

GENERAL PURPOSE COMMITTEE

SECTION 1 ENVIRONMENT

GENERAL PURPOSE COMMITTEE - ENVIRONMENT**Table of Contents****Meeting Date:** 28 November 1995

Page 2

ITEM	SUBJECT	PAGE
-	SECTION 1 - ENVIRONMENT.	
76:	STOCKPILING OF MANURE AND SAWDUST FROM POULTRY FARMS - LOT 4 DP239897 NO. 137 COMMERCIAL ROAD, VINEYARD DA154/89/EVD	4
77:	HOME ACTIVITY - WHOLESALE VEHICLE DEALER'S LICENCE - LOT 11 DP248509 238 COMMERCIAL ROAD, OAKVILLE DA237/95/EVD	10
78:	FUNCTION HALL - USE OF EXISTING BUILDING - LOT 12 DP834771 NO. 99 GADDS LANE, NORTH RICHMOND DA154/95/EVD	13
79:	TENNIS COMPLEX - PROPOSED CONSTRUCTION - LOT 1 DP843500 NO. 42 CANOONA AVENUE, WINDSOR DOWNS DA238/95/EVD	18
80:	RESIDENTIAL DEVELOPMENT STRATEGIES FOR LOCAL GOVERNMENTS IN THE GREATER METROPOLITAN REGION - DEPARTMENT OF URBAN AFFAIRS AND PLANNING GT150/003 PT3/EVD	29
81:	HOME ACTIVITY - TUTORING, TRANSLATING, CONSULTANCY & ORGANISING THE EXPORT OF AGRICULTURAL GOODS - LOT 8 SP21885 NO. 8/5 PAGET STREET, RICHMOND DA208/95/EVD	31
82:	TRUCK DEPOT - PARKING OF THREE FURNITURE TRUCKS ON AN OVERNIGHT BASIS - PT POR 451 PARISH WILBERFORCE BURGESS ROAD, FREEMANS REACH DA220/95/EVD	35
83:	TREE CLEARING PROPOSAL FOR A MARKET GARDEN - LOT 12 DP588380 NO. 133 TERRACE ROAD, NORTH RICHMOND DA0155/95PT01; P2003/95PT01/EVD	40
84:	CLEARING OF LAND FOR RABBIT AND FIRE CONTROL - LOT 12 DP846650 TIZZANA ROAD, EBENEZER DA0115/95 PT01/GMA	45
85:	TREE REMOVAL APPLICATION - LOT 1 DP743221 NO. 119 SHEPHERDS ROAD, GLOSSODIA - APPLICANT: MR & MRS P MIFSUD P1904/100/EVD	48

GENERAL PURPOSE COMMITTEE - ENVIRONMENT**Table of Contents****Meeting Date:** 28 November 1995**Page 3**

ITEM	SUBJECT	PAGE
86:	TREE REMOVAL AGRICULTURE - LOT 6 DP239897 NO. 153 COMMERCIAL ROAD, VINEYARD - APPLICANT: MR J SULTANA P361/590/EVD	50
87:	OUR CITY OUR FUTURE - RECOMMENDATION NO. 1 RURAL LANDS STUDY GT225/013 PT02/EVD	52
88:	FLOODPLAIN PLANNING GC180/006PT02/EVD	54
89:	SOLAR EFFICIENCY DCP3/95/EVD	67
90:	DRAFT LOCAL ENVIRONMENTAL PLAN 15/94 - PT LOT 6 DP39166 & LOT 1 DP563924 CNR PITT TOWN & WOLSELEY ROADS, McGRATHS HILL - APPLICANT: GRAHAM PRICE PTY LTD LEP15/94/EVD	69
91:	GRAHAM PRICE PTY LTD - MUSHROOM COMPOSTING - 100 PITT TOWN ROAD, MCGRATHS HILL (CORNER WOLSELEY ROAD) P1641/700 PT02/EVD	72
92:	REZONING PROPOSAL TO ALLOW 36 RURAL/RESIDENTIAL LOTS, VINCENTS ROAD, KURRAJONG - TEERMAN & NEWTON PTY LTD P2203/380 PT02/EVD	75
93:	NOISE CONTROL REGULATION 1975 - COMPLAINTS CONCERNING BARKING DOGS - DON STREET, KURRAJONG. P413/50 PT01; P413/20 PT01; GE020/004/EVD	77

******* END OF TABLE OF CONTENTS *******

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

Meeting Date: 28 November 1995

Item: 76

ITEM: 76 STOCKPILING OF MANURE AND SAWDUST FROM POULTRY FARMS - LOT 4 DP239897 NO. 137 COMMERCIAL ROAD, VINEYARD

FILE NUMBER: DA154/89/EVD

Applicant: J Sultana
Applicants Reps: Falson & Associates
Owner: J & P Sultana
Stat. Provisions: Hawkesbury LEP 1989
Area: 2.024ha
Zone: Rural 1(c)
Advertising: 14 days to adjoining owners, 3 submissions received
Date Received: 12 April 1989 - additional information received 10 November 1994, 27 June 1995 and 27 October 1995

Key Issues:

- , Odours
- , Water Pollution
- , Rural Residential Area
- , Dust
- , Amenity

Action:

Refusal

REPORT:

An application to stockpile manure and sawdust from poultry farms was considered at the Ordinary Meeting of Council on 11 July 1989, and it was resolved as follows:-

"That the applicant be requested to have discussions with the Manager of Environment and Building Services and the Manager of Town Planning concerning his intentions for development of the site and that he be advised that his current development is unauthorised and Council is concerned that the property is not currently being managed in an environmentally satisfactory manner."

During a review of undetermined development applications in 1994, it was discovered that the additional information requested by Council, following the above decision, had not been submitted. This has now been submitted from Falson and Associates and includes information from P L and E A Robinson Building Services Pty Ltd.

The application states that the use has been in operation since 1971 and states it is a "low key" operation and involves delivery by two trucks in the morning and two trucks out after midday. The manure is collected from surrounding farms and recycled on broad acre properties as a top-dress fertiliser.

The stockpiles are approximately 11.0m wide, 16m long and 2.4m high and are mixed and removed from the site generally within 24 hours of arrival. When supply exceeds demand, 400m³ could be stored for more than the 24 hours.

In regard to the on-site operation, the application states:-

"To work the stockpile a tip truck dumps the manure on the site and then a backhoe/loader is used to reload onto a tip truck for transport. To accomplish this the surrounding area needs to be free of obstructions.

During the process of working the pile the earth that surrounds the area is made bare and hence subject to run-off.

The chicken manure is in a dry state with a moisture content equivalent to a worked garden bed. Upon stockpiling the pile case-hardens and presents a thatched surface of fibrous material which sheds water readily with very little percolation through the pile. This is further evidenced by the lack of moisture dispersion or concentration on the downhill side of the stockpile. The downhill side faces north which further adds to evaporation and drying of the stockpile.

The water course is a dry table drain with no permanent defined channel or water holding capacity apart from the man-made dams of which there are nine upstream of the property to Menin Road and two downstream to Glenidol Road, at which time the vegetation increases in density. I observe that the table drain would only run with water during prolonged and heavy rain periods, carrying with it much silt, vegetation and nutrients washed off roadways and paddocks."

The recommendations in respect of waste disposal are as follows:-

"Contain the work area around the stockpile site by suitable bunding.

Construct a first flush containment tank capable of storing first flush water off the stockpile work area then direct subsequent water to the table drain.

To pump the first flush storage tank into a contour drain which is to contain the water to allow evaporation and absorption into the surface soils."

A plan of the stockpile area and bunding, etc., is enclosed with this report.

In regard to odour omissions the application states that stockpile materials will not be turned in times of wet weather.

Statutory Situation

The site is zoned as Rural 1(c) under Hawkesbury LEP 1989 and the use is allowable with Council's consent, not being a prohibited use in the 1(c) zone.

One of the objectives of the 1(c) zone is "to primarily provide for a rural residential living style." The proposal could be classed as being contrary to this objective.

The proposal was not included in Schedule 3 of the Environmental Planning and Assessment Regulation 1980 and, therefore, was not designated development at the time the application was lodged.

Clause 49(2) of the Environmental Planning and Assessment Regulation 1994 states that Schedule 3 "as in force when the development application is made, continues to apply to and in respect of the development application regardless of any subsequent substitution or amendment of that schedule, and the application is unaffected by any such substitution or amendment."

If the application had been lodged after the commencement of the 1994 Regulation, the proposal could be designated development, falling within the definition of "waste management facilities or works".

In regard to the existing use rights of the site for the use proposed, the application claims the use commenced in January 1971 and at that time the planning instrument was the Cumberland Planning Scheme, gazetted in 1951. Under that Scheme the site was zoned as Rural area and the proposal required consent. There is no record of consent having been obtained.

Community Response

The application with additional information was advised to adjoining owners on 1 August 1995, and three submissions have been received. A summary of their concerns are as follows:-

- contrary to campaign to clean up the Hawkesbury;
- nutrient rich pollutants will be released;
- industrial use not a traditional rural land use;
- contrary to light rural and residential land uses;
- heavy trucks conflict with load limit roads;
- trucks enter and leave every 25 to 30 minutes;
- extremely offensive odour;
- sometimes impossible to have an outdoor barbecue due to odour;
- impossible to enjoy amenity of the area;

- dust created during loading and unloading;
- odour permeates clothing on washing line;
- excessive noise from trucks;
- danger to road users as trucks enter and leave the property;
- proposal is inappropriate for area;
- stockpile frequently exceeds dimensions given in application;
- manure is not always dry with low moisture content, produces very strong smell;
- creek description incorrect;
- watercourse runs swiftly with heavy rain, which is part of the area's weather pattern;
- pumping of first flush storage tank contents would cause further severe smell problems;
- odours from stockpile when undisturbed, worse when being worked;
- dust generated in windy conditions;
- rotting fowl carcasses included in manure, creating absolutely nauseating odour together with dust and flies;
- potential water pollution, definite air pollution and a visual pollution; and
- neighbours have to keep doors and windows closed because of atrocious odours.

The site and objector's properties, black circles, are shown on the plan attached to the report.

Environmental Assessment

Rural Residential Area

The site is located in a rural residential area with surrounding lots containing areas of approximately 2ha. The site of the development proposed is not isolated sufficiently from adjoining properties to be acceptable in such an area.

Odours

Due to the nature of materials used, odour problems can arise and in view of the objections from adjoining owners, odours are emitted from the stockpiles from time to time. As an aid to reduce the odour, the applicant was requested to consider roofing the stockpile areas but this was rejected. It is likely that odour problems will continue because of the materials used and the operation proposed.

The original application was referred to the State Pollution Control Commission in 1989 and their reply dated 30 May 1989, stated as follows:-

"Odours will be generated by the stockpiling of manure and more so when the material is wet or when disturbed during deposition or removal. These odours will be significant and give rise to complaints from local residents.

During an earlier inspection of the premises by a Commission officer, following a complaint of odour, it was noted that the dam fed a wet weather watercourse. The watercourse appeared to be subject to eutrophication. Additionally, the storm water diversion shown on the plan may need extending to fully protect the stockpile.

On the basis of the information supplied the Commission recommends that the Council either refuses or defers the matter until the proponent has addressed the problem of odour emissions to the Council's satisfaction. The Council should also require that any odour control proposal should be prepared by a specialist consulting engineer."

Water Pollution

The works proposed, with bund wall first flush collection pit and closed contour drains will assist in controlling water pollution to downstream waterways. However, in times of heavy rainfall and prolonged wet periods, the runoff from the stockpiles and bunded area will cause pollution to waterways downstream of the site.

Dust

Dust generation can occur from the site from dry stockpiles, during the turning and mixing of the stockpiles and vehicles delivering the materials to the site and to farms. Some of such dust nuisance could be overcome by watering the dry and dusty areas.

Amenity

The amenity of the area could be adversely affected by the activities of the proposal and the materials stored on the site and approval would not be in the public's interest.

Conclusion

Such an activity should be undertaken under cover to prevent or minimise odour and eliminate contaminated storm water discharge. It is not acceptable that it be conducted in the open and in such circumstances the applicant could be prosecuted under the Clean Waters Act and Environmental Offences and Penalties Act.

RECOMMENDATION:

That:-

A. The application be refused for the following reasons:-

The proposal could adversely affect the environment by the emission of odours, by the generation of dust and by the pollution of the waterways downstream of the site.

1. The site is located in a rural residential area with insufficient buffer areas between the development and adjoining properties and residents.
 2. The proposal could adversely affect the amenity of the neighbourhood by the emission of odours and by the generation of dust.
 3. Approval of the proposal because of odour emissions, dust generation and possible water pollution would not be in the public's interest.
- B. The objectors be advised of Council's decision.

ATTACHMENTS:

AT-1 Two Plans.

FN:ENB28NAX.V03

****** END OF ITEM 76 ******

ITEM: 77 HOME ACTIVITY - WHOLESALE VEHICLE DEALER'S LICENCE - LOT 11 DP248509 238 COMMERCIAL ROAD, OAKVILLE

FILE NUMBER: DA237/95/EVD

Applicant: Mr Don McGlinchie
Applicants Reps: Not known
Owner: Mr D & Mrs B J McGlinchie
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 2.027 hectares
Zone: Rural 1(c)
Advertising: 14 days to 6 adjoining owners, 2 submissions received
Date Received: 11 October 1995

Key Issues:

, Amenity

Action:

Approval, subject to conditions

REPORT:

Application is made to register the subject property address for a Wholesale Vehicle Dealer's Licence. The applicant currently purchases trucks from the Sydney auctions and stores them on the subject property whilst awaiting transportation to Western Australia. No more than 3 trucks are stored on the property at any one time. The trucks are stored for an average of 10 days.

Statutory Situation

The proposal would be defined as a "home activity" and is an allowable use with Council's consent under the provisions of Hawkesbury Local Environmental Plan, 1989.

Submissions

The application was advertised to 6 adjoining owners and 2 submissions were received. These submissions did not specifically object to the proposal, however, there were concerns raised regarding the application. These are summarised below:-

- fear of the property becoming an open air dump of second vehicles
- changing rural character in the locality

One submission also suggested appropriate screening along the Putland Place boundary.

The plan included in the Business Paper shows the site and location of the submissions. It is considered that the concerns raised can be overcome with appropriate conditions.

Planning Assessment

Site Characteristics

The subject property is regular in shape and has an area of 2.027ha. The property has road frontage to Commercial Road, Putland Place and O'Dell Street. Located on the property is a detached brick dwelling and a colorbond shed, 24m x 9m which can store up to three prime movers.

The application proposes to store the trucks in the existing shed on the property whilst awaiting transportation to Western Australia. The process of acquiring the trucks and transporting them takes an average of 10 days.

Amenity

Concerns expressed in the submissions relate to the property becoming a used car yard. The applicant proposes no more than three vehicles on the property at a time and these vehicles can be stored within the confines of the existing shed.

There will be no truck movements through the night, with proposed hours of operation 8.30am - 5.00pm, Monday to Friday.

The applicant has been operating from the property for approximately five years and no complaints have been received in relation to the activity.

The application will not compromise the existing rural character of the area and can be approved, subject to conditions.

RECOMMENDATION:

That the application be approved subject to the following conditions:-

1. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
2. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
3. Operating hours shall be limited to 8.00am to 6.00pm Mondays to Fridays. Any alteration of these hours will require the approval of the Director Environment and Development.

4. The development shall be carried out in accordance with the plan submitted with the application.
5. No motor vehicles are to be displayed for sale on the subject premises.
6. No more than 3 (three) vehicles associated with the Home Activity shall be stored on the property at any one time.
7. All vehicles purchased shall be stored within the existing shed.
8. The driveway to the shed shall be constructed of an all weather surface.
9. Compliance with the following requirements of a "Home Activity" as defined in HLEP, 1989:
the activity or pursuit does not -
 - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
 - (ii) involve exposure to view from any public place of any unsightly matter;
 - (iii) require the provision of any essential service main of a greater capacity than that generally available in the locality;
 - (iv) involve the employment of persons other than residents of the dwelling house or dwelling;
 - (v) involve the exhibition of any notice, advertisement or sign (other than a notice or sign not exceeding 1 (one) metre by 0.6 (zero point six) metres exhibited on that dwelling house or dwelling to indicate the name and occupation of the resident thereof)."
10. The trucks are not to be used for any transport of goods when stored on site.

ATTACHMENTS:

AT-1 Site Plan.

FN:ENB28NAX.V05

****** END OF ITEM 77 ******

ITEM: 78 FUNCTION HALL - USE OF EXISTING BUILDING - LOT 12
DP834771 NO. 99 GADDS LANE, NORTH RICHMOND

FILE NUMBER: DA154/95/EVD

Applicant: A Radanovic (Richmond Estate Winery)
Applicants Reps: Not Known
Owner: A & M Radanovic
Stat. Provisions: Hawkesbury LEP 1989
Area: 10.65ha
Zone: Rural 1(b)
Advertising: 14 days to adjoining owners, 3 submissions received
Date Received: 3 July 1995, additional information received 7 November 1995

Key Issues:

, Noise
, Access
, Traffic
, Parking

Action:

Approval

REPORT:

Proposal

Application is to use the existing building as a function hall so that meals can be provided as part of the winery activities generally for bus/coach tours. The application states that over the last twelve months only one to two buses per month have come to the winery and the numbers are not expected to increase.

Other visitors to the site average two to three per day during the week and ten to fifteen per day on weekends with a maximum generally of three at any one time.

Hours of operation are usually 12.00noon to 5.00pm and "Australian style" barbecues for groups are provided and for any other types of meals, outside caterers will be brought in as required.

The applicant holds a current Vigneron licence which allows the processing of grapes from other vineyards, however, in the past twenty eight years this has not been practised and there are no plans to incorporate this in the site's operation.

No designated parking area other than a "parking bay" in the driveway has been provided and the applicant has requested to "defer this parking policy for a later date and together we could come to a mutually beneficial agreement".

The access to and from the site is a one-way system with entry off the end of Gadds Lane and exit to a right of way then back to Gadds Lane.

Statutory Situation

The site is zoned as Rural 1(b) and a tourist facility and a refreshment room are allowable uses with Council's consent.

Council's Parking Policy, for the floor area of the existing building, requires twenty four spaces plus one space per employee and one space per bus/coach. All turning profiles should be to the Roads and Traffic Authority's guidelines.

Community Response

The application, when received, was advised to adjoining owners by letter dated 10 July 1995, and three submissions have been received. A summary of the concerns follows and the locations are shown on the attached plan by dark circles:-

- Gadds Lane is quiet and picturesque location, proposal contrary to amenity;
- entry and exit Gadds Lane and Kurmond Road difficult and narrow;
- Gadds Lane narrow seal and tight bends with limited visibility;
- Gadds Lane insufficient width to enable cars to pass without leaving sealed area;
- vegetated footpath areas and unsealed driveways restrict visibility;
- large vehicles, including coaches, dangerous in Lane, garbage vehicles do not use Lane;
- ROW access from property for coaches is not possible ROW should be used by residents only;
- function hall should be restricted to one weekend activity per week, finishing before 10.30pm;
- no future expansion should be possible;
- noise must not be audible to neighbours;
- frequency of functions not stated in application; and
- some visiting traffic to the winery travel at excessive speed, a speed deterrent is required.

Environmental Assessment**Noise**

The hours of operation proposed for the function hall, from 12.00noon to 5.00pm is not likely to create noise that would adversely affect the amenity of the area. The number of coaches per day should be restricted to one so that the maximum number of people attending the site is also restricted to a maximum of sixty persons, coach passengers and casual visitors.

Access

The access to the site from Kurmond Road along Gadds Lane is narrow, however, if visitor numbers are restricted to one only coach per day, the effect on the other road users will be minimal.

In regard to access within the site, it is considered that the Right of Way should not be used and adequate turning area should be provided for coaches and cars so these vehicles enter and leave at the one location, at the end of Gadds Lane.

Traffic

The application does not propose to generate significant numbers of vehicle movements and provided the operation is restricted to one bus per day, the traffic impact on the area will be minimal and within acceptable limits for this quiet rural area.

Parking

The application does not propose any employees, however, outside caterers may be used from time to time. Visitor numbers using private cars are light, ten to fifteen per day on weekends, being an average of three per hour.

Parking under Council's Parking Policy, requiring twenty four spaces, is excessive in view of the fact that the majority of visitors will come by bus.

It is, therefore, considered that five car spaces and one bus space should be provided for visitors and caterers use.

RECOMMENDATION:

- A. It is recommended that this application be approved subject to the following conditions:-
 - 1. All vehicular access to and from the site to be via the end of Gadds Lane and the right of way is not to be used for bus and visitors vehicles.

2. Parking shall be provided on-site for 5 (five) vehicles and 1 (one) bus/coach in accordance with Council's Parking Policy with adequate space provided for vehicles and buses/coaches to turn around within the property to ensure all vehicles and bus/coaches enter and leave the site in a forward direction. Parking spaces, accessways and aisles to conform to Council's Development Control Plan No. 2 and to be constructed, drained, sealed and marked. Turning access to conform to the turning profiles recommended by the Roads and Traffic Authority. Full details of works and site layout to be submitted and approved before any works are commenced.
3. Submission of a building application, plans and specifications complying with the Building Code of Australia.
4. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
5. All waste materials to be stored and disposed of at regular intervals to the satisfaction of the Director Environment and Development.
6. Provision of toilets in accordance with the requirements of the Building Code of Australia.
7. 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.
8. No excavation or site works shall be commenced prior to the issue of the building permit.
9. The development shall be conducted in such a manner that noise levels measured at any boundary do not exceed 5dB(A) above background noise levels.
10. The submission of an erosion and sedimentation control plan for approval prior to any works commencing.
11. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
12. 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.
13. Operating hours shall be limited to 12.00noon to 5.00pm 7 (seven) days per week. Any alteration of these hours will require the approval of the Director Environment and Development.

14. The development shall be carried out in accordance with 2 (two) plans dated 28 June 1995 and 29 June 1995 submitted with the application except where modified by the conditions of the consent.
 15. Provision of planting along the common boundaries with Lot 11 DP834771 No. 111 Gadds Lane to screen the development, buildings and parking areas from Lot 11, full details to accompany the building application.
 16. The function hall is not to be used as a reception venue for weddings, parties and the like.
- B. The objectors be advised of Council's decision.

ATTACHMENTS:

AT-1 Site Plan.

FN:ENB28NAX.V07

****** END OF ITEM 78 ******

ITEM: 79 TENNIS COMPLEX - PROPOSED CONSTRUCTION - LOT 1
DP843500 NO. 42 CANOONA AVENUE, WINDSOR DOWNS

FILE NUMBER: DA238/95/EVD

Applicant: Tony Podesta
Applicants Reps: Don Fox Planning Pty Ltd
Owner: T Podesta & M O'Sullivan
Stat. Provisions: Hawkesbury LEP 1989
Area: 2.003ha
Zone: Rural 1(c)
Advertising: 14 days to adjoining owners
Date Received: 12 October 1995

Key Issues:

, Covenants
, Hours of Operation
, Traffic and Access
, Noise
, Parking
, Nature Reserve
, Drainage
, Amenity
, Lighting

Action:

Approval

REPORT:

Proposal

The site is located on the north eastern side of Canoona Avenue and backs onto the Windsor Downs Nature Reserve. The site is relatively level and has been partially filled during the initial subdivision of the estate.

The proposed development involves the erection of four Championship size tennis courts in a north south position on the subject allotment, a club house/amenities block, earth mounds and a parking area. It is proposed that the courts would be used for:-

1. private coaching;
2. court hire; and

3. recreational purpose.

It is also proposed that lighting be used as a part of the tennis court development to allow for the use of the tennis courts at night. The Spectra tennis base (residential cut off) is the type of lighting proposed. The light spillage into surrounding areas from these lights is minimal as the design of the lights focuses on the actual tennis court.

It is proposed that the tennis courts will operate between the hours of 8.00am and 10.30pm, Monday to Sunday.

The amenity block with club house will service the coaching and court hire aspect of the development. This will be located immediately west of the courts. It includes amenities facilities, kitchen facilities, office, fernery and small lounge area and has a gross floor area of approximately 78m².

Parking for twelve vehicles has been provided adjacent to the courts, served by a proposed driveway from the existing road crossover.

It is proposed that a dwelling will be located on the site at a future date.

Statutory Situation

The site is zoned as Rural 1(c) under Hawkesbury LEP 1989 and a recreation area and a recreation establishment are allowable uses with Council's consent. These land uses are defined as follows:-

"recreation area" means -

- (a) a children's playground;
- (b) an area used for sporting activities or sporting facilities;
- (c) an area used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community; and
- (d) an area used by a body of persons associated together for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include racecourses and showgrounds.

"recreational establishment" means a building or place used for health farms, religious retreat houses, rest homes, youth camps, outdoor recreational activities, sporting activities and the like, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause.

As the proposed use falls within either or both of the above definitions, the use is permitted with Council's consent.

The objectives of the 1(c) zone are:-

- (a) to primarily provide for a rural residential living style; and
- (b) to prevent the establishment of traffic generating development along main and arterial roads.

Clause 34 of Hawkesbury LEP 1989 states as follows in respect of suspension of certain laws etc:-

34. (1) For the purpose of enabling development to be carried out in accordance with this plan (as in force at the time the development is carried out) or in accordance with a consent granted under the Act, the operation of any covenant, agreement or instrument imposing restrictions on the development, to the extent necessary to serve that purpose, shall not apply to the development.

(2) Pursuant to Section 28 of the Act, before the making of this plan the Governor approved of subclause (1).

Under Council's Parking Policy, tennis courts required three spaces per court, however, since coaching is involved in the application, provision should be made for on-site parking for a bus/coach for school children. This space could also be used if school children used the courts for school sport.

Community Response

The receipt of the application was advised to adjoining owners and twenty four submissions, including one from the Windsor Downs Home Owners Association have been received. A letter has also been received from the NSW National Parks and Wildlife Service.

A summary of the concerns follows:-

- commercial development denied by the covenants;
- already private tennis courts in Windsor Downs very little demand expected;
- parking spaces inadequate for four courts and employees;
- activities in clubhouse would extend beyond lights out time;
- pollution from car exhausts;
- roads designed for residences not a business venture;
- noise levels high from traffic and games;

- contrary to zoning objectives;
- alcohol could be available in clubhouse;
- traffic flow will damage road quality and grass verges;
- covenants designed for rural living not commerce;
- a dwelling on the site may never eventuate;
- what about future extensions?
- trespassing would occur to chase balls from the tennis games;
- tennis lessons available at Bligh Park courts;
- residents bought into area because of peace and tranquillity;
- application does not sufficiently address the matters in Section 90 of the Act;
- proposal would lead to the deterioration of the living styles and standards that people expect;
- pollution possible from waste water treatment plant;
- excessive noise and activities will drive away wildlife;
- devalue properties in the area;
- access not suitable for generated traffic;
- increased traffic would cause traffic hazard at entrance;
- hours of operation would subject residents to a constant barrage of noise and lights;
- no need for such a facility at Windsor Downs;
- threatens the integrity of the whole estate;
- poses a threat to the safety of residents in regard to vehicular access;
- tennis courts will conflict with peaceful area;
- tennis courts already exist in Bligh Park;
- attract non-residents, contradicts local road zoning;
- parking will occur on footpaths area;

- stormwater drainage inadequate for increased sealed surface areas;
- 180/200 cars per day using dead end residential street;
- 180/200 cars per day will deprive children of a safe place to live and play;
- roads and roundabouts not large enough for buses;
- token dirt mounds will not eliminate noise;
- headlights will shine into adjoining properties;
- clubhouse not appropriate, used for functions;
- glow from lighted courts will disrupt the now peaceful ambience;
- could impact on a rare species of large green tree frog;
- large dams in area could be dangerous to visiting children;
- adversely affect nocturnal fauna in adjacent nature reserve; and
- access roads narrow and not suitable for constant streams of traffic.

The enclosed map shows, by a black circle, the location of those objectors that fall within the boundaries of the map.

The NSW National Parks and Wildlife Service were written to in relation to the Windsor Downs Nature Reserve and the following reply has been received:-

"Thank you for notifying the National Parks and Wildlife Service of the above Development Application (DA). The following comments relate to the Service's statutory responsibilities for the protection and care of native flora, native fauna and Aboriginal sites, and for the management of Service estate.

Impacts on Service Estate

An inspection of the plans by a Service officer at Council revealed that there may be potential impacts from the proposed development on Windsor Downs Nature Reserve. These include:-

All drainage and sewerage systems servicing the site, should be directed away from the Nature Reserve. The Service seeks Council's assurance that any impacts of this nature will be addressed in Council's assessment.

The site of the proposed development is not in the vicinity of any existing public entrance to the Nature Reserve. Therefore, for management purposes, the Service would like to ensure that public access is not encouraged through the subject site into the Nature Reserve. Measures which could be considered to assist in this purpose could include fencing or appropriate landscaping.

Given the size and extended hours of operation of the proposed development, the service considers that a vegetated buffer between the subject site and the Nature Reserve may help protect visitors and native fauna in the Nature Reserve from impacts associated with noise and lights. This buffer should consist of native endemic plant species preferably using local seed stock."

Environmental Assessment

Covenants

An extract from the subdivision plan is attached and shows the A, B, C and D areas of the lot referred to in the Section 88B Restrictions.

The relevant restrictions to the proposal, as contained on Council's file, are as follows:-

- 4.4 No development shall be constructed or carried out on any lot hereby burdened unless such development is an Approved Development and is carried out within the boundaries of the relevant Development Zone.
- 4.5 Only the following Development shall constitute an "Approved Development" and shall be permitted to be carried out within a relevant development zone as follows:-
- (a) Development Zone "A" - landscaping, driveways, mail boxes, cattle grids, entry features (not exceeding 10 metres (10m) in width) but excluding all types of fencing;
 - (b) Development Zone "B" - houses, garages, screen fences (to 1,800 millimetres (1.8m) in height), clotheslines, driveways, swimming pools, outbuildings, tennis courts, paved areas and open parking areas for equipment or vehicles;
 - (c) Development Zone "C" - landscaping, driveway, swimming pools, tennis courts, clotheslines, outbuildings visually open fencing (not exceeding 1,500 millimetres (1.5m) in height above natural ground level) paving and decks.
 - (d) Development Zone "D" - landscaping, driveway, clothes lines, screened fences (to 1,800mm), paved areas and open parking areas for equipment or vehicles, visually open fencing etc.

- 4.6 No building shall be erected on any lot hereby burdened with external walls or walls of materials other than brick, stone, concrete, glass or timber or any combination of the same PROVIDED THAT the proportion of brick and timber component of any main building shall not be less than seventy per cent (70%) thereof AND PROVIDED FURTHER THAT nothing in this Restriction shall preclude or prohibit any dwelling house having the inner framework of its external walls constructed of timber or other materials with an external brick face or veneer.
- 4.7 No building shall be erected upon any lot hereby burdened having external walls other than of new materials of the type mentioned in restriction 4.6 and any such building shall not be of prefabricated or temporary structure or a kit-type construction or which has been transported to or reassembled on such a lot.
- 4.8 No outbuilding shall be erected upon any lot hereby burdened having external walls other than new materials mentioned in Restriction 4.6 or having external walls other than of metal cladding, corrugated iron, galvanised steel sheet or aluminium sheet provided that such metal surface has a pre-finished non-reflective paint surface with all trims similarly finished.
- 4.14 Any building erected or allowed to remain on any lot hereby burdened shall not at any time be used for any purpose other than as a dwelling house with garage and outbuildings, belonging thereto and no profession, business, trade or commercial activity of any kind shall be set up or carried on in or upon any such lot, nor shall anything be done thereon which may be unlawful or which may be or may become a nuisance or annoyance to the owner or occupier or any other lot in the plan.
- 4.15 No garage or outbuildings shall be erected or permitted to remain on any lot hereby burdened unless erected after or concurrently with the erection of the main dwelling house.

None of the above restrictions have been imposed by Council.

Clause 34 of Hawkesbury Local Environmental Plan 1989, overrides the above restrictions and provides Council with a discretion to approve or refuse the application subject to the heads of consideration in the Environmental Planning and Assessment Act 1979.

Hours of Operation

The stated hours of operation are 8.00am to 10.30pm 7 days per week and are not unusual for court hiring. There could be disturbance to adjoining and opposite residents as vehicles leave the site at 10.30pm and an early finishing time could overcome this, conditioned that all lights including the clubhouse are turned off at the closing time.

Traffic and Access

The application states that the development will generate approximately one hundred and eighty vehicle trips per day based on forty five vehicle trips per court per day, (RTA figures). These figures, over 14.5 hours of operation, translate to 12.4 trips per hour or 3.1 trips per court per hour.

On the basis of four persons using each court for one hour for fourteen hours, the maximum vehicles per day would be two hundred and twenty four. This figure is probably unrealistic as it is unlikely that the four courts will be used each hour by four persons, each driving their own vehicle.

The figures given to the RTA guidelines are, therefore, likely to be close to actual number of vehicles per day.

The construction standard of Canoona Avenue and the access road of Richmond Road is considered adequate for the proposed development.

Noise

The proposal provides earth mounds on either side as to aid to reduce noise to adjoining residents. The NP & WS have requested a vegetated buffer along the nature reserve boundary to protect visitors and native fauna against noise.

No noise impact assessment has accompanied the application and it is considered that a report should be provided from an Acoustic Engineer to ensure that the location and height of the mounds will reduce noise heard by adjoining residents. The earth mounds also have to be positioned and formed to ensure that they do not pond water.

Noise will also be generated by vehicles coming to and leaving the site. The noise impact at the end of the operational time proposed (10.30pm) is likely to be the greatest and the applicant is in agreement to finishing before 10.30pm.

Parking

Parking is provided on site for twelve vehicles which conforms to Council's Parking Policy of three spaces per court. It is also considered that parking should be provided for a bus/coach as school children may use the facility for coaching and/or school sport.

Nature Reserve

The Windsor Downs Nature Reserve adjoins the site at the rear and the NP & WS have commented on the proposal. Their requirements can be incorporated in conditions of approval if consent is to be given to the proposal.

Lighting

The lighting proposed is Spectra Tennis which are residential cut-off and gives very little spillage of light beyond the boundaries of the courts. There are four poles, 6.7m high, containing a light each per court, located 6.5m from the centre net and 10.5m from the rear of the court.

No light from these types of facilities will spill onto adjoining properties or the rear nature reserve.

Drainage

There are no engineering objections to the development, however, site drainage is of some concern. While the front of the site has been filled, the rear of the site has not and is subject to waterlogging during long wet periods. It is considered the clubhouse and tennis courts should be elevated a minimum of 300mm above natural ground level.

Care will also be required with construction to ensure that natural drainage across the site, basically south to north, is not impeded.

Amenity

Provided the earth mounds proposed at the sides of the courts are of an appropriate height and correctly placed, the development should not have a significant impact on the amenity of the area.

Reducing the operating hours from 10.30pm to 9.30pm should also ensure that traffic noise will not occur late in the evening.

RECOMMENDATION:

- A. It is recommended that this application be approved subject to the following conditions:-
1. All drainage and sewerage systems servicing the site to be directed away from the Windsor Downs Nature Reserve, full details of all works and disposal plans to accompany the building application.
 2. Provision of a suitable fence along the common boundary between the subject site and the Windsor Downs Nature Reserve to ensure that public access is not available between the site and the Nature Reserve, full details to accompany the building application.
 3. Provision of a vegetated buffer 10 (ten) metres wide between the tennis courts and the Windsor Downs Nature Reserve, along the entire rear fence, to the requirements of the NSW National Parks and Wildlife Service, using native endemic plant species from local seed stock, full details to accompany the building application.

4. The clubhouse floor level and tennis courts surface to be a minimum of 300mm above the existing surface level.
5. Tennis court fencing, poles, posts and associated equipment to be of an appropriate environmental colour to the requirements of the Director of Environment and Development, full details to accompany the building application.
6. Tennis court lighting to be installed in accordance with the details submitted with the application being Spectra Tennis Ace - Residential Cut Off, full details to accompany the building application.
7. Submission of a noise attenuation report from a qualified acoustic engineer on the location, size and height of the earth mounds such that the noise levels at side boundaries from activities on the tennis courts, within and around the clubhouse and from the parking area are within EPA Guidelines.
8. Hours of operation to be restricted to 8.00am to 9.30pm 7 (seven) days per week with controls on all tennis court lights such they all turn off at 9.30pm and all other lights turn off at 9.45pm.
9. Provision being made within the parking area for a bus/coach bay with the space being a minimum of 3m (three) x 12m (twelve) and provision being made for a turning area such that any bus/coach can enter and leave the site in a forward direction.
10. Submission of a building application, plans and specifications complying with the Building Code of Australia.
11. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
12. Provision of toilets in accordance with the requirements of the Building Code of Australia.
13. 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.
14. No excavation or site works shall be commenced prior to the issue of the building permit.
15. The submission of an erosion and sedimentation control plan for approval prior to any works commencing.

16. Parking shall be provided for 12 (twelve) 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. See also Condition 9 (nine) for provision of a bus/coach bay.
17. The driveway shall be constructed of pavers/earth toned coloured concrete or the like.
18. Submission of a schedule of proposed external finishes including sample materials for consideration and approval in conjunction with the submission of a building application.
19. A detailed plan of landscaping shall be submitted and approved by the Director 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.
20. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
21. 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.
22. The spillage of light, if any, shall be controlled to the satisfaction of the Director Environment & Development.
23. The development shall be carried out in accordance with plans and details submitted with the application except where modified for the conditions of the Development Consent.
24. 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** Two Site Plans.

FN:ENB28NAX.V09

****** END OF ITEM 79 ******

ITEM: 80 RESIDENTIAL DEVELOPMENT STRATEGIES FOR LOCAL GOVERNMENTS IN THE GREATER METROPOLITAN REGION - DEPARTMENT OF URBAN AFFAIRS AND PLANNING

FILE NUMBER: GT150/003 PT3/EVD

REPORT:

Correspondence has recently been received from the Minister for Urban Affairs and Planning and Minister for Housing, Mr C Knowles, MP. The correspondence states:-

"The State Government is implementing a new approach to urban consolidation - an approach which recognises the pivotal role of local government in identifying and maximising local housing opportunities. The first step in this new approach was the amendment earlier this year of the dual occupancy titling arrangements.

My expectation now is that Councils will take the opportunity to participate in the management of our urban environment by preparing their own strategies which, while considering local issues, also make a strong contribution to meeting metropolitan planning objectives. The alternative will be the imposition of a single state environmental planning policy to ensure that the broader needs of the greater metropolitan region are met."

The Department of Urban Affairs and Planning has prepared a booklet titled "Residential Strategies" to assist Council with development and implementation of such strategies. The booklet incorporates advice in relation to strategy content, the process to be used in their preparation and suggested timing.

The "Residential Strategies" booklet explains that this new approach to urban consolidation gives Councils the opportunity to take responsibility for implementing local planning policies which contribute to metropolitan planning objectives, ie. to contain urban expansion, preserve the environment, improve transport and regenerate identified urban areas. Councils, thus may develop and implement individual residential strategies which increase the quality, diversity and quantity of residential development in their local areas. A new State Environmental Planning Policy will be gazetted to streamline the current range of planning instruments relating to residential development. Councils may, however, obtain exemption from parts of the new State Environmental Planning Policy where they can demonstrate vis-a-viz their individual residential strategies a contribution to the achievement of the wider metropolitan planning objectives.

Given the above, it is considered that Council should prepare a residential development strategy for the City. Such a strategy would formally identify the steps which Council intends to undertake in order to plan for local residential development which addresses metropolitan planning issues. Such a strategy will also enable Council to direct local planning controls to issues of specific concern in the City such as major environmental management, economic development, flooding and infrastructure provision.

Although much work has been previously done in the residential development area at Hawkesbury (Housing Policy, Housing Development Control Plans, Report into Social Impact of Duplex and Dual Occupancy Housing in Bligh Park), it is pertinent that this work be re-examined in the context of planning developments such as the revision of flood levels and the proposed Warragamba Flood Mitigation Dam Environmental Impact Statement. Planning developments such as these may have major bearing on land availability for residential development in the Hawkesbury. Preparation of a residential development strategy would thus provide an appropriate vehicle for the re-examination of this work.

In addition to re-examination of previously undertaken work, it is envisaged that the following questions would be asked and addressed within Council's residential development strategy:-

What contribution is Council already making to the various residential objectives of the Metropolitan strategy?

What market forces are at work?

What are the local housing needs? Are they being met?

What sites or precincts offer opportunities to increase density and provide greater housing choice?

Are Council's planning instruments and approval processes encouraging or preventing attainment of the objectives of the Metropolitan strategy? Do they harness market forces and utilise them effectively?

What further local opportunities exist to make changes which help to achieve the Metropolitan planning objectives?

Given the above, it is considered appropriate that a residential development strategy be prepared for the City.

RECOMMENDATION:

1. That the information be received.
2. That a residential development strategy be prepared for the City.

ATTACHMENTS:

There are no supporting documents for this report.

FN:ENB28NAX.V13

**** END OF ITEM 80 ****

ITEM: 81 HOME ACTIVITY - TUTORING, TRANSLATING, CONSULTANCY & ORGANISING THE EXPORT OF AGRICULTURAL GOODS - LOT 8 SP21885 NO. 8/5 PAGET STREET, RICHMOND

FILE NUMBER: DA208/95/EVD

Applicant: A Senn & E Sutiojon
Applicants Reps: Not Known
Owner: Mr I J Cooper
Stat. Provisions: Hawkesbury LEP 1989
Area: 93,000sqm
Zone: Residential 2(c)
Advertising: 14 days to adjoining owners, 2 submissions and additional 7 days to occupants of adjoining units in block, no submissions
Date Received: 1 September 1995

Key Issues:

, Submissions Received
, Parking
, Noise
, Amenity

Action:

Refusal

REPORT:

Proposal

The application is to establish a home activity for the purpose of tutoring, translating, consultancy and organising the export of agricultural goods on the above site at Richmond.

Statutory Situation

The proposal can be defined as a "home activity" and is permissible with development consent contained under the provisions of Hawkesbury LEP 1989.

Community Response

The application was advertised to adjoining owners for fourteen days and two submissions were received. The application was further advertised to occupants residing in the subject units for a period of seven days, no submissions were received.

A summary of concerns by residents in the submissions are:-

- noise generated by clients, offensive;
- concern relating to parking facilities;
- type of development in relation to high density living;
- residents disturbed by students, children that are not restrained;
- concern that the activity is non-residential;
- additional traffic movements in and out of the unit after hours; and
- not an appropriate location to be carrying out a tutoring, translation and import/export services.

Environmental Assessment

The subject property has a frontage to Paget Street, Richmond. Located on the property is a unit block containing eight units which share a common stairwell. Undercover car parking is provided at the back of the site (one space per unit). The surrounding area including this property has a residential character.

There will be no employees and the proposed hours of operation are 6.00pm to 9.00pm weekdays and 9.00am to 5.00pm on weekends.

The following is a description of each proposed activity:-

Tutoring - the applicant wishes to tutor overseas students studying at the University of Western Sydney - Hawkesbury. The maximum number of students will be ten to fifteen per week and no more than two at a time will visit the premises.

Translating - the applicant proposes to operate a translation service which would involve translating documents written in English into Indonesian. The activity would be conducted mainly via the telephone and postal service. Occasionally, a client may visit the premises to clarify documentation.

Consultancy - the applicant proposes to do consultancy work in the area of agriculture. The applicant will work out of normal business hours. The activity will involve written correspondence, telephone calls and visits mainly to the client's property.

Organising the Export of Agricultural Goods - the applicant proposes to organise agricultural goods to be exported out of Australia to Indonesia. The export of goods will be conducted via the telephone and the facsimile machine. The applicant will not store any of the agricultural material on-site.

Parking

No parking provision has been made for clients or visitors to the site. There are a number of units and dwellings located in Paget Street and currently, a number of vehicles park in the street. The Hawkesbury District Reformed Church is located almost opposite the subject site. The church has the ability to generate a large amount of on-street parking, particularly on weekends. There would be a lack of on-street parking for students proposing to visit the site on weekends. Students may have to park in Francis Street or Windsor Street and walk to the unit. It is considered that on weekdays on-street parking would be available. No provision has been made for students to store bicycles if they ride to the unit.

Noise

Additional noise will be generated by the proposal to operate tutoring within the unit. Not only would this noise be coming from Unit 8, clients gaining access to the unit via the common stairwell would increase both noise and traffic in this area. Occupants in the other seven units will be affected by the intrusion.

Amenity

The subject site can be described as high density in character. The application proposes a number of activities for Unit 8. The development will have an overall impact on the adjoining occupants in the units and the neighbouring properties. This is due to the design of the unit block, no provision for parking and an increase in noise and traffic in the unit block.

Conclusion

It is considered that the majority of the activities proposed would not have an adverse affect on the adjoining owners and the amenity of the area, ie. translating, consultancy and organising the export of agricultural goods.

However, there is a concern that the unit is unsuitable for the tutoring of students, as there is no provision for parking and there would be an increase in noise emanating from the stairwell and Unit 8. These concerns warrant refusal of the application, due to the affects upon adjoining owners.

RECOMMENDATION:

That the application be refused on the following grounds:-

1. The proposal is not in the public interest.
2. The proposed development will adversely affect the existing and future amenity of the area.
3. No provision has been made for car parking.

4. The proposal will generate excessive noise and pedestrian traffic within the unit's stairwell.

ATTACHMENTS:

AT-1 Site Plan.

FN:ENB28NAX.V14

****** END OF ITEM 81 ******

ITEM: 82 TRUCK DEPOT - PARKING OF THREE FURNITURE TRUCKS ON AN OVERNIGHT BASIS - PT POR 451 PARISH WILBERFORCE BURGESS ROAD, FREEMANS REACH

FILE NUMBER: DA220/95/EVD

Applicant: Hawkesbury Valley Removals Pty Ltd
Applicants Reps: Not Known
Owner: Mr P & Mrs L Tyszyk
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 1.634ha
Zone: 7(d1) Environmental Protection (Scenic)
Advertising: Adjoining owners notified with 2 submissions received
Date Received: 15 September 1995

Key Issues:

, Dust Problems
, Traffic
, Amenity
, Submissions

Action:

Conditional Approval

REPORT:

Proposal

The applicant proposes to use the gravel parking area at the front of the existing rural shed to park three trucks. According to the information provided, the trucks will be parked on an overnight basis and are used during the day for furniture removals.

The proposed office will be located in one end of the shed. The applicant employs six staff.

Statutory Situation

The proposal may be defined as a "truck depot", being permissible with consent, under the provisions contained in Hawkesbury Local Environmental Plan 1989.

Community Response

The application was advertised to adjoining owners for fourteen days and two submissions were received.

A summary of concerns by residents in the submissions are:-

- proposal is not consistent with this zoning;
- commercial development would destroy scenic value and rural atmosphere of our neighbourhood;
- increase in local traffic;
- large trucks have already environmentally degraded the area by creating an unacceptable dust problem;
- we do not want the road sealed;
- trucks from the commercial operation have increased the accident risk on the road;
- the operation has gradually grown in size over the past two years from one truck to four plus;
- approval of any commercial operation in Burgess Road is not consistent with the intent of present zoning regulations and would ultimately lead to decreasing property values and lowering environmental and living standards in the area;
- causing damage to the existing inadequate pavement;
- development generating more traffic in Hibberts Lane to be detrimental to the safety of the children using Hibberts Lane especially during the times that buses are dropping or picking up children and congestion in the road is quite substantial; and
- not in keeping with the amenity of the area.

Environmental Assessment

The reason why this application was submitted to Council was due to a complaint being received. An investigation was undertaken and as a result, a development application has been lodged to continue operation of the business.

The subject property has a frontage to Burgess Road and is of regular shape. The area of the property is 1.634ha.

Existing structures on the site consist of a dwelling and a large rural shed. The shed received Council approval on 19 January 1995. The shed will be utilised to maintain the trucks. According to the development application, hand tools and a compressor will be stored in the shed. There is a parking area at the front of the shed which is adequate to part three trucks. To gain access to this parking area, a gravel driveway leads from Burgess Road to the shed.

Dust Concerns

Burgess Road is basically a narrow lane, with trees very close to the edge of the road. The road is in good condition, but unsealed. It is considered that dust may be produced from vehicles travelling on the road. The Director of Asset Services and Recreation has indicated that the applicant requested Council to seal the road as the furniture trucks were collecting dust from travelling along Burgess Road. It has been estimated that the approximate cost to seal Burgess Road is in the vicinity of \$54,000. It should be noted that according to the applicant the trucks would leave in the morning and return late noon to evening. It is, therefore, considered that the dust affecting neighbouring properties would be limited.

Traffic

It is considered that the additional traffic movements caused by three trucks will not adversely affect the "rural atmosphere" or endanger children in the street.

Amenity

The development will not adversely affect the amenity of the area.

Conclusion

The development is a permissible use within the zoning. It is considered that the development will have a limited overall impact on the area.

RECOMMENDATION:

That the application be approved subject to the following conditions:-

1. The development shall be carried out in accordance with plan submitted with development application on 15 September 1995.
2. No advertising structures to be erected, displayed or affixed on any building or land without prior approval. Any unauthorised advertising structure will be removed at the expense of the advertiser.
3. Landscaping is to be provided at the front of the property to screen the shed and the parking area.
4. No signs shall be displayed on the footpaths, pedestrianways, roadways or in the vicinity.
5. The subject land is to be made tidy to the satisfaction of the Divisional Manager Environment & Development.

6. 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.
7. The subject development, including landscaping, is to be maintained in a clean and tidy manner to the satisfaction of the Divisional Manager Environment & Development at all times and any direction given in this regard is to be complied with forthwith.
8. Operating hours shall be limited to 7.00am to 6.00pm Mondays to Saturdays. Any alteration of these hours will require the approval of the Director Environment and Development.
9. A waste management plan shall be submitted for consideration. Such plan shall address any waste generated during day to day operations and shall include types and quantities, recycling, reuse, storage and disposal.
10. Oil and other used lubricants shall be collected and stored for the purpose of recycling. Full details shall be submitted and approved within 1 (one) month from the date of this consent.
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 and approved within 1 (one) month from the date of this consent.
12. The number of trucks operating from this depot shall not exceed 3 (three).
13. Truck noise is to be kept to a minimum while entering and leaving the premises and is not to affect the neighbourhood.
14. There is to be no storage of furniture on the premises.
15. The full construction of a sealed road pavement from Hibberts Lane to the entrance to the site. The pavement is to follow the alignment and width of the existing gravel pavement. No trees are to be removed.
16. Construction of road and drainage or sewer 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 Director Asset Services and Recreation.
17. A design checking and inspection fee of \$470 (four hundred and seventy dollars) must be paid when submitting engineering plans for approval prior to construction. This amount is valid until 30 June 1996.
18. The construction of a sealed rural type vehicular footway crossing, including the road shoulder and the table drain to suit the access to the development.
19. The extension of the existing gravel pavement to contain the proposed truck parking.

20. No trucks to be parked on the site except within the designated car park.

ATTACHMENTS:

AT-1 Site Plan.

FN:ENB28NAX.V15

****** END OF ITEM 82 ******

ITEM: 83 TREE CLEARING PROPOSAL FOR A MARKET GARDEN - LOT 12
DP588380 NO. 133 TERRACE ROAD, NORTH RICHMOND

FILE NUMBER: DA0155/95PT01; P2003/95PT01/EVD

Applicant: Mr E Micallef
Applicants Reps: Mr W Wilson
Owner: Mr E & Mrs C Micallef
Stat. Provisions: Hawkesbury Local Environmental Plan 1989
Area: 13.88ha
Zone: Rural 1(b)
Advertising: A development application for landfill, excavation of a dam and removal of trees was notified to adjoining owners with 7 objections being received
Date Received: Development application lodged on 5 July 1995, an application under the Tree Preservation Order was lodged on 5 April 1995 with an amended tree clearing application (the subject application) being lodged on 13 October 1995

Key Issues:

- , Sediment Control
- , Amenity
- , Suitability of Land for Market Gardening

Action:

Refusal

REPORT:

This matter has been deferred from Council's Ordinary meeting of 14 November 1995 to enable a site inspection to take place.

In April 1995, the applicant lodged an application under Council's Tree Preservation Order for the clearing of all of the land for the purpose of a market garden. Following discussions with Council's staff the applicant was advised to submit a development application for proposed landfill and dam construction. This development application was then lodged on 5 July 1995, but was subsequently withdrawn on 11 September 1995. The applicant now seeks determination of an amended Tree Clearing Application involving approximately 5ha of the land.

The applicant's request is as follows:-

"Further to our discussions with the Mayor and your Town Planner and my representative, Warren Wilson, an amended plan of the proposal is now submitted for submission to Council on Tuesday 31 October 1995. The land is 10-13% slope and has been ploughed with crops planted with irrigation from the creek running through the property and a small dam.

It is proposed to remove all trees over an area of about 5ha to the west of a newly erected fence line running from the top of the knoll to the rear of the proposed dam as shown on the attached plan, with the exception of those trees about 17 in number above the 42m contour drain, and those trees along the watercourse. It is further requested that consent be given to remove all trees which are dead, dying or dangerous over the site as maybe determined by your officer Mr C Hamilton.

Tree planting has already commenced along the boundary and others are to be planted to afford privacy and wind breaks."

The reduced area which is proposed to be cleared contains scattered mature shade trees reflecting its previous use grazing. There is no understorey vegetation.

Statutory Situation

The land is zoned Rural 1(b) and agriculture, including market gardening, is a permissible use without Council consent.

Whilst not part of the Tree Preservation application, the amended plan indicates a proposed dam with a capacity of 7 megalitres and also proposed filling across a gully between the access handle and the main body of the lot. It is understood that the fill would be obtained from the dam excavation and there would be no fill imported to the site.

The proposed dam and filling with surplus material from the dam are not considered to require development consent under Hawkesbury Local Environmental Plan 1989 or the Environmental Planning and Assessment Act.

From discussions with the applicant's representative, Mr Wilson and from the Tree Preservation application itself, it is unclear whether the owner intends to restrict cultivation to the 5ha proposed to be cleared. Mr Wilson has advised that the owner would likely intend to conduct a market garden over the whole of the land including the steeper section between the post and wire fence and the access handle.

The application demonstrates the need for changes to be made to Hawkesbury Local Environmental Plan 1989, to remove the potential conflict between agriculture being permissible without development consent and tree clearing requiring consent. Similar conflicts over the proposed construction of dams also exist whereby the dam itself may not require development consent but the clearing of trees in the water storage does require approval.

Community Response

The original development application was advised to adjoining owners and 7 objections were received. The following comments were made:-

can Council guarantee that chemicals/spray will not enter the water table and that the removal of trees will not increase the salinity level;

removal of all trees on the hills will cause massive erosion;

pesticides will cause concerns to dairy and beef cattle;

capability of dam to withstand flood waters;

existing trees provide a wind break for houses built along the ridges;

pesticides washing down into the creek during heavy rains;

existing trees cannot be replaced in our lifetime;

concerns about pesticides spraying and fertiliser applications drifting onto other property;

fertiliser residue will run into Redbank Creek;

where are they going to get the water from when there is no rain?;

lack of topsoil on land; and

increased traffic.

Public Authority Response

The original development application was referred to the Hawkesbury Nepean Catchment Management Trust, NSW Agriculture and the Department of Land and Water Conservation for comment.

The Hawkesbury Nepean Catchment Management Trust raised a number of concerns with the development application, including the disruption of a corridor of riparian vegetation, the potential for nutrients from fertilisers to enter Redbank Creek and the amount of material to be excavated for the proposed dam.

NSW Agriculture has advised as follows:-

"The proposal is to construct a dam, together with filling and clearing for the cultivation of vegetables.

A departmental officer visited the property and found that it is hilly, with slopes of approximately 8-20%, with an average of about 15%. The Department would not normally expect land with slopes greater than 7-10% to be cultivated.

There are many minor gullies in the area proposed for cultivation and it would be necessary to level them. However, this would be likely to expose large areas of poor sub-soil.

The proposed dam is smaller than would be expected for a vegetable growing enterprise. The Department estimates that it could support little more than 3ha of crop with overhead irrigation.

The Department must, therefore, conclude that this site does not appear suitable for the growing of vegetables."

The Department of Land and Water Conservation has provided a number of comments in relation to soil conservation, and in particular batter slopes, spillway design and erosion and sediment control.

Environmental Assessment

The amended application for tree clearing is a substantial improvement upon the previous applications which have been submitted, including the development application which has been subject to comment by residents and public authorities. However, the slope of the land proposed to be cleared and used as a market garden still exceeds 10% and as stated generally is within the range 10-13%. This slope exceeds the upper limit of 7-10% considered by NSW Agriculture to be reasonable for cultivation.

Not surprisingly on agricultural capability mapping, more than 80% of the land is Class 4 (four) agricultural land. This land is considered unsuitable for cultivation because of environmental constraints (slope).

The application is also affected Council's resolution of 8 August 1995, which imposes a moratorium on the clearing of native vegetation for new intensive horticultural developments until such time as areas have been defined and set aside for agricultural/horticultural activities within the Hawkesbury boundaries.

A recent inspection of the land revealed that there had been some cultivation in the western paddock. The furrows ran across the spur with significant potential for erosion during heavy rainfall. There were no sediment controls in place.

At a meeting with the applicant's representative on 10 October 1995, he was advised that the amended Tree Preservation Order application, the subject of this report, was far preferable to that previously proposed. No advice was provided in relation to the acceptability or otherwise of this amended application given Council's moratorium. Concern was expressed that the expert authority on agriculture, NSW Agriculture, did not consider the site suitable for cultivation.

Whilst the amended TPO application is preferable to applications previously submitted, given Council's moratorium and advice from NSW Agriculture concerning the agricultural capability of the land, the amended TPO application should be refused.

RECOMMENDATION:

That the application to remove all trees over an area of about 5ha (five) as shown on the plan prepared by W D & B L Wilson and dated 10 October 1995, be refused for the following reasons:-

1. The land is unsuitable for cultivation.
2. The application is contrary to a moratorium on the clearing of native vegetation for new intensive horticultural developments.

ATTACHMENTS:

AT-1 Site plan

FN:ENB28NAX.V18

****** END OF ITEM 83 ******

ITEM: 84 CLEARING OF LAND FOR RABBIT AND FIRE CONTROL - LOT 12
DP846650 TIZZANA ROAD, EBENEZER

FILE NUMBER: DA0115/95 PT01/GMA

REPORT:

Council, at its Ordinary Meeting on 14 November 1995, considered a proposal by Mr D Tolson to undertake understorey clearing on the above land, which was permissible with the Council's consent.

The Council resolved to refuse the application for the following reasons:-

- "1. *The agricultural land capability does not warrant clearing and pasture improvement*
2. *The stated problems of rabbit and fire control do not warrant the clearing of the land."*

Following the meeting the applicant indicated he intended to pursue the matter. As the Council's grounds for refusal were based on agricultural usage and the need to undertake the works, it was agreed that the matter would be referred to the Department of Agriculture and depending on their response, the matter further reported to Council.

The following is the full text of the letter from the Department of Agriculture:

"I refer to your letter of the 16th October, 1995, which sought the opinion of NSW Agriculture on a proposal to clear this land.

As a result of your enquiry, a departmental officer inspected the property and found that it may be considered as two parts: a flat area near Tizzana Road and an escarpment, near the Hawkesbury River.

The flat area has been cleared at some time in the past. Some large ironbarks have persisted but the remainder of the vegetation is regrowth. This area supports narrow leaf iron bark, coast myall, tea tree, whisky grass and African Lovegrass.

From an agricultural perspective, the coast myall present the greatest problem. This poisonous plant is growing to about three metres tall and is shading the ground so that native grasses cannot grow beneath it.

The native grasses are found in the cleared areas; they are mainly lovegrasses with some Microlaena. The Department concludes that pastures would grow well in this area following selective clearing.

On the escarpment, the soil is much deeper than the flat area. As a result, native grasses and introduced grasses would grow with some selective clearing. The tree cover is mainly Eucalyptus teriticornis and Turpentine.

Red-yellow Lantana, the poisonous form, is also growing in this area together with blackthorn and prickly pear. These plants should be vigorously controlled. Prickly pear must be destroyed under the Prickly Pear Act, 1987.

The Department has noted the comments on rabbit control which accompanied the application. Council should be aware that although a baiting program will reduce the immediate rabbit population, it is essential to remove rabbit 'harbour', such as lantana and blackthorn, if their numbers are to be controlled in the long term.

In its present unimproved state, the property could run 2-3 breeding cows. Strategic clearing and pasture improvement would increase this to 12-13 breeding cows. However, it would not be possible to run any cattle on the property while the coast myall and red-yellow lantana are still present.

The Department can provide the applicant with detailed advice on the most appropriate approach to clearing and pasture establishment on this property. For example, on the escarpment, the volunteer weeds of lantana, blackthorn and Prickly Pear should first be cleared mechanically by a tracked vehicle, a mixture of pasture species sown to encourage ground cover and regeneration prevented by herbicide program. The large E. teriticornis, Turpentine trees and other Eucalypts in this area should not be destroyed.

A herd of 12 commercial cattle provide a gross value of production of approximately \$5,500 per year. A similar herd of stud cattle, such as the Poll Hereford cattle proposed by the applicant, may return 2-3 times that figure. The Department considers this to be a significant level of production for the district. If the measures described above were undertaken, this level of production could be sustained without adverse environmental impact while at the same time reducing the present hazards of erosion, vertebrate pests and weeds.

Thank you for the opportunity to comment on this development proposal."

RECOMMENDATION:

THAT the proposal to undertake understorey clearing works be approved subject to:

1. The submission of a management plan prepared in conjunction with the Department of Agriculture that is to include:-
 - a. erosion and sediment control;

- b. works being undertaken so as not to interfere with the amenity of the neighbourhood in respect of noise, vibration, smell, dust, waste water, waste products or otherwise;
- c. indication of the areas to be cleared and method of clearing;
- d. no trees or understorey being removed within six metres of the side boundaries;
- e. retention of all significant shade trees;
- f. payment of a bond in accordance with the Council Policy at the rate of \$1000 per hectare for each hectare to be cleared with an inspection fee of \$60 (sixty dollars).

ATTACHMENTS:

There are no supporting documents for this report.

FN:ENB28NBX.G19

****** END OF ITEM 84 ******

ITEM: 85 TREE REMOVAL APPLICATION - LOT 1 DP743221 NO. 119
SHEPHERDS ROAD, GLOSSODIA - APPLICANT: MR & MRS P
MIFSUD

FILE NUMBER: P1904/100/EVD

REPORT:

The applicant has applied to remove fourteen trees of Eucalyptus variety for the purpose of enlarging the useable space presently under cultivation. The property is zoned Rural 1(b), 13.470ha in area and above the Floor Height Standard.

The property fronts Shepherds Road and has a natural fall in gradient towards the rear. There is a small natural water course traversing the property and this links up with Currency Creek on the northern boundary of the property. Full benefit is obtained from sunlight as the property faces east with no hindrance from trees along the front boundary. There is a small dam located in the water course and this is used for irrigation purposes. The site also benefits from town water supply.

The applicant wishes to remove fourteen trees to allow for the expansion of the useable area towards the front of the property. This area covers a distance of 377.73m and apart from the driveway has been cultivated for market garden purposes. The area to the rear of the small natural water course is cleared of vegetation, however, there is no market garden activity in this area.

The applicant advises that the cleared area to the rear of the property is unsuitable for cultivation at this stage as the slope of the land directs water away from the property and in order to irrigate this area, new pumps would be required and irrigation lines installed.

The proposal has been advertised with no submissions received.

As the property has already been substantially cleared by previous owners it is considered that the removal of the fourteen trees would not have an adverse effect on the site as the area would be fully utilised with crop production and it is not considered to be covered by the moratorium as set by Council at its meeting of 8 August 1995, as this site is already under use as a market garden and, therefore, could not be considered as a new intensive horticultural development.

RECOMMENDATION:

That the application for tree removal be approved subject to:-

1. The retention of all trees and vegetation along the length of the small natural water course to a width of 15 (fifteen) metres of either side of its banks as a means of providing a natural barrier for the containment of sedimentation produced when the soil is disturbed.

GENERAL PURPOSE COMMITTEE - ENVIRONMENT

Meeting Date: **28 November 1995**

Item: **85**

2. The substitute planting of 28 (twenty eight) super advanced trees along the rear boundary of the property. These trees to be native to the area.
3. Payment of a bond of \$1,000 (one thousand dollars) to be refunded on satisfactory completion of conditions.

ATTACHMENTS:

AT-1 Locality sketch and photographs.

FN:ENB28NBX.V02

****** END OF ITEM 85 ******

ITEM: 86 TREE REMOVAL AGRICULTURE - LOT 6 DP239897 NO. 153
COMMERCIAL ROAD, VINEYARD - APPLICANT: MR J SULTANA

FILE NUMBER: P361/590/EVD

REPORT:

This matter has been deferred from Council's Ordinary meeting of 14 November 1995, to enable a site inspection to take place.

The applicant has applied for the removal of seven trees for the purpose of agriculture, the property is zoned Rural 1(c) and has a total area of 2.024ha, town water is available.

The applicant wishes to remove seven trees to allow for a market garden, these trees being close to the centre area of the property, a further fifteen trees are to remain. The property, with the exception of the abovementioned trees, is devoid of any other foliage cover.

The applicant has been spoken to on-site and has agreed to the retention of fifteen mature trees. The planting of a screen of suitable small trees to the Commercial Road frontage and retention of a grass area twenty metres wide either side of the natural drainage channel which traverses the property from east to west. The retention of this grass area will act as a natural silt trap and buffer zone against fertiliser drift into the natural water course.

The proposal has been advertised and two submissions have been received objecting to the proposal with three submissions giving support, subject to conditions as indicated above.

As the property is already substantially cleared with only shade trees remaining and given that only seven trees are proposed to be felled, the proposed clearing is relatively minor and may not be contrary to the spirit of the moratorium on clearing. However, as resolved by the Council at its meeting on 8 August 1995, the moratorium provides as follows:-

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

The proposed clearing, even though for only seven trees, is for the purpose of a new intensive horticultural development.

Notwithstanding the moratorium it is recommended that the application be approved subject to appropriate conditions.

RECOMMENDATION:

That the application for tree removal be approved subject to:-

1. The retention of 15 (fifteen) trees as specified
2. The retention of a grass area 20 (twenty) metres wide either side of the natural water course traversing the property as a natural barrier against siltation.
3. The planting of suitable screen trees to the Commercial Road frontage as a vegetative screen to the property. These trees to be of an advanced size when planted.
4. Payment of a bond of \$1,000 (one thousand dollars) to be refunded on satisfactory completion of the conditions.

ATTACHMENTS:

AT-1 Locality Sketch

FN:ENB28NBX.V04

****** END OF ITEM 86 ******

ITEM: 87 **OUR CITY OUR FUTURE - RECOMMENDATION NO. 1 RURAL LANDS STUDY****FILE NUMBER:** GT225/013 PT02/EVD**REPORT:**

At a Special Meeting on 7 November 1995, for the Our City Our Future Strategy, Council resolved to:-

"A. *Undertake an overall Regional Land Study that encompasses all land uses including agricultural, industrial and urban lands and commercial and that this study should commence at once. A rural lands study be undertaken to form the basis of implementation of the recommendations in the "Our City Our Future" report. The brief is to be prepared taking into account the Hawkesbury Local Economic Development Board's brief for their study and existing briefs used by other councils for similar projects.*

A fundamental aspect of the brief will be the identification of a zone or zones to locate agricultural activities which cannot be readily located in existing rural zones. Such zones could be termed "Agriculture Buffer (1(b1))" zones.

The study is to be completed no later than September 1996, with the aim of reviewing Council's zoning system in late 1996/97."

The Rural Lands Study will be the first component of the resolution to be undertaken. A Steering Committee should be established to oversee and monitor the Study and will consist of 10-12 members. Due to the nature of the Study, it is recommended that a balanced representative committee is established, representing the widest possible interests so that the various issues are debated without bias.

It is suggested the Committee comprise the following:-

- a representative from local agriculture/horticulture interests;
- a representative from the North Western Sydney Regional Development Organisation;
- a representative from local resident interests;
- a representative from the Hawkesbury Nepean Catchment Management Trust;
- a representative from the Department of Urban Affairs and Planning;
- a representative from Land and Water Conservation;
- a representative from NSW Agriculture;

a representative from the Environment Protection Agency;

a representative from National Parks and Wildlife Service;

Councillors (3); and

Council officers from the Division of Environment and Development would also service the Steering Committee.

The Steering Committee will be responsible for directing, reviewing and commenting upon the brief and the Rural Lands Study proper.

Furthermore, at various stages of the Rural Lands Study it may be necessary to call upon representatives from other areas to provide specialised information if agreed to by the Steering Committee.

Study Brief

At the first meeting of the Steering Committee a draft study brief will be discussed as well as funding options. An endeavour is being made to convene the first meeting before the end of the year.

RECOMMENDATION:

That:-

1. The information be received.
2. Council nominate 3 (three) Councillors to form part of the Steering Committee for the Rural Lands Study.

ATTACHMENTS:

There are no supporting documents for this report.

FN:ENB28NBX.V06

****** END OF ITEM 87 ******

ITEM: 88 FLOODPLAIN PLANNING**FILE NUMBER:** GC180/006PT02/EVD

REPORT:**BACKGROUND**

The majority of the population of the City of Hawkesbury is located on the Hawkesbury Nepean floodplain (Windsor) and adjoining tertiary terraces (Richmond, McGraths Hill, Bligh Park and Windsor Downs). All of these areas have potential for flooding. As at June 1992 there were 9,000 dwellings (27,000 people) in the City of Hawkesbury potentially flood liable. In addition there are approximately 1,300 commercial and industrial properties which are potentially flood liable. It is not widely appreciated that Richmond and Hobartville as well as RAAF Richmond, a major staging point in any emergency, are all inundated in a large flood event.

Whilst the flood risk in the area has been well documented since the commencement of European settlement, the potential threat has until recently been understated. As part of the dam safety investigations for Warragamba Dam it has been determined by Australian and overseas experts that the previous estimated 1 in 100 flood (ie a 1% chance of occurrence in any year), is significantly higher than that previously estimated. The 1 in 100 flood is now estimated at 17.3m above sea level in Windsor compared to the adopted floor height standard (and previously estimated 1 in 100 flood) of 16m.

These forecasts do not take into account any possible greenhouse implications such as increased sea levels or, of more significance, a change in weather patterns leading to more severe extremes, including rainfall depressions.

Given the flood problems experienced in the Hawkesbury, both Windsor Council and Hawkesbury City Council have been reasonably proactive in controlling development in flood liable areas. Until the mid 1980s there was a statewide definition of flood prone land as being areas inundated by a 1 in 100 chance per year flood. This State policy reinforced the previous Council policies. In 1986 the policy was changed to allow a merits based assessment of the development and the known behaviour of floods in the area.

The significance of the revised 1 in 100 flood is that there are now large numbers of dwellings constructed on or close to 16m which now has an estimated flood risk of around 1 in 60 or close to 2% in any one year.

In maintaining a floor height standard below the 1 in 100 year standard, Hawkesbury City Council now has a significantly less strict planning standard than the other adjoining Councils most affected by flooding from the Hawkesbury-Nepean. Both Penrith and Blacktown Councils require floor levels to be at least 500mm above the 1 in 100 year standard. If this standard was to apply in the City of Hawkesbury, the floor level requirement in Windsor would be 17.8m which is 1.8m higher than the standard currently applied.

Arguably the floor height standard for development in the City of Hawkesbury should even exceed that applying in Penrith and Blacktown local government areas. Because of the well publicised "bath tub" effect, there is generally a greater variation in between the 1 in 100 flood, the highest known flood level and the PMF (probable maximum flood) in Hawkesbury than in either Blacktown or Penrith. The "bath tub" effect is a reference to the nature of flooding in the Hawkesbury as gorge country downstream of Windsor restricts the escape of floodwaters, acting as a bath plug. Floodwaters enter the floodplain around Windsor faster than they can escape. At Penrith there is a difference of 2 metres between the 1 in 50 year flood and the 1 in 200 year flood, whilst in Windsor the difference is 3 metres. Secondly, the floodplain in the City of Hawkesbury is wider and evacuation routes can be cut by flooding at relatively low levels requiring earlier and more rapid evacuation.

ALTERNATIVE STRATEGIES

The alternative strategies or options relevant to the flooding problems of the Hawkesbury Nepean are summarised in the following table. They are drawn from a floodplain planning policy discussion paper prepared for Council by Patterson Britton & Partners as well as the Environmental Impact Statement (EIS) for the proposed Warragamba Flood Mitigation Dam. They can be separated into structural and non-structural categories and the preferred option or mix of options needs to be evaluated against a list of considerations.

Alternative Flood Mitigation Strategies

STRUCTURAL OPTIONS	NON STRUCTURAL OPTIONS
Do nothing	Do nothing
Levees	Evacuation planning and general flood awareness
Flood proofing buildings	Property purchase
Drainage improvements such as channel dredging and straightening	Flood insurance
Flood mitigation dams or storage on one or more of the rivers draining into the valley	Floodplain planning to reduce development on the floodplain
A combination of the above	A combination of the above

Relevant Considerations for Assessing Flood Mitigation Strategies

Environmental

- . Physical nature of flooding, eg water levels, velocities, rates of rise, duration
- . The ecosystem, eg flora, fauna and habitats
- . River geomorphology, eg bank erosion and channel changes
- . Land use: natural, agricultural, residential, commercial and industrial

Social

- . Intangible damages, eg personal safety, health, trauma, personal effects, pets
- . Community resources in awareness of, handling of, and recovery from flooding

Economic

- . Tangible damages: real property, goods
- . Investment in residential, commercial and industrial property
- . Insurance of real property
- . Investment in infrastructure

Legal

- . Council's duty of care

The EIS for the proposed Warragamba Flood Mitigation Dam proposed alternative considerations, more general in nature being:-

Effectiveness

- . Effectiveness in mitigating flood damages

Practicality

- . Technical impediments to implementation

Environmental Impacts

- . The impacts of a strategy on the biophysical and socio economic environments

Cost

- . Life cycle costs to demonstrate the economic cost to the community

In determining the most appropriate mitigation option, implicit in the heads of consideration suggested by Patterson Britton & Partners is that there will be trade-offs, for example between development and risk of damage, with this risk to be accepted by the community. Whilst the acceptance of a level of risk may be shown to be economically advantageous, main stream flooding has a number of characteristics which make it difficult to achieve risk acceptance in the community.

In Australia main stream flooding, unlike other natural disasters such as bushfire and cyclone damage, is not covered by regular building and contents insurance. Therefore the potential losses (both tangible and intangible) to an average person can be enormous, particularly when flooding is rare or not anticipated. The 1% or even the 2% risk of flooding in any one year is such that it tends to be discounted by property owners as a risk, or if it is contemplated then it may be ignored after a relatively short period.

EVALUATION OF ALTERNATIVE STRATEGIES**Do nothing**

The EIS for the proposed Warragamba Flood Mitigation Dam provides statistics on the economic and social cost of "do nothing" strategies.

It was estimated that a repeat of the 1867 flood would submerge the homes of 25,000 people and cause over \$1,850 million worth of damage. A 1 in 100 year flood event will submerge the homes of 15,000 people and cause \$770 million worth of damage.

There are also environmental disadvantages with a "do nothing" option including the discharge of raw sewerage as a result of inundation of pumping stations and treatment plants and potential loss of remnant vegetation.

Council also has a "duty of care" in common law to ensure its floodplain planning policies are reasonable. Following the devastating flood in Nyngan in April 1990 there was an action in negligence against the Council by residents of the town.

The "do nothing" option was considered in detail in the preparation of the proposed Warragamba Dam flood mitigation EIS. In fact Sydney Water had initially proposed to raise the Dam wall by 5 metres as an interim measure and construct an auxiliary spillway. The wall was raised by 5 metres in 1989 but during detailed environmental investigations for the spillway it was recognised that flood mitigation needed to be addressed quite apart from dam safety.

It is difficult to substantiate this option for either new development or existing development on the floodplain. The potential economic and social cost is such that a major flood in the valley would be Australia's largest natural disaster, with the City of Hawkesbury being the most affected.

Evacuation Planning and General Flood Awareness

The SES have recently provided a series of public meetings on flood awareness and evacuation procedures for the communities potentially affected by flooding. Good publicity has also been provided by the local media and in particular the Hawkesbury Gazette.

As a non structural option, evacuation planning and flood awareness will only have a relatively small benefit in terms of tangible losses but are important in reducing intangible losses in a large flood event, particularly the risk of fatalities.

Proposals for higher level access would increase the time available for evacuation in some localities and hence allow some reduction in intangible losses. However such work will have little impact on property damage.

Property Purchase

This option was considered in the Warragamba Flood Mitigation Dam EIS and the following extract from the EIS summarises its limitations.

"It would be possible to reduce property damage and risk to lives by relocating existing urban development to non flood-affected land. This might be achieved by the government purchasing flood-affected properties."

If all residential, commercial and industrial development were removed from the floodplain, 56,000 people and 3,500 businesses would have to relocate. Alternatively, development below the level of the 1867 flood could be relocated, involving more than 25,000 people. An auxiliary spillway would nevertheless be needed to make the dam safe...

The greatest limitation in implementing such an option would be people's unwillingness to relocate. If it proceeded there would be large scale socio-economic impacts...

If the Government paid as little as \$100,000 dollars for each property in the floodplain, the strategy would exceed \$2 billion excluding any costs to replace infrastructure and community facilities. Purchasing only those below the 1867 flood level would cost about \$800 million on the same basis. An additional \$90 million would be required to build the spillway in either case."

Flood Insurance

Traditionally insurance companies have not provided insurance for mainstream flooding because not only is the potential for damage and therefore premiums high but also it is difficult to achieve a sufficient spread of risk. The probability of high claims and high premiums means that many people would be unwilling or unable to pay the premiums.

As insurance simply spreads the risk, on the basis of the EIS estimate of tangible flood damages of \$24 million per annum, this would need to be put aside each year by the community in addition to the \$90 million to build a spillway.

Of course insurance would only reduce the financial impacts of flooding and would do nothing to reduce property damage, trauma, loss of life or environmental damage.

Floodplain Planning to Reduce Development on the Floodplain

This is an important non structural option but is only relevant to new development and not existing development. It does nothing for the 9,000 dwellings and 27,000 people already potentially affected by flooding nor would it protect the remnant natural ecosystems.

Whilst the City of Hawkesbury is currently experiencing limitations in the infrastructure available to flood free land west of the Hawkesbury River, there is ample land available to avoid further development on the floodplain.

In the short term consideration also needs to be given to the appropriateness of the floor height standard of 16 metres (in Windsor) which now has a good chance of being exceeded at least once in the lifetime of the current population. Council's medium density housing policy should also be reassessed for areas potentially affected by flooding.

Levees

Unlike other river valleys where there can often be only a small difference between the a 1 in 25 year flood and the PMF (probable maximum flood) there is a tremendous range between the 1 in 25 year flood and the PMF at Windsor.

The difference in Windsor is 14.9 metres. This range makes levees inherently unsuitable as a flood mitigation option. Nonetheless the use of levees was investigated in some detail in the Warragamba flood mitigation dam EIS.

According to the EIS, levees up to 15 metres high and 100 metres wide at their base would be required to keep a flood the size of the 1867 event away from towns. These levees would cost \$175 million dollars and a further \$90 million would be needed to make Warragamba Dam safe. There would be additional costs for land acquisition, roadworks to give access over the levees, and pumping stations and outlet works to drain the areas enclosed by the levees. The levees would also redistribute flood flows increasing flood levels by up to 0.7 metres within unprotected parts of the valley.

Significant environmental impacts of the levee system would arise from:

- . *sourcing 5.0 million cubic metres of fill for their construction;*
- . *displacing residents from demolished homes;*
- . *causing high visual impacts particularly for residents adjacent to the levees; and*
- . *constructing an auxiliary spillway at Warragamba Dam. (EIS)*

Flood Proofing Buildings

Flood proofing buildings, generally by elevating the floor is a relatively common method of flood mitigation. However modern concrete slab construction does not readily lend itself to elevation. According to the EIS if it were possible to protect every residence in this way and raising a house cost no more than \$30,000 (a likely gross underestimate), the total cost would exceed \$500 million in addition to the \$90 million for an auxiliary spillway. The risks to life for all residents would be similar to the existing situation because flooding at ground level would not change and it would be necessary to evacuate all residents if flooding was expected to exceed 14m at Windsor.

Channel Dredging and/or Straightening

One strategy for mitigating flood levels is to dredge the river bed between Sackville and Wisemans Ferry and/or to remove the meanders in the same section of river. By increasing the depth of the river by 10 metres in this section, the level of the 1867 flood at Windsor would be reduced by about 2.3 metres. The disbenefits of this option would be significant damage to the ecosystem, the disposal of 20-30 cubic metres of material and a cost of more than \$350 million in addition to the \$90 million to make the dam safe.

Similarly river straightening would have significant environmental impacts, achieve only a small reduction in the level of major floods and cost about \$730 million with a further \$90 million to make the dam safe.

Flood Mitigation Dam Storage

This strategy encompasses a number of options which were investigated in detail in the Warragamba Flood Mitigation Dam EIS.

These included flood mitigation dams on the Wollondilly River at Jooriland, the Coxs River at Kelpie Point as well as dams on the Nepean, Grose or Colo Rivers. Consideration was also given to depleting the permanent storage of Warragamba Dam by between 15% and 90%. Finally there was a variety of options involving the existing dam wall, including a 15m extension, a 23m extension (the preferred option), a 30m extension and a 35m extension. There were also a variety of composite strategies including combined reservoir depletion and wall raising.

Storing flood waters near Warragamba was selected as the preferred strategy because it would have significant advantages over all other strategies.

- . *It gives the greatest scope to reduce flooding upstream of Penrith to downstream of Windsor over the full range of possible events...*
- . *The existing dam can be made PMF safe as part of the works...*
- . *Costs would be comparable with the cheapest alternatives when PMF protection at the existing dam is included in the cost estimate; and*
- . *The structure would have a small "footprint" in an area already disturbed by the existing dam. All other options would permanently affect larger areas, many of which are in a natural state.*

The proposed 23m extension was then preferred for the following reasons:-

- . *The cost would be marginally more than the 15 metre option;*
- . *It would have the least construction impacts of all options;*
- . *It would take the least amount of time to discharge detained floodwaters;*
- . *It brings the flood on record (1867) to below current planning levels;*
- . *It would have the best benefit cost ratio of the four options; and*
- . *It is the smallest structure not requiring an auxiliary spillway around the dam.*

The benefits and disbenefits of the proposed 23m extension to existing development on the floodplain as well as areas upstream of the dam wall are well documented in the EIS.

In terms of flood mitigation, the 23m extension would provide annual average benefits of more than \$25 million and reduce damages from a repeat of the 1867 flood by more than \$1,650 million.

It is apparent that such structural options are the only effective way of mitigating damage to existing property on the floodplain.

The NSW Government has now decided not to proceed with the 23m extension and to instead construct a side spillway at a cost of approximately \$90 million to make the existing dam wall safe in a PMF. The spillway will have no flood mitigation role and will in fact marginally increase peak levels in large floods.

Sydney Water has advised that preparatory work to commission a consultancy on an EIS for the side spillway has commenced with the EIS anticipated to be completed by mid 1996.

6. QUESTIONS AND ANSWERS

Prior to the Environmental Impact Statement being made available there was considerable comment in the media about the impacts of the proposed flood mitigation dam. With the benefit of the Environmental Impact Statement it is apparent that some of the assertions were not well founded or incomplete. The following section examines some of the assertions which were made.

There is a possible hidden agenda to increase the water storage level (Kowmung Committee).

The EIS states repeatedly that the full storage level of Lake Burragorang would not change. However there is other evidence in the EIS which belies the suggestion that the mitigation wall has a hidden agenda.

Sydney Water had initially proposed to raise the Dam wall by 5 metres as an interim measure and construct an auxiliary spillway. The wall was raised by 5 metres in 1989 but during detailed environmental investigations for the spillway it was recognised that flood mitigation needed to be addressed quite apart from dam safety.

An Interdepartmental Committee then reported to Cabinet on key issues associated with the investigation and recommended the proposed mitigation dam. This was accepted by the Government of the day.

Whilst Sydney Water was given the responsibility of preparing the EIS, Sydney Water did not initiate the proposed mitigation dam. Similarly, the EIS indicates that Sydney Water only expected to have to pay \$90 million of the estimated \$279 million cost of the mitigation dam as this was the amount necessary to bring the dam up to international safety standards (the cost of the spillway).

Current demand management strategies being developed by Sydney Water suggest that the existing water storage capacity may serve Sydney to the middle of the next century. Currently the water usage component of the average residential water bill is only 40% with a fixed charge irrespective of consumption of 60%. A shift to 100% user pay pricing would result in a significant reduction in per capita water consumption. Another option for reducing consumption is the "unaccounted water losses", including leaks along Sydney Water's 20,000 kilometres of pipeline. A report in the Sydney Morning Herald on 1 November 1995 indicated that these losses amount to 19% of consumption and that Sydney Water is aiming to reduce this to 15% by 2001.

To date, demand management strategies have been very successful in reducing water consumption. In the same report in the Sydney Morning Herald on 1 November it was reported that total residential consumption has increased by less than 1 percent in the past 15 years, despite an additional 239,000 homes - equal to two cities the size of Canberra - that have been added to the system.

However of most significance in debunking the suggestion of a "hidden agenda" is a statement on page 12.5 of the EIS that the proposed 23 metre option would provide 2.8 million megalitres of air space and, ***"if any less air space were provided, an auxiliary spillway would be needed to protect the dam from PMF flooding"***. Therefore it would be impossible to increase the full storage level of Lake Burragorang without preparing a new EIS for the auxiliary spillway and without further public consultation.

There is nothing in the EIS to suggest a surreptitious strategy to increase the full storage level and the design of the mitigation dam is such that it would be unlikely for both cost, environmental and political reasons.

The proposal will inundate wilderness, national parks, World Heritage value bushland and rare plants in the Blue Mountains (Kowmung Committee). The project would have flooded the valuable wilderness areas of the Blue Mountains (NSW Premier, Bob Carr).

The proposed 23 metre mitigation dam would **temporarily** inundate a relatively small area during a flood event which increases the water level of Lake Burragorang above that which currently occurs during floods.

To put the issue in perspective, according to the EIS the maximum area temporarily inundated during a 1 in 20 year flood would increase by 10 square kilometres (5 to 15km²) while the area temporarily inundated during a 1 in 200 year flood would increase by 25 square kilometres (10 to 35km²). Therefore for most flood events there would be only a very small **temporary** increase in the area of inundation upstream of the dam wall relative to the area of wilderness.

The EIS states that expert opinion is that vegetation can survive between one and four weeks of temporary inundation. If it can only survive for one week, a repeat of the 1867 flood would adversely affect about 11 square kilometres in a band six metres above the full lake level. If the plants can tolerate two weeks of flooding they should be able to survive most floods.

Contrary to the impression conveyed in the press releases, most of the plants in potentially flooded areas are well conserved in nearby National Parks. However the EIS states that two rare plants, the Camden White Gum and *Hakea* Species 2 have important populations in areas which may be frequently flooded. Of these less than 1% of the 7,000 tree community of Camden White Gums is likely to be affected by flooding and seed and tube stock were proposed to be retained to restock any loss from the small population of *Hakea* Species 2 (40 plants).

In press releases by the Government or attributable to its Ministers, environmental concerns are almost exclusively limited to those upstream of the dam wall. Downstream environmental impacts are also significant but do not seem to have weighed heavily in the decision not to proceed. For example, the area of terrestrial ecosystems which benefit from the scheme exceeds those which are adversely impacted.

The majority of adversely impacted ecosystems are well conserved, while benefiting ecosystems are poorly conserved.

Downstream problems should be solved by flood mitigation planning (Press release from Minister for Urban Affairs and Minister for Planning).

As discussed in the review of the alternative strategies, flood mitigation planning can do little to reduce the property damage and trauma to the residents of the **existing** 4,862 homes affected by a 1 in 100 year flood or the residents of the 7,058 homes affected by the 1 in 200 year flood. The losses in a return of the highest known flood level would be even greater.

Flood mitigation planning can avoid further residents being subject to flooding or the same risk of flooding. It can also marginally increase evacuation times for existing residents by elevating key evacuation routes and hence reduce the risk to life.

Whilst the press release from the Minister for Urban Affairs and Planning labelled the 23 metre mitigation wall as "simplistic", it remains that structural options such as flood mitigation dams and levees are very effective, particularly for existing development, and are employed extensively in Australia and overseas.

Flooding will still occur as a result of catchments downstream of Warragamba Dam (report in Hawkesbury Gazette).

Flooding, but with substantially reduced peak levels, will still occur downstream of Warragamba Dam for two reasons.

Firstly, the proposed 23 metre flood mitigation dam could not detain all floodwaters in very large flood events with uncontrolled discharge eventually occurring over the spillway crest. Even the 35 metre option would leave a PMF flood at a level of 19.4m in Windsor. However sufficient flood levels would be detained to significantly mitigate the flood peak.

The flood levels produced by the various options are shown in the following table reproduced from the EIS.

Flood Levels Produced by Options

Option	Level at Windsor (m AHD)		
	1 in 20 Flood	1 in 280 Flood	PMF
No mitigation	13.7	19.2	28.9
15 metre	11.5	16.0	24.3
23 metre	10.4	14.8	22.5
30 metre	10.4	14.0	21.9
35 metre	10.4	14.0	19.4

Note: 28.9m level at PMF without mitigation assumes dam failure.

Secondly, flooding will still occur as a result of discharges from unregulated catchments downstream of Warragamba Dam such as the Grose and Colo Rivers. However the area and location of these catchments is such that they are unlikely to produce flood peaks which will threaten the existing floor height standard at Windsor. For example the Grose River has a catchment of 650km² compared to the Warragamba river catchment of 9,000km². In general peak flows from the South Creek and Colo River catchments pass before the peak flow from the Warragamba catchment arrives.

The EIS analysed the 1978 flood which involved a storm front moving up the valley from the north. This caused extensive flooding well before any significant inflow was recorded at Warragamba Dam. The mitigation dam would be less effective under these circumstances but would nevertheless markedly reduce peak levels compared to the existing dam. A computer simulation of the flood revealed that the proposed 23 metre mitigation dam would have reduced the peak flood level by about 4 metres. Water levels upstream of the dam would have risen about 11.5 metres and would have been completely discharged in 8 days.

The EIS summarised the effects of the 23m mitigation wall on different floods at Windsor as follows:-

i. *Flooding up to 6m AHD (1m below deck of Windsor Bridge)*

Flooding will occur about as frequently as at present. If the flood peak reaches 6m AHD then the water level will be above 0.5m AHD for up to twice as long as it would under existing conditions.

ii. *Flooding from 6 to 10m AHD*

It will be four times less likely that floods will reach these levels compared to existing conditions. If they are reached, water will remain at or above these levels for about twice as long as now.

iii. *Flooding from 10 to 11m AHD*

These levels will be reached about six times less often than currently. Flooding would be sustained for about a day longer than under existing conditions.

iv. *Flooding from 11 to 16m AHD*

With the mitigation dam, flooding at these levels would be about eight times less likely and would be sustained about one day less than currently.

v. *Flooding from 16 to 22.5m AHD*

These areas would be nine to 65 times less likely to be flooded and they would be flooded for about one day less.

The Warragamba flood control scheme will be used as an excuse for massive urban development which will cause further environmental degradation of the Hawkesbury Nepean River (Kowmung Committee)

This is a legitimate concern, particularly given the fact that a risk of flooding above the current floor height standard at Windsor will remain even with a 23 metre mitigation wall. There is significant pressure for development on the floodplain, although there is now perhaps more resistance to such development because of the well documented problems of the Hawkesbury Nepean river.

As a risk of flooding in the valley will remain even with a mitigation dam there is no basis for Council to reduce its current floor height standard.

Given Council's experience in maintaining a floor height standard and even increasing it despite the pressure for development, the suggestion of "massive urban development" is exaggerated. In any event, new rezonings for urban development would require the approval of the Minister for Urban Affairs and Planning.

The finance for the construction of the Mitigation Dam would have taken money from schools, hospitals and roads in Western Sydney (Minister for Planning & Urban Affairs, Craig Knowles).

There are a number of problems with this statement attributable to the Minister.

The EIS for the proposed 23m mitigation wall demonstrates a very favourable cost/benefit ratio of 1.7 meaning that for every dollar spent in building the option, 1.7 dollars worth of flood damages would be avoided. This equates to a saving to the community of \$25.4 million per year on average. There are in addition intangible costs and benefits which operate both in favour and against the mitigation wall. According to the EIS, intangible costs would have to exceed intangible benefits by \$183 million before the project became unviable.

Therefore in terms of utility, the overall cost or benefit to the community, it is a false economy to suggest that reduced funds will be available for other expenditure priorities.

In relation to the financing of the proposed 23m mitigation wall, there is no reason why at least part of the cost should not be paid for by the direct beneficiaries. Sydney Water had proposed to provide funding of \$90 million being the cost of the auxiliary spillway. Funding for the additional \$189 million had not been determined. It is estimated that more than 17,300 residences, 3,500 commercial and industrial premises and hundreds of rural properties would benefit. There would also be substantial savings to government through reduced infrastructure damage not to mention indirect benefits by the construction itself.

According to the EIS a levy of less than \$9,000 on each of these properties would pay for the project's estimated flood mitigation component. This amount could be spread over a number of years to make it more affordable to property owners.

RECOMMENDATION:

1. That the information concerning floodplain planning be received and that a report be brought forward reviewing Council's floor height standard, medium density housing policy and policy on urban rezonings given the information provided in this report.
2. That the NSW Government be advised that Hawkesbury City Council supports the raising of the existing Warragamba Dam wall by 23 (twenty three) metres as recommended by the Warragamba Dam Interdepartmental Committee (IDC) and the respected environmental consultants, ERM Mitchell McCotter.
3. The NSW Government be requested to place the EIS for the raising of the existing dam wall on public exhibition along with the now proposed side spillway to allow proper debate on the merits of the alternative schemes.
4. Council seek under the Freedom of Information Act, documentation prepared by the Warragamba Dam Interdepartmental Committee (IDC) on the raising of the existing Warragamba Dam wall.

ATTACHMENTS:

There are no supporting documents for this report.

FN:ENB28NBX.V10

****** END OF ITEM 88 ******

ITEM: 89 **SOLAR EFFICIENCY****FILE NUMBER:** DCP3/95/EVD**REPORT:**

Council, at its Ordinary Meeting on 13 June 1995, resolved as follows:-

"A Development Control Plan be prepared and reported to a further General Purpose Committee meeting outlining requirements of energy efficient subdivisions, water restrictors and insulation."

Further, Council also resolved as follows:-

"The Housing Policy of the Ku-ring-gai Council be considered and that the Interim Development Control Plan of the Leichhardt Council for Energy Efficient Housing and the Newcastle Environment Management Plan in particular the Energy Conservation Report therein be considered in preparing the Development Control Plan."

A Development Control Plan has been prepared and is enclosed with this Business Paper. The documents noted in the above resolution were reviewed and where possible, were used in the preparation of the Development Control Plan.

With respect to the Newcastle Environmental Management Plan, it establishes environmental principles for Newcastle to follow. In terms of energy conservation, it is general in nature and recommends the production of design guidelines, cooperation with industry and the reviewing of the Five Star performance for House Energy Rating Scheme.

The housing policies of both Leichhardt and Ku-ring-gai go much further in terms of controlling residential development by way of enforcing standards, than what is provided within the Development Control Plan produced. These documents include requirements for orientation of buildings, internal layout of dwellings, building envelopes, insulation, hot water systems, site analysis, overshadowing and wind conditions, ventilation, solar shading, building materials and solar water heaters. The environments of Ku-ring-gai and Leichhardt are significantly different to that experienced in the Hawkesbury, particularly in respect of the style and value of residential development and density. Consequently, the maximisation of solar access will reap more rewards in these areas and it is necessary to regulate development to a greater extent. It should be noted that a random review is currently being undertaken of residential development proposed in Building Applications to ascertain the extent to which solar efficiency is considered by home builders. This twelve month review will be completed in June 1996 and should it be found that greater regulation or education is required, this can be undertaken at this time.

Whilst the documents reviewed are much larger than that produced, much of these are filled with advisory guidelines. It is intended to provide information in the form of pamphlets, brochures and leaflets free of cost to better inform our residents on how to achieve solar efficient design and its benefits.

RECOMMENDATION:

1. That the information be received.
2. That the Development Control Plan for Solar Efficient Housing be placed on exhibition in accordance with the Environmental Planning and Assessment Regulations 1994.

ATTACHMENTS:

AT-1 Development Control Plan.

FN:ENB28NBX.V11

****** END OF ITEM 89 ******

ITEM: 90 DRAFT LOCAL ENVIRONMENTAL PLAN 15/94 - PT LOT 6 DP39166 & LOT 1 DP563924 CNR PITT TOWN & WOLSELEY ROADS, McGRATHS HILL - APPLICANT: GRAHAM PRICE PTY LTD

FILE NUMBER: LEP15/94/EVD

REPORT:

Council, at its Ordinary Meeting of 14 March 1995, resolved as follows:-

"Council support a Draft Local Environmental Plan to rezone to Residential 2(a) that part of the property generally above RL 15.0m AHD to be subdivided into lots with the land filled to a maximum of RL 16.0m AHD and dwellings elevated with a minimum floor level of RL 17.3m AHD."

The site is currently used for the production of both mushroom compost and mushrooms. The site contains a number of fibro and metal sheds, two dwellings, a concrete composting slab and three dams.

The plan was referred to the Roads and Traffic Authority, Prospect Electricity, Sydney Water, Environment Protection Authority and Development of Agriculture.

Both Prospect Electricity and Sydney Water raise no objection to the proposal.

No response was received from the Department of Agriculture and the Roads and Traffic Authority.

The Environment Protection Authority have responded as follows:-

"Consistent with the objectives and functions of the EPA, as included in the Protection of the Environment Administration Act 1991, a major objective of the EPA is to ensure that environment protection is more effectively considered in the conception and assessment of development proposals, and that measures to prevent pollution are built in wherever possible. Whilst recognising the ongoing importance of traditional pollution control approaches, the EPA is firmly of the view that there are greater environmental gains to be achieved by preventing or limiting pollution at the planning and development stages."

The EPA, apart from commenting on and assessing the traditional pollution control issues, is now required under the Protection of the Environment Administration Act 1991, to assess proposed developments on ecologically sustainable development grounds (ESD). ESD can be achieved through the implementation of the following principles:-

- a) *The precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environment degradation.*

- b) *Inter-generational equity - namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.*
- c) *Conservation of biological diversity and ecological integrity.*
- d) *Improved valuation and pricing of environmental resources.*

To allow the EPA to assess the proposed rezoning in light of this requirement, the LEP should contain how the above principals will be incorporated.

The subject land is in the catchment of the Killarney Chain of Ponds which is also a part of the South Creek Catchment. Killarney Chain of Ponds is a recognised wetland under REP20 and the impacts arising from changes to both the quantity and quality of stormwater from any future development, during construction and afterwards on waters need to be addressed in the LEP.

Prior to undertaking rezoning, Council should satisfy itself that the wetland can and will be protected from sediment input and from eutrophication.

Drainage into the wetlands may change the ecological and/or morphological status of the wetlands. There should be no change in flow volume or quality of water entering the wetlands.

The EPA recommends that the Department of Land and Water Conservation is consulted regarding hydrological and geomorphological issues and the effect of any changed flooding patterns that redevelopment may have on the wetland."

Under the circumstances, with the site being currently used for mushroom composting and growing, it is considered that residential development is more acceptable on both amenity and environmental grounds. Further, applications will be required to develop the site, including subdivision, landfill and building applications. Consequently, consideration can be given to these issues at that time, with suitable conditions imposed.

The Draft LEP was on public exhibition from 27 September 1995 to 27 October 1995. One submission was received from a consultant representing the owner of the adjoining property to the east, which is used for the growing of strawberries. This owner is concerned that future residents of the land to be rezoned may object to his activity as chemical fertilisers are used. In order to prevent this, it is suggested by the consultant that Council include his clients land within the Draft LEP. The additional land put forward for inclusion is similar in some respects to the subject property. In this regard, it is flood affected, with approximately 20% of the site above 15.0m AHD. The floor height standard in this locality is 16.0m AHD. Whilst part of the adjoining property is used for the growing of strawberries, its impact would be much less than that of the subject property. Consequently, it is not recommended that support be given to extending the area to be rezoned. Should Council decide to support the proposal, additional consultation with government authorities and the public would be required.

Despite the above, it is considered that the adjoining property owner has legitimate concern to ensure the long term viability of his activities. A clause can be inserted in the LEP requiring that applications for the subject property consider the farming activity adjoining.

The possibility of soil contamination was raised during the assessment of the rezoning. In this regard, the applicant engaged Trim Risk Management to undertake an environmental audit of the property. This report concluded that work is required to be undertaken prior to the development of the site. A suitable clause can be inserted within the LEP to overcome this issue.

Because of the flood liability of the land and general locality the density of the housing should be limited. Accordingly, it is recommended that the local environmental plan prohibit any medium density housing, including dual occupancies.

Furthermore, as elsewhere reported it is recommended that a deed of agreement be entered into with the applicant, requiring the cessation of composting within twelve months of the date of gazettal of the draft local environmental plan.

RECOMMENDATION:

It is recommended that:-

1. A clause be inserted in the Local Environmental Plan requiring the undertaking of necessary works with respect to soil contamination.
2. A clause be inserted in the Local Environmental Plan requiring consideration of adjoining agricultural activities in the assessment of applications.
3. The Local Environmental Plan be referred to the Department of Urban Affairs and Planning for gazettal following preparation of the Deed of Agreement and logally binding endorsement by Graham Price Pty Ltd.
4. A clause be inserted in the Local Environmental Plan prohibiting any medium density housing, including dual occupancy.

ATTACHMENTS:

There are no supporting documents for this report.

FN:ENB28NBX.V12

****** END OF ITEM 90 ******

ITEM: 91 GRAHAM PRICE PTY LTD - MUSHROOM COMPOSTING - 100 PITT TOWN ROAD, MCGRATHS HILL (CORNER WOLSELEY ROAD)

FILE NUMBER: P1641/700 PT02/EVD

REPORT:

On 18 June 1992 the Land and Environment Court ordered as follows:

- "1. *The Respondent, by itself, its servants and agents be restrained from using or suffering or permitting to be used the premises Lot 5 RP2166, 100 Pitt Town Road, McGraths Hill, for the purpose of the preparation of mushroom compost in such a manner as interferes with the amenity of the neighbourhood in respect of smell.*
2. *The operation of order 1 above is suspended for a period of three years from the date of this order.*
3. *The Respondent pay half of the Applicant's costs as agreed or taxed. In default of agreement within fourteen (14) days from the date of this order such costs to be taxed before the Registrar and paid to the solicitors for the Applicant upon presentation of a Certificate of Taxation.*
4. *The exhibits be returned."*

Therefore compliance with the order has been required since 18 June 1995.

Following continuing complaints about odour after 18 June 1995, an odour survey was conducted for a period of two months from August 1995 to early October 1995. There were eleven participants in the survey being nearby residents, previous objectors and Council staff who live in the area.

Following checking of wind direction, there were reported 648 instances of offensive odour, most of which could not be attributed to another source. It may be that some of these instances related to other odour sources, although their numerical weight suggests that there may be a continuing odour nuisance from Graham Price Pty Ltd.

Advice is currently being sought from Council's solicitors as to the adequacy of the evidence for a prosecution for contempt of court. Assuming there is adequate evidence, a prosecution could be mounted which would require the preparation of affidavits and the giving of testimony by the survey participants and, possibly, an expert in air and odour dispersal.

It is likely to be at least several months before such a prosecution could be brought on in the court. If Council is successful in the prosecution, the contempt penalty imposed upon Mushroom Composters at Ebenezer, being \$80,000 with a later weekly penalty of \$8,000, is an indication of a possible fine. Of course, this may vary according to any mitigating circumstances and the plea.

From discussions with Mr Price he is well aware of the continuing objections and the potential legal costs and penalties which could be involved in a prosecution for contempt. He has no intention to continue mushroom composting at McGraths Hill and a seeks a reasonable period to facilitate his relocation to western New South Wales. He is now well advanced in the selection of a new composting site and, with capital provided by the proposed rezoning reported on elsewhere in the business paper, would be able to relocate within twelve months.

Accordingly, it is being proposed that Graham Price Pty Ltd enter into a Deed of Agreement with appropriate security to ensure the cessation of composting within twelve months of the gazettal of the rezoning of the land to residential. The principles of the Deed of Agreement would be as follows:

- . Permanent cessation of composting within 12 (twelve) months of the gazettal of the local environmental plan to rezone part of the land to Residential.
- . A security of \$80,000 (eighty thousand) to paid within 9 (nine) months of the gazettal of the local environmental plan which would be forfeited in the event that there is not cessation of composting within 12 months of the gazettal of the local environmental plan.
- . In the unlikely event that the gazettal of the local environmental plan does not proceed by 1 April 1996, then the Deed of Agreement would be null and void and Council would have the option of proceeding with a prosecution in contempt if the odour nuisance was continuing.
- . Graham Price Pty Ltd and any successors in title to surrender all existing use rights and development consents for composting on the land upon cessation of composting as agreed in the deed.

This proposed Deed of Agreement will obviate potential legal costs to Council of around \$30,000 - \$50,000 in any prosecution for contempt and also a potential appeal by Graham Price Pty Ltd against the order of Justice Bannon in the Land and Environment Court. However it does mean providing limited additional time to Graham Price Pty Ltd to effect his relocation to another site.

Advice from Council's solicitor in relation to the evidence provided by the surveys and the proposed Deed of Agreement will be reported to the Ordinary Meeting if not available for the General Purpose Committee.

RECOMMENDATION:

That Council enter into a Deed of Agreement with Graham Price Pty Ltd to require permanent cessation of composting on the land within 12 (twelve) months of the gazettal of the local environmental plan to rezone part of the land to Residential generally in accordance with the principles enunciated in the report.

ATTACHMENTS:

AT-1 Odour Survey.

FN:ENB28NBX.V17

****** END OF ITEM 91 ******

ITEM: 92 REZONING PROPOSAL TO ALLOW 36 RURAL/RESIDENTIAL LOTS, VINCENTS ROAD, KURRAJONG - TEERMAN & NEWTON PTY LTD

FILE NUMBER: P2203/380 PT02/EVD

REPORT:

A proposal has been received to rezone five contiguous allotments adjoining the Timms Hill Road and Robertson Street rural/residential subdivision in Kurrajong to permit 36 lots with areas ranging from 4300m² to 1.2 hectares.

It is proposed that there be onsite water collection and onsite disposal of effluent. Correspondence in support of the proposal states that the subdivision will:

- i) ensure that rural subdivision and housing are undertaken in an environmentally sustainable manner in that each allotment has been designed to minimise the effect on the existing tree cover, make sympathetic use of the topography, dispose of effluent by reusing the waste water through an irrigation system and not impose any further pressures on existing water services by using tank water in lieu of town water.
- ii) ensure that the rural amenity of the area is not destroyed. The proposed development is already screened from the south and west by dense vegetation and the view from Vincents road is limited by existing development.

It is also commented by the applicant that the majority of the land is not suitable for sustainable agriculture, is very suited to a rural/residential type use and would be in line with Council's objective of encouraging higher population densities in existing towns and villages. The land is adjacent to existing similar subdivision in Kurrajong.

It is proposed that a properly designed two-tank effluent disposal and irrigation system be provided on each lot for the onsite disposal of effluent.

Environmental Assessment

A proposed 36 lot subdivision without the provision of reticulated water and sewer should not be considered for a number of reasons.

There is an obvious potential precedent for further similar subdivision, the cumulative impact of which would be significant.

In addition it is no longer considered satisfactory on environmental grounds that rezonings for relatively large rural residential subdivisions proceed without reticulated water and sewerage. It is now well documented that onsite disposal systems frequently fail with potential for surcharge of nutrients and pathogens.

The site is located adjacent to existing similar development but without an overall proposal for extension of the Kurrajong village or an increase in its population density, consideration should not be given to any incremental expansion.

It is unlikely that the proposed subdivision would be supported by Sydney Water or the Department of Urban Affairs and Planning for the reasons indicated.

RECOMMENDATION:

The application for rezoning to allow not be supported for the reasons listed in the report

ATTACHMENTS:

AT-1 Site plan

FN:ENB28NBX.V20

****** END OF ITEM 92 ******

ITEM: 93 NOISE CONTROL REGULATION 1975 - COMPLAINTS CONCERNING BARKING DOGS - DON STREET, KURRAJONG.

FILE NUMBER: P413/50 PT01; P413/20 PT01; GE020/004/EVD

REPORT:

There have been numerous complaints from one property owner who lives on a rural property adjacent to Don Street about barking dogs on residential lots in Don Street. There have been a number of inspections by Council's dog controllers, "Paw Print" good neighbour letters sent to dog owners in Don Street advising them of their responsibilities as dog owners, as well as two notices being recently issued under the Noise Control Regulations to prevent the offensive noise of dog barking.

In discussions with the complainant it was agreed that notices be served on the two properties of most concern to control barking. However, complaints have also been made against numerous other dog owners in the street. Subsequently there have been interviews with the two owners the subject of the notices with one indicating that they were tenants and were about to relocate to another locality and the other refuting the suggestion of excessive or offensive barking.

There is now considerable aggravation on both sides of the fence (literally) with a threat of physical violence allegedly being made.

The complainant has now written as follows:-

"As you know, I have been in lengthy correspondence with Council over dog problems at Kurrajong Heights. Subsequent to my correspondence with you in June, we are still embattled, although some action has now been initiated against dog owners adjacent to my property.

However the problems run much deeper and wider than the simple issue of education. In this connection, I would ask you to read the attached letter which I have just sent to Michael Coulter along with the associated statement made to police yesterday.

As Mayor, I am writing to you to ask that you initiate a complete review of the current dog policy in which submissions are taken from residents who have been adversely affected.

I believe existing policies and practices are inadequate, and that this is a matter requiring the urgent attention of the full Council."

An accompanying letter from the complainant also states as follows:

"... This is the second time I have escaped violence from owners of barking dogs up here in the last couple of years, and I implore Council to take a much less lenient approach to the growing dog problem. Numerous people hereabouts have told me of dog attacks against adults and children, constant barking, roaming dog problems, and intimidation by aggressive dog owners.

It is time the Council took this matter seriously and implemented an appropriate and effective management plan. The soft approach does not work and the suggestion in the Council newsletter that neighbours should sit down over a cup of coffee to discuss such problems is laughable. Currently the only options in the Hawkesbury are to put up with the dog problem or risk being subject to abuse and threats of violence.

Once again, I call for concerted action by Council to

- . inform all dog owners in clear and direct language of their obligations (instead of the euphemistic language currently employed)*
- . increase the penalties for breaches of regulations*
- . enforce the confinement of dogs within their owner's premises*
- . make the issuing and renewal of dog licences contingent upon strict adherence to regulations*
- . require dog owners to undertake education in the care and control of their animals*
- . limit the permitted number of dogs to a maximum of one on any property*
- . act swiftly where there is a problem rather than allowing the problem to fester over months and even years*
- . prohibit dog ownership in problem areas and new subdivisions*

Having in recent times been bitten, violently abused and now assaulted, I think it is reasonable to demand that Council change its dog policies to protect its constituents."

The discussions with the two dog owners the subject of the notice were fruitful. In one instance the tenant proposes to relocate and in the other the owner undertook to have better control over the dog early in the morning and in the event that Council proceed with action, he would regrettably surrender the dog for destruction.

Whilst appreciating the predicament of the complainant, the configuration of the locality is that there are approximately 15 residential lots adjoining his boundary with a further 20-30 residential lots in close proximity. Most of these properties seem to have at least one dog.

At this stage it is not proposed to take any further legal action.

RECOMMENDATION:

That the complainant be advised that at this stage it is not proposed to take any further legal action but that the dogs the subject of the notices will continue to be monitored.

ATTACHMENTS:

AT-1 Site plan

FN:ENB28NBX.V21

****** END OF ITEM 93 ******