



Hawkesbury City Council

supplementary ordinary meeting business paper

date of meeting: 31 May 2005

location: council chambers

time: 5:00 p.m.

ORDINARY MEETING - Supplementary

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SECTION 4 - Reports for Determination

SUPPLEMENTARY REPORTS

Item :173 GM B - Letter from Minister for Environment and Heritage - Japanese Fisheries Agency (JFA) - New Whaling Programme in the Southern Ocean (79531)

ATTACHMENTS:

AT - 1 Letter from Senator the Hon Ian Campbell dated 19 May, 2005

AT - 1 Letter from Senator the Hon Ian Campbell dated 19 May, 2005



SENATOR THE HON IAN CAMPBELL
Minister for the Environment and Heritage
Senator for Western Australia

Mayor Bart Bassett
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756

19 May 2005

Dear Mayor

I write to you in relation to a proposal by the Japanese Fisheries Agency (JFA) to embark on a new whaling programme in the Southern Ocean.

Japan has recently submitted a proposal to the International Whaling Commission on the JFA's new scientific whaling programme to commence this summer (2005/06). This programme will double the number of Antarctic minke whales targeted in the past, and will also include the taking of threatened humpback and fin whales.

The JFA exploits a loophole in the International Convention for the Regulation of Whaling and issues special permits to authorise the killing of whales in the name of scientific research.

The JFA's actions are in direct defiance of a Resolution passed by the International Whaling Commission in 2003 that calls on it to use only non-lethal methods for research.

The Australian Government does not support commercial whaling in any manner or form. Australia's position is clear. Science cannot be a justification for killing whales.

Research undertaken by the Australian Government shows that non-lethal research methods do exist. Non-lethal techniques can, and should, be used in all circumstances.

It is also worth noting that the humpback whales that will be targeted by the JFA's programme are from the populations that migrate past the east and west coasts of Australia. More than 1.6 million local and international tourists participate in whalewatching activities.

I am writing to you personally to let you know my concerns, and the strength of feeling in the Australian community. I urge you to write to your Japanese sister city to seek their support in lobbying the Japanese Government to end the JFA's *de facto* commercial whaling that is carried out under the pretext of scientific research, and to utilize non-lethal research methods in their research of whales.

Canberra
Parliament House, Canberra ACT 2600
Telephone: 02 6277 7640
Fax: 02 6273 6101

Perth
GPO Box B58, Perth WA 6838
Telephone: 08 9325 4227
Fax: 08 9325 7906

20 MAY 2005

Copy to Records

Enclosed is an article I have recently submitted to the Australian media, identifying my concerns and actions in relation to the JFA's new whaling programme.

I look forward to receiving a copy of the correspondence you send to your sister city.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Campbell', written in a cursive style.

IAN CAMPBELL

Cc Kerrie Bartlett MP

STEPS TO RECOVERY: PROTECTING WHALES

Since 1991 whale watchers have spotted “Migaloo”, possibly the world’s only pure white humpback whale, off the Queensland coast each year during the whale’s annual migration.

But there is a real fear that Migaloo’s life – along with many other humpback whales and minke and fin whales – is in danger.

Next month Japan will take a proposal to the International Whaling Commission (IWC) to more than double its current annual hunt of the Antarctic minke whale. Even more disturbing is Japan’s plan to resume whaling of threatened populations of fin and humpback whales in the Southern Ocean.

Australia recently celebrated over 25 years of whale conservation. Only now are we starting to see the recovery of some depleted populations. The Government is finalising comprehensive strategic plans for threatened whales to ensure their long-term protection and recovery.

Southern right whales and humpback whales are becoming a seasonal highlight as they migrate in growing numbers from the Antarctic waters to our warmer coastal waters to breed. The song of the humpback is being heard once more.

Australians hold a great affection for these creatures and are appalled at the use of science as a cover for the resumption of commercial whaling.

The Australian Government, including the Prime Minister, has taken Australia’s concerns to the highest levels with Japanese officials in Australia, Japan and at a recent meeting at the United Nations in New York. While we hope that diplomatic action will help Japan reassess and pull back from its plan, history suggests we cannot be confident.

The difficulty is that most of the Japanese Fisheries Agency’s proposed whale slaughter is in Australia’s Antarctic waters. Intercepting whalers in this area, as a last resort, would raise objections from the many countries that do not recognise Australia’s jurisdiction in these waters. It would be a different story if the Japanese Fisheries Agency (JFA) were to attempt to take whales from recognised Australian waters (such as the 200 nautical mile Exclusive Economic Zone off Heard Island and McDonald Islands).

The best chance Australia has of stopping the JFA from pursuing its plans is by removing an outdated loophole in the International Convention for the Regulation of Whaling (ICRW) that allows for so-called “scientific” whaling.

Currently the IWC is unable to regulate scientific whaling programs. Under the rules of the IWC any member country can issue permits to its own nationals to take as many whales as they specify ostensibly for the purposes of “science”. The proposals may receive harsh criticism within the IWC, but the proposing country is under no obligation to answer these or to alter their catch in response.

The JFA has been exploiting this loophole to conduct commercial whaling under the guise of scientific research. It is understood that sales of whale meat produced by the scientific whaling amount to more than \$60 million a year.

Australia, along with other like-minded IWC-member countries including the US, the UK and New Zealand, has been working hard to reform the IWC in recent years. Australia in particular has worked to pursue conservation outcomes within the IWC.

This new whaling proposal adds even greater urgency to efforts to amend the Convention and remove the loophole that allows scientific whaling. The IWC has already declared the Southern Ocean to be a sanctuary from commercial whaling. This sanctuary is directly undermined by the JFA's scientific whaling program, which targets the Southern Ocean minke, fin and humpback whales.

The JFA's new scientific whaling proposal immediately follows an 18-year program that led to the killing of almost 7000 Antarctic minke whales - this is during a time when a complete international ban on commercial whaling is supposedly in place.

According to media reports, Japan is proposing a program that would, if continued for another 18-year period, take about 17,000 minke whales along with 800 humpback whales and 800 fin whales. This cannot be disguised as science. This is full-scale commercial whaling – and a slaughter of one of the largest and most intelligent creatures on our planet.

It is time to consign scientific whaling to the past and bring the IWC into the new millennium. Our goal is to amend the IWC Convention and remove the loophole that allows for scientific whaling.

This generation of humankind will be judged in part by the way we treat these amazing creatures with whom we share this planet. Australia will not only continue to fight to save this important species, we will lead this historic mission.

(742 words)

Senator Ian Campbell

Australian Minister for the Environment and Heritage

oooO END OF REPORT Oooo

Item: 174 **GM B - Terms of Reference - Kurrajong Tree Investigation, NSW Ombudsman and ICAC Referral - (79351, 80592, 80928)**

ATTACHMENTS:

- AT - 1** Letters to ICAC and NSW Ombudsman regarding the Kurrajong Tree Investigation.
- AT - 2** Letter of response from the NSW Ombudsman.
- AT - 3** The Terms of Reference for the investigation as based on the transcript of Council's proceedings and the resolution at the Ordinary Meeting of 22 February 2005.
- AT - 4** Transcript of Council's proceedings and the resolution at the Ordinary Meeting of 22 February 2005, with specific reference to Councillor Paine's Notice of Motion: *"Removal of Trees by Council in Kurrajong Village"*.

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AT - 1 Letters to ICAC and NSW Ombudsman regarding the Kurrajong Tree Investigation.

Attachment 1

Hawkesbury City Council



Our Ref: GF050422L912_RMF

22 April 2005

NSW Ombudsman
Level 24
580 George Street
SYDNEY NSW 2000

366 George Street
(PO Box 146)
Windsor NSW 2756
Phone: 02 4560 4444
Facsimile: 02 4560 4400
DX: 8801 Windsor

Dear Sir,

Re: Removal of Trees by Council at Kurrajong

I wish to advise that a number of complaints have been received by Hawkesbury City Council on the process employed by Council to remove three trees from the main street of Kurrajong on 15 February, 2005.

In considering these complaints, Council on the 22 February, 2005, resolved to request either the Ombudsman or an independent person to undertake an investigation into the allegations and report back to Council.

As Council had recently been through a tender process for legal services, it was determined that one firm amongst those solicitors that had tendered (albeit unsuccessfully) for Council legal services, be appointed to conduct the independent investigation. As the investigation will focus on the actions of Council staff and the conduct of some councillors, it was considered appropriate to appoint as the investigator a solicitor from a firm that does not have day to day dealings with the Council as a panel solicitor. It was considered that this would protect the effectiveness of the ongoing relationship between the Council and its panel solicitor in relation to day to day legal matters affecting the Council. This approach would also allow as much flexibility as possible for the independent investigator to make relevant findings free of actual or perceived constraints.

I enclose for your interest, a copy of the Terms of Reference for the investigation and Council's resolution on the matter determined on the 22 February, 2005. I also enclose a copy of the transcript of Council's discussion on this item at its meeting of 22 February, 2005 for your records.

Council has appointed Dr. Lindsay Taylor, of Lindsay Taylor Lawyers (formerly of Phillips Fox Solicitors) who has extensive experience in the area of Local Government in New South Wales. Dr. Taylor has commenced investigations and has publicly advertised for submissions on any matter relevant to this issue to be forwarded by close of business on 29 April, 2005.

Upon completion of Dr. Taylor's report, we shall forward a copy for your information.

Should you have any queries in this matter, please contact the undersigned.

Yours faithfully,

Graeme Faulkner
General Manager

Direct Line : 4560 4410

GF050422L912_RMF

Where people make the difference.

All communications to be addressed to the General Manager
P.O. Box 146, Windsor NSW 2756
Website: www.hawkesbury.nsw.gov.au
E-mail: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 8.30am - 5.00pm

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Meeting Date: 31 May 2005

Hawkesbury City Council

Our Ref: GF050422L913_RMF

22 April 2005

Independent Commission
Against Corruption (ICAC)
GPO Box 500
SYDNEY NSW 2001

Dear Sir/Madam,

Re: Removal of Trees by Council at Kurrajong

I wish to advise that a number of complaints have been received by Hawkesbury City Council on the process employed by Council to remove three trees from the main street of Kurrajong on 15 February, 2005.

In considering these complaints, Council on the 22 February, 2005, resolved to request either the Ombudsman or an independent person to undertake an investigation into the allegations and report back to Council.

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Should you have any queries in this matter, please contact the undersigned.

Yours faithfully,

Graeme Faulkner
General Manager

Direct Line : 4560 4410

GF050422L913_RMF

Where people make the difference.

All communications to be addressed to the General Manager
P.O. Box 148, Windsor NSW 2756
Website: www.hawkesbury.nsw.gov.au
E-mail: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 8.30am - 5.00pm

AT - 2 Letter of response from the NSW Ombudsman

Our Ref: E/2005/7204
Your Ref: GF050422L912_RMF

29 April 2005

Mr Graeme Faulkner
General Manager
Hawkesbury City Council
PO Box 146
WINDSOR NSW 2756

Dear Mr Faulkner

Re: Removal of Trees by Council at Kurrajong

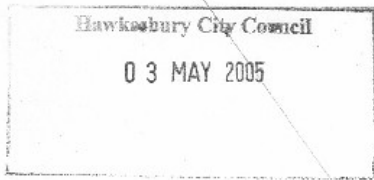
I refer to your letter dated 22 April 2005 advising us of the current investigation by Dr Lindsay Taylor into the conduct of council staff and some councillors relating to the removal of trees at Kurrajong.

Thank you for including the Terms of Reference for the investigation and council's resolution on the matter. I note your advice that this office will be provided with a copy of Dr Taylor's investigation report when completed.

Thank you for bringing this matter to our attention.

Yours sincerely


Sanya Silver
Complaints Officer
for the Ombudsman
Ph: (02) 92860964



 **NSW Ombudsman**

Level 24 580 George Street
Sydney NSW 2000
Phone 02 9286 1000
Fax 02 9283 2911
To free 1800 451 524
TTY 02 9264 8050
Web www.ombo.nsw.gov.au
ABN 76 325 886 267

 **SCANNED**

DataWorks Document Number: 1864599

AT - 3 The Terms of Reference for the investigation as based on the transcript of Council's proceedings and the resolution at the Ordinary Meeting of 22 February 2005.

Attachment 3

Kurrajong Tree Removal

Terms of Reference

The terms of reference for the investigation are broadly contained in Clause B of Council's resolution of 22 February, 2005. With the concurrence of the Mayor, the investigation should extend to all relevant matters pertaining to removal of the trees, including but not limited to matters relating to Council Governance before and after removal of the trees.

- (1) In the context of existing procedure, practices and conventions have correct procedures been followed by staff in the circumstances leading to the removal of the trees in question. If not, what policy/procedure should be implemented in the future.
- (2) Having reviewed all media and meeting transcripts and in the context of the Model Code of Conduct adopted by Council in January, 2005, have Councillor's or staff breached the model Code of Conduct. If so, what is the nature of the alleged breaches, and the degree of severity.
- (3) A great deal of civil unrest has arisen within the Kurrajong Community over this issue and a number of individuals claim that they have been harassed by the members of the community as a consequence. To what extent has such harassment occurred and to what extent are Council staff or Elected Officials responsible for initiating unrest and/or harassment if in fact it has occurred.
- (4) Has Council been deliberately misrepresented in the Stateline presentation aired on ABC on 25/2/05, given the existence of records on Council's database indicating ratepayer requests for tree removal and the memorandum from Council's employee Mr Sean Perry concerning the existence of data records.
- (5) There has been extensive public criticism of Hawkesbury City Council and staff by some Elected Officials and community members. To what extent is the criticism objective, and to what extent are elected officials responsible for inciting such criticisms and if this is the case, has the Model Code of Conduct or any other legislation been breached.
- (6) In your view, was the criticism of Council informed and did elected officials adequately relay relevant information to the public.
- (7) Were elected officials given appropriate information by staff in a timely manner.
- (8) Are there any matters in the course of the investigation conducted by you that should be referred to the Department of Local Government for action.

F:\Confidential\Terms of Reference_investigation.doc

AT - 4 Transcript of Council's proceedings and the resolution at the Ordinary Meeting of 22 February 2005, with specific reference to Councillor Paine's Notice of Motion: "Removal of Trees by Council in Kurrajong Village".

ACTION ITEM

ADOPTED

At the ORDINARY Meeting held on *22 February 2005*

User Instructions

To view the original Agenda Item, double-click on 'Agenda Report' blue hyperlink above.

Resolved Items Action Statement

Action is required for the following item as per the Council Decision or Resolution Under Delegated Authority.

NM - Removal of Trees By Council in Kurrajong Village - (79338)

Mr Gerry Faulkner, Ms Karen Buckett and Mr Lawrence Smith, proponents, addressed the Committee

Mr Lionel Buckett and Mr Matt Shearer, respondents, addressed the Committee

MOTION:

RESOLVED on the motion of Councillor Paine, seconded by Councillor Williams.

Refer to RESOLUTION

RESOLUTION:

RESOLVED on the motion of Councillor Paine, seconded by Councillor Williams

That:

- A. Prior to the removal of any trees in the streets of the Hawkesbury's towns and villages:
1. A notice inviting public comment be put in the Council's notices page of the Hawkesbury Gazette for a period of 2 (two) weeks.
 2. A notice explaining why the intended tree is to be removed and inviting public comment be attached to the tree of concern for 2 (two) weeks.
 3. Trees deemed to be in a dangerous condition, as assessed by a qualified expert, be exempt from points 1 and 2 above.

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- B. The Ombudsman's Office or an independent person/body be requested by the General Manager to submit a report to Council in relation to the removal of the trees in question.
- C. Three (3) advanced trees be planted in Kurrajong in the same locations as the 3 (three) recently removed. Species and maintenance to be as per Don Schofields report.
- D. A draft Tree Management Policy in respect of Council's street trees be presented to Council for consideration within 1 (one) month.
- E. An apology be given to the general community for the apparent lack of community consultation with regard to the recent removal of trees in the Kurrajong Village.

Transcript from Ordinary Meeting

Date of Meeting: 22 February 2005

Notice of Motion: Removal of Trees By Council in Kurrajong Village

- Mayor:** All three against Councillor Paine?
- Councillor Paine:** Mr Mayor I believe some of the speakers may be against my Motion here in the paper.
- Councillor Williams:** Mr Mayor, can I just ask has anybody been told they'll not be allowed to speak because we already have three speakers?
- Mayor:** Mr Jackson?
- Mr Peter Jackson:** Thank you Mr Mayor. No, nobody will be told they will not be able to speak. Any person who has contacted me, it has been pointed out the usual procedures - three for and three against.
- Mayor:** Go ahead thank you.
- Mr Gerry Faulkner:** Mr Mayor, General Manager, Councillors, ratepayers of the Hawkesbury and in particular, residents of Kurrajong. I am here today to talk about the massacre of those beautiful liquid amber trees last week. I will commence by commending Hawkesbury Council of how easy it is to work with you. I built extensions to my house a year ago and have never had so much assistance from the public office down here, to all the surveyors, engineers, everybody helped me. The application went through in four weeks. Thank you for that. I am hoping that we see the same clarity and transparency when it comes to sorting out this issue. This is a major issue. This is our environment and our future. Our children have now grown up with the idea that trees don't need respect because it doesn't matter. The Council will come and cut them down any way. Think about that. Now think about this little note that you put out as a flyer. It's a mission statement about tree preservation, you may not have seen this one. This is a gem. *"Your Council has taken the positive step of adopting a preservation order to enable it to control wanton removal and trimming of trees. The tree order applies to the city and applies and requires that Council approval be obtained prior to any removal or trimming taking place. Applicants need to properly justify why an approval should be granted while penalties exist for those now complying with the order. Council would much prefer to encourage and promote the benefits of tree retention. A greener Hawkesbury, a better place to live."* And then we go to the website that tells us that *"people matter, people make the difference."* That's why we are here today, we want to make a difference about the policy that caused those trees to be butchered last week. I need to know and we need to know who was it that actually decided these trees are to be pulled down. Who let the chainsaws loose last week and they were told to get out as fast as they could, tidy up and be gone. Now I want your wonderful website, I'm an IT man, I congratulate you on your website, very user friendly, easy to use, wonderful website and I talk about Tree Preservation Order, I'm not going to read every part of the guide, I'll just highlight my points here. *What is a TPO? The Tree Preservation Order is a regulation under the State Government Environmental Planning Act. It is administered by Local Governments in their respective areas and it is designed to reduce unnecessary tree removal.* Imagine that. Are there any exemptions? Yes, I don't have to phone a friend, I don't have to use 50/50, I don't have to hazard a guess. Yes there are exemptions. If your property is zoned residential 2A and has an area of 1000m² or less, is not in the Kurrajong or Kurrajong Heights area and has no heritage item listed then you do not need approval, so who gave approval for this? Who actually gave approval to knock this tree down? Now it is wonderful the *Local Government Act, 1993* allows the public to come here and participate but one of the reasons you have accountability in Local Government and one of the reasons you are allowed to do this, page 47 of the Act, it says *in all Council decisions it is essential to openly demonstrate fairness, impartiality, objectivity and due consideration of all issues.* Open decision-making also provides some assurance of probity and integrity as well as preventing misunderstanding of even unfounded allegations or unnecessary cutting of trees. We are of the understanding, we're in the dark on this, we're actually putting our finger up

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and saying which way is the wind blowing and we find that the wind blows in the favour of one Councillor and one particular business in Kurrajong....

Councillor Conolly: Oh, Mr Mayor

Mayor: No, sorry,.... Mr Faulkner.

Mr Gerry Faulkner: The evidence shows that one person asked for this to be done?

General Manager: That's not, no, Mr Faulkner, Mr Mayor, Councillors, I am not aware of any evidence that supports that process and certainly investigation doesn't show that.

Mr Gerry Faulkner: Well how did this come about, that's my question?

General Manager: Ah, this is being recorded and you should be very very careful about....,

Mr Gerry Faulkner: I'm just as careful as everybody else, I'd go to gaol on this one. That doesn't bother me, Kurrajong is the jewel in the crown of the Hawkesbury.

Councillor Conolly: Mr Mayor

Mayor: Councillor Connolly....

Councillor Connolly: I did have a point of Order, that I thought that the speaker was clearly in breach of our Code of Meeting Practice in making the comments that he did. I hope that has been drawn to his attention because I would be compelled to move that he no longer speak if I felt that was to continue.

Mr Gerry Faulkner: Am I being asked to retract something?

General Manager: Mr Mayor the Code of Meeting Practice applies to Council delegates and Council staff, it doesn't apply to members of the public, however it is open to the Mayor to protect the interest of Council by ruling particular discussions are out of Order.

Mayor: The way in which you said that its an allegation about a particular Councillor with no proof before you to actually prove that to be the case or not, I would ask you to retract that having been said unless you have...

Mr Gerry Faulkner: Until such time as I get the facts then I will come back next week and go over the same thing but we'll have the facts substantiated.

Mayor: The facts are fine but until then if you could refrain from saying that.

Mr Gerry Faulkner: My time is up, I've made my point.

Mayor: Would you like a two minute extension?

Councillor Williams: I will move this.

Mayor: Yes Councillor Williams, seconded by Councillor Rasmussen.

Mr Gerry Faulkner: Thank you very much Councillor. I have been very kindly provided with Kneebone Beretta & Hall, a firm of engineering consultants from Penrith with an inspection. They made a site inspection and they discovered that three large liquid amber trees have been removed and no signs of significant damage to street kerb or to any buildings, no obvious cracks in the ? Trees two and three are opposite to a carpark. To guard against possible future damage to footings of buildings 10mm deep concrete cut off walls could have been constructed below the footpath. At this stage removal of the trees appeared to have been totally unnecessary from the building's report, right, that's all I'd say on that one and I will say that we were promised by Mr Faulkner, the General Manager, I was promised by a phone call last week that he would do a thorough investigation into this and I suggest that this Council thoroughly investigate this whole issue. Thank you very much. [Applause from gallery].

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- Mayor:** Mr Faulkner would you like to come back to the podium. Mr Faulkner would you like to take some questions please. Are you happy to take questions?
- Mr Gerry Faulkner:** I'll take questions but I can't see whether..., I mean I've asked all the questions and I want the answers.
- Mayor:** Any questions from Councillor Paine?
- Councillor Paine:** Mr Faulkner, would you be happy to see some rather large trees replaced there as soon as possible?
- Mr Gerry Faulkner:** Large ones, yes, but I would be happy to see that this doesn't happen all over the Hawkesbury as well. I'd happily see chainsaw gangs locked up. I would happily see our environment is protected for our children and for their future. I would happily see more care is taken. Thank you Councillor Paine.
- Mayor:** Councillor Books?
- Councillor Books:** Yes, I'd just like to ask you did you have a look at the base around these trees where the damage has been done to the footpath? Have you had a look yourself?
- Mr Gerry Faulkner:** Yes, we had a meeting on Saturday and the damage is minimal. If you take a walk along Paddington or even down the Hawkesbury here at Windsor, you'll see that....
- Councillor Books:** The bitumen was raised at least six inches.
- Mr Gerry Faulkner:** Oh, not to any great extent. Nothing like that, to that extent, nothing like what's down around the river here or nothing like what's in the city of Sydney or any like North Sydney, Paddington, Balmain, you name it, nothing like that! Not in the whole wide world like that. It is suggested that if you want to represent the people of this constituency that as a Councillor you should run out there and have a look for yourself.
- Councillor Books:** I've been and had a look.
- Mr Gerry Faulkner:** Well what do you think?
- Mayor:** No, sorry, we'll move onCouncillor Rasmussen? [Applause - utterings from gallery]
- Councillor Books:** I'll make my comment later thank you.
- Councillor Rasmussen:** Thank you Mr Mayor, thank you Mr Faulkner. Thank you for coming along and expressing your views rather passionately, I tend to agree with you, the question I have is would you like to see a full report filed to Council on this issue?
- Mr Gerry Faulkner:** Most definitely.
- Councillor Rasmussen:** Thank you.
- Councillor Williams:** Mr Faulkner? Did that engineer's report you were reading from refer to any damage to the footpath?
- Mr Gerry Faulkner:** No signs of significant damage to street kerbs or to any buildings. No obvious cracks in the brick work, that's what the reports says, its signed, here you can have it if you wish Councillor Williams.
- Councillor Williams:** Could we have that report tabled Mr Mayor, is that acceptable?
- General Manager:** Mr Mayor its not appropriate for it to be tabled because of the advice that I tendered previously, yeah, OK, I am quite happy for Mr Faulkner to forward the report to us so we can make it available to Councillors.
- Mr Gerry Faulkner:** I now forward the report. [Laughter, chatter]. You can see why I never wanted to be a Councillor. Are we finished?
- Mayor:** Yes.

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Mr Gerry Faulkner: Thank you very much.

Mayor: Before you go Mr Faulkner? Can I just outline a couple of things to you. The rules that have been put in place are requirements of Local Government to comply with some of the State Government requirements to ensure that people are protected legally, that's all its there for. You have every right to come and state your case which you've clearly done, no problem with that all, the issue is documentation like this, we need to ensure is not liable before its lodged. That obviously isn't, it's a report, we can't make a rule for one and not the other, that's why the Code of Meeting Practice was adopted.

Mr Gerry Faulkner: Thank you. The only rule I'm trying to impose is one that stops and prevents the indiscriminate destruction of beautiful trees in the Hawkesbury valley, for the good of everybody.

Mayor: We understand that, Mr Faulkner, thank you.

Mr Gerry Faulkner: I'm prepared to go to prison, it's a terrible terrible thing that has happened [applause].

Mayor: Mrs Karen Buckett, thank you. [Long pause]

Ms Karen Bucket: Mr Mayor, Councillors and staff, my question relates to the removal of three liquid amber trees from the main street of Kurrajong. I'd like to table these photographs of the street before and after.

Mayor: Photos, yep. I noticed the comments from the gallery. Can I say that a photo is a different issue here. We can actually see where the photo has been taken, its obvious the photo hasn't been taken anywhere else, in that case there's not a problem. With the comments being made from the gallery about this is alright and the writing isn't, its very clear when the writing is there, someone needs time to peruse the document. The photograph we can see straight away, this is Ok, thank you. I'll start your timing again Ms Buckett, Mr Faulkner wants to say something about this issue.

General Manager: Mr Mayor, for the benefit of the Councillors and also the public the *Local Government Act* is very specific in relation to agenda items that are considered by Council. It specifically requires that agenda items should be made available at least three days before the Council meeting. This Council and other Councils have come in for criticism from the NSW Ombudsman because they have allowed items to be tabled at Council meetings at which time they're making decisions. Now, the whole premise of the Local Government is based on the fact that Councillors should have adequate time to consider all of the facts from all angles to make their decision. Councillors are liable if they accept matters or documents that are tabled at Council meetings without due consideration being given to them through that process, obviously if Council considers a document tabled at Council, they have not had the benefit which they are entitled to the administrations view of whatever matters is contained in that document, there is a reason for it, its stipulated in the law, and its not a matter that's open to discretion. Thank you.

Mayor: Thank you, I'll re-start the time.

Ms Karen Bucket: Thanks, instead of trees rolling, I'd like to see heads rolling. I'd like to see why one person has the power to cut down 40 year old trees without anyone else knowing on Council. Richmond, Windsor and Kurrajong are full of trees planted by our forefathers for our pleasure. It is our responsibility to mind them for future generations and no one person has the right to make a decision for the community and not give us a say. On Tuesday 15 February a group of 12 men assembled in the Kurrajong carpark in the early hours of the morning. They had apparently been told to work quickly as there would be trouble. Mick the butcher said to them, "mate, you're going to lose your balls". Councillor Chris Paine and Leigh Williams said they had no knowledge of it. Graeme Faulkner the General Manager told me he was unaware that it had happened. Councillor Di Finch told me she was unaware of it but anyway they had to go because an old lady tripped because you know what litigation is like these days. When I spoke to Chris Daley, the Director of Infrastructure Services, he told me it had been his

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decision. It astounds me this has happened so sneakily. Sean Perry the Manager of Parks and Gardens told me he was on holidays for a month and came back on the day it happened. I was talking to Joseph Litwin, Acting Director of External Services. I told him I had heard rumours that the trees in Kurrajong might go. He said it could never happen without public knowledge and there were a lot of people in Council that felt the same way as I did. These trees were an asset to the street. Old ladies parked under them, young women parked their babies under them. Now Kurrajong looks like a bomb site or Lightening Ridge, a friend said. I no longer have faith in the procedures that allowed this to happen. I'd like Council for fulfil their role as minders of our community,. A friend pointed out to me that on the back of Hawkesbury City Council's envelopes is a Tree Preservation Order. There are a few trees remaining in the village. I don't want to wake up again one morning and find them cut down while we slept. No street trees have been planted in the village for 40 years. We have a duty to preserve and build on our heritage and not to destroy it. Can Council resolve to adhere to their own Tree Preservation Policy and put any proposed tree removal on public notice. I suggest this includes placing a notice on the tree to give the community a chance to have a say.

Mayor: Thank you very much. Would you happy to take some questions from Councillors?

Ms Karen Buckett: Yes.

Mayor: Councillors, any questions? Councillor Rasmussen.

Councillor Rasmussen: Thank you Mr Mayor, thank you Ms Buckett for coming along and explaining that situation to us so clearly. Are you aware of a report that's circulating about the health of these trees?

Ms Karen Bucket: No I am not, because it wasn't on public, it was not put out for public consumption. No.

Councillor Rasmussen: OK

Ms Karen Buckett: I was told that the tree opposite the bottle shop had cracked Chris Minturn's bottle shop, the tree on the right near the chemist shop may have had dry rot, the word was "may" and there was no explanation of the tree on the left hand side of the builders supply.

Councillor Rasmussen: Were there any signs of wilting, or disease, that you noticed, or?

Ms Karen Buckett: No, I walk my dog every day and they were very healthy looking trees.

Councillor Rasmussen: Thank you.

Ms Karen Buckett: Can this be tabled?

Mayor: Same, again I'm happy for the General Manager to take it and be referred to Council and use this part of the reporting process, certainly.

Ms Karen Buckett: Can we read it or?

Mayor: No we can't read it now.... Mr Faulkner.

General Manager: Mr Mayor, if the document is given to me afterwards we'll make sure the Councillors get a copy.

Ms Karen Buckett: OK

Mayor: Councillor Books....

Councillor Books: Yes, have you noticed any damage to the pavement around the trees?

Ms Karen Buckett: No and if you look at the photos I hardly say, I go to Sydney quite a bit and that's unbelievable compared to North Sydney or Woollahra or where they respect their trees. They put rubber matting around them. For starters the concrete is too close to the stumps. It should have had more distance between them anyway but...

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- Councillor Books:** My question was, have you noticed any damage to the paving?
- Ms Karen Buckett:** No actually, no actually, no not really.
- Councillor Books:** And yet the photos show it clearly.
- Ms Karen Buckett:** What do they show clearly, I don't see any damage.
- Councillor Books:** Two of them shows damage to the paving.
- Ms Karen Buckett:** A slight crack, a very slight crack. In fact, I haven't seen any work done in the Kurrajong Village for a long long time, pretty amazing really, these photos.
- Mayor:** Councillor Rasmussen.....
- Councillor Rasmussen:** Mr Mayor what would you like to see happen now, would you like to see mature trees of the liquid amber variety restored?
- Ms Karen Buckett:** Very mature trees, I'd like more attention paid to it. I've heard whispers that the trees across the road might go, I no longer feel safe about my village and I've been there 51 years. [Applause from gallery]
- Mayor:** Councillor Paine....
- Councillor Paine:** Karen would you just describe the feeling of the village, the anger and disappointment.
- Ms Karen Buckett:** There is a lot of surprise and anger and its no body can believe it. No one can believe we did 't get to have a say, that's the amazing thing. We really didn't and I think a lot of people are still in shock. We all love our village and its just a real shame now, the two buildings that stand out are an eyesore. They really are. They had no work done on them and people used to come to our village because of the trees. Its something has to be done instantly really to replace what's happened.
- Councillor Rasmussen:** Mr Mayor, one more question?
- Mayor:** Councillor Rasmussen.....
- Councillor Rasmussen:** Are you aware of any significance over the years, its been 51 years, has anyone complained to you about the trees?
- Ms Karen Buckett:** No, I've heard whispers, that they might come down, I think.
- Councillor Rasmussen:** Why would that be?
- Ms Karen Buckett:** A throw away society, lets plant something completely....lets get rid of this and start again. Maybe put in crepe myrtles maybe something else, maybe those trees are a bit messy, messy? Not really, they provide shade, they provide shade on both sides of the street, lots of people try and park under them, there's nothing on that side now, people used to park their dogs under them, and I just think its so sad its truly sad, I'm embarrassed now about my village, I really am.
- Councillor Rasmussen:** Thank you.
- Mayor:** Councillor Paine.....
- Councillor Paine:** Thanks Karen, I've got e letter in front of me, it's a memorandum, a note from one of the Directors to the General Manager and it says correspondence from the Kurrajong Forum dated 16 September 2004 in relation to streetscape improvements to the village generally suggested a review of street trees with the possibility of replacing them with more suitable and attractive trees. Could you comment on that and also perhaps how representative is the Kurrajong Community Forum of the people of Kurrajong?
- Ms Karen Buckett:** Not actually representative at all, my understanding is that they went to a number of businesses and thought they'd get a web site happening but to my knowledge I know

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when I was working for Chris Campwell, if he'd joined, but we didn't see the minutes and I think even with Bob he hasn't seen the minutes either. So people, whatever they talk about, the people who are on the list don't necessarily get to see what they've talked about, so I don't think they're representative at all.

Mayor:

Any further questions? Councillor Williams.....

Councillor Williams:

Karen would you say that since you've been questioned about the supposed damage to the footpath, I was there but I'd like you to answer, was there any trip hazard to any pedestrian walking along that footpath in either direction?

Ms Karen Buckett:

No, not to my knowledge but even if there was Leigh, there are other ways of dealing with it other than knocking a tree down and I think this Council, if that's the way they deal with it should be looking at Blacktown, Parramatta, North Sydney and Woollahra and see how they deal with their trees.

Councillor Williams:

Yes, you saw no trip hazard.

Ms Karen Buckett:

No not really, no not at all, I mean there's a slight crack if that's what Councillor Books is talking about but the Council could have come out and looked at that and done something about it, I hardly think that that's an excuse to chop those trees down and to do it at that time of morning.

Mayor:

Any further questions? Thanks Mrs Buckett..... Mr Lionel Buckett. [Applause - utterings from gallery]

Mr Lionel Buckett:

Sorry about that. I'd like to speak against the Motion. I don't think the Motion is broad enough. I'd like to give a short background on those trees, as I said earlier I was brought up in Kurrajong, I believe the trees were planted by the Kurrajong Improvement Association and my mother was the secretary of it. When I was a little kid I remember going with her up to the street after they planted out Kurrajong. They planted trees from the corner of McMahon's Park Road all the way out right through the shops and I remember pulling over with mum and getting out, I'm pretty sure it was Arthur Minturn who was Dianne's grandad I suppose, Mr Minturn, now, there was a drought on, it was pretty dry, the ground was dry, I remember how dry it was around the bottom of the trees and Mr Minturn was filling up a bottle, he'd fill up a beer bottle of water and he pushed it into the part of the tree and he was telling mum that he'd made sure that those trees stayed alive, we weren't so worried about the natives that had been planted, they were worried about these trees. Two trees either side of the bottle shop have flagons of water pushed into them, and I remember him saying that when he had another flagon he'd replace the beer bottle so it had more water to it on the centre one. Its sort of a laugh but it was also very practical because the bottle held the water over a long period of time even though it was dry, it was very slow release that worked well. Those trees, they grew didn't they, they grew into beautiful big trees and now they've been cut down. I'm told that a Councillor was aware of it, I don't want to go into any names, I understand you're reasoning. When I look at those stumps - my family are saw millers, we chopped down a lot of trees over a long time, I've chopped down a lot of trees, seen a lot chopped down, I look at those stumps and what comes into my mind is saw logs, that's the quality of the timber that's in those stumps. One of them has and you can all go and see for yourselves, one of them has a bit of rot probably as big as two fists, the horticulturist, he had a look at that and he said well that's a scar from when the tree was younger and you can see that's the case, all around that 90% of the tree is a beautiful piece of timber and most trees are like that, saw logs are like that, you're very best trees often have small defects in them and that was the tree that's up near the pharmacy. When you look down that path, we've walked up and down that path forever. Occasionally Council do a little bit of work on it which you can all see, there's some little bits of concrete here and some there, there's a bit there where the trees have grown over the years and some Council workers decided not to pour concrete and he's got some tar on it, there's a bit of tar which is, Ted's talking about it's a bit of a raise, I don't think its raised 6 inches but there's a very practical solution that some Council worker's come up with, its probably been superseded today, people use metal grates and all sorts of things at Councils to preserve trees. So its so sad to see the efforts of the community over such a long time just taken down like that so quickly and they were cut down at dawn, Mick the butcher says he overheard the head of the crew say there's going to be trouble on this, we've

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got to get these trees down as quickly as possible and they, he scurried off to ring up Councillors who were aware of it so that's what's gone on there. Councillor Paine told us at the meeting she requested a file from the General Manager and there was no file, there is nothing on record yet other than possibly this note from September, now this means that all the reports that are written by Council staff from now on, they're all written in retrospect and this you got to keep in mind when you're reading them from now on.

Councillor Conolly:

Mr Mayor, I think there's a point of Order there too that, we can't make that kind of insinuation about staff members, it's not consistent with our Code of Meeting Practice.

Mr Lionel Buckett:

Well people can decide for themselves whether they're in retrospect based on the facts, staff members write reports that's a fact.

Mayor:

Can I just say to you that the debate on this issue is going to take place alright and I'm sure that is going to be discussed so if you just talk about the detail, thank you.

Mr Lionel Buckett:

Yeah.

Mayor:

I don't know why it is that the gallery has got to continue to make comments when they ask for the speakers to come and I don't know how many times we've got to explain the reason why, I know you're not very happy about this up in the back right hand corner but there's particular rules that have been put in place for protection and if you don't want to adhere to them that's fine but we must in this chamber adhere to the rules, thank you.

Mr Lionel Buckett:

Just while we are on that there's a copy of reports so you could vet them and there's an engineers report, a horticulturist report.

Mayor:

We've just got an extension for you OK, from Councillor Books, and Councillor Calvert, yes?, Go ahead thank you.

Mr Lionel Buckett:

If I could be slightly extended for the earlier point of Order thanks, so two independent reports - we met with a horticulturist from botanical gardens, he's looked at them and just told us that those trees are actually, in his opinion, reached a stage where the roots weren't going to be doing much more growing anyway, the trees were quite mature and stable. I don't think that the argument really should be the trees were no good, they're quite good trees, the argument should be, not the argument, the discussion should be what to do about it because they're gone, all that work's gone, the credibility has gone, the rest of the community knows that they can't do that kind of thing, so there could be a bit of a political spin put on it but there's not a proper policy in place, or there is a proper policy and there's been breaches against it to, chop the trees down [boisterous utterings from gallery]

Mayor:

Order!

Mr Lionel Buckett:

It's meant to be referred to the appropriate bodies to look at and clarify which is, you were talking about the Ombudsman's office earlier, I think that's something that the Council should do and could do is refer for an independent report by the Ombudsman's Office to look at the procedure and the ICAC and then its all above board, people can't make accusations about staff or Councillors or anything like that and you'd think the truth can come out that way. Council, I believe should also write to the adjoining property owners and say that they admit no liability for damage to property for those trees because as the other issue, I think Council should have in mind is when they do this sort of thing there's some admission of liability there if you chop down trees if you think it's hurting somebody's building. So, and then the replacement of trees, these trees should be replaced with as large a tree as possible, there's liquid ambers out here on the steps on the way up. I know its one of the excuses for the tree getting knocked down that somebody tripped and grazed their knee on a seed, the same seeds are on the ground out here, so, chopping down those trees, the reasoning for it, that'd be the wrong thing to do, they're really nice trees there.

Mayor:

OK, that's time, thank you. Would you, are you happy to take questions?

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Mr Lionel Buckett: Yes, I'm happy to take questions.

Mayor: Thank you very much.....Councillor Paine

Councillor Paine: Mr Bucket, you're a builder.

Mr Lionel Buckett: Yes.

Councillor Paine: Can you make comment please on any damage, structural damage that you've seen to any buildings around there and also make comment on the levels of carpark in relation to any of the premises that water could probably be the damage coming in a heavy storm, rather than trees.

Mr Lionel Buckett: Yes, when you look at it, I looked at the, there's a crack in Minturn's bottle shop, there's a skirt on the building, there's some quarry tiles that don't have expansion joints and there's a dropping not a raising and there's a ponding, the bottle shop's been built very close to ground level below and there's a dip made in the path probably by Council workers to take that into account, it looks as if maybe water's ponded, got under the edge there and settled, and its not tree roots at all, so these trees might be completely badly maligned, if an investigation's done it may be that there are no roots there, that's not the cause at all. The walls of the building are quite sound, there's no cracks there and as somebody else said the remedial methods haven't been looked at if there were cracks, the usual thing, and Council's tree people recommend this to people, you put in a concrete wall a metre deep to stop the tree roots going and then there's a whole lot of other kinds of barriers, I don't think the question is the trees, the thing is, maybe, sad but maybe a question of replacing what's there with something else without taking into consideration the value of what we've already got.

Mayor: Further questions..... Councillor Calvert and Councillor Rasmussen.

Councillor Rasmussen: Mayor, Mr Buckett, I agree with you, the Notice of Motion doesn't go far enough in my point of view and I've got about six things that I wanted to add to it but one of the things that I think you're eluding to is that there are trees all over the city, not just in Kurrajong and perhaps we should be looking at a policy that addresses all trees and all the streetscapes.

Mr Lionel Buckett : I think that's a way around of letting everybody off the hook and maybe stopping it happening in the future but I think we've already got a law, we're not supposed to be doing it. If I did it as a builder, I've had Councillor officers on a site a couple of years ago in the long grass taking pictures of me on a work site because a neighbour's complained that I'm taking out trees, small wattle trees, so at one end, one of the locals over here says he had to pay \$60.00 to get the OK to take a tree out of his backyard and go through a whole process and you've got a big community asset in real good nick, we've already got laws in place to say we're not allowed to do it. It'd probably apply to Council offices, if you go through and look at it, that's why I think if you look, Ombudsman's look at procedures and what's not there and maybe its not a case of blame, maybe the Ombudsman looks at that, its up front, all above board and they say you've done this and this wrong, this is what you've got to change and its somebody independent so that you can get the change done, I think you could get away from absolute blame this person or that person but I think you need to know the facts so everybody thinks well that's all above board.

Mayor: Councillor Rasmussen?

Councillor Rasmussen: Thank you Mr Mayor, Mr Buckett, it follows on from that I guess but I just want to pinpoint it, you're saying Council really should refer this to the Ombudsman for a proper report and then bring it back to Council, is that what the extension you would like to see to that Motion?

Mr Lionel Buckett: Yes and I think that would be appropriate and be pretty fast, there's not much of a file there and the procedures and the laws are all there.

Councillor Rasmussen: OK, thank you.

Mayor: Councillor Books.....

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- Councillor Books:** How do you see this sitting with the Occupational Health and Safety Legislation?
- Mr Lionel Buckett:** I understand that was all ignored. From what the locals and the butchers say it was get them in, get them down fast, the stumps are left exposed, normally those stumps have to have a fence surrounding it, you'd have to have stop-go people in the street, control traffic, there was no accident so Council doesn't have a liability at this point of time for Occupational Health and Safety.
- Councillor Books:** But if you tripped over a rough pavement they do have....
- Mr Lionel Buckett:** Well, I would say that if you looked at the insurance policy Council would have a general policy, if somebody tripped on that seed at the bottom of those stairs down there there'd be a policy to cover that. The footpath is Council property. That would be covered there and I remember eighteen months ago there was a case came out where people were suing Council for falling over on footpaths and there was a landmark case where the judge came out, somebody tripped over a concrete edge, the judge came out and said people will have to take some responsibility for themselves and look where they walk and he gave a much reduced, in fact I don't think he gave them anything and that was considered to be a change in thinking. A law goes through different flavours, ups and downs, [long pause].
- Councillor Books:** OK, then, I'll leave it as it is.
- Mr Lionel Buckett:** Yeah, also I was offered the excuse if the tree was outside the building that people would walk into it. You've got to open your eyes.
- Councillor Books:** They'd probably do that coming out of.....
- Mayor:** Any further questions?
- Deputy Mayor:** Lionel, on Saturday morning at the meeting that we convened you made a statement that one of the complaints to the Council had influence in high places, could you explain to me what you mean by that statement?
- Mr Lionel Buckett:** Well I suppose its like Jerry (Faulkner), will we go to gaol or not, I think you're interested because your sister owns the bottle shop or family does, I mean that its in your interest for it to be openly looked at to because there's the influence there. Its not my influence. People just think it. They think if a tree's chopped down and its connected to a Councillor's family like that but the rest of us it's a three month process, like I know you very well, I don't say that you have abused your power but the inference is there and I think the way out of it is an Ombudsman because its independent - you know, I just think that's the way it goes. That's the way to clear it from your point of view, they come out and say well the proper procedures are followed and no Councillor had anything to do with it, well people can stick their inferences that you used your power then because you'd be cleared of it.
- Councillor Finch:** Are you aware that I don't have that power?
- Mr Lionel Buckett:** I'm aware that a procedure hasn't been followed, look put it another way, I'm aware that you shouldn't have that power and I can see situations where people will do things if they think someone's powerful, they don't necessarily do it because you've asked them, people can do things, you know, people do funny things, can do all sorts of things, doesn't necessarily have to go back and say you said to somebody I want those trees down and because you're Deputy Mayor, you get it.
- Deputy Mayor:** Mr Mayor, Point of Order.
- Mayor:** No, [shouts from gallery, "set up"!]
- Mr Lionel Buckett:** Well, no, its not a set up, its an opinion, it is my opinion and I think if you look at that and what's written there, whether you can run a case for defamation I just think that'd be wrong too, I think...

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- Councillor Conolly:** Mr Mayor, I will take a point of Order, I'm sorry, its not just the Councillor, I understand entirely where Councillor Finch is coming from in asking the question and I'm concerned to protect the staff interests here, the staff who have made the decisions, the staff who carried it out and I don't think the conversation is to continue for their sake. They're not able to answer for themselves in this context and I think its most unfair to continue.
- Mr Lionel Buckett:** And that's why I say an Ombudsman. They don't have any connection.
- Councillor Conolly:** I think its most unfair to continue!
- Mayor:** I think its probably fair that we actually cease to continue the discussion there and we will ask for the next speaker. Thank you.
- Councillor Rasmussen:** Mr Mayor.....
- Mayor:** Councillor Rasmussen.....
- Councillor Rasmussen:** Deputy Mayor had a point of Order, what was that [applause from gallery].
- Mayor:** Councillor Rasmussen do you want to continue with this particular item?
- Councillor Rasmussen:** Well I'd like to hear what the point of Order that Deputy Mayor said she had.
- Mayor:** Do you want to continue? Do you want to continue Deputy Mayor on the point of Order?
- Deputy Mayor:** Certainly, I do. The fact that I'm Deputy Mayor doesn't give me any vote other than the one I have as a Councillor, I don't have any influence on the decisions with the removal of trees, the staff have that power to do that and to allude to the fact that I was a Councillor and I had any influence, I think is very defamatory.
- Mr Mayor.....
- Mayor:** Councillor Paine....
- Councillor Paine:** Mr Mayor, I tend to agree with Councillor Connolly, I don't think this is getting us anywhere and I think what we have to do is look at where we're going to go with this and I think people at Kurrajong are hurting and I think that that last couple of, that question, that was leading to some statements that weren't going to go anywhere except to perhaps cause problems and I think that what we've got to do is look at getting to the bottom of how this happened. We might be looking at protecting staff but we also got to protect the people and their interests so I think that if we hear the rest of the debate...
- Mayor:** Councillor Paine, can I just ask, that was exactly what I was trying to do a moment ago. We're asking for speakers now, the floor isn't open to debate. That will be taking place when we come back about the Motion. I think we all agree with part of what you just said then you want to actually find out what's going on and where we're going to go in the future but that's for the debate, OK, so can we just move on with the speakers please.
- Mayor:** Mr Laurence Smith, are you in attendance now? Thank you very much.
- Mr Lawrence Smith:** Mayor Bassett and Councillors, look I can't diffuse this debate, its going to rage for some time, I've got to say I've lived here for some time and just driving pass the base today from Richmond to Windsor I can see the input that Councillors have made, various Councillors have made over the generations in greening this area and its something we all value and prize. The recent one is the memorial park along there, it's a superb example of what can be done with flat land but the cutting down of these three mature shade trees as we see them in shopping in shopping centres, they were on the western side part of the road of Kurrajong village. They're are a sad loss to the district and I've got to say as the other speakers have said that it really does demand more than glib answers from those involved. It provided shade for 50 years or approximately that for shoppers and now tourists and that's another factor that we

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seem to have ignored in this debate. There's been a battle really by local growers and shop keepers in the tourist industry, B & B's to regrow that tourism. The Hawkesbury Food Trail is one example that has succeeded. Cutting down these trees just virtually negates this sort of effort, apart from denying us shade. When I spoke to the Council officer about this he told me that one of the trees had a dry rot problem, the other two trees were disturbing the pathway. Now these sort of problems I don't know, I haven't seen their reports, if they do exist, so I can't comment any further, but they were the reasons given. Now this sort of problem does exist with large street trees in other urban areas such as Richmond. My office is surrounded by plane trees, I had a problem with limbs over the roof and that was dealt with in a suitable way and a heritage architect came out and a tree arborist were brought in and the tree was adjusted and I have guttering put in to prevent rubbish in the gutter, leaves and so on and that's worked well so there are answers and Council has solved these problems before so it makes us wonder why this sort of arbitrary action was taken in Kurrajong and that's why these questions are being asked. You know, I saw a program recently, probably one of the garden shows on the ABC or Stateline perhaps, and synthetic matting is used where tree roots are upsetting the paving, there's all sorts of things that can be done, it just hasn't been looked at, so you've got to raise the question is there negligence there, could these trees have been saved and that's what we're doing we want answers, now to move it along a little bit the destruction of the trees is a *fait accompli* but Mr Mayor, I'd like you to investigate this and if what we all suspect is the case, that there is a degree of perhaps looking at this problem of the trees in Kurrajong, what is a minor sort of problem that could be solved and the ultimate sort of treatment has been applied, that is destroying the trees, now if there could have been other ways of dealing with the situation we need an apology. We have lost something we really do value and I think you're getting that message tonight and I'm sure you probably agree with me, I hope you do, I think we've got to support this Motion that extends the period of removal of large trees, there are many major street trees for a period so that it's subject to observation by the ratepayers and residents and they can see that there is a real problem, it needs to be clear if trees have to be removed so I would support the Motion and in the future for Kurrajong we need mature shade trees to replace these, perhaps a design for this so that it can be grouped in various spots that are safe, maybe better paving, something more fitting with the area, the way its changing that will attract tourists, this is done in Windsor and it could certainly be done in Kurrajong. You owe us this at least, you also owe us an apology at some point if I believe the situation is as I have seen it so you're job should be really to restore confidence in your Council and also the staff and a tree planning program as I said should be instigated. Thank you for the opportunity to address you. [Applause from gallery]

Mayor: Thanks very much Mr Smith, are you happy to take some questions?

Mr Lawrence Smith: I am.

Mayor: Thank you. Councillors....Deputy Mayor.

Deputy Mayor: When we talked on the phone the other day the day that the trees were removed we were talking about replacement of trees, being a member of the garden club, I think you're the president aren't you of the garden club?

Mr Lawrence Smith: No, I'm a member

Deputy Mayor: You're a member, what would you consider to be a suitable replacement.

Mr Lawrence Smith: Well I'm not the right person to answer that, I don't have the qualifications but landscapers should report or perhaps similar sort of shade trees, you can't just off the cuff, you really wouldn't want to replace them with decorative trees, you want shade, the whole point of those trees was to protect us from the rather raging sun you get there, as you know Councillor Finch, and it'd be nice if it were something that would gradually mature into that sort of tree, I'm not going to guess what would do it, perhaps liquid ambers again. And perhaps grouped in a certain way, I'm, not an expert. The other thing is I mean talk about weakness in the trees as well, those trees are on a ridge, it's the first ridge to get strong winds that come down from the mountains, there's been no reports that I know of, certainly not locally, of branches coming down, they were healthy trees, again we're mystified, we want answers.

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Mayor: Councillor Rasmussen.....

Councillor Rasmussen: Thank you Mr Mayor, Dr Smith thanks very much for that presentation. A couple of questions. The apology you speak, of, how would you see that, what form and how would you see that perceived?

Mr Lawrence Smith: I think that it would have to be something in the local press and It would perhaps be something, it could be a meeting in the CWA Hall in Kurrajong I think we need to know this is not going to happen in the future in other parks, even in Richmond, there has to be considerably more consultation and considerably more effort to try and solve these street problems not that there were any here, the concrete path's quite level and remains level for anyone to see so an apology.

Councillor Rasmussen: Another question I had, going back to the nature of the type of tree, the liquid ambers - would you say had a particular usefulness in that area that they were, you know, obviously very leafy in the summer.

Mr Laurence Smith: Yes, good point actually, being deciduous they let the sun through in winter and gave us tremendous shade in summer. They're used commonly as street trees, I mean I think Council has done a great job in planting Macquarie Street with them, its worked very well, its beautified the area, yes I think they would be suitable and there are lots of others I'm sure, that would be, jacarandas come to mind. I think something that's going to grow into a mature sort of tree and give shade quickly.

Councillor Rasmussen: They also provide a fair bit of colour up there, doesn't it, because you get that sort of variation in temperatures.

Mr Laurence Smith: Yes, that was the other sort of thing we all looked forward to the autumn colours, you drive through there and you see the sunlight through them, I mean this is a motherhood sort of statement but the colour was absolutely beautiful, the autumn colours, something else you should consider, should be a factor in the replanting.

Councillor Rasmussen: Yes, thank you.

Mayor: Any further questions? No further questions? Thanks very much Mr Smith. [Applause from gallery].

Mayor: The final speaker is Mr Matt Shearer. [Long pause]

Mr Matt Shearer: Mr Mayor, Councillors, I'm a resident of Kurrajong. I've lived there for the past 23 years. I'm not particularly keen on tourists cause they park where I want to park. Procedurally I suppose I should speak against the Motion because I don't think it goes far enough. I believe that any trees that are removed by the Council should be replaced by the Council. Kurrajong in fact had a few more trees on that kerbside and they were being removed in my period in Kurrajong. I see three problems in what occurred a couple of week ago. First, If all the need for such action, number two, the way the need was established and three, the way the solution was carried out. I can remember the days when buildings were demolished in Queensland in the dead of night and I get a little bit of that feeling that this occurred in Kurrajong very very early in the morning. I am sure the people will state that we had to get the trees down so it didn't cause any convenience to the locals but look Kurrajong is really not a busy place during the week. It could have done it midday and there would have been three people watching, it really wasn't a need to do it early in the morning. I don't know whether these trees were diseased, to me they looked quite perfect. Probably I get the feeling they had a disease called inconvenience. Certainly one of them had this, the other two were just as good as they were ever going to be, they couldn't grow any bigger because the ground was so covered around them, they're intake of moisture was limited and that was limiting their size. They'd grown to their final size, they weren't dropping branches, they were providing me with very nice shade. I can't speak on the shops that they shielded because thank god they did shield because now they're not there they are terrible to look at, I've never quite seen a container form a shop-front store in my life but one of the stores in Kurrajong has that at the front of their store and I don't think it looks good, it certainly isn't a tourist destination that you perhaps would like to push. I think that covers everything I wish to say, I believe the

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Motion that Councillor Paine has put forward is good as far as it goes but it should have the addendum that trees whenever removed by the Council are replaced by the Council with at least the same quality that was removed. Thank you. [Applause]

Mayor: Are you happy to take some questions?

Mr Matt Shearer: Yes.

Mayor: Thank you, OK, Councillors.... Any questions? Councillor Rasmussen:

Councillor Rasmussen: Just a question, Mr Mayor, thank you for that, are you aware a report that I'm aware of, about the health of these trees?

Mr Matt Shearer: No, I'm not aware of it, this is one of the problems, if you'd established the need for some action perhaps there would be people who would have been willing to consider it but that was never the case. They certainly didn't look diseased. If I could get trees to grow as well as that on my place I'd be only too happy, these were growing virtually with their roots under the road and under the kerb and under the footpath. The kerb was not lifted, I'd agree there was a slight indentation, look I grew up in Paddington and this is kid's stuff, at Paddington, almost a foot high in places where trees have lifted footpaths. I used my eyes and just walked around it, I never fell over and I must admit I never walked into them either!

Councillor Rasmussen: Thank you.

Mayor: Any further questions?

Mr Matt Shearer: Thank you very much.

Mayor: Thank you very much Mr Shearer. Its twenty minutes past seven, we'll break for half an hour now and resume at 10 minutes to 8, thank you.

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Debate of Council

- Mayor:** Just prior to going into the Notices of Motion, I would just like to say something and it follows on from what was said here earlier tonight about the conduct of people and the manner in which we behave with each other and in general and in the community. I have actually got a document here, which is the model Code of Conduct for Local Councils in NSW. I just want to refer to a couple of items. First of all it talks about leadership, this is its key principle. You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of Council. This means promoting public duty to others in the Council and outside by your own ethical behaviour. It also talks about respect. You must treat others with respect at all times. This means not using derogation towards others, reserving the rights of other people, treating people with courtesy and recognising the different roles others play in Local Government decision making. Then general conduct it talks about, you must avoid behaviour that could constitute an act of disorder or misbehaviour, specifically you must avoid conduct that and these are just four of the points, is detrimental to the pursuit of the charter of the Council; is improper or unethical; causes compromise or involves intimidation, harassment or verbal abuse. Now, that is just some of the points in which we try and work under and what I completely understand is the passion of people, how they feel about something in their local area. I fully concur with that and that you have every right to voice your concerns. What I do have concern about is when unsubstantiated issues are raised and the individual hasn't had the right in due process to put their position forward and it is not a laughing matter; and for some Councillors on the weekend to have allowed the public to feel that the Council had acted in an inappropriate manner or had behaved in a corrupt manner is just not true. So I just want to make sure that we understand that....
- Councillor Williams:** Point of Order Mr Mayor
- Mayor:** No, there is no Point of Order Councillor Williams
- Councillor Williams:** There is a Point of Order.....
- Mayor:** No, there isn't because.....
- Councillor Williams:** No, I was there, Councillor Paine and myself met with residents
- Councillor Paine:** Is that what you're talking about?
- Councillor Williams:** If that's what you are talking about
- Mayor:** Yes, I am.
- Councillor Williams:** I don't believe that either Councillor Paine or myself did that, set out to do that or in any way did that.
- Mayor:** Well I am glad to hear that.
- Councillor Williams:** Well, thank you and I will ask you to withdraw your last statement.
- Mayor:** I am not going to withdraw it if you let me finish.
- Councillor Williams:** Well, I think you should since it is wrong
- Mayor:** I won't be Councillor Williams
- Councillor Williams:** Why not, it's wrong!
- Mayor:** I shall not be withdrawing it if you would let me finish.
- Councillor Williams:** You have made a statement, which is wrong.
- Mayor:** Would you let me finish? What we are talking about here is people in the community who have felt that Council have acted improperly and there is no evidence to support that at all. There is no evidence to support that at all. And this is exactly what I mean Councillor

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Williams and Councillor Paine about what we were discussing inside. So it's not right that the community to feel that the Council has acted improperly unless that is proven and that is what I think is unfortunate that has happen today. Now we are going to go into debate so you can raise those issues now, which is the proper forum for it to take place.

Comment from Gallery

Mayor: And that is exactly what we are going to make sure doesn't happen in the future if you stay and listen to the debate. OK.....

Comment from Councillor Williams without microphone

Mayor: Yes, it is OK.

Councillor Williams: No, its not OK, you have just repeated what I asked you to withdraw, it is wrong and I am sorry, you weren't there, I was, it didn't happen.

Councillor Paine: Mr Mayor, could you.....

Councillor Williams: Where are you getting this from?

Councillor Paine: Could you elaborate on what you're saying about what I have said.

Mayor: There are items that have been quoted in the local paper today, OK, and that will make part of what goes into the investigation into what has gone on. As will the community having been lead to believe that Council acted improperly before we have had a chance to investigate. That is what it alludes to. It alludes to statements that say things like, it is a quote in an article in the independent today.

Councillor Paine: Is it quoting me?

Mayor: Yes, it is quoting you Councillor Paine.

Councillor Paine: Yeah, I can read it for you Mr Mayor because I've got it in front of me.... "somebody wanted those trees down and had the power to have them removed". That is true, somebody did want the trees down and had them removed. Now somebody asked me who is was and I said I don't know whether it was Council staff, I don't know who, but I also spoke to some Council staffs. It wasn't a go at any body, it was somebody had the power to have them removed and they had them removed. I would like you to get some legal advice on that statement. You have just denigrated me in public like this and think that, over this statement. Mr Mayor, I think.....

Applause from gallery.

Councillor Paine: I just ask you to ask you to be quiet, because this is getting serious and I am getting really upset and angry, so I don't need supp, I really need the public to be quiet because Mr Mayor, I think it is appalling what you have just said about me, publicly.

Mayor: Councillor Paine, what I am saying is the way the community is being lead to believe that something as untoward has gone on.

Councillor Paine: Mr Mayor, I can just tell you it is the community, when they rang me, made all sorts of allegations and I have been trying to placate it. I have been saying who knows, I don't know anything about this and I don't know where it is coming from. I came down to get the file notes and there is nothing there. Please don't make assumptions.

Mayor: Mr Faulkner

General Manager: Mr Mayor, perhaps Management could assist Council in this debate. It is proposed that a full and complete investigation be undertaken relating to this matter canvassing everything that has happened in relation to the removal of the trees and the alleged public comment and all those sorts of things. So perhaps if Council is willing to wait for that to be undertaken and I should add, it should be by an independent person, not by members of Management themselves and that I think will, I think, bring out all of the issues for all of the Councillors to see and resolve on.

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Mayor: Councillor Williams

Councillor Williams: Mr Mayor, if you were going on what's being said that I have said in the paper here, I don't think you can back up what you're saying with this as it says and I will read it "Councillor Williams said he had asked a horticulturalist and a builder to examine the stumps and any damage caused to the footpaths and adjoining properties. The horticulturalist said there was nothing wrong with the trees and the builder described the damage to property as superficial" Councillor Williams said. Now, I mean that's hardly me inciting a bloody riot in Kurrajong.

Mayor: Nobody has said that you have incited a riot Councillor Williams

Councillor Williams: Well you're inferring that I wound up the locals up there to say that Council had acted improperly. If you had been there you would have seen that I did quite the opposite. There is nothing in this article to back up what you are saying and I think you should withdraw.

Mayor: Which particular item do you wish for me to withdraw Councillor Williams.

Councillor Williams: Comment on Councillor Paine and myself, there is nothing in this paper to back up what your saying we, that we wound up the locals to say Council acted improperly. There is nothing is what I've said there and there is nothing in what Councillor Paine said, so where are you getting it from?

Mayor: The information that was relayed to me from people on site on Saturday , that the community was lead to believe that Council had acted improperly.

Councillor Williams: That is pretty flimsy Mr Mayor, I mean there is something in print here, that is all that I have seen. I think you had better have another look at what you are saying because I think you are out of order well and truly.

Councillor Books: Mr Mayor, were the police called on Saturday? I've been told they were called to the site.

Mayor: It is my understanding that they were called.

Councillor Paine: Mr Mayor

Councillor Rasmussen: Mr Mayor, what are we debating at the moment, do you want me to enter the debate or what are we debating so at least we know what we are debating.

Mayor: Well, do you aim to try and move the Motion.

Councillor Paine: Mr Mayor, I can try and tell you about the police. The police were called, I did speak to them because they walked up and down the street, they walked into the bottle shop, they came back out and I introduced myself. They said they were called there because there was a disturbance, they didn't think there was a disturbance and they were quite happy with what was happening and they went back down the street, got in their car and left.

Mayor: Thank you Councillor Paine

Mayor: OK, Councillor Paine, the Motion.

Councillor Paine: Mr Mayor, I would like to move a Motion, it is a little different to what I have sent in. I will read it if that's all right with you.

Prior to the removal of any trees in the streets of the Hawkesbury's towns and villages:

1. A notice be put in the Council's page in the Hawkesbury Gazette for a period of two weeks.
2. A notice be attached to the trees concerned for a period of two weeks.
3. Trees deemed to be in a dangerous condition be exempt from one and

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two.

4. A further report of investigation on this matter be brought back to Council. Sorry a further investigation on the removal of the trees in Kurrajong Village be brought back to Council.

Councillor Williams: Second that Mr Mayor

Mayor: Moved Councillor Paine, seconded Councillor Williams, Mr Faulkner

General Manager: Mr Mayor, could we have a copy of the resolution for the typist.

Councillor Paine: Oh, I have just writtendo you want me to do it later.

Mayor: Thank you Councillor Paine

Councillor Paine: Mr Mayor, further that there was a note by Management and on the last line of that it said eminent instead of imminent. Eminent means distinguished, these trees are not no longer distinguished, they're extinguished and it should read imminent please.

Mr Mayor, I had a very distressful lady call me last Wednesday morning and before I could understand what she was saying, I had to calm her down. She was screaming at me as to what I had done, what I had done. I had to stop her and say what are you talking about and then we came to the fact that these trees had been removed at Kurrajong. I spoke to Council staff and I did ask them where the file was, could I come and look at the file. I was told by two of the senior staff at Council that there wasn't a file, there wasn't anything to be found on file. I have spoken to one of those staff since and was told the same thing. I have been told that the trees were removed very early in the morning and the people who removed the trees did make comments such as they had to do it as there was going to be trouble. Mr Mayor, you kind of have made some allegations about me this evening, which I have totally resent because I have had probably ten to fifteen calls a day from when this happened, from distressed residence and concerned people and I spent my Saturday morning up there and sitting down and talking to people and getting an understanding of it. The name that I was given of the tree contractor by the staff, who was suppose to have removed these trees made the comment to one of the residence that he didn't actually put the knife, the swore into these trees, he was asked to and he refused to because he wouldn't do it. These trees didn't need to come down, they weren't dangerous trees. We have a report here from a DA Schofield who is a consultant, a former senior horticulturalist with the Royal Botanic Gardens and he says from previous recent observations, all three mature Liquidambar trees showed remarkable health and tolerance of their situation. Only one individual had any sign of decay in the trunk and this was not structural. Structurally threatening and was related to an injury in much earlier lifetime. When looking at the remainder of the stumps, it is clear that the two others were obviously very sound. It says that the condition that all of these three trees were growing was not unusual for the street trees of these specimens and they were coping admirably. Mr Mayor we've had experts look at it and it's not only one expert, I think there's been a couple have gone up there and had a look at these trees and remembered the trees and had a look at the stumps and they said the weren't a problem. You and I live in this district and we walk around the streets and we look at Chapel Street and we've made some changes with Chapel Street we've discussed many times in this chamber the problems we've had with the trees around the major shopping centre in Richmond and how we don't really want to see, none of us want to see those trees going we're going to make some changes so that we can try and keep them. We debated long and hard how we could keep the trees in Windsor Mall and most of the trees, some of them had to come out because they were leaning too far and we couldn't save them, but most of them we've put barriers around and we've kept them. In the inner city such as North Sydney and around the Crows Nest area where I frequent a lot there are many trees that have rubber matting, huge great trees, and the footpaths are much worse than our paths. I think we are doing very well. For these trees to be removed in the manner in which they were removed needs an explanation. Now perhaps I may get into trouble because I did say on Saturday up there to the residents that I was sorry, and I am sorry. If it means I'm expelled from the chamber I will say I'm sorry again because we shouldn't have taken those trees down in the method and the way we did. This Council has a reputation and we're trying to improve things we are trying to get the community and take it along with us, we need to do that, we don't need to be doing things underhandedly and early in the

morning where the people don't have the say. There's a lot of angst in Kurrajong there's a lot of anger and we've got two items on the agenda which are causing a division in Kurrajong at the moment and that's sad and that's something we don't want for our community, we need to be pulling together and this Council needs to be working with and for the community. We are their representatives and the only reason we're here is because they have put us here. We need to look at this Motion of mine and Councillors around this table want to make changes to it I'm quite happy to listen to your changes because as long as the intent of what I'm getting at stays, I'm more than happy to work with you and I have spoken to quite a few of you this afternoon and yesterday saying that if there are any changes you want to make to this Motion I'm happy to work with you on it.

Councillor Williams:

Mr Mayor can I ask Councillor Paine if she will accept another two clauses to the resolution and I had given these to the typist earlier so it will be numbers three and four on what I handed over before and that would then become five and six on this current resolution and that would be – five would be three advanced trees be planted in Kurrajong in the same locations as the three recently removed - species and maintenance to be as per Don Schofield's report and then number six would be a Draft Tree Management Policy be presented to Council for consideration within one month.

Councillor Paine:

More than happy.

Councillor Williams:

Mr Mayor as you know as you well know I went to Kurrajong on, I actually went up there on Thursday. I met with a couple of builders and this Horticulturist and I don't know if Councillor Books was looking at the same section of footpath as I was but I walked the length of it and in both directions and there is absolutely no trip hazard at all in the footpath. There is slight undulations but definitely no trip hazard and, from memory, I don't even believe that there were any cracks that went across the width of the pavement. There was certainly some cracking in the asphalt that was around one of the trees, there were some roots exposed on the lower tree outside the hardware, but as Don Schofield the Horticulturist showed us those roots were in fact there and could quite easily have just been – and he did say and he did that – he actually snapped a couple off because the exposed roots were dead and any trip hazard in that area could have quite easily been removed. Mind you it would be unlikely with a mature tree standing there that anybody would walk that close to the trunk anyway and it certainly wasn't on the footpath. The two builders showed me that while there was some cracking in what I would call the concourse or the width of the footpath concrete which was quarry tiled around the front of the edge of the bottle shop that in fact it didn't have any expansion joints and it was cracking probably more because of that than any tree root invasion and there was no trip hazard there as well. There was certainly no cracking in the brickwork of the bottle shop or any of the other buildings as Don Schofield points out in his report, the bit of rock that appeared in one of the trees was from a much earlier damage or damaged when it was much younger and that had the tree was definitely sound. So I will, and I realise I can't table these, but I certainly will submit these two reports that is the one from Don Schofield and he recommends that these same trees be put back and he believes that subsoil barriers, creation of guards around the trunks and maintenance program should all be employed, trimming of service roots, etc. it is all this report and I think this is a very good report and this man has absolutely top credentials. The same with the report from the structural engineers, they too talk about one metre deep concrete cut off walls to stop any root invasion. The fact is that those trees were forty years old and the three of them, I'm sorry, I can not accept that they were in any condition that could have warranted from what I am hearing and what I have seeing for myself could have warranted removal. It caused enormous upset and I did go to Kurrajong with an open mind and I did think I would see a footpath with serious structural damage and it does not exist and neither is there serious structural damage to the kerb and gutter. I have seen far worse kerb and gutter and I really am at a loss and I did too apologise to the people at the meeting on Saturday morning as I was really sorry as to what had happened and I was quiet, I suppose, dismayed, as I really believed that we were pass this and that the story about the March Street trees in Richmond where there has been community consultation, there has been options considered and we really seem to be going along that path of taking the community with us. I am certainly in agreement that anything that is of immediate imminent risk to the public has to be dealt with immediately. I just really can not accept that this was, on what I have seen and have been told that that existed in Kurrajong. I should from tonight's speakers, I will ask Councillor Paine if she would agree to put in that an Ombudsman's report is submitted to Council. I think we need to show the community that it has to be an absolutely independent report that than something that would have to

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be done in house or even by just a local person who may have friends on one side or other. Am I out of order to request that Mr Mayor.

Mayor: Mr Faulkner

General Manager: No, Mr Mayor, not out of order Councillors, just that we can ask the Ombudsman to do it, but whether the Ombudsman is willing to do it is another question. It is truly up to them as to whether they conduct a review. Certainly the request can be made.

Councillor Williams: Right.

Discussion between Councillor Williams and Councillor Paine

Councillor Williams: Do we need to put that in. Is the further report to do with an independent, so that would be Part 4. Were you going to request the Ombudsman.

Mayor: Mr Faulkner

General Manager: Mr Mayor, if it is Councillors intention to have a further report that is independent, you need to say that in the resolution, so number four would have to read 'that a further independent report be reported to Council'.

Councillor Williams: Then can we add there that the Ombudsman be approached to prepare that report.

Discussion between Councillor Williams and Councillor Paine

General Manager: You can certainly request in the resolution the Ombudsman be approached, but there is no guarantee that he will do the report. You need to be aware of that.

Councillor Williams: Alright, Ombudsman or independent report, if that is OK.

Councillor Books: Can I ask a question.

Mayor: Councillor Williams is still going then Councillor Conolly had his light on and then Councillor Books.

Councillor Williams: Mr Mayor, I think whilst.....I thought we'd moved on and I thought we were taking the community with us and we certainly were in Richmond. I was just really was dismayed about this and I think we should have, I would hope that we were getting a Tree Management Policy in place. We do need to stop this sort of thing happening again where the community suddenly wake up shocked. The community do have the right to go to bed with confidants that the amenity that they love will not be destroyed over night and I think it is extremely important that we are careful that that doesn't happen. I guess we are all on steep learning curve on this one, but I think we have to put that, make the rules absolutely paramount that we consider the community in everything that we do and I know we do have the proviso that if there is an emergency, again, I really can't accept that there was at this stage not from what I have seen.

Mayor: Thanks Councillor Williams. Councillor Conolly.

Councillor Conolly: Mr Mayor, just before I begin my remarks, I wonder if I can ask the obvious question to staff. Why were these trees removed?

Mayor: Mr Daley

Director Infrastructure: Thank Mr Mayor, there is a copy of the report given to the General Manager has been circulated to all Councillors and the trees had from what I was aware an ongoing history. They were assessed with a view to protecting Council's liability and removed from that place.

Councillor Conolly: Had there been incidences that put Council at risk of liability.

Director Infrastructure: Yes Mr Mayor, there were two claims that I have a record of. One with a tree limb hitting a car and another with a trip.

Councillor Conolly:

Mr Mayor, I'm dismayed too, but I guess from a different front, clearly I can understand the passion that people have and the disappointment they have about the trees and I look forward to the independent report to explain to us all that occurred and why that occurred and so on. I am not sitting here in judgement of that, I will wait for the facts before I do that. What dismays me is the readiness of people to jump to conclusion that involve allegations or insinuations or inferences against staff, if they are Councillors or Council staff. It absolutely dismays me to hear that kind of talk that I have heard tonight. That people are so ready to reach those conclusions, that for some reason they feel that there must have been something improper and there have been insinuations of improper behaviour and yes Councillor Paine, I believe that the comments you read out from the paper, which I hadn't seen before, do make an inference of improper behaviour and further more the fact that you said that this should not have happened and under handily, you made that comment tonight, I think reinforces that that was the tone and tenor of the comments that you were making and I am absolutely flabbergasted that Councillors have so little faith or so little support for their own staff that they would so readily jump to that kind of statement. Certainly a judgment was made that the trees should come down, whether it was right judgement or the wrong judgement, why must we immediately think the worst and why must people make comments in the media to support that or in this Chamber to support that. I don't believe that there is anything underhand about staff working early in the morning unless you think that when they laid the pavers down at South Windsor shops that there was something underhanded about that because for days on end as I drove to Windsor Station to catch the 7:29am, there they were doing it bit by bit in separate sections so that they never blocked the entrance to the shops. They allowed those businesses to operate. I think they even worked a couple of Saturday and Sunday morning sessions for the same reason. The fact is people have very readily, for whatever reason, have decided to think the worse and I don't think it is the least bit fair to the individuals whose reputations they are impugning, not the least. Let the investigation occur by all means, let's have the facts put on the table. If you have something to say, say it after that, but I think it has been really quite, well, more than dismaying and more than disappointing, but I will reserve it at that, to hear some of those comments being made. I really think it is only fair to assume that the staff go about doing their job and if they make mistakes, they make mistakes, they get it wrong, they get it wrong.

Disapproval from Gallery

Councillor Conolly:

If at the end of the investigation there is anything more to show or anything more to say, I am sure the people behind will point it out. If at the end of the investigation it is there.

Comments from the Gallery

Mayor:

No comments from the gallery please.

Comments from the Gallery – two members of the public left

Councillor Conolly:

Can I say and I have said it earlier on, but I will say it again, I have no idea whether it was right or wrong to remove those trees and I am in no position to judge, I am no expert and I have not been up to Kurrajong to see so I can't comment on that and I don't mean to and I don't mean to in any way play down the disappointment, the hurt, the anger and the passion that people feel about it. I entirely understand that and I have no criticism of that and no argument of that whatsoever, but I do believe that very unfair comments made about individuals before tonight and even during tonight and that is what has upset me and that is what I want stopped. We as a community can do better than that, we can raise above that sort of behaviour, we can at least allow the investigation to occur before we jump to conclusions.

Mayor:

Councillor Books and Councillor Rasmussen.

Councillor Books:

Thank you Mr Mayor, I have a problem with the Motion as it is. I am quite happy down to number three, but c. does concern me to plant trees again, which no doubt will cause the same trouble again. I did go up there and have a look and I am not going to be an expert on trees although I probably did have more dealing with them than most people over the years. The stump that is in the paper, I had a look at that stump, it is the only one that is left there at the moment, it is quite solid and firm and the pavement all around it is disturbed and has been raised. The other areas that the photos that were tabled around here tonight who that the kerb and gutter has been raised up because of the roots, the

bitumen has cracked, it's raised up because of the roots. I tried to get an assessment of roughly where the tree line / leave line would be. It seems the cracks go to that level so the roots are doing a lot of damage so I would like to see a report before any other work is done, firstly I think the area should be barracked off with tape for safety reasons and as you are aware General Manager, I sit on the board of WESPOOL insurance and what it is costing Local Government in slip, trips and fall would amaze you and because of simply places like this and there are a lot more around Hawkesbury, there is no doubt about it and its not going to be the first time or the last time we are going to have this problem of removing trees, but I would like to see a sound report from the Occupational Health and Safety, I would like to see those people come and do an assessment. We have heard a lot of residents saying that there is not a problem with the footpath, but there is. The bitumen has raised, the concrete has buckled and its undulating. You may laugh about it, but you may be one of the people who fall on it. I wont be up there to fall on it and I think all these things should be looked at. To plant trees/advanced trees back there, may be in another thirty years you will have the same problem so whatever gets planted there should be looked at so not to cause problems with the barriers of pushing up the pavement. So, Mr Mayor I would like to see added in there that an expert opinion from the Occupational Health and Safety people regarding the footpath as it is and it should be tapped off as it is because it is dangerous. I am not going to sit here Mr Mayor and say that I accept the fact that the trees look good or bad, there down, I can't tell, but the stump that is there is quite sound. The reason the trees have moved is not because they are falling down, but because they are pushing up the pavement, which will cause someone to have a serious accident and that is what has happened.

Mayor:

Councillor Rasmussen then the Deputy Mayor.

Councillor Rasmussen:

Thank you Mr Mayor, I think if we follow that line of argument, there would be too many trees left in this city. I think Mr Mayor that there are some issues here and I think Councillor Conolly had a point and that is that we shouldn't jump to conclusions before getting the facts and I would certainly would support that and I just wish that we would use that basic principle as a guiding principle for our way forward in dealing with this business in this Chamber. I am not sure that that is always the case, certainly not the case as I see it, however, I am glad Councillor Conolly has in fact spent some time arguing that point because I am going to be reminding him from time to time that that was what he did say and that is how we are going to proceed. At least that, as I understand it, that is how he want it to proceed. Now, Mr Mayor, I don't know whether you spent any time in Kurrajong Village a day after the mishap, if you like to call it that, I wouldn't, I would like to call it something else, however, I hadn't spent more than 10 minutes by the supermarket there, talking and chatting away to some people before I had eight or nine people turning up telling me, pointing at my chest, saying that "you're a Councillor, why on earth have you done this". Now, there is irreparable damage, not only to us as a Council, but us as individual Councillors. Now, Mr Mayor, I don't know if you take your reputation seriously, but I do and I spend a lot of time hopefully good time making sure the reputation is a valid one. Now, this Council has seriously had fatal, I hope its not fatal, damage to its reputation. Now, I don't how we recover this, I would have thought that the suggestion from the community, if that is what they want and we need to listen very carefully to what they want here, very carefully because whatever they want, we need to deliver on. There is no ifs or buts about this and if they want an apology, that's what we do and if they want 10 trees, mature trees 20 foot high, 30 foot high liquidambars then that's what we do and we had better not be ifs and buts and questions about that because if we don't do something serious to make amens on this and I don't know the rights and the wrongs of it all because I am getting to the bottom of all this and I would like some more facts as well to base my view on, but we had better start getting these facts and independent facts, very, very quickly because we are in serious damage control here, serious damage control and if we don't recognise this, we don't have our thinking caps on and we better start getting it on.

Anyway, Mr Mayor, you and I were at a meeting last night where there were 60 – 70 – 80 people at Kurrajong Heights at St David's Church listening to a number of issues up there. Now I can list them, but I think you know them as well as I do. One of them was the trees, now as I recall it Mr Mayor, you stood and said "that we weren't discussing that here tonight because we are going to discuss that in the Chamber tonight". Now I was really surprise that the residents just sat there and took that as an answer. I was really disappointed too because that was a forum in which the people wanted to discuss this. They come into this formal forum and there are all sorts of restrictions as we all know

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about what they can and can't say, but in a place where there should have been free and frank and open discussion, it wasn't happening. Now, I don't where this community is going to Mr Mayor, but I don't like it. I seriously don't like it. It is dangerous in my view. It is dangerous to the fundamental building blocks of democracy and I don't like it and spent thirty years in an armed service making sure that this country remained democratic for a very long time.

Applause from Audience

Councillor Rasmussen: And I am not very happy as you can probably tell and I am glad that the people of Kurrajong and the people of the Hawkesbury are passionate about this. They need to be passionate about. If I was Mr Joe Blow Average out there who did something like this, we'd hang em almost and I don't know, I would like to know where the reports are. If Mr Farmer wants to cut down a tree out there, as we all know, he has to put in an eight point test, he has to have an arbores report, he has to have that, before we even nearly let him go anywhere near his trees and I don't think this is simply not the way we should do it. Has anybody visited Chapel Street in Richmond recently. Has anybody seen how beautiful that canopy of Plain trees are, they are absolutely beautiful. I take people from all over the world up and down the Hawkesbury because I am really proud of all of the trees and the colour and the splash of this and that and so on and the Kurrajong many times have I taken visitors up to the beautiful restaurants up there and many times admired the trees that are up there. I have walked the paths up there with visitors from all over the world and they are great little places and they love it and I think it is so sad that we spend so much time and so much effort on tourism and then something like this happens and I just find it very, very strange but I certainly want the facts and I'm glad the General Manager suggested that we very quickly get an independent report on this and I think its very important because it has to be independent. There are all sorts of rumours circulating out there and I'm not listening to any of them at this point, like Councillor Conolly, I want the facts before I jump to make conclusions, I'll make up my mind about this but whatever has happened the *prima facie* evidence is there and you can't get away from that and there's an old saying that you don't use this proportionate force in application in issues, you just don't do it, just because you can use that force you don't do it, you take steps to make sure you don't have to use maximum force, it's a very simple principle of human nature, if you want to avoid major conflict and destruction and hurt and all the rest of it and I think we need to understand some of these basic principles that the rest of the world or most of the rest of the western world would operate from and I think its tragic, Mr Mayor, I don't know, I've got a lot of things I want to say but I won't go on with but I do think we need to be very, very careful about this because we need our reputation to be restored and as I said if it takes twenty more trees in that street up there and we got to make good to the people of Kurrajong. We've got to do it very quick and I think an independent report is one way to go, trees, trees, trees and we start getting it right up there, this is what I'd like to see. Can I just ask one more question Mr Mayor about Item D on this - it talks about a draft Tree Management Policy, I assume that is the Council's draft Tree Management plan of trees planted in our city, its not Mr Farmer out there whose going to have yet another burden to live with. Its towns and villages of our trees, Council trees, can we sort of add that in somewhere so that this doesn't get confused with every Tom, Dick and Harry out there? I really think we need to focus up on it, to get it absolutely right, if we could do that Mr Mayor, thanks very much.

Mayor: Thanks very much.

Applause from gallery

Mayor: Councillor Books, then for the question. Councillor Paine, you've heard what Councillor Rasmussen asked for, are you wishing to change the Motion to reflect his request there? [Indecipherable from Councillor Paine] Councillor Books?

Councillor Williams: If I could respond to that Mr Mayor, that came out of a conversation I had with the General Manager today. I just asked the General Manager because Mr Faulkner's been involved in preparing a Tree Management Policy at the previous Council he worked at.

Mayor: Mr Faulkner?

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- Mr Faulkner:** Mr Mayor, yes, that's correct, I discussed the matter with Councillor Williams today. Its highly appropriate to limit it to Council street trees and we can certainly attempt to have the policy back to you within one month in draft form.
- Mayor:** Thank you, Mr Faulkner, Councillor Williams. For the questions, Deputy Mayor was next then Councillor Books. Deputy Mayor....
- Deputy Mayor:** This one, I'm happy with the Motion, I just want to comment on No. 3 where it says trees deemed to be in a dangerous condition be exempt from points 1 and 2 above. I'm happy with that but then can we tidy that up a little bit because we're looking at trees that have been taken down. Who deems or who makes the decision on No. 3 because I feel that the staff have come under a lot of criticism tonight. I would like that cleaned up so that its iron clad that if a tree is diseased or if it has got to come down in a hurry, that decision has got to be worn by somebody.
- Mayor:** Deputy Mayor, I'll ask Mr Daley to respond to that but I think they're talking about storm damage as well where there's actually an immediate safety issue. Mr Daley?
- Mr Daley:** That's correct Mr Mayor, any storm damage or trees that have been hit by a truck or something like that, otherwise it would be assessed by an arborist.
- Mayor:** Question? Councillor Books.
- Councillor Books:** Mr Mayor, I asked a while ago could we have in there a report by the Occupational Health and Safety people to look at this site and give a report, is that possible? Would we be happy to add that in the Motion?
- Mayor:** One moment, Councillor Books. On Occupational Health and Safety, Mr Faulkner?
- Mr Faulkner:** Mr Mayor, it was my intention to include that aspect in the report anyway so it may not be necessary to have this as part of the resolution.
- Councillor Books:** I'd like also to ask how does this sit with Item 40 on page 23? [long pause]. Mr Mayor, Council has got to be aware that we cannot, as Councillors, direct Council officers how to do their safety work. I'm not going to be responsible, I don't want to be put in a situation with other Councillors where I'm going to be in a legal position, if they make some of these recommendations that don't fit with that report.
- Mayor:** The matter in the business paper differs to this altogether, this is about us so being concerned about the details that changes the Occupational Health and Safety, it does not really relate to this issue at all, you've raised your concerns about OH&S in regard to a trip which is separate to this item. Mr Faulkner?
- Mr Faulkner:** Mr Mayor, that will be taken up as part of the report in any event and will cover that contingency.
- Mr Mayor:** Mr Faulkner....
- Mr Faulkner:** To assist Council it may appropriate just to be mindful in No.3 that its very subjective as to the assessment of damaged trees. No. 3 might want to read "trees deemed to be in a dangerous condition as assessed by a qualified expert and that can be a qualified staff expert or a qualified independent expert, but a qualified expert" and just in relation to the independent report, what's Councils intention in relation to the appointment of that person? Are they asking management to appoint an independent person? Bearing in mind that management is part of this process and it may not be seen, depending on results, that was desirable from the Kurrajong community's perspective.
- Councillor Paine:** Mr Mayor, I think the General Manager should be appointing that because I have utmost faith in whatever.....
- General Manager:** Well if Council's happy with that it would be my intention to appoint a legally qualified independent expert and possibly one from the list of applicants or tenderers for our legal services.
- Mayor:** Councillor Calvert.....

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- Councillor Calvert:** Thank you Mr Mayor, I mentioned before that I have about half a dozen points that I wanted to add to the Notice of Motion and so far about four of those have been added. I am wondering whether the mover and seconder would like to consider the following additions. In point 1 I think it should read - it's a notice inviting public comment to put in Council's notices page etc and point 2 should say the same thing, a notice inviting public comment be attached to the tree of concern. If that's OK with the mover and seconder, and also I'd like to move on point E which says an apology be given to the general community for the apparent lack of community consultation regarding the recent removal of trees from Kurrajong village. I'd like to talk on that Mr Mayor, I just want to know firstly whether the mover and seconder wanted to add that, if not, I'd like to move it as an amendment.
- Mayor:** Mover and seconder, are you happy with those changes?
- Councillor Paine:** Could I have the last one again please?
- Councillor Calvert:** It reads "an apology be given to the general community for the apparent lack of community consultation regarding the recent removal of trees from Kurrajong Village."
- Councillor Paine:** Yes.
- Mayor:** Thank you, Councillor Calvert, its been accepted.
- Councillor Calvert:** Thank you Mr Mayor, then I'd like to talk in favour of the Motion, if you've a minute or to, I do live up there and do go to the Kurrajong village several times a week and those trees, Mr Mayor, are part of the community, they are part of the community as much as the people that live there and its very sad to go down there now and see them gone and see the bare landscape that's there today and how did that happen is a good question and that's hopefully what we're going to work out through our independent investigation and what I'm suggesting with this apology, Mr Mayor, is that we didn't seem to ask the community whether this should be done or how this should be done, we just seemed to have rushed into it without any notice and we are hopefully going to correct that now with this new policy we're putting up on the board but in the meantime I think its very important that the twelve Councillors here move to accept responsibility for what happened up there. We are responsible inasmuch as there was no policy or the policy that we had was not implemented very well or properly and that's what we're apologising for, we're apologising for not having that policy and not implementing it and if all twelve of us can support that I am hoping that the twelve Councillors can repair, firstly, some of the damage in the community and secondly, repair the damage that is obvious here tonight in Chambers, that the Councillors are pointing fingers at each other and getting quite upset. That, to me, is not a way to run this city. The twelve of us need to work together as one Council to move forward into the future so I am hoping, Mr Mayor, that this apology will bring us together and provide some more goodwill both here and in the community and secondly I am hoping by putting in those changes to points one and two we are saying to the public we do want to hear what you've got to say on this matter. As it stood up there before, what it said was we're going to put a notice up on the tree telling you we're going to cut the tree down and to me that's not much of a move forward at all. Instead of coming in the night time we're going to say we're coming in two weeks time and we're going to chop it down anyway. Hopefully by putting in inviting public comment we can actually talk to you about the trees, work out ways to save them and saving trees, Mr Mayor, is something that this Council needs to do. We need to do that because of our unique position in Western Sydney, as part of one of the largest economies in Australia that is pumping out smoke and ashes and all kinds of things and its only the dear old Hawkesbury that's pumping out oxygen and we need to keep that oxygen going so Mr Mayor I hope that Councillors support the Motion as it stands.

Applause from gallery

- Mayor:** Councillor Paine, I'd just like to make one suggestion if you'd consider it, in point 2 about the notice being attached to the tree concerned, I think it would be appropriate on the notice inviting public comment, we really need to say on the notice attached to the tree explaining the reason for plant removal, and comment be invited by the public regarding this because we're actually then saying why its being removed and people have to know the reason as to why the tree's being removed.

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Councillor Paine: No problem Mr Mayor.

Mayor: Thanks Councillor Paine. General Manager, then Councillor Wearne.

Mr Faulkner: Mr Mayor, can I just seek Council's indulgence in relation to B which is the report to Council. If that report is about identifying the shortfalls in the processes of any policy, considerations should be adopted to alleviate the problem, then that's fine. If the report is intended by Council to be a witch hunt for staff members, that's inappropriate and certainly if that's the case you need look no longer because I am under the Westminster System responsible and accountable to Council for the actions of my staff so there'd be little point in engaging in a witch hunt, I am responsible, but if it is Council's intention that it is a report that's aimed at identifying where the shortfalls in processes are concerned and what can be done to alleviate them, then that's fine, I'd go forward on that basis, but I just need to alert Council to that.

Councillor Paine: Mr Mayor, this is not meant to be a witch hunt, this is meant that this is never going to happen again and where, why and how...., we don't have a file on this, they're the kind of things we don't want to happen again, by having that report back perhaps that can be identified and it will fix it.

Mr Mayor: Any further discussion?

Councillor Wearne: Yes please.

Mayor: Yes, Councillor Wearne....

Councillor Wearne: Yes, thanks Mr Mayor, I am happy basically with all of that, just one comment I offer in point A1, where it says "Press Pacific" it would be more appropriate to say the "general local press" rather than "Press Pacific", cause that covers more than one paper, that's what I'm saying. [Indecipherable from Christine Paine]. That's what I wish to say.

Mayor: Does anybody wish to speak against the Motion? Any further questions? Right of reply.

Councillor Paine: Yes, Mr Mayor, this has been a rather difficult period for a few of us and I think the next couple of days, with some legal advice, it's probably going to get even more so. I wonder just how much money Council has spent in maintaining these trees, there was a comment made here that there was branch fell from one of the trees and we've had a few problems with the footpath. Well I believe there has been very little money spent in Kurrajong village on maintaining and tree planting over the past years so perhaps that's something that can come back to Council too but we cannot only plant our trees. In the report that we had from the consultant, it says that the future trees that are planted should be chosen and purchased and planted and maintained for no less than three years and probably we should look at all of our trees, our new trees and make sure they are looked after and let's nurture the trees that we've got planted and make sure they don't have to come down and make sure that we are looking after them. We all do that in our gardens and we perhaps should look at it on a bigger scale. The investigation to take place, Councillor Conolly spoke about the investigation, and it should be taking place now and we should be all very careful, the investigation should have taken place beforehand so none of this came up, this is a whole procedure and this angst is not necessary and your concerns about our reputation. I am concerned about what this has done to our reputation. You often can speak about the Council's reputation, I am concerned about what this whole business has done to all of our reputation and we are all seen to be tarred with brushes and you can say that, Councillor Conolly can be amazed that people jump to conclusions, I think you should come down to the real world, people are jumping to conclusions and Council are in the front line all the time and it is hard and as Councillors you've got to have a very thick skin because after being here for fourteen years you've got to have a thick skin or you don't survive. You don't have very many friends either. Mr Mayor, I'd like to see that Council support this and I'd like also to thank Councillors who have had input in making the changes and taking on my challenge to work with me to make the changes to make it acceptable for all of us and to make it acceptable for the people of the community

Applause

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Mayor: Thank you Councillor Paine, I'll put the Motion, all those in favour? I. Against? Carried unanimously.

Councillor Williams: Mr Mayor, could I submit this Don Schofields report, I refer to in the Motion.

Mayor: Thanks Councillor Williams.

Councillor Williams: It needed to be on file.

Mayor: Thank you.

Councillor Williams: Thank you.

Mayor: Next item, we have a number of people who are making their way here now on the first item so we'll actually start at the bottom of the list and work our way up.

oooO END OF REPORT Oooo

Item: 175 **ORG C - Resignation of Councillor Dianne Finch from the Board of Hawkesbury Tourism Inc. - (74399, 73538)**

REPORT:

Council has been provided with a copy of the following letter dated 27 May 2005 from Councillor Dianne Finch to Tourism Hawkesbury Inc. submitting her resignation from the Board of that organisation:

"It is with deep regret I tender my resignation as Council representative from the Board of Hawkesbury Tourism.

I served on the Board for the past eight years both as a sector Director and as Council representative. During my employment with Merroo Conference Centre, I had the privilege of working with other Directors and this contributed greatly to the success of Merroo.

Tourism has been profession for so long and I will continue in my Role as a Councillor and Citizen to promote Tourism in this beautiful District in which we live.

It has been a pleasure not only working with all the past Board members but with the current Board and I will miss that very much".

RECOMMENDATION:

That the information concerning the resignation of Councillor Dianne Finch from the Board of Tourism Hawkesbury Inc. be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

CONFIDENTIAL SUPPLEMENTARY REPORTS

Item: 176 RES B - Tourism Hawkesbury Inc. - (73538) CONFIDENTIAL

Reason for Confidentiality

*This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c)(d) 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*
- (d) commercial information of a confidential nature that would if disclosed:*
 - (i) prejudice the commercial position of the person who supplied it*
 - (ii) confer a commercial advantage on a competitor of the council*
 - (iii) reveal a trade secret*



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