



ORDINARY MEETING OF
COUNCIL FOLLOWING POLICY
COMMITTEE

26 May 2010

His Worship the Mayor & Councillors

I have to advise that an Ordinary Meeting of **Bathurst Regional Council** will be held in the Council Chambers on Wednesday, 2 June 2010 commencing at approximately 6.25 pm (or immediately following the conclusion of the Policy Committee/Discussion Forums).

A handwritten signature in blue ink, appearing to read "D J Sherley".

D J Sherley
GENERAL MANAGER

BUSINESS AGENDA

ORDINARY MEETING OF COUNCIL FOLLOWING POLICY COMMITTEE

TO BE HELD ON WEDNESDAY, 2 JUNE 2010

1. MEETING COMMENCES
2. APOLOGIES
3. DECLARATION OF INTEREST
To assist the Councillors and committee members in their correct consideration of business before them at the meeting, please give consideration to Section 451 of the Local Government Act, in relation to Declaration of Interest at meetings.
4. RECEIVE AND DEAL WITH DIRECTORS' REPORTS
 - * Director Environmental Planning & Building Services' Report
 - * Director Engineering Services' Report
5. MEETING CLOSE

MINUTE

1 6.25 pm MEETING COMMENCES

Present: Councillors Toole (Chair), Aubin, Bourke, Hanger, Morse, Thompson, Westman.

MINUTE

2 APOLOGIES

MOVED: G Westman SECONDED: W Aubin

RESOLVED: That the apologies from Crs Carpenter and North be accepted and leave of absence granted.

MINUTE

3 DECLARATION OF INTEREST

MOVED: G Hanger SECONDED: B Bourke

RESOLVED: That the Declaration of Interest be noted.

ORDINARY MEETING OF COUNCIL FOLLOWING POLICY COMMITTEE
DIRECTOR ENVIRONMENTAL PLANNING & BUILDING SERVICES' REPORT
2 JUNE 2010

**DIRECTOR ENVIRONMENTAL PLANNING & BUILDING SERVICES' REPORT TO THE
ORDINARY MEETING OF COUNCIL FOLLOWING POLICY COMMITTEE MEETING
HELD ON 2 JUNE 2010**

General Manager
Bathurst Regional Council

**1 DEVELOPMENT APPLICATION NO. 2010/0574 – TWO LOT SUBDIVISION AT 31
AND 134 MOUNT HAVEN WAY, MEADOW FLAT. APPLICANT: M WORRAD. OWNER:
MR M WORRAD AND HOOD RURAL RESOURCES PTY LTD (2010/0574)**

Recommendation: That Council:

- (a) support the variation to the 1(f) – Special Rural Small Holdings maximum lot size development standard prescribed in Clause 31 (2)(a) of the Bathurst Regional (Interim) Local Environmental Plan 2005 for proposed Lot 101.
- (b) direct the Director Environmental, Planning & Building Services to approve Development Application No. 2010/0574, subject to conditions able to be imposed pursuant to Section 80(A) of the Environmental Planning and Assessment Act 1979, as amended; and
- (c) call a division.

Report: The Site

Council has received a Development Application (DA) for a two lot subdivision (Boundary Adjustment) at 31 Mount Haven Way Meadow Flat, described as Lots 33 and 46, DP 270159 . See location plan at **attachment 1**.

The subject site is located in the Mount Haven Estate which comprises a mixture of rural lifestyle lots within a larger rural farm lot.

The development involves the adjustment of the boundary between two existing lots. Lot 33 is a lifestyle lot of 5.5 hectares. Lot 46 currently comprises 503 ha and is known as the “farm lot” associated with the Mount Haven Estate

History of the site/Proposal (if applicable)

The allotments were created pursuant to Clause 29 in the Evans IDO No.1, which enabled the creation of the Mount Haven Estate.

The proposal

The proposal involves a boundary adjustment for the accumulation of additional land. This will result in Lot 33 increasing from 5.5 hectares to 7.3 hectares and Lot 46 decreasing from 503.1 hectares to 501.3 hectares. See plan of proposed development at **attachment 2**.

Planning Context

Bathurst Regional (Interim) Local Environmental Plan 2005

The subject site is zoned 1(f) Special Rural Small Holdings under the provisions of the *Bathurst Regional (Interim) Local Environmental Plan 2005*. Clause 31 of the BRILEP 2005 enables:

- a) The creation of 42 dwelling lots having an average area of not more than 4 hectares, a minimum area of not less than 2 hectares and a maximum area of not more than 6 hectares.
- b) Miscellaneous other lots; and
- c) A farm lot having an area of not less than 480 hectares.

The development is therefore contrary to the maximum 6 hectare provided for the rural lifestyle lots.

The applicant has submitted a SEPP 1 objection (see SEPP 1 application form at **attachment 3**) which indicated the nature of the subdivision and their objection to the current standard due to:

- The proposed lot is only 1.3 hectares greater than the development standard
- No additional dwelling entitlements are proposed
- The use of each lot will not be altered
- The proposal will square up the allotment
- The farm lot (lot 100) continues to meet the development standard (480 ha) by a substantive amount

Draft Bathurst Local Environmental Plan No.2009/02

The draft Local Environmental Plan has been prepared to correct the application and intent of Clause 31 Subdivision – Zone 1(f) of the Local Environmental Plan so that it applies to all land within Deposited Plan 270159 in the same way in which Clause 29 of Interim Development Order No. 1 – Evans, as amended, originally applied.

The draft Plan corrects the application and intent of Clause 31 Subdivision – Zone 1(f) of the Local Environmental Plan so that it applies to all land within Deposited Plan 270159 in the same way in which Clause 29 of Interim Development Order No. 1 – Evans, as amended, originally applied, and thus ensure that subdivision of the 480 ha farm lot is prohibited development.

The proposal is consistent with the Draft LEP as the remaining farm lot (proposed lot 100) will be 501.3 Hectares.

The aim of the development standards for Mount Haven Estate were to facilitate a rural residential estate within the confines of a larger rural estate. In this case the farm lot continues to comply with the overall minimum area of 480 hectares and does so by some margin. Likewise the average of the rural lifestyle lots continues to be less than 4 hectares.

On the whole the use of part of the farm lot for rural residential purposes does not significantly undermine the overall objectives and the aims of the development within the Mount Haven Estate. Given its minor nature it is considered acceptable.

It should be noted that draft LEP has the effect of prohibiting the use of SEPP 1 objections within the Mt Haven Estate. The prohibition on the use of SEPP 1 is not currently in place. This creates a small window of opportunity for the subdivision which will be closed upon the gazettal of the draft LEP. The draft was specifically aimed at preventing the subdivision of the farm lot into 100 ha allotments. The proposal is not inconsistent with that aim.

Concurrence

The variation to the development standard does not require concurrence of the Department of Planning as it does not seek any additional entitlement.

Need for Council Concurrence

In accordance with the Department of Planning's Circular PS08-014 "Reporting Variations to Development Standards", all development applications where there is a variation to a development standard of greater than 10% must be determined by Council.

Accordingly this is not a matter that may be dealt with under delegated authority.

Conclusion

The subdivision between the lots will not create any dwelling entitlements nor compromise the agricultural potential of the land. Accordingly the SEPP 1 objection is supportable.

Financial Implications: Nil.

MINUTE

4 Item 1 DEVELOPMENT APPLICATION NO. 2010/0574 – TWO LOT SUBDIVISION AT 31 AND 134 MOUNT HAVEN WAY, MEADOW FLAT. APPLICANT: M WORRAD. OWNER: MR M WORRAD AND HOOD RURAL RESOURCES PTY LTD

MOVED: G Westman SECONDED: M Morse

RESOLVED: That Council:

- (a) support the variation to the 1(f) – Special Rural Small Holdings maximum lot size development standard prescribed in Clause 31 (2)(a) of the Bathurst Regional (Interim) Local Environmental Plan 2005 for proposed Lot 101.
- (b) direct the Director Environmental, Planning & Building Services to approve Development Application No. 2010/0574, subject to conditions able to be imposed pursuant to Section 80(A) of the Environmental Planning and Assessment Act 1979, as amended; and
- (c) call a division.

On being **PUT** to the **VOTE** the **MOTION** was **CARRIED**

The result of the division was:

In favour of the motion - Cr Warren Aubin, Cr Bobby Bourke, Cr Graeme Hanger, Cr Monica Morse, Cr Ross Thompson, Cr Paul Toole, Cr Greg Westman,

Against the motion - Nil

Absent - Cr Tracey Carpenter, Cr Ian North,

Abstain - Nil

Yours faithfully



D R Shaw

DIRECTOR

ENVIRONMENTAL, PLANNING & BUILDING SERVICES

ORDINARY MEETING OF COUNCIL FOLLOWING POLICY COMMITTEE

DIRECTOR ENGINEERING SERVICES' REPORT

2 JUNE 2010

**DIRECTOR ENGINEERING SERVICES' REPORT TO THE ORDINARY MEETING OF
COUNCIL FOLLOWING POLICY COMMITTEE MEETING HELD ON 2 JUNE 2010**

General Manager
Bathurst Regional Council

1 MACHATTIE PARK AND KINGS PARADE TREE REMOVALS (04.00012 & 04.00039)

Recommendation: That the information be noted.

Report: Following earlier tree audits carried out within the Bathurst region including Heritage Street Trees and trees adjacent to Vale Road from Bathurst to Perthville, it was believed judicious to engage a consultant to undertake an audit of trees within Machattie Park and Kings Parade as many of the trees within these parks are of a similar age to those within the other areas which have been audited. Council's reasoning for this action was to gauge the healthiness or otherwise of the trees within these parks from an independent viewpoint.

The positive outcome of the audit is that the greater majority of the trees within Machattie Park and Kings Parade were, at the time of the inspections, in a sound and stable condition with some 116 trees out of a total of 228 only requiring minor dead-wooding or other minor works. Of the trees inspected, it has been found that 15 require further investigation which may result in the need to remove them following more intensive investigation. In addition, the audit has highlighted 3 trees, one in Machattie Park and 2 in Kings Parade, that have been identified as posing a significant risk to public safety and therefore immediate removal has been strongly recommended.

The tree within Machattie Park, a large elm (*Ulmus* spp.) is believed to contain large sections of rotted heartwood resulting in a considerable weakening of the trunk section and is capable of failing in the short term. It should be noted that the tree immediately adjacent to this tree failed some weeks ago and only for it falling into the park at night prevented a more serious outcome regarding the public safety issue. The 2 trees within Kings Parade which require removal are deodars (*Cedrus deodara*) which are part of the formal plantings on the perimeter of the park. It can be seen that the trees have a considerable lean and have tilted well past the vertical to a point where they are now resting on the electrical outlet cabinets located below each of these trees within Kings Parade. The trees have had weight reduction works carried out to them previously in an attempt to alleviate the problem but it is now believed that they are at a point where removal is the best course of action to maintain public safety. It is anticipated that going into the winter months where it can be expected consistent wet periods and strong winds become prevalent, the risk of the trees falling is far greater because of the angle of lean already evident. Should such weather be experienced, the risk of the trees falling is very high as the root system has insufficient anchorage into the soil to prevent them toppling. As these 2 trees are adjacent to a busy street and pedestrian thoroughfare, it is considered prudent, although reluctantly, to take the necessary action of removal.

When these necessary removal works are carried out, replacement planting will be undertaken. In the case of the Kings Parade trees, 2 super advanced trees of the same specie will be planted in order to maintain the balance of the existing plantings. In relation to the Machattie Park tree, it may not be possible to replant in exactly the same location but another tree of suitable specie will be planted in a position to compliment the park.

Financial Implications: It is intended that quotations for the necessary works will be called and it is to be noted that Council has no specific allocation for this work. Funding will have to be sourced from existing maintenance budgets.

MINUTE

5 Item 1 MACHATTIE PARK AND KINGS PARADE TREE REMOVALS

MOVED: W Aubin SECONDED: B Bourke

RESOLVED: That the information be noted.

Yours faithfully



Doug Patterson
DIRECTOR
ENGINEERING SERVICES

MINUTE

6 MEETING CLOSE

The Meeting closed at 6.30 pm.

CHAIRMAN: _____

Date: _____ **(16 June 2010)**