

HAWKESBURY CITY COUNCIL GENERAL PURPOSE COMMITTEE



Where People Make the Difference!

SUPPLEMENTARY BUSINESS PAPER

DATE OF MEETING: 22 August 1995

LOCATION: Council Chambers

TIME: 9.00am

This business paper has been reproduced electronically to reduce costs, improve efficiency and reduce the use of paper. Internal control systems ensure it is an accurate reproduction of Council's official copy of the business paper.

GENERAL PURPOSE COMMITTEE



SECTION 1 ENVIRONMENT

ITEM: 37

REMOVAL OF TREES AND CLEARING OF LAND FOR
PRODUCTION OF CUT FLOWER CROPS AND GROWING SHEDS
FOR A WHOLESALE NURSERY - LOT 9 DP210461, 2237 BELLS
LINE OF ROAD, BILPIN

FILE NUMBER: DA0165/95PT01/EVD

Applicant: K & C Naylor
Applicants Reps: Nil
Owner: K & C Naylor
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 10.36 hectares
Zone: Environment Protection 7(d)(Scenic)
Advertising: 14 days to adjoining owners with no submissions being received.
Date Received: 14 July 1995

Key Issues:

- ♦ Non compliance with Council policy

Action:

Conditional approval

REPORT:**Proposal**

The application is to remove trees and clear land for the production of cut flower crops and growing sheds for a wholesale nursery.

There are existing growing beds on the site and most of the proposed extension involves land which has already been substantially cleared.

Planning Assessment

Council's Tree Preservation Officer reports that whilst he has no objection to the applicant's request for tree clearing, it is considered that provision be made for the retention of trees to the property boundary areas for reasons of visual amenity. It is proposed that these buffer areas be 6 metres from the side boundary and 15 metres to the front boundary facing Bells Line of Road.

It is also proposed to construct a fire break in accordance with a report submitted by the Bilpin Bush Fire Brigade Captain. There is no objection to the construction of this fire break provided no semi-mature or mature trees are removed.

An assessment of the trees on site indicates that there is no conflict with the provisions of State Environmental Planning Policy No.44 which requires an assessment of potential koala habitats.

The application could be argued to be contrary to the policy adopted by Council at its meeting on 8 August 1995 that:

"Council impose a moratorium on the clearing of native vegetation for new intensive horticultural developments until such time as areas have been defined and set aside for agricultural/horticultural activities within the Hawkesbury boundaries."

Whilst there is an existing horticultural development on the land, the application proposes a significant extension to that activity. Depending upon interpretation, the extension may or may not be regarded as a new intensive horticultural development.

Given the existing use of the property and the fact that the land proposed to be used is already substantially cleared, it is recommended that the application be approved subject to conditions.

RECOMMENDATION:

That the application be approved subject to the following conditions:

1. No trees to be cleared within 6 (six) metres of the side boundaries and 15 (fifteen) metres of the front boundary to preserve the visual amenity of the area.
2. The small area marked "G" near the front boundary is not to be cleared for growing purposes.
3. Clearing for firebreaks is to be restricted generally to the area between the line of the rear firebreak and the Bells Line of Road with clearing being restricted to removal of under-scrub and small trees with a height less than 4 (four) metres, a spread of less than 3 (three) metres or having a trunk diameter of less than 150 (one hundred and fifty) millimetres, 1 (one) metre above the ground. No mature trees or semi-mature trees are to be removed for firebreak purposes.
4. No firebreak work or clearing of land is to take place other than those areas approved by this development consent and no approval is given to clear adjacent public or privately owned land.
5. Submission of a building application, plans and specifications complying with the Building Code of Australia.
6. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
7. All waste materials to be stored and disposed of at regular intervals to the satisfaction of the Divisional Manager Environment and Development.

8. The submission of an erosion and sedimentation control plan for approval prior to any works commencing.
9. Provision of adequate loading and unloading facilities to cater for the proposed use of the land.
10. No retail sale of goods is to be made from the subject premises.
11. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
12. All loading and unloading in relation to the use shall take place wholly within the property, and these loading areas shall be kept clear for loading/unloading at all times.
13. The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.
14. The development shall be carried out in accordance with Plan No. "B" as submitted with the Development Application except where modified by the above conditions.

ATTACHMENTS:

There are no supporting documents for this report.

TO/RC
10/11/95

FN:EN822LBX.V30

**** END OF ITEM 37 ****

ITEM: 38**WILBERFORCE ABATTOIR - RECOMMENDED CHANGE TO
PROPOSED CONDITIONS ON THE CONSOLIDATED CONSENT****FILE NUMBER:** P1102/560PT06; DA0052/94PT01/EVD**REPORT:**

The report at Item 23 in the Environment Section of this business paper was discussed at a meeting of the Abattoir Consultative Committee on 17 August 1995.

At that meeting a letter from Woolf Associates, Solicitors on behalf of the Hawkesbury Residents Abattoir Group, was tabled. A copy of the letter is attached. The abattoir operator also requested revision of a number of conditions.

The following comments are made in relation to the points raised by both parties.

Letter from Woolf Associates on behalf of the Hawkesbury Residents Abattoir Group:**Condition 3**

Woolf & Associates request that the provision for variation in the hours of slaughtering be deleted on the basis that it could be abused.

Whilst it is agreed that the condition could be tightened there are occasions when unforeseen breakdowns and delays mean that slaughtering cannot be completed within the approved hours. Without the provision for variation there would be obvious pressure for prosecution on the few occasions when the 4.00pm finish was exceeded.

Condition 4

It is agreed that the 7.00am to 10.00pm recommendation did not apply to weekends where the recommendation was for 7.00am to 6.00pm. However it is still considered that the boning activity is such that noise nuisance is unlikely to occur even with a 10.00pm finish on weekends.

SEPP No. 33 for Hazardous and Offensive Industry is not applicable as Council is not considering a development application but rather the amendment of conditions to improve residential amenity whilst providing reasonable operating conditions for the abattoir.

Conditions 5 & 6

Noted

Condition 7

Noted

Condition 8

A masonry wall to provide attenuation of noise nuisance to residents to the west of the abattoir, including Mr & Mrs Moore, cannot reasonably be constructed without access through the Moore property. This is because the existing slaughter area and covered holding pens are located on the boundary with insufficient room for equipment to excavate a footing and remove material.

Condition 14

The containers are located beside a shed on the eastern side of the abattoir building. They cannot be readily viewed from adjoining houses. It is not considered that they have any affect on the amenity of the area.

Woolf & Associates also request that a condition be imposed to ensure that noise generated by the development not result in noise intrusion levels greater than under EPA guidelines. This condition is not supported because in practical terms it is very difficult to enforce.

Comments by Abattoir:

Condition 6

The abattoir operators have objected to condition 6 which restricts trucks removing meat from the site to the hours of 7.00am to 10.00pm. They say that the abattoir cannot be operated with such restrictions on the removal of meat.

The current operators utilise their own trucks and drivers (one and sometimes two), to deliver to butchers across Sydney. In order to deliver to butcher shops to provide meat for that day's trading, the trucks need to leave the site around 3am to 4am depending upon the number of deliveries they have to make.

They are agreeable to restrictions on the method of loading etc to minimise noise but maintain they cannot operate the abattoir with a night time curfew on the removal of meat.

Condition 8

The abattoir has requested some flexibility in the requirements for the construction of the wall in the event that the adjoining property owner does not allow access.

Condition 20

The abattoir, whilst not objecting to the employment of an environmental officer, queries such employment if the abattoir is operating in accordance with all of its approvals and without complaints.

Given these comments a number of amendments are proposed to the conditions of consent. The following is a revised list of conditions with the amendments shown in *italics*.

RECOMMENDATION:

- A. The abattoir operators be invited to surrender all existing development consents with a modified consolidated consent to be issued under delegated authority subject to the following conditions:

1. This consent is for the operation of an abattoir to slaughter, butcher and undertake any associated activities in respect of cattle, sheep, pigs and goats. The slaughtering and butchering of any other animals will require the separate consent of Council. } *delete.*

2. The rendering of meat and by-products is not be undertaken on site.

3. The hours of slaughtering shall be limited to 7.00am to 4.00pm Monday to Friday. Slaughtering shall not be undertaken on Saturdays, Sundays or Public Holidays.

Any variation to these times will require the approval of the Divisional Manager Environment and Development and will be restricted to rare events and breakdowns. *Approval for variation in the hours of slaughtering has to be sought and obtained before there is any slaughtering outside of the approved hours.*

4. The hours of boning shall be limited to 7.00am to 10.00pm on any day.

5. There are to be no trucks on site delivering stock between the hours of 10.00pm and 7.00am on any day.

6. *Trucks may remove meat and by-products at any time provided that between the hours of 10.00pm and 7.00am the following practices are employed:*

- . *no truck refrigeration units to be used on site*
- . *no headlights to be used on site*
- . *no loud talking*
- . *no metal on metal noises*
- . *no door slamming*
- . *no revving of engines*
- . *no unnecessary noise*

7. Trucks delivering stock to the abattoir are not to wait outside the abattoir entrance or at any other location which will disturb the amenity of residents.

A new large sign is to be placed at the entrance on King Road advising that stock will be received between 7.00am and 10.00pm only and that stock transports are not to wait outside the abattoir and if they arrive out of hours are to proceed to a road layby outside of Wilberforce and away from houses.

The sign is to be suitably lit so that it can be read at night.

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

Meeting Date: 22 August 1995

Item: 41

ITEM: 41

GRAHAME PRICE PTY LTD - COMPOST OPERATION

FILE NUMBER:

P1641/700 PT08-09/GMA

REPORT:

There have been representations about the action taken by the Council in this matter. The Land & Environment Court on the 18th June, 1992 issued an order:

"..... be restricted from using or suffering or permitting to be used the premises Lot 5 RP 2166, 100 Pitt Town Road McGraths Hill, for the purpose of the preparation of mushroom compost in such a manner as interferes with the amenity of the neighbourhood in respect of smell."

That order came into existence on the 18th June, 1995 with the need if so determined, for the Council to institute contempt proceedings should the nuisance be continuing. All court action is serious with contempt proceedings being particularly so as one of the consequences is the likelihood of detention, or as seen in the Mushroom Composters matter, large fines.

The operator at McGraths Hill has indicated the undertaking of a considerable amount of research work and a change in composting methodology. This has been supported by a number of other persons. There has been a decrease in the number of complaints and the suggestion that current nuisance emanates from other sources rather than the Grahame Price Pty Ltd property.

In order to accurately identify and provide evidence to an irrefutable standard a further survey of residents has been commenced in the area. This is based on advice from the consultants AJC Woodward Clyde Pty Ltd and specifically their senior environmental scientist.

At the same time with some continuing representations, the basis of the current evidence available has been forwarded to Council's solicitors and their advice sought as to whether action should be taken at some earlier time than completion of the currently initiated survey. Council will be informed when that advice is received.

RECOMMENDATION:

That the Information be received.

[Handwritten signature]
MP/WS

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN822LCX.G35

**** END OF ITEM 41 ****

FN:EN822LCX.G35

SECTION C

Page 13

ITEM: 42

DRAFT LOCAL ENVIRONMENTAL PLAN - LOT 7 DP979541 2
JOHNSTON STREET, PITT TOWN - I JOHNSTON & G
TIMMERMAN - 20 ADDITIONAL LOTS

FILE NUMBER: LEP021/93 PT01/EVD

REPORT:

This report refers to item 24 in this business paper.

Council has received 11 submissions of support from residents.

Comments raised are:-

"Being a member of Pitt Town Progress Association, wish to advise you I support the submission LEP21/93 at Pitt Town".

"We have no objection to the subdivision provided storm water drainage or any pollution from this subdivision does not effect my property".

"At a recent meeting of the Pitt Town Progress Association a resolution was carried out unanimously in favour of the application".

"We have no doubt this development is in the interests not only of Pitt Town but also the Hawkesbury City Council as we look to the future of our City community".

"I and other businesses in the community are in favour, but I personally as a resident would not be in favour of redevelopment of duplex's on this site".

"It will help the town to grow".

Drainage will be addressed at the stage of subdivision, however there is not considered to be any constraints arising out of drainage, either stormwater or treated effluent.

RECOMMENDATION:

That the information be received.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN822LCX.V31

**** END OF ITEM 42 ****

FN:EN822LCX.V31

SECTION C

Page 14

**HAWKESBURY CITY COUNCIL
GENERAL PURPOSE COMMITTEE**

END OF BUSINESS PAPER

OUR REF BSW 3694/5

YOUR REF DA.0052/94 PTO1

DATE 17 August 1995

Hawkesbury City Council
DX 8601
WINDSOR

Fax: (045) 60 4400

Dear Sir

**WILBERFORCE ABATTOIR
HAWKESBURY RESIDENTS ABATTOIR GROUP**

We have been instructed by the Hawkesbury Residents Abattoir Group to write to Council in relation to the draft proposed conditions for the Wilberforce Abattoir. We have sighted recommended conditions 1 to 20 set out as an attachment to a report which you provided to our client on 16 August 1995. Our clients have been involved in the process in relation to the conditions yet you have afforded our clients almost no time in which to consider the recommended conditions and the reasons referred to in your report. Our clients request that the matter be deferred to allow them a reasonable time to consider your report, the recommended conditions and the reasons for conditions.

For the present, we are instructed to comment as follows on the conditions.

Recommended Conditions

Condition 3

Our clients request deletion of the reference to variation to the times. Our clients do not wish the abattoir to be able to use this provision to extend their operation with the need for our clients to constantly check on changed hours. Indeed under this condition it would be difficult for our clients to know whether the hours were properly varied or not. We note further there is no formal system that is proposed in relation to such variations. The condition as drafted allows for abuse and does not for example require such approval to be in writing, does not require formal documentation of any kind in relation to the "rare events" and breakdowns, does not set a time limit, does not require any contingency plan on the part of the applicant. Our clients request this part of the condition be deleted.

Condition 4

We refer to the Richard Heggie & Associates report relating to proposed hours 7.00am to 10.00pm. However that report was dealing with the operation Monday to Friday and not including Saturdays and Sundays.

**WOOLF
ASSOCIATES**

SOLICITORS

10th Fl, 82 Elizabeth Street
SYDNEY NSW 2000
TELEPHONE (02) 221 8522
FACSIMILE: (02) 223 3530
DX 1556 SYDNEY

BRUCE WOOLF
BA LLB Dip URP
Principal

Our client does not agree that no noises arise when the boning activity takes place. There is indeed louder noises from plant operating when the boning operations take place. This appears to be refrigeration plant noise. Our clients experience a very audible siren noise during boning operations and late at night. This appears to be a gear pulley which controls refrigeration temperature. On our instructions the noise is very audible on neighbouring land particularly on Sundays.

Our clients in addition object to the increase in effective hours of the abattoir being proposed in the conditions of consent. This applies to condition 4, 5 and 6. This will allow operation of the abattoir until 10.00pm every day. While slaughtering is only allowed to 4.00pm nevertheless there will be trucks coming and going, employees coming and going, packing, and movement on the site. There will be the increased noise of activity and movement every night of the year until 10.00pm.

Council has approved residential subdivision and residential development in the locality. This use is incompatible with any expansion of the abattoir as proposed. The longer hours for boning operations mean the more slaughtering will take place. This means more truck movements, more dust, more sounds of animals being herded, more cries from the animals.

The Group calls on the Council to limit the operations so that both slaughtering and boning occur only between 7.00am and 4.00pm and the truck movements cease at 8.00pm on weekdays and that there be no operations of any kind including no truck movements on Saturdays, Sundays or public holidays. Similarly there should be no slaughtering or boning on Saturdays, Sundays or public holidays.

There has been a history of non compliance with the Council approved hours of operation. Even now sounds are heard between 1.00am and 3.00am which appear to be packaging noises, noises of things being slid and moved presumably in preparation for trucks departing at 3.00am. This is clearly not acceptable in a residential and rural residential area.

The view we put on behalf of our clients is reinforced by the provisions of State Environmental Planning Policy no.33 as the development appears to be for the purpose of an offensive industry or potentially offensive industry. Among the matters which Council must consider under clause 13 of that policy is the likely future use of the land surrounding the development. One of the aims of SEPP 33 is to enable the Council to impose conditions to reduce or minimise any adverse impact. The proposed expansion of hours increases adverse impact.

Conditions 5 & 6

See response to condition 4 above. We note that your reasons for the recommended condition 5 include reference to delivery of stock outside approved hours and particularly between 12 midnight and 6.00am. This acknowledges the continual breach of existing conditions by the abattoir. The extension of time should not be granted when the existing conditions are not being observed. More particularly the surrounding landuse requires the abattoir hours to be contained rather than expanded.

Condition 7

The reference to 10.00pm should be changed to 8.00pm for the reasons given above.

Condition 8

Of the residents group, Mr & Mrs Moore own the property referred to in the final paragraph of condition 8. Due to considerable non compliance with the existing conditions of consent and considerable disruption to the peace and enjoyment of their land, Mr & Mrs Moore object to the abattoir operators constructing the wall from Mr & Mrs Moore's property. The wall should be constructed wholly within the property of the abattoir and without requiring access to Mr & Mrs Moore's property.

Condition ~~14~~ 13

We are instructed that the containers are unsightly and should be removed.

Due to the serious and continued breaches of consent by the abattoir operator over many years and the environmental harm and disturbance that has been caused to surrounding properties and having regard to the potential impact of an abattoir we request on behalf of our clients that Council also includes further condition:

1. A condition should be imposed to the effect that the applicant is to ensure that noise generated by the development does not result in noise intrusion levels greater than under EPA guidelines.
2. The applicant to undertake, at its own costs, an environmental monitoring program which shall include monitoring of effluent disposal, odour generation, drainage, noise and such other matters as may be required from time to time by Council and to the satisfaction of the Environment Protection Authority and Council. Results of monitoring and the interpretation thereof are to be made available to Council, the Environmental Monitoring Committee and the Environment Protection Authority upon request.
3. The applicant shall develop and lodge with Council contingency plans to deal with accidents and breakdowns in the plant or failures in its operation or procedure to protect against the escape of pollutants from the development. The plan shall include at least provision for circumstances arising due to: breakdown or malfunction of the plant; contamination of ground water, effluent discharges offsite; odour generation, odour being detectable offsite; noise levels being exceeded. Contingency plans shall specifically state the remedial actions and order of such actions to be implemented.

We note that:

1. Richard Heggie Associates Pty Ltd do not provide any figures or conclusions in relation to the extent to which the noise barrier will reduce the level of noise.
2. There was to be a further report by Richard Heggie Associates Pty Ltd yet Council has not provided that report to our clients.

Please advise us in relation to the above matters and forward a copy of the further Richard Heggie Associates Pty Ltd report.

Yours faithfully



