

**MINUTES OF THE DEVELOPMENT COMMITTEE MEETING HELD
23 JUNE, 2003, CIVIC CENTRE, OXLEY STREET, CAMDEN - 5.30PM**

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Present: Cr Anderson (Mayor/Chairman), Cr Corrigan, Cr Patterson, Cr Winn, Cr Fekete, Cr McFadden, Cr Senise, Cr Campbell.

Staff: General Manager , Director Development & Environment, Director Works & Services, Director Governance & Outcomes, Manager Outcomes, Senior Governance Officer.

Apologies: An apology was received from Cr Batros from this meeting.

Resolved on the Motion of Cr Campbell, seconded Cr Patterson that leave of absence be granted to Cr Batros for this meeting.

DC068/03 THE MOTION WAS **CARRIED.**

DEVELOPMENT COMMITTEE PUBLIC ADDRESSES

There was no Public Addresses.

**1. Section 94 Plan No. 6 – Rehabilitation and
Management: Elderslie Sand Deposits**

(File 3424/2)(Director Governance and Outcomes)

Purpose of Report

This report describes the investigations and negotiations that have been carried out to identify the appropriate process for the completion of the repeal of Contribution Plan No 6 having regard to the consultations with the extractors and the consideration of probity issues.

This report was submitted to Council on 10 June 2003 and was deferred pending responses to a number of issues raised at that meeting. Those issues, and the responses, are provided toward the end of this report.

Background

Council at its meeting held on the 16 December 2002 considered a report on the Section 94 Contribution Plan No. 6 and resolved in principle to the repeal of the Plan subject to satisfactory negotiations for the finalisation of the Plan in the context of the final Spring Farm Masterplan and agreement with the extractors. Council also identified the priority of uses for the remaining funds of the Contribution Plan and resolved that a further report is prepared for Council on the results of negotiations with the extractors for the finalisation of the Plan and use of the funds. A copy of the previous report to Council was circulated under separate cover to Councillors at the last meeting.

Contributions Plan No. 6

The previous report to Council identified that due to the limited sand and soil resource available the extraction of the sand resource could be completed within 5 years. It was also noted that the pressure for this area to be released for residential development also has impacted on the future of the Contribution Plan. The income from CP 6 was reliant on the collection of levies and income from interest on the funds to be accrued over 19 years. It is evident that the income to complete the schedule of works contained within the Contributions Plan will not be collected, hence Council's in principle resolution to repeal the Plan.

The process to repeal the Plan will require a public notice to be placed in a local newspaper advising of Council's intention to repeal the Plan and setting out the reasons for the repeal. After a minimum period of 14 days public exhibition, Council must publish in a local newspaper its decision to repeal the Plan.

Submission from Extractors

The submission from the Extractors has been the subject of further discussions and clarification. Advice from a probity auditor and an independent extractive industry expert was received regarding the offer for the purchase of the sand from within the Springs Road reserve. The conclusions and recommendations from the extractive industry expert's report is as follows:

“Conclusions and Recommendations can be simply summarised as follows:

- *The offer put forward by the consortium of local quarry operators and landowners is considered fair and reasonable to both parties;*
- *There is no apparent benefit to be derived from calling for alternative offers from outside tenderers;*
- *Any decision to do so will only hold up the preparation and lodgment of a development application for sand extraction and movement;*
- *Such application should be made as soon as possible so as not to jeopardise the operational, commercial and (possible) environmental viability of the current offer.”*

The probity expert has reviewed this advice and concluded; *“Based on the report from a recognised extractive industry expert, as Probity Auditor I concur with the advice, conclusions and recommendations contained therein.”*

Copies of the advice from the probity auditor and advice from the extractive industry expert, were provided to Councillors at the last meeting.

The statutory process for this work was originally identified as not requiring development consent but requiring a statement of environmental effects. Recent consultation with the Department of Urban and Transport Planning has confirmed their previous advice that “Council may wish to consider the reconstruction of Springs Road as a Part 5 activity under the Environmental Planning and Assessment Act and any associated activities as ancillary to the road reconstruction” continues to apply.

Use of Contribution Plan No 6 Funds

Council, when it previously considered this matter, identified the following priorities for the use of remaining funds:

- (i) Costs associated to re-design Springs Road.
- (ii) Reconstruction costs incurred to rebuild Springs Road to an equivalent standard.

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- (iii) Construction costs involved to form access roads and temporary road diversions for staged completion of Springs Road.
- (iv) Costs incurred to relocate existing water, telephone and electricity on the new Springs Road alignment.
- (v) Land purchases for open space, conservation and bush corridors, playing fields and ovals within the Elderslie Land Management Area.
- (vi) Costs incurred to design, rehabilitate and construct open space, conservation and bush corridors, playing fields and ovals within the Elderslie Sand and Soil: Land Management Study.
- (vii) Costs incurred to revegetate and landscape areas for land within the Elderslie Sand and Soil: Land Management Study not covered by existing conditions of consent.

A review of the uses for the remaining funds from CP 6 has confirmed (i) to (iv) above as a high priority and should be commenced as soon as possible. Quotations will be called to prepare the documentation required for the work to be carried out. With regard to the sand, as advised by the extractive industry expert "*the option of inviting 'outside' contractors and/or quarry operators to extract and/or process the sand can be logically ruled out due to a range of factors*". Upon the completion of the documentation for the lowering of the road, construction of temporary diversion road, relocation of services and reconstruction of Springs Road tenders could be called for this work.

The use of the remaining funds from CP 6 will need to be reviewed once the costs to carry out the work for Springs Road have been determined.

Matters raised at the last meeting

The following issues were raised at the last meeting (in bold) and the responses are provided:

Estimate of revenue foregone by repealing CP 6

An extraction finalisation strategy is currently being prepared on behalf of the extractors and the development consortium as a requirement of the Department of Mineral Resources. That strategy will identify the location of extractable material available, however it is likely to be in the order of 1.2 million cubic metres, much of which will be unavailable due to ecological or quality constraints. The recently approved and commenced Lahoud/Nepean Quarries extraction is the only major area unextracted. Both M.Collins & Sons and Nepean Quarries are nearing the last of their material and other remnant resources have been earmarked for landforming purposes. Any royalty paid for the sand within the road reserve would have a nil benefit to the fund as it would be paid from the fund back into the fund. In any case, the revenue foregone by CP 6 through the

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repealing of the plan (possibly up to \$1 million) is insignificant in comparison to Council's potential financial exposure if the plan were not wound up by agreement. However, it is essentially a matter of practicality to wind up the CP while agreement is still possible.

Notification to CRAG

Council's resolution of 16 December, 2002 required that "CRAG be notified of the exhibition period." The purpose of the report to the meeting of 10 June, 2003 was to seek approval in principle to the repeal of the Contribution Plan. The Environmental Planning and Assessment Regulation 2000 provides the procedure for Council to repeal a contributions plan. Before repealing a contribution plan Council must give public notice in a local newspaper of its intention to repeal the plan and the reasons for the repeal of the plan. Publication of the public notice of intention to repeal the plan must take place at least 14 days before a public notice of repeal of the plan appears in a local newspaper. CRAG will be notified of the publication of the public notice of the intention to repeal the plan when it occurs.

Breakdown of expenditure of CP 6 funds to date

In broad terms the expenditure from CP 6 since its inception in 1994 relates to:

Relocation of transmission lines	\$	60,664
Design, maint & rehabilitation of nightsoil depot		518,118
Acquisition of properties/cottages		251,014
Maintenance, outgoings & demolition of cottages		181,043
Maintenance of sand roads		35,693
Expenses related to Sand Extraction Officer position		<u>557,627</u>
		\$1,604,159

Amount of open space acquired to date

No open space has yet been acquired. The report of 16 December, 2002 refers to "land acquisition" and that acquisition was the purchase of the 4 small cottages/properties fronting Springs Road which fell under the objective of the plan "Land acquisition of areas uneconomical to extract on their own."

Councillor representative on committee

A councillor nomination will be sought for the committee suggested by the extractors to oversee the expenditure of the CP 6 funds.

Elderslie Banksia Scrub propagation

The assertion by the extractive industries consultant that "Under the proposed agreement it is understood that Council will be responsible for propagation of the Elderslie Banksia Scrub Forest currently growing adjacent Spring Rd (sic) . ." is a misunderstanding on his part. The extractors have not suggested that as part of the agreement and the CP 6 works

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schedule does not require it either. However, Council has actively required the propagation of EBSF within the development area and has supported the preparation of the conservation strategy in concert with the NPWS to that effect. The development consortium has agreed, as Council is aware, to undertake a significant propagation effort around the Integral Energy substation site and in other locations.

Conclusion

The advice received from the Probity Auditor and an independent extractive industry expert has identified that the offer from the Extractors for the sand to be removed in the lowering of Springs Road is considered fair and reasonable to both Council and the extractors and that there is no apparent benefit to be derived by Council from calling for alternative offers from outside tenderers. The extractive industry expert has also indicated that the necessary documentation for this work to be carried out should be commenced as soon as possible so as not to jeopardise the operational, commercial and (possible) environmental viability of the current offer.

The documentation to proceed with the lowering, construction of temporary road, relocation of services and the reconstruction of Springs Road including the statement of environmental effects should commence immediately. On the completion of this documentation an understanding of the costs for this work will be required to assist in the determination of the use of the remaining CP 6 funds.

The use of the remaining funds from CP 6 will need to be reviewed after all the costs to carry out this work are identified.

Contribution Plan No 6 should now be repealed and the use of the remaining funds be the subject of further reports to Council.

Recommended: That:

- (i) Having regard to the advice from the independent Extractive Industry Consultant and Council's Probity Auditor, Council not call tenders for the sale of sand from the lowering of Springs Road.
- (ii) Council accept the offer of \$200,000 from Nepean Quarries Pty Ltd And M. Collins & Sons (Contractors) Pty Ltd to purchase the sand located within the Springs Road Reserve between Springs Creek and the entrance to Camden Zone Substation subject to the following conditions:
 - (a) Preparatory works to provide access to the sand are carried out by others;

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- (b) The extraction is carried out in conjunction with the lowering of the road;
 - (c) Sand removed from the Road Reserve and associated batters can be stockpiled, processed and sold from currently approved sites in accordance with existing conditions of consent for a period of five years from commencement of work;
 - (d) The extraction is completed to create a final landform in accordance with the masterplan submitted to the Extractors by Lean and Hayward.
- (iii) Council repeal Contribution Plan No. 6 Rehabilitation and Management: Elderslie Sand and Soil Deposits.
- (iv) Council advertise the Repeal of the Contribution Plan in accordance with the requirements of the Environmental Planning and Assessment Act 1979.
- (v) Council review the use of the remaining funds from CP No 6 upon the determination of the costs to prepare the design and necessary approval documents for the lowering, extraction of sand, design and construction of temporary road diversions, relocation of services and reconstruction of the road.
- (vi) Council authorise the preparation of the documentation to:
- (a) re-design Springs Road and prepare the statement of environmental effect of the proposed work;
 - (b) prepare the site for the extraction of the sand;
 - (c) the construction of the temporary diversion road or roads;
 - (d) the relocation of services; and
 - (e) the construction of the road.

Resolved on the Motion of Cr Corrigan, seconded Cr Winn that:

- (i) *Having regard to the advice from the independent Extractive Industry Consultant and Council's Probity Auditor, Council not call tenders for the sale of sand from the lowering of Springs Road.*
- (ii) *Council accept the offer of \$200,000 from Nepean Quarries Pty Ltd And M. Collins & Sons (Contractors) Pty Ltd to purchase the sand located within the Springs Road Reserve between Springs Creek and the entrance to Camden Zone Substation subject to the following conditions:*

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- (a) *Preparatory works to provide access to the sand are carried out by others;*
 - (b) *The extraction is carried out in conjunction with the lowering of the road;*
 - (c) *Sand removed from the Road Reserve and associated batters can be stockpiled, processed and sold from currently approved sites in accordance with existing conditions of consent for a period of five years from commencement of work;*
 - (d) *The extraction is completed to create a final landform in accordance with the masterplan submitted to the Extractors by Lean and Hayward.*
- (iii) *Council repeal Contribution Plan No. 6 Rehabilitation and Management: Elderslie Sand and Soil Deposits.*
- (iv) *Council advertise the Repeal of the Contribution Plan in accordance with the requirements of the Environmental Planning and Assessment Act 1979.*
- (v) *Council review the use of the remaining funds from CP No 6 upon the determination of the costs to prepare the design and necessary approval documents for the lowering, extraction of sand, design and construction of temporary road diversions, relocation of services and reconstruction of the road.*
- (vi) *Council authorise the preparation of the documentation to:*
- (a) *re-design Springs Road and prepare the statement of environmental effect of the proposed work;*
 - (b) *prepare the site for the extraction of the sand;*
 - (c) *the construction of the temporary diversion road or roads;*
 - (d) *the relocation of services; and*
 - (e) *the construction of the road.*

DC069/03 *THE MOTION WAS **CARRIED.***

The Meeting closed at 5.35pm