



POLICY COMMITTEE

27 May 2015

His Worship the Mayor & Councillors

**Notice of Policy Committee Meeting of Bathurst Regional Council - Wednesday, 3 June 2015**

I have to advise that a **Policy Committee Meeting** will be held in the Council Chambers on Wednesday, 3 June 2015 commencing at 6.00 pm.

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

D J Sherley  
**GENERAL MANAGER**

# **BUSINESS AGENDA**

## **POLICY COMMITTEE**

**TO BE HELD ON WEDNESDAY, 3 JUNE 2015**

**1. 6:00 PM - MEETING COMMENCES**

**2. APOLOGIES**

**3. REPORT OF PREVIOUS MEETING**

\* MINUTES - POLICY COMMITTEE MEETING - 1 APRIL 2015

**4. 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.

**5. RECEIVE AND DEAL WITH DIRECTORS' REPORTS - Nil**

**6. GENERAL BUSINESS**

**7. DISCUSSION FORUM - DEVELOPMENT APPLICATION SUBMISSIONS - Nil**

**8. DISCUSSION FORUM OTHER**

\* DRAFT BATHURST REGIONAL DEVELOPMENT CONTROL PLAN 2014 - AMENDMENT NO 2

**9. MEETING CLOSE**

## MINUTE

### 1 MEETING COMMENCES

**Present:** Councillors Rush (Chair), Bourke, Coote, Hanger, Jennings, Morse, North, Westman.

**MINUTE**

**2     APOLOGIES**  
**MOVED: Cr I North SECONDED: Cr M Coote**

**RESOLVED:** That the apology from Cr Aubin and the apology for late arrival from Cr Westman be accepted and leave of absence granted.

**REPORT OF PREVIOUS MEETING AND MINUTES**

POLICY COMMITTEE

## **1 MINUTES - POLICY COMMITTEE MEETING - 1 APRIL 2015 (07.00064)**

**Recommendation:** That the Minutes of the Policy Committee Meeting held on 1 April 2015 be adopted.

**Report:** The Minutes of the Policy Committee Meeting held 1 April 2015, are attached.

**Financial Implications:** N/A

### **Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 32: To ensure Council is supported by an adequate workforce and appropriate governance procedures. Strategy 32.2

**MINUTE**

- 3** Item 1 MINUTES - POLICY COMMITTEE MEETING - 1 APRIL 2015 (07.00064)  
MOVED: Cr B Bourke SECONDED: Cr M Coote

**RESOLVED:** That the Minutes of the Policy Committee Meeting held on 1 April 2015 be adopted.

**MINUTES OF THE POLICY COMMITTEE**  
**HELD ON 1 APRIL 2015**

**MEETING COMMENCES**

**1 MEETING COMMENCES 6:00 PM**

**Present:** Councillors Rush (Chair), Aubin, Bourke, Coote, Hanger, Morse, North, Westman.

**APOLOGIES**

**2 APOLOGIES**  
**MOVED** Cr I North and **SECONDED** Cr B Bourke

**RESOLVED:** That the apology from Cr Jennings be accepted and leave of absence granted.

**REPORT OF PREVIOUS MEETING**

**3 Item 1 MINUTES - POLICY COMMITTEE MEETING - 4 MARCH 2015 (07.00064)**  
**MOVED** Cr M Coote and **SECONDED** Cr G Westman

**RESOLVED:** That the Minutes of the Policy Committee Meeting held on 4 March 2015 be adopted.

**DECLARATION OF INTEREST**

**4 DECLARATION OF INTEREST 11.00002**  
**MOVED** Cr I North and **SECONDED** Cr B Bourke

**RESOLVED:** That the Declaration of Interest be noted.

**RECEIVE AND DEAL WITH DIRECTORS' REPORTS**

**Director Environmental Planning & Building Services' Report**

**5 Item 1 REVIEW OF SWIMMING POOL INSPECTION POLICY (41.00089, 02.00009)**  
**MOVED** Cr M Coote and **SECONDED** Cr W Aubin

**RESOLVED:** That Council adopt the amended Swimming Pool Inspection Policy.





to RMS.

**Cr Bourke** tabled the petition.

**Cr Aubin** noted suggestion to school had been made about car parking out the back of the school, with access from Research Station Drive.

**The Mayor** will speak to RMS and encourage their review, which will come to Council through the Traffic Committee.

**11**      **Item 3 CARENNE SCHOOL CROSSING (25.00062)**

**Cr North** - asked could a report come to Council on the requirements for a crossing, so matter could be considered by Council as soon as possible.

**12**      **Item 4 PIPER STREET RESIDENTS (28.00012)**

**Cr North** - raised concerns that a lot of B-Double trucks go through the lights at Stewart/Lambert intersection and do not stop when lights are red. Could this be followed up please.

**13**      **Item 5 NEIGHBOUR DAY CELEBRATIONS (23.00026)**

**Cr North** - attended this function on behalf of Council. This was a very good event, and great to see how neighbours have been recognised.

**14**      **Item 6 LOCAL MEMBER RE-ELECTION (18.00040)**

**Cr North** - could a letter of congratulations be sent to the Local State Member on his re-election.

**The Mayor** noted correspondence has been sent.

**15**      **Item 7 AQUATIC CENTRE (04.00105)**

**Cr North** - thanked staff for action taken on access issues that had recently been raised by the community.

**16**      **Item 8 UPPER MACQUARIE COUNTY COUNCIL (18.00172)**

---

**This is page 3 of Minutes of the Policy Committee held on 1 April 2015.**

**Cr North** - spoke to strategic report requested from the County Council, not forthcoming at this time.

**17**      **Item 9 CARENNE SCHOOL CROSSING (25.00062)**

**Cr Aubin** - advised report going to next Traffic Committee which notes "numerical warrant" has not been reached. Noted other factors to be considered, e.g. pedestrian refuge access width is currently being addressed.

**18**      **Item 10 McHUGH COURT CASE (20.00027)**

**Cr Westman** - asked while case is going on, could Council look at policy creation for this type of development into the future. Requests a Working Party be held to discuss a framework.

**19**      **Item 11 PARKS DEPARTMENT (04.00045)**

**Cr Hanger** - congratulated staff on efforts over last couple of days for the NSW Combined High School cricket tournament. The effort after the heavy rain was spectacular.

**MEETING CLOSE**

**20**      **MEETING CLOSE**

The Meeting closed at 6.28 pm.

**CHAIRMAN:** \_\_\_\_\_

**Date:** \_\_\_\_\_ **(15 April 2015)**

**MINUTE**

- 4**     **DECLARATION OF INTEREST 11.00002**  
          **MOVED: Cr M Coote SECONDED: Cr I North**

**RESOLVED:** That the Declaration of Interest be noted.

**Cr Westman arrived at the meeting.**

**GENERAL BUSINESS**

POLICY COMMITTEE

## MINUTE

### 5 Item 1 SOLAR STREET RUBBISH BINS (COMPACTING) (14.00052)

**Cr Jennings** - asked have we enquired about the solar street rubbish bin facilities which are now available.

**The Director Engineering Services** advised unaware of these, will follow up this matter.

**MINUTE**

**6 Item 2 MOP TOP TREES - DURHAM STREET (13.00019)**

**Cr Jennings** - asked could these plants be transplanted?

**The Director Engineering Services** advised this was unlikely, but can review possibilities.

**MINUTE**

**7 Item 3 DAIRY FARMERS SITE (2012/0518)**

**Cr Jennings** - seeking an update on the sites development.

**The Director Environmental, Planning & Building Services** advised no movement on this matter at this time.



**MINUTE**

**8 Item 4 SECOND TRACK (07.00084)**

**Cr Jennings** - asked when will a business plan be shaped up?

**The Director Corporate Services & Finance** advised this is on the program, at this stage working on land acquisition and then will go to business plan.

**MINUTE**

**9      Item 5    TESLA MOTOR VECHICLES (04.00009)**

**Cr Jennings** - noted predictions are cars will be electric, running on solar and driverless. Would Council contact TESLA motor to see if they would like to use Mount Panorama for promoting their vehicles. Also would like Council to see about putting in charging stations.

**MINUTE**

**10    Item 6    BICENTENARY COMMITTEE (20.00153)**

**Cr Coote** - congratulations to the Committee and all involved. It was a brilliant job by the Committee and all staff.

**MINUTE**

**11    Item 7    PARKING (BACK-IN & FRONT-IN) (28.00006)**

**Cr North** - asked could a report come back to Council on this matter?

**MINUTE**

**12 Item 8 FLOODPLAIN MANAGEMENT CONFERENCE (07.00007)**

**Cr North** - recently attended this conference in Brisbane. Council is well ahead in terms of a mitigation response.

**MINUTE**

**13**    **Item 9**    **BICENTENARY EVENTS (20.00153)**

**Cr North** - congratulations to all those involved.

**MINUTE**

**14    Item 10    GREEN ORGANICE WASTE BIN (14.00008)**

**Cr North** - asked how is this matter going?

**The Director Engineering Services** advised has been adopted by Council. Looking at implementation in 2016.

**MINUTE**

**15    Item 11    KELSO ROAD WORKS (25.00018)**

**Cr North** - enquired as to the status of road works at Kelso.

**The Director Engineering Services** advised Burton construction going well. Doing work on Lee Street bypass and this is scheduled to be open July 2015.



**MINUTE**

**16    Item 12    CARENNE SCHOOL PEDESTRIAN CROSSING (25.00062)**

**Cr Bourke** - encourages Councillors to talk to parents and teachers before the Working Party is held next Wednesday, 10 June.

**DISCUSSION FORUM OTHER AND MINUTES**

POLICY COMMITTEE

**1 DRAFT BATHURST REGIONAL DEVELOPMENT CONTROL PLAN 2014 - AMENDMENT NO 2 (20.00284)**

**Recommendation:** That the information be noted.

**Report:** Council at its Policy Committee held 4 March 2015 resolved to:

- (a) commence an amendment to the Bathurst Regional Development Control Plan 2014 with respect to the advertising and notification of development applications;
- (b) note the amendment will be reported back to Council following the public exhibition period; and
- (c) call a division.

The purpose of the amendment to the DCP is to reduce the number of subjective judgements of whether a development application requires advertising or notification.

Council exhibited the draft Bathurst Regional Development Control Plan 2014 Amendment No 2 from Monday 23 March 2015 until Friday 24 April 2015.

Following the exhibition period Council received a total of three (3) submissions from the public.

Copies of the submissions are provided at **Attachment 1**.

The table below summarises the submissions received and the key issues raised in those submissions.

Name	Comments or issues raised
Bathurst 2036 Heritage Action Network (BHAN)	<ul style="list-style-type: none"><li>• Questions the appropriateness of subjective and discretionary provisions in the DCP.</li><li>• Section 2.2.1 – Considers that the note allowing minor partial demolitions within Heritage Conservation Areas or Heritage Items without exhibition is subjective and should be deleted.</li><li>• Section 2.2.1(a) – Considers that the provision to exhibit should apply to all land rather than residential zones only as proposed.</li><li>• Suggests that for all development applications which have been subsequently lodged following a complaint received by Council, the complainant be notified of the Development Application under the DCP.</li><li>• Suggests that two alternative <u>additional</u> requirements are added to the DCP:<ul style="list-style-type: none"><li>1. Where an application might impact on a streetscape, notification should be to all property owners within the immediate neighbourhood- say, those within 100 metres</li></ul></li></ul>

	<p>of the boundaries of the subject property, and irrespective of whether a road, pathway or structure intervenes, or</p> <p>2. The placing of a sign (yellow) to be affixed prominently for a suitable period at the front of the property which is the subject of the DA whether it is otherwise advertised or not.</p> <ul style="list-style-type: none"> <li>• This suggestion is simple to implement, very low or no cost, and could be an alternative to other suggestions, namely: <ul style="list-style-type: none"> <li>○ the 100 metre wider notification as outlined in (i) above,</li> <li>○ notification of pool pumps because of noise impacts</li> <li>○ notification irrespective of an intervening road or pathway as above</li> </ul> </li> <li>• Suggest that before the current proposed amendment is finally determined by Council, Council seek the advice of an external, qualified professional to review <u>all</u> the subjective and discretionary provisions in the Development Control Plan with a view to replacing them all with prescriptive provisions, and with a view to ensuring all the proposed changes, including the current proposals, are not so narrow as to fail the Public Interest and Public Participation tests.</li> </ul>
Ms L Thompson	<ul style="list-style-type: none"> <li>• Identifies that where a development proposal includes different classes of development some will be notified and some will not be notified creates problems – does not provide clarity.</li> <li>• The proposed amendment is inequitable and means that residents in Zones R1 and R2 will have less opportunity to participate in planning decisions than residents of other zones. This is inconsistent with the objective stated in section 5(c) of the EP &amp; A Act.</li> <li>• Clause 2.3.1.1 [sic]: Creation of duty not to notify is inconsistent with proper exercise of power by the consent authority.</li> <li>• Subdivision of land should be placed in the mandatory notification category (Clause 2.3.1.2) particularly if the subdivision proposes to create lots that are smaller than the permitted minimum lot size.</li> <li>• Seeks to include the following as exhibited or notified development: <ol style="list-style-type: none"> <li>1. developments where the applicant has requested a variation to the DCP or where an inspection of the plans reasonably suggests that the proposed development will require a variation of the DCP as it does not fully comply with the DCP standards; and</li> </ol> </li> </ul>

	<p>2. developments where an inspection of the plans reasonably suggests that the proposed development does not comply with the EPAA, Local Government Act or other relevant legislation.</p> <ul style="list-style-type: none"> <li>• Seeks to include developments requiring approval under Part A of the Table in Section 68 of the Local Government Act 1993 (NSW) (ie moveable dwellings) as exhibited or notified development.</li> <li>• Clause 2.3.1.3, misunderstands the need for Council to ensure that it receives complete and proper plans at the time an application is lodged otherwise it will not be possible to make an assessment of the possible impacts of the proposed development and therefore whether or not it should be notified.</li> <li>• Seeks to have the existing Clause 2.3.1 (e) &amp; (f) retained in the proposed amendment as they provide additional public interest safeguards.</li> <li>• Seeks to include an additional subclause to Clause 2.2.2 as follows: <ul style="list-style-type: none"> <li>1. Notification of exhibited development will be given in accordance with Clauses 2.3.2 and 2.3.3.</li> </ul> </li> </ul>
Mr K Birch	<ul style="list-style-type: none"> <li>• Notes that the explanation document does not provide details of the recent litigation and no details of the review were provided.</li> <li>• The recent litigation (Manning case) suggests that it is not the wording of the DCP that needs to be altered but rather Council should not be accepting incomplete or poorly supported development applications. Further, there should be a greater emphasis on staff training and supervision of staff acting under delegation.</li> <li>• The proposed wording in the DCP of “material adverse impact” prejudices the question of how others might be affected by development.</li> <li>• The draft DCP provision of “material adverse impact” ignores the general practice of using words or phrases that have previously been considered and interpreted by courts and tribunals, so that they have a fairly certain meaning, adding uncertainty as to how they might be interpreted in future litigation.</li> </ul>

The draft Plan will be referred to a future Council meeting for consideration.

**Financial Implications:** Nil.

**Bathurst 2036 Community Strategic Plan - Objectives and Strategies**

- Objective 28: To plan for the growth of the region and the protection of the region's environmental, economic, social and cultural assets.

Strategy 28.8

- Objective 30: To identify the needs of the community and encourage and support communication, interaction and support within the community.

Strategy 30.3, 30.7

## MINUTE

### **17 Item 1 DRAFT BATHURST REGIONAL DEVELOPMENT CONTROL PLAN 2014 - AMENDMENT NO 2 (20.00284)**

Discussion included:

**I MacPherson National Trust** - the National Trust didn't make a submission, however feels the development at 118 Mitre Street and its notification should be considered as to how it would be dealt with in terms of the new DCP. That is use it as a test. Feels 118 Mitre Street should have been advertised.

In regards to DA at 12 William Street, the National Trust is very supportive of the recommendation. Spoke to question of "demolition", "restoration", "rebuild". Perhaps we can redefine in the DCP.

**S Bathgate - Bathurst 2036 Heritage Action Network (BHAN)** - Spoke to BHAN submission on the DCP. Utilised 118 Mitre Street as an example and requested BHAN submission on 118 Mitre Street be distributed to Councillors. Spoke to recent planning court case - private and public duties of the Council. If Council in doubt, then should do wider notification. Narrowly drawn rules carry greater risk. Greater prescription is supported by BHAN. Immediate neighbours (adjacent) should be notified and consideration needs to be given to going out wider than this. In some Sydney Councils the proponent needs to put a notice on the front gate of the property, this is worth consideration as it is a low cost option.

The discretionary provisions in Council's DCP's, there are currently 36 of these, lead to subjective judgements, which may cause problems. Notification is one of these. Need to look at all of these.

Suggest Council consider getting an independent review of DCP provisions.

**MINUTE**

**18     MEETING CLOSE**

The Meeting closed at 6.26 pm.

**CHAIRMAN:\_\_\_\_\_.**

**Date:\_\_\_\_\_ **(17 June 2015)****