

HORNSBY QUARRY PUBLIC MEETING

**6.30pm, Tuesday, 29 August 2006
Hornsby RSL Club Show Room**

Mr Tony Moody: Just some brief notes about my background. I am a qualified town planner with a Law degree. I have been employed previously by three local government Councils and I currently appear as a court-appointed expert in the Land and Environment Court. Can I say, of all the people attending tonight's meeting, I probably know least about the Hornsby quarry. So you have got to be fairly easy on me tonight. I won't be answering the questions, I'll be directing them to the appropriate officers. Just in terms, ladies and gentleman, of the agenda for tonight's meeting, the copies of the agenda are on the table, if I could briefly go through the agenda. There will be a welcome and introduction by myself, obviously. The second part is a presentation by the Mayor, Councillor Nick Berman. Then there will be questions asked in terms of the past history and in terms of the acquisition facilitated by myself. Then there will be a presentation by the Valuer General, Mr Philip Western and I thank Mr Western for attending tonight's meeting. Then there will be questions and answers on that issue or the matters discussed by Mr Western. The fourth issue is geotechnical investigations. The presentation will be by Mr Max Woodward of Council. Then there will be further opportunity for discussion and questions. The fifth section will be the way forward. I will facilitate suggestions in terms of the way forward and by 8:30pm, the plan is the meeting close. Can I stress that despite the fact that the meeting closes at 8:30pm, we invite you to make any written submissions that you wish arising from this meeting.

Just a few ground rules, it is like school, it is a fair go for everybody. In the public meetings I previously shared at Hornsby, one distinct quality of all those public meetings is that people have been courteous to others when they have spoken, there has been no other people speaking and I am sure that will be adhered to tonight. We will be sticking to the agenda. There will only be one person to speak at each time. There will be microphones provided and I ask that after you ask the question, you hand the microphone back. There will be two people roaming the room to hand over the microphones. We ask for questions, not statements, but obviously in the last part about the way forward, I think there can be some relaxation on that ground rule. The comments and suggestions concerning the way forward will be limited to 3 minutes. Please turn off the mobiles. Point number 8 is very important. The meeting will be taped and that is a very important part because there will be a transcript of the meeting, the discussions, and that will be provided on the Council's web page by the end of next week that you will be able to get access to. But as with all taping, there is also a very severe responsibility to ensure that people speak on the matter and don't say anything which places you personally at some degree of potential action. The issue is one of a planning and other related issues regarding the Hornsby quarry and if we can please keep to that. The final issue of the ground rule is a matter of courtesy. Just a final comment, I saw the site and I will be quite honest with you, this is the first time I have ever seen the site today. I think it is an awe inspiring site. I understand why people have such a passion for it and I should add, I applaud you all for the time and commitment. I have acted for many local resident action groups including people in the Hornsby Council area and I think people who have the time and energy and commitment to their cause to come out on a night time like this should be applauded. Can I now introduce the Mayor to make introductory comments.

Mr Mayor: Thank you Tony and thank you ladies and gentleman on coming along this evening for our Hornsby quarry public meeting. I would just like to make a couple of acknowledgements. Firstly most of you will know our Councillors, but I will just introduce them for the benefit of those of you who may not know certain Councillors. At the front table starting from your right is Councillor Owen Nannelli, then we have next Councillor Felicity Findlay, the Deputy Mayor, then to her left is Councillor Nan Horne. We have got Councillor Steve Evans, Councillor Mark Lyons, Councillor Wendy McMurdo, and Councillor Gary Whitaker. On my left is Max Woodward who is the Executive Manager of Works. You will hear from him a bit later about the geotechnical investigations that the Council will be soon be undertaking or is in the middle of undertaking. Next along is the General Manager of Hornsby Council, Robert Ball and we have Peter Hinton, the Executive Manager of Planning, Gordon Truman, the Executive Manager of Strategy and to the far left, and proudly so, is Councillor Jan Dekker from C ward.

Just a few remarks on the quarry. Firstly, I am sure most of you by now have the agenda. Essentially there are four main areas which we are looking at. The acquisition and process to date, the role of the Valuer General in the acquisition process, geotechnical investigations, and then finally the way forward. So we see all of these issues as being of importance and on all of them, there will be a brief presentation and then it is over to you and we are looking at a maximum of 10 minutes on each issue, but at least 20 minutes hearing from the residents on each of those issues and then further there will be some general discussion at the end. Just a few remarks on the quarry, we are of course in the middle of celebrating the Centenary of Hornsby Council and given the profile that the quarry issue has, one thing that a lot of people have commented to me about is essentially how far back the quarry issues go. It has been claimed by some that the quarry actually predates Council having allegedly started operation in 1900 and in that respect, if that is true, it also predates the federation of Australia. Certainly hearing from Philip Ruddock who has spoken at a couple of our centenary events, his involvement with Council in some way shape or form goes back 50 years and he recalled some of the debates that were held on the quarry back in the 50's and 60's. The point is it is a significant long-running issue and I am prepared to guess that it will still be an issue in a decade or two from now. So it is a big issue to deal with and we are more than happy to investigate all of the issues to date on the quarry, but equally we do have to one eye on the future and conducting these geotechnical investigations and then looking at potential uses of the quarry in the future. In terms of the overall responsibilities of Council, of course, all of you, I think it is fair to say, see the quarry as a most important or the most important issue for Council. Of course, there are different opinions across the community as to which issues are most important. If you speak to people in the rural district, around Epping, in other parts of the Shire, they are likely to tell us that we are too Hornsby-centric and we spend too much time on issues relating to Hornsby. We try to be as even as we can. Again there are 150,000 people and there are a number of responsibilities that Councils have. Of course, traditionally talking about the 3 "Rs" of Council, roads, rates, and rubbish, now you could easily come up with 7 or 8 "Rs" if you included things like reading for libraries or recreation for parks and gardens. So the point is we do see this is an incredibly significant issue, but equally we do have a responsibility to ensure the ongoing operations of Council in a number of different areas. As I said before, tonight's one of many meetings that we have held on the quarry in this term of Council alone has been about 5 meetings that I can recall of some form on the quarry issue and it is fair to say over the next couple of years, there will be at least a few more. So it is not the end of the process by any stretch of imagination, we will be back in touch to speak with you to hear your views as the issue continues to develop.

Just a brief snapshot on Council's actions to date. Of course, the Council had this action brought on us. We did not choose to acquire the quarry, it is something which was forced on the Council and the Council of the day did look very carefully at what actions were available to it. Clearly we saw a problem with the legislation, the Land Acquisition Just Terms Compensation Act and so this Council directly lobbied the State Government to have that legislation changed, we lobbied our State members and we made representations through the Local Government Association to have that legislation changed. As a result of that change in legislation, what we have gone through with the quarry issue can never happen again. Furthermore, about a year ago, we went to the community. There were about nearly 180 questions that we received from members of the community which they wanted answers to and, of course, we provided our answers and the submissions to the Department of Local Government and of course a few months ago they advised us and all of you have seen this advice as well that they wish to investigate the matter no further. So it is not the end of the road for us, there are still some serious issues to discuss and on that note, I just like to invite all of you to ask any questions that you feel are appropriate. Again we do have one eye to the future. We are more than happy to ask questions about the past, but we do have a responsibility to everyone to take this matter forward and deal with some very important issues in the future. Thank you.

Mr Tony Moody: Thank you Mayor. In accordance with the agenda point number 2, I now invite questions from the floor in terms of the title "Acquisition and Planning Process to Date". As noted by the Mayor, we have three senior officers, Mr Robert Ball, Mr Max Woodward, and Mr Peter Hinton. Can I have questions from the floor please? When asking the questions if you could please give your name and address and after you finish the question if you could hand back the microphone. Thank you.

Mr Norman Clingman: This quarry issue has been on the Council's books for years. The question is directed to the previous Councillors and to the General Manager. What actions were taken by you to provide information to the rate payers in the years 1999 to 2003-04? In other words, why were we not told?

Mr Mayor: It has just been brought to my attention that I did not give an apology for Councillor McIntosh, who is running late, but she will be here and we also have an apology from our Executive Manager of the Environment, Mr Bob Stevens. In terms of the notification to the public of this issue, and I am certain we will hear from anyone else who has got something to contribute to this answer, in that the discussions, because for much of that period 1999-2003 involved potential legal action, we were not able to go public. That is why we are happy to provide the legal advice about matters to date, but if they involve potential future legal action, we can't provide that information, but from a personal point of view I moved a motion myself in the lead up to the last Council elections about two months out to have the books open and to make people more aware of the quarry issue, so my conscience is clear in that regard.

Mrs Margaret McMahon: From Mount Colah. I will ask the same question which I asked at the Asquith Leagues Club meeting. Why were we told it was going to be \$10 per quarter and it is now \$15 per quarter and we have an additional ad valorem amount which the Valuer General, I believe, has been put on according to our land value. Now I fail to see living at Mount Colah, we are nowhere near the quarry. I don't know why that amount has been put on.

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Mr Robert Ball: It is difficult to answer specifically what any individual rate payer would pay in respect of the quarry rate. Any rate is distributed according to the valuations and valuations can vary every couple of years when the Valuer General does re-valuations. In distributing information, the Council addresses average valuations because we are unable to be specific about any individual's rates. So the information that you would have read, that Council distributed, was always related to the average valuation throughout the Shire. The distribution can vary from property to property.

Mr John Inshaw: From Galston. We were told when the rate levy was announced that it was going to 5.3%. This in 2005, mine exceeded this and was 5.4% and this year it is 5.7%. When I look a little closer at my bills, things are worse. Instead of the 5% catchment remediation rate being just 5%, in 2005 it was 5.6%, and in 2006 it was 6.3%. If my 2006 quarry overcharge was to be extended to say 60,000 households in the Shire, it would amount to \$223,800, in regard to catchment remediation rate it adds up to \$741,000 or more. I now believe I have been deceived by the Council. My question is in three parts, why am I being charged the quarry rate in excess of the approved 5.3%? Are all rate payers in the Shire being levied an increase greater than 5.3% and if so what is this overpayment being used for?

Mr Robert Ball: I don't want to just repeat the answer that I gave previously, but the 5.3% is calculated on the gross increase in the rate received by Council from the quarry. It is not related to an individual property. The distribution of the total rate income across properties is depended upon the valuation. The 5.3% relates to the total amount of income. Valuations in Galston moved more than the average across the Shire. As a consequence, Mr Inshaw's rates would be higher than the 5.3%, that would be compensated by another property or properties within the Shire paying less than 5.3%. The answer to the second question is, all rate payers are not paying extra and there is no overpayment in total. The Council needs to provide a return to the Department of Local Government on an annual basis indicating that the total amount of rate coming from the quarry equates to the amount that was approved by the Minister. In the unlikely event that there is any overpayment, the Council must adjust that in the subsequent year. If there is an undercharge, the Council has the right to adjust that also, but we must comply with the Minister's direction and we are complying with the Minister's direction.

Mr John Inshaw: I appreciate the fact that properties across the Shire are valued at different rates, that is why my residential rate is different to everybody else's, but 5.3% of my residential rate is, let's say both of those ad valorem and the base rate, surely that is the basis for which the community was told that the rate was going to be 5.3%. I am not convinced and I still believe I am being deceived by our Council.

Mr Brian Ash: From Pennant Hills. I agree with Mr Inshaw. I have checked the quarry additional levy as a calculation on the two major items on my rate bill, the base amount and the ad valorem amount and it works out to be very approximately 5.3%. How the answer can be any different to that, I am dumbfounded to understand?

Mr Clive Troy: Local activist and from the Independent's Representative Movement. Questions for Mr Mayor, some pretty basic ones and I am sure you would have done it and I am just looking for back-of-the-envelope calculations. It is in 5 points, How much did the quarry cost? The total administrative costs and incidentals for the whole project, total interest and loan cost, the total cost of site rehabilitation, and what is the timetable, the conclusion dates for every option you have looked at?

Mr Tony Moody: Mr Ball? In terms of a response, I have to say the level of detail, that may have to be provided under a separate letter, perhaps.

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- Mr Robert Ball: I think everyone knows that the quarry cost was \$25 million. The answers to the other questions are quite detailed and I need to have that information or have those questions on notice. In the 183 questions that we have provided to the community, there is an indication in one of the questions in relation to what the costs have been to date at that particular time which was February, also in those answers to the questions, there is an indication that the Council does not have rehabilitation costs at the moment. The Valuer General in determining what deduction there would be for remediation of the site plus the provision of services and access, indicated a figure in the vicinity of \$15 million, but the Council needs to conclude issues such as the geotechnical study, which we will be talking about later this evening, to be able to be certain that we can accurately estimate the remediation costs. We have not concluded our investigations to enable us to give you an accurate answer. Mr Troy, I am more than happy if you want further detail on the specific questions, if you like to submit them to me, I will give you a written answer in respect of all of them.
- Mr Clive Troy: These are back-of-the-envelope questions and I asked the Mayor and he should know these. What is the total administrative cost do you think, give me a back-of-the-envelope estimation, Mr Mayor. You have got to be competent enough to do that.
- Mr Robert Ball: As of February this year, in answer to question number 32 which is available on the Council's website, the question was what have been the total costs to date attributed to the quarry purchase? The answer was, legal and valuation costs \$302,000, compensation to CSR \$25,095,000, staff time say \$100,000, loan and interest costs \$ 3,624,242 bringing a total of \$29,122,080.
- Mr Clive Troy: So we are looking at \$45 million so far. The final question is, Mr Mayor, what is the approximate finish dates for all the options you have considered.
- Mr Mayor: When you say options, what options are you talking about? You know that in terms of paying the rate that is over 10 years, are you talking about potential uses of the site?
- Mr Clive Troy: Yeah.
- Mr Mayor: That is going to come up in the next few months. We will conduct the geotechnical studies and then we will look at the potential future uses. How the hell can I answer that question when we haven't even conducted the geotechnical investigations?
- Mr Tony Moody: I think there will be further comments from a number of the speakers tonight.
- Mrs Ailie Bruins: From Hornsby. I have a document here with some quotes and it was after a meeting at Council. Mr Hinton indicated that Council would have no use for the land either in its present or any other condition. The Mayor indicated that it was a viable proposition for Council to take the land or any part of it off CSR. Mr Hinton commented that even if the land was filled, it would be not be suitable for subsequent development. Mr Hinton pointed out that there would be major environmental consequences flowing from the proposal that CSR had put forward to make the existing hole a lake filled with water. He said that, the environmental consequences flowing from that, Council does not want the burden such a lake would impose. The question is, between 1994 and 2001 Council had the opportunity to make amendments to the local environment plan to the clause 17(5) that allowed CSR to get Council to acquire it. It was that clause that imposed it on

Council. Why did you not change that clause? Why did you do nothing about it? What it a mistake or did you want to acquire the site, because you did not have to and I have some documentation from the Department of Planning that said that you did not have to. You could have amended your local environment plan. You could have rezoned it and you had three lots of legal advice, four lots now, that said that that clause was null and void, you did not need it, it is not based on law. Did you make a mistake or did you want to acquire the land?

Mr Peter Hinton: The decision of successive Councils in relation to Hornsby quarry has been always to zone it open space. In the 1952 County of Cumberland Planning Scheme, it was zoned Greenbelt. In 1977, the Council of the day affirmed the zoning as open space. In 1994, with the creation of the Hornsby LEP, the Council of the day reaffirmed its zoning as open space. The history of the quarry is one of significant claim by the community to retain it as open space and that is something that arose during the time the quarry was being exploited for blue metal. There was an inquiry conducted by the then Environment Protection Authority about the impact that was being caused as a consequence of that quarrying activity. The Council of the day reviewed the question of whether it should be a zone for open space, it reaffirmed its view that it wanted it in community hands rather than continuing to be exploited as a quarry. The legacy of those decisions today, are ones where the Council has retained it as open space and has not taken any initiative to change that zoning since. The application of clause 17(5) is one that is required by section 25 of the Environmental Planning and Assessment Act. It is obligatory upon the Council when creating a planning instrument to incorporate, for reserved land, an acquisition clause obliging the Council to acquire it and that is the purpose for clause 17(5). Wherever the Council seeks to reserve land for public purpose, it must be accompanied by an acquisition clause and it is only recently, as the Mayor indicated, that the Council was successful in having that clause amended.

Mr Tony Moody: Two more questions and then we move on. Can I say obviously this issue is a very important one and I invite the people attending to write submissions to the Council? But we must stick to the agenda.

Mr David Rosenmund: From Turrumurra. You did not provide a site plan of the quarry showing the dimensions and the distance to the station. So I would like to ask if anybody could answer that. What are the dimensions, the area of the site, what are the dimensions of the famous hole and its average depths, what would be the amount of filling required and what is the use of the land surrounding the quarry? Is it residential or open space and what are the access roads to it?

Mr Mayor: From the station you are looking, as the crow flies, about 300 metres, the quarry is just over 100 metres deep. In terms of the diameter of the quarry, you would be looking at easily over 200 metres, I think 250 metres, some one can correct me if I am wrong on that. It has been estimated that the space within the quarry, so if you are looking at filling it, is 5 million cubic metres. The site area is a total of 40 hectares.

Mr Chris Stanton: From Normanhurst. I have 5 simple questions each one demanding a 'yes' or 'no' answer. So if they take a long time, it's not my fault. I address them to Robert Ball, the general manager. Did Farley and Lewers, the original owner of the quarry, make an offer in writing about 1966 to transfer the quarry to Hornsby Council at no cost?

Mr Robert Ball: No.

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Mr Tony Moody: We now proceed on to section 2. Section 2 obviously raises other issues about valuation. I invite the Valuer General, Mr Philip Western, to make some introductory comments and then there will be questions flowing from that discussion.

Mr Philip Western: Thank you Tom. It is always a pleasure to come out to these meetings. I can see that it's obviously a topic that is very dear to your heart and I can fully appreciate some of the concerns that you have. What I thought would be useful, I won't try and hold the floor for too long, is just, I guess, to run through the process that the Valuer General is required to undertake in regards to the Just Terms Compensation Act. Just to explain the role of the Valuer General, the role of a Valuer General itself is actually a statutory role. I am appointed by the Governor of New South Wales, so I sit independent of Government and independent of the rate and tax payers of New South Wales. So I guess I am there as the custodian of the valuation system to ensure that it is fair and reasonable and the results that come out are meaningful. I have been in the role now for just some 2 and a half years, so in terms of what has happened here, it happened just before I arrived and was sort of just concluding with court cases etc when I came into the scene. Just to explain very quickly to you that the Just Terms process and I guess most of you will be familiar with that because you have obviously been closely involved with what's been happening here. The Act itself is put in place to effectively, where state agencies are taking control of the land and Councils, of course, I am using that in the widest possible sense are a 'state agency' is to ensure that the claimant, in other words a person whose land has been dispossessed, is actually taken due care of. Now the procedure is that initially a pre-acquisition notice is issued and the idea is that once the pre-acquisition notice is issued that is a sign that the land is going to be compulsorily acquired. There is a process that is undertaken where the acquiring authority, in this case Council, and the claimant, in this case CSR, are endeavouring to try and reach agreement. There is a 90-day period for that to happen, if that doesn't happen, then the process gets formalized to the extent that a gazette notice is then issued and it is at this stage that the Valuer General comes into play and the Valuer General is asked to undertake an independent valuation of both parties. An important component of this aspect is that the Valuer General will seek the opinions of all the parties, most of them will have gone to a considerable amount of cost, they will have got expert evidence or experts in to assist them in preparing their own case, so the Valuer General would take heed of all that advice that is provided, often he will also take his own advice and get his own experts in. Particularly where there is conflicting evidence as what has been arrived at and then he will arrive at a determination. One of the interesting points about the Just Terms Compensation Act is the way in which the market value of the land has to be determined. I think that is a point of interest that you have raised and I have certainly seen raised in the media over the last couple of years. In undertaking the valuation, the Valuer General, according to the legislation, is required to set aside the public purpose zoning. In this case the zoning for public purposes of the 28 hectares of the site was put aside and the Valuer General then has to make a decision as to what the zoning would be if that zoning for public purposes was removed. In this case the Valuer weighed that up and said that in his opinion the zoning would be residential 2C which allows obviously forms of residential development. That is where the difference in the two valuations came. You may be aware that the Council had a valuation I believe at about \$2.3 million and our valuation was just over \$25 million including an item for disturbance and I believe CSR had a valuation of roundabout \$29 million. So the Valuer General has gone through that process, looked at all the evidence available, looked at the expert town planning evidence, and come up with an answer and at that stage the determination is issued and acquiring authority is required to pay that. So that is basically the process that was undertaken by the then Valuer General in terms of

coming up with the valuation of this land. In terms of our involvement with Just Terms, we do a lot of work for example where RTA is involved, with the compulsory acquisition of land for motorways, Lane Cove Tunnel would be another classic example where the two parties can't reach an agreement. So that is the process that we actually go through. So I will probably leave that just there. I have no doubt you have lots of questions you would like to ask me, so I will just open that to the floor.

Attendee: Why didn't you come, or one of your representatives or staff come out to the Asquith Leagues meeting that we held there? You described your role and the role of your Department to be fair and reasonable. Explain this to me and explain to the people here how your valuation could come out for a worthless hole in the ground with no use, worked out, and come up with a figure of \$25 million. Before you work that out, I will tell you how they did it, you have already mentioned it and that is they changed the basis of the zoning and if you read the law a little bit carefully and look back about a year ago there was a thing called Ballace Point and you know what happened to that when the Valuer General changed that. They kicked it out of the Court. The question I want to know is, are you aware of your explanation of the initiation of this acquisition contradicts what the Mayor has said. The Mayor is still trying to tell us, convince us, that the Council had no choice but to buy it. You just said that the acquiring authority has to be the Council or a State body. How could CSR ever initiate this transaction under the Just Terms Compensation Act?

Mr Philip Western: Thank you for those questions. Firstly, in regard to the previous meeting, I was looking to attend that, unfortunately I was out of the State so that is why I have come specifically to this meeting. In regard to the \$25 million as I said, we have simply valued the land in respect of how we are required to under the Just Terms Compensation Act and I know that is something that is quite hard to swallow. It is a unique piece of legislation, to that extent, but what it does is it ensures that the claimant isn't disadvantaged in particularly where we are dealing with a lot of members of the public as opposed to a corporation that they aren't disadvantaged by the acquiring authority and that the compensation that they are actually paid is what the likely value of the land would be if in this case the public purpose zoning was actually lifted and in regard to your third question I don't actually think I am at odds with what the Mayor has said. In respect to this piece of the legislation, the requirement is that where the land is zoned for public purposes, and this is what this piece of land there, that the acquiring authority where the claimant asked for that land to be acquired by that authority has to compulsorily acquire it and that is what happened in this circumstance.

Ms Verlaine Tims: From Berowra Heights. I am under the impression that the valuation was set at \$40 million and you took \$15 million off because there was a quarry on that parcel of land. My question is about the actual \$15 million that you took off and how did you get to that figure because I am under the impression that it is going to cost a lot more than that to rehabilitate the quarry.

Valuer General: Thank you for that question. Basically the gross realization for the site that the Valuer came up with was somewhere in the region of about \$44 million and then what they have undertaken there is to take out the cost associated with remediation with getting the site ready for residential development, looking at all the cost of the infrastructure associated with that, and I think \$15 million actually might be a bit light. I think it was in the region of about \$19 million to arrive back at the \$25 million raw value. So the value in terms of coming up with the gross realization is actually looking at sales of comparable type properties and one of the unique features as you will be aware of this site is, it is a unique site and there is very little

large scale development of this size around Sydney and so they have had to look at a wide spectrum of sales to come up with gross realization.

Ms Verlaine Tims: I am just interested in how you actually came up with \$19 million as in the rehabilitation. I just want to know because I am under the impression that Council now has to work out how much it is actually going to cost to rehabilitate it.

Valuer General: I think the figure of \$15 million was actually mentioned in terms of that. The \$19 million that the Valuer has come up with included things such as development cost of the off site works. For example if there are roads to go into the site, the site works themselves in terms of the infrastructure, obviously the project has to be staged, so there are cost associated with that in terms of interest cost, allowance for holding and other charges and obviously there was the fact that at this stage there was an absence of a development consent. So you have got to go through that process and look at what costs were associated in doing that and they are certainly not small. All those costs start to add up to the total of \$19 million.

Mr Mike Sergeant: From Mount Colah. Some of my question have already been answered. I am still confused in that your estimate for \$19 million was presumably based on the fact that it was going to be developed as a residential site, therefore one would imagine that the cost would be much higher than what the Council is now saying that it is going to be re-zoned as open land. That is my one main outstanding question.

Mr Philip Western: As I said the \$19 million is what the valuer, when he was undertaking the valuation, has actually come up with. I am uncertain as to how the \$15 million has been come up with by the Council, I can only comment on the \$19 million.

Mr Matthew Benson: From Hornsby. Are you aware of the Council's own study into the viability of development of at least part of the quarry site and the fact that it showed that Council would lose a lot of money by developing part of the site. On the basis of that study does that not make it clear that the valuation was grossly wrong? Furthermore, does it not show that the current legislation is completely flawed in that it does not allow an appeal on the merits through a court that is open and under public scrutiny? Why is there not such an appeal right and should not that appeal right be established?

Mr Philip Western: Thank you for that question. The Just Terms Compensation Act has gone through a number of reviews. As I said, I have been in this role now for 2 and a half years, and I can think of two reviews that have actually been undertaken on it. The issue of the right of appeal by the acquiring authority is contested every time and I know that Hornsby Council have a vested interested in terms of seeing that right being put into there. My understanding of the legislation is that the Government made a decision not to put that right in simply because once again the majority of times that we are actually dealing with a Just Terms matter are people like yourselves where, as I said, an authority is acquiring land generally for a motorway or whatever and therefore what tended to happen in the past when this provision wasn't there was that the legislation allowed for the big-boy sort of syndrome in that the corporation could virtually stand over the individual landowner and effectively just keep riding them until eventually they had to submit. So it was just the weight of money and power, so to speak. So the legislation never had the right of the acquiring authority to be able to object to the valuation and therefore put the individual through a court process particularly because it starts to prejudice the individual landowners like yourselves and the last review which was undertaken about 18 months ago, my understanding is that the Department of Commerce had a very close look at that again and decided to keep that provision still in there.

Mr Matthew Benson: The other part of the question was are you aware of the Council's own figures which were based on an actual decision Council might have to make and do you not realize that there is an enormous discrepancy in that and in relation to your response to the other question, could it not be like the criminal courts or other courts in which legal aid is provided to people, so in that instance you could have a legal aid authority provide assistance to members of the members of the public who are going through the compulsory acquisition process. That would deal with that problem and again it is just about having an open transparent process rather than the secretive commercial in confidence process that occurred in this case through which the community have been grossly disadvantaged and exploited by CSR.

Mr Philip Western: In respect of your first question, I am aware of the advice that Council received. Once again I might reiterate that at the time of the gazette, which is when the Valuer General is actually required to undertake the valuation, he at that time, sought independent advice in respect of town planning. CSR had obviously taken advice and Council had done likewise. At that time he acted on the best evidence available and that best evidence indicated to him that the residential 2C zoning was the way to go and that is the information that was obviously acted upon. I guess that I am encouraged in that result in terms of his original valuation to the extent that Council instigated their own internal review in regard to whether or not there was any ability to be able to challenge the Valuer General's value both by getting an independent valuer to have a look at it and also to get legal counsel and in both those cases the result was that they could see no avenue for a legal challenge to be mounted in respect to the Valuer General's valuation. It complied with what was required under the Just Terms Compensation Act.

Mr Peter Waite: From Pennant Hills. Mr Western, thank you for your letter of 29 September 2005 in which you advised that Hornsby Council is the only consent authority for development on these lands. The problem is that there is no legal access whatsoever to any of lands in the valley, so therefore the land is worthless, but I just refer now, I put a submission into Council regarding a State Government Guidelines regarding acquisition of lands by Council. It is quite a lengthy document and the reply came back from Council, we are not going to look at this, it has already been addressed, it is too late, bad luck, go away. But the thing about the Guidelines is that it says that initially you should try and do it by negotiation, you should comply with a lot of regulations. I am not sure if you are aware of these Guidelines or your predecessor was? but basically it appears to me that Council broke every rule in the book and also the Minister for Local Government and I am not sure where this leads the Council or the Valuer General or Council's solicitors. I have prepared a paper which I have distributed tonight, lots of reasons why there should be an enquiry by the Independent Commission Against Corruption because we can't get answers to all of our questions, we have been told tonight that we will get answers to these questions. I have put in about 40 questions such as why weren't these Guidelines complied, and I think perhaps Mr Western Should note it, and the Mayor should answer because on this is a file note from a Council employee raising concerns about what happened.

Mr Tony Moody: The person asking the question asked it to be noted by Mr Western, he has noted the comments. Can I also add, that Mr Western has said that if you want to make further submissions to the Valuer General, he is happy to receive such written submissions.

Mr Neville Diamond: Thank you for coming Mr Western tonight. I think you are a very brave man. Sir, you contracted to a subcontractor as I understand. Sir so if Councils legal advice is correct and Mr Hinton says there is no access for the public into the

valley, there wasn't any consent for access into the valley for the public at the time of purchase. There is no access for the public in the future as it stands. How on earth you can call it residential 2C if it has got no access. As I understand the Environmental Planning Assessment Act, you can't build something, you can't get a DA approval, you can't get anything into that black hole if you have got no access. If you have got no access, how could you have thought or how could your subcontractor, if he exercised duty of care, possibly have thought that you are going to get block of units in there? No access now, no access then, and no access in the future. There is nothing going into that valley as it stands on the Environmental Planning and Assessment Act. How can you value it at \$40 something million with respect and thanks for coming.

Mr Philip Western: I will endeavour to try and answer that question. I haven't examined in close detail what the town planning advice that was provided to the valuer at the time, but my understanding is that very issue was covered in the advice that they actually provided.

Mr Tony Moody: Can I just say that that is a point, one of the many points tonight, that a written question to Mr Western could raise.

Mr Philip Western: Yes if you put that in, I can address that, I would be very happy to do that.

Mr Tony Moody: I think that is an important point that Mr Western has offered that opportunity.

Mrs Bev Inshaw: From Galston. You have heard Mr Western about the fact that there is no access into this property. I have seen documentation which also states that the rural fire service would not allow development in this area because it is so seriously fire-prone. How could it possibly be zoned residential, no access and seriously fire-prone?

Mr Philip Western: Thank you for that question. My understanding was that at the time that the Valuer undertook the valuation, the site had a category 3 bush fire rating which obviously restricts to some extent urban development. The Valuer in terms of going through it, actually had a look at what was required under that. They have also gone to the Council and talked through with Council in respect of the issue of the bushfire zoning and then they have weighed that evidence in light of talking with Council's Planning Department and arrived at a decision in respect of how that should be applied in respect to the valuation.

Mr Bob Sendt: From Hornsby. This is more of a personal explanation rather than a question, but at the last meeting at Asquith's Leagues Club, you may remember that I was introduced by Virginia Trioli as Auditor General Bob Sendt. I made the point that I was attending in my personal capacity as I am in this meeting. I had hoped that former Councillor Peter Waite would say something when he asked his question, but a document has been circulated fairly extensively in which it is claimed that I said at that meeting that the Valuer General was negligent. Those of you who were at the meeting would be aware that, I hope if your memory is good, I didn't make any statement of that kind. There was a lot of discussion about the valuation itself. There were a lot of expressions of concern about the valuation as there are tonight and I simply asked the Mayor at the time considering those concerns had the Council received any legal advice that might indicate any legal liability by the Valuer General? The answer is irrelevant but I do want to make the point and clarify for the record that I made no statement that the Valuer General was negligent.

Mr Aaron Williams: From Normanhurst. The CSR proposal as I understand it was for 430 home units to be built on the site of the present crushing plant which is quite close to a 100 metre high cliff. Moreover, the access road that they proposed was right around the edge of that cliff and at the time this proposal was put to your office, you also had a geological report by Dr Gerrard which said that the geology of the quarry was most complex, hard to understand, that it was weathering and getting worse with time and that there was concern about it. With that background here is this proposal going to your office and you accepted it. I wonder about this because had that proposal come to our Councillors, I think they would have had to reject it on public safety grounds. I don't think any concerned authority could have agreed with that proposal. Your office did.

Mr Philip Western: I understand it was 4.8 hectares, or thereabouts, there are probably some decimal points behind that, in respect of what the valuer and the town planner came up with as to the development portion of the site. My understanding was that the Gerrard report wasn't received by the Valuer General at the time the valuation was undertaken, but it was actually received subsequent to the valuation process and the determination being made. That is a very important point to make that the Valuer General at the time sought submissions both from Council as the acquiring authority and CSR as the claimant in respect..... (*end of side of tape*).

Tape 1, side 2

Mr Tony Moody: We now have to move on to item number 4. Can I just express my appreciation to Mr Western for attending tonight's meeting? Could I just raise a couple of points? I think the expression was 'yes' it was brave of Mr Western to come along tonight. The second point is I think some of those questions are very vital and very important and if I was a local resident, I would take up the invitation of Mr Western to ask him questions through correspondence. Can I just say thirdly, I don't know whether you know of the Land and Environment Court web site, but you can go to the Land Environment Court web site, go to judgements and there are valuation cases, all valuation cases as cited by the judges. I find, even in class 1 appeals, as the Councillors well know, I think it is a really interesting exercise to make yourself more aware of it. You can do search notations, to actually find about expressions used, the jargon, so to speak, that planners such as myself use and I think the Land and Environment Court web pages are of tremendous value. I think the issue of geotechnical investigations is obviously a very crucial issue, I think of very pertinent questions and going on to item number 4 now, I would like to ask the Executive Manager of Works Division, Mr Max Woodward to make a presentation on that issue.

Mr Woodward: Just bear with me while I get the technology moving. Why a geotechnical investigation? It is important to understand what the site, such as the site you see before you tonight, is like it is today and to do that we need to understand a little bit about the history of how it got to be like it is. If the Council wants to make a good decision regarding the future use to which this site should be put, we need to understand the constraints of the site. This requires an understanding of the geology of the site, the soil mechanics, the rock mechanics, the hydrology, and the hydrogeology. As the previous speakers have indicated and from the questions that we have had tonight, we are appreciative of the size of the problem before us. We have a quarry with a depth of approximately 100 metres, within a few hundred metres of the rim of the quarry pit are located residential streets, a TAFE college, a hospital, and indoor swimming pool and outdoor swimming pool. Less than 750 metres away is a sewerage treatment plant, and a nursing home. We have a very complex structural geology of the site and we have a history of quarrying which has gone on for over 100 years and that has led us to where we are now, that is

the site before us at the moment. A creek flows through the quarry site. At the August Ordinary meeting of the Council, (*it was reported that*) there was an open tender process which Council had entered into to identify what we wanted to do to select a consultant to undertake the geotechnical investigation. We had 12 responses to a complex brief, 5 tenders were submitted, and following close examination, the Council identified that there were two tenders worthy of detailed discussions. Following those discussions and further negotiations, Council accepted the tender of Pells Sullivan Meynink to carry out the geotechnical investigation. Dr Philip Pells met with our Councillors last week and filled them in on what was going to go on in the study. Dr Pells has a distinguished track record in geotechnical investigations of varying degrees of complexity throughout Australia and South East Asia. One of the things that I noticed when he was talking to the Councillors was that he identified in his brief that the Australian standards or codes that most professionals work with, cover very little of the sort of work he is engaged to do. He uses his professional skills and the quality of the work will depend on those skills and I just want to emphasize to you that I believe Dr Pells will have the track record to do that. The quarry and the adjacent lands that we are working on are a complex site that has many constraints. I am probably speaking to the converted here from the comments I am hearing, but I just need to point out to you that the approach that we will be following will be acknowledging that there are a number of past work practices that would not be allowed today. As a result of that, we are taking a holistic approach to the future of this site. We can't just focus on individual things, but we have to look at it altogether. Risk is a major important factor for consideration. The risks that we accept in a mining or quarrying operation are vastly different to the risks that one would expect to experience when you are trying to create sports fields or residential or whatever type of development (*involving a*) other non-quarrying issue, so that is an important part of consideration during this study. The other thing too which is of interest to the community is that whatever we identify to do at this site, it must be cost-effective. The cost-effective use of the site depends on achieving a balance. We need to assess those risks, we need to identify whether the risks can be reduced to an acceptable level, and we need to understand the costs of undertaking those actions or combinations of these actions and that is what this study is all about. I will just briefly run through the issues for investigation because it is important that you understand that these are the items that the consultant will be looking to working with the Council and to help us to identify. There are issues that relate to the actual site as we have it now. The quarry is a creature of, as I said, many years of past practices which might not necessarily be allowed today. It is also a creature of the geology of the site. We will be looking at the stability of the existing quarry faces and the integrity of the adjacent lands. We will be looking at the northern slope, the material that was placed there by previous quarry operators. We need to understand the ground water accumulation that is currently occurring in the quarry, why it happens and what are the impacts of that continuing. We need to review the surface water drainage systems that operate around the site. We need to explore the impact of the previous quarrying activities on the adjacent private lands that surround the site. We need to understand the impact of those same quarrying activities on the adjacent public lands in Old Mans Valley. That is why the Old Mans Valley has been included in this site because, as well as being adjacent to the site, it has also received a large amount of uncontrolled fill in the 1980s and we need to understand the impact of that. We need to consider options for the future use of the excavated portions of the site and we also need to understand that placement of fill on part of Old Mans Valley that I referred to before. If the land is to be used for a purpose other than just leaving it empty and vacant, we need to understand the potential of the various locations for open space or community purposes or where structures can be erected. We need to consider public safety. In all of this, we need to understand

that there are a number of options that can be undertaken as regards to the rehabilitation of the site. We need to explore those options and identify estimates of costs so that whatever we do, we do in a cost-effective manner and before and after doing that we need to understand the land capability and the consultant will be required to report on the land capability before and after the rehabilitation of the site. You might ask how will the investigation be carried out? Dr Pells has given us a program of works which will take us through the rest of this year until the early part of next year. The first step is to collect and understand and evaluate the existing data that exists on the site and, believe me, there is a wealth of data there which needs to be pulled together and understood. From that the consultant will identify and formulate preliminary models. From the information he has, he will then determine what gaps exist in the information that we have. The next step will be data collection and field work to carry out the necessary studies that we need to fill those information gaps. After that and by December of this year, the consultant plans to have developed geotechnical and ground water models so that we can understand what the site is doing and how it works. These won't be models that you and I can look at on a table, but they will be computer models and various data analysis that he will have undertaken. Finally, there will be a report back to Council on the results of the investigations. The consultant will be able to advise Council of the stability and the risks associated with the site. With that information we will be able to determine the options that will be investigated. Finally, for each option, the changes required to slopes, surface flows, and ground water will be studied and the impact of those options will be able to be more clearly understood. Council expects that the study will be complete in early 2007 and from that it will be able to then take the next step which is (*to decide*) the further use to which the site will be put. There will be a final report to Council documenting those constraints and the design requirements and with the information that it will then have, Council will be in a position to make a decision regarding the future of the site.

Mr Tony Moody: Thank you Mr Woodward. Would the lady like to ask a question in terms of clarification? Would you like to ask a question of Mr Woodward?

Attendee: The quarry for which we paid \$25 million is 28.3 hectares, that whole site is I think about 40 hectares.

Mr Woodward: The slide that appeared on the screen identifies a site of a total of 40 hectares approximately, part of that site as we know is virgin bush but it is still part of the site that Council acquired. Council has to yet make a decision on the use of particularly the western part of the site and that will be a decision that will be taken in due course. During the study it was identified at the very beginning of the process that we would also look at the Old Mans Valley lands because besides being adjacent to the quarry site, they are contiguous with that site and we need to look at it in a holistic fashion.

Mr Andrew Bristow: Dural Resident. The fill that you speak of in Old Mans Valley was that not authorised to be put there by the Council was found to be illegal by the Land and Environment Court. Could you also tell us the cost of that fill, what it cost to put it there? And what will be the cost to remove it?

Mr Woodward: I don't have that information, I will see if we can find it from our records.

Mr Noel Roston: From Berowra. Everything you said up there is the reason why they should have paid us and not we pay them.

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- Mrs Pam Stark: From Hornsby. Has there been a previous geotechnical study, if so what did it say and what will this say in addition to it?
- Mr Woodward: When Parsons Brinckerhoff undertook their study into the capability of the site, there was some geotechnical work done, however, that was limited to a desktop review with some tests pits undertaken in the vicinity of the Old Mans Valley land. The Parsons Brinckerhoff study identified that there will be further geotechnical studies required particularly if any of the filled area was to be subject to possible development. The Parsons Brinckerhoff study also identified that we would need to undertake additional geotechnical works if there are other areas to be explored for future development. There were some other materials undertaken and other studies done by CSR, but we do not have access to those studies, so I can't comment on them.
- Ms Verlaine Tims: My two questions are related to that same particular topic. The geotechnical investigations, was there any such investigation done by the Valuer General's Department because he has come up with a figure of \$15 million or \$19 million of rehabilitation and I am just hoping he didn't pluck that figure out of the air?
- Mr Woodward: I think the Valuer General indicated in his remarks that that information was taken into account when the value of the quarry was identified.
- Mr Philip Western: Once again I haven't read that report in detail but I might take that question on notice and I'll get that information for you.
- Mr Tony Moody: I think that is a very pertinent question to ask the Valuer General.
- Mr Michael Marr: From Berowra. I grew up around Old Mans Valley and about 40 years ago I was paid by Farley and Lewers to keep the rabbits down because we they planting little trees around the rabbits would eat them and they paid me to get rid of them and they let me have the rabbits too. So even in those days it was always planned to be a park or open space. So CSR has made an awful lot of money out of it, they put a lot of effort and lot of money into it and based on the fact that the quarry is an unknown commodity and unstable or potentially unstable, I know there is shoring going on down there, there are some works and all sorts of other things down there. Who is responsible, based on the fact that we have and all companies and organisations have a duty of care, who is responsible if something happens down there, if someone falls over an edge or there is a collapse due to the groundwork? Who is responsible for that? Is that CSR or is that us the rate payers?
- Mr Woodward: Council is now the owner of the land, that means the Council has the responsibility for the management and ongoing safety issues and anything else that goes with the role of the owner of any land.
- Mrs Lucy Bal: Thank you for the opportunity to speak. My house property backs on to the quarry hole, so I have a personal interest in what is behind my family's home and I have small children. Firstly, I just wanted to mention that the Valuer General in their documentation I have received actually requested through Council solicitors, further documentation about fire hazards, and the Council declined to supply it. I am wondering why the Gerrard report which indicated to me that to make the quarry stable they would actually have to cut away at the sides, that would actually reduce the area of land for development. So does that mean we are building on air? I am concerned about the geotechnical reports now? Why weren't they done before the valuation instead of four years after the acquisition? My main problem with the acquisition is not so much the Valuer General's role, it's more Council's, the Department of Local Government's and the Minister's role in the acquisition.

Earlier we were talking about let us all hand in more submissions. I handed a submission once to Council, I was given 9 days to produce it. Not all of my questions were answered, some text was deleted and some text was changed and yet this was handed to the Department of Local Government as my wording and nobody asked for my permission before they did all this. That is not very fair. I wanted to ask Mr Woodward his opinion on a hypothetical situation. If the Local Government Act states that acquisitions of lands by Councils have to be voted by Councillors in a public meeting and if this is the law and if it doesn't happen, does that mean it is still lawful? Also, in a circular from the Department of Local Government, I understand that the Minister cannot even consider giving approval for acquisition of land whether it is compulsory or not unless he has got a copy of the Council resolution and a copy of the meeting minutes from where this resolution or vote took place. Because this doesn't happen does this mean that the Council and Department of Local Government and the Minister have the option to ignore rules or are there lots of little clauses that we haven't heard about yet? I was just interested in your personal opinion on this.

Mr Woodward: I do not intend to comment on hypothetical positions, it is not for this meeting, I am here to talk about the geotechnical study. I understand that questions relating to the acquisition have been dealt with by others and I dare say you will have the opportunity to ask those questions later, but in your remarks Mrs Bal, you referred to some work by Dr Gerrard. Dr Gerrard has made some useful contributions to our understanding of the problems facing the quarry. I am aware of certain submissions that you referred to in which he has made a number of claims. The current geotechnical studies will among other things test those claims because at the moment we do not have the benefit of the test data for us to do that. The geotechnical studies that we are currently undertaking are being undertaken with the specific purpose of helping the Council to determine the future uses for the site. It is important when you carry out a study to understand the end result that you are trying to achieve because that will help you to ask the right sort of questions. That is one of the reasons why we are currently doing this study.

Mr Neville Diamond: Mr Woodward thanks for your help the other day when we had a chat. The 30 documents that CSR put to the VG, I think we paid \$300,000 odd for them. Have you been able to use those documents since we've paid for them? Is there a geotechnical report in there that you can use? Have we got access to the 30 documents which CSR put the VG and can we use them?

Mr Woodward: No.

Neville Diamond: We paid for them and we can't use them. We paid \$300,000 for them in disturbance, I think, and we can't use them. Can the VG give the geotech that CSR provided? Mr Western is that possible we can get those documents to help the Council in their geotech submissions?

Mr Philip Western: I would just like to clarify something. The \$300,000 that was mentioned was not a payment to the Valuer General, that's, I presume, is the Council valuation, but I am not certain on that. In regard to the geotechnical thing, as I said, I am willing to have a look at that and see what we have got there. I am not sure whether its precisely 30 documents, but certainly willing to have a look to see what is there.

Mr Mike Sergeant: We keep coming back to this \$19 million as the cost of rehabilitation. What is the gut feel of the Council now as to what the likely cost of the rehabilitation is? Is the \$19 million reasonable? It is pretty obvious to everybody here now that we need to investigate how much it is going to cost to rehabilitate. Why didn't the Council go into that in so much more detail before we bought the thing?

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- Mr Woodward: Two comments, 'No' we can't estimate the cost of rehabilitation at the moment because we do not know the final use to which the site will be put. Secondly, Council had no control over the timing of the acquisition of the site.
- Mr Steven Perry: From Hornsby. There is a lot of people here who know a lot more of the issues tonight, but it is still unclear the overall costing, but what is clear is that for decades it seems this area was marked for open space for a bit of recreational area or at least clear space. Did Council ever cost it for flats? Where has that come from? and particularly in the light that in costing it for flats, the land is locked, it is land locked, there is no direct access. Has that been taken into account in the cost?
- Mr Woodward: The question of access was referred to before. The Council has not made a final decision regarding the use or zoning of the land. The land is currently zoned open space. The Land Capability Study undertaken by Parsons Brinckerhoff, I think Mr Hinton would be well placed to answer that. He could probably explain to you the basis of those particular studies, but the Valuer General indicated that when the valuation was undertaken the highest and best use was considered having regard to the zoning that may be appropriate for the land were it not to be used for open space.
- Doug McMahon: From Mount Colah. I would like to know who is paying for the cost of this consultancy. Is this being included or is it going to be a few more million that we pay for as we are paying more than we were told in the first place, it was going to be \$10 and it is up closer to the \$20 odd. What is the cost or have you any idea what the cost will be by the year 2007. How many more million will be added and then what will be the worth of it because the hole probably is beyond repair?
- Mr Woodward: The cost of the geotechnical study in accordance with the tender accepted by Council is \$137,500. That is being funded by the rate income that Council collects, it is not a charge against the special rate levy.
- Mr Tony Moody: Mr Woodward, thank you for your presentation and the answers to your questions. You will get the opportunity in the next section which is the way forward which is basically an opportunity for each of the people here. If we could limit the discussion or the statement to about 3 minutes, it would be greatly appreciated and what I would like is to invite people from the floor to talk about the way forward in whatever form or manner they wish in terms of what they see for this site. I do not want to be rude, but in order to allow everybody the opportunity to speak, if we could limit statements to 3 minutes. Thank you.
- Mrs Pam Stark: I am worried that we will get this whole area rezoned for building by the Meritons of this world. I am wondering what it takes. Does Council just sit somewhere and decide that that's how it will be developed. What is the process for turning this land from open space, which for many years has been apparently, into a Meriton complex?
- Mr Hinton: The Land Capability Study and Master Plan that Council commissioned number of years ago is on hold pending two things: one is the economic viability testing that was done when the Land Capability Study and Master Plan determined potential for mixed residential and recreational development. It proved that economic viability based on current land values would not permit the development to raise a profit and fund the cost of the open space development of ovals and other recreational facilities on the site. The Council then went to Landcom and said, well, you are a public agency that can assist Council in determining whether there is any profit margin to be gained from development of this site to fund its

recreational development and its rehabilitation. Landcom came up with three solutions, but that involved the utilization of more public land than it was otherwise envisaged in the Land Capability Study. It actually sought to utilize adjacent Crown reserves, which was not the intent of Council in incorporating in any potential future scenario for funding of future development of this precinct. The geotechnical study is going to be an important factor in determining whether the Land Capability Study for urban development is there or not, if it proves that is not, then we will be back to the drawing board, if it proves that there is, then we will recommence the public consultation process to determine what the community wishes to see as the future utilization of that land. So there is no given outcome in relation to the future of this property. There is a master plan in draft form that suggests mixed residential and recreational development, but Council has not at all adopted that, has put it through an economic viability testing that has proven it to be unsuccessful and it yet to come back to the community with a further review once a geotechnical study is undertaken.

Mr Adrian Bruins: All I can see is the rate payers are paying more money. CSR is walking away with a fortune. I would like to ask one question from each Councillor, are they interested in justice? In other words getting the money back from CSR, making CSR pay for the damage they have done in our valley? I would like each Councillor just to say yes or no. Why can't they say in public what they believe?

Mr Mayor: Adrian, how about I answer and then if anyone objects they are free to stand up and correct their position. All of the Councillors are interested in justice. We are. I am. We are definitely interested in justice and that is why we pay for the legal advice we get to put Council, to put all of you as the rate pays in the best possible position. So definitely we are looking at justice. I am a rate payer myself and I am angry about having to pay the rates, absolutely. Like every other rate payer in this room, I would love to find a way to reverse the position and certainly we are considering further action.

Mr Andrew Bristow: I would like to ask Mr Ball a question. From what I can understand, whatever we do with this quarry is going to cost a considerable amount of money. Does Mr Ball have any sort of concept of how much money is going to be spent over the next 10 years and if so, where is this money going to come from and how is it going to affect other programs that Council want to put into position? Can Section 94 money be used on this or does it have to come out of Council's consolidated revenue and once again what affect is any expenditure on the quarry going to have on other programs that the Council want to run?

Mr Robert Ball: I think that question in one form or another has been asked probably three times tonight and we have indicated that until we receive the geotechnical study, we are not sure what the extent of remediation will be. So we are unable to cost that remediation. If it is relatively small, obviously it is not going to have a significant impact upon the future expenditure of Council. If it is a considerable expense, then the Councillors will need to think seriously about how that will be funded. It will obviously have an impact upon future expenditure whether it is a dollar or \$100. The Council has rate pegging imposed upon it, so there is a limit on the total amount of income that the Council can receive from rates. It can therefore only spend that amount of money and spread it across all of the surfaces that are demanded. So whether it costs one dollar or \$100 it will have an impact. We cannot indicate the extent of the impact until we have got the geotechnical study completed. We know what the remediation cost will be and we know what the future use of the site will be, and then there will be a public process of explaining all of that to the community.

Mr Tom Transfield: From Cherrybrook. I wish to take this opportunity to thank Council for giving us the opportunity on this issue that is well known to all of the residents. My question is directed to Jan Dekker who is one of the three labour Councillors. I was just wondering, do you have a plan for the way forward in relation to “Quarry Gate”?

Cl Jan Dekker: I haven't certainly discussed the total options available of course, and obviously we have to wait until the geotechnical report comes back, but it has been alluded to by Mr Hinton about public consultation and if you have seen me at Council, you can rest assured that that is what I would be asking for, public consultation and community meetings. A little bit more than that is that I think in the long run and it is up to the community as far as I'm concerned to make the final decision of what, we are talking about the rate payers of Hornsby and I come from down the other end, of course, what they want. I am personally thinking of having a few discussions with others that we as a Council after going through a consultative process, should put up several scenarios to the community and perhaps possibly, probably put what word you want on that, but have a referendum from all the community, the 150,000 rate payers, to have the scenarios put to you people at the next election, I might be dead by then, but anyway, so you people have got the final say of what you want, but I make the point, it should be with all the rate payers of the Shire including down at Epping and from where I come in C ward. I think that is something that I personally and I think some of my colleagues would pursue as an issue within Council that gives you people the consultation and then the final decision in a referendum of what you want.

(Attendee): What I would like to say is that I really applaud what the Council has done in terms of geotechnical investigation that is one of the most positive things that I have heard tonight. My only statement is why was that not done 10 years ago because the whole of this site is a very unique site, it is not one that any town planner could work out on without having done something like that because the rock surface, all the rock part is very difficult and it also gives the basis for the risk management that is going to be needed because there is a whole lot of factors in here. It is very difficult to determine the way forward until after that survey has been done, but I just like to sort of commend the Council on making that decision, in making that appointment.

Mr Tony Moody: I shouldn't say this comment but there is a book called Design with Nature by Ian McCarg. He wrote it in about 1970 and I think it is a fundamental book in terms of environmental planning and it is just supporting the speaker's comment then that I think geotechnical issues are a fundamental part of proper planning assessment and you are absolutely right. Town planners like myself have no idea in terms of planning for future uses without the fundamental basis of the environmental studies.

Mr Allan Williams: From Normanhurst. I read in this week's Chronicle that there are very severe limitations on access to the site and that paper spoke of some of those problems and it seems to me we are talking here about the way forward and I don't see there is a way forward unless the Council can secure Quarry road back into Council's own ownership. Now I understand it is currently owned by four parties, one of which is CSR and it seems to me that CSR holding is a stranglehold on any development that could ever be done on that whole 40 hectares of site. People might think that a road could be built down beside the swimming pool, but I think you would have to be a billygoat with wings to get down that cliff there down to the development site. So has the Council got the ability to compulsorily secure that Quarry road into its own possession?

Mr Hinton: The Land Capability Study that Council commissioned Parsons Brinckerhoff to conduct was actually complemented by some legal advice by Brian Preston who is now the chief judge of the Land and Environment Court. You are quite correct, there are a series of rights-of-way that traverse private property and there is no public means of access to the quarry presently along that Quarry road section. The Land Capability Study identified an ability of Council to use its resumption powers to resume the road and place it in public ownership, alternatively to construct a new road at the intersection of Coronation street running through part of its open space land down into and interconnecting with the quarry. The cost of that road however, proved on the economic viability testing to be prohibitive which means that once this geotechnical study is complete, we will have to revisit the issue of access in terms of whether or not resuming the existing Quarry road is in fact a practical option for Council.

Mr Gabe Lomas: Berowra Heights. Early on in this meeting we had a lot of talk, a lot of waffle, in my opinion, about this and that and about the quarry. We have people coming up, who we didn't seem to be primed about what issues is centred on. We have the Mayor failing to answer the very first question that came up and got away with it. We had the Valuer General who hasn't read the report apparently. This is just typical I think of many such meetings that Council holds where we have people half answering questions and people go away with no real answers and then the Council, in the words of the Mayor recently published, saying "we have answered the questions on the quarry". That's not true. You can answer a question with an untruth, with a waffle, and with a blatant exaggeration, that is the way these questions have been answered tonight and in the past. I think that now looking at what we are going do, we are going to have this wonderful geotechnical report, that's rubbish. We first have to mend what has happened in the past. For example people usually get performance pay. Are they docked, should our Council and all involved be docked their pay for making a mess of this?

Mr Andrew Issac: I thought we are here to look for solutions and I would like to ask the General Manager or the Mayor, has the option of offering the site for sale been considered or is to be considered or will be considered? Secondly if that scenario is not feasible and all of you have heard, I think with due respect to everybody, the mismanagement and the lack of due diligence would the management consider standing aside? I think this has gone for too long and I think I felt when the Manager explained the percentage, the gentlemen was sitting here, and I've got a degree in mathematics, I thought he was insulting everybody's intelligence. The first question is, is it a scenario or option for private sector to buy and secondly if that is not the case and we have gone through what you've gone through, would the management consider or the Council actually consider standing aside the management and not having anything to do with the quarry issue until we get some independent and expert advice at an arms length so that we can find solutions. We want solutions, we don't want waffle.

Mr Mayor: Firstly, let me put this to you. You sell the land and why would someone buy it? They would obviously buy to develop so that they can use it for something. In the past it has been used as a quarry, mining blue metal for road base, the community didn't like that and people have come up with ideas of developers purchasing the land to develop units on and there are people who don't like that either. There have been ideas of a private party or a company buying it to turn into a landfill and no doubt there are going to be people who don't like that. So these things will be considered and the residents will be consulted about any such options, but at the end of the day, no one is going to buy the land unless they are going to buy it for a certain purpose and quite clearly there are going to be plenty of people who oppose to that also. Andrew, if I can just say, we have gone through the whole

process of inviting the Department of Local Government to look in to holding an inquiry, most people here have read the letter from Director General of Department of Local Government. The Minister is being questioned on it. Now if you think that process hasn't been full and thorough, you should take it up with the Department of Local Government. Under the Act, that's who we report to, and the Department of Local Government has shown the resolve to act against another Councils. They acted against Liverpool, they acted against Warringah and for some reason they chose not to act against Hornsby. Mr Troy, I am sure, is aware of these cases as well. These questions are being put to the Department of Local Government. Mr Issac, maybe you might like to write to the Department of Local Government and tell them where they are wrong. We have invited the Department of Local Government, if they wish, to act against us, the way they have acted against other Councils, they chose not to.

Mrs Lucy Bal: I have to apologize, I've already had my turn and I will be very quick. I think that having the Department of Local Government investigating is a scam because from the stuff I have been reading, they were involved in it. You can't ask somebody investigate something they're involved in. You have to ask somebody completely separate to sit down and have a look at everything. From the documents I have looked at, the Minister was very naughty, the Department of Local Government was also very naughty. We need an independent inquiry. That is the only way we are going to find out what really happened.

(Attendee): I am ardent to hear from a few Councillors and also some people here that are trying to deal with this problem. I think the issue here those of us who are familiar with corporate life and Bob Sent and a few others would be familiar with this. When you have a problem you start off by seeing where we are. We recognize the past and what happened, that is not happening now. You can't get forward to solutions as the gentleman over here said until you recognize the past. We all make mistakes, but somehow this Council hasn't made a mistake, somehow the management of the Council hasn't made a mistake, the Valuer General hasn't made a mistake, but somehow \$26 million went out for a hole in the ground that we're never going to see come back again no matter what you say here, no matter how more any geotechnical surveys you do, and how many people come up with crazy deals, we're are not going to see it. My question to Council is face up, grow up, get mature and say 'yeah! We screwed up' let's get on with this thing. We all make mistakes, let's admit it.

Mr Tony Bray: From Berowra Waters. I am having a great deal of difficulty in accepting the fact that this \$25.1 million block of land that we have acquired is going to be an albatross for the years to come and I understand from Mr Western's comment that our situation could have been totally different had Dr Gerrard's report been in his hands at the time the valuation was arrived at. Could Mr Western confirm to us today that our situation could have been totally different had he had Dr Gerrard's report in his hand at the time when this valuation was arrived at?

Mr Philip Western: If I might just be able to address that. Obviously as I said before in terms of valuation undertaken, it was undertaken with what evidence was available. I am not aware specifically of what Dr Gerrard's report was, but you would obviously look at that in light of the expert evidence, if it was expert evidence that was provided. I am hearing from Council in fact it may have been a little wider and lacked a little bit of detail which is a part of the reason that you are going into doing some more work.

Mr Eichstaedt: Resident of Hornsby. I really admire the beautiful diatreme of the Hornsby quarry which is a product of nature, however, the rest is a man-made disaster. The

situation which we are in today is the product of joint management of this site by the mining companies and the Hornsby Shire Council which was the consent authority in the local government area. It means that we were left in a position like in a 19th century shrunpy town where the oil magnates or other mining companies have left with a hole in the centre of the town a few 100 metres from the Council chambers where my representatives reside. You can see through the window what it is and the Councillors saw it for decades. Let us not be calmed that there was another Council because the Hornsby Shire Council exists for 100 years and there is a perpetual continuation according to the interpretation said. So whoever said the Council was trying to pull wool over my eyes. Hornsby Shire Council together with the Department of Local Government acted contrary to the law so many times that I am tired to mention it because there was no resolution neither to acquire this land nor to draft the consent orders in the court to any step including writing to the Minister, we still don't know what was acquired because CSR quarry was operational at this time. How on earth Council has got the power to acquire operational sites and business? Council can operate lands, under section 186 of the Local Government Act 1993, but not businesses. The Council acquired an operational quarry and it was operational for 6 months and 5 days between 25 October 2001 and 30 April 2002, operational by whom on the land which, was according to the law, free from any incumbrances. It was on 25 November 2001 on the day of the gazette. So how on earth the Council permitted a company to operate a quarry for more than half a year on the ground of which the Council was the owner? So far the only purpose for this so called acquisition served was for Council to earn money on the difference between the interest paid to the bank and the levy they collected. This split more or less 40:60. That is why they were interested in the highest valuation possible which is obvious, but let us not forget, Mr Speaker, one element that the Council is here to serve the community. The Council is not a self-serving authority who can pursue only their own interest against the law. Let the rule of the law be applied and I believe that the future of the Hornsby quarry is in the Council, but not before their coronial inquiry into it. I believe that there are so many questions or issues which were not answered starting from what was acquired? Who wrote to the Minister that this is a vacant clear land for the purpose of public recreation? Who allowed whom to ask the Minister and the Governor for permission? That's the law of this land. This law was not followed and lastly I would like to know what was customarily declared at the every Council meeting and such a meeting should be held before acquisition of the Hornsby quarry and borrowing of money for this purpose. What was the Councillors' interest in this transaction, because that's the rule of the law and that's the public order of this land. If we don't know what was the Councillors' interest, we don't know whether they acted rightly or wrongly and only a judicial inquiry on oath, open, in public, could restore our faith in the system of government because the Minister is up to his ears in this mess because he failed to notice that the whole process is absolutely against the legislation of this State. It is the system of government which pays the price of not adhering to the rule of law and before it happens, there is absolutely no way that Hornsby Shire Council can get a further dollar to deal with this issue because enough is enough. Mr Speaker for how long shall we wait for it?

Mr Robert Ball: I think it is important to just make one little comment because this matter has come up two or three times tonight and we haven't addressed it as yet, Mr Eichstaedt just raised it. I would invite people to look at the answers to questions 61, 63, and 85 in the questions that are on the Council's website. Those answers go into many pages. Obviously I am not going to read it out to you, but I just want to read one final paragraph which is in the answer to question 85. That paragraph says 'this is for Mr Robertson, Senior Counsel ...(*end of side of tape*).

Mr Ball (Cont.) correct and Council's action in doing so was lawful and indeed obligatory. If someone believes that Mr Robertson's advice is incorrect. The brief is explained by Mr Robertson in the early parts of both his advices, what is missing, and people have asked for this, is can we have a copy of every piece of correspondence, report, material which was submitted to Mr Robertson. That is unfortunately not practicable but his brief is clearly summarized by Mr Robertson at the beginning of his advice. All I can say is that if people think that that brief wasn't adequate or needs to be expanded or if they think that Mr Robertson's advice is wrong, please let the Council know, but his advice is quite clear.

Mr Tony Moody: It is now 8.30pm ladies and gentlemen. I would like to make a few points for the assistance hopefully of the people here at the meeting. Can I just say the website will have a transcript of this meeting. I would like to thank Mr Western. I urge the local residents to look at the Land and Environment Court webpage for their edification and knowledge on those issues. Make submissions and questions to Mr Western and I would also like to congratulate you all for your time and passion for this site and I would also like to ask the Mayor to make a closing comment. Thank you.

Mr Mayor: I just wanted to thank Tony for coming along to facilitate this meeting. Could I also thank Philip Western, the Valuer General for coming along to this meeting also. If there are any further questions, please put them in writing either to Council, to the Department of Local Government, or any other authority you wish. We look forward to them. Thank you. Have a good night.