisting the Local Government Associations to develop well informed policies and responses to issues affecting Local Government. The Associations have reconstituted a number of Reference Groups which advise the Standing Committee on community planning and services. They have now sought nominations from Councillors and staff to the groups. The following Reference Groups will be convened early in 2000:

- Ageing and Disability Issues
- Children and Families
- Culture
- Housing
- Library and Information Services.

All the Reference Groups have similar functions which are to:

- Provide advice, support and assistance in the functional area
- Review and update policy in the functional area for consideration by the Annual Conference
- Liaise with the Local Government representative on the external committees in the functional area

Nominations are sought up until the 3rd December 1999 and accordingly the Council needs to advise at this meeting if it wishes to nominate any Councillor/s.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 35 Oooo

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Item: **36****ITEM: 36 Monthly Financial Report - October 1999****FILE NUMBER:** GF0011/005/FNC/OGK30NAX.F08**REPORT:****October 1999**

Summarised below, are particulars of both the income received and the expenditure incurred by Council for the month of October 1999. This information is reconciled between the cashbook and the bank statement balance as at the end of October 1999. All expenditure is fully supported by vouchers and invoices which have been duly certified.

A. Cash Book Reconciliation - October 1999

Cash Book Balance as at 1 October 1999		\$-557,510.45
Add: Receipts for month of October		<u>\$3,424,347.82</u>
		\$2,866,837.37
Less: Payments for month of October		
Cheque # 65572 - 66080	\$1,498,136.89	
EFT # 11493 - 11774	\$1,214,727.74	
Family Day Care Payments	\$42,570.20	
RTGS (Investment) Transactions	\$350,000.00	
Cancelled Cheques	\$-418.41	
Miscellaneous (Bank Charges, Dishonours etc)	<u>\$15,240.45</u>	<u>\$3,120,256.87</u>
Cash Book Balance as at end of October 1999		\$-253,419.50

B. Statement of Bank Balances - October 1999

Bank Statement Balance as at end of October 1999		\$59,876.91
Less: Unpresented Cheques		<u>\$-355,264.54</u>
		\$-295,387.63
Add: Outstanding Deposits	\$69,078.48	
Statement Credits not Receipted	<u>\$-27,110.35</u>	<u>\$41,968.13</u>
		\$-253,419.50

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C. Investments - October 1999

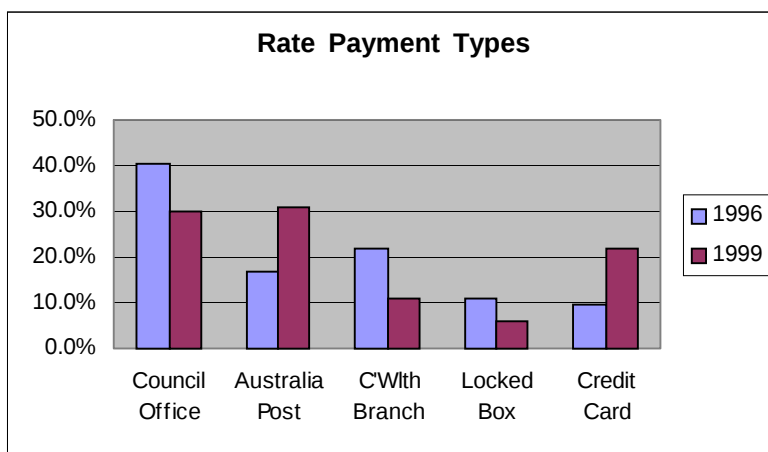
The Local Government (Financial Management) Regulation requires that each month, details of all money that has been invested under section 625 of the Local Government Act, 1993 be reported to a meeting of Council.

The following table outlines the investment portfolio held by Council as at the end of October 1999. All investments have been made in accordance with the Act, Regulations and Council's investment policies.

Investment Type	Balance 30-Sept-99	Deposits	Withdrawals	Interest Paid	Balance 31-Oct-99
Managed Funds	\$22,488,635.70			\$86,293.18	\$22,574,928.88
On Call Funds	\$5,325,000.00	\$350,000.00	\$-1,050,000.00		\$4,625,000.00
Term Investments	\$950,000.00				\$950,000.00
TOTAL	\$28,763,635.70	\$350,000.00	\$-1,050,000.00	\$86,293.18	\$28,149,928.88

D. Collections - Rates and Charges

A number of rate payment options are available to ratepayers. The past 2-3 years has seen a shift in the popularity of the available options. This is evidenced in the following graph which depicts the changes in the percentage of total payments received:



The introduction of BPAY and the popularity of credit card reward schemes has seen a considerable increase in the percentage of payments made by credit card. This has resulted in an increase in rate payment collection costs as merchant fees have to be paid on each credit card transaction. Likewise, the increase in Australia Post transactions has also led to additional collection costs.

Geoff Banting
Responsible Accounting Officer

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RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 36 Oooo

ITEM: 37 **Work for the Dole 2000 - Hawkesbury Skills Inc.**

FILE NUMBER: P255/100/CSV/OGK30NBX.C03

REPORT:

Hawkesbury Skills Inc. is a community based organisation which has successfully tendered to manage work for the dole projects funded by the Department of Employment, Education and Training (DEET). These projects include:

- | | |
|----------------------------------|---|
| <i>Multi media design:</i> | a project involving desk top publishing, web page design, a community newspaper and an Internet radio broadcast (web-cast) for community groups and individuals |
| <i>Images of the Hawkesbury:</i> | a CD-ROM project processing images of the area and promoting them to education, tourism and information outlets |
| <i>Promoting cycle tourism:</i> | a mapping project |
| <i>Horticulture:</i> | including park and main street beautification. |

These projects have contributed to improving the employment and living skills of participating young people and have also benefitted the wider Hawkesbury community.

Proposed changes to the work for the dole scheme will broaden the types of activities that can be undertaken by participants. It is anticipated, that *Work for the dole 2000* will permit community groups to access the pool of participating young people to work on projects that have been identified and sponsored by these community groups. There is the potential for *Work for the dole 2000* projects to deliver significant further benefits to the Hawkesbury.

In addition to co-ordinating work for the dole projects, Hawkesbury Skills also manages the *DIG IT* project - a project offering recreational horticulture to people with mental illness which is funded through the Western Sydney Area Assistance Scheme (WSAAS). Hawkesbury Skills is also exploring the viability of establishing a community access video and film editing facility for Western Sydney.

To date, the work undertaken by Hawkesbury Skills Inc. has delivered a substantial contribution to improving quality of life within the Hawkesbury. The ongoing co-ordination of work for the dole 2000 projects will ensure that Hawkesbury Skills can continue this valuable work.

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RECOMMENDATION:

That Hawkesbury City Council note and acknowledge the contribution and work of Hawkesbury Skills Inc.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 37 Oooo

ITEM: 38 **Disposal of Property Bounded by George Street, Woods Road and Bradley Road, South Windsor**

FILE NUMBER: GC285/28/CSV/OGK30NBX.C05

PREVIOUS ITEM: 74, Ordinary (16.11.1999)

REPORT:

Council at its November Ordinary meeting considered a report on the disposal of property bounded by George Street, Woods Road and Bradley Road at South Windsor, and resolved to defer the matter to the next General Purpose Committee meeting so that a site inspection may be carried out.

Subsequently, the report is reproduced in full as follows:

The vacant land as shown on the attached plan and bounded by Woods Road, George Street and Bradley Road, South Windsor, has been identified within the Property Development Strategy as surplus to requirements and suitable for future residential development.

Prior to the sale or development of the site, a number of issues needed to be addressed including reclassification from Community to Operational the land shown on the plan as Lot 175, closure of the laneway at the rear and front of the property and re-zoning of the whole site from Open Space Existing Recreation 6(a) to Residential. It is pointed out that in determining that the site was surplus to current needs consideration was given to the fact that there is ample open space in the area and in particular within Bradley Road and nearby in Mileham Street i.e. netball complex. The unusual lot layout stems back to the original subdivision in 1962 which provided narrow lots and rear and front laneways created for the purpose of establishing a neighbourhood shopping centre with service lanes and car parking. It is considered that there is insufficient demand for a shopping centre development to proceed given the close proximity of shops at Bligh Park and South Windsor and in any event, the original layout is not consistent with current traffic management and neighbourhood shopping centre designs.

As a result of community consultation undertaken during the re-zoning, reclassification and closure of the unformed laneway processes, the owner of No. 1 Bradley Road, Mrs P Karlson, requested and was subsequently granted by Council subject to the matter proceeding, a strip of land parallel to her side boundary of up to 1.5 metres wide and the splayed corner from the closed laneway, to enable her to continue vehicular access to the garage located at the rear of the property. It is noted that Mrs Karlson has gates erected in the fence and accesses the rear yard and garage from the unformed laneway. Despite not initially requesting the same consideration during the public consultation period, the owner of No. 636 George Street, which backs onto the Karlson property and adjoins the laneway, has also requested she be offered a similar arrangement. Council had previously granted her the section of splayed corner only.

It is noted that under the Roads Act when an unused laneway or road is closed, it can be offered for purchase to adjoining owners and therefore Mrs Karlson and Mrs Shackley are entitled to acquire part of the laneway. Subsequently, it is recommended that Mrs Shackley also be granted 1.5 metres of the laneway, for nil compensation, with it being acknowledged that this proposal would regulate the boundary and may assist in any future development layout on the site. It is pointed out that if the laneway was formed, under the Roads Act Council could receive compensation for the sale of the laneway however, as the laneway is unformed, any compensation from Mrs Shackley or Mrs Karlson, would be paid directly to the Department of Land and Water Conservation.

It is noted that once the laneway is formally closed a subdivision will be required to create one (1) lot in readiness for disposal. In view of the limited cleared development sites within the South Windsor area, it is expected that there will be a great deal of interest in the purchase of the site, with a medium density development the most likely outcome. Subsequently, it is recommended that the site be sold by public auction.

Additional Information

It is pointed out that the Council has previously resolved to grant Mrs P Karlson of No. 1 Bradley Road, 1.5 metres of the closed lot laneway for the length of her property for nil compensation and Mrs Shackley is now requesting the same consideration. As an adjoining owner to the unformed laneway Mrs Karlson and Mrs Shackley, along with Council are entitled to acquire part of the laneway on its closure.

RECOMMENDATION:

That:

1. Mrs Vicky Shackley of No. 636 George Street, South Windsor be granted for nil compensation, 1.5 metres of the closed laneway for the length of her property.
2. Once the road closure and subdivision to create one (1) lot are completed, the site be sold by public auction with the reserve price to be determined by a valuer prior to auction.
3. The Seal of Council be affixed to all necessary documentation.

ATTACHMENTS:

AT-1 Site Plan

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SITE PLAN

oooO END OF ITEM 38 Oooo

ITEM: 39 **Lease of 22 Fitzgerald Street, Windsor****FILE NUMBER:** GF283/031 PT03/CSV/OGK30NBX.C09

REPORT:

As a result of a question raised at the November Ordinary Meeting, the following report is provided on the leasing of 22 Fitzgerald Street, Windsor.

The former Windsor Rest Centre and Coffee Shop at 22 Fitzgerald Street, now operating as Mel's on Fitz Cafe is licenced to Melinda Muscolino, with the public rest rooms and amenities for the Windsor Mall area being located within the premises.

A number of complaints have been received from the public regarding access to the public toilets. The licence provides that the Licensee must allow members of the public to access the amenities facilities whenever the premises are open, free of charge and without obligation to purchase products from the cafe. An inspection of the site has revealed that the separate external access to the amenities has been blocked by rubbish bins, with access now only available through the cafe. Also, signs indicating the provision of amenities within the premises have been vandalised or removed.

The licensee is responsible for the cleaning and maintenance of the public amenities and Council provides the cleaning materials, detergents and consumables as reasonably required.

The licensee has been reminded of the requirements under the licence and has been requested to provide unrestricted access to the public amenities.

RECOMMENDATION:

That the licensee be reminded of the obligation to provide unrestricted access to the public amenities located within 22 Fitzgerald Street, Windsor in accordance with the conditions of the Licence Agreement.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 39 Oooo

ITEM: 40**Proposed Sale of Public Reserve No. 75 at Lower Portland****FILE NUMBER:**

GC283/065 PT02/CSV/OGK30NBX.C06

REPORT:

The operators of Ponderosa Automarine and Ski Resort, Mr and Mrs Cartwright, have offered to acquire Public Reserve No. 75 at Lower Portland.

The Reserve which has an area of 7,554m², is currently leased to Ponderosa Automarine and Ski Resort on a year to year basis at a rental of \$1,040 (one thousand and forty dollars) per annum and is currently used as a twenty (20) site caravan park and ski resort. The sale process if supported, would involve a reclassification of the site from Community to Operational land and a brief history of the matter is as follows.

In October 1972, Colo Shire Council granted consent for the establishment of a caravan park and ski resort on land described at that time as Portions 40 and 44 Parish of Meehan. Further, in December 1973 the Council granted consent to the subdivision of the above land by Mr and Mrs Cartwright and a condition of consent was the dedication to Council of the land now known as Reserve No. 75, which is located adjacent to the Hawkesbury River and highlighted on the attached plan.

Subsequently, the Reserve was transferred to Council in May 1977 as Lots 4 and 7 DP252546 and it was not until an inspection of the property in 1987 for caravan park licensing purposes that it was revealed the 20 caravan sites were in fact located on the public reserve. At the time, Mr and Mrs Cartwright verbally confirmed that they were aware the sites were located on the Public Reserve and that they had utilised the Reserve since the dedication was effected, as there was no other appropriate position on their property for a caravan park and they subsequently requested they be able to buy back the land from the Council. However, provisions of the then Local Government Act 1919 made it difficult to sell reserves and despite the support of the Council, the Department of Local Government would not approve of the sale. As a result, the land has been leased to the Cartwright's ever since. They have now requested that the purchase proposal be reconsidered and it is noted that the Local Government Act 1993 has simplified the process somewhat for the sale of public reserves/community land involving only a reclassification through the LEP process.

It is noted that despite the land being Public Reserve, access is not available for the public via road as the property is landlocked by privately owned property and vehicular access is through a right of way. The only possible access is via the river and it is considered that if the site was vacant, it would be a maintenance liability given its relatively remote location and access issues. A valuation report was obtained from KD Wood and Associates, Consultant Valuers, and they indicated that the site which is riverfront land and is completely flood liable, has a value of \$10,000 (ten thousand dollars). Mr and Mrs Cartwright have indicated that they would be prepared to pay \$10,000 for the site and in view of the history of the site, the limited potential for access and the maintenance liability if it was returned as Public Reserve, the sale proposal is supported.

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RECOMMENDATION:

That a Local Environmental Plan be prepared to enable the reclassification of Lot 7 and Lot 4 DP252546 from Community to Operational land. Further, should the Plan proceed, the site be then sold to Mr and Mrs Cartwright of Ponderosa Automarine and Ski Resort for \$10,000 (ten thousand dollars) and the Seal of Council be affixed to the necessary documentation.

ATTACHMENTS:

AT-1 Site Plan

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SITE PLAN

oooO END OF ITEM 40 Oooo

ITEM: 41 **Proposed Road Closure and Purchase - Corner of Ebenezer Wharf Road and Sackville Road, Ebenezer**

FILE NUMBER: P1901/0080/CSV/OGK30NBX.C07

PREVIOUS ITEM: 25, GPC Section 3 - Organisation & Resources (26.10.1999)

REPORT:

Council at its November meeting considered a report concerning the proposed road closure and purchase of land at the Corner of Ebenezer Wharf Road and Sackville Road at Ebenezer and resolved that the matter be further reported to Council.

The original dedication of the land as road, was a requirement in 1974 of the then Department of Main Roads, and was initiated as a result of a proposed two lot subdivision of Portion 271. The Department of Main Roads advised Council of their requirements and the options available to the applicant, which were as follows:

“In dedicating the land the owner has two courses available to him:

- (a) He may dedicate the land without claiming. In this instance this Department will arrange for the removal of fencing, minor improvements and services, such as water meters, etc., at the time of road construction.*
- (b) He may dedicate the land but retain the right to claim payment therefore. In this case this Department requires that the owner, at his expense, remove all fencing, improvements, water and as meters etc. before lodgement of the plan of survey.”*

The subdivision was subsequently approved by Council subject to a number of conditions, including:

- Provision of a splay corner 5m x 5m at the intersection of Main Road No 182 and Wharf Road.
- Provision of road widening on Main Road No 182 to the satisfaction of the Department of Main Roads.

Given that the dedication was a requirement by the DMR and formed part of the subdivision consent conditions, it is considered appropriate that the applicant pay the current market value of \$5,000 (five thousand dollars) to purchase the land from Council. It is noted that the usual application fee of \$500.00 was waived as it was initially considered the dedication was not a result of a subdivision and the applicants had dedicated the land without compensation. However, research revealed the land was in fact dedicated as a condition of consent and consistent with the recommendation on the proposed sale of Public Reserve No. 75, it is suggested that the applicant be required to pay market value to purchase the land.

RECOMMENDATION:

That:

1. Council support the closure of an unnecessary section of road on the corner of Sackville Road and Ebenezer Wharf Road, Ebenezer, adjoining Lot 2 in DP 576358 (368 Sackville Road) and comprising an area of approximately 2015m².
2. A six by six metre splay corner to be retained on the corner of Sackville Road and Ebenezer Wharf Road, Ebenezer.
3. Council as the roads authority apply to the Department of Land and Water Conservation for the closure of the unnecessary section of road to be vested in Council as operational land, and transferred to Mr and Mrs Sullivan.
4. The applicants Mr and Mrs Sullivan enter into a Deed of agreement to:
 - i. Meet all costs associated with the application.
 - ii. Consolidate the closed road area with the adjoining property, Lot 2 in DP 576358.
 - iii. Pay to Council consideration of \$5000.00 (five thousand dollars) for the closed road area.
5. All necessary documents be executed under the Common Seal of Council.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 41 Oooo

ITEM: 42 Policy for Access to Information**FILE NUMBER:** GL010/001 PT02/CSV/OGK30NBX.C10

REPORT:

Council encourages open and transparent governance as well informed community debate and this open government approach is complimented by assisting the public with obtaining access to Council documents and information.

Members of the public have statutory rights to broad ranging access to Council documents. Statutory access to Council documents is provided by the following legislation:

- Freedom of Information Act 1989; and
- The Local Government Act, 1993, in particular Section 12.

Currently, applicants requesting access to Council's files and documents other than those specified as being freely available under Section 12(1) of the Act, are required to submit applications for access to the requested information under the Freedom of Information Act. To initiate an application, a fee of \$30 is paid and the Council officers then research and locate files and documents relevant to the application. Where necessary, consultation is undertaken with any objectors or authors of documents regarding any concerns they may have in relation to disclosure of the document to the applicant. Following that process, the applicant is invited to inspect the documents and nominate disclosed documents they wish receive copies of and they may be charged for the provision of the documents.

It is pointed out that this can be both a costly and time consuming process. Accordingly, in view of guidelines from the NSW Ombudsman's office, Department of Local Government and a recent decision from the Administrative Decisions Tribunal, it is apparent that the courts have accepted the view that a person should be able to access any allegations of wrong doing or adverse comment made about them, where the information is being utilised to form the basis of a decision impacting on the applicant's rights, interests and reputation. Subsequently, it is suggested that it be adopted as policy to provide all Council documents under Section 12(6) of the Local Government Act rather than via the Freedom of Information Act, on the basis of the following:

- Providing access under the Local Government Act minimises the consultation process with authors of documents and objectors, therefore reducing the time and cost associated with processing the application, together with any antagonism from the applicant.
- Although there is no application fee charged for access to documents under the Local Government Act, a reasonable photocopying and processing fee can be applied and it is recommended that a rate of \$30 per hour be adopted as part of the Revenue Pricing Policy.

- The public interest test contained within the Freedom of Information Legislation and the subsequent decision of the Administrative Decisions Tribunal tends to indicate that the identity and disclosure of information contained in a document must be made available in all but extreme circumstances i.e. when it is felt that the author may be in some danger or the document may disclose personal matters, trade secrets or legal and commercial privilege.
- The Local Government Act provisions are more consistent with Council's objective of open and transparent governance and encouragement of the public to participate in the decision making process.
- It is understood that the Ombudsman and the Department of Local Government are of the view that requests for access to information should be processed in accordance with the Act rather than diverted through the Freedom of Information process.

In relation to privacy concerns, there is some discretion available on the question of releasing the names and addresses of a complainant. It is suggested that this discretion could be exercised as consistently as possible by way of a Council policy indicating the circumstances when the details of the complainants will be withheld. In considering this issue, there is a need to balance the right of privacy of the complainant with the right of a person about whom a complaint is made. The NSW Ombudsman's (FOI Policies and Guidelines) suggests the following key questions be considered when determining whether or not to disclose the identity of a complainant. Will the release of information:

- Prejudice the future supply of information identifying breaches of the law;
- amount to unreasonable disclosure of information about the complainant or other people;
- be contrary to the public interest; and
- endanger the life or safety of the complainant or other people.

Consultation with the author of the document would be undertaken if considered appropriate in the circumstances.

It is acknowledged that Council's existing Complaints Policy does protect the identity of complainants and accordingly, should also be reviewed as access via Section 12 of the Local Government Act and relevant policies, override the Complaints Policy. At present, the Complaints Policy generally protects the identity of complainants and only provides access to the nature and substance of a complaint.

In conclusion, it is suggested that the attached Draft Policy for Access to Information be placed on public exhibition for a period of twenty eight (28) days. Should this open file policy be eventually adopted it would grant access to complainant details with the exception of situations where such access compromises individual safety, constitutes an unreasonable disclosure of personal information or is contrary to public interest. It is proposed that notice of the Draft Policy be circulated in local newspapers and copies of the document would be made available in the libraries and enquiries counter within the Council offices.

RECOMMENDATION:

That Council place on public exhibition for a period of 28 (twenty eight) days the Draft Policy for Access to Information and the fee for processing and photocopying at \$30 (thirty dollars) per hour. Following the public consultation period, the draft policy for Access to Information and necessary amendments to the Complaints Policy be reported back to Council.

ATTACHMENTS:

AT-1 Draft Policy for Access to Information

**DRAFT POLICY
FOR
ACCESS TO INFORMATION**

Introduction

In adopting an open file policy for access to information, Council recognises and promotes the public's right to broad ranging access to Council information and documents. Also Council encourages open and transparent governance and well informed community debate.

All requests will be processed promptly and in accordance with the relevant legislation.

Statutory Access to Council Documents

Requests to access documents may be made under the Freedom of Information Act 1989 or the Local Government Act 1993.

It is pointed out that Section 12(6) of the Local Government Act 1993 provides that:

"The Council must allow inspection of its other documents (other than the documents freely available under Section 12(1)) free of charge unless in the case of a particular document, it is satisfied that allowing inspection of the document would, on balance, be contrary to the public interest."

The following documents are freely available under Section 12(1) of the Local Government Act 1993:

- Code of conduct
- Code of meeting practice
- Annual Report
- Annual financial reports
- Auditor's report
- Management plan
- EEO management plan
- Civic expenses and facilities policy
- Land register
- Register of investments
- Returns of the interests of councillors, designated persons and delegates
- Returns as to candidates' campaign donations
- Agendas and business papers for Council and Committee meetings (but not including business papers for matters considered when part of a meeting is closed to the public)
- Minutes of Council and Committee meetings, but restricted (in the case of any part of the meeting that is closed to the public), to the resolutions and recommendations of the meeting
- Any Codes referred to in the Local Government Act
- Register of delegations
- Annual reports of bodies exercising delegated Council functions

- Applications under Part 1 of Chapter 7 of the Local Government Act for approval to erect a building, and associated documents
- Development applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents
- Local policies adopted by the Council concerning approvals and orders
- Records of approvals granted, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals
- Records of building certificates under the Environmental Planning and Assessment Act 1979
- Plans of land proposed to be compulsorily acquired by the Council
- Leases and licences for use of public land classified as community land
- Plans of management for community land
- Environmental planning instruments, development control plans and plans made under Section 94AB of the Environmental Planning and Assessment Act 1979 applying to land within the Council's area
- The statement of affairs, the summary of affairs and the register of policy documents required under the Freedom of Information Act 1989
- Departmental representatives' reports presented at a meeting of the Council in accordance with Section 433 of the Local Government Act

Additionally, Council's Complains Policy provides for access to documents in particular, objections to development proposals.

Processing Applications for Access to Information

It is proposed that access to documents other than those listed as freely available under Section 12(1) of the Act, be provided in accordance with Section 12(6) of the Act rather than under Freedom of Information legislation. No fees are payable for viewing the documents, however, a processing fee as detailed in the Revenue Pricing Policy - Fees and Charges Schedule, may be applied.

Requests to view other documents will be approved unless:

- (a) Granting public access is prohibited under relevant legislation or
- (b) The General Manager or Public Officer (or other delegated staff member) believe granting access to a particular document is contrary to the public interest or
- (c) If in the case of a complainants name and contact details:
 - (i) The information has not previously been made public and
 - (ii) In the opinion of Council's General Manager, Public Officer or his/her delegate;
 - it is clear that the life or physical safety of the complainant could reasonably be expected to be endangered if such information was released or
 - there are facts in relation to the complainant other than the mere fact that a particular person has made a complaint which would amount to an unreasonable disclosure of information concerning personal matters
 - release of these details would be contrary to the public interest

When requesting access to documents not listed in Section 12 of the Local Government Act, customers will be requested to complete a request form.

If access to a document or any information is restricted:

- the customer will be given written reasons for the restriction
- the details of the restriction will be reported to a Council meeting and will be publicly available
- Council will review the restriction under Section 12(A) of the Local Government Act 1993.

Conclusion

This policy aims to meet the objective of open and transparent governance and encourages community input on matters before the Council. Privacy of the complainants is also recognised through denial of access where the release of information would compromise individual safety, constitutes an unreasonable disclosure of personal information or is contrary to public interest.

oooO END OF ITEM 42 Oooo

ITEM: 43 **Hawkesbury Community Transport Service**

FILE NUMBER: GC200/002/CSV/OGK30NCX.C11

REPORT:

A the November Ordinary Meeting of Council a question was raised regarding the following issues associated with Hawkesbury Community Transport Service.

Insurance Coverage

Hawkesbury Community Transport Service vehicles have full comprehensive insurance through Council's insurer, the GIO. Council assumed auspice of the service on 13 August 1999.

Medical Transports

All medical transports are carried out by volunteer drivers using their own vehicles. Buses are not used for medical transport.

It is the policy of Hawkesbury Community Transport Service that volunteer drivers have their own comprehensive insurance which is sighted by the Service Co-ordinator. The volunteers are covered by Council's volunteer insurance cover for personal injury.

Current Position of Review of Operations

The current position of the review process for Hawkesbury Community Transport is:

- C Six casual bus drivers and two office staff have been employed
- C Bus routes and medical transport routes have been revised to provide a more efficient and cost effective service
- C The service has been re-located to the former Hawkesbury Hospital site
- C Survey forms have been distributed to all service users, providers, and relevant agencies to allow for their input into the review and restructure processes
- C The five buses currently in use have been valued and information gathered on purchase options for reconfiguring the fleet
- C Final evaluation and recommendations for the restructure and future of the service are expected to be finalised by mid December 1999.

ORGANISATION AND RESOURCES

Meeting Date: 30 November, 1999

Item: **43**

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 43 Oooo