

**Minutes of a duly convened Ordinary Meeting of the
Hawkesbury River County Council held in the Meeting
Room of the HRCC, 6 Walker Street, South Windsor on
Thursday 29 May 2014**

PRESENT: Members: Councillors; Bob Porter (Chairperson), Marcus Cornish, Kevin Crameri OAM, Jess Diaz, Andrew Jefferies, Mark Taylor

IN ATTENDANCE: Mr Chris Dewhurst (General Manager), Mr Chris Stanfield (Operations Manager), Anthony Schofield (WAP Project Officer)

Meeting Opened at 6:05PM

1. LEAVE OF ABSENCE

Nil.

2. APOLOGIES

1699 RESOLVED on the MOTION of Councillor Jess Diaz seconded by Councillor Marcus Cornish that the apologies of Councillors Walter Smith and Warwick Mackay OAM be confirmed and adopted.

3. CONFIRMATION OF MINUTES

1700 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded by Councillor Marcus Cornish that the Minutes of the Ordinary Meeting held on **10 April 2014** be confirmed and adopted.

4. DECLARATIONS OF PECUNIARY INTEREST

Nil.

5. REPORTS FROM COUNCIL'S OFFICERS:

(a) From the General Manager

ITEM GM 1. REPORT ON MONEY'S INVESTED

Councillor Marcus Cornish requested some preliminary information from the General Manager in regard to more diverse investment options.

1701 RESOLVED on the MOTION of Councillor Jess Diaz seconded by Councillor Marcus Cornish that the Report on MONEY'S INVESTED be received and noted.

ITEM GM 2. HRCC OPERATIONAL PLAN 2014-15

1702 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded by Councillor Jess Diaz that:

1. That the report on HRCC OPERATIONAL PLAN 2014-15 is received and noted.
2. That Council adopts the HRCC Annual Operational Plan 2014-2015.
3. That the General Manager places the adopted document on the Council website within 28 days.
4. That the General Manager informs the NSW Minister for Local Government, the Director General and all constituent Council General Managers by providing a copy of the URL link to access the adopted plans.

ITEM GM 3. HRCC CERTIFICATE OF AUTHORITY REVIEW

1703 RESOLVED on the MOTION of Councillor Andrew Jefferies seconded by Councillor Mark Taylor that;

1. That the report is received and noted.
2. The General Manager updates all HRCC Certificate of Authorities in the form of Attachment 1.

Attachment 1_GM3

CERTIFICATE OF AUTHORITY – INSPECTORS

issued under the

Noxious Weeds Act 1993

It is hereby certified that:

[insert **FULL NAME OF INSPECTOR**]

is appointed under section 41 of the *Noxious Weeds Act 1993* (the Act) as an Inspector for the purposes of the Act and is authorised to exercise the powers conferred or imposed on an Inspector by or under the Act within the local area of [insert name of Local Control Authority].

The source of the powers conferred on this Inspector is sections 31, 34B, 36A, 39, 40, Part 5 (Division 1), and sections 45, 47, 48, 50, 51, 52, and 63 of the Act. The nature of the powers conferred on this Inspector is attached.

This Inspector may enter any premises within the local area of [insert name of Local Control Authority], except that part of any premises being used for residential purposes. However, entry to any part of premises being used for residential purposes may be made with the permission of the occupier of that part of the premises or under the authority conferred by a search warrant.

This Certificate of Authority expires when the above-named Inspector ceases duties with [insert name of Local Control Authority].

[signed by General Manager Local Control Authority]
[insert FULL NAME AND POSITION of person signing the certificate]
[insert relevant LOCAL CONTROL AUTHORITY]
[insert DATE]

31 Machinery and equipment—spread of noxious weeds into NSW

(3) The following provisions apply to any machinery or equipment to which this section applies:

(a) The Minister is to make arrangements for inspectors to set up places at or near the borders of New South Wales at which machinery or equipment may be produced for inspection (being places set up on a regular basis or by special arrangement with a person bringing machinery or equipment into New South Wales). The machinery or equipment is to be brought into New South Wales at such a place and produced to an inspector without delay.

(c) An inspector at that place must inspect the machinery or equipment.

(d) Following that inspection, the inspector is to sign a copy of the declaration and return it to the person in charge of the machinery or equipment, unless the inspector is not satisfied that the machinery or equipment has been cleaned as required by the regulations.

(6) An inspector may:

(a) stop and inspect machinery or equipment that the inspector reasonably suspects to have been moved in New South Wales in contravention of subsection (3), and

(b) require any such machinery or equipment to be cleaned as required by the regulations under subsection (3) if the inspector reasonably suspects that it contains notifiable weed material.

(8) In this section, *inspector* includes a border inspector or an authorised officer.

34B Powers to stop and search vehicles in respect of quarantine areas

(1) At any place on or near the boundary of a quarantine area, an inspector may display a traffic sign directing drivers of approaching vehicles to stop their vehicles. A sign must be of a kind prescribed by the regulations and be displayed so as to be clearly visible to the drivers of approaching vehicles.

(3) An inspector may, for the purpose of ascertaining whether a vehicle referred to in subsection (2) is contaminated with a relevant kind of noxious weed:

(a) inspect, enter and search the vehicle and any of its accessories, and

(b) open any door or opening of, or remove any covering from, the vehicle or require the driver of the vehicle to do any of those things, and

(c) take from the vehicle for analysis or further examination samples of any vegetable matter that the inspector reasonably suspects to be a noxious weed of that kind.

(4) In this section *inspector* includes an authorised officer.

36A Temporary restrictions during noxious weed control

(1) The purpose of this section is to enable a local control authority to impose temporary restrictions:

(a) to enable control measures for noxious weeds to be undertaken in accordance with this Act, or

(b) to protect people and animals from risks to their health and safety arising from measures taken to control noxious weeds in accordance with this Act.

(2) A local control authority may require the owner or occupier of land to remove any animals from any part of the land and to prevent animals from entering any part of the land for a specified period. This subsection applies only if the authority is acting under section 20 because a weed control notice has not been complied with.

(3) A local control authority may temporarily close or obstruct public or private roads (other than any State highway, freeway, tollway or State work within the meaning of the *Roads Act 1993*) while measures to control noxious weeds are being taken on land adjacent to those roads.

(4) A local control authority may temporarily close to navigation, or obstruct navigation in, any waters while measures to control noxious weeds are being taken in those waters.

(5) A local control authority may erect notices to warn people not to enter on, or remain on, any land on which measures are being taken to control noxious weeds.

(6) An inspector appointed by a local control authority may give such directions, or take such steps, as are necessary in order to enable the local authority to exercise its functions under this section.

39 Noxious weed control functions of inspectors

An inspector has the following noxious weed control functions in relation to the local area of the local control authority that appointed the inspector:

(a) to inspect land and any other premises for the presence of noxious weed material,

(b) to advise as to the presence of noxious weed material and as to the means of controlling those weeds,

(c) to report to the local control authority on noxious weeds and noxious weed control,

(d) any other functions that are conferred or imposed on inspectors by or under this Act or by the local control authority.

40 Further powers in relation to notifiable weed material

An inspector who has reasonable cause to suspect that a plant, or any seed or other part of a plant, that is a notifiable weed in any part of the State is or may be present in machinery or equipment may require the person apparently in charge of the machinery or equipment to treat the machinery or equipment immediately, in the manner specified by the inspector, to remove any such plant, or seed or other part of a plant.

43 Power of entry

(1) For the purposes of this Act, an inspector, authorised officer or other person authorised by a local authority to control noxious weeds on land may enter any premises.

(2) Entry may be made at all reasonable hours.

44 Inspections and investigations

For the purposes of this Act, an inspector or an authorised officer who has a power to enter premises may do any of the following:

(a) inspect the premises,

(b) search the premises,

(c) examine, take samples, photographs or video recordings of, seize, detain or remove any thing in or about those premises that the inspector or authorised officer reasonably suspects to be noxious weed material or to be vegetable matter, or any other thing, containing noxious weed material,

(c1) test, treat or disinfest any noxious weed material or any vegetable or other matter that the inspector or authorised officer reasonably suspects contains noxious weed material,

(d) require the production of and inspect any records in or about those premises,

(e) take copies of, or extracts or notes from, any such records,

(f) require any person in or about those premises to answer questions or otherwise furnish information,

(g) require the occupier of those premises to provide the inspector or authorised officer with such assistance and facilities as is or are reasonably necessary to enable the inspector or authorised officer to exercise his or her functions,

(h) remove or destroy or cause to be removed or destroyed anything in or about those premises that the inspector or authorised officer reasonably suspects to be noxious weed material or to be vegetable matter, or any other thing, containing noxious weed material,

(i) break open and search any box, container, package or receptacle (including any place that could be used as a receptacle) in or about those premises,

(j) test, treat or disinfest any box, container, package or receptacle (including any place that could be used as a receptacle) in or about those premises that the inspector or authorised officer reasonably suspects contains any noxious weed material or vegetable or other matter containing noxious weed material.

45 Notice of entry

(1) Before an inspector, authorised officer or other person authorised to enter premises does so, the local control authority must give the occupier of the premises oral or written notice of the intention to enter the premises on a day or within a period specified in the notice.

(2) This section does not require notice to be given: (a) if entry to the premises is made with the consent of the occupier of the premises, or (b) if entry is required urgently and the local control authority has authorised in writing (either generally or in the particular case) entry without notice.

46 Use of force

(1) Reasonable force may be used for the purpose of gaining entry to any premises (other than residential premises) under a power conferred by this Part by an inspector, authorised officer or other person, but only if authorised by the local control authority in accordance with this section.

(2) No force is to be exercised in any case unless the local control authority has authorised in writing (either generally or in the particular case) the use of force in the circumstances of the case.

(3) A general authority given by the local control authority for the use of force is invalid. The authority is to specify the circumstances which are required to exist in a case before force may be used.

47 Notification of use of force or entry without notice

An inspector, authorised officer or other person authorised to enter premises who:

(a) uses force for the purpose of gaining entry to the premises, or

(b) enters the premises without notice having been given to the occupier of the premises of the intention to enter as required by section 45, must promptly advise the local control authority which is to cause written notice to that effect to be served on such persons or authorities as appear to the local control authority to be appropriate in the circumstances.

47A Inspectors and others may inquire as to source or destination of noxious weed material

(1) An inspector or authorised officer who reasonably believes that a person has information that may assist in tracing or determining the source or destination of any matter that the inspector or authorised officer reasonably suspects to be noxious weed material may require the person to answer questions for that purpose.

(3) An inspector or authorised officer may, for the purposes of this Act, divulge information given to the inspector or officer under this section.

48 Care to be taken

In the exercise of a function under this Act, an inspector, authorised officer or other person authorised to enter premises must do as little damage as possible.

50 Certificates of authority

(1) A power conferred by this Act to enter premises or to do anything in or about any premises may not be exercised unless the person proposing to exercise the power is in possession of a certificate of authority and produces the certificate if required to do so by the occupier of the premises.

(2) A certificate of authority is a certificate (in a form approved by the Director-General) issued by a local control authority which:

(a) states that it is issued under this Act, and

(b) gives the name of the person to whom it is issued, and

(c) describes the nature of the powers conferred and the source of the powers, and

(d) states the date (if any) on which it expires, and

(e) describes the kind of premises to which the power extends, and

(f) bears the signature of the Director-General or the General Manager of a local control authority.

(3) This section does not apply to a power conferred by a search warrant.

51 In what circumstances can entry be made to a residence?

The powers of entry and inspection conferred by this Part are not exercisable in relation to that part of any premises being used for residential purposes except when the powers are exercised by an inspector or an authorised officer:

(a) with the permission of the occupier of that part of the premises, or

(b) under the authority conferred by a search warrant.

52 Search warrant

(1) An inspector or authorised officer under this Act may apply to an authorised officer within the meaning of the Law Enforcement (Powers and Responsibilities) Act 2002 for a search warrant if the inspector or authorised officer under this Act has reasonable grounds for believing that a provision of this Act or the regulations has been or is being or is about to be contravened in or about any premises.

(2) An inspector or authorised officer under this Act may not apply for a search warrant to search premises unless the inspector or authorised officer under this Act has notified the Director-General of the intended application.

(3) An authorised officer within the meaning of the Law Enforcement (Powers and Responsibilities) Act 2002 to whom an application is made under this section may, if satisfied that there are reasonable grounds for doing so, issue a warrant authorising an inspector or authorised officer under this Act named in the warrant to enter the premises and to exercise there the powers under section 44.

(4) Division 4 of Part 5 of the Law Enforcement (Powers and Responsibilities) Act 2002 applies to a search warrant issued under this section.

53 Inspector or authorised officer may request assistance

(1) An inspector or authorised officer may request the assistance of any police officer if the inspector or authorised officer reasonably believes that the performance of functions conferred by or under this Act will be obstructed.

(2) An inspector or authorised officer may request the assistance of any person he or she believes to be capable of providing assistance in the performance of functions conferred by or under this Act.

63 Penalty notices for certain offences

(1) An inspector or authorised officer may serve a penalty notice on a person if it appears to the inspector or authorised officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations for the purposes of this section.

ITEM GM 4. COMMONWEALTH GOVERNMENT GREEN ARMY TENDER

1704 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded by Councillor Andrew Jefferies that the Report on COMMONWEALTH GOVERNMENT GREEN ARMY TENDER be received and noted.

ITEM GM5. SYDNEY WEEDS ACTION PROGRAM ALLOCATION OF UNSPENT FUNDS

1705 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded by Councillor Mark Taylor that the Report on SYDNEY WEEDS ACTION PROGRAM ALLOCATION OF UNSPENT FUNDS be received and noted.

ITEM GM 6. SYDNEY WEEDS ACTION PROGRAM PROJECT BUDGET 2014/15

1706 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded by Councillor Jess Diaz that:

1. The report on SYDNEY WEEDS ACTION PROGRAM PROJECT BUDGET 2014/15 is received and noted.
2. Council approves the Sydney Weeds Action Program Operating Budget for 2014-15.

ITEM GM 7. STAFFING

1707 RESOLVED on the MOTION of Councillor Marcus Cornish seconded by Councillor Mark Taylor that the Report on STAFFING be received and noted.

LATE ITEM GM 8. DELEGATION OF POWERS OF LOCAL CONTROL AUTHORITY

1708 RESOLVED on the MOTION of Councillor Andrew Jefferies seconded by Councillor Jess Diaz that:

1. That this report on DELEGATION OF POWERS OF LOCAL CONTROL AUTHORITY is received and information noted.
2. That this Council;
 - a. Appoints **Mr Daniel Cacatian**, HRCC Weed Officer, as an "Inspector" under Section 41 of the Noxious Weeds Act 1993, all other delegations (if any) are hereby revoked, and;
 - b. Be delegated this local control authorities powers duties and responsibilities' under the following sections of the Noxious Weeds Act 1993 –
 - i. Section 18 – the power to issue a weed control notice.
 - ii. Section 18A – the power to issue a prior notice to issue a weed control notice.
 - iii. Section 20 – the power to undertake works not complied with.
 - iv. Section 28 – the power to prosecute for sale or removal from land, notifiable weed material.
 - v. Section 29 – the power to prosecute for sale of turf etc, infested with notifiable weed material.
 - vi. Section 30 – the power to prosecute for the scattering of notifiable weed material.

- vii. Section 32 – the power to prosecute for the use of agricultural machinery carrying notifiable weed material
- viii. Section 39 – the power to undertake the role of inspector
- ix. Section 45 – the power of entry to inspect for noxious weeds.
 - x. Section 46 – the power to use reasonable force to gain entry to inspect for noxious weeds.
 - xi. Section 47 – the power to notify the use of reasonable force to gain entry.
- xii. Section 54 – the power to prosecute for obstructing an inspector to carry out duties.
- xiii. Section 55 – the power to prosecute for impersonating an inspector

5. REPORTS FROM COUNCIL'S OFFICERS:

(b) From the Operations Manager

ITEM OM1. OPERATIONAL REPORT

1709 RESOLVED on the MOTION of Councillor Jess Diaz seconded by Councillor Mark Taylor that the report on Operations be received and noted.

6. CORRESPONDENCE

1710 RESOLVED on the MOTION of Councillor Kevin Crameri OAM seconded by Councillor Marcus Cornish that the report on CORRESPONDANCE be received and noted.

7. GENERAL BUSINESS / QUESTIONS WITHOUT NOTICE

As there was no further business, the meeting was closed at 6:50pm.

(Meeting duration 45min)

Mr. Dewhurst _____
General Manager

Clr. Porter _____
Chairperson