

Attachment 2

Council Report dated 10 August 2010

ORDINARY MEETING

Meeting Date: 10 August 2010

Item: 187 CP - Planning Proposal to Rezone certain Land at North Bligh Park - (95498)

REPORT:

Executive Summary

A Planning Proposal, seeking rezoning of approximately 103 hectares of land at North Bligh Park, primarily zoned Mixed Agriculture, to Housing Zone, was received from James Lovell and Associates Pty Ltd, acting on behalf of a number of property owners, on 8 June 2010.

The proposal seeks to develop the majority of the subject land for future residential purposes. Some various recreational and retail/commercial developments within the land are also proposed.

The purpose of this report is to provide an assessment of the rezoning application.

Background

North Bligh Park is located north of the existing Bligh Park residential area and south of the existing South Windsor residential area. The future extensions of these residential areas, through the development of North Bligh Park area for residential purposes, has, in the past, been considered as a logical approach to provide more residential accommodation and increased housing choice for the people in the Hawkesbury Local Government Area (LGA). As a consequence, the North Bligh Park area has been identified as a potential urban development area in Council's draft Urban Land Strategy 1998 and previous Council resolutions. The area has also been included in the Sydney Metropolitan Development Program.

However, a significant number of properties in the area are flood affected in the 1 in 100 year event. According to the NSW State Emergency Service (SES) the evacuation of people in the area in the event of a major flood is difficult. This issue is considered as the major constraint in the future development of land in North Bligh Park for residential purposes.

According to Council's records since 1989 Council has made a number of attempts to rezone land in the North Bligh Park area to residential in response to various rezoning requests. None of the past efforts were successful mainly due to the NSW State Emergency Service (SES) significant concern, supported by the Department of Planning, over evacuation difficulties in the area.

In accordance with Council's resolution of 19 December 1995, a draft Local Environmental Plan (LEP), which sought to rezone the land for residential purposes, was forwarded to the then Department of Urban Affairs and Planning (DUAP) for finalisation and gazettal. In June 1996 Council received advice from the then Department of Urban Affairs and Planning that the Minister had decided not to proceed with the draft LEP due to the following reasons:

- flood risks associated with the area;
- the uncertainty regarding the feasibility of evacuation once the development is completed;
- provisions in the draft LEP are not considered adequate to alleviate flood risks;
- the proposed construction of an evacuation route does not provide certainty that a complete evacuation can occur within the limited time that is available to the SES; and
- future residential development would likely increase the risk to personal safety to an unacceptable level.

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In response to the Council's last resolution to prepare a draft LEP to rezone the land in North Bligh Park area, the DUAP advised Council that it would not be in a position to consider Council's request until there is certainty that the evacuation route is being provided and the SES is satisfied that there is sufficient capacity in the flood evacuation route for safe evacuation of the existing and future population of the area.

In May 2001 written advice was received from the SES, in response to Council's further enquiry on the proposed rezoning dated 30 March 2000, stating that its previous view on the matter had remained unchanged and that the SES does not support further development in the Bligh Park area under the current circumstances as there has been no satisfactory solution to the prevailing evacuation problem in Windsor, Bligh Park, McGraths Hills and Richmond areas.

In November 2005 Council received a request from Modog Moore Development Group to rezone the land in North Bligh Park and Council advised the applicant by its letter dated 12 December 2005 that Council would not be able to consider the request based on the above advice received from the DUAP and the SES.

In July 2006 the applicant submitted an evacuation plan, prepared by Molino Stewart Pty Ltd using SES evacuation modelling for the Hawkesbury-Nepean region, to the SES for its endorsement. As per the applicant's request Council forwarded the same evacuation plan to the SES in February 2008 for its comments. To date no formal written comments have been received from the SES. However, verbal comments have been received from the SES stating that they will not comment on any rezoning proposals from Council until the Flood Risk Management Study and Plan has been completed.

Council at its meeting of 2 February 2010 resolved to invite representatives of the SES and the rezoning proponents to a Councillor Briefing Session in order to discuss this particular issue. The applicants made a presentation to the Briefing Session but the SES representatives were not able to attend the Briefing Session.

Planning Proposal

The Planning Proposal seeks to rezone approximately 103 hectares of land primarily zoned Mixed Agriculture, at North Bligh Park to Housing Zone under Hawkesbury Local Environmental Plan 1989 (see Attachments 1 and 2). This is to enable the extension of the existing Bligh Park residential area to the north to allow for approximately 700 residential allotments and some retail/commercial and recreational purposes.

A concept subdivision plan showing how the area would be subdivided into approximately 700 residential allotments, prepared by Brown Consulting (NSW) Pty Ltd, and a flood evacuation plan, prepared by Molino Stewart Pty Ltd, have also been included as part of the proposal (see Attachment 3).

Subject Area

The North Bligh Park area is located between the existing residential areas of Bligh Park and South Windsor. The size of the area is approximately 103 hectares and currently consists of 32 allotments zoned Mixed Agriculture, fronting Woods Road, Berger Road and Faurey Road and one 6(b) Open Space (Proposed Recreation) allotment fronting Berger Road.

The area is predominantly characterised by 2 hectare allotments (see Attachments 4). Currently a few single dwellings, outbuildings and a poultry farm occupy the land. Also part of the land is used for grazing, growing vegetables and hydroponic gardens.

Locality

To the south of the subject land is the existing Bligh Park residential area, to the west and north is the South Windsor residential and industrial areas and to the east is some Mixed Agriculture allotments. The other surrounding land uses within a walking distance to the site are Windsor Park Primary School, Bligh Park reserves, South Windsor light industrial area (see Attachment 5).

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Applicant's Justification of the Proposal

The applicant provides the following justification in support of the proposal:-

- the Planning Proposal will provide benefits to the community through the provision of additional residential accommodation;
- the proposal will provide a logical extension between the established residential areas of South Windsor and Bligh Park;
- the proposal will provide a mechanism to evacuate the existing and additional population in the event of a major flood.

Assessment of the Proposal

The Planning Proposal and the accompanied concept subdivision plan showing approximately 700 future residential lots and a flood evacuation report for the Bligh Park area have been taken into consideration in this assessment.

Council in its previous assessments of proposals for rezoning of land in the North Bligh Park area, considered a range of relevant matters including consistency with the relevant planning legislation, flora and fauna, bushfire, acid sulphate soils, heritage, available infrastructure services/facilities and surrounding development. Many of these issues have not raised any major concerns that would prevent the making of draft plans to allow development of the area for residential purposes, with the exception of the flora and fauna assessments. The previous applications for rezoning have included flora and fauna assessments for the locality which included the required eight part tests under Clause 5A of the Environmental Planning and Assessment Act 1979 (EP&A Act). However, these reports were prepared in 2005 prior to changes to the EP&A Act which now requires a "seven part test" under Clause 5A and there have also been changes to other related legislation that classifies the vegetation as endangered or threatened and recovery plans have also been prepared that this proposal will need to consider. As such the flora and fauna assessments would require to be updated to take these changes into account. As the recommendation of this report is to not proceed at this time and to spare the applicant from additional expense at this time, the applicant has not been requested to undertake this additional work. However, should the proposal be supported additional work on flora and fauna issues will be required.

The above issues are not fully addressed in this report as the following key issues that have significant weight in the determination of the proposal have been taken into consideration in this assessment:-

Future residential development

The draft North West Subregional Strategy 2007 identifies a 5,000 additional dwelling target for Hawkesbury Local Government Area by 2031. In line with the Subregional Strategy's dwelling target for Hawkesbury, the Draft Hawkesbury Residential Strategy 2009 (yet to be exhibited) identifies a number of strategic centres and locations within the LGA to be the focus of future residential activities.

The draft Residential Strategy identifies the area between Windsor and Bligh Park as a potential corridor of higher density urban development. However, given the area's significant flood constraints, the draft Strategy recommends that further investigations will be needed to determine the extent of suitability and capacity of services and facilities. This approach has also been supported by Council when it considered the draft Residential Strategy in December 2009 and the discussion of the draft Strategy at the recent Councillor Briefing Session. The suitability and the likely area available, for residential development can only be effectively determined following completion and adoption of the Hawkesbury Floodplain Risk Management Study and Plan which is currently being prepared.

Concept subdivision plan

The concept subdivision plan shows how the land would be subdivided to create approximately 700 allotments. The proposed subdivision is generally consistent with the subdivision character of the existing

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However, there are concerns with the proposed development design features should the residents fail to evacuate the site and are trapped in the development and the relatively narrow focus on the evacuation capacity and locality considered in the plan.

The evacuation plan proposes *"the subdivision layout would provide a continually rising gradient to a multistorey point of refuge along pedestrian routes. Commercial developments such as shops, restaurants and child care facilities as well as community meeting rooms etc could occupy these buildings."* Whilst this concept seems logical, the planning proposal has not included any information or justification as to how this concept would work, who would own these facilities, whether there is a need for these facilities, i.e. economic assessment to justify the need for additional retail or commercial floor space in the locality, nor how residents could occupy these buildings when the everyday occupants would have goods and equipment stored in the structures. Similarly, as part of the preparation of the draft Residential Strategy, an assessment of the existing community facilities in the locality has indicated that there may not be a need for additional community facilities. In this regard, the proposed development and flood evacuation plan has not adequately considered the impacts that the proposed flood evacuation plan and development will have on the existing community.

The plan suggests the following works to upgrade the route to overcome the shortfall in capacity:-

- Increase the route capacity to two lanes out for evacuation traffic and at least one lane in for emergency service vehicles - most of the route west of South Creek already has this capacity with the exception of the Cox Street level crossing which would need to be widened to three lanes.
- There may be several ways in which additional capacity could be achieved east of South Creek but no budget has been allocated for such works by the NSW Government.
- The length of road needing additional capacity could be minimised if the low point on Bandon Road is upgraded to be flood free in a 1-in-500 local flood.
- If the Bandon Road low point is upgraded, there are two options. The first would follow the existing nominated evacuation route and would require a new three lane level crossing at Groves Avenue and the widening by one lane of Railway Road South, the Level Crossing Road level crossing, a short section of Level Crossing Road, Wallace Road and Bandon Road. Alternatively, instead of crossing the railway at Groves Avenue the traffic could continue along Railway Road North which is currently wide enough for three lanes along most of its route and then a new section of three lane road would need to be constructed between Park Road and Level Crossing Road on the northern side of the Railway. (note: this would require acquisition of private land).
- Provide road links between the new development and South Windsor and also with Bligh Park. All of these roads would be above 17.3m AHD. There will also be a pedestrian link from Bligh Park North which would be above 17.3m AHD.
- It is proposed to evacuate Bligh Park North in the same manner as the SES evacuation plan proposes for Windsor and South Windsor. A new road from the subdivision would lead onto Woods Road and thence onto George Street from where the traffic would follow the existing evacuation route for Windsor South.

Whilst the proposed route upgrading will have some benefit to the proposed development it is unclear if the proposal has adequately considered the existing population, and the development potential within the existing residentially zoned land in the locality. In this regard the comments from the SES in relation to evacuation of existing development, and existing potential for development, needs to be carefully considered prior to releasing of additional land for development. According to Council's records the same evacuation plan has been forwarded by the applicant to the SES for its endorsement in July 2006 and no comments have been received. In February 2008 Council also forwarded the plan to SES seeking comments as per the applicant's request. No formal written comments on the evacuation plan have been received.

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Bligh Park and South Windsor residential areas in terms of lot sizes, configuration, road patterns and access arrangements. The proposed road network is generally above 1-in-100 flood level and provides connection to the existing road network in the area.

The majority of the subject area is below the 1-in-100 year flood level (see Attachment 6). However, the current HLEP 1989 does not specify Flood Planning Levels (FPLs) for development of flood prone land in residential areas. The DUAP has previously advised Council to include an appropriate provision in a previous draft LEP which sought to rezone land in North Bligh Park to Housing Zone to specify that no habitable floors are allowed below the 1-in-100 year flood level.

In line with the above advice, the concept plan proposes to fill a significant area of flood affected land to above the 1-in-100 year flood level to create 193 of the proposed 700 residential allotments. All the other proposed allotments are above 1-in-100 year flood level.

Given the significant flood constraints and the difficulty in evacuation of the current population in the area the proposed filling of a large area of the land to achieve a maximum dwelling yield is considered excessive and it will extensively modify existing land forms, vegetation, flood paths/ways and also may increase flood risks to properties located in low lying areas. It is also noted that the Hawkesbury-Nepean Catchment Trust has raised significant concern over the proposed filling of flood prone land in a previous proposal to rezone land in the North Bligh Park area.

It is considered that the proposed rezoning to create approximately 700 allotments on the land is an over development, and it may be more prudent to develop the land for much lower density residential development avoiding significant filling on the land or investigate other development alternatives that are compatible with the surrounding land uses.

Proposed Evacuation Plan

The evacuation difficulty is the key constraint for development in the area and this was the main cause which hampered all of the past attempts to rezone land in the North Bligh Park area for residential purposes. The SES has consistently opposed any rezoning of land in the North Bligh Park area due to the uncertainty of the evacuation routes' capability in the event that total evacuation of the current and the future population in the area during a major flood event is required.

In response to the SES ongoing concerns over the capability of the existing flood evacuation system in the area, a proposed evacuation plan has been submitted as part of the subject rezoning application. The proposed evacuation plan attempts to demonstrate that the proposed measures and recommendations contained in the evacuation plan will be able to cope with any major flood events and evacuate the existing and future increased population in the area in a safe and efficient manner.

The evacuation plan states that:

- Providing the road infrastructure is appropriately upgraded, it would be possible to evacuate more than 700 new lots in North Bligh Park in a way that integrates with the current SES flood evacuation plan for the region and there will be a time safety margin available rather than current time deficit; and
- Should residents fail to evacuate in time, the proposed development design features will minimise risk to lives.
- The current evacuation route needs to be upgraded to provide exit lanes for existing evacuation traffic.
- The proposed subdivision and building design features will reduce the risk to lives of residents who fail to evacuate in time by motor vehicle.

The submitted evacuation plan, prepared by Molino Stewart, proposes some sensible recommendations in relation to the road network, i.e. evacuation routes always rising in level, and the building design features.

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According to the NSW Floodplain Development Manual 2005, Council will need to develop and implement a floodplain risk management study and plan for the entire Hawkesbury LGA to enable effective development and management of flood prone land with minimal impact of flooding on individual owners and occupiers of flood prone property and to reduce private and public losses resulting from floods. In line with the Manual, the consultants engaged by Council are currently developing a floodplain risk management study and plan for the Hawkesbury Local Government (LGA). This process is expected to be completed late 2011 or early 2012. When it is implemented, the likely impacts of any development proposal on flood management and evacuation can be effectively assessed.

The evacuation plan is limited to Bligh Park and the surrounding area, and this area specific approach, instead of the whole LGA wide approach, to evacuation is considered inconsistent with the objectives of the NSW Floodplain Management Policy and the NSW Floodplain Development Manual 2005.

It is considered that given no endorsement from the SES has been received on the same plan previously sent, it is very unlikely that support for the evacuation plan will be obtained with no availability of a LGA wide floodplain risk management plan, as required by the Manual. It should also be noted that recent verbal advice from the SES states that they are not prepared to comment on these proposals until a Floodplain Risk Management Study and Plan have been completed. It is therefore likely that the SES's current view on the capability of evacuation routes may remain unchanged until the adoption and implementation of the Hawkesbury Floodplain Risk Management Study and Plan. Given these circumstances the Department of Planning is also unlikely to proceed with any planning proposal until the receipt of an endorsement from the SES.

Given the above circumstances, it is not considered appropriate to proceed with the current proposal until such time as the adoption and implementation of the Hawkesbury Floodplain Risk Management Study and Plan by Council.

Conformance to Community Strategic Plan

The proposal is consistent with the Looking after People and Place directions, strategies, goals and measures in the Community Strategic Plan being:

Directions

- Have an effective system of flood mitigation, fire, and natural disaster management and community safety which protects life, property and infrastructure.

Strategies

- Develop disaster response and community safety plans.

Goals

- Have effective systems that protect life, property and infrastructure from the effects of flood, bushfire and other natural disasters.

Measures

- Impact and cost of disasters minimised.

Financial Implications

No financial implications applicable to this report.

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RECOMMENDATION:

That the Planning Proposal, submitted by James Lovell and Associates Pty Ltd, dated June 2010, to rezone the subject properties in North Bligh Park to the Housing Zone not proceed until such time as the Hawkesbury Floodplain Risk Management Study and Plan has been adopted by Council.

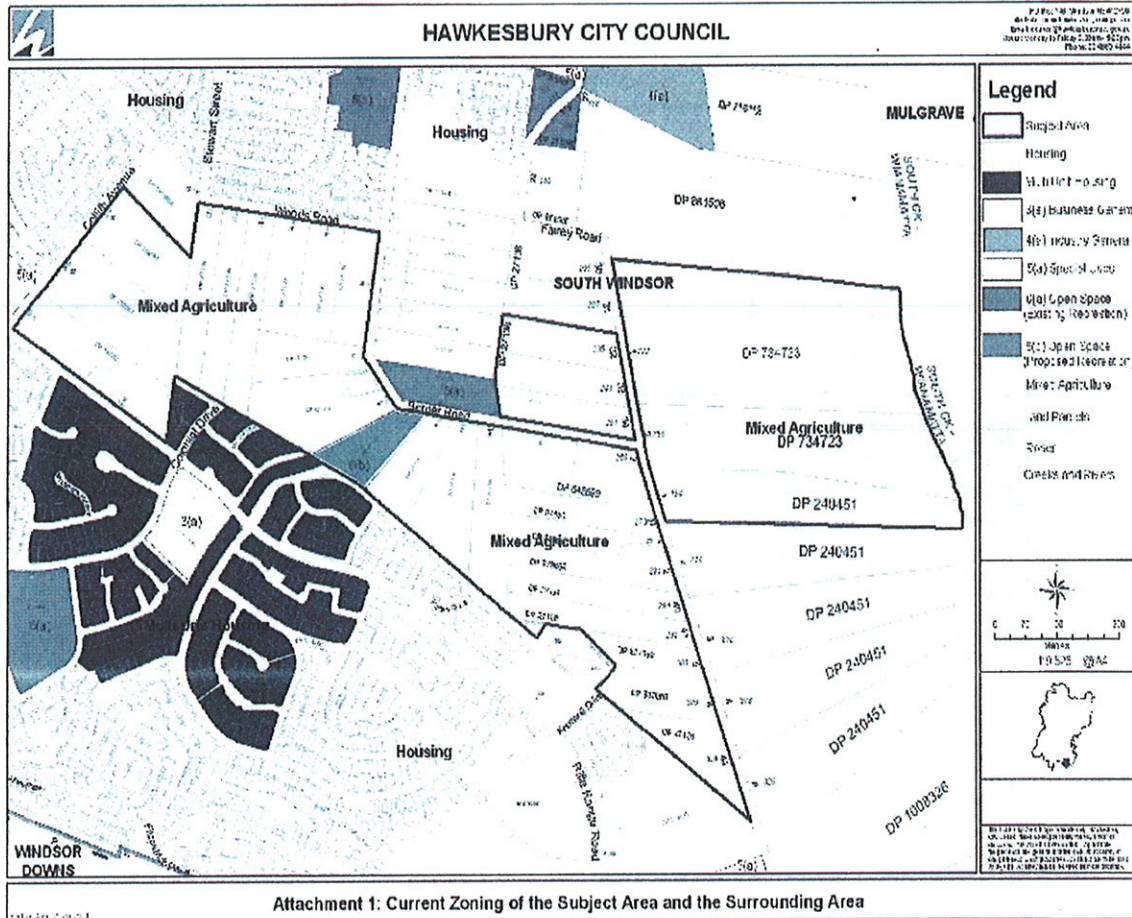
ATTACHMENTS:

- AT - 1** Current Zoning of the Subject Area and the Surrounding Area
- AT - 2** Proposed Zoning of the Subject Area
- AT - 3** Planning Proposal - (*Distributed under Separate Cover*)
- AT - 4** Subject Area Property Details and Map
- AT - 5** Locality Map
- AT - 6** Flood Map Showing 1-in-100 Year Flood Level

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AT - 1 Current Zoning of the Subject Area and the Surrounding Area



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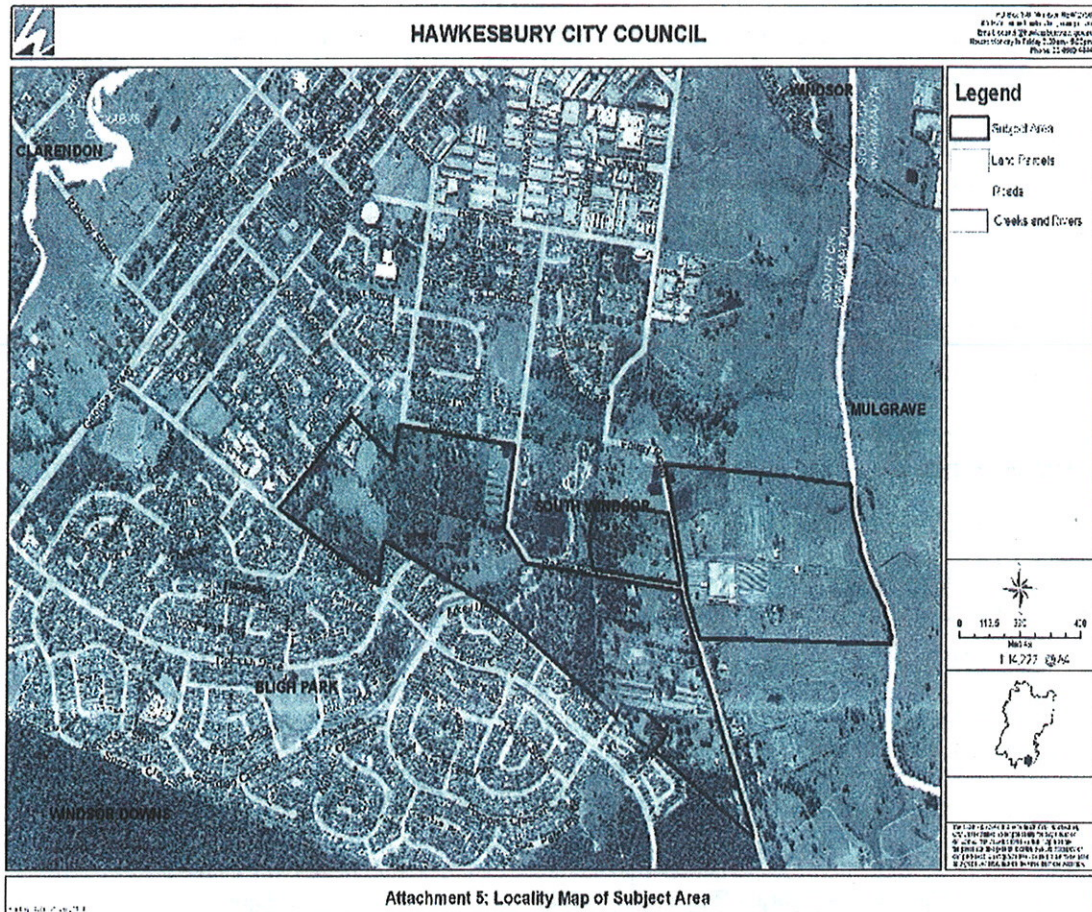
AT - 4 Subject Area Property Details and Map

Property Description	Address	Area (Ha)	Current Zoning
Lot 11 DP 27136	73 Woods Road	2.28	Mixed Agriculture
Lot 12 DP 27136	75 Woods Road	2.28	Mixed Agriculture
Lot 13 DP 27136	77 Woods Road	2.59	Mixed Agriculture
Lot 14 DP 27136	79 Woods Road	2.03	Mixed Agriculture
Lot 15 DP 27136	81 Woods Road	2.03	Mixed Agriculture
Lot 16 DP 27136	35 Berger Road	2.03	Mixed Agriculture
Lot 17 DP 27136	37 Berger Road	2.03	Mixed Agriculture
Lot 20 DP 27136	43 Berger Road	2.03	6(b) Open Space (Proposed Recreation)
Lot 21 DP 27136	45 Berger Road	2.03	Mixed Agriculture
Lot 22 DP 27136	47 Berger Road	3.28	Mixed Agriculture
Lot 23 DP 27136	49 Berger Road	2.8	Mixed Agriculture
Lot 32 DP 27136	235 Fairey Road	2.27	Mixed Agriculture
Lot 33 DP 27136	243 Fairey Road	2.27	Mixed Agriculture
Lot 34 DP 27136	251 Fairey Road	2.03	Mixed Agriculture
Lot 37 DP 27136	273 Fairey Road	2.03	Mixed Agriculture
Lot 40 DP 27136	291 Fairey Road	2.3	Mixed Agriculture
Lot 41 DP 27136	291 Fairey Road	2.39	Mixed Agriculture
Lot 101 DP 877234	39 Berger Road	0.41	Mixed Agriculture
Lot 102 DP 877234	41 Berger Road	3.64	Mixed Agriculture
Lot 308 DP 752061	2 Collith Avenue	2.02	Mixed Agriculture
Lot 309 DP 752061	20 Collith Avenue	4.66	Mixed Agriculture
Lot 310 DP 752061	30 Collith Avenue	3.38	Mixed Agriculture
Lot 341 DP 752061	48 Rifle Range Road	2.1	Mixed Agriculture
Lot 1 DP 734723	222 Fairey Road	18.9	Mixed Agriculture
Lot 2 DP 734723	250 Fairey Road	10.12	Mixed Agriculture
Lot 1 DP 240451	164 Fairey Road	7.02	Mixed Agriculture
Lot 1 DP 837060	Fairey Road	0.43	Mixed Agriculture
Lot 4 DP 837060	309 Fairey Road	2.29	Mixed Agriculture
Lot 5 DP 837060	303 Fairey Road	1.44	Mixed Agriculture
Lot 1 DP 879662	279 Fairey Road	1.7	Mixed Agriculture
Lot 2 DP 879662	281 Fairey Road	2.59	Mixed Agriculture
Lot 1 DP 545599	51 Berger Road	2.02	Mixed Agriculture
Lot 2 DP 545599	259 Fairey Road	2.03	Mixed Agriculture
Total Area		103.45	

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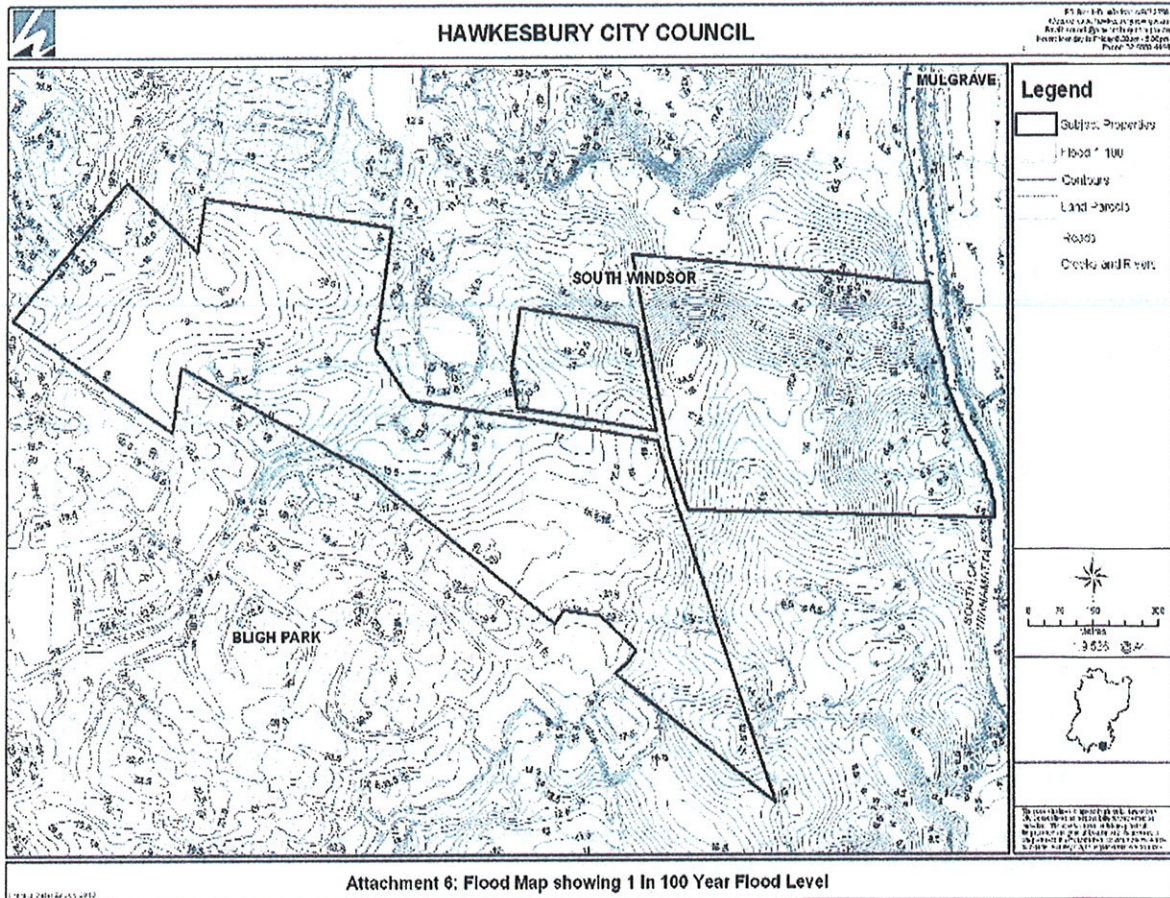
AT - 5 Locality Map



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AT - 6 Flood Map Showing 1-in-100 Year Flood Level



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MINUTES: 10 August 2010

Item: 186 **CP - Management of Community Centres and Halls - Revised Manual - (96328, 95498)**

Previous Item: 87, Ordinary (11 May 2010)

MOTION:

RESOLVED on the motion of Councillor Porter, seconded by Councillor Tree.

Refer to RESOLUTION

289 RESOLUTION:

RESOLVED on the motion of Councillor Porter, seconded by Councillor Tree.

That Council adopt the draft (revised) *Community Facilities Manual* and distribute the adopted manual to community committees who have been delegated responsibility under Section 377 of the *Local Government Act, 1993* for the care, control and management of community facilities.

Item: 187 **CP - Planning Proposal to Rezone certain Land at North Bligh Park - (95498)**

Councillor Conolly declared a pecuniary interest in this matter as his employer (Trustees of the Roman Catholic Church for the Diocese of Parramatta) owns land within the area being discussed. He left the Chamber and did not take part in voting or discussion on the matter.

Mr Steven Molino, Mr James Lovell and Ms Leigh Wallis, proponents, addressed Council.
Mr Frank Scharfe, respondent, addressed Council.

MOTION:

RESOLVED on the motion of Councillor Porter, seconded by Councillor Mackay.

Refer to RESOLUTION

290 RESOLUTION:

RESOLVED on the motion of Councillor Porter, seconded by Councillor Mackay.

That:

1. Council prepare a Planning Proposal, under the provisions of Section 55 of the Environmental Planning and Assessment Act 1979, to rezone land as listed in attachment 4 to this report from Mixed Agriculture to Housing zone under the provisions of the Hawkesbury Local Environmental Plan 1989.
2. The Planning Proposal be forwarded to the Minister requesting that the matter proceed.
3. This draft amendment be progressed separately to the draft Standard Instrument. However, if it is deemed timely and appropriate to do so, it is to be incorporated into the draft Standard Instrument prior to gazettal.