



general  
purpose  
committee

1  
section

environment

**GENERAL PURPOSE COMMITTEE - ENVIRONMENT****Table of Contents****Meeting Date:** 23 April 2002**Page** 2

| <b>ITEM</b>                     | <b>SUBJECT</b>                                                                                                                                                                                       | <b>PAGE</b> |
|---------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| <b>SECTION 1 - ENVIRONMENT.</b> |                                                                                                                                                                                                      |             |
| <b>31:</b>                      | <b>Request for Review of Determination, Lot 5 DP59816, McGraths Road, Vineyard<br/>- Construction of Single Dwelling<br/>MA1527/01/EVD/END23NAX.V05</b>                                              | <b>4</b>    |
| <b>32:</b>                      | <b>Modify Development Consent DA854/88 - Medical Centre, 2 Kable Street,<br/>Windsor<br/>DA854/88/EVD/END23NAX.V04</b>                                                                               | <b>7</b>    |
| <b>33:</b>                      | <b>6 (six) lot community subdivision with lot 1 being community property, Lot 119 DP<br/>751658, 74 McMahons Road, Kurrajong<br/>DA1599/01/EVD/END23NAX.V01</b>                                      | <b>12</b>   |
| <b>34:</b>                      | <b>Richmond Lowlands<br/>GT170/004 PT4/GMA/END23NAX.G07</b>                                                                                                                                          | <b>28</b>   |
| <b>35:</b>                      | <b>Cities for Climate Protection<br/>GE020/061 PT3/EVD/END23NBX.V03</b>                                                                                                                              | <b>31</b>   |
| <b>36:</b>                      | <b>Draft Local Environmental Plan 5/01 (Amendment 135) - General Amendments to<br/>Hawkesbury Local Environmental Plan 1989<br/>LEP5/01/EVD/END23NBX.V02</b>                                         | <b>34</b>   |
| <b>37:</b>                      | <b>State Environmental Planning Policy 5 - Housing for Older People or People with a<br/>Disability<br/>GT190/003/EVD/END23NBX.V13</b>                                                               | <b>37</b>   |
| <b>38:</b>                      | <b>Exhibition of draft local environmental plan - Riverstone Release Area<br/>GT160/004/EVD/END23NBX.V08</b>                                                                                         | <b>39</b>   |
| <b>39:</b>                      | <b>Review of Determination for 9 lot Community Title Subdivision of Lot 13<br/>DP872372, 83 Willow Glen Road and Lot 1 DP558418, 24A Westbury Road,<br/>Kurrajong<br/>MA1380/01/EVD/END23NBX.V10</b> | <b>46</b>   |
| <b>40:</b>                      | <b>Truck Depot - Lot 492 DP751665, 42 Browns Road, Wilberforce<br/>MA1066/01/EVD/END23NBX.V12</b>                                                                                                    | <b>51</b>   |
| <b>41:</b>                      | <b>North West Rail Corridor<br/>GT240/016/EVD/END23NBX.V06</b>                                                                                                                                       | <b>56</b>   |

**GENERAL PURPOSE COMMITTEE - ENVIRONMENT**

**Table of Contents**

**Meeting Date:** 23 April 2002

**Page 3**

|            |                                                          |    |
|------------|----------------------------------------------------------|----|
| <b>42:</b> | <b>Draft Hawkesbury Lower Nepean Catchment Blueprint</b> |    |
|            | GR060/075Pt05/EVD/END23NBX.V11 .....                     | 60 |

**oooO END OF TABLE OF CONTENTS Oooo**

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: **31**

**ITEM: 31**                      **Request for Review of Determination, Lot 5 DP59816, McGraths Road, Vineyard - Construction of Single Dwelling**

**FILE NUMBER:**            MA1527/01/EVD/END23NAX.V05

**PREVIOUS ITEM:**        23, GPC Section 1 - Environment (26.3.2002)

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**Applicant:**                Mr Timothy Nicholson  
**Applicants Rep:**        Mr Dal Hann  
**Owner:**                  Mr Timothy Nicholson Pty Limited and NS Electrics Pty Limited  
**Stat. Provisions:**        HLEP 1989  
**Area:**                    4123sqm  
**Zone:**                    Rural 1(c)  
**Advertising:**            N/A  
**Date Received:**        12/4/02

Key Issues:                - Flood affectation of subject land  
                                  - Non-compliance with clause 25 of HLEP 1989  
                                  - SEPP No. 1 objection

Action:                    Previous decision be confirmed.

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### REPORT:

#### Introduction

The applicant, under the provision of Section 82A of the Environmental Planning and Assessment Act, has made an application to Council for a review of Determination.

In accordance with Section 82A(b), if the initial determination was made by Council then the review must be made also by Council. As a result, the matter is being reported to Council for Determination.

#### Background

This application was recently considered by Council at the General Purpose Committee meeting on 26 March 2002 and the Ordinary meeting on 9 April 2002 where Council resolved to not support the variation to clause 25 of HLEP 1989 under SEPP No. 1 and refuse the application for the following reasons:

- “1.     *The development does not comply with the provisions contained in Clause 25 of Hawkesbury Local Environmental Plan 1989.*

2. *The site is not suitable for the development due to the influence of flooding.*
3. *The development is inconsistent with the objects contained in the EPA Action 1979.*
4. *Approval of the application would establish an undesirable precedent for filling of land and approval of other dwellings on similar land in the city area.*
5. *Approval would not be in the public interest.”*

**Applicant's Submission**

In support of the application for review, the applicant has provided a written submission. The submission has indicated *“in order to assist the SES evacuation efforts during times of emergency flooding, we wish to propose improving McGraths Road to an ‘all weather road’ between Windsor Road and Andrew Thompson Drive. The enclosed diagram illustrates the extent of road to be improved.”* The diagram is attached to the report.

**Planning Assessment**Review of Determination

The provision of Section 82A allows Council to review the determination and, as a consequence of its review, may confirm or change the determination.

The additional submission presented in support of the review does not satisfy the concerns previously raised in the report in respect to the provisions of Clause 25 of HLEP 1989 and the undesirable precedent for filling of the floodplain if the proposal is approved.

As a result, there is no further justification to support approval and the previous decision of Council should be confirmed.

**RECOMMENDATION:**

That Council's previous decision of refusal, be confirmed.

**ATTACHMENTS:**

**AT-1** Diagram showing extent of works

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: **31**

Diagram showing extent of works

oooO END OF ITEM 31 Oooo

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: 32

**ITEM: 32**                      **Modify Development Consent DA854/88 - Medical Centre, 2 Kable Street, Windsor**

**FILE NUMBER:**            DA854/88/EVD/END23NAX.V04

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**Applicant:**                      Denning Properties Pty Ltd  
**Applicants Rep:**  
**Owner:**                         Denning Properties Pty Ltd  
**Stat. Provisions:**            HLEP 1989  
**Area:**                            N/A  
**Zone:**                            Special Business 3(b)  
**Advertising:**                 N/A  
**Date Received:**              11 September 2001

**Key Issues:**                      -            Non-Compliance with conditions of Consent.

**Action:**                            Approval

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### REPORT:

#### Introduction

An application has been received seeking consent to modify Development Consent DA854/88 involving a medical centre and shops approved under DA854/88.

The matter is being reported to Council at the request of Councillor Allan.

#### Background

DA854/88            -            2 storey medical centre and shops approved 31 January 1989.  
DA38/92            -            Strata subdivision of the building.

Council officers received enquiries regarding compliance with the conditions of the Development Consent for the medical centre and shops relating to the provision of parking on site for the public and persons with disabilities.

Council officers have held several discussions with the owner and their managing agents in respect to this matter which has now resulted in the application being submitted to modify certain conditions of the Development Consent.

#### The Proposal

The application seeks to modify Development Consent DA854/88 in the following manner:

- Deleting Conditions 23 and 24.

### **Statutory Situation**

#### Section 96 Environmental Planning and Assessment Act 1979

The proposed modification falls under Section 96 1(A) being a modification involving minimal environmental impact. The proposal is considered to comply with the provision of this section of the Act.

### **Planning Assessment**

#### Details of the conditions to be modified

The conditions to be deleted involve:

- Condition 23  
*“Car parking space No 7 is to be designated for ‘staff only’”.*
- Condition 24  
*“A sign indicating that parking is available on the site shall be erected to the satisfaction of the Manager Town Planning”.*

In support of the application the applicant has provided the following arguments:

1. *The parking conditions attached to DA854/88 should have rendered redundant by a 1992 DA (SA 38/92) whereby consent was granted for the conversion of the building to 12 strata units. It is obviously not practical to suggest that any single proprietor would need to provide public parking with its one single car space.*
2. *A condition of the original DA854/88 required payment to Council of an amount of \$44,000.00 being for contribution in lieu of the provision of 8 car spaces. Presumably Council provided these spaces in the public car park immediately opposite the building.*
3. *The presence of drugs, medical waste, used needles, etc, on the premises would pose a severe security and safety risk to both the public and medical staff should the basement be accessible to the public. Break-ins, physical attacks on staff, children injured by discarded needles, etc, are only a few of the possible consequences.*
4. *The suggestion of providing disabled parking in the basement is quite impractical. No lift exists in the basement level and any disabled visitor parking there would then need to exit the car park again to access the outside entrance ramp at the other end of the building. This, together with the problems associated with the tight*

*configuration of the car park would in fact make it far more difficult for a disabled person to access the building from the basement. We are also advised that the roof level is too low to provide access for many disabled vehicles.*

5. *It would appear the main concern for Council is to provide disabled parking for the building. However, as it is obvious that the basement car park is not suitable for this purpose we propose the following suggestion. That Council relocate existing disabled spaces in the Kable Street car park to a suitable location opposite the medical centre and provide a pedestrian crossing across Kable Street with gutter laybacks to permit disabled access. This option also addresses the existing and real problem of shoppers (often with trolleys crossing Kable Street in an ad hoc and often unsafe manner to access the shopping centre.*
6. *An alternate option would be to designate two existing car spaces alongside or opposite Liquorland (the building next door to 2 Kable Street) as disabled spaces for the Medical Centre. The shopping Centre alongside is also owned by the owner of 2 Kable Street.*

### Car Parking

The initial approval for the medical centre required the provision of 18 spaces for the development.

The applicant at the time provided 10 spaces within the basement on site and paid a car parking contribution in lieu of the 8 spaces that could not be accommodated on site. The car parking contribution was used by Council to provide public car parking in various areas within the Windsor commercial centre.

A Council public carpark is located directly opposite the medical centre and this carpark also provides disabled car parking spaces.

The initial car parking calculation was based on a floor area and did not differentiate between public and employee parking, however, it is reasonable to assume that the rate included parking required for both staff and the public.

In this case the applicant has argued that ten spaces have been provided on site for staff parking and the contribution paid for 8 spaces is for public parking which has been provided opposite the site.

This matter is further enforced by the registration of the strata plan which allocates each car parking space on site to each strata unit. It would seem reasonable to accept the applicant's argument that the provision for public parking associated with the medical centre has been satisfied with the payment of the car parking contribution to council for 8 spaces.

### Disabled Parking/Access

The approved basement parking plan provided no details for disabled parking, however, based on the dimension shown spaces 4, 6 and 10 could be used for disabled parking. These spaces are wider and

located adjacent to the wall. The width was probably required to allow easy access to the spaces rather than for a specific disabled space.

The argument presented by the applicant has been considered and based on the height it would not be possible for a disabled person with a wheelchair mounted on top of the car to use the basement. The basement area does not contain a lift but only the lift well and this has been confirmed by an onsite inspection. The lift in the building operates between the ground and first floors only.

The issue with disabled access to the building is in relation to the grades of the ramp constructed along Kable Street to provide access to the ground floor.

Both the options outlined by the applicant in respect to disabled car parking would provide a better location when compared to the current situation. The alternate option of providing two spaces adjacent to the medical centre on the adjoining site (owned by the same property owner) has some merit.

To ensure that the spaces are always available for use by the medical centre, in the event of a change in ownership, a suitable legal agreement on the title of the Kable Street shopping centre in favour of the medical centre property could be imposed.

The location of the spaces could be finalised in consultation with Council officers. This requirement can be imposed as an additional condition on the Development Consent.

### **Conclusion**

The conditions subject to the application relate to the use of the basement carpark for public and staff parking. The applicant's argument in support of the variation has merit and the contribution paid for 8 spaces has satisfied the demand for public car parking.

The provision of disabled parking in the vicinity of the site can be achieved by implementing the alternate option outlined by the applicant. Suitable additional conditions have been imposed.

### **RECOMMENDATION:**

That Development Consent DA854/88 be modified as follows:

1. Condition 23 be deleted and replaced by the following -  
*"A suitable legal agreement/easement shall be established over the proposed disabled spaces to be provided on Lot 1 DP 1005845 which can be used by the adjoining property known as Lot 9 DP 37595. Details of the legal agreement/easement to be submitted to Council for approval and registered with the Land Titles Office within six months from the date of the approved modification."*
2. Condition 24 be deleted and replaced by -  
*"The location of the disabled car spaces on the adjacent property known as Lot 1 DP*

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: **32**

*1005845 is to be approved in consultation with Council officers.”*

### **ATTACHMENTS:**

**AT-1** Locality map.

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: **32**

Locality Map

oooO END OF ITEM 32 Oooo

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: 33

**ITEM: 33**                      **6 (six) lot community subdivision with lot 1 being community property, Lot 119 DP 751658, 74 McMahons Road, Kurrajong**

**FILE NUMBER:**              DA1599/01/EVD/END23NAX.V01

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**Applicant:**                      McKinlay Morgan and Associates

**Applicants Rep:**

**Owner:**                          Mr H K Pollard and M J Pollard

**Stat. Provisions:**              HLEP 1989  
SEPP No. 1  
SREP NO. 20

**Area:**                              21.950Ha

**Zone:**                              Rural 1(c1)

**Advertising:**                  24 January 2002 to 7 February 2002

**Date Received:**                18 December 2001

**Key Issues:**                      -              State Environmental Planning Policy (SEPP) No. 1 (two undersized lots)  
-              Access

**Action:**                              Approval subject to conditions

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### REPORT:

#### Introduction

An application has been received seeking consent to subdivide the land into 6 (six) lots under community title with proposed Lot 1 comprising the access road and common property.

This matter is being reported to Council due to Council Policy PEU0018Z where applications involving more than 1 (one) undersized lot and/or a variation greater than 10% (ten percent) from the minimum be considered and determined by Council where they can demonstrate that the standard is unreasonable or unnecessary in the attainment of the relevant objects of the Act. This report will detail the proposal, the current statutory situation and provide an assessment of the application in accordance with Section 79C (1) of the Environmental Planning and Assessment Act 1979.

#### Subject Site

The subject site has frontage to McMahons Road, irregular dimensions and area of 21.95ha. The proposal provides for the creation of dwelling sites on the 2 (two) cleared ridge top areas, with 2 (two) lots within the cleared land fronting McMahons Road and 3 (three) lots encompassing the cleared ridge

top at the centre of the property. The property is traversed by 2 (two) creeks and with intervening ridge lines. A central creek system and gully divides the 2 (two) cleared areas of the site. This sensitive area will be contained within the community lot being Lot 1.

### **Background**

M1452/00 - Approved similar subdivision being a 6 (six) lot community title subdivision with Lot 1 being the access road (community lot). The road construction proved difficult given the site characteristics, hence the current application to enable the use of the existing access track for access while protecting the sensitive area of the site.

### **The Proposal**

The application proposes a 6 (six) lot community title subdivision with the proposed lots having the following characteristics:

Proposed Lot 1 being the proposed neighbourhood lot, will have an area of 5.6ha and provide access to the proposed lots 4 through to 6. This lot will encompass part of the existing access track, although this will need to be upgraded and will also contain the majority of the vegetation and the watercourse. This lot will have no development potential other than for the construction of the private road.

Proposed Lots 2 & 3 will have frontage to McMahons Road and areas of 1.54ha and 2.16ha and irregular dimensions. Lot 3 contains the existing cottage.

Proposed Lots 4, 5 & 6 will have areas of 4ha, 4.4ha and 4.6ha and encompass the cleared areas on the ridge top.

The application was referred to the Department of Land and Water Conservation (DLWC) under the integrated development process. The application is integrated development due to works on the existing access track which crosses a watercourse.

The application was also referred to Planning NSW for concurrence due to the application being accompanied by an SEPP No. 1 for the undersized lots 2 and 3 proposed.

### **Statutory Situation**

#### Hawkesbury Local Environmental Plan 1989

The subject property is zoned Rural 1(c1) under HLEP 1989. The proposed subdivision is permissible in the zone with development consent.

#### Relevant clauses from HLEP 1989

The relevant clauses from HLEP 1989 include Clause 9(A), Clause 11, Clause 18 and Clause 21. A detailed assessment of the relevant clauses are attached to the file.

The proposal generally complies with the provisions of HLEP 1989 with the exception of Clause 11 which relates to rural subdivision. The applicant has submitted a SEPP No. 1 objection to the development standard in Clause 11(2)(d)(i) which is assessed on file. The SEPP No.1 Objection is supported.

Sydney Regional Environmental Plan No. 20 Hawkesbury Nepean River

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

State Environmental Planning Policy No.1 - Development Standards

The application includes an objection under SEPP No. 1 due to non-compliance with Clause 11(2)(d)(i) in relation to proposed Lots 2 and 3 which are undersized. The applicant considers the development standard unreasonable and unnecessary in the circumstances of this case for the following reasons:

*"The development standard to be varied is to permit Proposed Lots 2 and 3 to contain an area of 1.85ha.*

*The reason for the variation is to allow land which contains sensitive vegetation to be contained within the community lot. Previous consent was given in MA1452/00 and the allotment development areas proposed is consistent with that Council. This application is essentially the same as the issued Consent, with the exception of the size of Lots 2 and 3 and the community lot. Supporting argument is attached from Blue Mountains Wilderness Trust. The proposed allotments comply with the zone objectives, but do however provide for better management."*

**Comment:** The application was referred to Planning NSW for concurrence due to proposed lots 2 and 3 being undersized. The Department concurs with Council granting approval for the application.

The subject property can numerically provide 5 (five) lots without the community lot, which is no different to the number of developable lots proposed. The current lot layout is more environmentally sensitive than the previously complying subdivision as it allows all the sensitive topographical elements to be maintained and managed within one allotment. The maintenance and use of the existing access track also reduces the impact on the vegetation and watercourse on the site.

It is considered that the proposed subdivision does not gain any additional lot entitlements and provides a better environmental outcome that is sensitive to the site attributes. It is recommended that the SEPP No. 1 request to vary Clause 11 (2)(d)(i) be supported.

### Integrated Development

The application was referred to the Department of Land and Water Conservation (DLWC) under the Integrated Development process. The application was integrated due to the upgrading of watercourse crossing required to allow suitable access to proposed lots 4 through to 6. The DLWC proposes to grant approval for a Part 3 A permit to allow the access for the proposed subdivision and have provided General Terms of Approval which will form part of the conditions of consent. The Department also provided the following comments in relation to the application:

*"The Department commends the applicant's proposed Community Lot encompassing the entire northerly watercourse on site and supports the recommendations by Blue Mountains Wilderness Trust for a Weed Management Plan to cover the ongoing management of the watercourse and its' riparian zone."*

### **Community Consultation**

The subject application was notified in accordance with the Notification of Development Proposal DCP which included letters to adjoining property owners and occupiers for a period of 14 (fourteen) days. The exhibition period closed on 7 February 2002.

One submission was received from an adjoining landowner raising concerns about the location of survey pegs to determine shared boundary. The objector has erected a fence inside his boundary and wants an assurance that the developer does not intrude inside his neighbouring property.

**Comment:** The boundaries of the new lots will be established by survey. The respondent was sent a letter indicating that a full survey of a property is not required until post approval. When a survey is carried out, survey pegs will be in place for the respondent to confirm boundary locations.

### **Planning Assessment**

The following are relevant matters for consideration under section 79C of the EP&A Act, a full assessment under Section 79C is contained on file.

### Context and Setting

The proposed lot areas and dimensions are satisfactory having regard to the requirements of HELP 1989 and in particular clause 11. The surrounding area is predominantly rural residential and the proposed subdivision is consistent with this. There have been a number of subdivisions approved adjoining the subject property which are similar in lot layout.

### Access, Transport and Traffic

The proposed lots will have access off McMahons Road via the existing access driveway at the north-western side which is to connect with the proposed access track. Use of the full alignment of the existing

access track may be less environmentally damaging. Full design plans for the construction of satisfactory access will be required, particularly to address the connection between the proposed and existing access driveway at potentially steeper parts of the site and the sharper bends above the creek/gully.

Satisfactory access can be provided from the frontage of the lots with adequate sight distance. Vehicular access can be provided via the existing driveway. Should the application be supported, appropriate conditions relating to the construction of the access road will be imposed.

### Flora and Fauna

A flora and fauna report/assessment prepared by Blue Mountains Wilderness Trust has been submitted with the application. The eight part test provided in this report has identified that there would be no significant effect and that a Species Impact Statement is not required. Certain recommendations are made including the establishment by Section 88b instrument of principal development areas with suitable envelopes for house and effluent disposal areas as per plans prepared by Toby Fiander & Associates in the geotech/effluent disposal report.

The report concludes that the benefits of the proposal in terms of managing the site, keeping it weed free and keeping the integrity of the existing vegetation far outweigh any possible negative impacts.

An addendum to the previous Flora & Fauna Report has been submitted with the current application. The consultant recommends the option of following the existing access track for access rather than construct a road as previously approved through a steep gully. The Flora and Fauna consultant concluded:

*"I recommend that in this case:*

- A Weed Management Plan be prepared and included in the Community Title and By-Laws documentation, to ensure suitable long term management of the vegetation for the gully, by the community association; and*
- Parts of the track not used be closed and allowed to revegetate by natural means."*

These recommendations shall be incorporated into conditions of consent and form part of 88B instrument.

### Waste

Onsite effluent disposal is proposed and has been addressed by a Geotechnical Report prepared by Toby Fiander & Associates which provides for establishment of effluent disposal areas.

The Fiander report concludes that the site is capable of being developed for house sites (including the existing house) which will dispose of wastewater efficiently and without damage to the adjoining land or watercourse.

The Fiander report also indicates that the existing septic tank and absorption trench system appears to be working effectively although there is evidence of failure. It is recommended that the existing system be upgraded providing an absorption trench along the contour to limit the risk of contamination of the creek located approximately 25m from the existing septic tank.

**Conclusion**

The proposed subdivision complies with the minimum allotment size contained within HLEP 1989 with the exception of 2 (two) lots. The applicant has demonstrated that the minimum allotment size is unreasonable as the layout proposed allows better management of the community lot which contains sensitive land features. The proposal provided a better environmental outcome for the land.

The proposed lots shape and size are consistent with the surrounding residential allotments in the vicinity of the site. The subdivision will not have any significant impact on the immediate area.

It is therefore recommended that the proposed subdivision be approved, subject to conditions.

**RECOMMENDATION:**

- A. That the SEPP No. 1 objection to vary Clause 11 (2)(d)(i) be supported.
- B. That the application for subdivision of the land into six lots under community title be approved, subject to the following conditions:

***General***

- 1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (prepared by McKinlay Morgan and Associates numbered 88573:DA:3 dated 19 December 2001) submitted with the application and any supportive documentation, except as otherwise provided by the conditions of this consent.
- 2. This consent covers the removal of trees and other vegetation necessary to allow the construction of works covered by any Construction Certificate issued for the development. No other trees or vegetation are to be removed without prior approval.
- 3. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979.
- 4. No excavation or site works shall be commenced prior to the issue of the Construction Certificate.
- 5. All works must be carried out in accordance with the Hawkesbury Development Control Plan, Civil Works Specification, Part 1 Design Specification and Part 2 Construction Specification.

***Prior to Issue of Construction Certificate***

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development, whether by Council or an appropriately accredited certifier. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate. **The Construction**

**Certificate shall be obtained prior to the commencement of any earth works or building works.**

6. The submission of design plans and calculations for all civil work required by this consent. These plans are to include details of grades, proposed cut and fill, curve radii and design of creek crossing.
7. Construction of civil works including road, drainage, access, or sewer works are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director Asset Services and Recreation or an accredited certifier.
8. The submission of a satisfactory Erosion and Sediment Control Plan (ESCP) prepared in accordance with the State Government guidelines titled "Managing Urban Stormwater: Soils and Construction (1988)".
9. Submission of proof of the payment of the Building Industry Long Service Levy where the value of civil works exceeds \$25,000.
10. A formal application for a Construction Certificate and a Compliance Certificate is required for the engineering works. The current fees are \$1,438.80 for a Construction Certificate and \$2,937.00 for a Compliance Certificate should Council be nominated as the Principal Certifier. These fees are valid until 30 June 2002.
11. Submission of a copy of the Part 3A permit issued by the Department of Land and Water Conservation.
12. Access roads are to comply with "Planning for Bushfire Protection" 2001 -4.3.2 a & b.

***Prior to Commencement of Works***

13. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved ESCP or SWMP. In the absence of any approved plan the work is to be in accordance with Council's Development Control Plan 1/94 - Soil Erosion and Sedimentation.  
  
Note: Measures may include the installation of geofabric fencing, staked straw bale walls located on the contour down-slope of the construction, sediment detention basins, earthen contour banks and the like. The enclosed warning sign shall be affixed to the sediment fence/erosion control device at all times.
14. The applicant or person having the benefit of this development consent must give at least two days notice prior to commencement of works to Council of the intention to commence works. This notice is to be given in accordance with form 7 of the Environmental Planning and Assessment Regulation 1998.
15. The applicant shall advise Council of the name, address and contract number of the principle certifier, in accordance with Section 81A 4(b) of the Environmental Planning and Assessment Act, 1997.

***During Construction***

16. All work must be carried out in accordance with the provisions of Council's Subdivision Construction Specification.
17. Should any aboriginal site or relic be disturbed or uncovered during the construction of this development, all work should cease and the National Parks and Wildlife Service consulted. Any person who knowingly disturbs an aboriginal site or relic is liable to prosecution under the National Parks and Wildlife Act 1974.
18. Surface runoff from the sealed accessway is to be treated by nutrient control ponds to prevent impact on potential habitat of the red crowned toadlet.

***Prior to Issue of Subdivision Certificate***

19. Construction of a minimum 4 metres wide sealed pavement and any necessary drainage for the full length of the private accessway and across the footway. The maximum grade shall be 1 in 6. The construction shall generally be in accordance with the Department of Bush Fire Services "Planning for Bush Fire Protection" and Hawkesbury Development Control Plan, Civil Works Specification and is to include:
  - (a) Minimum 1.2 metre shoulders beyond the seal.
  - (b) Provision of 14m x 3m wide passing bays approximately every 100 metres and near blind bends.
  - (c) Minimum curve radii on the inside of all bends of 12 metres.
  - (d) The pavement and all structures are to be designed for a 28 tonne truck with minimum 8 tonnes per axle.
  - (e) Minimum clearance from ground to any overhead obstruction of 4.0 metres.
20. The private accessway shall meet McMahons Road at a right angle.
21. The creation of easements to drain water over the site of drainage discharge from roads 4m wide and 10m long free of cost to Council.
22. Payment of a linen release fee of \$413.20. This amount is valid until 30 June 2002.
23. The location of the house site, disposal and buffer areas are to be defined on the final plan of subdivision.
24. A weed management plan is to be prepared for the community lot and is to be submitted to Council for approval.
25. A plan of bushfire management is to be prepared for the community lot being Lot 1 and submitted to Council.

26. The creation of a restriction on the use of land under section 88b of the Conveyancing Act, requiring:
- (a) The establishment of Principal Development Areas showing suitable envelopes for house and effluent disposal areas are to be sited as per plans prepared by Toby Fiander & Associates. Clearance of 20m from the edge of forest to edge of effluent disposal area and buildings shall require the provision of diversion berms and transient wetlands from nutrient control;
  - (b) Surface diversion of stormwater runoff from Principal Development Areas is to be achieved by means of swales, berms or similar, and the stormwater is to be discharged into designated points of water quality enhancement ponds, watercourses or dams as appropriate;
  - (c) No fences are to be constructed within sensitive vegetation units;
  - (d) Watercourses and areas of natural vegetation are to be fenced off with a five metre buffer zone, excluding livestock from watercourses and natural vegetation fringing watercourses;
  - (e) No fences are to be constructed within sensitive vegetation units;
  - (f) Watercourses and areas of natural vegetation are to be fenced off with a five metre buffer zone, excluding livestock from watercourses and natural vegetation fringing watercourses;
  - (g) Dwellings to be constructed on the land are to comply with the requirements of the Department of Bush Fire Services "Planning for Bush Fire Protection" in respect to fire protection zones, and to comply with Australian Standard AS3959 "Construction in Bush Fire Prone Areas". A site management plan is to be submitted with any future application to erect a dwelling house on the subject allotments indicating the recommended Fire Protection zones and the trees to be retained and any landscaping;
  - (h) No removal of rock and vegetation on any escarpment or area of natural vegetation.
  - (i) The weed management plan attached to the Management Statement is to be implemented by the community association to ensure that there is suitable long term management of the vegetation for the gully.
  - (j) Parts of the track not used for access are to be closed and allowed to revegetate by natural means.
  - (k) The plan of bushfire management attached to the Management Statement is to be implemented by the community association who is responsible for the initiation, ongoing maintenance and monitoring of this plan.
27. The existing septic tank and absorption trench system in use at the existing dwelling house being upgraded in accordance with the recommendations of the Fiander report, with as minimum the absorption trench at the existing dwelling being reinstalled to minimise the risk of pollution of the drainage line located below the existing trench.
28. A positive covenant be created over Lots 2-6 so as to comply with the requirements of the Department of Bush Fire Service/Rural Fire Service "Planning for Bush Fire Protection in respect to Fire Protection Zones. Areas of sandstone/shale transition forest are not to be used for internal bushfire protection unless consistent with any regional bushfire management plan. Burn offs of native vegetation areas are to be avoided.

**ENVIRONMENT**

Meeting Date: 23 April, 2002

Item: 33

| Lot Number  | Inner Protection Area | Outer Protection Area | Asset Protection Zone |
|-------------|-----------------------|-----------------------|-----------------------|
| 2           | 30 metres             | 40 metres             | 70 metres             |
| 3           | 30 metres             | 40 metres             | 70 metres             |
| 4 NE aspect | 20 metres             | 20 metres             | 40 metres             |
| 4 S aspect  | 30 metres             | 40 metres             | 70 metres             |
| 5 SW aspect | 25 metres             | 20 metres             | 45 metres             |
| 5 NE aspect | 20 metres             | 15 metres             | 35 metres             |
| 6 SW aspect | 25 metres             | 20 metres             | 45 metres             |
| 6 NE aspect | 20 metres             | 15 metres             | 35 metres             |

29. Perimeter access for fire fighting vehicles be established and maintained within the Fire Protection zone and linked to the property access. The perimeter access to be maintained to the requirements of HCC.
30. Remove category W1-W4 weeds as identified in schedule 2 of the Flora & Fauna Report prepared by Danny Wotherspoon dated 11 August 2000.
31. Submission of a Certificate from Integral Energy that satisfactory arrangements have been made for the provision of electricity to each of the resultant lots of the subdivision.
32. Submission of a Certificate from an approved telecommunications provider that satisfactory arrangements have been made for the provision of cables for telephones through the subdivision.
33. A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act 1979, towards the provision of the following public facilities in the locality:
- |     |                           |             |
|-----|---------------------------|-------------|
| (a) | Open Space and Recreation | \$8,207.00  |
| (b) | Community Facilities      | \$11,607.00 |

The above contributions have been determined in accordance with Hawkesbury Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Offices, George Street, Windsor.

The amount of contribution payable under this condition has been calculated on the basis of costs as at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics. In this respect the attached fee schedule is valid for 3 (three) months.

34. A Management Statement complying with Schedule III of the Community Land Development Act, 1989, shall be lodged with and approved by Council. This statement is to include a provision that Lot 1 is not to be used for the purpose of erecting a dwelling or any other building structure.

35. A Development Contract complying with Schedule II of the Community Land Development Act, 1989, shall be lodged with and approved by Council prior to issue of the final plan of subdivision.
36. The neighbourhood Management Statement shall include a provision that no dwelling shall be erected on the "neighbourhood lot".
37. As recommended by Blue Mountains Wilderness Trust, 27 November 2001, parts of track not used be closed and allowed to revegetate by natural means.
38. A Weed Management Plan be prepared and included in the Community Title and By-Law documentation, to ensure suitable long term management of the vegetation for the gully by the community association.

***General Terms of Approval - River and Foreshores Improvement Act 1948 Part 3A***

39. In accordance with Division 5 of the Environmental Planning and Assessment Act 1979 for integrated development, the application has been referred to the Department of Land and Water Conservation in respect to the issue of a permit under Part 3A.
40. The Department proposes to grant an approval and has provided general terms of approval. These do not constitute a Part 3A permit under the River and Foreshore Improvement Act 1948. The applicant must obtain and complete to the satisfaction of the Department an application for a Part 3A Permit.
41. Irrespective of the granting of this consent or approval by any other Authority, work is not to commence in, or within, a horizontal distance of 40m from the top of the bank of the watercourse/foreshore, without the prior issue of a Part 3A permit by DLWC.
42. Prior to the issue of the Part 3A permit, the applicant must provide DLWC with the following:
  - (a) A copy of Council's development consent including all conditions of approval;
  - (b) Plans and/or other documentation (3 copies) that satisfy the DLWC's General Terms of Approval and recommendations which are included in the consent conditions; and
  - (c) The appropriate permit fee paid to DLWC.
43. Work is to be carried out in accordance with drawings and any management plans required by these conditions and approved by DLWC that will accompany the 3A permit.
44. Any Part 3A permit issued is to be renewed on an annual basis until all works and all rehabilitation, including maintenance provisions, have been satisfactorily completed in accordance with the permit conditions. Any application for renewal will be lodged at least 1 month prior to the permit expiry date.
45. Works shall not cause damage to, or increase erosion of, the stream bed or banks. The permit holder shall carry out any instructions given by DLWC with a view to preventing degradation of the stream bed or banks.

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: 33

46. Any vegetation or other material removed from the area of works shall be disposed of so that the material cannot be swept back into the stream during a flood.
47. All works proposed must be designed, constructed and operated so they do not cause erosion or sedimentation and do minimise adverse impacts on aquatic and riparian environments.
48. No plastic netting is to be used for any purpose, in the stream or within the riparian zone, unless such netting is of a rapidly biodegradable variety.
49. Erosion and sediment control measures are required to be implemented prior to any works commencing, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the river system. These measures are to be in accordance with Council's requirements and follow best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" (1988) manual (the "Blue Book").
50. The excavation of soil/spoil and its removal is the responsibility of the permit holder and the owner or occupier of the land.
51. The approval of NSW Fisheries is required for all proposed designs of in-stream works prior to the issue of the Part 3A permit.
52. These conditions are issued with the proviso that operations shall be carried out on freehold land. Should operations be on Crown Land, these conditions are rendered null and void and the occupier of Crown Land should contact DLWC's Crown Lands section.
53. Work is to be carried out in accordance with any conditions imposed by other government agencies, provided such conditions do not conflict with these conditions or the conditions on the Part 3A permit.
54. The permit holder and the owner or occupier of the land is responsible for any works undertaken by any other person or company on this site.
55. The rehabilitation of the area in accordance with the Part 3A permit conditions is the responsibility of the permit holder and the owner or occupier of the land.
56. Any Part 3A permit granted is not transferable to any other person or company without the written approval of DLWC and does not authorise works at any other site.
57. Any Part 3A permit granted does not give the holder the right to occupy any land without the owner(s) consent nor does it relieve the holder of any obligation which may exist to also obtain permission from local government and other authorities who may have some form of control over the site and/or the activities proposed.
58. Works as executed survey plans of a professional standard shall be provided to DLWC upon request.

59. If, in the opinion of a DLWC officer, any activity is being carried out in such a manner that it may degrade the riparian zone, stream, lake or foreshore environment, all work shall cease immediately upon oral or written direction of such an officer.
60. If the permit conditions have been breached, the permit holder shall restore the site in accordance with the permit conditions and/or as directed by DLWC. If any breach of the permit conditions requires a special site inspection by DLWC, then the permit holder shall pay a fee prescribed by DLWC for this inspection and all subsequent breach inspections.
61. If works are to cease prior to completion, DLWC must be notified in writing one month in advance of the cessation of the operation.

***Conditions Specific to DA***

62. Only one new access road across the watercourse shall be created as part of the subdivision. This new access is to be located as indicated on Plan No. 88573:DA:2 last amendment dated 19 December 2001 by McKinlay Morgan & Associates Pty Ltd, which accompanies the application.
63. The crossing design must be sensitive to the ecology, wildlife corridor and geomorphic functions of the stream by providing adequate light levels, protection for migrating fauna and minimising erosion. To achieve this the design is to consist of a full span bridge with piered approaches or a structure with equivalent corridor functions. The road width is to be as narrow as possible and the bank full creek flows and floodplain flows are not be inhibited in any way. The crossing is not to cause scour or erosion to the stream bed or banks in any storm events. The stream crossing design is to be prepared and implemented by suitably qualified persons, in consultation with, and with the approval of, DLWC **prior to the issue of the Part 3A Permit.**
64. A report may be required **prior to the issue of the Part 3A Permit**, giving details of hydraulic conditions before and after the proposed *stream crossing* over the watercourse for bank full discharge and 5, 20 and 100 year storm events.

To be included in the report should be:

- (a) Hydraulic conditions such as discharge, velocities in the channel and along the banks and shear stresses on the bed and banks (both up and downstream of proposed crossing);
  - (b) Impacts of any consequential flow constriction (area and duration of flow back up); and
  - (c) Details any negative impacts that may result from the work and any required scour protection.
- 
65. A *Soil and Water Management Plan* (S&WMP) for all site works is to be prepared by a suitably qualified person(s) with knowledge and experience in the preparation of such plans, in consultation with, and with the approval of, DLWC **prior to the issue of the Part 3A Permit.** The S&WMP is to cover all aspects of soil and water management requirements for the site that could impact on the

stream and must include details of staging, monitoring, management responsibilities, maintenance and decommissioning requirements. The S&WMP must meet the requirements outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction: (1998) manual (the "Blue Book").

66. A *Rehabilitation Plan* is to be prepared by suitably qualified persons, with knowledge and experience in the preparation of such plans, in consultation with, and with the approval of, DLWC **prior to the issue of the Part 3A Permit**. The plan is to be in accordance with, but not limited to, the "Draft Guidelines for the preparation of a Vegetation Management Plan" located in **Attachment A**.
67. The *Rehabilitation Plan* must detail necessary stabilisation works and how the existing vegetation in the watercourse and within 20m, measured horizontally from the top of the banks, will be protected and rehabilitated following any disturbance due to the approved works. Rehabilitation shall include native tree, shrub and ground cover planting using species local to the area and bush regeneration works extending a minimum of 10 metres either side of the area disturbed during construction.
68. The area covered by the *Rehabilitation Plan* must be maintained and monitored for a period of two years following final planting and primary bush regeneration works to ensure successful native vegetation establishment. Maintenance must include any watering, weed control, replacement of plant losses, disease and insect control, mulching etc, necessary for successful plant establishment.

#### ATTACHMENTS:

**AT-1** Locality Plan

**AT-2** Proposed Subdivision

**ENVIRONMENT**

Meeting Date: 23 April, 2002

Item: **33**

Locality Plan

**ENVIRONMENT**

Meeting Date: 23 April, 2002

Item: **33**

Proposed subdivision

oooO END OF ITEM 33 Oooo

**ITEM: 34**                      **Richmond Lowlands****FILE NUMBER:**            GT170/004 PT4/GMA/END23NAX.G07

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**REPORT:**

Council has received a number of reports regarding the Richmond Lowlands and specifically the possible future extraction of construction materials, being sand and gravel deposits.

The Lowlands reflect the continuous historical development of rural endeavours since European settlement around 1794. They contain numerous items of environmental heritage and are bordered by the Macquarie towns of Richmond and Windsor. Even though agriculture has a long history in the area, natural areas such as wetlands still remain. The largest of these is Baker's Lagoon, however there are numerous smaller significant wetlands located on the Lowlands between North Richmond and Windsor Bridges.

Underneath the agricultural surface are sand and gravel deposits which the State Government has for many years recognised as being viable alternative source for those materials once the reserves at Penrith Lakes are exhausted. The area is subject to Sydney Regional Environmental Plan No 9 - Extractive Industry, that was first applied in 1986 with subsequent amendments in 1993. The aim of the plan is to develop extractive resources close to the Sydney metropolitan area so that the cost of supplying material is kept at a reasonable level. Its aim is also to ensure extraction is carried out in an environmentally acceptable manner.

The majority of the Richmond Lowlands has been cleared and worked many times over in the last 200 years, thereby destroying much of the original vegetation and landforms. Notwithstanding this, some evidence of aboriginal use of the land has been recorded around the remnant wetland areas of Baker's Lagoon and others to the east.

The area is visually prominent with numerous vistas from the northern and southern sides which look down on the area. In Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River, the Lowlands are identified as having regional significance. The study quotes:

*"The area demonstrates continuous historical development of rural industry and is associated with the historic Macquarie towns, the location of which responds to the river's natural processes and is also associated with the artistic expression of landscape beauty over a long period. It is the most extensive development of a mature floodplain in the catchment of the river system."*

The area is very flat topographically and is inundated with floods having a 1 in 5 year annual average recurrence interval. The issue of flooding has major implications for all types of land use, both existing and future, in the area.

The road infrastructure is of two lane rural standard and not designed for excessive use by heavy vehicles and structurally barely copes with current agricultural traffic.

There are approximately 200 parcels of land, with an excess of 100 different owners. The area represents approximately 45 per cent of the class one agricultural land remaining in the Sydney region. In 1996, an agricultural study of the area indicated that the farm gate value of agricultural production was just over \$38 million. This involved turf, dairy, beef cattle, lucerne, hay-making, vegetables, citrus, pecans and horses.

Extractive industry companies have been purchasing the land in the area since the late 1960s/early 1970s and recently have increased their interest in possible future extraction.

This will be due to the resources in the Penrith Lakes area drawing to an end with possible limited access to other resources such as those offshore from the northern beaches from Sydney to Newcastle and the Newnes Plateau in the Blue Mountains and the time that would be required to achieve an approval.

NSW Planning (the former Department of Urban Affairs and Planning) has indicated for some time that they are reviewing the strategies concerning the possible extraction of sand and gravel and this includes the increased materials that have become available in recent years due to the tunnelling that has taken place in Sydney, and that which is still proposed, that yields significant quantities of sandstone.

In 1997, the then Hawkesbury-Nepean Catchment Management Trust resolved:

*"Recommend to the Department of Urban Affairs and Planning that it considers the potential for extractive industries on the Richmond Lowlands as a regional rather than a local issue and consequently the regional planning process as opposed to the local planning process should be pursued at the appropriate time.*

*Request the Department of Urban Affairs and Planning to amend the REP No 9 - Extractive Industry at the first available opportunity."*

There was a meeting between the Council and the executive of the Trust following that resolution where the Trust members indicated it was not attempting to advance or promote extraction, but rather was attempting to introduce a longer term, systematic approach to the issue. They saw this as a perspective often over-looked in the past and a reason why short-term decisions and cumulative impacts have adversely impacted on the catchment.

The Trust was also concerned that unless a systematic approach was taken, pressure may build up to the extent that decisions are made quickly without the benefit of a comprehensive understanding of the issues that would become apparent with the completion of a regional environmental study. It obviously would be most unfortunate if decisions were made in the absence of a comprehensive knowledge base.

Both local members have indicated separately that they are prepared to assist the Council in this matter.

**RECOMMENDATION:**

That NSW Planning be advised that the Council considers the Richmond Lowlands to have regional, national, heritage, scenic and environmental values as well as being an important source of agricultural production in the Sydney region that outweighs the one-off possible extractive value of the underlying sand and gravel and accordingly opposes any possible extraction.

**ATTACHMENTS:**

There are no supporting documents for this report.

oooO END OF ITEM 34 Oooo

**ITEM: 35                      Cities for Climate Protection****FILE NUMBER:**            GE020/061 PT3/EVD/END23NBX.V03

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**REPORT:**

Hawkesbury City Council has now completed Milestone 2 as part of its commitment to the "Cities for Climate Protection" greenhouse gas emissions reduction program. Hawkesbury City Council resolved to participate in the CCP program on the 11 April 2000.

The pursuit of the following five Milestones was endorsed in this resolution:

- |              |                                                                                                   |
|--------------|---------------------------------------------------------------------------------------------------|
| Milestone 1: | Conduct an inventory and forecast for Community and Corporate (council) greenhouse gas emissions; |
| Milestone 2: | Establish an emissions reduction goal;                                                            |
| Milestone 3: | Develop and adopt a Local Action Plan;                                                            |
| Milestone 4: | Implement the Local Action Plan;                                                                  |
| Milestone 5: | Monitor and report on achievements.                                                               |

**Milestone 1**

Council completed the inventory in November 2002, for the chosen base years of 2000-2001 for the Corporate sector, and 1996 for the Community sector, in November 2001. A forecast of emissions growth to 2010 was also completed, based on a "business as usual" scenario. The primary source of emissions in the Corporate sector is electricity consumption, accounting for almost 80% of emissions during 2000-2001. Council spends in excess of \$833,000.00 dollars annually on electricity use alone. The use of diesel fuel is also a major contributor to emissions (10.8%), with a cost to Council of over \$231,000.00 per year.

The program also revealed that Council owned buildings and the City's street lighting are the main generators of greenhouse gas emissions.. These account for almost 60% of the total emissions from Council activities, at a cost to Council of over \$729,000.00 per year. Of particular note is the 1344 tonnes of Carbon Dioxide (CO<sub>2</sub>) equivalent produced annually by the Oasis Aquatic Centre, which accounts for over 18% of the total Corporate emissions.

Council's emissions are expected to increase by almost 20% to 8592 tonnes of Carbon Dioxide (CO<sub>2</sub>) by the year 2010.

The inventory revealed Hawkesbury City's Community Sector produced a total of 598,343 tonnes of Carbon Dioxide. This is in contrast to the forecast to 2010, which is expected to see an increase in Community emissions by 37% to 822,182 tonnes even though the City's population is forecast to grow by just 22% between 1996 and 2010.

**Milestone 2**

Cities for Climate Protection requires Council to adopt a broad reduction goal to serve as a quantitative objective for its emissions reduction program. The setting of a solid goal demonstrates a strong commitment from Council to reducing greenhouse emissions, and will raise community awareness about greenhouse issues. There are also economic benefits for Council through efficient energy management and a reduction in corporate costs.

A 20% reduction goal is recommended for corporate and community greenhouse emissions, These goals are recommended for the following reasons:

- International experience demonstrates that goals of 20% are achievable.
- To date, 39 from 60 Australian councils have set a community reduction goal of 20% or greater.
- Over 150 local authorities and municipal organisation from 50 countries worldwide support a 20% greenhouse reduction goal.
- Reduction measures are already underway by council. These include the installation of variable speed pumps and soft start/soft stop pumps as part of the South Windsor Sewerage Treatment Plant Stage 3 upgrade, incorporation of environmental policy and guidelines into Council's purchasing policy, and the fitting of energy metres to monitor energy consumption in high usage equipment.
- Recent discussions with Council management resulted in the development of a comprehensive list of suggested actions to be implemented to assist in meeting the reduction goal. Many of the suggestions will be implemented as formal action during the next twelve months.
- The reduction goals are flexible, and are not a mandatory target. They can be adjusted by the City as the local action plan progresses.

A Local Action Plan, (Green Energy Strategy), outlining measures that Council will implement to reduce greenhouse emissions, within the corporate and community sector, is to be developed as part of Milestone 3 of the CCP program.

The completion of module three allows council to apply for funding which is available through the Australian Greenhouse Office, for example; the energy efficient retrofit of the old hospital site using the installation of high efficiency tri phosphor lamps with electronic ballast and solar power systems through photovoltaic cells which turns sunlight into electricity; and SEDA for support with the residential community efficiency program.

**RECOMMENDATION:**

That:

1. Council adopt the goal of reducing Corporate greenhouse gas emissions from 2000-2001 levels by 20% (twenty percent) by 2010.
2. Council adopt the goal of reducing Community greenhouse gas emissions from 1996 levels by 20% (twenty percent) by 2010.

**ATTACHMENTS:**

There are no supporting documents for this report.

oooO END OF ITEM 35 Oooo

**ITEM: 36**                      **Draft Local Environmental Plan 5/01 (Amendment 135) - General Amendments to Hawkesbury Local Environmental Plan 1989**

**FILE NUMBER:**            LEP5/01/EVD/END23NBX.V02

**PREVIOUS ITEM:**        48, GPC Section 1 - Environment (29.05.2001)

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## **REPORT:**

### **Introduction**

Council at its meeting of 12 June 2001 resolved to prepare a draft local environmental plan to make general amendments Hawkesbury Local Environmental Plan 1989.

The proposed general amendments have been split into several amendments, the first of which is considered in this report. The general amendments in this draft local environmental plan include:

- The correction of a mapping error for 308, 310 and 320 George Street (former Hawkesbury Hospital Site).
- The deletion of 57 East Market Street from Schedule 1 (Items of Environmental Heritage) of HLEP 1989.
- The inclusion of 205 Macquarie Street Windsor on Schedule 1 (Items of Environmental Heritage) of HLEP 1989.

The other general amendments propose to incorporate provisions for Acid Sulphate Soils, corrections to the heritage provisions and anomalies along the 8(a) National Park boundary. These amendments will be incorporated into a further amendment to HLEP 1989 and will be reported separately to Council after the exhibition period.

### **Public Exhibition**

Council exercised its delegation in respect to the Section 65 Certificate which was issued on 4 March 2002. The draft local environmental plan was placed on public exhibition for 29 (twenty nine) days, being from Wednesday 6 March 2002 to Wednesday 3 April 2002. Advertisements were placed in the Hawkesbury Gazette on 6 and 20 March 2002. The owners of the subject properties were also notified of the draft local environmental plan.

No submissions were received.

**Section 62 Consultation with government authorities**

The draft local environmental plan was referred to the following public authorities:

- National Parks and Wildlife Service
- Department of Land and Water Conservation
- NSW Heritage Office
- Sydney Water Corporation
- Telstra
- Roads and Traffic Authority
- Integral Energy

Submissions were received from the following authorities:

**Sydney Water**

Sydney Water advised that there would be no significant impact on Sydney Water's water and sewerage services.

*Comment:* there are no changes required to the plan as a result of this submission.

**NSW Heritage Office**

The NSW Heritage Office has no objection to the draft local environmental plan.

*Comment:* there are no changes required to the plan as a result of this submission.

No replies were received from the Roads and Traffic Authority, National Parks and Wildlife Service, Department of Land and Water Conservation, Telstra, Roads and Traffic Authority or Integral Energy.

**Conclusion**

The proposed amendment is relatively minor in nature and amends minor anomalies in Hawkesbury Local Environmental Plan 1989. It is therefore recommended that the draft local environmental plan be finalised and forwarded to the Department of Planning for gazettal.

**RECOMMENDATION:**

That:

1. Council proceed with the draft local environmental plan to incorporate:
  - the correction of a mapping error for 308, 310 and 320 George Street (former Hawkesbury Hospital Site).

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: **36**

- The deletion of 57 East Market Street from Schedule 1 (Items of Environmental Heritage) of HLEP 1989.
  - The inclusion of 205 Macquarie Street Windsor on Schedule 1 (Items of environmental heritage) of HLEP 1989.
2. Council exercise its delegation in respect of the section 69 report to the Minister.
  3. Council forward the draft local environmental plan to the Department of Planning for finalisation and gazettal.

### ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 36 Oooo

**ITEM: 37**                      **State Environmental Planning Policy 5 - Housing for Older People or People with a Disability**

**FILE NUMBER:**            GT190/003/EVD/END23NBX.V13

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**REPORT:**

**Background**

In March 2002, the Department of Planning released guidelines for assessing requests by local councils seeking to gain an exemption from State Environmental Planning Policy 5 (SEPP 5) - Housing for Older People or for people with a disability.

The objective of SEPP 5 is to create opportunities for the development of housing that is located and designed in a manner particularly suited to both those older people who are independent, mobile and active as well as those who are frailer, and other people with a disability regardless of their age.

**Exemption Process**

The process for exemption from SEPP 5 requires Council to prepare and submit a report to the Director General of Planning that demonstrates that there is sufficient supply of housing for older people or people with a disability. This is assessed in relation to the existing controls or by changes to existing controls.

Planning NSW has provided very detailed guidelines as to what should be included in a report seeking exemption from SEPP 5. It includes forecasting housing needs; detailed demographic data; in depth descriptions of the nature and condition of existing housing stock; and other supply and demand issues for housing that accommodates older people and people with a disability.

Where the Director General is not satisfied that generally a sufficient supply of housing for older people or people with a disability, under current controls, is available or will be made available by changes to them, then the report by the Council will be referred to the (newly constituted) Residential Strategies Advisory Committee prior to consideration by the Minister. This is the same committee that is considering the proposed amendments to Council's Housing Strategy to allow the introduction of the proposed Multi Unit Housing Zone.

**Seeking Exemption**

As Council is aware, advice was received from the State Emergency Service last year concerning North Bligh Park, which highlighted the reality of planning on and around a floodplain. The letter stated that there had been *"an erosion of safety margins over time through the incremental infilling of existing land zoned urban"*. It was realised at this time that the cumulative impact of the continued infill of Richmond, Windsor, South Windsor and Bligh Park was worse than previously indicated. Therefore, appropriate planning must take place according to this risk and this includes the use of SEPP 5.

The Department of Land and Water Conservation (DLWC) is currently preparing planning guidelines and a regional flood risk management study for the Hawkesbury Nepean River. This will be a valuable tool to analyse risk in relation to evacuation requirements, economic and social impacts, damage to property and risk to life. It is anticipated that this study will be completed by May 2002 and Council will be in a better position to assess the impact of SEPP 5 on the floodplain.

**Conclusion**

The reporting mechanism to gain exemption from SEPP 5 as outlined above will require considerable time and resources. Given the lack of information concerning the flooding issues, it is not considered justifiable at this stage to expend these resources. However, upon receipt of the information from DLWC, it is recommended that a report be prepared for Council's consideration.

Furthermore, in considering a SEPP 5 proposal for Beaumont Avenue, North Richmond, concerns were raised by Council over the use of industrial land for this type of development. The guidelines for exemption to SEPP 5 were received after Council resolved to advise Planning NSW of their concerns. It should be noted that WSROC is also investigating the appropriateness of the use of SEPP 5 on industrial land. Discussions will continue with Planning NSW and WSROC in relation to this matter.

**RECOMMENDATION:**

That:

1. The information be received.
2. A further report be prepared upon receipt of the regional floodrisk management study from the Department of Land and Water Conservation.
3. Discussions continue with NSW Planning and WSROC in relation to the use of Industrial land for SEPP5 development.

**ATTACHMENTS:**

There are no supporting documents for this report.

oooO END OF ITEM 37 Oooo

**ITEM: 38**                      **Exhibition of draft local environmental plan - Riverstone Release Area**

**FILE NUMBER:**            GT160/004/EVD/END23NBX.V08

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**REPORT:**

**Introduction**

Blacktown City Council has recently advised that the draft local environmental plan for the Riverstone Release Area is on exhibition for a period of three months. This report outlines the major components of the draft local environmental plan and the implications for land adjoining this area.

**Background**

The history of the Riverstone Release Area is complex, beginning with the land being subdivided into the cadastral pattern that exists today in the 1890's. Various planning controls have applied to the area since this time and the Release Area was announced by the Minister for Urban Affairs and Planning in 1998.

The land is also located with the Rouse Hill Development Area as set out in Sydney Regional Environmental Plan No. 19-Rouse Hill Development Area (SREP 19).

The Department of Planning issued a conditional section 65 Certificate to allow public exhibition of the draft local environmental plan for the Riverstone Release Area. The draft local environmental plan has been placed on public exhibition until 11 June 2002.

**Local Environmental Study**

Blacktown City Council resolved in July 1998 to prepare a local environmental study and draft local environmental plan for the Riverstone Release Area. The Release Area comprises of some 846 hectares and extends from Bandon Road to the west, Windsor Road and First Ponds Creek to the north, Schofields Road to the east and Railway Parade to the south. A plan of the Release Area is attached to this report.

**Findings of the Local Environmental Study**

The full range of studies were carried out in the Release Area to complete the local environmental study, including Geotechnical; Land Contamination; Trunk Drainage; Ecological, Aboriginal Heritage; European Heritage; Existing Land Use; Demographic; Economic; Traffic and Transportation; Open Space and Recreation; and Human Facilities and Services.

Impacting the most on the development of the Release Area were the Ecological Study, Trunk Drainage and Aboriginal Heritage Study.

Much of the land within the northern part of the release area (ie closest to Bandon Road) has been identified as high quality vegetation and includes communities listed as endangered ecological communities under the provisions of the Threatened Species Conservation Act 1995. The study recommends, *inter alia*, specific management techniques, including ownership of public land, "*cluster development*" and "*large lot development*" as they would achieve sensitive development in areas of ecological and landscape significance.

It was also recommended that a National Parks or Nature Reservation area should be owned and managed by the National Parks and Wildlife Service due to the level of expertise needed to manage threatened species and biodiversity. This was not the preferred option of the Service and the alternate solution of land acquisition by Minister of Planning is discussed further below.

### **Key Components of the Release Area**

The key components of the draft local environmental plan are described below and the implications for the Hawkesbury are considered.

#### Residential Development

The aim of the draft local environmental plan is to provide for residential development and it is anticipated that the Release Area will house approximately 28,000 persons at full development.

The two residential zones are:

*2(a) Residential* - this comprises of some 412 hectares and allows for a range of land uses, including detached housing, integrated housing, medium density housing, dual occupancy and SEPP 5.

*2(d) Bushland Conservation* - this zone covers approximately 178 hectares of land and allows for low density residential development that has specific regard for the unique ecological and archaeological constraints. The lot sizes range, depending upon the areas of ecological constraints, from 2000sqm on land having high ecological significance and 500sqm where constraints are less significant.

Restrictions on building site cover also apply within this zone and will range from 200sqm to 450sqm dependent upon the minimum site area requirement.

The total lot yield for residential development is 8,000 lots.

*Comment:* The proposed *2(d) Bushland Conversation* zone will result in lots having to be consolidated prior to being developed for residential purposes in an attempt to maintain the vegetation in these localities.

As a result of the ecological constraints, the Release Area will provide for significantly less residential lots than previously anticipated. Previous studies had indicated that the land may provide for a population of up to 40,800 (800 hectares of developable land).

### Commercial Development

The main component of commercial development is the extension of the existing Riverstone Town Centre, with an additional 8 hectares being set aside from the additional commercial development.

A smaller neighbourhood centre is also proposed in the northern part of the Release Area (incorporating the existing service station on Windsor Road). It is envisaged that this would provide convenience shopping facilities. Corner shops will also be permitted in the *2(a) Residential zone*, with a minimum separation of the 400m from the nearest developing shopping centre.

### Open Space

A total of 82.2 hectares has been zoned for open space purposes, with passive open space located in the north-west of the Release Area. This area of passive open space will help conserve a portion of the Endangered Ecological Community (Cumberland Plain Woodland) and vulnerable species and threatened populations.

Whilst no regional or district open spaces are proposed in the Release Area, larger "major" parcels of community open space are recommended. An integrated approach to open space design is proposed, with community open space catering for informal recreation, as well as organised sporting activities. Planning for these areas will be an ongoing community consultation and evaluation process.

### Drainage

Approximately half of the Release Area drains to Eastern Creek, with the remaining half draining to First Ponds Creek and Killarney Chain of Ponds.

The recommendations of the Trunk Drainage Study include the use of Distributed Sub-catchment Based Stormwater Management Systems, which is a combination of wetlands and detention basins, located at the bottom of the tributaries to First Ponds Creek, Eastern Creek and Killarney Chain of Ponds. Overall, 67.6 hectares have been zoned for drainage purposes.

*Comment:* Both catchments drain to the Hawkesbury Nepean River via South Creek. Of concern is the current state of Killarney Chain of Ponds, where nutrient levels are extremely elevated; the soils are highly erodible; and the area is known to contain acid sulphate soils. The waterbody is also highly infested with salvinia weed which is currently being biologically treated.

Whilst some the high nutrient levels may be attributed to agricultural uses upstream, the increase in urban development will potentially increase the problems already experienced in this water body.

### Fauna, Flora and Aboriginal Archaeology Conservation

To ensure that a representative sample of the woodland and threatened populations are conserved in the Release Area, an area of land between Camberwell and Bandon Road is to be zoned *6(a) Public Recreation*. An area of approximately 30 hectares, located around Sydney Street, is to be zoned *5(d)*

*Special Uses - Significant Ecological and Aboriginal Area* and development will be restricted in this zone. The privately owned land within this zone is to be acquired by the Minister for Planning.

All other land within the Release Area will be classed as either Areas of High Archaeological Significance, Areas of Potential Archaeological Significance or Areas of Low Archaeological Significance, with controls for these categories being set out in future development control plan for the Release Area.

#### Sewage Treatment Plant Buffer

A 400m buffer has been created around the Riverstone Sewage Treatment Plant which is located to the west of the Release Area. This is in accordance with Planning NSW Circular No. E3 (Guidelines for buffer areas around sewage treatment plants) and requires that residential densities within buffers cannot be increased. As a result, a *1(a) Rural zone* is proposed in this area and the proposed minimum lot size is 4000sqm.

#### Industrial Land

There is no additional industrial land proposed within the Release Area as other land within the Blacktown Local Government Area is better serviced by the arterial road system.

#### Traffic and Transport

A full traffic study has not been completed.

#### Air Quality

The impact of an additional 8,000 lots and 28,000 people in relation to air quality has not been addressed in the local environmental study. The "Cities for Climate Protection" was prepared by the International Council for Local Environmental Initiatives and has recommended a 20% reduction in air emissions by 2010. The impact of the proposed development in relation to impact of the reliance on private vehicles for transportation should be addressed in future studies.

#### **Proposed North West Rail Line**

As detailed in a separate report in this Business Paper, the North West Rail Line may eventually pass through the Riverstone Release Area to enable the connection to the Richmond Line. A critical element missing from the draft local environmental plan is the preservation of this corridor. Given that the Release land will house an additional 28,000 people, it is essential that the rail infrastructure be planned now, including the incorporation of higher density around railway stations.

The development of a good public transport network, fully integrated into the wider Sydney Network, will also go a long way to addressing the abovementioned issues concerning air quality and the "Cities for Climate Protection" agenda.

It is therefore recommended that Blacktown Council, NSW Transport and Planning NSW be requested to provide for the rail reservation to allow for the future rail infrastructure, and the draft local environmental plan be amended to allow higher densities around transport nodes.

### **Inclusion of the Vineyard Urban Investigation Area**

In 1998, Council again resolved to investigate land within Vineyard for its future urban potential. Subsequent resolutions of Council resulted in a request to the Department of Planning seeking the possibility of the land being included within the Riverstone Release Area.

In June 2001, Planning NSW advised that given part of the Vineyard Investigation area is contained within the Rouse Hill Development Area, the program for its release is dependent upon the review of the structure and staging plan for Rouse Hill. Several of the criteria underpinning this review related to resolving servicing issues at Riverstone, land fragmentation generally and orderly supply of land supply. Essentially, Council was requested to wait until this information was forthcoming.

As outlined above, the draft local environmental plan for the Riverstone Release Area falls well short of the intended lot yield. This is primarily due to the significant (and unique) ecological and archaeological constraints. Given this short fall, it is considered appropriate to now request Planning NSW to re-consider the inclusion of Vineyard within the Riverstone Release Area.

The inclusion of Vineyard may also provide the impetus for cost recovery for the provision of services, such as water and sewer, throughout both Riverstone and Vineyard.

### **Conclusion**

There is increasing demand to provide additional land for housing in the Sydney Region as a whole, and the release of land within Riverstone highlights the reality of increasing development in the North West Sector. Without the associated infrastructure and suitable transport planning for the Region, there will be negative implications for the Hawkesbury.

It is therefore recommended that submissions be prepared and forwarded to Planning NSW and NSW Transport in relation to the preservation of the rail corridor for the extension of the North West Rail Link. A further submission should be forwarded to Blacktown City Council outlining the concerns relating to the impact of the development on Killarney Chain of Ponds, air quality and requesting further consultation with Council as the draft local environmental plan progresses.

### **RECOMMENDATION:**

That:

1. A submission be prepared and forwarded to the Department of Transport requesting that the North West Rail Line be extended through Riverstone and that the rail corridor be set aside immediately through the Riverstone Release Area.

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: **38**

2. A submission be prepared and forwarded to Planning NSW requesting that Vineyard be included within the Riverstone Release Area.
3. A submission be prepared and forwarded to Blacktown City Council outlining 1 and 2 above; requesting consultation be undertaken with adjoining residents in Vineyard and Council; and the consideration of the impact of drainage on the Killarney Chain of Ponds.

### **ATTACHMENTS:**

**AT-1** Plan of Riverstone Release Area.

**ENVIRONMENT**

Meeting Date: 23 April, 2002

Item: **38**

Plan of Riverstone Release Area

oooO END OF ITEM 38 Oooo

**ITEM: 39**                      **Review of Determination for 9 lot Community Title Subdivision of Lot 13 DP872372, 83 Willow Glen Road and Lot 1 DP558418, 24A Westbury Road, Kurrajong**

**FILE NUMBER:**            MA1380/01/EVD/END23NBX.V10

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**REPORT:**

On 9 April 2002, Council granted development consent for a 9 lot Community Title Subdivision of Lot 13 DP 872372, 83 Willow Glen Road and Lot 1 DP 558418, 24A Westbury Road, Kurrajong, subject to conditions.

Specifically, condition 27 required:

*"The construction of the road, passing bays, shoulders and drainage works as shown on Plan No. 88554. All areas shown as being "upgraded gravelled formation" are to be provided with a sealed pavement in accordance with the Hawkesbury Development Control Plan."*

The applicant has requested that Council's determination of the application be reviewed under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979.

The applicant has requested that condition 27 be amended to read:

*"The construction of the road, passing bays, shoulders and drainage works as shown on Plan No. 88554 dated 2nd April 2002 all works be constructed in accordance with the Hawkesbury Development Control Plan."*

The proposed change will delete the requirement for the proposed gravelled sections to be sealed.

The applicant has submitted the following town planning advice from Falson & Associates Pty Ltd

*"By way of general principles, conditions of consent must relate to the development proposed and must be reasonable in the circumstances."*

*There is no statutory definition as to what is "reasonable" and courts have provided numerous judgements about "reasonableness" over the years. However, it seems to me that the thread of consistency through the Court judgements is that a condition must fairly relate to the development. It should not, for example, try and "pick up" a backlog of works for previous development where, in the absence of new development, the relevant authority would be required to provide these works in time."*

*It seems to me that in determining an appropriate condition for roadworks for your subdivision, it would be reasonable to consider the following:*

- *The current standard of the road and that fact that it requires upgrading even in the absence of the subject subdivision.*
- *The existing subdivision approval that exists on the subject land and that requires upgrading of sections of the road*
- *Other lands that are capable of subdivision and where conditions of road construction would be required.*
- *The pro-rata use of the road by your subdivision.*

*The extent that each of these should be weighed against the other is difficult however clearly, in my opinion, it is not appropriate for your subdivision to bear the full cost of upgrading of the road when it will provide only a proportion of its regular traffic. This could not be considered "reasonable" in the circumstances of this case.*

*In the Council report of 9 April, there is mention of the High Court case of Shire of Cardwell v King Ranch and the NSW Land & Environment Court case of Attard v Blue Mountains City Council.*

*In the Attard case, it was held that half, but not full cost, of the construction of the relevant road was justified where the subdivision benefited other land as well as the subdivision. In the King Ranch case it was similarly held that it was reasonable for the developer to assist in defraying the costs incurred in meeting the consequences of the extra wear and tear on the bridge and road that is expected from the subdivision. Accordingly, I do not agree with the Council report that these cases provide legal principles to support their requirement for you to bear the brunt of full road construction costs.*

*There are dwellings relying on access via this road even given that it is sub-standard. Council has approved of further subdivision without the need for the entire road to be reconstructed. Presumably, Council believes that through conditions of consent imposed on developers over time the road would be reconstructed. There is nothing wrong with this principle providing that it is equitably applied. Nor should Council disregard the existing situation of dwellings already using the road. It is normal in these circumstances for Council to "pick up" a proportion of expenditure to provide for these existing dwellings in any reconstruction program. Alternatively, a special local road reconstruction rate could be applied to these properties.*

*The situation is further complicated by there being other properties that can be subdivided. Is it reasonable for these properties to sit back and avail themselves of road construction provided by others? For this situation, it is appropriate to compile a S94 plan so that when these other properties are subdivided they too will contribute their fare share to road works through a reimbursement to Council.*

*Worthy of note is that fact Council has not been consistent along this road in terms of roadwork conditions. There has been a recent subdivision approved immediately adjoining the subject subdivision site where no roadwork conditions were imposed.*

*Finally, whilst Council may see that full construction of Willow Glen Road is required, quite clearly the works proposed by you would significantly improve the road for all users. It is not unreasonable in my opinion for other developers and for Council to contribute to works to finalise possible development. It seems to me that this is the underlying principle contained with the judgements in the Attard and King Ranch cases."*

The subdivision for which no road works were required was SA215/99. This is a two lot subdivision of 69 Willow Glen Road. This has been reported in the previous reports.

Only 1 other property in Willow Glen Road has subdivision potential. This is 1021 Grose Vale Road which also has vehicular access to Grose Vale Road. The property has a theoretical potential of 3 additional lots. It is likely that if subdivision is proposed, further road widening plus intersection works will be required.

The applicant has provided the attached costing which suggests that the additional cost of sealing Willow Glen Road would be in the order of \$44,000. This is similar to the \$40,000 quoted in the report to Council on 9 April 2002.

**RECOMMENDATION:**

That the request for re-determination be declined.

**ATTACHMENTS:**

**AT-1** Letter from McKinlay Morgan & Associates dated 15 April 2002 which includes road construction costings.

**ENVIRONMENT**

Meeting Date: 23 April, 2002

Item: **39**

Letter from McKinlay Morgan

**ENVIRONMENT**

Meeting Date: 23 April, 2002

Item: **39**

Letter from McKinlay Morgan

oooO END OF ITEM 39 Oooo

**ITEM: 40**                      **Truck Depot - Lot 492 DP751665, 42 Browns Road, Wilberforce**

**FILE NUMBER:**            MA1066/01/EVD/END23NBX.V12

**PREVIOUS ITEM:**        12, GPC Section 1 - Environment (26.02.2002)

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**REPORT:**

**Introduction**

Council at its Ordinary meeting of the 12 March 2002 approved a truck depot at 42 Browns Road, Wilberforce. The approval was granted subject to conditions and on a six month trial.

The applicant has written a letter to request Council to reconsider some conditions imposed within the consent due to the six month trial. The applicant states as follows in support of the request:

*"Further to the Council's determination by approval we wish to advise that Conditions 5 & 18 are considered to be only reasonable upon expiration of the six month trial and the re-issue of consent. The access driveway will be surfaced to avoid dust and any nuisance.*

*Condition 4 limits the storage of one table top truck and one concrete pump truck within the nominated shed and adjoining area.*

*Condition 23 required the bobcat to be stored at the truck depot which would require loading and unloading each morning with increased emission of noise from this very noisy operation which is considered to be unnecessary and impractical with increased risk of theft and voiding of insurance policy which requires that the bobcat be on the truck and within the curtilage of the residence.*

*The owner would then also be required to drive the truck along that part of Browns Road adjacent to the objector's property to load and unload the bobcat which is considered best to avoid if possible.*

*We request that Council reconsider these conditions and clarify the intention with respect to the abovementioned issues."*

**Comment**

The following comments are provided in response to the conditions and the applicant's submission:

Condition 5 and Condition 18 read:

"5. *Under the provisions of the Roads Act 1973, the following works are to be approved by Hawkesbury City Council;*

- *Construction of Browns Road from and across Cobcroft Road to and across the entrance driveway to the site, any necessary drainage and ancillary works to make this effective.*

*Formal application for an Engineering Construction and Compliance Certificate to Hawkesbury City Council is required. Applicable fees will be in accordance with Council's adopted fees and charges.*

18. *All internal access roads are to be constructed of an all weather surface and maintained at all times being bitumen or concrete, so as to minimise dust nuisance and tracking of mud off the property to Councils' satisfaction.*

*Comment:* The requirements to construct the road and internal driveways during the six month trial is considered onerous due to the costs involved in the construction, it is considered that these requirements should be conditions should a full consent be issued for the truck depot. The applicant should still be required to construct all internal access roads of a suitable surface but not bitumen or concrete.

In this regard, a suitable crushed rock pavement is appropriate, together with suitable management measures such as wetting the road when necessary to avoid any nuisance caused by dust.

It is recommended that the requirements to construct Browns and Cobcroft Roads be deferred until a new application is lodged after the six month trial period and the conditions be amended accordingly.

Condition 4 reads:

"4. *This consent only approves the storage of 1 (one) table top truck and 1 (one) concrete pump truck which is to be parked within the nominated shed and adjoining area*".

*Comment:* The application was only for one (1) table top truck and one (1) concrete pump truck, and the application was assessed and conditioned accordingly. Due to the application only being for the two (2) trucks, this condition should remain. Should the applicant wish to apply for additional trucks, then this can be further assessed and considered should a new application be lodged after the six month trial.

Condition 23 reads:

"23. *No operation of the business associated with the truck depot is to be carried out in the shed adjacent to the dwelling at the north west of the property. The parking of a small utility for the resident's personal use is permitted. It is required that the bobcat is stored at the truck depot.*"

*Comment:* It is not unreasonable to require the bobcat to be stored at the truck depot as it is ancillary equipment to the business. There is a residence adjacent to the truck depot, and a shed on the property, to be used in association with the truck depot which can ensure security of equipment. It is recommended that this condition not be altered.

### **Conclusion**

The request to remove Conditions 5 and 18 as a result of the six month trial is considered reasonable given the costs involved in construction. It is recommended that the conditions pertaining to constructing Cobcroft and Browns Roads be deferred until after the six month trial. The deleting of these two conditions also results in deleting other conditions relating to the road construction such as Conditions 3, 6 and 7.

The request to alter Conditions 4 and 23 is not warranted as the application was made for two (2) trucks only and the bobcat should be stored at the truck depot as it is ancillary to the business.

### **RECOMMENDATION:**

#### **General**

1. To confirm and clarify the terms of this approval, the development shall be carried out in accordance with the approved stamped plans (prepared by WD and BL Wilson numbered 1027 (two sheets) dated September 2001 and Plan A) submitted with Development Application No. MA1066/01 and any supportive documentation, except as otherwise provided by the conditions of this consent.

Note: Modifications to the approved plans will require the lodgement and consideration by this organisation of a separate application pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979.

2. Compliance with the provisions of the Environmental Planning and Assessment (Amendment) Act 1979, and the Building Code of Australia.
3. This consent only approves the storage of 1 (one) table top truck and 1 (one) concrete pump truck which are to be parked within the nominated shed and adjoining area.

#### **Use of the Site**

4. Movement of vehicles associated with the truck depot, including employees' vehicles, are to occur only between the hours of 6am and 6pm, Monday to Saturday. The running of the truck engines is only permitted for 10 (ten) minutes prior to leaving the property and 5 (five) minutes upon return.
5. Loading and unloading of formwork, materials and machinery shall take place only between the hours of 7am and 6pm Monday to Saturday.

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: 40

6. All items ancillary to the operation of the truck depot are to be stored within the shed or directly adjacent to the shed.
7. No washing or servicing (other than checking water levels and tyre pressures, and changing/checking oil, lubricants, coolants) of vehicles associated with the truck depot is to occur on site.
8. All lubricants, coolants, oils etc are to be stored in bunded areas within the shed. Waste liquids are to be collected and disposed of to the satisfaction of Council.
9. Oil, lubricants, coolants and hydraulic fluid spills or stains are to be removed by an approved absorbent material and disposed of at an authorized waste depot. The absorbent material is to be kept in good supply at all times.
10. Trucks are to enter the property from the right and to exit the property to the left only via Cobcroft Road and Browns Road.
11. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood with respect to noise, vibration, odour, dust, waste water, waste products or otherwise.
12. The development shall be conducted in such a manner that the LA(eq) noise levels, measured at any point in accordance with the current NSW EPA's Industrial Noise Policy, do not exceed 5dB(A) (LAeq) above background noise levels with respect to noise amenity of residential dwellings and associated outdoor areas.
13. Storage of chemicals and petrochemicals such as cleaners and oil shall be contained in an area using an approved bunding material at all times.
14. All internal access roads are to be constructed of an all weather surface and maintained at all times so as to minimise dust nuisance and tracking of mud off the property to Council's satisfaction.
15. All materials except for peg bins are to be stored under cover.
16. Where possible, the trucks are to enter the site free of dust, sand, concrete residuals which have potential to pollute the air and the waterways.
17. The truck depot should not be used for storage of raw materials at any time.
18. There shall be no mechanical repairs, panel repairs, painting or sanding of vehicles, or parts thereof, permitted at the premises. Washing of vehicles is not to be conducted at the site.
19. No operation of the business associated with the truck depot is to be carried out in the shed adjacent to the dwelling at the north west of the property. The parking of a small utility for the resident's personal use is permitted. In this regard, the bobcat is to be stored at the truck depot.

## ENVIRONMENT

Meeting Date: 23 April, 2002

Item: 40

20. The subject development, including landscaping, is to be maintained in a clean and tidy manner.
21. All landscaping shall be permanently maintained in a good condition and in accordance with the intent of the landscaping plan.
22. The premises shall not be used in any manner which may create objectionable noise under the provisions of the Noise Control guidelines, (Noise Control Act).
23. This consent is limited to 6 (six) months only to enable Council to monitor the truck depot activity and impacts on the surrounding areas. At the end of this period, a new Development Application is to be submitted for the truck depot. The operator is to advise Council of the date when the activity commences onsite.

### ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF ITEM 40 Oooo

**ITEM: 41**                      **North West Rail Corridor****FILE NUMBER:**            GT240/016/EVD/END23NBX.V06

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**REPORT:****Introduction**

NSW Transport has recently released the North West Rail Line Overview Report to commence public consultation for a proposed railway line extending from the Main North Line (near Beecroft) to Mungerie Park, Rouse Hill. The report is on public exhibition until 3 May 2002 and interested persons, businesses, councils and stakeholders are encouraged to comment and provide feedback.

This report outlines the proposal and the implications for the Hawkesbury. Mr Rex Gunton of State Rail will also address Council at this meeting to discuss the proposal.

**Background**

The North West Region is Sydney's fastest growing region, with Baulkham Hills recording the highest growth rate in Sydney, and Blacktown recording the third highest. This growth is expected to continue, with Baulkham Hills' forecast to gain 80,000 new residents by 2021 and Blacktown 65,000. The Riverstone Release Area, within the Blacktown Local Government area, is detailed in a separate report in this Business Paper.

The North West Rail Link would be the principal trunk public transport line linking the residents of North West Sydney with the employment, health, education and recreation destinations between Epping, Chatswood, North Sydney and Sydney CBD. The proposed line will also improve access to Castle Hill, Norwest Business Park and Mungerie Park.

The North West Rail Link forms part of any integrated package of transport improvement proposed for Sydney's North West which is intended to:

- improve access to employment opportunities, education and health facilities;
- connect Sydney's north west to the metropolitan rail network;
- reduce car dependence;
- improve local environments; and
- improve travel times for all journeys.

A preliminary review of the environmental issues has been undertaken and the findings have suggested that all key environmental issues identified are within an acceptable range of impact that can be managed. Further investigation is required in some areas including fauna and flora of the western section of the preferred alignment and background noise and vibration.

**Preferred Route of the North West Rail Line**

The preferred alignment is 19 kilometres in length and would commence on the Main North rail line between Beecroft and Cheltenham. The eastern section (Stage 1) would be in a tunnel, for 11.6 kilometres, between the existing main north rail line and Norwest Business Park. The western section (Stage 2) would be on the surface from Norwest Business Park to Mungerie Park. Six new stations are proposed, including Franklin Road, Castle Hill, Hills Centre, Norwest Business Park and Mungerie Park.

Under the current proposal, the Mungerie Park Town Centre would be the terminus station for the North West Rail Link. Stabling facilities are proposed to the west of Windsor Road at Mungerie Park and trains for the rail link would be housed at this location overnight after the completion of Stage 2. The stabling facility proposed includes the capacity for 12 trains and train cleaning facilities.

**Cost of the Project**

Pre-feasibility studies have estimated the capital cost of building the rail line as a single project is \$1.4 billion. The State Government is investigating options as to how the project would be funded and options include:

- normal budgetary process;
- private sector funding; or
- partnership between public and private sector.

**Integration with the Richmond Line**

The Overview Report does not address the integration of the proposed North West Rail Link with the Richmond Line. The Report does, however, state that the major element of integration for the proposed line is the linkage with the rest of the Sydney rail network.

The "Christie Report" gives some indication as to the future of the North West Rail Link. This report showed the extension of the Rail Link to the Richmond Line connecting at Vineyard. Furthermore, workshops have been attended by Council Officers to investigate the possibility of establishing stabling facilities west of Mungerie Park, and include land in Vineyard and Mulgrave. Workshops have also been attended in relation to the upgrading of the railway stations along the Richmond Line, between Blacktown and Richmond. To date, the studies produced from these workshops have not been made available.

The integration of the proposed Northwest Rail Link with the Richmond Line is a crucial issue for Council's consideration and it is recommended that a letter be forwarded to NSW Transport and Planning NSW requesting the Rail Link be extended through to the Richmond Line.

The Hawkesbury Economic Development Advisory Committee (HEDAC) has also considered the Overview Report and recommended at its meeting on 11 April 2002 that letters be forwarded to the Department of Planning and Blacktown City Council requesting the rail corridor be set aside. Furthermore, HEDAC recommended that a request be made to fully integrate the Sydney Transport by connecting the Richmond Line to the Western (Penrith) Line as previously resolved by Council.

### **Reservation of Corridor**

The Overview Report states that the current focus of the project is on the protection of the corridor for both stages. The process of corridor reservation will be based on ongoing liaison with NSW Transport, Blacktown, Hornsby and Baulkham Hills Councils. Whilst Stage One is tunnelled, land is still required for stations and for the aboveground Stage Two component.

The reservation of the corridor is an issue that should be resolved as a matter of urgency as land is quickly being taken up for residential development, particularly within Blacktown and Baulkham Hills. Should the corridor not be set aside, the land may not be available or become cost prohibitive in terms of land acquisition. It is considered that the reservation of the corridor should be extended through the Riverstone Release Area to the Richmond Line as discussed above.

### **Conclusion**

Transport planning, particularly for rail networks, relies on the reservation of corridors very early in the planning process. Substantial growth has already resulted in the take up of large tracts of land for residential development in the North West Sector, leaving little or no land for transport infrastructure. It is therefore imperative that both NSW Transport and Planning NSW provide for these corridors when draft local environmental plans are prepared.

It is recommended that letters be forwarded to the relevant agencies requesting that the land be set aside for the rail corridor as a matter of urgency and that the proposed North West Rail Line be extended through Riverstone to the Richmond Line. It is also recommended that Council reiterate its position of support in linking the Richmond Line to the Penrith Line.

Given the importance of this issue, it is also recommended that the aforementioned letters to the relevant authorities request that Council be consulted as the planning process for the North West Rail Link progresses.

### **RECOMMENDATION:**

That:

1. The information be received.

2. A letter be forwarded to NSW Transport and Planning NSW requesting that:
- a) the rail corridor be set aside immediately for the proposed North West Rail Line;
  - b) the line be extended through the Riverstone Release Area to the Richmond Line;
  - c) the rail line be extended to fully integrate the Richmond and Penrith Lines; and
  - d) Council be consulted at all stages of the planning process for the North West Rail Link.

**ATTACHMENTS:**

There are no supporting documents for this report.

oooO END OF ITEM 41 Oooo

**ITEM: 42**                      **Draft Hawkesbury Lower Nepean Catchment Blueprint**

**FILE NUMBER:**            GR060/075Pt05/EVD/END23NBX.V11

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**REPORT:**

**Introduction**

The Draft Hawkesbury Lower Nepean Catchment Blueprint is a plan for the sustainable management of the natural resource of the catchment and outlines how strategic investment and action will improve the current state of natural resource management. The Blueprint has been on public exhibition with submissions to the Minister for Land and Water Conservation closing on 30 April 2002.

**Report**

**How the Catchment Blueprint will make a difference**

The Blueprint outlines the targets and actions with a time-frame for the achievement of specified natural resource improvements, including:

- better river health by improving stormwater and sewage management to reduce pollutants and sediments entering waterways by implementing a program for environmental flows and by caring for riparian vegetation;
- conservation of most at-risk areas of native vegetation and aquatic habitat;
- closer alignment of biophysical capabilities of the land and its use by improved management of urban and rural development;
- a more involved community contributing to improved catchment health

River Health

Objective - that the waters are suitable for people to use and enjoy.

*Target: By 2012, water quality and river health indicators at 6 priority sites will meet the Healthy Rivers Commission (1998) water quality objectives in base flow conditions, for more than 80% of the time. The priority sites are selected to represent the full range of river regions*

*Comment*

Under the first key issue of River Health it is proposed to have six priority sites where monitoring will be conducted. It is considered that more information needs to be provided regarding the site selection and why only six sites have been chosen.

The management targets should be aiming to help keep water quality within the recreational water quality guidelines (ANZECC) for primary contact due to the number of recreational uses on the river.

### Management Targets

The management targets for river health are:

- flow
- sewage management
- onsite sewage system management
- stormwater management
- ground water and salinity management

### *Comment*

The licence requirements for Council operated STPs may be altered to meet new guidelines, and funding will be required to modify the STPs if the discharge levels are altered. There are over 10,000 onsite systems in the Hawkesbury area, a considerable percentage of these being close to a water course, and it may be impossible to get 80% of medium to high-risk systems upgraded to a low-risk system.

The issue of blue-green algae has not been addressed as a separate target for river health.

### Priority Actions for River Health

The priority actions are the strategies and recommendations of committees and government bodies put into action. They include:

- The implementation of environmental flow regimes
- Increase the use of demand management strategies in residential and commercial areas for potable water supply, and develop water conservation strategies for unsewered areas.
- The review and amend current water extraction arrangements, practices, and licences
- The progressive removal artificial barriers
- Promote the appropriate and effective use of treated sewage effluent and stormwater to meet water quality and quantity requirements, achieving a balance between natural streamflow variability and effluent re-use
- Accelerate the provision of sewage services to 'backlog sewerage' properties
- Create a coordinated database of all on-site systems
- Develop, implement, and maintain on-site sewage management strategies for all unsewered areas
- Implement ground water management plans for particular high and medium risk areas
- Improve and implement erosion and sediment control policies.
- Improve the operation of sewage systems to reduce the occurrence of overflows and other failures.
- Implement and review Stormwater Management Plans
- Review procedures for approving mines
- Develop and implement estuarine management plans

*Comment*

It is considered that Point 2 above could be split into two separate issues. Firstly, increase the use of demand management strategies in residential and commercial areas for potable water supply and, secondly, develop water conservation strategies for unsewered areas. This is a high priority in areas such as Wilberforce, Freemans Reach and Glossodia where a substantial amount of residences rely on pumpout systems for sewage management. These systems often overflow or require to be pumped out early due to excessive water usage.

The issue of environmental flow releases needs to be addressed as its impact on the river and water users needs to be quantified.

The Three-Town Sewage Scheme for the Glossodia, Freemans Reach and Wilberforce areas is considered to be of high priority and is not mentioned in the Blueprint

**Biodiversity - Aquatic and Terrestrial Habitat**

Objective - Diverse native plants and animals live and evolve

*Target: By 2012, the extent, quality and connectivity of terrestrial and aquatic habitats is significantly improved as measured by the targets ... for the major landscapes of the Hawkesbury Lower Nepean.*

Management Targets

The management targets for Biodiversity of Habitats are:

- Additional protection
- Rehabilitation
- Estuarine and marine habitats
- No net loss of biodiversity
- Weeds and pests.

*Comment*

These targets are set so the environment will be enhanced to increase native species. It is considered that for weeds and pests, common names such as “carp” and “blackberry” be used to enable people to easily identify problems.

### Priority Actions for Biodiversity

The priority actions are the strategies and recommendations of committees and government bodies put into action. For biodiversity they include:

- implement improved protection of biodiversity
- prepare and implement education strategies to increase community awareness and understanding of biodiversity and its conservation
- ensure Regional Vegetation Management Plans, SREP 20, regional strategies, and other land use management plans support the achievement of the catchment targets
- implement closely linked strategies and effective action plans for all major aquatic and terrestrial weeds and pests using environmentally appropriate management practices, and develop contingency plans for potential invasive weeds and pests
- prepare and implement effective strategies to minimise the impact of activities that damage habitats
- identify and describe the full range of terrestrial and aquatic habitats and species that need to be conserved within protected lands to ensure conservation of biodiversity
- at the time of review of Stormwater Management Plans and Environment Planning Instruments ensure they contain appropriate provisions to stop the clearing of, and protect the biodiversity of, the headwaters to streams, stream banks and riparian corridors
- resource and implement the Cumberland Plain Endangered Ecological Communities Recovery Plan
- identify priority areas requiring rehabilitation based on standard assessment procedures and commence their remediation
- all strategies and management plans affecting terrestrial and aquatic biodiversity, at the time of review, will identify ways to achieve the biodiversity catchment target and be modified to incorporate appropriate biodiversity conservation.

### **Land Use of the Lower Catchment**

Objective: the beauty and natural processes of the catchment are protected while providing for social and economic needs.

*Target: By 2012 existing and new developments and activities are moving towards operation within the known capability of the landscape as measured by the following indicators:*

- *No increase in the cumulative impact of developments and activities*
- *Improved quality and increased area of riparian corridors*
- *Reduction in area of land degraded by development and activities that exceed the capability of the landscape.*

### Management Targets

The management targets for land use are:

- Best practice
- River and stream bank condition

- Managing risk
- Land degradation

*Comment*

It is considered that the issues of managing stock access and developing incentives to encourage land managers to implement riparian zone actions should be addressed.

Proposed plans to monitor development, which is considered one of the biggest single causes of habitat destruction, at the DA level is not indicated in the Blueprint.

There is no indication of what programs are proposed to combat the problems of salinity, acid sulfate soils and erosion.

**Priority Actions for Land Use**

The priority actions are the strategies and recommendations of committees and government bodies put into action. For land use they include:

- Identify the biophysical constraints of land, planning strategies and instruments and introduce appropriate controls to protect or limit development on sensitive and highly constrained lands.
- Prepare and implement a riverine corridor strategy
- Implement the current state salinity strategy
- Develop and apply best practice guidelines for sustainable greenfields and rural residential development
- Revise and implement, in partnership with Aboriginal communities, planning strategies and instruments that recognise, protect and manage significant Aboriginal landscapes, places and sites, and non-Aboriginal places and sites.
- Implement the Strategic Plan for Sustainable Agriculture - Sydney Basin, particularly objective 1.2
- Encourage the adoption of sustainable practices
- Ensure that catchments and catchment wide issues are reflected in regional planning strategies prepared to implement planFirst. Regional strategies and subsequent local plans adopt and implement the targets in this blueprint.
- Support in-stream environments by phasing out in-stream and riverbank extraction and encouraging rehabilitation of riverine corridors.
- Develop and implement a strategy to prioritise and remediate lands degraded by soil erosion and contamination.
- Develop a process that identifies the cumulative environmental impacts of development on river health and catchment capability.

**Partnerships**

Objective: Everyone is working together - individuals, community groups, business and government

*Target: From 2005 an ongoing mechanism is established that requires decision-making bodies to report on actions taken to achieve catchment targets. The aim of this reporting is to ensure that catchment decision-making bodies have developed a holistic approach to river management and catchment health, are implementing it at the sub-catchment level, and that they are integrating decisions made to support catchment health into their management, planning and reporting processes.*

### Management Targets

The management targets for partnerships are:

- Comprehensive monitoring
- Valuing catchment health
- Awareness and education
- Community capacity building

### Priority Actions for Partnerships

The priority actions are the strategies and recommendations of committees and government bodies put into action. For partnerships they include:

- promote new opportunities, and strengthen and expand existing ones for participation in catchment health offered by "on-ground" works, education and advocacy groups
- develop ongoing awareness campaigns to increase community knowledge of catchment issues and actions
- develop and collate more accurate information on total investment in catchment and river health improvement including direct financial and in-kind investment
- identify and promote appropriate models to assist councils in linking management Plans, financial reporting and Environmental Management Plans to accountability mechanisms such as State of the Environment reports and annual reports
- develop Cumulative Impact Assessment guidelines in consultation with stakeholders
- develop a monitoring and reporting system to report on the success of blueprint actions in meeting catchment and management targets that are supported by inclusion of these targets or performance measures, in all management and monitoring/ auditing programs.
- evaluate existing, and pilot new, catchment-based cross council mechanisms, for management of water quality, and pest weed and animal control
- complete a water monitoring framework that enables comprehensive and cost-effective water quality monitoring on a whole of catchment basis, links scientific and community-based monitoring, and meets the needs of all key stakeholders.
- enhance the ability of local councils to apply for and use special levies to address catchment and river health issues
- pilot the use of trade-off/offset scheme to facilitate improved investment effectiveness for control and remediation of point and diffuse pollution sources

- expand and better link information, education and training services provided to community, especially to Non-English Speaking Background and Aboriginal communities, ensuring their cultural appropriateness
- identify and document community values and integrate them into decision making
- support the establishment of a regional indigenous forum for natural resource management in the Hawkesbury Nepean catchment
- establish and maintain a homepage for catchment councils to integrate and present information on a catchment wide basis
- implement regional landcare facilitation strategies and action plans including the employment of an indigenous land management facilitator

### **Priority Action Table**

This table gives a priority listing for the action for each of the four key issues and the management targets that they support. It contains the time frame, the stakeholders involved and gives an indicative cost for that particular management action.

### **Outcomes Analysis**

The Catchment Blueprint will provide an integrated framework to help guide all stakeholders to achieving the targets and actions set. The Blueprint will also be used to set priorities for government expenditure and, as such, needs to reflect the needs of the community and, in particular, the needs of Council.

### **Where to from here ?**

An annual progress report is to be prepared by the Department of Land and Water Conservation. However, it does not state the type of input local Councils will have in this progress report and it is not certain whether the progress report will be in simple terms, to enable community stakeholders to understand whether the impact of their work is making a difference.

It is considered that the plan for a five-year review is too long, at least for the first review, and that maybe it could be reduced to two years. This would enable the stakeholders to get together to assess their projects and raise any concerns or any unforeseen impacts.

### **Conclusion**

- There is a need to address areas with problems that are regarded as having a high priority. Problems such as erosion, loss of vegetation cover, very poor water quality, salinity, weed infestation, etc. could be included in the section that covers the first order objectives and targets.
- In each of the key issues there is a benefit statement giving the environmental, social and economic benefits of the initiatives of the Blueprint. The wording needs to remain in "plain English" terms so the Blueprint is easily understood. It is not in the best interest of the Blueprint to have the stakeholders overwhelmed by the whole process as their support and help is required with the community projects.

- There is no Glossary included in the Blueprint.

**RECOMMENDATION:**

That the issues raised within the report be forwarded to the Minister for Land and Water Conservation for his consideration in review of the Draft Hawkesbury Lower Nepean Catchment Blueprint

**ATTACHMENTS:**

There are no supporting documents for this report.

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