



*the bushland shire*

*creating a living environment*

# **BUSINESS PAPER**

## **ORDINARY MEETING**

**Wednesday, 19 October, 2011  
at 6.30pm**

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## **AGENDA AND SUMMARY OF RECOMMENDATIONS**

### **PRESENT**

### **NATIONAL ANTHEM**

### **OPENING PRAYER/S**

Father Robert Borg from Kuring Gai Catholic Parish, will open 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 acknowledge we are on the traditional lands of the Darug and Guringai Peoples. We pay our respects to elders past and present."*

### **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 21 September, 2011 be confirmed; a copy having been distributed to all Councillors.

## **PETITIONS**

## **RESCISSION MOTIONS**

## **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*

**CONFIDENTIAL ITEMS**

**PUBLIC FORUM – NON AGENDA ITEMS**

**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

**MAYOR'S NOTES**

**MAYORAL MINUTES**

**NOTICES OF MOTION**

**SUPPLEMENTARY AGENDA**

**MATTERS OF URGENCY**

**QUESTIONS WITHOUT NOTICE**

**GENERAL MANAGER'S DIVISION**

*Nil*

**CORPORATE AND COMMUNITY DIVISION**

**Page Number 1**

**Item 1 CC61/11 DISCLOSURES OF PECUNIARY INTEREST AND OTHER MATTERS RETURNS - COUNCILLORS AND DESIGNATED PERSONS**

**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 5**

**Item 2 CC62/11 2011/12 INVESTMENTS AND BORROWINGS - PERIOD ENDING AUGUST 2011**

**RECOMMENDATION**

THAT the contents of the Executive Manager's Report No. CC62/11 be received and noted

**Page Number 9**

**Item 3 CC63/11 2010/11 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 2011, as presented to the public on 19 October 2011, be adopted.

**Page Number 12**

**Item 4 CC64/11 COMMUNITY DONATIONS PROGRAMME 2011/12**

**RECOMMENDATION**

THAT:

1. The contents of Executive Manager's Report No. CC64/11 be received and noted.
2. The organisations listed below receive financial assistance from Council in 2011/12 in accordance with the Policy titled Council Cash and Non Cash Donations and Grants.

<b>Organisation/Group</b>	<b>Amount</b>
1st Cherrybrook Scouts	\$1,481
2nd/3rd Pennant Hills Scout Group	\$1,800
Aknoon Cultural Centre	\$1,100
Berowra Over 55 Club	\$500
Brooklyn P&C Association	\$1,000
Cherrybrook Chinese Community Association	\$1,000
Combined Probus Club of Cherrybrook	\$500
Dangar Island Café	\$2,195
Easy Care Gardening	\$2,000
Fairholme Quilters Inc.	\$2,980
Ferry Artist Gallery	\$1,150
Hornsby and District TPI Club	\$600
Hornsby Area Residents for Reconciliation	\$1,300
Hornsby Chinese Senior Group	\$750
Hornsby Hispanitos Playgroup	\$800
Hornsby Kuringai Association Inc	\$1,500
Hornsby Ku-Ring-Gai PCYC Symphonic Band	\$1,000
Hornsby Ku-Ring-Gai PCYC Theatre Group	\$1,300
Hornsby Legacy Widows' Club	\$750
Hornsby Rockets Ten Pin Bowling Team Inc.	\$1,000
Hornsby Rosemary Legacy Club	\$1,000
Hornsby Kuring-Gai Volunteer Coordinator Forum	\$1,000
Indian Seniors Group	\$1,000
Korfball NSW	\$650
Ku-Ring-Gai Youth Development Services Inc	\$1,000
Multicultural Integration Community Support Inc	\$4,200
Namaste India Community	\$1,000
Parkinson's NSW - Ku-Ring-Gai Support Group	\$1,000
Studio ARTES Northside Inc	\$3,250
Te Amo Peru	\$1,800
The Friends of Richard Geeves Centre	\$1,000
Transition Epping	\$1,600
Vishva Hindu Parishad of Australia Inc	\$1,000
Wisemans Ferry Sunshine Group	\$1,125
Mayors Youth Trust Fund	\$3,000
Emergency Relief Fund	\$5,000
<b>Total</b>	<b>\$53,331</b>

3. Due to the high number of requests from community groups to fund digital projectors in the last two years, at least \$8,000 of the funds remaining following Round 1 of the Donations Programme 2011/12 be allocated to install fixed or portable digital projectors in community centres that have the most demand for this infrastructure.



4. Any further requests for financial assistance received in the 2011/12 financial year from community groups/organisations that meet the criteria of Council Policy POL00209 - Cash and Non Cash Donations and Grants, be referred to the Mayor, General Manager and Manager, Community Services Branch for consideration and determination.

**Page Number 19****Item 5 CC65/11 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT****RECOMMENDATION**

THAT:

1. The contents of Executive Manager's Report No CC65/11 be received and noted
2. A submission be forwarded to the Expert Panel on Constitutional Recognition of Local Government indicating Council's support for the inclusion in the Australian Constitution of the financial recognition of local government.

**Page Number 24****Item 6 CC66/11 LOCAL GOVERNMENT REFORM****RECOMMENDATION**

THAT:

1. The contents of Executive Manager's Report No CC66/11 be received and noted.
2. Council advise the Destination 2036 Implementation Steering Committee:
  - a) that it supports the draft Vision Statement contained in the Destination 2036 Outcomes Report as a basis for further consultation and development.
  - b) that it supports the "roadmap" of strategic initiatives and the "priority actions" in Appendix E of the Destination 2036 Outcomes Report as being the priorities for inclusion in the Destination 2036 Draft Action Plan.
3. Council note the Local Government Reform Discussion Paper prepared for Warringah Council.
4. Council note the letter from the United Services Union in respect of the Destination 2036 Implementation Steering Committee.

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**ENVIRONMENT DIVISION****Page Number 32****Item 7 EN45/11 POSSIBLE EXPANSION OF USES AT THE RURAL SPORTS FACILITY AT GALSTON****RECOMMENDATION**

THAT expressions of interest be publicly invited for additional use of the Rural Sports Facility , consistent with those uses specified in the Plan of Management for Community Land and Crown Reserves – District 6 (2006),` from community-based or commercial interests, and a further report be brought back to Council thereafter for its consideration.

**Page Number 38****Item 8 EN46/11 BUSHLAND AND BIODIVERSITY TEAM ANNUAL REPORT 2010-2011****RECOMMENDATION**

THAT Council adopt the attached report entitled ‘Bushland and Biodiversity Team Annual Report 2010-11’.

**Page Number 42****Item 9 EN47/11 TENDER FOR AMENITIES BUILDING CONSTRUCTION - HAYES OVAL, GALSTON****RECOMMENDATION**

THAT Council accept the Tender submitted by Marc Morabito Constructions for Tender No. T14/2011: Amenities Building Construction, Hayes Oval, Galston for the lump sum price as stated in the attached Confidential Memo (ENV 21/11). The price will be made public on formal acceptance of the tender.

**Page Number 46****Item 10 EN48/11 OLD MANS VALLEY DRAFT PLAN OF MANAGEMENT****RECOMMENDATION**

THAT Council place the Draft Old Mans Valley Plan of Management on public exhibition for no less than the legislatively required period, with a view to future adoption following the receiving of submissions through the exhibition period.

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**Page Number 49****Item 11 EN49/11 REQUEST TO REMOVE TREE AT 8 ARKENA AVENUE,  
EPPING****RECOMMENDATION**

THAT Council refuse permission to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at 8 Arkena Avenue Epping and instead refer the property owner to previously issued consent for 15% crown thinning of the canopy and the removal of accessible deadwood (this pruning would allow for the reduction prune of limbs extending over 12 Arkena Avenue Epping).

**Page Number 53****Item 12 EN52/11 ADOPTION OF 2010-2011 ESTUARY MANAGEMENT  
PROGRAM ANNUAL REPORT****RECOMMENDATION**

THAT Council adopt the 2010-2011 Estuary Management Program Annual Report.

**PLANNING DIVISION**

*Nil*

**WORKS DIVISION****Page Number 56****Item 13 WK62/11 TENDER NO. T11/2011 SURVEY & DESIGN OF MAJOR  
STORMWATER DRAINAGE UPGRADES****RECOMMENDATION**

THAT:

1. Council accept the tender of Brown Consulting (NSW) Pty Ltd for Projects 1 & 4 (Option F) and of Bannister & Hunter Pty Ltd for Projects 2 and 3 (Options B & C) for all work under Tender No. T11/2011: Survey & Design of Major Stormwater Drainage Upgrades, for the lump sum prices as stated in the confidential Memo (WD D&C 49/11).
2. The price will be made public on formal acceptance of the tenders.

**Page Number 60****Item 14 WK63/11 ROADS TO RECOVERY PROGRAM - EXTENSION  
BEYOND 2014**

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**RECOMMENDATION**

THAT:

1. Council support ALGA's national advocacy on behalf of Local Government for extension of R2R Program by confirming the following Council Resolution:-  
"Hornsby Shire Council calls on the Federal Government to:
  - recognise the successful delivery of the Roads to Recovery Program by Local Government since 2000;
  - continue the Roads to Recovery Program on a permanent basis to assist local government in meeting its responsibilities of providing access for its communities;
  - continue the Roads to Recovery Program with the current administrative arrangements; and
  - provide an increased level of funding under a future Roads to Recovery Program that recognises the national shortfall of funding on local roads of \$1.2 billion annually."
2. THAT Council subsequently write to the Prime Minister, the Leader of the Opposition, Minister for Infrastructure and Transport, Opposition spokesperson for Transport and the local Federal Member of Parliament, advising them of Council's support for a new and extended Roads to Recovery Program.

## **1 DISCLOSURES OF PECUNIARY INTEREST AND OTHER MATTERS RETURNS - COUNCILLORS AND DESIGNATED PERSONS**

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### **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 Return/s 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 requirements of the Act.

### **PURPOSE/OBJECTIVE**

The purpose of this Report is to table the Disclosure of Pecuniary Interests and Other Matters Return/s 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 2011.

### **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 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) and/or 449(5) of the Local Government Act and Council's Procedures**

Council last considered the tabling of Disclosure of Pecuniary Interests and Other Matters Returns under these Sections of the Act at the Ordinary Meeting held on 21 September 2011 (see Report No. CC55/11). Since that time, three additional Returns have been lodged with the General Manager and are now tabled as required by the Local Government Act.

<b>Date Lodged</b>	<b>Councillor/Designated Person (Position)</b>	<b>Reason for Lodgement</b>
02/09/2011	Procurement Manager.	Leaving Council
05/09/2011	Engineering Resources Technical Officer	Acting in the position
15/09/2011	Manager, Commercial Property	Leaving Council

### **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 Returns under Section 449(3) at the Ordinary Meeting held on 20 October 2010. In preparation for the Report being tabled at tonight's Meeting, a page dedicated to Pecuniary Interest Declarations was set up on Council's Intranet. This page contained general information and simple instructions concerning the annual disclosure process together with links to the Pecuniary Interest Declaration form and the Division of Local Government's Self Help Guide.

During August 2011, advice was sent in several formats by Council's Senior Access to Information Officer to designated persons alerting them to the Intranet page and the necessity for them to complete a form. During September three reminders were issued, as well as follow up phone calls made, to those whose forms had not yet been received. On 5 October a final reminder was issued by the Manager, Governance and Customer Service in order to retrieve the remaining outstanding forms.

At the time of writing this Report, 19 Disclosures of Pecuniary Interest and Other Matters Returns remain outstanding and have not been submitted to the Governance and Customer Service Branch in accordance with the above requirements. Six of these Returns are in respect of Designated Persons who are currently on extended leave. The Governance and Customer Service 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 - Governance & Customer Service  
Corporate and Community Division

GARY BENSLEY  
Executive Manager  
Corporate and Community Division

### **Attachments:**

There are no attachments for this report.

File Reference: F2011/00977

Document Number: D01753972

**ITEM 1**



## 2 2011/12 INVESTMENTS AND BORROWINGS - PERIOD ENDING AUGUST 2011

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### 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 2011 was \$264,000 compared to the budgeted income for the same period of \$257,000. Of the investment income earned, 31% 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 of Surplus Funds Policy (which was last reviewed by Council at its 20 April 2011 Ordinary Meeting).

### DISCUSSION

#### Council's Investment Performance – August 2011

- The At-Call and Term Deposits achieved an annualised return of 5.85% for the month compared to the benchmark of 4.75%.
- NSW T-Corp Long Term Growth Facility achieved a marked to market annualised return of -24.88% for the month compared to the benchmark of -22.58%. 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 7.07% for the month compared to the benchmark of 5.14%.
- The Capital Guaranteed Notes achieved an annualised return of 0% for the month compared to the benchmark of 5.14%. No interest will be accrued for the remaining life of the securities.

For total investments, the annualised return for August 2011 was 4.24% compared to the benchmark of 3.93%.

## Economic Commentary

### **Statement by Glenn Stevens, Governor: Monetary Policy Decision – Media Release - 6 September 2011**

*At its meeting today, the Board decided to leave the cash rate unchanged at 4.75 per cent.*

*Conditions in global financial markets have been very unsettled over recent weeks, as participants have confronted uncertainty about both the resolution of sovereign debt problems and the prospects for economic growth in Europe and the United States. As a result, the outlook for the global economy is less clear than it was earlier in the year. Some temporary impediments that had contributed to a slowing in growth in some countries over recent months, such as the supply-chain disruptions from the Japanese earthquake and the dampening effects of rising commodity prices, are lessening. But the uncertainty and financial volatility is reducing confidence and may result in more cautious behaviour by firms and households in major countries. A number of forecasters have scaled back their global growth estimates over the past couple of months.*

*At this stage, little evidence is available to gauge any effects of the European and US problems on other regions. Prices for key Australian commodities have remained very high thus far, with growth in China continuing to look solid. As a result, Australia's terms of trade are now at very high levels and national income has been growing strongly. Investment in the resources sector is picking up very strongly and some related service sectors are enjoying better than average conditions. In other sectors, cautious behaviour by households and the high level of the exchange rate are having a noticeable dampening effect. The impetus from earlier Australian Government spending programs is now also abating, as had been intended. Overall, the near-term growth outlook continues to look somewhat weaker than was expected a few months ago. Beyond the near term, growth is still likely to be at trend or higher, unless the world economic outlook continues to deteriorate.*

*Growth in employment has been moderate this year and the unemployment rate has been little changed, near 5 per cent, for some time now. Reports of skills shortages remain confined to the resources and related sectors. After the significant decline in 2009, growth in wages has returned to rates seen prior to the downturn, though productivity growth has been weak.*

*Year-ended CPI inflation should start to decline towards the end of the year, as temporary weather-related effects reverse. But measures of underlying inflation have been increasing this year, after declining for the previous two years. While they have, to date, remained consistent with the 2–3 per cent target on a year-ended basis, the Board remains concerned about the medium-term outlook for inflation. A key question will be the extent to which softer global and domestic growth will work, in due course, to contain inflation.*

*Most financial indicators suggest that monetary policy has been exerting a degree of restraint. Credit growth has declined over recent months and is very subdued by historical standards, even with evidence of greater willingness to lend. Most asset prices, including housing prices, have also softened. The exchange rate is high. Each of these variables is affected by other factors as well, but together they point to financial conditions being tighter than normal.*

*At today's meeting, the Board judged that it was prudent to maintain the current stance of monetary policy. In future meetings, the Board will continue to assess carefully the evolving outlook for growth and inflation.*

**Borrowings**

In respect of borrowings, the weighted average interest rate payable on loans taken out from 2002 to 2011, based on the principal balances outstanding, is 6.90%. The Borrowings Schedule as at 31 August 2011 is attached for Council's information.

**BUDGET**

Total investment income for the months of July and August was \$264,000. The budgeted income for the period was \$257,000. Approximately 31% of the investment income 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 of Surplus Funds Policy.

**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.

**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. CC62/11 be received and noted

JOHN EDDY  
Senior Corporate Accountant - Corporate  
Reporting  
Corporate and Community Division

GARY BENSLEY  
Executive Manager  
Corporate and Community Division

**Attachments:**

1. HSC Investment Portfolio as at 31 Aug 2011
2. HSC Borrowings Schedule as at 31 Aug 2011

File Reference: F2004/06987

Document Number: D01757627

### **3 2010/11 AUDITED FINANCIAL STATEMENTS - PRESENTATION TO THE PUBLIC**

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#### **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 21 September 2011, Council received the 2010/11 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 19 October 2011 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 been placed on Council's website.

Following formal presentation of the Financial Statements and Auditor's Reports to the public at the 19 October 2011 Meeting, members of the public, in accordance with Section 420 of the Local Government Act, have seven days, i.e. until 26 October 2011, to make submissions about the Statements.

#### **PURPOSE/OBJECTIVE**

The purpose of this Report is for Council's 2010/11 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 21 September 2011, Council considered Report No CC56/11 and resolved that:

- 1. The General Purpose and Special Purpose Financial Statements for 2010/11, 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 2010/11 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 19 October 2011 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 19 October 2011 Meeting, members of the public, in accordance with Section 420 of the Local Government Act have seven days, i.e. until 26 October 2011, 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 2011, as presented to the public on 19 October 2011, 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 10/11. (Included under separate cover)

File Reference: F2011/00522  
Document Number: D01762487

## **4 COMMUNITY DONATIONS PROGRAMME 2011/12**

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### **EXECUTIVE SUMMARY**

Each year, Council calls for applications for financial assistance under the Donations Programme from community groups or organisations based in the Hornsby Shire, or groups who provide assistance and support to residents of the Shire.

In respect to the 2011/12 Community Donations Programme, applications were received from 80 community groups together with two internal applications relating to previous resolutions of Council. Compared to the 2010/2011 Donations Programme, there was a 21% increase in the number of applications received and a 100% increase in the amount of funding requested.

Staff have recommended funding totalling \$53,331 to 36 community groups (including two internal applications) and that the residual Donations Programme funds be allocated to the purchase of shared digital media projectors to meet the needs of the numerous community groups that have requested funding for the same through this funding program. Councillors have been informally advised of staff recommendations and staff recommendations are presented in this report for the consideration of Council.

### **PURPOSE/OBJECTIVE**

The purpose of this Report is for Council to determine funding allocations to community groups under the 2011/2012 Donations Programme.

### **DISCUSSION**

#### **Background**

Each year, Council calls for applications for financial assistance under its Donations Programme from community groups or organisations based in the Hornsby Shire, or groups who provide assistance and support to residents of the Shire. In this regard, Council's 2011/12 Budget includes an allocation of \$65,000 to distribute to the community through the Programme.

Groups in the Community Services Branch Donations Programme Data Base were invited to apply for funding. In addition to this, advertisements were placed in the Hornsby Advocate and the Northern District Times informing organisations of the commencement of the funding programme and inviting applications. The Programme was also publicised in four other local publications including The Hills News, The Bush Telegraph, The Monthly Chronicle and Galston Community News. 100 flyers were also distributed to the community at several different places including Hornsby Central Library, Local Government Stall in Hornsby Mall and interagency meetings. Flyers were delivered in person by Council's Community Development Officers to community groups in remote areas of the Shire including Brooklyn, Epping, Galston and Wiseman's Ferry. Council's Community Development Officers also presented at four different interagency/network meetings in July and August 2011 to allow prospective applicants to find out more about the Donations



Programme and to seek advice on their applications. Advertising with respect to the 2011/12 Programme commenced in early July 2011 and applications closed on 31 August 2011.

Applications seeking a total of \$454,663.25 were received from 80 community groups. In addition, internal applications were received in relation to an allocation to the Mayor's Youth Trust Fund (\$3,000); and in relation to Council's resolution with respect to Report No. CC91/05 to establish an Emergency Relief Fund (\$5,000). As such, the amount of funding requested with respect to the 2011/12 Community Donations Programme totals \$462,663.25.

All groups who applied for financial assistance under the Donations Programme were required to indicate how they would acknowledge Council's support should their application be successful. As a result, each community group who receives financial assistance from Council will be notified of the requirement to recognise Council's support via the method outlined in their application and in line with Council's Corporate Identity Guidelines.

### **Assessment Process**

The Donations Programme is aligned to the Social Plan 2010-14 and, in an attempt to ensure that Council funds a range of groups and services under the Programme, applications are categorised into the following groupings:

- Support Healthy, Active Communities
- Create a Sense of Belonging
- Meet Our Diverse Community Needs

Community Services Branch staff with expertise in the relevant policy areas, as well as a representative from Strategy and Communications Branch, assessed the applications for financial assistance in accordance with the Policy titled Council Cash and Non Cash Donations and Grants (see Attachment 1). This year, a process was trialled whereby staff recommendations for funding were distributed to Councillors via email rather than discussing applications in a face to face Donations Committee Meeting. Through this "e-meeting" process, Councillors were afforded an opportunity of providing comments and asking questions about the staff funding recommendations. The following comments and questions were received:

- A Councillor questioned the funding recommended by staff to the Hornsby Ku-ring-gai PCYC Teenage Theatre Co. Staff reviewed the recommendation and as the application complied with the Donations Programme Policy and there was scope to provide additional funding within the application, it was considered appropriate to amend the staff recommendations for funding to \$1,300.
- A Councillor questioned why staff recommended no funding be allocated to the IABBV Hindi School. Staff explained that the application had not met a number of the criteria of the Donations Program Policy – specifically, the application had not met or addressed Clauses 2, 9, 10, 13, 16 of the Policy. In summary, the group submitted an incomplete application and, in an environment where applications are competitively assessed, staff conducted an assessment on the information that was submitted. On this basis, staff could not recommend funding for the group even though the project itself was favourably considered.

In respect of the IABBV Hindi School application referred to above, a revised application was received from the group on 6 October 2011. In considering this revised application, and given the nominated dates of the event (i.e. 22 October or 5 November 2011) and the lack of a definite venue, staff remain concerned that the project would not be viable given the lack of project lead time. As such, staff are unable to recommend funding at this time.

In respect of the IABBV Hindi School application, two options appear to be available for Council to consider:

1. Given the community value of the project in question, the IABBV Hindi School could be encouraged to further refine their application to address staff concerns and resubmit the application for funding in the second round of the Donations Programme. As the event in question is scheduled for 22 October or 5 November 2011, and the relevant Policy nominates that consideration of second round applications should be considered by 31 January 2012, it is possible that funding could be provided in a timely fashion for this event via the second round of the programme. It is emphasised that the revised application would need to address the relevant policy criteria as well as staff concerns regarding project planning processes in order to be favourably considered during the second round.
2. Council offer to partner with the IABBV Hindi School to deliver a Bollywood Movie to the community noting that the group has requested the same at a Mayoral Interview held on 6 April 2011. In this regard, Council has previously allocated \$15,000 to deliver three community movie nights across the shire in partnership with the community. In offering to partner with the IABBV Hindi School to deliver a Bollywood Movie night, Council would have the opportunity to build the capacity of the organisation to deliver larger scale community events such that a large scale Dusehra Festival may be delivered by the group in the future.

Officers consider that it is appropriate that the above options be progressed in discussion with the IABBV Hindi School. If the submission of a Round 2 grant application is the preferred option, it is recommended that funding for this request be considered by the Mayor, General Manager and Manager Community Services Branch as per the established protocol.

### **Summary**

Given the above comments, an allocation of \$53,331 is recommended by staff to be distributed to 36 community groups and organisations in round one of the Donations Programme. The proposed allocations are now submitted for Council's approval. Attachment 2 provides a Funding Summary Table which shows the recommended allocations to each community group or organisation. It should be noted that the proposed allocations of funding through the Donations Programme includes \$3,000 to the Mayor's Youth Trust Fund to be distributed to young people who live, study and recreate in the Hornsby Shire as per the Policy associated with this Fund. Additionally, \$5,000 has again been included in the 2011/12 Donations Programme budget as a consequence of a Council decision to establish an Emergency Relief Fund for international and domestic humanitarian aid projects (see resolution in respect of Report No. CC91/05).

### **Residual Funds**

The Donations and Grants – Council Cash and Non Cash Policy provides for a second round of funding if funding remains available. It is noted that in the last two years of the Donations Programme, a number of community groups have applied to purchase digital data projectors.

Given the prevalence for the demand for these facilities, it is recommended that at least \$8,000 of the residual funds from this year's programme be allocated to purchasing fixed or portable data projectors for shared use by community groups. The type of projectors purchased and the locations that they are allocated to throughout the Shire should be governed by feedback from Donations Programme applicants.

### Other Council Donations to the Community

In 2006, Council resolved in respect of Report No. CC24/06, that:

*As part of its consideration of the annual donations program, Council be provided with relevant information regarding:*

- a) foregone rental for community groups' use of Council buildings.*
- b) subsidies to sporting groups in respect of their use of sports grounds.*
- c) any other financial assistance provided by Council to community groups.*

The following table provides a response to that resolution:

Source of Subsidy	Value of Subsidies 2010/11
Community Centres and Halls - Foregone Rental	\$28,478.47*
Community Centres - Premium for Casual Hirers Policy	\$8,000.00
Subsidy of Council owned facilities used by preschools	\$618,360.15
Subsidy of Council owned facilities used by non-profit societies	
Subsidy of Council owned facilities used by Scouts and Guides	
Subsidy of Council owned facilities used by clubs	
Subsidies miscellaneous use of Council owned facilities	
Sporting ground subsidies	\$2,057,679.20*
<b>Total</b>	<b>\$2,712,517.82</b>

\*Estimated values only based on CPI increases (3%).

### **BUDGET**

An amount of \$65,000 is allocated in the 2011/12 Donations Programme budget. The amount recommended for funding is \$53,331 through Council's Donations Programme, leaving \$11,669 unallocated. Of these unallocated funds, it is recommended that at least \$8,000 be provided to purchase digital projectors for shared use by the community. In the event that the IABBV Hindi School applies for second round Donations Programme funding, a figure of \$3,669 would be available to support such a request. If such an application is not received, these funds should be allocated to the purchase of additional data projectors.

It is noted that community groups/organisations recommended for funding in the first round will receive cheques at the first available opportunity after this Report is considered.

## **POLICY**

The 2011/12 Donations Programme has been conducted in accordance with the Policy titled Donations and Grants – Council Cash and Non Cash (POL00209).

## **CONSULTATION**

### ***Internal***

Manager, Community Development – Lisa Cahill  
Community Development Officer – Bonnie Faulkner  
Event Co-ordinator – Kristen Woods

## **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 the Donations Programme is an enactment of an adopted funding policy, no Triple Bottom Line assessment is required of this report.

## **RESPONSIBLE OFFICER**

The responsible officer is Mr David Johnston – Manager, Community Services Branch, who can be contacted on telephone 9847 6800. For further information, please contact Ms Lisa Cahill – Manager, Community Development on 9847 6779.

## **RECOMMENDATION**

THAT:

1. The contents of Executive Manager's Report No. CC64/11 be received and noted.
2. The organisations listed below receive financial assistance from Council in 2011/12 in accordance with the Policy titled Council Cash and Non Cash Donations and Grants.

<b>Organisation/Group</b>	<b>Amount</b>
1st Cherrybrook Scouts	\$1,481
2nd/3rd Pennant Hills Scout Group	\$1,800
Aknoon Cultural Centre	\$1,100
Berowra Over 55 Club	\$500
Brooklyn P&C Association	\$1,000
Cherrybrook Chinese Community Association	\$1,000
Combined Probus Club of Cherrybrook	\$500
Dangar Island Café	\$2,195
Easy Care Gardening	\$2,000
Fairholme Quilters Inc.	\$2,980
Ferry Artist Gallery	\$1,150

Hornsby and District TPI Club	\$600
Hornsby Area Residents for Reconciliation	\$1,300
Hornsby Chinese Senior Group	\$750
Hornsby Hispanitos Playgroup	\$800
Hornsby Kuringai Association Inc	\$1,500
Hornsby Ku-Ring-Gai PCYC Symphonic Band	\$1,000
Hornsby Ku-Ring-Gai PCYC Theatre Group	\$1,300
Hornsby Legacy Widows' Club	\$750
Hornsby Rockets Ten Pin Bowling Team Inc.	\$1,000
Hornsby Rosemary Legacy Club	\$1,000
Hornsby Kuring-Gai Volunteer Coordinator Forum	\$1,000
Indian Seniors Group	\$1,000
Korfball NSW	\$650
Ku-Ring-Gai Youth Development Services Inc	\$1,000
Multicultural Integration Community Support Inc	\$4,200
Namaste India Community	\$1,000
Parkinson's NSW - Ku-Ring-Gai Support Group	\$1,000
Studio ARTES Northside Inc	\$3,250
Te Amo Peru	\$1,800
The Friends of Richard Geeves Centre	\$1,000
Transition Epping	\$1,600
Vishva Hindu Parishad of Australia Inc	\$1,000
Wisemans Ferry Sunshine Group	\$1,125
Mayors Youth Trust Fund	\$3,000
Emergency Relief Fund	\$5,000
<b>Total</b>	<b>\$53,331</b>

3. Due to the high number of requests from community groups to fund digital projectors in the last two years, at least \$8,000 of the funds remaining following Round 1 of the Donations Programme 2011/12 be allocated to install fixed or portable digital projectors in community centres that have the most demand for this infrastructure.
4. Any further requests for financial assistance received in the 2011/12 financial year from community groups/organisations that meet the criteria of Council Policy POL00209 - Cash and Non Cash Donations and Grants, be referred to the Mayor, General Manager and Manager, Community Services Branch for consideration and determination.

DAVID JOHNSTON  
 Manager - Community Services  
 Corporate and Community Division

GARY BENSLEY  
 Executive Manager  
 Corporate and Community Division

**Attachments:**

1. Policy - Donations and Grants - Council Cash and Non-Cash
2. Summary Table Of Staff Recommendations

File Reference: F2010/00047

Document Number: D01770512

## 5 CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

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### **EXECUTIVE SUMMARY**

In 2010, the Federal Government made a commitment to hold a referendum during the current Parliament or at the next election about the recognition of local government in the Australian constitution. Subsequently, on 21 June 2011, the Federal Government announced the establishment of an independent Expert Panel on Constitutional Recognition of Local Government.

The Expert Panel has released a Public Discussion Paper and is inviting all Australians to have their say on whether local government should be recognised in the Australian Constitution. The Discussion Paper identifies four ideas in respect of constitutional recognition which the Expert Panel believes would make a practical difference; have a reasonable chance at a referendum; and resonate with the public. The Panel's ideas (i.e. symbolic recognition, financial recognition, democratic recognition and recognition through federal cooperation) are not meant to be mutually exclusive and more than one could be incorporated in a referendum proposal.

The Australian Local Government Association has written to Council indicating that it will be making a submission to the Expert Panel emphasising a preference for the financial recognition of local government. The Association will outline the comprehensive process it has undertaken in reaching such a view based on their assessment of broad public support and support by councils. The Association will highlight the strong support which clearly exists for ensuring that the Commonwealth can continue to fund local government directly, by removing any doubts about the constitutional validity of such funding. The financial recognition of local government can be achieved through a relatively simple change to Section 96 of the Constitution which allows the Commonwealth to fund the States.

It is noted that at its 15 June 2011 Ordinary Meeting, Council considered a Mayoral Minute on the matter of constitutional recognition of local government and resolved that it declare its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new preamble to the Constitution if one is proposed, and call on all political parties to support a Referendum by 2013 to change the Constitution to achieve this recognition.

Based on the Expert Panel's view that an idea taken forward in respect of the constitutional recognition of local government should be able to make a practical difference, have a reasonable chance at a referendum and resonate with the public; and because it is appropriate that Council show its continued support for the process and for the Associations' actions in taking the matter forward on behalf of local governments across Australia, it is proposed that a submission be forwarded to the Expert Panel which indicates Council's preference for the inclusion of financial recognition of local government in the Constitution.

### **PURPOSE/OBJECTIVE**

The purpose of this Report is to advise Council of the establishment of an Expert Panel on Constitutional Recognition of Local Government; to provide a copy of the Public Discussion Paper published by the Expert Panel; and to determine if, and what is to be included, in any submission made by Council in respect of the Discussion Paper.

## **DISCUSSION**

### **Expert Panel on Constitutional Recognition of Local Government – Discussion Paper**

In 2010, the Federal Government made a commitment to hold a referendum during the current Parliament or at the next election about the recognition of local government in the Australian constitution. Subsequently, on 21 June 2011, the Federal Government announced the establishment of an independent Expert Panel on Constitutional Recognition of Local Government.

The Expert Panel has recently released a Media Release and a Public Discussion Paper – September 2011 (copies attached) and is inviting all Australians to have their say on whether local government should be recognised in the Australian Constitution. In consulting with the community, the Panel specifically wants to form a view on:

- The level of support for constitutional recognition of local government.
- The various forms that such recognition could take, together with the advantages and disadvantages of different options.

It is noted that to succeed, a referendum must attract the support of a majority of votes nationally, and a majority of votes in a majority of States.

The Discussion Paper identifies four ideas in respect of constitutional recognition which the Expert Panel believes would make a practical difference; have a reasonable chance of success at a referendum; and resonate with the public. The Panel's ideas (listed below and detailed in the Discussion Paper), are not meant to be mutually exclusive and more than one could be incorporated in a referendum proposal:

- Symbolic recognition of local government (by including it in a new Preamble or Statement of Values).
- Financial recognition of local government (which would allow the Commonwealth to directly fund local government).
- Democratic recognition of local government (which would require States to establish and maintain local government).
- Recognition through federal cooperation (which would seek to encourage cooperation between the levels of government, including local government).

Written submissions are to be lodged by 4 November 2011 such that the Panel can report to the Government in December 2011 on its findings.

### **Australian Local Government Association's View**



The Australian Local Government Association (ALGA) has recently written to Council (copy attached) indicating that it will be making a submission to the Expert Panel emphasising a preference for the financial recognition of local government. In this regard, the ALGA will outline the comprehensive process it has undertaken in reaching such a view based on their assessment of broad public support and support by councils.

The ALGA has advised that throughout 2008 it worked with State and Territory local government associations and councils to explore the need for constitutional recognition, the level of support for change and the options for recognition. Initial conversations held by many councils in the first half of 2008 led to an experts' forum and then to a major national constitutional convention held in Melbourne in December 2008. The convention was attended by approximately 600 delegates and identified possible options for consideration by the ALGA Board.

In depth public research in mid-2009 (which showed that the public would not support symbolic or more complex constitutional recognition, but would support financial recognition) and the outcome of the Pape Case in the High Court (which cast strong doubts on the validity of direct federal funding of local government) led the ALGA Board to determine that its preference was for the financial recognition of local government by the Commonwealth.

The ALGA has advised there is overwhelming support for the financial recognition option amongst local governments, with more than 400 councils across Australia already passing resolutions in support of such option. (N.B. Council's previous consideration of constitutional recognition is detailed in a separate section below)

The ALGA has indicated that its submission will highlight the strong support which clearly exists for ensuring that the Commonwealth can continue to fund local government directly, by removing any doubts about the constitutional validity of such funding. The Commonwealth already directly funds local government for the Roads to Recovery Program and the Regional and Local Community Infrastructure Fund (which was part of the stimulus funding provided by the Nation Building – Economic Stimulus Plan during the global financial crisis).

The High Court decision in *Pape v Commissioner of Taxation (2009)* cast doubt on the Commonwealth's power to provide this funding directly to local government. There is no general power in the Constitution which allows the Commonwealth to provide direct funding to local government to maintain services and infrastructure, including roads, and, because of this, the validity of funding is not certain. Local government requires certainty if it is to remain financially sustainable in the long term and to be able to deal with the growing needs of its communities. The High Court decision clearly signals a need for change and change cannot occur without amending the Australian Constitution.

The financial recognition of local government can be achieved through a relatively simple change to Section 96 of the Constitution which allows the Commonwealth to fund the States. Adding local government into this section would be a pragmatic response to the doubt identified in the Pape case. It would confirm the right of the Federal Parliament to fund local government directly, but it will not affect the relationships between local government and the State governments i.e. the States will continue to have the power to determine how councils operate.

### **Council's Previous Considerations**

At its 15 June 2011 Ordinary Meeting, Council considered Mayoral Minute No MM6/11 - Constitutional Recognition of Local Government (copy attached). The Mayoral Minute indicated that during 2008, the ALGA commenced a campaign on behalf of all councils across Australia to pursue constitutional recognition for local government. As a first step, each council was requested to consider various models for recognition and to advise the ALGA of the council's preferred model by August 2008. In Hornsby's case, Councillors were asked to provide input via a brief survey aligned to the ALGA's proposed objectives for constitutional recognition. The survey results demonstrated that all Hornsby Councillors supported constitutional recognition for local government, and the provision of a guaranteed minimum level of funding for local government was the most important objective to be achieved. A simplified or streamlined Federal funding system was also a high priority, whereas protection for the system of local government was not considered as important. Following its consideration of the matter, Council resolved that:

*Hornsby Shire Council declare its support for financial recognition of local government in the Australian Constitution so that the Federal Government has the power to fund local government directly and also for inclusion of local government in any new preamble to the Constitution if one is proposed, and call on all political parties to support a Referendum by 2013 to change the Constitution to achieve this recognition.*

### **Proposal**

Based on the Expert Panel's view that an idea taken forward in respect of the constitutional recognition of local government should be able to make a practical difference, have a reasonable chance at a referendum and resonate with the public; and because it is appropriate that Council show its continued support for the process and for the ALGA's actions in taking the matter forward on behalf of local governments across Australia, it is proposed that a submission be forwarded to the Expert Panel which indicates Council's preference for the inclusion of financial recognition of local government in the Constitution.

### **BUDGET**

There are no budgetary implications associated with this Report.

### **POLICY**

There are no policy implications associated with this Report.

### **CONSULTATION**

There has been consultation with the current General Manager and the General Manager in waiting 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 the preparation of this Report is the Executive Manager, Corporate and Community Division – Mr Gary Bensley. He can be contacted on 9847-6605

### **RECOMMENDATION**

THAT:

1. The contents of Executive Manager's Report No CC65/11 be received and noted
2. A submission be forwarded to the Expert Panel on Constitutional Recognition of Local Government indicating Council's support for the inclusion in the Australian Constitution of the financial recognition of local government.

GARY BENSLEY  
Executive Manager  
Corporate and Community Division

#### **Attachments:**

1. Media Release dated 22 September 2011 - Call for Submissions - Constitutional Recognition for Local Government
2. Constitutional Recognition of Local Government - Public Discussion Paper - September 2011
3. Letter from the ALGA dated 23 September 2011
4. Mayoral Minute No. 6/11 - Constitutional Recognition of Local Government

File Reference: F2004/06308  
Document Number: D01771509

## 6 LOCAL GOVERNMENT REFORM

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### EXECUTIVE SUMMARY

There are three issues dealing with local government reform which need to be brought to the attention of Council. They are the outcomes of the Destination 2036 Workshop; a Warringah Council Discussion Paper on Local Government Reform; and a request from the United Services Union in respect of reform process.

State local government leaders met in August at the Destination 2036 Workshop to discuss and plan the future of local government in NSW. The Division of Local Government has now released the Destination 2036 Outcomes Report and set out the proposed process and timeframe for consultation and preparation of the related Action Plan. Section 4 of the Outcomes Report contains a draft Vision which was developed at the Workshop and Section 10 contains the suggested actions that were proposed by participants over the two days.

An Implementation Steering Committee has now been established to prepare an Action Plan, with a primary focus on the next four years. The Action Plan is to be based on the outcomes from the Destination 2036 workshop and is intended to be submitted to the Minister for Local Government for endorsement by the end of January 2012. The Committee is now seeking Council's views on the following by 4 November 2011:

- *Do you support the draft Vision contained in the Outcomes Report?*
- *If not what changes would you suggest?*
- *What do you believe should be the priorities for the draft Action Plan?*

In respect of the first question, there was significant discussion about the draft Vision on the first day of the Workshop and this led to a small working group refining the draft on the second day and presenting it to all delegates. 91% of delegates supported the draft Vision as a basis for further consultation and development. Unless individual Councillors believe that amendments are required to the draft Vision, it is recommended that Council advise the Committee that it is supportive of the draft as a basis for further consultation and development.

In respect of the third question, there was broad consensus at the Workshop that change and reform is needed within the local government sector to meet changing community needs and this will be achieved through the pursuit of a set of strategic initiatives, known as the "roadmap". The Outcomes Report also provides Suggested Actions under the headings of Functions, Structure, Governance, Finance and Capacity. In Appendix E of the Outcomes Report, the two highest scoring actions, as reflected by electronic voting undertaken at the Workshop, under each of those categories (plus a further category of Other Big Ideas) are detailed.

Unless Councillors believe that amendments are required to the “roadmap” or to the “priority actions”, it is recommended that Council advise the Committee that it is supportive of the “roadmap” and the “priority actions” being the priorities for the draft Action Plan.

Warringah Council has recently released a Local Government Reform Discussion Paper which looks at the future of local government for the Warringah community and the wider region. The General Manager of Warringah Council has advised that the Paper explores the current limitations of local government in NSW and draws on international experience to look at how the community could be more effectively served through strengthening shared services or voluntary amalgamations

Whilst the Discussion Paper has no preferred option, it does discuss the possibilities of creating a council with strong strategic capability and regional scope through merging existing councils including Hornsby. Having regard to Council’s commitment to the Destination 2036 Workshop and, in particular, the forthcoming opportunity to further participate through responding to the Action Plan, it is considered appropriate that Warringah’s Discussion Paper be noted at this time and no further action be taken until the Destination 2036 process has been completed and Council has considered the outcomes from the process.

The United Services Union has written to Council calling on it to support the Union’s approach to the Minister for Local Government to have a place at the local government reform negotiating table (Implementation Steering Committee) to ensure that their members and councils’ employees are truly represented in any reform process. It is noted that the Committee intends to develop an initial draft Action Plan based on material contained in the Destination 2036 Outcomes Report, with input from stakeholders (including the relevant unions). The draft Action Plan will then be released for detailed stakeholder consultation (including the relevant unions). Based on that consultation, the Committee will finalise the Plan and submit it to the Minister for Local Government for consideration.

As it is understood that Council intends to actively participate in the local government reform debate and include unions in discussions wherever relevant, it is recommended that the Union’s letter be noted and no further action taken.

### **PURPOSE/OBJECTIVE**

The purpose of this Report is to appraise Council of, and make recommendations in respect of, the outcomes of the Destination 2036 Workshop held in August 2011; a Discussion Paper on Local Government Reform prepared for Warringah Council; and a request from the United Services Union in respect of the local government reform process.

### **DISCUSSION**

There are three issues dealing with local government reform which need to be brought to the attention of Council. They are the outcomes of the Destination 2036 Workshop held in Dubbo in August 2011; a Discussion Paper on Local Government Reform forwarded by Warringah Council; and a request from the United Services Union in respect of the local government reform process.

#### **Destination 2036 Workshop**

On 17 and 18 August 2011, local government leaders from all 152 councils across the State met in Dubbo to discuss and plan the future of local government in NSW. The event was

known as the Destination 2036 Workshop. Council's representatives at the Workshop were the Mayor and the Executive Manager, Corporate and Community Division (representing the General Manager).

The Division of Local Government (DLG) has now released the Destination 2036 Outcomes Report and set out the proposed process and timeframe for consultation and preparation of the related Action Plan. The Outcomes Report was prepared by the independent workshop facilitator (Elton Consulting). It provides a comprehensive record of what transpired over the two days in Dubbo and the preparatory work undertaken before the event. It also describes the processes and techniques used at the Workshop to identify issues, build and assess consensus and identify areas for further discussion and consultation.

Section 4 of the Outcomes Report contains the following draft Vision, which was developed at the Workshop:

***Strong Communities through Partnerships***

*By 2036, all NSW communities will be healthy and prosperous – led and served by strong, effective and democratically elected Local Government.*

*Through leadership, local knowledge and partnerships with community, government and other sectors, we will plan our futures and deliver quality services and infrastructure. We will be recognised, respected and responsible for:*

- *Upholding the highest ethical standards.*
- *Sound financial management.*
- *Sensitive environmental stewardship.*
- *Meaningful community engagement, advocacy and leadership.*
- *Our adaptability, innovation and learning.*
- *Developing the full potential of our people.*
- *Responding to our diverse cultures and environments.*
- *Creating places that people value.*

Section 10 of the Report contains the suggested actions that were proposed by participants over the two days. The Report has not tried to capture every idea proposed by every participant, but rather it focuses on actions that were presented multiple times during the process and/or fed back by one or more groups to a joint session as a priority.

An Implementation Steering Committee (ISC) has been established to prepare an Action Plan, with a primary focus on the next four years. The Action Plan is to be based on the outcomes from the Destination 2036 workshop. The ISC will also coordinate the implementation of that Action Plan. Membership of the ISC consists of the Chief Executive of the DLG (Chair), the Presidents of the LGSA and the President of Local Government Managers Australia NSW (LGMA).

The ISC intends to develop an initial draft Action Plan by 21 November 2011 based on the material contained in the Outcomes Report, with input from stakeholders. That draft Action Plan will then be released for detailed stakeholder consultation until 30 December 2011. Based on that consultation, the ISC will then finalise the Plan and submit it to the Minister for Local Government for endorsement by the end of January 2012.

The ISC envisages that work on many of the actions contained in the Plan will commence in February 2012. They anticipate that many of the actions will require detailed examination and this will involve specific stakeholder consultation. There will be a number of opportunities for stakeholders to contribute to the development of the Action Plan and to then comment on the direction of the agreed actions as work proceeds.

The ISC is now seeking Council's views on the following by 4 November 2011:

- *Do you support the draft Vision contained in the Outcomes Report?*
- *If not what changes would you suggest?*
- *What do you believe should be the priorities for the draft Action Plan?*

In respect of the first question, it is noted that there was significant discussion about the draft Vision on the first day of the Workshop. This led to a small working group refining the draft on the second day and presenting it to all delegates. Following that presentation, 91% of delegates supported the draft Vision as a basis for further consultation and development. Unless individual Councillors believe that amendments are required to the draft Vision, it is recommended that Council advise the ISC that it is supportive of the draft as a basis for further consultation and development.

In respect of the third question, there was broad consensus at the Workshop that change and reform is needed within the local government sector to meet changing community needs and this will be achieved through the pursuit of the following strategic initiatives (the "roadmap"):

- *The development of a new vision for local government based on a working draft.*
- *Continue to improve the relationship between state and local government, including a review of the intergovernmental agreement.*
- *Commitment to review the legislative framework to ensure that local government can meet the needs and challenges facing communities in the future.*
- *Commitment to clarify the key functions, roles and responsibilities of councils.*
- *Recognition that a variety of operating models for local government are needed that can be applied in the differing circumstances of remote, regional, rural and Sydney basin councils, because one size does not fit all.*
- *The need to develop new funding models to ensure the financial viability of councils.*
- *Strong endorsement to strengthen regional collaboration and resource sharing.*

- *Commitment to improve the process by which voluntary boundary alterations can be accommodated.*
- *Pilot programs with volunteer councils to test new models.*

It is also noted that Section 10 of the Outcomes Report provides Suggested Actions under the headings of Functions (page 53), Structure (page 54), Governance (page 55), Finance (page 56) and Capacity (page 57). In Appendix E of the Outcomes Report, the two highest scoring actions, as reflected by electronic voting undertaken at the Workshop, under each of those categories (plus a further category of Other Big Ideas) are detailed. Those “priority” actions were:

<i>Functions</i>	<ul style="list-style-type: none"> <li>• <i>Establish mandatory functions at State level with discretionary functions determined by local communities.</i></li> <li>• <i>Carry out service review to identify needs/wants of the community and decide who provides what services.</i></li> </ul>
<i>Structure</i>	<ul style="list-style-type: none"> <li>• <i>One size does not fit all “menu modelling” models from State/Local Government partnership.</i></li> <li>• <i>Review the current model and involve ROCs in development of major strategies and infrastructure issues.</i></li> </ul>
<i>Governance</i>	<ul style="list-style-type: none"> <li>• <i>Review of Local Government Act.</i></li> <li>• <i>Pilot program with volunteer councils to test new models, with government support.</i></li> </ul>
<i>Finance</i>	<ul style="list-style-type: none"> <li>• <i>Review of tax system to ensure local government gets equitable share of revenue.</i></li> <li>• <i>Establish Working Group (State/Local Government and other) to review local government finances and develop new financing formula.</i></li> </ul>
<i>Capacity</i>	<ul style="list-style-type: none"> <li>• <i>Review and change legislation that applies to local government to enable increased capacity and corporatisation of service delivery.</i></li> <li>• <i>Simplify and determine corporate governance arrangements between and in partnership with the three levels of government</i></li> </ul>
<i>Other Big Ideas</i>	<ul style="list-style-type: none"> <li>• <i>Establish a formal contractual arrangement with State and Federal Governments to guarantee funding for delivery of services.</i></li> <li>• <i>Integrate community plans on a regional basis, particularly with State agencies, to enable coordinated regional service delivery.</i></li> </ul>



Unless Councillors believe that amendments are required to the “roadmap” or to the “priority actions”, it is recommended that Council advise the ISC that it is supportive of the “roadmap” and the “priority actions” being the priorities for the draft Action Plan.

### **Local Government Reform Discussion Paper – Warringah Council**

Warringah Council has recently released a Local Government Reform Discussion Paper which looks at the future of local government for the Warringah community and the wider region. A copy of the Discussion Paper, which was prepared by Peter McKinlay - Director of the Local Government Centre at the Auckland University of Technology in New Zealand, was provided to Councillors in the Councillors’ Bulletin of 7 September 2011. A further copy is attached.

The General Manager of Warringah Council has advised that the Paper explores the current limitations of local government in NSW and draws on international experience to look at how the community could be more effectively served through strengthening shared services or voluntary amalgamations. As local government reform is firmly on the agenda of the NSW Government, as evidenced by their Destination 2036 initiative, Warringah would prefer to determine in consultation with their community and neighbours how this is delivered. It is noted that Paper and an online discussion forum is available at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au).

Whilst the Discussion Paper has no preferred option, it does discuss the possibilities of creating a council with strong strategic capability and regional scope through merging:

- The four SHOROC partner councils of Manly, Mosman, Pittwater and Warringah to achieve a new regional council with an estimated population of 277,000 people; or
- The three peninsula councils of Manly, Pittwater and Warringah to achieve a new regional council with an estimated population of 248,000 people; or
- The four SHOROC partner councils of Manly, Mosman, Pittwater and Warringah together with Hornsby, Ku-ring-gai and Willoughby to achieve a new regional council with an estimated population of 625,000 people.

Having regard to Council’s commitment to the Destination 2036 Workshop and, in particular, the forthcoming opportunity to further participate through responding to the Action Plan due to be circulated for comment from 21 November 2011, it is considered appropriate that Warringah’s Discussion Paper be noted at this time and no further action be taken until the Destination 2036 process has been completed and Council has considered the outcomes from the process.

### **Request from the United Services Union**

The attached letter has been received from the United Services Union (USU) calling on councils to support the Union’s approach to the Minister for Local Government to have a place at the local government reform negotiating table to ensure that their members and councils’ employees are truly represented in any reform process. The USU has requested that Council write to the Minister for Local Government calling on him to ensure that the USU’s members’ concerns are heard during any local government reform process by inviting the USU and industry unions to participate on the Implementation Steering Committee formed to progress actions from the Destination 2036 Workshop. In this regard, the USU have argued

that the Steering Committee is not truly representative of the local government sector if the workers of the industry are not represented.

It is noted that the Implementation Steering Committee referred to by the USU has been established and consists of the Chief Executive of the Division of Local Government (Chair), the Presidents of the Local Government and Shires Associations and the President of the LGMA. The intent is for the Steering Committee to develop an initial draft Action Plan based on material contained in the Destination 2036 Outcomes Report, with input from stakeholders (including the relevant unions). The draft Action Plan will then be released for detailed stakeholder consultation (including the relevant unions). Based on that consultation, the Steering Committee will finalise the Plan and submit it to the Minister for Local Government for consideration.

The Steering Committee envisages that work on many of the individual actions contained in the Plan will commence in February 2012. They anticipate that many of the actions will require detailed examination and will involve specific stakeholder consultation. The Chief Executive of the DLG has stated that there will be a number of opportunities for stakeholders to contribute to the development of the Action Plan and to then comment on the direction of the agreed actions as work proceeds.

As it is understood that Council intends to actively participate in the local government reform debate and include unions in discussions wherever relevant, it is recommended that the Union's letter be noted and no further action taken.

### **BUDGET**

There are no budgetary implications associated with this Report.

### **POLICY**

There are no policy implications associated with this Report.

### **CONSULTATION**

There has been consultation with the current General Manager and the General Manager in waiting 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 the preparation of this Report is the Executive Manager, Corporate and Community Division – Mr Gary Bensley. He can be contacted on 9847-6605

**RECOMMENDATION**

THAT:

1. The contents of Executive Manager's Report No CC66/11 be received and noted.
2. Council advise the Destination 2036 Implementation Steering Committee:
  - a) that it supports the draft Vision Statement contained in the Destination 2036 Outcomes Report as a basis for further consultation and development.
  - b) that it supports the "roadmap" of strategic initiatives and the "priority actions" in Appendix E of the Destination 2036 Outcomes Report as being the priorities for inclusion in the Destination 2036 Draft Action Plan.
3. Council note the Local Government Reform Discussion Paper prepared for Warringah Council.
4. Council note the letter from the United Services Union in respect of the Destination 2036 Implementation Steering Committee.

GARY BENSLEY  
Executive Manager  
Corporate and Community Division

**Attachments:**

1. Destination 2036 Outcomes Report
2. Warringah Discussion Paper on Local Government Reform
3. Amalgamations and Representation on the Implementation Steering Committee

File Reference: F2004/06188-02  
Document Number: D01771519

## 7 POSSIBLE EXPANSION OF USES AT THE RURAL SPORTS FACILITY AT GALSTON

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### **EXECUTIVE SUMMARY**

Pursuant to a Council resolution, this report has been prepared to examine options for expansion of uses at the Rural Sports Facility (RSF).

The report considers the implications of the Local Government Act and the governing Plan of Management (PoM) that covers the RSF, and divides possible options into three.

1. *Invitations to community users to use the RSF under the provisions of the current PoM.*
2. *Invitations to commercial interests to operate similar uses as allowed under the current PoM*
3. *Develop facilities at the RSF for other recreational or non-recreational activities.*

Of these, option 1 would require no amendment to the PoM, and option 2 would require an amendment to expressly authorise a lease or licence that may arise from an expression of interest from a commercial operator.

Option 3 would require substantial amendment of the PoM or possibly reclassification of the land. It would involve a departure from using the land as a Rural Sports Facility.

Option 1 is likely to lead to increased costs that would be unlikely to be recovered through hire fees. Option 2 could recover costs or create a profit. Option 3 could generate future profits but only if sunk capital costs were written off.

It is recommended that public expressions of interest are called into options 1 and 2.

### **PURPOSE/OBJECTIVE**

The purpose of this report is to allow Council to consider how the range of uses of the Rural Sports Facility may be expanded.

### **DISCUSSION**

Pursuant to a motion from Councillor Hutchence, Council resolved as follows:

*'The Executive Manager, Environment prepare a report for Council's consideration regarding options (including an examination of process and possible income opportunities) to expand the range of uses at the Rural Sports Facility at Galston.'*

### **The Rural Sports Facility**

The RSF is a 4 hectare parcel of community land at 18-20 Bayfield Road, Galston. It was acquired by Council in 2005 for the purposes of providing a recreational facility primarily for equestrian and canine related activities. The RSF was opened in 2008 and is licensed to the Arcadia Pony Club and Galston Equestrian Club, who together take up most Sundays throughout the year for organised events.

On Saturdays and weekdays the RSF is used for unstructured horse riding but at much lower levels of attendance than for the club events.

At the time of planning and consultation for the facility, interest was expressed by schools, other groups associated with horse riding, and some representatives of canine clubs in the use of the facility. None of these users has so far emerged until recently, when some members of the community approached the Parks and Landscape Team with a view to the possible establishment of a group of horse riders to undertake different kinds of equestrian events than those conducted by the two club hirers. These discussions are continuing.

### **Requirements of the Local Government Act**

The Local Government Act 1993 ('The Act') imposes a number of controls on the use of and the leasing of community land.

Section 35 of the Act requires that a Plan of Management (PoM) govern the use and management of community land. In 2006, Council adopted a PoM for Community Land and Crown Reserves – District 6, which includes all the reserves in Galston and nearby areas. The RSF (at the time not yet constructed) is included at page 145.

Section 36 of the Act requires a PoM to categorise the land. The RSF is categorised as a sportsground. Section 36F sets out the core objectives for land categorised as a sportsground as:

- (a) *to encourage, promote and facilitate recreational pursuits in the community involving organised and informal sporting activities and games, and*
- (b) *to ensure that such activities are managed having regard to any adverse impact on nearby residences.*

Section 36 further requires that the PoM must specify '*(a) the use of the land and any such buildings or improvements as at that date, and*

- (b) *must:*
  - (i) *specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and*
  - (iii) *specify the purposes for which any further development of the land will be permitted, whether under lease or licence or otherwise, and*
  - (iii) *describe the scale and intensity of any such permitted use or development'.*

As mentioned, at the time of adoption of the PoM, the facilities were not yet constructed. A passage in the PoM is headed 'facilities proposed' and lists 'Equestrian and canine exercise and performance facilities/external arenas, toilets, perimeter screen planting and car parks'. Apart from the amenities building also containing a club-operated canteen and the existence of a storage shed and perimeter trail, that passage in the PoM briefly describes the facilities as-built and indicates the uses of them.

The facilities as-built and the scale and intensity of the permitted use are covered in appendices to the PoM which contain a masterplan for the development of the RSF, and management rules governing the licensing of the RSF and the management of impacts on the environment and neighbourhood amenity.

Section 46 (1)(b) of the Act allows a lease, licence or other estate in respect of community land to '*be granted, in accordance with **an express authorisation in the plan of management** and such provisions of the plan of management as apply to the granting of the lease, licence or other estate:*

- (i) *for a purpose prescribed by subsection (4), or for a purpose prescribed by any of sections 36E to 36N as a core objective of the categorisation of the land concerned, or*
- (ii) *for a purpose prescribed by the regulations, if the plan of management applies to several areas of community land, or*
- (iii) *for a short-term, casual purpose prescribed by the regulations, or*
- (iv) *for a residential purpose in relation to housing owned by the council'*

Section 46(2) of the Act provides that '*Despite subsection (1), a lease, licence or other estate in respect of community land may be granted for a purpose mentioned in subsection (1) (b) only if the purpose for which it is granted is consistent with the core objectives, as prescribed in this Part, of its categorisation*'.

A general section of the District 6 PoM (containing the RSF) sets out the kinds of leases and licences that are authorised by the PoM (as required in s46 of the Act). This passage is generic and refers to seasonal licences to clubs and associations for various ball sports, without specific reference to activities envisaged at the RSF. Appendix 6 of the RSF contains the more specific uses for which the RSF would be licensed for use: equestrian and canine activities only, and only within prescribed hours.

These requirements of the Act and the contents of the PoM are important in considering what kind of additional uses may be suited to the RSF and whether an amendment to the PoM would be necessary to facilitate additional uses

#### **Options for the expanding the range of uses**

*Option 1: invitations to community users to use the RSF under the provisions of the current PoM.*

Expressions of interest could be invited from any group that wishes to use the RSF for purposes that are already permitted by the PoM: equestrian and canine groups. This may include school use, as some schools in Hornsby Shire are understood to conduct horse riding as a school sport, using facilities that are more distant from the school than is the RSF. There is currently only low level use of the RSF during week days.

It is also a possibility that further equestrian clubs, either already existing, or possibly to be newly formed may be interested in conducting club activities at the RSF on somewhat similar terms to those of existing clubs, but at different times. There is a further possibility that canine groups could be interested in operating at the RSF, but the level of any such demand is not clear.

Hiring the RSF for such uses would not require an amendment to the PoM and could commence with little delay.

*Option 2 – Invitations to commercial interests to operate similar uses as allowed under the current PoM.*

Such interests may operate at the RSF on a non-exclusive, time share basis, providing high level professional training in equestrian or canine activities. It is not clear what kind of market exists for such a commercial operation but it may be worth testing.

The PoM would need to be amended to expressly authorise leases or licences for such uses, because the current wording of the PoM infers that the RSF will be hired to community-based not for profit organisations. The best course would be to establish whether there is interest in this kind of operation at the RSF and subsequently amend the PoM if there is.

*Option 3 – develop facilities at the RSF for other recreational or non-recreational activities.*

The RSF does not have surplus space for additional facilities to be developed, so any new recreational facilities would impinge on existing arenas. The nature of wear created by equestrian uses makes the arena surfaces unsuited to ball sports. Such ball sports require the introduction of new elements such as pitches or goal posts that are not compatible with equestrian use of the arenas.

Any attempt to schedule the use of the arenas at the RSF for equestrian and ball sports would incur high costs to overcome the inherent impracticality of doing so.

The rural area of Hornsby Shire is reasonably well supplied with sportsgrounds for organised ball sports at present and there is no particular demand to expand these facilities. In the long term, and with possible future residential development in the Galston area, demand for rural sports such as horse riding may decline and demand for ball sport codes may grow. If that occurs it may be desirable and possible to convert the RSF for new recreational uses at that time.

Other possible uses of the RSF are for markets or fairs. However, adjacent Fagan Park is ideally suited to such activities, with large space and good facilities, to the extent that demand for use of the RSF for markets or fairs is likely to be very low.

Other possible uses for the RSF, which would preclude its continuation as a venue for rural sports, would involve non-recreational uses. The land is still zoned Rural BA (small holdings – Agricultural landscapes) reflecting its use for agriculture prior to Council's acquisition of the land.

Permitted with development consent within the Rural BA zone are: *Agricultural structures; animal boarding or training establishments; aquaculture; art and craft galleries; bed and breakfast accommodation; child care centres; communication facilities; community facilities; dams; demolition; dwelling-houses; ecotourism facilities; extractive industries; farm stay accommodation; forestry; group homes; guesthouse accommodation; home industries; intensive animal establishments; intensive horticulture establishments; land clearing; mines; places of worship; recreation areas; recreation facilities; residential offices; roadside stalls; rural industries; rural structures; rural workers' dwellings; utility installations; veterinary hospitals.*

Many such uses would not be compatible with Council's objectives in establishing the RSF, and would require substantial redevelopment of the land, resulting in the loss of the considerable sunk capital investment that Council has made. Most of these uses are not allowable on community land under the Act, and the land would need to be reclassified as operational land to allow them to proceed, and also allow Council to possibly dispose of the land.

All of the suggestions under Option 3 would require a significant amendment to the PoM, in some cases would require reclassification of the land, would inhibit or preclude equestrian activities, and may result in some or total loss of sunk investment in the site. None of the proposals in Option 3 are recommended.

### **BUDGET**

Option 1 would have a low to moderate negative budget impact, depending on the level of additional use by either school or community groups that may occur over time. Since most school use of Council's sportsgrounds is free, and since ground hire fees for most community use of Council's sportsgrounds is set at a level that does not recover maintenance and asset

replacement costs, a cost to the budget as a result of increased maintenance to deal with sportsground surface wear may be expected.

Option 2 would have a low to moderate budget impact that may be either positive or negative, depending on the level of use, the amount of wear and tear, the additional maintenance cost and the level of income received.

Option 3 could have a future positive budget effect, but only after the value of sunk investment was substantially written off.

### **POLICY**

The policy governing the use of the RSF is the Plan of Management for Community Land and Crown Reserves – District 6 (2006). The policy implications of the various options are discussed above.

### **CONSULTATION**

Existing users of the RSF have been advised of this report.

### **TRIPLE BOTTOM LINE SUMMARY**

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

#### **Working with our community**

A public process for expressions of interest into expanding the uses of the RSF would involve working with the community.

#### **Conserving our natural environment.**

The proposal is expected to have no impact on the natural environment.

#### **Contributing to community development through sustainable facilities and services**

Any expanded use of the RSF is expected sustainable.

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

Maximising the use of scarce resources such as the RSF is considered to be in line with community expectations.

#### **Supporting our diverse economy**

Some possible future uses of the RSF may have a positive local economic effect.

#### **Maintaining sound corporate and financial management**

The proposal will ensure that Council's responsibility to ensure its resources are effectively and efficiently used to benefit the community.

### **RESPONSIBLE OFFICER**

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



**RECOMMENDATION**

THAT expressions of interest be publicly invited for additional use of the Rural Sports Facility , consistent with those uses specified in the Plan of Management for Community Land and Crown Reserves – District 6 (2006),` from community-based or commercial interests, and a further report be brought back to Council thereafter for its consideration.

ROBERT STEPHENS  
Executive Manager  
Environment Division

**Attachments:**

There are no attachments for this report.

File Reference: F2004/07811-02  
Document Number: D01763978

## 8 BUSHLAND AND BIODIVERSITY TEAM ANNUAL REPORT 2010-2011

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### **EXECUTIVE SUMMARY**

Hornsby Local Government Area is known as 'The Bushland Shire' as 69% of its land area is covered by bushland. The 2010-11 annual report details the actions that Council's Bushland and Biodiversity Team has undertaken to fulfil Council commitments in the Community Plan 2010-20, the Operational Plan 2010-11 and the Delivery Plan 2010-11 and to implement a number of key statutory and strategic documents including by the Biodiversity Conservation Strategy, the Bushfire Risk Management Plan, the various generic and specific Plans of Management for Community and Crown Land and the Unstructured Recreation Strategy.

### **PURPOSE/OBJECTIVE**

The purpose is to seek Council's adoption of the attached report entitled 'Bushland and Biodiversity Team Annual Report 2010-11'. Once adopted, the report will be placed on Council's website for public information and viewing.

### **DISCUSSION**

Hornsby Shire covers a total of 51,000 hectares of which approximately 35,190 ha is bushland. This translates to the 5,950 ha of public bushland where Council has a direct management role and 29,240 ha of private bushland where Council provides biodiversity assessment, inspections, incentives and advice. Of the public bushland, the Bushland and Biodiversity Team is responsible for management of 276 natural reserves that are owned by Council and Crown land where management is devolved to Council. The report covers the Team's activities in bushland regeneration, walking tracks, dangerous trees in bushland, and bushland pest species, bushfire management on Council lands, biodiversity assessment of development applications, noxious weed inspection and education, and community programs including Bushcare, Community Nursery and guided bushwalks program, *Greenstyle* and providing incentives to private landowners for biodiversity conservation.

Hornsby is known as 'the Bushland Shire' and Council is committed to protecting and restoring its local natural environment through the actions set out in its Community, Operational and Delivery Plans guided through legislation and its adopted Biodiversity Conservation Strategy, Biodiversity Conservation Strategy, the Bushfire Risk Management Plan, various generic and specific Plans of Management for Community and Crown Land, and the Unstructured Recreation Strategy.

### **Key achievements**

Some of the key achievements for the 2010-11 financial year have included:

#### ***Bushland Restoration***

Bushland restoration of 231 ha equating to 16.3% of Council managed bushland compared to 12% last year:

- Contractors restored 160 ha in 63 Bushland Reserves through Council and grant funds
- 777 Bushcare volunteers restored 71 ha at 123 sites contributing over \$470,000 of labour

***Community Nursery***

Completed upgrades to the nursery resulting in:

- Propagation of 38,705 plants representing 24% increase prior to commencement of the upgrade
- Plant production by 35 volunteers contributing 2505 hours
- Expansion into estuary plant and advanced tree production
- Provided 5433 free native plants to 1210 residents promoting biodiversity in local gardens
- Despatched a total of 32,465 plants for the year.

***Sustainability***

- Provided a refurbished Earthwise Cottage as a sustainable demonstration venue for the majority of the 29 workshops delivered to 444 residents
- Commenced 2 studies to assist in adapting to Climate Change
  - Native Flora and Fauna Conservation Study and Management Plan
  - Estuarine Wetland and Migratory Bird Survey and Priority Habitat Mapping.

***Facilitated Partnerships***

- Year 2 of the Habitat Connectivity grant program
- Restored 7.6 ha of public and private bushland, over half included endangered Turpentine Ironbark Forest and Blue Gum High Forest
  - Revegetated 9,000m<sup>2</sup> to enhance connectivity and strengthen habitat corridors
  - Held 6 workshops on bushland restoration, property management and planning with 166 residents participating
- Completed 'Greenstyle' in home advice on sustainability and backyard biodiversity:
  - 174 household assessments with 89% increasing sustainable activities, 66% were new participants in a Council program and 14% were from non English speaking backgrounds.

***Minimised Environmental Impacts***

Minimised environmental impacts on native flora and fauna through:

- Rapid response to the Myrtle Rust preparing a best practice Action Plan, controlling outbreaks, protecting significant plant species and vegetation communities and educating staff, contractors and residents
- Assessed 78 Development Applications, 50 Tree Applications and 30 breaches of illegal clearing
- Responded to 399 private property Noxious Weed enquiries and requests inspecting 269 properties; undertook grant works for public land Noxious Weeds including Tussock Paspalum, vines and Boneseed
- Revegetated 10,900 m<sup>2</sup> compared to 7,750 m<sup>2</sup> lost to development.

***Bushland Recreation***

- 32 guided bushwalks for 362 residents
- 6 new self-guided bushwalk brochures and 1 translated to Korean and Chinese
- Upgraded walking tracks that link to the Great North Walk
- Construction of the new Bar Island Jetty
- Audited 12 tracks over 49 km in length with interpretive signs and addressed 90 dangerous tree requests
- Planning for the Hornsby Mountain Bike Track
- Planning for the Hornsby Heritage Step Restoration.

***Bushfire Mitigation***

Completed bushfire mitigation measures in a sustainable manner in Bushland Reserves:

- Installed/managed 55 Asset Protection Zones and Works Access Lines affording protection to 220 properties along an interface length of 6180m immediately adjoining Council bushland, compared to 10 APZs prior to the preparation of the Manual Works program
- Upgraded 12 Fire Trails including works on approximately 4.7 km of trails, 4 new entrances and the provision of 6 new gates
- Completed 5 Hazard Reduction burns on Council land despite wet weather, 17 environmental assessments and on-ground works for burn preparation
- Issued 714 permits to burn on private land and investigated 9 breaches
- Educated 60 residents at 7 fire prone locations.

***Improved Biodiversity Planning***

Completed the 'Native Vegetation Development Control Plan Chapter' and reviewed the Green Offsets Code to facilitate more flexible and improved biodiversity planning outcomes through the Local Environment Plan.

***Seeding Funding Grants***

Council provides \$70,000 as seed funds for grants and this has been used to achieving additional income of \$1,437,540 for bushland management, restoration and enhanced recreational experience of Hornsby Shire's bushland:

- 25 grants and sponsorship commitments of \$1,304,399 being almost double last year's grants and significantly greater than \$180,000 received in 2008-9
- Received 6 offsets of \$133,255 being a 50% increase since last year
- 17 grants were implemented through grant funds of \$659,119.

**BUDGET**

There are no budgetary implications.

**POLICY**

There are no policy implications.

**CONSULTATION**

The report was prepared with input from and by a number of environmental scientists of the Bushland and Biodiversity Team including the Coordinator Community Nursery and Guided Bushwalks Program.

**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 Ms Diane Campbell, Manager, Bushland and Biodiversity, available on telephone number 9847 6903, between 8:30 am and 5 pm, Monday to Friday.

**RECOMMENDATION**

THAT Council adopt the attached report entitled 'Bushland and Biodiversity Team Annual Report 2010-11'.

ROBERT STEPHENS  
Executive Manager  
Environment Division

**Attachments:**

- |                                                                        |                               |
|------------------------------------------------------------------------|-------------------------------|
| 1. Attachment 1 - Bushland and Biodiversity Team Annual Report 2010-11 | Included under separate cover |
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File Reference: F2004/06718  
Document Number: D01765056

## 9 TENDER FOR AMENITIES BUILDING CONSTRUCTION - HAYES OVAL, GALSTON

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### **EXECUTIVE SUMMARY**

The proposed contract for "Amenities Building Construction at Hayes Oval, Galston" is required to improve sports facilities at Hayes Oval, a large sports oval used for soccer in winter and softball in summer.

Council does not currently have the resources required to carry out this work and therefore tenders have been called in accordance with the Local Government Act. The construction phase of the proposed contract is scheduled to commence in November 2011 and the work is expected to be completed within 22 weeks of Council sending a letter of acceptance, weather permitting. Marc Morabito Constructions Pty Ltd. has been recommended for acceptance of this tender.

### **PURPOSE/OBJECTIVE**

This report provides a recommendation for the acceptance of Tender No. T14/2011 Amenities Building Construction, Hayes Oval, Galston.

### **DISCUSSION**

Tender No. T14/2011 is a lump sum tender. A summary of all tenders together with full evaluation details have been placed on file. Excepting this report the summary and details of the tenders received are to be treated as confidential in accordance with the Local Government Act.

Eighteen tenders were received, as follows:

1. A J Bristow and Sons Pty Ltd
2. Bilas Knight Pty Ltd
3. Builtform Constructions
4. CBS Refurbishment Pty Ltd
5. C&M Constructions Pty Ltd
6. Contract Control Services Pty Ltd
7. Degan Constructions
8. GW Building Pty Ltd
9. Jakin Constructions
10. J+CG Constructions
11. Keystone Projects Group
12. LA Commercial Pty Ltd
13. Marc Morabito Constructions
14. Nace Civil Engineering Pty Ltd
15. Rotric Constructions
16. Safin Constructions
17. St Croix Pty Ltd
18. Yong Construction Group Pty Ltd

The following criteria have been used for the evaluation of the tenders:

- Price/value for money
- Past performance and experience with similar types of contracts
- Skills, qualifications and licences of the proposed personnel
- Equipment resources details
- Project program and resource detailing
- Sustainability
- Quality assurance systems
- Occupational Health and Safety systems
- Current Financial position and contractual commitments

The pre-tender estimate was compared to the submitted tender prices and the average price tendered. Other criteria were assessed on information submitted with each tender, information gained from the tenderers' nominated referees and additional information following interviews with shortlisted tenderers.

In accordance with the agreed Tender Evaluation Process, it was decided that it was not appropriate to assess all of the tenders. This led to an evaluation of the eight lowest lump sum priced tenders against the non-priced criteria and a short listing of five tenderers for interview.

The attached Confidential Memo ENV 21/11 (Attachment 1) provides the lump sum price of each tender and a summary of the evaluation. Full details of the tender evaluation are on file.

The results of the evaluation indicate that the Tender from Marc Morabito Constructions would be the most advantageous to Council.

### **BUDGET**

There are sufficient funds to cover the works included in the tender package.

### **POLICY**

Amenities building improvements at the Hayes Oval sportsground will provide long sought sports facility improvements for the benefit of the existing soccer and softball sports club users. This is consistent with council's adopted Sports Facilities Strategy (2006).

### **CONSULTATION**

The tender has been evaluated in consultation with Steven Crowe, Council's Construction Engineer in Design and Construction Branch and Darren Lister, Building Services Coordinator, Building Services Section.

### **TRIPLE BOTTOM LINE SUMMARY**

#### **Working with our Community**

The community was informed of the tender through advertising in Council's "Tenderlink" website and in the Sydney Morning Herald and the Advocate newspapers.

#### **Conserving our natural environment**

The processes on site are controlled by strict environmental measures including sediment and erosion minimisation, noise and pollution controls and protection of environmentally sensitive areas.

#### **Contributing to community development through sustainable facilities and services**

The development of a new amenities building complex will provide a long sought after sporting facility for the benefit of the Hornsby Shire community.

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

The community's vision will be significantly enhanced by providing a new well equipped amenities building that addresses a long held short fall at this large sports field site.

**Supporting our diverse economy**

The facility will provide a major new amenities building for general community use, which will have a positive effect on the amenity of the area. This in turn will have a positive effect on the local economy and businesses.

**Maintaining sound corporate financial management**

The proposed work involves construction of new amenities buildings that will contribute towards Hayes Oval becoming a large well developed sports facility that will be available for broader community use.

**Other sustainability considerations**

The environmental and social policy and management systems of the tenders were taken in to consideration in assessing the tender. The building design also takes into account natural environmental or passive design principles by promoting natural light and air circulation and providing shade and shelter from the sun and rain, minimising a reliance on energy consuming systems.

**RESPONSIBLE OFFICER**

The responsible officer is Mr Kurt Henkel, Landscape Coordinator, on 9847 6887.

**RECOMMENDATION**

THAT Council accept the Tender submitted by Marc Morabito Constructions for Tender No. T14/2011: Amenities Building Construction, Hayes Oval, Galston for the lump sum price as stated in the attached Confidential Memo (ENV 21/11). The price will be made public on formal acceptance of the tender.

ROBERT STEPHENS  
Executive Manager  
Environment Division

**Attachments:**

1. Attachment 1 - Confidential Memo ENV 21 - Hayes Oval Tender - *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: F2004/06718



Document Number: D01766538

## 10 OLD MANS VALLEY DRAFT PLAN OF MANAGEMENT

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### **EXECUTIVE SUMMARY**

The Old Mans Valley Draft Plan of Management (PoM) has been prepared to allow future recreation opportunities in Old Mans Valley. These include a mountain bike trail, passive parklands and a sportsground. Future lease and licence arrangements for these facilities are expressly authorised in the PoM (see Attachments).

The PoM also forecasts the possibility for a vehicular access to Hornsby Quarry should it be required in the future. Such an access has been set aside at the northern end of the development site with a connection to Bridge Road. Any reclassification of this corridor would happen separately and after further investigations associated with a recent Gateway Determination issued by the Department of Planning and Infrastructure.

### **PURPOSE/OBJECTIVE**

This report seeks approval for exhibition of the Old Mans Valley Draft Plan of Management. A report following exhibition will be prepared seeking adoption.

The Local Government Act 1993 requires that all Plans of Management covering community land are placed on public display for a minimum period of 28 days. A minimum period of 42 days after the draft is placed on exhibition is allowed for written submissions to be made to council (s.38).

After consideration of all submissions received, council may decide to amend the draft plan of management, or adopt it without amendment. If council decides to amend the draft plan, it must publicly exhibit the amendments in accordance with the above requirements until such time as the draft can be adopted without further amendment (S.40). A Public Hearing will not be required as no reclassification is proposed under this Draft PoM.

### **DISCUSSION**

Council has prepared this PoM as a Draft Plan concerned with the open space area known as Old Mans Valley (OMV). OMV forms part of a valley to the west of the Hornsby Town Centre. OMV occupies Lots 1 and 2 of Plan Number 169188 and Lot 1 of Plan Number 112343, which is community land owned by Hornsby Shire Council.

The OMV site is proposed to be developed for structured and unstructured recreation, as outlined in the Draft PoM. In particular, the adoption of the Draft OMV PoM will enable commencement of the proposed mountain bike track and pocket park skills facilities in the short-term, which remains subject to the outcomes of the current exhibition of proposed bike trail alignments.

The Generic Plan of Management for District 3&9 for Crown and Community Land adopted in 2006 covers the adjoining Hornsby Park. Hornsby Park is a crown reserve. All Council's generic PoM covers both community land and crown reserves, though they are adopted and have force only under the Local Government Act, and not the Crown Lands Act. To that extent, the generic PoMs are not legally binding for crown lands contained within them.

The Draft PoM for OMV is considered an interim plan. It will, when adopted, supersede the generic PoM for Districts 3 & 9 to the extent of any reference to OMV. The PoM for OMV foreshadows a new PoM that will in turn supersede it, and will combine OMV and Hornsby Park. It is proposed to be prepared in 2012 and be recommended for adoption under both the Local Government Act (for community land in OMV) and the Crown Lands Act (for Hornsby Park, a crown reserve).

The proposed classification of the OMV site is community land for the entire site. The community land categorisations for OMV include 'sportsground', 'park', 'area of cultural significance' and 'natural area' (with sub-categories of 'bushland' and 'watercourse'), which relate to existing short and long-term proposals.

The Refined Open Space Masterplan was developed in response to extensive consultation and contains proposals for basic amenity facilities, a sportsground, large open space area for unstructured recreation, a playground, and mountain bike trails and skills facilities.

### **BUDGET**

The first stage of development in OMV is expected to occur in 2012, with the development of mountain bike facilities. These works are to be funded by a general rate variation for infrastructure works that was introduced by Council in 2011.

The sources of funds for much of the other recreation developments that are proposed are yet to be determined. Staging is estimated over short and long-term timeframes. To this end, Council will seek to optimise funds through grants, user fees, sponsorship, S94 levies and general revenue sources.

### **POLICY**

The Local Government Act 1993 requires that all Plans of Management covering community land are placed on public display for a minimum period of 28 days. A minimum period of 42 days after the draft is placed on exhibition is allowed for written submissions to be made to council (s.38).

### **CONSULTATION**

This Draft Plan of Management has been prepared with the help of the community through consultative forums in determining priorities for the site over various phases of time and most recently in 2010.

Council have liaised across the organisation in relation to proposals for Old Mans Valley and continue to liaise in respect of short and long-term proposals which will impact on OMV, as discussed further in the Draft Plan of Management.

### **TRIPLE BOTTOM LINE SUMMARY**

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

As this report 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 James Frawley, Landscape Architect, Parks and Landscape Team available on telephone number 9847 6854, between 8:30 am and 5 pm, Monday to Friday.

**RECOMMENDATION**

THAT Council place the Draft Old Mans Valley Plan of Management on public exhibition for no less than the legislatively required period, with a view to future adoption following the receiving of submissions through the exhibition period.

ROBERT STEPHENS  
Executive Manager  
Environment Division

**Attachments:**

- |                                                                                  |                               |
|----------------------------------------------------------------------------------|-------------------------------|
| 1. Attachment 1 - Part 1 Draft PoM Old Mans Valley                               | Included under separate cover |
| 2. Attachment 2 - Part 2 Draft PoM - Old Mans Valley                             | Included under separate cover |
| 3. Attachment 3 - Part 3 Draft PoM Old Mans Valley                               | Included under separate cover |
| 4. Attachment 4 - Part 4 & 5 Operational & Action Plan Draft PoM Old Mans Valley | Included under separate cover |
| 5. Attachment 5 - Part 6 BIB & APP Draft PoM Old Mans Valley                     | Included under separate cover |

File Reference: F2004/07932  
Document Number: D01766546

## 11 REQUEST TO REMOVE TREE AT 8 ARKENA AVENUE, EPPING

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### **EXECUTIVE SUMMARY**

This report recommends that Council refuse the application for consent to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at the rear left of the property at 8 Arkena Avenue Epping. On 20 August 2011 Council received a letter from the property owner regarding the decision to refuse an application for removal of the tree on his property at 8 Arkena Avenue, Epping. The applicant has requested that this matter be heard at an Ordinary Meeting of Council

### **PURPOSE/OBJECTIVE**

The owner of the property seeks Council approval to remove one *Eucalyptus saligna*.

### **DISCUSSION**

The Sydney Blue Gum was previously inspected in April 2004 and a second inspection in January 2005. The tree was then heard by Council in May 2005 and resulted in: “*At the Ordinary Meeting of 11 May 2005 it was resolved “THAT Council refuse permission to remove one Eucalyptus saligna (Sydney Blue Gum) located at 8 Arkena Avenue Epping and instead refer the property owner to previously issued consent for reduction pruning of the four lower branches overhanging the dwelling at 12 Arkena Avenue, Epping.”*”

On 18 March 2011 Mr Michael Yim applied for Council permission to remove one *Eucalyptus saligna* (Sydney Blue Gum), one dead *Eucalyptus paniculata* (Ironbark) and one *Acacia species* (Wattle) under Council's Tree Preservation Order (TPO). The trees were inspected on 30 March 2011 by Council's Tree Management Officer, Doug Foster. Permission to remove the Blue Gum was denied. Approval to prune the Blue Gum by up to 15% of the foliage area was approved. Approval was granted to remove both the Ironbark and Wattle from the rear of the property.

On 30 July 2011 Council received a letter from the Mr Yim appealing the decision (Refer to Attachment 1 Applicants Letter and Photos). The Sydney Blue Gum was reinspected by Council's Tree Management Officer, Robert Woodward and permission to remove the tree was again denied.

All tree assessments were made by visual external inspections by qualified arborists. Internal, underground or aerial investigations were not undertaken.

The owner cites the following reasons for requesting the removal of the tree:

- Substantial safety threat to them and their neighbours;
- Extensive and continual damage to the dwellings;
- Proximity of the tree to the houses;
- Continual dropping of branches;
- Lack of alternative available space to use as outdoor living area; and
- Fear of injury being incurred by his family.

No evidence of any kind from a consulting arborist or any other expert justifying the removal of the Blue Gum has been provided to Council. The only evidence provided to Council to support the claims of continual branch drop or damage to the tiles of the residence at 12 Arkena Avenue is a submitted photograph (Refer to Attachment 1 Applicants Letter and Photos). This is likely to have been caused by a single occurrence of a fall of minor deadwood (Refer to Attachment 1 Applicants Letter and Photos). The removal of the tree could not be justified on this evidence.

### **Tree Details**

Botanic name:	<i>Eucalyptus saligna</i>
Common name:	Sydney Blue Gum
Height /width:	22m x 20m
Age:	Mature
Condition:	Good
Vigour:	Fair
Form:	Good
Structural defects:	None observed

Apart from small dead branches, typical of the species, there are no defects in the tree. The tree will continue to develop and shed small dead limbs as it is not practical to continually prune them. Pruning of this tree was carried out approximately 5 years ago. The tree provides significant amenity from the street (Refer to Attachments 2 to 6 Tree Photos - 8 Arkena Ave, Epping).

According to Section 3.3 of Council's Tree Management Plan, approval will generally **not** be given for tree removal where:

- The tree is shedding leaves, fruit, bark, cones or twigs as this is considered a natural process;
- A tree is causing or likely to cause minor damage to infrastructure that includes cracking/displacement of footpaths, driveways, retaining walls and irregular blocking of sewer or stormwater pipes;
- There are unsubstantiated fears about tree health and condition, including the natural development of minor deadwood throughout the canopy of a tree or concerns relating to the natural growth habit of the tree in terms of height;
- Where pruning the tree could potentially resolve the nuisance being experienced.

The height of the tree is typical of the species and is not in itself a justification for the removal. The tree trunk is located approximately 5 metres from the neighbour's dwelling and 8 metres from the dwelling at 8 Arkena Avenue, Epping. This proximity would not in itself form a reason to remove a healthy tree. The tree is located within a formal garden, and a lawn is also situated beneath the canopy. There is some risk to the dwelling at 12 Arkena Avenue, Epping from overhanging branches. The recommended 15% crown thinning of the foliage area and the removal of deadwood from the tree as previously approved would reduce this risk.

Council officers have again assessed the tree as being healthy. However, should the tree cause damage, for example as a result of a storm, Council could be liable, especially if this occurred in the near future following refusal of consent. This is always the situation which must be considered when assessing trees. Council's guidelines allow a tree to be removed in the case of safety concerns if there are signs that the tree is diseased, dying or dangerous. None of these signs exist. Allowing pruning of the tree by up to 15% would sufficiently

reduce the risk of any unforeseen damage which may be caused by the tree. Pruning by crown thinning is a widely accepted arboricultural technique which reduces wind resistance in the tree and therefore reduces the likelihood that the wind will damage the tree.

### **BUDGET**

There are no budgetary implications arising from this decision.

### **POLICY**

There are no policy implications arising from this decision.

### **CONSULTATION**

There is no requirement for consultation in this matter.

### **TRIPLE BOTTOM LINE SUMMARY**

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

As this report 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 Doug Foster, Tree Management Officer, Parks and Landscape, telephone 9847 6546, between 8 am and 4 pm, Monday to Friday.

### **RECOMMENDATION**

THAT Council refuse permission to remove one *Eucalyptus saligna* (Sydney Blue Gum) located at 8 Arkena Avenue Epping and instead refer the property owner to previously issued consent for 15% crown thinning of the canopy and the removal of accessible deadwood (this pruning would allow for the reduction prune of limbs extending over 12 Arkena Avenue Epping).

ROBERT STEPHENS

Executive Manager

Environment Division

#### **Attachments:**

- |                                                                             |                               |
|-----------------------------------------------------------------------------|-------------------------------|
| 1. Attachment 1 - Applicants Letter and Photos                              | Included under separate cover |
| 2. Attachment 2 - Photo 1 - View of Tree from Street - 8 Arkena Ave, Epping | Included under separate cover |
| 3. Attachment 3 - Tree Photo 2 - 8 Arkena Ave, Epping                       | Included under separate cover |
| 4. Attachment 4 - Tree Photo 3 - 8 Arkena Ave, Epping                       | Included under separate cover |

- |                                                       |                               |
|-------------------------------------------------------|-------------------------------|
| 5. Attachment 5 - Tree Photo 4 - 8 Arkena Ave, Epping | Included under separate cover |
| 6. Attachment 6 - Tree Photo 5 - 8 Arkena Ave, Epping | Included under separate cover |

File Reference: TA/315/2011  
Document Number: D01766765

**ITEM 11**



**12 ADOPTION OF 2010-2011 ESTUARY MANAGEMENT PROGRAM ANNUAL REPORT**

**EXECUTIVE SUMMARY**

Council's Water Catchments Team is responsible for the implementation of catchment remediation initiatives, total water cycle management and the estuary management program. Hornsby Shire Council's Estuary Management Program provides an integrated and strategic approach to the management of estuarine assets. These assets are protected through the implementation of strategies contained within the Lower Hawkesbury Estuary Management Plan (2009) (LHEMP), which was adopted by Council on 11 March 2009. Furthermore, the LHEMP has been adopted by Gosford City Council, to ensure a consistent local government approach to estuary management within the lower Hawkesbury estuary.

Implementation of the LHEMP is overseen by the Lower Hawkesbury Estuary Management Committee, with councillor representation by Wendy McMurdo (Chairperson) and Steve Russell (Deputy Chairperson). The Estuary Management Annual Report for 2010-2011 provides summary information on the implementation of Hornsby Shire Council's estuary management program (Attachment-1). A summary of projects implemented is provided in Table 1.

**Table 1: Projects undertaken during 2010-2011**

<b>Category</b>	<b>Project Description</b>
Capital Works	Biodiversity Friendly Seawall, Parsley Bay
	Foreshore Rehabilitation
	Kangaroo Point Vessel Pumpout Facility
	Oyster Lease Clean-up
Compliance	Hawkesbury River Oyster Industry
	Riverside Settlement Onsite Wastewater Management Inspections
Education	Boating Stickers for Seagrass Identification
	Brooklyn Spring Fair
	Clean Up Australia Day
	Guided Bushwalks Program
	Hawkesbury Estuary Program Media Campaign
	Real Time Salinity and Temperature Maps
	Underwater Sydney Interactive Website
	Waterways Education for Early Childhood Centres
World Migratory Bird Day	
Research	Brooklyn & Dangar Island STP Water Quality Monitoring
	Estuarine & Migratory Bird Monitoring
	Estuarine Health Monitoring
	Oyster Information Portal
	Remote Water Quality and Algal Bloom Monitoring
Planning	Saltmarsh Monitoring
	Comprehensive Local Environment Plan
	Land Capability Study
	Sustainable Water Based Recreation Facilities Plan

Implementation of the estuary program requires support from other branches within Council such as Bushland and Biodiversity, Parks, Environmental Health and Sustainability, Waste, Town Planning Services and Works. Funding for projects has been sourced from the Office of Environment and Heritage, the Hawkesbury Nepean Catchment Management Authority, CSIRO, NSW Industry and Investment and Hornsby Shire Council. Funding received for the 2010-2011 financial year is described in Table 2. In summary, \$638,500 was received from external sources to implement Council's estuary program.

**Table 2 External grant funding received during 2010-2011**

<b>Organisation</b>	<b>Project Title</b>	<b>Funding Received (\$)</b>
NSW Office of Environment and Heritage	Investigation of impacts of climate change on estuarine migratory waterbirds in the lower Hawkesbury estuary	\$25,000
NSW Office of Environment and Heritage	Land capability assessment to maintain the health and assets of the lower Hawkesbury	\$87,500
Hawkesbury Nepean Catchment Management Authority	Oyster lease clean-up of the lower Hawkesbury	\$26,000
Waste Services Improvement Program	Parsley Bay sea wall improvement program	\$500,000
	<b>Total</b>	<b>\$638,500</b>

During 2010-2011 Hornsby Shire Council's estuary management program maintained a high community profile. Examples of high profile projects undertaken are highlighted in Attachment-2. The program is supported by partnerships with local marinas, community bush regeneration groups, progress associations, commercial fishers and Broken Bay Oysters. There support of Council and estuary program implementation is greatly appreciated.

### **PURPOSE/OBJECTIVE**

The purpose of this report is to present to Council the 2010-2011 Estuary Management Program Annual Report.

### **DISCUSSION**

For further information about the Estuary Management Program and project details please refer Councils' estuary management website ([www.estuary.nsw.gov.au](http://www.estuary.nsw.gov.au)).

### **BUDGET**

There are no budget implications for the presentation of this report.

### **POLICY**

The Estuary Management Program is implemented according the required actions described within the adopted Lower Hawkesbury Estuary Plan (11/03/2009, EN 7/09, D01199976).

### **CONSULTATION**

Consultation occurred with members of the Water Catchments, Bushland and Biodiversity, Works and Town Planning teams to complete project descriptions and budget details as required within the annual 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. The 2010-2011 Estuary Management Program Annual Report is provided to Council for information purposes only, hence, a Triple Bottom Line assessment is not required.

**RESPONSIBLE OFFICER**

Mr Peter Coad, Team Leader- Estuary Management, Water Catchments, 8.30am – 5pm, Monday to Friday, telephone 9847 6766 or email pcoad@hornsby.nsw.gov.au.

**RECOMMENDATION**

THAT Council adopt the 2010-2011 Estuary Management Program Annual Report.

ROBERT STEPHENS  
Executive Manager  
Environment Division

**Attachments:**

- |                                                                           |                               |
|---------------------------------------------------------------------------|-------------------------------|
| 1. Attachment 1 - 2010-2011 Estuary Management Program Annual Report      | Included under separate cover |
| 2. Attachment 2 - 2010-2011 Estuary Management Program High Profile Media | Included under separate cover |

File Reference: F2004/06902  
Document Number: D01775206

## **13 TENDER NO. T11/2011 SURVEY & DESIGN OF MAJOR STORMWATER DRAINAGE UPGRADES**

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### **EXECUTIVE SUMMARY**

The proposed contract for 'Survey & Design of Major Stormwater Drainage Upgrades' is required for Council to complete stormwater drainage upgrades as part of its successful Independent Pricing & Regulatory Tribunal of NSW (IPART) application.

Tenders have been called in accordance with the Local Government Act and it has been recommended that Council accept the tenders of Brown Consulting (NSW) Pty Ltd for Projects 1 & 4 (Option F) and from Bannister & Hunter Pty Ltd for Projects 2 and 3 (Options B & C).

### **PURPOSE/OBJECTIVE**

This report provides a recommendation for T11/2011 Survey & Design of Major Stormwater Drainage Upgrades.

### **DISCUSSION**

The Tender No.T11/2011 is a Lump Sum tender. A summary of tenders, together with full evaluation details are on file (Trim folder F2011/00993). Excepting this report, the summary and details of the tenders received are to be treated as confidential in accordance with the Local Government Act.

18 tenders were received for Tender No. T11/2011 from the following companies:

- ADW Johnson Pty Ltd
- Bannister & Hunter Pty Ltd
- BG & E Pty Ltd
- Brown Consulting (NSW) Pty Ltd
- Cardno Pty Ltd
- Complete Urban Pty Ltd
- Craig & Rhodes Pty Ltd
- Henry & Hymas Civil & Structural Engineers
- Indesco Pty Ltd
- Jones Nicholson Pty Ltd
- KF Williams & Associates Pty Ltd
- Meinhardt Infrastructure & Environment Pty Ltd
- Northrop Engineers Pty Ltd
- S&G Consulting Engineers
- SMEC
- Storm Consulting Pty Ltd
- Whelans Insites Pty Ltd
- Woolacotts

The tenders were evaluated based on the stipulated criteria, namely:-

- Price,
- Past performance and experience, (The tenderer shall present to the Client satisfactory evidence that they have satisfactorily completed projects similar to that required by this contract),
- Skills, qualifications, experience and past performance of the proposed personnel for the project team, including sub consultants;
- Resources available to deliver the various project components; current commitments of key personnel,
- Project program and methodology and appreciation of the key issues in the project specification;
- Demonstrated experience in undertaking community consultation
- Sustainability
- Quality Assurance systems,
- Occupational Health and Safety Systems,
- Local Business and Industry

The priced bill of quantity rates were evaluated along with the lump sum price of each tender. Other criteria were assessed on information submitted with each tender.

Confidential Memo WD D&C 49/11, that has been separately distributed, contains information regarding the evaluated value of work of each tender and summary of evaluation. Full details of the tender evaluation are on file and are confidential.

Tenderers were asked to provide the following price options:

Price Option	Activity
A	Project 1: Tomah Pl, Fairy Dell Cl and Nabiac Pl, Westleigh
B	Project 2: Norman Ave, Derribong Pl, Thornleigh
C	Project 3: Myra Street to Park Avenue, Wahroonga
D	Project 4: Quarter Sessions Road, Nicholson Ave, Westleigh
E	Project 5: Combining Projects 1, 2, 3 and 4
F	Project 5: Combining Projects 1 and 4

It is considered that the work available under this contract will require the engagement of two consultants. The results of the evaluation indicate that the most advantageous tenders for Council are from Brown Consulting (NSW) Pty Ltd for Projects 1 & 4 (Option F) and from Bannister & Hunter Pty Ltd for Projects 2 and 3 (Options B & C).

### **BUDGET**

Funding is available from the successful Independent Pricing & Regulatory Tribunal of NSW (IPART) Rate Increase.

### **POLICY**

There are no policy implications.

## **CONSULTATION**

The tender has been evaluated in consultation with the Engineer Investigations, Mr Pri Ratnayake from the Assets Branch.

## **TRIPLE BOTTOM LINE SUMMARY**

### **Working with our Community**

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

### **Conserving our natural environment**

The Sustainability Policy of all the tenderers were taken into consideration in the evaluation of tenders received.

### **Contributing to community development through sustainable facilities and services**

It is a requirement under the contract that Occupational Health and Safety (OH&S) Systems are in place in order to comply with the OH&S Act and Regulations. The OH&S systems have been checked as part of the tender evaluation.

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

The upgrading of Council's Stormwater Drainage System will reduce the likelihood of stormwater inundation of properties and it will provide confidence and enhance safety to residents and the general public.

### **Supporting our diverse economy**

The upgrading of Council's Stormwater Drainage System will reduce the likelihood of stormwater inundation and will encourage residents and the general public to use the amenities in the Shire and this in turn has a positive effect on the local economy and businesses.

### **Maintaining sound corporate financial management**

The upgrading of Council's Stormwater Drainage System will provide a higher level of safety during storm events and reduce the likelihood of claims against Council.

### **Other sustainability considerations**

The Environment Policy and EEO Policy of all the tenderers were taken into consideration in the evaluation of tenders received.

## **RESPONSIBLE OFFICER**

For further information, please contact the Project Co-ordinator, Mr. Craig Clendinning, on 9847 6701.

## **RECOMMENDATION**

THAT:

1. Council accept the tender of Brown Consulting (NSW) Pty Ltd for Projects 1 & 4 (Option F) and of Bannister & Hunter Pty Ltd for Projects 2 and 3 (Options B & C) for all work under Tender No. T11/2011: Survey & Design of Major Stormwater Drainage Upgrades, for the lump sum prices as stated in the confidential Memo (WD D&C 49/11).

2. The price will be made public on formal acceptance of the tenders.

MAXWELL WOODWARD  
Executive Manager  
Works Division

**Attachments:**

1. Confidential Memo No. WK D&C49/11 - Tender No. T11/2011 Survey & Design of Major Stormwater Drainage Upgrades - *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: F2011/00993  
Document Number: D01770978

## 14 ROADS TO RECOVERY PROGRAM - EXTENSION BEYOND 2014

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### EXECUTIVE SUMMARY

The Roads to Recovery Program (R2R) has provided critical supplementary funding to Councils nationwide since its introduction in 2001. By the time the current Program ends in 2014, more than \$4.5 billion in additional funding for local roads will have been provided nationally to Local Government.

In that period, 2001 – 2014, Hornsby Shire will have received \$9.4 million for expenditure on local roads.

The Australian Local Government Association (ALGA) has initiated a campaign for increased and ongoing R2R funding beyond 2014.

### PURPOSE/OBJECTIVE

The purpose of this report is to seek Council's support for the ALGA campaign for extension of R2R beyond 2014.

### DISCUSSION

Traditional sources of funding available to Local Government have not kept pace with rising costs associated with the provision and maintenance of local infrastructure and with increasing cost shifting burdens and levies imposed by state authorities.

In recognition of the growing backlog in local road maintenance, the Australian Government established the Roads to Recovery Program (R2R), initially to provide an additional \$1.2 billion funding to Councils nationwide for road maintenance and upgrading for the period February 2001 to June, 2005. Hornsby Shire received an allocation of \$2,601,650.

The Program was subsequently extended in 2 phases for the period 2005 to 2009 with Hornsby Shire receiving a total of \$3,261,808 comprising R2R2 (\$2,609,446) and a one-off Supplementary Grant (\$652,362).

In March, 2009, a further \$1.75 billion national extension of the program was announced for the period July, 2009 to June 2014.

Thus, for the period 2001 to June 2014, Hornsby Shire will receive a total of \$9,531,410, subject to Council's ongoing compliance with program requirements. These include the necessity for Council to maintain 'traditional' expenditure levels from 'own source' funds. The related legislation provides that for every year in which AusLink Roads to Recovery funding is received, Council must consistently maintain the annual 'reference' amount of 'own source' expenditure on construction or maintenance of roads.

The AusLink Roads to Recovery Program has become a crucial source of funding to Council. During the life of the program to date, cost pressures on Council have severely diminished Council's capacity to maintain and/or replace ageing infrastructure.



Accordingly, it is important that Hornsby Shire Council gives full support to the ALGA Roads to Recovery campaign which will be launched at the 2011 National Local Roads and Transport Congress being held in Mount Gambier from 16 – 18 November, 2011.

To this end, Council is asked to undertake 2 actions in this matter:-

1. Pass a resolution of support for the ALGA campaign utilising text suggested by ALGA.  
The suggested motion calls for the Roads to Recovery Program to be made permanent at a rate that recognises the backlog of needs on local roads and for a continuation of the current popular and successful arrangements.
2. Write to the Prime Minister, the Leader of the Opposition, Minister for Infrastructure and Transport, Opposition spokesperson for Transport and the local Federal Member of Parliament, advising them of Council's support for a new and extended Roads to Recovery Program.

A suggested text for such correspondence has been offered by ALGA.

### **BUDGET**

Funding for R2R projects is to be provided by the Australian Government under the AusLink Roads to recovery Program as a supplement to Council's regular funding sources.

### **POLICY**

There are no policy implications.

### **CONSULTATION**

Consultation has been undertaken with appropriate Works Division staff.

### **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 Lyndon Taylor, Works Support Coordinator, telephone 9847 6697.

### **RECOMMENDATION**

THAT:

1. Council support ALGA's national advocacy on behalf of Local Government for extension of R2R Program by confirming the following Council Resolution:-

“Hornsby Shire Council calls on the Federal Government to:

- recognise the successful delivery of the Roads to Recovery Program by Local Government since 2000;
  - continue the Roads to Recovery Program on a permanent basis to assist local government in meeting its responsibilities of providing access for its communities;
  - continue the Roads to Recovery Program with the current administrative arrangements; and
  - provide an increased level of funding under a future Roads to Recovery Program that recognises the national shortfall of funding on local roads of \$1.2 billion annually.”
2. That Council subsequently write to the Prime Minister, the Leader of the Opposition, Minister for Infrastructure and Transport, Opposition spokesperson for Transport and the local Federal Member of Parliament, advising them of Council’s support for a new and extended Roads to Recovery Program.

SCOTT PHILLIPS  
Executive Manager  
Planning Division

**Attachments:**

There are no attachments for this report.

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