



BUSINESS PAPER

GENERAL MEETING

**Wednesday 12 June 2019
at 6:30PM**



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AGENDA AND SUMMARY OF RECOMMENDATIONS

PRESENT

NATIONAL ANTHEM

OPENING PRAYER/S

Pastor Ejay Mbakwe from Awesome Rock Church, Asquith will open tonight's 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."

VIDEO AND AUDIO RECORDING OF COUNCIL MEETING

Statement by the Chairperson:

"I advise all present that tonight's meeting is being video streamed live via Council's website and also 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 audio and video recordings of the non-confidential parts of the meeting 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. No other persons are permitted to record the Meeting, unless specifically authorised by Council to do so."

APOLOGIES / LEAVE OF ABSENCE

POLITICAL DONATIONS DISCLOSURE

Statement by the Chairperson:

"In accordance with Section 147 of the Environmental Planning and Assessment Act 1979, any person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, and who has made a reportable political donation or gift to a Councillor or employee of the Council, must make a Political Donations Disclosure Statement."

If a Councillor or employee has received a reportable political donation or gift from a person or organisation who has made a relevant planning application or a submission in respect of a relevant planning application which is on tonight's agenda, they must declare a non-pecuniary conflict of interests to the meeting, disclose the nature of the interest and manage the conflict of interests in accordance with Council's Code of Conduct."

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 General Meeting held on 8 May, 2019 be confirmed; a copy having been distributed to all Councillors.

PETITIONS

PRESENTATIONS**RESCISSION MOTIONS****MAYORAL MINUTES****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*

OFFICE OF THE GENERAL MANAGER**Page Number 1**

Item 1 GM8/19 ADOPTION OF COUNCIL'S DELIVERY PROGRAM 2019-21 INCLUDING THE OPERATIONAL PLAN 2019/20 (INCORPORATING THE BUDGET, RATING STRUCTURE AND FEES AND CHARGES)

RECOMMENDATION

THAT:

1. Subject to incorporation of the recommendations detailed in Tables 1A and 1B and the Budget section of General Manager's Report No. GM8/19, Council adopt the Delivery Program 2019-21 including the Operational Plan 2019/20, incorporating the Budget, Fees and Charges and Rating Structure for 2019/20.
2. Council make and levy the 2019/20 Ordinary Rates in accordance with Table 2; and the 2019/20 Catchments Remediation Rate on all rateable land in the Shire in accordance with Table 3 of General Manager's Report No. GM8/19.
3. Council write to those who have made submissions thanking them for their comments.
4. Council adopt for public exhibition a variation to the 2019/20 Fees and Charges relating to a new Community Meeting Room at Cheltenham Oval, adding fees for Regular hire at \$18ph

and Casual hire at \$24ph. Following the public exhibition period, and if any submissions are received objecting to the fees, a further report be prepared for Council's consideration.

CORPORATE SUPPORT DIVISION

Page Number 7

Item 2 CS13/19 COUNCIL'S CODE OF MEETING PRACTICE - ADOPTION FOLLOWING PUBLIC EXHIBITION

RECOMMENDATION

THAT:

1. The contents of Deputy General Manager's Report No. CS13/19 be received and noted.
2. Council adopt the Code of Meeting Practice attached to Deputy General Manager's Report No. CS13/19 to apply from its 24 July 2019 General Meeting.
3. Council confirm the protocols discussed in Deputy General Manager's Report No. CS13/19 in respect of the Acknowledgement of Religious Diversity at Council General Meetings.

Page Number 12

Item 3 CS15/19 LOCAL GOVERNMENT REMUNERATION TRIBUNAL - 2019 REPORT AND DETERMINATION - MAYOR AND COUNCILLOR FEES - 2019/20 FINANCIAL YEAR

RECOMMENDATION

THAT:

1. As a consequence of the 2019 Report and Determination of the Local Government Remuneration Tribunal, Council note that it remains in the Metropolitan Medium Category of NSW councils for the period 1 July 2019 to 30 June 2020.
2. In accordance with Section 248 of the Local Government Act, and having considered the 2019 Report and Determination of the Local Government Remuneration Tribunal, an annual fee of \$25,790 be paid to each Councillor for the period 1 July 2019 to 30 June 2020.
3. In accordance with Section 249 of the Local Government Act, and having considered the 2019 Report and Determination of the Local Government Remuneration Tribunal, an additional annual fee of \$68,530 be paid to the Mayor for the period 1 July 2019 to 30 June 2020.

Page Number 16

Item 4 CS16/19 INVESTMENTS AND BORROWINGS FOR 2018-19 - STATUS FOR PERIOD ENDING 30 APRIL 2019

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS16/19 be received and noted.

Page Number 19**Item 5 CS19/19 DEBTS TO BE WRITTEN OFF - 2018/19 FINANCIAL YEAR****RECOMMENDATION**

THAT for 2018/19, and in accordance with Clause 213 of the Local Government (General) Regulation, Council:

1. Write off debts considered bad totalling \$7,729 (as detailed in Schedule A attached to Deputy General Manager's Report No. CS19/19).
2. Note debts considered bad totalling \$8,735 written off under the General Manager's delegated authority (as detailed in Schedule B attached to Deputy General Manager's Report No. CS19/19).

COMMUNITY AND ENVIRONMENT DIVISION**Page Number 22****Item 6 EH6/19 BYLES CREEK LAND ACQUISITION REVIEW****RECOMMENDATION**

THAT Council determine whether it wishes to progress a review of the Byles Creek Catchment land acquisition strategy as part of the broader review of Council's Local Environment Plan.

Page Number 26**Item 7 EH5/19 RE-ESTABLISHMENT AND EXTENSION OF THE ALCOHOL-FREE ZONE IN HORNSBY TOWN CENTRE****RECOMMENDATION**

THAT Council:

1. Pursuant to Section 644B(4) of *Local Government Act 1993* (the Act), re-establish the alcohol-free zone (AFZ) for the Hornsby Town Centre (HTC) with the added inclusion of all HTC public roads, footpaths and public car parks not previously included as shown in Attachment 1 of Director's Report No. EH5/19, for a period of four years.
2. Pursuant to Section 645(3) of the Act, publish notice in the local media declaring that an AFZ has been established and will commence operation seven days from the date of publication for a period of four years.

3. Pursuant to Section 644C (3) of the Act, ensure appropriate signage at the gateways of the zone and at suitable intervals within the zone, stating that drinking of alcohol is prohibited in the zone and specifying the period for which the AFZ is to operate.
4. Pursuant to Section 645 of the Act, suspend the AFZ for community events for up to 100 hours per annum during the four-year period, subject to positive evaluation of each event's community benefits and safety by the General Manager or their delegate, and to police liaison and public notice of the suspension prior to each event.

Page Number 30**Item 8 EH7/19 CATCHMENTS REMEDIATION RATE (CRR) PROGRAM EXPENDITURE REVIEW 31 DECEMBER 2018 - PROGRESS REPORT****RECOMMENDATION**

THAT the contents of Director's Report No. EH7/19 be received and noted.

PLANNING AND COMPLIANCE DIVISION**Page Number 33****Item 9 PL16/19 VOLUNTARY PLANNING AGREEMENT - 50A DUFFY AVENUE, THORNLEIGH****RECOMMENDATION**

THAT the Voluntary Planning Agreement attached to Director's Report No. PL16/19 be endorsed by Council.

Page Number 41**Item 10 PL17/19 FURTHER REPORT ON ESTABLISHING A DESIGN EXCELLENCE PANEL****RECOMMENDATION**

THAT Council:

1. Establish a Hornsby Design Excellence Panel.
2. Adopt the Terms of Reference attached to Director's Report No. PL17/19 for the Design Excellence Panel.
3. Undertake an Expression of Interest process to appoint appropriate members to the Design Excellence Panel.

INFRASTRUCTURE AND MAJOR PROJECTS DIVISION

Nil

CONFIDENTIAL ITEMS**Item 11 CS18/19 PURCHASE OF LAND AT DANGAR ISLAND FOR PUBLIC RECREATION**

This report 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.

PUBLIC FORUM – NON AGENDA ITEMS**QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN****MAYOR'S NOTES**

Page Number 47

Item 12 MN5/19 MAYOR'S NOTES FROM 01 MAY TO 31 MAY 2019**NOTICES OF MOTION**

Page Number 49

Item 13 NOM6/19 MANAGING DISCHARGE INTO THE HAWKESBURY RIVER AND ESTUARIES**COUNCILLOR TILBURY TO MOVE**

THAT:

1. An Informal Workshop be held to discuss updating and renewing Council's program of inspection of river properties for compliance with relevant standards relating to sewage and stormwater discharge into the Hawkesbury River and estuaries.
2. The Workshop should consider how an education and awareness program should precede a program of compliance inspections including how community engagement and support can be established.
3. The Workshop should consider the resource and funding implications including potential grants or other income sources that can support this program.

Page Number 50

Item 14 NOM7/19 VALUE SHARING OF REZONING**COUNCILLOR MARR TO MOVE**

THAT an Informal Councillor Workshop be convened to discuss how Council could advocate to the NSW State Government, on behalf of our community, the implementation of a Gateway Levy that could be paid to councils by landowners when land is upzoned in order to support the delivery of newly required infrastructure and increase in services needed to support greater densities of development.

SUPPLEMENTARY AGENDA**MATTERS OF URGENCY****QUESTIONS WITHOUT NOTICE**

1 ADOPTION OF COUNCIL'S DELIVERY PROGRAM 2019-21 INCLUDING THE OPERATIONAL PLAN 2019/20 (INCORPORATING THE BUDGET, RATING STRUCTURE AND FEES AND CHARGES)

EXECUTIVE SUMMARY

- Council's Delivery Program 2019-21, including the Budget, Rating Structure and Fees and Charges for 2019/20, was adopted for public exhibition at the 10 April 2019 General Meeting.
- Nine submissions were received during the formal exhibition period, and 12 since that time. All are summarised in the attached Table 1A. Table 1B contains a summary of administrative changes requested by internal Divisions of Council. All submissions has been reviewed by appropriate Council staff, and while some minor changes are supported, no material changes to the publicly exhibited documents are recommended.
- From a budget perspective, additional items that were not known during the preparation of the original Budget have been identified at a cost of \$2.483 million. It is proposed that these partly be funded from a release from restricted assets; and use of savings from 2018/19. This will see the projected budget surplus for 2019/20 reduced to \$4.322 million.
- A new facility at Cheltenham Oval incorporating sporting amenities and a community meeting space was transferred to Council by the NSW Government in May 2019. As this occurred after the adoption of the draft Fees and Charges, Council endorsement is now sought to publicly exhibit the proposed fees for those facilities in line with statutory requirements.

RECOMMENDATION

THAT:

1. Subject to incorporation of the recommendations detailed in Tables 1A and 1B and the Budget section of General Manager's Report No. GM8/19, Council adopt the Delivery Program 2019-21 including the Operational Plan 2019/20, incorporating the Budget, Fees and Charges and Rating Structure for 2019/20.
2. Council make and levy the 2019/20 Ordinary Rates in accordance with Table 2; and the 2019/20 Catchments Remediation Rate on all rateable land in the Shire in accordance with Table 3 of General Manager's Report No. GM8/19.
3. Council write to those who have made submissions thanking them for their comments.
4. Council adopt for public exhibition a variation to the 2019/20 Fees and Charges relating to a new Community Meeting Room at Cheltenham Oval, adding fees for Regular hire at \$18ph and Casual hire at \$24ph. Following the public exhibition period, and if any submissions are received objecting to the fees, a further report be prepared for Council's consideration.

PURPOSE

The purpose of this Report is to provide Council with information and recommendations regarding the submissions received in respect of the public exhibition of the Delivery Program 2019-21, including the Operational Plan for 2019/20 (which incorporates the Budget, Rating Structure and Fees and Charges for 2019/20).

BACKGROUND

By 30 June in the year following local government elections, all councils are required to develop a 10-year community strategic plan, a four-year delivery program and a one year operational plan aligned to an integrated planning framework. The purpose is to identify the main priorities and aspirations for the future of the area and the resources required to move to the preferred future.

Your Vision | Your Future 2028, Hornsby Shire Council's current 10-year Community Strategic Plan, was adopted on 13 June 2018 together with a Delivery Program for 2018-21 and a 2018/19 Operational Plan. (NB. As the last local government elections were delayed by the NSW Government, this Delivery Program is for a period of three years, the current Council's term of office.)

The Office of Local Government requires that the Delivery Program and one-year Operational Plan be reviewed annually. This review process has now occurred for 2019/20.

At the General Meeting held on 10 April 2019, Council considered General Manager's Report No. GM4/19 and resolved that:

1. *Council adopt for public exhibition and make available for public comment from 11 April to 13 May 2019, the draft Delivery Program 2019-21 including the draft Operational Plan 2019/20 which includes the draft Budget, Fees and Charges and Rating Structure for 2019/20.*
2. *Council note that the rating information contained in the Delivery Program 2019-21 including the draft Operational Plan 2019/20 is in line with the Independent Pricing and Regulatory Tribunal's rate increase approval for NSW councils (i.e. a 2.7% rate increase for 2019/20).*
3. *Following the public exhibition period, and before 30 June 2019, a further report be prepared for Council's consideration which provides details of any submissions received and recommends the adoption of a final Delivery Program 2019-21 including the Operational Plan 2019/20, which contains the Budget, Fees and Charges and Rating Structure for that year.*
4. *Council confirm its intent in relation to the Economic Development and Tourism Strategy as indicated in the accelerated LEP review program and confirm its intent of supporting tourism in the Hornsby Shire.*

DISCUSSION

Consultation on the Documents

During the exhibition period from 11 April 2019 to 13 May 2019, copies of the Delivery Program 2019-21 including the Operational Plan 2019/20, and Fees and Charges 2019/20 were on display at Council's reception areas and four libraries and were available electronically on Council's website. Advertisements advising of their availability were placed in the quarterly What's On publication sent to 36,000 ratepayers in April 2019 and the Council Column of four local newspapers. There was also a Facebook post, and an email sent to nine local community organisations inviting comment.

Submissions

A total of nine submissions were received during the formal exhibition period. 12 late submissions were also received. Of the submissions:

- One would like to receive Rates Notice and What's On publications electronically
- 11 oppose a proposed footpath in Day Road, Cheltenham in the 2020/21 forward capital works program (seven late submissions)
- Five support the same footpath (all late submissions)
- Three oppose a proposed floodlighting upgrade at Cheltenham Oval in the 2020/21 forward capital works program (all are joint submissions opposing the footpath above)
- One sets out the preferred vision for rural lands around Galston
- One commends areas of the draft Delivery Program and gives specific recommendations for inclusion relating to health, wellbeing and safety of the community
- One objects to proposed fee increases at Mount Colah Community Centre for Not for Profit organisations
- One gives positive commentary on the proposed cost structure for sporting services.

The submissions are summarised in the Table 1A attachment, with staff recommendations in italics.

There were also administrative issues identified by staff during the exhibition period regarding changes to wording for clarity. Details are summarised in the Table 1B attachment.

During the exhibition period, there were further minor changes suggested by Council staff to improve clarity of the information contained in the documents, and those changes have been incorporated in the final versions of the documents.

New Fees - Cheltenham Oval Community Meeting Room

At the Council meeting on 10 April 2019, Council adopted for public exhibition the draft Fees and Charges for 2019/20. As part of the Sydney Metro Northwest project, a new community facility was constructed at Cheltenham Oval and transferred to Council in May 2019 following the adoption of the draft Fees and Charges. The facility includes sporting amenities and a community meeting space.

With the transfer of the facility to Council, fees are proposed for the use of the meeting room which are commensurate with other community space of a similar size and age. Council endorsement is required to add the two fees, after a public exhibition period of 28 days and consideration of any submissions received. (Refer no. 16b, Table 1B attached)

Rates Structure

The rates structure included in the draft Delivery Program 2019-21 including the Operational Plan 2019/20 was based on the general increase determined by IPART, i.e. a 2.7% increase to apply to the Ordinary and Catchments Remediation Rates. The Ordinary and Catchments Remediation Rates tables (Tables 2 and 3 below) have been updated to take into account adjustments due to recategorisation of properties and supplementary rates since exhibition. This has affected the 'Rate in the \$ (based on land value)', '% of Total Rate', 'Yield \$' columns and the overall totals, increasing the total rates levied to \$66,922,651.

Table 2 – Ordinary Rates

Category	Rate in the \$ (based on land value)	Minimum Rate \$	Base Amount (\$)	Base Amount (%)	% of Total Rate	Yield (\$)
Residential	0.093441		\$555	49%	86.99%	58,216,015
Farmland	0.092096		\$555	29%	0.90%	602,303
Business	0.372726	\$584			6.78%	4,537,357
Business (Hornsby CBD)	0.474145	\$584			3.57%	2,389,137
Business (Shopping Centre)	1.344948				1.76%	1,177,838
Total						66,922,651

Table 3 – Catchments Remediation Rate

(NB. There are no minimum or base amounts in respect of this rate)

Category	Rate in the \$ (based on land value)	Yield (\$)
Residential	0.00908	2,908,881
Farmland	0.006492	30,095
Business	0.019910	226,718
Business (Hornsby CBD)	0.023882	119,380
Business (Shopping Centre)	0.067205	58,855
Total		3,343,927

Total Rates Levied \$70,266,578

Rate Reductions for Eligible Pensioners

Eligible pensioners across NSW are entitled to a \$250 reduction in the ordinary rates and domestic waste management services. Details regarding the pensioner rebate are available in the Rating Information section of the draft Delivery Program 2019-21 including the Operational Plan 2019/20.

CONSULTATION

Council engaged its community in discussing a preferred future for the Shire which resulted in Council's first Community Strategic Plan being adopted in 2010. The Delivery Program 2019-21 including Operational Plan 2019/20, incorporating the Budget and Fees and Charges 2019/20, respond to the current Community Strategic Plan, Your Vision | Your Future 2028, and have been prepared after detailed discussions with relevant staff, consideration by Council and public exhibition of draft proposals. Councillors received a briefing on the contents of the draft documents on 27 March 2019. Draft documents were placed on public exhibition from 11 April to 13 May 2019.

BUDGET

The publicly displayed draft Annual Budget for 2019/20 included an estimated surplus of \$4.745 million. The 2019/20 Annual Budget was developed in line with Council's Long Term Financial Plan (LTFP) parameters which had a focus on the continuance of current service levels and some

additional priorities identified by Councillors above recurrent allocations. These additional priorities identified by Councillors are noted in Deputy General Manager's Report No. CS6/19 – Update on Council's Long Term Financial Plan – which was considered at the March 2019 General Meeting. Those parameters, together with savings achieved over the past few years and the achievement of further savings targeted across the organisation, achieved the estimated surplus.

Since being placed on exhibition, additional matters that were not known during the preparation of the original Budget have been identified at \$2.483 million. If accepted, this would potentially decrease the budgeted surplus from \$4.745 million to \$2.262 million. The additional budget variations totalling \$2.483 million are listed below

Additional Variations identified since the draft Annual Budget 2019/20 was placed on exhibition

• Emergency Services Levy	\$333K (recurrent)	<i>Mandatory</i>
• Galston Aquatic Centre Roof Design Costs	\$300K (one off)	<i>Discretionary</i>
• Galston Aquatic Centre - Option 5 Roof 50% funding (Year 1)	\$1,350K (year one of two)	<i>Discretionary</i>
• Audit and Risk Committee Expenditure	\$100K (recurrent)	<i>Mandatory</i>
• Additional Legal Expenditure (Planning)	\$500K	<i>Discretionary</i>
• Native Title Expenditure	\$50K (per year over two years)	<i>Discretionary</i>
• Additional Rate Income	<u>(\$150K)</u> (ongoing)	<i>Expected</i>
TOTAL	\$2,483K	

The surplus forecasted during the public exhibition period was intended to be set aside in a restricted asset account to enable the implementation of initiatives identified in future years of the LTFP; this included a \$20 million shortfall in the annual budget in 2023/24. After considering the options available the following has been proposed:

- Release \$1.360 million from Council's Debt Retirement and Capital Project Restricted Asset to fund the replacement of the roof at Galston Aquatic Centre.
- Reduce \$700K of the footpath improvements budget in the 2018/19 Annual Budget and reallocate this budget in 2019/20 towards the additional budget variations identified above.
- Accept a reduced 2019/20 Annual Budget surplus of \$4.322 million, which is \$423K below what was placed on public exhibition at \$4.745 million.

The proposed funding strategy allows the additional variations identified to be included within the 2019/20 Annual Budget without substituting recurrent items. However, several of the additional variations will be incurred in future years and will require recurrent funding sources to be identified to offset these expenses before the preparation of the 2020/21 Annual Budget.

POLICY

The Delivery Program is Council's principal instruction to the organisation covering its term of office and the underlying annual Operational Plans allocate resources and contain the detail on what will be done to implement the Delivery Program.

CONCLUSION

The Delivery Program 2019-21 including the Operational Plan 2019/20, incorporating the Budget and Fees and Charges, encompass the priorities and expected levels of service voiced by the community. Council will respond by providing services in a prudent and financially viable manner.

Once adopted, the Delivery Program 2019-21 including the Operational Plan 2019/20, incorporating the Budget and Fees and Charges for 2019/20 will be distributed electronically and in hard copy to Councillors, staff and interested persons.

RESPONSIBLE OFFICER

The officers responsible for the preparation of this Report are the Acting Chief Financial Officer – Duncan Chell and the Manager, Strategy and Place – Louise Gee, who can be contacted on 9847 6822 and 9847 6531 respectively.

GARY BENSLEY
Acting Deputy General Manager - Corporate
Support
Corporate Support Division

STEVEN HEAD
General Manager
Office of the General Manager

Attachments:

1. [⇒](#) Table 1A - Public submissions
2. [⇒](#) Table 1B - Staff submissions

File Reference: F2019/00075
Document Number: D07674045

2 COUNCIL'S CODE OF MEETING PRACTICE - ADOPTION FOLLOWING PUBLIC EXHIBITION

EXECUTIVE SUMMARY

- At its 10 April 2019 General Meeting, Council considered Deputy General Manager's Report No. CS8/19 and adopted a draft Code of Meeting Practice for the purpose of public exhibition.
- In line with the requirements of the Local Government Act (LGA), the public exhibition of the draft Code was for a period of 28 days, with a period of 42 days allowed for the lodgement of submissions by members of the public.
- At the close of the public exhibition period, one submission had been received. The points raised in that submission, and a staff response to each, are included in the attachment to this Report.
- As a consequence of the submission, four minor changes are proposed to be made to the exhibited Code and they are included in the final draft Code attached to this Report.
- It is recommended that Council adopt the final draft Code as its new Code of Meeting Practice and that the provisions of the new Code apply from the 24 July 2019 General Meeting.
- Whilst not included in the Code of Meeting Practice, an opportunity has been taken in this Report to confirm the protocols in respect of the Acknowledgement of Religious Diversity at General Meetings of Council.

RECOMMENDATION

THAT:

1. The contents of Deputy General Manager's Report No. CS13/19 be received and noted.
2. Council adopt the Code of Meeting Practice attached to Deputy General Manager's Report No. CS13/19 to apply from its 24 July 2019 General Meeting.
3. Council confirm the protocols discussed in Deputy General Manager's Report No. CS13/19 in respect of the Acknowledgement of Religious Diversity at Council General Meetings.

PURPOSE

The purpose of this Report is to provide the opportunity for Council to finalise and adopt a new Code of Meeting Practice.

BACKGROUND

In August 2016, amendments were made to the LGA which provided for a Model Code of Meeting Practice (MCMP) to be prescribed by the Local Government General Regulation (LGGR). Following an extensive consultation process across local government, a MCMP was prescribed and the previous meetings' provisions included in the LGGR were repealed.

The MCMP contains mandatory provisions that reflect the existing meetings provisions of the LGA and update and enhance the meetings' provisions previously specified under the LGGR to reflect contemporary meetings' practice by councils. The MCMP also contains non-mandatory provisions that cover areas of meetings' practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions operate to set a benchmark based on what the Office of Local Government (OLG) considers best practice for council meetings.

The MCMP was designed to achieve a range of outcomes including:

- Promoting, as the principal object of meetings, the making of decisions by the governing bodies of councils that are in the best interests of the council and the community as a whole.
- Promoting more accessible, orderly, effective and efficient meetings and to provide councils with the tools to achieve these outcomes.
- Prescribing principles to inform the way in which meetings are conducted and to impose meeting rules that are consistent with these principles.
- Codifying areas of common practice across councils in a way that is clear, efficient, leads to better informed and more effective decision making and that is consistent with the requirements of the LGA.
- Promoting greater consistency between councils across the State in key areas of meetings' practice without losing the ability to allow some variation in practice to meet local needs or expectations.
- Allowing greater flexibility in the conduct of meetings to accommodate a range of potential scenarios that are not addressed by the current meeting rules.
- Simplifying the language currently used to make the prescribed meeting rules more accessible and easier to understand.
- Modernising the rules to accommodate current and emerging technologies (e.g. electronic notice, electronic voting systems and webcasting).

Councils are required to adopt their own code of meeting practice that incorporates the mandatory provisions of the MCMP. A council's code may also incorporate any or all of the non-mandatory provisions of the MCMP and any other supplementary provisions adopted by the council. The code must not contain provisions which are inconsistent with the mandatory provisions. Until a council adopts a new code, its existing code will remain in force up until six months from the date on which the new MCMP was prescribed (i.e. up until 14 June 2019).

Before adopting a new code, councils are required to exhibit a draft code for at least 28 days and provide members of the public with at least 42 days in which to comment on the draft code. After considering all submissions received by it concerning the draft code, a council may decide to amend any non-mandatory provisions of its draft code; or adopt the draft code as its code of meeting practice. If a council decides to amend its draft code, it may publicly exhibit the amended draft, or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without further public exhibition as its code of meeting practice.

Following discussion at a Councillor Workshop in March 2019, Council officers developed a draft Code of Meeting Practice for formal consideration by Council. The draft Code incorporated the mandatory, and some of the non-mandatory, provisions of the MCMP as well as some existing provisions from Council's existing Code which were considered relevant and good practice for Hornsby Shire Council.

Council considered Deputy General Manager's Report No. CS8/19 – Review of Council's Code of Meeting Practice – at its 10 April 2019 General Meeting and resolved that:

1. *Council adopt the draft Code of Meeting Practice attached to Deputy General Manager's Report No. CS8/19 for the purpose of public exhibition.*
2. *In line with the requirements of the Local Government Act, the public exhibition be for a period of 28 days, with a period of 42 days allowed for the lodgement of submissions by members of the public.*
3. *At its 12 June 2019 General Meeting, Council consider a further report on this matter which details any submissions received and proposes the adoption of a final Code of Meeting Practice*

The following timetable has since been followed to ensure that Council could adopt a final Code of Meeting Practice at the 12 June 2019 General Meeting:

Thursday 11 April 2019	Commencement of public exhibition period for draft Code
Thursday 9 May 2019	End of public exhibition period for draft Code
Thursday 23 May 2019	End of period for public to make submissions on draft Code
Wednesday 29 May 2019 Councillor Workshop	For discussion of any submissions received about the draft Code
Wednesday 12 June 2019 Council Meeting	To consider a report which details all the submissions received and proposes adoption of a new Code of Meeting Practice
Wednesday 17 July 2019 Councillor Workshop	To discuss any amended meeting practices that will apply from the 24 July 2019 General Meeting

DISCUSSION

Submission Received

Following on from Council's adoption of a draft Code of Meeting Practice at its 10 April 2019 General Meeting, the draft Code was placed on public exhibition in line with the requirements of the LGA. At the conclusion of the public exhibition period, one submission had been received. The attached document details the issues raised in the submission and also incorporates staff comments about each of those issues under a heading of "Council's Response".

Most of the issues raised relate to Council's Public Forum process although other comments are provided in respect of Voting; Dealing With Items Passed by Exception; and Keeping Order at Council Meetings. Based on the assessment of the comments by staff, and having regard to discussion about this matter at the Councillor Workshop held on 29 May 2019, the following amendments are proposed to the draft Code prior to formal adoption by Council:

- The word "*Generally*" be added at the commencement of clause 4.27(c)
- The words "*Questions put to a speaker must be direct, succinct and without argument.*" be inserted after the first sentence in clause 4.27(h)
- An "*Additional Clause Adopted by Council*" be included as clause 13.8 which states that "*The Council must not resolve to adopt any item of business under clause 13.1 for which a public speaker has indicated an intention to speak.*"
- The Note following clause 5.18 be removed

As those amendments are not substantial, Council is able to adopt the draft amended Code attached without a further public exhibition process. This will also ensure that Council's new Code of Meeting Practice is in place by 14 June 2019 as required by legislation.

Other Matter

As there has recently been some discussion about the protocols that currently exist with respect to the acknowledgement of religious diversity at Council General Meetings, it was considered appropriate that confirmation of those protocols should occur through this Report.

The current practice in respect of acknowledging religious diversity is summarised below.

- A Christian prayer is offered at the commencement of General Meetings.
- The Christian prayer is recited by a minister organised by the Hornsby Ministers' Fraternal or, in their absence, by the Mayor or General Manager.
- Local leaders of non-Christian religions may also offer a prayer at Meetings provided that relevant information is provided to Council in time to be included on the agenda for that Meeting and that the number of non-Christian prayers is generally limited to one per Meeting.
- The Christian/non-Christian prayer/s are followed by an acknowledgment of the religious diversity within the Shire.
- That acknowledgment, which is recited by the Mayor states "*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.*"

As this practice has worked well for many years, it is recommended to continue.

CONSULTATION

In the preparation of this Report there has been a public exhibition process which was in line with the requirements of the LGA.

BUDGET

There are no budgetary implications associated with the preparation of this Report.

POLICY

The new Code of Meeting Practice will become a policy document of Council and will apply from the 24 July 2019 General Meeting.

CONCLUSION

The final draft Code of Meeting Practice has been subject to public exhibition in accordance with the requirements of the LGA. Based on the submission received and the response to the issues it contains, it is appropriate that the amended document attached to this Report be adopted by Council as its Code of Meeting Practice to apply from the 24 July 2019 General Meeting.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service – Ms Robyn Abicair - who can be contacted on 9847-6608.

ROBYN ABICAIR
Manager - Governance and Customer Service
Corporate Support Division

GARY BENSLEY
Deputy General Manager - Corporate Support
Corporate Support Division

Attachments:

1. [⇒](#) Response to Submission
2. [⇒](#) Code of Meeting Practice

File Reference: F2004/07032
Document Number: D07651922

3 LOCAL GOVERNMENT REMUNERATION TRIBUNAL - 2019 REPORT AND DETERMINATION - MAYOR AND COUNCILLOR FEES - 2019/20 FINANCIAL YEAR

EXECUTIVE SUMMARY

- Sections 248(2) and 249(3) of the Local Government Act provide respectively for Council to once each year fix the annual fee payable to Councillors and the additional annual fee payable to the Mayor.
- The annual fees must be fixed in accordance with the relevant annual determination of the Local Government Remuneration Tribunal.
- Based on the Tribunal's 2019 Report and Determination, it is recommended that Council approve a 2.5% increase in Councillor and Mayoral fees for the 2019/20 financial year.
- Acceptance of such recommendation would result in each Councillor receiving an annual fee of \$25,790 and the Mayor receiving an additional annual fee of \$68,530 for 2019/20.
- Sufficient funds have been allocated in the 2019/20 Budget to cover a 2.5% increase in the fees payable to Councillors and the Mayor.

RECOMMENDATION

THAT:

1. As a consequence of the 2019 Report and Determination of the Local Government Remuneration Tribunal, Council note that it remains in the Metropolitan Medium Category of NSW councils for the period 1 July 2019 to 30 June 2020.
2. In accordance with Section 248 of the Local Government Act, and having considered the 2019 Report and Determination of the Local Government Remuneration Tribunal, an annual fee of \$25,790 be paid to each Councillor for the period 1 July 2019 to 30 June 2020.
3. In accordance with Section 249 of the Local Government Act, and having considered the 2019 Report and Determination of the Local Government Remuneration Tribunal, an additional annual fee of \$68,530 be paid to the Mayor for the period 1 July 2019 to 30 June 2020.

PURPOSE

The purpose of this Report is to provide Council with the 2019 Report and Determination of the Local Government Remuneration Tribunal such that Council can determine the amount of the fee payable to each Councillor, and the additional fee payable to the Mayor, for the 2019/20 financial year.

BACKGROUND

The Local Government Remuneration Tribunal is established under Chapter 9, Part 2, Division 4 of the Local Government Act. In this regard, Section 239 of the Act states:

- (1) *The Remuneration Tribunal must, at least once every 3 years:*
 - (a) *determine categories for councils and mayoral offices, and*
 - (b) *place each council and mayoral office into one of the categories it has determined.*
- (2) *The determination of categories by the Remuneration Tribunal is for the purpose of enabling the Remuneration Tribunal to determine the maximum and minimum amounts of fees to be paid to mayors and councillors in each of the categories so determined.*

Section 241 of the Act states:

The Remuneration Tribunal must, not later than 1 May in each year, determine, in each of the categories determined under section 239, the maximum and minimum amounts of fees to be paid during the following year to councillors (other than mayors) and mayors.

The Tribunal has completed its 2019 Report and Determination recommending the fees payable to councillors and mayors for the 2019/20 financial year – see copy attached.

DISCUSSION

The Tribunal undertook a significant review of the categories and the allocation of councils into each of those categories in 2017. The review was prompted by the amalgamation of councils resulting in the creation of 20 new councils and an overall reduction in the number of councils in NSW from 152 to 128.

The Tribunal did not undertake a broad review of the categorisation of councils as part of this review and considered only those requests where an individual submission was made. The Tribunal found that the current allocation of councils into the current categories is appropriate.

The Tribunal will next consider the model, the criteria applicable to each group and the allocation of councils in detail in 2020.

The categories of general purpose councils are as follows:

Metropolitan

- Principal CBD; Major CBD; Metropolitan Large; Metropolitan Medium; and Metropolitan Small

Non-metropolitan

- Regional City; Regional Strategic Area; Regional Rural; and Rural

As a result of this review, it was determined that Hornsby Shire Council would remain in the Metropolitan Medium category of NSW councils along with eight other Councils - Bayside, Campbelltown, Georges River, Ku-ring-gai, Inner West, Randwick, Ryde and The Hills.

The Tribunal has reviewed the key economic indicators, including the Consumer Price Index and Wage Price Index, and had regard to budgetary limitations imposed by the Government's policy of rate pegging and has found that a 2.5% increase to the current fees is warranted. This is the maximum increase currently allowable under the Government's wages policy. The 2.5% increase will apply to the minimum and the maximum of the ranges for all categories.

Impact on Council

The fees determined by the Tribunal as being applicable to the Metropolitan Medium category of councils are:

Councillor	Mayor
Annual Fee Minimum - Maximum	Additional Fee Minimum - Maximum
\$13,820 - \$25,790	\$29,360 - \$68,530

In June 2018, when Council determined the fees payable to Councillors and the Mayor for the 2018/19 financial year, it resolved to pay fees at the maximum level. This was consistent with decisions in previous years. Should Council resolve to pay fees at the maximum level for the 2019/20 period, this would result in an increase of \$630 per annum for Councillors and \$1,670 per annum for the Mayor.

BUDGET

Sufficient funds have been allocated in the 2019/20 Budget to cover a 2.5% increase in the fees payable to Councillors and the Mayor.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

It is considered appropriate that the maximum fee for the Metropolitan Medium category be paid to Hornsby Shire Councillors and the Mayor for the period 1 July 2019 to 30 June 2020. This would result in each Councillor receiving an annual fee of \$25,790 and the Mayor receiving an additional annual fee of \$68,530 for the 2019/20 financial year.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Governance and Customer Service – Robyn Abicair, who can be contacted on 9847 6608.

ROBYN ABICAIR
Manager - Governance and Customer Service
Corporate Support Division

GARY BENSLEY
Acting Deputy General Manager - Corporate
Support
Corporate Support Division

Attachments:

1. [↗](#) Local Government Remuneration Tribunal Annual Report

File Reference: F2004/09552-02

Document Number: D07661754

ITEM 3

4 INVESTMENTS AND BORROWINGS FOR 2018-19 - STATUS FOR PERIOD ENDING 30 APRIL 2019

EXECUTIVE SUMMARY

- This Report provides details of Council's investment performance for the period ending 30 April 2019 as well as the extent of its borrowings at the end of the same period.
- Council invests funds that are not, for the time being, required for any other purpose. The investments must be in accordance with relevant legislative requirements and Council's policies and the Chief Financial Officer must report monthly to Council on the details of funds invested.
- All of Council's investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.
- In respect of Council's cash and term deposit investments, the portfolio achieved an annualised return for April 2019 of 3.72%, which relates to interest income of \$615,558 and an unrealised gain of \$179,127 from TCorp Managed Funds for April 2019.
- There is a 2018/19 financial year to date return of 2.90%, which relates to accumulated interest income of \$6,283,138 plus an unrealised gain of \$492,032 from TCorp Managed Funds.

RECOMMENDATION

THAT the contents of Deputy General Manager's Report No. CS16/19 be received and noted.

PURPOSE

The purpose of this Report is to advise Council of funds invested in accordance with Section 625 of the Local Government Act; to provide details as required by Clause 212(1) of the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy; and to advise on the extent of Council's current borrowings.

BACKGROUND

Legislation requires that a report be submitted for Council's consideration each month detailing Council's investments and borrowings and highlighting the monthly and year to date performance of the investments. Initial investments and reallocation of funds are made, where appropriate, after consultation with Council's financial investment adviser and fund managers.

DISCUSSION

Council invests funds which are not, for the time being, required for any other purpose. Such investment must be in accordance with relevant legislative requirements and Council Policies, and the Chief Financial Officer must report monthly to Council on the details of the funds invested.

Council's investment performance for the month ending 30 April 2019 is detailed in the attached document. In summary, the portfolio achieved an annualised return for April 2019 of 3.72% which relates to interest income of \$615,558 and an unrealised gain of \$179,127 from TCorp Managed Funds for April 2019. There is a 2018/19 financial year to date return of 2.90% which relates to accumulated interest income of \$6,283,138 plus an unrealised gain of \$492,032 from TCorp Managed Funds. (N.B. Unrealised gains from TCorp Managed Funds will be taken up at the end of the financial year)

In respect of Council borrowings, the weighted average interest rate payable on outstanding loans taken out from June 2009 to date, based on the principal balances outstanding is 6.67%. The Borrowings Schedule as at 30 April 2019 is also attached for Council's information.

BUDGET

Budgeted investment income for 2018/19 is \$7,379,500 with an average budgeted monthly income of \$614,958. Year to date investment income for the period ended 30 April 2019 was \$6,283,138 which excludes the year to date unrealised gain of \$492,032 from TCorp Managed Funds.

Approximately 28% of the investment income received by Council relates to externally restricted funds (e.g. Section 7.11 and Section 7.12 development contribution funds) and is required to be allocated to those funds. All investments have been made in accordance with the Local Government Act, the Local Government (General) Regulation and Council's Investment of Surplus Funds Policy and Investment Strategy.

CONCLUSION

The investment of Council funds and the extent of its borrowings as at 30 April 2019 are detailed in the documents attached to this Report. Council's consideration of the Report and its attachments ensures that the relevant legislative requirements and Council protocols have been met in respect of those investments and borrowings.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Chief Financial Officer – Duncan Chell - who can be contacted on 9847 6822.

DUNCAN CHELL
Acting Chief Financial Officer
Corporate Support Division

GARY BENSLEY
Acting Deputy General Manager - Corporate
Support
Corporate Support Division

ITEM 4

Attachments:

1. [HSC Investment Summary Report April 2019](#)
2. [HSC Borrowings Schedule 30 Apr 2019](#)

File Reference: F2004/06987-02
Document Number: D07664555

5 DEBTS TO BE WRITTEN OFF - 2018/19 FINANCIAL YEAR

EXECUTIVE SUMMARY

- The Financial Services Branch is responsible for assessing Council's outstanding debtors on a regular basis to determine those debts which are bad, doubtful or recoverable.
- Some services provided to customers in exchange for a fee or charge may remain unpaid even after various attempts by staff have been taken to recover these amounts. If it is deemed uneconomical to pursue further then these amounts will be recommended to be become bad debts and be written off.
- The latest assessment for 2018/19 has resulted in the General Manager writing off debts totalling \$8,735 using his delegated authority from Council (refer attached Schedule B); and proposing to Council that it write off further debts considered bad totalling \$7,729 (refer attached Schedule A).
- Council's consideration of this Report ensures that the relevant legislative requirements and Council protocols have been met in respect of those debts to be written off.
- The write-off of debts for 2018/19 will be met from a budget allocated for this purpose, plus the reallocation of minor savings in Divisional budgets across the organisation.

RECOMMENDATION

THAT for 2018/19, and in accordance with Clause 213 of the Local Government (General) Regulation, Council:

1. Write off debts considered bad totalling \$7,729 (as detailed in Schedule A attached to Deputy General Manager's Report No. CS19/19).
2. Note debts considered bad totalling \$8,735 written off under the General Manager's delegated authority (as detailed in Schedule B attached to Deputy General Manager's Report No. CS19/19).

PURPOSE

The purpose of this Report is to seek Council approval, in accordance with Clause 213 of the Local Government (General) Regulation, to write off debts considered bad for the 2018/19 financial year.

BACKGROUND

Each year, the Financial Services Branch assesses the status of outstanding debtors to determine those debts which are bad, doubtful or recoverable. Debts considered bad are either recommended for write off by the General Manager under delegated authority or submitted to Council for approval to write off. (N.B. Doubtful debts are provided for in the financial records in contrast to bad debts which are written off)

DISCUSSION

Some services provided to customers in exchange for a fee or charge may remain unpaid even after various attempts by staff have been taken to recover these amounts. If it is deemed uneconomical to pursue further then these amounts will be recommended to become bad debts and be written off. Services that remain unpaid generally comprise commercial waste, licensing, parks, community centres and recreation fees and charges.

The writing off of debts by Council is undertaken in accordance with Clause 213 of the Local Government (General) Regulation. At the Ordinary Meeting held on 10 July 1996, Council resolved that the General Manager be delegated authority to write off individual debts up to \$1,000 which are considered irrecoverable. Debts over \$1,000 may only be written off by resolution of Council. The amount of bad debts written off by Council in accordance with Clause 213 of the Regulation over the last five financial years has been:

2013/14	\$7,477
2014/15	\$2,379
2015/16	\$49,714
2016/17	\$3,574
2017/18	\$10,209

For 2018/19, it is recommended that Council write off a debt considered bad totalling \$7,729 (see details in Schedule A); and note debts considered bad totalling \$8,735 which have been written off under the General Manager's delegated authority (see details in Schedule B). It should be noted that even if a debt is written off, Council is not prevented from taking future legal proceedings to recover the debt.

CONSULTATION

This Report has been prepared in consultation with Council's debt collection agency – Recoveries and Reconstruction (Australia) Pty Ltd.

BUDGET

The 2018/19 budget for bad debts written off is \$1,000. This budget will need to be supplemented by the reallocation of minor savings in Divisional budgets across the organisation in order to write off the debts detailed in this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The write-off of bad debts for the 2018/19 financial year is detailed in the documents attached to this Report. Council's consideration of the Report and its attachments ensures that the relevant legislative requirements and Council protocols have been met in respect of those debts to be written off.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Acting Chief Financial Officer – Duncan Chell, who can be contacted on 9847 6822.

DUNCAN CHELL
Corporate Accounting Manager - Corporate
Reporting
Corporate Support Division

GARY BENSLEY
Deputy General Manager - Corporate Support
Corporate Support Division

Attachments:

- 1.⇒ Bad Debts Over \$1,000.00 - 2018/2019
- 2.⇒ Bad Debts Under \$1,000.00 - 2018/2019

File Reference: F2004/06978-02
Document Number: D07684808

6 BYLES CREEK LAND ACQUISITION REVIEW

EXECUTIVE SUMMARY

- In October 2018 Council requested that a report be prepared for its consideration on the studies required, timing and resource implications to undertake a review of Council's Byles Creek land acquisition strategy.
- The Byles Creek Catchment has been the subject of a number of previous studies including the 1995 Byles Creek Environmental Study and a review of Council's open space land acquisition programme in 2007.
- This report has focussed on identifying the additional investigations that would be required to build on the prior studies to assess whether additional undeveloped land should be considered for acquisition within the Byles Creek Catchment in order to improve and preserve environmental and social values.
- It is considered that an additional environmental assessment would need to be conducted of the Byles Creek Catchment comprising a scoping study, environmental assessment and acquisition strategy review (as required).
- It is estimated that these studies would take approximately four months to complete at a cost of up to \$70,000.

RECOMMENDATION

THAT Council determine whether it wishes to progress a review of the Byles Creek Catchment land acquisition strategy as part of the broader review of Council's Local Environment Plan.

PURPOSE

The purpose of this Report is to inform Council on the studies required, timing and resource implications to progress a review of Council's Byles Creek land acquisition strategy.

BACKGROUND

At the 10th October, 2018 Ordinary Meeting, Council considered Notice of Motion NOM28/18 Byles Creek Land Acquisition Strategy and resolved that:

1. *A report be prepared for Council's consideration on the studies required, timing and resource implications to undertake a review of Council's Byles Creek land acquisition strategy, aligned to the review of Council's Local Environmental Plan and to be funded from the internally restricted reserve (Sale of 179 Beecroft Road, Cheltenham funds).*

In undertaking the required review, consideration will be given to the Byles Creek Catchment Environmental Study (Nexus Environmental Planning, October 1995), Council's Open Space Land Acquisition Review (July 2007) and other relevant documentation.

DISCUSSION

The Byles Creek Catchment (the catchment) covers an area of approximately 350 hectares within the suburbs of Pennant Hills, Beecroft and Cheltenham. The northern boundary of the catchment follows sections of Pennant Hills Road adjacent to Observatory Park, south-east along Britannia Road adjacent to Lane Cove National Park, south-west adjacent to Cobran Road and then north-westerly along Beecroft Road.

The catchment contains a number of threatened species of flora and fauna and provides connectivity to larger bushland areas within Lane Cove National Park. Its preservation has been of considerable interest to the local community for many years and a number of studies have been undertaken by Council including the Byles Creek Environmental Study (Nexus Environmental Planning Pty Ltd) which informed the development of a Local Environmental Plan, Development Control Plan and Acquisition Programme in the 1990's to introduce bushland protection provisions for land that was identified as containing vegetation of conservation significance in the Byles Creek Catchment.

Council also conducted a review of its open space land acquisition strategy in 2007, noting the open space zonings in the Byles Creek Catchment. This leads to the current situation where within the catchment, the predominant development is R2 Low Density Residential land with large tracts of bushland along the riparian corridors and gullies. Many of the residential lots adjoining the riparian corridors contain dual land use zones of R2 Low Density Residential and RE1 Public Recreation. Properties that contain a RE1 Public Recreation zoning are identified for Council acquisition.

Attachment 1 contains a map showing land zoned RE1 Public Recreation under Council ownership and land zoned RE1 Public Recreation currently under private ownership, however identified for Council acquisition. It is evident that there are limited parcels of undeveloped land in this catchment that are not already zoned RE1 Public Recreation.

This report seeks to identify the additional investigations that would be required to build on the prior studies to assess whether additional undeveloped land should be considered for acquisition within the Byles Creek Catchment in order to improve environmental and social values.

It is considered that to review Council's Byles Creek acquisition strategy, an additional environmental assessment would need to be conducted of the Byles Creek Catchment that includes the following elements:

Element	Purpose
Scoping study	Background information, gap analysis (data, zonings, acquisition responsibilities), planning context (relationship to North District Plan, Local Strategic Planning Statements, Biodiversity Strategy)
Environmental Assessment	Quantify and value environmental and social values (bushwalking, passive recreation, etc)
Acquisition strategy	Review and recommend land acquisition amendments (as required) and ongoing management funding opportunities

It is estimated that it would take approximately four months to undertake this work.

It is important to note that concurrent to this review, Council is undertaking a range of studies to develop a Shire Wide Local Strategic Planning Statement (LSPS). One study informing the ecological outcomes desired in the LSPS is the Biodiversity Conservation Strategy.

The Biodiversity Conservation Strategy aims to give Council direction in undertaking actions to conserve biodiversity and support existing conservation programs with key outcomes including a prioritised action plan for conservation works, identify areas for future vegetation corridors and links and provide recommendations for amendments to the Hornsby Local Environment Plan and Development Control Plan that support biodiversity conservation.

Noting this concurrent process, should Council determine that it wishes to proceed to review its land acquisition strategy for the Byles Creek catchment, it is suggested that the outcomes would inform the biodiversity strategy and subsequently influence the LSPS.

BUDGET

A budget of up to \$70,000 would be required to progress a review of the Byles Creek Land Acquisition Strategy as outlined in this report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

This report notes the requirements of NOM28/18 Byles Creek Land Acquisition Strategy and advises that a budget of up to \$70,000 would be required to review the strategy within four months. The review would consist of a scoping study, environmental assessment and advise of changes, as needed, to Council's land acquisition strategy. The review would inform the biodiversity strategy and subsequently influence the LSPS.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Natural Resources – Peter Coad - who can be contacted on 9847 6766.

PETER COAD
Manager - Natural Resources
Community and Environment Division

STEPHEN FEDOROW
Director - Community and Environment
Community and Environment Division

ITEM 6

Attachments:

1. [↔](#) Byles Creek Catchment Map

File Reference: F2011/00854

Document Number: D07656396

7 RE-ESTABLISHMENT AND EXTENSION OF THE ALCOHOL-FREE ZONE IN HORNSBY TOWN CENTRE

EXECUTIVE SUMMARY

- The alcohol-free zone (AFZ) in Hornsby Town Centre (HTC) will expire in July 2019.
- This report recommends that Council re-establish the HTC AFZ, with the added inclusion of all HTC public roads, footpaths and public car parks not previously included, for a period of four years.
- Additionally, this report recommends that Council suspend the AFZ for community events for up to 100 hours per annum during the four-year period, subject to evaluation, police liaison and public notice.
- The proposal to re-establish and extend the AFZ has been published in the local media, provided to local liquor license holders and provided to the local police as required by legislation. The public submission period is scheduled to close on 7 June 2019. At the time of preparing this report no public submissions had been received. Should any submissions be received by the close of exhibition, a late item information memo will be provided.
- Hornsby Police have indicated their support for the Alcohol-Free Zone.

RECOMMENDATION

THAT Council:

1. Pursuant to Section 644B(4) of *Local Government Act 1993* (the Act), re-establish the alcohol-free zone (AFZ) for the Hornsby Town Centre (HTC) with the added inclusion of all HTC public roads, footpaths and public car parks not previously included as shown in Attachment 1 of Director's Report No. EH5/19, for a period of four years.
2. Pursuant to Section 645(3) of the Act, publish notice in the local media declaring that an AFZ has been established and will commence operation seven days from the date of publication for a period of four years.
3. Pursuant to Section 644C (3) of the Act, ensure appropriate signage at the gateways of the zone and at suitable intervals within the zone, stating that drinking of alcohol is prohibited in the zone and specifying the period for which the AFZ is to operate.
4. Pursuant to Section 645 of the Act, suspend the AFZ for community events for up to 100 hours per annum during the four-year period, subject to positive evaluation of each event's community benefits and safety by the General Manager or their delegate, and to police liaison and public notice of the suspension prior to each event.

PURPOSE

The purpose of this report is to seek Council's endorsement of the re-establishment of the alcohol-free zone (AFZ) in Hornsby Town Centre (HTC), with the added inclusion of all HTC public roads, footpaths and public car parks not previously included, for a period of four years; and to seek Council's suspension of the AFZ for community events for up to 100 hours per annum during that four-year period.

BACKGROUND

Through empowering the police to seize alcohol, the establishment and operation of an AFZ constitutes an early intervention measure to reduce the escalation of street drinking to serious crime. Council has used AFZs successfully for this purpose for several years.

Most recently, at the 8 July 2015 Ordinary Meeting, Council considered Group Manager's Report No. EH18/15 and resolved that Council:

- 1. Adopt the proposal for the re-establishment of an Alcohol-Free Zone (AFZ) for the Hornsby Town Centre with the added inclusion of the overhead footbridge linking George Street and Station Street for a period of four (4) years as shown in Attachment 1 of Group Manager's Report No. EH18/15.*
- 2. Publish notice in the local media declaring that an alcohol-free zone has been established and will commence operation seven (7) days from the date of publication, and when the area is adequately signposted.*
- 3. Install appropriate signage at the gateways of the zone and at suitable intervals within the zone declaring that an alcohol-free zone has been established.*

The AFZ will expire on 8 July 2019; and it is now considered appropriate to re-establish the AFZ for a further period of four years. Additionally, as suspension of the AFZ is periodically required for community events such as Sunset Sessions and previous suspensions have been enacted without incident, it is now considered appropriate for Council to proactively suspend the AFZ for community events.

DISCUSSION

Previously implemented AFZs in HTC have been effective in assisting with the management of anti-social behaviour and providing a degree of comfort to the users of the space.

The Hornsby Police support the re-establishment of the AFZ, with the added inclusion of all HTC public roads, footpaths and public car parks not previously included, to assist with the collective aim of further reducing alcohol-related crime in the community.

Accordingly, it is considered appropriate for Council to re-establish and extend the AFZ in HTC as shown in Attachment 1 of Director's Report No. EH5/19 for the maximum permitted period of four years. The new HTC AFZ (including the added areas) will commence operation seven days after publication of Council's decision to establish the AFZ and become enforceable in the added areas once adequately signposted thereafter.

Further, as suspension of the AFZ is periodically required for community events such as Sunset Sessions, and previous suspensions have been enacted without incident, it is now considered appropriate for Council to proactively suspend the AFZ for community events for up to 100 hours per annum. This suspension is to be subject to a positive evaluation of each event's community benefits

and safety by the General Manager or their delegate, and to police liaison and public notice of the suspension prior to each event.

CONSULTATION

The proposal to re-establish and extend the AFZ has been published in the local media (in the Hills Shire Times on 7th May, Northern District Times on 8th May and Hornsby Advocate on 9th May), provided to local liquor license holders and provided to the local police as required by legislation.

The public submission period is scheduled to close on 7 June 2019. At the time of preparing this report no public submissions had been received. Should any submissions be received by the close of exhibition, a late item information memo will be provided.

Hornsby Police have indicated their support for the AFZ.

The periodic suspension of the AFZ for community events will be subject to consultation in the form of police liaison and public notice prior to each event.

BUDGET

The updating and erecting of the required signage can be accommodated within existing budget allocations.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

For some time Council has maintained an AFZ throughout HTC to assist with the management of anti-social behaviour and provide a degree of comfort to the users of the space.

The current AFZ will expire in July 2019. Public and stakeholder consultation has been conducted on re-establishing the AFZ with the added inclusion of all HTC public roads, footpaths and public car parks not previously included. At the time of preparing this report, no objections have been received; and the Hornsby Police have indicated their support.

Accordingly, it is recommended that Council re-establish and extend the AFZ in HTC as shown in Attachment 1 of Director's Report No. EH5/19 for the maximum permitted period of four years. Further, as suspension of the AFZ is periodically required for community events, and previous suspensions have been enacted without incident, it is recommended that Council proactively suspend the AFZ for up to 100 hours per annum for those events subject to positive evaluation, police liaison and public notice.


RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Library & Information Systems – Cheryl Eldridge, who can be contacted on 9847 6801.

CHERYL ETHERIDGE
Manager - Library and Information Services
Community and Environment Division

STEPHEN FEDOROW
Director - Community and Environment
Community and Environment Division

Attachments:

1.  Map of Proposed AFZ

File Reference: F2014/00221-006

Document Number: D07655711

ITEM 7

8 CATCHMENTS REMEDIATION RATE (CRR) PROGRAM EXPENDITURE REVIEW 31 DECEMBER 2018 - PROGRESS REPORT

EXECUTIVE SUMMARY

- Catchments Remediation Rate Program ('CRR') expenditure for the six months to 31 December 2018 has been reviewed by the independent CRR Expenditure Review Panel ('the Panel') and is considered to be reasonable and acceptable.
- CRR income for the six months to 31 December 2018 was \$2,794,000. In addition, a balance of \$63,000 has been carried forward from the 2017/18 financial year.
- During the six months to 31 December 2018, \$1,253,000 was spent on a range of capital and non-capital items including the construction of a biofiltration basin at Holliday Rd, Berowra system and gross pollutant traps at Orara Park, Waitara and Morrison Pl, Pennant Hills.
- A cost summary of expenditure for the first half of 2018/19 and the CRR Expenditure Review Panel's report are provided in Attachments 1-3 of Director's Report No. EH7/19.

RECOMMENDATION

THAT the contents of Director's Report No. EH7/19 be received and noted.

PURPOSE

The purpose of this Report is to inform Council about the expenditure of CRR funds for the first half of the 2018/19 financial year and to table the CRR Expenditure Review Panel report.

BACKGROUND

Council's CRR Expenditure Review Panel was established in 1997 to provide public accountability and transparency to CRR expenditure and it continues to perform this function.

The Panel is currently comprised of five community members and a Councillor and meets bi-annually to review CRR expenditure.

DISCUSSION

Catchments Remediation Program Capital Works

For the six months to 31 December 2018, \$372,000 has been spent on:

- Installation of gross pollutant traps at Morrison PI, Pennant Hills and Orara Park, Waitara (part of a larger stormwater treatment and harvesting system integrated into the park upgrades)
- Construction of a biofilter and gross pollutant trap to treat stormwater at Holliday Rd, Berowra

Non-Capital Expenditure

\$880,000 was spent in non-capital expenditure during the first two quarters of 2018/19 that supported various Council operations that contributed to improving water quality Shire-wide including:

- Pro-active maintenance of all stormwater improvement devices
- Ecological health and water quality monitoring
- Street sweeping
- Riparian restoration works
- Community education and project support, e.g. Bushcare
- Emergency response to spills
- Salaries, wages, overheads and associated administrative costs for project management.

CRR Expenditure Review Panel

Council's CRR Expenditure Review Panel was initially established in 1997 to provide public accountability and transparency to CRR expenditure and it continues to perform this function.

On 9th April 2019, the CRR Expenditure Review Panel met to discuss expenditure for the first two quarters of the 2018/19 financial year. The Panel noted that it had sighted and discussed the financial details of the CRR expenditure and considered all reports presented by council officers as acceptable and accountable.

The Panel noted that the primary reason for this meeting to be held at chambers, as opposed to a scheduled field trip to view recently built assets, was to discuss feedback received from members about the Panel's charter. The Panel agreed to the need for consistency across Council administered committees, ensuring clearly defined charters and objectives, membership and protocols. Other specific recommendations were made and forwarded to staff consolidating the Committee review process. It was agreed that the Panel would be kept updated as to the progress of the review process.

The Panel's report is included as Attachment 1.

BUDGET

The relevant budget and incurred expenditure for the CRR is shown in Attachments 2 and 3.

POLICY

There are no policy implications arising as a result of this Report.

CONCLUSION

During the first two quarters of 2018/19, \$1,253,000 in CRR funds was spent on a range of capital and non-capital projects designed to improve the ecological health and water quality in waterways across the Shire.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Natural Resources – Peter Coad, who can be contacted on 9847 6766.

PETER COAD
Manager - Natural Resources
Community and Environment Division

STEPHEN FEDOROW
Director - Community and Environment
Community and Environment Division

Attachments:

- 1.⇒ CRR Panel Report_9th April 2019
- 2.⇒ CRR Balance_1st & 2nd Qtr_201819
- 3.⇒ CRR Summary of Total Expenditure_1st & 2nd Qtr_201819

File Reference: F2005/00829-03
Document Number: D07681196

9 VOLUNTARY PLANNING AGREEMENT - 50A DUFFY AVENUE, THORNLEIGH

EXECUTIVE SUMMARY

- A Voluntary Planning Agreement ('the Agreement') has been submitted on behalf of the owners of property No. 50A Duffy Avenue, Thornleigh.
- On 19 December 2018, the Hornsby Local Planning Panel (HLPP) resolved to approve DA/510/2018 for the Torrens title subdivision of one lot into six as a staged development. The development also includes site remediation, retention of an existing industrial warehouse, stormwater civil works, removal of trees and a Voluntary Planning Agreement.
- The Agreement proposes that the developer make a monetary contribution of \$79,478 towards the replacement of vegetation lost as a result of the approved development in accordance with Council's *Green Offset Code* (Amended 2015).
- One submission was received commenting on the Agreement during the exhibition period.
- It is recommended that Council endorse the Agreement as it would offset the loss of native vegetation through Council's Bush Care Program, to rehabilitate and regenerate bushland on land owned by Council.

RECOMMENDATION

THAT the Voluntary Planning Agreement attached to Director's Report No. PL16/19 be endorsed by Council.

PURPOSE

The purpose of this Report is to present a Voluntary Planning Agreement ('the Agreement') which proposes that the developer of No. 50A Duffy Avenue, Thornleigh pay Council a monetary contribution for the replacement of vegetation lost as a result of development of the property.

The Site

The 20,240m² site is located on the southern side of Sefton Road with a primary frontage of 125.5m. The centre of the site comprises a partially demolished warehouse building, and the front of the site comprises car parking and rows of trees.

The site is surrounded by a mixture of land uses with industrial to the east, medium density residential to the west and low density residential to the north and south.

Aerial photographs of the subject site in 1943 display the site as cleared with little to no vegetation. Council records indicate industrial development occurring on the site from 1959.

BACKGROUND

On 30 May 2018, DA/510/2018 was lodged for the Torrens title subdivision of one lot into six as a staged development. On 6 August 2018, the developer made an offer to Council to enter into a Voluntary Planning Agreement (VPA) with Council pursuant to Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

On 19 December 2018, the Hornsby Local Planning Panel (HLPP) resolved to approve DA/510/2018 subject to additional conditions requiring the retention of an additional 7 trees fronting Sefton Road. Condition No. 23 of the approved development requires the developer to enter into a VPA with Council to offset the loss of trees on site.

On 4 April 2019, Council approved a Section 4.55(1A) application to modify Condition No. 23 requiring a VPA to be entered into with Council from prior to the issue of a "Construction Certificate" to prior to the issue of a "Subdivision Certificate". The modification also increased the number of trees to be offset from 14 to 15 (or 0.1533 hectares) given an additional tree (tree 22) was found to be dead and not worthy of retention.

Relevant conditions of consent for DA/510/2018 include:

- Condition No. 9 allows for the removal of 39 trees on site.
- Condition No. 10 requires a positive covenant be placed on lots fronting Sefton Road (lots 1-4) and requires at least 4 canopy trees consistent with Blue Gum High Forest be planted on each site when developed.
- Condition No. 51A requires the developer to enter into a VPA with Council to offset the loss of vegetation through a payment of \$79,478. The species include *Eucalyptus saligna* (Sydney Blue Gum) x14 and *Eucalyptus sp* x1.

On 1 May 2019, the HLPP resolved to approve DA/619/2018 for the construction of a part one storey and part two storey industrial building comprising 32 industrial units and 44 self-storage unit, strata subdivision and landscaping within the southern portion of property No. 50A Duffy Avenue. The approved development allows for the removal of 7 trees subject to 30 trees being planted.

Overall, DA/510/2018 and DA/619/2018 allow for the removal of 46 trees on site, requires a minimum of 46 trees to be planted when developed and requires off site offsetting through the Agreement.

DISCUSSION

This report outlines the Agreement which proposes a monetary contribution toward the cost of offsetting the loss of trees at No. 50A Duffy Ave, Thornleigh.

Section 7.4 of the *Environmental Planning and Assessment Act 1979* (“the Act”) defines a planning agreement as:

A planning agreement is a voluntary agreement or other arrangement under this Division between a planning authority (or 2 or more planning authorities) and a person (the developer):

- a) Who has sought a change to an environmental planning instrument, or*
- b) Who has made, or proposes to make, a development application or application for a complying development certificate, or*
- c) Who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,*

under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.

The Act prescribes the content, form, subject matter and procedures for making planning agreements. The Agreement submitted by the applicant has been made in accordance with the Act as discussed below.

Voluntary Planning Agreement

Council’s Green Offset Code was implemented to assist in providing an offset where there is no possibility of a development avoiding an impact on native vegetation. Using the Code enables land owners to offset the loss by providing practical, managerial and financial offsets through a legally binding agreement.

The Agreement proposes that the developer make a monetary contribution of \$79,478 towards replacement of 0.1533ha of vegetation that would be lost as a result of the approved development. The Agreement includes a multiplier of 2 for “Other Native Vegetation and Remnant Trees” given that the trees proposed to be removed are not naturally occurring as they were planted for landscaping purposes as a condition of consent under a previous development consent (No. 134/76).

This offset is calculated as follows:

Offsets amount = Area to be cleared (in hectares) x offsets multiplier x vegetation offset (as per Council’s Fees and Charges) plus 10% management fee.

The offset calculation is therefore:

$$\$79,478 = (0.1533 \times 2 \times \$235,660) + 10\% = \$72,253 + \$7,225$$

Total Development Contribution required = \$79,478 to the Bushland Restoration Offset Program.

The Agreement is consistent with previous executed agreements, Council’s *Policy on Planning Agreements* and Section 7.4 of the Act. Notwithstanding, the Agreement would be reviewed by a solicitor from Council’s Legal Panel prior to execution.

The objectives of the Green Offsets Code are as follows:

- *Ensure that significant vegetation including trees in the Shire are protected.*
- *Facilitate some development, which may have negative impacts.*

- *Ameliorate negative environmental impacts of development at a regional and local level.*
- *Provide for environmental enhancement and restoration.*

The Agreement is considered to meet the objectives of the Code for the following reasons:

- The 15 trees being offset were planted for landscaping purposes as part of past industrial development and form rows within a carpark area.
- The site is zoned for industrial use and therefore only requires 5m setbacks to street frontages and residential land and 0m setbacks to other industrial land. As a consequence, future industrial development of any kind would likely result in vegetation loss.
- Significant trees on site fronting Sefton Road and between Lots 1-4 and 5 are being retained.
- The site is required to be remediated and potentially excavated due to asbestos containing materials found in the garden beds located within the front car park.
- The approved development DA/510/2018 requires a positive covenant be placed on lots fronting Sefton Road (Lots 1-4) and requires at least 4 canopy trees consistent with Blue Gum High Forest be planted on each site when developed (total 16).
- The approved development DA/619/2018 at the rear of the site includes the planting of trees consistent with Blue Gum High Forest as follows; 8 x *Eucalyptus saligna* (Sydney Blue Gum), 4 x *Angophora costata* (Sydney Red Gum or Smooth-barked Apple) and 16 x *Elaeocarpus reticulatus* (Blueberry Ash) as well as 2 x *Backhousia myrtifolia* (Grey Myrtle) trees (total 30).

Council's Policy on Planning Agreements 2007

Council's *Policy on Planning Agreements 2007* provides that Planning Agreements should meet the acceptability test to ensure that Agreements:

- *Are directed towards proper or legitimate planning purposes, ordinarily ascertainable from the statutory planning controls and other adopted planning policies applying to development.*

Comment: DA/510/2018 was considered consistent with the *Hornsby Shire Local Environmental Plan 2013* and with Part 6 – Subdivision of the Hornsby Development Control Plan 2013. The inclusion of a VPA to offset the loss of trees is consistent with the Council's Green Offset Code in relation to meeting requirements for the development and Council's Policy on Planning Agreements.

- *Provide for public benefits that bear a relationship to development that are not wholly unrelated to the development.*

Comment: Under Council's Policy on Planning Agreements, bushland regeneration works are listed as an appropriate benefit for a planning agreement.

- *Produce outcomes that meet the general values and expectations of the public and protect the overall public interest.*

Comment: The Agreement balances the opportunity for sustainable development against the environmental attributes of the locality.

- *Provide for a reasonable means of achieving the relevant purposes and outcomes and securing the benefits.*

Comment: The Agreement provides a reasonable means of achieving and securing the benefits of bushland regeneration by provision of a monetary contribution to offset the loss of native vegetation under Council's Green Offset Code.

- Protect the community against harm.

Comment: The Agreement provides for interested persons to consider and comment on the merits of the proposal through a public exhibition process.

In summary, the VPA is considered to satisfy the above acceptability test and is consistent with Council's *Policy on Planning Agreements*.

CONSULTATION

The Agreement was placed on public exhibition for a period of 28 days in accordance with Section 7.5(1) of the *Environmental Planning and Assessment Act 1979* and Council's *Policy on Planning Agreements 2007*. During this period, one submission was received. The submission is discussed below:

- Avoid, Minimise and Mitigate

Comment: A submission raises concerns that the developer has not demonstrated that vegetation loss cannot be avoided and its impacts minimised or mitigated.

In response to this concern, the trees proposed to be offset through the Agreement are located within the proposed building envelopes of Lots 1-4 or are directly adjacent to the driveway that requires widening to meet *Australian Standards*. As a consequence, future industrial development in accordance with the land zoning and permissible floor space ratio would likely result in vegetation loss.

Further, DA/510/2018 requires 30 trees to be retained. These trees are located adjacent to Sefton Road, between proposed Lots 1-4 and 5 and on the western boundary of the site. An additional 30 trees are required to be planted under DA/619/2018 and a further 16 trees are required to be planted when Lots 1-4 are developed.

Given that the site is zoned for industrial purposes and the Hornsby Development Control Plan (HDCCP) allows 0m side setbacks and 5m front setbacks, the removal of some trees is considered acceptable to facilitate permissible development. Accordingly, an offset for the loss of trees is appropriate.

- Only two trees would be retained within the front setback

Comment: DA/510/2018 requires the retention of 30 trees including 7 trees directly fronting Sefton Road and 8 trees between proposed Lots 1-4 and 5.

- Replacement Planting

Comment: The submission comments that DA/510/2018 and the Agreement do not provide for sufficient replacing planting.

DA/510/2018 as approved does not require replacement planting. Notwithstanding, Condition No. 10 requires a positive covenant be placed on Lots 1-4 so that 16 trees are provided once developed. Further, DA/619/2018 as approved requires the planting of 30 trees.

The intention of placing a positive covenant on Lots 1-4 is to ensure that the site is landscaped once developed. Providing replacement planting on Lots 1-4 at subdivision stage may result in their damage during future construction works.

- Blue Gum High Forest

Comment: The submission notes that the trees to be removed are of high importance and form part of the Blue Gum High Forest community (BGHF).

An assessment of the trees and their origin was undertaken as part of the evaluation of DA/510/2018. The assessment found that the trees located within the front carpark to be removed were planted in three distinct linear rows parallel to Sefton Road and were planted at the time of construction of the carpark and current buildings. Although the trees include locally significant species, it was considered that they do not form part of a naturally occurring BGHF community.

Further, the report submitted by SLR environmental consulting with DA/510/2018 noted the following in this regard:

- *The Blue Gum trees are not (evidently) regrowth from the soil seed bank and were evidently planted some time ago (given they are all of the same height and age class and as they occur within and surrounding the landscaped parts of an existing car park).*
- *The trees present on the site do not constitute a patch of naturally occurring or regenerating native vegetation – there is evidence that the soils of the site have been imported or at least reworked or buried as part of the construction of the car park; furthermore, there are no locally indigenous shrubs or groundcover species, or evidence of natural regeneration, that would indicate a native plant community.*
- *The vegetation recorded on site does not contain any of the characteristic plant species listed in the Final Determination for Blue Gum High Forest (NSW Scientific Committee 2011), with the exception of Blue Gum Eucalyptus saligna.*
- *The site was not mapped as containing any native vegetation categories by Council's study conducted by Smith and Smith (2007).*

- Subdivision Layout

Comment: The submission notes that an alternative subdivision layout could have resulted in the retention of additional trees. However, the Local Planning Panel considered that the proposed subdivision layout was acceptable for the following reasons:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The development is considered consistent with the State Government's "A Metropolis of Three Cities" and "North District Plan", by retaining industrial land and enabling further development that would serve a wide range of uses to support a growing population.

Additionally, in making its decision, the Local Planning Panel considered Council's LPP report (No. LPP/4018) which noted the following:

- The subdivision would provide six allotments capable of varying future industrial development.

- The subdivision relates to the existing site conditions including driveway location, topography and existing buildings to be retained.
- It would be unreasonable to restrict future development through the retention of all the trees on site. The VPA would offset the loss of trees externally in a more suitable location.
- Offset Calculation

Comment: The submission suggests that the total vegetation to be offset should equate to 0.4493ha and not 0.1533ha.

All trees proposed for removal under DA/510/2018 are not required to be offset through the VPA, only the 15 trees identified in Section 3 of this report. This is due to 46 trees required to be replaced on site under the approvals of DA/510/2018 and DA/619/2018.

It is also noted that a draft VPA offered to Council on 6 August 2018 originally identified 18 trees to be offset. This represented a total area of 2,960m². Trees 36, 45, 53, 66 are now required to be retained and accordingly have been excluded from the monetary calculation of the Agreement.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

There are no policy implications associated with this Report.

CONCLUSION

The proposal to enter an agreement is consistent with Council's current *Policy on Planning Agreements* and satisfies the acceptability test of a proper planning purpose.

The collection of a monetary contribution serves the purpose of offsetting the loss of trees in accordance with Council's Bushcare program and Green Offset Code which aims to protect, enhance, manage and create habitat on receiving land that is ecologically suitable and appropriate.

The VPA was placed on public exhibition for 28 days and one submission was received. The submission is discussed in the body of this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Development Assessments – Rod Pickles.

ROD PICKLES
Manager - Development Assessment
Planning and Compliance Division

JAMES FARRINGTON
Director - Planning and Compliance
Planning and Compliance Division

Attachments:

1. [⇒](#) VPA
2. [⇒](#) Explanatory Note
3. [⇒](#) Tree Location Plan
4. [⇒](#) Approved subdivision plans

File Reference: DA/510/2018

Document Number: D07669585

10 FURTHER REPORT ON ESTABLISHING A DESIGN EXCELLENCE PANEL

EXECUTIVE SUMMARY

- At its meeting on 10 October 2018, Council resolved in principle to establish a formal Design Excellence Panel, with a further report being presented to Council concerning the appointment, constitution, fee structure and yearly budget allocation for the Panel.
- It is recommended that a Panel of 3 members should be established and that each member have significant experience in a relevant design field such as architecture, urban design, landscape design or heritage. Panel members should also demonstrate a sound understanding of the desired urban design values and outcomes for Hornsby Shire.
- It is appropriate that Council undertake an expression of interest process for appropriately qualified and experienced members to participate on Council's Panel for a 2 year period.

RECOMMENDATION

THAT Council:

1. Establish a Hornsby Design Excellence Panel.
2. Adopt the Terms of Reference attached to Director's Report No. PL17/19 for the Design Excellence Panel.
3. Undertake an Expression of Interest process to appoint appropriate members to the Design Excellence Panel.

PURPOSE

The purpose of this report is to outline the requirements for the establishment and operation of a Hornsby Design Excellence Panel.

BACKGROUND

In response to representations from the community concerning the built form and character of unit developments in Hornsby Shire, at its meeting on 8 November 2017, Council resolved to undertake a review of built form outcomes and planning controls including the introduction of further landscaping requirements. At the meeting, Council also considered Council's design excellence provisions and resolved that a report be prepared concerning expanding the application of the provisions to townhouses and residential flat buildings.

At its meeting on 10 October 2018, Council considered Group Manager's Report No. PL26/18 regarding the Design Excellence Review of Planning Controls and presenting draft Development Control Plan (DCP) amendments. Council resolved to exhibit the draft DCP amendment for community comment and (in part) that:

4. *Council endorse in principle the establishment of a formal Design Excellence Advisory Panel, with a further report being presented to Council concerning the appointment, constitution, fee structure and yearly budget allocation for the Panel.*
5. *In the interim, Council endorse the restructure and utilisation of Council's current Design Excellence Panel as set out in Group Manager's Report No. PL26/18 until such time as the formal Panel is established.*

In accordance with part 5 above, Council's Planning and Compliance Division has successfully trialled two formal Design Excellence Panel meetings to ascertain the design benefits and outcomes of a Design Panel as part of the Development Application assessment process and to determine the constitution and associated costs in running a Panel meeting. The Panel has considered applications for high density residential flat buildings and town houses and in each instance has recommended positive urban design amendments to improve the design quality of the developments.

DISCUSSION

The population of Hornsby Shire is forecast to increase by 1% per annum from 147,661 people in 2016 to 179,582 in 2036, requiring an additional 14,879 homes and increasingly developments are expected to take higher density housing forms in appropriate locations. In response to an increasing population, Council is seeking to promote a range of housing options which are able to be delivered in a timely, environmentally and socially responsible manner.

Good urban design and architecture are essential in creating a vibrant, active and liveable city particularly in higher density localities. Council plays a major role in the assessment of development applications and is seeking to establish a Design Excellence Panel that would provide Council, staff, Local and Regional Planning Panels with independent urban design advice to assist make decisions on major developments that will produce quality built form and public domain outcomes.

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Buildings (SEPP 65) and the Apartment Design Guidelines came into effect on 26 July 2002. SEPP 65 was amended in 2015 and the Residential Flat Design Code was replaced by the Apartment Design Guide (ADG). The aim of SEPP 65 is to improve the design of residential flat buildings throughout NSW. SEPP 65 applies only to residential flat buildings of 4 or more units and 3 or more storeys.

At its meeting on 8 November 2017, Council resolved to expand the application of the Design Excellence provisions to townhouses as well as residential flat buildings through the establishment of a formal Design Excellence Panel. The Design Excellence Panel would provide additional design scrutiny to seek to achieve improved development outcomes for townhouses.

Composition of the Panel

In terms of the constitution of Design Review Panels under the provisions of SEPP 65, the NSW Government Architect's office recommends that a Panel should consist of members who satisfy the following criteria:

- Significant experience in a relevant design field for example Architecture, Urban Design, Landscape Design or Heritage.
- Suitably qualified in their relevant field and either registered with their relevant professional body, or eligible for registration.
- The quorum for the Panel should comprise at least one architect, one landscape designer and one member from any of the abovementioned design fields (3 panel members).
- Not a Councillor or Council officer.

It is recommended that Council adopt the same criteria for members of the Hornsby Design Excellence Panel.

A draft Terms of Reference and Procedures Manual has been prepared that has regard to how the Hornsby Design Excellence Panel would operate and includes the necessary requirements of the NSW Government Architect. This is included as Attachment 1.

Appointment of External Panel Members

Under the Terms of Reference, individuals would be required to demonstrate that they meet the criteria established by the Government Architect as well as the following:

- A professional that can demonstrate a sound understanding of the desired urban design values and outcomes for Hornsby Shire.
 - A professional that possesses the relevant skills and experience, such as:
 - experience on other Panels providing independent expert input on development matters;
 - does not undertake regular work in Hornsby Shire;
 - professional indemnity insurance of \$5 million;
 - public liability insurance of \$10 million; and
 - certificate of currency for workers compensation insurance.

Operation of the Panel

A Service Level Agreement is proposed as part of contracts with external Panel members to ensure both parties are protected in the event of poor performance and the expectations for Panel members are clear. In the event that a Panel member resigns during the term, it is recommended that Council grant delegation to the General Manager to appoint the next best applicant from the original evaluation as a replacement member.

Cost of Panel members

The table below suggests service fees for external members based on Council's operation of a Design Excellence Panel comprising three members following a review of neighbouring Council Panels. The higher fee for the Chairperson reflects the additional duties required of the Chair.

	Half day	Full day
Panel Member	\$1,000	\$1,800
Chairperson	\$1,800	\$2,500

Based on these fees and the requirement for three Panel members, the cost of a full day meeting would be \$6,100 and the costs of a half day meeting will be \$3,800. Council would seek Expressions of Interest for the Panel Membership for a 2-year period and the cost of the Panel would be monitored with regard to the operation of the Panel. Setting a fixed price as part of the recruiting process gives some certainty in regard to costs and is an approach that has been taken by neighbouring councils and the NSW Government Architect in the recruitment of members for similar Panels.

Funding of the Panel

The operation of the Panel would come at a cost to Council. It is reasonable that the costs of the Panel meetings should be borne by the applicant via a set fee charged by Council. It is recommended that the fees be established based on the cost of the Panel members to Council and included with the fees and charges.

The Environmental Planning and Assessment Regulation 2000 specifies a maximum fee of \$3,000 for residential apartment development referred to the Design Review Panel for consideration and advice. The maximum fee is considered to be appropriate in this instance.

While there is some discretion as to whether to charge applicants a second fee for applications that require a second meeting with Council's Design Excellence Panel, advice from neighbouring councils indicates that applicants who attend similar Design Review Panels are required to pay a reduced fee for each additional time they attend a Panel meeting. Adopting this approach for the Design Review Panel would reduce the risk of the Panel meetings running at a loss.

Experience has shown that the number of items which can be heard in a half day or full day meeting is dependent on the complexity of the applications. A maximum of four applications could be considered in a full day meeting. Based on current applications for residential flat developments and townhouses being submitted to Council, it is anticipated that approximately 3 to 4 Panel meetings would be held per year.

There are additional costs associated with the operation of the Panel such as Council officer's time and administration duties and catering that need to be considered. Council officers would be required to organising Panel meetings, preparing briefings for the Panel and record meeting outcomes.

The following fee structure is proposed in the draft 2019/2020 fees and charges to cover the costs of operating a Design Excellence Panel.

Design Excellence Panel – Professional fees – initial consideration

i)	3 storeys or less \$1,656.00
ii)	more than 3 storeys \$3,000.00
Subsequent referrals:	
i)	3 storeys or less \$580.00
ii)	more than 3 storeys \$1,162.00

Administration Fee per meeting paid on booking \$360.00

North Sydney Regional Organisation of Councils (NSROC) –Design Review Panel

At the General Managers Advisory Committee (GMAC) meeting on 8 February 2018, GMAC supported councils working collaboratively on the establishment of a shared panel of design reviewers including the sharing of administrative resources for the tender process and the subsequent evaluation process.

As part of the GMAC resolution, it was requested that the matter be referred to the Northern Planners Group for consideration. Staff from Hornsby Council form part of the Northern Planners Group and at a meeting on 16 February 2018, gave general support for a shared design panel.

The aims of a shared design panel could assist member councils (especially the smaller councils or councils that do not have their own panel), to meet the relevant objectives under their Community Strategic Plan; Local Environment Plan; Development Control Plan to encourage high quality urban design.

The North Sydney Regional Organisation of Councils (NSROC) has agreed to establish a Task Group to investigate the establishment of a Design Review Panel that may serve as a resource for each of the member councils. The NSROC Design Review Panel would become a joint resource pool that member councils may draw upon when convening a Panel to assist in the review of a specific development and/or project assessment.

The NSROC group is in the process of finalising the Terms of Reference, funding and administration of the panel and meetings and timing to have an initial panel established. At this stage, member councils have not committed to being part of the NSROC Panel until such time that the cost of operating the Panel and benefits to individual councils can be established.

In the event that the NSROC Panel is established, Hornsby Council could evaluate whether it would be beneficial to join the NSROC Panel or continue to operate its own Design Review Panel. A number of councils with existing Design Review Panels have withdrawn from the NSROC discussion.

BUDGET

The cost of operating the Design Excellence Panel would largely be covered by applicant's and charged in accordance with Council's adopted fees and charges. Council's Development Assessments Team would organise meetings to ensure sufficient items are considered at the Panel meeting to cover the fees of the Panel members.

POLICY

There are no additional policy implications.

CONCLUSION

It is recommended that Council establish and operate a Design Excellence Panel and that Council adopt the proposed Terms of Reference for the Panel.

An Expression of Interest process should be undertaken to seek to appoint appropriate members to the Panel.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Development Assessments – Rod Pickles.

ROD PICKLES
Manager - Development Assessment
Planning and Compliance Division

JAMES FARRINGTON
Director - Planning and Compliance
Planning and Compliance Division

Attachments:

1. [Design Excellence Advisory Panel Terms of Reference](#)

File Reference: F2014/00312-002

Document Number: D07675977

MAYOR'S NOTES FROM 01 MAY TO 31 MAY 2019

Note: These are the functions that the Mayor, or his representative, has attended in addition to the normal Council Meetings, Workshops, Mayoral Interviews and other Council Committee Meetings.

Wednesday 1st May 2019 – The Mayor hosted two Citizenship Ceremonies in the Council Chambers at Hornsby Shire Council.

Friday 3rd May 2019 – The Mayor attended the School ANZAC Service at Galston High School in Galston.

Saturday 4th May 2019 – The Mayor attended the Opening night for the Wallarobba Arts and Cultural Centres' contribution to the National Head On Photography Festival at Wallarobba Arts and Cultural Centre in Hornsby.

Saturday 4th May 2019 – The Mayor attended the School Production of 'Mikado' (performed by Normanhurst Boys High School and Hornsby Girls High School students) at Normanhurst Boys School in Normanhurst.

Saturday 11th April 2019 – The Mayor attended the School Production of *Mary Poppins* (performed by Pacific Hills Christian College students) at Pacific Hills Christian School in Dural.

Monday 13th May 2019 – The Mayor attended the Beecroft Rotary Pride of Workmanship Awards held at Pennant Hills Bowling Club in Pennant Hills.

Wednesday 15th May 2019 – The Mayor hosted two Citizenship Ceremonies in the Council Chambers at Hornsby Shire Council.

Thursday 16th May 2019 - On behalf of the Mayor, Councillor Robert Browne attended the Second Opening night for the Wallarobba Arts and Cultural Centres' contribution to the National Head On Photography Festival held at Wallarobba Arts and Cultural Centre in Hornsby.

Thursday 16th May 2019 – On behalf of the Mayor, Deputy Mayor, Councillor Vince Del Gallego attended the Official Re-Opening of Greenway Parks Top Oval at Greenway Park in Cherrybrook.

Sunday 19th May 2019 – On behalf of the Mayor, Deputy Mayor, Councillor Vince Del Gallego attended the Epping Scout's Group Annual Report Presentation held at Epping Scout Hall in Epping.

Monday 20th May 2019 – The Mayor attended the Cancer Council 'Biggest Morning Tea' held at Hornsby Library in Hornsby.

Tuesday 21st May 2019 – The Mayor attended the Thanksgiving Service, '40 Years of Gods Goodness' at Pacific Hills Christian School in Dural.

Wednesday 22nd May 2019 – The Mayor attended the Hornsby Kuring Gai Women's Shelter Thank You Volunteer Evening held at Asquith Leagues Club in Waitara.

Thursday 23rd May 2019 – The Mayor attended Pacific Hills Christian School 40th Anniversary Dinner at Bivianos in Dural.

Friday 24th May 2019 – The Mayor attended the Play Plan Consultation Process held at Beecroft Playgroup in Beecroft.

Friday 24th May 2019 – The Mayor attended the Official Opening of a new community space on The Esplanade in Thornleigh.

Sunday 26th May 2019 – The Mayor attended the Pennant Hills Primary School Fete held at Pennant Hills Primary School in Pennant Hills.

Friday 31st May 2019 – On behalf of the Mayor, Councillor Robert Browne attended the 'Children's Voices for Reconciliation' Concert being held at Hornsby Mall in Hornsby.

Friday 31st May 2019 – On behalf of the Mayor, Deputy Mayor, Councillor Vince Del Gallego attended and officially opened *Remagine..* An Art competition and exhibition promoting the concept of Reduce, Reuse and Recycle at Wallarobba Arts and Cultural Centre in Hornsby.

Friday 31st May 2019 – On behalf of the Mayor, Councillor Joseph Nicita attended the Inala Annual Arts Exhibition held at Inala in Cherrybrook.

File Reference: F2004/07053

Document Number: D07683548

ITEM 12

13 MANAGING DISCHARGE INTO THE HAWKESBURY RIVER AND ESTUARIES

COUNCILLOR TILBURY TO MOVE

THAT:

1. An Informal Workshop be held to discuss updating and renewing Council's program of inspection of river properties for compliance with relevant standards relating to sewage and stormwater discharge into the Hawkesbury River and estuaries.
2. The Workshop should consider how an education and awareness program should precede a program of compliance inspections including how community engagement and support can be established.
3. The Workshop should consider the resource and funding implications including potential grants or other income sources that can support this program.

Note from Councillor

Recently at a community meeting considering water management at Berowra Waters, members of the river community raised the issue that the continual risk of pollution is a substantial threat to the ongoing value provided by this environment and has potential impacts on economic activity.

It was proposed by members of the river community that Council could take a more proactive stance in both educating the community and increasing awareness of individual's responsibility in advance of undertaking a more proactive program of inspection and compliance auditing.

Acknowledging the potential resource implications, this Motion calls for an Informal Workshop to be held initially to understand how this might occur, the benefits and any resource implications for Council.

Attachments:

There are no attachments for this report.

File Reference: F2004/09488-07

Document Number: D07686267

14 VALUE SHARING OF REZONING

COUNCILLOR MARR TO MOVE

THAT an Informal Councillor Workshop be convened to discuss how Council could advocate to the NSW State Government, on behalf of our community, the implementation of a Gateway Levy that could be paid to councils by landowners when land is upzoned in order to support the delivery of newly required infrastructure and increase in services needed to support greater densities of development.

Note from Councillor

Whilst our community has accepted its share of increased housing to support the growing population the shortage of funding to implement all of the new infrastructure required is significant. Current S711 and 712 requirements result in levies being applied at the time of development approval. This motion seeks to ensure that landowners who benefit from an up zoning contribute some of the value increase they receive back to the community.

Specifically this motion, if ultimately implemented would provide:

- Transparency in decision making.
- A fairer share of resources.
- Reducing the burden on existing communities who often believe they do not benefit from new development.
- An opportunity to be seen to mitigate corrupt decision making either real or perceived.
- Reduced motivational factors of decision making that revolve around profit alone.

The proposed levy would be a percentage based on increases in value (capital gain) of property as a net figure after relevant deductions (as prescribed by ATO) are included. The Levy would be payable at the point the land is sold developed or subdivided. Protections for vulnerable community members who own land that would be subject to hardship may require protection as part of the process.

Attachments:

There are no attachments for this report.

File Reference: F2015/00245

Document Number: D07686271