



Hawkesbury City Council

ordinary meeting business paper

date of meeting: 11 April 2006

location: council chambers

time: 5:00 p.m.

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SECTION 4 - Reports for Determination

GENERAL MANAGER

Item: 73 GM - Report of Conduct Committee Meeting 30 March 2006 - (79351)

REPORT:

The report of Council's Conduct Committee's Meeting of 30 March 2006 is set out hereunder for Council's determination.

Committee's Role

Council adopted its Code of Conduct on 25 January 2005.

The Code is largely based on the Model Code of Conduct issued by the Department of Local Government.

The Code provides at clause 10 thereof for reporting breaches, complaint-handling procedures and sanctions.

In particular, the Code provides for the establishment of a Conduct Committee to be responsible for making inquiries into allegations of breaches of the Code of Conduct by Councillors.

Background

On 13 October 2005 Council's Conduct Committee published a report in relation to certain comments attributed to Councillor Paine in relation to an incident now generally referred to as the "Kurrajong Tree Removal".

The Conduct Committee reported to Council its finding of a prima facie breach of clause 5.1 of the Code of Conduct on the part of Councillor Paine.

1. Thereafter, on 29 November 2005 Council resolved that:
 - 1.1 Council adopt the findings of the Conduct Committee.
 - 1.2 The Councillor be requested to attend a counselling session as organised by the General Manager by the end of February 2006.
 - 1.3 The Councillor be required to submit a written apology to the Mayor and General Manager receiving it on behalf of the Councillors and/or staff adversely affected by the implications, prior to the next ordinary Council meeting.
- 2 The next ordinary meeting of Council took place on 13 December 2005.
- 3 No apology was forthcoming from Councillor Paine by 13 December 2005.
- 4 By letter dated 19 December 2005 Councillor Paine advised that she will not be apologising as requested.

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Referral

On 11 January 2006 the General Manager referred the suspected breach of Council's Code of Conduct arising out of the above circumstances to the Conduct Committee.

The Convening of the Conduct Committee

A meeting of the Conduct Committee was convened on 18 January 2006.

The Conduct Committee comprised:

- Councillor Bart Bassett, Mayor
- Graeme Faulkner, General Manager
- Stephen Griffiths, Council's solicitor

The Committee determined to inquire into the referred matter.

Notice to Councillor Paine

On 19 January 2006 the General Manager, on behalf of the Conduct Committee, wrote to Councillor Paine giving notice of the said inquiry:

- informing her of the allegation made against her,
- the material upon which it was based, and
- inviting her to be heard in response to the allegation.

A copy of that letter is annexed hereto and marked "A".

By a separate letter dated 19 January 2006 the General Manager wrote to Councillor Paine requesting confirmation as to whether or not she was prepared to attend counselling. A copy of that letter is annexed hereto and marked "B".

Responses from Councillor Paine

By letter dated 27 January 2006 Slater & Gordon Solicitors responded to the General Manager on behalf of Councillor Paine. A copy of that letter is annexed hereto and marked "C".

By the Slater & Gordon letter, the Councillor rejected any suggestion that her comments, the subject of the earlier Conduct Committee hearing were or could in any way be detrimental to the pursuit of the Charter of the Council or were improper or unethical.

The Councillor submitted that to the extent that the Conduct Committee had found otherwise, the Conduct Committee was in error.

In addition, by the Slater & Gordon letter, the Councillor said that the Mayor's participation on the Conduct Committee had raised an apprehension of bias, which had irremediably tainted its findings and conclusions.

On 28 February 2006 the General Manager wrote back to Slater & Gordon:

- seeking confirmation that the Councillor was not prepared to attend counselling;
- proposing an expansion of the terms of this inquiry to include the Councillor's failure to attend counselling; and
- seeking clarification of the allegation of bias.

A copy of that letter is annexed hereto and marked "D".

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By letter dated 9 March 2006 Slater & Gordon responded to the effect that the Councillor's allegation of bias against the Mayor was not based solely on the fact that the Mayor was a political opponent but also on statements allegedly made by the Mayor from time to time.

In order to "protect" the identity of a witness, the Councillor declined to provide any further information concerning this allegation of bias. A copy of the Slater & Gordon letter is annexed hereto and marked "E".

The Findings of the Committee

The Committee now finds that:

- 1 By resolution of 29 November 2005, Council resolved that:
 - 1.1 Council adopted findings of the Code of Conduct Committee that Councillor Paine had breached Council's Code of Conduct.
 - 1.2 Councillor Paine be requested to attend a counselling session as organised by the General Manager by the end of February 2006.
 - 1.3 Councillor Paine be required to submit a written apology to the Mayor and General Manager receiving it on behalf of the Councillors and/or staff adversely affected by the next ordinary Council meeting on 13 December 2005.
- 2 Councillor Paine:
 - 2.1 did not apologise prior to the next ordinary meeting of Council on 13 December 2005 and
 - 2.2 in fact, by a letter dated 19 December 2005, advised Council that she will not be apologising.
- 3 Councillor Paine has not attended a counselling session by the end of February 2006.
- 4 The requirements in Council's resolution of 29 November 2005 that Councillor Paine apologise and attend counselling were sanctions imposed pursuant to Council's Code of Conduct.
- 5 The failure on the part of Councillor Paine to apologise or attend counselling is a failure by the Councillor to comply with an applicable requirement of the Code of Conduct and is, as such, misbehaviour as defined in section 440F of the Local Government Act 1993.

Reasons

Councillor Paine's criticism of the earlier Conduct Committee hearing goes beyond the scope of this inquiry. The earlier Conduct Committee inquiry is now functus officio.

The findings 1 to 4 made by this Committee are in respect of facts not put in issue.

Finding 5 arises out of the application of the definition of "misbehaviour" in section 440F of the Local Government Act 1993 to findings 1 to 4.

By virtue of section 440G of the Local Government Act 1993 a Council may, by resolution at a meeting, formally censure a Councillor for misbehaviour.

It is a matter for Council to determine whether to censure or otherwise sanction the Councillor.

It is also a matter for Council to satisfy itself that the failure of Councillor Paine to apologise or attend counselling is misbehaviour (see section 440G(iii)).

Conformance to Strategic Plan

Not applicable.

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Funding

Not applicable.

RECOMMENDATION:

That:

- 1 The matter be reported to Council accordingly.
- 2 Council considers a resolution for censure on the grounds that Councillor Paine has failed to apologise or attend counselling as required of her by Council's resolution of 29 November 2005.

ATTACHMENTS:

- AT - A** Hawkesbury City Council letter dated 19 January 2006 to Councillor Paine re enquiry
- AT - B** Hawkesbury City Council letter dated 19 January 2006 to Councillor Paine re counselling
- AT - C** Slater & Gordon Solicitors letter dated 27 January 2006 to Hawkesbury City Council
- AT - D** Hawkesbury City Council letter dated 28 February 2006 to Slater & Gordon Solicitors
- AT - E** Slater & Gordon Solicitors letter dated 9 March 2006 to Hawkesbury City Council

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AT - A Hawkesbury City Council letter dated 19 January 2006 to Councillor Paine re Enquiry

Hawkesbury City Council

Our Ref: GF060119L745 RMF

19 January 2006

Councillor Christine Paine
"Sunnybrae"
12 Fitzgerald Street
WINDSOR NSW 2756

FILE COPY

Confidential

Dear Councillor Paine,

I write on behalf of Council's Code of Conduct Committee herein.

- 1 By resolution of 29 November 2005, following an earlier report of Council's Code of Conduct Committee, Council resolved in relation to you as follows:

- "1 Council adopt the findings of the Conduct Committee.
- 2 The Councillor referred to in the report be requested to attend a counselling session as organised by the General Manager by the end of February 2006.
- 3 The Councillor referred to in the report be required to submit a written apology to the Mayor and General Manager receiving it on behalf of the Councillors and/or staff adversely affected by the implications, prior to the next ordinary Council meeting."

- 2 The next ordinary Council meeting took place on 13 December 2005.
- 3 No apology was forthcoming from you and by letter dated 19 December 2005 you advised me that you will not apologise as requested.

- 4 Paragraph 11.1 of Council's Code of Conduct provides:

"For the purpose of chapter 14, part 1, division 3 of the Act, failure by a Councillor to comply with an applicable requirement of this Code of Conduct constitutes misbehaviour (section 440I)."

- 5 Your failure to comply with the sanctions imposed by Council pursuant to section 10.15 of the Code is in itself a suspected breach of the Code of Conduct.
- 6 As such, I have reported the suspected breach to the Code of Conduct Committee as required of me pursuant to section 10.9 of the Code.
- 7 The Code of Conduct Committee has resolved to inquire into the alleged breach.

Where people make the difference.

GF060119L745_R
All communications to be addressed to the General Manager
P.O. Box 146, Windsor NSW 2756
Website: www.hawkesbury.nsw.gov.au
E-mail: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 8.30am - 5.00pm

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19 January, 2006



Confidential

Accordingly, you are hereby:

- given notice of the said inquiry;
- informed that the terms of the allegation made against you and the material upon which it is based are as set out above; and
- invited to be heard in response to the allegation against you.

You may call such evidence and/or make such submissions as you see fit.

In that regard, the Committee would be pleased to have your evidence and/or submissions within fourteen days of the date hereof.

If you require further time and/or other procedural steps in the furtherance of your case, please advise me of this in writing forthwith (and provide reasons for same).

Yours sincerely,



Graeme Faulkner
General Manager

Direct Line : 4560 4410

GF060119L745_R/R

ORDINARY MEETING

Meeting Date: 11 April 2006

AT - B Hawkesbury City Council letter dated 19 January 2006 to Councillor Paine re Counselling

Hawkesbury City Council

Our Ref: GF060119L746_RMF

19 January 2006

Councillor Christine Paine
"Sunnybrac"
12 Fitzgerald Street
WINDSOR NSW 2756

FILE COPY

Confidential



386 George Street
(PO Box 146)
Windsor NSW 2756
Phone: 02 4560 4444
Facsimile: 02 4560 4400
DX: 8501 Windsor

Dear Councillor Paine,

By resolution of 29 November 2005, following an earlier report of Council's Code of Conduct Committee, Council resolved in relation to you as follows:

- "1 Council adopt the findings of the Conduct Committee.
- 2 The Councillor referred to in the report be requested to attend a counselling session as organised by the General Manager by the end of February 2006.
- 3 The Councillor referred to in the report be required to submit a written apology to the Mayor and General Manager receiving it on behalf of the Councillors and/or staff adversely affected by the implications, prior to the next ordinary Council meeting."

In relation to 2 above, would you please advise if you are amenable to attending a Counselling session if one is so arranged pursuant to Council's resolution.

I would be grateful for your advice at your earliest convenience.

Yours sincerely,

Graeme Faulkner
General Manager

Direct Line : 4560 4410

GF060119L746_R

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Website: www.hawkesbury.nsw.gov.au
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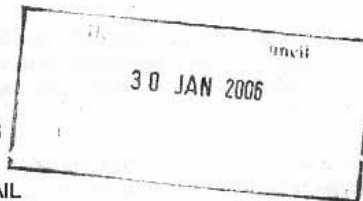
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AT - C Slater & Gordon Solicitors letter dated 27 January 2006 to Hawkesbury City Council



27 January 2006

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



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Email: jmoran@slatergordon.com.au

Our Ref: PJW:287589

CONFIDENTIAL

Dear Sir

Re: Councillor Christine Paine

We act for Councillor Paine who has handed us your two letters to her dated 19 January 2006.

Our client denies that there has been any breach by her of clause 5.1 of the Model Code of Conduct. The conclusion reached by Council's Conduct Committee that there was such a breach is without foundation.

The findings and conclusions of the Conduct Committee are ostensibly based on verbal statements reported to have been made by our client at or immediately following a public meeting that took place on 19 February 2005 at the site of 3 stumps of trees that had been removed by Council at the Old Bells Line of Road in Kurrajong Village. Our client was reported in a local newspaper as having said:

I knew nothing about the removal and when I asked for a report or file from council, I discovered there was none. We have far worse footpaths in the city. Somebody wanted those trees down and had the power to have them removed.

Our client has already acknowledged having made a statement to the above effect immediately after the meeting.

The Conduct Committee has expressly avoided the conclusion that our client's comments "were specifically directed at any individual Council officers or Councillor Finch". Instead, the Conduct Committee has found that "this was an imputation which could reasonably have arisen in the mind (sic) of the community members in the particular circumstances of the case". Our client completely rejects this conclusion and denies that any imputation could reasonably arise from her statements reflecting adversely on individual councillors or individual officers of the Council. To the extent that the Conduct Committee is implying that the



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community members in question were all of the one "mind", this is also rejected by our client.

The only imputation that could reasonably arise from our client's statements was that the Council owed the community an explanation as to who made the decision to remove the trees, the reasons for the decision and the processes that were involved in the making of the decision.

To the extent that our client was calling upon the Council to explain its actions, her statements can be seen as reflecting adversely on the Council, as our client has acknowledged. Our client denies, however, that that of itself constituted, or could constitute, a breach of clause 5.1 of the Model Code of Conduct. Her call upon the Council to explain what had happened was fully justified in the circumstances. In this respect, our client relies on the conclusion reached in the report dated 16 August 2005 prepared by Lindsay Taylor, Lawyers, in their independent investigation into the removal of the trees:

The removal of the Trees did not comply with Council's TPO Guide nor with the Council's usual procedures for the removal of trees on Council land. (para 217).

Our client acknowledges that the removal of the trees, and the public reaction thereto, brought the Council into disrepute, and asserts that the Council was the author of its own misfortune. The basic cause was Council's failure to comply with its own TPO Guide and to follow its usual procedures for the removal of trees on Council land. By the time our client made her statements some four days later, the damage in terms of Council's credibility had already been done.

Our client completely rejects any suggestion that her call for the Council to explain its actions was, or could in any way be, detrimental to the pursuit of the Charter of the Council or improper or unethical.

The Conduct Committee has also erred in concluding that verbal statements made by our client carried the imputation "that the circumstances surrounding Council's decision to remove the trees were beyond the normal or appropriate allocation of Council's priorities in carrying out such works where tree roots interfered with footpaths". With respect, no such imputation can fairly or reasonably be drawn from our client's statements. Calling upon the Council to explain to the community why it decided to remove the trees is very different from making a positive statement speculating about what those reasons might be.

Others may have engaged in such speculation, but that is not something for which our client can be held responsible. Our client denies that her verbal statements reinforced or "fuelled" such speculation. On the contrary, our client's verbal statements were a call upon the Council to make full disclosure of the relevant facts. That is very different from lending support to unproven speculation, as found by the Conduct Committee.

Our client's concerns about the procedures adopted by the Conduct Committee in this instance have not been adequately addressed. The Conduct Committee has observed that it is not a court of law. It is nonetheless bound by the provisions of the Code of Conduct, and the law generally, to observe the rules of procedural fairness. In our submission this is an overriding requirement. In this regard, the participation of the Mayor in the proceedings of the Conduct Committee was, in

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our submission, highly inappropriate. It is no secret that the Mayor and our client are political opponents. It is therefore inappropriate for either of them to be put into a position of sitting in judgement upon the other.

The question inevitably arises as to whether the Mayor's participation has contributed in any way to what our client says is the misconstruction by the Conduct Committee of her verbal statements at the tree stump meeting, and of her written submissions in response to the preliminary findings of the Conduct Committee set out in our client's letter to the General Manager dated 7 November 2005. In our submission, the Mayor's participation at every stage of the proceedings raises a reasonable apprehension of bias, which irremediably taints the findings and conclusions of the Conduct Committee.

In all the circumstances, our client sees no reasonable basis for providing the apology demanded of her or for attending a counselling session.

Our client understands that the Council may attempt to pass a resolution formally censuring her pursuant to Section 440G of the Local Government Act for her alleged "misbehaviour". In our client's view, any such censure will be seen by the wider community as a crude attempt by the Council to find an alternative focus for blame for its own failures concerning the removal of the trees.

If the Council thereafter decides to proceed further with the matter and to request our client's suspension from civic office pursuant to Section 440H of the Act, and an order for suspension is subsequently made, we are instructed to put you on notice now that that order will be the subject of an appeal by our client to the Pecuniary Interest and Disciplinary Tribunal pursuant to Section 440M of the Act. That appeal will be prosecuted vigorously.

Yours faithfully

SLATER & GORDON



Peter Wertheim
Consultant

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AT - D Hawkesbury City Council letter dated 28 February 2006 to Slater & Gordon Solicitors

Hawkesbury City Council

Your Ref: PJW:287569

Our Ref: GF060228L826_R

FAXED
28/2/06

28 February 2006

Slater & Gordon
Lawyers
DX 1163
SYDNEY, NSW

Dear Partners,

RE: COUNCILLOR CHRISTINE PAINE

I refer to your letter of 27 January last.

I take it from the terms of your letter that your client will neither apologise nor attend counselling as required by Council's resolution.

Strictly speaking, the opportunity to attend counselling was available to your client until the end of February 2006. As such, the referral to the Code of Conduct Committee in January last was limited to the failure to apologise. I would now propose to expand the terms of the inquiry to include your client's failure to attend counselling.

The alternative would appear to be that each failure be inquired into separately with the potential for two breaches of the Code to be found.

Unless I hear from you to the contrary within seven days then I would propose to refer both failures as evidence of the one potential breach to be dealt with by the one inquiry.

I would also be assisted by your clarification of a matter alleged in your letter.

In that regard, your letter alleges that the previous Conduct Committee failed to accord your client procedural fairness because it was "inappropriate" for the Mayor who is, you say, a political opponent of your client to sit on the Committee.

Later in your letter you say "*the Mayor's participation at every stage of the proceedings raises a reasonable apprehension of bias*". I will assume, unless you advise me to the contrary, that this allegation is made on the same basis as the earlier allegation, i.e. that it is based on the fact that the Mayor is to be regarded as a political opponent of your client.

I propose to provide your letter of 27 January last (and any further response you make to this letter) to the Conduct Committee.

GF060228L826_R

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All communications to be addressed to the Council Manager
P.O. Box 46, Windsor NSW 2755
Website: www.hawkesbury.nsw.gov.au
E mail: council@hawkesbury.nsw.gov.au
Hours: Monday to Friday 9.30am - 5.00pm

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28 February, 2006



If there are any other matters that your client wants put to the Conduct Committee on her behalf then I would invite you to include those in any response to this letter.

Yours sincerely,



Graeme Faulkner
General Manager

Direct Line: (02) 4560 4410

CF060228L626_R/R

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AT - E Slater & Gordon Solicitors letter dated 9 March 2006 to Hawkesbury City Council

09/03 2006 19:15 FAX 61 3 9670 2542

SLATER & GORDON

001



9 March 2006

Mr Graeme Faulkner
General Manager
Hawkesbury City Council
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Email: jmoran@slatergordon.com.au

Our Ref: PJW/28756

Fax 4560.4400

Dear Sir

Re: Councillor Christine Paine

We acknowledge receipt of your letter dated 28 February 2006.

We are instructed that our client's allegation of bias against the Mayor is not based solely on the fact that the Mayor and our client are political opponents. We are instructed that the allegation is based on statements made by the Mayor from time to time in the presence of witnesses, at least one of whom is prepared to come forward if the matter proceeds any further.

At this stage, in order to protect the identity of the witness, our client is not prepared to provide you with any further information concerning that aspect of the matter.

Yours faithfully
SLATER & GORDON

A handwritten signature in dark ink, appearing to read 'P. Wertheim'.
Peter Wertheim
Consultant

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CITY PLANNING

Item:75 CP - Review of Determination - Demolition, Dual Occupancy - Demolition of Existing Dwelling and the Erection of a Two Storey Dual Occupancy, Lot 43 DP 231320, 13 Ducker Avenue, Hobartville NSW 2753 - (96329, 95498, 31695, 31694, 24525, DA0502/05)

Development Information

Applicant: Graham Richard Zerk
Applicants Rep: Nil
Owner: Mr P J Reid & Mrs S D Reid
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Hawkesbury Development Control Plan
Area: 670.300m2
Zone: **Residential 2(a)**
Residential 2(a) under Hawkesbury Local Environmental Plan 1989
Multi Unit Housing
The proposed zone under draft Local Environmental Plan 1/01 - Amendment 130 is Multi-Unit Housing.
Advertising: 27 June 2005 to 11 July 2005
Date Received: 20 June 2005

Key Issues: ♦ Compliance with Hawkesbury Development Control Plan

Recommendation: Approval, Subject to Conditions.

REPORT:

Introduction

A development application was received on 20 June 2005 seeking consent for an attached dual occupancy on Lot 43, DP 231320, 13 Ducker Avenue, Hobartville.

The application was refused on 23 August 2005 under delegated authority for the following reasons:

1. *"The development application does not demonstrate that future development of the land will not unreasonably impact on adjoining properties.*
2. *The design of the proposed development will not provide an acceptable level of amenity for future residents.*
3. *The proposed development is inconsistent with the aims and objectives of Hawkesbury Development Control Plan.*
4. *The proposed development does not comply with the requirements of the Hawkesbury Development Control Plan, in particular Part D, Chapter 1, Residential Development.*
5. *In the circumstances, approval of the development would not be in the public interest."*

The applicant has now requested a review of determination under Section 82A of the Environmental Planning and Assessment Act, 1979. The request was accompanied by amended plans and statement. The review of determination is based on the amended details provided.

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This application is being reported to Council as the Environmental Planning and Assessment Act 1979 requires the review to be determined by the Council or another delegate of the council who is not subordinate to the delegate who made the determination.

Background

20.06.2005 - Development Application received.
20.07.2005 - Letter to applicant advising of non-compliances with Hawkesbury Development Control Plan - 14 Day Letter.
08.08.2005 - 7 Day Letter
16.08.2005 - Meeting with applicant to discuss non-compliances. Applicant agreed to withdraw and advised that the withdrawal form would be sent to Council by 18.08.2005.
23.08.2005 - Application refused.
26.08.2005 - Amended plans received.

The Proposal

The development proposes a two storey attached dual occupancy with access from a central shared driveway.

The proposal includes the demolition of the existing dwelling house, carport and sheds on the site.

Statutory Situation

Section 82A of the Environmental Planning and Assessment Act 1979

Section 82A allows an applicant to request Council to review a determination. As a consequence of its review, Council may confirm or change the determination.

Hawkesbury Local Environmental Plan 1989 (HLEP 1989)

The land is zoned Residential 2(a) under Hawkesbury Local Environmental Plan 1989. The proposed development is permissible with development consent within the 2(a) zone.

Draft Amendment No. 130 to Hawkesbury Local Environmental Plan 1989

This amendment proposes to rezone the land to 'multi unit housing'. Dual occupancy is permitted with development consent within the 'multi unit housing' zone. The proposal is considered to be consistent with the objectives of this proposed zone.

Hawkesbury Development Control Plan - Residential Chapter

The following table provides an assessment of the proposed development against the relevant requirements of this Chapter:

Element	Rules	Provides	Complies
Height	(a) New buildings are to be constructed within the Building Height Plane for the relevant residential use. (Refer to Table 1). The Building Height Plane is to be adjusted for sloping sites to follow the natural ground level.	Building height plane as determined from eastern boundary. Ground level and finished floor levels not provided/clear.	No See discussion below
Setbacks	(b) For sites fronting a local road buildings are to be set 7.5m back from the front boundary. In areas where there is prior development the established pattern is to be regarded as the standard setback.	Setback of 7m	No See discussion below
Landscaped Areas	(a) All forms of residential development are to contain pervious soft landscaped	Minimum 201m ² required.	Yes

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Element	Rules	Provides	Complies
	areas to a total of 30% of the total site area. This may be calculated by adding together soft landscaped areas of private and common open space. Development proposals, where required, are to indicate the proportion of the total site area that is: - o total "soft" landscaped area; - o total ground level private open space; and - o total common open space	Provided	
Private Open Space	(a) Single dwelling houses and multi unit housing are to provide at least one area of private open space for each dwelling.	Provided.	Yes
	(b) The total of private open space at ground level must be a minimum of 20% of the site area, regardless of permeability of the surface. This space must:	134m ² required. 214m ² has been provided.	Yes
	• be capable of containing a rectangle 5 metres x 6 metres that has a slope less than 1:10;		Yes
	• not be comprised of any area with a dimension less than 4 metres; and		Yes
	• be exclusive of clothes drying areas, driveways, car parking and other utility areas.		Yes
	(c) Private open space shall not be located in the front boundary setback.		N/A
	(d) Any above ground level balcony or rooftop area designed for private open space must have minimum area of 10 square meters with a minimum dimension of 2 metres. This area is not included in the calculation for the provision of total private open space.		
Access and Parking	(a) Driveways next to any side or rear boundary must have a landscape strip of at least 1 metre to separate them.		Yes
	(b) Shared driveways, access lanes and car parks must be setback a minimum of 1.5 metres from windows to main habitable rooms of dwellings. This standard does not apply if the floor level of the dwelling is at least 1 metres above the driveway.		Yes
			Yes

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Element	Rules	Provides	Complies
	(c) All driveways must have a minimum width of 3 metres and must be sealed to prevent surface erosion.		Yes
	(d) For development that contains more than 2 units driveways are to have a minimum driveway width of 6m from the layback/kerb line to 6m inside the property.		Yes
	(e) Garages and carports must not visually dominate the street façade, should occupy less than 50% of the building facade and must be compatible with the building design.	Proposed landscaping considered satisfactory in screening visitor car space in front setback.	Yes
	(f) Uncovered car parking spaces and turning areas can be located within the front setback to the required building line provided that this area is dominated by landscaping and/or addresses established streetscape patterns.		Yes
	(g) Where parking spaces are located at 90° to the driveway alignment the minimum driveway width adjacent to the space is to be 6.7m, increased as necessary to allow adequate maneuvering on site.		Yes
	(h) On site maneuvering areas shall be provided to allow entry and exit to the site in a forward direction (except for a single dwelling).		Yes
	(i) On site maneuvering areas shall be provided to allow entry and exit to and from all car spaces including garages, carports, uncovered spaces and visitor spaces by a single turning movement (except for a single dwelling).		N/A
	(j) Attached dual occupancies will be assessed on merits in relation to onsite maneuvering.		Yes
	(k) Where more than 3 units are served by an access or the access is greater than 30m long, a turning area shall be provided at or near the end of the access.	Garage width of 6.4m.	
	(l) On site maneuvering shall be based on the Austroads Standard 5.0m design vehicle. Templates for this standard are		

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Element	Rules	Provides	Complies
	provided in the appendices. When using the templates a minimum of 150mm shall be provided between any fixed object and the extremities of the sweep paths. (m) All on site car spaces shall comply with the minimum dimensions set out in Part C Chapter 2 (Car Parking and Access). Where a space adjoins a wall, fence or other fixed structures, the width shall be increased as follows to allow adequate door opening: • on one side only to 3.2m • on both sides to 3.8m (n) Refer to the following chapters for additional requirements: • Part C Chapter 2 - Carparking and Access • Part C Chapter 6 - Energy Efficiency • Part D Chapter 3 - Subdivision		Yes Yes N/A
Visual Amenity	(a) Where there is potential for loss of privacy the proposal should incorporate some of the techniques illustrated in the DCP.	Visual amenity adequate.	Yes
	(b) Where there is no alternative to a window, it should be screened.	Visual amenity adequate.	Yes
Acoustic Privacy	(a) Acoustic privacy is to be considered at the design stage.		Yes
	(b) Site layouts should ensure parking areas, streets and shared driveways have a line of sight separation of at least 3 metres from bedroom windows.		Yes
	(c) A distance of at least 3 metres should separate openings of adjacent dwellings.		Yes
Safety and Security	(a) Each dwelling is to be provided with direct and convenient pedestrian access to a private or public road.	Satisfactory.	Yes
	(b) Barriers to prevent movement between internal roof spaces of adjoining dwellings are required.	Condition	Yes
	(c) Elements to be incorporated in site and building design and include:	Satisfactory	Yes
	• doorway/entry safety and		

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Element	Rules	Provides	Complies
	surveillance to and from the footpath • illumination of public spaces including all pedestrian paths, shared areas, parking areas and building entries to the relevant Australian Standard. • Visibility to the street from the front of the development • Restricted access to the rear of the site.		
Cables	(a) The design, location and construction of utility services must satisfactorily meet the requirements of both the relevant servicing authority and Council.		Yes
Recycling, garbage and mail	(a) Collection areas must be integrated into the overall site and building design.	Satisfactory.	Yes
Energy Efficiency Chapter	(a) NatHERS Assessment and/or Energy Performance Statement.		Yes

Variations**Building Height Plane**

The proposed dual occupancy building is not located wholly within the building height plane. The applicant provides the following justification for this non-compliance:

"Drawing No. 322 AO1 sets out the building profile and its relationship to the building envelope configured perpendicular to the boundary. It is noted that a small portion of the gable above Unit 1 Bed 3 is outside the envelope.

Whilst a hipped roof to this area would fall within the envelope, the gable proposed reflects the roof form generally through the development.

Whilst we have no objection if Council insists on a hipped roof form, it is requested of Council that consideration be given to retaining the gable profile with the following points in mind:

- ☐ *There is no residential site adjoining this boundary.*
- ☐ *A 3.6m wide footpath and access way adjoins the boundary.*
- ☐ *The portion of roof outside the envelope does not impact on privacy nor cast significant shadow on the adjacent residential site."*

Comment:

It is considered that the retention of the gable profile is desirable in respect to the overall appearance of the development, as it is consistent with the rest of the building.

The rule of the DCP for all new buildings to be located within the Building Height Plane was required to:

- (a) *protect the privacy, use of private open space and solar access within the development and on adjoining land.*

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- (b) ensure that the bulk of the new development is not excessive and relates well to the local context.
- (c) allow adequate natural light and ventilation between dwellings with sufficient separation for acoustic and visual privacy.

The portion of the roof encroaching the building height plane is located adjacent to a pathway. The residential property located on the other side of this pathway will not be unreasonably impacted on in terms of loss of privacy, loss of use of private open space or overshadowing. There is adequate separation between the two residential properties to allow for natural light and ventilation. It is considered that this section of the roof contributes to the reduction of the bulk of the building.

For these reasons it is recommended that the variation from the requirements of the DCP be supported in this instance.

Setback

The DCP requires a minimum setback of 7.5m. The proposed development provides a setback of 7m. The applicant provides the following justification for the variation:

"The street frontage of the site is on the arc of the cul-de-sac and visually a 500mm variation in the setback pattern is not as readily identified as those within the straight portion of the street.

The 7m setback proposed applies to a small proportion of the building façade, as illustrated on drawing No. 322AO. The wedge shaped allotment is restrictive on potential development. Reducing the setback to 7m preserves a large envelope to the rear for private open space which is orientated to the north providing excellent solar access."

Comment:

It is agreed that the area of the building located within a 7.5m front setback is minimal and that visually a setback of seven metres within the cul-de-sac will not be readily perceived.

It is noted that relocation of the building footprint to comply would result in a reduction in private open space areas. Private courtyard areas are calculated on the basis of a minimum dimension of four metres. Moving the building to have a setback of 7.5 metres will result in the courtyard to unit 1 being reduced, resulting in a reduction in dimension to 3.5 metre to a substantial portion of the courtyard area.

It is also noted that the garage and bedroom area encroaching on the required setback can be removed without reducing the functionality of these rooms. It is therefore concluded that there is no valid reason or site impediment preventing the development from complying with the setback requirements of the DCP, and the variation should not be supported. A condition has been included advising that the plans have been amended in red to delete the encroachment.

Community Consultation

The initial application was notified in accordance with the requirements of Hawkesbury Development Control Plan - Notification Chapter. No submissions were received.

In accordance with Hawkesbury Development Control Plan, all persons who were notified of the original Development Application have been invited to attend/address this meeting.

Planning Assessment

Context And Setting

Adjoining land uses predominantly consist of single dwelling houses. The proposal is compatible with the existing use and character of the locality.

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It is considered that the proposed development will not unreasonably impact on adjoining properties in terms of overshadowing, loss of visual or acoustic privacy, or loss of views and vistas.

Conclusion

The proposed development is consistent with the current and proposed planning controls and zoning for the locality.

The proposal is consistent with the relevant objectives of the Hawkesbury Development Control Plan, and seeks two variations from the rules of the Residential Chapter. The variation to the building height requirement of the DCP is considered acceptable in this case. It is considered that the variation to the setback requirement not be supported for the reasons outlined in the report.

Conformance to Strategic Plan

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

"Objective: 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"

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

Funding

No impact on Budget.

RECOMMENDATION:

That the application for a dual occupancy be approved subject to the conditions in the attached consent:

General

1. The development shall take place in accordance with the stamped plans, specifications and accompanying documentation submitted with the application except as modified by these further conditions.
2. No excavation, site works or building works shall be commenced prior to the issue of an appropriate Construction Certificate.
3. The approved use shall not commence until all conditions of this Development Consent have been complied with.
4. The building shall not be used or occupied prior to the issue of an Occupation Certificate.
5. The development shall comply with the provisions of the Building Code of Australia at all times.
6. The development shall comply with the Environmental Planning and Assessment Act, 1979 at all times.

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7. The accredited certifier shall provide copies of all Part 4 certificates issued under the Environmental Planning and Assessment Act, 1979 relevant to this development to Hawkesbury City Council within 7 (seven) days of issuing the certificate. A registration fee applies.
8. The development shall also incorporate the amendments made in red to the approved plans, specifications or documentation submitted.
9. All vegetative debris (including felled trees) resulting from the approved clearing of the site for construction, is to be chipped or mulched. Tree trunks are to be recovered for posts, firewood or other appropriate use. No vegetative material is to be disposed of by burning.

Prior to Issue of Construction Certificate

10. A monetary contribution is to be paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act 1979, towards the provision of the following public facilities in the locality:

(a)	Open Space and Recreation	(\$1,236.00)
(b)	Community Facilities	(\$1,778.00)

Contributions are to be paid prior to issue of the Construction Certificate. The amount has been determined in accordance with Hawkesbury Section 94 Contribution Plan. A copy of the Contributions Plan may be inspected at Council's Offices, George Street, Windsor.

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

11. An Environmental Management and Rehabilitation Plan for the development site shall be prepared by an appropriately qualified person. The Plan shall address (without being limited to) the clearing of vegetation, lopping and removal of trees, earthworks, erosion control, site rehabilitation and landscaping.

All site works shall be carried out in accordance with the Plan. Implementation of the Plan shall be supervised by an appropriately qualified person.
12. Construction of the road, access and drainage are not to commence until three (3) copies of the plans and specifications of the proposed works are submitted to and approved by the Director of City Planning or an Accredited Certifier.
13. Payment of a Construction Certificate checking fee of \$403.00 Compliance Certificate inspection fee of \$730.00 when submitting Civil Engineering Plans for approval. This amount is valid until 30 June 2006. Fees required if an Accredited Certifier is used will be provided on request.
14. A Traffic Guidance Scheme prepared in accordance with AS 1742-3 (1996) by an appropriately qualified person shall be submitted to Council. Where the works affect Roads and Traffic Authority controlled roads, the Traffic Guidance Scheme is to be approved by the Roads and Traffic Authority before submission to Council.

Prior to Commencement of Works

15. All traffic management devices shall be installed and maintained in accordance with the approved traffic management plan.

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16. Recent colour photographs of all elevations of the existing dwelling shall be submitted to Council. The photographs shall be labelled and cross referenced to a base plan drawn to scale.
17. Erosion and sediment control devices are to be installed and maintained at all times during site works and construction. The enclosed warning sign shall be affixed to the sediment fence/erosion control device.
18. The building shall be set out by a Registered Surveyor. The Survey Certificate of the building showing the position of the external walls under construction and in compliance with the approved plans shall be lodged with the principal certifying authority. Any easements must be shown on the Survey Certificate.
19. A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 shall be supplied to the principal certifying authority prior to commencement of works.
20. A copy of receipt of payment of Long Service Levy shall be provided to the Principal Certifying Authority prior to any works commencing on site. Payments can be made at Long Service Corporation offices or most Councils.
21. The applicant shall advise Council of the name, address and contact number of the principal certifier, in accordance with Section 81A 2(b) of the Environmental Planning and Assessment Act, 1979.
22. At least two days prior to commencement of works, notice is to be given to Hawkesbury City Council, in accordance with the Environmental Planning and Assessment Regulation.
23. Toilet facilities (to the satisfaction of Council) shall be provided for workmen throughout the course of building operations. Such facility shall be located wholly within the property boundary.
24. A sign displaying the following information is to be erected adjacent to each access point and to be easily seen from the public road. The sign is to be maintained for the duration of works:
 - (a) Unauthorised access to the site is prohibited.
 - (b) The owner of the site.
 - (c) The person/company carrying out the site works and telephone number (including 24 hour 7 days emergency numbers).
 - (d) The name and contact number of the Principal Certifying Authority.
25. A qualified Structural Engineer's design for all reinforced concrete and structural steel shall be provided to the Principal Certifying Authority prior to any works commencing on site.
26. The approved plans must be submitted to a Sydney Water Quick Check agent or customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For quick Check agent details, please refer to the web site www.sydneywater.com.au, see Building Developing and Plumbing then Quick Check or telephone 13 20 92.

The consent authority or a private accredited certifier must either:

- Ensure that Quick Check agent/Sydney Water has appropriately stamped the plans before the issue of any Construction Certificate; or
- If there is a combine Development/Construction Certificate application or Complying Development, include the above condition as one to be met prior to works commencing on site.

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During Construction

27. The development shall be completed in accordance with the approved colours and finishes and shall not be altered.
28. The driveway shall be finished with a decorative paving pattern in earth tones.
29. The site shall be secured to prevent the depositing of any unauthorised material.
30. Dust control measures, eg vegetative cover, mulches, irrigation, barriers and stone shall be applied to reduce surface and airborne movement of sediment blown from exposed areas.
31. Measures shall be implemented to prevent vehicles tracking sediment, debris, soil and other pollutants onto any road.
32. New boundary fences shall be provided. Fencing behind the building line shall be a height of 1.8m.
33. All necessary works being carried out to ensure that any natural water flow from adjoining properties is not impeded or diverted.
34. Site and building works (including the delivery of materials to and from the property) shall be carried out only on Monday to Friday between 7am – 6pm and on Saturdays between 8am – 4pm.
35. The site shall be kept clean and tidy during the construction period and all unused building materials and rubbish shall be removed from the site upon completion of the project. The following restrictions apply during construction:
 - (a) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.
 - (b) Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken only within the site.
 - (c) Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a Waste Disposal Depot.
36. At all times during demolition, a competent person shall directly supervise work. It is the responsibility of the person to ensure that:
 - (a) Adjoining owners are given 24 (twenty four) hours notice, in writing, prior to commencing demolition.
 - (b) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed before any demolition commences.
 - (c) The site shall be secured at all times against the unauthorised entry of persons or vehicles.
 - (d) Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the demolition work.
 - (e) Precautions are taken to ensure that the stability of all parts of the structure and the safety of persons on and outside the site are maintained, particularly in the event of sudden and severe weather changes.
 - (f) The structure and all components shall be maintained in a stable and safe condition at all stages of the demolition work.

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- (g) Demolition activity shall not cause damage to or adversely affect the structural integrity of adjoining buildings
 - (h) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable State legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
 - (i) All work shall be carried out in accordance with AS2601 and the Work Plan submitted with the development application.
 - (j) Unless otherwise permitted by Council, the structure is to be demolished in reverse order of construction, being progressive and having regard to the type of construction, to enable the maximum separation and recycling of demolished materials to take place.
 - (k) No material is to be burnt on site.
37. Mandatory inspections shall be carried out and Compliance Certificates issued only by Council or an accredited certifier for the following components of construction:
- Note: Structural Engineer's Certificates, Drainage Diagrams and Wet Area Installation Certificates are NOT acceptable unless they are from an accredited person.**
- commencement of work (including erosion controls, site works and site set out);
 - piers;
 - steel reinforcement prior to pouring concrete;
 - stormwater lines, prior to backfilling;
 - framework, after the installation of all plumbing, drainage and electrical fixtures, and after the external cladding and roof covering has been fixed prior to fixing of internal linings and insulation;
 - wet area flashing, after the installation of bath and shower fixtures;
 - prior to occupation of the building;
38. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, including a public road or place, the person causing the excavation to be made:
- (a) must preserve and protect the building from damage; and
 - (b) if necessary, must underpin and support the building in an approved manner; and
 - (c) must, at least 7 (seven) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- The person acting in accordance with this Consent is liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
39. All natural and subsurface water-flow shall not be re-directed or concentrated to adjoining properties. Water flows shall follow the original flow direction without increased velocity.
40. All civil construction works required by this consent shall be in accordance with Hawkesbury Development Control Plan appendix E Civil Works Specification.

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41. Removal of the existing redundant layback crossing and replacement with concrete kerb and gutter and the restoration of the footway area.
42. All necessary drainage works shall be constructed along the access strip and across the footway as required.
43. On-site detention shall be provided to maintain all stormwater discharges from the 1:1 year storm up to the 1:100 year storm at pre-development levels.
44. Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with the approved plan and Hawkesbury Development Control Plan chapter on Soil Erosion and Sedimentation.
45. Inspections shall be carried out and compliance certificates issued by Council or an accredited certifier for the components of construction detailed in Hawkesbury Development Control Plan Appendix B Civil Works Specification, Part II, Table 1.1.
46. A heavy-duty layback and footway vehicular crossing three metres wide shall be constructed to the development. The crossing shall be constructed in accordance with Hawkesbury Development Control Plan Appendix E, Civil Works Specification.
47. A centrally located concrete driveway, minimum three metres wide, shall be constructed along the full length of the access handle to development. The driveway shall be a minimum thickness of 150mm and be reinforced with F82 mesh.
48. All services or suitable conduits shall be placed prior to concrete pouring.

Prior to Issue of Occupation Certificate

49. Compliance with all conditions of this development consent.
50. A Certificate from a telecommunications carrier confirming that provision has been made for services to the development shall be submitted to the Principal Certifying Authority.
51. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
52. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.
53. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.
54. Written clearance from Integral Energy shall be submitted to the Principal Certifying Authority.
55. The following certificates are to be provided, stating the name of person or company carrying out the installation, type of material and the relevant Australian Standard to which installed:
 - (a) The type and method of termite treatment (complying with AS 3660) provided to walls and floors, pipe penetrations, jointing of new work to existing and slab perimeters. A copy of the termite treatment and materials used shall also be securely fixed inside the meter box for future reference.
 - (b) Glazing materials installed in the building in accordance with AS1288 and AS2047 - Glass in Buildings - Selection and Installation, e.g. windows, doors, footlights and showers.

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- (c) The type of timber installed indicating both species and durability as required by AS 1684.
 - (d) An automatic smoke detection system installed in residential development by a licensed electrician. Smoke alarms must comply with AS 3786 and be connected to the consumer mains power where supplied to the building.
56. Evidence that the hot water system has a minimum energy rating of 3.5 stars shall be submitted to the principal certifying authority.
57. A Plan of Management for the on-site stormwater detention facilities shall be submitted to and approved by Council. The Plan of Management shall set out all design and operational parameters for the detention facilities including design levels, hydrology and hydraulics, inspection and maintenance requirements and time intervals for such inspection and maintenance.
58. The owner shall enter a positive covenant with Council which provides the following:
- (a) The registered proprietors will at all times maintain, repair and keep the on-site stormwater detention facilities in a good and safe condition and state of repair, in accordance with the approved design to the reasonable satisfaction, at all times, of Council, having due regard to the Plan of Management for the operation and maintenance of the on-site stormwater detention facilities, and
 - (b) The liability under the Covenant will jointly and severally bind the registered proprietors of the proposed dwellings, and
 - (c) Council only will be entitled to release or modify the Covenant.
- All costs associated with the Covenant, including any legal costs payable by Council, are to be paid by the owner or applicant.
59. Submission of a report by the Design Engineer stating the conformance or otherwise of the system in relation to the approved design.
60. Works-As-Executed drawings for the One Site Detention Stormwater System which indicate the following shall be submitted to and approved by Council:
- (a) Invert levels of tanks, pits and pipes
 - (b) Surface levels of pits and surrounding ground levels
 - (c) Levels of surrounding kerb
 - (d) Floor levels of buildings
 - (e) Top of kerb levels at the front of the lot; and
 - (f) Extent of inundation

The Use of the Site

61. The subject development, including landscaping, is to be maintained in a clean and tidy manner.

Advisory

62. Non-compliance with any condition of this development consent may result in a penalty notice being issued by Council.
63. The applicant is advised to consult with:
- (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) a local telecommunications carrier

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regarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public roads.

64. The developer is responsible for all costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
65. The applicant shall make themselves aware of any User Restriction, Easements and Covenants to this property and shall comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

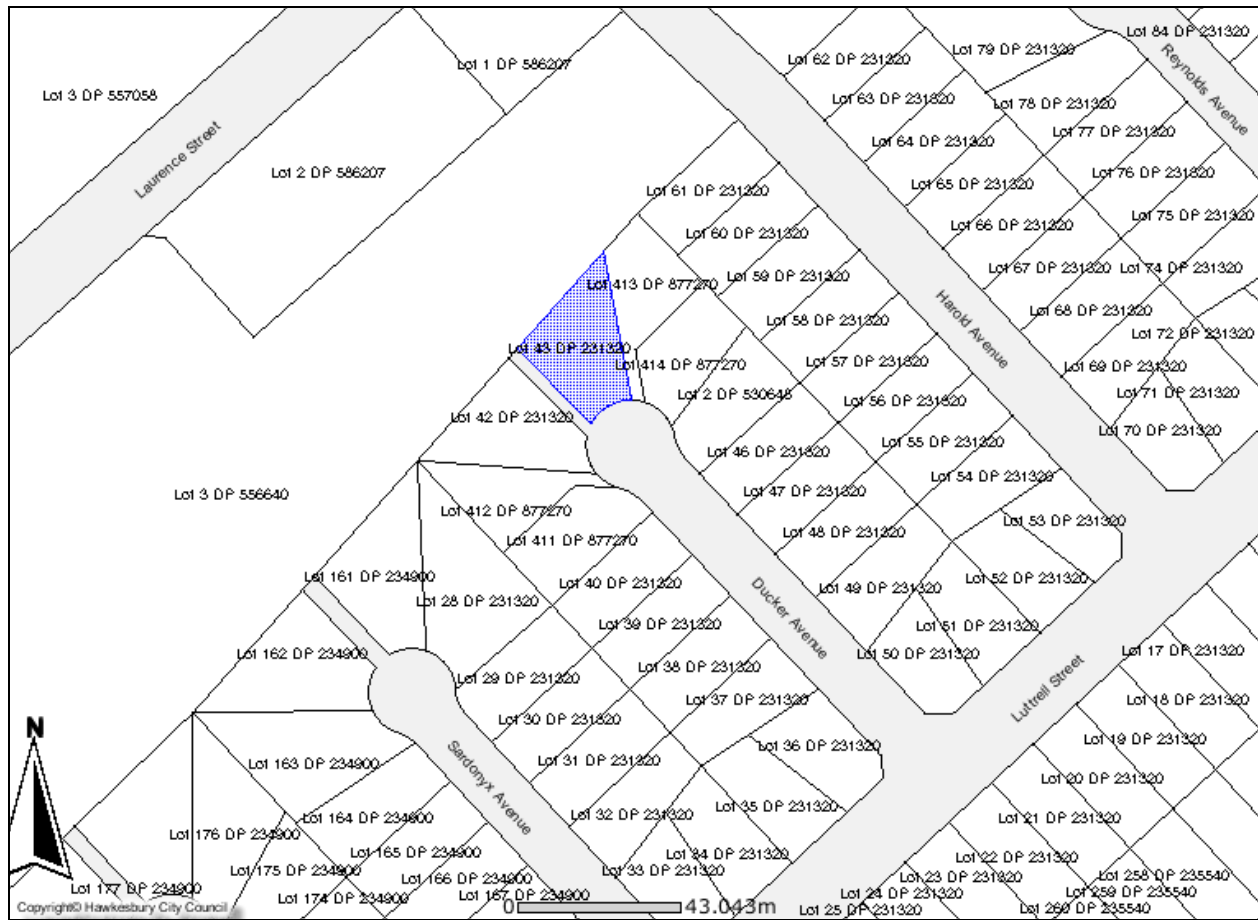
ATTACHMENTS:

- AT - 1 Locality Plan
- AT - 2 Site Plan
- AT - 3 Elevation Plan
- AT - 4 Plan of Encroachment

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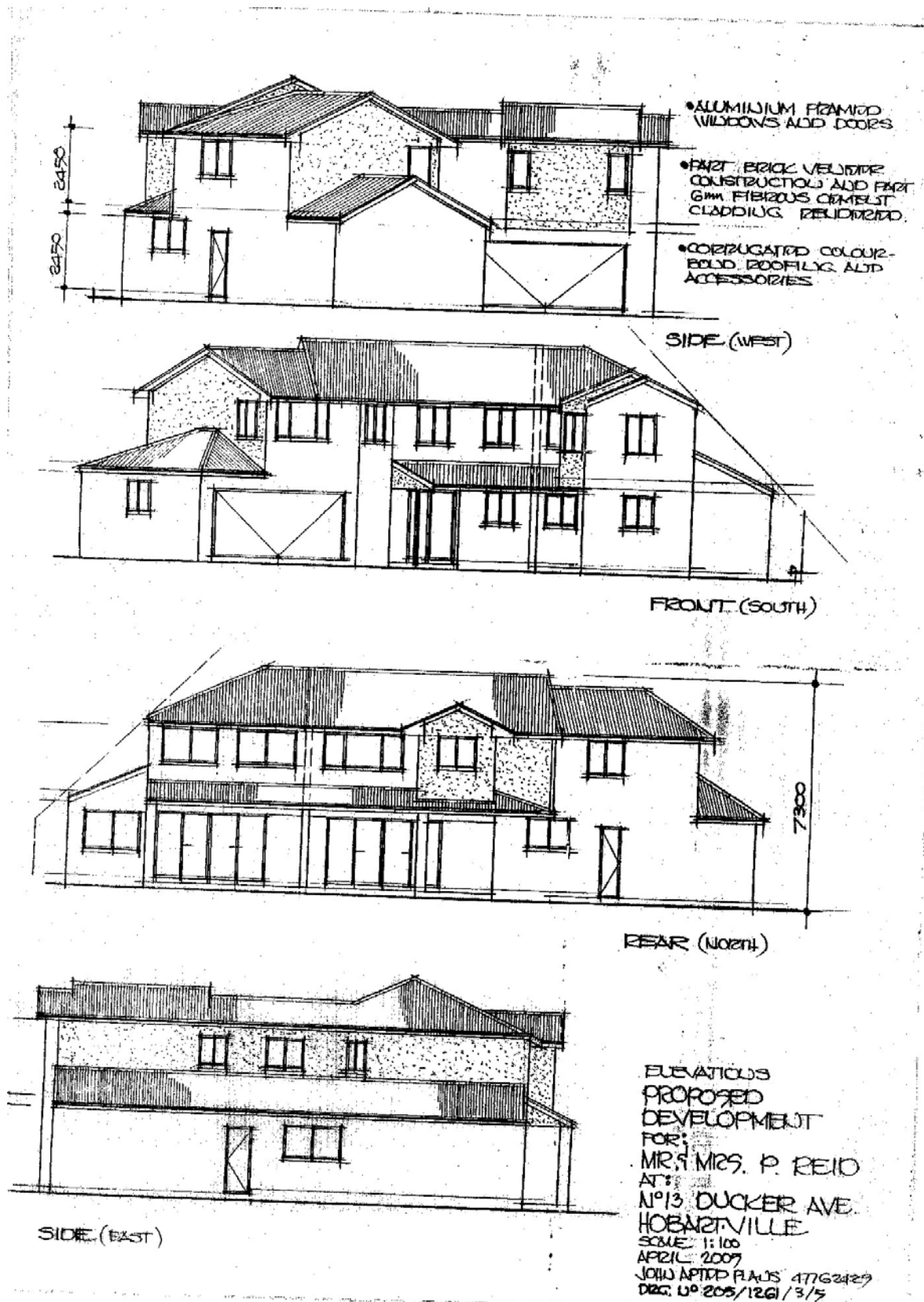
AT - 1 - Locality Plan



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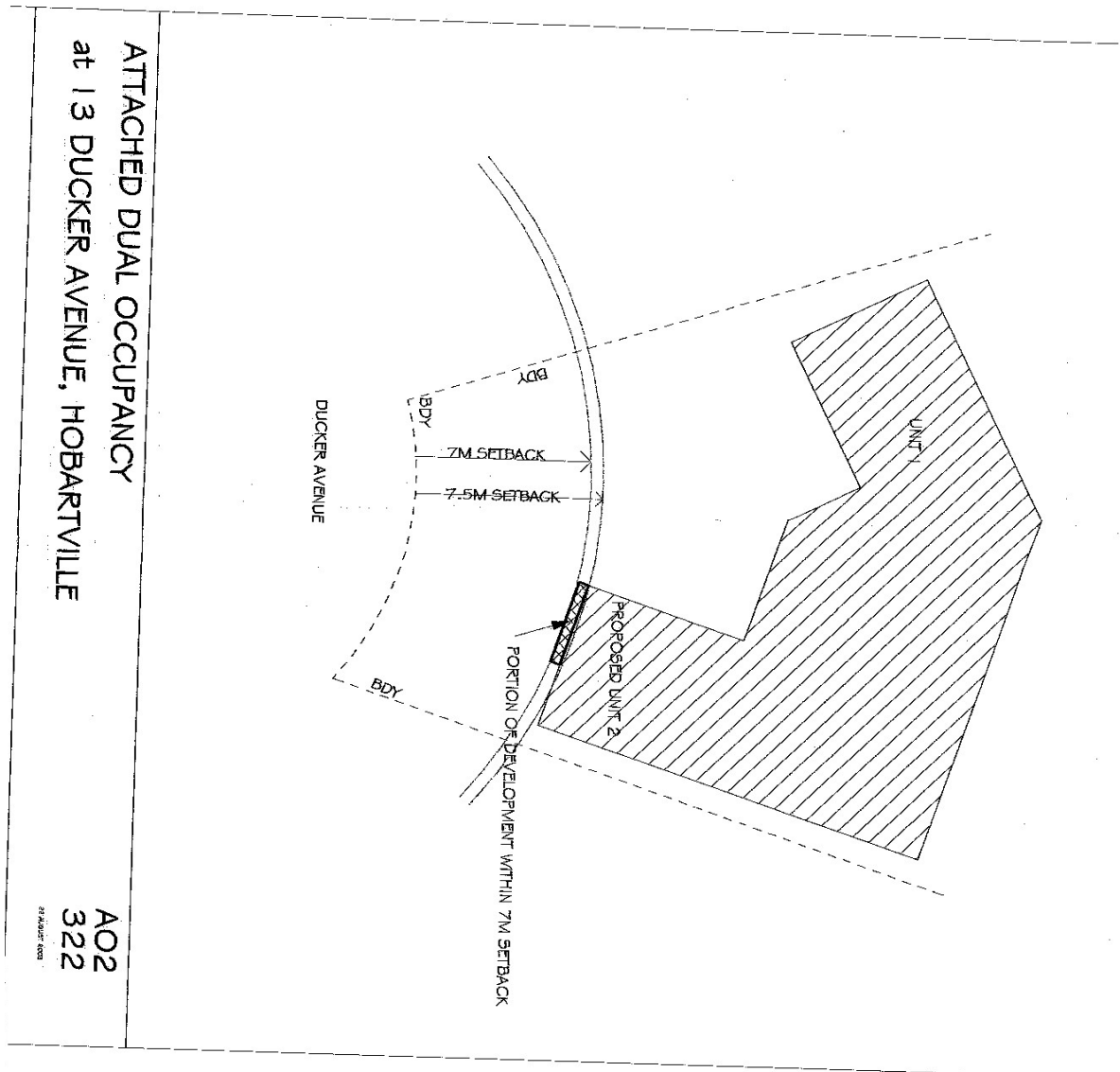
AT - 3 Elevation Plan



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AT - 4 Plan of Encroachment



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Item:76 **CP - 203 Cattai Road, Pitt Town - Amendment 145, Hawkesbury Local Environmental Plan - (95498, 7972)**

Previous Item: 63, Ordinary (28 March 2006)

REPORT:

Council has received a request from Mr P Dunesky on behalf of his father, concerning their property at 203 Cattai Road, Pitt Town and it's partial inclusion in Amendment No. 145, where part of the property will be zoned Rural Housing. This matter has been reported to Council as requested via email transmission received from Councillor Rasmussen on 17 March 2006.

Council received an email transmission from Mr Dunesky on 20 February 2006, which was responded to on 24 February 2006. Both these items of correspondence are attached. Further correspondence was received at Council on 16 March 2006, a copy has also been attached.

The primary point of the first letter was to request Council to remove the property from the effects of Amendment No. 145 to the Hawkesbury Local Environmental Plan, which would rezone part of the land to Rural Housing as part of the Pitt Town rezoning. An extract of the map associated with this draft plan is attached.

Mr Dunesky was advised that in light of Council's previous resolutions on matters such as this, it is unlikely that this would proceed and should he wish to essentially rezone the property on the assumption of Amendment No. 145 would be gazetted, then Council's normal rezoning application fee would apply. He was also informed of the fact that the Director General of the Department of Planning would prefer Council to concentrate on its comprehensive review rather than carrying out spot rezonings.

Council previously dealt with a request by Mr Tim Elliot, with regards to his property being excluded from the Amendment, however Council resolved not to do this but did resolve to remove Mr Elliot's land from the Development Control Plan. Mr Dunesky's land is affected by lot averaging provisions to the corner of his property, as per Amendment No. 145. The recently adopted charges for stormwater and the associated Water Management Plan indicate that a wetland detention basin located on this land would serve both Mr Dunesky's land and the land to the south owned by the Weller brothers.

Mr Dunesky reiterates his objections to the construction of a wetland on his property. It should be noted, as was advised to him, that should he or his father not wish to proceed with development of their property there is no obligation for the construction of a wetland to take place unless it is associated with development in accordance with the Amendment. The need to construct a wetland arises directly from the application to develop the land for housing blocks, as envisaged by the draft Amendment. If Mr Dunesky does not wish to proceed with the wetland then the associated property adjacent that needs the wetland, would have to find alternative arrangements.

The letter then addresses the question of: 'existing use rights' and when they might apply. In respect of Rural Housing, the most likely circumstances where 'existing use rights' may apply, is to do with intensive agriculture. If Mr Dunesky can establish that he had intensive agricultural activities on his land prior to 1998 when Council amended the LEP, and the land is zoned Rural Housing, then he may well have 'existing use rights' for that activity. However, unless all these circumstances can occur, then 'existing use rights' as defined in the EP&A Act would not arise.

Mr Dunesky appears to be concerned with whether Council will take action to ensure that his current agricultural activities can continue unhindered by the adjacent residential development. Council has been informed on many occasions by Management that this is not possible, and that anyone can take action under their common law rights to prevent a nuisance being incurred by themselves from adjacent land use, notwithstanding whether or not Council has or has not given consent to that land use. This was an issue

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that was canvassed in the preparation of Amendment No. 145, and Council resolved not to instigate any buffer zones to help alleviate this situation.

Mr Dunesky is also concerned that the change of zone will affect his rates. Currently the property is categorised as farmland for rating purposes. The zoning of the land does not affect the rating category as it the use of the land for commercial agriculture that determines whether or not farmland rating applies. Provided that the property is used for agriculture than the rates category will not be altered.

Finally, Mr Dunesky raises the issue of the quality of the stormwater being discharged to his property, from the surrounding development. Council will recall that the standards for discharge were set by the Department of Environment and Conservation (DEC), and it is these standards that led to the design of the wetland system that Councillors recently adopted fees and charges for. It is assumed that provided Council meets these discharge standards, then on the authority of the Department of Environment and Conservation this stormwater should be suitable for use downstream. It was not Council that set the standards for discharge, but the DEC. It will be a matter of fact on the performance of the wetlands, whether or not these standards have been met and Council will be clearly obliged to ensure that these standards are fulfilled in it's operation of these wetland detention basins.

In summary, Mr Dunesky has been opposed to the rezoning of the land at Pitt Town proposed by Amendment 145. Part of his father's land will be zoned for Rural Housing, and the remainder will remain in the same zone. If he, or his father does not wish to participate in the zoning's potential, then no development will take place. There is no compulsion on him to carry out the construction of a wetland proposed on his land until such time as it's need arises from the development of his land. It should be noted that funds have been allocated in the fees and charges for the development of a wetland system to compensate Mr Dunesky and other landowners for the land that will need to be transferred to Council, but this is purely voluntary and does not occur unless Mr Dunesky wishes for it to take place.

In view of Council's previous decision on Mr Elliot's land, it is assumed that Council will not be seeking to amend Amendment No. 145 and Mr Dunesky should be advised accordingly.

Conformance to Strategic Plan

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

"Objective: Identify and implement appropriate actions to protect and rehabilitate the natural environment."

Funding

No impact on funding.

RECOMMENDATION:

That Council advise Mr Dunesky that in view of the fact it has sent Amendment No. 145 to the Minister for gazettal, it is not going to withdraw it and amend it at this late stage.

ORDINARY MEETING

Meeting Date: 11 April 2006

ATTACHMENTS:

- AT - 1** Emailed correspondence received from Mr P Dunesky - 20 February 2006.
- AT - 2** Correspondence received from Mr P Dunesky concerning the rezoning of 203 Cattai Road, Pitt Town - 16 March 2006.
- AT - 3** Letter of response dated 24 February 2006 from Director City Planning
- AT - 4** An extract of the map associated with draft Amendment No. 145 to the Hawkesbury Local Environmental Plan.

ORDINARY MEETING

Meeting Date: 11 April 2006

AT - 1 Emailed correspondence received from Mr P Dunesky - 20 February 2006.

Hawkesbury City Council

366 George Street
Windsor NSW 2756

20th. February 2006

Dear Mr. Faulkner

I write to you on behalf of my father, Mr. George Dunesky, owner of the land at 203 Cattai Road, Pitt Town. He requires a reversal of the proposal to rezone his land within the investigation area and site a detention basin on his land that is outside the investigation area.

We find it necessary to make this request due to the fact that a detention basin is still shown in the Pitt Town Water Management Plan, 30th November 2005, Revision 2, which has just been released and which we understand is the final version of this plan.

A detention basin was first indicated on his land in the Pitt Town Local Environmental Study, Stormwater Management Principles, Figure 5.1. It is also noted that " this network will only be required for the High Growth Scenario". The present proposal of 631 lots is well below the high growth scenario of 1405 lots.

You would remember that Hawkesbury City Council resolved not to compulsorily acquire any land within Pitt Town, where the landholder was not agreeable to such an arrangement

At no time throughout the current rezoning process has my father been notified by Council that his land would be needed to site any type of stormwater device as shown in the studies and plans.

Neither has he indicated that he would be in agreement to such an arrangement.

What is also disturbing is that the detention basin indicated on his land is retaining stormwater runoff from the proposed subdivision of an adjoining neighbour's land. This detention basin should be sited on that neighbour's land as part of his subdivision proposal

As well Council has not notified him if there will be any easements across his land. Can you confirm what is proposed in this respect?

ORDINARY MEETING

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You should also be aware that under the current Environment Protection Zoning this property is still used for farming and any impacts brought about by the proposed rezoning could adversely affect its continued use. Will Council provide a buffer zone that affords adequate protection from any adverse impacts that might occur from the proposal to rezone adjoining farmland for residential use? Will our existing use rights be supported and protected by Council?

Further, we ask you to advise what the impacts on the non permanent creek that runs through the property will be. Will we be expected to accommodate increased water flows from adjoining properties (unacceptable), will this water be safe for our stock to drink, have our down stream neighbours been advised of any impacts on their properties?

I ask that you please reply to our concerns as soon as possible and confirm that the appropriate changes and amendments will be carried out before final decisions are made.

Yours Sincerely

Mr. P. Dunesky

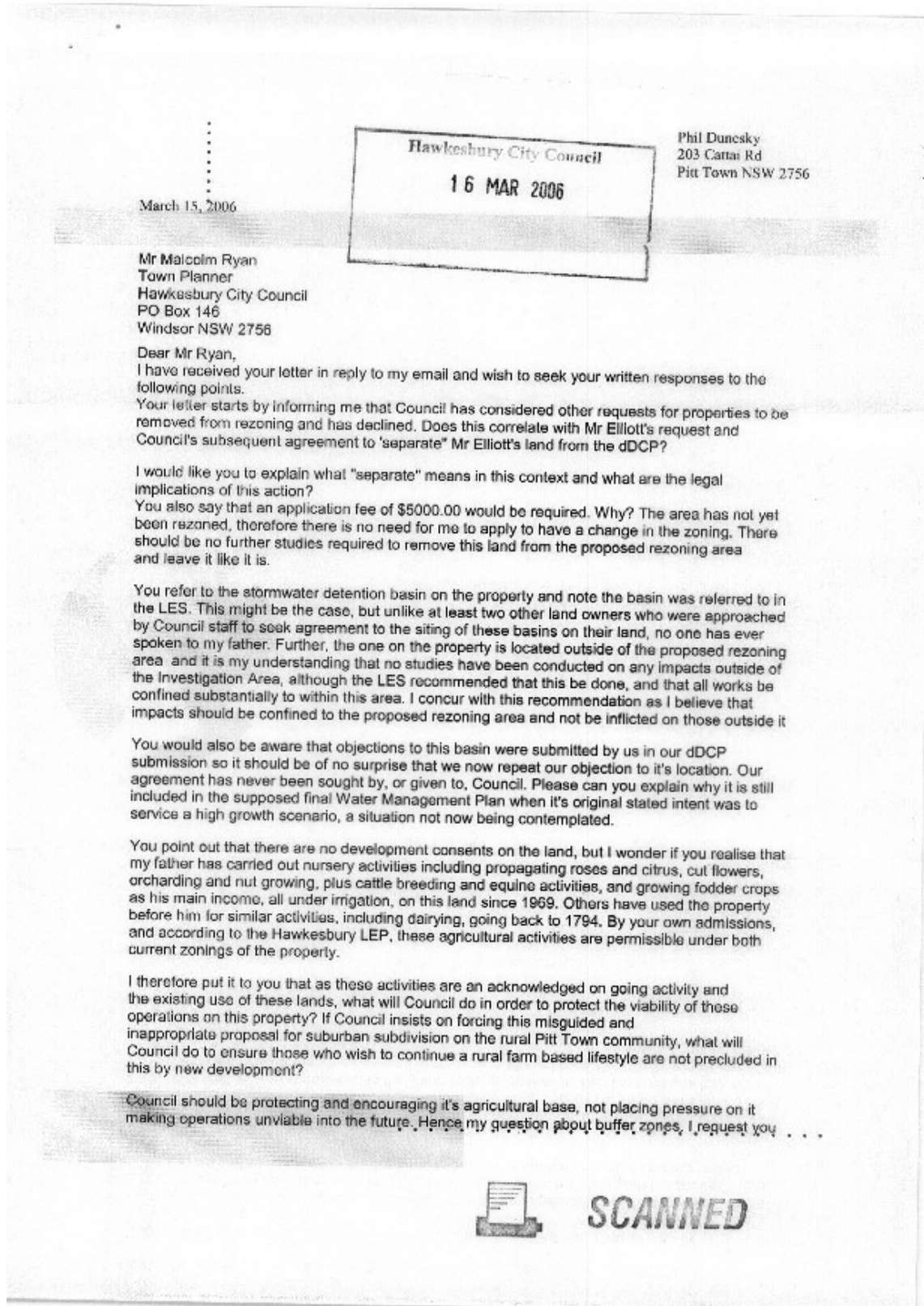
203 Cattai Road

Pitt Town

ORDINARY MEETING

Meeting Date: 11 April 2006

AT - 2 Correspondence received from Mr P Dunesky concerning the rezoning of 203 Cattai Road, Pitt Town - 16 March 2006.



ORDINARY MEETING

Meeting Date: 11 April 2006

March 15, 2006

Page 2

seek assurances from Council that adequate buffer zones be employed to protect the livelihoods of those wishing to continue agricultural enterprises.

Finally, you state that the water that will enter the creek on the property will be safe for our stock to drink. Under what authority do you make that judgement? Are you a water expert? I intend to keep a record of your statement for reference in the unhappy event of our stock needing veterinary attention for water borne sickness.

Mr Ryan, I feel that as the "experts", Council is obligated under legislation to work out satisfactory methods of protecting agricultural lands and not just impose a housing subdivision on those who wish to continue farming in the Hawkesbury. To ignore this request is to ignore farming and agriculture in the Hawkesbury.

Phil Dumesky

C/C Hon. Frank Sartor Minister For Planning

Hon. John Aquilina

Hon. Dianne Beamers, Minister for Western Sydney

Mr Graeme Faulkner, General Manager, Hawkesbury City Council

ORDINARY MEETING

Meeting Date: 11 April 2006

AT - 3 Letter of response dated 24 February 2006 from Director City Planning

Our Ref: CN: 95498, 80382, 7972

24 February 2006

Mr Phil Dunesky
203 Cattai Road
PITT TOWN NSW 2756

Dear Mr Dunesky

203 Cattai Road, Pitt Town

Reference is made to your email transmission of 20 February 2006, concerning your father's property located at 203 Cattai Road, Pitt Town. This letter essentially requests the reversal of Council's decision to rezone this land under Amendment No. 145, to the Hawkesbury Local Environmental Plan. Council has considered other requests for this action to take place and has declined, and therefore it is assumed, the same will apply with regards to your father's land.

In view of the fact that Council has referred the Draft Plan to the Minister for gazettal, any amendment would now require a new Local Environmental Plan, and Council's standing application fee of \$5,000.00 would also apply.

You advised in your correspondence, that the Local Environmental Study showed in fact, that a stormwater detention basin would be required in the high growth scenario for your father's property. You further advise, that he was not contacted about the stormwater device but it must be noted, that he was contacted concerning the exhibition of the Local Environmental Plan on 15 September 2004, and submissions were received from your property dated 15 November 2004.

The design of the stormwater system is an evolving process, and could not be finalised until Council finally set the yield from each area. You also note that Council has resolved not to compulsorily acquire any land; this is currently the case.

The stormwater system has been designed on the fact that each individual catchment where possible, supplies it's own wetland and gross pollutant trap to treat the stormwater from that catchment. Your father's property is located within two (2) catchments, those being 'Catchment H1' and part of 'Catchment G'. For your father to develop his land, he would need to construct stormwater devices, and drain part of the property to the H1 water catchment detention basin on his property, and divert the remainder of the property to the water 'Catchment G' on Mr Thorton's land. It is also true that 'Catchment H1' includes a large part of the property owned by the Weller Brothers, which will need to drain to the detention basin on your father's land.

If your father does not wish to participate in the development process, nor develop his land, these basins cannot be constructed. Council has made provisions in the charges for stormwater to generate sufficient funds to acquire these lands, so they come into Council ownership once they are constructed. If adjoining property owners cannot negotiate a solution with your father, they may indeed be forced to construct a wetland detention basin on their land but this may have the affect of precluding your father's land from being developed. This however, is a matter between your father and his neighbours.

The question relating to easements arising from individual development applications is a matter that is dealt with at the development application stage, and not at the rezoning stage. The Development Control Plan and the Stormwater Management Plan clearly indicate the system that needs to be constructed, and the details of this system are dealt with by individual development applications.

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The next part of your correspondence, queries whether Council will provide a buffer zone. You will be aware that Council is in deliberations on the creation of Amendment No. 145, received submissions on buffer zones and declined to include them in the plan. This meant that your property which is currently zoned Part 7 (d)1 and Part 1(c), will have part of the 1(c) land rezoned to Rural Housing; the 7 (d)1 zone is not affected by Amendment No. 145. You then suggest that your 'existing use rights', need to be supported by Council. It is not clear what you mean by this. Existing use rights as defined in the Environmental Plan and Assessment Act, only come about when a current land use is being carried on lawfully on a parcel of land when that land is rezoned to a zone that prohibits that land use, existing use rights are then created.

In order to establish the existing use rights you must prove at the time, of rezoning that the use was commenced lawfully or commenced at a time when consent was not required. Under Amendment No. 145 the Rural Housing zone, agriculture is permissible with consent, therefore agricultural activities do not inherit existing use rights. The only circumstances where existing use rights may occur, is if intensive agricultural activities are taking place inside that zone at the time the zoning is gazetted, and you need to establish that those intensive agriculture uses commenced on the property prior to 10 July 1998. The reason for this is that at this date, Council amended its Hawkesbury Local Environmental Plan to require development consent for intensive agriculture.

It should be noted however, that the existing use rights do not protect the operator of land from nuisance claims by adjacent property owners. If an adjacent property owner can establish that your activities are creating a nuisance as defined by common law, then that property owner can take appropriate actions through the courts to cease the nuisance from taking place. Council has no role in the management of these issues, except where it can be proved that by development consent Council has restricted and therefore managed a nuisance impact. If however there are no current development consents on the land for that purpose, it is not possible for Council to intervene in this. Council's records indicate that there is no consent for intensive agriculture on this property, and therefore potential nuisance claims may always arise.

In respect of waterways on your land, particularly non-permanent creeks, the stormwater system for Pitt Town has been designed on the premise that there will no increase in stormwater discharge quantity, or decrease in stormwater quality exiting the site; therefore it is not possible for Council to:

- a) Concentrate stormwater onto your father's land;
- b) Nor decrease the quality of stormwater on your father's land is receiving, as a result of the management of any development application.

The stormwater detention basins and the associated gross pollutant traps are designed to achieve these goals. Therefore the water will be safe for your stock to drink and there is no necessity to contact downstream landowners. However, it should be noted that Council in exhibiting Amendment No. 145 ensured that all property owners outside those directly affected by the zone were also kept informed as to the rezoning process.

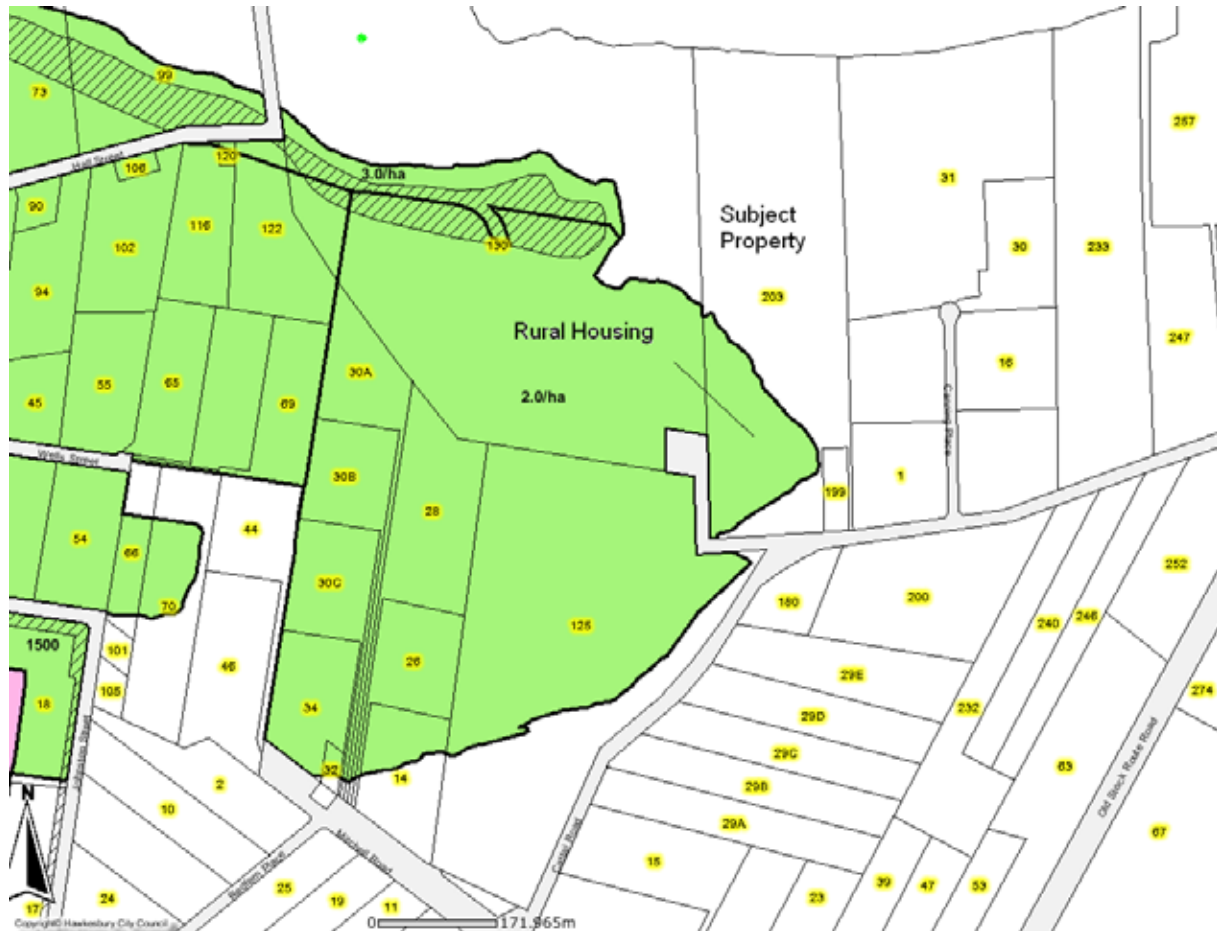
It is hoped that this information clarifies the situation for you. Should you wish to pursue the rezoning of your land, please feel free to make the appropriate application and enclose the appropriate fee; however, be advised that the Department has at the present time asked Council not to carry out any spot rezonings, while it is carrying out a major review of its instrument as directed by the Director General of the Department last year.

Yours faithfully

Malcolm Ryan
Director City Planning

Direct Line: 4560 4543

**AT - 4 An extract of the map associated with draft Amendment No. 145
to the Hawkesbury Local Environmental Plan.**



oooO END OF REPORT Oooo

ordinary

section 5

reports
of committees

ORDINARY MEETING
Reports of Committees

ORDINARY MEETING
Reports of Committees

SECTION 5 - Reports of Committees

ROC - Local Traffic Committee Minutes - 15 March 2006 - (80245)

The meeting commenced at 3:00pm in the Large Committee Room, Windsor

Present:	Councillor T Devine (Chairman) Mrs J Burton, Roads and Traffic Authority Mr R McHenry, Roads and Traffic Authority Mr J Christie, Office of Mr A Shearan, MP Mr T O'Brien, Office of Mr S Pringle, MP Senior Constable Glen Crawford, NSW Police Service
Apologies:	Councillor B Bassett Mr R Elson, Department of Transport
In Attendance:	Mr C Amit, Manager Design & Mapping Services Mrs J Hogge, Road Safety Officer Mr T Shepherd, Administration Officer, Infrastructure Services

REPORT:

Item 1.1 Confirmation of Minutes

The minutes of the meeting held on 15 February 2006 were confirmed.

Item 1.2 Business Arising

NIL

SECTION 2 - Reports for Determination

Item: 2.1 LTC - 15 March 2006 - Item 2.1 - Mt Wilson to Bilpin Bush Run - Mt Irvine Rd & Bells Line of Rd, Bilpin (Hawkesbury) - (80245, 73582)

REPORT:

Introduction:

An application has been received from Bilpin Rural Fire Brigade seeking approval to conduct the Mt Wilson to Bilpin Bush Run on Saturday, 26 August 2006. The route of the bush run involves roads in the Blue Mountains and Hawkesbury Council areas. The event is an **annual** 35 km bush run which starts in Mt Wilson (Blue Mountains Council) and proceeds mainly via fire trails and private property to a 1 km long section of Mt Irvine Road, 2 km long section of Bells Line of Road and terminates at Bilpin Community Hall. Refer to the attached Plan No: TR003/06. Mt Irvine Road is a very low traffic (ADT < 100) gravel road.

The event organiser has informed the following:

- i. The last 2 kms of the run is along the northern verge of Bells Line of Road which is a State Road. Vehicular traffic and participants are separated by a verge of approximately 10 metres wide along this 2 km long section of Bells Line of Road at all points.
- ii. The participants will run across Mt Tootie Road at a point approximately 15 metres from Bells Line of Road.
- iii. There will be approximately 250 runners participating in the run, which will be held between 7.00am and 3.00pm and the participants run in small groups (three to five runners) on the 2km section of Bells Line of Road which is in the vicinity of the terminating point of a 35 km run.
- iv. The shoulder of Bells Line of Road (on the section between Mt Irvine Road and Bilpin Community Hall) will not be used at all and any runners found running on the shoulder of Bells Line of Road will be disqualified.

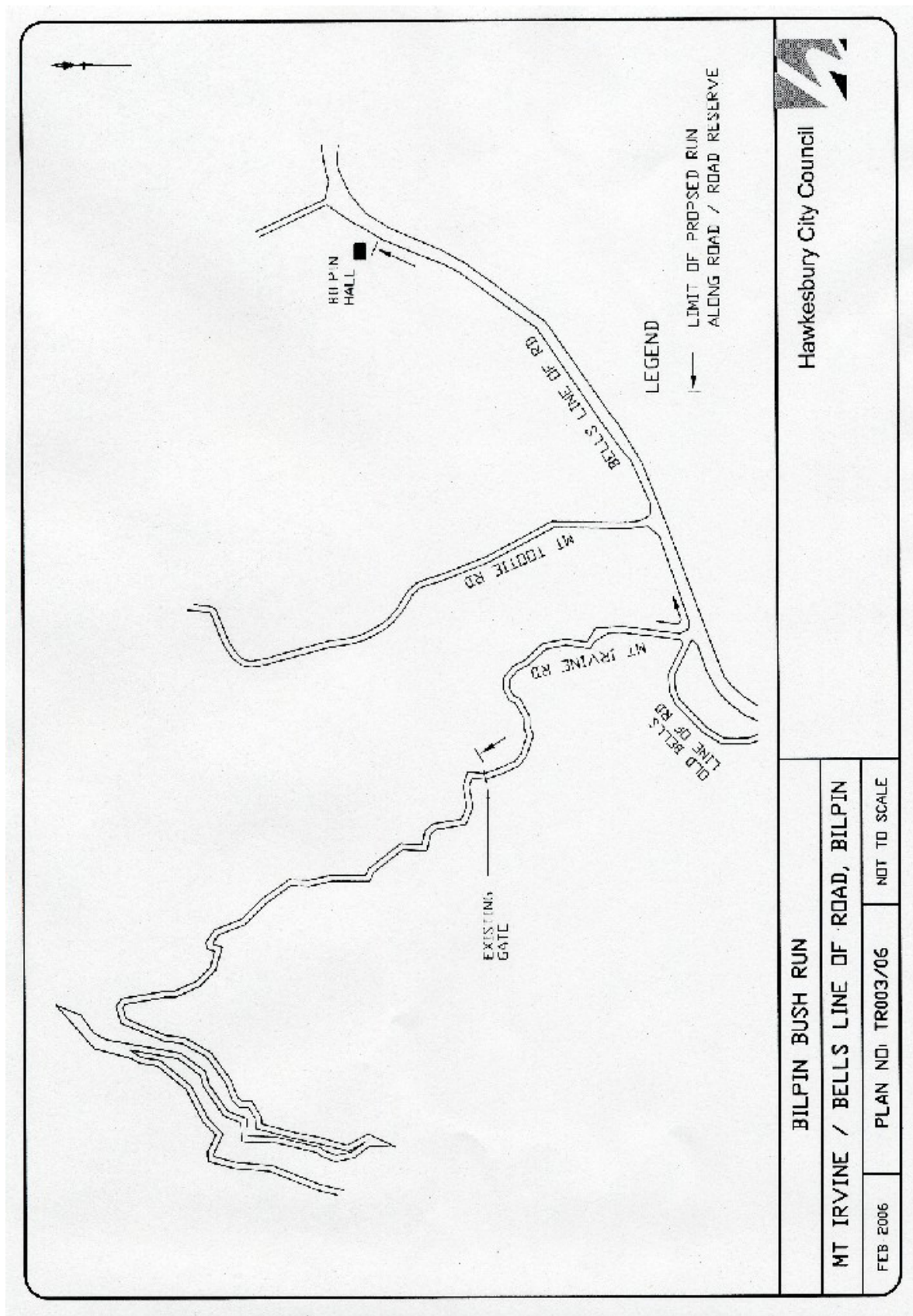
Discussion:

It would be appropriate to classify this event as a “Class 2” special event under the “Traffic Management for Special Events” guidelines issued by the Roads & Traffic Authority (RTA) as this event may impact on minor traffic and transport systems and there may be low scale disruption to the non-event community. It will be necessary for the event organiser to lodge an application seeking approval to conduct the event with the NSW Police Service.

The event organiser has submitted a Traffic Management Plan (TMP) - refer to Appendix 1 (Dataworks Document No. 2176550). The TMP and the associated TCP should be submitted to the RTA through the LTC representative for authorisation due to the possible conflict points along Bells Line of Road for this Class 2 event.

Even though the event organiser is seeking Council approval for the 2006 and 2007 events, approval be granted for this year's event only in accordance with the Guide to Traffic and Transport Management for Special Events.

A copy of the Special Event Transport Management Plan Template (Dataworks Document No. 2188305) was provided to the members of the Committee.



RECOMMENDATION:

That:

1. The event be classified as a "Class 2" special event under the "Traffic Management for Special Events" guidelines issued by the RTA.
2. The safety of all road users and personnel on or affected by the site / event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the RTA publication "Guide to Traffic and Transport Management for Special Events" (Version 3.3) and the Hawkesbury City Council special event information package which explains the responsibilities of the event organiser in detail.
4. No objection be held to this event subject to compliance with the following conditions:

Prior to the event:

- a. the event organiser obtaining approval to conduct this event, from the NSW Police Service; **a copy of the Police Service approval be submitted to Council;**
- b. the event organiser **submitting a Traffic Control Plan (TCP) for the entire route to Council** for acknowledgement. The TCP should be prepared by a person holding appropriate certification required by the RTA to satisfy the requirements of the relevant Work Cover legislation;
- c. the event organiser **submitting to Council a copy of its Public Liability Policy** in an amount not less than \$10,000,000 **noting Council and the Roads and Traffic Authority as interested parties on the Policy;**
- d. the event organiser advertising the event in the local press stating the entire route of the event and the traffic impact due to the event two weeks prior to the event; **a copy of the proposed advertisement be submitted to Council** (indicating the advertising medium);
- e. the event organiser notifying the details of the event to ambulance, fire brigades / Rural Fire Service and SES at least two weeks prior to the event;
- f. the event organiser directly notifying all the residences and businesses affected by the event at least two weeks prior to the event;
- g. the event organiser obtaining approval from the National Parks and Wildlife Service (Department of Environment and Conservation) for the use of the Blue Mountains National Park;
- h. the event organiser obtaining approval from Blue Mountains City Council for the use of their roads;
- i. the event organiser carrying out an overall risk assessment for the whole event to identify and assess the potential risks to spectators, participants and road users during the event and designing and implementing a risk elimination or reduction plan in accordance with the Occupational Health and Safety Regulation 2000; (information for event organisers about managing risk is available on the Department of Tourism, Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>);
- j. the event organiser submitting the completed "Special Event - Traffic Final Approval" form to Council;

During the event:

- k. access being maintained for businesses, residents and their visitors;
- l. all traffic controllers / marshals operating within the public road network holding appropriate certification required by the RTA;
- m. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices be placed during the event along the route under the direction of a traffic controller holding appropriate certification required by the RTA;
- n. the competitors and participants be advised of the traffic control arrangements in place prior to the commencement of the event; and,
- o. all roads and marshalling points are to be kept clean and tidy, with all directional signs to be removed immediately on completion of the activity.

Item: 2.2 LTC - 15 March 2006 - Item - 2.2 - Bicycle Racing Events – Oakville and East Kurrajong (Hawkesbury) - (80245, 82935)

REPORT:

Introduction:

An application has been received from the Parramatta Cycling Club seeking approval to conduct bicycle racing events on the following two routes:

Route 1:

Commencing at Oakville Public School, Oakville and proceeding along Hanckel Road
Turning left into Old Pitt Town Road
Turning left into Saunders Road
Turning left into Smith Road
Turning left into Ogden Road and finishing at Oakville Public School.
Refer to the attached Route 1 Map.

The Parramatta Cycling Club (PCC) has intended to conduct this event on ten occasions on the following Saturdays:

01 April 2006
29 April 2006
20 May 2006
03 June 2006
17 June 2006
08 July 2006
29 July 2006
12 August 2006
09 September 2006
23 September 2006

The PCC has advised that the event will be conducted between 2.00pm and 4.30pm on each Saturday. There will be approximately 75 competitors competing in 5 separate events, consisting of 10 to 15 participants in each event.

Route 2:

Commencing at Stanley Park, East Kurrajong and proceeding along East Kurrajong Road

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Turning left into Putty Road
Turning left into Blaxland Ridge Road

Turning left into Comleroy Road
Turning left into East Kurrajong Road and finishing at Stanley Park.
Refer to the attached Route 2 Map.

This is a one day event and includes the **NSW U19 State Championships**. The PCC has advised that the event will be conducted between 9.00am and 3.00pm on Sunday 20 August 2006. There will be approximately 150 competitors competing in 4 separate events consisting of 40 participants in each event.

Discussion:

The event on Route 1 is classified as a "Class 2" special event under the "Traffic Management for Special Events" guidelines issued by the Roads & Traffic Authority as this event may disrupt minor traffic and transport systems along the specified route. The event on Route 2 is classified as a "Class 1" special event under the "Traffic Management for Special Events" guidelines issued by the Roads & Traffic Authority as this event may disrupt major traffic and transport systems along the specified route. Traffic volume and road width details are as shown in the following table:

Route 1			Route 2		
Road name	ADT	Sealed carriageway width (m)	Road name	ADT	Sealed carriageway width (m)
Hanckel Road	1310	5.7	East Kurrajong Rd	900	5.6 – 6.4 RTA
Old Pitt Town Rd	1265	6.0	Putty Road	RTA	6.0 – 7.5
Saunders Road	720	5.5 – 6.3	Blaxland Ridge Rd	700	6.0 – 6.8
Smith Road	340	6.2	Comleroy Road	2165	
Ogden Road	190	7.5			

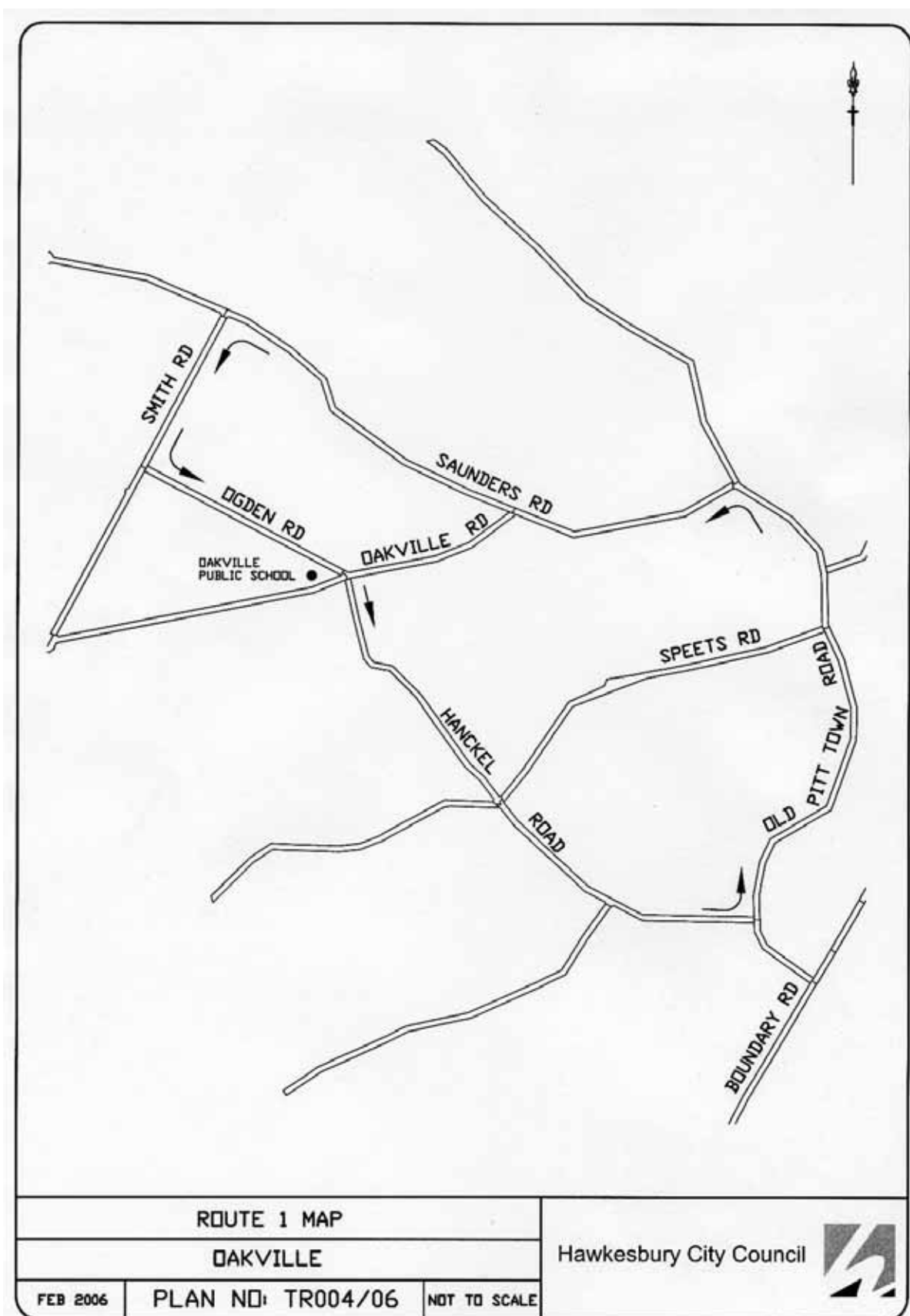
The event organiser should assess the risk and address the suitability of both routes as part of the risk assessment considering the road width, number of bicycles, traffic volume and bicycles travelling close to the edge of the sealed travelling lane.

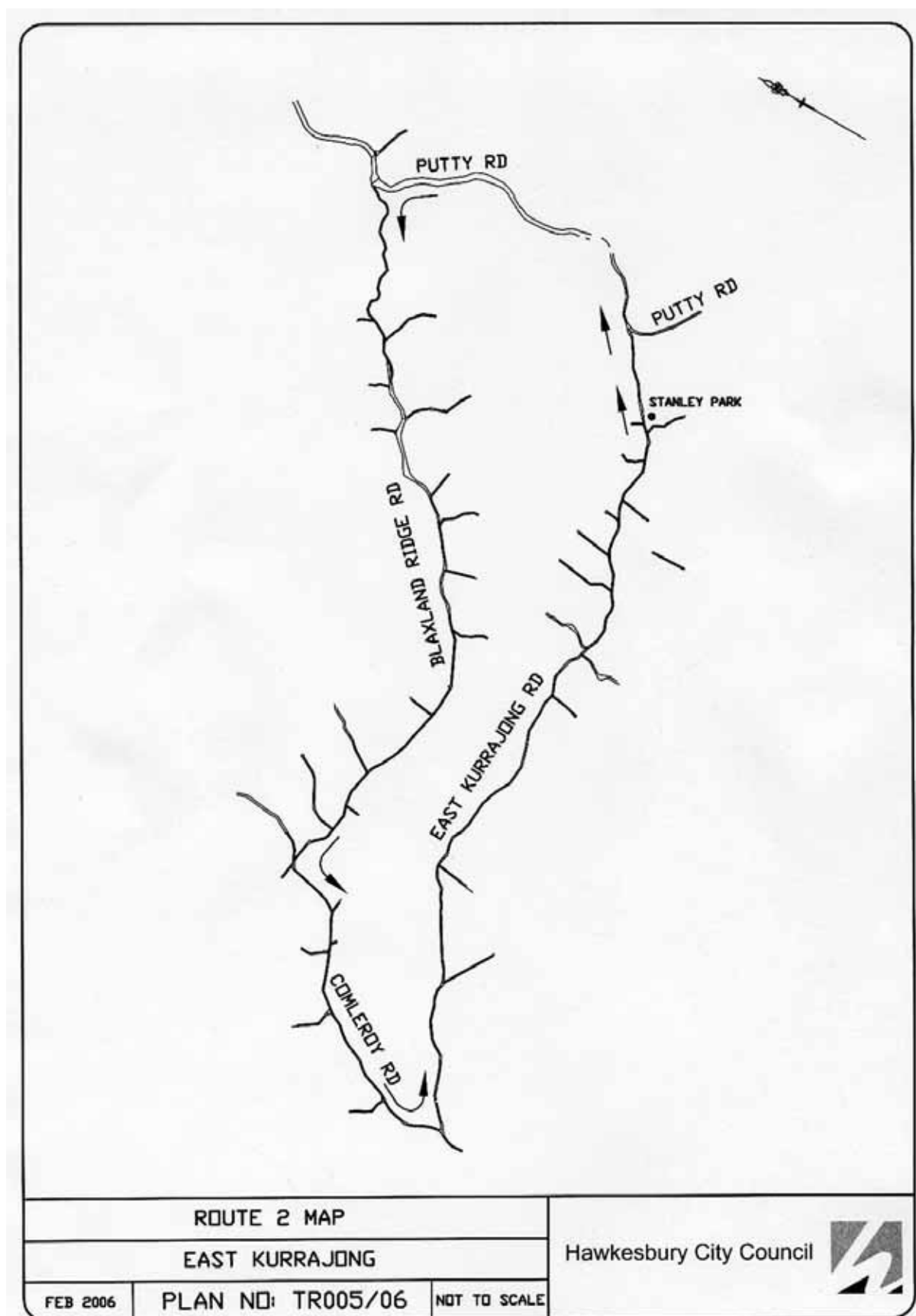
It will be necessary for the event organiser to lodge an application seeking approval to conduct the event with the NSW Police Service. A Traffic Management Plan (TMP) template and a Traffic Control Plan (TCP) needs to be submitted to Council and the RTA for acknowledgement. The TCP should be prepared by a person holding appropriate certification required by the RTA to satisfy the requirements of the relevant Work Cover legislation.

The event organiser has submitted the following items in relation to this event:

- i. A detailed Traffic Management Plan without the Traffic Management Plan (TMP) template (Refer to Appendix 1 - Dataworks Document No. 2179117)
- ii. A copy of the Public Liability Policy in an amount of \$20,000,000 (Refer to Appendix 1 - Dataworks Document No. 2179117)
- ii. Risk assessment (Refer to Appendix 1 - Dataworks Document No. 2179117)

As this application has been received by Council less than 45 days from the first occasion of the event, the first event occasion planned to be held on 1 April 2006 cannot be supported in accordance with the Special Event Application Procedure - Traffic. All the other event occasions can be supported in line with the conditions outlined in the recommendation. A late application fee of \$100 was charged as the application was not submitted to Council six months prior to the event.





RECOMMENDATION:

That:

1. The Route 1 event be classified as a "Class 2" special event and the Route 2 event be classified as a "Class 1" special event under the "Traffic Management for Special Events" guidelines issued by the RTA.
2. The safety of all road users and personnel on or affected by the site / event is the responsibility of the event organiser.
3. It is strongly recommended that the event organiser becomes familiar with the contents of the RTA publication "Guide to Traffic and Transport Management for Special Events" (Version 3.3) and the Hawkesbury City Council special event information package which explains the responsibilities of the event organiser in detail.
4. The event which is scheduled to be held on 1 April 2006 not be supported as the application has been received by Council less than 45 days from the first occasion of the event.
5. No objection be held to the events along Route 1 and Route 2, except for the event on 1 April 2006 along Route 1, subject to compliance with the following conditions:

Prior to the event:

- a. the event organiser obtaining approval to conduct these events, from the NSW Police Service; **a copy of the Police Service approval be submitted to Council;**
- b. the event organiser obtaining approval from the RTA for the Route 2 event as this is a Class 1 event;
- c. the event organiser **submitting a Traffic Management Plan (TMP) template for the entire route of the events on Route 1 incorporating a Traffic Control Plan (TCP) to Council and a Traffic Management Plan (TMP) template for the entire route of the event on Route 2 incorporating a Traffic Control Plan (TCP) to Council and the RTA** for acknowledgement. The TCP should be prepared by a person holding appropriate certification required by the RTA to satisfy the requirements of the relevant Work Cover legislation;
- d. the event organiser advertising all the events on Route 1 and Route 2 in the local press stating the entire routes of the events and the traffic impact due to the events two weeks prior to the events; **a copy of the proposed advertisement be submitted to Council** (indicating the advertising medium);
- e. the event organiser notifying the details of the events to ambulance, fire brigades / Rural Fire Service and SES at least two weeks prior to the events;
- f. the event organiser directly notifying relevant bus companies, tourist bus operators and taxi companies operating in the area and all the residences and businesses affected by the events at least two weeks prior to the events;
- g. the event organiser assessing the risk and addressing the suitability of the routes as part of the risk assessment considering the possible risks for competing bicycles travelling close to the edge of sealed section of the roads in both Routes considering the current condition of the carriageway edge; This assessment should be carried out by visual inspection of the routes / site by the event organiser prior to preparing the TMP and prior to the events;
- h. the event organiser carrying out an overall risk assessment for the whole event on Route 1 and Route 2 to identify and assess the potential risks to spectators, participants and road

users during the events and designing and implementing a risk elimination or reduction plan in accordance with the Occupational Health and Safety Regulation 2000; (information for event organisers about managing risk is available on the Department of Tourism, Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>);

- i. the event organiser submitting the completed "Special Event - Traffic Final Approval" form to Council; (Separate forms for Route 1 and Route 2)

During the event:

- j. access being maintained for businesses, residents and their visitors;
- k. all traffic controllers / marshals operating within the public road network holding appropriate certification required by the RTA;
- l. the riders are aware of and are following all the general road user rules while riding on public roads;
- m. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices be placed during the events along the route under the direction of a traffic controller holding appropriate certification required by the RTA;
- n. the competitors and participants be advised of the traffic control arrangements in place prior to the commencement of the events; and,
- o. all roads and marshalling points are to be kept clean and tidy, with all directional signs to be removed immediately on completion of the activity.

Item: 2.3 LTC - 15 March 2006 - Item 2.3 - Proposed Extension of "No Stopping" Zone - Racecourse Road, Clarendon (Londonderry) - (80245)

REPORT:

Concerns have been raised in relation to the parking by patrons along Racecourse Road, Clarendon, interfering with the free movement of vehicles along the Eastern side of the Eastern arm of Racecourse Road.

Currently both arms of Racecourse Road are restricted with No Stopping zones with the exception of a 50.0 metre long section adjacent to the Clarendon Tavern. This section of Road includes the access driveway to the off-street carpark behind the Tavern and a length leading to the Railway Crossing.

To improve traffic and pedestrian safety, it is proposed to install "No Stopping" signs at the locations shown on the attached Plan No: TR006/06 to establish a "No Stopping" zone for the full length of the eastern side of the eastern arm of Racecourse Road from Richmond Road to the Railway Crossing.

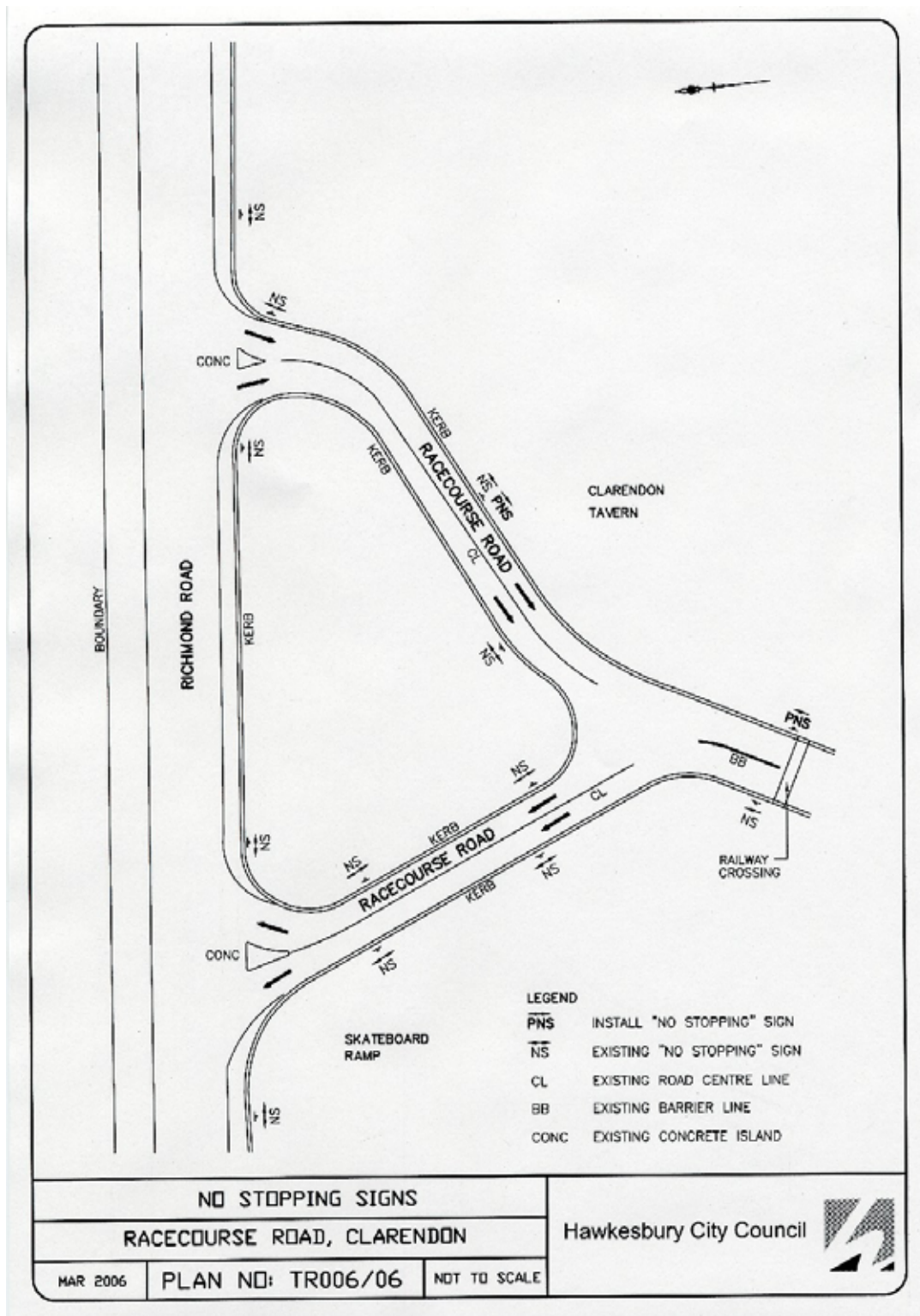
Consultation has been undertaken with the owner of Clarendon Tavern, Mr Bob Denmead who supports this proposal. Mr Denmead did outline that parking in this area is at a premium and did indicate that their off street parking, which caters for approximately 50 vehicles, is effected by Railway commuters.

Racecourse Road is a local road in Clarendon. This section of Racecourse Road is a 2 lane - one way road leading to the Railway line. The width of carriageway between the kerbs is approximately 7.0 metres, with traffic volumes of 1350 ADT recorded in 1997.

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RECOMMENDATION:

That the existing "No Stopping" zone be extended to establish a "No Stopping" zone along the full length of the Eastern side of the Eastern Arm of Racecourse Road, Clarendon, from Richmond Road to the Railway Crossing as indicated in the attached Plan No: TR006/06.



Item: 2.4 LTC -15 March 2006 - ANZAC Day Dawn Service - George/Tebbutt Streets, Windsor (Hawkesbury) - (80245)

REPORT:

Introduction:

An application has been received from Windsor and District RSL Sub-Branch seeking approval to conduct its **annual** Anzac Day Dawn Service and Parade on Tuesday 25 April 2006. They are proposing to hold this service at the war memorial site located at the intersection of George Street and Tebbutt Street, Windsor.

The event will involve participants assembling in George Street between Gillespie Place and Dight Street at 4.45am, then marching north east along George Street approximately 100 metres to the war memorial where the service will take place. The event will conclude at 5.15 am. It is anticipated that there will be approximately 500 participants in the parade and service with a further 500 spectators.

The Windsor RSL Sub-Branch has forwarded a Traffic Management Plan and an associated Traffic Control Plan, proposing to close the sections of the following roads for traffic during the period of this service and the parade:

- George Street between Gillespie Place and Christie Street
- Tebbutt Street between Little Church Street and George Street
- Dight Street entry will be blocked at George Street

Discussion:

The Traffic Management Plan submitted by the event organiser contains the following information:

- i. Bypass routes are available for vehicles as they can use either The Terrace or Macquarie Street. Heavy vehicles would be required to use Macquarie Street to bypass the event as parts of The Terrace have load limit restrictions.
- ii. The event is not expected to impact on traffic in adjoining streets due to the short duration of the event (half an hour) and the low traffic volumes due to the time of day of the event (4.45 am to 5.15 am).
- iii. The event will be conducted on George Street approximately 200 metres to the north of its intersection with Richmond Road. Despite the proximity of the event to the main road, it is expected that there will be no impact on Richmond Road, again due to duration and timing of the event.

It would be appropriate to classify this event as a "Class 2" special event under the "Traffic Management for Special Events" guidelines issued by the Roads & Traffic Authority as this event may disrupt local traffic and transport systems and there will be road closures involved. There will be more traffic than usual on George Street during this service period on that day due to the spectators' vehicles travelling to this site. It will be necessary for the event organiser to lodge an application seeking approval to conduct the event with the NSW Police Service.

The event organiser has submitted the following items in relation to this event:

- i. A detailed Traffic Management Plan (TMP) and a TMP Template (Refer to appendix 3 - Dataworks Document No. 2194376)
- ii. A copy of the Public Liability Policy in an amount of \$10,000,000 (Refer to appendix 3 - Dataworks Document No. 2194376); Council is not noted as an interested party on the Policy. Current Policy is due to expire on 31 March 2006.
- ii. A Traffic Control Plan (Refer to appendix 3 - Dataworks Document No. 2194376)

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A late application fee of \$100 was charged as the application was not submitted to Council six months prior to the event. The TMP and the associated TCP should be submitted to the RTA through the RTA representative for the LTC for authorisation due to the proposed road closures.

RECOMMENDATION:

That:

1. The applicant approach the NSW Police Service to conduct this event under total Police control, allowing the event to be a Class 4 event, or
2. The event planned for 25 April 2006, be classified as a "Class 2" special event under the "Traffic Management for Special Events" guidelines issued by the RTA.
3. The safety of all road users and personnel on or affected by the event is the responsibility of the event organiser.
4. It is strongly recommended that the event organiser becomes familiar with the contents of the RTA publication "Guide to Traffic and Transport Management for Special Events" (Version 3.3) and the Hawkesbury City Council special event information package which explains the responsibilities of the event organiser in detail.
5. No objection be held to this event subject to compliance with the following conditions:

Prior to the event:

- a. the event organiser obtaining approval to conduct this event, from the NSW Police Service; **a copy of the Police Service approval be submitted to Council;**
- b. the event organiser **submitting to Council a copy of its Public Liability Policy** in an amount not less than \$10,000,000 **noting Council as an interested party on the Policy;**
- c. the event organiser advertising the event in the local press stating the entire route of the event and the traffic impact / delays due to the event two weeks prior to the event; **a copy of the proposed advertisement be submitted to Council** (indicating the advertising medium);
- d. the event organiser notifying the details of the event to ambulance, fire brigades / Rural Fire Service and SES at least two weeks prior to the event;
- e. the event organiser directly notifying relevant bus companies, tourist bus operators and taxi companies operating in the area and all the residences and businesses affected by the proposed road closures / the event at least two weeks prior to the event;
- f. the event organiser carrying out an overall risk assessment for the whole event to identify and assess the potential risks to spectators, participants and road users during the event and designing and implementing a risk elimination or reduction plan in accordance with the Occupational Health and Safety Regulation 2000; (information for event organisers about managing risk is available on the Department of Tourism, Sport and Recreation's web site at <http://www.dsr.nsw.gov.au>);
- g. the event organiser submitting the completed "Special Event - Traffic Final Approval" form to Council;

During the event:

- h. access being maintained for businesses, residents and their visitors;

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- i. a clear passageway of at least 4 metres width being maintained at all times for emergency vehicles;
- j. all traffic controllers / marshals operating within the public road network holding appropriate certification required by the RTA;
- k. in accordance with the submitted TMP and associated TCP, appropriate advisory signs and traffic control devices be placed during the event along the route under the direction of a traffic controller holding appropriate certification required by the RTA;
- l. the participants be advised of the traffic control arrangements in place prior to the commencement of the event; and,
- m. all roads and marshalling points are to be kept clean and tidy, with all directional signs to be removed immediately on completion of the activity.

Item 2.5 LTC - 15 March 2006 - Item 2.5 - Grose View Public School, 249 Grose Wold Road, Grose Vale - Spring Fair (80245)

REPORT:

An application has been received to conduct the Grose View Public School Spring Fair on 16 September 2006 under the "Guide to Traffic and Transport Management for Special Events" issued by the Roads and Traffic Authority.

RECOMMENDATION:

That this event is not a Special Event under the Roads and Traffic Authority Guidelines.

SECTION 3 -General Business

Item: 3.1 LTC - 15 March 2006 - Item 3.1 QWN (80245)

Mr T O'Brien

REPORT:

Advised of representations by L&C Ryle, Colo Heights Public School P&C seeking reduction of the speed limit on Putty Road within the Colo Heights community area from 100KPH to 60KPH and 80KPH following a series of recent accidents

Mrs J Burton advised that the Roads and Traffic Authority was currently undertaking review of speed limits in response to similar representations. Senior Constable G Crawford advised that multiple taskings are carried out on Putty Road each week.

RECOMMENDATION:

That the matter be referred to the Roads and Traffic Authority with recommendation that the speed limit on Putty Road in this locality be reduced to 80KPH.

Item: 3.2 LTC - 15 March 2006 - Item 3.2 QWN (80245)

Mr T O'Brien

REPORT:

Advised of representations received from Mr M Lewendon, Lo-Cost Variety, Riverview Street, North Richmond seeking installation of a pedestrian crossing on Riverview Street at the rear of the shopping complex to ensure retention of customer base.

RECOMMENDATION:

That the applicant be advised that it is not appropriate to proceed with a pedestrian crossing at the requested location.

Item: 3.3 LTC - 15 March 2006 - Item 3.3 QWN (80245)

Mr J Christie

REPORT:

Advised of disparity between "No Standing/No Stopping" signage on the northern side of Lennox Street, Richmond immediately west of Paget Street.

RECOMMENDATION:

That the Roads and Traffic Authority be requested to investigate this matter and undertake any necessary works.

Item: 3.4 LTC - 15 March 2006 - Item 3.4 QWN (80245)

Mrs J Hogge

REPORT:

Advised of representations received from Mrs E Reid regarding delay occasioned to east-bound through-traffic on March Street, Richmond by vehicles turning right onto East Market Street, with increasing incidence of held through-traffic utilising the dedicated left turn lane to continue through the intersection.

RECOMMENDATION:

That this matter be referred to the Roads and Traffic Authority for investigation.

Item: 3.5 LTC - 15 March 2006 - Item 3.5 QWN (80245)

Mrs J Burton

REPORT:

Advised of extended traffic delays on Bridge Street, Windsor caused by a vehicle carrier attempting to access Hawkesbury Valley Holden and requested detail of access arrangements under the approved Development Consent.

RECOMMENDATION:

That the requested information be forwarded to the Roads and Traffic Authority.

Item: 3.6 **LTC - 15 March 2006 - Item 3.6 QWN (80245)**

Mrs J Burton

REPORT:

In response to representations by Councillor B Bassett, Mayor, advised that repeat right turn phase governing the Bells Line of Road, North Richmond onto Terrace Road manoeuvre had been installed on traffic signals at that location.

RECOMMENDATION:

That the information be received.

Item: 3.7 **LTC - 15 March 2006 - Item 3.7 QWN (80245)**

Councillor T Devine

REPORT:

On behalf of the Mayor, enquired of the Roads and Traffic Authority as to current status regarding investigation of the Bells Line of Road/Yarramundi Lane, Richmond intersection.

Mrs J Burton advised that concept plans had been finalised with estimates yet to be completed, following which application would be made for funding, the latter being based on priority listing.

RECOMMENDATION:

That the information be received.

SECTION 4 -Next Meeting

Item: 4.1 The next meeting of the Local Traffic Committee will be held at 3.00pm, on 19 April 2006.

The meeting terminated at 4.15pm.

oooO END OF REPORT Oooo



ordinary
meeting

end of
business
paper

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