

WOLLONDILLY SHIRE COUNCIL

Report of Wollondilly Shire and its Planning and Economy to the Ordinary Meeting of Council held on Monday 15 August 2011

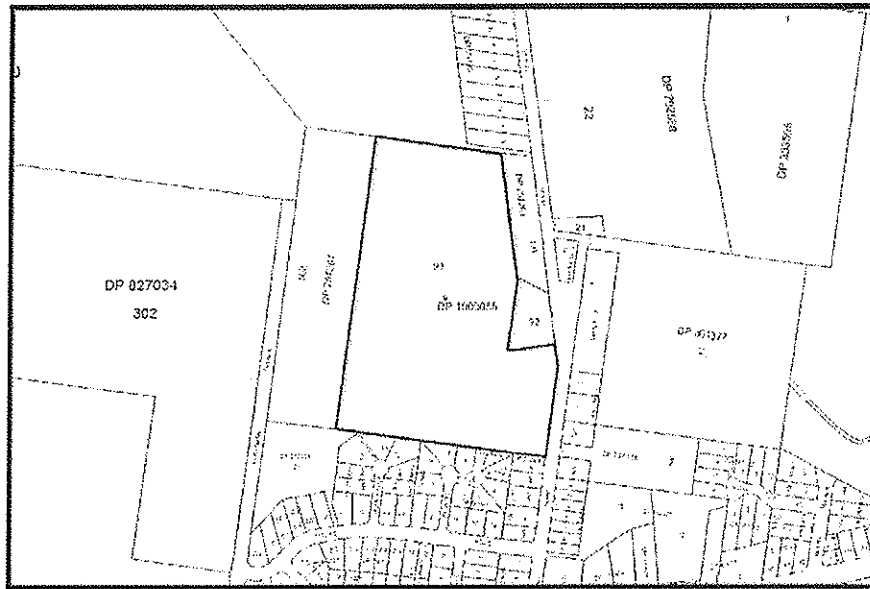
PE3

Draft Planning Proposal - Egans Road, Oakdale
248890JSEL

TRIM 6356

Applicant: Precise Planning

Owner: G Mifsud



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REPORT

EXECUTIVE SUMMARY

- Council has received a draft Planning Proposal that proposes to rezone part of the land known as No. 35 (Lot 93 DP 1000055) Egans Road, Oakdale for residential development.
- A preliminary assessment of the proposal against the Growth Management Strategy indicates that the proposal is generally consistent with the key policy directions of the document and with the Oakdale Structure Plan.
- Accordingly this report recommends:
 - That Council support the draft planning proposal for Lot 93 DP 1000055 (No. 35 Egans Road, Oakdale).
 - That the draft planning proposal be forwarded to the Minister for Planning and Infrastructure for a Gateway determination; and
 - That the persons who made submissions regarding the draft planning proposal be notified of Council's decision.
- There have not been any disclosures of political donations made in regard to this application.

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BACKGROUND

Site Description

The subject site comprises an allotment known as No. 35 (Lot 93 DP 1000055) Egans Road, Oakdale.

The Planning Proposal is mainly concerned with the largely cleared area of the site to the east of the creek line.

The area of the site is 10.29 hectares.

The lot is presently zoned RU1 Primary Production under Wollondilly LEP 2011 and is utilised as a poultry farm, a land-use which is in conflict with the adjoining R2 Low Density Residential zone.

There is remnant woodland/forest vegetation, which is comprised of Shale-Sandstone Transition Forest, an Endangered Ecological Community under the NSW Threatened Species Conservation Act, 1995. Threatened fauna species occur in the Burratorang sub-region, with 27 species occurring within a 20km radius of the property.

It would be a likely requirement of the 'Gateway' process that an assessment of significance in accordance with Section 5A of the EP&A Act and the "Threatened Species Assessment Guidelines" are undertaken, given the presence of habitat.

The site is located within the Lake Burratorang sub-catchment (No. 22). Stormwater is managed on the site by grassed swales and the farm storage dam. Design and implementation of a simple stormwater management system, based upon principles of Water Sensitive Urban Design, will likely be considered as part of the 'Gateway' process.

Description of Draft Proposal

The objective of the planning proposal is to rezone the subject land from RU1 Primary Production Zone to R2 Low Density Residential.

The current zoning prevents the development of the subject site from achieving the intended objective of the planning proposal. To achieve this objective it is proposed to rezone the land in the following manner:

- R2 Low Density Residential for the parts of the site which have already been highly disturbed by the agricultural activities of the poultry farm to allow for the development of 30 residential allotments (minimum allotment size of 700m²).

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CONSULTATION

Community Consultation

In accordance with Council's notification policy, initial community consultation has been undertaken. The Planning Proposal was published on Council's website in May 2011 and a letter was sent to residents on 16 June, 2011 with a written submission period of three weeks ending on 8 July, 2011. A summary of the submissions received are outlined in the table below.

Summary table of submissions received from draft planning proposal notification letters sent as of July 8, 2011.

Submission Number	TRIM Record Reference	Issues raised in submission
1	6356#9	▪ Correspondence generally supporting the rezoning of the subject site. Concerns were raised about potential alignment of access roads impacting on amenity of resident's property.
2	6356#15	▪ Letter of support for the rezoning. Highlights the land-use conflict of the site's existing agricultural use as a chicken farm and how this negatively impacts residential amenity.
3	6356#19	▪ Letter of 'consent and approval' for the rezoning.

Consultation with Government Departments

Consultation is needed with the Department of Planning and Infrastructure (DoPI) and the Office of Environment & Heritage (OEH) on the Planning Proposal. It is considered that should the proposal be supported the Gateway determination will outline further consultation requirements with the DoPI, OEH and any other relevant government agencies.

Further community consultation

If this draft proposal progresses, further community consultation opportunities will occur as part of the preparation and exhibition of a draft local environmental plan in accordance with the Gateway process. Council has the opportunity to recommend the engagement process and other consultation appropriate for this draft proposal.

RELEVANCE TO COMMUNITY STRATEGIC PLAN OUTCOMES

All planning proposals are assessed against the key themes and directions of Council's Community Strategic Plan. It is considered that this proposal in principle is capable of delivering outcomes consistent with the CSP, particularly the following:

The natural environment is protected and conserved and Wollondilly has a healthy, sustainable, and resilient environment with a rural character (EO-1).

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The impact of existing and new development on the environment is reduced in turn reducing the Shire's ecological footprint (EO-2).

POLICIES & LEGISLATION

Planning Proposals

The draft planning proposal has been prepared in accordance with section 55 of the *Environmental Planning and Assessment Act 1979* and relevant Department of Planning and Infrastructure guidelines including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*. The draft planning proposal addresses the matters required by the Director-General to be addressed in all planning proposals.

The draft planning proposal that has been submitted is requesting the rezoning of the subject land. If Council wishes to proceed with the proposal to rezone the land, Council must resolve to support the draft planning proposal and to forward it to the Minister for Planning and Infrastructure for a Gateway determination.

Council's Options/Role

In deciding whether to forward the planning proposal on to the Minister for Planning for a gateway determination, Council is effectively endorsing the planning proposal in principle and from that point on the planning proposal is deemed to be *Council's* planning proposal - no longer the applicant's planning proposal. Despite the planning proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.

Council's options are:

1. Resolve to support the draft planning proposal as submitted. This option means that the existing planning proposal from then on becomes *Council's* planning proposal. Council then sends it to the Minister for a "Gateway determination". Unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
2. Resolve that the planning proposal needs to be amended before it can receive Council support and be forwarded to the Minister for a "Gateway determination". As is the case with option 1 above, the planning proposal becomes *Council's* and unresolved matters are assumed to be capable of resolution through future studies as determined by the Gateway process.
3. Resolve not to support the planning proposal. The applicant could choose to revise/amend their proposal and submit a new application. (Note that there are no appeal rights through the Land and Environment Court against Council's refusal to support a planning proposal).

Option one (1) is the recommendation of this report

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Gateway Determination

When a planning proposal has been endorsed by Council, it is then forwarded to the Minister for Planning and Infrastructure for a gateway determination. The Gateway determination is a checkpoint for planning proposals before significant resources are committed to carrying out technical studies and investigations. It enables planning proposals that are not credible or well founded or not in the public interest to be stopped early in the process before resources are committed to detailed studies and investigations, and before government agencies are asked to commit their own resources to carrying out assessments.

At the Gateway determination, the Minister will decide:

- Whether the proposal is justified on planning grounds;
- Whether the planning proposal should proceed (with or without variation);
- Whether the planning proposal should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal);
- The community consultation required;
- Any consultation required with State or Commonwealth agencies;
- Whether a public hearing by the Panel Assessment Commission or other specified person or body is required;
- The timeframes for the various stages of the procedure to make the draft amendment;
- Whether the function of making the LEP is to be exercised by the Minister for Planning or delegated to Council.

Under the new plan making procedures, the planning proposal and supporting studies are placed on public exhibition. The written draft local environmental plan amendment (the draft LEP) is prepared by Parliamentary Counsel when the planning proposal is finalised, immediately before it is made by the Minister or delegate. The LEP takes effect when it is published on the NSW legislation website.

The ultimate development of the land would then require further approvals through detailed development applications.

Wollondilly Local Environmental Plan 2011

The site is currently zoned as RU1 Primary Production under Wollondilly LEP 2011. The minimum lot size for this area is currently 20 hectares. The site consists of one existing lot, which does not have subdivision potential under the current LEP provisions.

It is proposed to rezone the site in the following manner:

- R2 Low Density Residential for the parts of the site which have already been highly disturbed by the agricultural activities of the poultry farm to allow for the development of 30 residential allotments (minimum allotment size of 700m²).

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Site Specific Development Control Plan (DCP)

A Site Specific Development Control Plan (DCP) may be prepared for the subject land which would include specific site objectives and development controls for the future development of the site. A Site Specific DCP would be expected to include a range of design and built form controls, including (but not limited to):

- Building envelopes
- Building setbacks based on the environmental features of the site
- Site landscaping
- Public domain treatments
- Bushfire asset protection zones
- Treatment of the urban / environmental protection interface
- Urban sensitive water design

The range of provisions included in the Site Specific DCP would be informed by specialist studies undertaken to support the proposal. A draft Site Specific DCP would be reported to Council when it is prepared.

Alternatively, Council may choose to apply the controls contained within Wollondilly Development Control Plan 2010, Volume 3 – Residential and Tourist Uses.

RELEVANT CONSIDERATIONS

Wollondilly Growth Management Strategy (GMS)

Council's GMS has recently been adopted by Council. Planning Proposals are required to be assessed against the GMS to determine whether they should or should not proceed.

The GMS sets directions for accommodating growth in the Shire for the next 25 years. The GMS contains Key Policy Directions which form the overarching growth strategy for Wollondilly. The locality of this site was included as a potential residential growth area on the structure plan for Oakdale.

The following table sets out the relevant Key Policy Directions within the GMS along with comments relating to the draft proposal:

Key Policy Direction	Comment
General Policies	
<i>P1 All land use proposals need to be consistent with the key Policy Directions and Assessment Criteria contained within the GMS in order to be supported by Council.</i>	The proposal, as noted throughout this table, satisfies this Key Policy Direction

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Key Policy Direction	Comment
<i>P2 All land use proposals need to be compatible with the concept and vision of "Rural Living" (defined in Chapter 2 of the GMS)</i>	The draft proposal is generally consistent with the concept and vision of 'Rural Living'. Whilst the proposal seeks to rezone land for urban purposes, this is considered to be in keeping with the residential zoning of the surrounding area and resolves existing land-use conflicts between agricultural and residential uses.
<i>P3 All Council decisions on land use proposals shall consider the outcomes of community engagement.</i>	The proposal has received only three community submissions and they generally express support.
<i>P4 The personal financial circumstances of landowners are not relevant planning considerations for Council in making decisions on land use proposals.</i>	There have been no such representations regarding this draft proposal and therefore this Key Policy Direction has been satisfied.
<i>P5 Council is committed to the principle of appropriate growth for each of our towns and villages. Each of our settlements has differing characteristics and differing capacities to accommodate different levels and types of growth (due to locational attributes, infrastructure limitations, geophysical constraints, market forces etc.).</i>	The draft proposal represents a logical rezoning of the subject site for low density residential purposes in keeping with adjoining land uses. Within the constraints of the site the proposal is considered appropriate as it will facilitate a sustainable and coordinated extension to the Oakdale village. Conservation and enhancement of natural systems is intended. Existing infrastructure is to be utilised and embellished.
Housing Policies	
<i>P6 Council will plan for adequate housing to accommodate the Shire's natural growth forecast.</i>	The draft proposal contributes toward Council's dwelling target for the Oaks / Oakdale outlined in the GMS. The Structure Plan for Oakdale includes the subject land as a 'potential residential growth area'.
<i>P8 Council will support the delivery of a mix of housing types to assist housing diversity and affordability so that Wollondilly can better accommodate the housing needs of its different community members and household types.</i>	The indicative plan of the proposed subdivision provided with the proposal primarily accommodates lot sizes of approximately 700m ² , though there are a few larger lots ranging up to approximately 1400m ² . A site specific DCP can control the mix of lots sizes.
<i>P9 Dwelling densities, where possible and environmentally acceptable, should be higher in proximity to centres and lower on the edges of towns (on the "rural fringe").</i>	As above

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Key Policy Direction	Comment
<i>P10 Council will focus on the majority of new housing being located within or immediately adjacent to its existing towns and villages.</i>	The site is contiguous with existing residential development on Egans Road, Oakdale.
Macarthur South Policies	
<i>Key Policy Directions P11, P12, P13 and P14 are not applicable to this planning proposal. The subject land is not with the Macarthur South area</i>	Not applicable
Employment Policies	
<i>P15 Council will plan for new employment lands and other employment generating initiatives in order to deliver positive local and regional employment outcomes</i>	The proposal will create short-term employment opportunities through the construction jobs associated with the civil and building works, and will provide stimulus to the local economy by boosting population.
<i>P16 Council will plan for different types of employment lands to be in different locations in recognition of the need to create employment opportunities in different sectors of the economy in appropriate areas.</i>	The site is not zoned to facilitate further employment opportunities. The loss of employment as a result of displacement of the agricultural industry is unfortunate but the business is not in a long term sustainable location given its proximity to residential lands. Modest opportunities exist for home business and tradesman residency.
Integrating Growth and Infrastructure	
<i>P17 Council will not support residential and employment lands growth unless increased infrastructure and servicing demands can be clearly demonstrated as being able to be delivered in a timely manner without imposing unsustainable burdens on Council or the Shire's existing and future community.</i>	It is considered that the addition of approximately 30 additional residential allotments in the locality is not likely to adversely burden Council. Developer contributions payable at the development application stage will fund the necessary local infrastructure required to support any future development. Likely state and regional infrastructure demands will be assessed by relevant agencies post 'Gateway' determination.
<i>P18 Council will encourage sustainable growth which supports our existing towns and villages, and makes the provision of services and infrastructure more efficient and viable – this means a greater emphasis on concentrating new housing in and around our existing population centres.</i>	The draft proposal site is located approximately 1.6 km from the Oakdale town centre. The site requires construction of water mains access for lots 1 to 27 whilst the existing 100 mm DICL water main will serve lots 28, 29 and 30. Sewer main extension for lots 1 to 30 must be constructed.

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Key Policy Direction	Comment
<i>P19 Dispersed population growth will be discouraged in favour of growth in, or adjacent to, existing population centres.</i>	The draft proposal does not contribute toward dispersed population growth; it proposes urban growth adjacent to the Oakdale urban area.
<i>P20 The focus for population growth will be in two key growth centres, being the Picton/Thirlmere/Tahmoor Area (PTT) area and the Bargo Area. Appropriate smaller growth opportunities are identified for other towns.</i>	This is an area identified as a being a potential residential growth area on the Oakdale Structure Plan in the GMS. The draft proposal contributes toward Council's dwelling target for The Oaks / Oakdale identified in the GMS.
Rural and Resource Lands	
<i>P21 Council acknowledges and seeks to protect the special economic, environmental and cultural values of the Shire's lands which comprise waterways, drinking water catchments, biodiversity, mineral resources, agricultural lands, aboriginal heritage and European rural landscapes.</i>	The subject land is located within the Lake Burrangorang sub-catchment (No.22) for Sydney's drinking water supplies. It is a priority to sewer to the subject land thus avoiding contamination of the drinking water catchment. The proposal will not result in any adverse environmental impacts Vegetation proposed to be cleared to support the future development of the site will need to be offset.
<i>P22 Council does not support incremental growth involving increased dwelling entitlements and/or rural lands fragmentation in dispersed rural areas. Council is however committed to maintaining where possible practicable, existing dwelling and subdivision entitlements in rural areas.</i>	Key Policy Direction P22 is not applicable to the draft proposal.

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FINANCIAL IMPLICATIONS

As noted previously in this report, the draft planning proposal is deemed to be Council's planning proposal once endorsed by Council and forwarded to the Minister. Despite the planning proposal becoming Council's at that point, the costs of any required studies are to be borne by the applicant.

As the planning proposal proceeds further investigations into contributions towards infrastructure provision through planning agreements and section 94 will need to occur.

CONCLUSION

A draft planning proposal has been submitted for 10.29 hectares of land located at 35 Egans Road, Oakdale. The objective of the draft planning proposal is to rezone land to allow for approximately 30 residential allotments immediately adjoining existing low density residential development. To achieve this objective it is proposed to rezone those parts of the site which have already been disturbed by the existing agricultural land-use to R2 Low Density Residential.

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The draft proposal is consistent in principle with Council's recently adopted Growth Management Strategy and it is therefore recommended that the planning proposal be forwarded to the Minister for Planning and Infrastructure for a Gateway determination.

ATTACHMENTS

1. Aerial photo of Egans Road site
2. Conceptual Subdivision Layout

RECOMMENDATION

1. That Council support the draft planning proposal for Part of No. 35 (Lot 93 DP 1000055) Egans Road, Oakdale.
2. That the draft planning proposal be forwarded to the Minister for Planning and Infrastructure for a Gateway determination.
3. That the persons who made submissions regarding the draft planning proposal be notified of Council's decision.

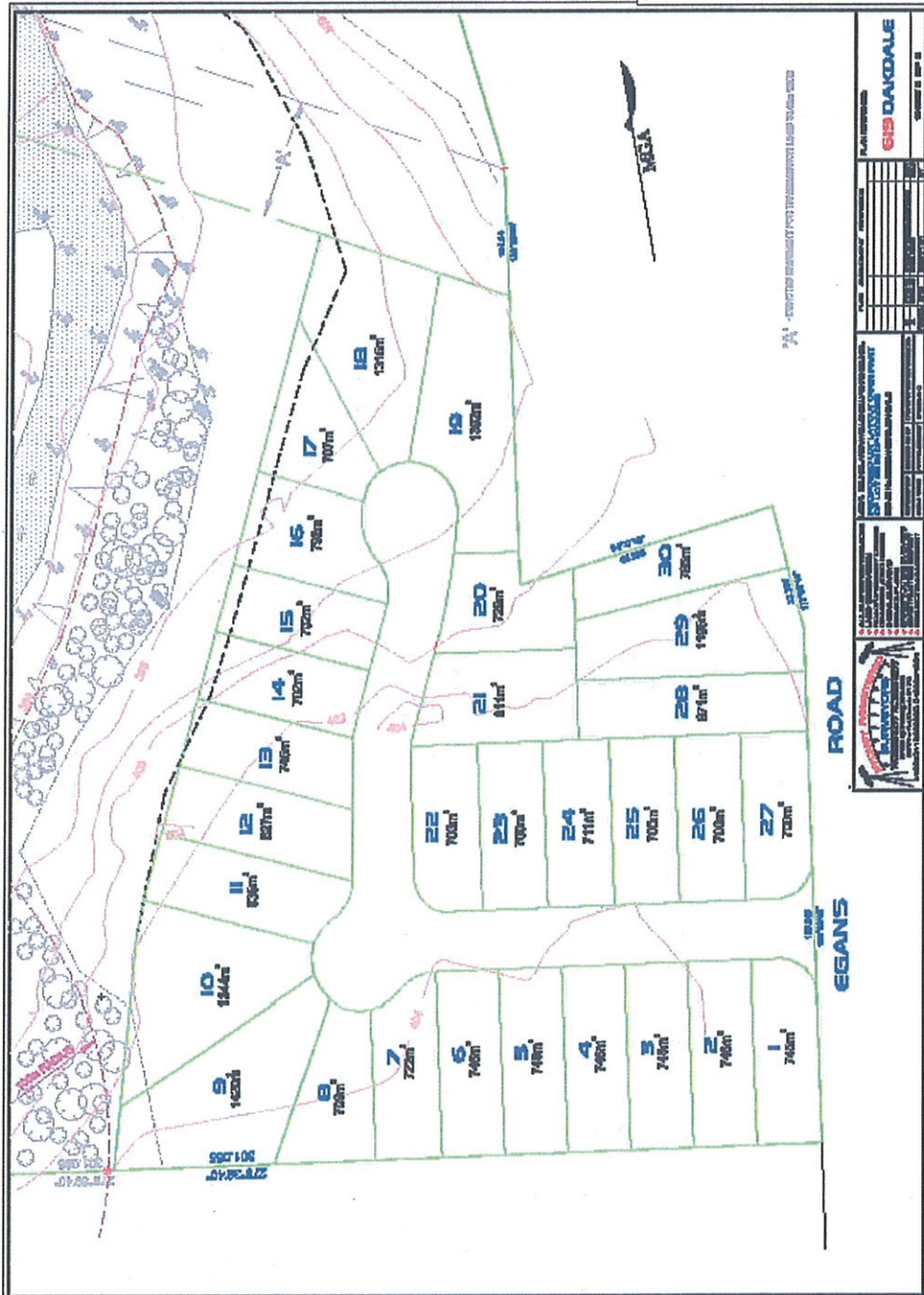
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Map 1 – Aerial Photo of the site

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Map 2 – Conceptual subdivision layout

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Minutes of the Ordinary Meeting of Wollondilly Shire Council held in the Council Chamber,
62-64 Menangle Street, Picton, on Monday 15 August 2011, commencing at 6.30pm

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PE3

Draft Planning Proposal - Egans Road, Oakdale
248890JSEL

TRIM 6356

Applicant: Precise Planning
Owner: G Mifsud

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171/2011

Resolved on the motion of Crs Landow and Hannan:

1. That Council support the draft planning proposal for Part of No. 35 (Lot 93 DP 1000055) Egans Road, Oakdale.
2. That the draft planning proposal be forwarded to the Minister for Planning and Infrastructure for a Gateway determination.
3. That the persons who made submissions regarding the draft planning proposal be notified of Council's decision.

On being put to the meeting the motion was declared CARRIED.

Vote: Crs M Banasik, Vernon, Khan, B Banasik, Landow, Hannan and Mitchell