

GENERAL PURPOSE COMMITTEE

SECTION 1 ENVIRONMENT

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15 - 23 KING ROAD, WILBERFORCE - RELOCATION OF EXISTING
NURSERY - HAWKESBURY CITY COUNCIL

FILE NUMBER: DA15/95/EVD

Owner: Hawkesbury City Council
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 1.05ha
Zone: General Business 3(a)
Advertising: To adjoining owners with 5 submissions received
Date Received: 2 February 1995

Key Issues:

, Flood Liability
, Filling
, Amenity
, Traffic

Action:

Approval

REPORT:

Proposal

The application is to relocate the existing nursery, currently in the shopping centre, to the open land adjoining the proposed car parking area extension.

Site Characteristics

The proposed nursery site is approximately 460m² in area and is to be located approximately 20m back from King Road, adjacent to the existing dwelling on the neighbouring residential lot. The land is flood liable and it is intended to fill the nursery site, approximately 0.5m to 1m above the existing ground level, to the level of the adjacent property.

It is also intended to relocate the existing timber framed building (3m x 8m + 1.5m verandah) to the new nursery site. This building is clad with vertical cedar boards and colorbond metal roof.

Statutory Situation

The land is zoned as General Business 3(a) and a nursery is a permitted use with Council's consent. The proposal is not contrary to the flooding provisions of Hawkesbury LEP 1989 and the parking provided in the existing parking area and proposed parking area is in excess of the requirements of Council's Parking Policy.

In regard to the filling of the land, it is not considered to be "waste management facility or works" as defined under the Environmental Planning and Assessment Regulation, 1980 (Schedule 3) and therefore is not designated development.

Community Response

The proposal was advised to adjoining owners and 5 submissions were received. A summary of the objections follows:-

- fill will flood other areas.
- prefer open space.
- entrance and exit hazardous for pedestrians and motorists.
- flood prone land.
- using designated recreation land.
- noise at night.
- spoil views.
- higher dividing fence required.
- is there a need to expand village shops?
- devalue adjoining properties.

Planning AssessmentCharacter

The proposal for a nursery is appropriate for a zoned commercial area and is being relocated to allow the expansion of the existing shops. It is not considered out of character with development generally expected in a commercial area.

Flooding

The new nursery site is flood liable and is being filled to the level of the adjoining residential property to lessen the inundation during flood times. The small quantity of fill proposed will not have any perceivable effect on flooding in the area and will be designed so that water cannot pond on adjacent residential lots.

Traffic and Parking

The nursery is not a high generator of traffic with only low patronage at any one time. The new site is close to the extended parking area and pathways provide pedestrian access between the nursery and the parking area.

Parking is provided in excess of Council's Parking Policy and the parking areas have been designed to the dimension criteria contained in the Policy. Any increase in on-site parking generated by the nursery is only expected to be minimal and no traffic hazard is expected.

Amenity

The nursery will occupy a currently vacant grassed area as will the carpark extension. The immediately adjoining residents will be able to view the proposal, however, such development is not generally unsightly and care should be taken with the location of the building and any shadehouse area.

The provision of a 2.135m high colorbond fence along the boundary or screening on the existing fence to 2.135m is supported.

The nursery will operate normal business hours and no noise at night could be expected from the proposal.

RECOMMENDATION:

Approval be granted subject to the following conditions:-

1. Provision of privacy screening to the existing dividing fence between the proposed nursery and the adjoining properties to a minimum of 2.135m in height. Details to be submitted with the building application.
2. All surface water drains are to be fitted with litter and sediment collection systems for the life of the development.
3. The proposed filling is not to obstruct the natural flow from the adjoining properties and is to be graded away from the adjoining properties.
4. Relocated nursery building and any shadehouse area to be positioned away from the dividing fences of the adjoining properties.
5. Provision of adequate loading and unloading facilities to cater for the proposed use of the land.
6. Submission of a building application, plans and specifications complying with the Building Code of Australia.
7. No advertising structures to be erected, displayed or affixed on any building or land without the prior approval of Council under Ordinance 55 of the Local Government Act.
8. All waste materials to be stored and disposed of at regular intervals to the satisfaction of the Divisional Manager Environment and Development.

9. No excavation or site works shall be commenced prior to the issue of the building permit.
10. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
11. 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.
12. The subject development, including landscaping, is to be maintained in a clean and tidy manner to Council's satisfaction at all times and any direction given by Council in this regard is to be complied with forthwith.
13. Erosion control measures such as geotextile silt traps are to be provided during construction to stop silt, rubbish or debris from leaving the property. Details shall be submitted for consideration prior to the works commencing.
14. Payment to Council of a contribution under Section 94 of the Environmental Planning and Assessment Act, 1979, towards the maintenance of roads based on 3 per tonne per kilometre of all material transported to the site. The contribution shall be paid prior to the commencement of any works and shall remain fixed for a period of 3 (three) months from the date of this consent, after which time it will be reassessed at the rate applicable at the time of payment.
15. The topsoil shall be stripped and stockpiled and used to cover the landfill.
16. The filled area, including batters, shall be grassed to the satisfaction of the Divisional Manager Environment and Development immediately after filling takes place.
17. The landfill site shall be secured to prevent the depositing of any unauthorised material.
18. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the building application.
19. All fill including existing fill must be compacted to 98% standard compaction and verified by the submission of test results accompanied by a contoured depth of fill plan. Topsoil is to be stockpiled and respread over the finished surface.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NAX.V01

****** END OF ITEM 138 ******

ITEM: 139 ERECTION OF FOUR (4) SINGLE STOREY VILLA HOMES LOT 1 DP772250 NO 639 GEORGE STREET, WINDSOR. APPLICANT: R MANN

FILE NUMBER: DA250/94/EVD

Owner: R Mann
Stat. Provisions: Hawkesbury LEP, 1989
Area: 1426m²
Zone: Residential 2(a)
Advertising: to adjoining owners for fourteen (14) days one submission received
Date Received: 14 September, 1994, amended plans received 22 February 1995

Key Issues:

- , Retention of existing trees
- , Fencing

Action:

Approval

REPORT:

Proposal

Application is for the erection of 1x2 and 3x3 bed single storey villa homes in two separate buildings with each villa home having a double garage.

Site Characteristics

The land is vacant except for the remains of a former dwelling and a garage. There are several large trees at the rear which have been retained in the latest amended plan.

Statutory Situation

The land is zoned as Residential 2(a) under Hawkesbury LEP, 1989, and the proposal is permitted with Council's consent.

The proposal conforms generally to Council's DCP Medium Density housing other than no details have been submitted of the proposed landscaping. This matter can be addressed by a suitable condition if the application is approved.

Planning Assessment

A previous proposal for 4x3 bed and 1x2 bed villa houses was submitted in 1994 and this design exceeded the density requirements of the Council's DCP and proposed the removal of the trees at the rear of the site. An amended plan was requested and the application for 1x2 bed and 3x3 bed villa houses received. The building line to George Street has been reduced from 10m, under the DCP, to 6m, however, in view of the reduced density and retention of the rear trees, this reduced building line is considered acceptable.

Community Response

The 1994 application was advised to adjoining owners and four (4) submissions received. The amended proposal was also advised to adjoining owners and one submission has been received. This objection relates to fencing and parking and states as follows:

"Fence: On perusal of the documentation attached to the amended plans and after my last suggested comments, there does not appear to have been any mention of the construction of a fence, therefore, I request that a 6' Double Lapped and Capped Timber Fence be erected, at the developers expense, adjoining my property (637A) to the property above to ensure my utmost privacy at all times and safety and well being for my dog. The timber fence would be less noisy than a colour bond fence and would be more resilient to balls kicked against it making dents in the metal and any other damage that may occur. The position of the villa units means that I would be faced with three (3) backyards instead of one (1) previously.

Parking: The number of parking spaces seems inadequate considering the property is going from one (1) resident to four (4) residents. Also, visitor parking is inadequate and I am concerned about people parking on my front lawn and causing accidents on George Street, which is well known for many fatalities over the years, when arriving or departing from the said property."

There is a double garage 6mx6m for each dwelling and one (1) visitors space for the four (4) dwellings. This provision conforms to Council's DCP.

In regard to fencing, it is recommended that new fencing be provided on both sides.

RECOMMENDATION:

1. The existing trees at the rear of the site to be retained and incorporated in the landscaped plan for the site.
2. All services associated with the removed dwelling to be suitably capped off to the supply authority's requirements.
3. A contribution of \$6746.00 being a contribution for recreational buildings, park improvements and community facilities as a consequence of medium density development (residential flats, villas, townhouses, dual occupancy etc).

This contribution shall remain fixed for a period of 3 (three) months after which time it will be recalculated at the rate applicable at the time of payment. Payment shall be made prior to the release of the building approval.

4. Payment of a sewer headworks contribution to Council of \$10241.00. This contribution shall remain fixed for a period of 3 (three) months after which time it will be recalculated at the rate applicable at the time of payment. Payment shall be made prior to the release of the building approval.
5. The construction of concrete kerb and gutter, including layback vehicular crossings, the footway area being formed in earth and all necessary drainage, together with the full construction of the adjacent road shoulder over the frontage of the site together with any such works as are necessary to make this construction effective.
6. Construction of Council's standard heavy duty footway and layback vehicular crossing to suit the access to the site with a minimum width of 6m.
7. Construction of road and drainage works are not to commence until three (3) copies of the plan or specifications of the proposed works are submitted to and approved by the Roads and Traffic Authority including payment of all fees and charges required by the Authority.
8. Design and construction of site drainage shall be carried out in accordance with Council's Guidelines for Stormwater Drainage Requirements for Commercial, Industrial and Medium Density Developments. Full details of works shall be submitted for approval with the building application. On-site detention shall be provided to maintain all stormwater discharges up to the 1 : 100 year storm at predevelopment levels. All stormwater is to be discharged to the table drain in George Street.
9. Submission of a building application, plans and specifications complying with the Building Code of Australia.
10. No excavation or site works shall be commenced prior to the issue of the building permit.
11. Parking spaces, accessways and aisles to conform to Council's Development Control Plan and are to be constructed with a sealed pavement, drained and marked. Details to be submitted with the building application.
12. The driveway shall be constructed of pavers/earth toned coloured concrete or the like.
13. Submission of a schedule of proposed external finishes including sample materials for Council's consideration and approval in conjunction with the submission of a building application.

14. Screen walls are to be provided to screen open yard activities and are to be of an approved design, details of which are to be submitted with the building application.
15. New boundary fences shall be provided at the applicant's expense. Details to be submitted with the building application. Such fencing behind the building line shall be to a height of 1.8m and at least lapped and capped.
16. All fencing fronting the street shall be a feature fence incorporating masonry piers with decorative infill panels. Details are to be submitted for consideration with the building application.
17. A detailed plan of landscaping shall be submitted and approved by the Divisional Manager Environment and Development prior to the approval of the building application. Such landscaping is to be completed prior to the occupation of the building and shall be maintained for the life of the development.
18. 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.
19. The development shall be carried out in accordance with Plan No. 91294/A, dated 15 May, 1994.
20. Erosion control measures such as geotextile silt traps are to be provided during construction to stop silt, rubbish or debris from leaving the property. Details shall be submitted for consideration prior to the works commencing.
21. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to the release of the building application.

ATTACHMENTS:**AT-1** Site map

FN:EN328NAX.V15

****** END OF ITEM 139 ******

ITEM: 140

1. SUBDIVISION APPLICATION TO CREATE 24 TWO HECTARE LOTS ON LITTLE ISLAND PLUS A NEIGHBOURHOOD LOT COMPRISING THE ADJOINING CREEK SYSTEM - LOTS 181 & 182 DP 701978 AND LOT 1 DP 184741, HERMITAGE ROAD, KURRAJONG. APPLICANT: MCKINLAY MORGAN & ASSOCIATES PTY LTD

2. SUBMISSION TO REZONE "THE ISLANDS" TO PERMIT 80 RURAL/RESIDENTIAL LOTS WITH AREAS RANGING BETWEEN 0.4HA AND 2.7HA ON LITTLE ISLAND AND MIDDLE ISLAND TOGETHER WITH AN ASSOCIATED EQUESTRIAN COMPLEX - APPLICANT: MR HOWARD HARRIS WITH SUPPORTING ADVICE PROVIDED BY FALSON & ASSOCIATES, MCKINLAY MORGAN & ASSOCIATES AND SHADDICK BAKER & PAULL

FILE NUMBER: SA 65/94/EVD

Owner: Mr J H Harris
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 844ha (2,087 acres)
Zone: Environmental Protection (Scenic) 7(d)
Advertising: Not required at this stage
Date Received: Subdivision application received 23/6/94
 Rezoning submission received 27/1/95

Key Issues:

- , Use of State Environmental Planning Policy No. 1
- , Policy on rural land subdivision
- , Environmental considerations

Action:

- . Recommend refusal of SEPP No 1 application
- . Not support rezoning application

REPORT:

In June 1994, Council received a subdivision application for the subdivision of "Little Island" to create 24 two hectare rural residential lots with a residual community title lot to comprise the land in the adjoining creek system. It was also proposed to create an equestrian facility on Middle Island although only an approval "in principle" was sought for the equestrian component.

The subdivision application was submitted under State Environmental Planning Policy No. 1 as the minimum area for subdivision in the 7(d) zone is 40 hectares.

On 28 July 1994, McKinlay Morgan and Associates were advised that it was not appropriate for the subdivision to be considered under State Environmental Planning Policy No. 1 and that a rezoning submission should be made. McKinlay Morgan & Associates were also advised that an environmental study would be required addressing at least the following issues:-

- . water supply
- . on site disposal of effluent
- . impact on creek systems
- . impact on the Hawkesbury River
- . visual impact
- . traffic
- . access
- . flora and fauna
- . aboriginal/archaeological
- . bushfire

The consultants then sought advice as to whether the proposed subdivision could rely on documentation prepared for previous proposals. They were advised that this documentation could be utilised where relevant to the current application.

A rezoning application was then submitted on 27 January 1995 for 80 rural residential lots with areas of between 0.4ha and 2.7ha on Little Island and Middle Island and an associated equestrian complex on Middle Island.

There were discussions with the owner and his consultants on 14 February 1995 and the following letter was forwarded to Falson and Associates by the Divisional Manager Environment and Development on 28 February 1995.

"Reference is made to the rezoning submission dated 25 January 1995 and to the meeting held on Tuesday 14 February 1995 involving yourself, Howard Harris, Don Shaddick, Brian McKinlay and myself to discuss the rezoning submission.

It is noted that you have requested a resolution of Council to prepare a draft local environmental plan to allow the proposal to proceed.

At the meeting on 14 February 1995 discussions centred on whether the proposed plan would be supported by Council officers. A secondary issue, not discussed in any detail, was the need or otherwise for an environmental study.

In the first instance, environmental issues aside, the proposed 32 lot rural/residential subdivision of Little Island would seem a reasonable "trade off" for extinguishing the existing subdivision entitlement over the property which has an area of 2087 acres. This would mean that the residue of the land would need to be retained in a single holding with a prohibition on further subdivision.

As discussed, it is considered that the proposed 50 rural/residential lots on Middle Island is in excess of any reasonable "trade off" for the existing subdivision potential.

In relation to the proposed equestrian/tourist component of the development, at the meeting on 14 February 1995 Mr Harris was unable to provide any commitment to the construction and operation of the proposed accommodation and conference centre. He did provide a commitment to constructing a number of equestrian facilities, however, there is no commitment to the frequency and scale of these events.

Besides the accommodation and conference centre, the equestrian facilities outlined on the plan are not considered in themselves to constitute a tourist facility.

As you are aware, the land is zoned Environmental Protection (Scenic) 7(d) under Hawkesbury Local Environmental Plan 1989. This zoning permits subdivision into allotments with areas of not less than 40 hectares with the consent of Council. Any subdivision proposal in conformity with this zoning is very much "theoretical" as the cost of providing access and services to all of the lots would probably render it uneconomic. Consequently, any proposed rural/residential subdivision requires special justification.

In summary, the proposed rezoning would not be recommended for approval as, firstly, the lot yield is well in excess of any reasonable "trade off" for the existing subdivision potential of the land. Secondly, Mr Harris cannot guarantee the provision of the proposed tourist facilities or, indeed, provide any firm commitment about the frequency and scale of the proposed equestrian events.

Given the foregoing, the need or otherwise for an environmental study has not been considered.

It would be appreciated if you could provide instructions as to whether the application is to be referred to Council, deferred, amended or withdrawn."

The applicants have requested that the matter be referred to Council for determination.

Planning Assessment

The draft "Our City Our Future" strategy for rural areas proposes an average requirement for rural subdivision rather than a minimum area requirement as one means of reducing the unnecessary fragmentation of rural land. On the basis of the property's area this could allow a 20 lot rural residential subdivision (say 1ha lots) plus a large residue lot where the zoning would be changed to prohibit further subdivision.

There is then the issue of whether property owners should be provided with any incentive to undertake such averaging rather than pursue rezonings for the whole of the property, for example by providing an additional yield of say 25% or 33.3%.

In the instance of large holdings, the provision of an incentive or bonus in an averaging arrangement can be considered as the potential planning impacts will be similar. However if an incentive or bonus arrangement is to be employed then it would be desirable for it to be applied on a consistent basis. It is proposed to include consideration of this concept in the final "Our City our Future" rural report which will be referred to Council in the near future.

This report will also include consideration of the public submissions which closed on 17 March 1995.

The concept of averaging and the provision of incentives is additional to environmental considerations which need to be taken into account.

In relation to the subdivision application for a 24 lot subdivision of Little Island, it would be inappropriate for this to be considered under State Environmental Planning Policy No. 1. Irrespective of the merits of the proposal, SEPP No. 1 should not be used to effect a change to planning policy.

For the reasons given in the letter to Falson & Associates on 28 February 1995, the rezoning proposal for 80 rural residential lots should not be supported.

RECOMMENDATION:

- A. Council refuse the subdivision application SA065/94 to create 24 two hectare lots on Little Island plus a neighbourhood lot comprising the adjoining creek system for the following reasons:-
1. The application is contrary to the provisions of Hawkesbury Local Environmental Plan 1989.
 2. It is not appropriate to apply the provisions of State Environmental Planning Policy No. 1.
- B. Council not support the proposed rezoning of Little Island and Middle Island to permit 80 rural/residential lots with areas ranging between 0.4ha and 2.7ha together with an associated equestrian complex.

ATTACHMENTS:

AT-1 Development plan

FN:EN328NAX.V21

****** END OF ITEM 140 ******

ITEM: 141 PROPOSED CONSERVATION OF HERITAGE ITEM AND
CONSTRUCTION OF 20 UNIT MOTEL - LOT B DP153561 51
BOSWORTH STREET, RICHMOND - GRAHAM EDDS AND
ASSOCIATES

FILE NUMBER: DA6/95 PT1/EVD

Owner: Messrs B & C Ginis
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
 Heritage Act 1977
Area: 2,359m²
Zone: Residential 2(a)
Advertising: Advertised with no submissions received
Date Received: 13 January 1995

Key Issues:

- , Heritage Item
- , Heritage Act
- , Motel Use Prohibited under zoning of land

Action:

Approval with conditions

REPORT:

Proposal

The application seeks approval for the conservation of a heritage item and construction of a twenty unit motel on the land. The proposal includes:-

- Conservation of the early vernacular "brick nog" building circa 1827 with removal of unsympathetic accretions and modifications of the building back to its earlier cottage form
- Addition of sympathetic attached rooms to the historic building to enable its "adaptive reuse" as a manager's residence, motel reception and breakfast area, kitchen and amenities
- Development of a two storey twenty unit motel at the rear of the land.

Statutory Situation

The historic building on the land is identified as a heritage item in Schedule 1 of Council's planning instrument.

The proposal is permissible with development consent pursuant to the provisions of Clauses 27 (Heritage Items), 28 (Development in the vicinity of heritage items), 29 (Conservation Incentives relating to heritage items) and 30 (Heritage Advertisements and Notifications) of the planning instrument.

Notwithstanding that the proposed motel component of the application is prohibited within a Residential 2(a) zone, the provisions of Clause 29 (Conservation Incentives) enable Council to allow such a prohibited land use if it is of the opinion that such a use will assist the conservation of the heritage item.

The historic building is also encompassed by Permanent Conservation Order No. 753 made by the Minister for Planning on 7 April 1992 pursuant to the Heritage Act 1977. Accordingly approval is required from the Heritage Council of New South Wales for the proposed additions and alterations to the historic building. The applicant has recently received advice from the Secretary of the Heritage Council that:-

"Pursuant to Section 63 of the Heritage Act, 1977, approval has been granted for the works as shown in the drawings prepared by Graham Edds and Associates, marked B4/2, dated January 1995, and "Schedule of Stabilisation Works", dated 12 January 1995, subject to the following conditions:

- (i) this approval shall be void if the activity to which it refers is not physically commenced within five years after the date of the approval or within the period of consent specified in any development consent granted under the Environmental Planning and Assessment Act, 1979;*
- (ii) that final details and specifications for the conservation works be submitted for the approval of the Manager, Heritage Branch, before work commences;*
- (iii) the works for the historic house are supervised by an architect with appropriate heritage experience of this type of work,*
- (iv) any work which involves the disturbance of the sub-strata of the site will require assessment by an archaeologist, in accordance with relics provision of the Heritage Act."*

Submissions and Comment

Public

No public submissions were received as a consequence of advertising.

Heritage Advisory Committee

The proposal was referred to the Committee for comment. At its meeting on 8 February 1995 the Committee resolved to support the proposal.

Local Traffic Committee

The proposal was referred to the Committee for comment. At its meeting on 20 January 1995 the committee resolved that it had no objection to the proposal.

Planning AssessmentDescription of Land

A circa 1827 vernacular cottage is situated on the land close to the alignment of Bosworth Street. Three mature significant trees are also situated on the land, an oak tree and pine tree located at the rear of the cottage and a cabbage tree palm located in the south west of the land. A 1930's brick "Californian Bungalow" is situated on land to the north and a circa 1840's cottage to the south. The subject land also adjoins a town house development to the rear.

Heritage Significance

The circa 1827 building and land has significance in a local, state and national context. A Conservation Plan prepared by G Edds and Associates (Conservation Architect) establishes the heritage significance of both the building and the land as:-

- an intact example of a substantial town building erected in Richmond during the 1830's;
- having strong association with a local entrepreneur Issac Cornwell;
- demonstrating the characteristic style of town building, construction techniques and materials in 1830's;
- an example of "brick nog" construction technique;
- offering a valuable comparison to Bowmans Cottage; and
- possessing archaeological potential.

During the past five years the fabric and structure of the building has deteriorated significantly due to lack of maintenance and ongoing vandalism.

A preliminary schedule of stabilisation works for the historic building has been submitted with the application. Notwithstanding this, stabilisation of the materials and structure of the building as outlined in the schedule may change whilst work is being carried out as a consequence of specialist advice. This is considered acceptable given the nature of the work.

The heritage significance of the historic building and land are such that appropriate conditions should be imposed requiring archaeological monitoring and supervision by an experienced conservation architect. Such conditions will reinforce conditions attached to the Heritage Council's Section 63 approval.

Motel Development

The cost of the conservation works will be "off set" by the development of 20 two storey motel units at the rear of the historic building. The 20 two storey units are to be located along the western and southern boundaries of the land.

The development has been designed to not only compliment the historic building but also to enable retention of the cabbage tree palm and facilitate solar access. The units will cast some shadowing along the southern boundary of the land. The shadowing is not considered to be of significance as solar access of the adjacent property is not limited.

The design of the units ie. a simple building form and high pitched roof with projecting lower pitched skillions is acceptable not only for the land but also for the general locality.

Following the conservation works the historic building, will be "adapted" for use as a manager's residence and motel breakfast rooms. A reception area, kitchen, bathroom and manager's residence will be provided in a weatherboard single storey addition to the historic building. The provision of such amenities in the new addition is supported as interference with original building fabric will be lessened. The proposed addition is considered sympathetic to the historic building.

The motel development will be accessed, from Bosworth Street via a 6m wide "grasscrete" driveway. A secondary 3m wide "grasscrete" driveway will provide access for the Manager and two staff. The grasscrete surface of both driveways will provide a lawn appearance for the historic building.

Twenty motel guest parking spaces will be located along the northern boundary of the land and north of the motel units. The provision of parking for the development is satisfactory and generally in accordance with Council's Parking Development Control Plan.

The development further includes stormwater detention storage tanks under the parking area. Such provision is considered necessary given the drainage problems of the locality.

Conclusion

The proposed motel use of the land is prohibited under the prevailing Residential 2(a) zoning of the land. Notwithstanding this the proposal should be supported as conservation of the historic building on the land will be assisted by the provision of necessary monies for the required works. Further the generation of monies from the motel will facilitate ongoing maintenance of the building.

RECOMMENDATION:

The application be approved generally in accordance with plan No. 34/2 prepared by G Edds and Associates dated January 1995 subject to compliance with the following conditions:-

1. Construction of Council's standard heavy duty footways and layback vehicular crossing to suit the accesses to the site.
2. The provision of conduit/ducts under new driveways to the requirements of Prospect Electricity, in accordance with Prospect Electricity drawing 049759H dated 14/7/1987. Conduit and ducting material is available from Prospect Electricity.

3. Removal of the existing redundant layback crossing and replacement with concrete kerb and gutter and the restoration of the footway area.
4. Design and construction of site drainage shall be carried out in accordance with Council's Guidelines for Stormwater Drainage Requirements for Commercial, Industrial and Medium Density Developments. Full details of works shall be submitted for approval with the building application. On-site detention/storage shall be provided to restrict site discharge to 25 litres/second for 1:100 year storm.
5. Submission of a building application, plans and specifications complying with the Building Code of Australia.
6. No advertising structures are to be erected, displayed or affixed on any building structure or land without the prior approval of Council. Any such advertising structure erected or displayed without prior approval will be removed and disposed of 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. Provision of toilets in accordance with the requirements of the Building Code of Australia.
9. Any building or part thereof to be used for the purpose of storage, preparation or sale of food for human consumption shall be constructed in accordance with the requirements of the Food Act 1989 and Regulations thereunder and Council's Food Premises Code.
10. No excavation or site works shall be commenced prior to the issue of the building permit.
11. Parking shall be provided for 23 (twenty three) vehicles in accordance with Council's Regulations and Parking Policy. Parking spaces, accessways and aisles to conform to Council's Development Control Plan and to be constructed, drained, sealed and marked. Full details of works shall be submitted for approval with the building application. "Sealed" shall be deemed to include a grasscrete or similar forms of construction.
12. Exit/entrance points are to be clearly signposted and visible from both the street and site at all times.
13. Submission of a schedule of proposed external finishes including sample materials for Council's consideration and approval in conjunction with the submission of a building application.
14. All land not required to be sealed is to be landscaped in accordance with a plan of landscaping which is to be submitted for Council's consideration and approval concurrently with the building application.

15. 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.
16. The spillage of light, if any, shall be controlled to the satisfaction of Council.
17. The building design shall incorporate components that will provide aircraft noise mitigation in accordance with AS 2021, to the satisfaction of the Divisional Manager Environment and Development. Details prepared by an accredited acoustical consultant to be submitted for approval with the building application.
18. The submission of a Compliance Certificate under Section 73 of the Water Board (Corporatisation) Act 1994 prior to submission of a Building Application.
19. Access for people with disabilities shall be provided to the motel breakfast rooms and associated toilets in accordance with AS 2890.1.
20. One disabled parking space shall be provided adjacent to motel Unit No.1 in accordance with AS2890.1.
21. The certain of an interallotment drainage easement 1m wide in favour of Lot B over Lot 18 DP770857 and in favour of Lot B and Lot 18 of Pt 3/3 DP75881 free of cost to Council. Documentary evidence is to be submitted prior to the release of the building application.
22. Compliance with the following conditions attached to the Section 63 Approval issued by Heritage Council of New South Wales dated 1 March 1995:-
 - "(i) *this approval shall be void if the activity to which it refers is not physically commenced within five years after the date of the approval or within the period of consent specified in any development consent granted under the Environmental Planning and Assessment Act, 1979;*
 - (ii) *that final details and specifications for the conservation works be submitted for the approval of the Manager, Heritage Branch, before work commences;*
 - (iii) *the works for the historic house are supervised by an architect with appropriate heritage experience of this type of work,*
 - (iv) *any work which involves the disturbance of the sub-strata of the site will require assessment by an archaeologist, in accordance with relics provision of the Heritage Act."*
23. Archaeological monitoring by a recognised Historical Archaeologist of all undisturbed below and above ground deposits on the land. Such deposits include underfloor spaces, wall cavities and ceiling spaces.

24. Prior to commencement of archaeological monitoring the applicant shall obtain all necessary approvals from the Department of Planning ie. excavation permit. Evidence of the approvals shall be provided to Council prior to commencement of any work on the land.
25. Following completion of all work on the site a report outlining archaeological work undertaken on the site shall be provided by the Historical Archaeologist.
26. All conservation works undertaken on the circa 1827 building on the land shall be supervised by a recognised Conservation Architect.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NAX.V22

****** END OF ITEM 141 ******

ITEM: 142 SUBDIVISION OF LAND - ACQUISITION SITE SEWERAGE PUMPING STATION**FILE NUMBER:** SA143/94/GMA

REPORT:

Old Hawkesbury Road and Havelock Street McGraths Hill - owner - R E T Enterprises Pty Ltd.

At its February Meeting the Council supported an SEPP No 1 objection proposing a subdivision of the land owned by R E T Enterprises at Old Hawkesbury Road and Havelock Street McGraths Hill into 11 lots, one of these being the site currently occupied by a sewerage pumping station. A condition of subdivision was that this lot be dedicated at no cost to the Council.

A further condition was a contribution of \$14,307 in accordance with Section 94 of the Environment & Planning Assessment Act.

The company has written making two submissions in regard to the approval.

1. Indicating that the requirement for dedication at no cost for the sewerage pumping site is unreasonable and unfair. Indicating that the pumping station existed well prior to the subdivision and as there was no material relevance to its consideration in the subdivision, that it should be dealt with separately and
2. Council consider dedication of land adjoining the Colbee Park area as an alternative to the required cash contribution.

In relation to the sewerage pumping station site it is agreed that there is no direct nexus between the subdivision and dedication of the site except that the matter of ownership needs to be resolved and during the process of the subdivision this is an appropriate time. The request that the matters be resolved separately is accepted.

Regarding the offer of land adjoining Colbee Park, an assessment will be made for the requirement for land for extension of the Park and/or other community facilities and discussions arranged with the landowner to ascertain if an appropriate area is suited both to future public purposes and the landowners requirement.

RECOMMENDATION:

1. Council take such steps as are necessary to resume the sewerage pumping station site on land owned by R E T Enterprises Pty Ltd and fronting Havelock Street between Garfield Street and Old Hawkesbury Road at McGraths Hill.
2. The Seal of Council be affixed to any necessary documents.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NBX.G17

****** END OF ITEM 142 ******

ITEM: 143 DRAFT LOCAL ENVIRONMENTAL PLAN - PART LOT D, DP378361
17 GROVES AVENUE, MULGRAVE, AMENDMENT 38

FILE NUMBER: LEP13/94/EVD

REPORT:

Council, at its Ordinary Meeting of 13 December, 1994, resolved to support the preparation of a draft local environmental plan to rezone part of Lot D DP378361 17 Groves Avenue, Mulgrave, from Special Business 3(b) on Hawkesbury Local Environmental Plan, 1989, to General Industrial 4(a).

Pursuant to Section 62 of the Act, the draft plan was referred to the Water Board, Prospect Electricity, Environment Protection Authority, Roads and Traffic Authority and Department of Conservation and Land Management.

Sydney Water require the following Clause included in the LEP:

"Development is not to commence unless satisfactory arrangements have been made by the proponent by obtaining a Section 73 Certificate from the Sydney Water Corporation in relation to the provision, adjustment or amplification of the water system, as required."

The Roads and Traffic Authority and Prospect Electricity have no objections to the proposal. No replies have been received from the EPA and CaLM.

The Section 65 Certificate was issued by the General Manager as the delegate of the Director of Planning and the draft plan exhibited from 25 January, 1995 to 24 February, 1995. No submissions have been received.

RECOMMENDATION:

1. Section 68 and 69 submissions be prepared for the draft plan changing the zoning of Special Business 3(b) to General Industrial 4(a) under Hawkesbury LEP, 1989, for part Lot D DP378361, 17 Groves Road, Mulgrave.
2. The following Clause requested by Sydney Water be included in the plan:

"Development is not to commence unless satisfactory arrangements have been made by the proponent by obtaining a Section 73 Certificate from the Sydney Water Corporation in relation to the provision, adjustment or amplification of the water system, as required."

3. The plan be forwarded to the Department of Planning for gazettal.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NBX.V03

****** END OF ITEM 143 ******

ITEM: 144 POULTRY FARM EXTENSIONS - LOT 6 DP215575 53 WALLACE ROAD, VINEYARD - J XUERE

FILE NUMBER: DA117/94/EVD

REPORT:

Council at its Ordinary Meeting of 14 February 1995 considered this matter. The applicant however has indicated that he did not attend the preceding General Purpose Committee meeting as he misunderstood the meeting procedure. The applicant has requested that the matter be reported to the GPC to allow him to make representations. The report presented to the above meetings is reproduced in full below.

"Council at its Ordinary Meeting held 9 August 1994 considered an application to extend a poultry farm on the above property, subject to a number of conditions, three of which read as follows:-

- "7. The chickens shall not be collected after 9.00pm or 10.00pm during daylight saving periods.*
- 8. Fowl waste collected from the sheds shall be immediately removed from the property.*
- 9. The carcass storage area shall be adequately secured to prevent access by scavenging birds and other animals details to be submitted with the Building Application. Dead fowls are to be removed from the property on a daily basis."*

The applicant has submitted a letter requesting that Council reconsider the conditions. This is reproduced in part below:-

"I wish to advise Council that the processing company with whom I have a Contract uses the same methods for the removal of live birds as any other meat processing company in New South Wales. The hour of collection of the birds is dependent on temperature, darkness, humidity and last, but not least, the stress factor on the birds between collection and slaughter.

The fowl waste collected from the sheds can only be removed prior to the sale of the fertiliser by the contractor. There is also a limited number of contractors who remove the waste and they will only collect it when they have a sale and a destination for it. The stockpile that I use is on the far side of my farm and it is at least 300m from the closest neighbouring house and accordingly is too far for any valid complaint. I also wish to point out that I have moved the stockpile and carcass area to its present location especially with a view to avoiding any adverse affect on neighbours. I propose to continue burying the dead birds in the stockpile."

Four of the original objectors who were concerned about odour and noise, were advised of the applicant's request and three submissions were received.

In general, the submissions object to the deletion of the conditions. One submission however raised no objection to the relaxation of hours provided the "pick up" teams are controlled.

With respect to Condition 7, it is considered reasonable to relax the requirement, given that collection hours are determined by meteorological conditions and the stress factor of the birds. Noise can be kept to a minimum provided the pick up teams are responsible when collecting the chickens. Should the noise which emanates from the site be a nuisance, sufficient area is available around the poultry sheds to provide noise attenuation measures such as earth mounds. It should be remembered that this application extended an existing poultry farm which would have incurred some impact on the locality prior to this application being approved.

With respect to Condition 8 and 9, it appears as though the problem arises purely due to an unco-operative contractor. The applicant can make alternative arrangements so that the conditions are complied with, for example, removing the dead birds from the site himself. Both of these conditions are considered reasonable under the circumstances and should be retained."

RECOMMENDATION:

1. Conditions 8 and 9 remain.
2. Condition 7 be replaced with the following:-

"The collection of chickens shall be conducted in such a manner so as not to interfere with the amenity of the area by way of noise. Should the noise which emanates from the site interfere with the amenity, measures to attenuate noise, such as earth mounds, shall be implemented immediately."

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NBX.V05

****** END OF ITEM 144 ******

ITEM: 145

DRAFT LOCAL ENVIRONMENTAL PLAN - FORMER FITZGERALD
NURSING HOME SITE, LOT 1 DP815214 GEORGE AND
MACQUARIE STREETS, WINDSOR, AMENDMENT 36

FILE NUMBER: LEP 10/94/EVD

REPORT:

Council, at its Ordinary Meeting of 13 September, 1994, resolved to prepare a draft local environmental plan for the land bounded by George Street, Brabyn Street, Macquarie Street and the railway line to change the zoning under Hawkesbury LEP, 1989, from Residential 2(a) and Special Uses 5(a) (Hospital) to Special Business 3(b) and other appropriate uses which serves the needs of the surrounding areas and users of the railway.

Pursuant to Section 62 of the Act, the draft plan was referred to Prospect Electricity, Roads and Traffic Authority, Water Board, Department of Conservation and Land Management and Environment Protection Authority.

Prospect Electricity and Environmental Protection Authority has no objections to the proposal and the Roads and Traffic Authority have advised as follows:

"The Authority raises no objection to the proposal provided all access to the site is via George or Brabyn Street. It should also be noted that the Authority has a road widening proposal along the western side of Macquarie Street of approximately 9 metres although there are no plans at present to actually undertake the widening."

The Water Board have requested inclusion of the following clause in the plan:

"Development is not to commence unless satisfactory arrangements have been made by proponent by obtaining a Section 27 Certificate from the Water Board in relation to the provision, adjustment or amplification of the Board's water and sewerage systems as required."

This Clause would need to be updated to refer to a Section 73 Certificate from the Sydney Water Corporation.

No reply has been received from CaLM.

The Section 65 Certificate was issued by the Department of Planning and the proposal exhibited from 1 February, 1995 to 3 March, 1995 and no submissions have been received.

RECOMMENDATION:

1. Section 68 and 69 submissions be prepared for the draft plan changing the zoning of Lot 1 DP815214 George, Brabyn and Macquarie Streets, Windsor from Residential 2(a) and Special Uses 5(a) (Hospital) to Special Business 3(b) under Hawkesbury LEP, 1989 and to allow appropriate uses which serve the surrounding area and users of the railway.

The following clause as requested by the Water Board be included in the plan:

"Development is not to commence unless satisfactory arrangements have been made by proponent by obtaining a Section 73 Certificate from the Sydney Water Corporation in relation to the provision, adjustment or amplification of the Board's water and sewerage systems as required."

3. The following clause be included in the plan:

"All vehicular and pedestrian access is denied to and from Macquarie Street."

4. The plan be forwarded to the Department of Planning for gazettal.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NBX.V06

****** END OF ITEM 145 ******

ITEM: 146 DRAFT LOCAL ENVIRONMENTAL PLAN FOR SERVICE STATION/CONVENIENCE STORE AT LOT 4 DP959819 MCGRATH ROAD AND PART LOT 6 DP959819 WINDSOR ROAD, MCGRATHS HILL. J F & J L GOLLAN

FILE NUMBER: LEP22/93/EVD

REPORT:

Council, at its Ordinary Meeting of 8 March, 1994, resolved to prepare a draft local environmental plan to allow a service station/convenience store on Lot 4 DP959849 McGrath Road and part Lot 6 DP959819 Windsor Road, McGraths Hill.

Pursuant to Section 62 of the Act, the draft plan was referred to the Environment Protection Authority, Water Board, Prospect Electricity, Telecom Australia, Department of Industrial Relations (Dangerous Goods Branch) and Roads and Traffic Authority.

The WorkCover Authority have advised that the development would need to meet the conditions specified under the Dangerous Goods Regulations, 1978.

The Water Board have requested the following Clause be included in the plan:

"The consent authority shall not grant consent to the carrying out of development on land to which this plan applies unless the consent includes a condition that development is not to commence unless satisfactory arrangements have been made by the proponent by obtaining a Section 27 Certificate from the Water Board in relation to the provision, adjustment or amplification of the Board's services as required".

The EPA have no objections to the proposal, however, have requested the development should comply with their environmental guideline titled "Surface Water Management on Covered Forecourt Areas of Service Stations".

The RTA have replied as follows:

"The RTA raises no objection to the rezoning proposal, subject to concerns for provision of safe access being provided. The Authority is also concerned with the potential ribbon development occurring along this section of Windsor Road and requests that Council identify the likely boundary limits for commercial uses in McGraths Hill. Council should investigate the provision of a service road in this location to prevent direct access to Windsor road as right turning movements to proposed developments would greatly affect traffic flow and safety.

Should the development proceed, Council should require the dedication of the strip of land fronting Windsor Road for widening purposes at no cost to the RTA."

Prospect Electricity have advised as follows:

"A supply of electricity can be made available to the development. However, a capital contribution may be required towards the cost of making this supply available, dependant upon the electrical load requirements for the development."

Following a request from Council to the Department of Planning for a Section 65 Certificate for this proposal and another rezoning on the corner of Windsor Road and Mulgrave Road, the following reply was received from the Department:

"Council has previously decided through its LEP that service stations and motor showrooms should be prohibited in Rural 1(c) zoned land. To allow these uses on these sites would be inconsistent with the aims of the plan which are to prevent traffic generating development along main roads, and to provide for a rural residential living style within this zone.

The proposals could set a precedent for ribbon commercial development in rural zoned land along the eastern side of Windsor Road. I note that the RTA has raised concerns about this issue and the related issue of access provision.

If Council considers this side of Windsor Road to be appropriate for such development, it would be preferable to identify the desired boundary limits for commercial development in McGraths Hill and prepare a draft LEP to rezone that area to an appropriate commercial zone.

In this way a realistic plan for the development of the area will be in place, clarifying its potential and allowing greater certainty about the future for landowners, potential developers and council alike.

Thus it would be preferable to numerous amendments to the LEP, and trickle development in conflict with the existing LEP's vision for the future of the area.

I would appreciate your consideration of this alternative approach."

No reply has been received from Telecom Australia.

The Section 65 Certificate was issued by the General Manager as the delegate of the Director of Planning and the proposal was exhibited from 25 January, 1995 to 24 February, 1995.

As a result of the exhibition, five submissions have been received from adjoining and neighbouring residents as indicated on the attached plan. A summary of the resident's comments are as follows:

- fumes from development to adjoining properties adversely affect residents;
- fumes and spillage adversely affect plants etc in retail garden centre;

- lights and noise at night driving through site onto McGrath Road;
- residential property purchased because land opposite was zoned rural;
- commercial development should take place in already zoned land on opposite side of Windsor Road;
- increased traffic in McGrath Road, already used to bypass lights at Pitt Town Road;
- already 13 service stations/fuel depots between Vineyard and South Windsor;
- future development of the land not given in application;
- proposal inconsistent with adjoining land uses and will have detrimental affect on the adjacent residential properties in McGrath Road;
- devalue adjacent properties;
- quality of life affected by removal of rural outlook;
- filling of land will remove tree cover;
- general lighting and canopy lighting will adversely affect residents of McGrath Road;
- no access should be permitted to McGrath Road and design should be to Windsor Road so as to protect McGrath Road residents, retain existing vegetation and rural aspect; and
- Lot 4 McGrath Road should be deleted from the plan.

The traffic study prepared by Stapleton and Hallam which was submitted with the rezoning application concluded that on traffic grounds (efficiency and safety) the proposed development is satisfactory subject to the implementation of certain access arrangements, including the provision of a narrow central median to prevent any right turns onto or out of the site and the construction of a left turn lane for entry to the site.

However, Stapleton and Hallam's consideration was site and development specific and they acknowledged that the general planning implications of the rezoning had not been assessed. There are general planning implications which do need to be assessed.

Firstly as mentioned by Stapleton and Hallam and reiterated by the RTA and Department of Planning there is no provision for a service road on the northern side of Windsor Road. In the normal course, such development should front a service road rather than have direct frontage to a main road.

Secondly the primary justification for the proposed rezoning would seem to be the statement that there are; "no service stations on the northern side of the road to service eastbound traffic".

However, there are service stations on the appropriate side for eastbound traffic not only in Richmond and Windsor but also in Vineyard; the Trees opposite Level Crossing Road and also a service station on the corner of Boundary Road opposite the Tourmaline Hotel. Both of these sites could be redeveloped.

Thirdly, the convenience grocery items available at the service station will largely duplicate the goods available at the McGraths Hill shopping centre which does not have the benefit of a main road frontage.

Finally, the proposed service station will undoubtedly be a precedent for commercial/retail rezoning applications on the northern side of Windsor Road. Not only will it be more difficult to refuse such applications but it will also be difficult to require the provision of service road access.

Council has set aside a Special Business 3(b) area between Groves Avenue and Park Street, with a proposed service road parallel to Windsor road, for uses such as the one proposed for the subject site.

In view of the comments from the Roads and Traffic Authority and the Department of Planning and the objections from local residents, it is recommended the Council not proceed with the draft local environmental plan.

RECOMMENDATION:

1. That the draft local environmental plan to allow a service station/convenience store on part Lot 6 DP959819 Windsor Road and Lot 4 DP959849 McGrath Road, McGraths Hill not proceed.
2. The objectors be advised of Council's decision

ATTACHMENTS:

AT-1 Plan

FN:EN328NBX.V07

****** END OF ITEM 146 ******

ITEM: 147 DRAFT LOCAL ENVIRONMENTAL PLAN - MOTOR SHOWROOM,
LOT B DP411701 130 WINDSOR ROAD, CORNER MULGRAVE
ROAD, MCGRATHS HILL - BASTIAN SALES PTY LTD,
AMENDMENT 37

FILE NUMBER: LEP004/94 PT01/EVD

REPORT:

Council at its Ordinary meeting of 13 September 1994, resolved to prepare a draft local environmental plan to allow a motor showroom on Lot B 411701 130 Windsor Road, corner Mulgrave Road, McGraths Hill.

Pursuant to Section 62 of the Act, the draft plan was referred to Prospect Electricity, Roads and Traffic Authority, Water Board (now Sydney Water), Department of Conservation and Land Management and Environment Protection Authority.

The EPA have no objections and Sydney Water have replied as follows:-

"The Richmond-Windsor bulk water supply is currently at capacity and only has capacity to serve existing zonings up until the year 2000.

The proposed change to enable land to be used for the purposes of a motor showroom would unfortunately impose additional demands to the existing system, and as the system is currently operating at capacity, the Board regrets that it cannot support the proposed rezoning."

Following a request for a Section 65 Certificate from the Department of Planning for this proposal and for a service station/convenience store in McGrath Road and Windsor Road, the following reply was received from the Department:-

"Council has previously decided through its LEP that service stations and motor showrooms should be prohibited in Rural 1(c) zoned land. To allow these uses on these sites would be inconsistent with the aims of the plan which are to prevent traffic generating development along main roads, and to provide for a rural residential living style within this zone.

The proposals could set a precedent for ribbon commercial development in rural zoned land along the eastern side of Windsor Road. I note that the RTA has raised concerns about this issue and the related issue of access provision.

If Council considers this side of Windsor Road to be appropriate for such development, it would be preferable to identify the desired boundary limits for commercial development in McGraths Hill and prepare a draft LEP to rezone that area to an appropriate commercial zone.

In this way a realistic plan for the development of the area will be in place, clarifying its potential and allowing greater certainty about the future for landowners, potential developers and council alike.

Thus it would be preferable to numerous amendments to the LEP and trickle development in conflict with the existing LEP's vision for the future of the area.

I would appreciate your consideration of this alternative approach."

No replies have been received from Prospect Electricity, Roads and Traffic Authority or the Department of Conservation and Land Management.

The Section 65 Certificate was issued by the General Manager as the delegate of the Director of Planning and the proposal was exhibited from 25 January 1995 to 24 February 1995 and no submissions were received.

In regard to the water supply for the development, the use of the site for a truck depot is an allowable use in the existing Rural 1(c) zone and the rezoning is required to allow the sale of the trucks (motor showroom). This motor showroom use is not an excessive consumer of water and the proposal can be supported by Council in this regard.

It is still considered that given the site's visual prominence and the substantial amount of land already zoned for motor showrooms, the site should not be rezoned. The comments of the Department of Planning are relevant and particularly the precedent for ribbon commercial development.

RECOMMENDATION:

1. Council not support the preparation of a draft local environmental plan to permit the establishment of a motor showroom on the site.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NBX.V10

****** END OF ITEM 147 ******

ITEM: 148**PROBLEMS WITH THE IMPLEMENTATION OF SCHEDULE 3 OF
THE ENVIRONMENTAL PLANNING AND ASSESSMENT
REGULATIONS - DESIGNATED DEVELOPMENT****FILE NUMBER:** DA171/94, DA005/95, DA334/94/EVD**REPORT:**

In the Environmental Planning and Assessment Act 1979, designated development is that development which requires the preparation of an environmental impact statement. It is also distinguished from other development in providing a third party appeal (by objectors) on merit grounds.

As previously reported, in July 1994 there were substantial amendments to the definition of designated development. In short the existing provisions which defined particular classes of development were replaced with new performance based definitions which attempt to define designated development more through environmental impact than land use.

The change in the definitions was brought about from the inflexibility of the previous land use definitions. For example there was often concern that a minor excavation of say 2,000 tonnes for land fill purposes constituted designated development being an extractive industry with the same EIS requirement as an open cut mine with an output of 6 million tonnes.

Whilst nobody would dispute the desirability of performance based standards of land use definitions, there are other important objectives in drafting legislation. Perhaps the paramount objective is that legislation be capable of easy and consistent interpretation. From the experience of both Council, staff, applicants and objectors the new designated development provisions are incapable of easy and consistent interpretation. It should not require a vast body of common law delivered at great expense to the community to allow basic every day interpretation of schedule 3.

Currently there are three applications pending where there is great difficulty in interpreting the provisions of Schedule 3. They provide a good cross section of the difficulties which have been experienced in applying the provisions.

Proposed Mushroom Composting Facility - Tinda Creek - DA 171/94

The example which will be most familiar to Council is the proposed mushroom composting facility at Tinda Creek. Despite the Department of Planning specifically refusing to issue a Section 65 certificate to allow mushroom composting to be defined as designated development in Council's local environmental plan, the status of mushroom composting in the Schedule is far from clear.

There has been no consistent legal advice as to which category mushroom composting may be contained in with various opinions that it could be an "agricultural produce industry", an "extractive industry", a "waste management facility" or a waste management facility where the dominant purpose is not waste disposal.

However the locational and performance criteria in Schedule 3 pose even greater difficulties. One example is the definition of "highly permeable soil" which means:-

"soil profiles or layers (within the upper 2 metres of the material to be disturbed or impacted by the development) with a saturated hydraulic conductivity of more than 50 millimetres per hour".

In the Tinda Creek application, there was significant variation in soil permeability within the upper 2 metres, with much higher permeability being generally found closer to the surface. Permeability rates are not static through the soil profile. Consideration also needed to be given to the area to be disturbed or impacted by the development. Does this only relate to the development site or to the access road as well? The clause makes no mention of how sampling should be conducted, for example the grid spacing, or how widely fluctuating results should be handled.

The Tinda Creek example demonstrates the difficulty of having a consistent interpretation of the provisions.

Proposed Sandstone Sawing - Schaffer Quarry, East Kurrajong - DA 5/95

A proposal to undertake limited sandstone sawing (5,000 tonnes per annum) inside the quarry has been discussed with officers of Council and the Department of Planning. A development application accompanied by a statement of environmental effects was lodged on 13 January 1995.

The quarry currently has an output of approximately 200,000 tpa with a potential for 500,000 tpa under the consent. Therefore the volume of stone to be sawn is only 1% of the approved production limit. The proposed sandstone sawing operation would be located in the base of the quarry and a noise assessment undertaken by a consultant indicated that noise would not be detectable at any residences.

The initial advice from Council's solicitors was that the proposed development was not designated but given the history of litigation in relation to the development advice was sought from S B Austin QC. His advice is that the proposed development is definitely designated because of a particular locational criterion being an extractive industry which is located:-

"within 500 metres of the site of another extractive industry that has operated during the last 5 years."

Mr Austin goes on to comment as follows:-

"How the fact that this quarry has operated in the last five years makes it desirable that this saw mill have the scrutiny of designated development escapes me but the words are plain enough. In fact, I can see real environmental advantage in cutting stone into finished product in a properly constructed and protected saw mill on the floor of the quarry where it is won..."

It would seem that the intention of the person drafting the legislation was to prevent incremental additions to existing quarries, the cumulative effect of which may be to warrant an environmental impact statement. If this was the intention the drafting of the legislation is flawed as it does not allow value adding within existing quarries, no matter the scale of the value adding.

The applicant has been advised that on the basis of the advice from S B Austin QC the application cannot be considered.

The proposed sandstone sawing is noteworthy because it is an example of the type of development which the Department of Planning would not have intended to be designated. In this respect the provisions have the same limitations as the previous land use definitions.

Proposed 100 bed guesthouse - Bells Line of Road, Kurrajong Heights - DA 334/94

Council received a development application for a complex of guest houses and a conference facility at Kurrajong Heights with a total bed capacity of 100 persons. The application incorporates aerobic effluent treatment systems and the spray irrigation of the treated effluent.

The designated development provisions include any sewerage systems or works that:-

"release or reuse more than 20 persons equivalent capacity or 6 kilolitres per day of sewage, effluent or sludge at a location:

- (a) in or within 100 metres of a natural waterbody, wetlands, coastal dune fields or an environmental sensitive area;..."*

Environmentally sensitive areas include land identified in an environmental planning instrument as an environment protection zone ... such as for the protection of escarpments. As the land is zoned Environment Protection (Scenic) it is clearly covered by this locational criterion and consequently is designated development.

Whilst there may not be any disagreement about the requirement for detailed investigations or an EIS for the effluent disposal, by its nature an environmental impact statement cannot be limited to consideration of a single environmental impact.

The Applicant has been advised by the Department of Planning that the EIS must be a comprehensive document considering all environmental impacts even though the reason for its listing as designated development is only due to the disposal of effluent.

Conclusion

Whilst there will be different attitudes to the type of development which should be designated under the Environmental Planning and Assessment Act 1979, the provisions must be capable of consistent interpretation without a huge body of common law. As the new designated provisions have been in operation for a reasonable period and given the difficulties which have been experienced in their interpretation, the Department of Planning should be requested to undertake a review of the provisions to determine whether they are meeting their objectives.

RECOMMENDATION:

The Department of Planning be requested to undertake a review of Schedule 3 (Designated Development) of the Environmental Planning and Assessment Regulations to determine whether the provisions are meeting their objectives and that a copy of this report be provided as background information.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NBX.V11

****** END OF ITEM 148 ******

ITEM: 149 TWO LOT SUBDIVISION LOT 6 DP17870 NO 28 GROSE WOLD ROAD, GROSE WOLD - APPLICANT: R G & C O PATTISON

FILE NUMBER: SA14/95/EVD

REPORT:

This matter was considered by Council at the Ordinary meeting of 14 March 1995 when it was resolved that an inspection of the property be carried out.

The report to the previous meeting is reproduced in full so that the matter is on the agenda for an inspection and determination.

Owner: R G & C O Pattison
Provisions: Hawkesbury LEP, 1989
Area: 17.63ha
Zone: Rural 1(b)
Advertising: not required
Date Received: 25 January, 1995

Key Issues

- Contrary to LEP minimum area provisions
- Appropriateness of use of SEPP 1
- Building area for rear lot
- Access

Action:

Approval

Proposal

To undertake a two lot subdivision with each lot containing 8.815ha, copy of the subdivision plan is included at the rear of the reports.

Site Characteristics

The site is undulating with a mixture of cleared, scattered trees and bushland areas. The site contains an existing dwelling and associated outbuildings some distance back from Grose Wold Road. The land is traversed by two creeks, Stinson's Creek, near the front of the block, which has already been piped to provide access to the dwelling and Hooper's Creek, which is a fairly major watercourse and would involve major culverts if crossing was required.

Statutory Situation

The site is zoned as Rural 1(b) and the provision of Clause 11(2)(b) of Hawkesbury LEP, 1989 allow subdivision into 10ha lots.

As the departure from the minimum is more than 10% the concurrence of the Department of Planning is required, if Council wishes to support the proposal.

The applicant has lodged an objection under SEPP No 1 against the 10ha requirement and states the following in support of the objection:

- site was included in Council's proposed 4ha zone and proposed lots are twice that area;
- Council and Department of Planning supported a similar 8ha subdivision for land adjoining at the rear;
- there are lots in the area being 1ha in area;
- 8ha lots in keeping with the local area;
- potential building sites are cleared of significant flora;
- trees in gullies will not be disturbed; and
- 8ha lot sizes adequate for on site disposal of domestic waste water.

Planning Assessment

In view of the major creek, crossing the rear lot, it is recommended this lot size be increased to 10ha with the boundary between the front and rear lot being as shown by a broken line on the attached subdivision plan. This will mean the front lot will have an area of approximately 7.63ha. This increase in area for the rear lot will give a larger building area between its "front" boundary and Hooper's Creek.

The existing access to the existing dwelling encroaches on the proposed access handle at the creek crossing and a right of way should be provided so that another creek crossing is not required, thus preserving the established vegetation along the creek. The land is Class 3 Agricultural land, however, the subdivision is not likely to affect the future uses for agriculture.

Conclusion

In view of the relatively minor departure proposed, support given for an adjoining subdivision and the proposal generally, it is recommended that Council support the proposal and give lot sizes of 10ha and 7.63ha.

RECOMMENDATION:

1. Council support the objections to the minimum area requirements of Clause 11(2)(b) of Hawkesbury LEP, 1989, pursuant to State Environmental Planning Policy No 1, Development Standards to provide lots of areas of 10ha and 7.63ha.
2. The application be referred to the Department of Planning for concurrence.
3. Upon receipt of the concurrence from the Department of Planning, development consent be issued under delegation of authority.

ATTACHMENTS:

AT-1 Site map

FN:EN328NBX.V16

****** END OF ITEM 149 ******

ITEM: 150

GLENROY STUD, KURMOND ROAD, FREEMANS REACH - AMENDED PROPOSAL TO DEVELOP A COMBINATION OF RESIDENTIAL (150 LOTS) AND RURAL RESIDENTIAL LOTS (100 LOTS) AND A LARGE RESIDUAL LOT TO BE KEPT FOR AGRICULTURAL USE. APPLICANT: MR JOHN LOGAN WITH SUPPORTING ADVICE PROVIDED BY DOUGLAS SANGER PTY LTD, LAWRENCE ROSE, JOHN SEARS, PETER LOWRY & GLENN FALSON

FILE NUMBER: SA0145/93/EVD

REPORT:

A briefing of Councillors on a proposed rural residential development at the Glenroy Stud at Freemans Reach was held on 21 November 1994. The proposal was to develop a rural residential estate comprising approximately 300 lots with areas of between 0.4ha and 1.2ha.

Following the completion of the "Our City Our Future" report for rural areas, the property owner, Mr John Logan and his development consultants have submitted alternative proposals which they consider are in conformity with the principles of the "Our City Our Future" report.

On 1 February 1995 the development of the land was discussed with an Assistant Director of the Department of Planning who suggested that a smaller scale residential proposal, which could be justified as a small extension to the Freemans Reach village, may be able to be considered by the Department. However, he did not indicate a size merely that the extension, together with some consolidation of adjoining lots, would be consistent with the Our City Our Future principles and not create a precedent problem.

The applicant has now lodged a revised plan containing 150 residential lots and 100 rural residential lots. This proposal does not generally conform with the advice provided by the Assistant Director. It would seem that an incremental increase of 150 residential lots is insufficient to recoup capital costs and that the additional 100 rural residential lots are necessary to make the development viable.

Falson & Associates have recently advised as follows:-

"Basically, their (our) request is for Council support to rezone the land to enable its urban development. Whilst there has been a number of plans prepared, the precise format of subdivision development is open to the extent where the consultants are requesting some guidance from Council. The most recent plans, following from discussions with the Department of Planning, the applicants and Council officers indicate a design for 150 residential lots forming an extension of the Freemans Reach Village with a further 100 rural residential lots and a large residual proposed to be kept for agricultural use."

Other plans put to the Council for discussion purposes have included all rural/residential allotments (ranging from 180-280) and for a significantly greater number of residential allotments (580) with the current plan being the more reasonable approach following from discussions as indicated.

Whilst the actual design and number of allotments appropriate is arguable, the process of bringing rural land onto the urban market requires considerable expenditure by both the applicants and in the Council staff assessment process. Council should indicate whether it believes what is being proposed is acceptable, in principle, without worrying, at this stage, about design merits, number of lots etc.

The consultants have already expended considerable money to date on planning reports, engineering reports, both on traffic and water quantity and quality and on urban design.

In adopting "Our City Our Future" Council has provided basic performance criteria against which proposals such as this should be assessed. These criteria are generally met for the Glenroy proposal if it is accepted that Freemans Reach is an identified village (ie land contiguous to and development forming an extension of)...

In forming an opinion, at this stage, as to the principle of the proposal, Council is not locked into an ultimate course of proceeding with the proposal or not. Should Council support the principle, at this stage, what its resolution is doing is indicating that, prima facie, there is sufficient evidence available that the proposal should be seriously looked at and as a consequence the statutory process embarked upon. There are a number of stages to the process, including the preparation of a Local Environmental Study, the exhibition of the study and other supporting documents to the community and also input from the various Government Departments etc. Submissions that would be received as a result of this process would require further reporting to Council, further input by the Department of Planning and ultimately, should Council finally support the proposal a submission to the Minister for Planning seeking his endorsement...

There is believed to be sufficient prima facie evidence within the documentation prepared by Falson & Associates and the other consultants within the applicant's team to indicate that the proposal is worthy of further investigation. This investigation should be by way of the LEP process and should include an assessment of such things as catchment management, water management, traffic, impact on agricultural land, urban design, solar design, community infrastructure and no doubt a myriad of other matters. The Local Environmental Study requirements are provided by the Department of Planning in consultation with Council and this will also be required to be reported to Council prior to Council embarking further upon the rezoning process.

In short, there are many safety nets built into the legislative process for Council and the community. This being the case it is recommended that Council support the principle of some form of urban development of the property and this is embodied in the recommendation."

The residential proposal is closer to the objectives of the "Our City - Our Future" report than previous proposals. "Our City - Our Future" promulgates the following design principles for consideration of rural rezonings to allow smaller lot subdivision:-

- a) there should be no subdivision of land for rural/residential purposes where the land is Class 1, 2 or 3 agricultural land as defined by the Department of Agriculture;
- b) land titles of subdivided smaller lots are to contain "right to farm" provisions in the form of restrictive covenants preventing objection to any lawful farming activity;
- c) fragmentation of land is to be minimised;
- d) consolidation within and on land contiguous with existing towns and villages be preferred to smaller lot subdivision away from existing towns and villages;
- e) no subdivision along main roads and any subdivision to be effectively screened from minor roads;
- f) no subdivision along ridgelines or escarpments;
- g) where on site effluent disposal is proposed, lots are to have an area of at least one hectare;
- h) the existing proportion of tree coverage on any site is to be retained or enhanced;
- i) any rezoning proposals are to require the preparation of Environmental Studies and Section 94 Contributions Plans at the applicant's expense;
- j) community title be encouraged for rural subdivision as a means of conserving environmental features, maintaining agricultural land and arranging for the maintenance of access roads and other capital improvements."

In addition to the design principles in "Our City - Our Future", there are other issues of infrastructure provision as well as general environmental considerations. In this respect the residential proposal for the Glenroy stud, although of a smaller scale, is subject to the same considerations as applied to the "Legends" proposal.

Council will recall that "The Legends" proposal comprising land generally bounded by Terrace Road, Wire Lane, Kurmond Road and Brahma Road, North Richmond was for the following:-

- . 36 hole golf course complex
- . NSW golf training academy
- . Clubhouse and associated facilities
- . Hotel and Convention Complex
- . Resort Accommodation
- . 2,000 residential allotments of varying sizes
- . 200 dwelling retirement village

- . 250 unit medium density development
- . Equestrian Centre
- . Village Shopping Centre
- . Primary School
- . Extensive areas of open space

In respect of "The Legends" proposal the Department of Planning referred the matter to the Urban Policy Cabinet Committee on 21 April 1993.

The Committee resolved not to support the rezoning of the site, nor the site's inclusion in the Urban Development Program. In summary, the reasons for the Committee's decision were:

- (i) *the Committee has recently endorsed a policy of "containment" for the review of the Metropolitan Strategy, the proposal is inconsistent with this policy;*
- (ii) *it is not appropriate to permit development outside nominated areas in the Metropolitan Strategy, nor out of sequence with the urban release programme;*
- (iii) *there is concern about the general issues of air and water quality in Western Sydney;*
- (iv) *the full extent of the financial liability faced by the Government is as yet unknown; and*
- (v) *approval of this proposal will provide a precedent for further unprogrammed development west/north of the Hawkesbury River.*

In respect of "The Legends", Council also had reservations about the proposal in terms of traffic generation, lack of flood free access, water supply, sewerage, potential air pollution and inadequate hospital facilities. Some of these issues were addressed in the environmental study and there has been a change in the status of the hospital since the proposal was considered, however other issues remain.

From the perspectives of infrastructure and the urban release programme, it is apparent that the State Government's preferred location for urban releases is east of the Hawkesbury River. However even on the western side of the river it could be argued that from an infrastructure perspective further expansion of North Richmond through the Peel property should be a higher priority than new residential development in locations such as "The Legends" or the Glenroy Stud. Since the receipt of this application Council has supported a draft local environmental plan to rezone the Peel property at North Richmond for residential purposes. This rezoning, if implemented, could yield 3,000 dwellings.

So as to avoid the applicant committing himself to further expenditure when there is no prospect of achieving a rezoning either for rural residential or residential purposes, it is recommended that Council not support a rezoning of the land to permit further subdivision.

RECOMMENDATION:

Council not support a rezoning of the land to permit further subdivision.

ATTACHMENTS:

AT-1 Site map

FN:EN328NBX.V19

****** END OF ITEM 150 ******

ITEM: 151 **STUDY OF RIVERSTONE SCHEDULED LANDS - DRAFT REPORT****FILE NUMBER:** LEP17/90 PTS2-3/EVD**REPORT:**

Council at its Ordinary meeting of 14 February 1995 resolved to receive information contained in the report in relation to a Study of the Riverstone/Vineyard Scheduled Lands.

E R M Mitchell McCotter Consultants engaged by the Department of Planning to undertake the Riverstone Vineyard Scheduled Lands Study have now completed a draft final report. A copy of the draft report has been forwarded to Council's representatives on the Department's Scheduled Lands Working Party for comment. Council's representatives have attended meetings of the Working Party formed to oversee the Study to ensure that Council's interests were represented in any discussion of potential development of the Scheduled Lands.

The Department has advised that the contents of the draft report must remain confidential until such time as the Study is publicly released. Whilst the contents of the draft report cannot be divulged, issues of concern to Council are addressed in the draft report. Issues of particular concern include:-

- whether reticulated water will be preferentially allocated to the Scheduled Lands
- whether "environmental standards" will be compromised to the detriment of the Hawkesbury Local Government area should development of the scheduled lands proceed
- the future capacity of Windsor Road with respect to the increased volumes of traffic

In relation to the above, the draft report indicates that the owners of the Scheduled Lands will not receive any preferential allocation or subsidy for infrastructure such as reticulated water or sewer if and when the lands are developed. Should the development of the lands proceed an "up front" cost will need to be borne by the landowners collectively or a developer who has acquired the land from individual landowners. However, the fragmented nature of ownership of the lands (ie 8652 allotments held in 1356 ownerships) renders the possibility of any one developer acquiring some or all of the lands and subsequently developing the lands unlikely.

To date many financial and environmental constraints have prevented provision of a reticulated water supply and sewerage to the Scheduled Lands. Should the lands be developed, the environmental standards used for the treatment of waste water and effluent will have to be at least commensurate with those used at the Rouse Hill development area. Development at Rouse Hill has occurred on the basis of stringent environmental controls relating to sewage disposal and water reuse. Similar controls will be utilised in any future development in the North West sector.

The location of the Scheduled Lands in the Hawkesbury Nepean River Catchment and statutory requirements of SREP No. 20 (Hawkesbury Nepean River) requires any runoff from the lands to be of a sufficient quality so as not to degrade the river's water quality.

If and when the Scheduled Lands develop the provision of increased capacity of Windsor Road to cater for increased volumes of traffic will have to be addressed by the Roads and Traffic Authority the authority responsible for the maintenance and construction of Windsor Road.

Overall, the draft report highlights the difficulties associated with development of lands held in fragmented ownership where land owner expectations for development are high.

The final study report will be reported to Council following its completion and public release by the Department.

RECOMMENDATION:

The information be received.

ATTACHMENTS:

AT-1 Site plan

FN:EN328NCX.V12

****** END OF ITEM 151 ******

ITEM: 152 STATUS OF NORTH BLYTH PARK - BULK WATER ALLOCATION RESERVE - COMPETING DEMANDS FOR RETICULATED WATER**FILE NUMBER:** LEP0016/93/EVD**REPORT:**Status of North Blyth Park

On 13 December 1993 the Director of the Department of Planning advised that, upon receipt of a draft plan, a Section 65 certificate could be issued to enable exhibition of the draft LEP for North Blyth Park, but made it clear that the following issues would have to be satisfactorily addressed before the plan proceeds:-

- i) *No land east of Faurey Road is to be included in the rezoning.*
- ii) *The final LEP must contain a clause which makes it explicit that no development is to occur until Council has completed the gravel formation, fencing and provision of gates for the new road link between Thorley Road and Richmond Road at the western boundary of the Windsor Downs Nature Reserve. Council is to ensure that this link will not be cut in a 1 in 100 year flood.*
- iii) *Council is to enter into an arrangement with the SES to ensure that adequate procedures are in place to enable the gates to be opened in an emergency.*
- iv) *The LEP must provide for a satisfactory habitable floor level to be incorporated to provide for the 1 in 100 year flood.*

Following this notification, Mr Garth McKenzie of McKenzie Land Planning Services Pty Ltd was engaged to prepare the rezoning documentation, development control plan and Section 94 Contributions Plan.

Mr McKenzie is currently completing the preliminary development staging strategy based on servicing availability and, in the near future, there will be preliminary consultation with landowners to discuss the strategy and staging alternatives including preliminary development costs.

There are a number of key issues which will need to be resolved in consultation with property owners.

Approximately 43% of the available residential land is below 17.5m AHD with only approximately 57% being above 17.5m AHD. Given the fragmentation of the land it is likely that the only opportunity to undertake filling would be if the release area proceeded as a maximum of two stages.

This would enable the use of earthmoving scrapers to fill those areas between 16.0m AHD and 17.5m AHD with material obtained from the higher land. The other alternative is to permit an elevated habitable floor on the land below 17.5m AHD.

There is also significant "up front" capital expenditure for sewer and stormwater disposal which may mean that the first stage will need to be relatively large to generate a return. Mr McKenzie is currently assessing the "up front" capital requirement.

As soon as a preliminary development strategy has been completed a meeting of property owners will be convened from which it should be possible to finalise a development control plan and Section 94 contributions plan.

Bulk Water Allocation Reserve

Initial advice from the Sydney Water Corporation was that at the stage of planning for Bligh Park an allocation of water for North Bligh Park of 700 connections was kept in reserve. Recently Sydney Water has advised that this reserve is 600 connections.

There have been a number of enquiries about whether this reserve is available for any other development in the City ie, whether it is dedicated to North Bligh Park.

As Council is aware, the major limiting factor with the provision of reticulated water to new urban development in the area is the supply of bulk water, that is the quantity of water which can be treated at the North Richmond Water Treatment Plant. In discussions with officers of Sydney Water they have advised that they have no particular requirements in prioritising the allocation of bulk water and would accept Council's advice on where a reserve such as that available for North Bligh Park should be directed.

Given that the reserve for North Bligh Park was made during the planning stages of Bligh Park, it would certainly pre-date most if not all of current competing demands for bulk water allocations. In addition the reserve was made specifically to service North Bligh Park. For these reasons it is not considered that the allocation should be distributed to other development opportunities in the area.

However the progress of North Bligh Park should be monitored to ensure that the allocation of water is utilised within a reasonable period. Any possible surplus, which at this stage is unlikely, could be directed to other sites.

The prospect of Council being the arbiter on the distribution of the limited available reticulated water amongst many competing developments is not desirable. Council is not responsible for the provision of reticulated water and should not be drawn into conflict about the allocation of a scarce resource over which it has no responsibility or control.

RECOMMENDATION:

1. The information concerning the status of North Bligh Park residential release area be received.

2. The information concerning the bulk water allocation for North Bligh Park be received.

ATTACHMENTS:

There are no supporting documents for this report.

FN:EN328NCX.V20

****** END OF ITEM 152 ******