



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 13 December 2005

location: council chambers

time: 5:00 p.m.

ORDINARY MEETING**Table of Contents****Meeting Date:** 13 December 2005**TABLE OF CONTENTS**

ITEM	SUBJECT	PAGE
SECTION 1 - Confirmation of Minutes		3
SECTION 4 - Reports for Determination		7
GENERAL MANAGER		7
Item: 385	GM - Rural Fire Service - Service Level Agreement - (79351, 79016)	7
CITY PLANNING		9
Item: 386	CP - Hawkesbury Community Plan 2005 - (96737, 95498)	9
Item: 387	CP - Waste Management Position Paper - Final Consultant's Report - (95249, 95498)	11
Item: 388	CP - Proposed Foreshore Building Line - Flinders Place and Shortland Close, North Richmond - (27884, 95498)	13
Item: 389	CP - Amendments to Hawkesbury Development Control Plan, Tree Preservation Order and Revenue Pricing Policy - (95498)	15
Item: 390	CP - Draft Windsor Masterplan - (95498)	23
Item: 391	CP - Hawkesbury Development Control Plan- Part E Chapter 6 - Bligh Park Neighbourhood Business Precinct - (95498)	25
Item: 392	CP - Draft Hawkesbury Local Environmental Plan 1989 - Amendment 115 and Draft Hawkesbury Development Control Plan - Part E, Chapter 5 - Macquarie and Bridge Streets - (95498)	28
COMMERCIAL STRATEGY		40
Item: 393	CS - The Botanist's Way Project - (95497)	40
EXTERNAL SERVICES		46
Item: 394	ES - Proposed Changes to Contestable Building Control Fees - (96594, 96329)	46
Item: 395	ES - Subdivision - Torrens Title - 2 Lot Subdivision, Lot B DP 416222 Vol 10354 Fol 243, 1027 Grose Vale Road, KURRAJONG NSW 2758 - (95494, 96329, 18850, DA0048/05)	49
Item: 396	ES - Proposed Commercial/Residential Development at Lot B DP 383474, Lot 1 DP 128701 and Lot X DP 374639, 510 - 512 George Street Windsor - (DA1001/04, 96329, 91001, 21984, 17510, 92715)	60
INFRASTRUCTURE SERVICES		93
Item: 397	IS - Cultural Precinct - (95495, 83276, 75323, 80333, 107, 74272, 74141)	93

ORDINARY MEETING**Table of Contents****Meeting Date:** 13 December 2005

ITEM	SUBJECT	PAGE
Item: 398	IS - Grant from Crown Lands for a Carpark at Yarramundi Reserve - (95495, 84719)	95
	SUPPORT SERVICES	97
Item: 399	SS - Application for Closure and Purchase of Roadway Adjoining 46 George Street, Windsor - (95496, 97239)	97
Item: 400	SS - Hawkesbury Heritage Farm (Former Australiana Pioneer Village) Lot 22 DP 829589 18 Rose Street, Wilberforce - (95496)	100
	CONFIDENTIAL REPORTS	123
Item: 401	IS - St Albans Road Maintenance Tenders - (79344, 87041, 81207) CONFIDENTIAL	123
Item: 402	SS - Laundry (Exhibition) Pty Limited - Documents for Execution Under the Common Seal of Council - (95496, 74324, 98339) CONFIDENTIAL	124
Item: 403	IS - Vegetation Mapping of the Hawkesbury LGA - Tender Evaluation Report - (95495, 96331)	125
	SECTION 5 - Reports of Committees	128
	ROC - Hawkesbury Civic and Citizenship Committee - 13 July 2005 - (96972)	128
	ROC - Community Planning Advisory Committee - 15 September 2005 - (96737, 95498)	132
	ROC - Waste Management Advisory Committee - 5 October 2005 - (95249, 95498)	136
	ROC - Strategic Planning Advisory Committee - 17 November 2005 - (91368, 95498)	140
	ROC - Floodplain Risk Management Committee - 21 November 2005 - (86589, 95498)	150

ordinary

section 4

reports
for determination

ORDINARY MEETING

Meeting Date: 13 December 2005

ORDINARY MEETING

Meeting Date: 13 December 2005

SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 385 GM - Rural Fire Service - Service Level Agreement - (79351, 79016)

Previous Item: 134, Special (9 May 2005)

REPORT:

At the meeting of Council held on 9 May 2005 consideration was given to a report in relation to the Draft 2005/06 Management Plan, incorporating the draft estimates, and it was subsequently resolved in part as follows:

"Council give the required 6 months notice to terminate the current Service Level Agreement with the Rural Fire Service effective from 31 December 2005, and commence discussions with the Rural Fire Service with a view to formulating a new Service Level Agreement to be effective from 1 January 2006"

This matter has been subsequently discussed with the Rural Fire Service with a view to formulating a new Service Level Agreement by 1 January 2006, however, the Rural Fire Service have recently indicated that they consider that an agreement in this regard was unlikely to be achieved prior to 31 December 2005, and have requested Council to rescind the notice to terminate the agreement.

A further difficulty that has arisen in relation to this matter relates to an indemnity clause contained within the Service Level Agreement proposed by the Rural Fire Service, with the matter having been brought to Council's attention via the Local Government Associations' Weekly Circular 47/05. The item within the circular advises as follows in relation to the matter:

"It has been brought to the Associations' attention that the Draft District Rural Fire Service 'Service Level Agreements' contain a clause indemnifying the Fire Service and its Commissioner. This clause would appear to also be contained in Service Level Agreement previously signed by councils."

Advice has been received that it may not be in the best interest of a council to sign these agreements while this clause remains in the agreement.

Councils will need to be aware that Statewide Mutual has stated that the Statewide Liability Protection wording excludes claims arising out of a breach of contract and councils are therefore advised not to enter into any new Service Level Agreement with the Rural Fire Service until this issue is resolved.

The Associations are currently seeking further advice on the matter and will carry out a comprehensive review of the Service Level Agreements.

The current agreement allows the parties to extend the agreement, prior to its expiration, for a further period and councils are encouraged to avail themselves of this option where it is necessary. This of itself will not resolve the issue but will maintain the status until such time as negotiations can be finalised."

Whilst the above item refers to the Statewide Mutual Insurance scheme, it has been ascertained that the same situation exists in respect of Westpool. It is also understood that discussions are presently being held between the Rural Fire Service and relevant bodies to resolve this situation.

ORDINARY MEETING

Meeting Date: 13 December 2005

In view of the situation regarding the indemnity clause as referred to by the Association and the request from the Rural Fire Service, it is suggested that it would be appropriate for Council to agree to extending the termination date for the current Service Level Agreement from 31 December 2005 to 31 March 2006.

It is then hoped that the issue regarding the indemnity clause within the Service Level Agreement will be resolved and Council could then enter into an appropriate agreement by this date. Representatives of the Rural Fire Service have indicated that an extension of the termination date from the Service Level Agreement would be appropriate from their view point.

Conformance to Strategic Plan

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

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

Funding

Relevant positions regarding contributions for the Rural Fire Service are already included within Council's budget.

RECOMMENDATION:

That the termination date of the current Service Level Agreement between the NSW Rural Fire Service and Council be extended from 31 December 2005 to 31 March 2006 and the NSW Rural Fire Service be advised accordingly.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

CITY PLANNING

Item: 386

CP - Hawkesbury Community Plan 2005 - (96737, 95498)

REPORT:

The Strategic Planning Committee, at it's meeting held on 18 August 2005, resolved the following:

'A draft copy of the Hawkesbury Community Plan 2005, be presented to the Community Planning Committee in September 2005 for comment, with a view to presenting a final draft for adoption by Council in November 2005.'

Consultation with Council's Community Planning Committee:

The draft Hawkesbury Community Plan was presented to the first meeting of Council's Community Planning Committee on the 15 September 2005. Comments were received by 14 October 2005 and reported back to the Committee in November 2005.

The Community Planning Advisory Committee at its meeting on 10 November 2005 resolved (with minor changes) to forward the Hawkesbury Community Plan 2005 to Council for adoption and public comment from December 2005 to January 2006.

The Hawkesbury Community Plan 2005

The Hawkesbury Community Plan 2005 is the final document in Council's social planning cycle - as required under the Local Government (General) Regulation 2005 for social and community planning. It following the adoption of the Hawkesbury Social Atlas 2003 and the Hawkesbury Community Survey 2004.

The Hawkesbury Community Plan 2005 outlines the key issues impacting on the future 'quality of life' of residents; an audit of actions achieved over the past five years; and provides a 'frame-work' for developing strategies for improving quality of life outcomes for the next five years.

Conformance to Strategic Plan

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

"Objective: Investigating and planning for the City's Future in consultation with our community, and coordinating human and financial resources to achieve this future."

Funding

No impact on funding.

RECOMMENDATION:

That:

1. Council receive the Hawkesbury Community Plan 2005.
2. Council display the Hawkesbury Community Plan 2005 on Council's website from December 2005 to January 2006 for public comment.

ORDINARY MEETING

Meeting Date: 13 December 2005

ATTACHMENTS:

AT - 1 Hawkesbury Community Plan 2005 - (*Distributed Under Separate Cover*)

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

Item: 387 **CP - Waste Management Position Paper - Final Consultant's Report - (95249, 95498)**

REPORT:

This matter was reported to the Waste Management Advisory Committee, at their meeting held on 5 October 2005. At this meeting the Waste Management Advisory Committee resolved:

"That:

1. *Adopt Option Two "Improve Current Systems", which will increase the expected landfill life to 14-17 years.*
2. *Provide future information dissemination on Council's Waste Strategy through the most popular sources of information such as newspaper, rates notice and information on the website as identified within the community consultation.*
3. *Continue with the proposed Drop off Facility and Education Centre to facilitate improved sorting of materials by residents and further reduce the amount of recyclable materials currently landfilled.*
4. *Engage the services of a suitably qualified person to research and develop an "Operational Strategy", that identifies future market opportunities for materials received, reprocessed or recycled at the waste management facility.*
5. *Engage the services of a suitably qualified person to develop and implement an ongoing community waste education program targeted towards the mature area of the community. As the younger generation receives adequate education through the school curriculum. A key area of focus on reducing recyclables sent to landfill within the "Kerbside Domestic" waste stream.*
6. *Ensure the tip face is contained within a small daily area (25mx25m) to reduce the amount of cover material (soil) and increase compaction rates.*
7. *Canvass and implement appropriate alternative cover material options.*
8. *Notify the strategic planning committee that the task "Selection of preferred technology for alternative waste disposal" be deferred until 2010.*
9. *Negotiate Lease extension opportunities with the University of Western Sydney Hawkesbury Campus.*
10. *Update the waste and recycling audit data annually.*
11. *Utilise the existing Waste Advisory Committee to implement recommendations and maintain a forum to review waste service management options. It is recommended that this committee convene six monthly".*

The matter was then referred to the Strategic Planning Advisory Committee, at their meeting held on Thursday, 17 November 2005. At this meeting, the Strategic Planning Advisory Committee resolved:

"That:

1. *The Committee report to Council advising to defer the selection of a preferred technology for an alternative waste disposal, until 2010."*

Conformance to Strategic Plan

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

ORDINARY MEETING

Meeting Date: 13 December 2005

"Objective: Implement plans and controls to manage and reduce waste, and to promote the environmental health of the City."

Funding

There is no impact on the current budget.

RECOMMENDATION:

That Council:

1. Adopt Option Two " Improve Current Systems", which will increase the expected landfill life to 14-17 years.
2. Provide future information dissemination on Council's Waste Strategy through the most popular sources of information such as newspaper, rates notice and information on the website as identified within the community consultation.
3. Continue with the proposed Drop off Facility and Education Centre to facilitate improved sorting of materials by residents and further reduce the amount of recyclable materials currently landfilled.
4. Engage the services of a suitably qualified person to research and develop an "Operational Strategy", that identifies future market opportunities for materials received, reprocessed or recycled at the waste management facility.
5. Engage the services of a suitably qualified person to develop and implement an ongoing community waste education program targeted towards the mature area of the community. As the younger generation receives adequate education through the school curriculum. A key area of focus on reducing recyclables sent to landfill within the "Kerbside Domestic" waste stream.
6. Ensure the tip face is contained within a small daily area (25mx25m) to reduce the amount of cover material (soil) and increase compaction rates.
7. Canvass and implement appropriate alternative cover material options.
8. Notify the strategic planning committee that the task "*Selection of preferred technology for alternative waste disposal*" be deferred until 2010.
9. Negotiate Lease extension opportunities with the University of Western Sydney Hawkesbury Campus.
10. Update the waste and recycling audit data annually.
11. Utilise the existing Waste Advisory Committee to implement recommendations and maintain a forum to review waste service management options. It is recommended that this committee convene six monthly.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

Item: 388 **CP - Proposed Foreshore Building Line - Flinders Place and Shortland Close, North Richmond - (27884, 95498)**

REPORT:

Council has received a request from Mr W McGlasson of 29 Flinders Place, North Richmond for the establishment of a foreshore building line for properties on the eastern side of the Flinders Place and Shortland Close.

In summary, Mr McGlasson highlights concerns expressed by some Flinders Place residents in relation to a residential development at 31 and 31A Flinders Place which was refused by Council and then the Land and Environmental Court earlier this year. A major concern of Council and the residents was the proposal for significant residential development on land below the established building line and within land affected by the 1 in 100 flood event level. Mr McGlasson's suggestion is for a building setback of 35m from the rear boundary of the properties.

The Hawkesbury Local Environmental Plan 1989 adopts Clause 7 of the Environmental Planning and Assessment Model Provision 1980 which provides a mechanism for the establishment of a foreshore building line (FBL). The Clause permits Council by way of resolution to fix a line in respect of land fronting a river. Such a line is to be either marked upon a plan or described by resolution and once established a building shall not be erected between the foreshore building line and the river.

Land that would be affected by such a FBL includes 5 - 11 Shortland Close and 13 - 37 Flinders Place and the Council owned park (Hawkesbury Park) between these properties and the Hawkesbury River.

5 - 11 Shortland Close and 13 - 37 Flinders Place are gently to steeply sloping with the higher land fronting Flinders Place and the lower land adjoining Hawkesbury Park. All of the properties are affected in some part by the 1 in 100 flood event, which has a height of 17.5m AHD

SREP No 20 (No.2 - 1997) defines these properties as being within an area of regional scenic significance. The Scenic Quality study, which accompanies the SREP, recommends that new residential development be restricted to and concentrated on terraces. A FBL in this locality would assist in achieving this recommendation.

Properties along the eastern side of Flinders Place and Shortland Close have been developed by way of a mix of single dwelling and duplexes towards the higher portions of each property with pools, landscaping, garden sheds and ancillary structures located in the lower parts of the properties.

Amongst the properties that are presently developed the dwellings on 13, 21 and 37 Flinders Place are the closest to the rear boundary. These residences are setback approximately 33 - 40 metres from the rear boundary. Development of these properties has established a building line that has been referred to by Council staff in the assessment of recent development applications.

At present, 31 and 31A Flinders Place are vacant. Council has recently approved a two-lot battleaxe subdivision of 27 Flinders Place as well as a new single dwelling on the rear lot to be created. This new dwelling is to be setback approximately 31m from the rear boundary.

Given the existing development of these properties and the scenic significance of this section of the river it is considered that a FBL should be investigated and that the FBL should be based on a line measured 30m (not 35m as suggested) from the rear of the properties. However, any such FBL should not act so as sterilise land so affected by prohibiting all buildings. Prohibiting all buildings would prohibit generally minor structures ancillary to a dwelling such as pools, gardens sheds, pergolas, and gazebos, as well as prohibiting play equipment and other structures within Hawkesbury Park. These structures are generally defined as Building Code of Australia Class 10 structures.

ORDINARY MEETING

Meeting Date: 13 December 2005

Prior to Council fixing a FBL it would be appropriate, however not mandatory, that the proposal be publicly exhibited for a period of not less than 28 days in order for the community to be given an opportunity to provide comment to Council. This would include letters to all owners of land affected by the FBL.

Conformance to Strategic Plan

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

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

Funding

There is no impact on the current budget.

RECOMMENDATION:

That:

1. Council propose a draft foreshore building line (FBL) which is based on a straight line measured 30m to the west of the rear boundaries of 5 - 11 Shortland Close and 13 – 37 Flinders Place, North Richmond and that this FBL be applicable to the erection of all buildings, other than Building Code of Australia Class 10 structures, between the FBL and the Hawkesbury River.
2. The draft foreshore building line be publicly exhibited for a period of not less than 28 days and the matter be reported back to Council after the exhibition period.

ATTACHMENTS:

AT - 1 Locality Map with proposed foreshore building line. *(To be displayed at the meeting).*

oooO END OF REPORT Oooo

Item: 389 CP - Amendments to Hawkesbury Development Control Plan, Tree Preservation Order and Revenue Pricing Policy - (95498)

REPORT:**Introduction**

The purpose of this report is to finalise proposed amendments to the Hawkesbury Development Control Plan. An explanation of the recent amendments to the Environmental Planning and Assessment Act 1979 is also provided as it affects several chapters of the Hawkesbury Development Control Plan (DCP).

Recent amendments to Environmental Planning and Assessment Act

The Planning Reform Act became effective on 30 September 2005 and contained a number of amendments to the Environmental Planning and Assessment Act 1979. It required, inter alia, that Council have only one DCP in force for a parcel of land. The purpose of this amendment was to reduce the complexity of development controls applying to a site, making it easier for the public to understand.

The amendments also clarify that a DCP may not duplicate the provisions of Environmental Planning Instrument as well be consistent with the EPI. This means, that where provisions exist in Hawkesbury Local Environmental Plan (HLEP) 1989, the provisions cannot be duplicated in the DCP. An example is found in Part B-Exempt and Complying Development chapter of the Hawkesbury DCP, which repeats the provisions found in Schedules 6 and 7 of HLEP 1989. In this regard, some amendments are required to the Hawkesbury Development Control Plan.

Contaminated Land DCP

The Contaminated Land DCP is not incorporated into the Hawkesbury DCP. The DCP applies to all land within the City and provides for the management of land contamination. The DCP duplicates the provisions of State Environmental Planning Policy No. 55 - Remediation of Land and therefore is inconsistent with the recent amendments to the Environmental Planning and Assessment Act as outlined above.

It is therefore recommended that the Contaminated Land DCP be repealed.

Part B-Exempt and Complying Development

Amendment 139(Exempt and Complying Development) and the subsequent amendments were considered by Council at its meeting of 12 April 2005. Council resolved to adopt the Amendment to HLEP 1989 and amend the DCP. Amendment 139 has been consolidated at the request of Parliamentary Counsel with Amendments 108, 130 and 148 and is currently with the Minister for finalisation and gazettal. The DCP now needs to be made effective in accordance with the Regulations.

Further, the Exempt and Complying Chapters currently duplicate the provisions of the HLEP 1989 and as a result of the changes to the Act outlined above, needs to be amended to remove the duplication. It is therefore recommended that the Exempt and Complying Schedules be removed from the DCP chapter and reference be made to the LEP. In relation to the Exempt Chapter, all of the requirements will now be found in the LEP and this chapter will have a note to this effect.

It therefore recommended that Part C -Exempt and Complying Development be updated to reflect Amendment 139 and the changes to the Environmental Planning and Assessment Act 1979 (as amended). It is also recommended that the Part C be made effective in accordance with the Environmental Planning and Assessment Regulations.

Part C Chapter 5 - Bushfire

Planning for Bushfire Protection - A guide for Council's, Planners, Fire Authorities, Developers and Home Owners was introduced in January 2002 and provides for the protection of property in relation to bushfire. At this time Council repealed the Bushfire Mitigation Policy as it was superseded by the Planning for Bushfire Protection.

The information contained in the DCP reflects Council resolution of 12 March 2002 and confirms the need to comply with Planning for Bushfire Protection, the Building Code of Australia and AS3959-Construction of Buildings in Bushfire Prone Areas. This information duplicates the legislative requirements and should be removed.

It is therefore recommended that Bushfire Chapter be removed.

General Information, Notification Chapter and Tree Preservation Order

Proposed amendments to the General Information and Notification chapters of the Hawkesbury DCP and the Tree Preservation Order (TPO) were reported to Council on 13th September 2005.

The proposed DCP and TPO amendments were exhibited for the period 13 October - 10 November 2005, with notices appearing in the Hawkesbury Gazette on 12th and 19th October 2005 advising of the proposed amendments.

One submission was received in relation to the provisions relating to the Tree Preservation Order and Tree Removal section of the General Information chapter. The submission states:

The following comments pertain to the exhibition of Hawkesbury DCP, and more specifically, to the reference to trees and vegetation. The section on Tree Removal (pages 2 - 27 to 2 - 29) is of special concern, as it concentrates on tree preservation orders, rather than on vegetation preservation. This avoids the concept of protection of bio diversity, ecological integrity and habitat of the full range of fauna species composition. Because trees are the most visible part of vegetation, early attempts at protecting native landscapes concentrated on trees. However, this is an outdated or outmoded approach. Trees in native landscapes can only exist in full health if their relationship to the other components is preserved in greater part. Underscrubbing is not prohibited under this order, yet it may well remove essential components of their supporting ecosystem. The TPO may reasonably apply to isolated trees in cleared landscapes. My comments apply specifically to requests to remove trees from areas where there can be seen existing native vegetation in all layers. I feel that there also needs to be more material provided about issues of retention of habitat trees (including old or dead trees containing hollows); threatened species and threatened ecological communities. Council will need to provide expertise beyond the level of the usual inspection for trees if our known rare communities and species are to be correctly assessed.

The construction of the draft Tree Preservation Order is substantially governed by the LEP's adoption of Clause 8 of the Environmental Planning and Assessment Model Provisions 1980. The Model Provisions primary focus is on the removal of trees and not on the boarder issue of clearing of native vegetation, it also provides a defence for contraventions of the Order which have been reproduced in Section 3 (a),(ii), (iii), and (iv) of Council's draft Order. The Order must be consistent with the terms of the Model Provisions.

It is important to note that the LEP currently requires development consent for the clearing of native vegetation other than for bushfire hazard reduction. In cases where development applications are received for the clearing of native vegetation or trees under the Tree Preservation Order, Council is required to consider the provisions of the Threatened Species Conservation Act 1995. In these cases it would be usual for the applicant to provide Council with a flora and fauna assessment prepared by a suitably qualified and experienced person.

ORDINARY MEETING

Meeting Date: 13 December 2005

Additional advice was also received from Council's Land Management Branch, this included:

- Section 2 - An additional exception for tree removal within land managed by the Crown.
- Section 3 - Clarification of Section 3(a) regarding the need for evidence in relation to heritage listing and appropriate evidence being submitted to Council prior to the removal of a dying, dead or dangerous tree.
- Section 5 - additional exemption if pruning for the purposes of seed collection where less than 10% of the seed resource is removed.
- Some typographical corrections and additions to the list of trees, which are exempt from the Tree Preservation Order.

Some inconsistencies have been found between the draft Order and provisions within the draft General Information Chapter of the DCP. These relate to the nomination of trees with a certain tree trunk diameter to be excluded from consent requirements, the list of species of exempt trees, identification of general exceptions, and removal when a tree is a threat to safety.

Furthermore, it is recommended that minor amendments be made to the Part A Chapter 2 - General Information to reflect recent changes to Government agencies (as a result of State Government restructure) and removal/updating of various SEPP's. These amendments do not affect the operation of the DCP, as they are merely general maintenance/typographical updates.

Attached to this report is a revised Tree Preservation Order and Tree Removal section of the General Information chapter, which provides for the above-mentioned amendments, additions and deletions.

Review Pricing Policy

Proposed amendments to Council's Revenue Pricing Policy were reported to Council on 13 September 2005. The proposed amendments removed Tree Preservation Order Inspections fees and introduced Development Application - Tree Removal fees.

The proposed amendments were exhibited for the period 13 October - 10 November 2005, with notices appearing in the Hawkesbury Gazette on 12 and 19 October 2005 advising of the proposed amendments.

No submissions were received. It is therefore recommended that these amendments be adopted.

Conformance to Strategic Plan

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

"Objective: Establish processes and develop flexible plans that will enable the City to respond to change"

Funding

No funding implications.

RECOMMENDATION:

That:

1. The Contaminated Land DCP be repealed.
2. Part A Chapter 2 -General Information be amended as attached to reflect recent changes to Government Agencies and removal/updating of various SEPP's.

ORDINARY MEETING

Meeting Date: 13 December 2005

3. Part C Chapter 5-Bushfire of the Hawkesbury Development Control Plan be removed.
4. Part C -Exempt and Complying Development be updated to reflect Amendment 139 and the changes to the Environmental Planning and Assessment Act 1979 (as amended).
5. Part C-Exempt and Complying Development be made effective in accordance with the Environmental Planning and Assessment Regulations.
6. The amendments to Council's Revenue Pricing Policy as they relate to the deletion of the Tree Preservation Order Inspection fee and the addition of a Development Application Tree Removal fee be adopted.
7. The Tree Preservation Order attached to this report be adopted and notification of the Order be published in the Government Gazette and a newspaper circulating in the Hawkesbury Local Government Area.

ATTACHMENTS:

AT - 1 Part A Chapter 2-General Information - *(Distributed Under Separate Cover)*

AT - 2 Part A Chapter 2-Notification - *(Distributed Under Separate Cover)*

AT - 3 Part B-Exempt and Complying Development (Chapters1-3) - *(Distributed Under Separate Cover)*

AT - 4 Tree Preservation Order

ORDINARY MEETING

Meeting Date: 13 December 2005

AT - 4 Tree Preservation Order

Please refer to the [Maps/Attachment Documents](#)

The Maps/Attachment Document can be found as a link next to the Business Paper link under the meeting date of 13 December 2005 on Council's Website

ORDINARY MEETING

Meeting Date: 13 December 2005

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ORDINARY MEETING

Meeting Date: 13 December 2005

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The Maps/Attachment Document can be found as a link next to the Business Paper link under the meeting date of 13 December 2005 on Council's Website

oooO END OF REPORT Oooo

Item: 390 CP - Draft Windsor Masterplan - (95498)

REPORT:

Background

The draft Windsor Masterplan was finalised in May 2004 and on 8 June 2004 and Council resolved:

"That:

1. *To exhibit the draft Windsor Masterplan for public consultation for a period of 90 (ninety) days.*
2. *To consult with Government agencies about the Draft Windsor Masterplan in conjunction with the public exhibition to be undertaken in (1.) above.*
3. *That the costings be prepared by Council staff for the public infrastructure improvements as suggested by the Masterplan."*

In accordance with this resolution, the Masterplan was exhibited from July to October 2004 and consultation has been carried out with government agencies. The purpose of this report is to advise Council of issues relating to the costings of the public infrastructure improvements.

Further, to enable Council to make informed decision Council's Strategic Committee has requested for a report on Design for Public Infrastructure recommended in the Windsor Town Centre Master Plan.

Recommendations of the Masterplan

The Master Plan recommended overall design principles, landscape strategy, land use strategy, traffic and parking strategy and public domain strategy for the beautification of the Windsor Town Centre.

In addition to the broad principles the Master Plan identified in some detail, urban design theme and enhancement opportunities through nine specific project areas:

1. Macquarie Street
2. Riverfront
3. Thompson's Square
4. Mall
5. Retail Precinct
6. Holland's Paddock
7. Civic Precinct
8. McQuade Park
9. Railway Square

Generic design principles and concepts for each project areas recommended in the Master Plan and are still very broad and inadequate for a realistic project cost estimation. Each of the identified project areas need further investigation and the development a concept plan with sufficient details to enable to quantify the work and prepare a preliminary costing.

Following the preparation of a preliminary design for each project area, a report can be presented to Council outlining specific project works, cost estimates, relative merits and priority consideration of each project. A detailed implementation program can be developed once costing, design and Councils financing ability has been determined.

ORDINARY MEETING

Meeting Date: 13 December 2005

The work required can be carried out by Council staff and therefore will not require the engagement of a quantity surveyor at this stage.

The following course of action is therefore proposed:

1. That a concept plan be prepared for each project areas identified in the Windsor Master Plan.
2. That a team of Council staff including design/construction and planning staff prepare the concept plans and cost estimates.

A further report be prepared to Council and the Strategic Planning Committee with detailed plan and cost estimates, an analysis of relative merit and priority of each project areas; and funding options.

Conformance to Strategic Plan

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

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

Funding

Giving this work priority may mean the designs for other parts of the Works Program may be delayed. To overcome this, additional design resources may be used from the Works Program to keep the designs on track.

RECOMMENDATION:

That:

1. A concept plan be prepared for each project areas identified in the Windsor Master Plan.
2. A team of Council staff including design/construction and planning staff prepare the concept plans and cost estimates.
3. A further report be prepared to Council and the Strategic Planning Committee with detailed plan and cost estimates, an analysis of relative merit and priority of each project areas; and funding options

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

Item: 391 **CP - Hawkesbury Development Control Plan- Part E Chapter 6 - Bligh Park Neighbourhood Business Precinct - (95498)**

Previous Item: 298, Ordinary (11 October 2005)
 34, Ordinary (13 July 2004)

REPORT:

Introduction

Council at its meeting of 11 October 2005 considered a report in relation to Part E Chapter 6 - Bligh Park Neighbourhood Business Precinct of the Hawkesbury Development Control Plan (DCP) and resolved as follows:

1. *The draft Development Control Plan be referred to a Councillor Workshop.*
2. *Pedestrian and bicycle access between Colonial Drive and Porpoise Crescent be provided across the subject site generally between the commercial and residential portions of the site.*
3. *Council continue the process to close the unnamed laneway adjoining the south-western boundary of the subject land and to incorporate this land within the development covered by the draft DCP.*

The matter was considered at a Briefing Session on 8 November 2005 and is now submitted back to Council.

Background

The subject land is described as Lot 1249, DP 800323, has an area of 2.42 hectares and contains, in part, the Tiningi Community Centre.

Council at its meeting of 13 July 2004 considered a number of expressions of interest for the development of 139 Colonial Drive, Bligh Park and resolved as follows:

- (a) *That following the subdivision of the Tiningi Community Centre from the land at 139 Colonial Drive, Bligh Park, and the preparation of a site specific DCP for the surplus property be sold at public auction, with a positive covenant to assist with ensuring that mixed development of retail/residential occurs on the site; and*
- (b) *That action be commenced to close the unnamed laneway adjoining 139 Colonial Drive, to be consolidated with the development site.*

Draft Chapter 6 - Bligh Park Neighbourhood Business Precinct

The draft DCP chapter provides a guide to future commercial and residential development. The main features of the draft DCP are as follows:

- the total floor space of new commercial buildings on the site shall not exceed 3000 m²;
- commercial development shall not exceed two storeys in height;
- residential development shall comply with Part D, section 1 of this DCP. (The DCP plan shows 16 x two storey dwellings);
- provision of 100 on-site car parking spaces, seven of which are designed for quick stop shopping;

- separate on-site access roads for the commercial and residential components of the development; and
- provision of pedestrian and cycle paths that link the development to the surrounding residential community.

Pedestrian Access and Bicycle

Pedestrian access and bicycle access has not been provided directly from Porpoise Crescent and the draft DCP needs to be amended to comply with Council's previous resolution. The most appropriate location is for the access to be provided to the north of the proposed residential development. It is therefore recommended that the draft DCP be amended prior to public exhibition.

Laneway

The laneway adjoining the south western boundary of the subject land is currently utilised for public utility services including stormwater, sewer (rising main), electricity and telephone. To fulfil previous Council's previous resolution to close the laneway it would be necessary to create a 20m easement to cater for these services. The easement would not be available for building and would restrict development of the site. It is considered that the most appropriate use of the laneway would be for access to the proposed housing area and the continued maintenance of the services.

In June 2005, Council considered a report in relation to a Safety Audit for Laneways in Bligh Park. The subject laneway (known as Laneway 25) was addressed in this report and it was noted that there was zero lighting and zero surveillance. The report recommended that the laneway be closed but also provided an alternate option, which was to improve surveillance. The report did not have the benefit of considering the draft DCP that provides for residential development fronting the laneway. This will have the effect of increasing the natural surveillance of the laneway by increasing vehicular and pedestrian access. The alternate option proposed in the Laneway report is facilitated by the draft DCP and further negates the closure of the laneway.

It is recommended that the laneway remain open as it is an integral part of the future development of the site pending the exhibition of the draft DCP.

Public Exhibition

The draft chapter is now ready for public exhibition and is therefore recommended that Council resolve to place the draft DCP chapter on public exhibition for a period of 28 days in accordance with the provisions of the Environmental Planning and Assessment Act and Regulations.

Conformance to Strategic Plan

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

"Objective: Establish processes and develop flexible plans that will enable the City to respond to change."

Funding

Funding has been utilised from the Property Reserve for the work. When the land is sold then the Property Reserve will receive the funds.

ORDINARY MEETING

Meeting Date: 13 December 2005

RECOMMENDATION:

That:

1. The draft Part E Chapter 6-Bligh Park Neighbourhood Business Precinct be amended to provide pedestrian access from Porpoise Crescent.
2. The draft Part E Chapter 6-Bligh Park Neighbourhood Business Precinct be placed on public exhibition for 28 days.
3. The unnamed laneway adjoining the south-western boundary of the subject land not be closed pending the outcome of the exhibition of the draft Part E Chapter 6-Bligh Park Neighbourhood Business Precinct.

ATTACHMENTS:

- AT - 1** Part E Chapter 6 - Bligh Park Neighbourhood Business Precinct - (*Distributed Under Separate Cover*)

oooO END OF REPORT Oooo

Item: 392 CP - Draft Hawkesbury Local Environmental Plan 1989 - Amendment 115 and Draft Hawkesbury Development Control Plan - Part E, Chapter 5 - Macquarie and Bridge Streets - (95498)

REPORT:

On 31 May 2005, Council resolved to exhibit draft Amendment 115 and a draft chapter of the Hawkesbury DCP being Part E Chapter 5 Macquarie and Bridge Street (Chapter 5). This report details the outcome of the exhibition.

Section 62 Consultation

Amendment 115 and Chapter 5 were referred to the following Government authorities:

- Telstra
- Sydney Water
- NSW Tourism
- Department of Primary Industries - Agriculture
- Department of Primary Industries - Minerals
- NSW Heritage Office
- Department of Environment and Conservation
- Integral Energy
- Deerubbin Local Aboriginal Land Council
- Department of Natural Resources
- NSW Roads and Traffic Authority (RTA).

Responses were received from NSW Department of Primary Industries - Agriculture and Fisheries, RTA, Tourism NSW and the Deerubbin Local Aboriginal Land Council. These authorities did not raise any objection to Amendment 115 or Chapter 5.

DPI - Agriculture and Fisheries did recommend Council consider the following matters for Chapter 5:

1. Restoration plans will need to consider weed management issues particularly for any noxious weeds. If W1 Noxious Weeds are to be removed for destruction a permit is required from DPI.
2. Any works that may impact on fish passage or harm of marine vegetation should be referred to DPI Fisheries for advice. The DPI encourages the maintenance of riparian vegetation for fisheries habitat and for reducing nutrients and sediment entering waterways.

It is recommended that (1.) be incorporated in Chapter 5 Rule 5.7.2 (f).

It is recommended that (2.) be included as a note at the end of Chapter 5.

Deerubbin Local Aboriginal Land Council have requested that Amendment 115 include provisions which require an Aboriginal cultural heritage assessment of Lot 1 DP 87858, Lot 2 DP 713080 and Lot 3 DP 515413 (i.e. the land which is proposed to be zoned 6(c)) prior to the commencement of any construction or activity that may disturb the soil.

It is considered that Chapter 5 is the appropriate planning instrument to contain such a provision and appropriately worded provisions should be included in Section 5.4.2 of Chapter 5.

ORDINARY MEETING

Meeting Date: 13 December 2005

Public Consultation

Amendment 115 and Chapter 5 were placed on public exhibition for the period 13 October - 10 November 2005. Notices appeared in the Hawkesbury Gazette on 12 and 19 October 2005, and letters were sent to owners and occupiers on land affected by Amendment 115 and Chapter 5 as well as surrounding landowners and occupiers. Council received 6 (six) submissions and 1(one) petition. A summary of the issues raised is provided below:

Anne O'Mahony, 6 Anschau Crescent, Windsor

Currently renting the dwelling at 6 Anschau Crescent. This is to be demolished and therefore she will have to find alternative accommodation. Concerned regarding resultant loss of low-income housing.

B R Jessop, 83 Moles Road, Wilberforce

Rezoning will allow growth of the site into a huge car storage yard surrounding a heritage item. It fails to secure the first two general principles of 5.2. It is not sympathetic to the heritage nature of the site, the locality and Windsor generally.

A car yard does not embellish the entry to any historical town. There must be a more suitable rezoning.

There must be an improved access possible with a slip road immediately to the west of the bridge. A robust median barrier is needed to prevent any right hand turns. A dedicated slip road for left hand turn access would be better in Macquarie Street as a principle site access.

Regardless of landscaping, the view of the entrance to Windsor with a car yard cannot be good planning.

The gross buildings to be allowed on Macquarie are poor planning. Any zoning permitting such bulk should be discouraged.

Could you explain the justification for a \$2000 rezoning fee for Hawkesbury Valley Holden (HVH), which will yield considerable financial benefit, yet the rezoning cost to the ratepayers will exceed \$20,000.

Nicholas Saad, 9 Anschau Crescent, Windsor

HVH creates an unsightly entrance to the historic town of Windsor. It is time to end the expansion of this commercial business into unsuitable rural and residential areas.

Council should not allow HVH to use the flood prone land near South Creek for car storage as this is unsightly and will create problems when the next flood occurs.

There are not adequate provisions in the plans to prevent the use of Anschau Crescent for access to HVH. There is nothing to prevent HVH from continuing to park in Anschau Crescent and Ross Street.

The creation of a new road through 6 Anschau Crescent to the reserve would result in an increase in traffic – both cars and people. The reserve that this new road is to provide access to is an old convict cemetery. The only people who use the reserve are local residents and people interested in history. There is already good access for both these groups through Bridge Street.

The demolition of the existing house will mean that more noise will travel up Anschau Crescent. There are no controls to limit the amount of noise made or reduce its impact on residents.

John and Lyndall Fitzgibbon, 27 Ross Street, Windsor

The block of land that the Jolly Frog is located on, together with the adjacent rural zoned land . . . is extremely flood prone. Given this it would seem acceptable to develop this site in view of the impact of relocation large numbers of vehicles during emergency flood events – this being in conflict with the safety and movement of local residents and emergency vehicles at these times.

ORDINARY MEETING

Meeting Date: 13 December 2005

The rezoning of 6 Anschau Crescent from Residential 2(a) to Business General 3(a) and Proposed Road 9(b) would seem inevitably to result in the access being used for vehicle movements to and from HVH. This would lead to increased congestion in Anschau Crescent and Ross Street and . . . would result in conflict with the safety and access needs along Ross Street during emergency flood events.

Any further development of this site (within the area of the proposed rezoning) by HVH, regardless of the heritage redevelopment of the Jolly Frog, will result in a visual appearance for the entrance to Windsor which is at variance with, and unsympathetic to, the town's historic, rural and aesthetic nature.

Catherine Ghantous, 8 Anschau Crescent, Windsor

Loss of amenity to the residents of Anschau Crescent and Ross Street

Increase in traffic. There have been a number of complaints from residents regarding congestion, parking and the speed of vehicles moving through Anschau Crescent, HVH staff and customers already park vehicles in Anschau Crescent and Ross Street.

Visual impact when viewed from Windsor Road. The use of this land associated with a motor show room is inappropriate for the entrance to the historic town of Windsor

Movement of cars from the site during times of flood will hinder resident evacuation.

The proposed road zoning will generate traffic beyond the capacity of Anschau Crescent.

Negative impact on the curtilage of the Jolly Frog.

Increased in noise associated with the delivery of vehicles. Vehicles currently delivered during the hours of 10.00pm - 5.00am.

No environmental study has been undertaken.

Various parts of the property are being used for unauthorised and/or prohibited motor showroom uses, clearing of vegetation, filling and levelling of flood prone land and wetlands, and construction of fencing.

Part of Lot 1 DP 1059438 is proposed to be rezoned from 6(a) Open Space - Existing Recreation to 3(a) Business General. This is not listed in Section 2 of Amendment 115 and may not be consistent with Section 117(2) Direction No. 26 - Special Areas Zones and Recreation Zones.

Chapter 5 promotes the use of Open Space (Private Recreation) land for the purposes of car storage. This is a prohibited land use in the 6(c) zone.

Chapter 5 and Amendment 115 may be inconsistent with Clauses 22 and 25 of HLEP 1989 and Section 117(2) Directions No. 2, 3, 15, 21, 22, and 26.

Recommends that:

- No. 6 Anschau not be rezoned.
- No road or pathway be constructed through 6 Anschau.
- Only land in DP 515413 and DP 854611 be rezoned.
- Current unauthorised/prohibited activities be investigated and action taken.
- An environment study be undertaken on Lot 2 DP 713080.
- An archaeology study be commissioned.
- Flood and traffic studies be commissioned.

Chris Kersten and Michelle Williams, 7 Anschau Crescent, Windsor

Noise - there is no statement in the Chapter 5 relating to noise. Current noise impacts include vehicle movements and the public address system. HVH should be required to establish and maintain a buffer

ORDINARY MEETING

Meeting Date: 13 December 2005

zone on 6 Anschau Crescent to provide noise attenuation and privacy for the residential areas. Chapter 5 should have a rule to the effect of "the movement, loading and unloading of vehicle transporters on the HVH site is to only occur from the Bridge Street access, and is to be limited to the hours between 7am and 10pm". The use of the PA system at HVH should be restricted to 9am to 5pm Monday to Friday and 10am to 1pm Saturday and prohibited on Sunday, HVH should also investigate the use of a silent pager system. There will an increase in noise associated with pedestrian and vehicles accessing the recreational area from Anschau Crescent. The proposed road runs directly along the northern boundary of 7 Anschau Crescent under all of the bedroom windows. All of 6 Anschau Crescent should be zoned 6(c) Private Recreation and a pedestrian pathway be created with this site with appropriate landscaping.

Privacy, security and amenity - loss of amenity for 7 Anschau Crescent in that the whole northern boundary of this property will be opened up to public view. Loss of visual amenity by imposing more commercial property into the visual outlook from the side and rear of 7 Anschau Crescent and increasing the visual impact of the motor showroom when entering Windsor. Increase in public access will increase the potential for theft, vandalism and graffiti.

Flooding – flood evacuation of commercial vehicles will increase traffic significantly in the instance of a flood and would hinder the evacuation of residents. The cars themselves will present a significant hazard when they are picked up and moved by floodwater. It may be more reasonable to make the area around the Jolly Frog a staff and customer car park as, in the event of flood, these people are more likely to move their vehicles to get themselves away.

Buffer between residences and commercial uses – the recommendations from the December 2000 Falson & Associates report have been ignored.

Traffic – traffic through Anschau Crescent is a major issue. Section 5.6.2 (b) may be interpreted such that passenger vehicles could still enter and leave the HVH site via Anschau Crescent. An additional or modified rule should read "there shall be no pedestrian or vehicle access into the HVH site from Anschau Crescent or Ross Street".

Proposed road/pathway - Chapter 5 does not mention what traffic might use the proposed road along the southern boundary of 6 Anschau Crescent and no mention is made of future development of the recreation area. Suitable names for the pedestrian pathway would be "Cunningham's Way" or "Cunningham's End" (named after convict Philip Cunningham), "Miller's Way" named after resident John Miller

Parking – Chapter 5 does not consider the issue of parking in Anschau Crescent. HVH staff and customers already park vehicles in Anschau Crescent. The bulk of parking that occurs in Anschau Crescent during the week is due to employees or customers of HVH.

Prohibited and unauthorised uses - A motor showroom is a prohibited and inappropriate use within the 6(c) zone and for the entrance to the historic town of Windsor. The rezoning and development should not proceed given the previous and current unauthorised/prohibited uses of the site.

Errors and omissions in the plans – the rezoning of part of Lot 1 DP 1059438 from 6(a) to 3(a) is not listed in Amendment 115 Section 2 and may not be consistent with Section 117(2) Directions No. 26. Why has the Green Hills Cemetery been excluded from the Chapter 5.

Section 117(2) Directions - Chapter 5 and Amendment 115 may be inconsistent with Clauses 22 and 25 of HLEP 1989 and Section 117(2) Directions No. 2, 3, 15, 21, 22, and 26.

Property values - the rezoning of 6 Anschau Crescent will lower the property value of 7 Anschau Crescent and the owners should be compensated for the loss of amenity and reduction in property value.

Recommends that:

- No. 6 Anschau not be rezoned.
- No road or pathway be constructed through 6 Anschau Crescent.
- The rural and open space zones not be used as motor vehicle showrooms.

ORDINARY MEETING

Meeting Date: 13 December 2005

- Chapter 5 include provisions relating to hours of operation and use of vehicle transporters, provision of employee and customer parking, vehicle and pedestrian access points to the site, use of public address system.
- Current unauthorised/prohibited activities be investigated and action taken.
- Future use of the Green Hills cemetery be considered and incorporated into the Chapter 5 and that the route of public access under Bridge Street and from the Jolly Frog car park be defined and shown in the Amendment 115 and Chapter 5 maps.
- Access to the southern end of Green Hills cemetery be investigated.
- A flood management plan be developed and publicly displayed.
- An environment study be undertaken.
- HVH undertake a survey and reposition the new eastern boundary fence near South Creek at the location identified in the Chapter 5 and Amendment 115.

Petition

48 persons who are primarily owner/occupiers of land within Anschau Crescent and Ross Street signed the petition. The petition identifies the following concerns:

- Loss of privacy and amenity for residents of Anschau Crescent and Ross Street.
- Addition traffic, noise and pollution in Anschau Crescent and Ross Street.
- Oppose construction of a road access through 6 Anschau Crescent, no restrictions are listed to prevent its use for vehicle access.
- Request that it be clearly defined in Chapter 5 that "there shall be no pedestrian or vehicle access into the Hawkesbury Valley Holden site through Ross Street or Anschau Crescent.
- If the rezoning were to proceed, we request that Council give further consideration to the December 2000 report prepared for Council by Falson and Associates that clearly states that the bulk of the property at 6 Anschau Crescent should be used as a buffer zone between the residences and the commercial business.

Discussion

Heritage And Visual Impacts Of New Buildings And Land Uses

The storage of vehicles in the area recommended by Figure 5.1 will have a visual impact. However, views to this area are restricted by existing topography, landscaping and structures, accordingly it is generally visible from only the end of Anschau Crescent and from the South Creek bridge to the Jolly Frog. The provision of landscaping will assist in the softening of this visual impact. It is considered that given the limited views that will be available to the area and the context of it setting such a use and visual impact is not so significant so as warrant abandonment or amendment of Amendment 115 or Chapter 5.

Advantages of allowing Amendment 115 and Chapter 5 to allow car storage in these areas is that it will only be possible subject to the restoration of the Jolly Frog (i.e. via the conservation incentive provisions contained in Clause 29 of HLEP 1989). This will be a positive in terms of visual impact and enhancing the heritage significance of the site. To ensure this occurs it is recommended that Section 5.4.2 Rule g) be amended to clearing link the storage of motor vehicle to the restoration of the Jolly Frog.

The proposed building footprint on the corner of Macquarie and Bridge Streets is designed to define the entrance of Macquarie Street, to set a style for buildings down the street and to make a statement about the beginning of Macquarie Street, as a commercial precinct of Windsor. The design guidelines are designed to compliment many of the buildings within the area.

Traffic, Parking and Access to the site

Many of the concerns of residents seem to be as a result of an existing access to the site from Anschau Crescent. The residents claim that the use of this access by HVH staff and customers generates significant vehicle movements and on street parking within Anschau Crescent.

Chapter 5, Section 5.6.2, Rule a) and b) states:

ORDINARY MEETING

Meeting Date: 13 December 2005

- a) All vehicle access to the site shall be limited to those shown in Figure 5.1.
- b) The access to Anschau Place shall be limited to passenger vehicles only.

The access in Figure 5.1 are located on Bridge and Macquarie Streets. The accesses are supported by the RTA and are consistent with recent development consents (DA0536/02 and DA1433/03) for major redevelopment of the site, which shows entry, and exit points on Bridge and Macquarie Streets.

Rule b) is in conflict with a current enabling provision of Schedule 3 HLEP 1989 which states:

'Lot 4 and 5 DP 31098, Anschau Crescent, Windsor - parking, washing and cleaning of motor vehicles in conjunction with an adjacent car sales yard but only if access is prohibited to Anschau Crescent.'

Note, Lots 4 and 5, DP 31098 have been consolidated into Lot 1, DP 1059438 upon which stands the existing major building, car storage and vehicle circulation components of the HVH dealership.

It is therefore recommended that rule b) be deleted. In order to provide clarity it is recommended that the word "access" in Rule a) and c) be changed to "entry/exit"

Further, redevelopment of the site will also need to comply with the provisions of other chapters of the Hawkesbury DCP, this includes the Car Parking and Access chapter which will require the adequate provision of on site parking for staff and customers.

Flooding and Emergency Procedures

In the absence of a detailed master plan or development application, it is difficult to make prediction as to the flood evacuation procedures that will be required as a result of future development of the land. It is appropriate that these procedures be submitted with any future development application. This is provided for in Section 5.8.2 Rule a).

Noise

In the absence of a detailed master plan or development application, it is difficult to make predictions as to what impact future development may or may not have on surrounding residential land. However, Section 5.2, General Principles, fifth point states:

'to ensure that development of land maintains or enhances existing residential amenity of other land in the locality.'

Consideration of "amenity" would include noise impacts on surrounding land occupiers. Use of the land would be subject to current and future noise controls mandated by the Department of Environment and Conservation. It would be inappropriate for Council through Amendment 115 or Chapter 5 to replicate these provisions, or introduce provisions such as a buffer zones or restriction on the use of PA systems which may provide a false sense of noise attenuation or conflict with DEC's provisions.

Noise emanating from vehicle transporters is relatively infrequent, sporadic and difficult to abate. In these circumstances it is recommended that the movement, loading and unloading of vehicle transporters be controlled by hours of operation. The two most recent development applications DA536/02 and DA1433/03 which provide approval for the current redevelopment of the site propose hours of operation of 6.00am to 6.00pm (DA536/02) and 8.00am to 6.00pm (DA1433/03). Based on these applications/approvals it would appear that the movement, loading and unloading of vehicle transporters between 10.00pm and 5.00am, as claimed by some respondents, is in contravention of current approvals.

Development of 6 Anschau Crescent

The proposed pathway from Anschau Crescent to the 'open space' area will provide a 'break' between the residential area and the commercial uses. A further strip of densely planted landscaping will help facilitate this; the DCP has been amended accordingly.

Proposed road and use of Green Hills Cemetery / recreation area

The proposed road as shown on the Amendment 115 map is to be 6 metres wide. Chapter 5 states that this is to be a "public pathway". The intent of this pathway is to provide a pedestrian access to the cemetery and recreation area adjoining South Creek. It is not intended that this pathway be used by general vehicular traffic. The naming of this path can be resolved independently of Amendment 115 and Chapter 5.

The cemetery and recreation area currently attract relatively low patronage. At present Council has no plans for the development within the cemetery or recreation area. In the circumstances it is considered that noise and traffic generated by the use of this pathway will not significantly impact upon surrounding residents.

Currently Council staff and public access to the Green Hill cemetery is via a route under the South Creek Bridge and over the Jolly Frog land. The Amendment 115 and Chapter 5 seek to make no changes to this arrangement. This is not a legal access, and the pathway off Anschau Crescent is a way of rectifying this. Hawkesbury Valley Holden originally offered a strip of land, 6 (six) metres wide. However, in a more recent letter, they sought to reduce the offer to 3 (three) metres. Although it may be possible for Council to use a 3 (three) metre wide strip, it is considered that at a minimum, it should be 4 (four) metres wide. An alternative could be a ROW over the level adjacent to Bridge Street to provide access to the open space level. The DCP could be modified accordingly, and the draft LEP modified to reduce the pathway to 3 (three) metres.

One respondent suggested Council investigate alternative access to the cemetery and recreation area via the 6(a) zoned land at the end of Ross Street. Such access is some distance from the cemetery and via an indirect route. Access through 6 Anschau Crescent provides for a direct, convenient and short access to the cemetery. The creation of this access does not necessarily mean that there will be an increase in the potential for theft, vandalism or graffiti or reduction in resident privacy and amenity.

Consistency with HLEP 1989 and Section 117(2) directions

Clause 22 and 25 operate to control development fronting main and arterial roads and flood liable land. Amendment 115 and Chapter 5 do not propose provisions, which are inconsistent to these Clauses. Amendment 115 will establish the relevant zone and hence permissible and prohibited land uses. Resultant development applications will be considered with respect to the provisions of Clause 22, 25 and Chapter 5.

Some respondents have claimed that Amendment 115 and Chapter 5 are inconsistent with Section 117(2) Directions No. 2 Point 1; No. 3 Point 1; No. 15 Points 1,2, and 3; No. 21 Points 2 and 3; No. 22 Point 2; No. 26 Point 1. It is important to note that the exhibition material included a fully copy of the Section 117(2) directions and disclosed relevant inconsistencies.

Direction 2 refers to provisions requiring concurrence, consultation or referral of a Minister or public authority. Whilst Amendment 115 does not introduce such provisions, it does rezone land to 9(b) Proposed Road which then, by way of Clause 31 of HLEP 1989, introduces a concurrence provision for development applications affecting this land. Point 2 of this direction states that a draft LEP may be inconsistent with this provision if approval for the provision is obtained from the relevant Minister or public authority. In this case Council is the relevant public authority.

Direction 3 relates to the location and area of business zones. An LEP may be inconsistent with this direction if Council can satisfy the Director General that the plan is of minor significance. Given the area of the land affected, the likely future development and the controls provided by Chapter 5 it is considered that the proposed alterations to the 3(a) zone is of minor significance.

ORDINARY MEETING

Meeting Date: 13 December 2005

Direction 15 relates to development of flood liable land. An LEP may be inconsistent with this direction if Council can satisfy the Director General that the plan is of minor significance. Given the area of the land affected, the likely future development and the controls provided by Chapter 5 it is considered that the proposed amendment is of minor significance.

Direction 21 relates to residential land. The particular provisions of this direction are not relevant to Amendment 115.

Direction 22 relates to rural zones with the objective being the protection of the agricultural production value of existing rural land. An LEP may be inconsistent with this direction if Council can satisfy the Director General that the plan is of minor significance. Given the nature and area of the land affected, the likely future development and the controls provided by Chapter 5 it is considered that the proposed amendment is of minor significance.

Direction 26 relates to special areas zones and recreation zones. This direction states that an LEP shall not create, alter or reduce existing reservations or zonings of land for public open space without the approval of the relevant public authority and the Director General. In this case Council is the relevant public authority and has used its assumed concurrence from the Director General.

Omissions in Amendment 115

The omission of part of Lot 1 DP 1059438 being rezoned from 6(a) Open Space - Existing Recreation to 3(a) Business General is noted. It is recommended that this be included in Amendment 115. The map, which accompanies Amendment 115, is correct and this amendment to the written instrument is considered to be a minor drafting correction, which does not affect the intent or substance of Amendment 115. An amended version of the written instrument is attached to this report.

Other

The current and future tenancy of 6 Anschau Crescent is a private matter between owner and tenant.

The reduction or increase in individual property values as a result of development proposal is not a relevant planning consideration.

The fee required to be paid by the applicant was the fee as adopted by Council Revenue Pricing Policy at the time. These fees have recently increased to better reflect the actual cost incurred to Council in determining rezoning requests.

Some typographical corrections are also included in the amended Chapter 5 attached to this report.

Current prohibited and unauthorised use of the site

Council staff are currently investigating the various claims of some respondents. Such claims include use of land for a motor show room in contravention of HLEP 1989, land filling, clearing of vegetation, and construction of fencing. The need for environmental studies suggested by some respondents appear to relate to works which have been undertaken without consent and not necessarily the provisions of Amendment 115 and Chapter 5. These matters should be dealt with independently of the consideration of Amendment 115 and Chapter 5. The respondents will be kept informed of Council's investigations.

Conformance to Strategic Plan

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

"Objective: Investigating and planning the City's future in consultation with our community, and coordinating human and financial resources to achieve this future."

ORDINARY MEETING

Meeting Date: 13 December 2005

Funding

No impact on Budget.

RECOMMENDATION:

That:

1. The draft Hawkesbury Local Environmental Plan 1989 - Amendment 115 as attached to this report, be advanced by referring the matter to Parliamentary Counsel for legal opinion and then to the Minister of Planning for gazettal.
2. The draft Hawkesbury Development Control Plan, Part E - Specific Areas, Chapter 5 - Macquarie and Bridge Streets as attached to this report, be adopted and made effective upon the gazettal of Hawkesbury Local Environmental Plan 1989 - Amendment 115.

ATTACHMENTS:

- AT - 1** Amended draft Hawkesbury Local Environmental Plan 1989 - Amendment 115.
- AT - 2** Amended draft Hawkesbury Development Control Plan - Part E, Specific Areas - Chapter 5, Macquarie and Bridge Streets - (*Distributed Under Separate Cover*)

ORDINARY MEETING

Meeting Date: 13 December 2005

AT - 1 Amended draft Hawkesbury Local Environmental Plan 1989 - Amendment 115.

**DRAFT HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989
(AMENDMENT No. 115)**

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

(
Minister for Planning)

DRAFT HAWKESBURY LOCAL ENVIRONMENTAL PLAN 1989 (AMENDMENT No. 115)

under the

Environmental Planning and Assessment Act 1979

1. Name of plan

This plan is *Hawkesbury Local Environmental Plan 1989 (Amendment No. 115)*.

2. Aims of plan

This plan aims to rezone the land to which the plan applies from:

- a. Residential 'A' to Business General;
- b. Residential 'C' to Business General;
- c. Residential 'C' to Open Space (Private Recreation);
- d. Open Space (Existing Recreation) to Open Space (Private Recreation);
- e. Rural 'B' to Open Space (Private Recreation);
- f. Residential 'A' to Proposed Road; and,
- g. Open Space (Existing Recreation) to Business General.

3. Land to which plan applies

This plan applies to land in Macquarie and Bridge Street, Windsor, as shown on the map marked "Hawkesbury Local Environmental Plan 1989 (Amendment No. 115) deposited in the office of the Council of the City of Hawkesbury.

4. Amendment of other environmental planning instruments

Hawkesbury Local Environmental Plan 1989 is amended as set out in Clause 5.

5. Amendment of Hawkesbury Local Environmental Plan 1989

Hawkesbury Local Environmental Plan 1989 is amended by inserting at the end of the definition of 'the map' in clause 5 the following:

Hawkesbury Local Environmental Plan 1989 (Amendment No. 115)

ORDINARY MEETING

Meeting Date: 13 December 2005

Please refer to the [Maps/Attachment Documents](#)

The Maps/Attachment Document can be found as a link next to the Business Paper link under the meeting date of 13 December 2005 on Council's Website

oooO END OF REPORT Oooo

COMMERCIAL STRATEGY

Item: 393 CS - The Botanist's Way Project - (95497)

REPORT:

In 2004, Council supported an application by Tourism Hawkesbury Inc (THI), to the Federal Government's Sharing Australia's Stories Grant Program (part of the National Heritage Grants Program, administered via the Department of Environment and Heritage) for the purpose of interpreting "The "Botanist's Way", through the Greater Blue Mountains World Heritage Area (GBMWhA). The application was successful and THI has now received grant funds of \$55,000 (inc. GST) to undertake the project starting in 2005.

The success of the application was influenced by the number of stakeholders indicating their support for the project, which included how the project aligned with other programs under consideration by the stakeholders and the commitment of funds and in-kind contributions by other parties. In particular, National Parks and Wildlife Service (NPWS) has augmented funding to take the overall project investment to \$103,400 (including GST). Parties that supported The Botanist's Way grant application included Mt Tomah Botanic Garden, NPWS, Blue Mountains City Council, Hawkesbury City Council, Lithgow Council, Blue Mountains Tourism, Hawkesbury Valley Tourism (then running the Hawkesbury Visitor Information Centre) and Lithgow Tourism. It is a project that is considered to be of regional importance.

The initiative to seek funding for The Botanist's Way was fundamentally a result of:

- Progress made on the development of a Hawkesbury-Lithgow Tourism Partnership (HLTP) - which was initiated by Council in 2004 with Lithgow Council and the (then) tourism service providers for the two Local Government areas (LGAs), to explore tourism products based around Bells Line of Road and its history encompassing the Aboriginal people, early settlers and explorers, botany and natural history, and;
- The GBMWhA who recognised a need to encourage people to experience more of the GBMWhA by travelling across/through the area so that the diversity of landscapes and wildlife is experienced and so that visitor numbers can be dispersed across the region.

Essentially, The Botanist Way is a themed drive, which builds on the existing popularity of the Bells Line of Road as a scenic drive between the Hawkesbury and Lithgow, and will tell the story of botany in the area. Importantly, the story of botanist George Caley will be told - the journey he undertook to Mt Banks in 1804, and the use of his indigenous knowledge of native plants and animals, amongst other things. Other botanists who add to the local botany story are Allan Cunningham (the King's Botanist), Robert Brown and Caroline Atkinson. The Botanist Way will also build on the botanical destinations/attractions along the road being, the Mt Tomah Botanic Garden and the gardens of Mt Wilson. It was hoped that the proposed World Heritage Centre to be constructed at Bilpin would have been another key destination/attraction along The Botanist Way, however in light of recent public announcements, The Botanist Way project will now give greater emphasis to two key signage installations at each end, one of which is proposed to be at Ham Common, Clarendon.

The grant application for The Botanist's Way project included 5 components, as listed below.

The Botanist Way - Grant Components

1. *Adoption and presentation of the route by local government, tourism bodies and the NPWS;*
2. *Establishment of key interpretive signage installations at each end of the Botanists Way;*
3. *Additional interpretive signage at the World Heritage Centre at Bilpin;*
4. *Interpretation of the Botanists Way theme to travellers, key stakeholders and the wider community through websites, local print media, publications, newsletters and information sessions; and*
5. *As a later phase, additional interpretive signs on specific theme elements at intermediate sites including Bellbird Lookout, Mt Tomah Botanic Garden, Mount Wilson and Mount Banks.*

However the grant funds are provided to specifically achieve 4 elements, as listed below.

The Botanist Way - Funded Elements - Phase 1

1. *Development of a Botanists Way graphic design theme;*
2. *Design of the structures and landscaping for the interpretive installations to be installed at each end of the Botanists Way;*
3. *Researching a body of information on the regional botanical theme; and*
4. *Writing, design and production of the two main signs at each end of the touring route.*

A Working Party has been established with representatives from THI, Council and the NPWS as the initial stakeholders to the project, and an Implementation Plan has been prepared to undertake Phase 1.

The Commercial Response Unit, has been involved in the Working Party meetings to date to help steer the project to ensure:

- a) The Botanists Way becomes a leading tourism product of the area, aligning with the initiatives of the Hawkesbury - Lithgow Tourism Partnership;
- b) All necessary approvals/authorisations/agreements are identified and are actioned ie, use of landholding, land classification and operation, and;
- c) All proposed stakeholder responsibilities and commitments are identified, understood and agreed on.

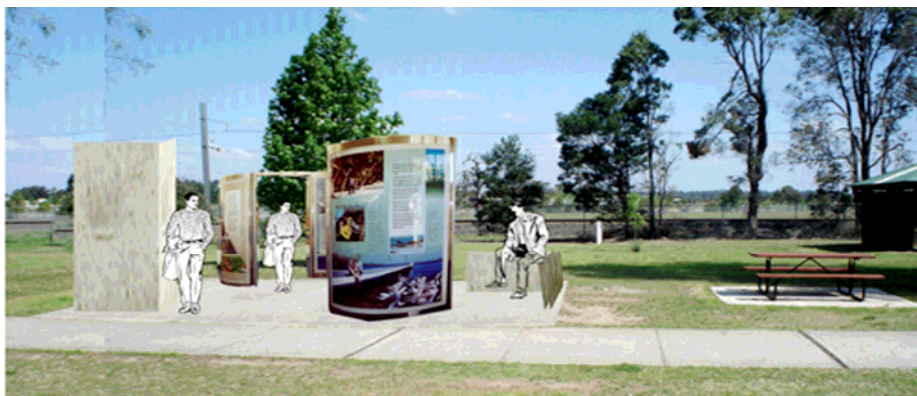
It is intended that interpretive signage will be installed at the Hawkesbury end of the Botanists Way at Ham Common, Clarendon, near the Visitor Information Centre (VIC), and near specimens of Eucalyptus trees. The images below show the sample design, location and layout of the proposed signage installation. The signage would be located on the eastern side of the public toilets between 2 picnic tables; will sit on a concrete slab (approx. of 6m x 8m) adjacent to the footpath for easy access by pedestrian and motorists using the car park; and will consist of the interpretive sign, a wall sign and seating.

As an additional activity, the Implementation Plan also flags the ability for an Arboretum to be developed in part of Ham Common, based on the Eucalyptus trees in the common and on additional plantings. The Arboretum could be an enhanced entry point for The Botanist's Way and as a launch pad for visitors to Mt Tomah. The Implementation Plan identifies 3 stakeholders for the proposed Arboretum, being Council, Mt Tomah Botanic Garden and NPWS, with the latter 2 providing funds for signage and the Eucalypt seedlings, and Council maintaining the trees as part of operational works.

ORDINARY MEETING

Meeting Date: 13 December 2005

In regard to (c) above, the Implementation Plan proposes 5 actions to be undertaken by Council and they are listed under the heading 'Proposa'l in the report. Actions are also proposed for Lithgow Council, Mt Tomah Botanic Garden and NPWS.



In order for the project to proceed, it requires the formal support and involvement of Council and other stakeholders, as the project fundamentally requires the use of landholdings owned by the 2 councils to install the interpretive signs at each end of The Botanist's Way.

Therefore, part of the purpose of this report is for Council to formally consider the project. It is also noted, that while it is often not feasible to obtain formal approvals for land use prior to seeking grant funds; the operational consequences (maintenance, ownership, lifespan, vision for land, capacity of land) for Council need to be considered to ensure the support of a project does not have an unreasonable impact on Council's strategic objectives and resources.

Proposal

It is considered that The Botanist's Way is an exciting and worthwhile project, and it is therefore proposed that Council formally support the project. The project aligns with the HLTP initiatives and other tourism product development ideas being developed by Council in conjunction with Hawkesbury Tourism (the new operators of the VIC). In addition to achieving its aim, i.e. promoting the botany and natural history of the area, it has the ability under The Botanist's Way banner to lead to other activities, and stakeholders are willing to progress these areas. Involvement in the project would have minimal initial impact on operating resources, as the project will largely make use of grant funds and other agency funds and employees. However, The Botanists Way's alignment with Council's operational requirements would need to be met. The following comments are therefore made regarding the stakeholder actions for Hawkesbury Council in the Implementation Plan:

Implementation Program Stakeholder Actions - Hawkesbury Council

- SH1 *Hawkesbury City Council to undertake responsibility for all assessing and providing approvals for all relevant matters relating to the Ham Common sign installations.*

Management Response

By Council formally supporting the project at the strategic level, Management would undertake to ensure required approvals/authorisations are completed. It is noted that Ham Common is community land and there is a draft Plan of Management (POM) for the land, which permits signage, in accordance with the management objectives of the land. Development consent requirement would also be actioned as required.

It is proposed that Council undertake this action.

- SH2 *Hawkesbury City Council to undertake the supervision of sub contractors and associated on site works required to install the concrete slab, brick walls / pillar, rendering and seating slat installation on top of the walls. Actual payment of materials and subcontractors involved to be paid by Nature Tourism Services from overall project budget.*

Management Response

From initial discussions with the project officer for the project, the supervisory role is seen as small in-kind contribution by Council to help bring it about and to ensure Council is involved in guising third party activity on its land. It is understood, that the role would be to ensure the concrete slab is primarily poured in the right location. The Infrastructure Services Division would need to be involved to ensure operational needs are met.

It is proposed that subject to further clarification of the supervisory role, that Council undertake this action.

- SH3 *Hawkesbury City Council to embrace the idea of setting up the George Caley Arboretum over the central section of the Ham Common Bicentennial Park and to invite the NPWS and Mt Tomah to commence discussions over the development of a memorandum of understanding relating to the arboretum's establishment.*

Management Response

While the idea of the Arboretum is good, and one that would appear to be easily achieved, its alignment with Council's own ideas for the Ham Common need to be considered before committing to the undertaking (notwithstanding a third party's funding to progress its ideas). In this regard the Arboretum's impact on and role in the Plan of Management for this part of Ham Common needs to be considered first. It is a concern of Management, that parks can become collection points for a range of "unplanned" elements and regard still need to be made to suitable (safe) trees. With this in mind, the project officer should meet with the Infrastructure Services Division to progress the concept and amend the Implementation Plan accordingly. Likewise, Council should consider a separate report on the matter.

ORDINARY MEETING

Meeting Date: 13 December 2005

It is proposed that Council not undertake this action, until the full impact of the Arboretum is considered.

- SH4 *Hawkesbury City Council to install and maintain all of the additional arboretum eucalypts as part of its standard management operations over the reserve. Council also to supervise the installation on site of the signage pillars being paid for from NPWS world heritage funds.*

Management Response

While the installation and maintenance of the additional trees for the Arboretum logically sits with Council, and would appear to have no significant impact on resources, this matter would be an secondary action after SH3.

It is proposed that Council not undertake this action, until it has considered the proposed action of SH3.

- SH5 *Hawkesbury City Council to contribute to the development of an MOU for the use of Botanists Way brand collateral, signage maintenance and the George Caley Arboretum.*

Management Response

The need to address ownership and access to Intellectual Property associated with the project, was raised by council at the Working Arty meetings. As a result this action has been included in all stakeholder actions, so that there can be collective use of collateral elements. In regard to signage maintenance see SNPWS1 below.

It is proposed that Council undertake this action.

A stakeholder action for NPWS that has relevance to Council is:

- SNPWS1 *NPWS to accept ownership of and responsibility for the maintenance and good order of the display units.*

Management Response

It is intended that the project interpretive signage units be part of the GBMWhA signage collateral. While sitting on a Council landholding, and technically any thing that sits on our land is ours, the aim is that NPWS would take responsibility to care for the signage installation, including vandalism. A suitable agreement should be negotiated to ensure ongoing maintenance and that a procedure is in place for removal of the signage installation, if ongoing funds are not available by NPWS etc.

It is proposed that Council, negotiate an agreement with NPWS in regard to maintenance of the interpretive signage in Ham Common prior to any works being undertaken in the common.

Conformance to Strategic Plan

This proposal is deemed to conform to the objectives as set out in Council's Strategic Plan:

"Objective: Complementary Tourism Program/s initiated with target LGAs"

Funding

Other than staff time to supervise sub-contractor installation of signage, there should be no impact on current budget as all costs are to be met by external parties.

ORDINARY MEETING

Meeting Date: 13 December 2005

RECOMMENDATION:

That:

1. In-principle support is given for the installation of interpretive signage in Ham Common as part of The Botanist Way project, which is to be undertaken by Tourism Hawkesbury Inc. In order to facilitate progress on this initiative, authority is delegated to the General Manager to assess and give consent to such installation, subject to the project meeting with the required development considerations and parts 2 and 3 of this directive as set out below.
2. A suitable Memorandum of Understanding (MOU) be negotiated between the parties to provide for:
 - (a) the joint-use and/or ownership of any associated marketing collateral,
 - (b) supervision of the installation of the interpretive signage in Ham Common,
 - (c) matters relating to maintenance and/or ownership requirements arising from the placement of interpretive signage at Ham Common,
 - (d) the possibility of incorporating an arboretum in Ham Common as an adjunct activity of The Botanist's Way project, and;
 - (e) any other matters deemed necessary for the ongoing success of this initiative.
3. Authority be given to prepare and execute all necessary documents (including the use of common seal of Council as required), subject to satisfaction of the General Manager, with all associated parties being advised that Council is not and will not be bound by the terms of this resolution until such time that all appropriate legal documentation required to give effect to this resolution has been agreed and executed by all parties.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

EXTERNAL SERVICES**Item: 394 ES - Proposed Changes to Contestable Building Control Fees - (96594, 96329)****Previous Item:** 323, Ordinary (1 November 2005)**REPORT:****Introduction**

At the Ordinary Meeting on 1 November 2005 Council resolved to advertise the following proposed fees. Council also resolved that at the close of the advertising period a further report be submitted in relation to the submissions received, if any, and the adoption of the proposed fee structure.

Community Consultation

The fees were advertised in accordance with the Local Government Act 1993 from 9 November 2005 to 7 December 2005, as follows:

Service	Current Fee	Proposed Fee
<i>Building Construction Certificate</i>		
• dwelling	\$410	\$1,000
• dwelling additions	\$273	\$800
• dual occupancy	\$665	\$2,000
• residential flat building	\$410 + \$142 per unit	\$1,000 + \$345 per unit
• commercial/industrial	\$410 per 500m ²	\$1,000 per 500m ² or \$500 per unit, whichever amount is greater
• pools	\$200	\$480
• class 10 (sheds garages etc)	\$151	\$3 per m ² , min \$200
<i>Compliance Certificate (inspections)</i>		
• dwelling package	\$513	\$840
• dwelling additions	\$461	\$840
• residential flat building	\$513 per unit	\$840 per unit
• commercial /industrial	\$513 per 500m ²	\$840 per unit or per 500m ² , whichever amount is greater
• in-ground pools	\$205	\$260
• above-ground pools	\$103	\$130
• class 10 structures	\$205	\$260
• single inspection	\$103	\$130
• re-inspection where failed or not ready	\$103	\$130
<i>Complying Development Certificate</i>		
• dwelling	\$410	\$800

ORDINARY MEETING

Meeting Date: 13 December 2005

Service	Current Fee	Proposed Fee
• dwelling additions	\$410	\$665
• pools	\$200	\$400
• decks, pergolas, etc	\$200	\$3 per m2, min \$200
• Carports, garages, class 10	\$200	\$3 per m2, min \$200
• Boundary adjustments	\$200	\$400
• Advertising signs	\$165	\$330
• Shop fitouts	\$200	\$400
• Industrial buildings & additions	\$615	\$800 per 500m2 or \$400 per unit, whichever amount is greater
Additional Fee for retrospective approval	N/A	Fee as above plus additional 40%

To date there have been no submissions in relation to this proposal and should only be received prior to the meeting. A further report will be submitted.

Conformance to Strategic Plan

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

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

Funding

The adoption of the new fees has the potential to reduce the projected deficit for 2005/06, which has occurred mainly as a result of the general downturn in building activity. Projected income in future years based on the new fees should remove the need to for Council to subsidise this service.

RECOMMENDATION:

That Council adopt the following schedule of fees effective from 15 December 2005.

Service	Fee
<i>Building Construction Certificate</i>	
• dwelling	\$1,000
• dwelling additions	\$800
• dual occupancy	\$2,000
• residential flat building	\$1,000 + \$345 per unit
• commercial/industrial	\$1,000 per 500m2 or \$500 per unit, whichever amount is greater
• pools	\$480
• class 10 (sheds garages etc)	\$3 per m2, min \$200
<i>Compliance Certificate (inspections)</i>	
• dwelling package	\$840
• dwelling additions	\$840
• residential flat building	\$840 per unit
• commercial /industrial	\$840 per unit or per 500m2, whichever amount is greater

ORDINARY MEETING**Meeting Date:** 13 December 2005

Service	Fee
• in-ground pools	\$260
• above-ground pools	\$130
• class 10 structures	\$260
• single inspection	\$130
• re-inspection where failed or not ready	\$130
<i>Complying Development Certificate</i>	
• dwelling	\$800
• dwelling additions	\$665
• pools	\$400
• decks, pergolas, etc	\$3 per m2, min \$200
• Carports, garages, class 10	\$3 per m2, min \$200
• Boundary adjustments	\$400
• Advertising signs	\$330
• Shop fitouts	\$400
• Industrial buildings & additions	\$800 per 500m2 or \$400 per unit, whichever amount is greater
Additional Fee for retrospective approval	Fee as above plus additional 40%

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 13 December 2005

Item: 395 **ES - Subdivision - Torrens Title - 2 Lot Subdivision, Lot B DP 416222 Vol 10354 Fol 243, 1027 Grose Vale Road, KURRAJONG NSW 2758 - (95494, 96329, 18850, DA0048/05)**

Development Information

Applicant: Rodney Ernest Paull
Applicants Rep: Nil
Owner: Mr R E Paull
Stat. Provisions: SEPP 1 - Development Standards
SREP 20 - Hawkesbury Nepean River
Hawkesbury LEP 1989
Draft Amendment 108 to HELP 1989
Hawkesbury DCP
Area: 1.19H
Zone: Rural 1(c1) under Hawkesbury Local Environmental Plan 1989
The proposed zone under draft Local Environmental Plan 8/89 (Amendment 108) is Rural Living.
Advertising: 4 February 2005 to 18 February 2005
Date Received: 21 January 2005

Key Issues:

- ◆ Non-compliance with Development Standard
- ◆ Inappropriate use of SEPP 1
- ◆ Undesirable precedent
- ◆ Long Term Heritage Conservation

Recommendation: Refusal of SEPP1 Objection and Refusal of Development Application

REPORT:**Introduction**

This application was the subject of an appeal to the Land and Environment Court based on the "deemed refusal". The applicant discontinued the appeal prior to hearing and has asked that the application be determined by Council. The matter is reported to Council for determination at the request of Councillor Devine.

The Proposal

The application is for a two lot subdivision to create lots of 3092m² and 8802m² around two existing dwellings on the property. One of the dwellings is currently used for before and after school and vacation child care. A small parcel of road widening is also proposed. The minimum allotment size permissible in the 1(c1) zone is 4 hectares. Therefore, the application is accompanied by an Objection pursuant to SEPP No.1 - Development Standards.

Background

Jun 1989	Approval issued by Council to construct new dwelling, subject to existing dwelling being demolished within 60 days of occupation.
1992	Council resolved to allow existing dwelling to remain occupied until end of existing lease or until end of February 1993, at which time the building was to be rendered uninhabitable.

ORDINARY MEETING**Meeting Date: 13 December 2005**

Feb 1993	DA approved for the use of existing dwelling "Curraweena" as a small primary school. The use of the building for other than a dwelling was permissible under clause 15(4) of Hawkesbury LEP1989.
May 1998	Applicant requested Curraweena to be listed as a heritage item.
Mar 2001	LEP amendment gazetted to list Curraweena as a heritage item
Dec 2001	DA approved to use Curraweena as a before and after school and vacation care centre.
Aug 2003	DA lodged for two lot subdivision (DA0955/03)
Jul 2004	DA0955/03 refused under delegated authority
Nov 2004	Land & Environment Court dismissed an appeal against refusal of DA0955/03 for a two lot subdivision
Jan 2005	DA0048/05 lodged for two lot subdivision (current DA)
Mar 2005	Appeal lodged to Land & Environment Court against deemed refusal of DA0048/05 (current DA)
May 2005	Appeal on DA0048/05 discontinued by applicant (current DA)
Jun 2005	Applicant requested Council consideration of DA0048/05 (current DA)
Oct 2005	Application presented to Councillor Briefing Session

Statutory Situation**SEPP 1 - Development Standards**

This Policy provides flexibility in the application of Development Standards in circumstances where strict compliance with those Standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects of the Environmental Planning and Assessment Act.

The applicant relies on an objection pursuant to this Policy due to the proposed allotments being below the minimum allotment size Standard. It is considered that the grounds for objection are insufficient to justify a departure from the Standard. Should Council be satisfied that the SEPP 1 objection is well founded, and is also of the opinion that granting consent to the development application is consistent with aims of SEPP 1, Council would need to seek the concurrence of the Director of Planning before granting consent to the development application.

SREP 20 - Hawkesbury Nepean River

The site is within SREP 20 Colo River Catchment Area but is not within a Scenic Corridor. The aim of the policy is to protect the environment of the Hawkesbury-Nepean River System by ensuring the impacts of future land use are considered in the regional context.

The relevant specific considerations for the site are cultural heritage - part 2(6)(5), agriculture - part 2(6)(8) and rural residential development - part 2(6)(9).

In particular, part 2(6)(5) provides the following strategy:

- "(a) Encourage development which facilitates the conservation of heritage items if it does not detract from the significance of items",

ORDINARY MEETING

Meeting Date: 13 December 2005

part 2(6)(8) provides:

- "(c) Incorporate effective separation between intensive agriculture and adjoining uses to mitigate noise, odour and visual impacts", and

part 2(6)(9) provides:

- "(c) Maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development",
- "(f) Consider the ability of the land to accommodate on-site effluent disposal in the long term" and
- (g) Consider any adverse environmental impacts of infrastructure associated with the development concerned."

It is considered that the proposal is contrary to these strategies.

Hawkesbury LEP 1989

The relevant aims of HLEP1989 are:

- (b) *to provide appropriate land in area, location and quality for living, working, and recreational activities and agricultural production;*
- (d) *to conserve and enhance buildings, structures and sites of recognised significance which are part of the heritage of the City of Hawkesbury for future generations.*

The relevant objectives of the Rural 1(c1) zone are:

- (c) *to ensure that development does not create unreasonable demands, in the present or in the future, for provision or extension of public amenities infrastructure.*
- (e) *to ensure that development maintains the rural character of the locality and to minimise disturbance to the landscape through clearing, earthworks and access roads*

The relevant clauses of HLEP 1989 are Clause 11 - Rural subdivision general provisions and Clause 27 - Heritage items.

It should be noted that the lot averaging provisions do not apply to this property.

Hawkesbury DCP

Relevant chapters are Notification, Bush Fire Prone Land and Subdivision.

The application was notified in accordance with the Notification chapter and achieves technical compliance with the Bush Fire chapter. However, the proposal does not comply with the Subdivision chapter, in particular:

Clause 3.4 Heritage

"Aims

- (a) To protect heritage items, their settings and conservation areas.
- (b) To ensure that the design of new subdivisions take into consideration and respect the heritage significance of heritage items and other places and features of the City's historical character.

Objectives

The subdivision should maintain a reasonable curtilage around heritage items on the subject land or surrounding lands

Rules

A subdivision proposal on land which contains or is adjacent to an item of environmental heritage as defined in Schedule 1 of the Hawkesbury LEP should illustrate the means proposed to preserve and protect such items....."

Community Consultation

The application was notified in accordance with the provisions of the Hawkesbury Development Control Plan from the 17 January to 18 February 2005. One submission was received from a nearby landowner, which raised no objection to the subdivision "providing the same criteria are applied to other applicants for subdivision in a similar situation in the future".

Planning Assessment

The following Planning Assessment provides a review of the relevant planning matters for consideration:

Context and Setting

The property is located within a rural area some 600 - 700 metres south west of Kurrajong Village. The applicant argues that there are some 24 small allotments within a radius of 40 metres from the property. These "small" properties range in size from approximately 500 square metres to 4,000 square metres in area. These small properties are a legacy of previous planning controls.

In contrast to this, there are at least 14 allotments within the same radius that comply with the minimum Standard. If one takes a radius of one kilometre to the south west, west and north, then the majority of the properties comply with the minimum four hectare Standard.

The property, although located relatively close to Kurrajong Village, is essentially within a rural setting which is characterised mainly by rural allotments.

Allotment Size and SEPP 1 Objection

The property is zoned Rural 1(c)1, which provides for a minimum allotment size of four hectares. The Development Application proposes two lots comprising 3,092 square metres and 8,802 square metres. Clearly, the proposed lots are significantly below the minimum allotment size permissible.

The applicant submits that there are currently two dwellings on the property, each dwelling has existing and separate on site effluent disposal systems, telephone, electricity, reticulated water connection, access, parking and garbage services and each dwelling operates independently of the other and is enclosed in separate fenced yards.

The applicant argues, in relation to whether compliance with the Standard is consistent with the aims and objectives of the Policy and would compliance tend to hinder the attainment of the objects of the Environmental Planning and Assessment Act as follows:

"The objects would not be attained, as the underlying objectives of the Standard are not met at present with the location of two dwellings on one rural/residential allotment of land. Sound town planning dictates that rural/residential allotments should not contain more than one dwelling, in order to ensure proper and effective maintenance of the dwellings. This might be contrasted with large rural land parcels where two or more dwellings might be located so as to assist in land management etc. In the subject case the two detached dwellings on a single allotment are an inconsistency in a rural/residential land context. In contrast the location of the two dwellings and their relationship to each other are consistent with a rural/residential style. They are fenced one from the other and have the appearance of single dwellings on single allotments. Their separation in Title would make each separate lot contain a single dwelling and would result in consistency in rural/residential living style in the locality.

The subdivision will not result in an additional "developable" lot. No further rural/residential development will occur. Further the proposed lots are not inconsistent with the array of allotment sizes that already exist within the zone and in the locality.

On site disposal of waste is currently carried out for each existing dwelling and this provision will remain or be enhanced by the proposal.

ORDINARY MEETING

Meeting Date: 13 December 2005

The land has not been identified for any long-term urban use.

No additional infrastructure is required from the existing facilities supplied to the land.

Traffic will not alter as a result of the subdivision.

The existing rural character of the locality will not be altered as a result of the subdivision that maintains existing rural/residential dwellings in their current setting and recognises in title an existing physical separation of two existing dwellings.

The current situation arises from a Council requirement that the older dwelling house not be demolished. Council subsequently listed the older dwelling house as a heritage item, and even granted consents to allow it being put to a variety of uses.

The subdivision will allow for additional expenditure for the refurbishment and maintenance of the heritage item. The subdivision, as proposed, provides for an orderly and economic use of the land that recognises existing development and history over a period of time."

In relation to whether compliance with the Development Standard is unreasonable or unnecessary in the circumstances of the case, the applicant argues:

"The Development Standard is both unreasonable and unnecessary to apply in the circumstances of this case. This is due to the proposed allotments "existing" in a physical sense already if not in Title. It is unreasonably and unnecessary to continue to apply the minimum subdivision Standards in this case given that the proposed lots are already developed and given that separation of the existing dwellings in Title will make each lot consistent with other rural/residential lots in the locality that each contain only one dwelling. Consistency with the primary aim of the Rural 1(c)1 zone will also result.

The subdivision will also result in a positive outcome relative to the opportunities for conservation and maintenance of the heritage item that is one of the existing dwellings."

The applicant also argues that the objection under SEPP1 is well founded.

In our view, compliance with the Development Standard would not be unreasonable or unnecessary in the circumstances of the case. The purpose of the four hectare standard is to regulate the size and use of land in the 1(c)1 Zone. The application proposes to create allotments of 8,802 square metres and 3,092 square metres. These allotments would be below the minimum standard by 78% and 92% respectively. Accordingly, it is considered that the flexibility available under SEPP1 would be inappropriately utilised in this case.

In rejecting the previous Development Application (DA0955/03) the Land and Environment Court was also of the same view. The Court found (in respect of the SEPP1 objection, in its Judgment delivered on 11 November 2004), as follows:

"As far as possible, four hectare Standards should be maintained for rural/residential environmental reasons to meet the underlying objects of the Standards. Obviously, this is difficult where the lot is already below the minimum allotment size Standard, as is the case here, with an existing area of only 1.212 hectares. However, whilst applying the flexibility afforded by the SEPP1, that lot size should not be reduced further without good cause. There are options open to the applicant to maintain the existing allotment size.

In this regard, it is appropriate to ask whether a development, which complies with the Development Standard is unreasonable or unnecessary. Given the heritage listing, the existing dwelling on the existing lot of 1.212 hectares could be used, with the consent of the Council for any compatible use, including by Rural Workers or for residential purposes without further subdivision. Its use given the heritage listing would not be constrained to those land uses contained in the normal Land Use Table applying in the Rural 1(c)1 zone."

Effluent Disposal

The application is accompanied by a report prepared by Toby Fiander and Associates for the feasibility of waste water disposal. The report concludes that an Ecomax System is required to be installed to satisfactorily treat waste water from the existing weatherboard cottage. The position of the Ecomax System is in the centre of the existing car parking area for the Child Care Centre, which would render this area unusable for the purposes of car parking and would therefore restrict the future uses of the cottage, it would appear that the site chosen for the Ecomax System is the only suitable position. It would appear that the existing septic tank would not meet current effluent disposal standards, and given the small area available for disposal on the proposed lot, the Ecomax System is the only alternative.

It is considered that the Ecomax System installation will severely restrict the future uses of the building which may be available under the Heritage Incentives Clause, due to the inability to provide car parking and/or other buildings.

It is therefore considered that the Effluent Disposal Report, in effect, confirms that the proposed allotment area of the 3,092 square metres is too small in the circumstances.

Bush Fire

The application was accompanied by a Statement of Evidence prepared by Mr John Travers, Specialist Consultant in the field of Bush Fire and Ecology. This report was prepared for the previous Appeal and was supplemented by a summary page, which states that the proposal is acceptable.

The application was referred to the NSW Rural Fire Service, as the development requires "Integrated Approval". The Rural Fire Service has advised that it is prepared to grant a Bush Fire Safety Authority with no specific conditions.

Although the proposed subdivision technically complies with the requirements of the NSW Fire Service, to achieve compliance the applicant has created an irregular boundary, which in part transects the existing dam.

This boundary shape is not supported due to the limitations on use of parts of the land and also the future potential for disputes and/or management issues relating to the dam.

Heritage

The application is accompanied by a Heritage Impact Assessment prepared by Graham Brooks and Associates Pty Ltd. The report concludes that there will be "negligible impact on the heritage item", and recommends that the LEP Heritage Listing over the entire site should be reduced to only the new lot, any development on the adjoining subdivided lot should be controlled under Clause 27 of the LEP. Any new fencing around the historic house or the subdivided lot should retain an open nature and rural character and a restriction should be placed on the Title of 1033 Grose Vale Road preventing any further subdivision of the heritage listed site.

While it is accepted that the proposed subdivision will have no physical impact on the heritage item, it is considered that the long-term conservation of the heritage item may be compromised should this subdivision be approved. Presently, there is a newer dwelling house erected on the property and ample physical room and scope to exercise the Heritage Incentives Clause in the future, should this be necessary to conserve the heritage listed building. To the contrary, if the subdivision is approved, the small parcel of land created around the heritage item provides no opportunity for any further development. Indeed, the current non-residential use of the building would have to cease if the subdivision was approved.

It should be noted that subdivision is not rendered permissible by the Heritage Incentives Clause of the LEP, and this is why this application relies on the use of SEPP1.

Precedent

There are two properties in close proximity to the subject land, which are listed as items of environmental heritage. Under the Heritage Incentives Clause of the LEP, consents were issued for the erection of a second dwelling on each of those properties. Those approvals required the restoration and conservation of the historic cottages located on the properties. To date, one of those approvals has been completed and the other is currently under construction. There is also at least one other property within the City which has the same characteristics and there are a number of other heritage houses within the immediate locality which are located on rural or rural/residential allotments.

The written submission received in response to this application also demonstrates the likely precedent, which would be established in approving this application.

Although Council is obliged to consider every application on its merit, it is considered that approval of the subject application would establish a substantial undesirable precedent.

Conclusion

The application currently before Council is essentially identical to the previous application, which has been refused by the Court on Appeal. In our view the applicant has not demonstrated that compliance with the Standard is unreasonable or unnecessary or would tend to hinder the objects of the Act. It is therefore recommended that the application be refused.

Conformance to Strategic Plan

The recommendation conforms with the objectives as set out in the Strategic Plan; ie

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

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

Funding

No impact on budget.

RECOMMENDATION:

That:

- (a) Council not support the SEPP1 objection, as the applicant has not demonstrated that compliance with the Standard is unreasonable or unnecessary or would tend to hinder the attainment of the objects of the Act.
- (b) Development Application No. DA0048/05 for a two lot subdivision be refused for the following reasons:
 - 1. The proposed development is prohibited under the provisions of Hawkesbury Local Environment Plan 1989.
 - 2. Approval of the proposed development would be contrary to the intent of the Development Standard, which is to prevent further fragmentation of land holdings in the 1(c)1 zone.
 - 3. The proposed development is inconsistent with the objectives of Hawkesbury Local Environment Plan 1989, in particular objective (e) of the 1(c)1 zone: "Ensure the development maintains the rural character of the locality".

ORDINARY MEETING

Meeting Date: 13 December 2005

4. The proposed development is inconsistent with Sydney Regional Environmental Plan.
5. The proposed development is inconsistent with the Hawkesbury Development Control Plan.
6. The proposed development would have a negative impact in terms of the long-term conservation of the heritage item.
7. Approval of the development would create an undesirable precedent.
8. Approval of the development is not in the public interest.

ATTACHMENTS:

AT - 1 Locality Plan

AT - 2 Proposed Subdivision Plan

AT - 3 Site Plan

ORDINARY MEETING

Meeting Date: 13 December 2005

AT - 1 Locality Plan

Please refer to the [Maps/Attachment Documents](#)

***The Maps/Attachment Document can be found as a
link next to the Business Paper link under
the meeting date of 13 December 2005
on Council's Website***

ORDINARY MEETING

Meeting Date: 13 December 2005

AT - 2 Proposed Subdivision Plan

Please refer to the [Maps/Attachment Documents](#)

The Maps/Attachment Document can be found as a link next to the Business Paper link under the meeting date of 13 December 2005 on Council's Website

ORDINARY MEETING

Meeting Date: 13 December 2005

AT - 3 Site Plan

Please refer to the [Maps/Attachment Documents](#)

The Maps/Attachment Document can be found as a link next to the Business Paper link under the meeting date of 13 December 2005 on Council's Website

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

Item: 396 **ES - Proposed Commercial/Residential Development at Lot B DP 383474, Lot 1 DP 128701 and Lot X DP 374639, 510 - 512 George Street Windsor - (DA1001/04, 96329, 91001, 21984, 17510, 92715)**

Development Information

Applicant: C T Architects
Applicants Rep: Mr Craig Crowther
Owner: Jett Developments Pty Limited
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Hawkesbury Development Control Plan 2002
Sydney Regional Environmental Plan No. 20 (No. 2) Hawkesbury Nepean River.
State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.
State Environmental Planning Policy No. 55 - Remediation of Land
Area: 1703m²
Zone: Business General 3(a) under Hawkesbury Local Environmental Plan 1989.
Advertising: 7 - 21 February 2005
6 - 20 April 2005
18 - 28 November 2005
Date Received: 29 September 2005

Key Issues: ♦ Bulk and Scale
♦ Character of the Area
♦ Visual Privacy
♦ Solar Access and Overshadowing
♦ Shop-Top Housing Interim Policy

Recommendation: Refusal

REPORT:

Introduction

The application seeks approval for the construction of a mixed retail, commercial and residential flat building development at 510 - 512 George Street, South Windsor. The subject site comprises three existing properties, fronts George Street and has secondary frontage to Dickson Lane.

This application is being reported to Council as this matter is subject of an appeal to the Land and Environment Court (Proceedings No. 11054 of 2005), the number of objections received and due to Council's previous resolutions regarding shop top housing. The purpose of this report is to 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.

Background

Development Application No. DA1001/04

Development Application No. DA1001/04 was received by Council on 29 September 2004. A preliminary assessment of the application was undertaken and on 6 December 2004 a letter was sent to the applicant identifying a number of concerns in relation to the application. The applicant was requested to withdraw the application and to redesign the proposal.

ORDINARY MEETING

Meeting Date: 13 December 2005

The applicant chose not to withdraw the application and submitted amended plans and details in late December 2004. An assessment of the amended application was undertaken and, at the request of the proponent, a meeting was held on 11 February 2005 between the applicant and Council staff. During this meeting Council staff raised a number of concerns relating to the amended application. The applicant subsequently advised that further amendments would be made to the application.

The concerns raised in the initial and subsequent assessment related to insufficient information being submitted with the application, and non-compliance with the Hawkesbury DCP and State Environmental Planning Policy No. 65. Key concerns dealt with accuracy of plans/photomontages, height, car parking, access, landscaping, overshadowing, solar access/ orientation, garbage collection, barrier free access, security and resident storage.

State Environmental Planning Policy No. 65 and Residential Development in Commercial Zones

On 8 March 2005 Council resolved as follows having regard to Shop-Top Housing development:

That:

1. *The interim policy relating to Shop-Top Housing development in commercial zones be as follows:*
 - a) *Council supports residential development in the 3(a) and 3(b) zones, provided it is in association with commercial and/or retail development on the same parcel of land;*
 - b) *Ground floors within developments are to consist of commercial/retail units.*
 - c) *Barrier free access to at all residential units within the development is to be provided, in accordance with the requirements of SEPP No 65;*
 - d) *Developments within the Richmond and South Windsor commercial areas, 1 (one) car parking space will be required, for up to 85m² floor area of each unit. Above that floor area, and for all other areas the normal car parking requirements of the Development Control Plan will be required.*
 - e) *The concession currently contained in the Development Control Plan within the car parking section, be removed.*
 - f) *The open space requirements of SEPP No. 65 be adopted, for the provision of shop-top housing developments.*
2. *The Development Control Plan be modified to ensure that stack parking solutions are not acceptable for any forms of development other than residential development containing up to 3 (three) dwellings.*
3. *The Hawkesbury Local Environmental Plan be amended in accordance with the Department's Best Practise Guidelines, to reflect this interim policy.*
4. *Applicants with current Development Applications before Council regarding these types of development be informed of Council's resolution on this matter and be invited to amend their applications to comply with the policy. In relation to applications lodged prior to 8 March 2005, the changes made at this meeting are not to be used as the basis for refusal under delegated authority.*
5. *A further report be presented to Council on the implication for the provision of garbage services to this type of development, once the position has been clarified with the Department of Local Government.*

Discussions were held with the applicant on 2 June 2005 and 7 July 2005 having regard to issues associated with the application having particular regard to height of the proposal and shadow impact.

Amended plans reducing the height of the development by one storey were submitted to Council on 28 July 2005 in response to these discussions. Under Clause 55 of the Environmental Planning and Assessment Regulations Council was required to agree to the submission of further amended plans in conjunction with the application. In this regard the applicant was advised that Council would only consider further amendments under a new development application given the number of previous amendments lodged in conjunction with the application. The applicant has subsequently withdrawn these plans.

Hawkesbury Local Environmental Plan, Hawkesbury Development Control Plan and Shop-Top Housing

In order to further address the issue of Shop-Top Housing in commercial zones a report was prepared and considered by Council at its meeting held on 26 July 2005. This report recommended a number of changes to be introduced to Hawkesbury Development Control Plan 2002 to clarify when residential flat development of this type would be considered appropriate in commercial zones.

Council's resolution of 26 July 2005 is detailed as follows:

That:

The Hawkesbury Development Control Plan be amended, as outlined below:

- 1. The reference in the Parking Chapter to dispensation to Shop-Top Housing be removed. A reference made instead to a new chapter on commercial development.*
- 2. The definition of Shop-Top Housing be prepared and included in Appendix A. This definition will state that Shop-Top Housing is a form of residential flat building where the entire ground floor is devoted to commercial development, and that the second floor should be so designed as to allow its conversion to commercial development, should it be required; this may require a slightly higher minimum ceiling height.*
- 3. The table dealing with height in the Residential Chapter, the reference to 'walk-up flats' be removed and replaced with 'residential flat building.' A cross reference be made within this chapter, to Shop-Top Housing to the Commercial Chapter.*
- 4. A new chapter on Commercial Development be produced; this chapter to include such things as:*
 - a. Parking requirements for commercial development, and Shop-Top Housing.*
 - b. The height of commercial buildings, particularly Shop-Top Housing developments in commercial zones. This height may be governed by a policy on shadows projected from these buildings, so that shadows should not protrude onto adjacent residential land between the hours of 9:00am - 3:00pm; nor should they protrude into the second floor development, where that second floor development is used for residential development on adjacent buildings. Diagrams be prepared to illustrate how these controls will work.*
 - c. Barrier-free access be supplied to all residential components of these buildings, and diagrams supplied as to how this may be achieved to meet Council's goal.*
 - d. Private Open Space provisions related to SEPP 65, will be enforced for these types of development.*
 - e. Shop-top housing development comply with the ANEF noise contour requirements as determined in the Edward -v- HCC Case in the Land and Environment Court on 30 November 2004.*

The application's compliance or otherwise with the resolutions detailed above will be discussed in the following sections as is relevant.

Land and Environment Court Proceedings No. 11054 of 2005

A Class 1 appeal against the deemed refusal of Development Application No. DA1001/04 was filed with the Land and Environment Court (Proceedings No. 11054 of 2005) on 14 September 2005. The Statement of Issues prepared in conjunction with the appeal are detailed as follows:

Development Control Plan 2002

- 1 *Whether the development application has satisfactorily addressed the provisions of Part D of Development Control Plan 2002 relating to Residential Development.*

Particulars:

The application does not satisfy the following specific provisions contained in Development Control Plan 2002:

1.1 *Clause 1.3(d) Building Height Plane*

The design does not satisfy the Building Height Plane standard of 3.5m at property boundary, 8m at upper ceiling height and 12m at ridgeline.

1.2 *Clause 1.3(e) Building Height Plane*

The design does not satisfy the provisions allowing building to side and rear boundaries in that the proposal will result in a reduction in existing solar access to adjoining dwellings.

1.3 *Clause 1.5 Development Fronting Rear Lanes*

The design does not satisfy the provisions requiring front of dwellings to face rear lanes.

1.4 *Clause 1.9 Vehicle Access and Car Parking*

The car parking design does not satisfy the design principles requiring spaces adjacent to obstructions to be increased in width to 3.2m.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

- 2 *Whether the development application has satisfactorily addressed the following Design Quality principles contained in State Environmental Planning Policy No. 65.*

Particulars

2.1 *Clause 9 Principle 1: Context*

The building is considered to have not adequately responded to the identified characteristics of the area in that it does not present as a building exhibiting appropriate scale and results in unacceptable shadow impact upon adjoining residential properties. Accordingly, the design has made inadequate provision to adequately integrate within the existing context within which it is located.

2.2 *Clause 10 Principle 2: Scale*

The proposal has a bulk and scale that significantly exceeds the predominant scale of existing development situated in the immediate area. In addition, the height of the building is considered inappropriate in that it significantly exceeds the height of the canopy of existing trees situated in the area resulting in an undesirable visual impact upon the streetscape and locality.

2.3 Clause 11 Principle 3: Built Form

The proposal is not considered to be an appropriate built form for the subject site given that the proposed building does not achieve a compatible and complimentary bulk and scale with surrounding development. It is considered that the proposal will dominate the area and will have a detrimental visual impact upon the village character of the commercial centre.

2.4 Clause 12 Principle 4: Density

It is considered that the proposed density is excessive for the site in that the design does not adequately respond to the identified constraints associated with the site and the context of the area.

2.5 Clause 15 Principle 7: Amenity

The design has not made adequate provision to provide adequate solar access to residential units within the proposed development.

Residential Flat Design Code

- 3 Whether the development application has satisfied the following design principles contained in the Residential Flat Design Code.

Particulars

Part 1 Primary Development Controls

3.1 Building Envelopes and Height

The proposal does not satisfy the building height plane provisions contained in Hawkesbury Development Control Plan 2002 and does not respond to the desired scale of development in the area and results in an unreasonable shadow impact to adjoining dwellings and the public domain.

Part 2 Site Configuration

3.2 Orientation

The orientation of the proposed buildings is not satisfactory having regard to opportunity for maximisation of solar access to ground floor apartments and ground floor landscape areas.

3.3 Safety

Whether the application has made satisfactory provision to ensure adequate levels of safety and security having particular regard to visitor and customer vehicle access to the basement car parking area, the control of access from the basement to the remainder of the development, customer access control to the lift and internal stairwells.

3.4 Visual Privacy

Whether the application has made adequate provision to ensure reasonable levels of privacy from the balconies situated at first, second and third floor units associated with "Block B" to adjoining residential properties situated immediately to the east of the subject site adjacent to Dickson Lane.

3.5 Parking

The design of the car parking areas has not made adequate provision for users and visitors to the building having specific regard to inadequate width of parking spaces adjacent to wall obstructions.

Part 3 Building Configuration

3.6 Storage

The proposal has not provided adequate provision for storage in conjunction with the proposed residential units within the development. Specifically, the following storage areas are required to be provided:

One-bedroom apartments	6m ³
Two-bedroom apartments	8m ³
Three-bedroom apartments	10m ³

3.7 Daylight Access

The design has not provided adequate solar access to a minimum of 70% of all residential apartments requiring a minimum of three hours of direct sunlight between 9am and 3pm in mid winter. The proposal does not provide adequate solar access in accordance with this requirement to Unit No.s 4, 5, 14, 15 and 16.

3.8 Waste Management

The application has not demonstrated the provision of a suitable area for the storage of waste generated by the development. No detail has been provided in relation to storage and removal of waste associated with the development.

Issues raised by Neighbour Objections

4 *Whether the application should be approved given matters raised by objectors.*

A discussion in relation to these issues is detailed in the main body of this report.

Following the lodgement of the appeal a meeting was held with the applicant on 4 November 2005 regarding concerns in relation to the design of the proposed development. In response to the issues raised amended plans were received that have been notified to neighbouring property owners that made previous submissions in relation to the subject application and form the basis of this report.

It is noted that the amended plans received in conjunction with the application have addressed Items: 1.4, 2.5, 3.2, 3.5, 3.6, 3.7 and 3.8.

The amendments are outlined as follows:

Basement Level

- Reconfiguration of basement car parking area and access ramp in accordance with requirements of AS2890.
- Provision of storage areas in conjunction with residential units.

ORDINARY MEETING
Meeting Date: 13 December 2005

- Provision of dual access lift.

Ground Floor Level

- Reduction of retail and commercial floor areas as follows:

	Land & Environment Court Appeal Plans	Amended Plans
Retail Area	427.08m ²	426.35m ²
Office Area	119.05m ²	107.91m ²
Total Retail/Commercial	546.13m²	534.26m²

- Reconfiguration of ground floor car parking, loading dock and waste storage areas

First Floor Level

- Rear balconies and Bedroom 1 to Unit No.s 15, 16, 17 and 18 amended.
- Redesign of Unit No. 5.
- Storage areas provided to residential units.

Second Floor Level

- Rear balconies and Bedroom 1 to Units No.s 19, 20, 21, 22, and 23 amended.
- Redesign of Unit No. 4.
- Storage areas provided to residential units

Third Floor/Roof Level

- Unit No.s 11, 12, 13, 24, 25 and 26 amended.
- Roof line amended.
- Storage areas provided to residential units.
- Roof terrace situated on Block A amended planter design
- 750mm setback provided to side boundaries.
- Roof pitch and roof plan amended.

Northern Elevation

- Facade detail modified.

Southern Elevation

- Highlight windows provided to upper level
- "Timber look" shutters provided to bedroom windows situated adjacent to narrow sections of balcony

Building Height

- Block A reduced from 13.0m to 12.4m.
- Block B reduced from 12.8m to 12.0m.

The Proposal

In summary, the proposal provides the following:

- 26 Residential Units. 3 X 1 bedroom units, 21 X 2 bedroom units, 2 X 3 bedroom units.

ORDINARY MEETING

Meeting Date: 13 December 2005

- 4 Retail Units. Retail 1: 109.4m², Retail 2: 104.9m², Retail 3: 111.8m², and Retail 4: 100.25m² (Total Area: 426.35m²).
- 2 Professional Suites. Office 1: 57.7m² and Office 2: 50.2m² (Total Area: 107.9m²).
- 53 Car Parking Spaces (8 at ground level and 45 within basement). 25 spaces are for retail units, professional suites and visitors, 29 spaces are for residents.

The development takes the form of two four-storey buildings (incorporating one level of basement car parking). The two buildings are proposed to be built on nil side boundary setbacks with the exception of the uppermost level that has been provided with a 0.75 metre setback. An internal courtyard 12.139 metres in width at ground floor level is proposed to separate both buildings.

The building fronting George Street (to be referred to as Block A) is to contain four retail units on the ground floor with 13 residential units above. Block A is proposed to be constructed on a nil building setback to the George Street (front) property boundary and is provided with an awning, 2.4 metres in width, extending across the footpath situated adjacent to the site. Block A is 33.8m wide by 17.4m deep and is to have a height of 12.4 metres (measured from natural ground level to uppermost ridgeline).

The building adjacent to Dickson Lane (to be referred to as Block B) is to contain two professional suites, loading dock, eight car parking spaces situated at ground floor level and basement ramp at ground level with 13 residential units above. Block B is proposed to maintain a 2.0/3.0 metre setback to the Dickson Lane boundary and is 33.8m wide by 18.4m deep. This building is to have a maximum height of 12.0m (natural ground level to uppermost ridgeline). Note: the height of the Dickson Lane façade is 9.1m.

Detailed plans of the development proposal are attached to this report.

Description of the Site and Surrounds

The site is located within the Business General 3(a) zoned land of South Windsor on the eastern side of George Street between Argyle Street and Campbell Street. The site is situated approximately 750 metres from Windsor Railway station. The subject site is rectangular in shape being 33.83m wide and 50.335m long having a total land area of 1703m².

The site currently contains two dwellings and two detached garages, is generally flat, is located above the 1 in 100 flood event year for the area and is within land designated as Class 5 on the Acid Sulphate Soil Hazard Maps. The site is not within "bush fire prone land", falls outside the ANEF contours and is not within the vicinity of any identified heritage items.

The Business General 3(a) land situated along George Street bounded by Argyle Street and Campbell Street consists of a mixture of single and two storey buildings used for a variety of retail, commercial and residential uses. The Residential 2(a) land situated generally to the south-east of the site across Dickson Lane generally consists of single storey residences facing Macquarie Street utilising the laneway for primary or secondary vehicle access. Draft Amendment 130 to Hawkesbury Local Environmental Plan 1989 proposes to rezone this land as Multi-Unit Housing.

Community Consultation

The application (first amendment) was exhibited for the period 7 - 21 February 2005. Council received four submissions objecting to the proposed development.

Amended plans and details were received on 31 March 2005. The amended application was exhibited for the period 4 - 20 April 2005. In response to this notification Council received four submissions objecting to the proposed development.

Following further discussions with the applicant an additional set of amended plans have subsequently been received by Council on 18 November 2005 and these plans have been notified to the previous respondents in relation to this application between 18 – 28 November 2005. In response to this notification a total of nine submissions were received raising objection to the proposal.

Planning Assessment

Section 79C Matters for Consideration

In determination of the application, Council is required to take into consideration the following matters:

- (a) the provisions (where applicable) of:
 - (i) ***any Environmental Planning Instrument:***

The following planning instruments apply having regard to the subject application:

- Hawkesbury Local Environmental Plan 1989
- Sydney Regional Environmental Plan No. 20 (No. 2) Hawkesbury Nepean River
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy No. 55 – Remediation of Land

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The land is zoned Business General 3(a) under the provisions of HLEP 1989. Clause 9 of HLEP 1989 provides that both commercial and residential development constitutes permissible development within the zone subject to the development being consistent with the zone objectives detailed under Clause 9A.

Clause 9A – Zone Objectives

The zone objectives listed under Clause 9A are detailed as follows:

- (a) *To promote the development and expansion of business activities to meet the optimum employment and social needs of the City of Hawkesbury.*

Comment: The proposed development provides minimal commercial floor space and does not provide for the ready adaptation of the first floor level of the building to enable commercial activities to occupy this level therefore it is considered that the proposal is inconsistent with this objective as discussed later in this report.

- (c) *To permit non-commercial development within the zone where such development is compatible with the commercial character of the locality.*

Comment: The principal aim of land zoned for commercial purposes is for commercial development. Whilst residential development is a permissible land use in these zones it is noted that this use must not diminish the potential of a site to provide for the continuation of viable commercial activities within the centre.

A requirement contained in State Environmental Planning Policy No. 65 and Council's resolution of 26 July 2005 requires the adaptability of the first floor level of shop top housing development to enable commercial development. The plans submitted in conjunction with the application have not provided for the adaptability of the first floor level as the required 3.3 metre floor to ceiling height has not been provided.

It is noted that the development comprises of 534m² of retail/commercial space and 2009.8m² of residential space or otherwise a residential/commercial ratio of approximately 3.75:1. For this to be considered consistent with the zone objective requires the residential component of the development to be "compatible with the commercial character of the locality". Within the 3(a) zone at South Windsor minimal residential development currently exists.

Some of the existing commercial development has a limited amount of associated residential development above however the overall dominant characteristic of the locality is that of a commercial precinct. It is considered that the scale of development proposed is not consistent with the commercial character of the locality.

ORDINARY MEETING

Meeting Date: 13 December 2005

- (c) To ensure that there is adequate provision for car parking facilities within the zone.

Comment: The proposal provides adequate numbers of car parking spaces and a detailed discussion relating to car parking provision is detailed later in this report.

- (d) *To minimise conflicts between pedestrians and vehicle movement systems within the zone*

Comment: The main pedestrian and vehicle access points provided on conjunction with the application have been separated thereby minimising potential conflicts.

- (e) *To preserve the historic character of the City of Hawkesbury by protecting heritage items and by encouraging compatible development within and adjoining historic buildings and precincts.*

Comment: Whilst it is not proposed to demolish any items of heritage significance it is considered that the proposal is not sympathetic to the relatively low scale of development situated in the Hawkesbury area therefore it is considered that the proposal is inconsistent with this provision.

The following additional clauses contained in HLEP 1989 are applicable having regard to the proposed development:

Clause 16 and 18 - Provision of water, sewerage etc services

The provisions of Clause 16 and 18 require that a site have satisfactory access to water, sewerage, drainage and electricity services. It is considered that the site benefits from a range of services and appropriate conditions could be included should the application be approved.

Clause 37A – Development of land identified on Acid Sulfate Soils Planning Map

The provisions of this clause require an assessment of the impact of a development on land situated on soils having acid sulfate characteristics. An appropriate condition could be included as a consent condition should approval be granted to this application having regard to this hazard.

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

The subject site falls within the Middle Nepean Hawkesbury River Catchment Area of SREP No. 20 (No. 2 - 1997). The aim of the SREP is to protect the environment of the Hawkesbury -Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. Relevant specific planning policies and recommended strategies include those relating total catchment management, water quality, water quantity, and metropolitan strategy.

It is considered that the development is consistent with the water quality objectives of this plan subject to appropriate engineering practices being implemented during and post construction.

State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development

A. Design Principles

The Policy provides ten (10) design principles against which development is to be tested. These are detailed as follows:

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as

stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Comment: The proposed building is located within a street and surrounding area that comprises a mix of commercial and residential development generally ranging in height between one and two storeys. The Business General 3(a) zone permits Residential Flat Buildings Class C (Shop-Top Housing) within this zone. It is considered that the proposed development has not adequately responded to the context of the area given that the built form does not relate favorably to adjoining development given the incompatible scale and shadow impact associated with the building and has failed to comply with Council's resolutions relating to shop top housing development.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Comment: It is noted that the scale of this development is greater than the scale of existing development situated in the locality. It is considered that the proposed scale of the development is unacceptable given the visual impact associated with the proposed development resulting in the establishment of an undesirable precedent for the area. In addition, it is considered that the proposal has not provided a satisfactory transition to adjoining residential development adjoining Dickson Lane.

It is considered that the proposed development does not relate favorably with the context of the area that is characterized by low scale development. In this regard it is noted that the streetscape of the area is dominated by development having a maximum height of up to two storeys.

In order to achieve an acceptable built form it is considered that compliance with Council's resolutions in relation to shop top housing development would be required. In this regard it is considered that the height of the proposal should be reduced to not more than three (3) storeys fronting George Street and two (2) storeys immediately adjacent to Dickson Lane through the removal of one of the intermediate levels retaining the stepped upper level design.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Comment: The proposal is not considered to be an appropriate built form for the subject site, given that the proposed building does not achieve a compatible and complimentary bulk and scale with surrounding development. It is considered that the proposal will dominate the area rather than contributing to the existing streetscape character.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Comment: The commercial density proposed in conjunction with the proposal is typical of ground floor densities that might be achieved on consolidated commercial sites. As detailed previously no opportunity for the ready adaptation of the first floor level of the proposal for the purpose of accommodating additional commercial floor space has been provided in conjunction with the submitted design.

It is noted that the proposed residential density is higher than is typical within existing commercially zoned land situated in the Hawkesbury area. It is considered that the residential component of the development is required to be modified so as to relate more favourably with the existing and likely future scale of development situated in the immediate area.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Comment: The design of the proposal is considered satisfactory having regard light and ventilation to the proposed residential units. The supporting documentation provided in conjunction with the application details the use of water saving devices in bathrooms and kitchens, the use of materials with high thermal mass and insulation in order to reduce costs associated with warming and cooling. In addition, the application proposes rainwater storage in order to supplement the demand for water in conjunction with the development.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, microclimate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Comment: Given the Business General 3(a) zoning of the site there is no specific requirement contained in Council's planning controls relating to the provision of landscaping in conjunction with this form of development. It is noted that site landscaping is proposed in the form of planter boxes situated centrally on the site between both buildings and adjacent to Dickson Lane. Given the height of the proposal and setback proposed to Dickson Lane it is considered that minimal opportunity has been provided to minimize the visual impact of the proposal through the use of significant landscape treatment upon adjoining residential zoned land adjoining Dickson Lane.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient

layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Comment: All units within the building achieve satisfactory amenity with regards to outlook and access to sunlight. The room dimensions and layouts are considered to be appropriate for the proposed use, and will allow for appropriate levels of amenity for future residents. The units have been designed to enable cross ventilation and the provision of suitable private open space areas. The applicant has submitted a NatHERS certificate that certifies that all the units within the proposed are capable of achieving an energy rating of at least 3.5 stars.

Principle 8: Safety and Security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Comment: In order to maximize the number of spaces within the basement car parking area the latest set of amended plans have removed the secure resident parking areas provided in conjunction with previous versions of the plan. Given that the basement car parking area is to accommodate both resident, commercial and visitor parking this area is unable to be secured at all times. Discussions held with the applicant have detailed that it is proposed to leave the doorway open during normal business hours and utilize an intercom system after hours. It is considered that the removal of secure areas for residents within the car park will provide a less secure environment leading to potential security issues for future occupiers.

Adequate opportunity for casual surveillance of George Street and Dickson Lane is available in conjunction with the proposal. The main pedestrian access points are separated from vehicular access driveways. In addition, secure access points are provided throughout the proposed development to assist in the provision of safety and security within the site. It is considered that the development satisfies the safety and security criteria.

Principle 9: Social Dimensions

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

Comment: The proposed building will provide a mixture of one, two and three bedroom apartment style accommodation that is located within the South Windsor business centre and provides reasonable access to public transportation. It is anticipated that the apartments within the proposed development will be more affordable than single dwelling houses that are located within the local area and additionally the proposed development provides a choice of housing types. It is considered that the proposed building satisfies the objectives of this principle.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

Comment: Whilst the building proposes the use of stepped façade treatments and varied materials it is considered that the design has not adequately addressed the existing streetscape and context of the area as detailed previously in this report.

B. The Residential Flat Design Code

The Residential Flat Design Code has been developed by the Department of Infrastructure, Planning and Natural Resources in an effort to improve the design quality of residential flat development. The document establishes broad parameters governing the development of residential flat buildings and also provides advice on the development of planning controls pertaining to residential flat development. The Code consists of 3 parts addressing the local context, site design and building design. The Code contains various objectives, better design practices guidelines and recommended minimum rule of thumbs.

The following is an assessment under the design code:

Part 1: Local Context

Building type

The building type proposed is defined as a "courtyard apartment". The Code suggests that this development type is appropriate for the subject site and the locality.

Amalgamation and subdivision

The development site consists of three properties. In total the site has dimensions of 33.83m wide by 50.335m long with an area of 1703m². It is considered that the amalgamated site is of sufficient dimension and area to accommodate a mixed retail, commercial and residential flat building development.

Building Envelopes, Height and Setbacks

The proposed development does not comply with the building height plane or setback provisions of the Hawkesbury DCP – Residential Chapter. This non-compliance is discussed later in this report.

Building Depth

The Code recommends that buildings should be 10-18m in depth to ensure appropriate bulk, sun access and natural ventilation.

The proposed buildings have a depth of generally 13 – 15m (glass line to glass line i.e. excluding depths of balconies).

Building Separation

The Code recommends that building up to four storey/12 metres should be 12m apart. The two blocks are four storeys/up to 12.4m high and have a minimum separation of 12.14m.

Part 2: Site Design

Deep soil zones

The Code recommends a minimum of 25 percent of the site should be a deep soil zone. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design. The Code defines deep soil zones as areas of natural ground with relatively natural soil profiles. The Code recommends that the design of basement carparking not fully cover the site.

Based on the Code's definition, the development does not contain any deep soil zone as the basement car parking area covers the entire site. It is noted that the plans do however show a proposed 65,000 litre

rainwater tank located in the basement. This will be further discussed in a later section detailing stormwater.

Fences and walls

The proposed internal fencing and walls delineates between private and public domain.

Landscape Design and Planting on structures

The Code provides recommendations for minimum soil volumes, soil depths and soil areas for circumstances where planting is proposed on top of basements and roofs.

These recommendations include:

Medium trees (8 metre canopy) – minimum soil volume 35m³, minimum soil depth 1m, minimum soil area 6m x 6m or equivalent.

Shrubs – minimum soil depth 500-600mm

Groundcover – minimum soil depth 300-450mm

The plans do not show the height of all the proposed planter beds however it appears that planter beds adjacent to the retail and commercial units that are to contain shrubs are only 300mm high. Furthermore, in the middle of the winter garden are two (2) ficus with a mature height of 6m are situated in planter beds of only 600mm high with one of the beds having an effective area of only 3.5m by 5m.

The landscape plan has been assessed by appropriate expert staff within Council. It has been determined that notwithstanding the significant shading of the winter garden the selected plant species are suitable although they may not achieve their expected maturity height and canopy spread. Furthermore, the *Ficus hillii* would be a suitable variety within the proposed planter boxes as the mature size of this plant would be determined by its growing space.

Open Space

The Code recommends that communal open space should generally be 25- 30% of the site. The applicant proposes approximately 629.8m² of common open space (i.e. 37% of the site area). The common open spaces consist of winter and summer garden areas. The winter garden is provided at ground level between the two blocks and consists of landscaped and paved areas, bbq area with pergola, water feature and seating. The summer garden area comprises two roof terrace areas situated at roof level on Block A, consisting of paved and landscaped areas.

Orientation

The Code recommends that the number of north facing apartments be maximised for solar access, however this must be balanced with such matters as maintaining a desired streetscape character, enjoyment of views, and responding to existing overshadowing.

The site is generally orientated north-west to south-east and no apartments are provided with a northerly aspect due to the proposed solid north facing boundary walls. It is considered that the proposal provides for satisfactory solar access to the proposed units.

Stormwater Management

The applicant proposes a 65 000 litre rainwater tank within the basement carparking. Water collected is proposed to be reused on the site for flushing toilets, operation of washing machines, and irrigation of landscaped areas.

Safety

The Code recommends that a formal crime risk assessment be undertaken for all residential development of more than 20 new dwellings. The applicant has advised Council that the application has been referred to the NSW Police for this assessment to be undertaken. To date no response has been received.

The applicant has submitted a detailed security plan as part of the application. This plan shows natural surveillance opportunities to George Street and Dickson Lane through the location of balconies and windows, secure access points throughout the ground floor, roller shutters to the car parking and loading areas. As discussed previously in this report the design of the basement car parking area does not provide satisfactory security to residents of the proposal.

Visual Privacy

Residents to the south-east of the site with backyards adjoining Dickson Lane have raised loss of privacy by way of overlooking as a matter of concern. It is noted that the first and second floor units of Block B have the greatest potential to overlook these properties. This includes 20 bedroom windows and 10 balconies on the first and second floor levels. The balconies provided adjacent to Dickson Lane are proposed to be situated 2.0-3.0 metres from the Dickson Lane boundary whilst the bedroom windows are situated 4.23 metres from this boundary.

Whilst it is noted that overlooking from individual balconies and bedroom windows may be limited, the cumulative effect of overlooking from all elevated balconies and bedroom windows has the potential to reduce the level of privacy currently available to residential zoned land situated adjacent to the site. The reduction in privacy must be considered having regard to a reasonable expectation of the type of development permissible in the commercial zone and the cumulative impact of similar development to that which is proposed on the remaining allotments adjacent to the site on the eastern side of George Street.

The existing commercial development situated on the eastern side of George Street consists largely of modest two (2) storey buildings having considerable setback to Dickson Lane. As such, any elevated windows or balconies are either set back some distance from Dickson Lane or a few in number limiting the potential for the overlooking of adjoining residential zoned land. Having regard to the privacy impact it is considered that the proposed development would create an unreasonable impact upon the existing residential amenity available to neighbouring properties and would result in an unacceptable precedent for future shop-top housing development within the South Windsor commercial centre.

Adequate internal visual privacy has been achieved by providing sufficient building separation, provision of multiple balconies, built and landscaped screening devices.

Building Entry

The main pedestrian access to the site is situated off George Street. The entry is appropriately located in the middle of the frontage and is to be distinguished by a separate awning and glazed entrance.

Vehicle access to the site is to be provided via Dickson Lane by way of three separate driveways. These are for the basement carpark, ground level carpark and loading/refuse collection area.

Parking and Vehicle Access

Adequate numbers of parking spaces have been provided for the development generally in accordance with the Access and Parking chapter of the Hawkesbury DCP. It is noted that the car parking area and access ramps/driveways have been designed in accordance with the requirements contained in AS2890.1:2004 Parking Facilities Part 1: Off-street Car Parking.

Pedestrian access

The Code recommends that barrier free access be provided to at least 20 % of dwellings. Council's resolution of 26 July 2005 provides that:

ORDINARY MEETING

Meeting Date: 13 December 2005

Barrier free access be supplied to all residential components of these buildings, and diagrams supplied as to how this may be achieved to meet Council's goal.

The applicant proposes barrier free access for 11 units in Block A via a lift from the basement to the third floor. Unit 1 and 2 in Block A and all of the 13 units in Block B have not been provided with barrier free access. This equates to 42% of all the units having barrier free access. This is contrary to Council's resolutions requiring that all residential components of such development be provided with barrier free access.

Part 3: Building Design

Apartment layout

The Code recommends that single aspect apartments should be limited in depth to 8m from a window – all single aspect units comply with this rule.

The back of a kitchen should be no more than 8m from a window – all units comply with this guideline.

Apartment mix

It is considered an appropriate mix of apartment sizes and layouts has been provided to cater for a variety of household types and occupant needs.

Balconies

The Code recommends that primary balconies have a minimum width of 2m - all balconies with the exception of that provided in conjunction with Unit 4, proposing 1.75m, comply with this requirement.

It is considered that all primary balconies are of an appropriate depth and width to be functional as private open space areas.

Ceiling heights

The Code recommends

In mixed use buildings:

3.3m for ground floor retail or commercial uses and for first floor residential, retail or commercial to promote future flexibility of use.

In residential flat buildings or other residential floor in mixed use buildings:

In general, 2.7m minimums for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.

For two storey units, 2.4m minimum for second storey if 50% or more of the apartment has 2.7m minimum ceiling.

Council's resolution of 26 July 2005 required that:

The definition of Shop-Top Housing be prepared and included in Appendix A. This definition will state that Shop-Top Housing is a form of residential flat building where the entire ground floor is devoted to commercial development, and that the second floor should be so designed as to allow its conversion to commercial development, should it be required; this may require a slightly higher minimum ceiling height.

The submitted plans detail that the retail and professional suites will have a ceiling height of 3.3m. The applicant advises that all residential units will have a ceiling height of 2.7m inclusive of the first floor level.

ORDINARY MEETING

Meeting Date: 13 December 2005

In accordance with the requirement for ready adaptability of the first floor level a minimum floor to ceiling height of 3.3m is required.

Flexibility

It is considered that the proposed mix, size and layout of the residential units are appropriate in meeting a range of occupant types.

Internal Circulation

The Code recommends that where units are arranged off a double loaded corridor the number of units accessible from a single core/corridor should be limited to eight – the proposed development complies with this rule.

Mixed Use

It is considered that the proposed development contains a suitable mix and integration of retail and commercial uses with the residential units above.

Storage

The Code recommends that in addition to kitchen cupboards and bedroom wardrobes, accessible storage facilities be provided at the following rates: one bedroom apartments 6m³, two bedroom apartments 8m³, and three bedroom apartments 10m³.

The details provided in conjunction with the application indicate that the proposal generally satisfies this requirement.

Acoustic Privacy

The proposed development achieves satisfactory acoustic privacy by way of separation of building and uses, arranging adjoining apartment layouts such that noisy areas are next to each other or separated by acoustically insulated common walls, and generally grouping noisy areas within units.

Daylight Access and Energy Efficiency

The Code recommends:

Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.

The plans submitted in conjunction with the application detail that the proposal will satisfy the solar access criteria detailed above.

Natural Ventilation

The Code recommends:

Building depth, which support natural ventilation typically range from 10 to 18m – both Block A and B are within this range.

Sixty percent of residential units should be naturally cross ventilated – 19 of the 26 units (i.e. 73%) of the units are naturally cross ventilated.

Twenty five percent (25%) of kitchens should have access to natural ventilation – 4 of the 26 units (i.e. 15%) of the units have access to natural ventilation. It is considered that the degree of departure will not have a significant impact upon the amenity of the proposed units.

ORDINARY MEETING

Meeting Date: 13 December 2005

Awnings

Awnings are proposed along the George Street frontage. These awnings will encourage pedestrian activity, define the entrance of the building and provide an opportunity for under awning lighting thus increasing safety and security.

Facades

Notwithstanding issues associated with the overall scale of the proposed development it is considered that the design of the George Street and Dickson Lane façades and choice of materials and finishes is of a reasonable standard.

Roof Design

A simple sloping roof design has been proposed for the development. This design is considered to be consistent with the contemporary design of the development.

Maintenance

For generally inaccessible high windows the applicant proposes windows that can be cleaned from the inside. The landscaped areas are to be provided with a fully automated drip irrigation system. The Code recommends that a garden maintenance and storage area for communal open spaces. A caretaker's toilet has been provided within the basement. The toilet is of sufficient size to accommodate small hand tools and equipment that may be required to maintain the landscaped areas.

Waste Management

A communal garbage collection area is proposed within the loading dock. The applicant has not provided details of the size of the collection devices.

Council's resolution of 8 March 2005 stated:

A further report be presented to Council on the implication for the provision of garbage services to this type of development, once the position has been clarified with the Department of Local Government.

This matter is currently being investigated by Council. In the interim any approval of this type of development would have to be conditional, by way of a deferred commencement consent, on garbage collection being resolved.

The applicant has provided waste management plans for the demolition and construction phases of the development that provide indication of off site recycling and landfilling arrangements.

Water Conservation

A common rainwater tank is proposed and water collected is to be used for toilet flushing, washing machines and irrigation.

State Environmental Planning Policy No. 55 – Remediation of Land

The subject site appears to have been used for residential purposes for many years. It is considered that the risk of contamination on the site is very low and that the site is suitable for the land use proposed in conjunction with the subject application.

- (ii) ***Any Draft Environmental Planning Instrument that is or has been placed on exhibition pursuant to Section 47(b) or 66(1)(b) of the Environmental Planning and Assessment Act, 1979***

ORDINARY MEETING

Meeting Date: 13 December 2005

Draft HLEP 1989 - Amendment 130

Draft Amendment 130 proposes to amend Clause 16 of HLEP 1989 to read:

16. (1) *In this clause:*

residential flat building means a building containing more than 2 dwellings in a form commonly described as "walk up flats" or "shop top housing", a characteristic of which is often a common stairwell.

(2) Notwithstanding clause 9, Council may consent to a residential flat building on land within the Business General 3(a) or Business Special 3(b) zones which is serviced by reticulated water and sewerage, or land within the Multi Unit Housing and shown hatched on the map.

The proposed development is permissible with consent under the provisions of draft Amendment 130. The current Residential 2(a) land to the southeast of the site is proposed to fall within the Multi Unit Housing zone under Amendment 130.

(iii) Any Development Control Plan in force under Section 72 of the Environmental Planning and Assessment Act, 1979

Hawkesbury Development Control Plan 2002

Whilst there is no specific chapter contained in Hawkesbury Development Control Plan 2002 that specifically relates to this form of development the following is an assessment carried out in accordance with the provisions of this plan.

Residential Chapter

The following table provides an assessment of the application with respect to the relevant Rules contained in the Residential chapter.

Element	Rules	Provides	Complies
Height	8m upper ceiling/ 12 m upper ridgeline	12m/12.4m	No
Setbacks		NA	NA
Development fronting rear lanes		NA	NA
Landscaped Areas		NA	NA
Private Open Space	Any above ground level balcony or rooftop area designed for private open space must have a minimum area of 10sqm with a minimum dimension of 2m. This area is not included in the calculation for the provision of total private open space.	9.2 – 34.14m ²	No Refer comments below
Common Use Open Space	(a) For development proposals that contain 5 or more units common use open space is required. Concession may be given where it is demonstrated that sufficient usable private open space for each dwelling	Summer and winter garden areas provided.	Yes

ORDINARY MEETING

Meeting Date: 13 December 2005

Element	Rules	Provides	Complies
	has been provided. (b) The communal open space should generally have access only within the site. (c) Common open space for multi-unit housing developments should be accessible from all dwellings within the development. Surveillance of this space should be possible from at least 2 dwellings. (d) Any proposed communal recreational facilities must be designed and located to avoid nuisance or danger to neighbours, residents and visitors.		
Access and Parking	- For development that contains more than 2 units driveways are to have a minimum driveway width of 6m from the layback/kerb line to 6m inside the property. - Where parking spaces are located as 90° to the driveway alignment the minimum driveway width adjacent to the space is to be 6.7m, increased as necessary to allow adequate manoeuvring on site. - On site manoeuvring areas shall be provided to allow entry and exit to the site in a forward direction. - On site manoeuvring areas shall be provided to allow entry and exit to and from all car spaces including garage, carports, uncovered spaces and visitor spaces by a single turning movement. - Where more than 3 units are served by an access or the access is greater than 30m long, a turning area shall be provided at or near the end of the access. - On site manoeuvring shall be based on the Ausroads Standard 5.0m design vehicle. Templates for this standard are provided in the appendices. When using the templates a minimum of 150mm shall be provided between any fixed object and the extremities of the swept paths. - All on site car spaces shall comply with the minimum dimensions set out in Part C Chapter 2 (Car Parking and Access). Where a space adjoins a wall,	Minimum 6m driveways proposed. Minimum 5.8m proposed.	Yes No Applicant relies on AS2890 Refer comments below Yes Yes Yes No Applicant relies on AS2890 Refer comments below

ORDINARY MEETING

Meeting Date: 13 December 2005

Element	Rules	Provides	Complies
	fence or other fixed structures, the width shall be increased as follows to allow adequate door opening: On one side only to 3.2m On both sides to 3.8m. Refer to Part C Chapter 2 - Car Parking and Access for additional requirements.		No Applicant relies on AS2890 Refer comments below
Basement Parking	(a) Only the basement's parking entry should be seen as a separate level in a building. Large exposed foundations, voids and walls are not to be used.	Entry only visible no visible exposed foundation, voids and walls.	Yes
	(b) No part of a basement should extend more than 1 metre above natural ground level so the height of the building is not excessive.	Basement less than 1 metre above natural ground level.	Yes
	(c) Consideration may be given to a sump and pump where storm water volumes are low based on merits of the site	Concept drainage plan proposes a sump and pump drainage system.	Yes
Visual Amenity	(a) Where there is potential for loss of privacy the proposal should incorporate some of the techniques illustrated in the DCP. Relevant techniques are offsetting windows of windows, separation and screening. (b) Where there is no alternative to a window, it should be screened.	Applicant proposes to achieve internal privacy primarily through the separation of the buildings by a minimum of 12.14m. Distance complies with provisions of SEPP No 65.	Internal privacy acceptable Privacy impacts external to the site considered unacceptable
Acoustic Privacy	(a) Acoustic privacy is to be considered at the design stage.	Acoustic privacy between units has been provided via fin walls, generally grouping like uses and providing acoustic insulation where	Yes

ORDINARY MEETING

Meeting Date: 13 December 2005

Element	Rules	Provides	Complies
	(b) Site layouts should ensure parking areas, streets and shared driveways have a line of sight separation of at least 3 metres from bedroom windows. (c) A distance of at least 3 metres should separate openings of adjacent dwellings.	required. Bedroom windows are at least 3m from parking areas, streets and driveways. Fin walls, depth of balconies and positioning of openings provide adequate privacy between windows of adjacent residential units.	Yes Yes
External Noise and Vibration	(a) Proposals must comply with the current Environment Protection Authority criteria and the current relevant Australian Standards for noise and vibration and quality assurance and incorporate appropriate mitigation measures.	No details provided.	Appropriate conditions could be included in consent should application be approved.
Safety and Security	(a) Each dwelling is to be provided with direct and convenient pedestrian access to a private or public road. (b) Barriers to prevent movement between internal roof spaces of adjoining dwellings are required. (c) Elements to be incorporated in site and building design and include: doorway/entry safety and surveillance to and from the footpath	Pedestrian access is available to George Street as well as to the internal common areas via internal stairwells and lift within Block A. Flat roof design has been proposed. Mixed use nature of the site and positioning of balconies and windows provides surveillance over George Street and Dickson Lane as well as to the	Yes Yes Yes

ORDINARY MEETING

Meeting Date: 13 December 2005

Element	Rules	Provides	Complies
	- illumination of public spaces including all pedestrian paths, shared areas, parking areas and building entries to the relevant Australian Standard - visibility to the street from the front of the development - restricted access to the rear of the site.	proposed entries. Details not provided with application. Provided by west facing retail and residential units along George Street frontage. Access to the internal common areas is restricted by secure access points and security roller shutters.	Appropriate conditions could be included in consent should application be approved. Yes Yes
Cables	(a) The design, location and construction of utility services must satisfactorily meet the requirements of both the relevant servicing authority and Council.	Utility services are available to the site.	Appropriate conditions could be included in consent should application be approved.
Recycling, garbage and mail	(a) Collection areas must be integrated into the overall site and building design.	Mail collection areas shown at common entrance off George Street. Garbage and recycling area provided within loading dock and not readily visible from Dickson Lane.	Yes

Variations to Residential Chapter

Height

Council's resolution of 26 July 2005 provided the following having regard to building height:

ORDINARY MEETING

Meeting Date: 13 December 2005

The table dealing with height in the Residential Chapter, the reference to 'walk-up flats' be removed and replaced with 'residential flat building.' A cross reference be made within this chapter, to Shop-Top Housing to the Commercial Chapter.

In this regard the table providing maximum height requirements in conjunction with various forms of development contained in the Residential Chapter of Development Control Plan 2002 would read as follows:

Residential Use	At Property Boundary	At Ceiling Height	Maximum Height at Ridgeline
Residential Flat Building	3.5m	8m	12m

As detailed previously in this report the application proposes a variation to these controls proposing an upper ceiling height of 12 metres and an upper ridge height of 12.4 metres.

Private Open Space

The proposal does not satisfy the minimum private open space area requirement of 10sqm for above ground balconies. In this regard Unit 24 does not comply, providing a total area of 9.2sqm. Given that the majority of proposed units comply with this requirement it is considered that the proposal is generally satisfactory having regard to provision of private open space.

Car Parking and Access Chapter

Hawkesbury Development Control Plan 2002 requires the following car parking requirement having regard to retail/commercial development:

1 space per 30m² of gross floor area (GFA)

The proposal provides a total of 534.25sqm of retail/commercial floor space. Therefore 17.8 spaces (i.e 18 spaces) spaces are required.

Council's resolution of 8 March 2005 has the effect of modifying the residential car parking requirements contained in Hawkesbury Development Control Plan 2002 for Shop-Top Housing development proposed in the Richmond and South Windsor commercial areas as detailed as follows:

*1 (one) space for units up to 85 m² floor area
2 (two) spaces for units greater than 85m² floor area
Visitor parking at a rate of 1 space per 5 dwellings or part thereof.*

Based upon the above the following table details the residential car parking requirement associated with the proposed development:

	Car Parking Rate	No. of Units	Spaces Required
Up to 85m ²	1 space	23	23
Greater than 85m ²	2 spaces	3	6
Visitor	1 space/5 units	26	6
Total			35

Therefore, in total 53 car parking spaces are required for the proposed development. The application proposes 53 car parking spaces consisting of 18 spaces for the retail/commercial units, 29 in conjunction with the residential units, and 6 visitor spaces.

All residential spaces are to be provided in the basement. The retail/commercial and visitor parking is to be shared between the basement and ground level parking areas. One (1) of the ground level parking spaces has been designated as a disabled parking space.

The DCP also contains minimum dimensions for car parking spaces and aisle widths. The aisle widths proposed in the designated car parking areas range between 5.8m to 6.8m, whereas the DCP requires a minimum aisle width of 6.7metres. The car parking design has been a matter that has been the subject of considerable discussion with the applicant. It is recognised that the aisle width dimensions within Council's DCP are in excess of that required by the Australian Standard 2890.1:2004 Parking Facilities Part 1: Off-street Car Parking.

The applicant has provided a statement by Christopher Stapleton Traffic Consultants, which confirms that the proposed basement and ground level car parking levels satisfy the design requirements contained in AS2890.1:2004. In addition, it is noted that the access driveway design also satisfies the provisions contained in AS2890.1:2004.

As discussed previously in this report the issue of security within the basement car parking area is not considered to have been adequately addressed having regard to resident parking.

Soil Erosion & Sediment Control Chapter

A concept sediment control plan has been submitted. For the purposes of assessing the application the plan is satisfactory.

Energy Efficiency Chapter

Solar Access

Hawkesbury Development Control Plan 2002 prescribes the following having regard to solar access;

- Sunlight is available to at least 50% of required private open space for at least 2 hours between 9.00am and 3.00pm, on 21 June. Where existing overshadowing is greater than the above, it should not be further reduced.
- Any new development will not reduce the solar access of solar collector/s of an adjoining property to less than 4 hours per day in mid-winter except solar water panels to which full access must be maintained.
- Sunlight is available to a clothes drying area for at least 4 hours on June 21, to a plane 1 metre above the finished ground levels under the drying lines.

Having regard to shadow impact attributable to the proposed development the applicant has prepared a shadow analysis, detailed on Drawing No.s DA/04189 10 DA C1 and 11 DA A, describing the impact on adjoining properties during mid winter and the spring/autumn equinox (21 March/September).

It is noted that the proposal does impose a considerable shadow impact on a number of adjoining residential properties adjoining Dickson Lane that are proposed to be located in an identified Multi-Unit Housing zone under Amendment 130 of Hawkesbury Local Environmental Plan 1989. This impact will restrict the ability for the adjacent allotments proposed to be situated in the Multi Unit Housing zone to fully realise their development potential.

In addition to the solar access provisions contained in Hawkesbury Development Control Plan 2002 Council's resolution made on 26 July 2005 provided the following specific solar access criteria in relation to shop-top housing development:

*The height of commercial buildings, particularly Shop-Top Housing developments in commercial zones. This height may be governed by a policy on shadows projected from these buildings, so that **shadows should not protrude onto adjacent residential land between the hours of 9:00am - 3:00pm**; nor should they protrude into the second floor development, where that second floor development is used for residential development on adjacent buildings. Diagrams be prepared to illustrate how these controls will work.*

Having regard to the above the application fails to satisfy the provision restricting any shadowing of residential zoned land between 9.00am and 3.00pm. The shadow analysis prepared by the applicant details that shadows will impact adjacent residential land between 11.00 and 12 noon during mid winter. At 3.00pm the length of shadow cast by the proposed building will extend approximately 18.5 metres into adjoining residential land.

Having regard to solar penetration and solar access to the proposed units within the proposed development the applicant has provided an analysis, detailed on Drawing No.s DA/04189 10 DA C1, 17 DA C1, 18 DA C1 and 19 DA C1. It is considered that the level of solar access to units within the proposed development is satisfactory.

Energy Efficiency

The development as originally submitted demonstrated that each of the proposed units achieved a minimum NatHERS rating of 3.5 stars or greater (the units generally had 4.5 to 5 star ratings). A revised NatHERS assessment has not been submitted with the amended plans, however, it is considered that the amended units would comply with the minimum 3.5 star rating and, if the application was approved, that this could be confirmed by way of a condition of consent.

Clothes dryers are to be provided within each unit and hot water services are to be located on the balconies. The applicant advises that clothes dryers and hot water services will achieve the minimum star ratings required by the DCP.

Community Consultation

As detailed previously in this report the application and subsequent amended plans were notified on three (3) separate occasions. The issues raised in response to the notification are listed as follows:

- The application does not satisfy the objectives of the zone. Namely, the development is mainly for residential purposes, is inconsistent with the two storey commercial character of the area, concern regarding adequacy of car parking and width of rear lane, no provision has been made for pedestrians in the laneway;
- Height, bulk, and scale of the proposed development is inconsistent with the surrounding built form;
- No turning movement available for trucks from the lane way unless they are on the incorrect side of the roadway.
- Unsuitable access to Dickson Lane.
- Dickson Lane is too narrow and of inadequate construction to cater for the increase in traffic.
- Traffic generated by the development will limit access to the rear of properties which have access off Dickson Lane.
- Inadequate stormwater management.
- Concern regarding construction phase impacts such as dust, noise, blocking of access, vandalism and asbestos.
- Overlooking from upper storey windows and additional vehicles in laneway will reduce privacy of residents to the east.
- Overshadowing of properties to the east of the site. Buildings will restrict solar access.
- Artificial light spillage.

ORDINARY MEETING

Meeting Date: 13 December 2005

- Noise from extra traffic, air conditioning and tenants.
- What is the commercial viability/benefit of more shops in South Windsor when vacancies currently exist.
- Gradual loss of old houses will diminish the historic value of the Hawkesbury.
- Reduction in property value
- Development would set an undesirable precedent.

These matters are addressed within the main body of this report.

Planning Assessment

The previous Statutory Section of this report dealt with a number of planning considerations. Key planning matters which require further comment are as follows:

Context and Setting

The existing built character of the South Windsor commercial precinct and adjoining residential land has been discussed in earlier sections of this report and primarily consists of single and two storey development. Surrounding street trees are in the order of 9 - 9.5m tall and light poles approximately 9.7m tall. The proposed buildings have a maximum height ranging between 9.3 and 12.4 metres.

The issue relating to the overall height of the development, consisting of two buildings having a height of four (4) storeys, and the appropriateness of this built form in the existing context is a matter that Council is required to consider. This application will set a precedent for future development in the South Windsor area. It is noted that the proposal provides for the use of various building materials, introduces a modulated building design and has introduced a stepped setback to the upper levels in order to assist in providing visual relief.

Traffic and Access

The applicant has submitted a traffic analysis in support of the application. The analysis provided the following:

- Existing traffic flows along Dickson Lane are very low, traffic flows in George Street are moderate. South Windsor road network operates well with few delays, small peaks occur only during the commuter peak and school arrival and departure periods.
- Likely that most trips would use Campbell Street intersection with Dickson Lane to gain access to local and regional road network.
- Estimated Trip Generation

	Peak	Daily
Residential	12	120
Retail	25	300
Commercial	3	11
Total	40	431

- Likely to comprise a high percentage of shared trips. Unlikely more than 50% of retail trips would be generated to the site itself, with remainder generated to local on-street parking and the rear of the village car park. Hence no more than 30 vehicles per hour are likely to access Dickson Lane in a peak hour.

ORDINARY MEETING

Meeting Date: 13 December 2005

- Traffic generation of the site is relatively low during peak periods and local road network would experience almost negligible increases in average delays.

Council's Engineers assessed the application and concluded that due to the limited width of Dickson Lane and the volume of traffic to be generated by this development possible future development that Council may need to consider restricting Dickson Lane between Campbell Street and Argyle Street to one way direction only.

In light of this the application was presented to Council's Local Traffic Committee on 18 May 2005 primarily for information purposes. The LTC has recommended:

1. Dickson Lane between Argyle Street and Campbell Street be upgraded for the full length to cater for the higher traffic flows and heavier vehicles
2. Provide satisfactory turning manoeuvres for delivery vehicles both at the entry point of the development site as well as the intersecting roads of Argyle and Campbell Streets.
3. Parking restrictions to be addressed by the applicant across the property in light of access to the site
4. One-way traffic flow is supported in principal with a detailed traffic report to be provided by this or future applicants to support direction of the flow.
5. The landscaping strip of 3.0m be dedicated as roadway with future developments requested to dedicate a 3.0m strip to allow for manoeuvring and on-street parking along Dickson Lane
6. The development not to affect residential access along Dickson Lane.

Items 1,2 and 6 are matters which can be addressed by the applicant. Items 3 and 4 are matters which can only be resolved by Council.

The issue relating to the dedication of additional roadway identified in Item 5 is a matter that Council will be required to consider. Should Council deem that such an increase in width of the laneway would be desirable so as to provide for additional area for the manoeuvring of vehicles and to enable parking this would have a significant impact upon the design of the proposal and remove any opportunity for the provision of landscaping treatment adjacent to this boundary.

Public Domain

A number of submissions were received. The issues raised have been dealt with in this assessment

Noise

Construction noise can be expected to cause short term inconvenience to surrounding residents however this would be temporary. In this regard it is noted that a suitable condition could be included in any consent restricting hours of construction so as to limit impact upon amenity of adjoining properties. Noise generated by the occupants and use of the site would not be anticipated to unreasonably impact on surrounding residents provided that air conditioners and other machinery was installed and operated in accordance with EPA requirements.

Drainage

A drainage concept plan, including the provision of on-site stormwater detention, has been prepared in conjunction with the application. In addition, a pump is proposed to be provided within the basement car parking area in order to remove water entering the basement car parking area. The submitted drainage plan is considered generally satisfactory.

Construction

ORDINARY MEETING

Meeting Date: 13 December 2005

Noise and dust generated during construction, maintaining access to rear yards and undertaking the safe removal of asbestos are all matters that could be addressed by conditions of consent and by appropriate demolition and construction management procedures.

Economic Impacts

Some respondent have raised concern regarding the economic viability of more retail and commercial units within South Windsor and loss in property value of surrounding residential properties.

The proposed development would have a positive economic impact in terms of employment of employment generation and income both during the construction phase and use of the site.

Further development of the business zoned land for retail/professional purposes is essentially a commercial decision of the proponent. The proponent has advised that they have received significant interest from persons wishes to lease the premises.

Property values are not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979

Heritage

The existing buildings situated on the subject site are not identified as having heritage significance. It is considered that the loss of the two cottages situated on the subject site will not detrimentally impact on the heritage significance of the Hawkesbury area as many other examples of these structures still exist and are protected by heritage listing. The business zoning of the locality also brings an expectation that these buildings will be demolished for retail/commercial purposes.

Suitability of the Site

It is considered that the site is suitable for a mixed retail, commercial and residential flat building development. The constraints posed by adjacent development would not make such a development prohibitive. The locality contains adequate recreational opportunities and public spaces and can be augmented by the levying of Section 94 contributions. Utilities and services are available to the site. The surrounding air quality and micro climate is appropriate for the development. There are no non hazardous land uses or activities nearby. Ambient noise levels are suitable and the site is not critical to the water cycle of the catchment.

The soil characteristics of the site are appropriate and the development would not have a significant impact on any threatened species, populations or ecological communities.

Flora and Fauna

The site does not contain any significant vegetation or threatened fauna.

Waste Removal

The provision of garbage and recycling storage facilities have been incorporated in the design with an area made available for this purpose situated adjacent to the loading dock provided at the ground floor level. An appropriate condition could be included requiring the submission of details for waste disposal/garbage collection.

Natural/Technological Hazards

There are no natural/technological hazards associated with the site.

Social Impact in the Locality

The applicant has not carried out a social impact assessment in conjunction with the application. The style of accommodation proposed is considered to be required within the Hawkesbury area. The addition of

ORDINARY MEETING

Meeting Date: 13 December 2005

various styles of residential accommodation within the commercial precincts is likely to have a positive social impact.

Cumulative Impact

Cumulative impacts are required to be considered should this proposal be approved given the probability that similar development would be proposed in the commercial area. An issue for Council to consider is whether the height and bulk of the development is reasonable in the South Windsor area. Approval of this proposal will signal a recognition that the height and bulk is acceptable.

Conclusion

The development has been assessed in accordance with the provisions contained in Section 79C of the Environmental Planning and Assessment Act, 1979; Hawkesbury Local Environmental Plan 1989; Hawkesbury Development Control Plan 2002; Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River; State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development and State Environmental Planning Policy No. 55 – Remediation of Land.

The proposal has not demonstrated a satisfactory level of compliance with the provisions contained in Hawkesbury Local Environmental Plan 1989, Hawkesbury Development Control Plan 2002, State Environmental Planning Policy No. 65 and Council's resolutions relating to shop top housing development.

It is considered that the design of the proposed development has not provided adequate integration with the context of the area within which it is situated. The building will result in an unacceptable visual impact upon the existing commercial centre and adjacent residential land, will create unacceptable shadow impact upon adjoining residential land and will result in loss of amenity to adjoining residential land through a reduction in privacy.

The issue of the existing character of the area, the height/bulk of the proposal and the impact in relation to overshadowing and privacy are matters that Council must carefully consider, as this development will provide a benchmark for future development in the South Windsor commercial area.

As noted previously in this report a Class 1 Appeal against the deemed refusal of Development Application No. DA1001/04 was filed with the Land and Environment Court on 14 September 2005. A Callover of this matter is to be held on 15 December 2005. To ensure Council's position is able to be concisely presented at the Callover, "without prejudice" conditions have been attached should Council recommend approval of the application. (Please refer to Attachment 1).

It should be noted that these conditions are provided on the basis that they do not prejudice management's report or recommendation.

Conformance to Strategic Plan

The recommendation conforms with the objectives as set out in the Strategic Plan, i.e.

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

and

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

Funding

No impact on Budget

ORDINARY MEETING

Meeting Date: 13 December 2005

RECOMMENDATION:

That the development application proposing the construction of a mixed commercial/ residential development at Lot B DP 383474, Lot 1 DP 128701 and Lot X DP 374639, 510 - 512 George Street Windsor be refused for the reasons outlined as follows:

1. The proposal does not satisfy the zone objectives contained in Clause 9A of Hawkesbury Local Environmental Plan 1989 in that minimal commercial floor space is provided in conjunction with the proposal and that the design does not provide for the ready adaptability of the first floor level of the building to provide for the expansion of commercial uses on the site.
2. The proposed building exceeds the maximum building height plane provisions contained in Hawkesbury Development Control Plan 2002.
3. The proposal is contrary to Council's resolution made on 26 July 2005 in relation to Shop Top Housing Development in that:
 - (a) the height of the building is excessive resulting in significant shadow impact on adjacent residential land between the hours of 9.00am and 3.00pm.
 - (b) barrier-free access has not been provided to all residential components of the building.
 - (c) the proposal has not provided increased ceiling height in conjunction with the first floor level of the building to enable adaptability for commercial use.
4. the proposal is considered inconsistent with the Design Quality Principles contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development having regard to:
 - (a) Principle 1: Context

The building has not responded to the characteristics of the area in that it exhibits an inappropriate scale and results in an unacceptable shadow impact upon adjoining residential properties.
 - (b) Principle 2: Scale

The building has a bulk and scale that significantly exceeds the predominant scale of existing development situated in the immediate area resulting in an undesirable visual impact upon the village character of the commercial and surrounding area.
 - (c) Principle 3: Built Form

The building is not considered to have an appropriate built form for the subject site given that the proposed building does not achieve a compatible and complimentary bulk and scale with surrounding development resulting in a detrimental impact upon the village character of the commercial centre.
 - (d) Principle 4: Density

It is considered that the proposed density is excessive for the site in that the design does not respond to the identified constraints associated with the site and the context of the area.
5. The proposal is considered inconsistent with the Design Principles contained in State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development having regard to:
 - (a) Building Envelopes and Height

ORDINARY MEETING

Meeting Date: 13 December 2005

The proposal does not satisfy the building height plane provisions contained in Hawkesbury Development Control Plan 2002 and does not respond to the desired scale of development in the area and results in an unreasonable shadow impact to adjoining residential properties.

(b) Safety

The proposal has not made satisfactory provision to ensure adequate levels of safety and security to the basement car area having particular regard to resident parking areas.

(c) Visual Privacy

The proposal has not made adequate provision to ensure reasonable levels of privacy from the windows and balconies situated at first and second floor levels associated with "Block B" adjoining Dickson Lane to adjoining residential properties immediately to the east of the site.

6. The proposed development will set an undesirable precedent for development of a similar nature in the South Windsor commercial centre.
7. The proposal is not considered to be in the public interest having considered the matters raised by objectors in response to Council's notification of the application.

ATTACHMENTS:

AT - 1 "Without Prejudice Conditions" (*distributed under separate cover*).

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

INFRASTRUCTURE SERVICES

Item: 397 **IS - Cultural Precinct - (95495, 83276, 75323, 80333, 107, 74272, 74141)**

Previous Item: 338, Ordinary (1 November 2005)

REPORT:

Council at its meeting of 1 November 2005 in relation to a report which outlined the current financial situation in relation to the Cultural Precinct and the estimated need of \$1,008,944 to complete the precinct, resolved:

"That:

- 1. The matter be deferred to allow for exploration of funding options.*
- 2. The matter be reported back to Council no later than the last scheduled Ordinary Meeting in 2005."*

In an effort to gain additional funding for the project an application has been submitted to GROW Sydney ACC which is part of the Australian Government's Regional Development Network who can access federal funding to be utilised in projects where there is a gap in the funding required and the funding available where worthwhile projects may not proceed due to this funding gap. An application in an amount of \$570,000 has been made to GROW and to date this application has been supported at a Sydney level and recommended to be assessed at a regional level. The group has been most supportive of the application to date. If the application is supported at the regional level it will then be forwarded to Canberra for the Minister for DoTaRS (Department of Transport and Regional Services) final consideration. It is understood that a final determination of the application would occur around March 2006.

The amount of \$570,000 was determined as being identifiable due to the archaeological investigations required and the interpretation of the archaeological findings combined with the increase in costs associated with the construction of the building due to those delays it is estimated that building costs are increasing at approximately \$10,000 per month and this amount has been included within the application to cover these increases until March 2006. Obviously should the grant application be successful there will still be a shortfall of around \$440,000 to complete the precinct. It would appear that this additional funding would require the sale of further non-incoming producing properties. A further report will be provided to Council outlining additional funding sources should the grant application be successful.

Conformance to Strategic Plan

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

"Objective: Implement infrastructure strategy to underpin the social, cultural and commercial development of the City."

Funding

Funding implications are outlined within the report.

ORDINARY MEETING

Meeting Date: 13 December 2005

RECOMMENDATION:

That further consideration of funding for the Cultural Precinct be deferred until the grant application to GROW has been determined.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

Item: 398 **IS - Grant from Crown Lands for a Carpark at Yarramundi Reserve - (95495, 84719)**

REPORT:

In April of this year, an application for financial assistance for the development of a car park at Yarramundi Reserve was sent to the Department of Lands under its Public Reserves Management Fund program. (The Public Reserves Management Fund provides grant funding or loans to Crown Land Trust Managers for the management of Crown Reserves.)

The funding that was requested for Yarramundi Reserve is as follows:

1. Finalisation/amendment of the Yarramundi Reserve Plan of Management (\$1,415)
2. Design and construction of an access track and car parking at Yarramundi Reserve (\$25,000)

A letter has been received from Mr Tony Kelly, Minister for Lands, indicating that Council, as corporate trust manager of Yarramundi Reserve, be offered a grant of \$20,000 and a loan of \$5,000 towards the cost of the construction of a car park and access road at the reserve.

Provision of the grant is subject to acceptance of the loan and the trust undertaking to meet the balance of funds required to complete the project.

The terms for the grant and loan include the following:

- The loan is repayable by five equal instalments of principal with interest at 8% per annum, calculated daily on the outstanding balance, interest to commence from the date the loan is advanced.
- The first instalment will fall due one year from the date the loan is advanced.
- The project should be completed within 12 months.
- Both the grant and the loan ...will not be subject to the Goods and Services Tax (GST)

Enquiries are being made with the Department of Lands to determine if it is possible to repay the loan immediately, in one sum, to avoid the 8% interest. Under the existing terms, the total amount of interest payable will be \$2,457.11.

Conformance to Strategic Plan

The proposal is deemed to conform to the following objectives and strategic directions set out in Council's Strategic Plan:

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

Strategic Directions: Establish a framework to define and equitably manage the infrastructure demands of the City.

Implement infrastructure strategy to underpin the social, cultural and commercial development of the City.

Work in partnership with community and government to implement community plans to meet the social, health, safety, leisure and cultural needs of the City.

ORDINARY MEETING

Meeting Date: 13 December 2005

Funding

The \$7,457.11 to be funded from future Park Improvement Programs

RECOMMENDATION:

That the offer of \$20,000 grant funding and \$5,000 loan be accepted.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

SUPPORT SERVICES

Item: 399 SS - Application for Closure and Purchase of Roadway Adjoining 46 George Street, Windsor - (95496, 97239)

REPORT:

On 30 June 2005 deferred consent was granted by Council, subject to conditions, for Dr Ganesh A. Ganeshalingham to use 46 George Street, Windsor as professional and commercial chambers (Medical Practitioner).

To allow additional car parking for his patients, Dr Ganeshalingham has applied to Council to purchase and close the unformed road reserve, which adjoins his property.

Prior to submitting his application, Dr Ganeshalingham was advised that the previous owners of the adjoining property had applied to purchase and close the unformed road reserve and had been met with strong objection. Additionally, it was advised that service pits for Telstra and Integral Energy are located within the boundary of this road reserve and, therefore, easements for these utilities would need to be granted on/across the subject road reserve.

However, Dr Ganeshalingham submitted his road closure application and the bond of \$5,000, as required by Council, on 11 August 2005.

In accordance with the Roads Act 1993, public consultation was undertaken by way of advertisements in the Hawkesbury Gazette and Courier as well as correspondence to the majority of property-owners within the vicinity of the subject road reserve. A total of six written objections were received, all strongly opposed to the possible closure and acquisition of the road reserve by Dr Ganeshalingham.

Reason for the objections include the loss of open space and increased traffic management issues.

Verbal advice from the Department of Lands was that, unless all objections could be dealt with and subsequently withdrawn, the Department would not consider giving consent to the formal closure of the subject road reserve.

As it is highly unlikely that all objections would be withdrawn and the road closure subsequently supported, it is considered that the road closure should not proceed.

Dr Ganeshalingham has been verbally advised of the objections and the likelihood that his application for the purchase and closure of the road reserve would not be supported by Council or the Department of Lands.

Conformance to Strategic Management Plan:

This proposal is deemed to conform to the objectives as set out in Council's Strategic Management Plan, i.e.

"Processing miscellaneous property matters"

Funding

No impact of the current or future budget of Council.

ORDINARY MEETING

Meeting Date: 13 December 2005

RECOMMENDATION:

That:

1. Council not proceed with the proposal from Dr Ganeshalingham for the closure and purchase of the unformed road reserve which adjoins 46 George Street, Windsor and that all objectors be advised of the resolution.
2. Dr Ganeshalingham be advised of Council's decision and the balance of the bond be refunded.

ATTACHMENTS:

AT - 1 Location Plan

ORDINARY MEETING

Meeting Date: 13 December 2005

Please refer to the [Maps/Attachment Documents](#)

The Maps/Attachment Document can be found as a link next to the Business Paper link under the meeting date of 13 December 2005 on Council's Website

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

Item: 400 **SS - Hawkesbury Heritage Farm (Former Australiana Pioneer Village) Lot 22 DP 829589 18 Rose Street, Wilberforce - (95496)**

Previous Item: 16, General Purpose Committee (24 February 2004)

REPORT:

During 2003/04 action was being taken by Council to reclassify and sell the Hawkesbury Heritage Farm (formerly the Pioneer Village and referred to hereafter as the APV) in association with the sale of another adjoining property.

Subsequently, Council at its meeting on 24 February 2004 resolved to rescind its previous resolution to sell the APV and, at its meeting held on 9 March 2004, Council also resolved to defer the draft plan to reclassify the APV from community land to operation land under the *Local Government Act*. In addition, the Council also resolved to consult further regarding the future management of the APV.

As a result, in April 2004 a meeting was held with members of the Village Volunteers to discuss the potential future management of the APV, with the volunteers agreeing to make a submission detailing their proposals and to indicate what they would like to happen in terms of the future use and management of the site.

Subsequently, on the 11 August 2004 the village volunteers submitted a "Draft Plan of Management" in relation to their proposal to operate the APV, with such proposal also attaching a number of letters of support from various organisations.

As indicated previously, earlier discussions had been held with the Village Volunteers and it appeared that the "Draft Plan of Management" was submitted in response to a request for the submission of a business plan by the Village Volunteers in relation to their proposal to operate the APV, it being suggested that such documents were relevant in the event of Council agreeing to the management of that facility by that group.

A further meeting was held with a representative of the Village Volunteers, wherein it was indicated that while the efforts made in the preparation of the "Draft Plan of Management" were appreciated, the document did not contain sufficient information in the form of a "Business Plan" to enable the Council to consider and progress the groups proposals at that stage.

In an endeavour to assist the group, it was suggested that much of the information that had been gathered could be utilised as part of the business plan and could be augmented by the additional information required as part of a comprehensive plan for the APV. As the documents submitted also contained little financial information, a suggested format and content of "Business Plan" was suggested for the assistance of the Village Volunteers, including a suggested need for a detailed financial plan.

The above suggestions were provided in the form of a "Draft" for review, comment and/or further clarification by the Village Volunteers.

Since the provision of this information, meetings have been held with representatives of the Village Volunteers, and other persons interested in the APV. In response to Council's suggestions concerning a "Business Plan" and other matters raised in meetings, a number of follow up letters were referred to the Village Volunteers in a endeavour to illicit further information from that organisation.

As a result, the following letter dated 26 October 2005, received by Council on 24 November 2005, has now been submitted by the Australiana Village Volunteers.

"Thank you for your letter of the 22 September 2005 and the opportunity to put forward or view as to the best future for the Australiana Pioneer Village. We are concerned with the best utilisation of this priceless community resource. Whilst a lot of the details of the Village

ORDINARY MEETING

Meeting Date: 13 December 2005

Volunteers plans for the Village have been outlined in previous submissions the following encapsulates the essence of our submission.

The Australiana Village Volunteers will run and manage the Village via a Not For Profit Company as an Open Air Museum and Education Facility. This will be in the form of a Trust so as to ensure DGR status. The lease from the Council needs to be long-term total of 21 years to allow for infrastructure planning and financial security for sponsors. Our studies show we will run the Village with no long-term financial input from the Council. It is important to note that our proposed use of the Village would be completely consistent with the ground breaking NSW State Heritage listing. This listing requires that the Village be not only maintained in a good condition, but that the public is given access to this important educational resource.

For many years The Australiana Village Volunteers have shown their commitment to do whatever is necessary: even when we have no control we have given tirelessly. The Village would be in much worse condition, possibly even destroyed had we not given so generously. This selfless dedication to the maintenance of the heritage of the Hawkesbury is recently demonstrated by the work done to have McMahon's Cottage relocated to the Village. To date, Hawkesbury City Council has failed in its responsibility to look after the Village. Only the Australiana Village Volunteers have the public support required to run it in a manner consistent with its heritage and cultural significance.

The Village Volunteers have strong support from many organisations, including Educational groups: the NSW Teachers Federation, Friends of School Community's Origination (FOSCO), NSW Parents and Citizens, and local schools, including Wilberforce Primary and Hawkesbury High School. This support comes from long-term contact with many of The Australiana Village Volunteers during their previous day-to-day management of the Village. These organisations are chafing at the bit to be allowed back to the Village: they see it as an important Educational and Cultural resource. We believe the education of our children and the cultural fabric of the Hawkesbury has suffered since Council closed the Village.

The Rose Family: Noel Crowley Honorary Secretary, Thomas and Jane Rose Family Society Inc have confirmed the Rose Family is prepared to allow the Village Volunteers to open Rose Cottage. This represents a significant gain for heritage education and tourism in the Hawkesbury. This offer has not been given to anyone else and will not in the future from my understanding.

The Coleman family, renowned model train enthusiasts are keen to help restore the rolling stock and track. They still have the original Loco they built for the Village back in the 70's. They were involved with the Village long before it opened.

The Hawkesbury Antique Machinery Club maintains their continued support. They have shown their commitment by getting jobs done that appeared too difficult for many.

The Wood Turners Guild have a wealth of knowledge that will be invaluable to the authentic restoration of the buildings. The Guild is keen to be given the opportunity to help and have somewhere to call home.

We have had discussions with The Great Aussie Bush Camp group and they are very keen to include the Village in their Educational programme. They currently have a number of sites, the most popular of which is located at Tea Gardens where they cater for 35,000 children per year. The students have access to over 30 different activities all tailored to complement their learning from a normal classroom.

The Village could have a symbiotic relationship with the Hawkesbury Museum drawing more visitors to the area than either could on its own.

ORDINARY MEETING

Meeting Date: 13 December 2005

Management Strategy

Our financial strategy is based on two distinct phases;

- 1. On weekends and public holidays, the Village would open to the public as an open-air museum for families and groups. We have many years experience and the records to prove this to be very popular. The Hawkesbury area is growing rapidly and would supplement the number of visitors.*
- 2. On weekdays, the Village would open on demand for school excursions again we have the experience and the contacts for this to be very successful. Earlier figures show 17,000 school children per annum visited the Village. This number should be significantly increased as Old Sydney Town has closed and it is now a syllabus requirement for school children to have a sight visit.*

The Village requires a Conservation Management plan before a detailed Business plan can be developed. We would like to offer our help to get the Conservation Management plan completed. There are some grants available and I would personally donate dollar for dollar with the Council up to the estimated \$10,000 required. This would move the process along, with a view to opening the Village on Australia Day, also in time for the school year. We have a number of in principal offers of sponsorship awaiting a commitment from Council to The Australiana Village Volunteers.

We have the support, we have the resources and we have the drive to get the Village open and self-sufficient. We need from Council a commitment to a Conservation Management plan, an offer for a long-term lease and the allocated maintenance budget from Council to be spent in consultation with the Australiana Village Volunteers to maximise its effectiveness."

As can be seen the above letter effectively, once again, indicates a desire by the Village Volunteers to operate the APV but does not contain significant details for Council's consideration in this regard.

It is noted that with regard to the "Business Plan" previously requested by Council, it is suggested that the APV requires a Conservation Management Plan "before a detailed Business Plan can be developed".

There are obviously a number of views on this aspect, however, it is suggested that it is not unreasonable to suggest for an ongoing significant use of a facility of this nature that it would be appropriate for a Business Plan to be prepared in the first instance, which would have a significant influence on the content of a Conservation Management Plan.

As a result of the latest submission from the Village Volunteers there are a number of issues to be considered by Council, namely

- Financial Aspects of the Proposal
- State Heritage Listing of the APV
- Proposed listing of the APV
- Management Plan and Conservation Plan for the APV

Financial Aspects of the Proposal

In the current submission from the Village Volunteers it is noted that it has been suggested that they could run the Village with "no long-term input from the Council" and that the currently "allocated maintenance budget from Council should be spent in consultation with the Australiana Village Volunteers to maximise its effectiveness".

Whilst it is acknowledged that there is some difficulty in accurately determining a situation, the information provided by the Village Volunteers in relation to their proposal to operate the facility does not provide the Council with sufficient financial information to enable it to make a decision in relation to the proposal.

ORDINARY MEETING

Meeting Date: 13 December 2005

It is suggested that if this proposal were to be pursued then significant further details would be required in a number of areas, but particularly in relation to the financial operations proposed by the Volunteers in regard to both on-going maintenance of the facility and its proposed management and operation, particularly in light of the statement that "no long-term financial input" would be required from Council.

With regard to the reference to the current maintenance budget, approximately \$100,000 has been provided in the 2005/06 budget for the maintenance of the APV. Further information would be required from the Village Volunteers regarding their proposals in relation to this amount.

State Heritage Listing of the APV

As correctly suggested in the submission from the Village Volunteers, the APV is subject to a NSW State Heritage Listing gazetted on 20 February 2004.

Whilst this does require that the facility be maintained to at least a basic standard, Council Officers are not aware of any requirement as a result of this listing that would require Council to provide public access to the facility as suggested in the submission.

Proposed Leasing of APV

The submission from the Village Volunteers requested Council to grant a lease for a period of 21 years. It is suggested that the Village Volunteers would run and manage the facility by way of establishing a "Not for Profit Company".

With regard to the possibility of the facility being leased, the provisions of Section 46 of the *Local Government Act 1993* governs the manner in which a Council may grant a lease, license or other interest in respect of community land. The relevant provisions of Section 46 of the Act in relation to this situation are as follows:

"46 Leases, licences and other estates in respect of community land - generally

- (1) *A lease, licence or other estate in respect of community land;*
....
 - (b) *may be granted, in accordance with an express authorisation in the plan of management and such provisions of the plan of management as apply to the granting of the lease, licence or other estate:*
 - (i) *for a purpose prescribed by subsection (4), or for a purpose prescribed by any of the section 36E to 36N as a core objective of the categorisation of the land concerned, or*

but may not otherwise be granted
- (2) *Despite subsection (1), a lease, licence or other estate in respect of community land may be granted for a purpose mentioned in subsection (1)(b) only if the purpose for which it is granted is consistent with the core objectives, as prescribed in this Part, of its categorisation.*
- (4) *The following purposes are prescribed for the purposes of subsection (1)(b)(i):*
 - (a) *the provision of goods, services and facilities, and the carrying out of activities, appropriate to the current and future needs within the local community and of the wider public in relation to any of the following:*
 - (i) *public recreation,*
 - (ii) *the physical, cultural, social and intellectual welfare or development of persons,*

ORDINARY MEETING

Meeting Date: 13 December 2005

(b) *the provision of public roads.....*

In addition, Section 46A(3) of the Act also provides that a lease for the term exceeding five years may only be granted by way of a tender unless it is granted to a non-profit organisation. Further, Section 47 of the Act details the procedures, which must be utilised by Council in the event that it wishes to grant a lease of community land for a term greater than five years. These procedures cover matters such as giving public notice and exhibiting the proposal, the information that a proposal that is exhibited must include, requirements of the submission to the Minister, etc.

From the information above it will be noted that Section 46(1)(b) indicates that a lease of community land may only be granted "in accordance with an express authorisation in the plan of management" and must otherwise be granted.

However, Section 46(2) of the Act indicates that despite Section 46(1) of the Act or 46(1)(b) in this case a lease in respect of community land may be granted for a purpose mentioned in Section 46(1)(b) but only if the purpose for which it is granted is consistent with the core objectives of the lands categorisation.

With regard to the categorisation of community land, the relevant provision in this regard are covered by Sections 36A to 36N of the Act. At this point in time the APV has not been categorised under the Act and if it were it would appear that it would be covered by Section 36H being an "area of cultural significance".

In view of the fact, as outlined above, that the APV does not have a Plan of Management at this point in time nor has it been categorised for the purposes of the *Local Government Act*, it would appear that Council is not in a position to grant a lease of the site to the Village Volunteers or any other organisation even if it wished to do so.

Management Plan and Conservation Plan for the APV

As indicated above it would appear that Council is not in a position to grant a lease for the APV while it is classified as community land until such time as the Management Plan for the site has been adopted. If Council were to pursue the course of action to lease the site, subject to its current classification as community land, it is estimated that it would cost approximately \$25,000 to \$30,000 to prepare an appropriate Plan of Management as well as a significant amount to also prepare a Conservation Management Plan. Specific provision has not been made within the 2005/2006 Budget for this purpose and it is suggested that the funds need to be allocated from the current provision for maintenance purposes if a Plan of Management and or Conservation Management Plan were to be prepared at this point in time.

It is also suggested that due to the current work rates of the relevant staff at the present time that it may be necessary for this work to be undertaken by an external body. In addition, the time frame in preparing such documentation for a significant site such as the APV could be in excess of six months.

Options Available to Council

At this point in time it would appear that there may be three options available to Council, namely:

1. Continue with the proposal by the Village Volunteers
2. Recommence action to reclassify the site and subsequently sell the site
3. Recommence action to reclassify the site as an initial step

In respect of each of these options the following comments are made:

1. This option would involve further discussions with the Village Volunteers with a view to them providing significant clarification of their proposals for the site, at the same time as commencing the preparation of the Management Plan for the site and possibly also the Conservation Management Plan.

To pursue this option would still involve a significant period of time, both in preparation of a Plan of Management and the resolution of the Volunteers proposal, following which it would then also be necessary to undertake a significant public notification and Ministerial consultation requirement to enable the long term lease of the site.

Conversely, in pursuing this course of action the financial viability and ability of the Village Volunteers to undertake this operation and the question of the continued successful operation of the Village, given the problems encountered in its operation in the past, must be an area that raises concern.

2. As indicated at the commencement of this report, Council has previously resolved to "defer" the Draft Plan to reclassify this site and as a required process for the reclassification has previously been undertaken by Council it would appear that it would now only be necessary for Council to resolve to submit a Draft Plan to the Department of Planning for finalisation and gazettal to enable the reclassification to proceed. The report that was submitted to the meeting of the General Purpose Committee on 24 February 2004 regarding the reclassification of a number of properties, including the APV, that addressed all the issues following the public consultation process is attached to this report for Council's information.

Should Council resolve to proceed with the reclassification, the property could then be sold and, obviously, any future owner of the site would be subject to the restrictions placed upon the site by its State Heritage registered listing, with such a restriction being reflected in any sale price that may be achieved.

3. Alternatively, Council could, as suggested above, proceed with the reclassification of the site and, following its reclassification, determine what action it wishes to take in respect of the site, namely lease the site to the Village Volunteers, call for expressions of interest for the future use of the site or sell the site etc.

The advantages of both Option 2 and Option 3 are that the reclassification of the site would remove the requirements for the preparation of a Plan of Management (but not a Conservation Management Plan) and would enable the Council to lease the property to either the Village Volunteers, any other organisation or body without the restrictive requirements that apply due to its classification as community land.

In view of the history of this matter, the contents of this report, and in order to enable the Council to give appropriate consideration to the future use of the site, it is suggest that at this point in time that Option 3 be pursued.

Conformance to Strategic Plan

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

"Implementation of plans identified within the property development strategy and subsequent resolutions of Council regarding property issues."

Funding

Possible need to divert maintenance funds for the APV to prepare a Plan of Management if this course of action is selected, with the future of the APV being uncertain, whereas the reclassification of property whilst involving expenditure would provide Council with the important ability to utilise the property in the future.

ORDINARY MEETING

Meeting Date: 13 December 2005

RECOMMENDATION:

That a Draft Plan to reclassify the following parcel from community land to operational land proceed and be forwarded to the Department of Planning for finalisation and gazettal.

1. Hawkesbury Heritage Farm (former Australiana Pioneer Village) Lot 22, DP 829589, 18 Rose Street, Wilberforce.

ATTACHMENTS:

AT - 1 General Purpose Committee Report of 24 February 2004 on Reclassification of Land.

ORDINARY MEETING

Meeting Date: 13 December 2005

AT - 1 General Purpose Committee Report of 24 February 2004 on Reclassification of Land.

Please refer to the [Maps/Attachment Documents](#)

The Maps/Attachment Document can be found as a link next to the Business Paper link under the meeting date of 13 December 2005 on Council's Website

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oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 13 December 2005

CONFIDENTIAL REPORTS

Item: 401 **IS - St Albans Road Maintenance Tenders - (79344, 87041, 81207)**
CONFIDENTIAL

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -*

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

ORDINARY MEETING

Meeting Date: 13 December 2005

**Item: 402 SS - Laundry (Exhibition) Pty Limited - Documents for Execution Under the
Common Seal of Council - (95496, 74324, 98339) CONFIDENTIAL**

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -*

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

ORDINARY MEETING

Meeting Date: 13 December 2005

Item: 403 **IS - Vegetation Mapping of the Hawkesbury LGA - Tender Evaluation Report - (95495, 96331)**

Previous Item: 382, Ordinary (29 November 2005)
294, Ordinary (27 September 2005)

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -*

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business*

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Hawkesbury Civic and Citizenship Committee - 13 July 2005 - (96972)

The meeting commenced at 5:05pm in Council Chambers

Present:	Councillor Bart Bassett Councillor Rex Stubbs Councillor Dianne Finch David Bertenshaw (Hawkesbury Sports Council) Barry Adams (Richmond Club)
Apologies:	Jean Peare (Hawkesbury Sports Council) Ruth Hart (Hawkesbury Independent)
In Attendance:	Esther Perry -Corporate Communication Manager Vanessa O'Donnell -Public Relations Coordinator Jeanette Kimber (Richmond Club)

REPORT:

1. Welcome to new committee

- Welcome given by Councillor Bassett.
- Councillor Bassett as Mayor to chair the Committee

2. Explanation of Constitution

- Explanation of constitution given by Ms Perry including objectives, awards and notification of meetings to the committee.

3. Selection of Winners of the following awards from public nominations:

- | | |
|------------------------------------|--|
| 1. Sports Medal Award | 28 Nominations - 20 Accepted |
| 2. Commitment to Sport Certificate | 16 Nominations for 10 Years - 17 Accepted
10 Nominations for 20 Years - 12 Accepted
10 Nominations for 30 Years - 5 Accepted |

Discussion

- Clarification of the criteria including the need for the recipients for the Sports Medal awards to have competed and represented the Hawkesbury at a district –level. The recipients have to be playing for a Hawkesbury representative team unless there is no representative team for their respective sport, in the Hawkesbury area.
- Noted that recipients can only receive one of the two awards being offered per year.
- Councillor Finch declared an interest in the first nomination and left the room at 5:14pm
- Councillor Finch re-entered the room at 5:17pm.

ORDINARY MEETING
Reports of Committees

Name	Award Nominated For	Committees Decision	Award to be Given
Dianne Finch	Sport Medal	Unanimously Accept	Sports Medal
Mr Wally Ridge	Certificate for 20 Years	Mr Ridge has only completed 15 years of service so only a 10 year certificate to be awarded	10 Year Certificate
Mrs Julie Smith	Medal And Certificate	To be given certificate as Mrs Smith has not represented for over 10 years as a representative at district, or higher level	10 Year Certificate
Mr Ken Birdsey	Medal and Certificate	Ms O'Donnell to clarify if he has represented as an umpire for 10 years -Subject to this a sports medal award to be awarded.	TO BE CLARIFIED
Mr Lance Johnson	Medal and Certificate	To be given certificate as Mr Johnson has not competed for over 10 years as a representative at district, or higher level	10 Year Certificate
Mr David Campbell	Medal and Certificate	To be given certificate as Mr Campbell has not competed for over 20 years as a representative at district, or higher level	20 Year Certificate
Mr Greg Douglass	Medal and Certificate	To be given certificate as Mr Douglass has not competed for over 10 years as a representative at district, or higher level	10 Year Certificate
Mr John Neilsen	Medal and Certificate	Ms O'Donnell to Clarify if he has competed at District or higher level for 10 years - Subject to this a sports medal award to be given	TO BE CLARIFIED
Mr Glen Power	Medal and Certificate	To be given certificate as Mr Power has not competed for over 10 years as a representative at district, or higher level	10 Year Certificate
Mrs Judy Gray	Medal and Certificate	Unanimously Accept for Sport Medal	Sports Medal
Ms Rosalyn Morris	Certificate	Unanimously Accept	10 Year Certificate
Ms Olga Willcox	Medal and Certificate	Unanimously Accept for Sport Medal	Sports Medal
Mr Brian Beatty	Medal and Certificate	Unanimously Accept for Sport Medal	Sports Medal

ORDINARY MEETING

Reports of Committees

Name	Award Nominated For	Committees Decision	Award to be Given
Mr Terry Jacobs	Medal and Certificate	Unanimously Accept for Sport Medal	Sports Medal
Mr Brendan Grocott	Medal and Certificate	To be given certificate as Mr Grocott has not competed for over 10 years as a representative at district, or higher level	10 Year Certificate
Ms Christine Grocott	Medal and Certificate	To be given certificate as Ms Grocott has not competed for over 10 years as a representative at district, or higher level	10 Year Certificate
Mr Alex Wlibow	Medal and Certificate	To be given certificate as Mr Wilbowhas not competed for over 10 years as a representative at district, or higher level	30 Year Certificate
Mr Steve Richards	Certificate	Unanimously Accept	20 Year Certificate
Mr Brett Reeves	Certificate	Unanimously Accept	20 Year Certificate
Mr Graham Drury	Certificate	Unanimously Accept	20 Year Certificate
Mr Jack Everingham	Certificate	Unanimously Accept	30 Year Certificate
Mr Ray turner	Certificate	Unanimously Accept	10 Year Certificate
Mr Steve Spithill	Certificate	Unanimously Accept	20 Year Certificate
Mrs Sharon Gabriel	Certificate	Unanimously Accept	10 Year Certificate
Mr Ray Gabriel	Certificate	Unanimously Accept	10 Year Certificate
Ms Judy Hodgkins	Certificate	Unanimously Accept	20 Year Certificate
Mrs Tracey Boyd	Certificate	Unanimously Accept	10 Year Certificate
Mr Paul Boyd	Certificate	Ms O'Donnell to Clarify if Mr Boyd's 29 years of contribution is going into 30 years this year or next year - to clarify if he receives a 20 year or 30 year certificate this year.	TO BE CLARIFIED
Mr Stephen O'Keefe	Sport Medal	Unanimously Accept	Sports Medal
Peter Forrest	Sport Medal	Unanimously Accept	Sports Medal
Mr Hugh McKay	Sport Medal	Unanimously Accept	Sports Medal
Mr Ian Forrest	Certificate	Unanimously Accept	10 Year Certificate
Mr Anthony Kershler	Sport Medal	Unanimously Accept	Sports Medal
Mr Tim Parmenter	Sport Medal	Unanimously Accept	Sports Medal
Mr Adam Cook	Sport Medal	Unanimously Accept	Sports Medal
Mr Andrew Sadler	Sport Medal	Unanimously Accept	Sports Medal
Mr Geoff Allen	Sport Medal	Unanimously Accept	Sports Medal
Mr Joe Allen	Sport Medal	Unanimously Accept	Sports Medal
Mr Robert Allen	Sport Medal	Unanimously Accept	Sports Medal
Mrs Janice Earle	Certificate	Unanimously Accept	30 Year Certificate
Ms Denise Allen	Certificate	Unanimously Accept	20 Year Certificate
Ms Megan Bertenshaw	Sport Medal	David Bertenshaw declared an interest in this vote and refrained from voting.	Sports Medal

ORDINARY MEETING
Reports of Committees

Name	Award Nominated For	Committees Decision	Award to be Given
		Unanimously Accept	
Ms Tanya Sullivan	Certificate	Unanimously Accept	30 Year Certificate
Ms Cheryl Dykers	Certificate	Unanimously Accept	20 Year Certificate
Ms Sue Orr	Certificate	Decision to change the category of nomination so that a sports medal be considered and Unanimously Accepted	Sports Medal
Mrs Janine Humphreys	Certificate	Decision to change the category of nomination so that a a sports medal be considered and Unanimously Accepted	Sports Medal
Ms Elspeth Nicholls	Certificate	Unanimously Accept	10 Year Certificate
Ms Faye Woods	Certificate	Unanimously Accept	20 Year Certificate
Mr John Dillon	Certificate	Unanimously Accept	10 Year Certificate
Ms Pip North	Certificate	Unanimously Accept	20 Year Certificate
Ms Jennifer Dillon	Certificate	Unanimously Accept	10 Year Certificate
Mr Ken Ridge	Certificate	Unanimously Accept	30 Year Certificate
Mr Peter Nelson	Certificate	Unanimously Accept	20 Year Certificate
Ms Gail Bessell	Certificate	Unanimously Accept	10 Year Certificate

4. General Business

- Ms Perry discussed the other awards that the committee will meet to discuss and decide in the future. These are mainly the Australia Day Awards. Ms Perry highlighted other Council supported or sponsored awards that are judged by other means but that may come to the committee including School Citizenship awards and the Natalie Burton Award..
- 1. Discussion of nominees for Queens Baton Relay March 2006
 - Ms Perry presented the information on the Queens Baton Relay to be held as part of the Commonwealth Games in Melbourne in March 2006 and asked the committee to consider nominating Individuals for this honour.
 - Committee unanimously decided to nominate "Jean Peare" who is involved in sister city, Hawkesbury Netball, Hawkesbury Sports Council and is a member of the Hawkesbury Civic and Citizenship Committee.
- 2. NSW Fair Trading Awards – nomination of individual or organisation within the community for numerous awards
 - Ms Perry presented the information and the committee noted the information.

5. Next Meeting

No date was set down for the next meeting.

The meeting closed at 5:55pm

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Community Planning Advisory Committee - 15 September 2005 - (96737, 95498)

The meeting commenced at 9:30am.

Present:	Councillor Rex Stubbs, Hawkesbury City Council Councillor Ted Books, Hawkesbury City Council Mr Roger Packham, Community Member Ms Faith Christie, Hawkesbury Skills Inc. Ms Lyn Saville, Hawkesbury District Health Services Ms Trish Oxford, NSW Department of Community Services Mr Nick Sabel, Wentworth Community Housing Association Ms Fiona Luckhurst-Khan, Nepean Migrant Access Inc. Ms Tracy Leahy, Hawkesbury/Nepean Community Legal Centre
Apologies:	Mr Mike Wildman, The Adolescent & Family Resilience Project Ms Leanne Tobin, Community Member Mr Peter Blanchard, Hawkesbury District Health Services Mr Malcolm Ryan, Hawkesbury City Council
In Attendance:	Mr Michael Laing, Hawkesbury City Council Ms Julie Sinclair (Minute Secretary)

REPORT:

ITEM 1 & 2: Welcome & Apologies

DISCUSSION:

- Committee Members introduced themselves and provided brief descriptions of their individual roles. All members were welcomed to the first meeting of the Community Planning Advisory Committee.
- Apologies were advised and received by all present members.

ITEM 3: Committee Constitution

DISCUSSION:

- Ms Leanne Tobin of the Darug Custodian Aboriginal Corporation will not be retaining membership on this Committee, due to personal reasons. A new representative will be appointed and the Committee advised, at a later date.
- Item 7 - "Procedures & General" - it was confirmed that Ordinary meetings of the Advisory Committee, shall be held no less than 4 (four) times per year and Special Meetings may be convened at the discretion of the Chairperson, or in his/her absence, the Deputy Chairperson.

MOTION

RESOLVED on the motion of Councillor Rex Stubbs, seconded by Councillor Ted Books.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The Constitution for the Community Planning Advisory Committee be adopted.

ITEM 4: Appointment of Chairperson & Deputy Chairperson

DISCUSSION:

- It was unanimously agreed by all Committee members to nominate the present Councillors to Chair & Deputy Chair this Committee.

MOTION

RESOLVED on the motion of Councillor Ted Books, seconded by Ms Lyn Saville.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. Councillor Rex Stubbs be appointed as the Chairperson of the Community Planning Advisory Committee.

RESOLVED on the motion of Ms Lyn Saville, seconded by Councillor Rex Stubbs.

2. Councillor Ted Books be appointed as Deputy Chairperson of the Community Planning Advisory Committee.

ITEM 5: Strategic Plan - 'Community/Lifestyle' Objectives

DISCUSSION:

- Committee members reviewed a revised version of Council's 2005/2006 Strategic Plan, which provides a 6 (six) month extension to the Committee with regards to researching the following tasks:
 - The Hawkesbury Futures Demographic Study (Study to be presented to Council - March 2006).
 - Liveability Index Equation (Index to be calculated - July 2006).
 - Civic Index / Diversity Index (Establishment of the Index - June 2006).

Current budget available for the Committee to complete this task is set at \$10,000.00

MOTION

RESOLVED on the motion of Councillor Ted Books, seconded by Mr Roger Packham.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. All members note the extension period.
2. Committee members discuss the 3 (three) strategic tasks, as set by the 2005/2006 Strategic Plan in further detail at the next meeting.

ITEM 6: Hawkesbury Community Plan 2005

DISCUSSION:

- The Hawkesbury Community Plan 2005 projects planning within the Hawkesbury LGA, over a 5 (five) year period.

MOTION

RESOLVED on the motion of Ms Faith Christie, seconded by Ms Lyn Saville.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. Committee members review the Hawkesbury Community Plan 2005, and provide comments to Council's Assistant Strategic Planner by 14 October 2005, with a view to presenting the final draft for adoption by Council in November 2005.

ITEM 7: WSAAS Local Ranking Committee

DISCUSSION:

- Community representatives that are active in both Committees (Community Planning Advisory Committee & WSAAS Local Ranking Committee) need to have direct reporting roles to Council. If these members are not located within the Community Planning Committee, then the remaining available community memberships shall be advertised externally.
- The first meeting of the Local Ranking Committee is scheduled for 9:30am on Thursday, 20 October 2005 at Council Offices.
- The Committee request 'expressions of interest' from standing Local Ranking Committee members, to ascertain if they are wanting to extend their involvement in this Committee for the next 2 (two) years.
- The following Committee members were nominated as community representatives to the Local Ranking Committee:
 - Ms Tracy Leah (Chairperson)
 - Ms Faith Christie
 - Ms Lyn Saville
 - Ms Sigrid Wilson

ORDINARY MEETING
Reports of Committees

MOTION

RESOLVED on the motion of Councillor Ted Books, seconded by Mr Nick Sabel.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. Council staff provide Committee members with a copy of the current funding criteria for projects forwarded to the Local Ranking Committee to determine eligible applications in order of priority (e.g. High, Medium or Low).
2. The Committee extend an 'Expression of Interest' to the 3 (three) standing Local Ranking Committee members, to ascertain if they would like to extend their current membership.

ITEM 8: General Business

DISCUSSION:

- Committee members were provided with a copy of a document titled, "Measuring Up - A Framework for Government Social Performance Reporting in NSW." The NCROSS model for social performance, *Social Results for NSW* is a set of robust indicators that measure the institutional performance of Government against standards of social well being that are reported against annually, with the results made public.

MOTION

RESOLVED on the motion of Mr Michael Laing, seconded by Mr Roger Packham.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be noted.

The meeting closed at 10:50am.

Date of Next Meeting:

Community Planning Advisory Committee 9:30am on Thursday, 10 November 2005

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Waste Management Advisory Committee - 5 October 2005 - (95249, 95498)

The meeting commenced at 3:05pm.

Present: Councillor Trevor Devine
Councillor Bob Porter
Assoc. Professor Basant Maheshwari

Apologies: Mr Robert Dennis
Mr Rick Smith
Mr Steven Riley
Mr Barry Ryan
Ms Dianne Tierney
Mr Garry Baldry

In Attendance: Mr Malcolm Ryan
Ms Julie Sinclair (Minute Secretary)

RESOLVED on the motion of Councillor Bob Porter and seconded by Mr Malcolm Ryan that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Trevor Devine and seconded by Mr Malcolm Ryan that the Minutes of the Waste Management Advisory Committee held on 1 June 2005, be confirmed.

REPORT:

Item: 3 Waste Management Position Paper - Final Consultant's Report (95249, 95498)

DISCUSSION:

- The Waste Management Facility has 14-17yrs of service remaining.
- Compaction rates have improved with the new machinery in use.
- The 'face' of the facility, will now contain a cement ledge that the public can drive up to, and remove their waste and place it into specific bins for different waste materials (e.g. green waste).
- The Committee discussed the possibility of removing recycled material from cells and distributing it amongst the existing open cell, re-compacting the material to gain more life out of each individual cell.
- The removal of all metals, etc from the waste to be recycled and sold was discussed as a possible way to reduce the levels of waste in each cell.

MOTION:

RESOLVED on the motion of Councillor Bob Porter, seconded by Assoc. Professor Basant Maheshwari.

Refer to RECOMMENDATION TO COUNCIL

RECOMMENDATION TO COUNCIL:

That Council:

1. Adopt Option Two " Improve Current Systems", which will increase the expected landfill life to 14-17 years.
2. Provide future information dissemination on Council's Waste Strategy through the most popular sources of information such as newspaper, rates notice and information on the website as identified within the community consultation.
3. Continue with the proposed Drop off Facility and Education Centre to facilitate improved sorting of materials by residents and further reduce the amount of recyclable materials currently landfilled.
4. Engage the services of a suitably qualified person to research and develop an "Operational Strategy", that identifies future market opportunities for materials received, reprocessed or recycled at the waste management facility.
5. Engage the services of a suitably qualified person to develop and implement an ongoing community waste education program targeted towards the mature area of the community. As the younger generation receives adequate education through the school curriculum. A key area of focus on reducing recyclables sent to landfill within the "Kerbside Domestic" waste stream.
6. Ensure the tip face is contained within a small daily area (25mx25m) to reduce the amount of cover material (soil) and increase compaction rates.
7. Canvass and implement appropriate alternative cover material options.
8. Notify the strategic planning committee that the task "*Selection of preferred technology for alternative waste disposal*" be deferred until 2010.
9. Negotiate Lease extension opportunities with the University of Western Sydney Hawkesbury Campus.
10. Update the waste and recycling audit data annually.
11. Utilise the existing Waste Advisory Committee to implement recommendations and maintain a forum to review waste service management options. It is recommended that this committee convene six monthly.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. Committee members be provided with a brief, regarding the re-opening & removal of waste material from old cells at the previous Waste Site and investigate the possibility of reusing these cells.
2. A media release be produced from the data contained within this report, for the information of Council.

Item: 4 Management Issues of Current Landfill - (95249, 95498)

DISCUSSION:

- The Waste Management Facility is currently operating within budget.
- Quotes have been obtained from 3 manufacturers:
 - Bomac
 - Tanner
 - Caterpillar

MOTION:

RESOLVED on the motion of Councillor Bob Porter, seconded by Assoc. Professor Basant Maheshwari.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be noted.
2. Staff provide Committee members with a brief regarding the three (3) quotes received from manufacturers that can provide machinery to crush and screen, concrete & masonry into products that are suitable as sub base materials for road construction and suitable for the D.I.Y market, as sub strata's for paving, etc.
3. An update be provided to the Committee, with regards to the stockpiles of green waste and wood waste mulch

Item: 5 Update on Field Visits - Lismore City Worm Farm, Bedminster Facility at Port Stephens, and UR3R Facility at Eastern Creek - (95249, 95498)

DISCUSSION:

- The vermiculture facility used to deal with a component of the waste stream of the Lismore City community, is not operating in the manner to which they believed it would, when first introduced.
- Kerbside Pickups be reviewed in 2006 - provide 1 (one) Annual Kerbside Collection for residents.
- Green waste is another service that Council can provide for 'free', if construction of the Waste Management Facility is not required for a further 15-17 years.

MOTION:

RESOLVED on the motion of Councillor Bob Porter, seconded by Assoc. Professor Basant Maheshwari.

Refer to COMMITTEE RECOMMENDATION

ORDINARY MEETING
Reports of Committees

COMMITTEE RECOMMENDATION:

That:

1. The information be noted.
2. Site visits to be organised to the Bedminster Facility and the UR3R Facility for Councillor Devine, Councillor Porter and Assoc. Professor Basant Maheshwari.
3. Staff to report back to Committee Members with regards to 'Revenue Trends'.

The meeting terminated at 3:50pm.

Future Meeting Dates - 2006:

Waste Management Advisory Committee MeetingMonday, 20 February 2006 - 3pm
Waste Management Advisory Committee MeetingMonday, 14 August 2006 - 3pm

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Strategic Planning Advisory Committee - 17 November 2005 - (91368, 95498)

Minutes of the Meeting of the Strategic Planning Committee held in Council Committee Rooms, Windsor, on Tuesday, 13 December 2005, commencing at 7:05pm.

ATTENDANCE

Present: Councillor Bart Bassett
Councillor Rex Stubbs
Councillor Trevor Devine
Councillor Dianne Finch
Councillor Neville Wearne
Councillor Kevin Conolly
Councillor Barry Calvert
Mr Robert Woog
Ms Denise Handcock
Mr Alan Eagle
Mr Malcolm Ryan

Apologies: Mr Brian Lindsay
Mr Graeme Faulkner
Mr Stephen Philips

In Attendance: Ms Fiona Mann
Ms Julie Sinclair (Minute Secretary)
Ms Jan Readford

RESOLVED on the motion of Mr Alan Eagle and seconded by Councillor Dianne Finch that the apologies be accepted.

CONFIRMATION OF MINUTES

RESOLVED on the motion of Councillor Neville Wearne and seconded by Councillor Trevor Devine that the Minutes of the Strategic Planning Committee held on the 18 August 2005, be confirmed.

Urban Agriculture - The New Frontier - Mr David Mason

DISCUSSION:

- Committee Members were provided with documentation titled, 'Table 1 - The continuation of Urban Agriculture in the Sydney Region and Associated Values / Benefits.'
- 1,500 - 2,000 people are currently employed by Agriculture within the Hawkesbury LGA.
- The Department of Primary Industries have put measures in place to reduce the possibility of problems arising in wetlands with the Hawkesbury Area with regards to migrating birds and preventing their interaction with free range birds.
- Genetically modified foods were seen and suggested as a way of the future by the Department, but it is understood that Council has a policy in place with regards to GM foods within the Hawkesbury.

MOTION:

RESOLVED on the motion of Councillor Trevor Devine, seconded by Councillor Rex Stubbs.

RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be received.

Item: 1 Selection of Preferred Technology for Alternative Waste Disposal - (91368, 95498)

DISCUSSION:

- Port Stephens Council were experiencing difficulties in marketing/selling their compost, as it contains significant amounts of glass within the compost. They have since installed a de-stoning machine to remove all traces of the glass, and have had this system in place for five (5) years.
- Hawkesbury City Council has regular, large quantities of animal carcasses arriving at the Waste Depot, for disposal. These are predominantly chicken and horse carcasses.
- Staff organise to provide Committee Members with 'costings' relating to the cost per bin being lifted, etc.
- 15 hectares is available on the existing site. This is within Council's freehold title.

RECOMMENDATION TO COMMITTEE:

That:

1. The Committee report to Council advising to defer the selection of a preferred technology for an alternative waste disposal, until 2010.

MOTION:

RESOLVED on the motion of Councillor Trevor Devine, seconded by Councillor Rex Stubbs.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The Committee report to Council advising to defer the selection of a preferred technology for an alternative waste disposal, until 2010.

Item: 2 Technology-Business Park - (91368, 95498)

DISCUSSION:

- The A.C.T. has an extremely successful 'Technology Park', which is similar to that planned for Richmond.
- Staff to provide Committee with copies of a brief released by the Department of Planning.
- It is important that the proposed Technology Park at Richmond has a sense of community, has childcare and sporting facilities available, and that all needs of the residents are met / taken into consideration when developing this site.

RECOMMENDATION TO COMMITTEE:

That:

1. A strategic alliance be sought with the University of Western Sydney (UWS) for the purpose of evaluating integrated working arrangements with the Department of Defence and to conduct a master plan for a technology-business park precinct
2. A strategic alliance be sought with the Department of Defence (DoD) and with the private sector as appropriate for the purpose of facilitating workable arrangements arising under part 1 of this initiative.
3. An amount of up to \$40,000 plus incidentals be set aside from the Local Economic Development budget for the purpose of this initiative.
4. The matter be further reported to Council via the Strategic Planning Committee.

MOTION:

RESOLVED on the motion of Councillor Rex Stubbs, seconded by Councillor Trevor Devine.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. A strategic alliance be sought with the University of Western Sydney (UWS) for the purpose of evaluating integrated working arrangements with the Department of Defence and to conduct a master plan for a technology-business park precinct.
2. A strategic alliance be sought with the Department of Defence (DoD) and with the private sector as appropriate for the purpose of facilitating workable arrangements arising under part 1 of this initiative.
3. An amount of up to \$40,000 plus incidentals be set aside from the Local Economic Development budget for the purpose of this initiative.
4. The matter be further reported to Council via the Strategic Planning Committee.

Item: 3 Public Private Partnerships and Macquarie Street, Windsor - Expression of Interest - Update - (91368, 95498)

DISCUSSION:

- Public Private Partnerships can work.
- With regards to revenue generation, staff advised that Council will need to be specific and have a clear vision on what they want/expect from the partnership.
- The Committee be part of a process that provides guidance to Council on a suitable re-development vision (content - buildings, land uses, etc) likely to best meet the strategic outcomes desired for the lands.
- The Committee actively identify and recommend those assets that should be considered by Council, for development under the model.

RECOMMENDATION TO COMMITTEE:

That:

1. The Strategic Planning Committee receive the information, noting the compliance issues associated with the changes to the Local Government Act with regard to public-private partnerships.
2. The Strategic Planning Committee identifies those assets considered most suitable for operational use under a public-private partnership arrangement and report further to Council on the type of development opportunities that may apply to those assets.
3. Consideration be given to the governance and management requirements of a public-private partnership project as stipulated by the Department of Local Government and how best to resource those requirements when contemplating the 2006/7 financial year budget for Council.

MOTION:

RESOLVED on the motion of Councillor Stubbs, seconded by Councillor Finch.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The Strategic Planning Committee receive the information, noting the compliance issues associated with the changes to the Local Government Act with regard to public-private partnerships.
2. The Strategic Planning Committee identifies those assets considered most suitable for operational use under a public-private partnership arrangement and report further to Council on the type of development opportunities that may apply to those assets.
3. Consideration be given to the governance and management requirements of a public-private partnership project as stipulated by the Department of Local Government and how best to resource those requirements when contemplating the 2006/7 financial year budget for Council.

Item: 4 Royal Australian Air Force - Airshow 2006 - (91368, 95498)

DISCUSSION:

- General consensus amongst Committee members was that the Airshow is definitely a major RAAF and Hawkesbury event.
- The Airshow 2006 will attract many local and visitors to the Hawkesbury pre, during and post airshow days.
- Local businesses, mainly the accommodation, food and beverage, and cultural sectors have the potential to capture extra market exposure and therefore, boost the local economy.

RECOMMENDATION TO COMMITTEE:

That:

1. The Royal Australian Air Force Airshow 2006 at Richmond Airbase in October 2006 be supported.
2. Develop communications and sponsorship strategies for the Airshow 2006 to support the efforts of the Royal Australian Air Force.
3. Explore and if feasible, develop offsite Airshow 2006 activities to expand and support the airshow with an objective for local business and other relevant businesses to capture extra market expenditure/exposure.
4. Invitations are sent to Hawkesbury Tourism, and other relevant tourism associations, and local business associations to be involved in (1), (2) and (3) above.
5. Council Officers liaise with the Royal Australian Air Force and determine Council operational actions for the Airshow 2006 as required.

MOTION:

RESOLVED on the motion of Councillor Dianne Finch, seconded by Councillor Neville Wearne.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The Royal Australian Air Force Airshow 2006 at Richmond Airbase in October 2006 be supported.
2. Develop communications and sponsorship strategies for the Airshow 2006 to support the efforts of the Royal Australian Air Force.
3. Explore and if feasible, develop offsite Airshow 2006 activities to expand and support the airshow with an objective for local business and other relevant businesses to capture extra market expenditure/exposure.
4. Invitations are sent to Hawkesbury Tourism, and other relevant tourism associations, and local business associations to be involved in (1), (2) and (3) above.
5. Council Officers liaise with the Royal Australian Air Force and determine Council operational actions for the Airshow 2006 as required.

6. Discussion with the appropriate authorities commence (e.g. RTA), regarding transport issues and public transport facilities surrounding this event.

Item: 5 Developing an Asset Management Program for Existing Infrastructure and Lobby for Increased Funding - (91368, 95498)

DISCUSSION:

- Council has recently completed an Asset Management Priority Assessment, and a ten year Financial Model for management of its existing infrastructure assets.
- As a result of the current financial environment, many of Council's infrastructure assets have deteriorated due to reduced funding.

RECOMMENDATION TO COMMITTEE:

That:

1. The Committee endorse the proposed draft 'Terms of Reference' for this Strategic Task.

MOTION:

RESOLVED on the motion of Councillor Stubbs, seconded by Councillor Wearne.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The Committee endorse the proposed draft 'Terms of Reference' for this Strategic Task, in light of comments raised at the Committee Meeting, with the following amendments:
 - a) *Council's current asset management program/processes/plans.*
This will provide a summary/overview of current council controlled:
 - *Infrastructure assets (categories, stock).*
 - *Information management systems.*
 - *Current asset management programs/processes/plans.*
 - *Identify gaps and improvement needs.*
 - b) *Strategy for existing asset management.*
This will outline some short-term asset management strategies, such as:
 - *Prioritising for preservation of service potential of existing assets.*
 - *Managing more efficiently what we have.*
 - *'Not creating' any new assets that we cannot afford to manage and maintain.*
 - *Councillor and management should restrain from creating community expectation for non-essential assets and services.*
 - *Council be asked to establish clear guidelines describing essential and non-essential services.*

ORDINARY MEETING
Reports of Committees

- *Including life cycle costing analysis in asset management and planning.*
 - *Allocating additional maintenance funding commensurate with new assets created/built.*
 - *Considering asset rationalisation i.e. reducing level of service and/or decommissioning low use or unwanted infrastructure assets.*
 - *Redirecting Council's non-essential capital expansion funding to asset renewal.*
 - *Putting in place a strict moratorium/freeze on 'non-essential' new asset development.*
 - *Developing sustainable project/program for council funding guideline and assessment criteria.*
 - *Making a concerted effort to coordinate and identify opportunities for sourcing additional funding from external bodies.*
- c) *Future directions with the Strategic Council Asset Management Program:*
- *Definition of Strategic Council Asset Management.*
 - *Rationale/Justification.*
 - *Pre-requisites (for successful Strategic Council Asset Management).*
 - *International Best Practice.*
 - *Asset Management Plans.*
 - *Asset Management Improvement Planning.*

Item: 6 Hawkesbury Agricultural Retention through Diversification and Clustering (HARtDaC)
- (91368, 95498)

DISCUSSION:

- Funding needs to be sought from a Federal levels.
- Council does not have the funds to support or proceed with the Agricultural Retention Strategy.
- Councillor Devine requested that the Minutes reflect his decision to support that the information be received only. He did not support the later two recommendations.

RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.
2. The HARtDaC Project report and recommendations be reported to Council.
3. The recommendations and Strategic Directions be referred to the Corporate Response Unit for analysis.

MOTION:

RESOLVED on the motion of Councillor Rex Stubbs, seconded by Councillor Dianne Finch.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be received.
2. The HARTDaC Project report and recommendations be reported to Council.
3. The recommendations and Strategic Directions be referred to the Corporate Response Unit for analysis.

Item: 7 Strategic Task - Identify Objectives for all Directorates that arise from the Hawkesbury Social Plan 2005/2010 - Draft Terms of Reference - (91368, 95498)

RECOMMENDATION TO COMMITTEE:

That:

1. The committee adopt the draft terms of reference for the Strategic Task - "Identify objectives for all Directorates that arise from the Hawkesbury Social Plan 2005-2010."

MOTION:

RESOLVED on the motion of Councillor Rex Stubbs, seconded by Councillor Dianne Finch.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The committee adopt the draft terms of reference for the Strategic Task - "Identify objectives for all Directorates that arise from the Hawkesbury Social Plan 2005-2010", as listed below:
 - a) Strategies need to be linked to broad objectives in the Hawkesbury Social Plan (Hawkesbury Community Plan 2005-2010).
 - b) Strategies need to identify the directorate responsible for implementing and monitoring the strategy.
 - c) Strategies need to be measurable and include timeframes and outcome measures.
 - d) Strategies need to be consistent with Council's Strategic Directions and Annual Budget for each directorate (strategies not budgeted for need to identify alternative sources of funding and a business plan).

ORDINARY MEETING
Reports of Committees

Item: 8 State, Regional and Federal Policies - (91368, 95498)

DISCUSSION:

- Staff to provide Committee members with an A3 size version of the listing containing the relevant State, Regional and Federal Policies and Strategies impact the Hawkesbury.

RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.

MOTION:

RESOLVED on the motion of Councillor Neville Wearne, seconded by Councillor Rex Stubbs.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The information be received.

Item: 9 CP - Strategic Issues Facing the City - (95498)

DISCUSSION:

- Sydney Airport Corporation would have first rights to the future use of the Richmond RAAF Base over Hawkesbury City Council, with regards to any future development to this land.
- Council needs to provide accurate information to residents downstream of Sackville and Council cannot currently provide this information.

RECOMMENDATION TO COMMITTEE:

That:

1. The Committee set-aside time for a workshop or discussion group on the issues mentioned above, together with others, on the short to medium term effect on the city's economy and environment.

MOTION:

RESOLVED on the motion of Councillor Bart Bassett, seconded by Councillor Neville Wearne.

Refer to COMMITTEE RECOMMENDATION

ORDINARY MEETING
Reports of Committees

COMMITTEE RECOMMENDATION:

That:

1. A date be set for February 2006, to facilitate a workshop/discussion group, together with others, to discuss short to medium term effects on the city's economy and environment. Matters for discussion to include:
 - a. Rural lands vs Urbanisation - where should this take place?
 - b. Transfer Development Rights - is this a tool for the management of our lands?
 - c. Development of RAAF Base and Surrounding Lands - what future should the airport have?
 - d. Maintenance and Infrastructure vs Income from Growth.
 - e. Northwest Rail; M7 City West Orbital; Richmond Road and the Bells Line of Road Proposals.
 - f. Management of Flood Liable Lands - lack of detailed information.
 - g. Affects of the construction of Flood Evacuation Routes in the main street in Windsor

The meeting terminated at 9:15pm.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees

ROC - Floodplain Risk Management Committee - 21 November 2005 - (86589, 95498)

The meeting commenced at 4.05pm.

Present:	Councillor Kevin Conolly Councillor Trevor Devine Councillor Bob Porter Councillor Ted Books Mr David Avery Mr John Miller Mr Peter Cinque Mr Kevin Jones Mr David Scott
In Attendance:	Mr Malcolm Ryan Ms Julie Sinclair (Minute Secretary) Mr Philip Pleffer Mr Chris Amit

REPORT:

RESOLVED on the motion of Councillor Trevor Devine and seconded by Councillor Bob Porter, that the Committee address Item 5 of the Business Paper as a matter of priority, given the content and relativity of the content contained within the Report.

Item: 5 Functionality of the Committee - (86589, 95498)

RECOMMENDATION TO COMMITTEE:

That:

1. The information be received.

MOTION:

RESOLVED on the motion of, and seconded by all present Committee members.

Refer to COMMITTEE RECOMMENDATION

COMMITTEE RECOMMENDATION:

That:

1. The Floodplain Risk Management Committee be disbanded, forthwith.
2. Council delegate responsibility of all functions of this Committee to the General Manager, pending:

ORDINARY MEETING
Reports of Committees

- a. Receipt of the approval of the Minister of Local Government authorising members of the Committee and Council, who have a pecuniary or conflict of interest to participate in voting on matters pertaining to floodplain management.
- b. Reconstitution of the Committee, which should be, progressed as a matter of urgency, cognisant of the pecuniary of interest provisions of the Local Government Act, 1993.

The meeting terminated at 4:20pm.

oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

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