



the bushland shire

creating a living environment

BUSINESS PAPER

ORDINARY MEETING

**Wednesday, 20 October, 2010
at 6.30pm**

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QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

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- 129

QUESTIONS WITHOUT NOTICE

AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Rev. Ian Millican of St. Mark's Anglican Church, Berowra will be opening the meeting in Prayer.

ACKNOWLEDGEMENT OF RELIGIOUS DIVERSITY

Statement by the Chairperson:

"We recognise our Shire's rich cultural and religious diversity and we acknowledge and pay respect to the beliefs of all members of our community, regardless of creed or faith."

ABORIGINAL RECOGNITION

Statement by the Chairperson:

"We recognise the traditional inhabitants of the land we are meeting on tonight, the Darug and Guringai Aboriginal people, and respect is paid to their elders and their heritage."

AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairperson:

"I advise all present that tonight's meeting is being audio recorded for the purposes of providing a record of public comment at the meeting, supporting the democratic process, broadening knowledge and participation in community affairs, and demonstrating Council's commitment to openness and accountability. The recordings will be made available on Council's website once the Minutes have been finalised. All speakers are requested to ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms."

APOLOGIES / LEAVE OF ABSENCE

PRESENTATIONS

DECLARATIONS OF INTEREST

Clause 52 of Council's Code of Meeting Practice (Section 451 of the Local Government Act, 1993) requires that a councillor or a member of a Council committee who has a pecuniary interest in a matter which is before the Council or committee and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

The Councillor or member of a Council committee must not be present at, or in sight of, the meeting of the Council or committee:

-
- (a) *at any time during which the matter is being considered or discussed by the Council or committee.*
- (b) *at any time during which the Council or committee is voting on any question in relation to the matter.*

Clause 51A of Council's Code of Meeting Practice provides that a Councillor, Council officer, or a member of a Council committee who has a non pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable. The disclosure is also to be submitted in writing (on the form titled "Declaration of Interest").

If the non-pecuniary interest is significant, the Councillor must:

- a) *remove the source of conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.*

OR

- b) *have no involvement in the matter by absenting themselves from and not taking part in any debate or voting on the issue as if the provisions of Section 451(2) of the Act apply.*

If the non-pecuniary interest is less than significant, the Councillor must provide an explanation of why they consider that the interest does not require further action in the circumstances.

CONFIRMATION OF MINUTES

THAT the Minutes of the Ordinary Council Meeting held on 15 September, 2010 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

MAYORAL MINUTES

NOTICES OF MOTION

RESCISSION MOTIONS

MATTERS OF URGENCY

ITEMS PASSED BY EXCEPTION / CALL FOR SPEAKERS ON AGENDA ITEMS

Note:

Persons wishing to address Council on matters which are on the Agenda are permitted to speak, prior to the item being discussed, and their names will be recorded in the Minutes in respect of that particular item.

*Persons wishing to address Council on **non agenda matters**, are permitted to speak after all items on the agenda in respect of which there is a speaker from the public have been finalised*

by Council. Their names will be recorded in the Minutes under the heading "Public Forum for Non Agenda Items".

GENERAL BUSINESS

- *Items for which there is a Public Forum Speaker*
- *Public Forum for non agenda items*
- *Balance of General Business items*

GENERAL MANAGER'S DIVISION

Page Number 1

Item 1 **GM21/10 50:50 VISION - COUNCILS FOR GENDER EQUITY - BRONZE AWARD ENTRY**

THAT:

1. Council participate in the *50:50 Vision – Councils for Gender Equity Program* as detailed in this report.
2. Council endorse the following statement of commitment relating to gender equity:

“We will work towards increasing the representation of women in local government, both as elected members and senior managers and professionals.

We will undertake ongoing reviews of policies and practices to remove barriers to women’s participation and to engender safe, supportive working and decision-making environments that encourage and value a wide range of views.”

Page Number 5

Item 2 **GM22/10 A SPECIAL VARIATION TO GENERAL INCOME (SPECIAL RATE LEVY)**

THAT:

1. Council agree in principle to seek approval for a special variation to general income in accordance with guidelines to be issued by IPART;
2. The value and extent of the special variation to general income be determined, in due course, by Councillors, taking account of community opinion and Council’s Resourcing Strategy; and
3. Council continue to inform, consult and engage with the community regarding planning for the future and the special rate variation.

Page Number 9

Item 3 GM23/10 COUNCILS ONLINE TENDER

RECOMMENDATION

THAT:

1. The General Manager be authorised to finalise consultancy and tender specifications;
and
2. A further report be submitted to Council following the evaluation of tenders received.

CORPORATE AND COMMUNITY DIVISION

Page Number 14

**Item 4 CC60/10 PROPOSED DEVELOPMENT OF AN ABORIGINAL
EMPLOYMENT STRATEGY**

RECOMMENDATION

THAT:

1. The contents of Executive Manager's Report No. CC60/10 be received and noted.
2. Council not proceed with the creation of an Aboriginal Employment Strategy at this stage due to the lack of a demonstrable need.

Page Number 20

**Item 5 CC62/10 2010/11 INVESTMENTS AND BORROWINGS - REPORT FOR
PERIOD ENDING AUGUST 2010**

RECOMMENDATION

THAT the contents of the Executive Manager's Report No. CC62/10 be received and noted.

Page Number 23

**Item 6 CC63/10 DECLARATIONS OF PECUNIARY INTEREST AND OTHER
MATTERS**

RECOMMENDATION

THAT Council note that the Disclosure of Pecuniary Interests and Other Matters Returns recently lodged with the General Manager have been tabled as required by the Local Government Act.

Page Number 26**Item 7 CC64/10 2009/10 AUDITED FINANCIAL STATEMENTS -
PRESENTATION TO THE PUBLIC****RECOMMENDATION**

THAT the General Purpose and Special Purpose Financial Statements (including the Auditor's Report) for the year ended 30 June 2010, as presented to the public on 20 October 2010, be adopted.

Page Number 29**Item 8 CC66/10 TENDER NO T11/2010 - PRINTING AND SPECIALISED
MAILING SERVICES****RECOMMENDATION**

THAT Council accept the following recommendations of the Evaluation Team for Tender No T11/2010 in respect of those companies to be appointed to a panel of preferred suppliers for the categories of General Printing; Copying and Finishing; and Specialised Mailing Services (for Rates Notices). The appointment is to be for a two year period with an option to extend the contract for a further 12 months subject to satisfactory performance:

General Printing Category

- EcoDesign EcoPrint Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Computershare (QM Technologies) Pty Ltd
- Norman McGrigor Printing Pty Ltd

Copying and Finishing Category

- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Snap Printing (Drazwood Marketing)

Specialised Mailing Services (for Rates Notices) Category

- SEMA Group Pty Ltd

Page Number 35**Item 9 CC69/10 HORNSBY WOOD WORKING MEN'S SHED - PROPOSED
TRANSFER OF LEASE**

THAT:

1. The contents of Executive Manager's Report No CC69/10 be received and noted.

2. Council note the consultation undertaken with, and the subsequent agreement of, the Hornsby Wood Working Men's Shed in relation to the proposal contained in Report No CC69/10.
3. Council not proceed with the extension to Headen Park Hall located at 3 Sinclair Ave, Thornleigh.
4. Council approve the transfer of the lease conditions for the Hornsby Wood Working Men's Shed (as detailed in Report No. CC23/10) from 3 Sinclair Ave, Thornleigh (Headen Park Hall) to the old Carpenter's Workshop at the Council Depot at 33 Sefton Road, Thornleigh and delegate the General Manager to execute same.
5. The budget savings of approximately \$100,000 achieved by not proceeding with the extension of Headen Park Hall be used to partially fund the Council's projected budgeted deficit for 2010/11.
6. Following an asset inspection of Headen Park Hall, a further report be provided for Council's consideration in respect of the future use of the facility.

ENVIRONMENT DIVISION

Page Number 40

Item 10 EN43/10 DOMESTIC WASTE SERVICES REVIEW

RECOMMENDATION

THAT:

1. Council note the anticipated increase in garbage disposal costs due to limited landfill options, the banning of some types of waste from landfill, the requirement to treat waste prior to landfill and increases in the waste levy imposed by the Department of Environment, Climate Change and Water (DECCW) as outlined in Executive Manager's Report EN43/10.
2. Council endorse the proposed service reductions outlined in Table 1 of Executive Manager's Report EN 43/10 in order to offset part of the expected increase in cost for garbage disposal service.
3. Council endorse the review of the other services outlined in Executive Manager's Report EN 43/10 over the next two years and that these reviews be progressively reported to Council for its consideration.

Page Number 49

Item 11 EN44/10 CATCHMENTS REMEDIATION RATE CAPITAL WORKS PROGRAM - ANNUAL REPORT 2009-2010

RECOMMENDATION

THAT the contents of Executive Manager's Report No. EN44/10 be received and noted.

Page Number 52**Item 12 EN45/10 PROPOSED TREE AND VEGETATION ELEMENT OF COMPREHENSIVE DEVELOPMENT CONTROL PLAN****RECOMMENDATION**

THAT:

1. Council endorse the three options for Element: Tree and Vegetation Protection for public consultation until 28 January, 2011 outlined in Executive Manager's Report EN 45/10.
2. A further report be prepared for Council's consideration after the public consultation period has finished.

Page Number 58**Item 13 EN46/10 CROWN LAND WHERE COUNCIL IS THE APPOINTED RESERVE TRUST MANAGER - IMPLICATIONS OF RECENT CHANGES INTRODUCED BY THE LAND AND PROPERTY MANAGEMENT AUTHORITY****RECOMMENDATION**

THAT:

1. Council support the Liverpool Council motion at the 2010 NSW Local Government Association Conference that would in effect:
 - a. Confer on councils the option to accept or decline the proposed appointment as a reserve trust manager.
 - b. Remove the requirement for reserve trust managers to remit 15% of annual rental collected by the reserve trust to the Minister.
2. Council seek an opportunity to supplement the Liverpool Council motion by the addition of the following amendment:

“c. ensure that councils have access to a reasonable share of **any** compensatory income from leases/licences and or agreements on land within the care, control and management of councils.”
3. Council act on behalf of the LPMA only if the costs of its actions are reimbursed to Council out of proceeds.
4. Council make representation to the Minister for Lands in terms of the above expressing its dissatisfaction with current arrangements, which amounts to nothing more than a continuation of cost shifting from a higher order of government onto a council and request that the Minister for Lands vest certain crown reserves in Council for an estate in fee simple pursuant to section 75 of the *Crown Lands Act 1989*.

5. A report be provided to Council setting out possible additional options in the event that the Minister for Lands does not provide a satisfactory response to the above matters.

Page Number 64**Item 14 EN47/10 SUSTAINABLE ENERGY CODE FOR COUNCIL ASSETS 2010**

THAT Council endorse the *Sustainable Energy Policy for Council Assets* for implementation on 1 December 2010.

PLANNING DIVISION

Nil

WORKS DIVISION**Page Number 67****Item 15 WK70/10 RE-ESTABLISHMENT OF AN ALCOHOL FREE ZONE UNDER THE LOCAL GOVERNMENT ACT, 1993 IN THE PENNANT HILLS COMMERCIAL CENTRE PRECINCT****RECOMMENDATION**

THAT Council by publication in a newspaper circulating in the area:

1. Give notice of its proposal to re-establish, for a period of four years, an alcohol free zone as described in 3 under.
2. Invite representations from within the area for a period of fourteen (14) days following publication of its intention, together with the local Police, local hoteliers and other holders of liquor licences in the area.
3. Consider a further report on submissions following the public consultation period prior to determining whether to re-establish an alcohol free zone located over Fisher Avenue, Hillcrest Road, Ramsay Road, Warne Street, Pennicook Lane, Geeves Lane, Fisher Avenue carpark, Yarrara Road, and Shields Lane, Pennant Hills, as shown in the Plan attached to report WK70/10.

Page Number 71**Item 16 WK6/10 WESTLEIGH ACCESS IMPROVEMENT WORKS - DISPOSAL OF RESIDUE LAND, 25 DUFFY AVE, THORNLEIGH****RECOMMENDATION**

THAT:

1. Council make provision for future improvements at the intersection of The Esplanade and Duffy Avenue (Option G).

2. Council proceed to dedicate the land required for road widening as public road and dispose of the residue of No. 25 Duffy Avenue, Thornleigh.
3. The proceeds of the disposal of the residue of No. 25 Duffy Avenue, Thornleigh be allocated in accordance with the “Land Property Sales – Use of Funds” policy.

Page Number 77**Item 17 WK63/10 HORNSBY OVERLAND FLOW STUDY REPORT AND DRAFT FLOOD PLANNING MAPS****RECOMMENDATION**

THAT:

1. The Hornsby Overland Flow Study Report and the accompanying Draft Hornsby Shire Flood Planning Maps presented in Appendix 1, and the Overland Flow Maps presented in Appendix 2 be endorsed by Council and placed on public exhibition for a period of 28 days.
2. The Letter to Affected Property Owners and the FAQs leaflet attachment presented in Appendix 3 be approved by Council.
3. A further report is prepared for Council following the expiration of the public exhibition period and addressing the submissions received.

Page Number 86**Item 18 WK64/10 COMPULSORY ACQUISITION OF CROWN LAND FOR PUBLIC ROAD - LOTS 1-4 DP 1133368 CANOELANDS ROAD, CANOELANDS (FORMERLY GLENORIE)****RECOMMENDATION**

THAT:

1. Council apply to the Minister for Local Government and the Governor for approval to compulsorily acquire Lots 1-4 DP 1133368 Canoelands Road, Canoelands.
2. Upon acquisition the land referred to in (1) be dedicated as Public Road.
3. Funding of the acquisition be authorised as set out in Executive Manager’s Report No WK49/10.
4. The General Manager be delegated with authority to negotiate detailed terms of agreement consistent with this report.
5. The General Manager be authorised to execute any document in relation to this matter deemed appropriate by Council’s legal advisors.

-
6. If required by the absence of the General Manager or by legal statute, Council authorise the use of Council's Seal on any legal documents in relation to this matter deemed appropriate by Council's legal advisors, subject to review and authorisation by an Executive Manager of Council. The documents may include but not be limited to:
- a. Application for Compulsory Acquisition
 - b. Notice of Road Dedication
 - c. Deed of Agreement and Deed of Release
 - d. Registration of Transfer or Request

Page Number 89**Item 19 WK65/10 "WELLUM BULLA" HORNSBY SHIRE COUNCIL MATERIALS HANDLING FACILITY REPORT ON OPERATIONS AS AT 30 JUNE 2010****RECOMMENDATION**

THAT the contents of Executive Manager's Report No. WK65/10 be received and noted.

Page Number 96**Item 20 WK66/10 BROOKLYN SHARED PATHWAY - FEASIBILITY STUDY****RECOMMENDATION**

THAT Council adopt the final report for the Feasibility Study - Brooklyn Pathway Kangaroo Point to Parsley Bay for the purpose of public consultation and a further report be prepared when the results of the public consultation are known.

Page Number 101**Item 21 WK67/10 WORKS BY CAMERON BRAE PTY LTD AT DUST HOLE BAY, BEROWRA WATERS****RECOMMENDATION**

THAT:

1. Council advise LPMA that it is prepared to accept responsibility for the future maintenance of the improvements constructed by Cameron Brae Pty Ltd pursuant to Development Application 1827/2007:
 - Boardwalk
 - Car park structure (excluding leased area and associated assets)
 - Car park
 - Landscaped areas

On the understanding that:

- i) the maintenance expenditure anticipated is not significant, and
 - ii) in the event that major repair or replacement of the structures (not being fair wear and tear) is required, financial assistance will be sought for such action from LPMA.
2. Subject to resolution of issues associated with the width of Bay Road in the vicinity of the boardwalk, Council agree to the dedication of the relevant land as part of Bay Road.

Page Number 107**Item 22 WK68/10 EXPRESSION OF INTEREST 10/2010 - LEASE OF LAND - KANGAROO POINT, BROOKLYN****RECOMMENDATION**

THAT:

1. Council invite Gen March Pty Limited and J & M Griffiths Pty Limited to tender for the lease of land – Kangaroo Point Brooklyn.
2. The result of the tender to be reported back to Council.

Page Number 113**Item 23 WK69/10 HORNSBY AQUATIC CENTRE REDEVELOPMENT - PROJECT MANAGEMENT AND CONSULTATION****RECOMMENDATION**

THAT:

1. The contents of the report be received and noted.
2. Councillors nominate representatives to be part of the Hornsby Aquatic Centre Redevelopment Working Party.

Page Number 118**Item 24 WK71/10 PROPOSED CLOSURE AND SALE OF ROAD ADJOINING 396-398 PACIFIC HIGHWAY, HORNSBY****RECOMMENDATION**

THAT:

1. Council apply for the closure as Public Road of that section of the Pacific Highway, formerly comprising road widening, as connects to the boundary of No. 396 – 398 Pacific Highway Hornsby.

2. Upon closure of the road, the land be classified Operational Land in accordance with the provisions of the Roads Act 1993 and the Local Government Act 1993.
3. Council approve sale of the closed road land to the owner of No. 396-398 Pacific Highway Hornsby on the terms outlined within this report.
4. The General Manager be authorised to execute all associated documents under Power of Attorney or pursuant to this delegation.
5. The General Manager be delegated authority to negotiate detailed terms of agreement consistent with this report.
6. Council authorise the Making of an application for the Ministers approval for the road closure.

Page Number 122**Item 25 WK72/10 TRAFFIC MANAGEMENT IN LILLI PILLI STREET AND WARD STREET - EPPING****RECOMMENDATION**

THAT Council note that -

1. The speed platforms constructed in Lilli Pilli Street are working effectively and removal or modification cannot be justified and
2. Additional traffic management in Ward Street is not warranted.

Page Number 125**Item 26 WK73/10 PROPOSED REVIEW OF OPERATIONAL LAND****RECOMMENDATION**

THAT:

1. Council receive and note this report.
2. Council endorse a review of Council's operational properties within the terms of reference included within this report.
3. The result of the review to be reported back to Council.

SUPPLEMENTARY AGENDA**PUBLIC FORUM – NON AGENDA ITEMS**

CONFIDENTIAL ITEMS

Item 27 QWNHBM3/10 REMEDIATION OF DAMAGE CAUSED BY FLOOD WATERS

This report should be dealt with in confidential session, under Section 10A (2) (g) of the Local Government Act, 1993. This report contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

MAYOR'S NOTES

QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN

Page Number 129

Item 28 QWNHBM2/10 OUTSTANDING SULLAGE FEES IN BROOKLYN

QUESTIONS WITHOUT NOTICE

1 50:50 VISION - COUNCILS FOR GENDER EQUITY - BRONZE AWARD ENTRY

EXECUTIVE SUMMARY

Council has been invited to participate in the *50:50 Vision – Councils for Gender Equity Program*, a national awards and accreditation program for local government that builds on the national *Framework for Women in Local Government*.

The *50:50 Vision – Councils for Gender Equity Program* is a national awards and accreditation program for local government that builds on the national *Framework for Women in Local Government*.

The program supports Hornsby Shire Council's *Equal Employment Opportunity Determination* and *Equal Employment Opportunity Policy*, as well as Council's *EEO Management Plan*. This report recommends that Council participates in the program.

PURPOSE

The purpose of this report is to seek Council's endorsement to participate in the *50:50 Vision – Councils for Gender Equity Program*.

DISCUSSION

In October 2009 the LGPMC gave strong endorsement to a '*50:50 Vision Program*' to increase the levels of participation of Women in Local Government at both elected and senior management levels.

A major objective of the *50:50 Vision Program* is the promotion of long term cultural change on gender equality issues. It is designed to promote innovation, best practice and diversity of talent and is intended to be an important component of a council's workforce strategy.

The strategy is to develop a nationally consistent approach to:

- support goals and initiatives to enhance women's participation in local government;
- develop a database of women's participation in local government;
- incorporate women's participation in the national local government workforce strategy;
- support the establishment of a national awards and accreditation program; and
- support 2010 as the Year of Women in Local Government.

This important program, endorsed by the *Local Government and Planning Ministers Councils* (LGPMC), is the first national accreditation and awards program which encourages councils

across Australia to address gender equity issues within the organisation and among their elected representatives.

The *50:50 Vision – Councils for Gender Equity Program* seeks to work with all councils to:

- increase the number of skilled women in the local government sector, both at elected and senior level positions;
- drive cultural change in what continues to be a male dominated industry; and
- make an important contribution to building excellence and the long term workforce capacity with the local government sector.

It is anticipated that achieving accreditation as a 50:50 Vision employer, will assist Council in attracting quality female candidates and retaining highly valued female employees.

The national awards and accreditation program has three levels, Bronze, Silver and Gold.

The Bronze Award is the entry level for the program. In order to satisfy the requirements of the Bronze Award, Council is required to:

- i) conduct an audit of staff / representative gender ratios;
- ii) provide evidence of a council endorsed statement of commitment to address gender equity issues. This recommended statement is outlined below:

“We will work towards increasing the representation of women in local government, both as elected members and senior managers and professionals.

We will undertake ongoing reviews of policies and practices to remove barriers to women’s participation and to engender safe, supportive working and decision-making environments that encourage and value a wide range of views.”

- iii) outline at least one project the organisation will undertake to address gender equity issues; and
- iv) nominate a 50:50 Vision champion within the organisation to have carriage of the program.

Council’s *Executive Committee* and *Equal Employment Opportunity Advisory Committee*, see value in participating in this important program.

Following successful achievement of the Bronze Award, Hornsby Shire Council could apply for a Silver Award. To achieve this, Council must achieve certification in:

- commitment and leadership;
- nomination and recruitment;
- remuneration, recognition and training; and
- work and family balance and complete an online benchmark Supportive Culture staff survey.

Council would be eligible to apply for a Gold Award upon successful completion of the Bronze and Silver Awards. A peer reviewed Gold Award is awarded to organisations and initiatives that display excellence and innovation in the pursuit of gender equity.

BUDGET

There are no budgetary implications involved with adopting the commitment statement outlined above in requirement ii).

Completing at least one project to address gender equity issues (requirement iii) will be funded through the existing Human Resources divisional budget.

POLICY

Applying for the Bronze Award in Gender Equity supports Council's *Equal Employment Opportunity Determination* and *Equal Employment Opportunity Policy*, as well as Council's *EEO Management Plan*.

CONSULTATION

The proposal to participate in the Bronze Award application has been discussed and endorsed by Council's *Executive Committee*, in consultation with the Human Resources Manager.

This matter has been presented to, and supported by Council's *Equal Employment Opportunity Advisory Committee*.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As detailed in this report, this initiative is consistent with Council's employment policies and satisfies the Triple Bottom Line framework.

RESPONSIBLE OFFICER

Rebecca Rusten, Senior Human Resources Officer is responsible for this report, and can be contacted on 9847 6871 for further information.

RECOMMENDATION

THAT:

1. Council participate in the *50:50 Vision – Councils for Gender Equity Program* as detailed in this report.
2. Council endorse the following statement of commitment relating to gender equity:

“We will work towards increasing the representation of women in local government, both as elected members and senior managers and professionals.”

We will undertake ongoing reviews of policies and practices to remove barriers to women's participation and to engender safe, supportive working and decision-making environments that encourage and value a wide range of views."

ROBERT BALL
General Manager
General Manager Division

Attachments:

There are no attachments for this report.

File Reference: F2004/07178
Document Number: D01500765

2 A SPECIAL VARIATION TO GENERAL INCOME (SPECIAL RATE LEVY)

EXECUTIVE SUMMARY

Councillors, at the strategic planning weekend in August 2010, agreed that one of the major challenges facing the organisation is to ensure Council's ongoing financial sustainability in the face of decreasing income, increasing costs, and more cost shifting by other levels of government.

Councillors agreed to initiate a dual approach to address this challenge. The first focus is the review of all internal and external services to identify savings in the order of 5% of discretionary funds. The second focus, and the subject of this report, is to seek approval for a special variation to general income.

The recommendation of this Report is for Council to agree in principle to seek approval for a special variation to general income in accordance with guidelines to be issued by the Independent Pricing and Regulatory Tribunal (IPART).

PURPOSE/OBJECTIVE

The purpose of this report is for Council to formally endorse its intent to seek a special variation to general income (a special rate levy) in accordance with guidelines to be released by IPART. If the application for a special rate levy is granted, it is expected the levy would take effect no earlier than 1st July 2011, or at a later date specified in an approval notification.

DISCUSSION

Council applied for approval for a special variation to general income (a special rate levy) in April 2010 from the Division of Local Government (DLG). Council's application was for a 'one-off' increase for twenty (20) years, based on Section 508(2) of the Local Government Act 1993, a valid mechanism for a special variation request at that time, and the option preferred by the community. Council's application was not approved by the DLG primarily because the DLG was of the opinion that Section 508(2) was an inappropriate method of application for a longer term special rate variation.

Councillors, at the strategic planning weekend in August 2010, agreed that one of the major challenges facing the organisation is to ensure Council's ongoing financial sustainability in the face of decreasing income, increasing costs, and more cost shifting by other levels of government.

Councillors agreed to initiate a two pronged approach to address this challenge. The first focus is the review of all internal and external services to identify savings in the order of 5% of discretionary funds. In addition to budget savings and productivity improvements which can be immediately implemented service reviews are currently being planned the results of which will be reported to Council upon completion.

The second focus, and the subject of this report, is to seek approval for a special variation to general income.

In a Press Release dated 4 June 2010 the NSW Premier Kristina Keneally announced, inter alia, that the State government would be:

- *“Retaining rate pegging, but providing a more transparent process of setting the rate through an IPART determination. To do so, IPART will develop a Local Government Cost Index; and*
- *Tasking IPART to determine special rate variation requests by councils, including variations for essential and community infrastructure”.*

In the same Press Release the Minister for Local Government Barbara Perry said *“the Integrated Planning process councils undertake with their communities will be essential to demonstrate to IPART their infrastructure plans do reflect the needs and aspirations of the local community”.*

Written guidelines have not yet been provided by IPART, however the Tribunal has verbally confirmed its intent to base the review of all applications for special variations to general income on the DLG’s Integrated Planning and Reporting Framework.

For Hornsby Shire Council this means ensuring we have an effective Community Strategic Plan, a Resourcing Strategy, a Delivery Program and an annual Operational Plan. These documents must be:

- integrated and comprehensive
- aligned to community priorities
- aligned to the community’s ability and preparedness to pay

The Community Strategic Plan 2010 - 2020, developed in 2009/10, has been reviewed and minor amendments made, however the substance and intent remains the same as was adopted by Council on 30 June 2010.

Council’s Resourcing Strategy is undergoing fundamental change in order to better account for Council’s assets and improve the Asset Strategy. The Asset Strategy will have implications for Council’s Long Term Financial Plan and Workforce Plan, and therefore it is envisaged that these documents will be presented to Council for adoption at the February 2011 Ordinary Meeting. Similarly, at the February meeting it is expected that the Delivery Program and annual Operational Plan (Budget) will be presented to adopt for public exhibition. These combined documents will form the basis of Council’s application to IPART for a special variation to general income.

The percentage and dollar value of the special variation to general income is unknown at this time because it is subject to the current review of Council’s Asset Strategy, the corresponding impact on the Long Term Financial Plan and the community’s willingness to pay for the level of services and infrastructure needed to meet community demand.

In the period from October 2010 to June 2011 Council will undertake community engagement and consultation activities to:

- Inform about the proposed special rate levy
- Provide additional detail about aspects of the proposal
- Elicit community preference regarding the rate variation proposal including value and extent of any potential rate increase

The engagement and consultation activities will build on the extensive suite of engagements undertaken in 2009/10, acknowledged by the DLG as 'professional' and 'best practice', and will include advertisements in local papers, attendance at local events and shopping precincts and an active web presence.

BUDGET

The funding required to undertake the process of seeking a special variation to general income will be met within existing budgets, and therefore adoption of this Report does not have any budgetary implications.

POLICY

There are no policy implications for this Report.

CONSULTATION

Broad community consultation will occur using a variety of methods and multiple technologies. A community engagement strategy will guide all consultations.

TRIPLE BOTTOM LINE SUMMARY

Enhance social and community well being

Council plays a major role in creating the environment within which the Shire's local and regional community pursue their objectives. Council must be able to fund the level of services required by the community in order to pursue their objectives safely.

Effective community infrastructure and services

Council's strategic focus needs to be sufficiently specific and so clearly understood and accepted that it guides any resource allocation decisions.

Guidance towards a sustainable future

Council can not do everything. Councillors, managers and planners need to exercise both creativity and rationality in articulating their vision for the future. Council has worked to identify priority areas that need attention if it is to secure its long term future and that of the Hornsby Shire.

RESPONSIBLE OFFICER

The responsible officer for this report is Julie Williams, Manager Corporate Strategy, General Manager's Division. She can be contacted on 9847 6790 during business hours.

RECOMMENDATION

THAT:

1. Council agree in principle to seek approval for a special variation to general income in accordance with guidelines to be issued by IPART;
2. The value and extent of the special variation to general income be determined, in due course, by Councillors, taking account of community opinion and Council's

Resourcing Strategy; and

3. Council continue to inform, consult and engage with the community regarding planning for the future and the special rate variation.

ROBERT BALL
General Manager
General Manager Division

Attachments:

There are no attachments for this report.

File Reference: F2010/00460

Document Number: D01501242

3 COUNCILS ONLINE TENDER

EXECUTIVE SUMMARY

The Councils Online (COL) Syndicate is a 10-year partnership between five NSW local government Councils and Capgemini Australia Pty Ltd (Capgemini) for the provision of externally-hosted enterprise applications and related support services.

The contracts with Capgemini will expire after the period of 10 years in January 2013. Two member Councils (Randwick and Parramatta) have given notice they will be withdrawing from the Syndicate prior to this date and the remaining three member Councils (Hornsby, Wyong and Lake Macquarie) intend to continue in partnership through to the end of the contract period. During this time, investigation and analysis must be undertaken so that the remaining Councils may decide on their future IT directions.

The remaining Councils have received legal advice that the extension provision within the existing contract cannot be exercised and tenders are to be called. With the assistance of a consultant to be appointed it is proposed that the tenders for a period of five (5) years be called.

It is not proposed to tender for the wholesale replacement of the current application portfolio. The tender will be for datacentre and telecommunications infrastructure, infrastructure management, application management and syndicate support either separately or as a packaged solution.

To ensure that best value is achieved from the tender and to satisfy Council's requirements for service reviews the assessment criteria for any future options would consider business benefits (operational and/or strategic), total cost of ownership (over 3-5 years), including the migration costs from the current systems, and risk inherent in an option and any mitigation strategies.

It is recommended that the General Manager be authorised to finalise consultancy and tender specifications; and a further report be submitted to Council following the evaluation of tenders received.

PURPOSE/OBJECTIVE

To apprise Council of the actions to be taken to advance Council's IT solution following the completion of the current Councils Online Contract.

DISCUSSION

The Councils Online (COL) Syndicate is the solution title given to the 10-year partnership between five NSW local government Councils and Capgemini Australia Pty Ltd (Capgemini)

for the provision of externally-hosted enterprise applications and related support services. The COL applications extend across all key business functions of the Councils.

Five Councils (Hornsby Shire, Lake Macquarie City, Parramatta City, Randwick City, and Wyong Shire) currently share common enterprise applications, technical infrastructure and related support services. The Councils Online Syndicate evolved from 2000 with the aim of jointly procuring a leading edge IT solution for local government that could be shared by all Councils who formed part of this syndicate. The Councils recognised the similarities in local government operations and decided to share the procurement, implementation and operational costs of a new system providing the best possible solution for all councils.

The Invitation to Tender issued to the market in July 2001 proposed that the Syndicate members enter into a five year contract for services with the successful Contractor, with an option to extend for a further five years. After the competitive procurement process and detailed negotiations, each Council resolved that - *“Council accept the negotiated contract with Cap Gemini Ernst & Young Australia Pty Limited for the provision of a replacement Corporate Information System for a period of 10 years”*. Five individual, but essentially identical contracts were established between Capgemini and each member council of the Syndicate but each contract included a provision for extending the Contract for a further term.

A Deed of Agreement exists amongst the Councils regulating the way they act and function as a Syndicate. In 2008, the Councils were required to consider, as contemplated by the Contract, a significant Oracle application upgrade. A number of options were considered and after this two member Councils (Randwick and Parramatta) gave notice that they would not participate in the Oracle upgrade.

The contracts, with Capgemini, which underpin the Syndicate, will expire, after the period of 10 years, in January 2013. Two member Councils (Randwick and Parramatta) have given notice they will be withdrawing from the Syndicate prior to this date and the remaining three member Councils (Hornsby, Wyong and Lake Macquarie) intend to continue in partnership through to the end of the contract period. During this time, investigation and analysis must be undertaken so that the remaining Councils may decide on their future IT directions. While the remaining Councils will jointly investigate future options, each Council will select their preferred option based on the best interests of their individual organisation.

The remaining Councils have received legal advice that the extension provision within the existing contract cannot be exercised and tenders are to be called. It is proposed that the tenders be for a period of five (5) years.

To assist and co-ordinate the actions of the remaining Councils it is proposed that a consultant be appointed. The objective of this consultancy will be to define requirements, develop documentation and then to review, assess and analyse tender responses on behalf of the Syndicate. The consultancy will define and develop the tender documentation in conjunction with Council staff and also manage the tender logistics such as advertising and communicating with respondents on behalf of the Councils. The consultancy will review, analyse, assess and provide guidance on the technical solutions, commercials and comparative value of each tender response.

It is not proposed to tender for the wholesale replacement of the current application portfolio. Some application components however are likely to be changed during the course of the next 5 year tender period. Details of any proposed changes will be finalized during the tender preparation process.

Although it has yet to be finalized it is likely that the tender will be for the following components of the COL solution either separately or as a packaged solution.

1. **Datacentre and telecommunications infrastructure** – the ICT infrastructure required for the COL solution;
2. **Infrastructure management** – the services required to operate and support the COL infrastructure to provide the technical platform for COL applications;
3. **Application management** – the services required to operate and support the COL application software; and
4. **Syndicate support** – the services required to support the syndicate model, such as strategic advice, coordination and governance processes.

It is anticipated that the tender will focus upon a Baseline solution with the provision of an equivalent COL solution (i.e. same application portfolio, equivalent infrastructure and support services) however additional Service Oriented Architecture (Middleware) replacing the existing point-to-point integration methods and other variations will be sought and considered.

To ensure that best value is achieved from the tender and to satisfy Council's requirements for service reviews the assessment criteria for any future options would consider:

- Business benefits (operational and/or strategic) generated by an option,
- Total cost of ownership of an option (over 3-5 years), including the migration costs from the current systems, and
- Risk inherent in an option and any mitigation strategies.

It is proposed that the overall tender process will follow the steps/timeframes below:

Date	Steps
Oct 2010	<ul style="list-style-type: none"> • RFQ consultancy proposals submitted to Councils
Nov 2010	<ul style="list-style-type: none"> • COL Steering Committee considers recommendations • Consultant notified and contractual arrangements completed
Nov 2010	<ul style="list-style-type: none"> • Tender developed and submitted to Syndicate for approval • Tender Specification and contract period to be approved by Councils
Dec 2010	<ul style="list-style-type: none"> • Tender reviewed by Syndicate and approved

Date	Steps
Dec 2010	<ul style="list-style-type: none"> • Tender published
Feb 2011	<ul style="list-style-type: none"> • Tenders to be submitted
Feb – Mar 2011	<ul style="list-style-type: none"> • Tenders reviewed, assessed and recommendations made
April 2011	<ul style="list-style-type: none"> • COL Steering Committee considers recommendations • Preferred suppliers(s) notified • Tender and contract negotiations
May 2011	<ul style="list-style-type: none"> • COL Steering Committee endorses negotiated outcome • Council resolutions to adopt outcome

BUDGET

There are no budget implications at this stage as consultancy and tender costs will be met from existing COL resources.

POLICY

There are no policy implications.

CONSULTATION

There has been consultation with the Executive Manager, Corporate & Community and the Manager, Information Systems in the preparation of this Report.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

The officer responsible for this report is the General Manager, Mr Robert Ball.

RECOMMENDATION

THAT:

1. The General Manager be authorised to finalise consultancy and tender specifications; and
2. A further report be submitted to Council following the evaluation of tenders received.

ROBERT BALL
General Manager
General Manager Division

Attachments:

There are no attachments for this report.

File Reference: F2010/00561
Document Number: D01507442

4 PROPOSED DEVELOPMENT OF AN ABORIGINAL EMPLOYMENT STRATEGY

EXECUTIVE SUMMARY

At the 30 June 2010 Ordinary Meeting, Council considered Notice of Motion No NOM7/10, and resolved that a report be prepared providing details on the strategies in place to assist Aboriginal people who may seek employment with Council. In preparing this Report, consideration has been given to anti-discrimination legislation of both the State and Federal Governments as well as Council's recruitment practices and the current cultural make up of staff at Council.

In summary, the Report recommends that because of the current relatively high number of Aboriginal people in Council's employment, when compared to the percentage of Aboriginal people in Council's population, no changes to Council's general recruitment and selection processes are necessary. Additionally, the Report suggests that special support structures for Council officers identifying as Aboriginal are not required because Council appears to have a positive and non discriminatory working environment for Aboriginal staff.

PURPOSE/OBJECTIVE

The purpose of this Report is to respond to Council's resolution in respect of Notice of Motion No NOM7/10 at the 30 June 2010 Ordinary Meeting.

DISCUSSION

At the 30 June 2010 Ordinary Meeting, Council considered Notice of Motion No NOM7/10 and resolved:

THAT a report be prepared for Council's consideration providing detail on the strategies in place to assist Aboriginal people who may seek employment within Hornsby Shire Council.

In the preparation of this Report, the authors have referred to the Councillor Notes which were provided in support of NOM7/10 when it was submitted for Council's consideration.

Policy Context

In Australia, it is unlawful to discriminate against a person on the grounds of their race, colour, descent or national or ethnic origin (Commonwealth Racial Discrimination Act 1975) and sex, marital status and pregnancy (Commonwealth Sex Discrimination Act 1984). Further to this in NSW, the Anti-Discrimination Act 1977 makes it unlawful to discriminate against a person on the grounds of race, sex, pregnancy, marital status, disability, age, or homosexuality. However, if targeting employment opportunities to a particular group will help "*redress past or present discrimination experienced by the group in a specific occupation or area of employment*" (source: Lawlink website), then an exemption may be obtained under Section 14 of the Anti-Discrimination Act and recruitment may be targeted to a particular group.

Local Statistics

Whilst Council does not currently have an Aboriginal Employment Strategy in place, it is an Equal Employment Opportunity (EEO) Employer and has an EEO Management Plan in place to ensure that the necessary strategies and processes are in place to achieve fair and equitable employment outcomes.

Council records indicate that it has four employees who identify themselves as Aboriginal (based on their taking of NAIDOC leave in 2009). As Council has a headcount of approximately 600 full and part time staff (excluding casual employees), this means that in 2009 Council had approximately 0.66% of staff identifying as Aboriginal. At the latest Census in 2006, the Hornsby Shire had 0.3% of residents identifying as being Aboriginal.

Based on those statistics, Council has about twice the proportional representation of Aboriginal people in its workforce than in the general population of the Shire. If it is assumed that the staff employed in local government should be culturally reflective of the community that they serve, the statistics suggest that Council does not have difficulties in either attracting or recruiting staff that identify as Aboriginal.

It is noted, however, that not all Aboriginal people may access NAIDOC leave and that this potentially results in an under representation of Aboriginal staff in Council statistics. Similarly, it is understood that not all Aboriginal people in the Shire identify as such in the Census.

Response to Councillor Notes Accompanying NOM7/10

In the Councillor Notes which were provided in support of NOM7/10 when it was submitted for Council's consideration, it was requested that this Report should address a number of suggested strategies. Those strategies are shown in bold below and are followed by comments from relevant Council officers:

1. Identifying positions which would be appropriate to designate as requiring or benefiting Aboriginality as an essential or desirable qualification

Council currently has one "identified" Aboriginal position and is currently in negotiations with the State Government to potentially secure funding to create a second. As necessary, and on the individual merits of each case, staff assess whether particular roles need to become "identified" positions. As briefly described above, Section 14 of the Anti-Discrimination Act would allow for positive discrimination to take place if Aboriginality was considered to be a genuine occupational requirement. Within the Council context, however, only a limited number of roles could be considered to have Aboriginality as a genuine occupational requirement. At present, no roles other than those previously mentioned would warrant such categorisation. The matter of creating further positions which have Aboriginality as an essential criteria is discussed later in this Report.

2. Including a general statement in advertisements that Aboriginal people are welcome to apply

Council is an EEO employer and a prominent EEO statement is included in all recruitment information. Council's Human Resources Branch have indicated that they believe that proactively targeting one group in the community with a marketing strategy would suggest that Council's equal employment opportunity may be more equal for some groups than it is for others. It is recommended, therefore, that the approach proposed in

suggested strategy 2 not be progressed. If Council is of a mind to identify additional positions as having Aboriginality as a genuine occupational requirement, or wishes to target recruitment to specific positions under Section 14 of the Anti Discrimination Act, advertising such positions in the manner suggested would be appropriate – in fact, advertising for those roles would explicitly exclude non Aboriginal people.

3. Deciding to advertise some or all positions in the Koori Mail or Indigenous Times

Roles identified as having Aboriginality as an essential criteria are advertised in the Koori Mail or Indigenous Times as a matter of course. In order to proactively discriminate during the recruitment process on the basis of an applicant's race, the employer, and in particular the position, needs to meet certain criteria under Section 14 of the Anti-Discrimination Act. Where this criteria has been met in relation to Aboriginal identified positions, Council has advertised the role in the abovementioned publications. However, it is not considered equitable or viable to advertise some or all positions in ethno-specific media as recruitment processes would cease to be equal (as all ethnic media could not be targeted) and there would be substantially escalated costs involved in doing so.

4. Ensuring that existing and future Aboriginal staff are properly mentored to settling in, orientation, personal support and training and development opportunities

Aboriginal staff members are currently afforded the same mentoring and settling in processes as all other staff. General mentoring and professional development programs are considered in Council's Human Resources Strategy and the training of mentors associated with this program address issues around cultural appropriateness for people from all cultural backgrounds.

In relation to personal support, training and development, all staff members are afforded equal opportunities. Aboriginal staff members currently employed within the organisation have historically been referred to Aboriginal specific training opportunities and scholarships and are supported to attend Aboriginal specific networks across the region. Given the retention rates of existing Aboriginal staff in the organisation, it is suggested that targeted mentoring programs or training and development program are not necessary.

5. Establishing Aboriginal traineeships, cadetships, apprenticeships and work experience placements

Council traineeships, apprenticeships and work experience opportunities are offered from time to time, but always on a non-discriminatory basis. Council has not identified any significant social or employment issues impacting on the resident Aboriginal population in the Hornsby local government area that would warrant Council establishing a program such as this. In general, as compared to the rest of the Aboriginal population in NSW, Census data suggests that Aboriginal people in Northern Sydney are better educated, with higher levels of income and with more stable housing. Aboriginal people in Northern Sydney span the socio economic scale in the same or similar proportions as other cultural groups. As such, it is considered that there is no identified need for a targeted entry program to encourage employment participation by Aboriginal people in the Hornsby Shire.

6. Cultural Awareness training for managers and supervisors

Three of the four identified Aboriginal employees working in the organisation in 2009 worked for the Community Services Branch. Staff and management within that Branch have undertaken Aboriginal cultural awareness training. Given the retention of the staff within the Branch, it would seem that supervisors and managers, who have been trained in cultural awareness, are positively impacting on the retention of staff.

Whilst Aboriginal cultural awareness is important for managers and supervisors, it is considered to be no more or less important than any other cross cultural awareness and communication training. To this end, it is recommended that Aboriginal cultural awareness be included in any cultural awareness training undertaken by Council staff in supervisory or management roles.

Other matters

The Councillor Notes which were provided in support of NOM7/10 when it was submitted for Council's consideration also requested that this Report include an exploration of the potential for the employment by Council of an Aboriginal project officer (full time or part time), either through available grant funding or Council funding, or a combination of both, to:

- Assist Council with Aboriginal employment strategies
- Assist Council with links between council and Aboriginal communities, service providers, agencies. Also assist with setting up partnerships within the Aboriginal community and other stakeholders
- Undertake projects with an Aboriginal focus e.g. NAIDOC
- Apply for funding for Aboriginal specific projects
- Handle enquiries from the public about Aboriginal services and issues
- Organise Children's Voices for Reconciliation
- Foster and facilitate Hornsby Aboriginal Corporation
- Train staff at Hornsby Council in cultural awareness

It is considered that the above task list could be translated into a position description that would have Aboriginality as an essential criteria and it would thereby meet the criteria required of an Aboriginal designated position under Section 14 of the Anti Discrimination Act. However, it should be noted that non Aboriginal staff currently undertake many of the identified tasks with considerable success due to good cross cultural training and community development skills.

If Council was of a mind for the tasks to be undertaken by an Aboriginal person, Council would need to determine how it would fund the role. One option could be to investigate the initial funding of an Aboriginal Economic/Community Development Officer through an application to the Elsa Dixon Fund. In this regard, the Elsa Dixon Fund provides a full year subsidy for an Aboriginal designated position, conditional upon the participating council funding the position permanently in subsequent years. Council would need, therefore, to allocate approximately \$75,000 per annum after the first year of receiving funds if it were successful in an application under the Elsa Dixon Fund. It is noted, however, that an opportunity to apply through the Elsa Dixon Fund will not be available until the 2011/12 financial year.

Summary

There may be capacity to enhance Council's commitment to the employment of Aboriginal people and adhere to the principles of the Anti Discrimination Act. The key question to consider is whether or not such an activity is required in order to "*redress past or present discrimination experienced by the group*" or whether current employment practices facilitate equal employment opportunity such that Aboriginal people are gaining employment with Council without special assistance.

Recent employment statistics of Council would suggest that the organisation does not have difficulties in recruiting or retaining Aboriginal employees – even in non targeted roles. In fact, if it was assumed that the staff employed in local government should be culturally reflective of the community that they serve, then, based on recent statistics, Council appears to be doing much better than would be expected. The recommendation is, therefore, that Council not pursue the recruitment of additional Aboriginal staff under Section 14 of the Anti Discrimination Act at this stage.

BUDGET

There are no budgetary implications associated with the recommendations of this Report. If Council resolved to create an identified Aboriginal position and was successful in receiving a one year subsidy through the Elsa Dixon Fund, salary funds of approximately \$75,000 would need to be identified in the 2012/13 and subsequent financial years.

POLICY

Council's Equal Employment Opportunity Policy is the relevant policy. State and Federal Government Anti Discrimination legislation is also applicable.

CONSULTATION

Given that this Report had its genesis in the Hornsby Aboriginal and Torres Straight Islander Consultative Committee (HATSICC), no external consultation has been undertaken with this group. This group would normally be the consultative body for a Report dealing with an issue such as this. HATSICC have been advised that the Report is being considered and have been encouraged to make comment.

Internal consultation has taken place with Council's Human Resources Branch and Aboriginal staff within the Community Services Branch.

TRIPLE BOTTOM LINE SUMMARY

There is no requirement to undertake a Triple Bottom Line assessment of this Report as it does not recommend any change.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Community Services Branch, Mr David Johnston who can be contacted on 9847 6800.

RECOMMENDATION

THAT:

1. The contents of Executive Manager's Report No. CC60/10 be received and noted.
2. Council not proceed with the creation of an Aboriginal Employment Strategy at this stage due to the lack of a demonstrable need.

DAVID JOHNSTON
Manager - Community Services
Corporate and Community Division

GARY BENSLEY
Executive Manager
Corporate and Community Division

Attachments:

There are no attachments for this report.

File Reference: F2004/06064
Document Number: D01483215

**5 2010/11 INVESTMENTS AND BORROWINGS - REPORT FOR PERIOD
ENDING AUGUST 2010**

EXECUTIVE SUMMARY

Council is provided with a monthly report summarising current general economic conditions which may have an impact on investment returns. The report includes schedules detailing Council's investments and borrowings and highlights the monthly and year to date performance of the investments. In this regard, investments are generally held for the medium to long term.

This Report indicates that the total investment income for the months of July and August 2010 was \$230,000 compared to the budgeted income for the same period of \$214,000. Of the investment income earned, 36% relates to externally restricted funds (such as those collected under Section 94 of the Environmental Planning and Assessment Act), and is required to be allocated to those funds.

PURPOSE/OBJECTIVE

The purpose of this Report is to advise Council of funds invested in accordance with Section 625 of the Local Government Act; and details as required by Clause 212(1) of the Local Government (General) Regulation 2005 and Council's Investment Policy and Strategy (which was last reviewed by Council at its 8 April 2009 Ordinary Meeting).

DISCUSSION

Council's Investment Performance - August 2010

- The At-Call and Term Deposits achieved an annualised return of 5.63% for the month compared to the benchmark of 4.50%.
- NSW T-Corp Long Term Growth Facility achieved a marked to market return of -10.00% for the month compared to the benchmark of -6.95%. This fund has a 70% allocation to growth assets. Short term performance is expected to be volatile and the investment should be viewed over the longer term.
- Floating Rate Notes (FRNs) are bonds that have a variable coupon equal to a money market reference rate. This FRN investment achieved an annualised return of 6.93% for the month compared to the benchmark of 4.89%.
- Direct investments in CDO's achieved an annualised return of 6.12% for the month compared to the benchmark of 4.89%.
- The Capital Guaranteed Notes achieved an annualised return of 0.36% for the month compared to the benchmark of 4.89%. With the exception of the Longreach PIU Fund, the Capital Protected Notes coupons have not been accrued.

- For total investments, the annualised return for August 2010 was 4.27% compared to the benchmark of 4.24%. It is noted that for 2009/10 year to date, the annualised return is 4.99% compared to the benchmark of 4.87%.

Economic Commentary

The Australian economy is well into its recovery compared to the rest of the developed western world, which is still enveloped in gloom and recovery is yet to have gained any real momentum. The Reserve Bank of Australia left interest rates on hold at 4.5% for the third consecutive month, citing *“with growth in the near term likely to be close to trend, inflation close to target and with the global outlook remaining somewhat uncertain, the Board judged this setting of monetary policy to be appropriate for the time being”*.

Borrowings

In respect of borrowings, the weighted average interest rate payable on loans taken out from 2000 to 2010, based on the principal balances outstanding, is 6.81%. The Borrowings Schedule as at 31 August 2010 is attached for Council’s information.

BUDGET

Total investment income for July and August 2010 was \$230,000. The budgeted income for the same period was \$214,000. Of the investment income, approximately 36% relates to external restrictions (Section 94) and is, therefore, restricted.

POLICY

All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation 2005 and Council's Investment Policy and Strategy.

CONSULTATION

Initial investments and reallocation of funds are made where appropriate, after consultation with Council's financial investment adviser and fund managers.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. As this Report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

Council's Investment Strategy does recognise, however, the desirability of "ethical" or "socially responsible" investments and has invested in such products in the last year. These are referenced in the Investment Portfolio in Attachment 1. Council will continue to review new products, subject to funds availability and asset allocation and credit quality parameters contained in the Strategy.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Financial Services - Glen Magus. He can be contacted on 9847 6635.

RECOMMENDATION

THAT the contents of the Executive Manager's Report No CC62/10 be received and noted.

GLEN MAGUS
Manager - Financial Services
Corporate and Community Division

GARY BENSLEY
Executive Manager
Corporate and Community Division

Attachments:

1. HSC Investment Portfolio as at 31 Aug 2010
2. HSC Borrowings Schedule as at 31 Aug 2010

File Reference: F2004/06987
Document Number: D01497877

6 DECLARATIONS OF PECUNIARY INTEREST AND OTHER MATTERS

EXECUTIVE SUMMARY

Section 449 of the Local Government Act (the Act) details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interests and Other Matters Return/s by Councillors and Designated Persons. Section 450A(2) of the Act details the reporting requirements associated with the lodgement of such Returns. In accordance with those Sections of the Act, this Report provides information regarding the various Returns recently lodged with the General Manager. It is recommended that Council note that the Disclosure of Pecuniary Interests and Other Matters Return/s lodged with the General Manager have been tabled in accordance with the Local Government Act.

PURPOSE/OBJECTIVE

The purpose of this Report is to table the Disclosure of Pecuniary Interests and Other Matters Returns lodged by Councillors/Designated Persons who have left, commenced with, or internally transferred to a relevant position within Council; and to table the Disclosure of Pecuniary Interests and Other Matters Returns of all Councillors and Designated Persons which were required to be lodged for the period ending June 2010.

DISCUSSION

Section 449(1) of the Act requires a Councillor or Designated Person to complete and lodge with the General Manager a Disclosure of Pecuniary Interests and Other Matters Return within three months after becoming a Councillor or a Designated Person. Section 449(3) requires a Councillor or Designated Person holding that position at 30 June in any year to complete and lodge with the General Manager a Return within three months after that date. Section 449(5) states that nothing prevents a Councillor or Designated Person from lodging more than one Return in any year.

Section 450A(2) of the Act requires that Returns lodged under Section 449 are to be tabled at a meeting of Council. Returns lodged under Sections 449(1) and 449(3) are to be tabled at the first meeting held after the last day for lodgement under those Sections; and Returns lodged for any other reason are to be tabled at the first meeting after their lodgement.

Council's procedures in respect of the disclosing of interests have been developed to cater for the election/appointment/employment/retirement/resignation/etc of Councillors or Designated Persons. These procedures:

- require all Councillors and Designated Persons who hold that position at 30 June in any year to submit Returns to the General Manager by 30 September in that year (i.e. they are lodged under S449(3)). These Returns are usually tabled at the October Ordinary Meeting of Council in that year;
- require newly elected Councillors or newly appointed Designated Persons to lodge Returns to the General Manager within three months of their election/appointment

(i.e. they are lodged under S449(1)). These Returns are tabled at the next available Ordinary Meeting of Council; and

- require those Councillors or Designated Persons who are leaving Council (because of retirement, resignation, etc) to lodge Returns to the General Manager by their last day with Council. These Returns are tabled at the next available Ordinary Meeting of Council.

Returns lodged in accordance with Section 449(1) of the Local Government Act and Council's Procedures

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters Returns in accordance with this section of the Act at the Ordinary Meeting held on 15 September 2010 - Report No. CC56/10. Since that time, one additional Return has been lodged with the General Manager and is now tabled as required by the Local Government Act.

Date Lodged	Councillor/Designated Person (Position)	Reason for Lodgement
28/09/2010	Acting Manager - Environmental Sustainability & Health Team	Resignation

Returns lodged in accordance with Section 449(3) of the Local Government Act

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters under Section 449(3) at the Ordinary Meeting held on 14 October 2009. In preparation for the Report being tabled at tonight's Meeting, an email was sent to designated persons on 28 July 2010 requesting completion of the Pecuniary Interest disclosure form, together with the Self Help Guide No. 08/71 from the Department of Local Government. In this email designated persons were invited to attend an information/disclosure completion session which was held in the Council Chambers Function room to assist designated persons in completing their Returns. A second bulk email was sent on 9 August 2010 and a second information/disclosure completion session was held on 11 August 2010. A final request for completion of disclosure forms was sent on 9 September 2010.

At the time of writing this Report, ten Disclosures of Pecuniary Interest and Other Matters Returns remain outstanding and have not been submitted to the Administration Services Branch in accordance with the above requirements. Three of these Returns are in respect of Designated Persons who are currently on extended leave. The Administration Services Branch has been, and will continue to, take appropriate steps to follow up all outstanding Returns. Should further Returns be received prior to Council's consideration of this Report, advice will be provided to Councillors in the form of a Late Item Memo.

All other Pecuniary Interest Declaration Returns lodged under Section 449(3) with the General Manager are now tabled as required by the Local Government Act. All Returns are held in a Register maintained by Council's Senior Access to Information Officer.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONSULTATION

Consultation has occurred with those required to complete a Disclosure of Pecuniary Interests and Other Matters Return.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this Report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is Council's Senior Access to Information Officer – Stephen Waller who can be contacted on 9847 6749.

RECOMMENDATION

THAT Council note that the Disclosure of Pecuniary Interests and Other Matters Returns recently lodged with the General Manager have been tabled as required by the Local Government Act.

ROBYN ABICAIR
Manager - Administration Services
Corporate and Community Division

GARY BENSLEY
Executive Manager
Corporate and Community Division

Attachments:

There are no attachments for this report.

File Reference: F2009/00480
F2010/00368

Document Number: D01500875

7 2009/10 AUDITED FINANCIAL STATEMENTS - PRESENTATION TO THE PUBLIC

EXECUTIVE SUMMARY

In accordance with Sections 413, 415, 416 and 417 of the Local Government Act, Council must prepare and have audited its General Purpose and Special Purpose Financial Statements within four months of the end of each financial year.

At the Ordinary Meeting held on 15 September 2010, Council received the 2009/10 Financial Statements and resolved to refer them for audit. Council also delegated authority to the General Manager to fix the date at which the Financial Statements and Auditor's Report would be presented to the public. Following receipt of the Auditor's Report, the General Manager determined that such presentation would occur at the 20 October 2010 Ordinary Meeting.

Public notices have been placed in local newspapers and on Council's website in accordance with Section 418 of the Act. Hard copies of the Financial Statements and Auditor's Report are available for viewing by members of the public at Council's Administration Centre and Branch Libraries. An electronic copy of the Financial Statements and Auditor's Report has also been placed on Council's website.

Following formal presentation of the Financial Statements and Auditor's Reports to the public at the 20 October 2010 Meeting, members of the public, in accordance with Section 420 of the Local Government Act, have seven days, i.e. until 27 October 2010, to make submissions about the Statements.

PURPOSE/OBJECTIVE

The purpose of this Report is for Council's 2009/10 General Purpose and Special Purpose Financial Statements, including Auditor's Reports, to be presented to the public in accordance with Section 419(1) of the Local Government Act. Council's external auditor, Dennis Banicevic of PricewaterhouseCoopers, has indicated that he will be available to make a presentation on the Statements and Council's financial position at the Meeting.

DISCUSSION

In accordance with Sections 413, 415, 416 and 417 of the Local Government Act, Council must prepare and have audited its General Purpose and Special Purpose Financial Statements within four months of the end of each financial year.

At the Ordinary Meeting held on 15 September 2010, Council considered Report No CC59/10 and resolved that:

- 1. The General Purpose and Special Purpose Financial Statements for 2009/10, distributed under separate cover, be received, noted and referred for audit.*

2. *The Mayor and Deputy Mayor be authorised to sign the Statutory Statements in connection with the Financial Statements.*
3. *The Financial Statements be authorised for “presentation to the public” on receipt of the Auditor’s Reports.*
4. *The General Manager be delegated authority to fix the date of the Ordinary Meeting at which the Financial Statements are formally “presented to the public”.*

Following that Meeting, the 2009/10 General Purpose and Special Purpose Financial Statements were signed and referred to PricewaterhouseCoopers. PricewaterhouseCoopers have subsequently issued an Audit Report and identified no issues, other than minor presentation matters, which required changes to the Financial Statements.

Following receipt of the Auditor's Report, the General Manager authorised, in accordance with the above resolution, that presentation of the Statements to the public would occur at the 20 October 2010 Ordinary Meeting. As a result, public notices were placed in local newspapers and on Council's website in accordance with Section 418 of the Act.

Hard copies of the Financial Statements and Auditor's Report are available for viewing by members of the public at Council's Administration Centre and Branch Libraries. An electronic copy of the Financial Statements and Auditor's Reports has also been placed on Council's website.

Following formal presentation of the Financial Statements and Auditor's reports to the public at the 20 October 2010 Meeting, members of the public, in accordance with Section 420 of the Local Government Act have seven days, i.e. until 27 October 2010, to make submissions about the Statements. Such submissions must be in writing and must be referred by Council to the Auditor.

BUDGET

There are no budget implications arising from this Report.

POLICY

There are no policy implications arising from this Report other than recognition that Council's significant accounting policies are set out in Note 1 to the Financial Statements and, therefore, form part of Council's suite of policies.

CONSULTATION

Appropriate consultation has taken place with the External Auditor and the General Manager.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this Report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Financial Services - Mr Glen Magus. He can be contacted on 9847 6635.

RECOMMENDATION

THAT the General Purpose and Special Purpose Financial Statements (including the Auditor's Report) for the year ended 30 June 2010, as presented to the public on 20 October 2010, be adopted.

GLEN MAGUS
Manager - Financial Services
Corporate and Community Division

GARY BENSLEY
Executive Manager
Corporate and Community Division

Attachments:

1. Annual Financial Statements YE 0910 Included under separate cover

File Reference: F2010/00065
Document Number: D01501914

8 TENDER NO T11/2010 - PRINTING AND SPECIALISED MAILING SERVICES

EXECUTIVE SUMMARY

Council is currently under contract with a panel of suppliers for Printing and Specialised Mailing Services. Due to the imminent expiry of the contract, Tender No T11/2010 was issued earlier this year with a closing date of 30 June 2010. Because of the differing print requirements across Council, it is proposed that a panel of preferred suppliers be identified under a new contract to provide any or all of the service categories at best value to Council. It is also proposed that the new contract be for a period of two years, with a one year option to extend based on satisfactory performance.

A total of 14 responses were received in respect of the Tender. Those responses covered the categories of General Printing; Copying and Finishing; and Specialised Mailing Services (for Rates Notices). The 13 conforming Tender responses were subsequently evaluated against a number of relevant criteria. Based on the results of that evaluation process, the Evaluation Team determined a shortlist of suppliers in the various Categories.

Appropriate reference checks, site visits and interviews with staff were subsequently carried out to confirm that the shortlisted suppliers would be able to meet Council's requirements. As a consequence, the Evaluation Team has recommended that the following companies be appointed to a panel of preferred suppliers for the categories of General Printing; Copying and Finishing; and Specialised Mailing Services (for Rates Notices).

General Printing Category

- EcoDesign EcoPrint Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Computershare (QM Technologies) Pty Ltd
- Norman McGrigor Printing Pty Ltd

Copying and Finishing Category

- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Snap Printing (Drazwood Marketing)
(noting that both of these companies are also suitably placed to provide General Printing requirements if required)

Specialised Mailing Services (for Rates Notices) Category

- SEMA Group Pty Ltd

PURPOSE/OBJECTIVE

The purpose of this Report is to provide appropriate information to Council as to the tender evaluation and selection methods applied to Tender No T11/2010 Printing and Specialised

Mailing Services and to make a recommendation for the acceptance of a preferred panel of suppliers.

DISCUSSION

Council currently has a contract (expiring in September 2010) with a panel of suppliers for Printing and Specialised Mailing Services. It is noted that expenditure for these Services during the 2009/10 financial year was approximately \$385,000.

Due to the expiry of the contract, Tender No T11/2010 was issued earlier this year with a closing date of 30 June 2010. The objectives of the Tender were to investigate opportunities to reduce costs, improve consistency of Council's corporate image and introduce improvements to current processes. Tenders were invited for any or all of the requirements specified in the Tender documentation.

Because of the differing print requirements across Council, it is proposed that a panel of preferred suppliers be identified under a new contract to provide any or all of the service categories at best value to Council. It is also proposed that the new contract be for a period of two years, with a one year option to extend based on satisfactory performance.

A total of 14 responses were received in respect of the Tender from the companies below. The responses covered the categories of General Printing; Copying and Finishing; and Specialised Mailing Services (for Rates Notices).

- AB Note Australasia Pty Ltd
- Australia Post Pty Ltd
- Blue Star Print Group
- Computershare (QM Technologies) Pty Ltd
- EcoDesign EcoPrint Pty Ltd
- Forms Express Pty Ltd
- Graphitype Printing Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Kwik Kopy Hornsby
- Lindsay Yates Group
- Norman McGrigor Printing Pty Ltd
- SEMA Group Pty Ltd
- Snap Printing (Drazwood Marketing)
- The Riders Group

(N.B. The response from The Riders Group was a non conforming tender)

The 13 conforming Tender responses were evaluated against the following criteria:

- Price
- Trading terms, discounts, invoices and payment
- OH&S management systems
- Past performance and experience
- Delivery, lead times and timeframes
- Capability and capacity
- Quality assurance systems
- Local business and industry
- Understanding our requirements

- References
- Organisational commitment to environment management and sustainability
- Company profile, ABN and financial details.

The responses were scored by each member of the Evaluation Team against the above criteria. Those scores were in the range 0 to 10, with 0 being an unsatisfactory response (i.e. fails to meet the criteria) and 10 relating to an excellent response (i.e. fully satisfies the criteria). Scores were then averaged and multiplied by the “weight” of the criteria to determine initial scores.

Based on the results of the evaluation process, the Evaluation Team determined the following shortlist of suppliers in the various Categories:

General Printing Category

- EcoDesign EcoPrint Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Computershare (QM Technologies) Pty Ltd
- Norman McGrigor Printing Pty Ltd

Copying and Finishing Category

- Eco Design EcoPrint Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Snap Printing (Drazwood Marketing)

Specialised Mailing Services (for Rates Notices) Category

- Computershare (QM Technologies) Pty Ltd
- Forms Express Pty Ltd
- SEMA Group Pty Ltd

Reference checks were subsequently conducted on Computershare (QM Technologies) Pty Ltd; Norman McGrigor Printing Pty Ltd; and Snap Printing Pty Ltd. Checks were not conducted on the other recommended suppliers as they are incumbents under the existing contract. No adverse comments were received as a result of the reference checks.

Site visits and interviews with staff were also conducted on 18 and 19 August 2010 at Computershare (QM Technologies) Pty Ltd and Norman McGrigor Printing Pty Ltd. Those visits and interviews confirmed that the suppliers would be able to meet our requirements.

As a consequence of all of the above, the Evaluation Team has recommended that the following companies be appointed to a panel of preferred suppliers for the categories of General Printing; Copying and Finishing; and Specialised Mailing Services (for Rates Notices).

General Printing Category

- EcoDesign EcoPrint Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Computershare (QM Technologies) Pty Ltd
- Norman McGrigor Printing Pty Ltd

Copying and Finishing Category

- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Snap Printing (Drazwood Marketing)
(noting that both of these companies are also suitably placed to provide General Printing requirements if required)

Specialised Mailing Services (for Rates Notices) Category

- SEMA Group Pty Ltd

It is noted that Procurement staff and members of the Evaluation Team will regularly review the performance of the recommended suppliers and their ongoing commitment to the supply agreement.

Full details of the tender evaluation process are detailed in the attached confidential Memorandum and are available on the relevant TRIM file. These details include some commercial in confidence information supplied by the tenderers.

BUDGET

The various Divisions within Council have allocated budgets for their requirements for Printing and Specialised Mailing Services.

POLICY

The tender process was conducted in accordance with Council's Tendering policy.

CONSULTATION

The Tender Evaluation Team consisted of:

- Sue Harrison - Section Leader, Library and Information Services
- Michael Crea - Team Leader, Revenue
- Robyn McKenzie - Procurement Manager
- Gail Tighe - Procurement Contracts and Catalogue Co-ordinator

Input to the evaluation was also received from the following interested stakeholders:

- Narelle Bowly - Waste Education and Support Officer
- Judy Gay - Business Paper Co-ordinator
- Natalie Cook - Administration Co-ordinator
- Liz Berger - Graphic Designer
- Julie Diver - Environment Division Executive Unit Co-ordinator
- Jenny Mooy - Corporate Strategy Branch Co-ordinator

TRIPLE BOTTOM LINE SUMMARY

Working with our community

The community was informed of the tender through advertising in the Sydney Morning Herald and the Advocate newspapers.

Conserving our natural environment

As part of the evaluation criteria, tenderers were requested to provide information on their organisational commitment to Environmental Management and Sustainability. The successful tenderers are committed to sustainability of the resources used in the printing industry such as recycled paper and vegetable based inks. The successful tenderers purchase their paper stock from paper merchants that are FSC certified. Evidence has also been provided regarding commitment to the principles of sustainability within the tenderer's operations by providing information on water and energy efficiency measures and the purchase of green power as well as practicing the principles of reduce, reuse and recycle. In most cases the successful tenderers have ISO14001:2004 certification. The successful tenderers have also provided acceptable responses to the following questions: Details on the source of pulp used in paper; Certification of virgin pulp (if used); Details of pre and post consumer waste; Details of the bleaching process (if used); Details of country of manufacture of paper.

Contributing to community development through sustainable facilities and services

Printed material produced by the successful tenderers and distributed to the community by Council will be printed using recycled paper and vegetable based inks.

Fulfilling our community's vision in planning for the future of the shire

A copy of Council's corporate guidelines was issued as part of the tender documents. Future printed material will be distributed based on these guidelines and this will continue to provide a consistent corporate image for Council.

Supporting our diverse economy

The inclusion of two local businesses in the panel of suppliers will potentially encourage investment in the local community and employment and training of local residents employed by these businesses.

Maintaining sound corporate and financial management

Based on the description of requirements and samples provided, cost savings have been identified. Savings will be dependent on future printed requirements and economies of scale.

RESPONSIBLE OFFICER

For further information in respect of this Report, please contact Council's Procurement Manager - Robyn McKenzie on 9847 6642, Monday to Friday between 8.30am and 5.00pm.

RECOMMENDATION

THAT Council accept the following recommendations of the Evaluation Team for Tender No T11/2010 in respect of those companies to be appointed to a panel of preferred suppliers for the categories of General Printing; Copying and Finishing; and Specialised Mailing Services (for Rates Notices). The appointment is to be for a two year period with an option to extend the contract for a further 12 months subject to satisfactory performance:

General Printing Category

- EcoDesign EcoPrint Pty Ltd
- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Computershare (QM Technologies) Pty Ltd
- Norman McGrigor Printing Pty Ltd

Copying and Finishing Category

- Kwik Kopy Bondi Junction (P&S Kasper Holdings)
- Snap Printing (Drazwood Marketing)

Specialised Mailing Services (for Rates Notices) Category

- SEMA Group Pty Ltd

GLEN MAGUS
Manager - Financial Services
Corporate and Community Division

GARY BENSLEY
Executive Manager
Corporate and Community Division

Attachments:

1. Confidential Memo - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*

File Reference: F2010/00153
Document Number: D01503290

9 HORNSBY WOOD WORKING MEN'S SHED - PROPOSED TRANSFER OF LEASE

EXECUTIVE SUMMARY

Since December 2007, Council has considered a number of reports concerning a proposal to extend the former Scout Hall located on Council property at 3 Sinclair Ave, Thornleigh (Headen Park Hall) and the granting of a lease of the Hall and extension to the Hornsby Woodworking Men's Shed Inc.

Since the execution of the Agreement to Lease with the Men's Shed, a major review of service provisions and project funding has been undertaken across all Council Divisions. As part of this review, a cost saving opportunity has arisen in relation to re-accommodation of the Men's Shed group. The property that has become available is the former Carpenter's Workshop at the Thornleigh Depot – 33 Sefton Road, Thornleigh.

Staff have proposed to the Men's Shed that their agreed lease conditions for the Headen Park Hall be transferred to the Depot site. The Men's Shed have provided their written support for this proposal. Advice has also been received from the Executive Manager, Planning Division that there are no planning matters which will affect the proposal.

It is recommended that Council approve the transfer of the lease conditions for the Hornsby Wood Working Men's Shed from Headen Park Hall to the old Carpenter's Workshop at the Council Depot and that the budget savings of approximately \$100,000 achieved by not proceeding with the extension of Headen Park Hall be used to partially fund the Council's projected budgeted deficit for 2010/11.

It is also recommended that following an asset inspection of Headen Park Hall, a further report be provided for Council's consideration in respect of the future use of the facility.

PURPOSE/OBJECTIVE

The purpose of this Report is to propose a transfer of lease conditions for the Hornsby Wood Working Men's Shed from Headen Park Hall to a section of Council's Depot.

DISCUSSION

Since December 2007, Council has considered a number of reports concerning a proposal to extend the former Scout Hall located on Council property at 3 Sinclair Ave, Thornleigh (Headen Park Hall) and the granting of a lease of the Hall and extension to the Hornsby Woodworking Men's Shed Inc. (see Report Nos CC120/07, CC61/09, CC106/09 and CC23/10).

Following its consideration of Report CC23/10, Council resolved to grant the Hornsby Woodworking Men's Shed a five year lease of the Hall and the extension on the following basis:

- a. *A capital contribution of \$15,000 being payable on signing of the lease.*

- b. *Rental for the initial 12 months of tenure to be \$1,500 per annum, in respect of the extended Hall and 50% of the under storage area of the Hall.*
- c. *Rental for subsequent years to be as follows:*
 - Year 2 - \$1,500 + applicable CPI*
 - Year 3 – Year 2 rent + applicable CPI*
 - Year 4 – Year 3 rent + applicable CPI*
 - Year 5 – Year 4 rent + applicable CPI*
- d. *The lessee to be responsible for the payment of all costs associated with services provided to the property including but not limited to electricity, gas and water usage.*
- e. *The lessee to be responsible for the payment of 50% of any Council rates and water and sewerage rates assessed in respect of the Hall on an area occupied basis.*
- f. *The lessee to maintain throughout the term of the lease a public liability insurance policy for an amount of not less than \$20 million for any one incident, with such policy noting Hornsby Shire Council as an interested party.*
- g. *The Hall to only be used for the purpose of a men's shed.*
- h. *The lessee to be responsible for the maintenance responsibilities under the "Community Partnership" category of the Code.*
- i. *The lessee to acknowledge Council's support in the provision of the Hall in its annual reports and publications, any advertising and community events.*
- j. *The lessee to be responsible to ensure the security of the Hall during the term of their occupation.*
- k. *The lessee to bear 50% of costs incurred in respect of the preparation of the necessary lease documentation.*
- l. *The lessee to comply with the conditions of consent from Development Consent No. DA/542/2008.*
- m. *The hours of operation for wood working activities to be restricted to 9.00 am to 4.00 pm Monday to Friday and no more than two occasions each calendar month on a weekend or public holiday between the hours of 10.00 am and 3.00 pm.*

Following a number of negotiations pertaining to wording of certain terms of the lease, an Agreement to Lease was executed by the Men's Shed on 13 August 2010. Subsequent to this agreement, preparation work to commence the extension of the Headen Park Hall was initiated.

Since the execution of the Agreement to Lease with the Men's Shed, a major review of service provisions and project funding has been undertaken across all Council Divisions. As part of this review, a cost saving opportunity has arisen in relation to re-accommodation of

the Men's Shed group to a more suitable location at a potential cost saving to Council in the vicinity of \$100,000 as compared to the cost of the extension of the Headen Park property.

The property that has become available is the former Carpenter's Workshop at the Thornleigh Depot – 33 Sefton Road, Thornleigh. In this regard, Council outsources carpentry work and no longer employs carpenters. As such, it no longer has a need for a Carpenter's Workshop and the Manager, Engineering Services Branch has offered the old Carpenter's Workshop as a site for exclusive use by the Hornsby Wood Working Men's Shed. It is noted that the old Carpenter's Workshop has its own independent access and will not impact on the functioning of the Depot.

Representatives from the Hornsby Wood Working Men's Shed inspected the old Carpenter's Workshop at the Depot on Tuesday 28 September 2010. The proposal put to the Men's Shed by staff was the transfer of their agreed lease conditions from Headen Park to the Depot site. The Men's Shed have provided their written support for this proposal in the attached letter. Also attached is advice received from the Executive Manager, Planning Division which indicates that there are no planning matters which will impact on the proposal.

Assuming that Council is supportive of the proposal, there will a future need to determine what to do with regards to the vacant space in Headen Park Hall. The Beecroft Junior Rugby Club currently leases a room in the facility for the purposes of storage. Typically, Council would call for expressions of interest for the use of the vacant space when such a situation arises.

Given the age and state of Headen Park Hall, the Manager Engineering Services has recommended that, prior to making a decision on the future use of this building, an asset inspection be undertaken of the facility such that Council can make an informed decision regarding the costs associated with retaining the facility in the longer term. It is recommended that this inspection be undertaken and a further report submitted for Council's consideration with regards to the future use of the site.

BUDGET

Council will recall that a \$30,000 grant has been received from the NSW Department of Sport and Recreation for the extension of the Headen Park site. A condition of acceptance of this grant was that the grant amount would be matched by Council. Council staff have negotiated with the Department of Sport and Recreation and have received approval to transfer the grant to the Depot site for use on the renovation of the Old Carpenter's Workshop for use as a Men's Shed (see attached letter of confirmation from the Department).

To match this grant, it is proposed to use the \$15,000 capital contribution agreed to be provided by the Men's Shed in their lease and \$15,000 of Council allocated funding. This would mean that \$60,000 would be available to upgrade fire exits, install an independent electrical supply to the Old Carpenter's Workshop, section off the Old Carpenter's Workshop from the rest of the Depot facility and undertake other minor works as required. As a consequence, Council can expect a saving of approximately \$100,000 from that already committed in the 2010/11 Budget by transferring the lease to the Men's Shed from the Headen Park site to the Depot site.

POLICY

This Report, and previous reports on the matter, have been prepared having regard for the Code for the Lease/Licence of Council Land and Buildings to Community Groups.

CONSULTATION*Internal*

Executive Manager, Planning Division – Mr Scott Phillips
Manager, Engineering Services Branch – Mr Peter Powell
Acting Coordinator, Community and Cultural Facilities Section – Mr Darren Lister
Manager, Commercial Property Section – Mr Rod Drummond

External

Hornsby Wood Working Men's Shed
Department of Sport and Recreation

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes. As this Report only provides information no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is Mr David Johnston - Manager Community Services Branch who can be contacted on 9847 6800.

RECOMMENDATION

THAT:

1. The contents of Executive Manager's Report No CC69/10 be received and noted.
2. Council note the consultation undertaken with, and the subsequent agreement of, the Hornsby Wood Working Men's Shed in relation to the proposal contained in Report No CC69/10.
3. Council not proceed with the extension to Headen Park Hall located at 3 Sinclair Ave, Thornleigh.
4. Council approve the transfer of the lease conditions for the Hornsby Wood Working Men's Shed (as detailed in Report No. CC23/10) from 3 Sinclair Ave, Thornleigh (Headen Park Hall) to the old Carpenter's Workshop at the Council Depot at 33 Sefton Road, Thornleigh and delegate the General Manager to execute same.
5. The budget savings of approximately \$100,000 achieved by not proceeding with the extension of Headen Park Hall be used to partially fund the Council's projected budgeted deficit for 2010/11.
6. Following an asset inspection of Headen Park Hall, a further report be provided for Council's consideration in respect of the future use of the facility.

DAVID JOHNSTON
Manager - Community Services
Corporate and Community Division

GARY BENSLEY
Executive Manager
Corporate and Community Division

Attachments:

1. Letter of support from Hornsby Wood Working Men's Shed
2. Comment from Executive Manager Planning regarding the relocation of Wood Working Men's Shed to Thornleigh Depot
3. Approval to vary the address of the Capital Assistance Grant for the Hornsby Wood Working Men's Shed

File Reference: F2008/00165
Document Number: D01509368

10 DOMESTIC WASTE SERVICES REVIEW

EXECUTIVE SUMMARY

This report canvasses options to offset an anticipated increase in costs related to the disposal of garbage. A number of services covered by the waste management service charge have been reviewed with the intent of either removing the service or reducing the service level. The other remaining services will be progressively reviewed over the next two years.

Council provides a variety of waste related services to its residents. While many of these services are essential and required by legislation, there are a number of supplementary or discretionary services that are not essential which have been provided to assist residents, as well as encourage and educate residents on the benefits of waste minimisation.

Over the next eighteen months there will be a substantial increase in the costs of providing some of the legislated aspects of the waste management services. The cost of providing these services has been estimated to increase by about \$33 per household. Council expects that waste disposal and treatment costs will increase significantly due to limited landfill options, the cost associated with some waste types being banned from landfill, the requirement to treat waste prior to landfill and increases in the waste levy imposed by the Department of Environment, Climate Change and Water (DECCW).

To date, the domestic waste service charge has been comparable to other councils, despite the disadvantage of not having a waste facility within close proximity of the Shire's boundaries.

To offset the expected increases in disposal of garbage, the following services alterations have been identified:-

Table 1: Changes to existing waste management services

Service	Change
Service calendars	Cease printing and delivery of annual calendars. Replace with web based calendar in easy to access location. (This excludes clean up notices)
Chemical clean-up days	Reduce two chemical events each year to one, with further promotion of neighbouring council events
Printed material	Substantially reduce printed information for distribution and provide on Council's web page
Newsletters	Cease providing the newsletter and utilise the web page with current information
Clothing exchange / Chipping days	Discontinue the clothing exchange and reduce chipping days from 15 to 12 events each year
e-waste drop-off days	Continue the e-waste drop-off at the Thornleigh depot and remove the two annual weekend drop off events.

It has been estimated that the above alterations will reduce the amount of the increase that would otherwise be incurred by residents by about \$6 per household. The cost estimates provided in this report are based on a worse case scenario, as it is difficult to accurately gauge the waste disposal options currently available other than to recognise that the options are very limited.

This report also highlights a number of core service components that will be fully assessed over the next two years. These include:

- Reducing clean ups to one a year
- Banning mattresses from clean up
- Banning e-waste from clean up
- Imposing a charge to receive mattresses and e-waste at a council run depot for disposal
- Changing the green waste service to include food waste
- Increasing the frequency of green waste and recycling services or changing the bin size.

Implementation of the above actions will be determined on the basis of a cost/benefit assessment.

PURPOSE/OBJECTIVE

The purpose of this report is to provide Council with an overview of the domestic waste services currently provided and the recommended changes to ensure that future expected annual increases in the cost of providing these services are minimised.

DISCUSSION

Council provides a variety of waste related services to the Shire. These include:-

- The mandatory three bin system or its equivalent
- Two kerbside clean up services per year
- Extensive waste education and information services
- E-waste drop off Monday to Friday plus two weekend drop off events per year
- Drop off facility for batteries, light globes and mobile phones
- Two Drum muster days
- Fifteen chipping days
- Two chemical collections
- Syringe disposal
- Waste related tours and events

These services are provided to assist residents with an easy to use waste management service and information to help them understand the need for waste reduction. Many of the services are provided as supplementary/discretionary services rather than a service that is mandatory. The supplementary services have been the subject of the review.

Increasing Cost of Service

The cost of providing waste services has been increasing at a steady rate for a number of years. The increases have been substantially absorbed due to economies generated by long term collection and disposal contracts. In the 2010/2011 financial year the Domestic Waste

Charge increased by \$7 per household, the largest amount in over seven or more years. The increase was based on CPI with an additional \$10 per household absorbed mainly by the waste management reserve. The waste management reserve has been built from efficiency savings over many years to assist with bin replacement, additional services, changes to services and cost as a result of legislative amendments and to allow for other issues such as large increases in costs that occur from time to time.

Over the next few years it is envisaged that certain costs associated with the waste management services will increase significantly. The major areas relating to waste disposal include the following:

- The State Government Waste Levy will increase by a minimum of \$13 a tonne each year for the next five years. The average household sends about 0.6 tonnes of waste to landfill each year, adding about \$8 per household.
- It is also envisaged that the cost of disposal will increase as the available landfill decreases and scarcity of processing options increases. Council will shortly be calling for tenders for the disposal of residual waste (red bin) and green waste (green bin). The value of the tenders is unknown but with the issues currently facing waste disposal in NSW and the requirement to sort or treat waste, there is an indication that the cost per tonne will rise substantially. The increased cost might not be as high as predicted although it is prudent to assume for this assessment that the prices will increase significantly to between \$20 and \$40 per tonne. This is an increase of about \$12 to \$25 per household.
- The cost of certain items that are increasingly being rejected at landfill will increase, two wastes of concern being e-waste and mattresses.

Service Review

To mitigate the rapidly increasing cost to residents a review of the services provided by Council has been undertaken. The following changes to the services will be introduced over the next eighteen months:

- **Service Calendars**
Service Calendars (excluding clean up) that have been printed and distributed to all households annually will be replaced by an on-line service via the Council web page. The same details will be available in the same format as the current calendars. This will be introduced as soon as possible, but is reliant on some system enhancements to make access simple and easy for residents to use. Currently the cost of design, printing and distribution of service calendars is estimated at \$80,000 each year.

The use of the web is recognised as being part of a growing change in society. The Australian Bureau of Statistics indicates that residents of Hornsby Shire are amongst the highest internet users in the Sydney Metropolitan Area (SMA). However, it is recognised that there will be residents who, for one reason or another, will not be able to utilise this service. For those residents a copy of the calendar can be provided on request, but this will be of a lower quality than currently provided. A side benefit is the environmental saving through not using large quantities of paper.

In addition information can be updated as necessary ensuring it is current at all times.

- **Chemical Clean-ups**

Council currently provides two chemical clean ups each year, one paid for by Council, the other by DECCW. This is double the service that most other council areas receive. At the present time DECCW provides a number of chemical collection days around the SMA each year including St Ives and Castle Hill. Many residents are within close proximity of these locations.

It is believed that through better promotion of the DECCW collection days and locations, Council would be able to remove the second service and direct residents to one of the alternative collection services

The estimated savings to residents of reducing the service to one each year would be in the vicinity of \$60,000 per annum.

- **Reduction in printed information**

The Education section of the Waste Management Team produces a large amount of printed information as part of its program to inform residents of events, disposal options, recycling and reuse tips as well as general waste related information. Council's web page is considered a viable alternative for much of the printing that is required. It is also a facility that can be updated on an ongoing basis, making it more efficient. In many cases the printed material that is currently produced is duplicated on the web.

Whilst difficult to accurately calculate, it is considered that a reasonable estimate of the savings would be in the vicinity of \$20,000 each year.

- **Waste Newsletters**

Two waste newsletters are scheduled each year to advise residents of new services, events, general waste information and waste management tips. These have an estimated cost of \$50,000 each year. If removed, the web page can be utilised to provide up to date information in the same way as the annual calendars.

- **Mulch /Chipping days**

Initially this service was provided as a means of mitigating potential fire hazards prior to the bush fire season. It has grown to the extent that fifteen of these week ends have been provided during the last financial year. This service is well received but as a percentage of the Shire, the number of attendees is relatively small.

It is recommended that these be reduced to a maximum of twelve events each year. This small reduction in service would provide residents with an annual savings of about \$10,000.

- **Clothing Exchange**

This service has been popular but has had relatively small attendances compared to the total population of the Shire. It is also doubtful that the event does greatly reduce waste. It does promote reuse but overall it is a program that could be promoted via the web and other web links to organisations that undertake similar events.

The savings associated with the removal of this event is considered to be approximately \$4,000 per annum.

- **E- waste**

E-waste is a growing problem and is a large Council waste program that comes at a considerable cost. In exchange it receives very high attendance from residents and provides considerable environmental benefit.

In previous years, two e-waste drop-off events have been provided at a cost of between \$40,000 and \$50,000 each depending on the amount of material collected. The cost primarily relates to the disposal for some 40 tonnes per event. Each event has attracted between 600 and 800 residents.

Council commenced an on going e-waste drop-off service in 2010 that provided access for residents on week days and one evening a week. The attendance at the Thornleigh Depot continues to be exceptionally high.

At the present time there are two e-waste collection events each year plus the newly established Monday to Friday service including a late night option.

The combination of both types of service is very expensive. It is intended that the Monday to Friday service will provide the best overall benefit to the majority of residents. Statistics compiled during the six month trial period show that this service has proved to be extremely successful, with approximately 2,500 residents taking advantage of it. Most, as expected, came from nearby suburbs, although some came from most parts of the Shire. A larger than expected amount of e-waste has been deposited, with records indicating a figure in the vicinity of 115 tonnes. By comparison, the two weekend drop-off events averaged approximately 40 to 45 tonnes per event. In addition, the number of residents dropping off light globes and batteries has increased noticeably.

As part of the assessment of cost, it was necessary to consider the type of material deposited. E-waste by definition comprises just about all electrical equipment. During the six months it was evident that it was not economical to treat electrical equipment such as toasters, fans, hair dryers etc. as e-waste nor was there significant environmental benefit. This material was separated and recycled as scrap metal. Likewise, many of the cords were removed and recycled separately to reduce the tonnage and cost of processing it as e-waste.

Of specific interest for e-waste were computers, TVs and associated equipment. All of these carry toxins such as lead, cadmium, mercury and arsenic. In addition there are brominated-flame retardants in the plastic casings.

By weight, TVs and associated components comprised a little over half of the material collected as e-waste. While these items are very toxic and should be removed from landfill, it could be argued that it is not a council responsibility to incur that cost. There are moves to make the industry responsible for this waste but that will continue to take time and it is unlikely that a solution will be reached in the near future. There are some organisations starting to take partial responsibility, such as Dell and Apple, but they are limited in the support they can provide. The Waste Team has sought and will continue to seek support from these organisations.

Cost savings to residents can be provided by removing the two drop-off days and maintaining the weekday drop-off facility. The anticipated cost savings are estimated at approximately \$100,000 each year.

The Monday to Friday drop off facility currently runs at an estimated cost of about \$90,000. On current trends this will drop but if the weekend facility ceases it is likely that the Monday to Friday service will remain at about \$80,000 to a maximum \$100,000 each year, about \$2 per household.

Consideration was given to collecting computers and associated equipment only. That would have reduced the cost by at least 45%. After investigating the components in TVs and associated equipment it was recognised that the toxicity of these is similar to computers.

Future services review

The review covered in this report does not cover all the services provided by the Waste Management Services Branch. Over the next two years consideration will be given to the core services provided. Assessing the core services will require considerable consultation with the service users, assessment of the benefits that might be gained and the overall impact on the DECCW requirement to achieve what could be considered as an unrealistic waste diversion from landfill rate of 66%.

Services to be assessed include:

- Reducing cleanups to one a year
- Banning mattresses from clean up
- Banning e-waste from clean up
- Imposing a charge to receive mattresses and e-waste at a council run depot for subsequent disposal
- Changing the green waste service to include food waste
- Increasing the frequency of green waste and recycling services or changing the bin size.

Implementation of the above actions will be determined on the basis of a cost/benefit assessment.

Summary

It is expected that the cost increases outlined above will occur somewhere in the range estimated. It is equally obvious that these cost increases will be passed onto residents as part of the Domestic Waste Charges. The increases can be reduced if certain services are reduced, modified or removed. The following table provides a summary of the estimated effect of each service or event on the 2011/2012 Domestic Waste Charge.

The elements provided in the table are not all the costs associated with the Domestic Waste Charge. Other items that are subject to normal increases, such as staffing, day to day operating expenses, collection contract, bin maintenance, compliance, promotional activities and tours etc are not included. The purpose of this report is to highlight changes that will assist in keeping charges lower than they otherwise would have been.

Table 2: Maximum cost increases and potential savings 2011/2012

Component	Cost Increase	Cost decrease	Per household
Tip fee – waste levy	\$455,000		\$8.10
Tip fees Exclude waste levy	\$1,400,000		\$25.00
Total Cost	\$1,855,000		\$33.10
Service Calendars		\$80,000	(\$1.50)
Chemical clean up days		\$60,000	(\$1.10)
Printed material		\$20,000	(\$0.40)
News letters		\$50,000	(\$0.90)
Chipping days/Clothing exchange		\$14,000	(\$0.30)
E-waste drop off days		\$100,000	(\$1.80)
Total Reductions		\$324,000	(\$6.00)
Estimated Total Increase per Household			\$27.10

Assumptions used:

1. 56,000 households
2. All estimates are best guess as they have not occurred nor can they be accurately calculated
3. Tipping tonnes based on 35,000 tonnes per year
4. Waste levy based on \$10 increasing each year plus a CPI component
5. All amounts rounded to nearest \$1,000 or up to nearest ten cents for per household
6. Does not include all costs or savings.

Hornsby Shire Council currently provides more waste services to its residents than most other Sydney Metropolitan Councils, at an annual charge that is approximately the average rate across the same area. This is a good result considering that the Council area does not have any waste disposal or processing facilities within close proximity of the Shire. The increases in tip fees and the waste levy are cost issues for all councils and are costs that will need to be met. Reviewing the services that Council provides is essential if the cost to residents is to be kept as low as possible.

The other option is to accept the price increases and increase the domestic waste charge accordingly. The estimated \$6 per household saving represents about 2% of the current domestic charge. It is not a large saving per household but due to the fact that costs will rise sharply in the near future it is considered essential to consider better ways to manage costs.

BUDGET

There are no budget implications for the 2010/2011 annual budget. There are implications for subsequent years.

POLICY

There are no policy implications associated with this report. This report addresses a review of the waste management services provided and how to best offset predicted increases in costs for these services. The changes outlined are in line with the overall objectives of Council's Sustainable Waste Avoidance and Resource Recovery Strategy 2010 - 2015

CONSULTATION

This report has been prepared without the assistance of external consultation. The details contained in the report have been developed by the Waste Management Services Branch and reflect the observations obtained from the carrying out of services and events provided.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

The responsible officer is Mr Rob Holliday, Manager, Waste Management Services Branch, telephone 9847-4816.

RECOMMENDATION

THAT:

1. Council note the anticipated increase in garbage disposal costs due to limited landfill options, the banning of some types of waste from landfill, the requirement to treat waste prior to landfill and increases in the waste levy imposed by the Department of Environment, Climate Change and Water (DECCW) as outlined in Executive Manager's Report EN43/10.
2. Council endorse the proposed service reductions outlined in Table 1 of Executive Manager's Report EN 43/10 in order to offset part of the expected increase in cost for garbage disposal service.
3. Council endorse the review of the other services outlined in Executive Manager's Report EN 43/10 over the next two years and that these reviews be progressively reported to Council for its consideration.

ROBERT STEPHENS
Executive Manager
Environment Division

Attachments:

There are no attachments for this report.

File Reference: F2004/08803
Document Number: D01499769

11 CATCHMENTS REMEDIATION RATE CAPITAL WORKS PROGRAM - ANNUAL REPORT 2009-2010

EXECUTIVE SUMMARY

During the year 2009/2010, the Water Catchments Team has progressed with the Catchments Remediation Rate (CRR) Capital Works Program. The annual report for this program is attached and provides an overview of program planning, performance, operations, implementation and future goals. Once adopted by Council, this report will be placed on Council's website for public information and viewing.

The principal objective of the CRR Capital Works Program is to install stormwater treatment measures that capture and remove pollutants, thus preventing them from entering the Shire's waterways. The current focus of the program is to install measures that effectively capture the full range of pollutants found in urban stormwater, e.g. litter, sediment and dissolved contaminants, while requiring minimal ongoing maintenance. Bioretention systems, which in simple terms can be regarded as "vegetated sand filters", are seen to meet these criteria and have therefore become the preferred option when considering new capital works.

In 2009/2010, 10 catchments remediation projects were initiated and/or completed. These works involved the construction and /or installation of bioretention systems, gross pollutant devices, creek remediation and water harvesting projects. Highlights for the year included the construction of five large end-of-pipe bioretention systems in Berowra, Hornsby Heights (2), Mount Kuring-gai and North Epping. Also, the leachate treatment system at the old landfill site at Foxglove Oval, Mount Colah was upgraded to capture and treat more leachate and has now been configured so that the treated leachate can be used for irrigation of the oval.

The performance data collected over the 2009/2010 period showed that over 1,150 cubic metres of sediment, litter and organic matter was captured by CRR devices. In addition, thousands of kilograms of dissolved pollutants, e.g. nutrients and heavy metals, were prevented from entering the Shire's waterways by these devices.

PURPOSE/OBJECTIVE

For Council to adopt the Catchments Remediation Rate Capital Works Program – 2009/2010 Annual Report.

DISCUSSION

Catchment Remediation Capital Works - Annual Performance Report (2009/2010)

This report aims to provide quantitative data and analysis of the relative performance of different water quality treatment measures, including gross pollutant devices (GPDs), sediment basins, wetlands and bioretention systems that have been constructed to improve stormwater quality in Hornsby Shire. The results of the report will be used by stormwater and catchment managers to provide a better insight into determining the type of structures that are suitable for specific sites. Furthermore, the data provides valuable information about the costs (both capital and maintenance), benefits and device optimisation which can aid in the

formulation of strategies to improve catchment and landuse practices by both structural and non-structural means.

The principal objective of installing stormwater treatment measures is to improve water quality by removing pollutants and in some instances retaining stormwater flows. In the 2009/2010 financial year \$886,000 was spent on capital works with 10 catchments remediation projects being initiated and completed. These works involved the construction of:

- Five end-of-pipe bioretention systems: Berowra, Hornsby Heights (2), Mount Kuring-gai and North Epping
- Two stormwater harvesting projects: Berowra, Mount Colah
- Two gross pollutant devices (GPDs): Berowra, Mount Kuring-gai
- Three creek stabilisation projects: Hornsby Heights, North Epping and Mount Colah
- Two streetscape bioretention basins: Epping
- Five bioretention tree pits: Epping

While these structural interventions treat and remove pollutants directly, the Catchments Remediation Program also promotes and funds non-structural initiatives in the pursuit of improving water quality in the Shire's creeks, waterways and receiving waters. These include monitoring, maintenance, street sweeping, riparian bush regeneration, environmental education, business auditing, compliance programs, pollution clean-ups and estuary management initiatives.

The collection of performance data over the 2009/2010 financial year has allowed Council to quantify the volume of gross pollutant (sediment, litter and organic matter) removal from Council's 400 + water quality improvement assets. The figures show that 1159 cubic metres of sediment, litter and organic matter was captured and prevented from entering the Shire's waterways.

The total cost to Council of maintaining its water quality improvement measures and adjacent landscaped areas was approximately \$311,000 in the 2009/2010 financial year, with \$199,000 for cleaning / maintenance including device inspections, disposal of waste to landfill and monitoring of leachate treatment and \$112,000 for landscaping / vegetation maintenance. Other associated costs include monitoring of stormwater harvesting / reuse facilities. Furthermore, Council initiated major repair and renewal works at a number of water quality treatment sites. Two sites in particular required significant repair works (up to \$85,000) as a consequence of extreme storm events in early 2010.

The report also provides information on the design principles behind new and innovative stormwater treatment measures known as bioretention systems. In addition, the report provides information on the costs, sizing and performance of wetland ponds and stormwater harvesting schemes and details on the ongoing program to remediate degraded creeks and former landfill sites. Projects of particular interest in the 2009/2010 period were the bioretention systems constructed in North Epping and Hornsby Heights and the leachate treatment and harvesting schemes at Mount Colah.

Overall, the findings of this report give stormwater managers a better insight into the cost-effectiveness and performance of water quality improvement structures and the management of life-cycle costs for individual stormwater treatment measures. The performance of these devices allows Council to both refine and modify the design of future water quality control

measures, and judge their appropriateness for proposed remediation sites based on catchment size and land use impact.

BUDGET

There are no budgetary implications.

POLICY

There are no policy implications.

CONSULTATION

This report was prepared by the staff of the Water Catchments Team.

TRIPLE BOTTOM LINE SUMMARY

Triple bottom line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon council's strategic themes.

As this report simply provides Council with information that does not propose any actions which require a sustainability assessment, no triple bottom line considerations apply.

RESPONSIBLE OFFICER

The responsible officer is Mr Ross McPherson, Manager Water Catchments, telephone 9847 6708, hours 8:30am to 5pm, Monday to Friday.

RECOMMENDATION

THAT the contents of Executive Manager's Report No. EN44/10 be received and noted.

ROBERT STEPHENS
Executive Manager
Environment Division

Attachments:

1. Catchments Remediation Rate Capital Works Program - Annual Report 2009-2010

File Reference: F2005/00829-02
Document Number: D01500449

12 PROPOSED TREE AND VEGETATION ELEMENT OF COMPREHENSIVE DEVELOPMENT CONTROL PLAN

EXECUTIVE SUMMARY

The report presents options for a “Preservation of Trees and Native Vegetation” chapter of the proposed Comprehensive Development Control Plan (DCP). Changes to State Government legislation have made the introduction of such a chapter necessary to replace the Tree Preservation Order (TPO) and to codify protection for native vegetation in Hornsby Shire.

Three options are presented, each of which has identical vegetation protection provisions but different tree protection requirements. The three tree protection options range from a translation of the existing TPO to the DCP format, to a streamlined version that protects only trees that are indigenous to Hornsby Shire, and trees that are subject to heritage provisions.

It is proposed to seek public comment on the three options to assist in developing recommendations to Council for identifying the preferred option for the “Preservation of Trees and Native Vegetation” chapter of the DCP.

PURPOSE/OBJECTIVE

The purpose of the report is to gain endorsement to seek public comment on the draft Preservation of Trees and Native Vegetation chapter for Council’s new Comprehensive DCP.

DISCUSSION

As required by the *Environmental Planning and Assessment Act 1979*, Council is currently preparing a new comprehensive Local Environment Plan based on the NSW Government’s *Standard Instrument LEP* template and, to supplement same, is consolidating its 31 existing DCPs into a comprehensive DCP. The *Standard Instrument LEP* contains mandatory provisions that must be incorporated in all instances and optional provisions. An optional provision, clause 5.9 of the Standard Instrument allows for the preservation of trees and vegetation.

At the Ordinary Meeting of 21 July 2010, Council considered Executive Manager’s Report No. EN34/10 concerning the Native Vegetation Planning Review and resolved to include Clause 5.9 within the new comprehensive LEP as set out in the *Standard Instrument* (Attachment 1). There is no longer any provision for a TPO in the Act. A note within clause 5.9 states that ‘*A development control plan may prescribe the trees and other vegetation to which this clause applies by reference to species, size, location or other manner.*’ This provides the opportunity for more definition of the preservation of trees and vegetation through a DCP than is provided for in clause 5.9.

At the meeting of 21 July 2010, Council also resolved to provide direction for the drafting of a “*Preservation of Trees and Native Vegetation*” chapter in its new comprehensive DCP which is detailed later in this report under the heading “*Native Vegetation Planning Review*”.

As clause 5.9 will be incorporated as part of the new comprehensive LEP, trees and other vegetation may be removed with Council's permit or development consent, and Council can exempt some trees and vegetation from the need for consent. However there are some areas where an exemption cannot be given. Clause 5.9 (7) does not allow a permit for the removal of trees or other vegetation that is a heritage item or is within a heritage conservation zone, and such removal can only be through development consent.

This year, Council celebrated the fiftieth anniversary of the adoption of the TPO in 1960, and coincidentally, it will be the last year in its current format because of legislative changes. It is timely therefore for Council to review the direction of tree protection in consultation with the community.

Native Vegetation Planning Review

At its meeting of 21 July 2010 Council considered Executive Managers Report No. EN34/10 concerning public exhibition of the *Native Vegetation Planning Review* and recommended a strategy for implementing the recommendations of the *Review*. In summary, the *Review* was undertaken to identify planning options for native vegetation and tree preservation for Council when preparing its new comprehensive LEP in accordance with the *Standard Instrument LEP*. The review considered Council's existing planning controls, the new planning tools available under the *Standard Instrument LEP* and the most up to date vegetation mapping "*Native Vegetation Communities of Hornsby Shire 2008*" compiled by Smith and Smith before identifying optional planning strategies that Council could adopt to manage the conservation of trees and vegetation in Hornsby Shire. Council resolved to adopt Option 2, namely to include:

a. in Council's new Comprehensive Standard Local Environmental Plan:

- i. Clause 5.9 (Preservation of Trees or Vegetation) from the Standard Instrument*
- ii an 'Environmentally Sensitive Land (Biodiversity) clause based on the model Standard Instrument provisions*
- iii an associated Environmentally Sensitive Land Map identifying:*
 - land containing National and State listed Endangered Ecological Communities*
 - regionally significant vegetation communities identified by Smith and Smith 2008*
 - other sensitive vegetation communities worthy of conservation as identified by the Clause 19 – Bushland Protection Map Review*

b. in Council's new Comprehensive Development Control Plan:

- I a new element/chapter 'Preservation of Trees and Native Vegetation' that*
 - prescribes that the clearing of trees and other vegetation for the purposes of Clause 5.9 of the Standard Instrument require either development consent or a permit*
 - specifies that development consent is required for the clearing of any native vegetation on land containing National and State listed Endangered Ecological Communities, regionally significant vegetation communities identified by Smith and Smith 2008 and other sensitive*

vegetation communities identified by the Clause 19 – Bushland Protection Map Review

- *specifies that a permit will be required for the removal of trees consistent with Council's current 'Tree Preservation Order' and the clearing of other native vegetation communities as identified by Smith and Smith 2008.*

Importance of Trees in the conservation of Endangered Ecological Communities

In addition to the “*Native Vegetation Communities of Hornsby Shire 2008*” mapping undertaken by Smith and Smith, Council also commissioned a report on remnant trees in the urban district of Hornsby Shire by Dr Peter and Dr Judy Smith. The report was considered as part of the *Native Vegetation Planning Review* and the remnant trees were not included in the Environmentally Sensitive Land (ESL) map to be included in the new comprehensive LEP. Therefore, remnant trees do not benefit from the need for consent and consideration against relevant matters for consideration under the ESL clause to be included in the new LEP. Notwithstanding, it is appropriate that the findings of the report be considered in the drafting of the “*Preservation of Trees and Native Vegetation*” chapter of Council's new comprehensive DCP.

DCP Options for Tree and Vegetation Preservation

Three DCP options which consider the above matters have been drafted for Council's and the community's consideration. The options are consistent with advice previously provided by Council's Town Planning Services Branch concerning the implementation of the *Native Vegetation Planning Review*, namely:

'A DCP element/chapter that prescribes the trees and other vegetation for the purposes of Clause 5.9 of the Standard Instrument should be prepared to require development consent for the clearing of any vegetation within those lands covered by the ESL maps. The DCP element/chapter should also be prepared to require a permit for the clearing of any vegetation within locally significant vegetation communities and the trees in vegetation communities of lesser conservation significance as identified by Smith and Smith 2008.'

To be consistent with Exempt and Complying Development State Environmental Planning Policy 2008 and the Infrastructure State Environmental Planning Policy 2007 relating to the clearing of bushland, each option exempts the clearing of vegetation with an area of less than 30 square metres on land zoned Rural, and with an area of less than 10 square metres Residential and Urban land zones.

The three options presented represent minimal change from the existing TPO (Option 3) through to a streamlined approach (Option 1) and a version (Option 2) which represents the middle ground (Attachments 2-4). A discussion paper along with answers to frequently asked questions has been prepared for public consultation and forms (Attachment 5).

Option 1

This option exempts from protection trees that are not species indigenous to the Shire of Hornsby (except those trees that are heritage items or within heritage conservation areas). This option responds to those in the community who believe that the TPO has been too prescriptive and intervenes too much in the management of private property.

As Hornsby Shire is 'The Bushland Shire', the locally indigenous species are those that would receive protection under option 1, along with the non-indigenous trees that are on heritage listed properties, trees within conservation areas in the suburbs of Beroona, Cheltenham, Pennant Hills, Hornsby and Waitara and other trees that are listed (including heritage listed street trees throughout the Shire).

Option 1 (and Option 2) strengthens provisions for the replacement of any tree removed under a Council permit, with a system for following up replacement planting, or requiring the payment of a tree planting offset fee for tree planting by Council on public land.

Option 1 formally includes reference to Australian Standard AS 4970:2009, *Protection of Trees on Development Sites*.

Option 2

This option contains a revision of the current TPO that contains a larger list of trees that are exempt. Option 2 provides an expanded list of exempt trees such as liquidamber, alder, cypress and other trees that are bushland invaders or that frequently cause property damage through root invasion. These include some wattles and other Australian species that are not indigenous to Hornsby Shire and have become invasive weeds. Applications to remove these species under the TPO are approved in the majority of cases so formalising an exemption would be a reflection of practical reality.

Option 2 includes the same provisions as Option 1 with reference to mandatory tree replacement, and includes the same reference to AS 4970:2009.

This option means that problematic trees would be exempted and would streamline the TPO process. It is in the spirit of the original TPO protecting the treescape of Hornsby Shire It conserves valuable indigenous and non-indigenous trees and maintains their functions in providing amenity, shade, shelter from winds, carbon storage, buffers impacts on remaining native trees, and provides of habitat and corridors for fauna.

Option 3

The current TPO is reproduced in Option 3, in a form that reflects the requirements legislated in clause 5.9 of the *Standard Instrument*.

Summary

In summary, Options 1, 2 and 3 for the "*Preservation of Trees and Native Vegetation Chapter*" of the Comprehensive DCP have identical vegetation protection provisions and reflect the resolutions of Council. They also reflect that Clause 5.9 in the LEP allows trees and other vegetation to be removed with Council's permission or development consent. They reflect that Council can exempt some trees and vegetation from the need for consent, it being noted that Clause 5.9 (7) does not allow a permit for the removal of trees or other vegetation that is a heritage item or is within a heritage conservation zone, and such removal can only be through development consent. However, the options have different tree protection requirements. All the options have their own benefits and disadvantages and should be considered by Council and the community before Council adopts the favoured regulatory regime.

BUDGET

There are likely to be varying increases and decreases in the resources required for the regulation of tree and vegetation protection, depending on the final model adopted.

POLICY

Adoption of Options 1 or 2 would vary current tree protection policy, while all three options codify vegetation protection in a new way.

CONSULTATION

Council's Bushland and Biodiversity Team and Town Planning Services Team have been consulted in the preparation of the three proposed options and this report.

A public consultation campaign will involve direct discussion with established groups such as the Beecroft and Cheltenham Civic Trust, the Bushland Management Advisory Committee and others. There would be advertising of the proposals on Council's web page, in local media, and on the online forum Bang the Table. If there is sufficient interest there could be information sessions at various localities around the Shire.

The consultation will commence as soon as authorised by Council and continue through November, December and January. This will allow substantial time and allow a report to be made to the February ordinary meeting and should fit within the Planning Division's timetable for preparation of the Comprehensive DCP.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report simply provides Council with options for community consultation and further discussion and does not propose any immediate actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

The responsible officer is Peter Kemp, Manager Parks and Landscape, telephone 9847 6792, between 9am and 5pm, Monday to Friday.

RECOMMENDATION

THAT:

1. Council endorse the three options for Element: Tree and Vegetation Protection for public consultation until 28 January, 2011 outlined in Executive Manager's Report EN 45/10.
2. A further report be prepared for Council's consideration after the public consultation period has finished.

ROBERT STEPHENS
Executive Manager
Environment Division

Attachments:

1. Extract from Standard Instrument - Clause 5.9
2. Option 1
3. Option 2
4. Option 3
5. Frequently Asked Questions

File Reference: F2007/00707
Document Number: D01501483

13 CROWN LAND WHERE COUNCIL IS THE APPOINTED RESERVE TRUST MANAGER - IMPLICATIONS OF RECENT CHANGES INTRODUCED BY THE LAND AND PROPERTY MANAGEMENT AUTHORITY

EXECUTIVE SUMMARY

The report examines the situation whereby Council manages a portfolio of crown reserves and the ways in which the NSW Government has recently begun to intervene to claim a share of revenue derived from the leasing or sale of crown land managed by councils. The report recommends support of a motion to the NSW Local Government Conference seeking legislative change to create greater freedom for councils to opt out of the management of crown reserves, and a restoration to councils of a reasonable share of income derived from leasing or sale of crown reserves that are under council management.

PURPOSE/OBJECTIVE

To bring to Council's attention recent actions by the Department of Lands (now Land and Property Management Authority) which have required all or some compensation from leases or agreements in relation to land within the care, control and management of Hornsby Council to be directed to the Land and Property Management Authority (LPMA).

DISCUSSION

Councillor Hutchence moved at the April Ordinary Meeting:

"THAT a report be prepared for Council's consideration which details, in respect of Crown Land where Council is appointed Reserve Trust Manager, the impacts and implications of the recent changes introduced by the Land and Property Management Authority regarding Council's licence arrangements with telecommunications carriers and other interests."

History

Councils become managers of crown reserves in two main ways:

- By appointment as reserve trust by the Minister for Lands, pursuant to section 92 of the *Crown Lands Act 1989*
- In the absence of any such appointment, care control and management devolves to councils under the provisions of section 48 of the *Local Government Act 1993*

As the appointed trust manager of specific crown reserves, Council may enter into leases/licences without the consent of the Minister for Lands pursuant to section 102A (2) of the *Crown Lands Act, 1989*.

In 2006 the Department of Lands reintroduced a practice of levying councils the equivalent of 15% of all proceeds received in respect of any leases. The explanation provided for the re-introduction of the levy was as a contribution to the Public Reserves Management Fund (PRMF). Prior to 1999 Treasury funding was paid into the PRMF. The levy was imposed to

replace the withdrawal of Treasury funding and is a classic example of the continuing reliance being placed on cost shifting from higher orders of government to councils.

No consideration was given to the ability of councils to replace the shortfall created by the levy with a local authority's own funds or the ability of local government to fund such an additional financial burden. Hornsby Shire Council, like many other local government authorities in New South Wales, does not make a surplus from the care, control and management of a crown reserve or all the crown reserves within the shire.

Current Situation

In addition to the above the Department of Lands (now Land and Property Management Authority) has over the last couple of years adopted a practice of retaining all income received from the lease/acquisition of crown reserves. Recent examples include:

Electricity easement, Hayes Park / Galston Recreation Reserve, Galston

In November 2008 Council considered report WK63/08 detailing the compulsory acquisition of an electricity easement through the Crown reserve by Energy Australia. The negotiation process resulted in a negotiated agreement of \$50,000 compensation to Council. Communication with the Department of Lands proceeded on the understanding that Council would retain the compensation for general use within the reserve. However, following Council's formal application for the funds, outlining the proposed projects within the reserve to be funded by the compensation, the LPMA wrote back (D01218335) stating that "*Any compensation payable will be to the Department of Lands and not to the Hornsby Shire Council...*". Legal advice confirmed that the letter from the Department was in accordance with the legislation. To date Council has not been reimbursed for any expenses incurred.

Unapproved private access - High Street Berowra - Berowra Reserve

In August 1998 Council was contacted by a private landowner seeking to formalise unapproved access to his property, across a Crown reserve, which had existed for more than 30 years. Council dealt with this matter, on and off, over the ensuing years and considered reports in 2002, 2005 and 2007 in relation to this matter, ultimately resolving in March 2008 (WK14/08) to sell part of the reserve for \$75,000. The applicant was also responsible for the construction of an extension of High Street at Berowra.

Subsequently, Council identified a project within the reserve to complete works to upgrade public parking and sought the Department's approval to retain the funds for the purpose of completing the car park upgrade works. Despite numerous communications, the Department has not approved the use of the funds generated by the sale. At the moment Council officers are not prepared to divert resources from other projects to pursue this matter without any form of assurance from the Department that the reserve will benefit from the funds.

Closure and sale of part of Cambridge Street, Epping

While not a crown reserve the following example is worth noting. It relates to a crown road and like the above examples the funds generated from the sale of the land were required to be remitted to the Department of Lands.

In October 2002, Council was requested to close and sell part of Cambridge Street, Epping to adjoining owners. Council considered report WK07/03 after the matter was researched, a valuation commissioned, a price of \$402,000 negotiated, recognising that 18 proposed commuter car spaces would be lost and resolved to make application to close the road with the Department of Lands and sell the land for \$402,000. After receiving the application, the Department told Council the land was Crown road and the Department then proceeded

to complete the closure and sale of the land, keeping the whole of the proceeds. This is despite the fact that Council had constructed and maintained the road over a number of years. There are no records that Council's valuation costs and road closure fees were ever reimbursed. Subsequent legal advice received in August 2008 (D00976434) confirmed that the Department acted within the legislation and that Council had missed any opportunity to seek recovery of costs or to negotiate some level of reimbursement or compensation for the money spent by Council in constructing and maintaining the road.

Ultimately, Council lost 18 proposed commuter car spaces, the capital costs of the road and the costs associated with the closure. The Department received around \$400,000 for very little input.

Telecommunication carriers

In addition, the Department of Lands has recently required all telecommunication carriers to negotiate agreements directly with the Department. Currently there are 5 such negotiations proceeding that could result in excess of \$100,000 per annum being payable directly to the Department.

Consideration

The above matters raise three significant considerations for Council. They are:

1. Acceptance of responsibility for care and control of crown reserves
2. Impact on improvements on crown reserves
3. Impact on the routine maintenance of crown reserves.

Care, control and management of Crown reserves

Currently the combined operation of section 48 (Chapter 6 Part 2) of the *Local Government Act, 1993* and sections 95-96 and 98A Part 5 of the *Crown Lands Act, 1989* mean that councils nominated to be appointed reserve trust managers cannot decline the appointment nor can they terminate the appointment and, if no reserve trust is appointed, management responsibility for the reserve devolves to councils anyway.

Such a process imposes substantial responsibility on councils for the management of these lands. Depending on the data base used (LPMA and Hornsby Shire Council data bases) Hornsby Shire Council is currently responsible for between 4,600 – 6,000 hectares of public reserves where it has been appointed the Reserve Trust Manager.

In many cases where Council is trust manager or where care, control and management has devolved under section 48 of the *Local Government Act 1993* the crown reserves have materially added to the land portfolio needed to meet Council's objectives to supply recreation facilities and conservation lands for the Shire. In these cases it could be argued that responsibility for these lands is not a burden for Council but a benefit in that it provides valuable land for community use with only the cost of capital development and maintenance to be borne.

At the moment Council is actively planning for the acquisition of more open space land to meet the needs of the incoming population. The cost of such acquisition may be so great as to exceed revenue that can be raised to acquire open space under section 94 (developer contributions) of the *Environmental Planning Assessment Act 1979*. As a consequence Council will be required to decide whether to expand the open space network or concentrate on the enhancement of the existing network. This is despite increasing pressures placed on councils due to State and Federal government immigration and domestic population targets.

Conversely there are other significant land holdings that are transferred to Council that do not meet Council's objectives. They may be small in size, have unsuitable topography, be isolated and difficult to access or involve extensive mitigation of risks associated with bushfire. It is these lands where Council should have the option to accept or decline the proposed appointment as a reserve trust manager. There should also be the option for councils to terminate the appointment as a reserve trust manager in the future in line with changing circumstances. It may be that the government would review the necessity of retaining such lands as crown reserves were Council to withdraw from management, leading to a possible sale of some land and conversion to rateable private property.

So far investigations have identified several parcels of land that would fall into the above categories. More are likely once the investigation is completed.

Irrespective of the above, consideration should again be given to seeking the removal of the requirement to remit 15% of annual rental collected by the reserve trust to the Minister and an ability to share any compensation derived from leases or agreements to cover the cost of maintaining these valuable assets.

As mentioned above it is most unlikely that any local government authority in New South Wales makes a surplus from the care, control and management of a crown reserve or all the crown reserves within that authority's area. In fact escalating cost shifting (currently in the order of \$10 million per annum) from higher levels of government on to Council without those governments providing corresponding funding or conferring corresponding and adequate revenue raising capacity to Council really supports such an approach being taken.

Support provided to the LPMA

Until the matters have been satisfactorily resolved and assurances have been obtained from the LPMA that a reserve will benefit from any compensatory funds derived from a lease/licence or agreement in respect of that reserve Council officers should not be diverted from other projects to pursue investigations on behalf of the Land and Property Management Authority (LPMA).

Concluding Comments

It is proposed that Council should support motions to the upcoming Local Government Association Conference, which seek the support of all New South Wales local government to:

1. Have the option to accept or decline the proposed appointment as a reserve trust manager
2. Remove the requirement for reserve trust managers to submit 15% of annual rental collected by the reserve trust to the minister
3. Ensure that councils have access to a reasonable share of **any** compensatory income from leases/licences and or agreements on land within the care, control and management of councils.

Liverpool Council has put forward a motion that incorporates the first two items.

In the event that such motions are not endorsed at the conference, Council could consider requesting the transfer of care, control and management of all crown reserves for which Council is the trustee, back to the NSW Government. Alternatively, Council could request

that the Minister for Lands vest these crown reserves in Council for an estate in fee simple pursuant to section 75 of the *Crown Lands Act 1989*.

There is a net cost to Council for the management of these reserves. While also acknowledging the ability of Council to use crown reserves for the benefit of the community without the cost of land acquisition, it could be confidently stated that across the state, there is a net cost to local government for the care, control and management of crown reserves in local government control and the State could not afford to maintain all these reserves to the level they are maintained by local government.

BUDGET

The impact on the annual budget from the imposition of a 15% levy on all leases/ licences with Crown land within the Shire equates to approximately \$38,000 per annum. In addition Council has missed out on an opportunity to secure part or all of \$525,000 generated from the three leases/agreements mentioned in this report as well as the potential to secure up to \$100,000 per annum in additional income from the lease of sites for telecommunication carriers.

POLICY

At this stage there are no policy implications.

CONSULTATION

There has been consultation with the Works Division in the preparation of this report.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, a Triple Bottom Line assessment is not required.

RESPONSIBLE OFFICER

The responsible officer is Peter Kemp, Manager Parks and Landscape, telephone 9847 6792, between 9am and 5pm, Monday to Friday.

RECOMMENDATION

THAT

1. Council support the Liverpool Council motion at the 2010 NSW Local Government Association Conference that would in effect:
 - a. Confer on councils the option to accept or decline the proposed appointment as a reserve trust manager.
 - b. Remove the requirement for reserve trust managers to remit 15% of annual rental collected by the reserve trust to the Minister.

2. Council seek an opportunity to supplement the Liverpool Council motion by the addition of the following amendment:

“c. ensure that councils have access to a reasonable share of **any** compensatory income from leases/licences and or agreements on land within the care, control and management of councils.”
3. Council act on behalf of the LPMA only if the costs of its actions are reimbursed to Council out of proceeds.
4. Council make representation to the Minister for Lands in terms of the above expressing its dissatisfaction with current arrangements, which amounts to nothing more than a continuation of cost shifting from a higher order of government onto a council and request that the Minister for Lands vest certain crown reserves in Council for an estate in fee simple pursuant to section 75 of the *Crown Lands Act 1989*.
5. A report be provided to Council setting out possible additional options in the event that the Minister for Lands does not provide a satisfactory response to the above matters.

ROBERT STEPHENS
Executive Manager
Environment Division

Attachments:

There are no attachments for this report.

File Reference: F2010/00002
Document Number: D01503094

14 SUSTAINABLE ENERGY CODE FOR COUNCIL ASSETS 2010

EXECUTIVE SUMMARY

In 1999, Council resolved to reduce its Scope 1 and Scope 2 corporate emissions to 20% below 1995/1996 emission levels by 2010, resulting in a saving of 2,020 tonnes of CO₂. In 2004 Council endorsed the implementation of the Sustainable Energy Policy for New Council Assets (EHP 53 2004 -see Executive Manager's Report EN65/04). The impetus for introducing such a policy was that the major threat to the achievement of the 20% target reduction was the growth in the number and size of new Council facilities. The code required that all new buildings incorporate energy conservation initiatives that would reduce the annual greenhouse gas emissions by at least 30% of total emissions of an equivalent building. Explicit in the code was an acceptance of an additional capital cost of 5-10% for new greenhouse reduction technologies.

In 2006 Council developed its Sustainable Energy Strategy 2006-2010, which set revised targets that called for total emissions to be reduced by 3,030 tCO₂ by 2010 (30% of 1995/96 emission levels), 3,535 tCO₂ by 2012 (35% of 1995/96 emission levels) and 6,060 tCO₂ by 2050 (60% of 1995/96 emission levels). The 2006 targets are in effect expressed as a percentage of the emission levels of the base line year of 1995/96. To reflect this change, the Environment Division has revised the code to include all Council assets.

PURPOSE/OBJECTIVE

The purpose of this report is to seek endorsement for implementing a revised sustainable energy code for all Council assets.

DISCUSSION

In Executive Manager's Report EN11/09, it was recommended that Council amend its current commitment and cap its total Scope 1 and Scope 2 emissions to a maximum of 7,070 tCO₂ by 2020 (30% reduction below 1995/96 emission levels), 4,040 tCO₂ by 2050 (60% reduction below 1995/96 emission levels) and set an aspiration of achieving carbon neutrality in the longer term.

As identified in the above report, in order to offset new emissions and achieve these targets Council would need to consider implementing a greenhouse gas neutral strategy for all new assets. The modelling undertaken in 2004 by Robert Turner Consulting Pty Ltd (Executive Manager's Report EN65/04), demonstrated this as a feasible approach that would equate to an additional increase in capital costs in the order of 5% to 10% and pay for itself in 15 years which, given that the life of an asset is generally 30 years, is very reasonable.

The new Sustainable Energy Code for Council Assets has been revised to correspond with Council's more stringent greenhouse gas emission target. The code integrates sustainable energy management principles into the planning, design, construction and purchase of all Council assets that consume energy regardless of value, and applies to:

- new and refurbished property assets

- new plant and equipment
- staff vehicles

The inclusion of energy efficient measures may lead to an increase in capital costs. However, these will be offset by lower running costs and are likely to be further offset by improved amenity and lower capital costs of other building elements.

The objectives of this code are to:

- Assist Council to achieve a cap on total greenhouse gas emissions of 7,070 tCO₂ by 2019/2020 (a 30% reduction below 1995/96 emission levels)
- Guide Council staff and consultants on the incorporation of sustainable energy management principles into asset design, construction and procurement
- Create assets that minimise energy consumption and promote renewable energy alternatives
- Reduce the fuel use of Council's vehicle fleet
- Establish a system for the management of energy across Council.

It is proposed in the policy that projects that yield a 15 year Internal Rate of Return (IRR) greater than 8% will be approved automatically. An IRR of 12% is the usual accepted benchmark for energy conservation measures and was used for Council's energy performance contract. However, retrofitting is much more expensive than inclusion from new. Also, uncertainty in energy price rises and the possible imposition of carbon pollution costs may result in very high future running costs. Accordingly, it is proposed that a lower IRR be accepted for energy conservation projects as it is expected that even a lower IRR would be positive rather than negative.

Next Steps in Process

Upon endorsement of the policy, the following actions will be completed prior to implementation of the policy on 1 December 2010:

- Access to an energy information system will be made available
- A standard IRR calculation spreadsheet will made available on the intranet
- A database of independent design reviewers and abatement verifiers will be placed on the intranet.

BUDGET

The consultant's fee for revising the policy was \$3,999 and was funded through the Environmental Education account.

Any increases in capital costs associated with meeting the greenhouse targets within the code are to be absorbed by the responsibility area managing the construction of the new asset supplemented with grant funding.

POLICY

This report and the attached Sustainable Energy Code for Council Assets have been prepared in accordance with Council's existing Sustainable Energy Strategy 2006-2010.

CONSULTATION

The Environmental Sustainability and Health Team engaged Robert Turner of Energy and Greenhouse to provide advice in the preparation of the proposed code.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line attempts to improve Council's decisions by being more accountable and transparent on social, environment and economic factors. It does this by reporting upon Council's strategic themes.

A Triple Bottom Line assessment was not required for this business paper, however moving towards carbon neutrality is an excellent example of corporate sustainability as economic, environmental and social benefits are achieved for Council and the community.

RESPONSIBLE OFFICER

The responsible officer is Rima Lauge-Kristensen, Sustainable Energy Officer, Environmental Sustainability and Health, telephone 9847 6545, hours 8.30am – 5.00pm, Monday to Tuesday.

RECOMMENDATION

THAT Council endorse the *Sustainable Energy Policy for Council Assets* for implementation on 1 December 2010.

ROBERT STEPHENS
Executive Manager
Environment Division

Attachments:

1. Draft Code - Sustainable Energy for New Council Assets

File Reference: F2004/09944-02
Document Number: D01504658

15 RE-ESTABLISHMENT OF AN ALCOHOL FREE ZONE UNDER THE LOCAL GOVERNMENT ACT, 1993 IN THE PENNANT HILLS COMMERCIAL CENTRE PRECINCT

EXECUTIVE SUMMARY

Council at its Planning Meeting held on 18 October 2006, considered Executive Manager's Report No. PLN293/06 and resolved to re-establish an alcohol free zone (AFZ) under the *Local Government Act 1993*, in the Pennant Hills Commercial Centre precinct. The AFZ was to extend until October 2009.

This report recommends that Council consider the re-establishment of the AFZ subject to publication in a newspaper circulating in the area and invite representations from within the area following publication of its intention, together with the local Police, local hoteliers and other holders of liquor licences in the area.

PURPOSE

The purpose of this report is to seek Council's endorsement for the re-establishment of the AFZ in the Pennant Hills Commercial Centre precinct under the *Local Government Act 1993*. The area comprises Fisher Avenue, Hillcrest Road, Ramsay Road, Warne Street, Pennicook Lane, Geeves Lane and Fisher Avenue car park, Pennant Hills and including the area along the eastern side of Yarrara Road adjacent to the Pennant Hills railway, Yarrara Road between Shields Lane and Pennant Hills Road, the area immediately in front of the Library and Community Centre in Yarrara Road, together with the extension into Shields Lane between its intersection with Willis Avenue and Yarrara Road (map attached).

BACKGROUND

On 21 April 1999, Council resolved to establish an alcohol free zone (AFZ) at Pennant Hills extending along the eastern side of Yarrara Road adjacent to the Pennant Hills Railway station, Yarrara Road itself between Shields Lane and Pennant Hills Road, the area immediately in front of the Library and Community Centre in Yarrara Road, together with Shields Lane between Yarrara Road and Willis Avenue for a period of three years.

At its meeting on 15 December 1999, Council considered Executive Manager's Report No. 390/99, Planning Division and resolved as follows:

“THAT:

A. Council resolve to establish an Alcohol Free Zone in the area including Fisher Avenue, Hill crest Road, Ramsay Road, Warne Street, Pennicook Lane, Geeves Lane and Fisher Avenue car park, Pennant Hills in accordance with Section 644B of the Local Government Act, 1993 extending until 14 April, 2002 and by notice published in a newspaper circulating in the area:

a) declare that the Alcohol Free Zone has been established; and

- b) *specify the period for which the Alcohol Free Zone is to operate, and erect conspicuous signs at the gateways to the Zone, and at suitable intervals:*
- c) *stating that the drinking of alcohol is prohibited in the Zone, and;*
- d) *specifying the period for which the Alcohol Free Zone is to operate, being for a period extending to 14 April, 2002”*

Council at its Planning Meeting held on 5 March 2003 resolved to re-establish the AFZ within the Pennant Hills Commercial Centre Precinct. The period of time for which the AFZ was to operate extended up until 5 March 2006. Council was approached by Eastwood Police (licensing) and requested to consider further re-establishing the AFZ within the Pennant Hills Commercial Precinct.

Council at its Planning Meeting of 18 October 2006 resolved to again re-establish the AFZ within the Pennant Hills Commercial Centre Precinct. The period of time for which the AFZ was to operate extended up until 18 October 2009.

Council has now been requested to consider further re-establishing the AFZ within the Pennant Hills Commercial Precinct.

PROPOSAL

Ministerial Guidelines on Alcohol Free Zones (February 2009) which supplement the relevant provisions of the *Local Government Act 1993 – sections 644, 644A, 644B, 644B(4), 644C and 646*, provides for a Council to prepare a proposal for an AFZ to be established for a period not exceeding four years. The period of the time to which the AFZ applied to the subject lands has now lapsed and it is proposed to re-establish the AFZ.

ZONE EXTENT

It is proposed to re-establish the AFZ within Fisher Avenue, Hillcrest Road, Ramsay Road, Warne Street, Pennicook Lane, Geeves Lane, Yarrara Road, and Shields Lane, Pennant Hills and including the area along the eastern side of Yarrara Road adjacent to the Pennant Hills railway station, Yarrara Road between Shields Lane and Pennant Hills Road, the area immediately in front of the library/community centre in Yarrara Road, together with the extension into Shields Lane between its intersection with Willis Avenue.

REASONS FOR CONSIDERING THE AFZ

It is noted that the AFZ within the Pennant Hills Commercial Precinct has expired.

Sections 644(3) and 644B(4) of the Local Government Act 1993 enables Council to re-establish an AFZ for further periods each not exceeding four years. Due to the effective implementation of the AFZ in the Pennant Hills Shopping Precinct, it is considered appropriate for Council now consider whether it wishes to re-establish the AFZ.

DURATION OF AFZ

Should Council agree to the re-establishment of the AFZ, it is suggested that the duration of the zone be for the maximum period permitted under *Section 644(3) of the Local Government Act 1993*, being four years.

PUBLIC NOTIFICATION

If Council supports the re-establishment of the AFZ in the Pennant Hills Shopping Precinct, it must firstly resolve to do so. Before Council can resolve to proceed with the AFZ, Council is required to advertise its intentions in accordance with *Section 644A of the Local Government Act* and to consider representations made by interested parties. Council must also consult the local Police, local hoteliers and other holders of liquor licences in the affected areas.

BUDGET

The erection of AFZ signage in the Shire can be funded from the current Works Division budget.

POLICY

Related legislation/policies include:

- *Local Government Act 1993.*
- *Ministerial Guidelines on Alcohol Free Zones 2009*
- *Liquor Legislation Amendment Bill 2008*

Legislative Provisions

The *Liquor Legislation Amendment Bill 2008* was introduced to give Police additional powers to enforce alcohol free zones. This includes the removal of mandatory warnings prior to any enforcement action being undertaken. A Police Officer is able to immediately confiscate alcohol and dispose of it.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

Working with our community

Consultation will take place regarding the AFZ with the relevant parties.

Conserving our natural environment

The AFZ exemptions do not have adverse impacts on our natural environment.

Fulfilling our community's vision in planning for the future of the Shire

AFZ promote safer precincts. Thriving town centres are a component of Council's vision for the Shire.

Supporting our diverse economy

The AFZ exemptions will enable local dining which will have a positive impact on the economy of the Shire.

RESPONSIBLE OFFICER

This report was prepared by Jacqui Tomlins, Executive Assistant to Executive Manager, Planning Division. Please direct questions to Maxwell Woodward, Executive Manager, Works Division. He can be contacted on 9847 6665.

RECOMMENDATION

THAT Council by publication in a newspaper circulating in the area:

1. Give notice of its proposal to re-establish, for a period of four years, an alcohol free zone as described in 3 under.
2. Invite representations from within the area for a period of fourteen (14) days following publication of its intention, together with the local Police, local hoteliers and other holders of liquor licences in the area.
3. Consider a further report on submissions following the public consultation period prior to determining whether to re-establish an alcohol free zone located over Fisher Avenue, Hillcrest Road, Ramsay Road, Warne Street, Pennicook Lane, Geeves Lane, Fisher Avenue carpark, Yarrara Road, and Shields Lane, Pennant Hills, as shown in the Plan attached to report WK70/10.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Plan of Proposed Alcohol Free Zone - Pennant Hills

File Reference: F2004/08355
Document Number: D01502558

16 WESTLEIGH ACCESS IMPROVEMENT WORKS - DISPOSAL OF RESIDUE LAND, 25 DUFFY AVE, THORNLEIGH

EXECUTIVE SUMMARY

This report deals with the operation of Duffy Avenue/Chilvers Road/The Esplanade intersection in light of the realignment works undertaken in Duffy Avenue (west) and Chilvers Road and recommends that Council make provision for future improvements at The Esplanade/Duffy Avenue.

As a consequence of this (long term) proposal it is also recommended that part of No. 25 Duffy Avenue (corner of Duffy Avenue and The Esplanade) be dedicated as public road and the residual land disposed of.

PURPOSE/OBJECTIVE

The purpose of this report is to review the need for future improvement works at this intersection and consider whether a portion of the land at No. 25 Duffy Avenue should be reserved for future road widening and the residual land disposed of.

DISCUSSION

Previous Council Resolution

The Executive Manager Works report to Council (WK43/02) indicated that the improvement works associated with full realignment of the intersection (Option G) would have the greatest potential in encouraging additional through traffic along the Malsbury Road/Sefton Road/Chilvers Road/The Esplanade route. It was consequently recommended, having regard to available funding that the improvement works at this intersection be initially limited to widening of Chilvers Road to provide an additional left turn lane from Chilvers Road into Duffy Avenue and a left turn lane from Duffy Avenue into Chilvers Road (Option F). Council in considering report WK43/02, resolved inter alia:

1. Council endorse the construction of Option F for the Duffy Avenue / Chilvers Road intersection (see attachment 1)
2. The full realignment of the intersection of Duffy / Chilvers / The Esplanade (Option G) be deferred for consideration after completion of the current schedule of works (see attachment 2)
3. Council's properties at No. 25 Duffy Avenue (cnr Duffy Ave and The Esplanade) and the residual of No. 32 Duffy Avenue be sold, excluding the land required to implement Option G in future years.
4. 100% of proceeds of No. 25 Duffy Avenue and the residual of No. 32 Duffy Avenue go towards the funding of Thornleigh/Westleigh Traffic Management works.

Status of Scheduled Works (Construction of Option F)

The work shown in Option F (current arrangement) was completed in 2004. A formal post construction traffic review has not been undertaken to determine the impact of recent works at this location. However, based on on-site observations, it is apparent that the additional lane in Chilvers Road has facilitated and improved traffic flow for the north-to south movement.

Impact of not proceeding with Full Realignment (Option G)

The requirement to realign Chilvers Road and The Esplanade intersection approaches was based on the impact of traffic that would be generated from the landholdings located west of Chilvers Road, including Sydney Water land. A review was recently undertaken to determine current and future operation characteristics of the subject intersection. This recent review has confirmed that the current layout results in sub-optimal intersection Levels of Service for both existing and future traffic demands in peak periods.

It is anticipated that upgrading of the intersection to option G would minimise the amount of traffic that currently uses Oakleigh Avenue to avoid delays experienced at the subject intersection. Between 4:00 pm and 6:00 pm (weekdays), there are about 300 vehicles that turn left from The Esplanade into Oakleigh Avenue. It is presumed that a significant number of these vehicles are avoiding the delay experienced by vehicles turning left from The Esplanade into Duffy Avenue west bound.

Network Considerations and Pattern of North-South Traffic Movements

The intersection of Duffy Road/Chilvers Avenue/The Esplanade is part of a regional route between Pennant Hills and Hornsby that provides relief to the Pennant Hills Road arterial route. The route is congested at peak hours, but fulfils its function within the Shire's road hierarchy. Its role as a local access route must also be recognised. In determining the requirements for improvements along this route, it has previously been considered that care must be exercised so as not to encourage additional through traffic to divert from the arterial network (Pennant Hills Road).

In terms of traffic origins and destinations, surveys conducted during preparation of the Malsbury Road Traffic Study (Connell Wagner, July 1998) established that 50% of trips passing through the subject junction are locally generated and 25% are locally attracted. The remaining 25% of trips are through trips i.e. traffic that travels at least from Clarke Road to the Esplanade. General observations also established that a significant proportion of the through traffic along the Malsbury Road/Sefton Road/Chilvers Road and The Esplanade has a destination or origin reasonably close to areas west of the Pennant Hills Road and the railway line. The Malsbury Traffic Study also established that there is a significant amount of traffic generated in areas west of the railway line in Thornleigh, Westleigh, Pennant Hills, Cherrybrook and Hornsby south west. This traffic has little choice but to use the Malsbury Road/Sefton Road/Chilvers Road/The Esplanade route. In this regard, there is merit in improving traffic conditions along this route hence retaining the south west corner (No. 25 Duffy Avenue) to provide an option for future road widening.

Conclusion - Future Roadworks

It is proposed that Council retain the option of proceeding with these roadworks in the medium to long term, should funds be made available. Accordingly, it is necessary to consider the most appropriate means of dealing with the land required for this work.

Existing Residence at 25 Duffy Avenue

The residence at No. 25 Duffy Avenue owned by Council has extensive termite damage. The defects inspection report prepared by Maxwell C Dietrich in July 2008 concluded that the majority of the building is dilapidated and damaged due to termite attack. As a consequence the residence is not in a habitable condition. In Mr Dietrich's opinion at least 60% of the residence would need to be rebuilt. The cost of repairing the residence to a reasonable standard for habitation would be substantial and cannot be supported, as the existing residence would be impacted by future improvement works.

Disposal Strategy

Council records indicate that No. 25 Duffy Avenue Thornleigh was purchased by Council in February 1991 for \$230,000. It comprises a total site area of 762 square metres with about 45 metres frontage to the Esplanade and 17 metres frontage to Duffy Avenue. The current plan for the proposed road realignment works requires approximately 262 square metres of the site, leaving a residual land area of about 500 square metres (see attachment 3).

A number of property strategies and disposal options have been analysed as follows:

1. Purchasing the adjoining residential property at No. 27 Duffy Avenue and completing a re-subdivision including the residual of No. 25 Duffy Avenue (see attachment 4).

Advantages: Slightly improved financial return and environmental outcome resulting from better re-subdivision keeping residences away from traffic intersection.

Disadvantages: Risk of paying a premium for the acquisition of No. 27 Duffy Avenue, additional subdivision costs may diminish additional financial return, risk and time delays associated with external assessment of re-subdivision, additional up front funding required.

2. Dedicating the land required for the road realignment as public road and selling the residual land comprising about 500 square metres (with or without condition requiring driveway to be located at the southern boundary, away from the intersection).

Advantages: Minimum time required for sale, subject to marketing difficulties associated with the location on a busy intersection; contract condition regarding driveway location ensures safest possible access, no additional cost or risk of subdivision as subdivision application not required for public road dedication.

Disadvantages: Slightly lower financial return, less favourable environmental outcome from development being close to intersection, increased public expectation that realignment will proceed resulting from visual widening of road reserve.

3. Sale of the whole of No. 25 Duffy Avenue subject to contract provisions for the reservation of the land required for the road realignment by way of an "easement" or "restriction of use" with accompanying caveat on title for future dedication as public road, at no cost to Council.

Advantages: Keeps future options open, purchaser enjoys use of land until such time as Council requires land for realignment, no increase in public expectation that realignment will occur.

Disadvantages: No guaranteed increase in financial return, risks associated with future public road dedication at no cost being challenged.

4. Dedication of public road and development of the residual land with the construction of a new residence for sale as a house and land package.

Advantages: Potential additional financial return from profit of development, full control of development outcome.

Disadvantages: Additional up front funding required, development risks of unforeseen costs offsetting any financial profits, extended time required for development delaying financial return.

5. Delay disposal until final decision on realignment.

Advantages: Value of part of land identified for road realignment retained, improved development outcome of whole site if road realignment abandoned in the future, no change to current public expectations.

Disadvantages: Delay of liquidating financial return, risk of capital appreciation being less than alternative investment of funds, ongoing maintenance costs.

Conclusion – Disposal of Land

Having regard to the Triple Bottom Line outcomes, the risk analysis and the current and future performance of the property asset, it is considered that Option 2 (above) represents the best outcome for Council, balancing a number of outcomes and priorities of Council.

Accordingly, a formal valuation report was commissioned to provide a current market valuation of the property “as is” with the uninhabitable residence, together with a market valuation of the property after part of the property has been dedicated as public road and the residence demolished. The valuation report has been renewed internally by Council’s Manager Property Development, and is considered to reasonably reflect market values. The valuation report and valuation review are considered to be confidential (S10A (2) (c) Local Government Act) and are on file.

Further comments and the amounts of valuation are attached to this report as confidential attachment 4.

It is therefore recommended that Council resolve to dedicate that part of 25 Duffy Avenue Thornleigh, as generally identified as option G as shown in the site plan attached to this report as Attachment 3, as public road, then demolish the existing improvements and sell the residual portion as vacant land, subject to a condition that a driveway is placed toward the southern end of the land fronting The Esplanade. It is also recommended that the final sale price be no less than that stated in the confidential attachment 5 to this report.

BUDGET

There are no budgetary implications.

POLICY

The “Land Property Sales – Use of Funds” policy applies to the sale of the subject property, in the circumstances, it is considered that there is no compelling reason to direct the funds outside of the provisions of this policy, which allocates the funds as follows:

- i 80% of Debt Retirement and Capital Projects Restricted Asset Account
- ii 10% to Land Acquisition Restricted Asset Account
- iii 10% to Council’s working funds to cover disposal costs.

CONSULTATION

This report has been prepared in consultation with the Transport Planner, Manager, Town Planning Services, and the Property Development Manager.

TRIPLE BOTTOM LINE SUMMARY**1. Working with our Community**

Not applicable

2. Conserving our Natural Environment

There is no physical change to the road resulting from the rectification of boundaries.

3. Contributing to Community Development through Suitable Facilities and Services

Not applicable

4. Fulfilling our Community’s Vision in Planning for the Future of the Shire

A current road asset is preserved.

5. Supporting our diverse economy

This matter is not considered to directly benefit the local economy.

6. Maintaining sound Corporate and Financial Management

Regularising road boundaries protects council assets and recognises risk management issues. The proposed disposal will release funding for use by Council in other current projects.

7. Other Sustainable Considerations

Not applicable

RESPONSIBLE OFFICER

The responsible officer is the Manager, Design and Construction, Mr Rob Rajca, who can be contacted on 98476675.

RECOMMENDATION

THAT:

1. Council make provision for future improvements at the intersection of The Esplanade and Duffy Avenue (Option G).
2. Council proceed to dedicate the land required for road widening as public road and dispose of the residue of No. 25 Duffy Avenue, Thornleigh.
3. The proceeds of the disposal of the residue of No. 25 Duffy Avenue, Thornleigh be allocated in accordance with the "Land Property Sales – Use of Funds" policy.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Chilvers Road and Duffy Avenue realignment - Option F
2. Chilvers Road, Duffy Avenue and The Esplanade realignment - Option G location plan.
3. Chilvers Road, Duffy Avenue and The Esplanade realignment - Option G - Site Plan
4. Chilvers Road, Duffy Avenue and The Esplanade realignment - Option 1 - Site Plan
5. Disposal of Land - Valuation Information - *This attachment should be dealt with in confidential session, under Section 10A (2) (c) of the Local Government Act, 1993. This report contains information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.*

File Reference: F2004/09774
Document Number: D01332110

17 HORNSBY OVERLAND FLOW STUDY REPORT AND DRAFT FLOOD PLANNING MAPS

EXECUTIVE SUMMARY

The NSW Government has introduced a Flood Prone Land Policy that affects all local Government areas of the State. The Policy aims to improve the protection of life and property from the threat of flood. It requires all councils to identify and map flood prone land within their local government area using guidelines set out in the Floodplain Development Manual (2005). Section 733 of the Local Government Act also requires Council to provide information regarding flood liable land and land in coastal zone. This clause provides exemption from liability to Council in respect of any advice furnished in good faith by the Council relating to the likelihood of any land being flooded or the nature or extent of any such flooding as well as any land in the coastal zone being affected by a coastline hazard.

Council is also in the midst of preparing the Hornsby Shire Comprehensive Local Environmental Plan (LEP). One of the clauses in the Standard Instrument LEP is Natural Resource Management relating to Flood Planning. This clause relates to development on flood prone land and councils are first encouraged to complete their flood studies and risk assessment, where practicable, and to translate the information regarding flood planning areas.

Council has completed its flood study using a two-dimensional computer model, TUFLOW, to model the overland flows across the entire LGA using a fine 5 metre by 5 metre grid. The study has identified, based on Criterion 2, 4,879 properties as being affected by overland flooding. An overland flow/flood depth in excess of 150mm during a 100 year average recurrence interval (ARI) design storm event has been selected as the critical depth for the Hornsby study due to the relatively steep terrain of the Shire and taking cognisance that, in conjunction with the steep terrain, the velocity of the overland flow is relatively high as to cause storm damage and create a hazard for the community. The adopted overland flow depth of 150mm is less than the 300mm depth given in the Department of Planning guidelines for the preparation of Flood Planning Maps and as a result will identify more potential flood prone properties that would not be able to benefit from the NSW Government's complying development provisions than if the 300mm flow depth were used. The adopted Study flow depth in excess of 150mm has however been discussed and endorsed by the Hornsby Shire Floodplain Risk Management Committee as being appropriate for the Shire.

In addition to overland flooding, flood extent maps for mainstream flooding have also been prepared for the Hawkesbury River as well as properties impacted by projected sea level rise for the river settlements and Dangar Island.

The Hornsby Overland Flow Study (OFS) Report and the accompanying draft Flood Planning Maps (FPMs) based on Criterion 2 are presented in Appendix 1. The draft FPMs will, following public exhibition and adoption by Council, be an addendum to the Hornsby Shire Comprehensive LEP to control development in the flood prone areas of the Shire. Properties identified by the study as potentially flood liable are shown in the draft FPMs.

Overland Flow Maps identified by the OFS and based on all three criteria considered have also been prepared and are presented in Appendix 2 to provide stormwater management information to the community.

The Hornsby Overland Flow Study Report and the draft Hornsby Shire Flood Planning Maps as well as the draft Overland Flow Maps and are presented for Council's consideration and recommended for endorsement for public exhibition for a period of 28 days.

To enable the owners of the 4,879 properties identified in the draft FPMs to be appropriately notified, it will be necessary to contact each property owner/s by mail and provide sufficient information so that the owner would be able to understand how the identification of the property affects them. The proposed letter to be sent to affected property owners and the attached FAQs leaflet are presented in Appendix 3 and recommended for Council's approval.

PURPOSE/OBJECTIVE

This report presents the Hornsby Overland Flow Study (OFS) Report and accompanying draft Hornsby Shire Flood Planning Maps (FPMs) as well as the draft Overland Flow Maps for Council's consideration and endorsement for public exhibition.

The draft FPMs, following the public exhibition and subsequent adoption by Council, will be submitted to the Department of Planning as an addendum to the Hornsby Shire Comprehensive Local Environmental Plan (LEP).

The Hornsby Shire OFS Report and Overland Flow Maps, following the public exhibition and subsequent adoption by Council, will be placed on Council's website to provide flood management information to the community.

BACKGROUND

The recognition and management of flood risk is an essential requirement to enable the protection of existing and future occupants of flood prone land from the ramification of floods. The management of flood prone land is the responsibility of Local Government.

The NSW Government has developed a Flood Prone Land Policy (FPLP) to support this management role. It is aimed at providing management options to existing flood problems in developing areas and ensuring that new developments are compatible with the flood hazard and does not create additional flooding problems in other areas.

To assist in implementing this policy, the NSW Government has prepared the Floodplain Development Manual (FDM). This document is intended to guide councils in developing and implementing their Flood Risk Management Plans (FRMPs). These plans are intended to address three key issues:

1. Safety of people.
2. Management of potential damage to property and infrastructure.
3. Management of the cumulative impacts of development.

Further guidance for preparing the plans is provided by the Department of Planning (DOP) through their Guidelines on Development Controls on Low Flood Risk Areas. In addition, Ministerial Direction No. 15 (under Section 117 of the Environmental Planning and Assessment Act) requires that the plans be consistent with the FDM when preparing the LEP.

To balance the protection of existing and future inhabitants from flood hazard, the FDM advises that lands should be categorised to show where controls will and will not be required to be identified. This will allow development controls under the LEP to be developed. Exempt and Complying Development Codes (the “Codes SEPP”) can then be applied to non-flood planning areas. Only flood planning areas will need to be scrutinised through the Development Application (DA) process.

DISCUSSION

Need for Flood Study

The Hornsby OFS was undertaken to enable properties within its urban areas that are likely to be affected by overland flows from Council’s stormwater drainage systems to be identified.

The study distinguishes between mainstream flooding and overland flow/flooding. Mainstream flooding within Hornsby Shire is generally contained within the National Parks and Reserves and along the Hawkesbury River, and results when the stream flow overtops the banks of a stream or river.

Overland flow/flooding generally affects upper catchment areas and applies to most of the urban areas within the Shire. These overland flows generally follow paths where the natural creeks have been converted into piped systems or through flowpaths in existing developments. FPMs need to be prepared to identify flood prone areas affected by the mainstream and overland flood types.

The mainstream flooding and overland flow areas need to be identified to ensure that inundation and flooding affects are considered as part of the development assessment process, and requiring a DA. All other properties will then benefit from the complying development provisions under the Codes SEPP General Housing Code. Currently, within Hornsby Shire, developments on flood affected land can under the Codes SEPP take place without due consideration by Council of effects of inundation or flooding on the development.

Methodology for Flood Study

To meet the main objective of identifying the urban properties affected by either overland flow or mainstream flooding, it was necessary to identify the areas to be modelled. Once these were defined, the appropriate type of modelling can be applied to each area:

1. Urban areas affected by overland flow/flooding.
2. Urban areas affected by mainstream flooding.

The analysis required for item 1 is a complex task in an urban environment such as Hornsby Shire. Council has engaged a consultant, Cardno Lawson Treloar Pty Ltd., to carry out this work. The technical details of the methodology used are given in the report.

With recent advances in flood and overland flow modelling packages, it has been possible to create a model to define the overland flow behaviour across the entire urban area of the Shire. A two-dimensional computer model, TUFLOW, has been established to model the overland flows across the entire LGA using a fine 5 metre by 5 metre grid. This model has established preliminary overland flow extents across the urban areas.

The identification of properties that would be potentially affected was based on the following criteria:

- Criterion 1 - the property is shown to have a piped or open drainage line through any part of the property as shown in the 'pit and pipe GIS layer' provided by Council;
- Criterion 2 - the property is inundated by overland flow to a depth greater than 150 mm during a 100 year average recurrence interval (ARI) design storm event;
- Criterion 3 - any part of the property lies within 5 metres of a piped or open drainage line identified under Criteria 1, provided the drainage line is not located in a road reserve.

In addition to overland flow, flood extent maps for mainstream flooding covering Criterion 2 above have been prepared for the Hawkesbury River. This mapping is based on flood level information provided by Council, from previous studies of the Hawkesbury River. This data was based on information that was previously provided by Gosford City Council, and provides flood levels at cross sections moving along the River. This mapping was derived from a flood study that was undertaken in 1982 by NSW Public Works.

It is to be noted that an overland flow depth in excess of 150mm has been selected as the critical depth for the Hornsby study due to the relatively steep terrain of the Shire and taking cognisance that, in conjunction with the steep terrain, the velocity of the overland flow is relatively high as to cause storm damage and create a hazard for the community.

The selected study overland flow depth of 150mm is less than the 300mm depth given in the DOP guidelines for the preparation of Flood Planning Maps. As a result of the 150mm overland flow depth selected, the Study has identified more potential flood prone properties that would not be able to benefit from the NSW Government's complying development provisions than if the 300mm flow depth were used.

The adopted Study flow depth in excess of 150mm has however been discussed and endorsed by the Hornsby Shire FRMC as being appropriate for the Shire.

The consultant's Hornsby OFS Report and accompanying draft FPMs based on Criterion 2 are presented in Appendix 1. Overland Flow Maps identified by the Study based on all three criteria considered are presented in Appendix 2.

Council's Floodplain Risk Management Committee (FRMC)

The results of the technical studies have been presented to and were endorsed by the Hornsby Shire FRMC on 5 August 2010. This committee is an essential part of the process as prescribed by the FDM. The Hornsby Shire FRMC consists of the following ten members:

- Two Councillors with one as the Committee Chairperson.
- Three Community Representatives selected from applicants after advertising in the local press and evaluation of submitted expressions of interest.
- Three Council staff, one each representing Council's Works Division, Environment Division and Planning Division.
- One Representative from the Department of Environment, Climate Change and Water (DECCW)
- One Representative from the State Emergency Services (SES)

The Committee met twice on 16 June and 5 August 2010. Committee members were given details of the study and its objectives and provided with copies of the consultant's report and draft maps. The Committee has, at its second meeting, endorsed the study and draft flood maps and has recommended that these be reported to Council with a recommendation that they be placed on public exhibition.

A Council workshop was also held on 25 August 2010 to brief the Mayor and Councillors, (with the General Manager, Executive Managers and relevant staff in attendance), on the process adopted for the study and the draft flood maps.

Outcomes of Flood Study

The main objective of the Hornsby Study was to identify urban properties that may be affected by overland flow/flooding based on the three criteria given under the study methodology.

A total of 7,815 urban properties out of a total of 45,062 have been identified as properties that may experience flooding due to overland flow (i.e. 17.3% of properties). A summary of the number of properties identified under Criterion 2 and Criteria 1 & 3 is tabulated below. It is to be noted that there are a number of properties which have been identified under both Criteria 1 & 3 and Criterion 2.

Criterion	Number of Properties	Percent of Total Properties
Criteria 1 & 3	6,170	13.7%
Criterion 2	4,879	10.8%
Total	7,815	17.3%

The maps resulting from the assessment for Criterion 2 are presented in Volume 2 of the Study Report and are proposed as the draft Flood Planning Maps for inclusion as an addendum to the new Hornsby Shire Comprehensive LEP. The maps resulting from the assessment for all of the above three criteria are presented in Appendix 2 as Overland Flow Maps to provide general stormwater management information to the community.

Flood Planning Maps

The Flood Study has been used to prepare Flood Planning Maps (FPMs) for inclusion in the Hornsby Shire Comprehensive LEP to control development in the flood prone areas of the Shire. The draft FPMs are presented in Appendix 1 in Volume 2 of the Hornsby OFS Report for Council's consideration.

Impacts on Properties identified in the FPMs

The properties identified in the draft FPMs presented in Appendix 1 will, following the public exhibition and subsequent adoption by Council, be designated as Flood Planning Areas in the Hornsby Shire Comprehensive LEP. A DA will be required for any development in a Flood Planning Area, with a requirement to undertake a hydraulic study in conjunction with the development proposal. Where the extent of overland flow is significant, a more detailed hydraulic study will be required than if the extent of overland flow/flooding were minor and no development were proposed within the area of the lot affected by the overland flow.

Owners of properties identified in the draft FPMs may have concerns with the identification of their properties as flood planning areas. Such concerns may arise from the perception that this would have an adverse impact on the property value as well as the added expense of having to undertake a hydraulic study when undertaking development.

The public exhibition of the draft FPMs will hence need to address these concerns.

RECOMMENDED ACTIONS

Public Exhibition Period

The Hornsby Overland Flow Study Report and accompanying Draft Flood Planning Maps as well as the Overland Flow Maps have been considered and endorsed by the Hornsby Shire FRMC at its meeting held on 5 August 2010. The FRMC has resolved that, following the Council Workshop on 25 August 2010 and if no major changes were required, the draft Hornsby Overland Flow (/Flood) Study Report and Flood Planning Maps, be reported to Council with a recommendation that they be placed on public exhibition. The FRMC also endorsed the proposed public exhibition period of 28 days. It was considered that the public exhibition should also be on a Shire-wide basis.

Future s149 Certificate Notation

The results of the Study have enabled Council to identify those properties that are exempt and meet the conditions for complying development as well as properties that would potentially be affected by overland flows. The 4,879 properties identified as potentially being affected by overland flow will be noted as Flood Control Lots on s149 Certificates. These properties will be shown on the draft FPMs as being affected by overland flow depths in excess of 150mm during a 100 year ARI design storm event and will require a DA to be submitted for any development on them.

Properties identified as experiencing minor drainage inundation are only identified for Council's drainage management purposes and are only shown on the Overland Flow Maps presented in Appendix 2. These properties will not have any notation on the s149 Certificate.

Proposed Management of Public Exhibition

To enable the owners of the 4,879 properties identified in the FPMs to be appropriately notified, it will be necessary to contact each property owner/s by mail and provide sufficient information so that the owner would be able to understand how the identification of the property affects them. An FAQs (frequently asked questions) leaflet relating to the Study Report and FPMs that will be on public exhibition has also been prepared and will be attached to the letter to be sent to affected property owners. The proposed letter to be sent to affected property owners and the attached FAQs leaflet are presented in Appendix 3 under separate cover. This information will also be placed on Council's website.

Council will also need to provide a 'hot-line' to handle the anticipated enquiries concerning the information given in the FPMs.

Endorsement by Council for Public Exhibition

It is now recommended that Council endorse for public exhibition for a period of 28 days, the Hornsby OFS Report with the accompanying draft FPMs presented in Appendix 1, and the

Overland Flow Maps presented in Appendix 2. Appendices 1 and 2 are to remain confidential until the commencement of the public exhibition period.

Council is also requested to endorse the Letter to Affected Property Owners together with the attached FAQs leaflet presented at Appendix 3 under separate cover.

In the event the Council does not proceed with the public exhibition and adoption of the FPMs, it may be exposed to public liability risks as it is aware of potential flood liable properties.

Actions following Public Exhibition

On expiration of the public exhibition period and following receipt and consideration of submissions and comments, a further report will be prepared for Council to consider and, if appropriate, adopt the Study report and Overland Flow Maps and the FPMs.

The adopted FPMs will then be submitted to the DOP as an addendum to the Hornsby Shire Comprehensive LEP.

BUDGET

The main direct cost resulting from this report are the costs associated with the public exhibition and mail out to the owner of properties identified in the draft FPMs as well as the manning of the hot-lines. These have been allowed for in the Works Division's budget.

Additional costs associated with further refinement of the flood study are anticipated to be covered by relevant grants from the State Government.

POLICY

There will be policy implications resulting from this report as the properties identified in the draft FPMs will be required to submit DAs when undertaking development whereas there is currently no legal requirement for them to do so.

In conjunction with the submission of DAs, there will also be a requirement for hydraulic studies to accompany such DAs to ascertain the impact of potential flooding on the development.

CONSULTATION

The preparation of the Hornsby OFS and Draft FPMs has been carried out in consultation with the relevant officers from the Environment, Planning and Works Divisions.

The Hornsby OFS and Draft FPMs have been considered and endorsed by the Hornsby Shire FRMC. A workshop has also been held to brief the Mayor and Councillors with the General Manager, Executive Managers and relevant staff in attendance.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line (TBL) attempts to improve Council's decisions by being more accountable and transparent on social, environmental and economic factors. It does this by reporting upon Council's Strategic Theme.

The TBL assessment summary for the Hornsby Overland Flowpath Study and Draft Flood Planning Maps presented is as follows:

1. Working with our community.

This report is readily available to the community. Social equity will be considered as part of the process for the setting of flood planning controls.

2. Conserving our natural environment.

The Flood Planning Maps will lead to measures that minimise the impacts of stormwater on the natural environment. It is anticipated that the flood planning process will explore various measures, including storage and treatment of stormwater as well as better management of any impacts on bushland and environmentally sensitive areas.

3. Contributing to community development through sustainable facilities and services.

Community consultation is part of the flood planning process and the resulting increased public awareness of flooding issues will contribute to community development. Safety in the public environment will be improved through the identification of flood prone areas and their community participation required. Council will cater for the physical access needs of the community as required.

4. Fulfilling our community's vision in planning for the future of the shire.

The existing built and natural environment and their associated heritage values will be considered as part of the flood planning process. Improved flood management will promote the well-being of the community.

5. Supporting our diverse economy.

Better management of flooding will lead to reduced impacts and financial losses. Any restrictive development controls arising are in the public interest in the long term, although they may have some impacts on locally affected owners. There will be a neutral effect on local employment.

6. Maintaining sound corporate and financial management.

There is a budget allocation in 2010/2011 for the Flood Risk Management Plan process. The implementation of Flood Risk Management Plans over time will involve costs to Council, however, it will provide a substantial benefit to the community.

7. Other Sustainable Considerations.

There are no known negative impacts from this proposal at this stage.

RESPONSIBLE OFFICER

Michael Bickford, Investigations Engineer, on telephone number 9847 6825

RECOMMENDATION

THAT:

1. The Hornsby Overland Flow Study Report and the accompanying Draft Hornsby Shire Flood Planning Maps presented in Appendix 1, and the Overland Flow Maps presented in Appendix 2 be endorsed by Council and placed on public exhibition for a period of 28 days.
2. The Letter to Affected Property Owners and the FAQs leaflet attachment presented in Appendix 3 be approved by Council.
3. A further report is prepared for Council following the expiration of the public exhibition period and addressing the submissions received.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Appendix 1 - Hornsby Overland Flow Study Report and accompanying draft Hornsby Shire Flood Planning Maps (Under separate Cover - CONFIDENTIAL)
2. Appendix 2 - Overland Flow Maps (under separate cover - CONFIDENTIAL)
3. Appendix 3 - Letter to Affected Property Owners and FAQs leaflet attachment (under separate cover)

File Reference: F2010/00292
Document Number: D01497497

**18 COMPULSORY ACQUISITION OF CROWN LAND FOR PUBLIC ROAD -
LOTS 1-4 DP 1133368 CANOELANDS ROAD, CANOELANDS (FORMERLY
GLENORIE)**

EXECUTIVE SUMMARY

Council considered Executive Manager's Report No WK49/10 at its meeting on 18/8/2010 and resolved to acquire crown land for public road. The acquisition needs to be by compulsory process to meet the requirements of the Land and Property Management Authority.

An application to the Division of Local Government (DLG) in relation to the acquisition has resulted in the Division requesting Council formally confirm within its resolution that the Minister's and Governor's approval be sought.

PURPOSE/OBJECTIVE

That Council carry a resolution "to make an application to the Minister for local government and/or Governor" to acquire lands by compulsory process.

DISCUSSION

Following Council's decision at its meeting on 18 August 2010, an application was made to the Division of Local Government, Department of Premier and Cabinet, for compulsory acquisition of the crown land sought for road. Council's decision was confirmation of an earlier resolution which according to DLG had become stale and had other deficiencies.

When preparing the application regard was had to the specific issues over which DLG had sought clarification. One issue was that the resolution should properly authorise the application to the Minister and Governor. Council sought legal opinion confirming that the resolution was appropriate. The application was accompanied by this legal advice from Council's Solicitor that Council's decision authorised the application for the Minister's and Governor's approval.

The Division of Local Government has again rejected Council's application and has now advised that it requires a formal decision of Council, in words specifically resolving to make the necessary application to the Minister and Governor before it is prepared to process the application. DLG bases its requirements on the provisions of the Local Government Act limiting matters that can be delegated.

In the circumstances the most expeditious solution is to comply with the DLG requirements.

BUDGET

Funding has previously been confirmed in Report WK49/10.

POLICY

There are no policy issues associated with this report.

CONSULTATION

This is an entirely procedural matter and does not warrant other consultation.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

This report has been prepared by Property Officer, Allan Selway, and additional information can be obtained prior to the meeting on 9847 6669.

RECOMMENDATION

THAT:

1. Council apply to the Minister for Local Government and the Governor for approval to compulsorily acquire Lots 1-4 DP 1133368 Canoelands Road, Canoelands.
2. Upon acquisition the land referred to in (1) be dedicated as Public Road.
3. Funding of the acquisition be authorised as set out in Executive Manager's Report No WK49/10.
4. The General Manager be delegated with authority to negotiate detailed terms of agreement consistent with this report.
5. The General Manager be authorised to execute any document in relation to this matter deemed appropriate by Council's legal advisors.
6. If required by the absence of the General Manager or by legal statute, Council authorise the use of Council's Seal on any legal documents in relation to this matter deemed appropriate by Council's legal advisors, subject to review and authorisation by an Executive Manager of Council. The documents may include but not be limited to:
 - a. Application for Compulsory Acquisition
 - b. Notice of Road Dedication
 - c. Deed of Agreement and Deed of Release
 - d. Registration of Transfer or Request

MAXWELL WOODWARD
Executive Manager
Works Division

PETER THOMPSON
Manager - Property Development
Works Division

Attachments:

There are no attachments for this report.

File Reference: F2010/00308
Document Number: D01497518

19 "WELLUM BULLA" HORNSBY SHIRE COUNCIL MATERIALS HANDLING FACILITY REPORT ON OPERATIONS AS AT 30 JUNE 2010

EXECUTIVE SUMMARY

Development Consent No. 2393/03 for the continuation of operation of the "Wellum Bulla" Hornsby Shire Council Materials Handling Facility was granted by Council on 16 February 2005.

The facility has been established to enable Council to reuse much of the excavated material generated from the maintenance and improvement of local roads, footpaths and drains within the Shire.

This report provides Councillors with information relating to the operation of the facility as at 30 June 2010.

PURPOSE/OBJECTIVE

The purpose of this report is to advise the Council of the operation of the "Wellum Bulla" Hornsby Shire Council Materials Handling Facility as at 30 June 2010.

DISCUSSION

1. Purpose of the Facility

The facility is located approximately 1.5 kilometres north of Mt Kuring-gai Railway Station on land between the F3 Freeway and the Northern Rail Line.

Hornsby Shire Council generates a quantity of material waste per year in undertaking normal programs of infrastructure construction and maintenance. The facility was established to enable Council to reuse much of the excavated material generated from the maintenance and improvement of local roads, footpaths and drains within the Shire.

A significant portion of this material waste is made suitable for re-use in Council's works programs by stockpiling, separating, sorting and sieving the material at the facility. Excavated materials such as sand, soil, gravel and profile material are sieved and graded to provide a variety of reusable materials; sieved concrete and asphalt material are sent for reprocessing at an external commercial crushing facility and returned as re-usable material as required. The maximum throughput of materials processed on-site is limited to 30,000 tonnes per annum.

2. Development Consent

Approval of the materials handling facility was initially granted by Development Consent No. 193/97 dated 22 June 1998.

The facility was established during 1998 to 2000 and commenced operations on 1 March 2001. The facility operated in accordance with the consent until 1 March 2004.

Following Development Consent No. 2393/03 granted on 16 February 2005, the facility recommenced operations on 16 May 2005.

3. Management of the Facility

The facility is managed by Council's Engineering Services Branch staff in accordance with the following responsibilities and reporting:

Site Supervisor

- Ensure that signed and dated checklists are completed and forwarded to the Site Manager.
- Issue and follow up on Corrective Actions, non-conformances and observations.
- Report on effectiveness of safeguard measures to the Site Manager.
- Implement the Incident Management Plan as required.

Site Manager (Engineering Resources Coordinator)

- Ensure implementation and maintenance of environmental actions and controls in the EMP.
- Ensure that site personnel are aware of their environmental responsibilities in the management and implementation of safeguard controls and actions.
- Ensure that site assessments by the Site Supervisor are being carried out and reported to the Site Manager.
- Ensure that corrective and preventative actions arising from internal assessments or environmental audits are implemented.

Facility Manager (Manager Engineering Services)

- Ensure implementation and maintenance of environmental actions and controls in the EMP.
- Address any environmental or community complaints made about the site.
- Provide progress reports to Council on the operations of the facility.

4. Protection of Natural Waters and Site Drainage

The facility is operated in accordance with an Environmental Management Plan that incorporates the requirements of Department of Environment, Climate Change and Water, NSW National Parks and Wildlife, Department of Lands.

The Environmental Management Plan contains extensive environmental safeguards to protect the amenity of the surrounding natural and built environment.

The facility has two sedimentation ponds located on site designed to contain a 1 in 20 year rainfall event.

Any stormwater overflow from the site is designed to discharge into the stormwater drainage system of the F3 Freeway via a series of concrete catchment drains through the National Park.

5. Weed Management

A weed management plan has been implemented at the facility. The plan is being carried out by Urban Bushland Management Projects Pty Ltd under the direct supervision of Council's Bushland Management Operations Coordinator.

The plan comprises a systematic program involving initial weed control, weed suppression, revegetation of buffer areas and bush regeneration.

Progress to date includes removal of environmental weeds and noxious weeds in the operational area and the adjacent National Park area immediately surrounding the site. In addition, a three metre buffer has been created behind the acoustic wall together with removal of Bamboo, Lantana, Cape Broom, Crofton Weed and Privet in this area.

6. Monitoring Committee

A "watchdog" group known as the "Wellum Bulla" Hornsby Shire Council Materials Handling Facility Monitoring Committee, consisting of two Councillors, four community representatives, two Council staff, an environmental representative and one Metropolitan Aboriginal Land Council member has been established to overview and monitor the operation of the facility.

The Monitoring Committee meets each four months on site at the facility and a report is provided to Council.

Report No. WK46/09 was presented to Council for consideration at its Ordinary Meeting of 8 July 2009 regarding Meeting No. 2/09 of the Committee.

Report No. WK84/09 was presented to Council for consideration at its Ordinary Meeting of 11 November 2009 regarding Meeting No. 3/09 of the Committee.

Report No. WK24/10 was presented to Council for consideration at its Ordinary Meeting of 21 April 2010 regarding Meeting No. 1/10 of the Committee.

7. Operation of the Facility

Tonnages

Prior to taking a decision to transport excavated material to the facility, operational staff assess the cost of disposal of waste/surplus material as part of their job planning. The facility is only used to dispose of materials if it can be justified on economic grounds, or where there is a compelling requirement to recover a certain type of material from the waste stream.

The tonnages through the facility for 2009/2010 are as follows:

STOCKPILES AND THROUGHPUT AS AT 30 JUNE 2010

Material	Stockpiles 30/06/09	Input	Site Processing of mixed waste	Output	Stockpiles 30/06/10
Unprocessed Mixed Material	0	3647		0	0
Processed Material suitable for re-use	191		1169	1153	207
Processed Material for landfill disposal	286		611	215	682
Concrete for recycling	40		1867	1555	352
New material	58	214		174	98
TOTAL	575	3861		3097	1339

The throughput for 2009/2010 was 3861 tonnes comprising 214 tonnes of new material purchased, and 3647 tonnes of mixed waste received from excavated material from road and drainage works. This excavated material was primarily generated from the road assets branch carrying out maintenance works.

The road construction branch also generated approximately 5000 tonnes of excavated material for 2009/2010. The excavated material generated by the road construction branch was transported direct to recyclers or landfill for economical purposes as the work sites enabled material to be sorted on site and transported in 7 tonne and 14 tonne trucks.

- Key Performance Indicators

Key Performance Indicator	2009/10	2008/09	2007/08	2006/07	2005/06
Waste Material processed (tonnes)	3647	4674	3712	5263	8388
Percentage of waste material diverted from landfill ¹	83	89	86	87	85
Processing Cost (\$/tonne) ²	67.05	57.00	85.52	49.08	32.26
Material suitable for re- use (tonnes)	1169	3030	2639	2908	4099
Material suitable for recycling (tonnes)	1867	1115	1860	1686	3053
No. complaints received	0	0	0	0	0
Controllable non- conformances regarding air and water quality requirements	0	0	0	0	0

Where:

1. Percentage of waste material diverted from landfill =

$$\frac{(\text{Input less New Material}) - (\text{Processed Material to Landfill})}{(\text{Input less New Material})}$$

2. Processing Cost =

$$\frac{\text{Total Expenditure} - \text{Purchase of Material}}{\text{Input} - \text{New Material}}$$

- *Financial status*

The facility operated at a surplus of \$9898 for the 2009/2010 period (Attachment A).

There have been significant increases in tipping fees at the recyclers and landfills from 1 July 2006. The Department of Environment and Conservation (Environment Protection Authority) advised in November 2005 that the Government would introduce the City and Country Environment Restoration Program, which involves seven major environmental initiatives totalling over \$400 million. The Program is funded by the Waste and Environment Levy which replaced the current Waste Levy in 2006. Over the ensuing five years, there is an annual increase of \$6 per tonne of waste disposed of, in addition to the current waste levy increases and annual adjustments for inflation.

The gate charges at the facility are calculated on the anticipated tonnage of excavated materials received and the cost of the operation of the facility, with the objective of operating at a zero net cost over the year. The gate charge for mixed waste for 2009/10 was \$105/T, and will remain unchanged in 2010/11.

An economic analysis comparing facility gate charges versus the cost of transport and disposal of excavated material direct to recyclers and landfills by the road asset branch confirms that it is in Council's financial interest to continue operation of the facility (Attachment B).

The facility is operating in such a manner that fixed costs have been reduced to a minimum consistent with safe operation. A sensitivity analysis shows that it is economical for small trucks working in the north of the Shire to continue to use the facility, particularly if only partially loaded. In the event that the material throughput declines to 2000 tonnes, the future use of the facility will require further assessment.

The 2009/10 Waste and Environment Levy has been increased from \$58.80 per tonne as from 1 July 2009 to \$70.30 per tonne from 1 July 2010.

Based on the 2009/10 Waste and Environment Levy of \$58.80 per tonne, the cost to dispose of mixed material directly to landfill without processing at the Materials Handling Facility would have resulted in additional costs to Council of \$95,000, including 1169 tonnes of processed material suitable for re-use on Council works.

BUDGET

The cost of disposal of waste/surplus materials from various works projects is factored into estimates for each job or maintenance activity. As costs increase, the amount of work that can be achieved within a fixed budget will decrease. Increasing waste disposal charges will adversely impact on current budgets with outputs being decreased. The internal loan used to finance the establishment of the facility has been repaid.

POLICY

There are no policy implications for Council.

CONSULTATION

Consultation has been held with the Manager Assets and the Manager Design and Construction.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

Working with our community

The facility has been established to optimise the opportunity for recycling of unwanted materials, thereby allowing scarce landfill space to be better used by the community. A Monitoring Committee has been established to overview and monitor the operation of the facility. Four community representatives have been included in the Committee.

Conserving our natural environment

Hornsby Shire Council generates a significant quantity of material waste per year in undertaking normal programs of infrastructure construction and maintenance. The facility was established to enable Council to reuse much of the excavated material generated from the maintenance and improvement of local roads, footpaths, drains and parks within the Shire.

Contributing to community development through sustainable facilities and services

The operation of the facility has been proven to be financially viable and can be considered to be an effective use of the site. There is a demonstrated need for the facility which is measured by the amount of waste material that is recycled and reused in Council works resulting in a reduction of material disposed to landfill.

Fulfilling out community's vision in planning for the future of the Shire

The location of the facility promotes utilisation of major transport corridors via the F3 Freeway and the Pacific Highway to access the site.

Maintaining sound corporate financial management

The gate charges at the facility have been calculated to reflect the cost of the operation of the facility. An economic analysis comparing increased facility gate charges versus the cost of transport and disposal of excavated material direct to recyclers and landfills by the road asset branch confirms that it is in Council's financial interest to continue operation of the facility.

Other sustainability considerations

The facility is operated in accordance with an Environmental Management Plan that incorporates the requirements of Environment Protection Authority, NSW National Parks and Wildlife, Department of Lands. The Environmental Management Plan contains extensive environmental safeguards to protect the amenity of the surrounding natural and built environment.

RESPONSIBLE OFFICER

This report has been prepared by Peter Powell, Manager Engineering Services. Further information may be obtained on 9847 4803.

RECOMMENDATION

THAT the contents of Executive Manager's Report No. WK65/10 be received and noted.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Attachment A - Income and Expenditure as at 30/06/2010
2. MHF Economic Analysis

File Reference: F2004/09261
Document Number: D01499403

20 BROOKLYN SHARED PATHWAY - FEASIBILITY STUDY

EXECUTIVE SUMMARY

The Brooklyn community has been concerned with the lack of a separate footway along the western end of Brooklyn Road for many years. Council has provided adequate pedestrian facilities along the eastern segment of Brooklyn Road where community activity is highest. Pedestrian accessibility along the western segment of the road is of a lesser standard and pedestrians must utilise the road shoulder.

Previous investigations by Council (refer report WK50/07, Ordinary Meeting 8 August 2007) confirm that the cost of providing improved pedestrian accessibility along the western segment of the road is very high and cannot be justified given the observed low pedestrian activity. However, by providing a shared pathway, to be used by both pedestrians and cyclists, the opportunity exists to provide a facility that will not only serve current pedestrians, but will encourage more people to walk and cycle. While a shared path will be more expensive to construct due to its greater width compared to a pedestrian path, a carefully planned proposal will qualify for funding from a range of state government transport, tourism, recreation and environmental grants.

With funding assistance from the Roads and Traffic Authority (RTA) Council engaged Urban Arc Pty Ltd to prepare a feasibility study to be used when applying for funding from other agencies.

PURPOSE/OBJECTIVE

The purpose of this report is to seek Council endorsement of the Brooklyn Shared Pathway feasibility study for the purpose of further public consultation before formal adoption by Council.

DISCUSSION

Normally Council bears the full cost of providing pedestrian paths, the exception being when developers may be required to provide paths as part of the development consent conditions. The anticipated take up rate for redevelopment along the western end of Brooklyn Road is relatively low, and in addition there are significant areas of wetlands which won't be redeveloped. Across the Shire, requests for footpaving have out stripped Council's ability to provide such facilities, meaning that available funds have to be prioritized to areas where high traffic volumes and high pedestrian numbers coexist.

If the proposed path can serve the needs of cyclists and visitors as well as improve access for locals, the potential number of people likely to use the facility will increase to the level where the project will qualify for funding from other agencies, minimizing Council's contribution. Access to these funds is usually conditional on the applicant providing a strategy showing how each stage of the project will contribute to the masterplan, and how the community will benefit.

The feasibility study for a shared pathway between Kangaroo Point and Brooklyn (Attachment 1) includes the following inputs and information which will meet the funding application guidelines for most agencies -

- Extant data and reports. Note that the reference to *McKell Park foreshore walk - Brooklyn to Parsley Bay Masterplan* is a draft report, not yet endorsed by Council or exhibited publically at the time of this report.
- Outcomes of public meeting held in Brooklyn on 29 April 2010.
- Input from Council staff.
- Analysis of the proposed route including typical treatments. Note that the while a 3.0 metre wide path is proposed detail survey and design may result in either 2.5 metre or less at some locations.
- Staging of implementation works.
- Initiatives for encourage and education regarding the use of the facility and related roadway areas.
- List of agencies providing funding assistance for similar projects. Two funding sources not listed in the feasibility study, the Federal Regional and Local Community Infrastructure Program and Community Building Partnership Program, are currently closed but may be reactivated in the future.

The route identified for the shared pathway generally follows Brooklyn Road, either on road and via the mangrove (wetland) from Kangaroo Point to Brooklyn Town Centre, and then continues through McKell Park to Parsley Bay along the existing foreshore to connect back to the town centre via George Street.

The works program identifies 3 broad stages for the implementation of the pathway and associated facilities, including bicycle parking, signposting and linemarking. While each stage may take a number of years to complete, each stage should be completed before the next is started to ensure connectivity along the route.

Stage 1 – estimate \$538,590

- On road route from Kangaroo Point to Brooklyn Road then to Dolphins Boatshed Marina
- Route along boardwalk through the mangrove (wetland) from Dolphins Boatshed Marina to Seymour Creek bridge.
- Shared pathway from Seymours Creek bridge to 45 Brooklyn Road.
- Bicycle parking at Brooklyn Public School, newsagency, railway station, McKell Park, Parsley Bay, Brooklyn Park and Salt Pan Reserve.

Stage 2 – estimate \$239,955

- Shared pathway from 45 Brooklyn Road to Sandbrook Inlet Marina/Salt Pan Reserve and widening existing footpath from Brooklyn Public School to Dangar Road/Bridge Street.

Stage 3 – estimate \$686,250

- Establishing a pathway along boardwalk from Kangaroo Point to Dolphins Boatshed Marina through the wetland
- Widening the existing pathway from Sandbrook Inlet Marina to Brooklyn Public School
- Widening existing path adjacent to McKell Park
- New path from Parsley Bay to George Street

The project has a preliminary total estimate of cost of \$1.5Million, with the report identifying potential partners for funding assistance. This estimate will require review and may change as detail design proceeds following advice of any funding opportunities.

The feasibility study recommends that –

1. Detailed cross sections and estimates of the routes presented in this report be prepared prior to construction.
2. Implementation of the facilities recommended in line with the staged implementation program
3. Encouragement and educational initiatives should be fore-grounded concomitant with the implementation of Stage 1 facilities
4. The preparation of promotional material detailing the proposed route, highlighting/emphasizing the rights and responsibilities of shared path users and the benefits of walking and cycling for short trips
5. Compile, complete and distribute funding applications to all potential organizations for the funding of the proposed facilities

If this report is adopted by Council, the next steps will involve –

- Public consultation via newspapers and the website.
- Reporting the results of the consultation to Council for consideration, with a view to adoption of the Feasibility Study Brooklyn Pathway Kangaroo Point to Parsley Bay.
- Applying for state and federal grants as they become available to implement the shared path in stages, based on Council's ability to provide matching funds where required.
- Referral of each stage to Local Traffic Committee for a recommendation prior to construction.

BUDGET

There are no budget implications if the recommendation of this report is adopted. Any future capital works will be sourced from Council's adopted budget at the time.

POLICY

There are no policy implications.

CONSULTATION

Interested Brooklyn residents attended a workshop on the 29 April 2010. Council's Manager Bushland and Biodiversity, Landscape Architect, Design Team Leader and Senior Maintenance Engineer were consulted during preparation of this report.

TRIPLE BOTTOM LINE SUMMARY

Working with our community

This report and the proposals contained herein are readily accessible and understandable to the community. This report was prepared in response to concerns expressed by the community.

Conserving our natural environment

The proposed shared pedestrian cycleway will encourage more walking and cycling by Brooklyn residents and visitors.

Contributing to community developments through sustainable facilities and services

The proposed shared pedestrian cycleway will have a positive effect on the safety of the public environment, as well as the development of a healthy, equitable and active community.

Fulfilling our community's vision in planning for the future of the Shire

The proposed shared pedestrian cycleway will encourage more walking and cycling by Brooklyn residents and visitors. The sections through sensitive wetlands will encourage low impact tourism.

Supporting our diverse economy

Providing new and improving existing Council assets will have a positive effect on economic development in people wanting to live and work in the Shire.

Maintaining sound corporate and financial management

The proposed road and footpath improvements will be undertaken in a manner to ensure that asset life-cycle costs are minimised and assets are able to function as planned during their life cycle. Council will share the cost of providing the facility, but will need to provide funding for the maintenance and the eventual renewal of these assets.

Other Sustainability Considerations

Potential negative impacts of footpath construction activities will be identified in Reviews of Environmental Factors for such activities and appropriate measures will be undertaken to avoid or minimise such impacts.

RESPONSIBLE OFFICER

This report was prepared by Council's Manager Traffic and Road Safety, Mr Lawrence Nagy, telephone 9847 6524.

RECOMMENDATION

THAT Council adopt the final report for the Feasibility Study - Brooklyn Pathway Kangaroo Point to Parsley Bay for the purpose of public consultation and a further report be prepared when the results of the public consultation are known.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Feasibility Study Brooklyn Pathway Printed Under Separate Cover

File Reference: F2004/09762
Document Number: D01499707

21 WORKS BY CAMERON BRAE PTY LTD AT DUST HOLE BAY, BEROWRA WATERS

EXECUTIVE SUMMARY

Improvements to infrastructure at Dust Hole Bay have been completed by Cameron Brae Pty Ltd pursuant to an agreement with the Land and Property Management Authority (LPMA), and Council has been requested to assume responsibility for their future maintenance. The additional maintenance cost of \$10,000 pa that will be required has not been budgeted for, and as a result Council's current budgets will be further stressed by this additional cost. It is acknowledged that a significant public benefit has resulted from the construction of the subject works and accordingly it is now proposed that Council agree to accept responsibility for their future maintenance, subject to financial assistance being provided (by LPMA or others) in the event that unforeseen major works/repairs or replacement of these improvements are required.

PURPOSE/OBJECTIVE

The purpose of this report is to advise Council of the completion of works by Cameron Brae Pty Ltd pursuant to Development Application 1827/2007, and to seek direction by Council as to whether it is prepared to accept responsibility for the future maintenance of these improvements.

Background

At its meeting of 16 July 2008, conditional consent was given to DA/1827/2007 (date of consent 22 August 2008), submitted by Cameron Brae, to undertake various works at Dust Hole Bay, Berowra Waters. As part of its agreement with the Land and Property Management Authority (LPMA) for marina and berthing facilities at Berowra Waters, in addition to works associated with the extension of facilities at the Marina, Cameron Brae was required to also undertake works that would provide a benefit to the general community. The latter group of works, subject of this consent, were negotiated with Council, and have been deemed by LPMA to satisfy this requirement. The application notes a value of approximately \$3 M, and Cameron Brae have subsequently advised that the cost of the works was \$3.7 Million.

The following improvements have now been provided:

- Reconfiguration and refurbishment of existing car park
- Construction of decked car park structure
- Upgrading and reconfiguration of increased area of open space
- Construction of new foreshore boardwalk along Bay Road
- Various landscaping improvements
- Sullage pump out facility, replacing on-site package treatment plant

An interim Occupation Certificate dated 23 August 2010, has now been issued following completion of these works, and Council has been requested to assume responsibility for their future maintenance.

Facilities at Dust Hole Bay

The works undertaken by Cameron Brae have resulted in improved facilities for customers of the Marina and the general public. The works are consistent with improvements proposed in the Berowra Waters Plan of Management (and generally identified as the responsibility of Council to provide), adopted by Council in 1999 following a long and comprehensive consultative process. As Councillors are aware, these works, whilst desirable would not have been able to be funded by Council in the foreseeable future, due to the many other projects of a higher priority that are awaiting funding. Council is now being requested to assume responsibility for their future maintenance and eventual replacement.

The new facilities have been assessed to result in increased asset management and maintenance costs for Council over their life, as follows when compared to current costs:

- Boardwalk - \$4,500 pa
- Maintenance of Concrete Structure - \$2,000 pa
- Car Park - \$2,000 pa
- Landscaped Areas - \$6,500 pa (previously \$5,000 pa)

The additional annual expenditure anticipated to be incurred will be of the order of \$10,000 pa.

Responsibility for maintenance of those improvements that directly relate to Cameron Brae's lease with LPMA will continue to lie with Cameron Brae.

Details of the work undertaken by Cameron Brae are as follows:

Provision of a New Playground

The Plan of Management proposed only that the existing playground be relocated to a more appropriate location near the foreshore. However, the playground was found to be in poor condition, unsafe and did not meet appropriate standards. Council, as a matter of course, would have been required to remove, repair or replace the playground in the near future.

Provision of a New Car Park

The Plan of Management proposed only the provision of a new gross pollutant trap within the car park and reconfiguration of the car park. However, the existing car park was found to be in poor condition. The sealed surface had deteriorated and drainage was poor. Reconstruction was required. This action would have been required by Council in the short to medium term.

Bay Road Stabilisation

The Plan of Management proposed only the construction of a boardwalk along the edge of Bay Road. However, as construction commenced it became apparent that Bay Road was unstable and would require major works to stabilise it before the boardwalk could be erected. The stabilisation works included relocation of the power poles, repair to the retaining wall and construction of significant foundations for the boardwalk. Today the boardwalk now

essentially supports the road. Rehabilitation of Bay Road would have been required in the medium term and would have been a cost borne by Council and/or the RTA.

Upgraded Parkland

The Plan of Management proposed only minor works to the upgrading of seating and planting in the foreshore. However, Council's conditions of consent imposed the requirement for the provision of a comprehensive landscape upgrade, the provision of new fencing and screens, the upgrading to existing and provision of new seating and the provision of new barbeque facilities. These works were far in excess of that envisaged and proposed in the Plan of Management. Furthermore, it became apparent during reconstruction of the parkland that new soil sub base and new turf would be required. The park's electrical system was also found to be faulty (and dangerous), requiring replacement.

Status of Land

The car park, decked structure, landscaping and associated improvements at Dust Hole Bay are part of Reserve No. R91194 for public recreation, for which Council has been appointed Reserve Trust Manager following Gazettal on 26 September 1997.

In its capacity as Reserve Trust Manager, Council has responsibility for maintenance of the reserve. There is generally no financial assistance offered by LPMA for this purpose. Further, any income generated by Council as a result of its management of this reserve may be subject to a levy of 15%, remitted to LPMA.

The boardwalk is located on land that has been reclaimed but, following survey, is proposed to be dedicated as road, and will form part of Bay Road. Bay Road is a classified main road for which Council is currently responsible. The Roads Act provides that Council is the roads authority for this road.

The survey proposed by Council does not currently propose dedication and in the absence of action by the Minister to unilaterally declare the land as road (as the Minister is entitled to do) can remain as Crown land.

Council has expressed concerns regarding the width of Bay Road at certain locations adjacent to the boardwalk. Subject to resolution of these concerns and any agreements regarding the future maintenance of the boardwalk, Council could consider accepting dedication of the land in question as road.

Further Consideration

In report EN46/10, to be considered by Council at this meeting, the Executive Manager Environment advises Council of current government practice to claim a share of revenue from reserves managed by Council, notwithstanding that Council may have acted on its own initiative to generate such revenue. This practice commenced when Treasury funding was withdrawn from the Public Reserves Management Fund and LPMA was required to move toward being self funding. As a result, LMPA has adopted a more commercial approach to revenue generation and reserve management (at Councils' expense). The current arrangement with Cameron Brae reflects this approach. Although it is acknowledged that, as a result of this policy, the community has benefited, Council does not have the ability to manage this benefit in the context of its own priorities. Council's planning processes have been compromised as a result, with no compensation available for the increased costs that Council must now assume. Whilst this case does not fall within the circumstances described

in report EN46/10, the resulting impact on Council's finances is similar. In short, the State has received a significant financial benefit, a private operator has also benefited, as has the community, but Council is now required to incur additional costs.

BUDGET

Should Council agree to accept responsibility for these improvements, expenditure of approximately \$10,000 per annum will be required for the foreseeable future. As Council is aware, expenditure on infrastructure has been held constant with no allowance for increased costs other than Council staff wages and other unrecoverable costs, for the last 10 years. The purchasing power of these budgets has decreased significantly as a result. This additional expenditure will need to be absorbed into current budgets, with the result that other maintenance works may need to be deferred, with a consequent decline in the overall condition of Council's assets.

While this expenditure appears relatively minor and can be absorbed with minor budgetary impact, concern is expressed that Council may have to meet unforeseen major expenditure or replacement. If Council is of a mind to accept this additional cost, LPMA should be advised in accordance with the recommendation that follows.

POLICY

Council's Asset Management Policy, adopted March 2010 is relevant to this matter. Council's policy provides that Maintenance Plans shall be developed for Council's assets and annual preventative maintenance programs implemented to ensure that the lowest net life cycle cost of the assets is achieved and asset service potential is optimised. Assets constructed for or provided to Council by third parties are required to be assessed in accordance with this policy prior to acceptance.

CONSULTATION

This report has been prepared following negotiations with representatives of Cameron Brae Pty Ltd, and in consultation with the proposed Asset Managers in the Works and Environment Divisions. The Executive Manager, Environment has also been involved in these negotiations and in the preparation of this report, and concurs in the recommendation that follows.

TRIPLE BOTTOM LINE SUMMARY

Ecology – Protect and Enhance our Natural Environment

The works have been undertaken in accordance with a valid Development Consent that was issued following consideration of their impact on their environment. Future maintenance of these works is possible without any adverse environmental impact. The sullage pump out facility will improve the health of Berowra Creek.

Economy – Encourage a Resilient Local Economy and Sustainable Resource Use

The works will enable a local business to operate more effectively. Visitation will increase. The rate of consumption of scarce resources will not change as a result of the works.

Society and Culture – Enhance our Social and Community Wellbeing

Recreational opportunities have been enhanced by the works.

Human Habitat – Provide Effective Community Infrastructure and Services

Significant community infrastructure has been provided at no capital cost to Council. However, Council will be responsible for the maintenance of the works. Pedestrian movement along Bay Road is now much safer. However, increased visitation will result in increased consumption of the landscaping improvements, and congestion may occur at the car park at busy times as a result of the enhanced attractiveness of these facilities.

Governance – Guide towards a Sustainable Future

The works would not have been provided in the absence of agreement between Cameron Brae Pty Ltd and LPMA. However, in the absence of any financial support from LPMA, Council will be responsible for their future maintenance.

RESPONSIBLE OFFICER

The responsible officer for this report is the Executive Manager Works Division, Mr Maxwell Woodward, telephone 9847 6665.

RECOMMENDATION

THAT:

1. Council advise LPMA that it is prepared to accept responsibility for the future maintenance of the improvements constructed by Cameron Brae Pty Ltd pursuant to Development Application 1827/2007:

- Boardwalk
- Car park structure (excluding leased area and associated assets)
- Car park
- Landscaped areas

On the understanding that:

- i) the maintenance expenditure anticipated is not significant, and
 - ii) in the event that major repair or replacement of the structures (not being fair wear and tear) is required, financial assistance will be sought for such action from LPMA.
2. Subject to resolution of issues associated with the width of Bay Road in the vicinity of the boardwalk, Council agree to the dedication of the relevant land as part of Bay Road.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

There are no attachments for this report.

File Reference: F2004/07838
Document Number: D01500195

22 EXPRESSION OF INTEREST 10/2010 - LEASE OF LAND - KANGAROO POINT, BROOKLYN

EXECUTIVE SUMMARY

Expressions of Interest (EOI) have been called in accordance with the Local Government Act and the adopted Plan of Management for Kangaroo Point at Brooklyn. It has been recommended that Council invite both of the two submissions to submit tenders to enter into a 21 year lease of the identified land for the purposes of the management of the demolition of the existing old "food bar", design and construction management of a new takeaway/restaurant facility and associated improvements, and management of the operation of such facility.

This report provides background information in relation to the EOI, the evaluation process and evaluation report.

PURPOSE/OBJECTIVE

This report provides a recommendation for EOI 10/2010: Expression of Interest for the Lease of Land for the Construction and Operation of a Restaurant / Takeaway Facility.

INTRODUCTION/BACKGROUND

At its meeting on 16 March 2005, Council considered Executive Manager's Report No. PLN63/05 concerning the draft Kangaroo Point Community Masterplan. Council resolved to adopt a Masterplan that promotes the refurbishment or reconstruction of the disused restaurant for commercial or community purposes, upgrade of the parklands and provision of 62 car parking spaces to service the use of the land. Council also resolved to categorise the Community land in accordance with the recommendations of the report, it being noted that Council later resolved to remove the recommended Operational land classification over the land containing the disused restaurant building.

Council, at its Planning Meeting held on 4 October 2006 considered Executive Manager's Report No. PLN286/06 and resolved *inter alia* that:

"Council adopt the revised categorisation of Community land identified in the map attached to Executive Manager's Report No. PLN286/06 to categorise the land containing the disused restaurant and area previously occupied by the swimming pool "General Community Use" to facilitate appropriate uses (as identified by the Kangaroo Point Community Masterplan) for the disused restaurant building."

In 2006, Council also resolved to adopt a Local Environmental Plan (LEP) rezoning Kangaroo Point to Open Space A (Public Recreation – Local) and endorse the Brooklyn Development Control Plan (DCP) amendments. The LEP, Hornsby Shire Local Environmental Plan 1994 (Amendment No. 95), was gazetted on 29 February 2008. The revised Brooklyn DCP came into effect on 18 March 2008.

The “Community land” classification also required the preparation of a Plan of Management (PoM) pursuant to the *Local Government Act 1993*. The Plan of Management Districts 5 and 7, which incorporates Kangaroo Point and facilitates a future lease for the disused restaurant building, was adopted by Council on 11 November 2009.

Expression of Interest EOI 10/2010

EOI 10/2010 was called to select a short list of proponents from which tenders can be called to enter into a 21 year lease of the identified land for the purposes of demolition of the existing old “food bar”, design and construction of a new takeaway/restaurant facility and associated improvements, and management of the operation of such facility.

The documentation for the EOI was finalised in early 2010 and released on 13 April 2010 by way of Council’s Tenderlinks site and an advertisement in the tender section of the Sydney Morning Herald. EOI 10/2010 closed at 10:30am on 9 July 2010.

In recognition of the potential reduced level of demand as a consequence of various elements of the proposal, including but not limited to; the unique nature of the proposal, the value of the site and the financial constraints imposed by the maximum lease term of 21 years, Council approved an extensive advertising program across local, state and national print media with funding in the order of \$13,000.

Ultimately, the details of the EOI were viewed online by 360 people with 33 downloads of the documentation completed and two EOI received. A copy of the two submissions received, together with full evaluation details have been placed on file (Trim Folder F2010/00310). Excepting this report, the details of the EOI’s received, evaluation reports, referee reports and associated documents are to be treated as confidential in accordance with the Local Government Act.

EVALUATION PROCESS

The EOI documentation contained Council’s performance measures for the site, evaluation criteria and various registration forms outlining proponents’ details, capability statements, financial statements and referees.

Prior to the expiry and opening of EOI submissions, an evaluation panel was set up, comprising Council’s Principal Strategic Town Planner, Landscape Co-ordinator and Manager Property Development. The evaluation panel reported to the Executive Manager Works Division and the Executive Manager Environment Division.

Prior to the expiry of the EOI, the evaluation panel finalised the conformance and evaluation criteria with appropriate weights applied to the evaluation criteria. The criteria were finalised having reference to Council’s Tender Evaluation Guidelines and are outlined below, together with the results of the evaluation process.

The EOI closed at 10:30am on Friday 9 July 2010, with two responses being received. Shortly thereafter, the evaluation process commenced. Criteria were assessed on information submitted with each submission.

Conformance of EOI Submissions

The first step of Council’s Tender Evaluation Guidelines is to ensure the conformance of submissions with the EOI requirements.

Both respondents were determined to have conformed with the criteria, as detailed in Confidential Attachment One to this report.

Non Price Assessment Criteria

In essence, the non price assessment criteria focussed on three main areas as follows:

1. Financial benefit to Council
 - a) Assets – the facilities provided
 - b) Cash Flow – the proposed lease provisions and return in money, or in kind
 - c) Sustainability – the financial sustainability of the proposal
2. Understanding of Council requirements and the social and environmental benefits
 - a) Overall understanding - proposal is consistent with Council objectives
 - b) Social and Community Benefit – facilitates recreation and public access
 - c) Environmental Benefit – respects heritage, culture and the natural environment
3. The capability and experience of the proponent.

Ultimately, it was considered that both respondents adequately covered all aspects. The detailed assessment is contained within Confidential Attachment Two to this report.

Proposed Built Form

The Kangaroo Point Community Masterplan provides that “*any new building or additions to the former restaurant building is to be within the existing building footprints...is not to be larger than the existing building, is of a contemporary style...*”.

The EOI document makes reference to the regulatory plans, including the Masterplan, but no specific reference as above.

Both respondents have proposed buildings that exceed the existing footprint, but maintain the low scale height, complement the building with outdoor areas and are contained within the proposed lease area.

Gen March has added approximately 33% and Griffiths about 25% to the existing building footprint and consequently increased the car parking requirements beyond the level envisaged by the Masterplan.

The Masterplan proposes the provision of 62 car parking spaces (excluding the existing fenced enclosure within the adjacent RTA land) to cater for the demand likely to be generated by the existing and other likely future approved uses of the site. The car parking provision was (in part) determined on the basis of a restaurant with floor space limited to the extent of the existing building envelope. The EOI process has demonstrated that to ensure commercial viability, a larger restaurant with greater car parking demands than originally envisaged will have to be provided. A preliminary evaluation based on the application of Council’s car parking code suggests that 77-109 car parking spaces will be required to support the development proposals during peak times.

The car parking demand generated by the proposals should be identified by a detailed traffic and parking study to be submitted as part of Stage 2 of the EOI process. Notwithstanding, the proposals are considered to be consistent with the intent of the Masterplan and will provide significant community benefit. The use of the site for a kiosk/restaurant is consistent with and enhances the recreational use of the site for which it is both zoned and reserved. The

construction of the restaurant and associated parkland upgrades will be achieved at minimal cost to Council. Should the redevelopment of a kiosk/restaurant be found not to be commercially viable, the alternative proposed by the Masterplan is the construction of a picnic shelter and caretaker's cottage. It has been estimated that this will cost Council approximately \$400,000.

It was considered that the respondent's proposals reflected the commercial reality of the scale of operation required for the operation to be commercially viable.

Financial and Feasibility Assessment

As a check of the commercial viability, Council sought a report from a Business Broker, specialising in the Hospitality and Food Service industry. The brief was to review the EOI document, conduct a site inspection, review and comment on the two EOI submissions and provide operational information for Council's Stage Two - Selective Tender (if progressed).

Ultimately, the consultant recommended that both proponents be invited to participate in the Selective Tender.

The primary financial return to Council is the residual (depreciated) value of the facilities provided by the respondents after the expiry of the 21 year lease. Whilst only conceptual at the EOI stage, one respondent proposes a high standard facility of higher residual value, than the other respondent.

Each respondent proposes a similar form of lease, with a rent free period during construction and the first 12 months of trading, followed by a monthly rental return.

The amount of facilities provided and the rental return detailed in both responses exceed the initial expectations of Council, although it appears that any smaller scale of operation may not achieve a "break even" position.

Referee Reports

Both respondents provided two referees as required by the EOI. All referees were contacted by phone and asked to respond to 10 common questions, relating to:

- the length and type of association with the respondent,
- the referee's understanding of the response,
- strengths and weaknesses of the respondent,
- the skills and experience the respondent would use in the proposal,
- overcoming challenges and innovation,
- any other matter the referee considered worthy of mention.

The referees for one respondent were considered to be highly relevant, in terms of their association with the respondent, and were able to confirm all aspects of the response with a high degree of credibility. The referees for the other respondent were considered to be less relevant, in terms of their limited association with the respondent, however they were able to confirm all aspects of the response with an average degree of credibility.

EOI Evaluation Report

The attached Confidential Memo WD 35/2010 provides a summary of the evaluation. Full details of the EOI evaluation are attached to this memo.

Ultimately, the EOI Evaluation Report recommends that both respondents to the EOI be invited to submit tenders to enter into a 21 year lease of the identified land for the purposes of demolition of the existing old “food bar”, design and construction of a new takeaway/restaurant facility and associated improvements, and management of the operation of such facility.

From the results of the evaluation, it is recommended that Council invite Gen March Pty Limited and J & M Griffiths Pty Limited to tender the lease of land – Kangaroo Point Brooklyn.

BUDGET

No adverse budgetary issues are attached to this report.

POLICY

There are no policy implications, however any agreement reached for a 21 year lease is subject to the provisions of the *Local Government Act 1993*, requiring public notification and exhibition of the proposed lease, inviting submissions and where any objections are received, they are addressed and, if necessary, an application forwarded to the Minister for consent to the lease.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

CONSULTATION

The EOI has been evaluated and this report has been prepared in consultation with Council's Principal Strategic Town Planner, Landscape Coordinator, Executive Manager Works and Executive Manager Environment. A consultant, “*Close Encounters Trading Network Pty Limited*” was engaged to review and comment upon the EOI and responses. All persons involved in the consultation process have advised that they have no conflicts of interest.

RESPONSIBLE OFFICER

This report has been prepared by Council's Manager, Property Development, Mr Peter Thompson. Additional information can be obtained by calling 9847 6669.

RECOMMENDATION

THAT:

1. Council invite Gen March Pty Limited and J & M Griffiths Pty Limited to tender for the lease of land – Kangaroo Point Brooklyn.
2. The result of the tender to be reported back to Council.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Conformance of Tender Submissions - Checklist - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*
2. Kangaroo Point Evaluation - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*
3. Confidential Memo - Evaluation of Expressions of Interest - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*

File Reference: F2010/00310
Document Number: D01500292

23 HORNSBY AQUATIC CENTRE REDEVELOPMENT - PROJECT MANAGEMENT AND CONSULTATION

EXECUTIVE SUMMARY

Council at its meeting of 15 September 2010 in considering Report WK61/10, Tender No. T12/2010 – Design and Construction Management of Hornsby Aquatic Centre resolved:

- “1. Council accept the tender of Peter Hunt Pty Ltd for the work detailed in Tender T12/2010, Design and Construction Management of Hornsby Aquatic Centre.*
- 2. The price be made public upon formal acceptance of the tender.”*

Following this acceptance, a framework needs to be established to ensure the successful delivery of this project. It is proposed that a Hornsby Aquatic Centre Staff Working Party be established together with a Hornsby Aquatic Centre Redevelopment Working Party including nominated Councillors.

Given the significance of this project, an additional framework for community consultation is proposed with an outline described in this report.

PURPOSE/OBJECTIVE

This report provides information in regards to project management and communications framework required for the successful redevelopment of the Hornsby Aquatic Centre. Nominations are sought from Councillors for the proposed Hornsby Aquatic Centre Redevelopment Working Party.

DISCUSSION

Council at its meeting of 15 September 2010 in considering Report WK61/10, Tender No. T12/2010 – Design and Construction Management of Hornsby Aquatic Centre resolved:

- “1. Council accept the tender of Peter Hunt Pty Ltd for the work detailed in Tender T12/2010, Design and Construction Management of Hornsby Aquatic Centre.*
- 2. The price be made public upon formal acceptance of the tender.”*

The role of the architect is to design the facility, undertake public consultation during the concept and preliminary design stages and prepare a Development Application (DA). Upon approval of the DA the architect is required to prepare plans and documentation for a Construction Certificate, tender, and ensure specifications are met during construction.

Project Management Framework

This project will cost in the order of \$20 million, have a duration approaching 4 years, is of considerable complexity, and is subject to considerable public interest. Significant resources

need to go into managing this project to ensure the successful delivery of the project within budget and specified timeframe.

The supervision of the building contractor (role of Superintendent) will be the responsibility of council, as will managing the architect and ensuring the public, special interest groups and Council have input in the design of the new facility and are kept informed of progress. This is a significant role and during construction, the quality of work will need to be closely supervised and the contractor well managed to minimise variations and potential over expenditures.

From visits to other pools recently constructed or under construction and talking to their project managers, a common theme has emerged. It has been emphasised that great attention be taken not to under estimate the resources required for such a large and complex project. Full time project managers and other support staff working on the project on a full time basis were identified as essential to the successful delivery of the project. It is proposed to appoint a full time project manager at the earliest opportunity for the duration of the project. Other support resources such as an on site Clerk of Works during construction will also be required to ensure quality outcomes. This position would be appointed prior to commencement of construction and conclude at the completion of the contract.

The Project Manager's role will include:

- Managing the design contract
- Liaising with other specialists retained by Council to assist in progressing and assessing progress of the design
- Managing the construction contract (role of Superintendent or Superintendent's Representative)
- Planning and managing the program of works through detailed programs both for design and construction phases to ensure timely completion.
- Managing costs to minimise the risk of over expenditure, through the use of quantity surveyors during design development and making suitable allowances for cost escalation due to increasing building costs over the years, and also a contingency sum. Close management of the various contracts will also ensure good control of costs.
- Co-ordination and involvement in public consultation
- Reporting to various groups (management, Council and community) on cost and progress of the project
- Liaising with various parties and authorities where their infrastructure is impacted by the works

Other support resources such as an on site Clerk of Works during construction will also be required to ensure quality outcomes. This position would be appointed prior to commencement of construction and conclude at the completion of the contract.

A team of staff across a number of disciplines will be required to have a major role in this project. A Hornsby Aquatic Centre Project Control Group is proposed with the following core membership:

- Project Manager - (to be appointed)
- Manager Design and Construction – Mr Robert Rajca
- Manager Aquatic and Recreational Facilities – Mr Scott Hewitt
- Landscape Co-ordinator – Mr Kurt Henkel
- Project Co-ordinator – Mr Craig Clendinning (during design development)

Other staff will join the group as and when necessary. The Hornsby Aquatic Centre Staff Working Party will report to ExCo on a regular basis through the Executive Manager Works.

It is also proposed to form a Hornsby Aquatic Centre Redevelopment Working Party which would provide a forum with Councillor input to discuss key aspects of the project e.g. outcomes of public consultation, investigations, options and studies which need to be considered in detail before reporting to Council. This team will be made up of the core membership of the staff working party together with nominated Councillors.

Community Consultation Framework

Work is currently underway in setting up the framework for community consultation for this project. The purpose of the consultation is to keep the public informed of the project and obtain community input and feedback and work with key stakeholders at the various stages so that the proposed new facility will meet future needs. This framework is being developed in conjunction with the Manager Corporate Strategy and Manager Community Relations and includes the following:

Dedicated Council web page

A web page is being developed on council's web site for information on the project. This will be kept up to date until the project is completed.

Public survey

A public survey is currently underway requesting information on what are the important elements of a new proposed facility. The survey is available on council's web site and also at the Hornsby Aquatic Centre. A copy of this survey is attached to this report. This survey commenced on 23 September 2010 and will run until 24 October 2010.

Advertising in local papers

Advertisement in local papers will be run to seek community input at various stages of the project including:

1. The current survey prior to concept development
2. Upon development of concept plans
3. At the preliminary design stage

Bang The Table

Bang The Table is expected to be utilised at the following stages also to obtain feedback from the community:

1. Upon development of concept plans
2. At the preliminary design stage

Letters

Letters will be sent to the main user groups and schools seeking feedback:

1. Upon development of concept plans
2. Upon development of the preliminary design

On site display

An on site display manned by Council's architect explaining the project and seeking feedback at the following stages:

1. Upon development of concept plans
2. Upon development of preliminary design

Reports to Council

Reports to Council will be provided to update on progress and at key milestones such as:

1. Upon development of concept plans
2. Upon development of the preliminary design
3. Development Application
4. EOI for construction
5. Tender for construction

Other reports may be necessary as the project progresses and strategic decisions are required.

BUDGET

As advised in Report WK61/10, it is proposed that funding of approximately \$0.6M will be required for the project in 2010/11. The costs of the Project Manager are included in this budget. Funding is to be initially provided from working funds or from a Restricted Asset account, to be determined by Council at a future budget review.

POLICY

There are no policy implications.

CONSULTATION

The report has been prepared in consultation with the Council's Landscape Coordinator, Manager Aquatic & Recreational Facilities, Manager Corporate Strategy and Manager Community Relations.

TRIPLE BOTTOM LINE SUMMARY

A triple bottom line assessment is not required for this type of report.

RESPONSIBLE OFFICER

For further information, please contact the Manager Design and Construction Mr Rob Rajca on 9847 6675.

RECOMMENDATION

THAT:

1. The contents of the report be received and noted.
2. Councillors nominate representatives to be part of the Hornsby Aquatic Centre Redevelopment Working Party.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. 1. Hornsby Aquatic Centre Redevelopment Survey
2. 2. Hornsby Aquatic Centre Draft Project Schedule as at September 2010

File Reference: F2009/00386

Document Number: D01500361

24 PROPOSED CLOSURE AND SALE OF ROAD ADJOINING 396-398 PACIFIC HIGHWAY, HORNSBY

EXECUTIVE SUMMARY

This report provides the background information concerning the proposed closure and sale of a section of surplus road immediately adjoining the front of the property No 396-398 Pacific Highway, Hornsby. An application has been made by Christophorus House Retirement Village, at No 396-398 Pacific Highway as the adjoining owner, and current lessee of the land, for purchase of the road. A location plan is attached as Attachment 1.

PURPOSE/OBJECTIVE

The purpose of the report is to obtain Council's approval to make application to the Land and Property Management Authority ("LPMA") for the closure of the subject portion of road fronting 396-398 Pacific Highway, Hornsby, and to sell the closed road to the applicant. The report addresses the relevant facts upon which Council can make its decision.

DISCUSSION

Pursuant to Council's resolution dated 14 July 2004, the applicant was granted a lease over the area encompassing the subject portion of road, for five years from 1 October 2007. In consideration of the circumstances, the lease provides for a nominal rent of \$10 per annum. The lessee is permitted to provide landscaping, signage and letterboxes on the land in conjunction with its adjoining aged care development. Attachment 2 shows the area described in the lease. The residual term of the lease does not diminish the sale price for the land as the lease can be terminated with short notice.

The section of road constitutes an area of land which, having been subject to a road widening order, was originally acquired by the Roads and Traffic Authority (RTA) and dedicated as Public Road. The road widening proposal affecting various properties in that vicinity was however, subsequently abandoned and by virtue of Notice published in the Government Gazette on 24 April 1992 the road widening plan was rescinded.

In 2003 the RTA reclassified a length of the Pacific Highway, incorporating the subject land, as Secondary Road No 2103 (Regional Road) effectively passing control of the road to Council.

Although created as Public Road the subject land does not contain any public services or improvements. Closure of the land will have no adverse affect on public access. In fact the closure will tend to regularise the road boundary at this point. Implementation of the original road widening in isolated cases has lead to a castellated boundary of the road in places.

Investigation of the road closure application within Council has raised no objection to the proposal. Preliminary enquiries of service authorities and the RTA suggest that it would be unlikely that Council would receive their objection during the public notification process. One of the essential conditions of closure in this case is that the land be consolidated with the applicant's adjoining land to avoid it being left isolated in title. The road closure land is part

of a major traffic corridor zoned Special Uses B (Transport Corridor) Zone. Subdivision, and therefore consolidation, is a prohibited use under such zoning. In order to enable a future consolidation of the road closure, land with the applicant's adjoining land, currently zoned Residential A (Low Density), it is proposed to seek the inclusion of the road closure land in Council's Townhouse Planning Proposal. Such inclusion would rezone the land closure land to the same zoning as the applicant's adjoining land, thereby enabling consolidation.

Market Valuation

In accordance with Council's Disposal of Land Policy, a market valuation has been obtained from a suitably qualified Valuer. The Valuer was instructed to value the land on the assumption that it had been rezoned to the same residential zoning as the applicant's adjoining land.

Confidential Attachment 3 includes details of the internal review of the market valuation, the negotiation process, a non-pecuniary declaration of interest and the General Manager's approval to a variation from the disposal of Land Policy in consideration of the unique circumstances of the matter.

Ultimately, the valuation review and negotiation process are considered to have confirmed that Council will achieve best possible value for the sale of a Council asset, being no less than the market valuation.

Terms of Sale

The applicant has agreed to pay all of Council's costs associated with the road closure, as they are incurred. These costs include, but are not limited to, valuation, survey, legal, statutory and other costs and are estimated to be less than \$15,000. The costs paid by the applicant are not refundable; however, as they are considered to be "development costs" of the land, it is reasonable that they are deducted from the market value price of the land. This process negates the risk of Council incurring the loss of public funds in the event that the road closure and sale fail to proceed, by transferring the risk to the applicant.

Therefore, the salient terms of sale include:

1. Price - Market valuation detailed in confidential Attachment 3.
2. Costs - Road closure costs paid by applicant to be deducted from price.
3. Conditions - Sale subject to consolidation of road closure land with purchaser's adjoining land and may also be subject to rezoning to residential.

BUDGET

There are no budget issues for expenditure, as costs will be paid initially by the applicant and reconciled, before being deducted from the sale price. Income will be increased but timing cannot be predicted due to the uncertain processing time for road closures.

The Roads Act 1993 prescribes that proceeds from the sale of road can only be applied to other road matters such as acquisition for roads or works on roads.

POLICY

The application of Council's Disposal of Land Policy has been approved with a slight variation, having regard to the circumstances of the matter, as outlined in confidential Attachment 3 to this report.

CONSULTATION

Adjustment of the dual zoning anomaly has been considered by Council's Planning Division. It is proposed to coordinate rezoning in conjunction with Council's deliberation of the Townhouse Planning Proposal currently on exhibition. Similar issues occurring in relation to other properties will be addressed in a future LEP when road boundaries across the Shire can be fully assessed.

The report has been prepared also in consultation with Council's Manager Commercial Property, Surveyor, Manager-Assets Branch and Property Development Manager.

TRIPLE BOTTOM LINE SUMMARY

1. Working with our Community

Community involvement and public notification of the proposal to close the road is a mandatory component of the road closure process.

2. Conserving our natural environment

The natural environment will not be changed as a result of this decision.

3. Contributing to Community Development through Suitable Facilities and Services

The proceeds from sale will contribute to other road asset development in the future.

4. Fulfilling our Community's Vision in Planning for the Future of the Shire

The proposal will coordinate with Council and the community planning vision in terms of adjusting zoning and ownership to facilitate future residential development.

5. Supporting our Diverse economy

This matter is not considered to directly impact the local economy.

6. Maintaining sound Corporate and Financial Management

It is considered that Council will achieve best possible value from its sale of a surplus asset. Funds are directed according to legislation.

7. Other Sustainable Considerations

Not applicable.

RESPONSIBLE OFFICER

This report has been prepared by Manager, Property Development, Peter Thompson. Additional information can be obtained prior to the Ordinary meeting on 9847 6669.

RECOMMENDATION

THAT:

1. Council apply for the closure as Public Road of that section of the Pacific Highway, formerly comprising road widening, as connects to the boundary of No. 396 – 398 Pacific Highway Hornsby.
2. Upon closure of the road, the land be classified Operational Land in accordance with the provisions of the Roads Act 1993 and the Local Government Act 1993.
3. Council approve sale of the closed road land to the owner of No. 396-398 Pacific Highway Hornsby on the terms outlined within this report.
4. The General Manager be authorised to execute all associated documents under Power of Attorney or pursuant to this delegation.
5. The General Manager be delegated authority to negotiate detailed terms of agreement consistent with this report.
6. Council authorise the Making of an application for the Ministers approval for the road closure.

ROBERT BALL
General Manager
General Manager Division

Attachments:

1. Location Map - road closure and purchase application by Christophorus House Retirement Village
2. Plan of leased road - Christophorus House Retirement Village
3. Valuation Review - Approval of Variation to Disposal of Land Policy and Negotiation Process - Confidential - *This attachment should be dealt with in confidential session, under Section 10A (2) (d) of the Local Government Act, 1993. This report contains commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the council; or (iii) reveal a trade secret.*

File Reference: F2010/00139
Document Number: D01502841

25 TRAFFIC MANAGEMENT IN LILLI PILLI STREET AND WARD STREET - EPPING

EXECUTIVE SUMMARY

Following a request from Council the Hornsby Shire Local Traffic Committee considered the operation of the traffic calming measures provided in Ward Street and Lilli Pilli Streets Epping. The Local Traffic Committee recommended that, as traffic management is working appropriately the devices should not be removed or modified. Councillor Hutchence has requested the matter be referred to a full meeting of Council.

PURPOSE/OBJECTIVE

This report advises Council of the recommendation of the Local Traffic Committee report LTC 21/2010, *Suitability of traffic calming in Lilli Pilli Street and Ward Street*, and provides additional information regarding the original traffic calming proposal.

DISCUSSION

The Local Traffic Committee recommendation

At the Planning Meeting of 7 April 2010, Council considered Development Application No. 19/2010 for alterations and additions to an existing recreation facility and extension of the existing car park area at Lot 100 DP 834523, No. 15X Ward Street, Epping - West Epping Park and Oval. The DA was approved subject to a number of consent conditions, including:

2.B. The Local Traffic Committee review the effect and suitability of existing traffic calming measures in Ward and Lilli Pilli Streets having regard to existing car parking congestion on the streets.

A copy of the Local Traffic Committee report LTC 21/2010 is included with this report as Attachment 1. The recommendation is

Council note that –

- 1. The speed platforms constructed in Lilli Pilli Street are working effectively and removal or modification cannot be justified, and*
- 2. Additional traffic management in Ward Street is not warranted.*

Under Council's Local Traffic Committee operating guidelines, the last paragraph of each Local Traffic Committee report contains advice that if no objections are received the matter will be actioned in accordance with the recommendation.

Of the voting Local Traffic Committee members, the Council representative Councillor Mills, the Police and the Roads and Traffic Authority representatives have provided written comments endorsing the recommendation – refer Attachments 4 and 5. No response was received from the Local Member for Epping, Greg Smith MP.

In line with Council's normal notification practice, the bus operators, Taxi Council, Fire Brigades and Ambulance Service were also notified and no objections were received.

History

A search of archived records has only uncovered parts of the original consultation and is included in Attachment 2. The traffic facilities in Lilli Pilli Street were provided in 1987 as part of an extensive local area traffic management scheme covering the area between Pennant Parade and Midson Road designed to deter non local traffic from using the area.

At the time the concern would have been traffic taking short cuts between Pennant Hills Road and Carlingford Road. Since the M2 Motorway was opened in 1997, the need for such traffic management is even more justified as, in addition to the problems experienced in 1987, additional traffic is now seeking a short cut between Carlingford Road and the M2 Motorway via Midson Road and either Ray Road and Kandy Avenue or Kirkham Road. Motorists using Carlingford Road to access the M2 may avoid delays at the traffic signals at Midson Road by using Ward Street and Lilli Pilli Street.

Cost

Removal of the two speed platforms would cost in the order of \$25,000, which is equivalent to the cost of a new pedestrian refuge. Construction costs for two new speed platforms will be in the order of \$60,000. As the devices have functioned effectively as designed for over 20 years, are in good condition and do not significantly reduce parking availability, their removal or modification cannot be justified given the demand on Council resources for new facilities.

There are no funds available in the current budget, and the proposal is not included in the current management plan.

Conclusion

This report recommends that the traffic management in Lilli Pilli Street should not be removed or modified as removal or modification to improve traffic flow will in effect promote the short cut and may lead to requests for traffic calming to be reinstated in the future. However, if Council considers that removing the traffic facilities may have merit, further consultation with Lilli Pilli Street residents, YMCA, West Epping Public School and emergency services should be undertaken and the results referred back to the Local Traffic Committee for a further recommendation before Council considers the matter again.

BUDGET

There are no budget implications if the recommendation of this report is adopted.

POLICY

There are no policy implications.

CONSULTATION

The Local Traffic Committee representatives of the Roads and Traffic Authority and the Police were consulted regarding the preparation of this report.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

RESPONSIBLE OFFICER

The responsible officer for this report is the Manager Traffic and Road Safety, Mr Lawrence Nagy, telephone 9847 6524.

RECOMMENDATION

THAT Council note that -

1. The speed platforms constructed in Lilli Pilli Street are working effectively and removal or modification cannot be justified and
2. Additional traffic management in Ward Street is not warranted.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Local Traffic Committee Report LTC 21/2010
2. Extract from 1986 LATM study
3. Plan of Lilli Pilli Street
4. RTA comments
5. Police comments

File Reference: F2010/00133
Document Number: D01504710

26 PROPOSED REVIEW OF OPERATIONAL LAND

EXECUTIVE SUMMARY

This report provides Councillors with brief information regarding the 146 properties currently contained within Council's Land Register, classified as being "Operational Land". It outlines the proposal to review all of Council's operational Land with a view to identifying those property assets that are considered to be essential to be retained, desirable to be retained and those considered to be surplus to Council's requirements and/or producing inferior returns on the triple bottom line analysis, that may be considered to be available for disposal.

PURPOSE/OBJECTIVE

The purpose of this report is to provide Councillors with a brief understanding of the proposed framework for undertaking a comprehensive review of Council's Operational Land and seek concurrence with the terms of reference for such review.

The purpose of the review is to develop individual property strategies that reflect the priorities of all stakeholders to ensure sound property asset management. It will also identify those properties considered to be available for disposal.

INTRODUCTION/BACKGROUND

The *Local Government Act 1993* outlines Council's Charter (s.8). Part of that Charter is for Council "to bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible". In effect, this is the basis of sound 'asset management'.

The Hornsby Shire Council Delivery Program 2010-2014 outlines Council's strategic planning framework called "Hornsby Shire 2020: Our Framework for a Sustainable Future". This outlines the five key themes adopted by Council within the framework.

Asset Management responsibilities fall into two of the five key themes, namely:

Economy: encourage a resilient local economy and sustainable resource use;

Human Habitat: provide effective community infrastructure and services.

The disciplines of property asset management and building asset management fall into each of these key themes respectively.

Sound property asset management involves knowing what and where your property assets are, how they are able to deliver the required returns, who are the beneficiaries and when their functional or financial obsolescence may be looming.

DISCUSSION

Land Register

Section 53(1) of the *Local Government Act 1993*, states “A council is required to keep a register of all land vested in it or under its control”. The land register must be available to the public.

Council’s Geographic Information System (GIS) Team is completing the review and validation of Council’s Land Register to ensure compliance with the provisions of the *Local Government Act 1993* and the new requirements of the *Government Information (Public Access) Act 2009*. This review and validation project requires input from all Divisions of Council and is expected to be completed within six months.

Land Classification

Section 25 of the *Local Government Act 1993*, requires that all public land must be classified. There are two classifications for public land—“community” and “operational” (s.26). Certain land that is vested in or under the control of a council (such as Crown land) is taken to have been classified as community land (clause 6 of Schedule 7, *Local Government Act 1993*).

The Executive Manager Environment Division has recently undertaken a review of Council’s “community” land.

Roads are deemed to be “operational” land. From time to time certain roads, or sections of roads are determined to be surplus with no expected future use as road. These are then considered for formal closure, as a public road, and future disposal. The *Roads Act 1993* requires proceeds from the sale of roads to be set aside (reserved) for future road acquisition, construction and maintenance.

Upon formal closure of sections of road reserves, the closed parcel is issued with title, deemed to be “operational” land and may be dealt with and sold as Council sees fit.

Roads generally, unless they have already been closed (such as Pound Road Hornsby) are outside of the scope of the proposed operational land review.

Operational Land Review

The Land Register is the foundation of the operational land review and an extract from the current form of the land register of Council’s operational land is attached to this report. It is currently estimated that the information currently has a 95% degree of accuracy.

Broadly speaking, the review process is intended to include, but may not be limited to the following major steps for each of the 146 parcels of operational land:

1. examine and inspect;
2. identify and understand the current form and use;
3. identify the current and future stakeholders (both internal and external to Council);
4. consult with identified stakeholders and identify their expectations, needs and priorities;
5. approximate the underlying value (but not engage formal valuation);
6. consider the triple bottom line returns provided by each property;

7. compare the “opportunity cost” of retaining each property;
8. form conclusions and recommendations for property strategies.

The conclusions reached are envisaged to be in line with the following:

- a) essential to the operations of Council;
- b) essential for the purposes of infrastructure;
- c) essential community facilities;
- d) strategic assets of Council;
- e) investment properties;
- f) development properties; and
- g) properties that may be earmarked for imminent disposal.

Subject to the availability of stakeholders and adequate resourcing, this review is expected to take around six months to complete and a report prepared for Council.

It is expected that the further report to Council will recommend conclusions for each property in line with the above conclusions. Additional information is expected to be provided for those properties identified for disposal, such as:

- value adding opportunities;
- priority for disposal;
- allocation of funds;
- other matters of relevance.

BUDGET

Except in cases of land formerly comprising road (where the proceeds are legislated as referred to above), Council is free to allocate the proceeds where it sees fit. Budgeting for the future sale of property involves inherent risks associated with failing to achieve the sale within the budget year or achieving the value budgeted.

It is therefore strongly recommended that financial management is aware of potential income from the sale of property, however, that budgets tend more towards retrospective budgeting in lieu of prospective.

With regard to sustainability of Council’s property assets/resources, it is further recommended that it is desirable to allocate the liquidated property asset funds into a similar asset class – property.

POLICY

The “Disposal of land Policy” applies to the way property is disposed and the “Use of Funds Generated by Land Property Sales” applies as stated. It is recommended that the latter policy be reviewed as part of the proposed operational land review.

TRIPLE BOTTOM LINE SUMMARY

Triple Bottom Line is a framework for improving Council decisions by ensuring accountability and transparency on social, environmental and economic factors. It does this by reporting upon Council's strategic themes.

As this report simply provides Council with information and does not propose any actions which require a sustainability assessment, no Triple Bottom Line considerations apply.

CONSULTATION

This report has been prepared in consultation with Council's Executive Manager Works and the Manager, Property Development.

RESPONSIBLE OFFICER

This report has been prepared by Council's Manager, Property Development, Mr Peter Thompson. Additional information can be obtained by calling 9847 6669.

RECOMMENDATION

THAT:

1. Council receive and note this report.
2. Council endorse a review of Council's operational properties within the terms of reference included within this report.
3. The result of the review to be reported back to Council.

MAXWELL WOODWARD
Executive Manager
Works Division

Attachments:

1. Land Register - Operational Land

File Reference: F2007/00275
Document Number: D01505935

28 OUTSTANDING SULLAGE FEES IN BROOKLYN

ASKED BY COUNCILLORS RUSSELL

TO THE EXECUTIVE MANAGER, ENVIRONMENT DIVISION:

Can you please provide answers to the following five questions from Mr Tom Richmond relating to outstanding sullage fees in Brooklyn:

1. Is it true that Council cannot provide certification for the flow meters used by Council's sullage service in the period 1997 to April, 2003, despite the fact that it knew that measurements during this period were under dispute? Is it also true that the Office of Fair Trading has no record of these meters having been certified?
2. Is it true that the flow meters in use on the service from 1997 to April 2003 were changed after figures based on Anne Graham's tank were presented to Council, revealing an error in the meters consistently in favour of Council?
3. Is it true that the meters fitted in April 2003 were not, at the time, certified, despite the fact that this is a requirement under the Trade Measurement Act? Was Council formally cautioned by the Office of Fair Trading as a result? Was that caution acknowledged by Mr Robert Holliday on behalf of Council?
4. Council claims that some, or all, of Mrs Graham's pump outs were measured using the trucks' sight gauges. The sight gauges were calibrated in 100s, so can Council explain how figures not ending in 50 or 100 form the majority of the alleged readings?
5. On 23 March, 2005, Mr Holliday presented a report to Council claiming that the Office of Fair Trading had "...not raised any issues with the conduct and administration of the Council's sullage service." Was this report written before or after Mr Holliday acknowledged the formal caution?

ANSWERS:

NOTE: The following answers are provided as an open response to Cllr Russell's questions. However, as these matters are the subject of affidavits before the court, there should not be any discussion on them as it may prejudice Council's position.

1. The evidence provided as part of Council's sullage debt recovery includes a statutory declaration from Mr John Staples representing Council's contractor, BO & JL Staples Pty Ltd (Attachment 1). Point 1 of this statutory declaration refers to the flow meters on the tankers TLJ158, TVX791, PVN572 and RMV812, which were certified in or around 1997. Council has a copy of the Instrument Certification Form A108455 dated 1/10/97 (Attachment 2), which is for two of these flow meters and two of the sight gauges. Council was unable to locate a copy of the certification forms for the other two flow meters as the certifier and the contractor

no longer retained records going that far back. Council has not sought a copy of the other certification form/s from the Office of Fair Trading (OFT).

2. The flow meters were not changed as a consequence of Mrs Graham's figures. The flow meters were not changed. The flow meters did not have an error consistently in favour of Council.

Through the Brooklyn Ratepayers Association (letter dated 6 December 2002, Attachment 3), data was provided to Council showing a difference between sight gauge and flow meter measurements. This data was originally provided by Council to demonstrate to a resident that a sewage management system might be faulty allowing air in the line impacting on the flow meter measurements. Flow meter readings are higher than sight gauge readings when a faulty sewage management system causes air in the line to be read by the meter. This does not substantiate a claim that a flow meter is faulty. Sight gauge measurements are not affected by air in the line and are used where this problem occurred. Any debtor was charged the lower of the two measurements.

This was explained to the Brooklyn Ratepayers Association (Attachment 4) and the concerned resident.

3. The question implies that new flow meters were installed in April 2003, which is incorrect. The only new flow meter in April 2003 was on tanker YMM236, which was newly converted from a petrol tanker to a sullage tanker and used as a spare vehicle for a few months on the Hornsby Shire Council sullage removal contract, before being transferred to the contractor's Eurobodalla Shire sullage removal contract. The sight gauge on this vehicle was certified for use on trade before it was used on any services within Hornsby Shire.

The flow meters on the other tankers were not changed in 2003. However, modifications to the pipe work on the tankers was carried out as part of the certification process, which was well underway, with the Instrument Certificate of Approval issued on 16 February 2004 and the instrument certification forms issued on 18 May 2004.

All tanker vehicles were fitted with two measurement instruments, the flow meter and the sight gauge, and the sight gauge was certified for use in trade at all times.

The councillors were advised by memo dated 22 August 2003 (Attachment 5) of the Office of Fair Trading (OFT) inspections of the sullage tankers and the instruction to cease using the flow meters because at the time they were not certified for use in trade.

Council was issued a formal warning from OFT on 3 September 2003 (Attachment 6), which was acknowledged by Mr Robert Holliday on behalf of Council on 16 September 2003 (Attachment 7).

After the flow meters were certified in May 2004 and Council approved their use once again, the contractor opted to continue to use the sight gauges as the primary measurement instrument. Consequently, all volumes removed by the sullage removal service from August 2003 until Council ceased the service to non-Council properties at the end of 2006 were carried out using the sight gauges.

4. Any allegation that the sight gauge readings during the period 29 October 2002 to 20 August 2003 were fabricated and were not legitimate because they were not divisible by 50 is incorrect. The sight gauge is marked in 100 litre intervals however, at the time in question it was common for some drivers to try to make the instrument more accurate than it was by interpolating between the markings to the nearest litre or ten litres. For example, a volume that appeared to be one third of the way between two markings would be interpolated as 33 litres when in fact it should have been read as 50 litres. This led to the measurement being expressed to a greater degree of accuracy than was consistent with the uncertainty of the measurement. As it is common convention to express accuracy by means of significant figures, this gave the impression that the measurement was more accurate (to the nearest litre) than it was (calculated to the nearest 50 litres). This does not mean that the measurements were fabricated or illegitimate.

After the sight gauges became the sole measurement instrument, Council instructed the contractor to ensure all drivers took sight gauge readings to the nearest 50 litres being half of the scale interval, which is the uncertainty in the measurement.

It is noted that the flow meters were accurate to the nearest litre.

5. Report EN11/05 (Attachment 8) was submitted to Council on 23 March 2005 to deal with then current matters and specifically the cost of the council service, recovery of outstanding debts and grey water diversion/treatment. The statement quoted is from the Report's short introduction/background, which was in no way comprehensive in relation to the extensive history of this matter. A reference to the certification of the flow meters was not included as this had already been conveyed to the Council by memorandum dated 22 August 2003 (see Attachment 6); some nineteen months earlier. Issues raised in respect of EN 11/05 by the Brooklyn Ratepayers Association are dealt with in the response from the NSW Ombudsman dated 22 February 2006 (Attachment 9).
1. Attachment 1 - Statutory Declaration from Mr John Staples
 2. Attachment 2 - Instrument Certification Form A108455
 3. Attachment 3 - Letter from Brooklyn Ratepayers Association dated 6 December 2002
 4. Attachment 4 - Letter from Council to Brooklyn Ratepayers Association dated 22 February 2006
 5. Attachment 5 - Memo to Councillors dated 22 August 2003
 6. Attachment 6 - Formal warning from Office of Fair Trading dated 3 September 2003
 7. Attachment 7 - Acknowledgement by Rob Holliday dated 16 September 2003
 8. Attachment 8 - Report EN11/05
 9. Attachment 9 - Letter from Ombudsman to Brooklyn Ratepayers Association dated 22 February 2006
 10. Attachment 10 - Questions
 11. Attachment 11 - Question of Which Notice Has Been Given

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