REPORT OF GENERAL MANAGER

ORDINARY MEETING

TUESDAY, 18 MAY 2010

FINANCE AND CORPORATE SERVICES / STRATEGIC PLANNING AND INFRASTRUCTURE

1. Nebraska Estate & Jerberra Estate Review of Properties Levied Special Rates
File 1013E, 33534E, 2653E & 31944E

Purpose of the Report:
This report has been prepared in accordance with Council's resolution on 13 April 2010 to consider removing special rate charges from properties in Nebraska Estate which have little prospect of being rezoned to enable development (MIN10.376).

The report presents options for removing special rate charges on relevant properties in Nebraska Estate and Jerberra Estate.

If possible, a Councillor Briefing will be arranged prior to the Council meeting.

RECOMMENDED that Council:

a) Remove the special rates from the properties in Nebraska & Jerberra Estates as listed in this report from 1 July 2010.

b) Either determine to spread the shortfall of special rates across the remaining properties within the respective estates OR distribute the shortfall across all city rate assessments and undertake appropriate consultation with all landowners.

c) Review the lists of properties which have little prospect of being rezoned to enable development in Nebraska, Jerberra and Verons Estates in conjunction with subsequent Draft Operational Plans.

Options:
a. Spread the shortfall of special rates across the remaining properties within the respective estates. This would substantially increase the amount of special rates paid by the remaining ratepayers within these two estates as shown below:

- Assessments within **Jerberra Estate** would increase on average from $815.00 per annum to $1,060 per annum, an additional increase of $245.00 per annum.

- Assessments within **Nebraska Estate** would increase on average from $940.00 per annum to $1,807 per annum, an additional increase of $867.00 per annum.

or

b. Spread the shortfall of special rates across the broader rating base. This would on average equate to an increase of around $1.10c per assessment.

Details/Issue:

Background to Special Rate Charges

Council's decisions to investigate the rezoning of the Nebraska and Jerberra Estates in 1992 were made on the basis that the costs would be borne by the landowners. This principle was also recommended by the Heritage Estates Commission of Inquiry in 1999. In accordance with this principle, in 2006/2007 special rates were introduced to repay money borrowed by Council to fund the respective rezoning investigations for Heritage, Jerberra, Nebraska and Verons Estates over a period of 10 years. The loans were $550,000, $350,000, $200,000 and $150,000 respectively. Similarly Council borrowed $285,000 to fund road design investigations for Jerberra, Nebraska and Verons Estates and special rates were introduced in 2006/2007 to repay this loan over a 10 year period.

In response to feedback from the landowners a road construction rate was introduced in Jerberra, Nebraska and Verons Estates in 2008/09 to allow preliminary road construction to be progressively undertaken. This interim arrangement would need to be reviewed upon rezoning when the final road layout and design are known and the costs can be accurately determined.

Under section 495 of the *Local Government Act 1993*:

> *1) A council may make a special rate for or towards meeting the cost of any works, services, facilities or activities provided or undertaken, or proposed to be provided or undertaken, by the council within the whole or any part of the council's area, other than domestic waste management services.*
>
> *2) The special rate is to be levied on such rateable land in the council's area as, in the council's opinion:*
>
> *a) benefits or will benefit from the works, services, facilities or activities, or*
>
> *b) contributes or will contribute to the need for the works, services, facilities or activities, or*
>
> *c) has or will have access to the works, services, facilities or activities.*

Also, under section 495:
"*The amount of special rate will be determined according to the council's assessment of the relationship between the cost or estimated cost of the work, service, facility or activity and the degree of benefit afforded to the ratepayer by providing or undertaking the work, service, facility or activity.*"

From the above section of the Act it is quite clear how a special rate is to be applied and if in Council's opinion, the identified properties within both Jerberra and Nebraska Estates will not receive any perceived benefit, continuing to pay the special rate, then the special rate cannot be applied to these properties.

In relation to the Heritage Estates, only those properties recommended for further investigation by the Commission of Inquiry were levied. Following the decision by the Federal Environment Minister on 13 March 2009 to refuse the proposal under the *Environmental Protection & Biodiversity Conservation Act* (*EPBC Act*), Council removed the special rates from the Heritage Estate properties in the 2009/2010 Management Plan.

In relation to Nebraska Estate, on 13 April 2010, Council resolved in part to "…*consider removal of special rate and road construction charges on properties that have little prospect of supporting development as part of the 2010/11 Management Plan*." (Min 10.376).

Some of the 'red light' threatened species constraints that occur in Nebraska Estate also occur in Jerberra Estate, namely Swamp Sclerophyll Forest EEC and *Melaleuca biconvexa*. It is considered appropriate to also include certain properties in Jerberra Estate as part of this process. Relevant information on the relevant properties in Nebraska and Jerberra Estates is provided in this report.

As a general principle, if the special rates are removed from certain properties as part of the 2010/2011 Management Plan, they could be reintroduced at a later date if warranted. That is, if it is later determined that circumstances have changed and a property has a likely prospect of being rezoned to allow development, the special rates could be reintroduced.

Nebraska Estate

The Nebraska Estate constraints mapping has been reviewed in light of Council's resolution on 13 April 2010 and the properties listed in Table 1 have been identified as having *little prospect of supporting development.* These properties fall into one of more of the following categories:

- That are wholly affected by the Swamp Sclerophyll Forest endangered ecological community (EEC) and/or *Melaleuca biconvexa* and DECCW's recommended buffers associated with these (50 metres).
    - Both the EEC and *M. biconvexa* are regarded as 'red light' constraints. The EEC is protected under the *Threatened Species Conservation Act* (*TSC Act*). *M. biconvexa* is protected under the *TSC Act* and the *EPBC Act*.
    - While a reduction of the recommended buffer may be possible, bushfire asset protection zones (APZ) would still need to be provided from the edge of the revised buffer.
- That are wholly within 50 metres of the threatened orchid *Cryptostylis hunteriana* or the orchid *Speculantha ventricosa* which was discovered in Nebraska Estate and has been nominated for listing.
    - Note that any areas affected by the latter will be reviewed when further information comes to hand on the orchid's status.
- That are wholly within the 1 in 100 year floodline identified in the detailed 2006 flood modelling.
- That are wholly affected by any combination of the above.

- That do not contain areas identified for residential or rural residential development in the report to Development Committee dated 6 April 2010.

Table 1: Nebraska Estate properties identified as having little prospect of supporting development at this stage (in accordance with MIN10.376)

Assessment No.	Property Description	Assessment No.	Property Description
106767400	Lot 2 DP 722549	108730100	Lots 14-15 DP 9699 Sec B
106768000	Lots 6-7 DP 9699 Sec J	108730500	Lot 4 DP 9699 Sec D
106768100	Lots 8-9 DP 9699 Sec J	108730600	Lot 5 DP 9699 Sec D
106768200	Lot 10 DP 9699 Sec J	108730700	Lot 6 DP 9699 Sec D
106768300	Lot 1 DP 777950	108731500	Lot 18 DP 9699 Sec D
108413200	Lot 16 DP 9699 Sec B	108731700	Lots 3-5 DP 9699 Sec F
108413400	Lot 2 DP 9699 Sec C	110273300	Lot 8 DP 9699 Sec B
108413500	Lot 3 DP 9699 Sec C	110273400	Lot 9 DP 9699 Sec B
108413900	Lots 8-13 DP 9699 Sec C	110273500	Lot 10 DP 9699 Sec B
108414000	Lot 1 DP 9699 Sec D	110273600	Lots 6-8 DP 9699 Sec F
108414100	Lot 2 DP 9699 Sec D	343555100	Lots 1-2 Sec F & Lots 19-20 Sec D DP 9699
108414200	Lot 3 DP 9699 Sec D		

Jerberra Estate

Background

The process of trying to resolve the threatened species issues with the State Government in respect of Jerberra Estate has been protracted due to the constraints and existing subdivision layout.

Prior to 12 May 2009, Council's preferred development option allowed development on more properties than the current proposal. This higher development scenario was ultimately abandoned when Council resolved to "…*accept that its preferred option is not achievable due to the State Government position and pursue the compromise option with DoP and DECC to explore avenues for regularising existing unauthorised structures and dealing with equity issues in areas that may be zoned for environmental conservation ('E' zones).*" (Min09.586).

In the current proposal which was adopted on 13 October 2009 (Min09.1382), properties in 33 rate assessments are highly unlikely to be rezoned to support development. These are listed in Table 2.

Table 2: Jerberra Estate properties identified as having little prospect of supporting development at this Stage

Assessment No.	Property Description	Assessment No.	Property Description
107322400	Lot 36 DP 11629	107326900	Lot 159 DP 11629
107322500	Lot 35 DP 11629	107327000	Lot 160 DP 11629

107322600	Lot 34 DP 11629	107327100	Lot 161 DP 11629
107322700	Lot 33 DP 11629	107331800	Lot 62 DP 11629
107322800	Lot 32 DP 11629	107331900	Lot 63 DP 11629
107322900	Lot 31 DP 11629	107332000	Lot 64 DP 11629
107323000	Lot 30 DP 11629	107332100	Lot 65 DP 11629
107323100	Lot 29 DP 11629	107332200	Lot 66 DP 11629
107326000	Lot 150 DP 11629	107436800	Lot 23 DP 11629
107326100	Lot 151 DP 11629	107436900	Lot 24 DP 11629
107326200	Lot 152 DP 11629	107437000	Lot 25 DP 11629
107326300	Lot 153 DP 11629	107439100	Lot 98 DP 11629
107326400	Lot 154 DP 11629	107439200	Lot 97 DP 11629
107326500	Lot 155 DP 11629	108784900	Lots 1-11 DP 1088096
107326600	Lot 156 DP 11629	332954100	Lot 100 DP 11629
107326700	Lot 157 DP 11629	332954200	Lot 99 DP 11629
107326800	Lot 158 DP 11629		

Update on current proposal for Jerberra Estate

Council wrote to the State Government on 2 December 2009, seeking feedback on the adopted proposal. This feedback is needed to allow the environmental study to be completed. Given that the State Government could potentially require changes to aspects of the proposal, it was considered prudent to notify the landowners once the State Government's feedback had been received. DECCW provided a response dated 16 March 2010, but a formal response had not been received from the Department of Planning at the time of preparing this report.

Verons Estate

At this point in time, there is insufficient information to determine whether any properties have little prospect of being rezoned to support development. Recent discussions with Department of Planning and Department of Environment, Climate Change & Water staff suggest that the State Government could potentially oppose development within the Swan Lake part of the Estate, but at the time of preparing this report, a formal position has not been provided.

Consultation with the affected landowners

At the time of preparing this report staff were in the process of preparing correspondence to each of the landowners with the following information:

- Based on the constraints information, it has been determined that the subject properties have little prospect of being rezoned to support development and consequently Council will consider whether to remove the special rates as part of the 2010/2011 Management Plan.

- Should the situation change and the State Government indicate that it is willing to support rezoning to support development of the property, the special rates would be reintroduced.

- Council will continue to investigate options for resolving the future tenure of any land that cannot be rezoned for development. For example, through mechanisms such as land pooling and/or biocertification, owners of land required for conservation could potentially get some form of financial benefit/equity.

- Landowners are encouraged to discuss the proposal with relevant staff if they have any questions or concerns.

- Landowners would also have the opportunity to comment on the proposal until 2 June 2010.
-

Economic, Social & Environmental (ESD) Consideration:
Depending on the Valuer General's valuation, the average amount of special rates for Nebraska Estate is approximately $940 per annum and $815 per annum for Jerberra Estate. There are a number of multiple-lot rate assessments in Nebraska Estate which have higher property valuations and therefore higher rates. The "residential non-urban" component of the total rate charges in both Estates is generally well under $100 per annum.

Numerous property owners in Nebraska and Jerberra Estates have indicated that they find it difficult to pay the current rates. Removing the special rate charges that have been identified as having little prospect of supporting development in both Nebraska Estate and Jerberra Estate, would greatly reduce the rates levied on these properties and help to alleviate the financial burden on the landowners.

In relation to the remaining properties in Nebraska and Jerberra Estates, there is likely to be strong resistance from the owners to any proposed increase in their rates, particularly if the proposed increase is significant. However, the principle of the 'benefiting lots to pay" still remains.

Financial Considerations:
If Council decides to remove the special rates from properties within the Jerberra and Nebraska Estates listed in this report, then one of the following two recommendations should be considered:

c. Spread the shortfall of special rates across the remaining properties within the respective estates. This would substantially increase the amount of special rates paid by the remaining ratepayers within these two estates as shown below:

    - Assessments within **Jerberra Estate** would increase on average from $815.00 per annum to $1,060 per annum, an additional increase of $245.00 per annum.

    - Assessments within **Nebraska Estate** would increase on average from $940.00 per annum to $1,807 per annum, an additional increase of $867.00 per annum.

or

d. Spread the shortfall of special rates across the broader rating base. This would on average equate to an increase of around $1.10c per assessment.

P. Dun
DIRECTOR FINANCE & CORPORATE SERVICES

P.L Adams
DIRECTOR STRATEGIC PLANNING & INFRASTRUCTURE

R.D Pigg
GENERAL MANAGER