



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 01 November 2005

location: council chambers

time: 5:00 p.m.



mission statement

***"To create opportunities
for a variety of work
and lifestyle choices
in a healthy, natural
environment"***

How Council Operates

Hawkesbury City Council supports and encourages the involvement and participation of local residents in issues that affect the City.

The 12 Councillors who represent Hawkesbury City Council are elected at Local Government elections held every four years. Voting at these elections is compulsory for residents who are aged 18 years and over and who reside permanently in the City.

Ordinary Meetings of Council are held on the second Tuesday of each month, except January, and the last Tuesday of each month, except December. The meetings start at 5:00pm with a break from 7:00pm to 7:30pm and are scheduled to conclude by 11:00pm. These meetings are open to the public.

When a Special Meeting of Council is held it will usually start at 7.00pm. These meetings are also open to the public.

Meeting Procedure

The Mayor is Chairperson of the meeting.

The business paper contains the agenda and information on the issues to be dealt with at the meeting. Matters before the Council will be dealt with by an exception process. This involves Councillors advising the General Manager at least two hours before the meeting of those matters they wish to discuss. A list will then be prepared of all matters to be discussed and this will be publicly displayed in the Chambers. At the appropriate stage of the meeting, the Chairperson will move for all those matters not listed for discussion to be adopted. The meeting then will proceed to deal with each item listed for discussion and decision.

Public Participation

Members of the public can request to speak about a matter raised in the business paper for the Council meeting. You must register to speak prior to 3:00pm on the day of the meeting by contacting Council. You will need to complete an application form and lodge it with the General Manager by this time, where possible. The application form is available on the Council's website, from reception, at the meeting, by contacting the Manager Corporate Services and Governance on 4560 4426 or by email at lmifsud@hawkesbury.nsw.gov.au.

The Mayor will invite interested persons to address the Council when the matter is being considered. Speakers have a maximum of five minutes to present their views. If there are a large number of responses in a matter, they may be asked to organise for three representatives to address the Council.

A Point of Interest

Voting on matters for consideration is operated electronically. Councillors have in front of them both a "Yes" and a "No" button with which they cast their vote. The results of the vote are displayed on the electronic voting board above the Minute Clerk. This was an innovation in Australian Local Government pioneered by Hawkesbury City Council.

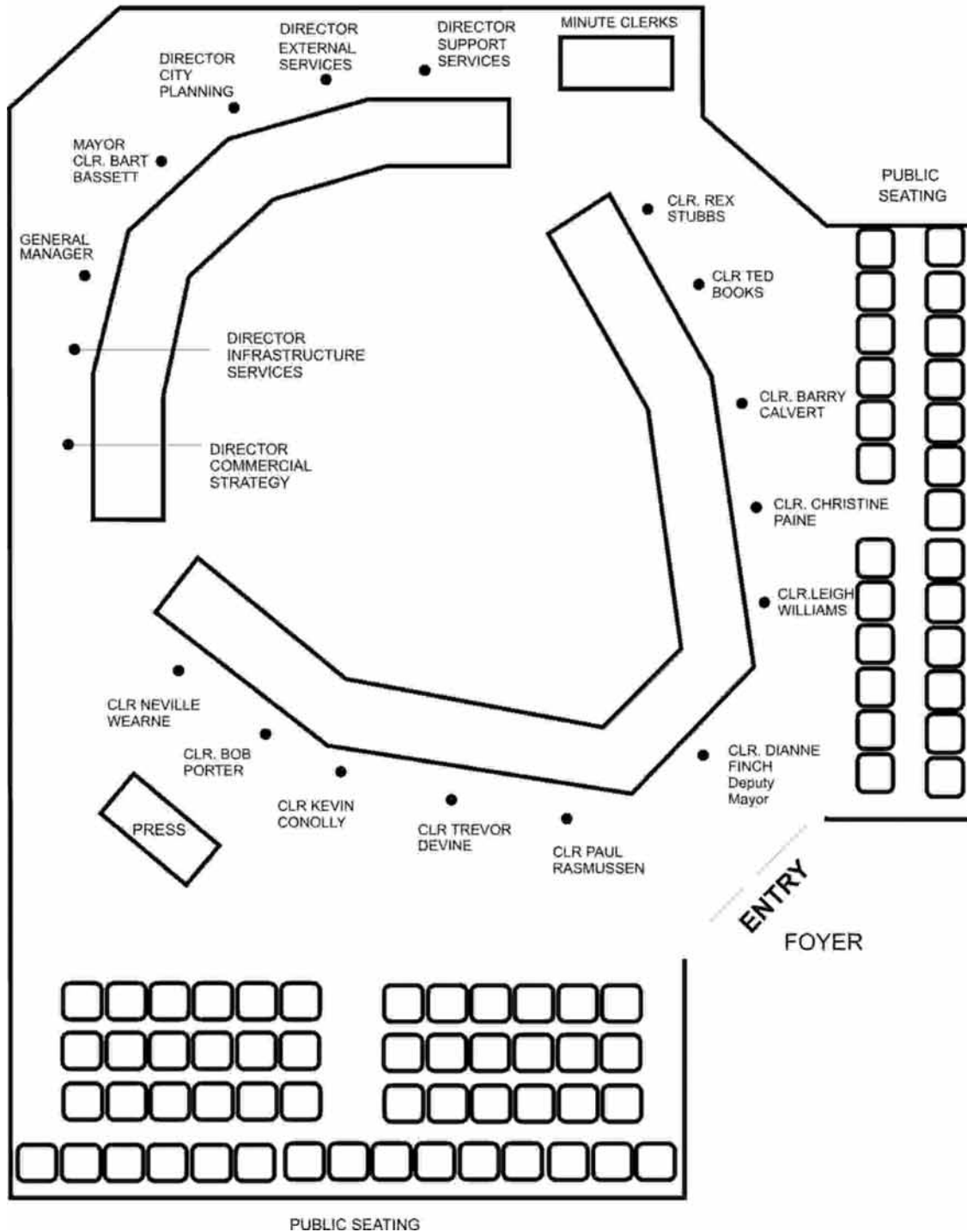
Website

Business Papers can be viewed on Council's website from noon on the Friday before each meeting. The website address is www.hawkesbury.nsw.gov.au.

Further Information

A guide to Council Meetings is available on the Council's website. If you require further information about meetings of Council, please contact the Manager, Corporate Services on, telephone 02 4560 4426.

council chambers



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SECTION 1 - Confirmation of Minutes

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QUESTIONS WITH NOTICE

Questions With Notice - 1 November 2005 - (97149, 90476)

REPORT:

Question 1

Councillor Devine

- a) Has a complaint been received by Council regarding the operation of a business at 25 Golden Grove, Bligh Park, which is a residential area?
- b) If there has been a complaint made, what action has been taken by Council?
- c) Does the operation of this business, with a sign promoting the business constructed on Council land and vehicles obviously used in the business parked on the nature strip, signify how the new "template" for home based businesses will operate? (Photos Attached)

Response

- 1. Council received a complaint regarding the operation of a real estate business at these premises on 21 June 2005.
- 2. On 6 July 2005 Council sent a letter to the owner of the premise advising that the land is identified as Residential 2(a) under the Hawkesbury Local Environment Plan (LEP) 1989, and developments such as real estate offices are considered to be activities of a commercial nature which are prohibited within that zone. However, the activity being undertaken on the premise may fall into the category of "Home Occupation" which is exempt development under Council's LEP. The owner was advised to write to Council outlining the business activities being undertaken on the premise, and seek written confirmation of the ability to continue with this use.

The owner was also advised that advertising signage was not permitted and must be removed, and other signs were not permitted on power poles, trees or on any public land.

On 19 July 2005 the owner of the above premise wrote to Council outlining how the business operated. Council responded with a letter dated 9 August 2005 advising that no approval from Council was required as the subject activity complies with the definition of "Home Occupation".

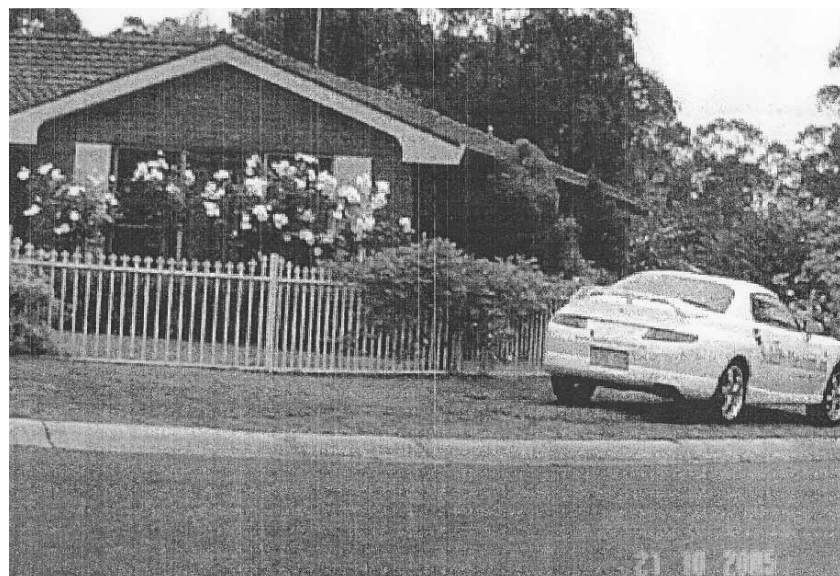
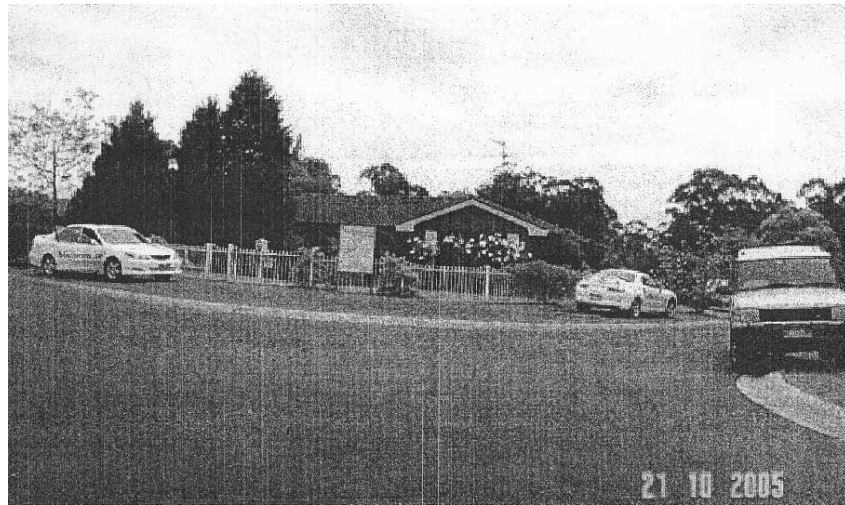
- 3. The owner of the premise has previously been advised that the signage must be removed in accordance with Council's LEP (definition of "Home Occupation"). Vehicles associated with the business should not be parked on the nature strip. These matters will be raised with the premise owner.

The new "template" LEP contains a similar definition for "Home Occupation" as defined in Council's LEP, hence advertisements are prohibited (other than a notice, advertisement or sign exhibited on that dwelling-house to indicate the name and occupation of the resident).

ATTACHMENTS:

AT - 1 Photos in relation to Question 1

AT - 1 Photos in Relation to Question 1



oooO END OF REPORT Oooo

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SECTION 3 - Notices of Motion

NM 1 - Roadside and Residential Vendors - (90476, 80108, 90480, 90477, 74399)

Submitted by: Councillor Devine
Councillor Stubbs
Councillor Books
Councillor Porter
Councillor Finch

NOTICE OF MOTION:

That Council:

1. Enforce the provisions of the Local Government Act in relation to roadside vendors, particularly in relation to flower sellers operating on Mother's Day and Valentine's Day.
2. Enforce the provision of the Hawkesbury Local Environment Plan in relation to the sale of goods from residential premises in the Hawkesbury who have not obtained development consent.
3. Make a submission to the Minister for Local Government to increase the fine for roadside vending to a more realistic level.

NOTE BY MANAGEMENT:

It has been Council's practise in the past to:

1. enforce the provisions of the Local Government Act regarding roadside vendors, particularly flower sellers operating on Mothers Day and Valentines Day; and
2. the provisions of the Hawkesbury LEP regarding the sale of goods from residential premises.

However, Council has not enforced the provisions of the LEP regarding the sale of goods from residential premises in respect of 'garage sales'. It is recommended to Council that this practice continues to be implemented.

The on-the-spot penalty for selling goods without approval is \$220.00.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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Notices of Motion

NM 2 - Feasibility of Bringing Forward the Three Towns Sewerage Program - (80108, 90477, 90480, 90476, 74399, 79351)

Submitted by: Councillor Stubbs
Councillor Porter
Councillor Books
Councillor Devine
Councillor Finch

NOTICE OF MOTION:

That Council discuss with Sydney Water the feasibility of bringing forward the Three Towns Sewerage Program by 12 to 24 months should Council pay Treasury's interest costs for said period.

NOTE BY MANAGEMENT:

As part of Sydney Water's operating license conditions in relation to priority sewerage:

"Sydney Water must meet the following requirements in relation to the 'Priority Sewerage Program':

- (a)
- (b)
- (c) *By 30 June 2009 work shall be commenced which, when completed, will permit connection to be made available to at least 30% of lots eligible for connection under Stage 2 Priority Sewerage Program and including those lots which are situated in areas adjacent to World Heritage Areas."*

Some issues relating to this proposal include:

- Interest payments would be required as the scheme was being implemented and as such some property owners may be paying both an interest component as well as a pump-out charge.
- There are properties within the areas to be sewerred who currently have on site disposal systems and would only be required to pay a sewer rate once connected.
- A time frame for payment of the capital would need to be agreed to ensure property owners would not be paying both a sewer rate and an interest component.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF NOTICE OF MOTION Oooo

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 314 **GM - 2005 National General Assembly of Local Government to be held 7-10 November 2005 in Canberra, ACT - (79351, 82046)**

Previous Item: 296, Ordinary (11 October 2005)

REPORT:

The 2005 National General Assembly of Local Government will be held 7-10 November 2005 in Canberra, ACT. A report was previously submitted at the Ordinary Meeting on 11 October 2005 with a recommendation that no Councillor or staff representative attend the 2005 National General Assembly of Local Government.

Correspondence from Cr Paul Bell AM, President of the Australian Local Government Association has been received, which encourages representation at the 2005 National General Assembly as two critical issues relating to cost shifting and securing fair federal funding will be discussed as part of the Congress. Cr Paul Bell AM will make an address to the General Assembly on Tuesday 8 November 2005 regarding these two critical issues faced by Local Government.

Cost of attendance at the 2005 National General Assembly of Local Government on Tuesday, 8 November 2005 in Canberra, ACT, will be \$810.00 plus travel costs per delegate.

Budget for Delegate Expenses - Payments made and future commitments:

- | | |
|---|--------------------|
| • Total budget for Financial Year 2005/2006 | \$44,481.30 |
| • Expenditure to date | <u>\$21,658.55</u> |
| • Budget Balance as at 24 October, 2005-10-24 | \$22,822.75 |

Conformance to Strategic Plan

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

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

Funding

Funding for this proposal will be from the Delegates Expenses budget.

RECOMMENDATION:

That attendance of a nominated Councillor, and staff member as considered appropriate by the General Manager, at the 2005 National General Assembly of Local Government in Canberra, ACT, at a cost of \$810.00 plus travel expenses per delegate be approved.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 315 **GM - Redundant Positions - (79351, 79355)**

Previous Item: 146, Ordinary (31 May 2005)

REPORT:

The purpose of this report is to seek Council approval to make four vacant positions redundant in order to reduce Council's projected deficit based on the September 2005 Quarter financial results.

The four positions proposed for redundancy are in addition to four vacant positions made redundant by Council on 31 May 2005, saving \$178,308.00.

This cost reduction strategy is in addition to the staff freeze implemented on 30 August 2005 and is one of a range of cost reduction initiatives to be outlined in Council's Quarterly Report for the period ending September 2005. The strategy endeavours to provide employment protection to existing employees though it will result in service and efficiency shortfalls for Council.

The vacant positions put forward for redundancy comprise:

- (1) Administration Officer - Purchasing, Support Services Division.
Saving \$37,581.00 for 12 months.
- (2) Road Works O.H. & Safety Officer - Infrastructure Services Division
Saving \$40,461.00 over 12 months.
- (3) Internal Auditor - Executive Services Division.
Saving \$77,283.00 over 11 months.
- (4) Corporate Systems Support Officer - Commercial Strategy Division.
Saving \$43,403.00 over 9 months.

Total Savings equate to \$198,999.00

Management will continue to monitor financial projections on a monthly basis and report quarterly to Council. In view of the financial trends that have occurred over the last 18 months, Management proposes to bring forward for Council's consideration, future revenue options to its November 15 2005 meeting in lieu of 29 November 2005 as proposed at Council's briefing session on Saturday 15 October 2005.

Conformance to Strategic Plan

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

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

Funding

No funding required. Savings of \$198,999.00 identified to respond to projected budget deficit.

RECOMMENDATION:

That Council

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- A. Make the following vacant employee positions redundant effectively immediately:
1. Administration Officer, Purchasing - Support Services Division
 2. Road Works O.H. & Safety Officer - Infrastructure Services Division
 3. Internal Auditor, Executive Services Division
 4. Corporate Systems Support Officer, Commercial Strategy Division
- B. Note that the reduced level of Human Resources will have a service and efficiency impact on Council's businesses.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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CITY PLANNING

Item: 316 CP - Removal of 70 Wells Street from Pitt Town Draft Local Environmental Plan - Amendment 145 - (95498, 12386)

REPORT:

Correspondence has been received from Mr Timothy Elliot of 70 Wells Street, Pitt Town, requesting that his land be excluded from the draft Local Environmental Plan (LEP) - Amendment 145 (Pitt Town). The purpose of this report is to advise Council of this request and recommend an amendment to the draft LEP.

Background

Mr Elliot has lodged submissions throughout the preparation of draft LEP and the draft Development Control Plan (DCP). Whilst objecting to further development of Pitt Town, Mr Elliot also requested that a Wildlife Corridor be established on his land and properties to the north to provide a suitable corridor for wildlife to link to Longneck Lagoon and the Hawkesbury River. The proposed wildlife corridor would be linked to the proposed wetland for stormwater purposes on Mr Elliot's property. Discussions were held with Council officers and Mr Elliot during the preparation the Water Management Plan and were positive over the location of the wetland.

Correspondence was received from Mr Elliot on 6 October 2005 confirming his requests of 25 and 28 September 2005 that all reference to 70 Wells Street be removed from the *"rezoning, drains and roads"*. Mr Elliot requested that the draft LEP and draft DCP be therefore amended to reflect the removal of his property.

Consideration of the request

Connell Wagner were requested to review the Water Management Plan to consider the impact on the stormwater system should the wetland on 70 Wells Street be removed. Following discussions with Connell Wagner it was concluded that the property could be removed with minimal alterations to the Water Management Plan. The less complicated solution is to increase the size of the proposed wetland on the corner of Mitchell Road and Cattai Road to cater for the removal of the wetland at 70 Wells Street. Some additional pipe work will also be required, however, is not considered to be excessive.

Implications on the draft LEP and draft DCP

The removal of 70 Wells Street will not compromise the integrity of the subdivision, however, the DCP will require amendments to reflect the removal of 70 Wells Street. It is likely that the four lots located on the eastern side of Johnston Street will be reduced to three lots as 70 Wells Street is not available.

It is unclear if the Department of Planning will amend Amendment 145 at this late stage. If the draft LEP is finalised and part of the land is rezoned, Mr Elliot would still have to grant consent for the land to be subdivided. If consent is not issued, no subdivision could occur.

It is noted that the removal of wetland and roads can occur as requested in the event that the Department of Planning does not alter the draft LEP. Further, should the Department not support the change, a further option is to prepare a separate draft LEP to rezone a portion of the land back to a rural zone.

Conclusion

Given previous resolutions of Council not to compulsorily acquire land within Pitt Town, it is recommended that the land be removed from the draft LEP, draft DCP and Water Management plan.

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Conformance to Strategic Plan

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

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

Funding

Funding is available within the current budget.

RECOMMENDATION:

That:

1. Draft Local Environmental Plan-Amendment 145 (Pitt Town) be amended to exclude Lot 2 DP77569, No. 70 Wells Street, Pitt Town.
2. The Draft Development Control Plan be amended to exclude Lot 2 DP77569, No. 70 Wells Street, Pitt Town.
3. The draft Water Management Plan be amended to exclude Lot 2 DP77569, No. 70 Wells Street, Pitt Town.
4. The Department of Planning be notified of this decision and a new draft Local Environmental Plan (map) be forwarded to the Department for finalisation and gazettal.
5. Mr Elliot be notified of Council's decision.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

COMMERCIAL STRATEGY

Item: 317 CS - Developing Capital Markets - Hawkesbury Stock Exchange - (95497)

REPORT:

At its meeting held on 16 September 2004, the Strategic Planning Committee (SPC) considered a discussion paper on Managing Economic Change and Innovation that was prepared by the Commercial Response Unit (CRU). Among the findings presented by the paper, the committee noted that *Access to Capital* was a strategic factor that could perhaps be developed by Council to give local businesses improved mechanisms to obtain finance for growth and/or start-up purposes.

During the course of the last 12 months, the CRU has been hosting a series of Business Breakfast Meetings as part of an overall strategy to strengthen ongoing relationships with the local business community. Access to suitable financial resources has been raised as a business issue and it has been suggested by some business leaders attending these sessions that Council and business could be working in some way to develop some form of venture capital fund. Indeed, this goal is already contained as an objective within Council's Strategic Plan.

In recent months CRU has been in discussions with the Newcastle Stock Exchange (NSX), seeking their interest in forming a Hawkesbury Stock Exchange (HSX). These discussions were followed up with a meeting on 29 September 2005 between relevant personnel of the NSX, and the General Manager and Director Commercial Strategy. It became clear at this meeting that the directors of the NSX would welcome an opportunity to explore the potential of developing a Hawkesbury Stock Exchange with the support of Council and the local business community. In fact, the NSX had been working on a similar concept with Wollongong City Council and informed Council that they were launching the Wollongong Stock Exchange on 27 October 2005.

The Newcastle Stock Exchange is unique in the Australian financial market. It is the owner/operator of the Bendigo Stock Exchange and specialises in the listing of Small-Medium Enterprises (SMEs) on an alternative exchange platform to the Australian Stock Exchange (ASX), which is intended for the listing of much larger corporations. A listing on the NSX - from an Initial Public Offering (IPO) to later capital raisings - gives a small company access to much-needed capital through multiple channels, providing its owners with increased liquidity to those of unlisted companies, increasing its shareholder base and providing all shareholders with entry and exit strategies. The NSX also operates a well-established trading and settlements system as well as alternative settlements structures providing choice in how a company's securities are handled.

Companies listed on the NSX cover a diverse range, in size, activity and geographic location. The NSX caters for small to medium-sized community-based organisations, debt securities, property and investment schemes.

In addition to growth finance, a listed entity enjoys increased customer awareness, daily press coverage and the potential for research and new development.

It is considered that a Hawkesbury Stock Exchange would also provide significant spin-off benefits for our local professional services industry such as legal, brokers, accountants and advisory firms who would have the opportunity to help manage the smallest to the largest of listings.

Proposal

It is proposed that Council further explore the potential of establishing a Hawkesbury Stock Exchange by:

- (a) Holding information sessions with local accountants, lawyers and business advisory firms;

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- (b) Ascertaining interest from the local business community; and
- (c) Inviting representatives from the Newcastle Stock Exchange to present to the next E-Commerce/Markets Advisory Committee.

Conformance to Strategic Plan

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

"Objective: Locally based venture capital fund available"

Funding

No impact on budget.

RECOMMENDATION:

That the potential of establishing a Hawkesbury Stock Exchange be further explored, including:

- (a) Holding information sessions with local accountants, lawyers and business advisory firms;
- (b) Ascertaining interest from the local business community; and
- (c) Inviting representatives from the Newcastle Stock Exchange to present to the next E-Commerce/Markets Advisory Committee.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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EXTERNAL SERVICES

Item: 318 **ES - Planning for Future Services and Activities at the Hawkesbury Seniors Centre - (95494, 73512)**

REPORT:

This report has been prepared to advise Council of the outcome of the Hawkesbury Seniors Survey conducted in July 2005 and to seek approval for establishing a working party to consider options for the future development of the Hawkesbury Seniors Centre.

The Hawkesbury Seniors Centre is located in March Street, Richmond. The Centre was constructed to provide senior residents with a community venue to support a range of social and recreational activities. The Centre is managed by the Board of Peppercorn Services Inc.

In recent times, the operations of the Centre have expanded to accommodate the establishment of the Hawkesbury Seniors Gym, and the Hawkesbury Senior Computer Club. In late 2004 the Board of Peppercorn Services Inc. applied for funding under the Home and Community Care Program (HACC) to establish a Centre-Based Meals Program at the Centre and the Board will continue to pursue further funding opportunities to establish other programs and activities for senior residents.

The expansion of the activities conducted at the Centre, together with the ageing of the population, has given rise to a need to establish a process to plan and co-ordinate the future development of the Centre. Over the next thirty years, it is projected that the number of persons aged over 70 within the City of Hawkesbury will grow from 3,550 to over 10,000 people. Planning to meet the needs of this ageing demographic has been identified as a critical challenge within Council's Strategic Plan. The provision of additional community facilities for senior residents has also been identified as priority for the future construction of Section 94 community facilities (a provisional allocation of \$1.5M has been proposed for the expansion of the Seniors Centre in 2009/2010).

For many senior residents, the prospect of change can be a source of anxiety. The seniors who currently use the Senior Citizens Centre have a strong sense of ownership of the Centre, and are understandably very interested in any proposals, which may affect the operation of the Centre. In July 2005 a Seniors Survey was conducted to gauge the views of senior residents about how the Centre could be improved. 261 surveys were distributed to users of the Centre of which 128 were returned (a 48% response rate).

The Survey asked a number of questions about the current use of the Centre and sought suggestions from respondents about how the Centre could be improved or upgraded, and what types of activities or services should be introduced into the Centre. The results of the Survey were documented in a report and sent out to all persons who made up the survey sample. A follow-up meeting was held on the 30 September 2005 to provide an opportunity for senior residents to comment on the outcomes of the survey, and to raise other issues pertinent to the operation of the Centre.

The meeting resolved to seek approval from Council to establish a working party to consider the findings of the survey and to use this information to develop options for the future development of the Seniors Centre, including proposals for its possible expansion. It was agreed that representatives from the Seniors Activity Group, the Seniors Computer Club, the Seniors Gym, the University of the Third Age and Centre user groups be invited to participate on the working party. It may also be worthwhile for Council to seek nominations from other interested seniors groups through advertisements placed in the local press.

Conformance to Strategic Plan

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

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

Funding

No impact on the adopted budget.

RECOMMENDATION:

That:

1. The Report *"Planning for Future Services and Activities of the Hawkesbury District Senior Citizens Centre"* be received.
2. A working party be established to consider the findings of the Seniors Survey and to use this information to develop options for the future development of the Seniors Centre. Representatives from the Seniors Activity Group, the Seniors Computer Club, the Seniors Gym, the University of the Third Age and Centre user groups be invited to participate on the working party.
3. An advertisement be placed in the local press seeking nominations from other relevant seniors groups who may wish to participate on the working party.

ATTACHMENTS:

- AT - 1** *"Planning for Future Services and Activities of the Hawkesbury District Senior Citizens Centre"*
Report on the results of the Seniors Survey - *(distributed under separate cover)*.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

Item: 319 **ES - The Women's Cottage Rental - (95494, 79342, 80358, 73506)**

Previous Item: 129, General Purpose Committee (28 November 2000)
 12, General Purpose Committee (24 February 2004)
 121, Ordinary (14 September 2004)
 58, General Purpose Committee (28 September 2004)

REPORT:

This report has been prepared to advise Councillors of the impending lapse of Council Resolution of 9 November 2004 in which Council resolved that:

'rent payable on the Women's Cottage be refunded from Council's Donation Budget for a period of 12 (twelve) months and in the intervening period, and, in consultation with the Women's Cottage, Council explore alternate accommodation for the Women's Cottage'

The reports summarises information previously provided to Council in relation to this matter and outlines the current situation with respect to the position of the Women's Cottage.

Background:

- The Women's Cottage is an activity of the Hawkesbury Area Women's and Kids Services Collective Inc. (HAWAKS). The Women's Cottage operates as an information centre offering resources, referral and advocacy services for women and children living and/or studying in the Hawkesbury. The Women's Cottage also provides women with access to therapeutic and counselling services with a focus on dealing with the impacts of violence, sexual assault and homophobia. The services provided through the Women's Cottage are primarily funded by the Department of Community Services (DoCS).
- In 1985, 22 Bosworth Street was acquired by Council for the purpose of providing car-parking within the Richmond Commercial Area. At the time, due to the lack of demand for additional car parking spaces in Richmond, Council agreed to lease the property to the HAWAKS. The Women's Cottage has been operating from this venue since 1985.
- Since 1985, HAWAKS has paid a subsidised rental to Council for the premises occupied by the Women's Cottage. Initially, a subsidised rental of \$130 was paid by HAWKAS for the Women's Cottage. At the time of Council's Resolution of 9 November 2004, the subsidised rent charged for the use of the building had increased to \$227 per week (due primarily to CPI adjustments). The current charge is approximately 50% of the market rent of the property (which is estimated to be between \$350 to \$450 per week).
- Council's Resolution of 9 November 2004 allocated funds from the Community Donations budget to meet the rental charges for the Bosworth Street property. In Council's 2005/2006 adopted budget, a sum of \$4,500 has been allocated from the community grants program to meet this commitment for the 2005/2006 financial year. Due to a reduction in the total funds allocated within the Community Donations Program for 2005/2006, no additional funding can be provided from within the Program to maintain the payment of the rental charges for the Women's Cottage beyond November 2005 (without prejudicing Council's ability to meet its other commitments within the Program).
- HAWAKS has consistently argued that the payment of subsidised rental for the Women's Cottage has had the effect of reducing its capacity to provide services. HAWAKS would prefer to divert its rental contribution to Council towards the funding of its programs and services.

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- In 1992, HAWAKS was successful in securing an additional recurrent grant under the Western Sydney Area Assistance Scheme of \$10,500 as a 'rental component' to meet the rental charges levied by Council. This funding was 'picked up' by DoCS and subsequently incorporated into the DoCS funding grant received by HAWAKS (a copy of the letter of advice from Council who administered the WSAAS Scheme on behalf of the then Department of Planning is attached - Attachment 1). It would be reasonable to assume that since 1992, this rental component has been indexed by CPI and would conservatively be equal to approximately \$14,000 in today's dollars.
- The decision to divert that portion of the DOCS funding grant which was initially provided to meet the rental charges associated with the Bosworth Street Property, to fund programs and services provided through the Women's Cottage is one that has been made by the Management Committee of HAWAKS. This was an operational decision taken by HAWAKS without reference to Council. The decision taken by HAWAKS carried the expectation that Council would absorb the loss of income (from the non-payment of the subsidised rental). Council is in effect being asked to further subsidise, on an ongoing basis, the operations of the Women's Cottage (given that existing subsidised rental charges are 50% of the market rate).
- Council has recognised that the Women's Cottage is a key provider of services to women and children within the Hawkesbury and that the Bosworth Street property is the only dedicated womens information and resource centre within the Hawkesbury.
- Previous reports to Council have raised the issue of 'cost shifting' in relation to this matter. There is a concern that Council, by default, is being asked to provide additional financial assistance to the Women's Cottage to support programs and activities, which are primarily the responsibility of state and Federal Governments to resource. Council is in effect being compelled to augment insufficient levels of funding provided by state and federal authorities to enable the Women's Cottage to achieve its desired service levels.

Current Situation

- Pursuant to Council's Resolution, Council staff have met with representatives of HAWAKS to explore alternate accommodation options. The requirements for such accommodation (in terms of location, lay-out, size and cost) have meant that no readily available alternate accommodation options have been identified.
- Council staff are currently investigating medium-to longer term accommodation options which could be developed using Section 94 funds which have been collected for Catchment 4 (an area which includes Richmond, Hobartville, Agnes Banks). Council's current S94 plan provides for the building of a multi-purpose centre in this catchment and there is some scope for designing and building a multi-purpose community services centre in Richmond. Preliminary options being explored include the development of land behind Bowman Cottage, the feasibility of extending and reconfiguring the Richmond CWA/Early Childhood Centre, a possible 'partnership' development on land held in trust by Council occupied by Hawkesbury Skills, or the construction of a centre on a Council car park. These options would, of course, be subject to the agreement of relevant parties and compliances with Sec 94 requirements.
- Council staff had also requested HAWAKS to consider what level of contribution they could make towards the rental charges for the Bosworth Street premises. Advice has been received (Attachment 2) indicating that HAWAKS considers that a rental contribution of 50% of the current rental can reasonably be accommodated by their organisation. This would amount to approximately \$120 per week or \$6,250 per annum. The rental of \$120 per week is in the vicinity of 30% of the market rate and would represent a contribution by Council to the operation of the Women's Cottage of approximately \$15,000 per annum.

Options

The Women's Cottage have requested that Council give consideration to a 50% reduction in the rental charge of \$227 per week, which previously applied to the use of the Bosworth Street premises (a figure

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which is approximately 50% of the market rate). The Women's Cottage have indicated they would be willing to contribute an amount of up to \$120 a week for the remainder of the 2005/2006 financial year (a period of approximately 34 weeks). If Council resolved to accept this request it would represent a reduction in budgeted income of \$3,638. If Council wishes to lower the rental savings would need to be identified from elsewhere within Council's adopted budget to offset this loss of income. Due to the need to maintain projected levels of income for the 05/06 financial year, this report recommends that - at a minimum - the previous subsidised rental charge of \$227 per week be reinstated. As outlined above the reinstatement of the previous below market rental charge effectively represents a contribution by Council to the operating costs of the Women's Cottage of approximately \$10,000 a year.

Conformance to Strategic Plan

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

"Objective: Ensuring minimal vacancies for Council's commercial properties"

Funding

The reinstatement of the previous subsidised rental charge of \$227 a week will have no impact on the budget. A reduction to this charge will reduce the level of projected income within Council's Property Services Branch.

RECOMMENDATION:

That

1. The use of funds from the Community Donations budget to pay the rental charges for the premises at 22 Bosworth Street, Richmond occupied by the Women's Cottage to be discontinued as from 9 November 2005.
2. Council to reinstate the previous subsidised rental charge of \$227 per week (plus GST) for the rental of 22 Bosworth Street as from 9 November 2005.
3. Council write to the Minister of Community Services informing the Minister of its decision to contribute \$10,000 - by way of a rental subsidy - to the operating costs of the Women's Cottage to compensate for the insufficient level of DoCS funding received by HAWAKS. The Minister be requested to review the level of funding provided to HAWAKS in light of the difficulty experienced by HAWAKS in maintaining appropriate service levels from within its existing funding allocation.

ATTACHMENTS:

AT - 1 Rental Contributions Letter from the Women's Cottage Co-ordinator dated 23 August 2005

AT - 2 Area Assistance Scheme - Recurrent Funding Correspondence dated 5 November 1992

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AT - 1 Rental Contributions Letter from the Women's Cottage Co-ordinator dated 23 August 2005



The Women's Cottage

Hawkesbury Area Women's & Kids Services Collective Inc.

22 Bosworth Street (P.O. Box 305) Richmond NSW 2753

Phone: 02 4578 4190 Fax: 02 4578 2480

Email: womcot@pnc.com.au

Hawkesbury City Council

30 AUG 2005

23/8/05

Cc Hawkesbury Councillors

To Whom it May Concern

Rental Contribution

In response to the letter from council regarding a request to 'consider the future needs of our service' and 'the percentage of our funding that we could allocate to a rental component for the service'

We are aware that council has no plans to relocate this service and the Women's Cottage is happy to stay at the current location.

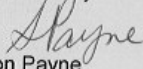
In regard to our rent; we ask that we pay no more than 3-4% of our recurrent funding income which is \$152,333. This is about 50% less than what we have paid in the past.

I am aware that our present subsidy came from a pot of money used for community grants and would assume that if there is a permanent reduction in our rental that this pot of money would be unaffected as we are not asking for a grant but a permanent reduction.

We ask a commitment from council to charge The Women's Cottage a reduced rate of rental more in line with other Hawkesbury services that receive the same type of recurrent funding and a (purpose built) building rent free (I am aware that Forgotten Valley is an exception however it is also supported by two other councils because of it's unique geographical position). The Women's Cottage provides an essential service to women and children who live, study and work in the Hawkesbury area and we ask council to value and acknowledge the importance of this service through a reduction in our rental fee.

I apologise for the delay in responding but I have been off work with the flu for over a week.

Yours sincerely


Sharon Payne

Women's Cottage Co-ordinator

On behalf of HAWKS Collective



SCANNED

This Service is funded by the Dept. of Community Services

ABN: 12 756 046 044

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AT - 2 Area Assistance Scheme - Recurrent Funding Correspondence dated 5 November 1992

40738

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GC021/05/PT06
JA19:SB

November 5, 1992

M/s M McDermott
Women's Cottage
23 Bosworth Street
RICHMOND NSW 2753

Dear M/s McDermott,

AREA ASSISTANCE SCHEME - RECURRENT FUNDING

The Department of Planning has written to confirm that the annual rental subsidy, which was approved under the Area Assistance Scheme, will be picked up as a recurrent grant by the Department of Community Services. This will apply from 1st July, 1994, and will be at \$10,500 a year. This will be a rental component of the overall grant.

It is encouraging that the Department has recognised the need for a rental subsidy as part of the annual grant. Your organisation should write to Julie Gal at the Department of Community Services to confirm that your funding will be available automatically as a WSAAS pick-up from 1st July, 1994.

Now that the work is almost completed on the renovations of the building, it is suggested that the increased rental apply from 1st January, 1993, at the amount of \$130 per week and remain at this level until 30th June, 1994, at which time the amount can be reviewed.

Your organisation should have received the \$4,400 from the Department of Planning to cover additional rental for the Area Assistance Scheme funding period of two years. However, it should be noted that the Department of Community Services funding should be available from 1st July, 1994.

From that time the rental should be at \$10,500 per year if the Department confirms this will be picked up at that level.

Yours faithfully,

Pat Smith

For TOWN CLERK/GENERAL MANAGER.

For enquiries please contact: M/s P Smith

oooO END OF REPORT Oooo

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Item: 320 **ES - Cars for Sale Along Public Roads - (95494)**

Previous Item: 140, Ordinary (10 May 2005)

REPORT:

At the Ordinary Meeting of Council held on 10 May 2005 Council resolved that ".....A further report be provided to Council in relation to the sale of vehicles on public roads with a view to introducing similar restrictions on Richmond Road entering into Windsor Downs; Kurmond Road, Kurrajong and the corner of Bells Lines of Road and Crooked Lane, North Richmond....".

This report is to provide information on the sale of motor vehicles parked along these roadways, and the options available to control this activity.

Public Roads

The Roads and Traffic Authority (RTA) have control over all metropolitan main roads, freeways and State highways. Local roads i.e. roads other than those under the control of the RTA fall under the responsibility of the local roads authority.

Windsor Road and Bells Line of Road are main roads and therefore the responsible authority is the RTA. Parking is available and must be maintained along main road for motorists and especially for heavy vehicles.

Sign posting of these roadways is carried out by the RTA and not Council

Hawkesbury Local Environmental Plan 1989 Clause 45 HLEP 1989

Vehicles fitted with an advertisement for sale may be likened to a business vehicle that carries advertisements. This form of advertisement is acceptable provided it does not fall into the category as identified in Clause 45 of the Hawkesbury Local Environmental Plan 1989.

"signs mounted on motor vehicles or trailers (whether registered or unregistered) where the vehicle or trailer is parked in a location or position for a period of time such that its principal function is for the display of an advertisement and not for the transportation of goods or people"

SEPP 64

State Environmental Planning Policy No. 64 relates to advertisements. It does not provide any assistance with the control of advertisements on motor vehicles.

Legal Advice

Council's Solicitor advises that a method of approach to control cars for sale on roadways is by way of issuing an infringement notice to the owner of the vehicle for an offence shown under the Roads Act 1993.

Roads (General) Regulation 2000 cl 11 (1) (b) says: *A person must not place on a road anything that is likely to restrict or endanger the use of a road by the public or interfere with public convenience.*

It was suggested that the placement of vehicles on the roadside and advertised for sale is a distraction to passing motorists, thereby likely to endanger road users.

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Cl 11(3) of that Regulation provides exceptions to this where the vehicle has broken down and then specifies what must be done - failure to comply with those requirements carries the same penalty as a primary breach.

While this approach may have some merits it is considered that if it were introduced, problems facing the parking patrol officers in carrying out their duties would be far greater than those being encountered at the present time.

Rule 208 of the Australian Road Rules

The rule provides for parallel parking and advises.

208(2) The driver must position the vehicle to face in the direction of travel of vehicles in the marked lane or line of traffic on, or next to, the part of the road where the driver parks.

208(3) If the road is a two-way road, the driver must position the vehicle parallel, and as near as practicable, to the far left side of the road.

There are a number of offences that a driver may be liable to in connection with parking other than parallel to the left side of the roadway. The penalties range from \$75.00 to \$125.00 and may be issued to the owner of the vehicle i.e. owner onus provisions apply.

While this approach is not a direct method of controlling the sale of vehicles from the roadside. It does have the benefit of forcing the owners to park the vehicle parallel to the roadside and therefore give the impression that the vehicle is parked and not left for the sole purpose of sale.

Section 229 of the Roads Act contains provisions whereby an authorised officer can require the owner of the vehicle to identify the driver of the vehicle. Therefore, a penalty notice may be issued to the owner of the vehicle (owner onus). Like a speeding ticket the owner has the ability to nominate the offender if he/she was not responsible for placing the vehicle in the particular location the subject of the infringement.

Council's Parking Patrol Officers are authorised to issue infringement notices for road parking offences.

Public land/Reserves

The control of vehicles placed for sale on Council's reserve at McGrath's Hill is underway. The method adopted is quite successful and there have been no reported incidents of vehicles being placed on the reserve.

Note, this method can only be used on Council reserves, it cannot be used on roadways or road reserves.

Summary

The use of the Roads (General) Regulations to control the sale of vehicles from the roadside are considered to be vague with the potential for challenges within the court process. This would be costly with no guarantees of success.

The use of Rule 208 of the Australian Road Rules is a more direct approach and would be difficult for an offender to object to in a court of law.

Conformance to Strategic Plan

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

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

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Funding

No impact on adopted 2005/06 budget.

RECOMMENDATION:

That:

1. The information be received
2. Parking patrol officers commence issuing infringement notices to vehicles found to be parked other than parallel to the roadside.
3. Council write to the RTA outlining its concerns and suggest that appropriate signage i.e, "no stopping, "no parking" signage be erected along main roads in areas where vehicles are concentrated for sale.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 321 ES - Ministerial Representations on Behalf of the Right Connection Coalition - (95494, 79341)**REPORT:**

This report has been prepared to request that Council forward correspondence to the Minister for Community Services, Reba Meagher, to make representations on behalf of the Right Connections Coalition in relation to an Expression of Interest lodged under the Department's Early Intervention Program.

The Right Connections Coalition is a consortium of 17 health, family support and early intervention services operating within the City of Hawkesbury. Coalition members include the Hawkesbury District Health Service Ltd., Living in Communities (LINCS) Volunteer Scheme, Hawkesbury Care Inc., Colo Wilderness Mobile Resource Unit Inc, Hawkesbury Family Support Program, and a number of Council Services including the Hawkesbury Family Co-op, Hawkesbury Family Day Care, Forgotten Valley Mobile Resource Unit and the Richmond Occasional Child Care Service. The activities of the Coalition are governed by a formal agreement.

The Coalition was established in March 2001 to work together to improve early intervention family services. Early intervention has been gaining increasing currency as an effective strategy for assisting parents and carers to raise healthy and well-adjusted children. Early intervention approaches seek to intervene early in the life of a child or early in the onset of a problem to reduce the subsequent risk of harm or injury to a child. It has been estimated that every \$1.00 invested in an early intervention program will save \$7.00 in future costs required to deal with the impacts and effects of child maltreatment.

The Right Connections Coalition has been recognised by the Department of Community Services as an example of 'good practice' in the development of a co-ordinated and local service network which has increased the capacity of services to respond to the needs of vulnerable families in a timely and effective manner.

In July 2005, the Coalition lodged an Expression of Interest (EOI) under the Department of Community Services' Early Intervention Program to establish a district-wide integrated family service. The EOI was comprehensive in its scope, and addressed the required selection criteria. The EOI sought funding to consolidate and strengthen the work of the Coalition by putting into place an integrated support system to assist vulnerable families with at risk children to address child protection concerns and move them into the mainstream community. The aim of the EOI was to help families to make changes that last by giving the most vulnerable children and families the support and resources they need. The EOI ensured that all workers in the City's health, family and childcare services would be linked into a wider service network.

On the 11 October 2005, the Coalition was advised that its EOI submission would not be progressing into Stage 2 of the assessment process. In Stage 2, further assessment of successful applicants is be undertaken to determine which applicants will receive funding for the next three years. These successful organisations are also likely to be the ones that attract continued funding in the longer term.

The Right Connections Coalition accepts that there can be no guarantee, in a competitive EOI process, that its bid would be successful. However it is concerned that as it currently stands there are no Hawkesbury based services which have progressed to Stage 2 of the EOI process. This is particularly significant, as one of the major criterion required of applicants was to demonstrate their capacity to integrate any proposed service within the existing service network.

The Right Connections Coalition represents all the major providers of child care, family, early intervention, and health services to vulnerable families within the Hawkesbury. To date, no approaches or partnerships, either formal or informal, had been made by external parties with any members of the Coalition – this also holds true for the 4 successful applicants within the Nepean Region which have progressed to Stage 2. In effect, the EOI process has effectively disenfranchised the members of the Right Connection Coalition

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from achieving better outcomes for the families who they are currently working with. It also contradicts much of the literature on early intervention which highlights the need for locally relevant and territorially differentiated service solutions for vulnerable families.

This is particularly concerning as the primary motivation of the Right Connections Coalition in lodging its EOI was to develop local solutions which could respond to the specific needs of vulnerable families living in the City of Hawkesbury. Councillors will no doubt be aware of the difficulties associated with providing services to a geographically dispersed population situated on the periphery of the Sydney Metropolitan Region. The Hawkesbury LGA has traditionally been serviced by relatively small and fragmented funded services, and it has been the experience of Coalition partners that welfare organisations located outside of the City's boundaries have been unable or unwilling to maintain a visible and viable outreach presence within the City (even where they are funded to do so).

The Right Connection Coalition is concerned that the needs of vulnerable families within the City of Hawkesbury will not be catered for given the exclusion of Hawkesbury services from progression to Stage 2 of the EOI process. The Coalition believes that the intent of the Early Intervention Program will not be achieved unless local service providers are included (rather than excluded) from developing and delivering service solutions which can respond to the needs of vulnerable families.

The Coalition would wish to acknowledge that the Department of Community Services has been supportive of Hawkesbury service providers in their provision of services to vulnerable families. The Department has in the past provided funding to establish the Hawkesbury Family Co-op, and also resourced a number of other projects initiated by the Coalition. In moving to a centralised rather than a regional funding assessment model, it would appear that the Department has perhaps sacrificed its capacity to respond to differences between regions and across local government areas in favour of a 'one size fits all' approach which has favoured large organisations located outside of the City of Hawkesbury.

The Right Connections Coalition met on the 18th October 2005, to consider its response to its unsuccessful EOI. In view of the critical issues involved, and its concern that the needs of local families have been overlooked by the Department, it has resolved to write to the Minister for Community Services to request that the Department reconsider its exclusion of local service providers from Stage 2 of the EOI process. The Right Connections Coalition has requested that Council make representations to the Minister to support this request.

Conformance to Strategic Plan

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

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

Funding

No impact on the adopted budget.

RECOMMENDATION:

That Council write to the Minister for Community Services in support of the Right Connections Coalition's request for the Department of Community Services to reconsider its exclusion of local service providers from Stage 2 of the EOI process for the distribution of funding under the Early Intervention Program. Copies of this correspondence to be forwarded to local state members - The Hon John Aquilina, Alan Shearan and Steven Pringle.

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ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

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Item: 322 **ES - Educational Establishment - Childcare Centre, Lot 1 DP 783233, 208 Richmond Road, CLARENDON NSW 2756 - (95494, 96329, 81262, 35546, 27919, 27918)**

Development Information

Applicant: Springwood Drafting & Construction Service
Applicants Rep: Mr Lloyd Williams
Owner: Mrs D M Moss & Mr G M Moss
Stat. Provisions: SREP 20 - Hawkesbury Nepean River
Hawkesbury LEP 1989
Hawkesbury LEP draft amendment 108
Hawkesbury DCP
Area: 3269m²
Zone: Rural 1(c)
Proposed Rural Living Under Draft Local Environmental Plan
8/98 (Amendment 108)
Advertising: 27 June 2005 to 11 July 2005
Date Received: 21 June 2005

Key Issues: ♦ Aircraft Noise Exposure Forecast (ANEF)
 ♦ Traffic

Recommendation: Refusal

REPORT:

Introduction

This development application proposes a 135 place childcare centre on land, which is severely affected by aircraft noise from operations at the Richmond RAAF Base. The matter is reported to Council at the request of the Mayor, Councillor Bassett. The application is recommended for refusal. This report also provides an opportunity for Council to resolve to prepare a new draft chapter for the DCP on Aircraft Noise.

The Proposal

It is proposed to demolish the existing structures situated on the subject site and to construct a single level building for the purpose of establishing an educational establishment/child care centre. The building is to accommodate five internal play areas containing associated wet areas and amenities providing accommodation for 90 children aged from 0-6 years with provision for 45 school aged children for before and after school care. In addition, the building is to contain entry foyer, staff room, kitchen, cot rooms and store rooms. Rendered brickwork is to be used for the walls, windows and doors are to be aluminium framed and colorbond steel is proposed as the roofing material.

Three outdoor play areas are proposed in conjunction with the proposal, with one situated to the north of the proposed building and two generally to the south. The play area proposed at the northern side of the building is to accommodate 0-2 year olds, whilst the areas to the south are to provide for 2-3 and 3-4 year olds. Acoustic fencing is proposed along the eastern, western and southern boundaries of the site ranging in height from 2.1 to 2.4 metres.

Access to the site is to be provided from Richmond Road via a two separate three metre wide driveways, the easternmost providing for entry only and the westernmost used for exit. On-site parking for 30 vehicles, inclusive of one disabled space, has been provided and is situated on the northern portion of the site.

Background**Department of Defence Advisory Comments**

In conjunction with the preparation of the application the applicant consulted the Department of Defence having regard to impact of aircraft noise on the proposed development. In response to this consultation the Department provided the following specific written advice to the applicant:

Your proposal was assessed against the 2014 Australian Noise Exposure Forecast for RAAF Base Richmond. The subject land is located within the 25-30 ANEF Zone. The proposed development of the land, described in your letter as "child care centre/educational facility" the building type (school) is classified as UNACCEPTABLE within the 25-30 ANEF Zone under the Australian Standard AS 2021 – 2000 Acoustics - Aircraft Noise Intrusion – Building Siting and Construction, Table 2.1 – Building Site Acceptability Based on ANEF Zones.

Pre-Application Meeting 7 April 2005

A meeting was held between Council staff and the applicant prior to lodgement of the subject application at a Development Advisory Panel on 7 April 2005. Issues relating to noise were highlighted with the applicant at this meeting and subsequent correspondence was prepared on 20 April 2005 advising the applicant as follows:

Noise

The property is within the 30 - 35 ANEF contour as identified on the map provided to Council by Department of Defence. In this regards, Clause 37 of the Hawkesbury Local Environmental Plan 1989 needs to be considered, however, as indicated at the meeting, the information provided on the Department of Defence map and the letter that was tabled from the Department of Defence indicated that establishment of an educational establishment or child care centre within a 25 or above ANEF contour area is unacceptable. In this regard it is difficult for Council officers to support such an application and a recent decision in the Land and Environment Court involving Hawkesbury City Council where the Court placed a significant weight on the map prepared by the Department of Defence with respect to appropriate forms of development within the various noise contour areas. It is understood that the Department of Defence has prepared a new map that will be lodged with Council shortly.

It would not be considered good planning practice to allow the establishment of a sensitive noise use, being a child care centre, within a high aircraft noise area.

It is noted that the ANEF contour in respect of the subject site is described as 25 - 30 in correspondence prepared by the Department of Defence and 30 - 35 in the pre development advice prepared by Council. In this regard it is advised that Council has not adopted any updated noise forecasts from the Department of Defence as further information has been requested from the Department. In any case the development is unacceptable in areas above 25 ANEF.

Statutory Situation**SREP 20 - Hawkesbury Nepean River**

The subject site is affected by SREP No. 20 (No. 2 - 1997). Relevant specific planning policies and recommended strategies include those relating to total catchment management, environmentally sensitive areas, water quality, water quantity, flora and fauna, agriculture/aquaculture and fishing, rural residential development, and metropolitan strategy. Relevant development controls relate to filling, sewerage systems or works.

It is considered that the proposal is consistent with the aims of the plan as well as the general and specific planning policies, recommended strategies and development controls outlined in Parts 1, 2 and 3 of SREP No. 20 (No. 2).

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Hawkesbury LEP 1989

Relevant clauses are listed below.

Clause 2 - Aims, objectives etc.

The proposed development is considered to be inconsistent with the general aims and objectives as outlined in Clause 2 of the LEP in that the proposed use is considered incompatible with the identified constraints associated with the site.

Clause 9 – Carrying out development

The proposal, classified as child care centre/educational establishment is a permissible land use with development consent within the Rural 1(c) zone.

Clause 9A – Zone objectives

- (a) *to primarily provide for a rural residential living style; and*

Comment: The application proposes the establishment of an educational establishment/child care centre that does not provide for rural residential living.

- (b) *to prevent the establishment of traffic generating development along main and arterial roads.*

Comment: The application for an educational establishment/child care centre is considered to represent a traffic generating development that is inconsistent with the zone objectives detailed above.

Clause 25 – Development of flood liable land

The provisions of Clause 25(3) of Hawkesbury Local Environmental Plan 1989 requires the following having regard to development on identified flood affected land:

- (2) *Each habitable room in a building situated on any land to which this plan applies shall have a floor level no lower than the 1 in 100 year flood level for the area in which the land is located*

Comment: The subject site varies from AHD 15.75m to 16.69m. The proposed building will have a finished floor level of 17.3 AHD, being the identified 1 in 100 year flood level thereby satisfying the provisions of this clause.

Clause 28 – Development in the vicinity of heritage items

The subject site is situated immediately to the east of an identified heritage item “Rhodesia” (Lot B DP 160847, No. 210 Richmond Road) and in proximity of two other identified items at Lot 1 DP 745143, No. 211 Richmond Road and Part Portion 63 Parish of St Matthew, No. 221 Richmond Road.

Whilst the proposal does not have any direct impact upon the identified items of heritage significance it is noted that the application proposes an extensive area of hard paved area within the northern portion of the site associated with the access driveways and open hardstand car parking area. A landscape plan has been submitted in conjunction with the application, prepared by Monaco Designs detailing the provision of screen planting adjacent to the northern (front), eastern and western (side) boundaries of the site. This plan details that a 1.0 metre wide landscape strip has been provided adjacent to the western boundary of the site. It is considered that this landscaped strip would provide minimal opportunity to screen the proposed car parking area.

Clause 37 – Land affected by aircraft noise

Clause 37 of Hawkesbury Local Environmental Plan 1989 provides the following:

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37. (1) *The Council must not grant consent to the carrying out of development on land within a 20 or higher ANEF contour for the purpose of a hospital, school, child-care centre or for a residential purpose, unless the Council has taken into consideration the guidelines provided in AS 2021 regarding noise reduction and construction requirements.*

(2) *In this clause:*

"ANEF" means the Australian Noise Exposure Forecast within the meaning of AS 2021.

"AS 2021" means Australian Standard AS 2021-1994 (Acoustics -- Aircraft noise intrusion -- Building siting and construction) published on 21 February, 1994;

"20 or higher ANEF contour" means a noise exposure control of 20 or higher ANEF as advised by the Commonwealth Department of Defence (Air Office) in relation to the Richmond RAAF Base.

The subject site is situated in the 30 to 35 ANEF contour as detailed on the map provided by the Department of Defence. The proposed development does not satisfy this clause or the relevant Australian Standard. The planning assessment, which follows provides further information.

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

The subject land is identified as Class 5 on the Acid Sulfate Soils Planning Map.

It is considered that the works proposed in conjunction with the subject application will satisfy the requirements of this clause.

Hawkesbury LEP draft amendment 108

This plan introduces the recommendations of the Hawkesbury Sustainable Development Strategy and amends the zone names and objectives for the Rural and Environmental Protection zones. The subject site is situated in the proposed Rural Living zone. The relevant objectives of the proposed zone are detailed as follows:

- a) *to provide primarily for rural residential life style;*
- b) *to minimise conflict with rural living land uses;*
- c) *to prevent the establishment of traffic generating development along main and arterial roads; and*
- d) *to ensure that development does not create unreasonable or economic demands, or both, for provision of extension of public amenities or services.*

The proposal will provide a traffic generating development along an arterial road contrary to the above objectives of the Rural Living Zone contained in Draft Amendment 108.

Hawkesbury Development Control Plan (DCP)

The following chapters within Part C of Hawkesbury DCP are relevant to the proposal. Assessment of the proposal with respect to these matters is contained within the planning assessment section of the report.

- Landscaping
- Building Height
- Setbacks

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Community Consultation

The application was notified to 15 nearby property owners and occupiers in accordance with the Hawkesbury DCP. A sign was also displayed on the subject site. In response to this notification two written submissions were received raising the following issues:

Neighbouring Property owner

- The adjacent property is used for rural purposes with horses and is surrounded by electric fences as such concern is raised in relation to the safety of small children.
- Traffic concern in relation to the level of vehicular movements associated with the site.
- The subject land is flood affected and the proposal may cause detrimental impact upon the adjoining heritage property due to additional water runoff.

Railcorp Property

- Noise and vibration
- Stray currents and electrolysis from rail operations
- Geotechnical and structural stability and integrity
- Building setbacks and design
- Derailment protection of structures
- Demolition, excavation and construction impacts
- Environmental conditions
- Graffiti, screening and landscaping
- Fencing

Planning Assessment

Australian Noise Exposure Forecast (ANEF)

Having regard to the provisions of Clause 37 of Hawkesbury Local Environmental Plan 1989, Table 2.1 contained in Australian Standard AS2021 provides the following:

<i>Building Type</i>	<i>ANEF Zone of Site</i>		
	<i>Acceptable</i>	<i>Conditionally Acceptable</i>	<i>Unacceptable</i>
School, university	<i>Less than 20 ANEF</i>	<i>20 to 25 ANEF</i>	<i>Greater than 25 ANEF</i>

It is noted that Note 4 of the AS2021 provides that:

This Standard does not recommend development in unacceptable areas. However where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable, it is recommended that such development should achieve the required ANR determined according to Clause 3.2. For residences, schools, etc., the effect of aircraft noise on outdoor areas associated with the buildings should be considered.

As detailed in Table 2.1 of AS2021 the proposed use of the site for the purpose of an educational establishment/childcare centre falls within the unacceptable land use category and no substantive argument exists that the proposed development within this location is “necessary” pursuant to the provisions of AS2021. An analysis of the ANEF contour map provides significant opportunity for the establishment of educational establishments/child care centres in areas not subject to aircraft noise within the Hawkesbury Local Government area.

Accordingly, it is considered that adequate opportunity exists to establish noise sensitive land uses in areas not subject to such constraint.

Given the existing noise environment within which the site is situated it is considered that approval of this application is not warranted as the proposal is acknowledged as a noise sensitive land use and that adequate mitigation of such impacts are not achievable to all areas, inclusive of outdoor play areas, associated with the centre.

Acoustic Assessment

In conjunction with the application an acoustic report was prepared by Renzo Tonin and Associates Pty Ltd. A number of conclusions that have been derived in this report are questioned. In particular the following conclusions are highlighted:

Table 7.2 in the acoustic report provides the following acceptable internal design sound levels

Table 7.2 – Internal Design Sound Levels [dB(A)]	
Occupancy	Max Noise Level, L_{max} dB(A)
<i>Sleeping rooms for infants, staff offices</i>	50
<i>General play areas for children</i>	55
<i>Foyers, corridors in bulding</i>	65

It is considered that the acceptable internal design sound levels that are relied upon by the acoustic report are excessive. In this regard the maximum noise level for sleeping rooms of 50dB is at the upper level of the general acceptable range that is unlikely to cause awakening reactions. This figure may not be appropriate for an area dedicated as a sleeping area for infants.

Section 7.1.2 of the acoustic report provides that some of the aircraft using the base are:

- *Boeing 707, 767, 717, KC10, Antanov, C17, IL76, Starlifter, Qantas Link, Caribou, Hercules C130J, Hercules C130H along with a variety of helicopters and light aviation.*
- *Flights usually operate between 7am and 11pm, 7-days a week. The frequency of flights departing and leaving the base is determined by external factors. An estimate of maximum numbers was provided at 10 flights departing and 10 flights leaving in one day.*

The report has not made reference to a number of aircraft that regularly use the base having specific regard to the following:

- *F/A18, F111 and C5 Galaxy*

The analysis has provided specific focus upon the Lockheed C-130H which is quoted as having an associated noise level, as measured at the subject site, of 80dB(A). No details are provided for other aircraft that operate from the base with a significantly higher noise impact. It is noted that the Appendix C – Noise Monitoring Results contains recorded ambient noise levels associated with the subject site. This detail provides that noise levels associated with the site regularly exceed 80dB(A) during daylight hours.

Accordingly, it is considered that the conclusions relating to the measures proposed to be incorporated to achieve an acceptable internal acoustic environment have not adequately taken into account the existing noise levles associated with the operation of the RAAF Richmond.

Landscaping

The relevant objectives of the landscaping chapter of the DCP are detailed as follows:

- *encourage the enhancement of the natural, cultural and built environment;*
- *encourage the recognition of climatic influences and the incorporation of landscape design features to enhance or modify the climatic factors relating to the site;*
- *encourage the design of low maintenance landscaping;*
- *integrate development into the landscape to minimise the impact on the natural environment; and*

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- *provide for landscaping which allows freedom of access and mobility.*

The DCP requires that residential development provide a total of 30% of site area for landscape purposes. Whilst the application does not constitute residential development it is considered appropriate to consider this requirement in order to establish the appropriateness of the proposal in its surrounding context. Whilst the application proposes the provision of 30% of site area for the purpose of landscaped area it is considered that the landscaping proposed in conjunction with the proposal will provide minimal opportunity to screen the proposed car parking area and associated driveway areas.

Car Parking

The DCP does not provide specific guidelines in relation to on-site car parking requirements for child care centre development. In this regard it is considered reasonable to apply the on-site parking requirements contained in the Roads and Traffic Authority's Guide to Traffic Generating Development. This guide provides that car parking for child care centre development be provided at a rate of one space per four children.

The facility is proposed to accommodate a total of 135 children thereby requiring the provision of (34) on-site car parking spaces.

A traffic/car parking assessment was prepared by Traffic Solutions Pty Limited, which concludes as follows:

It should be noted that the RTA rates were derived by averaging the results of centres surveyed in 1992 and was generally separate centres (i.e before and after separate from and not combined as with the subject site) and therefore would not take into consideration the lesser car parking required by a higher proportion of siblings (brothers and sisters being cared for at the same centre).

Based upon surveyed parking rates the centre proposed in Richmond Road would require less than 24 car parking spaces. Therefore the proposed 135 place centre in Richmond Road with the provision of 29 car parking spaces is considered to be sufficient, based upon the results of 2 separate surveys undertaken by this firm.

It is considered that the proposal is satisfactory having regard to on-site car parking provision given the anticipated peak parking demand associated with the proposal.

Access

The subject site is situated on an arterial road. Vehicles accessing the site will cross oncoming traffic in order to enter the site from the west and leave the site in an easterly direction.

The application was referred to the Roads & Traffic Authority for comment. The RTA commented, in part, as follows:

"It is considered undesirable to locate a child care centre on a high speed rural (arterial) road environment. It is noted that a number of Councils have adopted LEP's and DCP's to prohibit child care centres on arterial roads."

The RTA is however, prepared to grant concurrence to the development subject to a number of conditions relating to access construction, including an auxiliary right hand turn lane. Concerns are also raised by the RTA in relation to road traffic noise, and require that the building be designed such that the following noise levels are achieved within the building:

- All habitable rooms other than sleeping rooms: 45dB(A) Leq(15hr) and 40 dB(A) Leq(9hr) and
- Sleeping rooms: 35dB(A) Leq(9hr)

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It is noted that these requirements are not met by the proposed development.

Building Height

It is noted that Council's DCP does not contain specific guidelines in relation to height for educational establishment/child care centre development. Given that no specific control exists it is considered appropriate to apply the height control for residential development. In this regard the building height plane for residential development is detailed as follows:

Residential Use	At Property Boundary	At Ceiling Height	Maximum Height at Ridgeline
Single dwelling	1.8m	7m	10m
Multi-unit housing	1.8m	7m	10m

Having regard to the above, the proposal satisfies the maximum height measured at uppermost ceiling and at uppermost ridgeline of 4.11 and 7.66 metres respectively. It is noted however that the proposal does not satisfy the building height plane controls in that all parts of the building are not situated within the adopted height plane. In this regard the north eastern corner of the building encroaches up to 0.60 metres, the north western corner encroaches up to 0.90 metres and the south western corner encroaches up to 1.30 metres.

In addition, it is noted that the plans submitted with the application do not accurately reflect the height of the proposed building in that existing ground levels are not shown on the elevations.

It is considered appropriate for a building within the Rural 1(c) zone to comply with the building height plane to control the bulk of the building.

Setbacks

Buildings fronting main, arterial or collector roads are to be setback a minimum of 10 metres from the front boundary. The proposal provides a minimum setback of approximately 27.5 metres to the front boundary whilst the car parking area is situated up to 3.8 metres from the front boundary.

It is considered that the setbacks proposed are satisfactory having regard to the objectives of the DCP.

Information submitted by the Applicant

By letter of 29 August 2005, the applicant submitted that a wide range of developments have been approved over a number of years within the ANEF contours. He submitted a list of a number of developments, citing five child care centres, which have been reviewed by Council staff for the purposes of this report. The following table summarises the developments cited.

Property	Development	ANEF zone	Approval date
36 Pitt St Richmond	- DA for 40 place pre-school - S96 Modification to change operating hours from 7:30-5:30 to 7:00 - 6:00.	35-40	13/10/92 10/6/03
95 Francis St Richmond	- DA for 16 place kindergarten - Approval to increase to 22 children - DA to change hours from 8:00 - 4:00 to 7:00 - 6:00	30 -35	15/5/84 17/3/95 30/5/05

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Property	Development	ANEF zone	Approval date
69 Andrew Thompson Dr Mc Graths Hill	DA for 40 place child care centre	20 - 25	25/6/85
45 Dight St Richmond	DA for 39 place child care centre	30-35	4/1/02

The applicant also refers to a development at 91 Francis St Richmond, however, this was professional chambers for the NSW Family Day Care Association, not a child care centre. The other properties cited by the applicant include residential, commercial and motel developments and are not comparable to the subject development.

Although a noise assessment report was prepared for the Dight Street development in 2002, it is fair to say that until recently, Council has been relatively flexible in relation to aircraft noise impacts. However, there has been a number of events which have led to the need for a strict application of the guidelines relating to aircraft noise.

The applicant has also submitted a letter from Council's Family Day Care Services Manager in relation to home based child care. It would appear that the owner has made a separate application for registration for home based child care. This is limited to seven children, and although regulated in terms of safety, does not require development consent. The letter lists some eight alterations, which would be required to the home. The applicant believes that this should assist in giving favourable consideration to his development application.

There is a vast difference between home based child care and the current application which is for a full-time child centre for 135 children. It is considered that the home based child care application is not relevant to Council's consideration of the DA.

Recent Events

In February 2004 Council adopted draft amendment 130 to HLEP1989 following public exhibition. One of the effects of this amendment was to exclude land within the ANEF contours from the multi unit housing zone.

In November 2004 a case was decided in the Land and Environment Court in relation to a multi-unit development at No. 5 Chapel Street Richmond. The site is within a 30-35 ANEF zone and the Court found the site to be unacceptable for multi-unit development, due to the noise affectation, and as no special case was made for exclusion in terms of AS2021 the application was refused. This was a landmark case in that when detailed evidence was analysed, the only way a building could comply with the Australian Standard was, in addition to insulation, thicker glazing etc, to mechanically ventilate the building at all times. As soon as a window is opened the building would not comply. Clearly this is not acceptable from an amenity or energy efficiency point of view.

In February 2005, the Department of Defence first expressed concerns about industrial development close to the runway. Until that time no protocol existed for referring development applications to the Department. A number of discussions have been held since that time and a formal protocol is being developed. In the interim, Council staff have agreed to refer certain developments to the Department for comment, when there is a likelihood of impacting on flying operations.

In June 2005 the Department of Defence supplied a new 2014 ANEF map to Council staff. The Department has been asked to provide some additional information and clarification prior to presenting the map to Council for adoption.

Clearly there has been a closer focus on the impact of aircraft noise on development proposals in the last two years than ever before.

Court of Appeal Case

Advice was received in a solicitors' bulletin on 11 October 2005 that the NSW Court of Appeal recently found Port Stephens Council liable for damages for granting development consent in breach of its duty of care. The court found that the Council was negligent as a result of the failure to properly consider the issue of noise.

Briefly, Port Stephens Council approved a holiday cabin resort close to Williamstown RAAF base. Over the ensuing five years the aircraft noise became increasingly frequent to the point where the resort could not operate during weekdays. This case has direct implications for decisions by Hawkesbury Council.

Conclusion

The Department of Defence considers the development to be unacceptable, the Australian Standard AS2021 categorises the development as unacceptable and the Roads and Traffic Authority considers the development as undesirable.

It is understandable that the applicant may believe that he is not being afforded the same opportunity as some other existing developments. However, as is demonstrated within the background to this report, the applicant was fully informed at all times that the application would not be supported. It is considered that there is no special case in relation to AS2021.

Council has a duty of care in exercising its statutory powers, and this was highlighted in the recent Court of Appeal case, where the Court indicated that it will not give any latitude to councils in negligence suits merely because they are exercising their statutory powers.

Having considered all relevant matters, the subject site is clearly unsuitable for the development, which is proposed. Accordingly the application is recommended for refusal.

Conformance to Strategic Plan

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

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

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

Funding

No impact on budget.

RECOMMENDATION:

- A. The development application for an educational establishment/childcare centre at Lot 1, DP 783233, No. 208 Richmond Road, Clarendon be refused for the following reasons:
1. The site is unsuitable for the proposed development.
 2. The proposed development is inconsistent with the provisions of Clause 37 of Hawkesbury Local Environmental Plan 1989 in that the land is subject to significant aircraft noise impacts and the proposal is unacceptable development on such land.
 3. The proposed development is contrary to the provisions of Chapter 1.3 in Part D of Hawkesbury Development Control Plan 2002 in that the building encroaches upon the building height plane.

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4. The proposed development is contrary to the building site acceptability classification based on ANEF Zones contained in Australian Standard AS2021 - Acoustics—Aircraft Noise Intrusion—Building Siting and Construction in that the proposed use is classified as unacceptable in the noise contour of the site.
 5. The proposed development is inconsistent with the objectives of Hawkesbury Local Environmental Plan 1989.
 6. The proposed development is inconsistent with the provisions of 9A and Draft Amendment 108 of Hawkesbury Local Environmental Plan 1989 in that it the application involves the provision of a traffic generating development having direct access onto an arterial road.
 7. The design of the proposed development will not provide an acceptable level of amenity for staff and children attending the child care centre.
 8. The access is unsuitable for the proposed development.
 9. The submitted drawings do not accurately describe the proposed building in that natural ground levels are not shown and access details relating to the proposal's compliance with the requirements of AS 1428 – Design for Access and Mobility have not been demonstrated.
 10. In the circumstances, approval of the development would not be in the public interest.
- B. 1) Council resolve to prepare a draft development control plan chapter for Aircraft Noise Exposure, with objectives including:
- To provide clear guidelines for potential development applicants as to suitable land uses where land is affected by ANEF contours.
 - To provide clear guidelines for the requirements for acoustic reports as necessary.
 - To provide clear and consistent direction for decision making where land is affected by ANEF contours.
 - To ensure as far as possible that development approvals do not place undue constraints on the future operation of the Richmond Air Base.
- 2) The draft DCP be reported to Council for endorsement prior to exhibition.

ATTACHMENTS:

AT - 1 Locality Plan

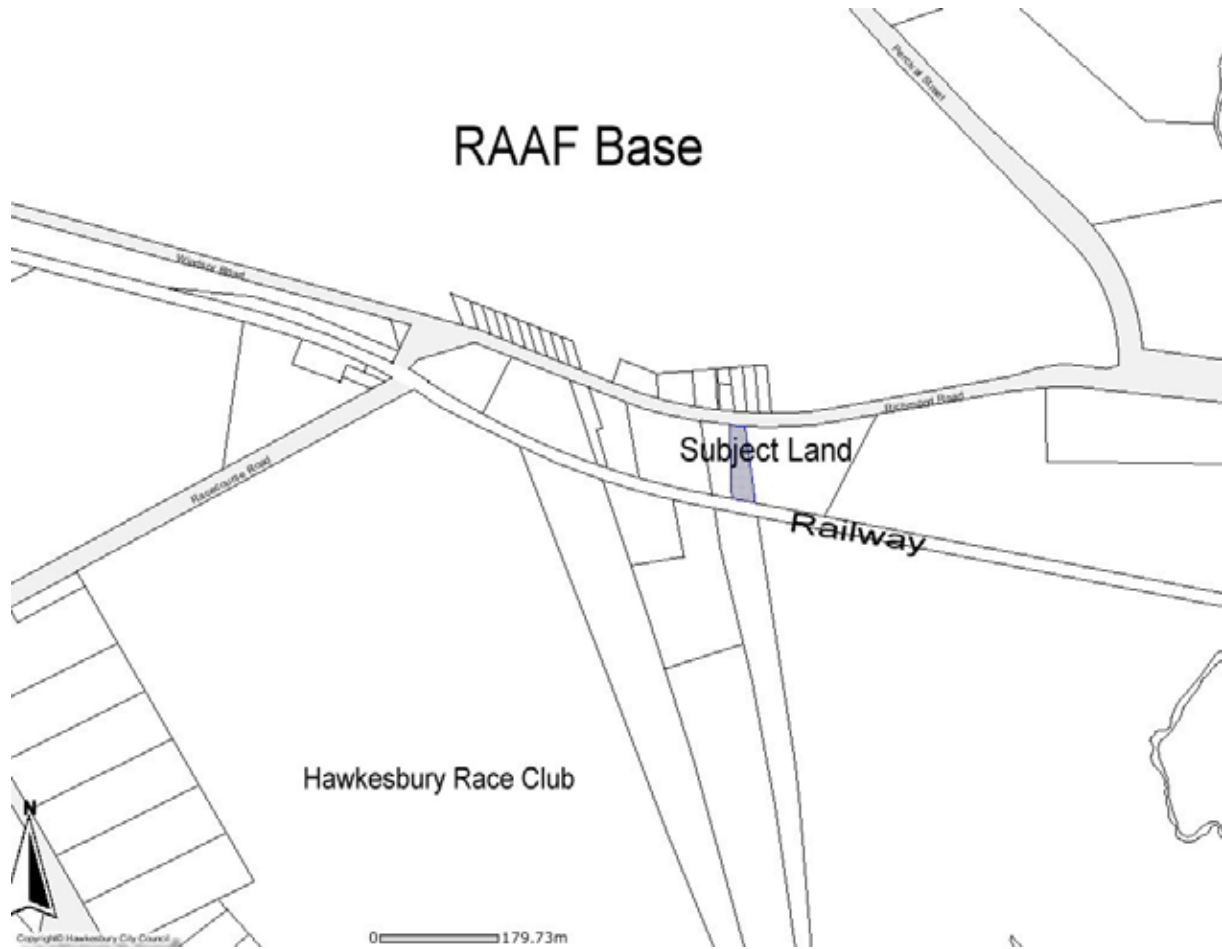
AT - 2 Site Plan

AT - 3 Elevations

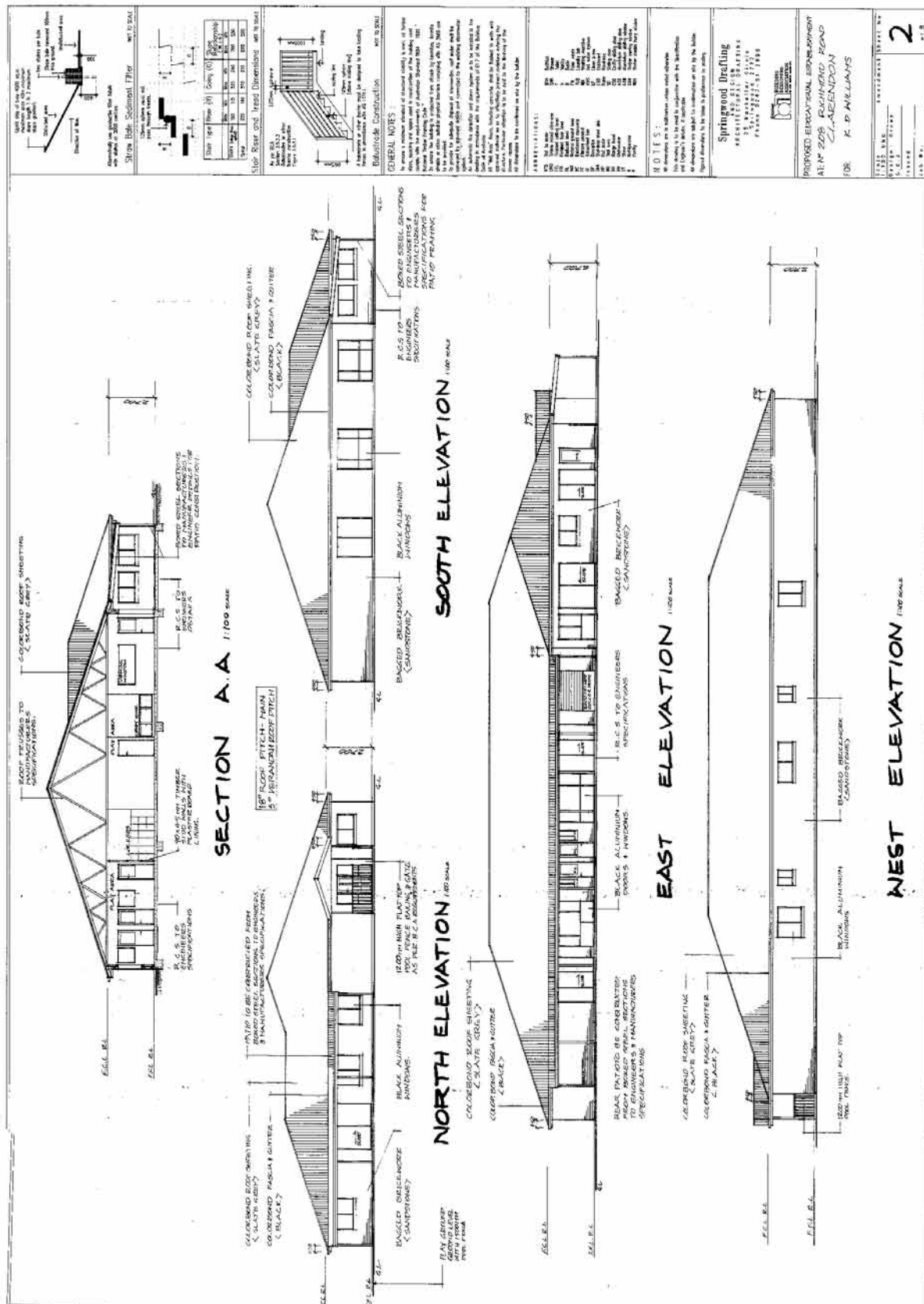
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AT - 1 Locality Plan



AT - 3 Elevations



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Item: 323 ES - Proposed Changes to Contestable Building Control Fees - (95494, 96329)

REPORT:**Introduction**

In 1998 the Environmental Planning and Assessment Act was amended to effectively privatise a range of building approval services. Since that time, construction certificates (formerly known as building approvals) and compliance certificates (inspections) have been available either from Council or private certifiers. "Complying development" was also introduced in the 1998 amendments, which is a range of minor developments for which no development consent is required. These approvals can also be issued by private certifiers.

In the past, attempts to obtain comprehensive fee lists from private certifiers for comparison has been difficult. However, we have recently obtained some fee comparisons, which suggest that Council's fees for contestable services are far below our competitors.

The purpose of this report is to provide comparative fee information, a projection for Council's budget and to recommend fee increases, so that Council maintains fair competition with private certifiers.

Background

Budget Component "31 Building Control" represents the costs and income associated with the operation of the Building Team. The salaries comprise five building surveyors, and a proportion of administrative and executive support.

The operating income comprises plant hire (lease vehicles) septic tank permits, construction and compliance certificates, building certificates and commission from building industry long service levy payments. By far, the largest proportion of income comes from Construction Certificates and Compliance Certificates. The current budget for these is \$467,882, which is 79% of income for component 31.

The budgeted operating cost for the Building Team is \$998,263. Prima facie one could conclude that this team operates at a deficit of \$530,381. However, the building team also provides an essential customer service role and carries out a number of regulatory functions including, DA assessment, building certificates and regulating public entertainment places.

An estimate of the proportion of time spent by the Team on contestable services and regulatory services is approximately 60/40. That is 60% of expenditure for this team can be allocated to contestable services and 40% to regulatory functions.

Current Deficit

Assuming the 60/40 split described above, the expenditure within component 31 for contestable services is \$598,957, while the income budgeted is \$493,502. Therefore, on the assumption that the budgeted income is real, there is a (budget funded) deficit of \$105,455.

Year to date income for construction and compliance certificates is \$91,511. This is 19.5% of the estimate for the year, while we are 23% through the year. If this trend continues, total income for the year will be \$396,549, creating a cash deficit of \$71,335.

There are many variables in projecting this income, including national interest rate movements, the impact of private certifiers and monthly peaks and troughs (eg there is usually a rush in June to lodge applications and pay fees before the end of the financial year).

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There has also been a local trend towards private certifiers. In the March Quarter 24% of Construction Certificates were issued by private certifiers. In the June Quarter that figure increased to 28%

Assuming that current trends continue, there will be a cash deficit for the whole year of at least \$71,335. There is also a budget shortfall of \$105,455, which is already funded.

Fee Comparison

The building fee income comprises construction certificates (building approvals) and compliance certificates (inspections). Complying Development Certificate fees are also based on these. The following table compares Hawkesbury City Council's most common fees to other councils, two private certifiers and the recommended fee by the Australian Institute of Building Surveyors NSW.

Table 1 Fee comparison				
Council/certifier	Construction Certificate Dwelling	Construction Certificate Industrial	Compliance Certificate dwg package	Compliance Certificate single insp
Hawkesbury CC	\$410	\$410 per 500m2 or part thereof	\$513	\$103
Wollondilly	\$462 +.2%>\$100K	Not available	\$465	Not available
Camden	\$432.60 + .2%>\$100K	Not available	Not available	Not available
Penrith	\$639	Not available	\$639	Not available
Baulkham Hills	\$205.75 + \$1 per \$1000 >100K	Not available	Not available	Not available
Local Certifier	\$1573	\$1138 per 500m2	\$836	\$143
Northern suburbs Certifier	\$1120 <i>Note 1</i>	\$905 per 500m2 <i>Note 2</i>	\$900 <i>Note 3</i>	\$150
AIBS recommended fee	\$2,000 min	\$4,062 per 500m2 <i>Note 2</i>	\$720 <i>Note 3</i>	\$120

Notes: 1. This company's fees are based on value of building works. This price assumes a dwelling with a value of \$200,000

2. This company's fee is based on value of building works. This price assumes \$215,000 per 500m2

Based on seven mandatory inspections.

All Prices include GST

The AIBS recommend higher fees for owner builder projects of 25%.

It is clear from these comparisons that Hawkesbury's fees are generally less than comparative Councils and considerably less than our private competitors.

Review of Costs

A limited review of the cost of processing applications has been carried out. In the absence of timesheets for a lengthy period, the cost was calculated for an average application for various classes of development. For example, the cost of producing a construction certificate for an average new dwelling was calculated at \$552 including GST. This includes some overheads, but there are additional costs such as workers compensation insurance, professional indemnity insurance and OH&S. Clearly, the costs are higher than the current fees, and therefore this area of council's operation is currently subsidised by general revenue. It should be noted that costs were reduced this year by making one building surveyor position redundant.

By way of comparison, if a commercial hourly rate is applied to professional staff involved in construction approvals, the cost for a new dwelling would be at least \$700. Given that private individuals and companies are providing this service in a profitable way, Council should price its contestable services in the same way.

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National Competition Policy

The National Competition Policy is a package of legislative and administrative reforms implemented in 1995 by the Commonwealth Government in agreement with the States and Territories.

The Policy introduces the requirement for "competitive neutrality" for significant government business activities. Under the Competitive Principles Agreement, Governments undertook to adopt a Corporatisation model for Government business enterprises and apply full taxes or tax equivalent payments, debt guarantee fees and private sector equivalent regulation. An essential element is that Governments should set prices that enable them to earn sufficient revenue to cover their costs, including the cost of capital. A commercial rate of return should also be factored in.

The purpose of competitive neutrality is to provide a level playing field where Governments provide services or business activities that the private sector may also provide. In particular all costs should be recovered and a profit margin should be included.

Recommended Fee Structure

Given that Council is required to be competitive for contestable services there is a strong case for substantial fee increases.

The components of a fee structure may include:

- Fixed price fee for dwellings
- Fee for dwellings based on cost
- Fee for industrial/commercial based on floor area
- Fee for industrial/commercial based on cost
- Fixed fee per inspection
- Package price for inspections
- Additional travelling cost for remote area inspections

Fees based on cost of works are not favoured due to the tendency for applicants to understate the costs. This can lead to disputes and does not make a very healthy start to the customer relationship. The comparative table above excludes other types of development for simplicity. However, any fee change would be across all building fees, eg dwelling additions, sheds & garages.

It is recommended that the following fee structure and pricing would address the deficit and put Council closer to its private sector competitors. Note that all fees include GST.

Table 2 Proposed new fee structure for Hawkesbury

Service	Current Fee	Proposed Fee	
		Licensed builder	Owner Builder
<i>Building Construction Certificate</i>			
dwelling	\$410	\$1,000	\$1,250
dwelling additions	\$273	\$800	\$1000
dual occupancy	\$665	\$2,000	\$2,500
residential flat building	\$410 + \$142 per unit	\$1,000 + \$345 per unit	\$1,250 + \$431 per unit
commercial/industrial	\$410 per 500m2	\$1,000 per 500m2 or \$500 per unit, whichever amount is greater	\$1,000 per 500m2 or \$500 per unit, whichever amount is greater
pools	\$200	\$480	\$600
class 10 (sheds garages etc)	\$151	\$3 per m2, min \$200	\$3.75 per m2, min \$250

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Table 2 Proposed new fee structure for Hawkesbury

Service	Current Fee	Proposed Fee	
		Licensed builder	Owner Builder
Compliance Certificate (inspections)			
dwelling package	\$513	\$840	\$1050
dwelling additions	\$461	\$840	\$1050
residential flat building	\$513 per unit	\$840 per unit	\$840 per unit
commercial /industrial	\$513 per 500m2	\$840 per unit or per 500m2, whichever amount is greater	840 per unit or per 500m2, whichever amount is greater
in-ground pools	\$205	\$260	\$260
above-ground pools	\$103	\$130	\$130
class 10 structures	\$205	\$260	\$325
single inspection	\$103	\$130	\$163
re-inspection where failed or not ready	\$103	\$130	\$163
Complying Development Certificate			
dwelling	\$410	\$800	\$800
dwelling additions	\$410	\$665	\$665
pools	\$200	\$400	\$500
decks, pergolas, etc	\$200	\$3 per m2, min \$200	\$3 per m2, min \$200
Carports, garages, class 10	\$200	\$3 per m2, min \$200	\$3 per m2, min \$200
Boundary adjustments	\$200	\$400	N/A
Advertising signs	\$165	\$330	N/A
Shop fitouts	\$200	\$400	\$400
Industrial buildings & additions	\$615	\$800 per 500m2 or \$400 per unit, whichever amount is greater	\$800 per 500m2 or \$400 per unit, whichever amount is greater
Additional Fee for retrospective approval	N/A	Fee as above plus additional 40%	Fee as above plus additional 40%

It is considered that 25% additional fee for owner/builders is justified, as much more time is required with applications and on-site inspections compared to licensed builders. The AIBS recommend this additional fee.

The additional fee for retrospective approvals is considered necessary as there are increasing instances of unauthorised building works being carried out. When drawn to Council's attention, applications for approval are submitted and processed in cases where work is acceptable, however additional work is usually involved and there is the possibility that Council's liability will increase as a result of a retrospective approval.

Budget Impact

The following assumptions have been made in preparing Table 3.

Council adopts the fees as per Table 2

Allowing for Council meetings and public exhibition, the fees are in place from 1 January 2006

Council loses an additional 10% of contestable fees to private certifiers.

The level of building activity remains constant.

Based on these assumptions it is estimated that total fee income for the 2005/06 year for construction certificates and compliance certificates would be:

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Table 3 Budget Impact

	Budget 2005/06	Est Actual 2005/06	Est with Proposed fee 2005/06	Budget 2006/07
Income	\$493,502	\$422,170	\$514,016	\$605,861
Expenditure (60/40 split)	\$598,958	\$598,958	\$598,958	\$598,958
Net (Deficit)/Surplus	\$(105,456)	\$(176,788)	\$(84,942)	\$6903

Conclusion

This report shows that Council's contestable fees are considerably lower than our competitors. It is considered essential for Council to adopt the recommended fees to ensure that Council's fees maintain fair competition with private certifiers.

Conformance to Strategic Plan

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

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

Funding

The adoption of the proposed new fees will result in an estimated deficit for the 2005/06 financial year of \$84,942. Without the adoption of the proposed new fees it is estimated that the actual deficit for the 2005/06 financial year will be \$176,788.

RECOMMENDATION:

That:

1. Council advertise the proposed new fees as shown in the table below in accordance with the provisions of the Local Government Act, 1993.

Table 2 Proposed New Fee Structure for Contestable Building Fees

Service	Current Fee	Proposed Fee	
		Licensed builder	Owner Builder
Building Construction Certificate			
dwelling	\$410	\$1,000	\$1,250
dwelling additions	\$273	\$800	\$1000
dual occupancy	\$665	\$2,000	\$2,500
residential flat building	\$410 + \$142 per unit	\$1,000 + \$345 per unit	\$1,250 + \$431 per unit
commercial/industrial	\$410 per 500m2	\$1,000 per 500m2 or \$500 per unit, whichever amount is greater	\$1,000 per 500m2 or \$500 per unit, whichever amount is greater
pools	\$200	\$480	\$600
class 10 (sheds garages etc)	\$151	\$3 per m2, min \$200	\$3.75 per m2, min \$250

ORDINARY MEETING

Meeting Date: 1 November 2005

Table 2 Proposed New Fee Structure for Contestable Building Fees

Service	Current Fee	Proposed Fee	
		Licensed builder	Owner Builder
<i>Compliance Certificate (inspections)</i>			
dwelling package	\$513	\$840	\$1050
dwelling additions	\$461	\$840	\$1050
residential flat building	\$513 per unit	\$840 per unit	\$840 per unit
commercial /industrial	\$513 per 500m2	\$840 per unit or per 500m2, whichever amount is greater	840 per unit or per 500m2, whichever amount is greater
in-ground pools	\$205	\$260	\$260
above-ground pools	\$103	\$130	\$130
class 10 structures	\$205	\$260	\$325
single inspection	\$103	\$130	\$163
re-inspection where failed or not ready	\$103	\$130	\$163
<i>Complying Development Certificate</i>			
dwelling	\$410	\$800	\$800
dwelling additions	\$410	\$665	\$665
pools	\$200	\$400	\$500
decks, pergolas, etc	\$200	\$3 per m2, min \$200	\$3 per m2, min \$200
Carports, garages, class 10	\$200	\$3 per m2, min \$200	\$3 per m2, min \$200
Boundary adjustments	\$200	\$400	N/A
Advertising signs	\$165	\$330	N/A
Shop fitouts	\$200	\$400	\$400
Industrial buildings & additions	\$615	\$800 per 500m2 or \$400 per unit, whichever amount is greater	\$800 per 500m2 or \$400 per unit, whichever amount is greater
Additional Fee for retrospective approval	N/A	Fee as above plus additional 40%	Fee as above plus additional 40%

- At the close of the advertising period a further report be submitted to Council in relation to the submissions received, if any, and the adoption of the proposed fee structure.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

INFRASTRUCTURE SERVICES

Item: 324 IS - Richmond Park User Policy Update - (95494, 96331)

REPORT:

A Richmond Park User Policy was developed in early 2001 and following community consultation the policy was adopted on 14 August 2001. Some minor changes were resolved on 10 December 2002, when the policy was reviewed.

The policy, as it currently stands, states:

Richmond Park User Policy

The following Park User Policy is designed to achieve three main aims:

1. To facilitate equitable use of Richmond Park by local community groups in their provision of events and activities;
2. To promote the use of Richmond Park by a wide range of groups in order to encourage a diverse selection of cultural, sporting and general community events; and
3. To ensure that the demands placed on Richmond Park do not result in the gradual deterioration of the park environment as a consequence of excessive or inappropriate pedestrian and vehicular traffic.

General Policy Points for all Events

- All applications to use Richmond Park for any organised activity must be submitted in writing to a minimum of four weeks prior to the event. For events within the Oval the application is to be submitted to the Sports Council and for weekend use during the summer cricket season, applications must be lodged prior to 30 June each year. Applications for the use of the remainder of the park are to be submitted to Council.
- Animal stalls, exhibitions or activities of any kind are not permitted.
- Noise is to be kept to a reasonable level, with all amplified sound less than 5d(B)A (five) above ambient level.
- The park is to be left clean and tidy with the organisation utilising the area being responsible for the collection and disposal of all rubbish. The collection and disposal of rubbish can be arranged through at a fee.
- Public Liability Insurance Policy for not less than \$10 million (ten million dollars) with Council's and/or Sports Council interest noted on the policy must be submitted.
- Organisations are required to lodge a bond in accordance with the adopted Council/Sports Council fees and charges. This is refundable, less any deductions as a result of costs incurred, administrative or otherwise, to clean or restore the area.
- The cost of hire for Richmond Park/Oval is in accordance with adopted Council/Sports Council fees and charges.

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- Liaison with the Hawkesbury Sports Council to be undertaken in relation to sporting events prior to approval.
- Any building, vehicle or stall that is preparing food for public consumption is to comply with Council's "Information for Food Stall Holders" brochure. This information and any related food/health information is available from Council's Environmental Health Officer.
- The applicant obtaining all necessary permits/approvals in relation to amusement devices/rides and liaising with Integral Energy regarding the supply of power and the proximity to the supply.
- Keys for gates and power can be supplied with prior notification and following receipt of the appropriate key security bond.
- Where more than one application is received for use at the same time, prior use will be taken into account, however, does not guarantee approval. Each application is assessed individually, with dual use considered where appropriate.
- Banners and signs are not permitted to be hung from or attached to trees or park furniture at any time. Freestanding signs may be permitted on the day of the event only and details of any proposed signage must be included in the application for use.
- Direction may be given regarding the exact location/position of any event/activities within the park.
- Fees may be applicable for the event depending on the type of event and the facilities required.
- Council/Sports Council retains the right to postpone an event where poor weather conditions leading up to an event is likely to result in a high level of damage to the park.
- Applications for park bookings cannot be made more than 18 months in advance of the proposed event.
- These are standard conditions only and each application is judged individually and may be subject to other conditions prior to permission being granted.

Markets

- No vehicle over the Gross Vehicle Mass (GVM) as shown on the Registration Certificate) of 2,500kg (three thousand) be allowed in the park. Vehicles over this weight will need to seek special permission to access the park.
- Richmond Park can be booked for Markets bi monthly in Winter (March to August) and three weekly in Summer (September to April).
- Each currently identified user group is limited to a maximum of five markets per year.
- Organisations requesting to hold markets within Richmond Park need to communicate their preferred market dates by 1 April every year. A decision can then be made for each group's allocation. Should a group not respond by April, any markets that they would like to hold in the next year would have to fit around those groups that did reply in time.
- No stalls are to be held between the Grandstand and Windsor Street and the Grandstand and March Street.
- Markets can not be held on consecutive days or consecutive weekends

Special Events

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- Special events are generally one-off events (occur once per year). They tend to celebrate a particular festival, cause or time of year. Examples of these events include Carols by Candlelight, Carnivale, Youth Week, etc. limited to a maximum of six per year.
- Special events cannot be held on consecutive days, except where the one event itself spans more than one day. Special events cannot be held on consecutive weekends.
- Vehicular access can be approved with prior arrangement. Please note that approval will be dependent upon the type of event, weather and ground conditions.

This Policy to be reviewed bi annually.

The policy review in 2004 was put on hold until such time as the conservation plan for Richmond Park was adopted. The conservation plan, now completed, allows for the markets to continue within the park and thus it is appropriate to now review this policy taking markets into account.

With the ongoing drought, the wear and tear from both pedestrian and vehicular traffic is now having a major impact on the park. The introduction of sprinklers to the outside areas of the park were to help with the grass culture, however, with water restrictions they have not been allowed to be used for over a year. Large parts of the park have now been compacted and there are many bare patches making the park look untidy. With no sign of the drought breaking, it is suggested that the policy be reviewed prior to allocating next years markets as they are one of the main contributors to the wear and tear.

It is felt that the park cannot sustain the wear and tear it is currently receiving. Whilst the existing policy allows for more than 12 markets a year, approximately seven markets have been run per year over the last three years. Some of these markets have over one hundred and fifty stall holders participating in a market and thus while the number of markets is small the amount of traffic, both pedestrian and vehicular, is having a major effect on the park. A new group started which has meant that eight markets will be run by three organisations this year. The applications for next year is for 10 markets. It is not certain that the park will recover from such high usage.

A meeting was held on Friday, 22 July 2005 with the three market organisers to look at the issues of wear and tear and to try find ways to reduce the impact that the markets were having on the park. The organisers acknowledge the wear and tear but like to use Richmond Park as it offers a constant number of visitors. They felt that few other venues would be as successful.

Due to the nature of the markets, the stall holders need to drive their vehicles into the park so that they can offload as close to their sites as possible. The organisers admit that once the cars have driven into the park, they have no control over what the drivers do. Cars are going into areas that the policy prohibits and are parking in those areas for the duration of the market. The organisers have tried getting stall holders to sign agreements before entering the park, putting up signs, asking people to move their cars but they have no power in the end to enforce this happening.

One solution is that a landscape plan is currently being developed for Richmond Park based on the design developed in the Conservation Plan. The development of a different pathway system may help reduce the wear and tear on the park, if vehicles could be kept to these areas.

One of the groups indicated that they were happy to try another location e.g. Ham Common, however, they were concerned that there are no toilets close to the site and parking would be a problem. Due to Richmond Road being a main road they would have to develop traffic control/management plans. The preferred alternative site would be to close Windsor Street off between East and West Market Street and use this for the markets. This way the markets would still be in Richmond and very visible to the passing traffic. This would have its own problems in terms of Traffic Management at the Windsor and Market Streets intersection.

It is suggested that whilst the drought continues that the number of markets be reduced to no more than six per year. This will allow the amount of markets that have been run over the last number of years with other organisers of markets to consider other sites. The current organisers of the markets will not be

ORDINARY MEETING

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happy with any reduction as they feel that the markets offers a service to the community, has helped to revitalise Richmond by linking the new and old shopping centres as well as being the groups main fundraising activity. By reducing the number to six there may need to be some compromise by the three market organisers.

The other issue that has been raised is that markets are being run at the same time as cricket is being played on the oval. The increased number of people and vehicles within Richmond Park during the markets, increases the chance that someone may get hurt or property damaged by an errant cricket ball. Whilst both the organisers running the markets and cricket association have public liability, it is likely that if someone was injured, that they would litigate against Council due to Councils decision to have two incompatible events on at the same time. The ideal solution would be for the markets not to run whilst cricket is being played. The issue here is that cricket is played both Saturday and Sunday from September to March, which is the most popular times for the markets.

It is understood that the markets attract people to Richmond and collect funds for charitable purposes, the aim is not to stop this, however, other options are available and need to be pursued, such as alternate locations.

Conformance to Strategic Plan

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

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

Funding

There is no impact on the current budget.

RECOMMENDATION:

That:

1. The policy be altered to state that:
 - Richmond Park can be booked for Markets bi monthly in Winter (April to August) and, every four weeks in Summer (September to March)
 - The policy continue to be reviewed bi annually
2. The 2006 program be maintained at eight markets as per the current year, subject to the drought and the wear and tear on the park.
3. Alternative sites be explored to cater for the additional markets that Richmond Park cannot sustain.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

Item: 325 **IS - Road Naming Proposal - Subdivision Lot 2 DP814567, Blaxlands Ridge Road, Kurrajong - (95495, DA1208/03)**

REPORT:

Incorporated within a three lot rural subdivision of Lot 2 DP814567, 703 Blaxlands Ridge Road, Kurrajong is a public road running in a generally north west direction from Blaxlands Ridge Road. This public road was originally a Crown Public Road. The transfer of the Crown Public Road to Council was Gazetted of 24 March 2005.

The plan of subdivision, was registered by the Land Titles Office as DP1082298 on 24 May 2005.

No suggested names have been put forward by the developer. In accordance with the guidelines set down by the Geographical Names Board of NSW and the requirements of the Road Act 1993, the Hawkesbury Historical Society and Council's Library Historian were approached to ascertain names for this new public road. The following information as provided is listed below.

Hawkesbury Historical Society recommends the name "Trafalgar". The Bicentenary of this battle falls on the 21 October 2005.

On receipt of the news of Nelson's victory the Bowman Flag was designed and flown in the Hawkesbury. The flag was the first flag designed in this country and was the first flag to include the kangaroo and emu, which are now part of the Australian Coat of Arms.

Hawkesbury City Council Library Historian advises the following suggestions:

- Ironbark Ridge - The name of the ridge at Blaxlands Ridge.
- Mitchell - Name of the first title holder of the land through which the road runs.
- Kirkwood - Lillian Kirkwood was a nurse and midwife who attended to the health needs of the "Ridge" for many years from 1930s.
- Connor - Nora Connor was a teacher at the school from 1930s and her home still stands a short distance from the school.
- Tierney - One of the families who lived on the "Ridge" for many years.
- Hennessey - (need to check exact spelling) another of the families who lived on the "Ridge" for many years.
- These are all names drawn from the local area.

With regard to "Trafalgar", the significance of this event in establishing British Maritime hegemony is recognised; however, the name/event is of singular import to the British nation. Evidence by the fact that Nelson's flagship, "Victory", is still maintained as a fully commissioned warship of the British Navy. It is felt that the Australian National identity has emerged sufficiently to recognise its own citizenry/event/milestones.

To this end it is suggested that the name "Kirkwood" be allocated to this road on the following bases:

- a) Lillian Kirkwood was a local identity within the Blaxlands Ridge community, she was a nurse/midwife.
- b) As nurse/midwife, Lillian Kirkwood fulfilled a crucial role within, at that time, a relatively isolated community requiring independent and self-reliance in serving the various needs of the community.

Conformance to Strategic Plan

The proposal has no linkages to the objectives set out in Council's Strategic Plan.

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Funding

Funding is available within the current budget.

RECOMMENDATION:

That public comment be sought regarding naming of the proposed public road within the subdivision of Lot 2, DP814567 Blaxlands Ridge Road Kurrajong as "Kirkwood Road".

ATTACHMENTS:

AT - 1 Sketch Plan

Meeting Date: 1 November 2005

HAWKESBURY CITY COUNCIL

UNAMED ROAD

DP 1082298

DP 1082298

DP 814567

DP 1082298

656

193

7002

3490

BLAXLANDS RIDGE

DP 839757

DP 839757

DP 805998

DP 805998

DP 802946

TITAS ROAD

701

**UNAMED ROAD
BLAXLANDS RIDGE**

Date: 03/09/2005

Filename: unnamed rd blaxlands ridge dp1082298.mxd

Legend

Land Parcels

Roads

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Hawkesbury City Council 2005

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000O END OF REPORT 0000

ORDINARY MEETING

Meeting Date: 1 November 2005

SUPPORT SERVICES

Item: 326 SS - Protected Disclosures Act 1994 - Adoption of Revised Internal Reporting Policy - (79337, 95496)

REPORT:

The Protected Disclosures Act 1994 came into effect on 1st March, 1995 and is specifically applicable to staff of councils and also to Councillors by virtue of their meeting the definition of a "public official" contained in the Act.

By circular No. 95/15 the Department of Local Government suggested:-

"The object of the Protected Disclosures Act is to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector. The Act creates offences, punishable by fines and imprisonment, where willfully false allegations are made or where reprisals are taken against a person as a result of that person making a protected disclosure.

It is therefore of great importance that all staff, councillors and management familiarise themselves with the provisions of the Protected Disclosures Act. Councils will need to adopt a suitable internal reporting system setting out procedures for the making of protected disclosures. To be afforded protection, disclosures must be substantially true and made by following correct procedures."

In order for the provisions of the Protected Disclosures Act 1994 to be effective within a Council it is necessary for a Council to adopt an internal reporting policy to deal with the Act's provisions. By Circular No.97/8, the Department of Local Government forwarded to all councils a model policy prepared by the NSW Ombudsman for this purpose. Hawkesbury City Council based its existing Internal Reporting Policy on this model.

In the intervening period much work has been undertaken in this field by organisations such as the NSW Ombudsman, the ICAC, etc. Subsequently, a revised Guidelines and Model Policy (5th edition) was issued by the NSW Ombudsman based on current "best practice" principals.

As the Council's currently adopted Internal Reporting Policy was based on the original model issued a number of years ago the opportunity has now been taken to review the current version of the model and to modify it appropriately to suit this organization. A copy of this amended policy is attached to this report.

It will be noted that the suggested new Internal Reporting Policy as attached nominates the Director Support Services as the Disclosure Co-ordinator and all other Directors as nominated Disclosure Officers. Whilst disclosures can be made to these officers, depending upon the circumstances they can also be made to the General Manager, the Mayor or an appropriate external body such as the Independent Commission Against Corruption.

Conformance to Strategic Plan

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

"Objective: Development and ongoing review of policies impacting on the administration of the Council ie, Code of Conduct, Code of Meeting Practice, Provision of Facilities for Councillors, etc.

ORDINARY MEETING

Meeting Date: 1 November 2005

Funding

No budgetary impact.

Accordingly the following recommendation is submitted for Council's consideration.

RECOMMENDATION:

That for the purposes of the Protected Disclosures Act 1995 the Internal Reporting Policy dated October 2005 attached to this report be adopted by Council and that appropriate action be taken to forward a copy of this policy to all Members and staff of the Council and for the implementation of any other action required in association with the operation of the Internal Reporting Policy.

ATTACHMENTS:

AT - 1 Proposed Internal Reporting Policy - *(to be distributed under separate cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

Item: 327 SS - Proposed Adoption of a Complaints Policy - (79337, 95496)

REPORT:

Council's former Code of Conduct contained a section that dealt with the manner in which the organization was to handle complaints submitted to it in relation to services, staff and councillors.

However, in February of this year the Council adopted the Model Code of Conduct that had been introduced in legislation by the State Government. Whilst the Model Code contains provisions relating to the manner in which complaints in relation to breaches of the Code of Conduct are to be handled by the Council's Conduct Committee it did not contain provisions in relation to other types of complaints that may be received by Council.

As the relevant legislation provides that a council may amend the Model Code of Conduct, by way of enhancing its provisions without reducing its requirements, it would be possible for the current Code of Conduct to be amended to incorporate a Complaints Handling Procedure. However, it is considered that it would be more appropriate for a separate Complaints Policy to be adopted by Council so as to highlight the importance of the correct handling of complaints to the organisation.

Accordingly, a draft Complaints Policy has been developed for the organization. This Policy has been developed based on the experience of other councils as well as "best practice" guidelines issued by the NSW Ombudsman's Office. A copy of this proposed policy is attached to this report.

In the event of the Council agreeing to adopt the proposed policy it will subsequently be disseminated through the organisation and appropriate training provided as necessary.

Conformance to Strategic Plan

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

"Objective: Development and ongoing review of policies impacting on the administration of the Council ie, Code of Conduct, Code of Meeting Practice, Provision of Facilities for Councillors, etc."

Funding

No budgetary impact.

Accordingly the following recommendation is submitted for Council's consideration.

RECOMMENDATION:

That the Complaints Policy dated October 2005 attached to this report be adopted by Council and that appropriate action be taken to forward a copy of this policy to all Members and staff of the Council and for the implementation of any other action required in association with the operation of the Policy.

ATTACHMENTS:

AT - 1 Proposed Complaints Policy - *(to be distributed under separate cover)*

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 1 November 2005**Item: 328 SS - Monthly Investments Report - September 2005 - (79349)****REPORT:**

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

The following tables outline the investment portfolio held by Council as at the end of September 2005. All investments have been made in accordance with the Act, Regulations and Council's Investment Policy.

September 2005

Investment Type	Balance B/fwd	Deposits	Withdrawals	Accrued Interest Reinvested	Balance End of Month
Managed Funds	\$12,514,641.76	\$4,000,000.00		\$72,617.12	\$16,587,258.88
On Call Funds	\$5,000,000.00	\$3,050,000.00	-\$5,800,000.00		\$2,250,000.00
Term Investments	\$820,000.00	\$110,000.00			\$930,000.00
Direct Investments	\$3,500,000.00				\$3,500,000.00
TOTAL	\$21,834,641.76	\$7,160,000.00	-\$5,800,000.00	\$72,617.12	\$23,267,258.88

Investment Commentary

The investment portfolio increased by \$1.433 million during September 2005. The increase is representative of rates income from the first instalment of 2005/2006 rates and charges that was due on 31 August 2005 still being received in early September.

Managed Fund performance exceeded the benchmark(UBS Australia) Bank Bill Index in September 2005 with an average return after fees of 6.405%, compared with the index of 5.69%. The managed funds portfolio has achieved a return after fees for the past 12 months of 6.153%, which has outperformed the (UBS Australia) Bank Bill Index of 5.68% for the corresponding 12 month period.

Official cash interest rates have remained unchanged at 5.50%.

The investment portfolio is diversified across a number of investment types. This includes a number of managed funds, term deposits, rolling rate investments, floating rate notes and on-call accounts.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Comparisons are made between existing investments with available products that are not part of Council's portfolio. Independent advice is sought on new investment opportunities.

Conformance to Strategic Plan

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

"Objective: Maximise return on Council's investment portfolio"

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Meeting Date: 1 November 2005

Funding

Funds invested with the aim of achieving budgeted income in 2005/2006.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

Item: 329 SS - Write-Off Outstanding Rent for Colematt Pty Limited, Shop 4 Wilberforce Shopping Centre and Shop 3 McGraths Hill Shopping Centre - (95496, 90050, 74408)

REPORT:

Colematt Pty Limited, trading as "Megalan's Bakehouse" previously leased the properties at Shop 4 Wilberforce Shopping Centre and Shop 3 McGraths Hill Shopping Centre.

In 2003, Mrs Megan Shephard of Colematt Pty Limited, advised that the monthly rental payments had fallen into arrears as a result of health issues, however, extra payments would be made whenever possible to rectify the situation. Discussions with Mrs Shephard continued on a regular basis, as the arrears situation worsened.

On 16 March 2004, advice was received that Colematt Pty Limited had gone into voluntary administration, with Rodgers Reidy Chartered Accountants being appointed as Administrator of Colematt Pty Limited, pursuant to Section 436A of the Corporations Act.

Evidence of the debts, as a result of the rental arrears, were provided to Rodgers Reidy Chartered Accountants, to be given consideration for payment throughout the course of administration.

On 19 May 2004, the security deposit of \$550.00 was transferred to the outstanding balance for Shop 4 Wilberforce Shopping Centre.

On 2 November 2004, Rodgers Reidy Chartered Accountants paid Council the sum of \$393.65 on behalf of Colematt Pty Limited in respect of Shop 4 Wilberforce Shopping Centre. The balance outstanding in respect of Shop 4 Wilberforce Shopping Centre was \$2,207.20.

As no security deposit was held, and no interim payments were received, in respect of Shop 3 McGraths Hill Shopping Centre, the balance outstanding was \$1,917.74.

On 30 August 2005, a first and final dividend, at the rate of 11.32 cents per dollar was declared in respect of Colematt Pty Limited. Accordingly a total payment of \$466.94 was received from Rodgers Reidy, on behalf of Colematt Pty Limited. The total balance, which remains outstanding for both properties, is \$3,658.00.

As Colematt Pty Limited do not have the financial capacity to finalise this debt, and no further payments may be sought via the administrators, it has become necessary for these debts to be written off. Delegation has previously been granted for the Responsible Accounting Officer to approve the abandonment of debts below \$500.00.

Any debt over this amount may be written off only by a resolution of the Council, in accordance with Section 213 of the Local Government (General) Regulations 2005, which states that:

'A debt can be written off under this clause only:

- a) if the debt is not lawfully recoverable, or*
- b) as a result of a decision of a court, or*
- c) if the council or the general manager believes on reasonable grounds that an attempt to recover the debt would not be cost effective.*

It is advised that both a) and c) are applicable in this matter.'

Conformance to Strategic Management Plan:

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Meeting Date: 1 November 2005

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

Funding

There is a budget allocation of \$40,000 to accommodate the abandonment of debts, which cannot be lawfully recovered. The sum of \$3,658 will be deducted from this allocation.

RECOMMENDATION:

That the amount of \$3,658.00 in respect of the lease(s) of Shop 4 Wilberforce Shopping Centre and Shop 3 McGraths Hill Shopping Centre by Colematt Pty Limited be abandoned in accordance with the Local Government (General) Regulations 2005.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

Item: 330 **SS - Rural Fire Service Estimates 2006/2007 - Hawkesbury District - (95496, 79016)**

Previous Item: 311, Ordinary (11 October 2005)

REPORT:

At the meeting of Council held on 11 October 2005 consideration was given to a report regarding the Rural Fire Services Estimates for 2006/07 that required Council's endorsement to enable submission to the NSW Rural Fire Service Headquarters by 14 October 2005.

The report referred to both the estimates for the Rural Fire Fighting Fund (RFFF) and suggested Council additional discretionary funding. Subsequently, Council resolved as follows:

"That:

- 1. The 2006/2007 Rural Fire Fighting Fund estimates as submitted by the NSW Rural Fire Service be endorsed in principle.*
- 2. Based on the advice that there will be no additional discretionary funding greater than \$250,000, should the Rural Fire Service seek additional funds from the Rural Fire Fighting Fund, a request for an extension of time to allow further consideration by Council be requested.*
- 3. Consideration of the \$352,100 of additional Council funding be deferred until Council's 2006/2007 budget estimates are determined."*

The Hawkesbury Rural Fire Service has now forwarded their final submission to NSW Rural Fire Service Headquarters for the 2006/2007 RFFF estimates to Council for endorsement, with the advice that these finalised estimates had been prepared in accordance with Council's resolution of 11 October 2005 with "minor" variations advised as follows:

"The following minor variations to the amount as endorsed by Council have been included:

- \$6,700.00 for GIS costs*
- \$14,070.00 for the Volunteer Intranet site.*
- \$2,000.00 increase in staff vehicle changeovers."*

The inclusion of the above additional items would result in an increase to Council's statutory 13.3% contribution of \$3,028. These items had not been included previously and were not a component of the suggested Council additional discretionary funding.

With the inclusion of the abovementioned items the following is a summary of the Hawkesbury Rural Fire Services submission for the 2006/07 RFFF estimates:

Annual Maintenance and Repairs	\$187,000.00
Appliances	\$612,471.00
Second Hand Tankers	\$0.00
Other Vehicles	\$181,500.00
Equipment	\$182,070.00
Brigade Stations	\$0.00

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Reimbursable Items	\$3,000.00
Hazard Reduction	\$0.00
District Staff Estimate	\$94,386.00
TOTAL	\$1,260,427.00

Should this total submission be approved by NSW Rural Fire Service Headquarters the Council statutory contribution at 13.3% would be \$167,636.79.

As indicated previously additional items to those previously reported to Council were incorporated in the estimates resulting in an increased potential contribution of \$3,028. In view of the fact that it was necessary for these estimates to be submitted to NSW Rural Fire Service Headquarters as soon as possible to meet with the estimates timetable, and the relatively low increase the additions have made, the submission has been signed by the General Manager, as required, in order to avoid any undue delays. Consequently, Council's endorsement of this action is now requested.

Conformance to Strategic Plan

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

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

Funding

Consideration of funding will be required as part of the 2006/07 Budget preparation.

RECOMMENDATION:

That the General Manager's action in signing the Hawkesbury Rural Fire Service submission for 2006/07 Rural Fire Fighting Fund estimates as detailed in the report be endorsed.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING**Meeting Date:** 1 November 2005**Item: 331** **SS - Consultants Utilised by Hawkesbury City Council - (95496, 79337)****Previous Item:** 187, Ordinary (14 June 2005)**REPORT:**

At the meeting of Council held on 14 June 2005 consideration was given to a report regarding the consultants utilised by Council. That report detailed various consultants, the purpose of the engagement and the expenditure in 2003/04 and 2004/05.

Subsequently, Council resolved in part as follows:

"That a quarterly report be submitted to Council outlining Council's expenditure on consultancy fees and who of these consultants are under contract with Council".

The following table provides details of the various firms/persons the Council has utilised as consultants for the period July - September 2005 detailing the purpose of the consultancies and the amount paid in this period:

Company	Purpose	Amount Paid
RA Bell & Company	Statistical Reporting re GPTs & Cleaning GPTs	\$7,132.06
Berzins Environmental Planning P/L	Planning Information Update and land Reclassification LEPS	\$2,970.00
Bewsher Consulting Consultant	Overland Flow Study Bligh Park & Hobartville	\$4,439.60
C4ES Pty Ltd	Waste Technologies	\$16,500.00
Change Communication	Public Relations	\$7,460.00
Dynamic Pumps and Irrigation	Irrigation Design	\$10,424.38
Donald Ellsmore Pty Ltd	Heritage Consultant	\$5,395.50
Falson and Associates Pty Ltd	DA Assessment & LEC Expert Witness	\$6,170.00
Golder Associates	Planning	\$264.00
*Haron Robson Pty Ltd	Design Fees - Old Hospital Site	\$1,348.00
*Harris Page and Associates P/L	Fire	\$550.00
HBA Consulting Engineers Pty Ltd	Consulting Engineers	\$4,290.00
McKinlay Morgan & Assoc P/L	Surveying, etc	\$1,078.00
*MPI Projects Pty Limited	Design of Co-Generation System	\$9,212.50

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Company	Purpose	Amount Paid
Omega Environmental Pty Limited	Environmental Services	\$9,350.00
The Playground Doctor	Reports of Council Playgrounds	\$6,198.12
*Robert Pont Pty Limited	Architecture	\$20,900.00
Richmond Irrigation & Pumping Supplies	Irrigation Design - Richmond & McMahon Parks	\$294.27
W G Scott	Structural Engineer	\$385.00
Spectrum Automation Pty Ltd	Cultural Project & Events	\$12,210.00
Total Catchment M'ment Services P/L	Environmental Consultation, Education & Reporting	\$16,508.40
University of Western Sydney-Penrith	Community Survey & Stormwater Management Research	\$18,000.00
K D Wood Valuations (Aust) Pty Ltd	Valuations	\$5,500.00
TOTAL		\$166,597.83

With regard to that part of Council's resolution concerning which of these consultancies are under contract with Council, the consultancies shown with an asterisk in the above table were the subject of a contract in respect of work undertaken as part of the Cultural precinct project and engaged on a case by case basis in any other instances. All other consultancies, rather than being engaged on a general contract basis, are engaged on a case by case basis which may involve a contract for a particular case depending upon the circumstances.

RECOMMENDATION:

That the information concerning consultancies utilised by Council during the period July to September 2005 be received.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

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Item: 332 **SS - Local Government Association of NSW - Request for Financial Assistance - Section 611 Telstra and Optus - (95496, 79633)**

Previous Item: 42, Ordinary (7 May 2002)
292, Ordinary (27 September 2005)

REPORT:

At the meeting of Council held on 27 September 2005 consideration was given to a report regarding a request received from the Local Government Association of NSW for a contribution towards the legal costs associated with the unsuccessful High Court appeal in relation to Telstra and Optus being required to pay for the use of council property under Section 611 of the *Local Government Act 1993*. A copy of this previous report is attached to this report for Council's information.

As indicated in the previous report on this matter, Council in 2002 contributed an amount of \$4,646 to the Association towards the legal cost of the Councils involved in this case. The current request for financial assistance of \$11,041 is a contribution towards the legal costs of Telstra and Optus, which have been awarded against the Councils involved in the recent unsuccessful High Court appeal in this matter.

Following consideration of this report, Council resolved that the matter be deferred and it was indicated that advice would be obtained from adjoining Councils in relation to the action taken by them in response to this request, together with comments upon the Council's financial position in relation to this request for a contribution.

In respect of action taken by adjoining Councils, the following information has been obtained:

Baulkham Hills Shire Council	This Council has resolved to "not participate in the matter, nor make any further contribution."
Blacktown City Council	This request is not applicable to this Council as it was one of the Councils involved in the case in question.
Blue Mountains Council	Request not yet considered by the Council. Report to be submitted to Council following the Local Government Association Conference.
Penrith City Council	This request is not applicable to this Council as it was one of the Councils involved in the case in question.

With regard to the effect of this requested contribution, in the light of Council's current financial position, members would be aware that Council's quarterly review for the period to 30 September 2005 is currently being prepared. At this stage it is anticipated that the quarterly review will be submitted to the meeting of Council to be held on 15 November 2005. Based on figures currently available the nett deficit position for the quarter is in excess of \$300,000 resulting in some cuts already being made to reduce this figure.

Whilst it is proposed that the quarterly review will be submitted to Council showing a "balanced budget" position, this will involve management identifying further budget savings and/or reducing costs to meet this anticipated deficit amount.

In light of the above, should Council agree to this request it will require further reductions to be made to the budget to meet the cost involved which would need to be identified by Council.

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As indicated in the previous report on this matter, it is acknowledged that the mounting of the High Court Appeal was important to Local Government in New South Wales, and Council has contributed a significant amount previously to the legal costs of the councils considered. However, the current request is for a fairly large contribution in the light of the current financial restrictions on the Council's budget, and the fact that specific provision has not been made for this purpose.

In view of the contents of this report, the following recommendation, which is the same recommendation submitted to the meeting of Council held on 27 September 2005, is once again submitted to Council for its consideration.

Conformance to Strategic Plan

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

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

Funding

No allowance has been specifically made in the 2005/06 Budget for financial assistance as requested by the Local Government Association of NSW.

RECOMMENDATION:

That the Local Government Association of NSW be advised of the previous financial assistance provided by Council on 7 May 2002 in regard to legal costs associated with the High Court Appeal involving Telstra and Optus and Section 611 of the *Local Government Act 1993* and that due to the current financial constraints on its Budget, and as no specific allocation has been made for this purpose, Council is unable to provide any further financial assistance as requested in its letter dated 2 September 2005.

ATTACHMENTS:

AT - 1 Previous Report of 27 September 2005

ORDINARY MEETING

Meeting Date: 1 November 2005

AT - 1 Previous Report of 27 September 2005

ITEM: SS - Local Government Association of NSW - Request for Financial Assistance - Section 611 Telstra and Optus - (95496)

Previous Item: 42, Ordinary (7 May 2002)

REPORT:

Council has received the following letter dated 2 September 2005 from the Local Government Association of NSW requesting Council to contribute towards the legal costs associated with the unsuccessful High Court legal attempt to require Telstra and Optus to pay for the use of Council property under Section 611 of the Local Government Act, 1993:

"As you would be aware the Councils of New South Wales were unsuccessful in their High Court legal attempt to require Telstra and Optus to pay for the use of Council property by way of Section 611 of the Local Government Act 1993.

The legal costs of Telstra and Optus have had to be met by the 12 Councils that were named as representing the Councils of New South Wales. The costs of the matter were approximately \$1.2 Million.

As all New South Wales Councils originally agreed that the matter run for the benefit of all Councils, your Council is requested to assist by forwarding \$11,041 (free of GST) to the Associations which is your Council's contribution to these legal costs (invoice attached).

The proceeds will then be forwarded to the 12 named councils to defray their costs.

If you have any questions regarding this matter please do not hesitate to contact the Association's Legal Officer Frank Loveridge direct on (02) 9242 4125."

Previously Council at its meeting on 7 May 2002 considered a similar request from the Local Government Association of NSW for financial assistance towards the mounting of a High Court Appeal in regard to this matter and resolve as follows:

"That Council contribute \$4,646 (four thousand six hundred and forty six dollars) to the Local Government Association as its contribution to the mounting of a High Court Appeal in the matter of the charges made under the Local Government Act against the telecommunications carriers Telstra and Optus."

Following receipt of the latest letter the Association's Legal Officer was contacted. He advised that the contribution made by Council on 7 May 2002 was for the legal costs associated with the relevant Councils mounting a High Court Appeal whereas, the latest request is for costs incurred by the relevant Councils following the unsuccessful High Court Appeal. The High Court's decision required these Councils to met the legal costs of Telstra and Optus. The latest request for financial assistance of \$11,041 is calculated using the standard formula used by the Association when calculating each Council's annual membership fees.

Whilst it is acknowledged that the mounting of the High Court Appeal was important to Local Government in New South Wales it is also acknowledged that the request is for a fairly large contribution and that Council currently does have financial constraints on its Budget and has not made any specific allocation for this purpose.

Conformance to Strategic Plan

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

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

Funding

No allowance has been specifically made in the 2005/06 Budget for financial assistance as requested by the Local Government Association of NSW.

RECOMMENDATION:

That the Local Government Association of NSW be advised of the previous financial assistance provided by Council on 7 May 2002 in regard to legal costs associated with the High Court Appeal involving Telstra and Optus and Section 611 of the Local Government Act, 1993 and that due to the current financial constraints on its Budget and as no specific allocation has been made for this purpose, Council is unable to provide any further financial assistance as requested in its letter dated 2 September, 2005.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 333**SS - Review of Level of Councillor Representation - (79337)**

REPORT:

Under the provisions of section 224 of the *Local Government Act 1993* a Council is required, not less than 12 months before the next ordinary election, to determine the number of councillors for the following term of office. The Act specifies that the number of councillors must be at least five and not more than 15.

For the information of Council, section 224 of the Act is reproduced hereunder:

- "(1) A council must have at least 5 and not more than 15 councillors (one of whom is the mayor).*
- (2) Not less than 12 months before the next ordinary election, the council must determine the number, in accordance with subsection (1), of its councillors for the following term of office.*
- (3) If the council proposes to change the number of councillors, it must, before determining the number, obtain approval for the change at a constitutional referendum."*

As can be seen, any change to the number of councillors determined as a result of the above section normally requires approval at a constitutional referendum prior to implementation.

However, the *Local Government Management Act 2005* which commenced on 15 July 2005, inserted the following new section 224A into the *Local Government Act* with regard to the process to be adopted for Council to obtain approval to reduce the number of councillors:

- "(1) A council may resolve to make an application to the Minister to approve a decrease in the number of councillors within the limits referred to in section 224(1).*
- (2) The council must give not less than 21 days public notice of its proposed resolution.*
- (3) After passing the resolution, the council must forward to the Minister a copy of the resolution, a summary of any submissions received by it and its comments concerning those submissions.*
- (4) The Minister may approve the application without amendment or may decline to approve the application.*
- (5) If the Minister approves the application, the number of councillors of the council is reduced to the number specified in the application with effect on and from the day appointed for the next ordinary election of councillors after the application is approved.*
- (6) Section 16 does not apply to a resolution of a council to make an application to the Minister under this section.*
- (7) An application may be made under this section only within the period of 12 months from the commencement of this section.*
- (8) Nothing in this section prevents a council from making more than one application under this section or from taking action under section 224 to change the number of its councillors.*

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- (9) *A council for an area that is divided into wards may not make an application under this section for a decrease in the number of councillors that would result in the number of councillors for each ward being fewer than 3."*

As can be seen, the new section 224A of the Act enables a Council to apply to the Minister to decrease the number of councillors, to a minimum of five, after the Council gives 21 days public notice of its proposed resolution in this regard. Should the Minister subsequently approve a Council's application, it does not require the submission of the proposal to a constitutional referendum as required under section 224 of the Act. However, this provision is only applicable for 12 months from the commencement of this section of the Act, namely until 14 July 2006.

In view of the incorporation of the new provision in the Act, it is considered that it would now be appropriate for Council to review the number of councillors that compose the council and to determine whether or not it wishes to utilise the provisions of section 224A of the Act to alter the current number.

As indicated above, the current provisions of the Act provide for a council having at least five and not more than 15 Councillors, one of whom is a Mayor.

As would be appreciated, the composition of the Councils within New South Wales range between these two figures. As an aid to Council in considering this issue the opportunity has been taken to contact adjoining Councils, as well as Camden and Wollondilly Councils who are in the same category as this Council for Local Government statistics, to ascertain the ratio of councillors to population and to electors.

The following table provides this information:

Local Government Area	No. of Councillors	Population Size	No. of Electors	Ratio of Councillors to Population	Ratio of Councillors to Electors
Baulkham Hills Shire Council	12	155,000	105,570	1:12,916	1:8,797
Blacktown City Council	15	280,000	161,022	1:18,667	1:10,735
Blue Mountains City Council	12	74,000	52,451	1:6,167	1:4,371
Camden Council	9	50,000	31,198	1:5,556	1:3,466
Hawkesbury City Council	12	64,000	39,761	1:5,333	1:3,313
Penrith City Council	15	180,000	110,217	1:12,000	1:8,015
Wollondilly Shire Council	9	39,000	26,234	1:4,333	1:2,915

In view of the contents of this report and the recent inclusion of section 224A into the *Local Government Act*, the question of whether or not Council wishes to review the number of Councillors to be elected in subsequent Local Government elections for that Council, without the need for a constitutional referendum, is submitted to Council for consideration.

Conformance to Strategic Plan

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

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"Development of an on-going review of policies impacting on the administration of council."

Funding

If the number of Councillors were reduced there would be a corresponding saving in respect of Councillor's fees and other costs in respect of facilities and expenses met by Council.

RECOMMENDATION:

That the question of reviewing the number of Councillors elected to Council under the terms of Section 224A of the *Local Government Act* be considered by the Council.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 334 SS - Freedom of Information Act 1989 - Nomination of Officers to Deal with Applications - (95496)

REPORT:

Under the provisions of Section 18(2) of the *Freedom of Information Act* 1989, an application for access to a local authority's documents under the Act must be dealt with on behalf of the authority:

- "(a) *by the principal officer of the authority, or*
- (b) by such other officer of the authority as the authority may, by resolution, direct for that purpose, either generally or in a particular case."*

As can be seen from the above, unless otherwise resolved by Council, any application under the *Freedom of Information Act* must be dealt with by the principle officer ie, the General Manager of that authority.

Further, with regard to the exercise of functions conferred or imposed upon a Council's employees under other Acts (ie, the *Freedom of Information Act*) Section 381(1) of the *Local Government Act* 1993 provides as follows:

- "(1) *If, under any other Act, a function is conferred or imposed on an employee of a council or on the mayor or a councillor of a council, otherwise than by delegation in accordance with this section, the function is taken to be conferred or imposed on the council."*

Therefore, in the terms of the above mentioned section of the *Local Government Act*, Council technically needs to resolve to authorise the General Manager to deal with applications under the provisions of Section 18(2) of the *Freedom of Information Act*.

With regard to applications under the *Freedom of Information Act* being dealt with by any "other officer of the authority" as referred to in Section 18(2)(b) of that Act the General Manager, as the officer with operational control of council staff, and being responsible for delegation of the functions of the General Manager under the provisions of Section 378 of the *Local Government Act* should concur with any resolution made by Council under Section 18(2) of the *Freedom of Information Act*.

As would be appreciated, it is not necessarily appropriate or relevant for Freedom of Information applications to be dealt with by the General Manager and, for efficiency purposes, should be dealt with by other staff. However, under the terms of the various Acts referred to above the council should formally resolve those staff who are to deal with applications with the agreement of the General Manager.

Whilst the number of applications under the *Freedom of Information Act* received by this Council are negligible given that Council actively encourages and facilitates access to its documents under Section 12 of the *Local Government Act*, and particularly sub section (6) of that Section, officers of Council should formally be nominated to deal with rare applications received by Council under the *Freedom of Information Act*.

For this purpose it is proposed to recommend to Council that it formally agree to the General Manager dealing with such applications as required under Section 381 of the *Local Government Act* and to also nominate the Director of Support Services, and the Manager of Corporate Services and Governance as other officers who may deal with Freedom of Information applications. The General Manager has agreed with the nomination of these officers for this purpose.

Conformance to Strategic Plan

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

ORDINARY MEETING

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"To provide assistance to the public with regards to accessing Council's records and information by way of either Section 12 of the Local Government Act or Freedom of Information Act."

Funding

No budgetary implications are associated with this matter.

RECOMMENDATION:

That for the purposes of Section 18(2) of the *Freedom of Information Act* 1989 that Council, under the provisions of Section 381(1) of the *Local Government Act* approve of the General Manager dealing with applications under the *Freedom of Information Act* and also nominate the Director of Support Services, and Manager of Corporate Services and Governance as other officers who may deal with applications under the *Freedom of Information Act*, it being noted that the General Manager has agreed with Council authorising these employees for this purpose.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

Item: 335 SS - Goods and Services Tax Compliance Certificate 2005 - (96332)

REPORT:

The Department of Local Government previously required Council to have an independent GST review undertaken and a GST Audit Review Report prepared by an external auditor and lodged with the Department of Local Government.

Effective from the 2004/05 financial year, the Department of Local Government has changed the requirements, now requesting Council to provide a certificate of confirmation signed by the Mayor, one other Councillor, the General Manager and the Responsible Accounting Officer, in lieu of an independent review.

The certificate of confirmation requires Council to certify that:

- Hawkesbury City Council has paid voluntary GST for the period 1 July 2004 to 30 June 2005;
- Adequate management arrangements and internal controls were in place to enable the Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed; and
- No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.

Management confirms that all voluntary GST has been paid for the period, that appropriate internal controls and systems are in place to account for Councils GST liabilities and that no GST non-compliance event has been identified or raised with the Australian Taxation Office.

RECOMMENDATION:

That the Goods and Services Tax Certificate be endorsed in accordance with Department of Local Government Circular 05/26.

ATTACHMENTS:

AT - 1 Goods and Services Tax Certificate

ORDINARY MEETING

Meeting Date: 1 November 2005

AT - 1 Goods and Services Tax Certificate

COUNCIL OF THE CITY OF HAWKESBURY

GOODS AND SERVICES TAX CERTIFICATE

Payment of Voluntary GST 1 July 2004 to 30 June 2005

To assist compliance with Section 114 of the Commonwealth Constitution, we certify that:

- Voluntary GST has been paid by Hawkesbury City Council for the period 1 July 2004 to 30 June 2005.
- Adequate management arrangements and internal controls were in place to enable the Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed.
- No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.

Signed in accordance with a resolution of Council made on the 1st of November 2005

.....
Bart BASSETT
MAYOR

.....
Dianne FINCH
COUNCILLOR

.....
Graeme FAULKNER
GENERAL MANAGER

.....
Lisa DESMOND
RESPONSIBLE ACCOUNTING OFFICER

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

Item: 336

SS - Proposed Lease of Land From Hawkesbury City Council for Windsor Flood Evacuation Route - Lot 33 DP752061 Mulgrave Road, Mulgrave - (95496, 74282)

REPORT:

The Roads and Traffic Authority previously advised that they intended to compulsorily acquire land, in order to construct part of the Windsor Evacuation Route. The land to be acquired is owned by Council and classified as operational land. A valuation was obtained, and Council's concurrence was given for the compulsory acquisition at the meeting of 27 January 2004. Action has been continuing in this regard and the land has now been acquired by the Roads and Traffic Authority.

In order to construct the project, the Roads and Traffic Authority required a lease over an area, including the part to ultimately be acquired and an additional area to provide for space adjacent to the works during the construction period. The lease was for a period of three years or until such time as the land had been permanently acquired and construction completed. Council gave its concurrence to enter into the lease at the meeting of 27 January 2004 and the lease has been entered into.

The Roads and Traffic Authority Project Manager has now become aware of further requirements for an additional temporary construction area adjoining the currently leased area and accordingly, has requested Council's co-operation by the execution of an additional lease over the additional land. The lease will give the Roads and Traffic Authority the legal right to occupy the land during construction works.

All land that is subject to the proposed lease, but will not be permanently required will, at the conclusion of the lease, be restored to its present condition. Council's Manager, Water Management has advised that the proposed lease of additional area will reduce the irrigation area utilised for the sewage treatment plant. However, the reduction would not significantly affect the operations of the plant and as such it would be appropriate for the land to be utilised by the Roads and Traffic Authority.

The proposed lease is for a period of two years then if necessary, quarter to quarter until the construction works are completed. The rental amount will be \$1,485.00 per annum inclusive of GST. The Roads and Traffic Authority are prepared to pay two years in advance, with quarterly payments to be made thereafter if required.

Conformance to Operational Plan

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

"Processing miscellaneous property matters"

Funding

This proposal allows Council to increase income from the property in question.

RECOMMENDATION:

That:

1. Council's concurrence be granted to enter a lease with the Roads and Traffic Authority for the additional land for two years at a rent payable of \$1,485.00 per annum inclusive of GST in advance then if necessary, quarter to quarter at a rent payable of \$375.00 per quarter inclusive of GST.

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2. Authority be given for any documentation in association with the matter to be executed under the common seal of Council.
3. Details of Council's resolution be conveyed to the Roads and Traffic Authority together with the advice that Council is not and will not be bound by the terms of it's resolution until such time as appropriate legal documentation to put such resolution into effect has been agreed to and executed by all parties.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

ORDINARY MEETING

Meeting Date: 1 November 2005

CONFIDENTIAL REPORTS

Item: 337 **IS - Painting Various Council Buildings, Contract 002/FY06 - (95495, 79340, 87562, 92699)**

Reason for Confidentiality

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

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

ORDINARY MEETING

Meeting Date: 1 November 2005

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Cultural Precinct Advisory Committee Meeting - 20 September 2005 - (96328)

The meeting commenced at 5.05 in the Tebbutt Room - Deerubbin Centre

Present: Councillor Dianne Finch, Hawkesbury City Council (Chairperson)
Carolyn Kelly, Community representative
Glenda Ewin, Community representative
Sharon Stone, Chamber of Commerce representative
Simon French, Community representative
Ian Jack, Hawkesbury Historical Society representative
Judy Newland, Hawkesbury Historical Society representative
Leanne Tobin, Darug Custodian Aboriginal Corporation (5.13)
Michael Ginnings, Friends of the Hawkesbury Art Collection and Regional Art Gallery Inc. representative
Graham Edds, Friends of the Hawkesbury Art Collection and Regional Art Gallery Inc. representative
Ingrid Hoffman, Hawkesbury Regional Gallery & Museum
Michelle Nichols, Hawkesbury Library Service (5.15)

Apologies: Margarete Formanek

In Attendance: Joseph Litwin, Hawkesbury City Council
Prue Charlton, Hawkesbury City Council - (Minute Taker)

REPORT:

RESOLVED on the motion of Ingrid Hoffmann and seconded by Simon French that the apologies be accepted.

1. Chair's opening remarks

Clr Finch welcomed members, including Historical Society representative, Judy Newland, and congratulated those who helped with the very successful opening of Friends and Neighbours on 16 September.

2. Confirmation of Minutes

Resolved on the motion of Michael Ginnings and seconded Ian Jack That the Minutes of the Cultural Precinct Advisory Committee held on 19 July be confirmed, with the following amendments:

- **9. RESOLVED** on the motion of Sharon Stone, seconded by Simon French, that Ingrid make available to the Planning Meeting on 24 September the accreditation requirements to be a recognised Regional Gallery, so that the Business Plan may be developed around the requirements.
- The meeting finished at 7 pm.

ORDINARY MEETING
Reports of Committees

- It was noted that the Committee is required to elect a Chair & Deputy Chairperson. Michael Ginnings nominated Clr. Dianne Finch as Chairperson, 2nd by Ian Jack this was duly confirmed. Johnneen Hibbert was nominated as Deputy Chair, but declined. Michael Ginnings was nominated and in the absence of other nominees was appointed to the position.

3. Matters Arising from Minutes

Glenda Ewin asked that her following statement be recorded:

'I would like it noted in the minutes that as a result of the discussion paper attached to the minutes, it has been assumed that I am connected to the Council Watch Group. I would like it minuted that I am not connected with this group in any capacity. My only interest is as an artist and supporter of the Regional Gallery. As a CPAC member my report was presented as constructive criticism and I feel it has been used for the groups' personal gain with total disregard for the interests of our gallery.'

RESOLVED on the motion of Michael Ginnings, seconded Sharon Stone, that the Cultural Precinct Advisory Committee deprecates the actions and statements of the Council Watch Group and fully supports Ms Ewin's positive contribution, which will be taken up and incorporated in the business plan.

4. Correspondence

IN: NSW Minister for the Arts, Bob Debus.

5. Cultural Activities Report

- 5.1 Ingrid Hoffmann presented a verbal report to the Committee in relation to Regional Gallery operations:

Agri/culture

Visitor numbers for *Agri/culture* were in excess of 2,650 with 15 groups including Fitzgerald Hostel, Windsor Glee Club, Red Cross, Richmond High School, Windsor Public School, Probus Club and U3A. Outreach talks were also delivered to Probus and U3A. The exhibition attracted wide local support and the attention of major critics, including John McDonald, art critic for the Sydney Morning Herald, who described the gallery as a 'significant development' and a 'generous exhibition space'. He went on to say "If there has long been a perception of the western suburbs as a cultural wasteland, *Agri/culture* gives the opposite impression. This exhibition is a cornucopia in which there were so many good and important things to include that the show has grown all sorts of wings and annexes. There is a palpable sense of pride in the exhibition, and in the new gallery itself". Hawkesbury artists Greg Hansell, Brian Jones and Edna Watson were mentioned by name, and a photograph of Greg's work, *Corrugated Shadow No.4*, was used to illustrate the article.

Friends and Neighbours

Opening night visitors numbered 260. Mr Allan Shearan, Member for Londonderry, officially opened the show. Mr Shearan congratulated Hawkesbury City Council for its fine gallery and the staff for establishing high curatorial standards. Feedback from attendees has been overwhelmingly positive. It was especially gratifying that John Kirkman (Penrith Regional Gallery Director) and John Cheeseman (Blacktown Arts Centre Director) attended, underlining the spirit of friendship and cooperation in the region. The exhibition demonstrates the gallery has consolidated its operations, with good networks established and a well-trained volunteer support base in place.

Cultural Plan

The first draft of the Cultural Plan was circulated to Council's Cultural Planning reference group for comments. This group includes staff members from each of the directorates in order to facilitate a whole-of-council approach to cultural development.

The dates of two community feedback sessions are Tuesday 18 October, 6 - 8 pm in the Tebbutt Room and Wednesday 19th October, 2 - 4 pm at Forgotten Valley Community Centre, Wisemans Ferry. All community participants who attended the first round of workshops will be invited to return to one of these sessions to comment on the draft plan, which will have been circulated to them in October.

It is anticipated that the final draft of the plan will be ready for presentation to Council by the end of 2005.

Gallery Volunteer Program

Grant support of \$15,600 for volunteer recruiter and trainer, Margaret Helman has been almost expended, with the residual \$2,000 committed to print the Volunteer Manual. A group of 48 motivated volunteers has been established, with the retention rate high and much enthusiasm demonstrated.

The gallery has placed an intern from the College of Fine Arts (UNSW) until November.

Grants

Applications prepared by Cultural Services staff will be lodged with NSW Ministry for the Arts on Friday 23.

- 1) For museum development funds to enable the interpretation of archeological findings and additional exhibition design.
- 2) Volunteer revitalisation for the Museum: new recruitment and training.
- 3) Concept design fees for artists to collaborate with landscape designers to develop motifs for a proposed walking trail between Thompson's Square and the Deerubbin Centre.
- 4) Exhibition research and development funds for Hawkesbury Regional Gallery's first touring exhibition. *Bloodlines: the Horse in Australian Art*, conceived as an audience development initiative and tapping into the extensive links between the Hawkesbury community and horses, including breeding for a variety of uses, thoroughbred racing, endurance riding, polo, show jumping and showing. A mixture of contemporary art and social history is again proposed, underpinned by extensive research commissioned from specialists.

Reception Desk

The gallery's new reception desk, designed and built by fine local craftsman, Philip Nolan, is set for delivery on Tuesday 27 September. This commission was made possible by a generous donation by Trend Timbers.

Income

A total of \$441.00 was collected in the donations box in August and September.

5.2 Michelle Nichols presented a verbal report to the Committee in relation to Library Operations:

- Library Manager Robyn Gosper has resigned after 15 years with the Library.

- Over 300 students submitted entries in our Children's Book Week competition. 11 schools visited the library & art gallery during the week.
- Storytime at Windsor is well-liked by parents & busy.
- Currently on show is a "Glasses display" which has received wide publicity.
- A complementary "Friends & Neighbours" display of historical images from Riverstone, Castle Hill & Penrith on show during October. Also the librarian from Penrith & Baulkham Hills will be giving a talk to the Hawkesbury Family History Group on the 12th October 2005 at 10am in the Tebbutt Room about the history and research collections.
- School holiday activities are planned with stories, craft & a movie based on a book.
- Community Rooms are popular with an average of 90 bookings per month for the 3 rooms.
- New membership has increased almost 50% (46%) compared to same period last year with nearly 900 new members.
- PCs are constantly booked with an increase usage of 20% from last years statistics.
- The Library is also operating its annual "Tax Help" with assistance from the ATO and a trained volunteer.

6. Development of Business Plan

Ingrid Hoffmann provided details about the Business Planning Session organised for Saturday 24 September with facilitator, Annie Talvé.

7. Deed of Agreement

Ingrid Hoffmann reported that the parties have agreed on a final draft of the deed, which is currently being perused by the legal advisers of Friends of the Hawkesbury Art Collection and Regional Art Gallery and Hawkesbury Historical Society.

8. Other Business

- 8.1 Sharon Stone tabled the document 'Checklist for planning a regional gallery' 2002, published by the Regional Galleries Association of New South Wales.

RESOLVED on the motion of Sharon Stone, seconded Ian Jack that consideration be given to the renaming of the Gallery Manager to Gallery Director in order to meet industry standards.

RESOLVED on the motion of Graham Edds, seconded Sharon Stone that council staff investigate the feasibility of making modifications to the gallery walls, manager's office and staff toilet arrangements, and that a sub-committee be established comprising Sharon Stone, Glenda Ewin Graham Edds and Ingrid Hoffmann.

Clr Finch moved a vote of thanks to Ingrid for a job well done.

The meeting closed at 6.35 pm.

ORDINARY MEETING
Reports of Committees

The Next Meeting will be held in the Tebbutt Room at 5pm on Tuesday 15 November.

oooO END OF REPORT Oooo

ORDINARY MEETING
Reports of Committees



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meeting

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