Liverpool city council
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Council Meeting Agenda

21 November 2011

You are hereby notified that an **Ordinary Meeting** of Liverpool City Council will be held in the **FRANCIS GREENWAY CENTRE, LIVERPOOL (doors open at 6.45pm)** on **Monday, 21 November 2011** to commence at **7.00PM** to transact the following business.

Liverpool City Council Meetings are taped for the purposes of minute taking and record keeping. If you have any inquiries please contact Executive Services on 9821 9237.

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PRAYER
APOLOGIES
CONDOLENCES
CONFIRMATION OF MINUTES - Ordinary Council Meeting held on 17 October 2011
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SPEAKERS FORUM
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NOTICES OF MOTION
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GENERAL MANAGER'S REPORT
CORPORATE SERVICES REPORT
CITY PLANNING REPORT
CITY SERVICES REPORT
CITY ASSETS REPORT
COMMITTEE REPORTS
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RECEIPT OF INFORMATION DOCUMENTS
CONFIDENTIAL ITEMS
QUESTIONS WITH NOTICE
QUESTIONS TAKEN ON NOTICE
PRESENTATIONS BY COUNCILLORS
COUNCIL IN CLOSED SESSION
CLOSE

Farooq Portelli
GENERAL MANAGER

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MINUTES OF THE ORDINARY MEETING HELD ON 17 OCTOBER 2011

PRESENT:
Mayor Waller
Councillor Gillani
Councillor Hadchiti
Councillor Hadid
Councillor Harle
Councillor Karnib
Councillor Lucas
Councillor Mannoun
Councillor McGoldrick
Councillor Stanley
Mr Farooq Portelli, General Manager
Mrs Julie Hately, Director - Corporate Services
Mr Milan Marecic, Director - City Planning
Mr David Tuxford, Director - City Services
Mr Jeff Organ, Director - City Assets
Ms Jane Ferguson, Manager - Executive Services

The meeting commenced at 7:00 pm

OPENING 7:00pm

PRAYER The Prayer of Council was read by Reverend John Hall of Liverpool Christian Fellowship.

APOLOGIES Clr Napoletano

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Harle**

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

……..
Chairperson

CONDOLENCES

Mr Kevin Howie Napier

Mr Kevin Napier was born on 11 January 1930 and passed away at age 81 on 3 October 2011 due to ongoing health problems.

A Lurnea resident and retired electrician, Mr Napier served as an Alderman for eleven years between 1965 and 1976. He was elected Mayor in 1971/1972, the year of the 100th anniversary of Local Government in Liverpool.

After completing his education, Kevin became an apprentice electrical fitter, and then worked as a maintenance electrician with Sungravure Printing. He then became head electrician with Rural Press. When he was elected as an Alderman on Liverpool Council he had to leave this job as it involved shift work, which would curtail his activities within Council, He then joined the Sydney County Council (now Integral Energy) as an electrical technician and remained there until he retired in 1990.

In 1957, Kevin married Dorothy and in 1962 he, Dorothy and their two small children moved to a new Housing Commission home at Lurnea.

When elected to Council in December 1965, he sought to have sporting fields, community halls, sewerage and suitable street lighting provided for Housing Commission residents and other residents in Lurnea and Casula.

For three successive years he was Chairman of Finance and, in 1970, Chairman of Development during a record year of progress. During this time, Council was able to cope well financially, dealing with a country town suddenly being developed into a vibrant city with large shopping complexes and industrial sites.

He has always been interested in preserving Liverpool's heritage and was the Chairman of the Collingwood House Restoration Committee. He also carried out successful negotiation with the owner of Rosebank Cottage to save this historical home, designed by Varney Parkes, from demolition. Kevin was also involved in Liverpool's City Beautification Scheme.

In 1972, as Mayor, he officiated at the opening of the Michael Wenden Swimming Pool, a complex with which he had been associated from the planning stage. Kevin was himself an accomplished sportsman: a Rugby League player, cricketer, tennis player and swimmer. His main interest was rifle shooting and in 1957/58 he represented New South Wales against New Zealand in small bore rifle shooting. Kevin continued his passionate interest in Liverpool since his forced retirement in 1976 caused by the dismissal of Council.

He has been a Director and President of the Liverpool City Bowling Club and a member for 35 years. He was a Secretary of the Philip Park local committee, Patron, coach and member of Prestons Junior Sports Association, a member of Robin's Soccer Club, the Liverpool Rugby League and the Macquarie District Community Club.

Other honours which have been awarded to Kevin were, Companion of the Order of Liverpool, Heritage Award, and a Centenary Award from the Federal Government.

Kevin is survived by his wife, Dorothy, children Johanne, Stephen, Terri, Vicki and Kim and six grandchildren.

Motion: Moved: Clr Lucas Seconded: Clr Hadchiti

That Council sends a condolence to Mr Kevin Howie Napier's son Stephen.

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

CONFIRMATION OF MINUTES

That the minutes of the Ordinary Council meeting held on 28 September 2011 be confirmed as a true record of that meeting with the following amendment:

Page 8 Clr Hadchiti seconded the motion.

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Hadid**

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

DECLARATIONS OF INTEREST

Clr Harle declared a significant, non pecuniary interest on the following item:

Item PLAN 03: DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

Reason: Clr Harle has family relations that own property in Warwick Farm racing precinct.

Clr Harle will leave the Chambers for the duration of this item.

Clr Hadchiti declared a less than significant, non pecuniary interest on the following item:

Item IHAP 01: CONSTRUCTION OF FIVE STOREY COMMERCIAL BUILDING WITH ASSOCIATED CAR PARKING AND LANDSCAPING

Reason: Clr Hadchiti, as part of a company, previously owned the land on which a DA is in front of Council.

Clr Hadchiti will not leave the Chambers for the duration of this item.

PUBLIC FORUM

David Newell addressed Council on the proposed cemetery at 31 Greendale Road, Bringelly DA957/2010.

Dianne Newell addressed Council on the proposed cemetery at 31 Greendale Road, Bringelly DA957/2010.

SPEAKERS FORUM

Evelyn Heaton addressed Council on the following item:

Item – PLAN 03	DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

Andre Van Tonder addressed Council on the following item:

Item – PLAN 03	DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

Domogoy Josip Frankic addressed Council on the following item:

Item – PLAN 03	DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

Guy Walton addressed Council on the following item:

Item – PLAN 03	DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

Marc Connors addressed Council on the following item:

Item – PLAN 03	DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

Jonathan Seward would like to address Council on the following item:

Item – PLAN 03	DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

Petrina Nelson addressed Council on the following item:

Item – IHAP 02	INSTALLATION OF ANTENNAE - USAGE FOR AMATEUR RADIO

Jodie Smart addressed Council on the following item:

Item – IHAP 04	PROPOSED USE OF 31 GREENDALE ROAD BRINGELLY FOR A CEMETERY, AND CONVERSION OF EXISTING DWELLING FOR USE AS CARETAKERS COTTAGE AND OFFICE WITH ASSOCIATED STRUCTURES, FENCING, LANDSCAPING

Jared Clancy would like to address Council on the following item:

Item – IHAP 03	INSTALLATION OF TELECOMMUNICATION FACILITY INCLUDING REPLACEMENT OF AN EXISTING LIGHT POLE AND CONSTRUCTION OF AN ASSOCIATED BRICK EQUIPMENT SHELTER AT AUBREY RESERVE

MAYORAL REPORT

Nil

NOTICES OF MOTION OF RESCISSION

Nil

NOTICES OF MOTION

Nil

MOTIONS OF URGENCY

Nil

Request called to bring forward items GMRR 02 and CITS 03.

Motion: **Moved: Clr Lucas** **Seconded: Clr Hadid**

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

GMRR 02

ITEM NO: GMRR 02
FILE NO: 2011/4248
SUBJECT: MACQUARIE PORTRAIT - CERTIFICATE PRESENTATION

RECOMMENDATION

That the Mayor on behalf of Council, present certificates of appreciation to:

- Ms Pamela Rodereda
- Mrs June Young
- Rotary Clubs Liverpool, Liverpool West and Liverpool Greenway
- Quota International of Liverpool
- City of Liverpool Lions Club
- City of Liverpool Lioness Club
- Liverpool Combined Inner Wheel Club.

COUNCIL DECISION

Motion: **Moved: Clr Stanley** **Seconded: Clr Hadchiti**

That the recommendation be adopted.

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

CITS 03

ITEM NO: CITS 03
FILE NO: 2007/2090
SUBJECT: LIVERPOOL YOUTH COUNCIL ANNUAL REPORT 2010-2011

RECOMMENDATION

That Council:

1. Allows representatives from the 2010-2012 Youth Council to present the Liverpool Youth Council Annual Report 2010-2011 in open session of Council.

2. Receives and notes the Liverpool Youth Council Annual Report 2010-2011 and thanks its members for their contributions, including those of Mayor Waller and Councillor Napoletano.

COUNCIL DECISION

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Hadid**

That the recommendation be adopted.

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

Motion called to move back into the business paper.

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Lucas**

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

IHAP 01

ITEM NO: IHAP 01
FILE NO: DA-248/2011
SUBJECT: CONSTRUCTION OF FIVE STOREY COMMERCIAL BUILDING WITH ASSOCIATED CAR PARKING AND LANDSCAPING.

RECOMMENDATION

That Council:

1. Approves DA-248/2011 for the construction of a five storey commercial building at 67 Bathurst Street, Liverpool (Lot 8, DP 18252) subject to the conditions of consent noting the deletion of conditions of 49 and 50.

2. Supports the variation to Clause 7.14 - minimum building street frontage of LLEP 2008.

3. Notifies the person who made a submission with regard to the proposal.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Stanley**

That the recommendation be adopted.

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

Councillors voted unanimously for the motion.

Note: Clr Napoletano was absent from the meeting.

IHAP 02

ITEM NO: IHAP 02
FILE NO: DA-973/2010
SUBJECT: INSTALLATION OF ANTENNAE - USAGE FOR AMATEUR RADIO

RECOMMENDATION

That Council

1. Reaffirms the Refusal Notice of DA 973/2010 for the installation of antennas for the broadcast of amateur radio; for the following reasons:

   a. Pursuant to the provisions of Section 79C (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy objectives (c) and (d) of Low Density Residential zone outlined in the Liverpool Local Environmental Plan 2008. In that the proposal:

      (i) Does not ensure that a high level of residential amenity is achieved and maintained and the development is not considered in keeping with the residential character of the area.

      (ii) is an over development of the subject site as it will result in an adverse visual impact to the existing neighbourhood and surrounding built environment.

      (iii) does not enhance or compliment the existing character of the neighbourhood and streetscape.

      (iv) will result in adverse impacts experienced by neighbouring residents through increased overhead clutter to the existing streetscape.

   b. Pursuant to the provisions of Section 79C (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Part 3.2 - Clause 5 - Building Design and Appearance.

2. Notifies persons who made a submission with regard to the proposal.

COUNCIL DECISION

Motion: **Moved: Clr Harle** **Seconded: Clr McGoldrick**

That Council:

1. Approves DA 973/2010 for the installation of antennas for the broadcast of amateur radio.

2. Notifies persons who made a submission with regard to the proposal.

3. Authorises the Director City Planning to issue standard conditions of consent.

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

Vote for: Mayor Waller, Clr Lucas, Clr Harle, Clr Karnib, Clr McGoldrick, Clr Mannoun, Clr Hadchiti, Clr Hadid

Vote against: Clr Stanley, Clr Gillani

Note: Clr Napoletano was absent from the meeting.

IHAP 03

ITEM NO: IHAP 03
FILE NO: DA-1233/2011
SUBJECT: INSTALLATION OF TELECOMMUNICATION FACILITY INCLUDING REPLACEMENT OF AN EXISTING LIGHT POLE AND CONSTRUCTION OF AN ASSOCIATED BRICK EQUIPMENT SHELTER AT AUBREY RESERVE

RECOMMENDATION

That Council:

1. Approves DA1233/2011 for the installation of a telecommunication facility including the replacement of an existing light pole and construction of an associated brick equipment shelter at Aubrey Keech Reserve subject to conditions of consent.

2. Imposes a deferred commencement condition which requires the submission of amended architectural plans which reflects the new location of the brick equipment shelter which is to be flush with the existing building located at Aubrey Keech Reserve.

COUNCIL DECISION

Motion: **Moved:Clr Lucas** **Seconded: Clr Harle**

That the recommendation be adopted.

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

Councillors voted unanimously for the motion.

Note: Clr Napoletano was absent from the meeting.

IHAP 04

ITEM NO: IHAP 04
FILE NO:
SUBJECT: PROPOSED USE OF 31 GREENDALE ROAD BRINGELLY FOR A CEMETERY, AND CONVERSION OF EXISTING DWELLING FOR USE AS CARETAKERS COTTAGE AND OFFICE WITH ASSOCIATED STRUCTURES, FENCING, LANDSCAPING

RECOMMENDATION

That Council:

1. Refuses DA-957/2010 being for a cemetery at 31 Greendale Road, Bringelly for the following reasons:

   a. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4 - Bushland and Fauna Habitat Preservation of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the proposal has the potential to impact on threatened flora and fauna species.

   b. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 9 - Flooding Risk of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the proposal has the potential to causes increased flood extent, depth and velocities on adjacent properties.

   c. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 10 - Contaminated Land Risk of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the proposal has the potential to contaminate land through groundwater movement.

   d. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy all the requirements of Clause 4 - Building Design and Streetscape of Part 5 of Liverpool Development Control Plan 2008. In this regard, the application proposes internal roads and car parking areas within the front setback.

   e. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy all the requirements of Clause 6 - Car parking and access of Part 5 of Liverpool Development Control Plan 2008. In this regard, the application proposes car parking areas within the front setback that would be visible from Greendale Road.

   f. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy all

the requirements of Clause 9.13 - Cemeteries, Crematoriums and Funeral Chapels of Part 5 of Liverpool Development Control Plan 2008. In this regard, the application:

(i) Proposes a cemetery on a lot that does not have a minimum of 15 hectares of site area available for burial plots,
(ii) Identifies burial plots in areas where the water table is within 3m of the ground surface,
(iii) Proposes a cemetery on flood liable land,
(iv) Does not provide a landscaped berm 1m high and 3m wide around the site to screen the development,
(v) Does not demonstrate that the submitted Plan of Management will ensure satisfactory perpetual care of the site.

g. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the subject site is considered unsuitable for development as a cemetery due to approximately 9.5%of burial plots not achieving adequate vertical separation distance from the ground water table. This will make possible the contamination of the domestic water supply of neighbouring properties which is prohibited by the provisions of Clause 22(2) of the Public Health (Disposal of Bodies) Regulations.

h. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the subject site is considered unsuitable for development as a cemetery due to burial plots being located within 30m of top of bank of Bardwell Gully.

2. Notifies persons who made a submission with regard to the proposal.

COUNCIL DECISION

Motion: Moved: Clr Mannoun Seconded: Clr Hadchiti

That Council:

1. Refuses DA-957/2010 being for a cemetery at 31 Greendale Road, Bringelly for the following reasons:

a. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4 - Bushland and Fauna Habitat Preservation of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the proposal has the potential to impact on threatened flora and fauna species.

b. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 9 - Flooding Risk of Part 1.1 of Liverpool Development Control

Plan 2008. In this regard, the proposal has the potential to causes increased flood extent, depth and velocities on adjacent properties.

c. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 10 - Contaminated Land Risk of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the proposal has the potential to contaminate land through groundwater movement.

d. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy all the requirements of Clause 4 - Building Design and Streetscape of Part 5 of Liverpool Development Control Plan 2008. In this regard, the application proposes internal roads and car parking areas within the front setback.

e. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy all the requirements of Clause 6 - Car parking and access of Part 5 of Liverpool Development Control Plan 2008. In this regard, the application proposes car parking areas within the front setback that would be visible from Greendale Road.

f. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy all the requirements of Clause 9.13 - Cemeteries, Crematoriums and Funeral Chapels of Part 5 of Liverpool Development Control Plan 2008. In this regard, the application:

   (i) Proposes a cemetery on a lot that does not have a minimum of 15 hectares of site area available for burial plots,
   (ii) Identifies burial plots in areas where the water table is within 3m of the ground surface,
   (iii) Proposes a cemetery on flood liable land,
   (iv) Does not provide a landscaped berm 1m high and 3m wide around the site to screen the development,
   (v) Does not demonstrate that the submitted Plan of Management will ensure satisfactory perpetual care of the site.

g. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the subject site is considered unsuitable for development as a cemetery due to approximately 9.5%of burial plots not achieving adequate vertical separation distance from the ground water table. This will make possible the contamination of the domestic water supply of neighbouring properties which is prohibited by the provisions of Clause 22(2) of the Public Health (Disposal of Bodies) Regulations.

h. Pursuant to the provisions of Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, the subject site is considered

unsuitable for development as a cemetery due to burial plots being located within 30m of top of bank of Bardwell Gully.

2. Notifies persons who made a submission with regard to the proposal.

3. The General Manager contacts the State Government to investigate the opportunity for suitable land for a cemetery which does not conflict with community interest.

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

Councillors voted unanimously for the motion.

Note: Clr Napoletano was absent from the meeting.

IHAP 05

ITEM NO: IHAP 05
FILE NO: DA-649/2011
SUBJECT: SUBDIVISION OF EXISTING LOT 90 SOUTHERN CROSS DRIVE INTO EIGHTEEN RESIDENTIAL LOTS, ONE DRAINAGE RESERVE AND ASSOCIATED ROAD CONSTRUCTION

RECOMMENDATION

That Council:

1. Approves DA-649/2011 being subdivision of proposed Part Lot 5 (created in DA1216/2010) of Lot 249 in DP 2475 into 18 residential lots subject to the conditions of consent and noting that Condition 9 should require only a stage two contamination assessment.

2. Supports the variation to Clause 7.11 - minimum dwelling density of LLEP 2008.

3. Accepts the offered Voluntary Planning Agreement, and delegate the General Manager to execute the deed and affix the seal of Council.

COUNCIL DECISION

Motion: **Moved: Clr Lucas** **Seconded: Clr Hadid**

That the recommendation be adopted.

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

Councillors voted unanimously for the motion.

Note: Clr Napoletano was absent from the meeting.

IHAP 06

ITEM NO: IHAP 06
FILE NO: DA-564/2011
SUBJECT: SUBDIVISION OF EXISTING LOT 100 SOUTHERN CROSS AVENUE INTO EIGHTEEN RESIDENTIAL LOTS, ONE PUBLIC RESERVE AND ASSOCIATED ROAD CONSTRUCTION

RECOMMENDATION

That Council:

1. Approves DA564/2011 which seeks consent for the subdivision of proposed Lot 5 into 18 residential lots at Lot 248 in DP 2475, No. 100 Southern Cross Avenue, Middleton Grange, subject to the recommended conditions of consent.

2. Supports the variation to Clause 7.11 - Minimum dwelling density made pursuant to Clause 4.6 of LLEP 2008; and

3. Accepts the offered Voluntary Planning Agreement and delegate the General Manager to execute the deed and affix the seal of Council.

COUNCIL DECISION

Motion: **Moved: Clr Lucas** **Seconded: Clr McGoldrick**

That the recommendation be adopted.

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

Councillors voted unanimously for the motion.

Note: Clr Napoletano was absent from the meeting.

Five minute recess called at 8:15pm.

Motion: **Moved: Clr Lucas** **Seconded: Clr Hadchiti**

Meeting declared re-opened at 8:20pm.

Motion: **Moved: Clr Harle** **Seconded: Clr Lucas**

GMRR 01

ITEM NO: GMRR 01
FILE NO:
SUBJECT: ADMINISTERING THE SEPTEMBER 2012 COUNCIL ELECTION

RECOMMENDATION

That Council:

1. Engages the NSW Electoral Commissioner to administer the September 2012 Liverpool City Council election for Councillors, the popular election of the Mayor and any constitutional referendums and polls until the end of 2012 ordinary election; and

2. Requests the General Manager to notify the Division of Local Government and the NSW Electoral Commissioner on Council's decision.

COUNCIL DECISION

Motion: **Moved: Clr Stanley** **Seconded: Clr Gillani**

That Council:

1. Engages the NSW Electoral Commissioner to administer the September 2012 Liverpool City Council election for Councillors, the popular election of the Mayor and any constitutional referendums and polls until the end of 2012 ordinary election; and

2. Requests the General Manager to notify the Division of Local Government and the NSW Electoral Commissioner on Council's decision.

3. Requests the State Government to waive its additional administrative fee that will be sent direct to State Revenue.

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

GMRR 03

ITEM NO: GMRR 03
FILE NO: 2008/0302
SUBJECT: PROPOSED COUNCIL MEETING DATES FOR 2012

RECOMMENDATION

That Council:

1. Confirms Council meeting time as 7.00pm and Council meeting dates for the 2012 calendar year as follows:

   - Monday 6 February
   - Monday 27 February
   - Monday 26 March
   - Monday 30 April
   - Monday 28 May
   - Monday 25 June
   - Monday 23 July
   - Monday 20 August
   - Monday 8 October (deferred September meeting)
   - Monday 29 October
   - Monday 26 November
   - Monday 17 December

2. Places appropriate notices in the local newspapers advising the community of the dates and commencing times of Council meetings for the 2012 calendar year.

COUNCIL DECISION

Motion: **Moved: Clr Stanley** **Seconded: Clr Lucas**

That Council:

1. Confirms Council meeting time as 7.00pm and Council meeting dates for the 2012 calendar year as follows:

   - Monday 6 February
   - Monday 27 February
   - Monday 26 March
   - Monday 30 April
   - Monday 28 May
   - Monday 25 June
   - Monday 23 July
   - Monday 20 August
   - Monday 8 October (deferred September meeting)

- Monday 5 November
- Monday 26 November
- Monday 17 December

2. Places appropriate notices in the local newspapers advising the community of the dates and commencing times of Council meetings for the 2012 calendar year.

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

CORS 01

ITEM NO: CORS 01
FILE NO: 2010/0194
SUBJECT: ACQUISITION OF LOT 54 DP 29317 - 205 JARDINE DRIVE EDMONDSON PARK FOR DRAINAGE

RECOMMENDATION

That Council:

1. Approves the acquisition of Lot 54 DP 29317 - 205 Jardine Drive, Edmondson Park, for the acquisition price and terms outlined in the confidential attachment.

2. Upon settlement of the acquisition advertises its intention to classify Lot 54 DP 29317 as Operational Land in accordance with Section 31 (2) of the Local Government Act 1993.

3. Keeps confidential the attachment supplied under separate cover containing the purchase price pursuant to the provisions of Section 10A (2)(c) pf the local Government Act 1993 as this information would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

4. Authorises its delegated officer to execute any documents, under power of attorney, necessary to give effect to this decision.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Mannoun**

That the recommendation be adopted.

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

CORS 02

ITEM NO: CORS 02
FILE NO: 2011/5142
SUBJECT: PECUNIARY INTEREST RETURNS

RECOMMENDATION

That Council notes that the Pecuniary Interest Returns of Councillors and Designated Persons, holding office as at 30 June 2011, as tabled before Council under Section 450A of the Local Government Act 1993.

COUNCIL DECISION

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Hadid**

That the recommendation be adopted.

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

CORS 03

ITEM NO: CORS 03
FILE NO: 2007/1892
SUBJECT: STATUTORY INVESTMENT REPORT SEPTEMBER 2011

RECOMMENDATION

That Council receives and notes the report.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

PLAN 01

ITEM NO: PLAN 01
FILE NO: 2011/5236
SUBJECT: ADOPTION OF THE LIVERPOOL HERITAGE STRATEGY 2011-2014

RECOMMENDATION

That Council note the submissions and responses received during public exhibition and adopt the attached Liverpool City Council Heritage Strategy for the City of Liverpool 2011 - 2014.

COUNCIL DECISION

Motion: **Moved: Clr Stanley** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

PLAN 02

ITEM NO: PLAN 02
FILE NO:
SUBJECT: CEMETERIES AND CREMATORIUM WITHIN GREENDALE AND BRINGELLY - CUMULATIVE TRAFFIC IMPACTS AND RU1 PRIMARY PRODUCTION ZONE OBJECTIVES

RECOMMENDATION

That Council utilises the information contained within this report in the consideration of cemetery and crematorium development applications particularly noting the following:

1. Adopt a precautionary approach to protect and retain agricultural land for future agricultural uses/rural uses particularly where individual properties are of sufficient size to facilitate viable agricultural developments.

2. Development applications are to be accompanied by environmental studies to evaluate the environmental impact on the existing lawful agricultural developments in the locality this is tho include air quality (odour and emissions) and surface water quality reports.

3. Development applications within areas that do not have access to sewer are to be accompanied by a comprehensive waste water report.

4. Development applications are to be accompanied by a detailed stormwater concept plan prepared in accordance with Council's guidelines to ensure there is no unreasonable demand on Council's drainage infrastructure.

5. That appropriate design controls are imposed to minimise land use conflicts.

COUNCIL DECISION

Motion: **Moved: Clr Stanley** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

PLAN 03

ITEM NO: PLAN 03
FILE NO: RZ-3/2011
SUBJECT: DRAFT AMENDMENT NO 18 TO LIVERPOOL LOCAL ENVIRONMENTAL PLAN 2008 - MUNDAY STREET WARWICK FARM

RECOMMENDATION

That Council:

1. Resolves to proceed with the making of Draft Liverpool Local Environmental Plan 2008 Amendment No. 18 to:

   a. Rezone Lot 1 DP1162276 from RE2 Private Recreation and R2 Low Density Residential to B5 Business Development; and

   b. Remove the Warwick Farm Conservation Area from Division 1 of Part 2 within Schedule 5 of LLEP 2008.

2. Writes to the Director-General of Department of Planning and Infrastructure requesting the making of Draft Liverpool Local Environmental Plan 2008 Amendment No. 18.

3. Enters into a Voluntary Planning Agreement requiring the developer to provide traffic improvements.

4. Prepare a Strategic Review of the Warwick Farm Training Precinct and report the results back to Council for consideration.

COUNCIL DECISION

Motion: **Moved: Clr Mannoun** **Seconded: Clr Hadid**

Clr Harle left the chambers at 8:31pm.

That Council:

1. Defers item PLAN 03 and other rezonings in Warwick Farm until a Strategic Review/Master Plan of the Warwick Farm precinct is undertaken. The Master Plan is to incorporate the needs of:
   a. The existing horse industry and small business owners.

   b. The cumulative effects of increased traffic to the safety of people and horses in the area including Governor Macquarie Drive and Munday Street.

c. The need for the ATC to upgrade Warwick Farm Racecourse and to ensure the long term viability of the Racecourse.

d. The cumulative environmental effects of all these rezonings.

e. The viability of an industrial zone to co-exist with horses.

f. The potential of Chipping Norton Lakes becoming a State park.

g. The value of open space in close proximity of the Liverpool CBD.

h. Warwick Farm train Station.

i. Liverpool Hospitals expansion and the 800 spot car park that is being built.

2. Writes to the Department of Planning and Infrastructure inviting them to participate or facilitate the process.

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

Motion: Moved: Clr Stanley Seconded: Clr Lucas

That Council:

1. Resolves to proceed with the making of Draft Liverpool Local Environmental Plan 2008 Amendment No. 18 to:

   a. Rezone Lot 1 DP1162276 from RE2 Private Recreation and R2 Low Density Residential to B5 Business Development; and

   b. Remove the Warwick Farm Conservation Area from Division 1 of Part 2 within Schedule 5 of LLEP 2008.

2. Writes to the Director-General of Department of Planning and Infrastructure requesting the making of Draft Liverpool Local Environmental Plan 2008 Amendment No. 18.

3. Enters into a Voluntary Planning Agreement requiring the developer to provide traffic improvements.

4. Prepare a Strategic Review of the Warwick Farm Training Precinct and report the results back to Council for consideration.

Foreshadowed Motion: Moved: Clr Hadchiti Seconded: Clr McGoldrick

That Council rejects the making of Draft LLEP 2008 No. 18.

On being put to the meeting the motion put by Clr Stanley was declared CARRIED.

The foreshadowed motion put by Clr Hadchiti lapsed.

Clr Hadchiti, Clr Mannoun, Clr Hadid, Clr McGoldrick requested that their names be recorded as voting against the motion.

Clr Harle returned to the chambers at 8:59pm.

PLAN 04

ITEM NO: PLAN 04
FILE NO: 2010/0178
SUBJECT: LIVERPOOL PIONEERS MEMORIAL PARK STATE HERITAGE LISTING

RECOMMENDATION

That Council;

1. Requests under Section 32(2) of the Heritage Act 1977 that the Heritage Council of NSW recommends to the Minister for Planning and Infrastructure that Liverpool Pioneers Memorial Park be listed on the State Heritage Register as an item of State heritage significance.

2. Prepares a list of site specific exemptions to be sent to the Heritage Council of NSW along with the State Heritage Register Nomination Form which details works which Council undertake regularly to ensure there is no requirement to submit unnecessary applications.

COUNCIL DECISION

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Hadid**

That the recommendation be adopted.

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

Clr Mannoun left the chambers at 9:00pm.

Clr Mannoun returned to the chambers at 9:01pm.

CITS 01

ITEM NO: CITS 01
FILE NO:
SUBJECT: COMMUNITY PARKING AT 33 MOORE STREET

RECOMMENDATION

That Council:

1. Receives and notes the contents of this report.

2. Reimburses community representatives expenses incurred for parking whilst attending Council committee meetings during normal business hours between the hours of 8.30am and 6.00pm Monday to Friday.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Lucas**

Amendment: **Moved: Clr Mannoun** **Seconded:**

That the General Manager develops a process to provide free parking for the community who are going to use the building, attend committee meetings and attend Council meetings and provide a report back to Council.

On being put to the meeting the motion put by Clr Hadid was declared CARRIED.

The amendment put by Clr Mannoun lapsed due to lack of a seconder.

Clr Mannoun requested that he be recorded as voting against the motion.

CITS 02

ITEM NO: CITS 02
FILE NO: 2009/0010
SUBJECT: DONATIONS AND SPONSORSHIP REPORT

RECOMMENDATION

That Council

1. Endorses the Financial Contribution Panel's recommendations for the provision of $3,100 under the Sporting Donations Program as summarised in the table below:

Sporting Donations	**Amount**
Fletcher Lewis	$200
Bronte Lewis	$200
Nikola Oliveric	$200
Shane Kelleher	$500
Jade Martin	$200
Dianne Elizabeth Culhane	$200
Chyna Williams	$200
Ellesse Carini	$200
Shondre Lee-Silbva	$200
Maddison Heath	$200
Fiona Heath	$200
Joseph Mawson	$500
Breanna Evans	$200

2. Endorses the Financial Contribution Panel's recommendations for the provision of $1,700 under the Community Donations Program as summarised in the table below:

School Donations	**Amount**
All Saints Catholic Boys College	$100
Casual High School	$100
Cecil Hills High School	$100
Christadelphian Heritage College	$100
Hoxton Park High School	$100
James Busby High School	$100
John Edmondson High School	$100
Lawrence Hargrave School	$100
Liverpool Boys High School	$100
Liverpool Girls High School	$100
Lurnea High School	$100
Lurnea Intensive English Centre	$100
Miller Technology High School	$100
Moorebank High School	$100

Sule College (Girls High School)	$100
Sule College (Boys High School)	$100
William Carey Christian School	$100

3. Endorses the Financial Contribution Panel's recommendations for the provision of $28,000 under the Corporate Sponsorship Program as summarised in the table below:

Corporate Sponsorship	**Amount**
Combined Missions Inc	$5,000
NSW Spanish & Latin-American Association for Social Assistance	$2,500
NSW Barefoot Water Ski Club	$7,500
Shree Sanatan Dharma Pratinidhi Sabha of Australia Inc	$5,000
International Sports Karate Association (ISKA)	$5,000
Cancer Council of NSW	$3,000

4. Sends a letter to unsuccessful applicants explaining the reasons why their applications were unsuccessful.

COUNCIL DECISION

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Stanley**

That the recommendation be adopted.

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

CITS 04

ITEM NO: CITS 04
FILE NO:
SUBJECT: TENDER RCL 2010 - TREE MAINTENANCE SERVICES

RECOMMENDATION

That Council:

1. Accepts the proposals from the following four companies for Tender RCL 2010 as the preferred contractors for a three year period for the supply of tree services throughout the entire Liverpool Local Government Area for trees located in a public space.

Rank	Company
1	BJ's Tree Service
2	Advanced Arbor Service
3	Sydney Metro Tree Service
4	CPE Tree Services

2. Notes that the Director City Services will finalise all details and sign the Letters of Acceptance, giving them contractual effect, in accordance with his delegated authority.

COUNCIL DECISION

Motion: **Moved: Clr Hadchiti** **Seconded: Clr Stanley**

That the recommendation be adopted.

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

Councillors voted unanimously for the motion.

Note: Clr Napoletano was absent from the meeting.

CITS 05

ITEM NO: CITS 05
FILE NO: 2011/5033
SUBJECT: TENDER ST 2111 - PROVISION OF A STRAY ANIMAL POUND & CAPTURE PATROL SERVICE

RECOMMENDATION

That Council:

1. Accepts the tender from Transpet Australia P/L trading as Renbury Farm for Tender ST 2111 for the Provision of a Stray Animal Pound & Capture Patrol Service as per the tendered amount of $286,440 for a period of two years with the option to be exercised by mutual agreement for a further two x one year extension.

2. Notes the Director City Services will finalise all details and sign the Letter of Acceptance, giving it contractual effect in accordance with his delegated authority.

COUNCIL DECISION

Motion: **Moved: Clr Stanley** **Seconded: Clr Gillani**

That Council:

1. Accepts the tender from Transpet Australia P/L trading as Renbury Farm for Tender ST 2111 for the Provision of a Stray Animal Pound & Capture Patrol Service as per the tendered amount of $286,440 for a period of two years with the option to be exercised by mutual agreement for a further two x one year extension.

2. Notes the Director City Services will finalise all details and sign the Letter of Acceptance, giving it contractual effect in accordance with his delegated authority.

3. Investigates the way feral cats are caught in public areas and delivered to the pound.

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

Councillors voted unanimously for the motion.

Note: Clr Napoletano was absent from the meeting.

ASST 01

ITEM NO: ASST 01
FILE NO: 2010/0793
SUBJECT: ACQUISITION OF PART OF LOT 313 DP 2475, 150 FLYNN AVENUE MIDDLETON GRANGE FOR DRAINAGE AND OPEN SPACE PURPOSES

RECOMMENDATION

That Council:

1. Acquires part of Lot 313 in Deposited Plan 2475, 150 Flynn Avenue, Middleton Grange for the price and terms outlined in the confidential attachment.

2. Upon settlement of the acquisition, classifies part of Lot 313 in Deposited Plan 2475, 150 Flynn Avenue, Middleton Grange as Community Land.

3. Keeps confidential the attachment supplied under separate cover containing the purchase price pursuant to the provisions of Section 10A(2)(c) of the Local Government Act 1993 as this information would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

4. Authorises its delegated officer to execute any documents, under power of attorney necessary to give effect to this decision.

COUNCIL DECISION

Motion: **Moved:Clr Hadchiti** **Seconded: Clr Mannoun**

That Council:

1. Defers the acquisition part of Lot 313 in Deposited Plan 2475, 150 Flynn Avenue, Middleton Grange for the price and terms outlined in the confidential attachment.

2. Seeks legal advice on the recommendation on page 210 of the Council Agenda.

Amendment: **Moved: Clr Lucas** **Seconded: Clr Stanley**

That Council:

1. Acquires part of Lot 313 in Deposited Plan 2475, 150 Flynn Avenue, Middleton Grange for the price and terms outlined in the confidential attachment.

2. Upon settlement of the acquisition, classifies part of Lot 313 in Deposited Plan 2475, 150 Flynn Avenue, Middleton Grange as Community Land.

3. Keeps confidential the attachment supplied under separate cover containing the purchase price pursuant to the provisions of Section 10A(2)(c) of the Local Government Act 1993 as this information would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

4. Authorises its delegated officer to execute any documents, under power of attorney necessary to give effect to this decision.

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

The amendment becomes the motion and the motion was CARRIED.

Division of Council called by Clr Hadchiti and Clr Hadid.

Vote for: Clr Waller, Clr Lucas, Clr Karnib, Clr McGoldrick, Clr Stanley, Clr Gillani

Vote against: Clr Mannoun, Clr Hadid, Clr Hadchiti, Clr Harle

Note: Clr Napoletano was absent from the meeting.

ASST 02

ITEM NO: ASST 02
FILE NO: 2006/0565
SUBJECT: DESIGN AND SUPPLY OF MULTI AND SINGLE FUNCTION POLES (CONTRACT WT 1390)

RECOMMENDATION

That Council:

1. Accepts the schedule of rates for the alternative tender submitted by Fyntrim Pty Ltd for Contract No WT 1390 - Design and Supply of Multi and Single Function Poles.

2. Notes that the Director City Assets will finalise all details and sign the Letter of Acceptance of Fyntrim Pty Ltd's tender, giving it contractual effect, in accordance with his delegated authority.

3. Keeps confidential the report supplied under separate cover, containing the tendered prices pursuant to S10A (2) (C) of the Local Government Act 1993 - Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

COUNCIL DECISION

Motion: **Moved:Clr Stanley** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

COMM 01

ITEM NO: COMM 01
FILE NO: 2009/1515
SUBJECT: ABORIGINAL CONSULTATIVE COMMITTEE MINUTES OF THE MEETING HELD ON 7 SEPTEMBER 2011

RECOMMENDATION

That Council receives and notes the minutes of the Aboriginal Consultative Committee meeting held on 7 September 2011.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Gillani**

That the Committee reports be moved as a whole.

That the recommendation be adopted.

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

COMM 02

ITEM NO: COMM 02
FILE NO: 2004/0386
SUBJECT: ETHICS AND AUDIT COMMITTEE MINUTES FROM THE MEETING HELD ON 15 SEPTEMBER 2011

RECOMMENDATION

That Council notes the minutes of the Ethics and Audit Committee meeting held on 15 September 2011.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

COMM 03

ITEM NO: COMM 03
FILE NO: 2008/1594
SUBJECT: LIVERPOOL ACCESS COMMITTEE MINUTES OF THE MEETING HELD ON 8 SEPTEMBER 2011

RECOMMENDATION

That Council receives and notes the minutes of the Liverpool Access Committee held on 8 September 2011.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

COMM 04

ITEM NO: COMM 04
FILE NO: 2010/1298
SUBJECT: LIVERPOOL YOUTH COUNCIL MINUTES OF THE MEETING HELD ON 20 SEPTEMBER 2011

RECOMMENDATION

That Council receives and notes the minutes of the Liverpool Youth Council meeting held on 20 September 2011.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

COMM 05

ITEM NO: COMM 05
FILE NO: 2010/0331
SUBJECT: STREET NAMING COMMITTEE MINUTES 15 SEPTEMBER 2011

RECOMMENDATION

That Council:

1. Notes the minutes of the Street Naming Committee Meeting held on the 15 September 2011.

2. Endorses the following street names for Elizabeth Hills:
   - Newgate Boulevard
   - Wixstead Avenue
   - Corduroy Road
   - Rosebank Avenue
   - Jenkinson Drive
   - Bentwing Avenue
   - Vidal Avenue
   - Antrim Drive
   - Sherrard Avenue
   - Freetail Avenue
   - Dobroyd Drive
   - Eber Avenue
   - Regentville Drive
   - Duxford Street
   - Setrop Avenue
   - Pye Road
   - Vermont Avenue
   - Montadale Avenue
   - Poplar Avenue
   - Hertfordshire Street
   - Gowanlea Avenue
   - Varney Avenue
   - Wylde Close
   - Burlina Circuit
   - Charolais Avenue
   - Charbray Lane
   - Nelore Avenue
   - Brahman Lane
   - Braford Avenue
   - Simbrah Lane

3. Endorses the name Newgate Park for use at Elizabeth Hills.

4. Endorses the park renaming from Stanwell Oval to Larry Grant Memorial Oval.

5. Resolves to proceed with the boundary adjustment procedure between Pleasure Point and Voyager Point.

6. Resolves not to proceed with the proposed renaming of Greenway Ovals and write to the Hon. Andrew McDonald MP stating the reasons behind not proceeding with the renaming.

COUNCIL DECISION

Motion: **Moved: Clr Hadid** **Seconded: Clr Gillani**

That the recommendation be adopted.

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

CORR 01

ITEM NO: CORR 01
FILE NO: 2011/0467
SUBJECT: INCOMING AND OUTGOING CORRESPONDENCE

RECOMMENDATION

That Council receives and notes the report.

COUNCIL DECISION

Motion: **Moved: Clr Stanley** **Seconded: Clr Lucas**

That the recommendation be adopted.

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

BOARD REPORTS

Nil

RECEIPT OF INFORMATION DOCUMENTS

Nil

CONFIDENTIAL ITEMS

Nil

QWNO 01

ITEM NO: QWNO 01
FILE NO: 2011/2938
SUBJECT: QUESTIONS WITH NOTICE - CLR HARLE

RECOMMENDATION

1. **Liverpool City Council provides a Sharps Safe Disposal Bins program to various sections of the Community. Can Council provide me with an overview of the program and address the following questions:**

Overview:
The 'Be Sharp Safe' program is a Council initiative working in collaboration with local Pharmacies to implement safe sharps disposal in the Liverpool Local Government Area (LGA). The aim of the program is for community members to dispose personal use sharps (needles and syringes) through the 'Be Sharp Safe' program rather than the domestic waste stream. The program currently provides two sharps collection services at 17 local pharmacies and 8 public place locations within the LGA.

The program acknowledges the needs of many residents in Liverpool who rely on using sharps to maintain their own health or that of a family member for medical purposes and intravenous drug users. With concern over the number of syringes wrongly discarded in household recycling and garbage bins and in public places, the sharps collection program is an open-minded approach to managing this issue.

Council provides educational materials and resources to promote the program to the community. These include brochures (also translated into three languages), stickers and 1.4L sharps containers handed to participating pharmacies and the Liverpool Diabetes centre to distribute to insulin dependant diabetics. The promotional material is thematically integrated and advertised through Councils website, newsletters and articles.

The program has won the Excellence in the Environment Awards in 2007-2008 and 2008-2009.

a. **When was the scheme implemented and how long has it been in continuous operation?**

The scheme was implemented and has been in continuous operation since July 1999. In February 2007 the service was reviewed, relaunched and branded as the 'Be Sharp Safe' collection program.

b. **What are the benefits of this program to the community?**

The program benefits the community by:

- reducing sharps material entering the domestic waste and recycling streams
- reducing the risk of needle stick injuries to both residents and waste contractors, resulting from unsafe disposal

- improving public amenities and safety
- increasing community awareness of safe disposal options available

c. What are the criteria for membership to the program and how often is this reviewed?

Pharmacies interested to be part of the program must be located within Liverpool's LGA. A Service Agreement needs to be agreed to and signed by the owner prior to commencement of the service. This agreement outlines the appropriate use of the service and includes agreement for the contractor to enter premises and supply, collect and dispose of containers without charge to the pharmacy.

The participating pharmacies are required to cooperate with Council's promotion of the service, and assist in providing educational materials and resources provided by Council to sharps users.

Council's Waste Project Officer reviews the pharmacy and public place collection service regularly and monitors sharps data reports received by the collection contractor on a monthly basis to determine the effectiveness of the various disposal points within the LGA.

d. How often are Sharps Safe Disposal Bins distributed and collected?

The service frequency varies amongst the two sharps collection services. The 17 pharmacies are serviced anywhere from once a week, fortnight or four weekly. The 8 public place bins are serviced once every four weeks to once every twelve weeks. A detailed breakdown of service frequency can be provided should it be required.

e. Is there a process of recording quantities of bins distributed and collected from each of the sources?

Council's Waste Project Officer receives sharps data reports by the collection contractor on a monthly basis. These reports provide quantities of sharps collected at the various sites. The data received is stored and collated into a database maintained and monitored regularly.

f. Is that data used by Government agencies (if applicable)?

Not applicable.

g. What are the annual operating costs of this program and does Council receive any financial assistance from State or Federal Governments towards it?

From July 2010 to June 2011, $11 347 was spent on this program. The program is funded under the Waste and Sustainability Improvement Payments which Council receives from the Office of Environment and Heritage.

In 2008 Council received $6072 in grant funding from NSW Health and LGSA Community Sharps Management Grants Program to translate the Be Sharp Safe brochure to three most common languages identified as having the highest rate of insulin dependant diabetics in Liverpool. This funding also assisted in the purchase of 1000 x 1.4L sharps disposal containers that Council supplied to the Diabetes Centre in Liverpool to hand out to insulin dependant diabetics.

2. **The section of Edmondson Avenue parallel to WV Scott Memorial Park is in urgent need of pavement reconstruction works. When is this section of road scheduled for reconstructive works?**

The need for pavement improvements and resurfacing along the section of Edmondson Avenue between Fifth Avenue and Bringelly Road has previously been identified by Council and has been included in Council's 10 year Capital Works Program. Based on overall road network priorities improvement works have been programmed for the 2015/2016 year.

Meanwhile, Council will continue to carry out recurrent maintenance and necessary repairs in Edmondson Avenue, to ensure the road remains in a serviceable condition, until pavement improvements and resurfacing have been completed.

QWNO 02

ITEM NO: QWNO 02
FILE NO: 2011/2938
SUBJECT: QUESTIONS WITH NOTICE - CLR STANLEY

RECOMMENDATION

1. **Are Council officers able to clarify what the ramifications will be rising out of Council's resolution not to purchase Green Power?**

2. **How long has Council purchased Green Power?**

3. **What is the difference in cost between the two forms of power?**

4. **Can the potential costs to Council be calculated as a result of this decision.**

QTON 01

ITEM NO: QTON 01
FILE NO: 2011/2939
SUBJECT: QUESTIONS TAKEN ON NOTICE AT THE COUNCIL MEETING ON 29 AUGUST 2011

RECOMMENDATION

That Council receives and notes the report.

COUNCIL DECISION

Motion: **Moved:Clr Hadchiti** **Seconded: Clr Lucas**

That the recommendation be adopted.

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

PRESENTATIONS BY COUNCILLORS

Clr Hadchiti passed on thanks from Brother Pat of the Holy Spirit Parish in Carnes Hill to all Councillors for passing the motion to have signs put up at Carnes Hill and also to Council officers for putting it into action.

COUNCIL IN CLOSED SESSION

Nil

CLOSE

THE MEETING CLOSED AT 9:28 PM

……..
Chairperson

Matters Requiring Further Reports to Council

Date of Meeting	Report Number	Council Resolution/Council Request	Director	Target Date	Status
19 July 2010	COMM 05	A further report comes back to Council recommending a potential site for the Community Nursery and Sustainability Education Centre.	Director City Planning	28 Sept 2011	Council is still waiting for information from the Western Sydney Parklands and also a Master Plan for the Casula Parklands to be finalised before the site can be selected. Once these are finalised, a presentation will be made to the Executive Team followed by a report to Council.
23 May 2011	CITS 04	That a further report comes back to Council regarding Council pick ups.	Director City Services	21 Nov 2011*	Included in this Agenda.
25 July 2011	PLAN 01	That a further report comes back to Council regarding the former Council Administration Building 1 Hoxton Park Road and adjoining land at 110 Memorial Avenue, Liverpool.	Director City Planning	17 Oct 2011*	Included in this Agenda.
29 Aug 2011	NOMO 05	That a further report comes to Council with the results of a possible smoking ban in Liverpool CBD/Mall.	Director City Services	21 Nov 2011*	Included in this Agenda.
28 Sept 2011	NOMO 01	That a further report comes back to Council regarding Council Customer Service Hotline Signage.	Director City Assets	21 Nov 2011*	Included in this Agenda.

**These items will be presented at this Council Meeting*

……
Chairperson

27 June 2011	PLAN 01	That a further report comes to Council regarding Class 1 appeal in the Land and Environment Court and determination of DA 533/2011	Director City Planning	19 Dec 2011	
20 Dec 2010	STRA 01	That a further report comes back to Council regarding Denham Court Rezoning – Draft Liverpool Local Environmental Plan	Director City Planning	19 Dec 2011	
20 Dec 2010	STRA 03	That a further report comes back to Council regarding 2A Moorebank Avenue and 7-15 Heathcote Road Moorebank	Director City Planning	19 Dec 2011	Letter being drafted to Department of Planning regarding issues with Public Authorities Consultation.
27 June 2011	CORS 08	That a further report comes back to Council regarding transfer of Lot 346 Binnaway Avenue, Hoxton Park.	Director Corporate Services	19 Dec 2011	Transfer has not been completed as yet. Once this occurs the land will be classified as operational land with possible disposal – expected report back to Council 19 Dec 2011.
29 Aug 2011	NOMO 03	That a further report comes back to Council regarding Kiss and Drop Zones in Liverpool CBD.	Director City Assets	19 Dec 2011	Held up by State Government. Public Exhibition to commence 14 September 2011 for 28 days.
29 Aug 2011	NOMO 07	That a further report comes back to Council with a traffic study of the area bounded by Hoxton Park Road, Flowerdale Road and Frangipane Avenue.	Director City Assets	19 Dec 2011	

**These items will be presented at this Council Meeting*

……
Chairperson

29 Aug 2011	PLAN 04	That a further report comes back to Council regarding a planning proposal for 5 Viscount Place, Orange Grove.	Director City Planning	19 Dec 2011	
17 Oct 2011	PLAN 03	That a further report comes back to Council with the results of Strategic Review of Warwick Farm Training Precinct.	Director City Planning	19 Dec 2011	
29 Aug 2011	NOMO 06	That a further report comes back to Council regarding traffic problems in Warwick Farm.	Director City Assets	Feb 2012	
28 Sept 2011	CITS 04	That a further report comes back to Council regarding a community bus shuttle service.	Director City Services	Feb 2012	
28 Sept 2011	CITS 01	That a further report comes back to Council regarding the construction of a new hockey field at Moorebank.	Director City Services	March 2012	
23 May 2011	CITS 05	That a further report comes back to Council regarding a stadium for Liverpool – potential funding options.	Director City Services	May 2012	

**These items will be presented at this Council Meeting*

……
Chairperson

LIVERPOOL CITY COUNCIL

NOTICE OF MOTION

ORDINARY MEETING **21/11/2011**

ITEM NO:	**NOMO 01**	**FILE NO:**	**2010/0177**
SUBJECT:	**ACCESS TO THE GEORGES RIVER**		
AUTHOR:	**CLR GARY LUCAS**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**THE COMMUNITY IS SUPPORTED BY A WELL MANAGED AND RESPONSIVE COUNCIL**		

BACKGROUND:

As Council is aware the State Government recognises Liverpool to be the third largest Regional City in NSW behind Sydney and North Sydney. Council has started to plan for this by moving back into the CBD with the purchase of the administration centre at 33 Moore Street. and the purchase of the former Coles site in Scott Street. One of the greatest assets that also requires attention is the Georges River. This is more so at the Liverpool weir south to M5. Due to the major access barrier to the river by the railway line, access is severely restricted. The adopted Liverpool Civic Improvement Plan Liverpool Contributions Plan 2007(Liverpool City Centre) December 2007 identifies the need for better access to the Georges River. A suggested access is via a bridge from College Street to over the river to then link up to Bridges Road Moorebank as shown on page 11 of the above adopted Improvement Plan. This proposal is reliant on S94a funding and is decades away from being available for funding of a new bridge over the railway and the river.

A means to achieve a speedier pedestrian access to the river over the railway is to seek co-operation from State Rail to extend the Liverpool railway station concourse over the existing and future ARTC railway line down to the level of the river at or near the Weir to link up with a State Rail commuter car park. As State rail is intending to extend the concourse to a new platform this is an opportune time for the Council to be involved in the planning for the redevelopment of the station.

NOTICE OF MOTION:

That Council:

1. Prepares a submission to the State Government to extend the concourse over the railway with stairs and elevators to the river level at or near the Weir. This submission to the State Government is to also include the viability of a pedestrian and or road tunnel from Bigge st to the river foreshore.

2. Prepares a scheme and estimate for the extension of Riverpark Drive to the suggested extension from the concourse with added commuter car parking. N.B this car parking can be used for commuter car parking as well as the general users of Light Horse Park on weekends.

3. Prepares a scheme and estimate for the redevelopment of Light Horse park from the Weir south to the residential area at Riverpark Drive to encourage greater use of the Georges river.

4. Refers the Council's decision to the CBD committee for comment and input.

5. Prepares funding options for 2 and 3 from Council's finances along with the funding options that are available from both State and Federal Governments.

6. Upon the completion of reports 1,2,3 and 5 such reports to be presented to the Council in February 2012.

7. In the interim seeks support from the Minister for Western Sydney, the Premier Mr Barry O'Farrell, the federal member for Hughes Mr Craig Kelly for the proposal.

FINANCIAL IMPLICATIONS:

The preparation of plans, estimates and presentations/documentation will involve significant staff or external resourcing. The cost of this will be highly dependant on the need for technical studies to determine viability and costing but is likely to exceed $30,000.

GENERAL MANAGER'S COMMENT:

Broad concepts for similar works were previously prepared as part of a long term strategy for the City Centre. This work will require significant review and updating to prepare cost estimates and establish technical feasibility. This work has not been included in the current design program and it is not considered possible to achieve the February 2012 report deadline. The use of external consultants would also involve significant staff time in preparing briefs and managing the project.

It is suggested that the previous concepts be tabled for discussion by the CBD Committee, in the first instance and that meetings be arranged with relevant state agencies to explore the broad concepts outlined in the Notice of Motion.

LIVERPOOL CITY COUNCIL

NOTICE OF MOTION

ORDINARY MEETING **21/11/2011**

ITEM NO:	**NOMO 02**	**FILE NO:**	**2010/0177**
SUBJECT:	**ENHANCED DOG LEG**		
AUTHOR:	**CLR GARY LUCAS**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**THE COMMUNITY IS SUPPORTED BY A WELL MANAGED AND RESPONSIVE COUNCIL**		

BACKGROUND:

Council in early 2002 entered into negotiations with the property owner opposite Bathurst Street and Macquarie Street to construct a through road to Terminus Street. Part of the Council's negotiations were to formally close Pirie Street and enter into an agreement with the owner of the property to be effected by the "Enhanced Dog leg" The purpose of this Notice of Motion is to have the Council prepare an update on the Council's previous decision and have the matter referred to the CBD committee for further consideration.

NOTICE OF MOTION:

That Council:

1. Prepares an update of the previous decisions of the Council in relation to E5.2158 ("Enhanced Dog Leg") and present the updated report to the first CBD committee in 2012.

2. Meet with the owner of the property effected to discuss the past decisions of the Council in relation to his property and to discuss the future of the Enhanced Dog Leg proposal.

FINANCIAL IMPLICATIONS:

GENERAL MANAGER'S COMMENT:

LIVERPOOL CITY COUNCIL

NOTICE OF MOTION

ORDINARY MEETING **21/11/2011**

ITEM NO:	**NOMO 03**	**FILE NO:**	**2010/0177**
SUBJECT:	**GREENPOWER SUBSIDY REALLOCATION SCHEME**		
AUTHOR:	**CLR PETER HARLE**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**THE COMMUNITY IS SUPPORTED BY A WELL MANAGED AND RESPONSIVE COUNCIL**		

BACKGROUND:

Liverpool City Council had been allocating 10% of the cost of Street lighting towards "GreenPower" since the scheme was implemented in 2006. Council stopped that subsidy at a previous Council meeting.

The previous scheme is not "perceived" by residents as directly benefitting Liverpool ratepayers. Several Councils have also ceased to contribute to the scheme and set up a renewable energy saving system.

This NOM is aimed at implementing a renewable energy scheme that directly benefits Liverpool ratepayers and offsets part of its energy use. A secondary benefit is that it indirectly reduces our environmental impact and often stated "carbon footprint".

It is proposed that Liverpool City Council carry out a suitable study with intent of setting up its own renewable energy system.

NOTICE OF MOTION:

That Council:

1. Investigates the benefits of allocating the annual 10% GreenPower subsidy previously paid to the electricity supply authority into a Council implemented renewable energy scheme.

2. Consider solar Photo Voltaic Cells (PV cells) and solar hot water systems to maximise the return on its renewable energy system investments. The investigation should consider:

a. Similar schemes implemented by Councils such as Sydney City Council.
b. Maximising the cost benefit ratio.
c. Security considerations, e.g. vandal proof locations
d. Council's eligibility for REC's certificates.
e. Council's eligibility for electricity rebates.
f. Council's benefit in attracting environmental funding.

FINANCIAL IMPLICATIONS:

To implement the recommendations of this Notice of Motion, there will be an impact on the current budget. This impact cannot be quantified at this stage, however can be investigated as part of the implementation of the recommendations.

GENERAL MANAGER'S COMMENT:

The purchase of 'Green Power' electricity has enabled Council to demonstrate to funding bodies that the organisation is committed to environmental improvement. Council receives Waste and Sustainability Improvement Payment (WaSIP) for which Council demonstrates its commitment to sustainable purchasing. Purchase of 'Green Power' electricity is one of those actions that meet these requirements. The purchase of 'Green Power' electricity demonstrates that Council is contributing to the increase in demand of renewable energy. If there is more demand, then the industry will move more towards the supply of renewable energy sources and hence this will become cheaper over time.

Council is already committed to improving energy, and water, efficiency of all its buildings and functions. Investigation of alternate energy sources and the retrofitting of the building will be undertaken as part of the Council's Energy Saving Action Plan. An energy audit of the top 10 Council facilities will be undertaken to provide recommendations for the retrofits of these buildings. Photo Voltaic Cells (PV cells) and solar hot water system will be included in the next review of the Energy Savings Action Plan.

By undertaking projects which uses PV cells and other solar energy sources, Council will be able to demonstrate progress towards meeting some of its strategies such as:

- Strategy 5.5 – Environmental leader in the community.
- Strategy 12.8 – Take account of quadruple bottom line in the design of Council's decision making process.

Council will also be able to seek WaSIP funds to implement such projects.

LIVERPOOL CITY COUNCIL

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	**IHAP 01**	**FILE NO:**	**DA-235/2011**
SUBJECT:	**11 LOT TORRENS TITLE SUBDIVISION IN FOUR STAGES**		
LOCATION:	**90 FLYNN AVENUE, MIDDLETON GRANGE NSW 2171**		
OWNER:	**MR G DEFILIPPIS**		
APPLICANT:	**GAT AND ASSOCIATES**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**COMMUNITY AND GOVERNMENT WORKING TOGETHER**		

INTRODUCTION:

Council has received and considered a Development Application proposing the subdivision of Part Lot 11 in DP 1168716 into 11 residential lots. This report provides a response to the Independent Hearing and Assessment Panel (IHAP) report.

The IHAP at its meeting of 27 October 2011 recommended approval of the application in accordance with the conditions in the planners' report and supported the departure from minimum dwelling density requirements as prescribed by Clause 7.11 Liverpool Local Environmental Plan 2008 (LLEP 2008).

A Voluntary Planning Agreement (VPA) offer has been made by the landowner of Part Lot 11 in DP 1168716 in conjunction with the development application. Council's endorsement is sought as part of this report to execute the agreement.

In consideration of the above, this report recommends that Council approves Development Application 235/2011 subject to conditions, supports the departure of 12.5% from Clause 7.11 – Dwelling Density and endorse the execution of the VPA.

DETAILED REPORT:

Proposal:
The IHAP at its meeting of 27 October 2011 considered a report in respect of the above mentioned Development Application for the subdivision of proposed Part Lot 11 in DP 1168716 into 11 residential lots in four stages.

The proposed plan of subdivision creates 11 regular shaped allotments which range in size between 414.7m² to 1371m². A breakdown of the size and width of the proposed lots are provided in Table 1 below:

PROPOSED LOTS	LOT SIZE (m²)	LOT WIDTH (m)
STAGE 1		
211	426.7	13.5
212	455.7	14.4
213	458.9	14.5
STAGE 2		
221	470.9	15
222	502.4	16
223	502.2	16
STAGE 3		
231	414.7	13.4
232	450.6	13.4
STAGE 4		
241	420.5	13.5
242	1371	10
243	458.8	14.5

Table 1: Proposed subdivision lot size, lot width and staging

The Development Application is accompanied by a written request to vary a development standard which has been made pursuant to Clause 4.6 of LLEP 2008. The applicant has sought a variation of Clause 7.11 – Minimum dwelling density of LLEP 2008 where the proposal represents a shortfall of three residential lots. This departure represents a 12.5% variation to Clause 7.11.

In conjunction with the Development Application, a VPA offer has been made by the landowner. The item of offer contained within the VPA is for a monetary contribution for local community, recreation, transport and drainage facilities. The justification for the variation is supported.

The Site:
The subject site is Part Lot 11 DP 1168716, No. 90 Flynn Avenue, Middleton Grange.

Figure 1: Subject Site

The lot has an area of 1.21 ha and is at the rear of a previously approved and commenced subdivision. The site comprises an existing dwelling which is sited at the southern portion of the site.

Background

Development Consent 1247/2008 was issued in December 2008 for a five staged subdivision of the parent lot (Lot 319) to create 21 allotments. Stages 1 and 2 comprising 10 lots and two residue lots have been constructed and are therefore considered physically commenced. One of the residue lots created is Part Lot 11 which is the site subject of this application.

Due to the changes to the Section 94 contribution plan, the developer has lodged a fresh Development Application for the remaining stages of the subdivision that had not already been physically commenced. The developer does not intend to proceed with the remaining stages of the original consent.

Issues

The main issue with the Development Application is the variation to minimum dwelling density requirements prescribed by Clause 7.11 of LLEP 2008.

Dwelling density requirements in Middleton Grange

Clause 7.11 and the associated Dwelling Density Map establishes the primary controls over the dwelling density for both the subject site and all of Middleton Grange. The dwelling density provisions provide for areas of higher density to occur in areas of higher amenity which includes land facing or in proximity to open space and environmental land and in proximity to existing and proposed services and facilities such as public transport and commercial centres.

The subject site is affected by the 15 dwellings per hectare and 23 dwellings per hectare, requirements as prescribed by the Dwelling Density Map in LLEP 2008 (as illustrated in Figure 2).

Based on the Dwelling Density Map, Lot 319 is to provide a total of 24 residential lots. A total of 21 lots are provided overall which represents a three lot shortfall and a 12.5% variation.

Figure 2: Dwelling density map extract from LLEP 2008

Exceptions to Development Standards:
The Development Application is accompanied by a written request to vary a development standard pursuant to Clause 4.6 of LLEP 2008. Clause 4.6 contains the following objectives:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development, and
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In considering the variation to Clause 7.11 – Minimum dwelling density the following matters were taken into consideration:

Is compliance with the development standard unreasonable or unnecessary:

- The proposal provides for a residential subdivision within a portion of land zoned R1 – General Residential pursuant to LLEP 2008. The proposed plan of subdivision is consistent with the minimum lot size and lot width requirements prescribed by LLEP 2008.
- The proposal provides lots which range in size between 402.5 and 1371m^2 which is considered to contribute to the efficient use of land for residential purposes;
- The proposal still provides for a sufficient number of residential lots which will ensure the viability of public transport and services provided in the Middleton Grange town centre;
- The proposal is accompanied by a VPA which will see the land owner contribute Section 94 Contributions in accordance with the dwelling density requirements rather than on the number of lots proposed as part of the subdivision application.

This ensures that there are adequate funds in accordance with the Section 94 Contributions Plan for the precinct.

Based on the above, it is considered that compliance with the minimum dwelling density requirements is considered both unnecessary and unreasonable in the circumstances of the development application and that there are sufficient environmental planning grounds to support the departure.

The IHAP agreed with the Council officer's assessment that the application and the variation to the minimum dwelling density requirements are worthy of support.

Planning Agreements
A planning agreement can be made under section 93F of the EP&A Act and is a voluntary agreement between Council and the developer, under which the developer is required to dedicate land free of cost, pay a monetary contribution or provide other material public benefit, or any combination of these, to be used towards a public purpose.

The Act specifies that a public purpose includes the provision of public amenities or public services, the provision of affordable housing, the provision of transport or other infrastructure relating to the land, the funding of recurrent expenditure relating to any of these, the monitoring of the planning impacts of a development and the conservation or enhancement of the natural environment.

Planning Agreement for Part Lot 11 DP 1168716
An offer has been made by the land owners of Part Lot 11 DP 1168716 in respect of a VPA as follows:

- A monetary contribution to Council of $389,652.00 prior to the issue of a Subdivision Certificate.

- The monetary contribution levied within the VPA is based on a subdivision plan compliance with the dwelling density requirements which require a total lot yield of 24 for the subject site.

Exhibition of VPA
The VPA was publicly exhibited for 28 days from 3 August 2011 to 31 August 2011 in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000. No submissions were received during the exhibition period.

Public purpose and public benefit
The public purpose of the VPA offer includes the payment of a monetary contribution for local facilities within Middleton Grange in accordance with the endorsed contributions plan. The nexus of the monetary payment has been calculated for the number of lots to be required pursuant to Clause 7.11 of LLEP 2008, being a total of 24 lots.

Payment of the monetary contribution as contained within the VPA will contribute to local community, recreational, transport and drainage facilities within Middleton Grange, as contained within the Liverpool Contributions Plan 2009 (Middleton Grange).

Middleton Grange is envisioned to have a high quality public domain of parks and playing fields, streets, footpaths and open space. Water quality, run-off and drainage will be incorporated into the existing watercourses and are to have a high aesthetic appeal. The monetary payment will assist in ensuring adequate contributions are levied to achieve this planning vision for Middleton Grange.

The proposed development application for subdivision which is being considered in conjunction with the VPA, will also assist in activating land release within this portion of Middleton Grange.

Conclusion
The application has been assessed against the relevant considerations within Section 79C of the Environmental Planning and Assessment Act 1979. The subject development application is considered to have merit and would not result in any adverse impacts in the locality.

The proposed subdivision of the site is considered suitable for the site and is permissible under clause 2.6 of Liverpool LEP 2008. The formal Clause 4.6 variation sought to vary Clause 7.11 – Minimum dwelling density requirements under the provisions of LLEP 2008 is supported.

It is considered that the VPA has both planning and public benefit. The VPA was publicly exhibited in accordance with the Environmental Planning and Assessment Regulations were no submissions were received.

The IHAP supports the Council's officers' report and recommends approval of the application in accordance with the recommended conditions. The IHAP supports the variation to Clause 7.11 – Minimum dwelling density.

FINANCIAL IMPLICATIONS:

There are no financial implications as a result of this report. The report recommends entering into a VPA which will secure the collection of adequate contributions to meet the future needs of the community and in accordance with the Section 94 Contributions Plan.

RECOMMENDATION:

That Council:

1. Approves DA235/2011 which seeks consent for the subdivision of Part Lot 11 DP 1168716 being 90 Flynn Avenue Middleton Grange into 11 residential lots, subject to conditions of consent.

2. Supports the variation to Clause 7.11 – Minimum dwelling density made pursuant to Clause 4.6 of Liverpool Local Environmental Plan 2008; and

3. Accepts the offered Voluntary Planning Agreement and delegate to the General Manager to execute the agreement.

SIGNED BY:

Milan Marecic
Director
City Planning

Attachments:

1. Company Details
2. Draft Voluntary Planning Agreement
3. IHAP Recommendation (under separate cover)
4. IHAP Report (under separate cover)

Attachment 1: Company Details

Corporate Details:	GAT and Associates Pty Ltd
Registered Address:	Suite 15 Level 1 469 Parramatta Road Leichhardt NSW 2040
Directors:	Francesca Turrisi Haberfield NSW 2045 Gerard Anthony Turrisi Haberfield NSW 2045
Secretary:	Francesca Turrisi Haberfield NSW 2045

Attachment 2: Draft Voluntary Planning Agreement

Planning Agreement

90 Flynn Avenue, Middleton Grange

Giovanni DeFilippis & Amelia DeFilippis (**Developer**)

Liverpool City Council (ABN 84 181 182 471) (**Council**)

Prepared by:

Marsdens Law Group

Level 1
49 Dumaresq Street
CAMPBELLTOWN NSW 2560

Tel: 02 4626 5077
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DX: 5107 Campbelltown

Ref: 65 35 5077:JRT

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Planning Agreement

90 Flynn Avenue, Middleton Grange

Parties

Developer	**Name**	Giovanni DeFilippis & Amelia DeFilippis
	Address	90 Flynn Avenue Middleton Grange NSW 2171
Council	**Name**	Liverpool City Council
	Address	Level 2, 33 Moore Street LIVERPOOL NSW 2170
	ABN	84 181 182 471

Background

A The Developer is the registered proprietor of the Land.

B The Developer has lodged the Development Application.

C The Developer has offered to provide the Monetary Contribution if the Development Consent is granted.

Operative Provisions

1 Agreement

The agreement of the parties is set out in the Operative Provisions of this document, in consideration of, among other things, the mutual promises contained in this document.

2 Definitions and interpretation

2.1 Defined terms

In this document, words beginning with a capital letter that are defined in Part 1 of **Schedule 1** have the meaning ascribed to them in that schedule.

2.2 Interpretation

The interpretational rules contained in Part 2 of **Schedule 1** apply in the interpretation of this document.

3 Application and operation of this document

3.1 Planning agreement

This document is a planning agreement:

(1) within the meaning set out in section 93F of the Act; and

(2) governed by Subdivision 2 of Division 6 of Part 4 of the Act.

3.2 Application

This document applies to both the Land and the Development.

3.3 Operation

This document operates from the date it is executed by both parties.

4 Application of sections 94 and 94A

4.1 Application

This document excludes the application of section 94 and section 94A of the Act to the Development.

4.2 Consideration of benefits

Section 94(6) of the Act does not apply to the Monetary Contribution that is required to be provided pursuant to this document.

5 Registration of this document

5.1 Registration

This document must be registered on the title of the Land pursuant to section 93H of the Act.

5.2 Obligations of the Developer

The Developer must:

(1) do all things necessary to allow the registration of this document to occur under clause 5.1; and

(2) pay any reasonable costs incurred by Council in undertaking that registration.

6 Provision of Monetary Contribution

6.1 Obligation to make Monetary Contribution

Subject to clause 6.3, the Developer must pay the Monetary Contribution to Council prior to the issue of a Subdivision Certificate.

6.2 Developer's undertaking

The Developer undertakes to Council not to make an application for the issue of any Subdivision Certificate until it has made the payment required to be made to Council under clause 6.1.

6.3 Indexation of Amounts payable by Developer

The Monetary Contribution will be increased in accordance with the following formula:

$$A = B \times \frac{C}{D}$$

where:

A = the indexed amount;

B = the Monetary Contribution as set out in this document;

C = the Index most recently published before the Monetary Contribution is required to be paid;

D = the Index most recently published before this document was entered into; and

Index is the Consumer Price Index (All Groups – Sydney) as published by the Australian Bureau of Statistics from time to time.

If **A** is less than **B**, then the amount of the Monetary Contribution will not change.

7 Developer warranties

The Developer warrants to Council that:

(1) it is able to fully comply with its obligations under this document;

(2) it has full capacity to enter into this document; and

(3) there is no legal impediment to it entering into this document, or performing the obligations imposed on it under this document.

8 Determination of this document

8.1 Determination

This document will determine upon the Developer satisfying all of its obligations under this document.

8.2 Effect of determination

Upon the determination of this document Council will do all things necessary to allow the Developer to remove this document from the title of the whole or any part of the Land as soon as reasonably practicably.

9 Assignment and security

9.1 Prohibition

Neither party may Assign their rights under this document without the prior written consent of the other party.

9.2 Assignment of the Land

The Developer must not Assign its interest in the Land unless:

(1) Council consents to the Assignment, acting reasonably;

(2) the proposed assignee enters into an document to the satisfaction of Council under which the assignee agrees to be bound by the terms of this document; and

(3) the Developer is not in breach of any terms of this document.

9.3 Delivery to Council of Bank Guarantee

On the date that this document is entered into, the Developer must deliver to Council an unconditional bank guarantee (**Bank Guarantee**):

(1) in a form acceptable to Council;

(2) for an amount equal to the Monetary Contribution; and

(3) without an expiry date.

9.4 Council may call on Bank Guarantee

If the Developer fails to pay the Monetary Contribution to Council by the time set out in this document, Council may, without limiting any other avenues available to it, call on the Bank Guarantee without notice to the Developer to the extent of the Developer's failure to pay the Monetary Contribution.

9.5 Return of Bank Guarantee

Council must return the Bank Guarantee (if any) to the Developer within fifteen (15) business days of the date the Developer pays the Monetary Contribution to Council.

10 Review and amendment

10.1 Negotiation of review

If either party requests a review of the whole or any part of this document then the parties must use their best endeavours, acting in good faith, to review this document in accordance with that request.

10.2 Amendment to be in writing

If the parties agree to amend this document as a result of a review conducted under clause 10.1 then any such amendment must be made:

(1) in writing signed by both parties;

(2) in accordance with the Act, or any Regulations in force under the Act.

11 Dispute resolution

11.1 Notice of Dispute

If a party believes that there is a dispute in respect of this document (**Dispute**) then:

(1) that party must give notice (**Dispute Notice**) in writing to the other party stating that there is a Dispute; and

(2) the Dispute Notice must outline:

(a) what the party believes the dispute to be;

(b) what the party wants to achieve;

(c) what the party believes will settle the Dispute; and

(d) who will be the party's representatives to negotiate the dispute.

11.2 Consultation between the Representatives

Within fifteen (15) Business Days of a notice served in accordance with clause 11.1(1) the representatives (**Representatives**) of each of the parties must meet in order to resolve the Dispute.

11.3 Exclusivity of dispute resolution procedure

(1) Both parties must adhere to the dispute resolution procedure set out in this document.

(2) The only time that either party may depart from the dispute resolution procedure set out in this clause is when urgent interlocutory relief is required to restrain a breach or threatened breach of this document.

11.4 Settlement of Dispute

If the parties cannot resolve the Dispute after adhering to the dispute resolution procedure set out in this document then either party may seek any other avenues available to it in order to resolve the Dispute.

12 Position of Council

12.1 Consent authority

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

12.2 Document does not fetter discretion

This document is not intended to operate to fetter, in any unlawful manner:

(1) the power of Council to make any Law; or

(2) the exercise by Council of any statutory power or discretion,

(**Discretion**).

12.3 Severance of provisions

(1) No provision of this document is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this document is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:

(a) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 12 is substantially satisfied;

(b) in the event that paragraph (1)(a) cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this document has full force and effect; and

(c) to endeavour to satisfy the common objectives of the parties on relation to the provision of this document which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.

(2) Where the Law permits Council to contract out of a provision of that Law or gives Council power to exercise a Discretion, then if Council has in this document contracted out of a provision or exercised a Discretion under this document, then to the extent of this document is not to be taken to be inconsistent with the Law.

12.4 No obligations

Nothing in this document will be deemed to impose any obligation on Council to exercise any of its functions under the Act in relation to the Development Consent, the Land or the Development in a certain manner.

13 Confidentiality

13.1 Document not Confidential

The terms of this document are not confidential and this document may be treated as a public document and exhibited or reported without restriction by any party.

13.2 Other Confidential Information

(1) The parties acknowledge that:

(a) Confidential Information may have been supplied to some or all of the parties in the negotiations leading up to the making of this document; and

(b) The parties may disclose to each other further Confidential Information in connection with the subject matter of this document.

(c) Subject to paragraphs (2) and (3), each party agrees:

(i) not to disclose any Confidential Information received before or after the making of this document to any person without the prior written consent of the party who supplied the Confidential Information; or

(ii) to take all reasonable steps to ensure all Confidential Information received before or after the making of this document is kept confidential and protected against unauthorised use and access.

(2) A party may disclose Confidential Information in the following circumstances:

(a) in order to comply with the Law, or the requirements of any Authority; or

(b) to any of their employees, consultants, advisers, financiers or contractors to whom it is considered necessary to disclose the information, if the employees, consultants, advisers, financiers or contractors undertake to keep the information confidential.

(3) The obligations of confidentiality under this clause do not extend to information which is public knowledge other than as a result of a breach of this clause.

14 GST

14.1 Defined GST terms

Defined terms used in this clause 14 have the meaning ascribed to them in the GST Law.

14.2 GST to be added to amounts payable

(1) If GST is payable on a Taxable Supply made under, by reference to or in connection with this document, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.

(2) This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.

(3) Unless otherwise expressly stated, prices or other sums payable or Consideration to be provided under or in accordance with this document are exclusive of GST.

14.3 GST obligations to survive termination

This clause 14 will continue to apply after the expiration or earlier termination of this document.

15 Default in performance

15.1 Events of Default

The Developer commits an **Event of Default** if:

(1) it breaches a term of this document; or

(2) fails to comply with the terms and conditions of the Development Consent.

15.2 Consequences of Events of Default

Where the Developer commits an Event of Default, Council may serve a notice on the Developer requiring the relevant breach to be rectified within ten (10) business days of the date of that notice.

15.3 No restriction on rights

The rights vested in Council pursuant to clause 15.2 do not prevent Council from exercising any other rights that it may possess at law.

15.4 Termination

This document terminates in the event Council serves notice on the Developer terminating this document where the Developer has failed to comply with a notice issued in accordance with 15.2.

15.5 Consequence of termination

Upon termination of this document:

(1) all future rights and obligations of the parties are discharged; and

(2) all pre-existing rights and obligations of the parties continue to subsist.

16 Miscellaneous

16.1 Obligation to act in good faith

The parties must at all times:

(1) cooperate and use their best endeavours to profitably and professionally give effect to their rights and obligations set out in this document;

(2) not unreasonably delay any action, approval, direction, determination or decision which is required of them;

other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

17.4 Cooperation

Each party must sign, execute and deliver all agreements, documents, instruments and act reasonably and effectively to carry out and give full effect to this document and the rights and obligations of the parties under it.

17.5 Counterparts

This document may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

17.6 Amendment

This document may only be amended or supplemented in writing signed by the parties.

17.7 Unenforceability

Any provision of this document which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without affecting the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

17.8 Power of Attorney

Each attorney who executes this document on behalf of a party declares that the attorney has no notice of:

(1) the revocation or suspension of the power of attorney by the grantor; or

(2) the death of the grantor.

17.9 Governing law

The law in force in the State of New South Wales governs this document. The parties:

(1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this document; and

(2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.

Schedule 1:
Defined terms and interpretation

Part 1 – Definitions

Act	means the *Environmental Planning and Assessment Act 1979* (NSW).
Assign or Assignment	as the context requires refers to any assignment, sale, transfer, disposition, declaration of trust over or other assignment of a legal and/or beneficial interest.
Authority	means (as appropriate) any: (1) federal, state or local government; (2) department of any federal, state or local government; (3) any court or administrative tribunal; or (4) statutory corporation or regulatory body.
Confidential Information	means any information and all other knowledge at any time disclosed (whether in writing and orally) by the parties to each other, or acquired by the parties in relation to the other's activities or services which is not already in the public domain and which: (1) is by its nature confidential; (2) is designated, or marked, or stipulated by either party as confidential (whether in writing or otherwise); (3) any party knows or ought to know is confidential; or (4) is information which may be reasonably considered to be of a confidential nature.
Development	means the Development proposed to be undertaken by the Developer on the Land as described in the Development Application.
Development Application	means Development Application No 235/2011 lodged with Council by the Developer, as modified from time to time.
Development Consent	means a development consent issued under the Act for the Development.
GST Law	means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.
Land	means the land contained in certificate of title folio identifier Part lot 11 DP 1168716 and known as 90 Flynn Avenue, Middleton Grange.
Law	means all legislation, regulations, by-laws, common law and other binding order made by any Authority.

Monetary Contribution	means $389,652
Planning Legislation	means the Act, the *Local Government Act 1993* (NSW) and the *Roads Act 1993* (NSW).
Subdivision Certificate	means any subdivision certificate for the Development issued under section 109C(1)(d) of the Act.

Part 2 - Interpretational Rules

clauses, annexures and schedules	a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document.
reference to statutes	a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
singular includes plural	the singular includes the plural and vice versa.
person	the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any government agency.
executors, administrators, successors	a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.
dollars	Australian dollars, dollars, $ or A$ is a reference to the lawful currency of Australia.
calculation of time	if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
reference to a day	a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
accounting terms	an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia.
reference to a group of persons	a group of persons or things is a reference to any two or more of them jointly and to each of them individually.
meaning not limited	the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
next day	if an act under this document to be done by a party on or by a given day is done after 4.30pm on that day, it is taken to be done on the next day.
next Business Day	if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

time of day	time is a reference to Sydney time.
headings	headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.
agreement	a reference to any agreement, deed or instrument includes the same as varied, supplemented, novated or replaced from time to time.

Schedule 2:
Requirements under section 93F of the Act

Requirement under the Act	This Planning Agreement
Planning instrument and/or development application – (Section 93F(1) of the Act) The Developer has: (a) sought a change to an environmental planning instrument. (b) made, or proposes to make, a Development Application. (c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	 (a) No (b) Yes (c) No
Description of land to which this document applies – (Section 93F(3)(a) of the Act)	the land contained in certificate of title folio identifier 319/2475 and known as 90 Flynn Avenue, Middleton Grange.
Description of change to the environmental planning instrument to which this document applies – (Section 93F(3)(b) of the Act)	Not applicable.
Application of section 94 of the Act – (Section 93F(3)(d) of the Act)	Refer to clause 4 of the Planning Agreement.
Applicability of section 94A of the Act – (Section 93F(3)(d) of the Act)	Refer to clause 4 of the Planning Agreement.
Consideration of benefits under this document if section 94 applies – (Section 93F(3)(e) of the Act)	Refer to clause 4 of the Planning Agreement.
Mechanism for Dispute resolution – (Section 93F(3)(f) of the Act)	Refer to clause 11 of the Planning Agreement.
Enforcement of this document (Section 93F(3)(g))	Refer to clause 5 and 9 of the Planning Agreement.
No obligation to grant consent or exercise functions – (Section 93F(3)(9))	Refer to clause 12 of the Planning Agreement.

Execution page

Executed as a deed

Dated:

Signed, sealed and delivered by **the Developer** in the presence of:

Witness (Signature)	Developer (Signature)
Debbie M Sibbald	L DE FILIPPIS
Name of Witness (Print Name)	Name of Developer (Print Name)

Signed, sealed and delivered by **Liverpool City Council** by its duly constituted Attorney Farooq Portelli pursuant to the registered Power of Attorney Book 4418 No 998 in the presence of:

Witness (Signature)	Attorney (Signature)
Name of Witness (Print Name)	Name of Attorney (Print Name)

LIVERPOOL CITY COUNCIL

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	**IHAP 02**	**FILE NO:**	**DA-10/2012**
SUBJECT:	**ALTERATIONS AND ADDITIONS TO RETAIL TENANCIES INCLUDING THE ADDITION OF A STORE ROOM AND RECONFIGURATION OF STAFF PARKING AREAS**		
LOCATION:	**LOT 21 DP 616119, NO. 180 GREEN VALLEY ROAD, GREEN VALLEY**		
OWNER:	**MS TD TRAN AND MR VT NGUYEN**		
APPLICANT:	**MS TD TRAN**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**THE COMMUNITY IS SUPPORTED BY A WELL MANAGED AND RESPONSIVE COUNCIL**		

INTRODUCTION:

An application has been received seeking approval for the construction of a store room and a two car garage to adjoin a retail building. The application also proposes the reduction of the dimensions of previously approved car parking spaces along the front of the shops.

Council received three written objections during the public exhibition period which warranted referral of the application to Council's Independent Hearing and Assessment Panel (IHAP). The IHAP met on 1 November 2011 in relation to this matter and recommended refusal of the application.

This report recommends that Council refuse the application for alterations and additions of retail tenancies including the addition of a store room and reconfiguration of parking areas for the reasons outlined in this report.

DETAILED REPORT:

Council is in receipt of an application construct a store room and a two car garage adjoining a retail building which is currently under construction. The building is currently

approved to be operated as a supermarket and a café. Under the current approval for the site three open staff car parking spaces occupy the area proposed to be used for the store room and two car garage. The displaced car parking space is proposed to be relocated to within the car parking area along the front of the shops. This is proposed to be achieved by reducing the dimensions of the car parking spaces, amending the loading zone location and removing a foot path link.

The Site

The subject site is identified as Lot 21 in DP 616119, being No.180 Green Valley Road, Green Valley. The site is somewhat irregular in shape having a frontage to Green Valley Road of 44.82metres (arc radius) and an area of 670.6m².

The site is currently being developed with a single storey two unit retail development. The site is immediately west of the Green Valley Local Shop group and is opposite Green Valley Public School. Access to the site is provided off the "bulge" in the Green Valley Road reservation via the public car parking area.

Figure 1: Aerial photograph

Development Controls

The proposed development is consistent with the objectives and provisions of the Liverpool Local Environmental Plan 2008 (LLEP 2008). The proposal is however inconsistent with certain controls within Liverpool Development Control Plan 2008 (LDCP 2008).

Safe treatment of points of conflict with pedestrians and other road users and the Site planning for safe pedestrian links
The approved development on the site provides a footpath connection with the adjoining group of shops to the east. The current proposal deletes this pathway in order to facilitate the accommodation of the relocated staff car parking space. This footpath link is considered necessary to provide safe pedestrian flows between the two adjoining shop developments.

The DCP requires car parking for retail premises to be provided at a rate of 1 space per 20m² Leasable Floor Area
The storeroom provides additional Leasable Floor Area (LFA) and needs to be considered in the calculation of on site parking demand. The area of the storeroom is approximately 21m² and requires the provision of one additional car parking space. This has not been provided. Whilst it may be argued that the store room per se does not generate parking demand, it frees up space within the supermarket that does create a parking demand. Given the difficult parking experienced at the Green Valley local group of shops at certain times any further relaxation of car parking requirements is not supported.

The approved development currently under construction provides for 12 car spaces for 240m² LFA as required by Council's DCP. The storeroom replaces storage that would otherwise have been within the supermarket. The proposed development does not provide an additional car parking space for the additional 21m² of floor space created by the store room.

The DCP provides that the following uses do not generate the need for parking:

- *Columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external wall; and*
- *Lift towers, cooling towers, machinery and plant rooms, ancillary storage space and air conditioning ducts; and*
- *Car parking needed to meet any requirements of the Council and any internal designated vehicular or pedestrian access thereto; and*
- *Space for loading and unloading of goods; and*
- *Internal public arcades and thoroughfares, terraces and balconies with outer walls less than 1400 millimetres high and the like.*

The proposed stock storage area does not fit within any of these exclusions and the storage area is not ancillary store space for building maintenance type purposes. The storage area is intended to store stocks for sale within the proposed supermarket and as such the additional 21m² of floor area must be counted within the leasable floor area calculation.

The car parking spaces along the front of the development are proposed to be reduced in width from 2.5 metres to 2.4 metres to facilitate the relocation of the car parking space displaced by the storeroom. This reduction is not supported. A width of 2.4 metres as per Council's DCP and the Australian Standards is only suitable for all day car parking. A wider car space is required for the short term and medium stay car parking associated with the higher turnover of trips to local shops.

Loading Facilities are to be Provided
The shared zone adjacent to the disabled car space in the current approved development is replaced with a staff car parking space that also reduces the width of the loading zone to 2.6 metres at its entry. The Australian Standards require that all accessible car parking spaces are to meet the following requirements:

- 2400mm wide x 5400mm long
- Have a shared area on one side of 2400mm x 5400mm long (left or right side)
- Have a 2400mm x 2400mm wide space across the front or rear of the space (at the same level as the space).

This proposal does not comply with this standard. In addition there is inadequate clearance for truck manoeuvring, particularly for heavy rigid garbage trucks and other heavy vehicles associated with super market deliveries and waste collection. The proposed garage door and associated wall returns to support the door, will restrict access to the proposed car spaces, the waste room and the toilet facilities. The garage door also may also present issues for mobility, fire egress and vehicle manoeuvring.

Site Planning – safe pedestrian links
As discussed above, the development does not generally satisfy the requirements of Parts 1.2 and 6 of LDCP 2008.

Public Exhibition
In accordance with LDCP 2008, the application was advertised for fourteen (14) days between 3 August and 18 August 2011. During the advertising period, three written submissions were received objecting to the proposal. The submissions focussed on the inadequate provision of parking.

It is acknowledged that the existing adjoining shopping centre car park is at times at capacity, particularly the more visible front car park. It is difficult and inefficient to wholly separate and allocate individual car parking spaces to individual shops in a shopping area and as such there will always be sharing and dual usage of car spaces between shops.

Based on floor space calculations the proposed development is deficient in the number of parking spaces provided by one space. The development also provides its proposed 12 spaces in a sub optimal design. The car parking spaces along the front of the development are proposed to be reduced in width from 2.5 metres to 2.4 metres to facilitate the relocation of the car parking space displaced by the storeroom.

The loading zone and disabled car parking space are also compromised by the proposed adjustment of the approved car parking layout.

IHAP Recommendation
The matter received three submissions which warranted referral to Council's IHAP. The IHAP met on 1 November 2011 and discussed the merits of the application.

The IHAP members agreed with Council officers that the addition of this room will generate the need for one additional car space and noted that the functioning of the parking layout is compromised by three main factors:

- The modified car park layout results in all spaces being reduced in width by 10cm.
- The relocation of the loading dock and parking areas has reduced space around the loading area which raises safety and manoeuvring concerns.
- The addition of a garage structure reduces manoeuvrability of the vehicles reversing out of the staff spaces.
- The layout is deficient by one space, the need for which is generated by the stock store room.

To make the car parking area safe and effective and to adequately address the matters of loading, pedestrian safety and disabled parking, this would require a deficiency to two car spaces. This loss cannot be justified given the high demand for parking in the shopping centre. As such the Panel recommended that the application be refused. A copy of the Panel's recommendation is included in the attachments to this report.

Conclusion
The proposed development provides a rate of on site parking provision less than that required under LDCP 2008. The layout of the modified parking area does not provide adequate manoeuvring and pedestrian spaces. The proposal is not supported.

FINANCIAL IMPLICATIONS:

There are no financial implications arising as a result of this report.

RECOMMENDATION:

That Council:

1. Refuses the application for the following reasons:

   (a) Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy all the requirements of Clause 2 Car Parking and Access of Part 1.2 Additional General Controls for Development and Clause 6.3 of Part 6 Development in Business Area - Liverpool Development Control Plan 2008. In this regard, the proposal:

   i. Does not have provide car parking at the required rate of 1 space per 20m2 of leasable floor area as per Table 2,

   ii. Does not provide a minimum parking bay width of 2.5 metres as required by Clause 2.3 Car Parking Design,

   iii. Safe pedestrian foot path linkage is not provided with adjoining shop development to the east as required by Clause 2.1 of Part 1.2 and Clause 6.3 of Part 6 of the Liverpool Development Control Plan 2008.

2. Notifies the persons who made a submission with regard to the proposal.

SIGNED BY:

Milan Marecic
Director
City Planning

Attachments:

1. IHAP Recommendation (under separate cover)
2. IHAP Report (under separate cover)

LIVERPOOL CITY COUNCIL

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	**IHAP 03**	**FILE NO:**	**DA-309/2011**
SUBJECT:	**EARTHWORKS AND ASSOCIATED FILLING OF LAND ON NEWBRIDGE ROAD MOOREBANK IN TWO STAGES**		
LOCATION:	**CORNER LOT 2 IN DP 602988 124 NEWBRIDGE ROAD, MOOREBANK**		
OWNER:	**SYESUN PTY LTD**		
APPLICANT:	**SYESUN PTY LTD**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**DECISION MAKING PROCESSES ARE TRANSPARENT AND THE COMMUNITY HAS OPPORTUNITIES TO BE INVOLVED**		

INTRODUCTION:

Council has received an application seeking consent to undertake earthworks and landfill at 124 Newbridge Road, Moorebank in two stages. Stage 1 proposes the filling of land immediately to the east and south of the existing Flowerpower nursery site. Stage 2 works involves the filling of the remaining site being the area of the retail plant nursery.

Council received three written objections which warranted referral to Council's Independent Hearing and Assessment Panel (IHAP). The IHAP met on 27 October 2011 with relation to this matter, and recommended refusal of the application.

This report recommends that the application for earthworks and associated filling in two stages at 124 Newbridge Road, Moorebank be refused to the reasons outlined within the report.

DETAILED REPORT:

The Site

The subject site is identified as Corner Lot 2 in DP 602988, being No.124 Newbridge Road, Moorebank. The site has an area of approximately 6.93 hectares and currently contains an existing retail nursery, known as “Flowerpower”. The site is bounded to the north by Newbridge Road, to the east by Davy Robinson Drive and the Georges River to the south-east. To the immediate west of the site is “Benedict Sand and Gravel Extraction”.

The retail nursery “Flowerpower” which currently occupies the north-western portion of the site has an area of approximately 20,000m². The retail nursery consists of a number of buildings with the majority of the area utilized for the retail nursery being paved and hard surfaced. Access to the site is currently provided from both Newbridge Road and Davy Robinson Drive.

The site is bounded by the Georges River to the south-east of the site. The topography of the site slopes towards the Georges River and mangroves grow along the river front.

Figure 1: Aerial map of site

The Proposal

Development Application 309/2011 seeks consent to introduce 135,200m³ of fill onto the site in two stages. Details of the proposed staging are outlined below:

Stage 1 Works

Stage 1 works proposes the importation of 76,900m³ of fill to the area immediately to the east and south of the Flowerpower nursery operations on the site. The fill work is proposed to extend along the entire eastern portion of the site bounded by Newbridge Road in the north, Davy Robinson Drive in the east and the Georges River and the property boundary in the south. The western extent of the filling is bounded by the neighbouring Benedict Sands site in the south and the Flowerpower Nursery in the north.

The fill along the permitter of the site will be battered. There is no proposal to provide for retaining walls as part of the application.

Stage 2 Works
Stage 2 proposes the introduction of an additional 58,300m³ of fill onto the remaining western portion of the site being the area of the existing retail plant nursery. It is understood that the land fill works associated with Stage 2 would facilitate the future relocation of the plant nursery further east on the site however this does not form part of this application.

No details have been provided in relation to the relocation of the plant nursery and what works would be required to be incorporated into an application to facilitate the relocation of the plant nursery.

The Statement of Environmental Effects accompanying the application outlines that as a consequence of the proposed earthworks and landfill that the site would be above the 1:100 year flood level and that the landfill will allow for the development of the site once the plant nursery is moved. No details of the potential redevelopment of the site have been submitted for consideration, nor do they form part of the current applicaiton.

Development Controls
The application is inconsistent with a number of planning controls and other provisions which must be considered under Section 79C. These matters are summarised below and are provided in more detail in the IHAP Report (attached under separate cover).

State Regional Environmental Plan – Georges River Catchment

Bank Disturbance
As a consequence of the proposed filling, there is potential to increase the proportion of flow within the river and increase flood velocities. This would exacerbate existing bank erosion problems. Council's Drainage and Floodplain engineer has identified that even small changes in velocity can have significant impacts on the geomorphology and erosion.

Flooding
The proposed site filling would change the dynamics of flooding in the locality. It would therefore alter the flood frequency for the subject site and other properties. The proposal is therefore inconsistent with the objective to retain the benefits of periodic flooding to wetland and other riverine ecosystems.

The fill will also result in increased sediments being deposited into the river. The proposal is therefore inconsistent with the objective to control pollution hazards.

Concerns are raised that the cumulative impact of the existing unauthorised fill works which have been undertaken on the site in addition to the earthworks and landfill proposed as part of this application will result in adverse cumulative impacts on flood levels within the floodplain.

Given the above, it is considered that the proposal is contrary to the specific "flood" planning controls which apply under the Plan.

Urban development areas
New or expanding urban development areas are developed in accordance with the requirements of the NSW Floodplain Development Policy and Manual. The engineer's

assessment has found that the proposal is contrary to the objectives and policy directions established within the Manual.

The proposal is therefore contrary to State Regional Environmental Plan - Georges River controls which relate to bank disturbance, flooding and urban development.

State Environmental Planning Policy No. 55 – Remediation of Land
The assessment being relied upon to support this application is dated January 2005. An updated contamination assessment would be required to appropriately address contamination. However given that the flooding impacts of the proposed development are unacceptable a revised contamination assessment has not been requested from the applicant.

The proposal in its current form has failed to demonstrate that the objectives and requirements of SEPP 55 have been satisfied.

Inconstancies with the Liverpool Local Environmental Plan 2008 (LLEP 2008)
The proposed works are considered to satisfy the land use definition of “earthworks”. LLEP 2008 defines “earthworks” as excavation or filling. “Earthworks” is a permissible land use within B6 - Enterprise Corridor and RE2 - Private Recreation zoned land with consent. As with all development, proposing a permissible land use does not infer that the development type is appropriate, and the application needs to be assessed against the relevant controls.

Environmentally Significant Land
The subject site is identified to contain environmentally significant land. The development application is accompanied by a Flora and Fauna Assessment which has been reviewed by Council’s Natural Resource Officer. Concerns were raised with regard to the age of the Flora and Fauna Assessment accompanying the application.

In this regard, the development application has not adequately demonstrated that the proposal ensures the suitable preservation and maintenance of environmentally significant land and is considered to be contrary to the zone objectives relevant to RE1 zoned land.

While a revised Flora and Fauna Assessment could be submitted which may be able to demonstrate the relevant provisions being complied with, given the significant concerns raised by Council’s Drainage and Floodplain engineer’s it was not considered appropriate to request this information to resolve this issue.

Flood Planning
As identified earlier, the subject site is identified as flood prone land in LLEP 2008 and on this basis Clause 7.8 Flooding Planning of LLEP 2008 applies to both the site and the development. An extract of the Flood Prone Land Map is provided below.

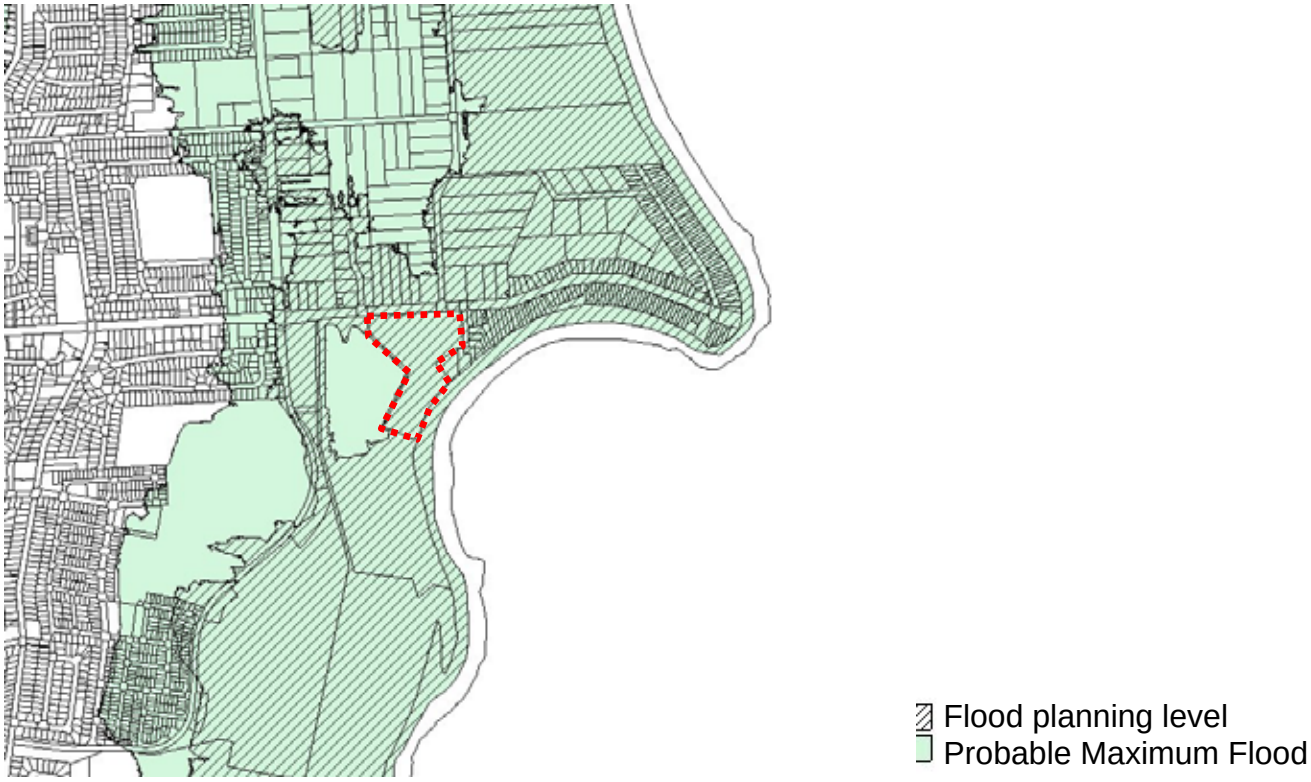

Figure 2: LLEP 2008 – Flood Prone Land Map extract

In accordance with the NSW Floodplain Development Manual provisions, Council in conjunction with other Councils has prepared and adopted a floodplain risk management plan.

The portion of the site subject to proposed filling in Stage 1 is predominantly in the high flood risk area. The remaining north western portion subject to filling in Stage 2 is predominantly in the medium risk category. The proposed development for earthworks and importation of over 100,000m³ of land fill over the site in two stages in contrary to the recommendations of the Georges River Risk Management Study and Plan. An extract of the Flood Risk Map is provided below.

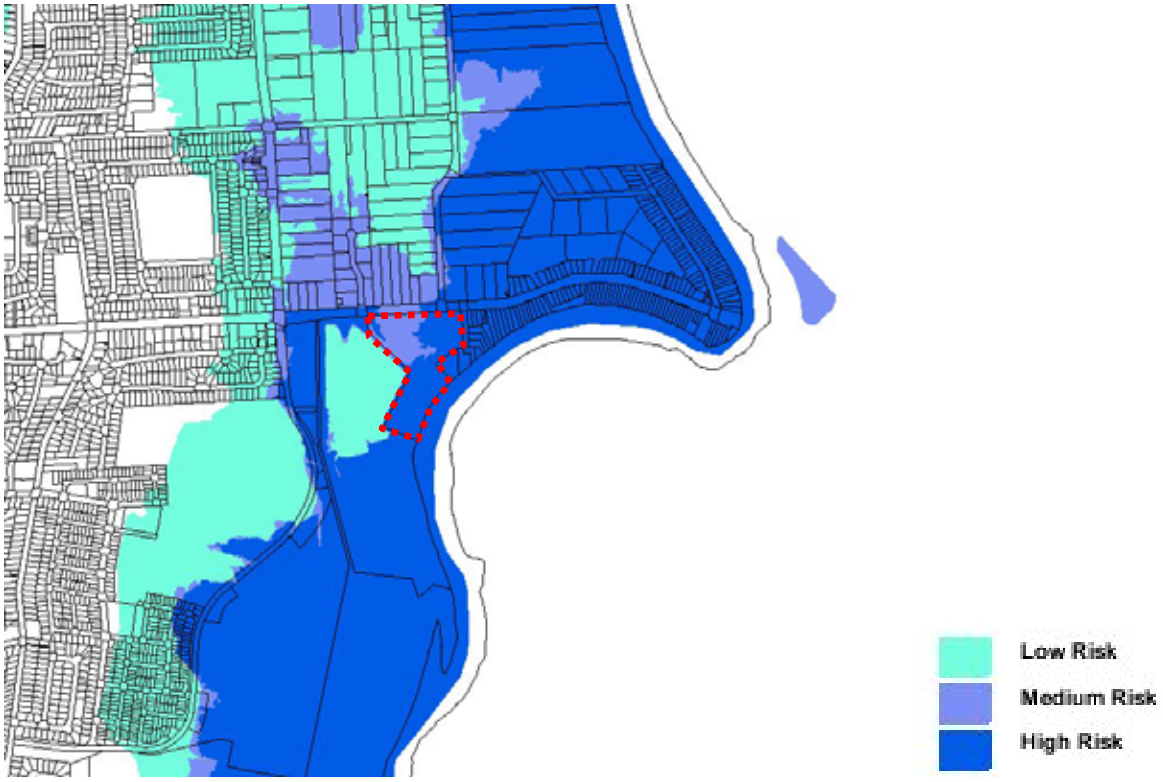

Figure 3: LLEP 2008 – Flood Risk Map extract

The application was accompanied by documentation prepared by WMA Water report dated 19 July 2010 which has been assessed by Council's Drainage and Floodplain Engineers. The Flood Impact Assessment identifies that the site lies within the 1% AEP flood extent, i.e. that is the flood event that has a 1% chance of being exceeded in any given year. Areas of the site that are in closer proximity to the Georges River are subjected to higher velocity flow and higher risk to life and property.

The results of the flood modelling contained within the Flood Impact Assessment claims that the peak impact as a consequence of the proposed development is at a maximum of approximately .045m (4.5cm). The Assessment report further outlines that the impact is limited and confined to the areas within the site and largely to the immediate north of Newbridge Road. The Flood Impact Assessment considered this impact to minimal and acceptable given that the properties that are affected to the north of Newbridge Road are contained within Council's MFAA.

Council's Drainage and Floodplain engineers were not satisfied with the Flood Impact Assessment accompanying the development application nor did the officer's concur with the findings of the Assessment report.

Council's Drainage and Floodplain engineer concluded that the proposed development involves the substantial filling of a high risk flood zone which is contrary to the objectives of the NSW Floodplain Management Manual and Council's Flood Policy and on this basis should not be supported.

Revised Flood Impact Statement
To enable further assessment of the application and revised Flood Impact Statement, Councils Drainage and Floodplain engineers requested that additional information related

to the hydrologic and hydraulic models be submitted. A revised Flood Impact Assessment was prepared by WMA Water (dated March 2011) and forms part of Council's assessment of the development application.

As canvassed in detail within the IHAP report, the application has been reviewed by Council's Drainage and Floodplain engineer's who have advised that the development application can not be supported.

The subject site is located within the High Flood Risk area and will remain flood prone land with continued significant flood risks. Cumulative impacts of the development are considered significant and the development has potential to increase risk to life and/or properties.

Impacts associated with the redistribution effect of the proposed development on floodwater upstream are inappropriate and contrary to both statutory and industry established manuals and guidelines. It is considered that the proposal will have a detrimental effect given the flood threat and the hazard risks associated with the development on the site.

Inconsistencies with the Liverpool Development Control Plan 2008

Part 1.1 – General Controls for all Development
Clause 4 Bushland and Fauna Habitat Preservation has been addressed by a Flora and Fauna Assessment that was completed in 2005.
Given the extent of the flooding issues which have been unable to be resolved to Council's satisfaction, it was not considered appropriate to request this information to resolve this issue. However, the proposal in its current form remains inconsistent with Clause 4 of LDCP 2008 – Part 1.1.

Clause 7 Development near Creeks and Rivers
This component of the DCP requires the submission of a Vegetation Management Plan (VMP). The proposal is not accompanied by a VMP which would address the restoration and rehabilitation of the riparian corridor. In addition, no details have been submitted in relation to the following:

- Provision of a riparian corridor of at least 40m from the top of the bank.
- rehabilitation works within the riparian corridor.
- Provision of a vegetation buffer.

Clause 9 Flooding Risk
As canvassed earlier in this report the proposal is unacceptable on floodplain management grounds. The proposal is contrary to key flood risk objectives and controls contained within this component of the DCP. Council's Drainage and Floodplain engineer has outlined that the proposal will adversely affect flood behaviour and increase the potential for flooding to detrimentally affect other properties and have a significant effect on the environment.

Clause 10 Contamination Land Risk
Concern is raised in relation to the detail and accuracy of the assessment given that it was prepared in 2005. Given the extent of the flooding issues which have been unable to be resolved to Council's satisfaction, it was not considered appropriate to request this

information to resolve this issue. However, the proposal in its current form remains inconsistent with Clause 10 of LDCP 2008 – Part 1.1.

Part 1.2 – Additional Controls for Development
Clause 6 Landfill
The objective of this clause is to minimize any adverse impact resulting from the filling of land. Given the issues raised in relation to floodplain management, flora and fauna and contamination it is considered that the proposal in its current form has not adequately demonstrated that the proposal will not result in any adverse environmental impacts. On this basis, the proposal is considered to be contrary to Clause 6 of DCP 2008 – Part 1.2

Part 2.10 – Moorebank East
The LDCP 2008 identifies a site specific requirement for this piece of land to require the removal of un-authorised fill that is currently on the property. Any Development Application on Corner Lot 2 DP 602988 is to include provisions for the removal of 35,000m³ of fill from the area indicated in Figure 6 of LDCP 2008 – Part 2.10 (identified in Figure 4 of this report).

The proposed development does not propose to remove the unauthorized fill currently located on the site. This is in direct contravention of the LDCP requirement. It is considered that the proposed earthworks would exacerbate existing environmental and flooding issues for the site and the Georges River Catchment.

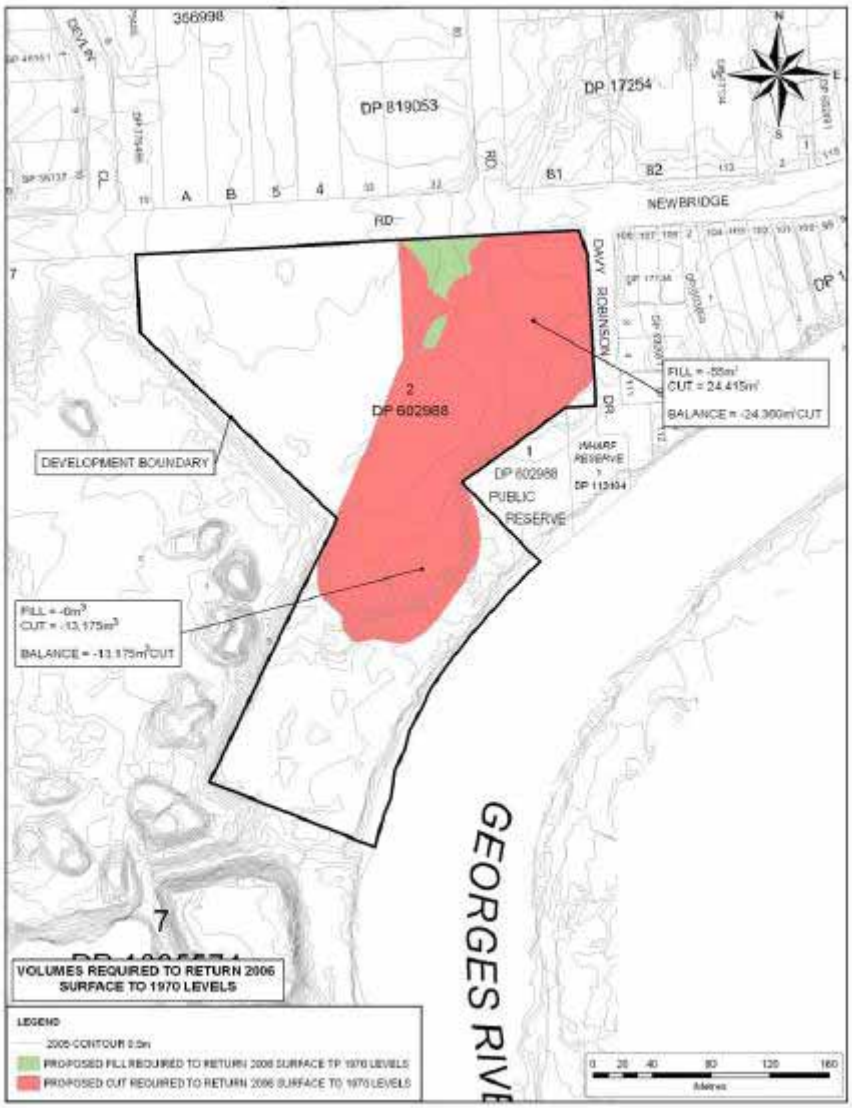

Figure 4: Area of the site where fill is to be removed as per Clause 2.8 of LDCP 2008

Relevance of the Boral Site

The applicant has claimed that the nearby Boral development (Georges Fair) is a precedent for this development. It should be noted that all applications are to be considered on their merits and against the relevant planning controls.

The flood conditions of the Georges Fair development are substantially different to that applicable to this site for the following reasons:

- Only a small area of the Boral site was within the flood planning area, and this area only was permitted to be filled after comprehensive cumulative impact mapping was undertaken
- The flood liable area on the Boral site is created by a backwater effect, whereas this site is subject to mainstream flows
- The development of the Boral site land has access to continually rising higher ground via flood free roads, whereas this site only has access to Newbridge Road. Newbridge Road is subject to high risk flooding both east and west of the

property and is therefore isolated in a flood event. It is acknowledged that LDCP 2008 provides that as part of future development of the north west portion of the subject site and the neighbouring site to the west, a new road will be provided parallel to Newbridge Road. This road traverses land not controlled by this landowner and until it is constructed and dedicated as a public road, this cannot be relied upon to provide flood free access.

Public Exhibition
The proposed development was advertised for 14 days between 10 November 2010 and 24 November 2010 in accordance with LDCP 2008. During the advertising period Council received three submissions all objecting to the proposal.

The concerns raised in the submissions objecting to the proposal primarily relate to:

- Retention of significant volumes of illegal fill currently located on site;
- Reduction in flood storage; and
- Adverse flood impacts.

Council's planners concur with the concerns raised in the submission in that Council's Drainage and Floodplain engineers are of the view that the proposal will result in adverse impacts on flood behaviour.

IHAP Recommendation
The IHAP noted that the applicant sought to rely on the filling approved by Council at the Boral site as a precedent for filling of this site. The Panel noted that as a matter of law each development application must be considered on its individual merits.

The Panel considers that the Floodplain Risk Management Study should be given determinative weight as it is a catchment wide strategic plan, that is the product of the floodplain risk management process under the Floodplain Management Manual, and has been adopted by Council. It should be given greater weight than the site specific flood study prepared for the applicant.

The Panel notes the applicant's submission that if the subject site is filled and the road linking to Brickmakers Drive was constructed, the site would not be in a high risk flood area. However, the Panel notes that the link to Brickmakers Drive has not yet been constructed, nor has an approval been sought or granted. As such, the Panel considers that timing of this access is uncertain and not a reason to permit the filling of the subject site.

Additionally, the proposed filling is contrary to the intention of Table 4 of Part 1.1 General Controls of Liverpool DCP 2008. This table significantly restricts most forms of development in the high risk flood areas. After due consideration, the Panel unanimously agreed with Council officers recommendation to refuse the application.

Conclusion
The development application has been assessed on its merits and against relevant statutory requirements and floodplain management guidelines. For reasons outlined in this report the proposal is considered unsatisfactory in that it will adversely impact flood behaviour. In addition given that the site is identified as a High Flood Risk area, the proposed land fill is not an appropriate land use.

In consideration of all of the above, the proposed development is contrary to the specific planning controls which apply to the site. On this basis it is considered that the development would adversely affect flood behaviour and will have significant detrimental affect on the environment in that it will cause and exacerbate erosion of the river bank, change flood dynamics and behaviour and impact on water quality within the Georges River.

Assessment of the development has revealed that from a floodplain management perspective the flood risk to both properties and the environment can not be eliminated. As such it is recommended that the application for filling of 124 Newbridge Road, Moorebank be refused.

FINANCIAL IMPLICATIONS:

There are no financial impacts arising as a result of this report.

RECOMMENDATION:

That Council

1. Refuses DA-309/2011 being for earthworks and associated fill at 124 Newbridge Road, Moorebank over two stages for the following reasons:

    a. Pursuant to the provisions of S79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the aims and provisions contained within State Regional Environmental Plan No. 2 – Georges River Catchment. In this regard, the proposal has the potential to adversely affect flood behaviour and will have significant detrimental affects on the environment in that it will cause and exacerbate erosion of the river bank.

    b. Pursuant to the provisions of S79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the aims and provisions contained within State Environmental Planning Policy No. 55 – Remediation of Land. In this regard, the contamination assessment accompanying the application has not demonstrated that the proposal will not result in environmental impacts associated with contamination of the land.

    c. Pursuant to the provisions of S79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy:

        (i) Clause 7.6 – Environmentally Significant Land In this regard, the proposal has not adequately demonstrated that the proposed development will not impact on environmentally significant land and does not provide for the rehabilitation of the riparian corridor adjacent the Georges River.

(ii) Clause 7.8 – Flooding In this regard, the proposal will adversely affect flood behaviour and increase the potential for flooding to detrimentally affect other development and properties. The proposed earthworks have potential to significantly alter flow distributions and velocities to the detriment of other properties and the environment.

(iii) Clause 7.31 - Earthworks In this regard, the proposed development will impact on flooding in the locality. Filling of the floodway will redirect flows from the floodway with consequent impacts on the river and adjoining lands. In addition the proposal will exacerbate river bank erosion issues.

d. Pursuant to the provisions of S79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy:

(i) Clause 4 – Bushland and Fauna Habitat Preservation of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the Flora and Fauna assessment accompanying the application is not adequate and is not accompanied by a Vegetation Management Plan which will rehabilitate the riparian corridor adjacent the Georges River.

(ii) Clause 9 – Flooding Risk of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the proposal has the potential to cause increased flood flow distribution and velocities on adjacent properties.

(iii) Clause 10 – Contamination of Part 1.1 of Liverpool Development Control Plan 2008. In this regard, the proposal is not accompanied by an adequate contamination assessment which demonstrates that no environmental issues will be caused as a consequence of earthworks.

(iv) Clause 6 – Landfill of Part 1.2 of Liverpool Development Control Plan 2008. In this regard, the proposal is contrary to the objectives and controls for landfill works which seek to minimise environmental risk including flood risk. It is considered that the proposed earthworks would exacerbate existing environmental and flooding issues for the site and the Georges River Catchment.

(v) Clause 2.8 of Part 2.10 of Liverpool Development Control Plan 2008. In this regard, the proposal is contrary to controls which require the removal of all unauthorised fill on the subject site.

e. Pursuant to the provisions of S79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to result in adverse impacts on both the natural in built environment. It is considered that the proposed earthworks would exacerbate existing environmental and flooding issues for the site and the Georges River Catchment.

f. Pursuant to the provisions of S79C(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development in that landfill is not appropriate within a High Flood Risk area.

g. Pursuant to the provisions of S79C(1)(d) of the Environmental Planning and Assessment Act 1979, submissions received warrant the refusal of the application.

h. Pursuant to the provisions of S79C(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest given that it will exacerbate flood risk for the site and the locality.

2. Notifies those who made a submission with regard to the proposal.

SIGNED BY:

Milan Marecic
Director
City Planning

Attachments:

1. Company Details
2. IHAP Recommendation (under separate cover)
3. IHAP Report (under separate cover)

Attachment 1: Company Details

Corporate Details:	Syesun Pty Ltd
Registered Address:	124 Newbridge Road Moorebank NSW 2170
Directors:	Mark Paul Sammut Sylvania Waters NSW 2224 Nicholas Sammut Bayview NSW 2104 Michael Anthony Spiteri Woollahra NSW 2025 John Paul Sammut Elanora Heights NSW 2101
Secretary	Michael Anthony Spiteri Woollahra NSW 2025 John Paul Sammut Elanora Heights NSW 2101
Appointed Auditor	BDO Nelson Parkhill Level 23 MMI CNT, 2 Market Street Sydney, NSW 2000

LIVERPOOL CITY COUNCIL

INDEPENDENT HEARING AND ASSESSMENT PANEL REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	**IHAP 04**	**FILE NO:**	**DA-989/2099/A**
SUBJECT:	**MODIFICATION TO DEVELOPMENT CONSENT 989/2009: MODIFICATION OF CONDITION NO. 18 TO INCREASE HOURS OF OPERATION TO 24 HOURS, 7 DAYS A WEEK**		
LOCATION:	**LOTS 2 AND 3 IN DP 18108 AND LOT 146 IN DP 659653 NO. 7 AND 11 NEWBRIDGE ROAD, CHIPPING NORTON**		
OWNER:	**E AND P NADER**		
APPLICANT:	**EDWARD NADER**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**DECISION MAKING PROCESSES ARE TRANSPARENT AND THE COMMUNITY HAS OPPORTUNITIES TO BE INVOLVED**		

INTRODUCTION:

Council has received an application to modify Development Consent 989/2009 pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979). The application seeks to modify Condition 18 of Development Consent 989/2009 to increase the hours of operation from 5am to 12 midnight, to 24 hours, seven days per week.

The application was referred to Council's Independent Hearing and Assessment Panel (IHAP) for consideration as the proposal attracted more than three submissions, objecting to the proposal. The main issues raised in the submissions relate to the noise generation associated with vehicle movements to and from the service station and the impact of extended hours of operation on the residential amenity.

Following detailed assessment of the proposal and consideration of the issues raised in submissions, it is considered that the proposal has potential to impact on the amenity of the existing residential properties. While the acoustic assessment identified that the use of the forecourt of the service station which is accessed from Newbridge Road is unlikely to impact on the amenity of nearby residential properties in relation to noise intrusiveness and sleep disturbance, concern is raised in relation to the use of the high flow diesel pump near the eastern boundary as well as truck access from Rickard Road.

The acoustic assessment has not sufficiently demonstrated that the 24 hour operation of the service station will be able to comply with the noise goals contained within both the Environmental Protection Authority Industrial Noise Policy and the Environmental Noise Control Manual in relation to noise intrusiveness and sleep disturbance.

IHAP concurred with the assessment officer's findings in that the acoustic assessment accompanying the application was not considered to be adequate nor comprehensive. Furthermore the IHAP outlined that given the deficiencies with the acoustic assessment that the conclusion that there will no additional impact is not justified.

On this basis, it is considered that the proposal is likely to have an adverse impact on the existing residential amenity and the concerns raised in submissions are relevant and substantiated. For the reasons which will be canvassed in more detail in this report it is recommended that the application to amend Condition 18 of Development Consent 989/2009 be refused.

DETAILED REPORT:

Proposal
An application has been made under the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979, to modify the terms of Condition 18 of Development Consent 989/2009.

Condition 18 requires the hours of operation to be limited to 5am to 12 midnight, seven days per week. The modification has sought to extend the hours of operation to permit trading 24 hours, seven days per week. The application is accompanied by an acoustic assessment prepared by SLR Consulting Australia Pty Ltd and dated 21 July 2011. A revised acoustic assessment was submitted by SLR Consulting Australia Pty Ltd on 10 October 2011 in response to concerns in relation to the adequacy of the initial acoustic assessment.

The Site
The subject site is identified as Lots 2 and 3 in DP 418108 and Lot 146 in DP 659653, No. 7 and 11 Newbridge Road, Chipping Norton.

Figure 1: Subject Site

The site has an irregular shape and is located on the northern side of Newbirdge Road. The site has a frontage to Newbridge Road of approximately 54 metres and a secondary frontage to Rickard Road of approximately 8metres.

The site is surrounded by a mix of land uses as a consequence of the site being located within the Moorebank Voluntary Acquisition Scheme. The closest residential property to the service station is the neighbouring property located to the immediate east of the site being No.5 Newbridge Road. The site contains an existing shop on the ground floor and shop top housing on the first floor. The other closest residential property is located at 47 Rickard Road. Both residential properties are illustrated in Figure 2 below.

Figure 2: Closest residential properties to the service station

Existing Service Station

The site is currently occupied by a service station which was approved in Development Consent 989/2009. The service station currently has vehicular access from both Newbridge Road and Rickard Road. The frontage to Rickard Road is primarily for

vehicular access. Figures 3 and 4 illustrate the sites frontages to both Newbridge Road and Rickard Road.

Figure 3: Photograph of existing service station (Newbridge Road view)

Figure 4: Photograph of existing service station (Rickard Road view)

Background

Council received an application for a proposed Service Station operating at 24 hours, seven days a week. This application (Development Application 989/2009) was considered and approved under delegation on 4 December 2009. Consent was issued for the demolition of existing structures and erection of a service station with associated signage and landscaping and the hours of operation were limited to 5am to midnight, seven days a week.

The applicant as part of this application relied on existing use right provisions of the Environmental Planning and Assessment Act 1979 given that service stations are a prohibited land use within the R2 Low Density zone.

Reliance on existing use right provisions of the Act limited the extent of the building works and intensification of the use as part of this development application.

A site plan of the approved service station is illustrated in Figure 5 below.

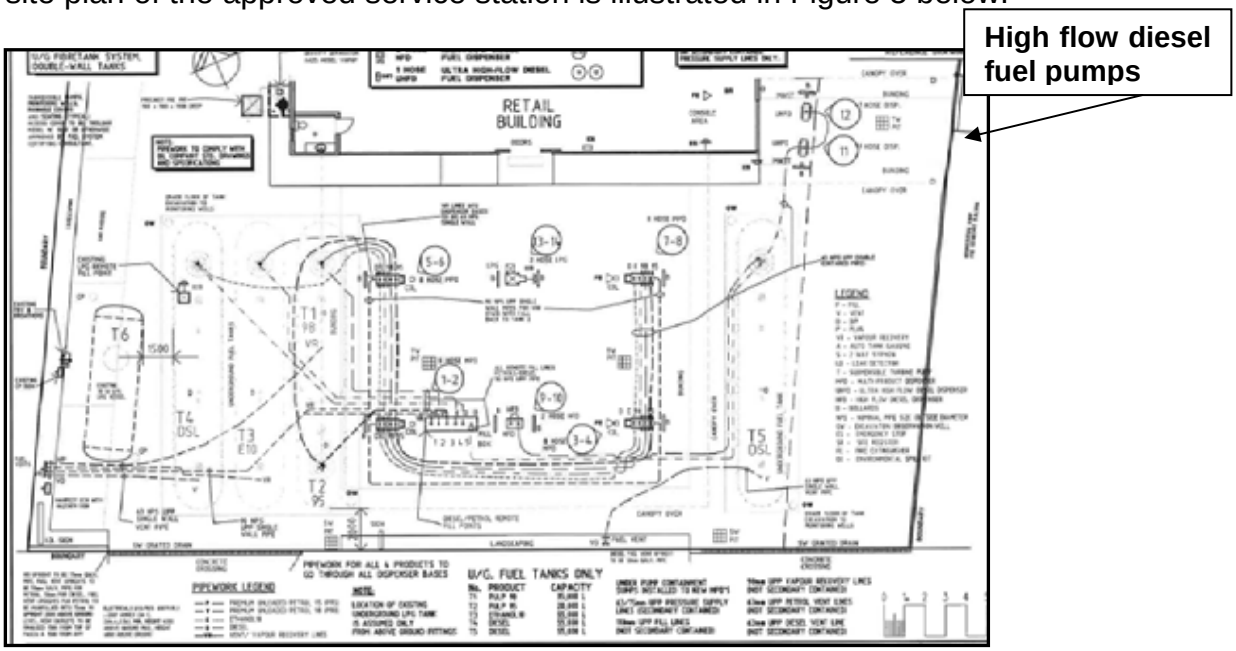

Figure 5: Approved site plan for service station

Assessment of Proposal

The application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the EP&A Act 1979 and the Environmental Planning and Assessment Regulations 2000 as follows:

Liverpool Local Environmental Plan 2008

The subject site is part zoned R2 – Low Density Residential and B1 – Neighbourhood Centre under the provisions of Liverpool Local Environmental Plan 2008 (LLEP 2008). Service stations are a prohibited land use within the R2 zone. The original development application demonstrated that the subject site being Lot 2 and 3 in DP 418108 has existing use rights. An extract of the zoning map is provided in Figure 6 below.

Figure 6: Extract from LLEP 2008 zoning map

Assessment of the application has found that the proposed modification is contrary to the objectives of the R2 – Low Density Residential zone in that the proposal does not ensure that a high level of residential amenity is achieved and maintained as a consequence of the increase in hours of operation.

The proposed application seeks to extend the hours of operation to enable 24 hour trading, seven days per week. In considering whether the proposed extension of trading hours is appropriate given the context of the site and the locality, consideration needs to be given to issues associated with residential amenity which includes acoustic amenity.

Acoustic Amenity

Noise generated as a consequence of the operation of the service station would generally arise from on-site vehicle activity as well as noise from customers of the service station. The application is accompanied by an acoustic assessment which takes into consideration the potential of noise impacts from the service station and predicts the impact on nearby residential properties.

Council's Environmental Health Officer has undertaken a review of the acoustic assessment and raised a number of concerns with the adequacy of the acoustic assessment. Concerns were raised that the acoustic assessment did not take into consideration the closest residential receivers nor did the assessment take into consideration vehicle movements utilising Rickard Road entry/exit and the truck filling point located near the eastern boundary of the site.

Given the above concerns Council's Environmental Health Officer requested a further acoustic assessment to respond to the issues raised as well as requesting additional noise loggers to be placed on Rickard Road,

The applicant was given opportunity to respond to the issues raised and submitted a revised acoustic assessment (dated 10 October 2011).

Assessment of the revised acoustic report identified that no additional noise monitoring or logging took place, as requested by Council. It is further noted that the acoustic assessment still failed to account for the closest residential receivers to the site. It is further noted that the acoustic assessment continues to rely on the assumption that vehicular access from Rickard Road is used infrequently.

Given the deficiencies with the acoustic assessment, it is considered that the proposal has not adequately demonstrated that the entire service station is capable of operating for the extended period without an adverse impact on the amenity of nearby residential properties.

While the acoustic assessment has identified that the use of the forecourt which is accessed from Newbridge Road is unlikely to impact on the amenity of nearby residential properties in relation to noise intrusiveness and sleep disturbance, concern remains over the use of the high flow diesel pump located near the eastern boundary which is shared with a residential property being No. 5 Newbridge Road. Concern also remains in relation to the use of the Rickard Road entry for the proposed extended trading hours.

On this basis, the proposal is considered to be contrary to the zone objectives and should not be supported.

Moorebank Voluntary Acquisition Scheme (MVAS)
The subject site is covered under the Moorebank Voluntary Acquisition Scheme, as it is adversely affected by flooding from the Georges River and identified as one of the worst floodway's in NSW. The specific study commissioned by the Public Works Department (PWD) in 1983 concluded that removal of all development from the floodway, through voluntary purchase scheme is the only complete solution to the flood problem. Accordingly, Council has adopted the Moorebank Voluntary Acquisition Scheme.

As part of this policy which applies to the site consideration needs to be given to whether the capital investment should not materially increase the acquisition cost. It is considered that increasing the hours of operation could potentially increase the acquisition cost to Council.

Public Exhibition
The application was advertised for a period of 14 days between 17 August 2011 and 1 September 2011 in accordance with Liverpool Development Control Plan 2008, Part 1.1. This included a notice being placed on site and an advertisement in the local paper.

Four submissions were received during the exhibition period all objecting to the proposed 24 hour operation of the service station. The predominant concerns raised in the submissions included:

- Noise impacts as a consequence of trucks using Rickard Road to access high flow diesel pump;
- Sleep disruption as a consequence of trucks using Rickard Road.

The nature of the concerns raised in the submissions primarily relate to the use of Rickard Road by trucks to access the high flow diesel pump. The submissions raise specific concern with the noise associated with truck movements to facilitate the required manoeuvring to access the Rickard Road ingress, truck brakes, trucks reversing and general noise associated with the use of high flow diesel pump.

As canvassed in detail within the IHAP report, the acoustic assessment (including the revised report) does not include any assessment of these potential noise sources rather the assessment outlines that the use of Rickard Road is "infrequent" and unlikely to impact on residential properties.

Council's Environmental Health Officer who reviewed the acoustic assessment (including the revised report) did not concur with the findings and conclusions of both reports.

In consideration of the above, it is considered that the concerns raised in the submissions are substantiated and warrant the refusal of the subject application.

Independent Hearing and Assessment Panel (IHAP)
The Panel members undertook a site inspection, reviewed the Council officer's report and heard three verbal submissions against the proposal. Panel members also heard from the project proponent.

The Panel members expressed concerns regarding the acoustic assessment particularly in relation to the absence of noise loggers and noise predictions at the closest residential receivers. It is noted that a residential property being No. 5 Newbridge Road shares a common boundary with the service station site and is located in proximity to the high fuel diesel pump and the ingress driveway from Rickard Road. In this regard, noise prediction for this property is required to be included in the acoustic assessment.

The Panel members further noted other deficiencies in the acoustic assessment in that the report did not canvass monitored noise levels and noise predictions over the weekend trade. In summary, the Panel were of the opinion that the acoustic assessment was not sufficient and that the conclusion that there is no additional noise impact is not justified.

The Panel members did note that some of these issues could be addressed through the altering of the functioning of the service station as well as a more comprehensive acoustic assessment. However, these changes to the functioning of the service station could not be incorporated into this modification application. The Panel further noted that these matters could not be conditioned as part of this application.

The Panel does not support the application and concurs with the Council's Officer's recommendation that the application be refused.

Conclusion
The proposal has been assessed against the relevant heads of consideration pursuant to Section 79C of the EP&A Act 1979.

Following detailed assessment of the proposal and consideration of the issues raised in the submissions it is considered that the proposal has potential to impact on the amenity of the existing residential properties.

Both Council's and IHAP assessment maintain concerns with the potential of application to impact adversely on the amenity of surrounding residential properties and on this basis the concerns raised in the submissions are considered valid and substantiated.

The applicant has been provided with opportunity to address the concerns raised during the assessment of the application. The revised acoustic assessment has failed to alleviate these concerns and on this basis the proposal to modify Condition 18 of Development Consent 989/2009 to increase the hours of operation to 24 hours, seven days per week is recommended for refusal.

FINANCIAL IMPLICATIONS:

There are no financial implications as a result of this report.

RECOMMENDATION:

That Council:

1. Refuses the application to modify Condition 18 of Development Consent 989/2009 made pursuant to Section 96(2) of the Environmental Planning and Assessment Act 1979:

   (a) Pursuant to the provisions of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is contrary to the objectives of the R2 – Low Density Residential Zone as prescribed by Liverpool Local Environmental Plan 2008. The proposal has not demonstrated that the 24 hour operation of the service station will not adversely impact on residential amenity in relation to noise impacts and sleep disturbance.

   (b) Pursuant to the provisions of Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to result in adverse impacts on the built environment. The 24 hour operation of the service station, in particular the use of the Rickard Road ingress will result in unacceptable noise impacts and loss of amenity in relation to sleep disturbance.

   (c) Pursuant to the provisions of Section 79C(d) of the Environmental Planning and Assessment Act 1979, submissions received are substantiated and warrant the refusal of the application.

   (d) Pursuant to the provisions of Section 79C(e) of the Environmental Planning and Assessment Act 1979, the proposed 24 hour operation of the service station, in particular the Rickard Road ingress will result in unacceptable amenity impacts which is not considered to be in the public interest.

2. Notifies the persons who made a submission with regard to this matter.

SIGNED BY:

Milan Marecic
Director
City Planning

Attachments: 1. IHAP Recommendation (under separate cover)
2. IHAP Report (under separate cover)

LIVERPOOL CITY COUNCIL

GENERAL MANAGERS REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	**GMRR 01**	**FILE NO:**	**2010/2642**
SUBJECT:	**PROGRESS REPORT ON DELIVERY PROGRAM 2011-2015 AND OPERATIONAL PLAN 2011-2012**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**DECISION MAKING PROCESSES ARE TRANSPARENT AND THE COMMUNITY HAS OPPORTUNITIES TO BE INVOLVED** **THE COMMUNITY IS SUPPORTED BY A WELL MANAGED AND RESPONSIVE COUNCIL**		

EXECUTIVE SUMMARY:

On 18 April 2011, after extensive consultation, Council adopted *Growing Liverpool 2021* as the Community Strategic Plan (CSP) for Liverpool. This was followed by Council adopting the Delivery Program 2011-2015 and Operational Plan 2011-2012 as the broad four year program and one year detailed plan of how Council is working to deliver the long-term outcomes and community priorities contained in *Growing Liverpool 2021*.

This report recommends that Council receives and notes the report and allows the General Manager to make a presentation on the progress made to September in delivering on the principal activities contained in the Delivery Program 2011-2015.

DETAILED REPORT:

Legislative requirements

Section 404(5) of the Local Government Act (1993) requires the General Manager to ensure that regular progress reports are provided to the Council reporting at least every six months as to its progress with respect to the principal activities detailed in its delivery program. This is an important mechanism that enables Council and the public to monitor progress.

This report is the first made under the new integrated planning and reporting framework and replaces the previous Management Plan format that all councils had used for over a decade.

To comply with the requirement to provide regular progress reports at least every six months, Council will continue to receive reports within two months of the end of each quarter. Reports prepared for the September and March quarters will be summarised exception reports, identifying only those actions that are of concern and recommending corrective action if applicable. Reports prepared for the December and June quarters will be comprehensive reports containing detail on the progress of all activities against the adopted measures for the previous six months.

September Quarter Report

As at the end of September there were 476 identified actions in the Delivery Program for 2011-2012, at this early stage in the year there are only two actions that will not be achieved in this financial year due to external factors beyond Council's control. All other activities will be detailed in the six monthly report due as at 31 December 2011.

Strategy	**Action**	**Comments**
2.5 Facilitate development of a community sense of safety in public spaces in partnership with police, local stakeholders and residents.	Use grant funding to implement a project to reduce assault (non-domestic violence) in identified hotspots to include community education and awareness, training and safety audits (subject to funding)	Grant funding application unsuccessful and will be resubmitted.
2.6 Support policies and plans that prevent crime.	Develop a "break and enter" prevention kit in partnership with the local police.	Involvement in the initial project was at the request of NSW Police. Their priorities have since changed and as such Council involvement is no longer required.

This report recommends that Council receives and notes the report and allows the General Manager to make a presentation on progress made to September in delivering on the principal activities contained in the Delivery Program 2011-2015.

FINANCIAL IMPLICATIONS:

There are no financial implications as a result of this report.

RECOMMENDATION:

That Council:

1. Allows the General Manager to make a presentation on progress made to September in delivering on the principal activities contained in the Delivery Program 2011-2015 and

2. Receives and notes the report, including a copy of the General Manager's presentation which will form part of the minutes of the meeting.

SIGNED BY:

Farooq Portelli
General Manager

LIVERPOOL CITY COUNCIL

CORPORATE SERVICES REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	CORS 01	FILE NO:	2005/2473
SUBJECT:	ANNUAL FINANCIAL REPORTS 2010/2011		
COMMUNITY STRATEGIC PLAN REFERENCE:	THE COMMUNITY IS SUPPORTED BY A WELL MANAGED AND RESPONSIVE COUNCIL		

EXECUTIVE SUMMARY:

In accordance with Section 413 of the Local Government Act (the Act) 1993, councils must prepare financial reports for each year, and must forward them for audit as soon as practicable after the end of that year. Further, Section 415 requires that council's financial reports must be audited as soon as practicable after they are referred for audit.

The preparation and audit of Council's financial reports for the year ended 30 June 2011 is now complete, (refer Attachment 1 under separate cover), and presented for Council to receive and note.

The audit opinion is that Council is considered to be in a sound and stable financial position.

This report recommends that Council allows Council's auditor, Mr Dennis Banicevic from PricewaterhouseCoopers (PWC) to make a presentation in respect of Council's audited 2010/2011 Financial Reports and that Council approves the transfer $756k from working funds to the Property Development Reserve.

DETAILED REPORT:

Legislative Requirements

Section 413(1) of the Act 1993 requires that *"a council must prepare financial reports for each year, and must refer them for audit as soon as practicable."* Section 413(2) of the Act 1993 also requires that *"A council's financial reports must include*:

(a) A general purpose financial report, and
(b) Any other matter prescribed by the regulations; and
(c) A statement in the approved form by the council as to its opinion on the general purpose financial report."

With regard to (c) above, Council resolved at its meeting held on 28 September 2011 to refer the draft 2010/2011 financial reports to audit.

Section 418 (1) and Section 420 (1) of the Act 1993 requires that:

> "*Council must fix a date for a meeting to present its financial reports and to give public notice of the date so fixed and any person may make submission on the financial reports and/or audit reports*".

The public notice provides a summary of the Income Statement, Balance Sheet and key financial indicators. The public are able to make submissions regarding the financial reports up to one week following the presentation of the reports to Council. A copy of the public notice is provided in Attachment 4 to this report.

The audit by PWC is now complete and a copy of the audit report is attached (refer Attachment 2). That report concludes that "the books of account and records inspected have been kept in an accurate and conscientious manner;" and that "Council is considered to be in a sound and stable financial position."

Attachment 3 to this report provides a summary of the key elements contained in the detailed financial reports. Below are some of the highlights:

- $195.4 million operating budget
- $75.4 million capital expenditure (including $19.92 million fro road reserve dedications in new release areas)
- Rates and charges of $88.9 million; 45.54%of total operating budget
- Operating Surplus of $49.79 million
- Increase in cash reserves of $9.22 million
- Improved unrestricted current ratio of 1.81:1 (previously 1.70:1)
- Decrease in debt service ratio from 7.04 % to 6.01%

The detailed financial reports for the year ended 30 June 2011 are provided under separate cover.

FINANCIAL IMPLICATIONS:

As noted above Council had a net operating surplus for the 2010/2011 year of $49.79 million compared with a surplus of $66.67 million in 2009/2010. The main reasons for this difference are summarised in the table below.

	2011	2010	Difference	
Income Statement	**$000**	**$000**	**$000**	**Explanation**
Income From Continuing Operations	-195,401	-180,859	-14,542	Mainly due to Insurance Recovery income of $25 million offset by a reduction of $12 million in Capital Grants and Contributions income.
Expenses from Continuing Operations	145,607	114,191	31,416	Assets written off due to the fire $16.7 million,additional depreciation $9.37 million due to higher infrastructure asset values from the revaluation of this asset class as at 30 June 2010 , fire related outstanding expenditure claim of $6 milion as at balance date.
Operating (surplus)/Deficit from Continuing Operations	**-49,794**	**-66,668**	**16,874**	

The final audit report confirms that Council had an available working funds balance of $3.756 million as at 30 June 2011.

Council at its meeting on 29 August 2011 approved the purchase of 48-52 Scott Street funded from the Property Development Reserve and a short term internal loan. This report will recommend reducing the working funds balance to $3m by transferring $756k to the Property Development Reserve to reduce the balance of the internal loan used to fund the acquisition.

RECOMMENDATION:

That Council:

1. Allows Council's auditor, Mr Dennis Banicevic from PricewaterhouseCoopers to make a presentation with regard to Council's audited 2010/2011 Financial Reports.

2. Approves a transfer of $756k to the Property Development Reserve from the working funds balance as at 30 June 2011.

3. Receives and notes the report.

SIGNED BY:

Julie Hately
Director
Corporate Services

Attachments:

1. 2010/2011 Audited Financial Reports (attached under separate cover)
2. PWC Audit Report
3. Financial Report Summary
4. Public Notice

Attachment 2: PWC Audit Report

Liverpool City Council
Independent Audit Report to the Council
(Section 417(2) – report on the general purpose financial report)

Scope

We have audited the financial report of **Liverpool City Council** for the financial year ended 30 June 2011 as set out on pages 1 to 84. The financial report consists of the general purpose financial report and Council's statement in the approved form as required by Section 413(2)(a) of the Local Government Act, 1993. Our audit responsibility does not extend to the Original Budget figures disclosed in the Income Statement, Statement of Cash Flows, Notes 2(a) and 16 to the financial statements, nor to the projections in Note 17, or to the attached Special Schedules. The Council is responsible for the preparation and presentation of the financial report and the information it contains. We have conducted an independent audit of the financial report in order to express an opinion on it to the Council.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial report is free of material misstatement. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with Australian Accounting Standards and other mandatory professional reporting requirements and statutory requirements so as to present a view which is consistent with our understanding of the Council's financial position, the results of its operations and its cash flows.

The audit opinion expressed in this report has been formed on the above basis.

Audit opinion

In our opinion:

(a) The Council's accounting records have been kept in accordance with the requirements of the Local Government Act, 1993 Chapter 13, Part 3, Division 2.
(b) The Council's financial report:
  (i) has been properly prepared in accordance with the requirements of this Division
  (ii) is consistent with the Council's accounting records
  (iii) present fairly the Council's financial position and the results of its operations, and
  (iv) is in accordance with applicable Accounting Standards.
(c) All information relevant to the conduct of the audit has been obtained.
(d) There are no material deficiencies in the accounting records or financial report that have come to light during the course of the audit.

PricewaterhouseCoopers

P L Buchholz
Partner
25 October 2011

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pwc

The Mayor
Councillor Wendy Waller
Liverpool City Council
DX 5030
LIVERPOOL

Dear Councillor Waller

Report to the conduct of the audit for year ended 30 June 2011 – Section 417(3)

We have completed out audit of the financial reports of Liverpool City Council for the year ended 30 June 2011 in accordance with Section 415 of the Local Government Act, 1993.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial reports are free of material misstatement. Our procedures included examination, on a test basis, of evidence supporting the amount and other disclosures in the financial reports, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial reports are presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements as well as statutory requirements so as to present a view which is in consistency with our understanding of the Council's financial position, the results of its operations and its cash flows.

Flowing from our audit there are a number of comments we wish to raise concerning the trends in Council's finances. These are set out below.

Operating Result

Council's operating result declined from a surplus of $67 million in the previous year to a surplus of $50 million.

The main reasons for this movement were a reduction in capital grants and contributions (down $12 million) and investment revenue (down $4 million).

The operating result before capital grants and contributions was a surplus of $7 million – down from $12 million in the previous year.

Cash Position

Council's overall cash position increased from $97 million to $106 million during the period under review. The following table highlights the composition of cash:

	June 2011 $m	June 2010 $m
Externally restricted	82.5	70.8
Internally restricted	22.8	21.9
Unrestricted	1.0	4.3
Total	**106.3**	**97.0**

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The increase in external restrictions was mainly the result of higher Section 94 Contributions held at year-end (up $12 million).

Working Capital

Council's net current assets increased from $65 million to $87 million during the period under review.

The value of net current assets needs to be adjusted in order to establish Council's available working capital.

	June 2011 $'000	June 2010 $'000
Net current assets	86,568	64,991
Less:		
External restrictions	75,622	59,213
Internal restrictions	28,763	21,935
	(17,817)	(16,157)
Add:		
Current liabilities to be funded from other sources	21,573	20,533
Available Working Capital	**3,756**	**4,376**

The effective unrestricted or available working capital upon which Council could build its 2011/12 budget upon was $3.8 million.

Performance Indicators

The financial reports disclose a number of useful indicators in Note 13 and these are detailed below:

	June 2011 %	June 2010 %
Unrestricted current ratio	181	170
Debt service ratio	6.01	7.04
Rate coverage ratio	46	47
Rates outstanding ratio	5.54	5.06
Asset renewals ratio	66	76

The Unrestricted Current Ratio improved and remains above the accepted benchmark for the industry of 100%.

The Debt Service Ratio improved to 6.01% of revenue.

The Rate Coverage Ratio remained relatively stable at 46%.

The Rates Outstanding Ratio increased and remained above the industry benchmark of 5%.

The Asset Renewal Ratio indicates that Council is renewing assets at 66% of the rate at which they are depreciating.

Council is considered to be in a sound and stable financial position. Most indicators remain better than accepted industry benchmarks.

pwc

Asset Revaluation

Council revalued its community land in accordance with the Division of Local Government's revaluation program.

Following error adjustments of $22 million, a revaluation decrement of $2.5 billion was debited to the asset revaluation reserve. This reflects the change in valuation methodology for community land from deprival value to VG valuations.

General

The books of accounts and records inspected by us have been kept in an accurate and conscientious manner.

We thank the General Manager and his staff for the co-operation and courtesy extended to us during the course of our audit.

Yours faithfully

PricewaterhouseCoopers

P L Buchholz
Partner
Sydney
25 October 2011

pwc

Liverpool City Council
Special Purpose Financial Report
Independent Auditors' Report

Scope

We have audited the special purpose financial report of **Liverpool City Council** for the year ended 30 June 2011, comprising the Statement by Council, Income Statements of Business Activities, Balance Sheets of Business Activities, and accompanying Notes to the Accounts. The financial report includes the accounts of the business activities of the Council and the entities it controlled at the year's end or from time to time during the year. The Council is responsible for the preparation and presentation of the financial report and the information it contains. We have conducted an independent audit of the financial report in order to express an opinion on it to the Council.

The special purpose financial report has been prepared for distribution to the Council and the Division of Local Government for the purpose of fulfilling the requirements of National Competition Policy reporting. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the Council or the Division of Local Government or for any purpose other than for which the report was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial report is free of material misstatement. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with those Australian Accounting Standards adopted and the Local Government Code of Accounting Practice and Financial Reporting so as to present a view which is consistent with our understanding of the business activities of the Council and their financial position and the results of their operations.

The audit opinion expressed in this report has been formed on the above basis.

Audit opinion

In our opinion, the special purpose financial report of **Liverpool City Council** is presented fairly in accordance with the requirements of those applicable Accounting Standards detailed in Note 1 and the Local Government Code of Accounting Practice and Financial Reporting.

PricewaterhouseCoopers

P L Buchholz
Partner
25 October 2011

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Attachment 3: Financial report summary 2010/2011

Council's financial position as at 30 June 2011 continues to demonstrate a sound and stable position.

Snapshot

- $195.4 million operating budget
- $75.34 million capital expenditure (including $19.92million road reserves dedication in new land release areas)
- Rates and Charges comprised $88.9 million (45.54%) of the total operating budget
- Operating Surplus $49.79 million
- Cash reserves increased by $9.12 million
- $25 million insurance claim recovery income for the administration building destroyed in a fire in August 2010.
- Purchase from insurance proceeds of Council's administration building at 33 Moore Street Liverpool for $19.16 million.
- Change of accounting policy to report Community Land at the Valuer General (VG) valuations. The impact is a revaluation decrease of $2.4 billion for Community Land.

Income Statement

The income statement shows how much Council earned or lost during the 2010-2011 financial year and is calculated using the following formula:

Total revenue – total expenses = net result

The operating surplus in 2010-2011 was $49.79 million. A positive net result does not necessarily mean there is a surplus of funds that can be used for Council operations or future capital expenditure. Some of the net result is made up of items representing funds which have been set aside for a specific purpose or "in kind" revenue. For example, during 2010-2011 these included:

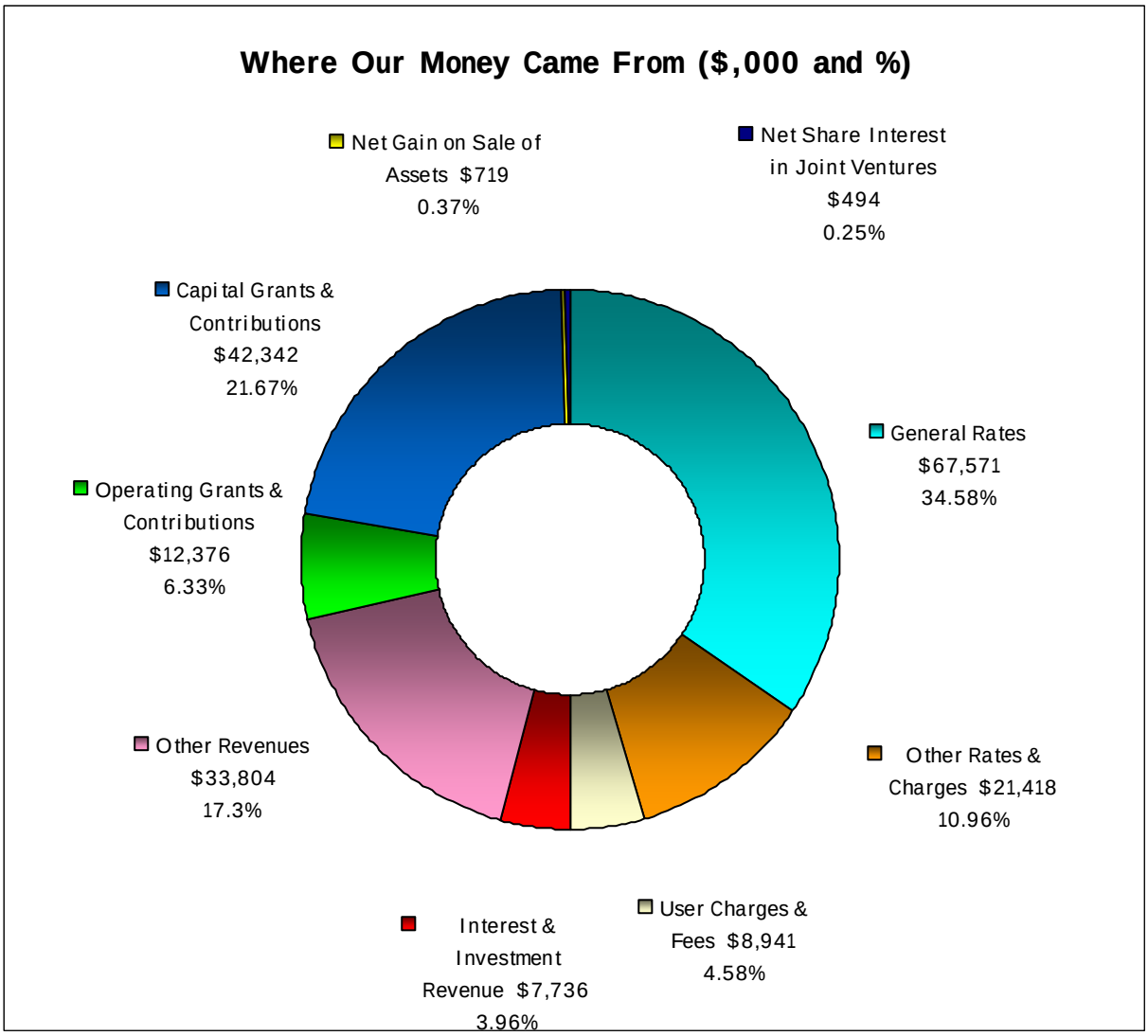
- $19.92 million of road reserves dedicated by developers to Council for Land at West Hoxton, Carnes Hill, Middleton Grange, Moorebank, Edmondson Park and Voyager Point. The value of these assets is included as revenue (they do not represent funds available for Council operations or future capital expenditure); and

- $3.2 million "in kind" contributions from developers.

- $13.7 million cash contributed by developers to fund future infrastructure associated with new development (Council is restricted as to how it may use these funds).

Sourcing our Revenue – where our money came from

Council had revenue of $195.4 million in revenue during 2010-2011. The largest contributions to revenue were provided by general rates, capital grants and contributions and insurance recovery income for Council's administration building destroyed in a fire in August 2010.



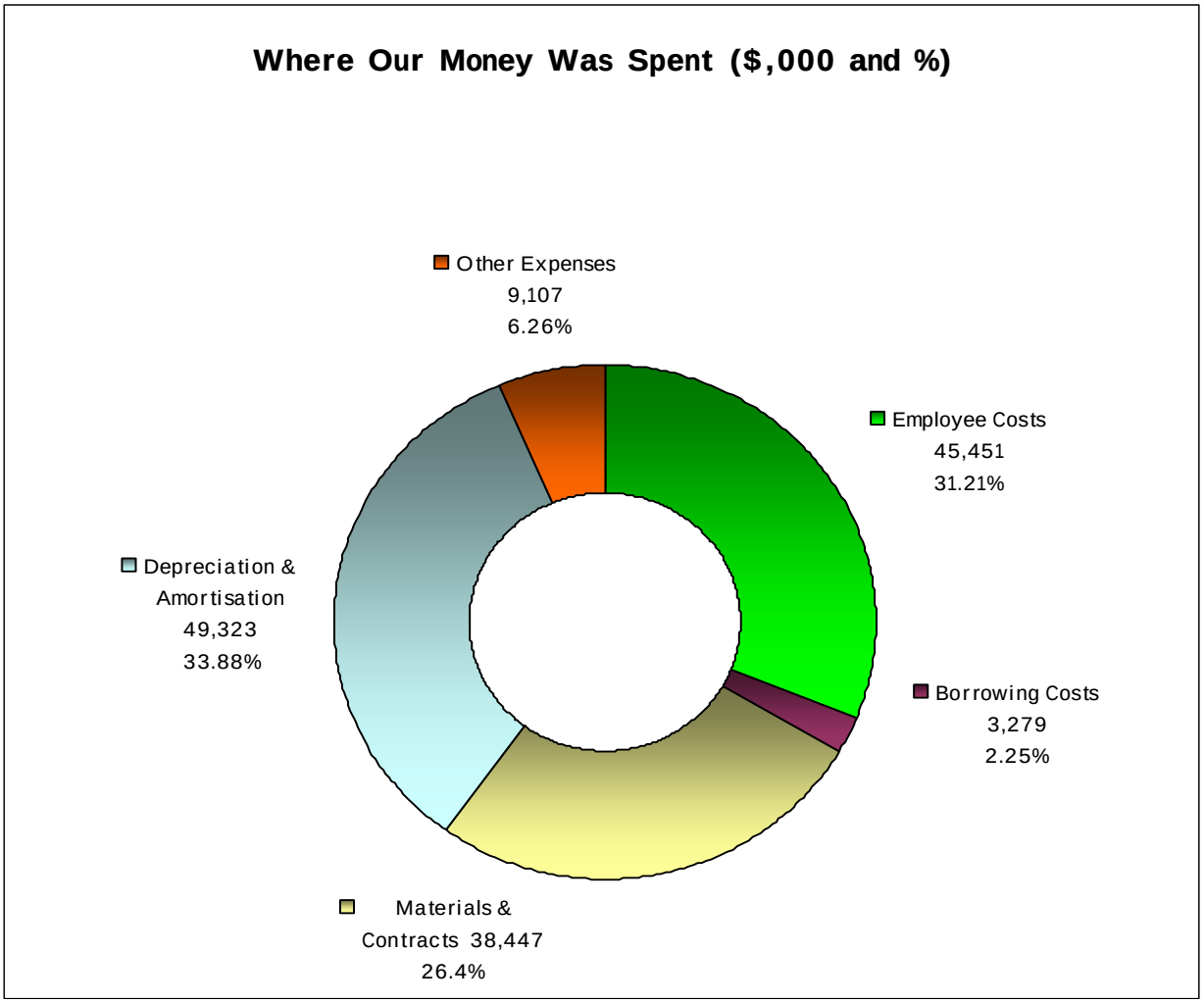
Included in the revenue for 2010-2011 was $44.92 million of "Abnormal Items", that is, items of abnormally high value that may distort normal comparative figures. These included:

- $19.92 million of road reserves dedicated by developers.
-
- $25 million insurance recovery for the administration building and associated assets destroyed in a fire in August 2010 ($19million insurance receipts and $6million outstanding claims as at 30 June 2011)

The recognition of these “Abnormal Items” resulted in a lower than expected Rates & Annual Charges Coverage Ratio 45.54% for 2010-2011 (46.86% in 2009-2010). The same ratio for 2010-2011 adjusted for “Abnormal Items” is calculated at 59% (56.18% for 2009-2010).

Identifying our expenses – where our money was spent

The primary components of our $145.6 million expenditure are depreciation expense, employee costs and materials & contracts. Total gross expenditure increased by approximately 28% per cent over the previous year, driven principally by increased depreciation expense of $26.15 million (made up of $9.35 million higher depreciation charge as a result of the infrastructure assets revaluation and $16.8 million assets written off as a result of the fire that destroyed Council’s previous administration building at 1 Hoxton Park Road. Included in Materials and Contracts are an estimate of $6 million expenditure for replacement of contents and increased cost of business as a result of the fire. This amount was recognised as Insurance receivable as at 30 June 2011.



Balance Sheet

The balance sheet shows what we own (our assets) and what we owe (our liabilities) and our net worth.

Assets – what we own

- The major components of our assets include:
- property, plant and equipment (land, buildings, roads, stormwater drainage)
- capital works in progress; and
- cash assets

Together these asset categories account for 98 per cent of all our assets. As at 30 June 2011 Council held assets worth $1.83 billion compared to $4.3 billion in the previous reporting period. The main reason for the decrease in Council assets is due to a change in accounting policy for Community Land valuation.

Community Land was revalued at fair value in 2008/2009 using the Deprival Value method (i.e. highest and best use) resulting in an increase in this asset class by $2.58 billion and an equivalent adjustment to the Asset Revaluation reserve. As at 30 June 2011 Council revised its accounting policy for reporting Community Land from the Deprival value method to the lower Valuer General‘s (VG) Valuation method as prescribed by the Division of Local Government.

This change in accounting policy resulted in a decrease of $2.484 billion in Community Land Value (net of VG valuation revaluation increase of $96 million) with an equivalent adjustment to the Asset Revaluation Reserve

Capital expenditure

The level of capital expenditure in 2010-2011 strived to deliver on the challenge of renewing community assets. $75.34 million dollars was spent on capital works and acquisitions during the year. This figure includes $19.16 million for the acquisition of the building at 33 Moore Street, $17.6 million spent on renewal of infrastructure, $18.66 million land and other assets acquisitions, and $19.92 million road reserves dedicated to Council from developers in new land release areas.

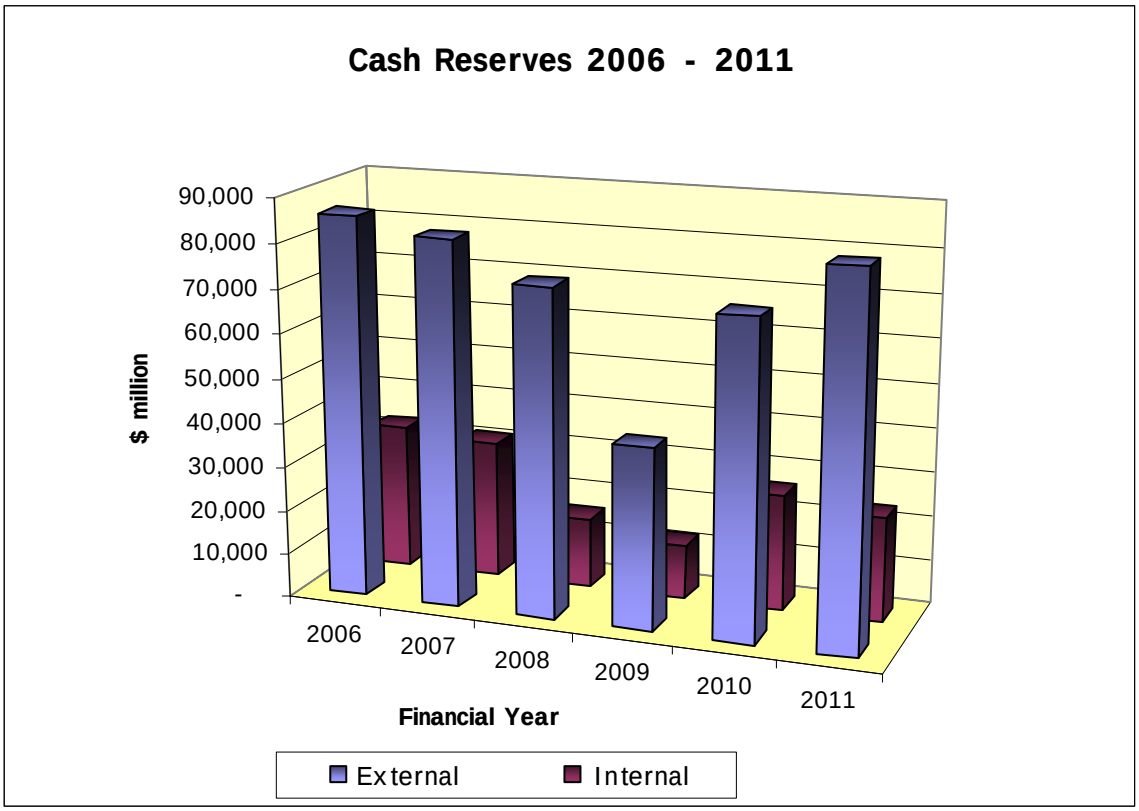
In 2008-2009 Council lodged an application for a special rate variation with the Minister for Local Government and was successful in receiving approval for an additional 9 per cent increase to notional income for a period of five years (from 2010 to 2014). This increase provided an additional $6 million for capital works throughout the city.

Reviewing our liabilities - what we owe

Council’s liabilities include debt, amounts owed to suppliers and amounts owed to employees for leave entitlements. Our total liabilities of $76.06 million represent a decrease of 6.4 per cent from the previous year attributed mainly to reduction in Council's loans portfolio.

Cash reserves

Council's cash holdings have increased by $9.12 million during 2010-2011 with an increase of $11.73 million in external restrictions mainly attributable to S94 developer contributions.



Debt levels

Council's single largest liability is its debt as a result of its loan borrowing program; at 30 June 2011 this liability was $49.99 million including $10.25 million interest free loan. Council did not borrow funds during the 2010-2011 financial year to fund capital works. While the notion of being in debt has some negative connotations, borrowing to fund community infrastructure results in the cost being shared by the wider base of rate payers in the future. The cost is borne by those who will benefit from the use of the infrastructure in years to come.

Council's debt service ratio at around 6.01 per cent is well below the industry benchmark of 10 per cent. Council's repayments will remain constant until the end of 2012 when some of the older loans start to mature resulting in a reduced debt servicing costs and lower the debt service ratio.

Conclusion

Council is continuing to work to ensure it is in a strong financial position to provide for the present and future needs of our growing community. In accordance with the requirements of the Division of Local Government, Council has developed a 10 year Community Strategic Plan which is supported by a Resourcing Strategy consisting of a 10 year Long Term Financial Plan, a 10 year Asset Management Plan and a 4 year Workforce Plan. The

10 year Long Term Financial Plan will be updated annually as part of the development of the Operational Plan and reviewed in detail as part of the four yearly review of the Community Strategic Plan. These plans will assist Council to inform all stakeholders of what is required to ensure a financially sustainable Regional City for all residents as we look towards the future.

Attachment 4: Public Notice

SUMMARY OF FINANCIAL REPORTS FOR THE YEAR ENDED 30 JUNE 2011

Council's Annual Financial Reports and Audit Report will be presented at the Council Meeting to be held on Monday 21 November 2011 at 7.00 p.m and are now on public exhibition.

Summary of 2010/2011 Financial Report	**Current Year**	**Previous Year**
	$'000	$'000
Income Statement		
Total Income from Continuing Operations	195,401	180,859
Total Expenses from Continuing Operations	145,607	114,191
Operating Result from Continuing Operations	49,794	66,668
Net Operating Result before capital Grants and Contributions	7,452	12,345
Financial Position		
Total Current Assets	120,112	96,973
Total Current Liabilities	(33,544)	(31,982)
Total Non-Current Assets	1,712,938	4,154,340
Total Non-Current Liabilities	(42,525)	(49,319)
Total Equity	1,756,981	4,170,012
Other Financial Information		
Unrestricted Current Ratio	1.81:1	1.70:1
Debt Service Percentage	6.01%	7.04%
Rate Coverage Percentage	46%	47%
Rates & Annual Charges Outstanding Percentage	5.54%	5.06%
Building & Infrastructure Renewals Ratio	67%	76%

Copies of Council's Audited Financial Statements, together with the Auditor's Reports are available for public inspection at Council's Customer Service Centre Level 2, 33 Moore Street or at the Library, 170 George Street, and on Council’s website at www.liverpool.nsw.gov.au .

In accordance with S420 of the Local Government Act 1993, any person wishing to make a submission to Council with respect to Council's Audited Financial Reports and/or the Auditors Reports must do so in writing and lodge it with Council by Monday 28 November 2011. Copies of all submissions will be referred to Council's Auditor. Submissions must be made in writing, addressed to the General Manager, Liverpool City Council, Locked Bag 7064 ,Liverpool BC NSW 1871,quoting file reference 2005/2473.For enquiries please phone the Responsible Accounting Officer on 1300 36 2170.

LIVERPOOL CITY COUNCIL

CORPORATE SERVICES REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	**CORS 02**	**FILE NO:**	**2011/4395**
SUBJECT:	**CLASSIFICATION OF 52 SCOTT STREET, LIVERPOOL AS OPERATIONAL LAND IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT 1993**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**NEIGHBOURHOODS AND VILLAGES ARE WELL DESIGNED, SAFE & CLEAN**		

EXECUTIVE SUMMARY:

Council acquired 52 Scott Street, Liverpool as part of its property development strategy.

In accordance with the provisions of Section 31 of the Local Government Act 1993, Council is required to classify public land as either Community Land or Operational Land within three months of acquisition. Public notice was given of Council's intention to classify the subject property as Operational Land in the local newspaper. Following the public notification there were no submissions received.

This report recommends that Council proceed to classify 52 Scott Street, Liverpool as Operational Land.

DETAILED REPORT:

Council resolved on 29 August 2011 to acquire 52 Scott Street, Liverpool as part of its property development strategy. Settlement occurred on 30 September 2011.

Section 31 of the Local Government Act 1993 requires that a Council must resolve to classify public land within three months of acquisition.

Section 34 of the Local Government Act 1993 also requires that public notice be given of a proposed resolution to classify public land. Accordingly, notices advising that Council proposes to resolve to classify 52 Scott Street, Liverpool as Operational Land were published in the local newspaper on 5 and 12 October 2011.

A period of not less than 28 days was provided during which submissions could be made to Council. No submissions were received.

It is therefore recommended that Council proceed to classify 52 Scott Street, Liverpool as Operational Land.

FINANCIAL IMPLICATIONS:

There is no impact on budget as a result of this report.

RECOMMENDATION:

That Council classifies 52 Scott Street, Liverpool, identified as Lots 1, 2 and 3 DP229979, Lots 22 and 23 DP441010, Lot 1 DP507070 and Lot 17 DP81842 as Operational Land.

SIGNED BY:

Julie Hately
Director
Corporate Services

Attachment: Location Map

Location Map

LIVERPOOL CITY COUNCIL

CORPORATE SERVICES REPORT

ORDINARY MEETING **21/11/2011**

ITEM NO:	**CORS 03**	**FILE NO:**	**2010/0192**
SUBJECT:	**CLASSIFICATION OF LOTS 52 AND 52A IN DP 29317 KNOWN AS 225 JARDINE DRIVE, EDMONDSON PARK AS OPERATIONAL LAND - IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT 1993**		
COMMUNITY STRATEGIC PLAN REFERENCE:	**NEIGHBOURHOODS AND VILLAGES ARE WELL DESIGNED, SAFE AND CLEAN**		

EXECUTIVE SUMMARY:

Council acquired Lots 52 and 52A in DP 29317, known as 225 Jardine Drive, Edmondson Park, on 13 September 2011 for a detention basin.

In accordance with the provisions of Section 31 of the Local Government Act 1993, Council is required to classify public land as either Community or Operational within three months of acquisition. Public notice was given of Council's intention to classify the subject properties as Operational Land in the local newspaper. Following public notice no submissions were received. It is recommended that Council proceed with the classification as proposed.

DETAILED REPORT:

Council resolved on 28 February 2011 to proceed with the compulsory acquisition of Lots 52 and 52A in DP 29317, known as 225 Jardine Drive, Edmondson Park, for the purposes of constructing a detention basin.

Negotiations were entered into with the owners and the subject properties were acquired by agreement on 13 September 2011.

Section 31 of the Local Government Act 1993 requires that a Council must resolve to classify public land within three months of acquisition.

Section 34 of the Local Government Act 1993 also requires that public notice be given of a proposed resolution to classify public land. Accordingly, a notice advising that Council proposes to resolve to classify Lots 52 and 52A in DP 29317 as Operational Land was

published in the local paper on 21 September 2011. A period of not less than 28 days was provided during which submissions could be made to Council. No submissions were received.

There is potential for part of the land to be available for disposal once all the detention basin works are completed and therefore the land should be classified as Operational Land now to avoid any lengthy reclassification process in the future.

It is therefore recommended that Council proceed with classifying Lots 52 and 52A in DP 29317, known as 225 Jardine Drive, Edmondson Park as Operational Land.

FINANCIAL IMPLICATIONS:

There is no impact on budget as a result of this report.

RECOMMENDATION:

That Council classifies Lots 52 and 52A in DP 29317, known as Jardine Drive, Edmondson Park as Operational Land in accordance with the Local Government Act 1993.

SIGNED BY:

Julie Hately
Director
Corporate Services

Attachment: Location Map

Location Map