

ITEM NO: 8

SUBJECT: CONFIDENTIAL BUSINESS PAPER – TENDER FOR COURT SURFACE WORK COMPONENT OF THE TENNIS COURTS CONSTRUCTION, SUMMERHAYES PARK, WINMALEE

FILE NO: C07732

Recommendations:

1. *That the Business Paper be deferred for consideration until all other business of this meeting has been concluded.*

 2. *That Council close part of the Council Meeting for consideration of the Business Paper Tender for Civil Work component of the Tennis Courts Construction, Summerhayes Park, Winmalee, pursuant to the provisions of Section 10A(2)(c), (d) and (g) of the Local Government Act 1993, as the report contains, and discussion is likely to involve:*
 - *information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting business;*
 - *commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it; and*
 - *advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*
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Report by General Manager:

This matter has been listed in the Confidential Business Paper as consideration of the matter will involve discussion of sensitive commercial considerations that would best take place in a meeting which has been closed to the public in accordance with the provisions of Section 10A of the Local Government Act, 1993.

The matter to be dealt with relates to contractual arrangements entered into with Court Craft.

Section 10A of the Act requires that any proposal to close part of a meeting to the public be notified in the agenda, and a resolution to close part of a meeting to the public be passed setting out reasons for doing so. In this case, the reason for closing that part of the meeting to consider the report in the Confidential Business Paper is that the report contains, and discussion is likely to involve information that would, if disclosed, confer a commercial advantage on organisations with whom the Council is conducting business.

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ITEM NO: 9

SUBJECT: CONFIDENTIAL BUSINESS PAPER – PROPOSED PURCHASE OF LAND IN ARTHUR STREET, WARRIMOO FOR THE PURPOSES OF DEVELOPING A PARK

FILE NO: A61432-E

Recommendations:

1. *That the Business Paper be deferred for consideration until all other business of this meeting has been concluded.*
 2. *That the Council close part of the Council Meeting for consideration of the Business Paper to discuss information related to the potential Council purchase of land in Arthur Street, Warrimoo for the purposes of developing a park pursuant to the provisions of Section 10A(2)(c) of the Local Government Act 1993, as the report contains and discussion is likely to involve, information that would if disclosed, confer a commercial advantage on an organisation with whom the Council is conducting business.*
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Report by General Manager:

This matter has been listed in the Confidential Business Paper as consideration of the matter will involve discussion of sensitive commercial considerations that would best take place in a meeting which has been closed to the public in accordance with the provisions of Section 10A of the Local Government Act, 1993.

The matter to be dealt with relates to the potential purchase by the Council of land in Arthur Street, Warrimoo for the purposes of developing a park.

Section 10A of the Act requires that any proposal to close part of a meeting to the public be notified in the agenda, and a resolution to close part of a meeting to the public be passed setting out reasons for doing so. In this case, the reason for closing that part of the meeting to consider the report in the Confidential Business Paper is that the report contains, and discussion is likely to involve information that would, if disclosed, confer a commercial advantage on organisations with whom the Council is conducting business.

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ITEM NO: 10

**SUBJECT: WAIVER OF DEVELOPMENT APPLICATION FEES FOR
INSTALLATION OF RAINWATER TANKS AND SOLAR PANEL
APPLICATIONS**

FILE NO: F00088

Recommendations:

1. *That the Report be received and noted and that further consideration be given to the small number of applications requiring consent in conjunction with the Councils deliberations on the amendment of Development Control Plan 33 (DCP 33), Exempt & Complying Development.*
 2. *That the current requirements that exempt most domestic rainwater tanks and solar panel hot water systems be actively communicated to residents.*
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Report by Group Manager, Environmental and Customer Services:

Introduction

The Council, at its Meeting on 7 August 2007, considered a Notice of Motion regarding the possible waiving of fees for development applications in respect of the installation of rainwater tanks and solar panels and resolved:

“That the Council receive a report on the waiver of development application fees for the installation of rainwater tanks and solar panel applications.”

It is worth stating at the outset that there are very few development applications submitted to the Council seeking consent to install a rainwater tank or solar panels as an independent development. The vast majority of water tanks and solar collection panels, including those associated with solar hot water heaters, installed in the Blue Mountains are exempt from the need to obtain consent or are installed as part of a larger development proposal.

The small number of applications requiring development consent to install a rain water tank or solar panel are dependent on a number of factors including the zoning and features of the property, the size and location of the structure, and whether it is a component of another development on the land or comprises a separate and independent proposal. Development requiring consent will be addressed later in the report.

Exempt Development

1. Rainwater Tanks

Both State Environmental Planning Policy No. 4 (SEPP 4) and the Council’s Development Control Plan No. 33 (DCP 33) – *Exempt & Complying Development*, permit the installation of rainwater tanks in many circumstances as ‘exempt development’ (ie. without the need to obtain development consent), subject to compliance with the relevant criteria outlined in those instruments. The capacity of tanks that can be installed as exempt development range from

10,000 litres on most residential, commercial, and other zoned land, up to 20,000 litres on land zoned Rural Conservation and Bushland Conservation under LEP 1991 and 25,000 litres for tanks installed on schools and other educational establishments.

The majority of tanks installed having a capacity of up to 10,000 litres fall into this category.

2. Solar Panels

The Council's DCP 33 provides for the installation of solar collection panels forming part of a solar hot water heater as exempt development subject to meeting the relevant criteria outlined in the DCP. At this time however, the DCP does not provide for the installation of solar collection panels or photovoltaic cells used to generate electrical power. There are no provisions in SEPP 4 relating to the installation of solar collection panels.

The Environmental & Customer Services Group is presently well advanced in a review of DCP 33. In recognition of the City Vision and Map for Action, and the community's expectations for improved sustainability outcomes, the revised draft DCP proposes that the provisions permitting the installation of rainwater tanks, solar collection panels and the like as exempt development be expanded. Expanding the circumstances where such systems may be installed without consent will encourage the installation of renewable sources of water and energy, reducing demand on reticulated supplies and their associated greenhouse impacts.

It is anticipated that the revised draft DCP will be the subject of a separate Report to the Council in the near future although its fate may well be dependent on the State Government's proposed reform of the planning process.

Development Requiring Consent

1. Installation of Rainwater Tanks, Solar Panels etc as Ancillary Development

The vast majority of water tanks and solar collection panels, including those associated with solar hot water heaters, installed in the Blue Mountains generally form an ancillary component to a larger development on a property. The systems are usually installed to satisfy statutory planning requirements, including the State Government's Building Sustainability Index (BASIX), the Rural Fire Service (RFS) bush fire protection measures or the provisions of the Council's Local Environmental Plan (LEP 2005). However in some circumstances, the system may be installed to meet the applicant's initiatives or needs and form part of the overall application.

In both the above events the proposed installation of the rainwater tank or solar collection panels forms and is assessed as part of the larger development proposal. A separate development application is not required.

2. Installation of Rainwater Tanks, Solar Panels etc as Independent Development

Separate consent must be obtained for the proposed installation of any rain water tank that does not classify as exempt development under either SEPP 4 or DCP 33, or is not an ancillary component of another development consent issued by the Council.

Applications seeking consent for the installation of water tanks or solar panels independent of other development are not common. The total number of applications lodged in 2006-07 seeking consent for rainwater tanks only was approximately ten (10), one (1) of which was

subsequently withdrawn. The number of applications lodged to date for the 2007-08 year is two (2).

Analysis of Fees Paid

The waiving of fees associated with development applications for individual rainwater tanks and solar panels would have cost the Council approximately \$1,800.00 in foregone income during the 2006-07 financial year. The significant majority of those applications submitted during this period involved rainwater tanks associated with private residential dwellings and only attracted an application fee of \$66.00. Only three (3) applications attracted a fee of more than \$200.00 and they were associated with schools or a bowling club. Council presently operates a system whereby fees accompanying development applications lodged by non-profit community groups may be subsidised by the Council. In these cases, the fees are not waived but are required to be paid at the time of lodgement of the application and a Report prepared for the Council to subsidise the fees in the individual case by way of a ‘donation’.

While the number of applications involved is not high, the applications that do not fall into the exempt category will require technical assessment and in most instances neighbour notification. The income is usually not significant, however a blanket decision to waive fees for all applications seeking to install rainwater tanks or solar panels independently of other development creates equity issues for applications incorporating those structures as an ancillary component of a larger development. It is not considered administratively practical to apply reduced fees for those applications. Many of these applications relate to heritage items or environmentally sensitive areas and the need for assessment is justified.

Both the State and Federal Governments provide a range of rebates and other incentives to encourage property owners to install rainwater tanks and other water saving devices. The Federal Government also provides incentives for persons installing solar electrical systems in developments. The Councils overall approach particularly when the revised DCP33 is reviewed supports the thrust of both the State and Federal Government.

Conclusion

As discussed in the preceding sections of the report, the significant majority of water tanks and solar panels installed in the Blue Mountains are either exempt from the need to obtain consent, or form an ancillary component of a larger development. There is a very limited number of applications submitted to the Council seeking consent to install independent or stand alone systems. Furthermore, the Council has the ability to expand the circumstances where the installation of such structures is exempt from the need to obtain consent under its DCP 33 - *Exempt and Complying Development*. It is anticipated that a separate Report in relation to DCP 33 will be presented to the Council in the near future.

It is considered that the small number of applications that require a separate development application are warranted in most situations.

Given the community initiatives and motivation to contribute to reducing and combating the effects of global warming it is considered that it would be worth while for the Council to promote the fact that most domestic installations are exempt, subject to satisfying certain criteria.

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